

Created By: Donna Wang , Certification and Surveillance - Hospital Services **on** 10/30/2013

Correspondence Type: Request for Additional Information

Recipient: Applicant

Correspondence Visible To: All

Message:

Please read and respond to the following questions: 1) Dr. Aiello (and others) noted on Schedule 2A, Section 6, that Faxton-St. Lukes Healthcare has been named as a defendant in various professional liability actions. Are there currently any open/pending suits/actions? If so, please provide the date they were initiated and a brief summary of the case; 2) Similarly, Ms. Cominsky (and others) noted on Schedule 2A (Section 6) that St. Elizabeth Medical Center has been named in numerous lawsuits over the years. Are there currently any open/pending suits/actions? If so, please provide the date they were initiated and a brief summary of the case; 3) Dr. Sperling disclosed one settled malpractice suit on his Schedule 2A. Please provide the year that the case was settled. Thank you. Donna Wang 518-408-5867.

Attachments:

Applicant **on** 11/04/2013

Created By:

Correspondence Type: Additional Information

Recipient: Certification and Surveillance - Hospital Services

Correspondence Visible To: All

Message:

As requested in your 10/30/13 transmittal, attached please find open claims summary for Faxton St. Luke's Healthcare and St. Elizabeth Medical Center. Also, please note that Dr. Sperling's malpractice suit as noted on Schedule 2A was settled in 2002.

Attachments:

FSLH_Open_Claims_Suits.pdf **

SEMC_Open_Claims_Suits.pdf **

Created By: Joseph Mosseau , Financial Analysis and Review on 10/11/2013

Correspondence Type: Request for Additional Information

Recipient: Applicant

Correspondence Visible To: All

Message:

In reviewing your application several items needs to be clarified for the Department. (1) Please explain if this is an obligated group. (2) Please provide a detailed description for all of the entities related to this project. This will include information on when the facilities were started, what the bed size is, what the bed configuration, the physical location of all the facilites, as well as what counties the facilities serve. (3) please provide a detailed operating budget, broken out between both inpatient and outpatient specific revenues and costs. (4) Please provide all of the certified financial statements for all of the facilities that are related to this project. Explain any losses and what is being done to correct them. We need at least 3 years of the most recent financial statements for facilities that have been in operation since 2008. Please also provide the most current internal financial statements as well if available. (5) Please revise your post transaction organization, chart, it shows the old name for the parent entity, as well as not showing all of the related or affiliated facilites as mentioned in the agreement. Please provide this data by 10/21/2013. If you have any questions please contact Joe Mosseau at 518-402-0953.

Attachments:

Created By: Applicant on 10/21/2013
Correspondence Type: Additional Information
Recipient: Financial Analysis and Review
Correspondence Visible To: All

Message:

This is in response to the 10/11/13 request for additional information.

Attachments:

- Operating Certificate - St. Luke's Only 8-21-2013.pdf **
- Operating Certificate - Faxton Only - 2-19-2013.pdf **
- MVHS_IP_and_OP_Budget_Forecast.pdf **
- MVN Consolidated Audited FS 2010 and 2009.pdf **
- MVN Consolidated Audited FS 2012 and 2011.pdf **
- MVN Consolidated FS 2013 YTD.pdf **
- FSLH Consolidated Audited FS 2010 and 2009.pdf **
- FSLH Consolidated Audited FS 2012 and 2011.pdf **
- FSLH Consolidated FS 2013 YTD.pdf **
- MVHC FS 2013 YTD.pdf **

VNA FS 2013 YTD.pdf **

VNA Audited FS 2012 and 2011.pdf **

VNA Audited FS 2010 and 2009.pdf **

SLH Audited FS 2010 and 2009.pdf **

SLH Audited FS 2012 and 2011.pdf **

SLH FS 2013 YTD.pdf **

Post_Transaction_Organization.pdf **

SEMC FS 2013 YTD.pdf **

SEMC_Site_List.pdf **

Response_to_CON_Request_for_Information_10.21.13.pdf **

Created By: Joseph Mosseau , Financial Analysis and Review **on** 11/04/2013

Correspondence Type: Request for Additional Information

Recipient: Applicant

Correspondence Visible To: All

Message:

Please provide by start of Business tomorrow november 5th, 2013, the requested pro forma balance sheet, certified financials and explanation documentation discussed in our phone conversation today. Thank You

Attachments:

Created By: Applicant **on** 11/05/2013

Correspondence Type: Additional Information

Recipient: Financial Analysis and Review

Correspondence Visible To: All

Message:

This is in reply to the 11/4/13 request for additional information. Please see attached MVHS pro forma balance sheet, and other revenue and non operating revenue.

Attachments:

Attach_7A_MVHS_Pro_Forma_Balance_Sheet.pdf **

Other_Rev_and_Non_Operating_Rev.pdf **

Created By: Keith McCarthy , Office of Mental Health on 11/01/2013
Correspondence Type: Request for Additional Information
Recipient: Applicant,Central New York Health Systems Agency
Correspondence Visible To: All

Waiting for Information

Message:

As OMH has yet to receive a corresponding Comprehensive PAR application relative to this transaction, it is unable to offer a recommendation on the submitted CON application. Please contact your respective OMH Field Office to initiate the PAR submission process. Thank you.

Attachments:

Created By: PHHPC Unit on 11/12/2013
Correspondence Type: PHHPC Notification
Recipient: Applicant,Central New York Health Systems Agency,Office of Mental Health
Correspondence Visible To: All

Message:
11-21-13 PHHPC Notification Letter

Attachments:

132204.pdf **

Created By: Project Management on 10/07/2013
Correspondence Type: Inquiry
Recipient: Applicant
Correspondence Visible To: All

Message:

Hello - Trying to get clarification on your project application. Is Mohawk Valley Health System intended to be the active parent over Visiting Nurse Association of Utica nad Oneida County, Inc, Mohawk Valley Home Care, LLC and St. Luke's Home Residential Health Care Facility, Inc. Also, is St. Elizabeth Certified Home Care also going to have MVHS as an active parent? Please advise so we can move your application forward. Thank you. Michele Cefferillo Bureau of Project Management

Attachments:

Created By: Applicant on 10/08/2013
Correspondence Type: Additional Information
Recipient: Project Management
Correspondence Visible To: All

Message:

MVHS will be the active parent of Visiting Nurse Association of Utica and Oneida County, Inc. Mohawk Valley Home Care, LLC and St. Lukes Home Residential Healthcare Facility, Inc. St. Elizabeth Certified Home Care is not separately incorporated, but rather is a division of St. Elizabeth Medical Center. By virtue of MVHS becoming the active parent of St. Elizabeth Medical Center it will necessarily be the active parent of St. Elizabeth Certified Home Care.

Attachments:

Created By: Project Management on 10/09/2013
Correspondence Type: Inquiry
Recipient: Applicant
Correspondence Visible To: All

Message:

I would just like to confirm that this application does NOT include Heritage Health Care Center under the active parent. Michele Cefferillo Bureau of Project Management 518-402-0911

Attachments:

Created By: Applicant on 10/10/2013
Correspondence Type: Additional Information
Recipient: Project Management
Correspondence Visible To: All

Message:

This is in response to your 10/9/13 inquiry regarding Heritage Health Care Center. Please be aware that we have no corporate affiliation with the Heritage Health Care Center and they are not included in this application.

Attachments:

Created By: Project Management on 10/10/2013

Correspondence Type: Acknowledgement Letter

Recipient: Applicant

Correspondence Visible To: All

Message:

Acknowledgement Letter

Attachments:

132204.pdf **

Created By: Project Management on 12/30/2013

Correspondence Type: Approval Letter

Recipient: Applicant

Correspondence Visible To: All

Message:

PHHPC contingent approval letter dated December 30, 2013.

Attachments:

132204 12.30.13.pdf **

Created By: Project Management on 01/08/2014

Correspondence Type: Other

Recipient: Applicant,Central New York Health Systems Agency,Office of Mental Health

Correspondence Visible To: All

Message:

PHHPC Exhibit from the December 12, 2013 meeting.

Attachments:

132204 E -- Mohawk Valley Health System.doc **

Created By: Project Management on 02/28/2014

Correspondence Type: PHHPC Final Approval

Recipient: Applicant

Correspondence Visible To: All

Message:

PHHPC final approval letter dated February 28, 2014.

Attachments:

132204 final.pdf **

Created By: Project Management on 03/05/2014

Correspondence Type: PHHPC Notification

Recipient: Applicant

Correspondence Visible To: All

Message:

PHHPC consent to file letter dated March 5, 2014.

Attachments:

132204 Consent to File COI.pdf **

Project Site Information

Project Site Name: Mohawk Valley Health System

Physical Address: 1656 Champlin Avenue

Utica, NY 13502

County: ONEIDA

Impact on Operating Certificate

Bed/Service

Action

Count

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

November 12, 2013

Sharon Palmer
Director, Facilities Planning and Support Services
Faxton St. Luke's Health Care
1656 Champlin Avenue
Utica, New York 13502

RE: 132204-E
Mohawk Valley Health System
(Oneida County)
Establish Mohawk Valley Health System as the active
parent/co-operator of Faxton-St. Luke's Healthcare, St.
Elizabeth Medical Center, St. Lukes Home RHC, VNA of
Utica and Oneida County, and Mohawk Valley Home Care.

Dear Ms. Palmer:

Please be advised that the above captioned application has been scheduled for review by the Establishment/Project Review Committee of the Public Health and Health Planning Council on Thursday, November 21, 2013, Committee meetings begin at 10:15 a.m. (Please check meeting schedule on website) at The Century House, 997 New Loudon Road (Route 9) Main Ball Room, Latham. A copy of the exhibit, to be reviewed at the meeting, and the meeting schedule, can be found at www.health.state.ny.us/facilities/public_health_and_health_planning_council/.

Subsequently, the application will be considered by the Public Health and Health Planning Council on Thursday, December 12, 2013, at 10:15 a.m., located at the Century House, 997 New Loudon Road (Route 9), Main Ball Room, Latham.

The above stated meetings can be accessed via webcast through the following internet address:
www.health.state.ny.us/events/webcasts

Sincerely,



Colleen M. Frost
Executive Secretary
Public Health and Health Planning Council

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

December 30, 2013

Sharon Palmer
Director, Facilities Planning and Support Services
Faxton St. Luke's Health Care
1656 Champlin Avenue
Utica, New York 13502

RE: 132204-E
Mohawk Valley Health System
(Oneida County)
Establish Mohawk Valley Health System as the
active parent/co-operator of Faxton-St. Luke's
Healthcare, St. Elizabeth Medical Center, St. Lukes
Home RHCF, VNA of Utica and Oneida County,
and Mohawk Valley Home Care.

Dear Ms. Palmer:

I am pleased to inform you that, based on action taken at its meeting on December 12, 2013, the Public Health and Health Planning Council proposes to approve the above application providing the contingencies set forth in the enclosed resolution are first satisfied. Pursuant to 10 NYCRR section 600.4, documentation to satisfy the contingencies imposed by the Council shall be submitted to the Division of Health Facility Planning within sixty (60) days of receipt of this letter, to:

Barbara DelCogliano, Director
Bureau of Project Management
Division of Health Facility Planning
Office of Health Systems Management
NYS Department of Health
Empire State Plaza
Corning Tower, Room 1842
Albany, New York 12237

In addition to the contingencies, the proposed approval included the enclosed conditions. You are expected to comply with the conditions throughout the operation of this project, including any and all conditions pertaining to specified timeframes.

HEALTH.NY.GOV
facebook.com/NYSDOH
twitter.com/HealthNYGov


Before beginning any aspect of this project, you must submit written materials to satisfy the enclosed contingencies and receive written approval from the Public Health and Health Planning Council indicating the satisfaction of all contingencies.

This letter should not be construed as approval to file, with the Secretary of State, a certificate of incorporation, a certificate of amendment to a certificate of incorporation, a restated certificate of incorporation, an application for authority, articles of organization or any amendments thereto, or any other legal documents. A separate Public Health and Health Planning Council approval letter will be issued, as necessary, for the filing of documents with the Secretary of State after all contingencies are satisfied.

Also, this letter should not be construed as approval of property or lease costs submitted in support of this application, nor is this letter an assurance or recommendation that property costs or lease amounts as specified in the application will be reimbursable.

If you have any questions concerning this letter, please contact the Bureau of Project Management at 518-402-0911.

Sincerely,



Karen Westervelt
Deputy Commissioner
Offices of Primary Care and Health Systems
Management

Enclosure

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 12th day of December, 2013, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish Mohawk Valley Health system as the active parent/co-operator of Faxton-St. Luke's Healthcare, St. Elizabeth Medical Center, St. Luke's Home RHCF, VNA of Utica and Oneida County and Mohawk Valley Home Care, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

132204 E

FACILITY/APPLICANT:

Mohawk Valley Health System

APPROVAL CONTINGENT UPON:

1. Submission of Approval from the Office of Mental Health. [PMU]
2. Submission of a photocopy of the fully executed Restated Certificate of Incorporation of Mohawk Valley Network, Inc., acceptable to the Department. [CSL]
3. Submission of a photocopy of the amended bylaws of Mohawk Valley Network, Inc. t/b/k/a Mohawk Valley Health System, acceptable to the Department. [CSL]
4. Submission of a photocopy of the fully executed Restated Certificate of Incorporation of St. Elizabeth Medical Center, acceptable to the Department. [CSL]
5. Submission of a photocopy of the amended bylaws of St. Elizabeth Medical Center, acceptable to the Department. [CSL]
6. Submission of a photocopy of the fully executed Restated Certificate of Consolidation of Faxton-St. Luke's Healthcare, acceptable to the Department. [CSL]
7. Submission of a photocopy of the amended bylaws of Faxton-St. Luke's Healthcare, acceptable to the Department. [CSL]
8. Submission of a photocopy of the fully executed Restated Certificate of Incorporation of St. Luke's Home Residential Health Care Facility, Inc., acceptable to the Department. [CSL]
9. Submission of a photocopy of the amended bylaws of St. Luke's Home Residential Health Care Facility, Inc., acceptable to the Department. [CSL]
10. Submission of a photocopy of the fully executed Restated Certificate of Incorporation of Visiting Nurse Association of Utica and Oneida County, Inc., acceptable to the Department. [CSL]
11. Submission of a photocopy of the amended bylaws of Visiting Nurse Association of Utica and Oneida County, Inc., acceptable to the Department. [CSL]
12. Submission of a photocopy of the executed Articles of Organization of Mohawk Valley Home Care, LLC, and any amendments thereto, acceptable to the Department. [CSL]
13. Submission of a photocopy of the amended and executed operating agreement of Mohawk Valley Home Care, LLC, acceptable to the Department. [CSL]

APPROVAL CONDITIONAL UPON:

1. The project must be completed within two years from the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]

Documentation submitted to satisfy the above-referenced contingencies (4 copies) should be submitted within sixty (60) days to:

Barbara DelCogliano
Director
Bureau of Project Management
NYS Department of Health
Empire State Plaza
Corning Tower, Room 1842
Albany, New York 12237

PHHPC

PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

Empire State Plaza, Corning Tower, Room 1805
Albany, New York 12180

(518) 402-0964
PHHPC@health.state.ny.us

March 5, 2014

Sharon Palmer
Director, Facilities Planning and Support Services
Faxton St. Luke's Health Care
1656 Champlin Avenue
Utica, New York 13502

Re: Restated Certificate of Incorporation of St. Elizabeth Medical Center

Dear Ms. Palmer:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health and Health Planning Council held on the 12th day of December, 2013, I hereby certify that the Public Health and Health Planning Council consents to the filing of the Restated Certificate of Incorporation of St. Elizabeth Medical Center, dated January 21, 2014.

Sincerely,



Colleen M. Leonard
Executive Secretary

/cl



Public Health and Health Planning Council

Project # 132204-E Mohawk Valley Health System

County: Oneida
Purpose: Establishment

Program: Hospital
Acknowledged: October 10, 2013

Executive Summary

Description

Faxton-St. Luke's Healthcare (FSL), St. Elizabeth Medical Center (SEMC), and St. Lukes Home, through this application, are requesting approval for Mohawk Valley Network Inc. (MVN), which is currently the passive parent of FSL, to become the active parent of the facilities. Upon approval, Mohawk Valley Network, Inc. will change its name to Mohawk Valley Health System (MVHS). In addition to the above listed facilities, MVHS will also serve as the active parent of Visiting Nurse Association of Utica and Oneida County, Inc. (VNA), Mohawk Valley Home Care, LLC (MVHC) and Senior Network Health, LLC (SNH). MVN is currently the sole member of each of these entities.

FSL is a not-for-profit hospital with 370 licensed acute care beds and is a designated Stroke Center. FSL also operates 16 extension clinics throughout the region and operates a dental residency program.

SEMC is a not-for-profit community hospital located in Utica, New York. The facility is certified to operate 201 beds. SEMC is the only New York State designated Level 2 trauma center in the community. SEMC also provides community based services at 14 certified hospital extension clinics.

SEMC also provides educational programs, including: SEMC's College of Nursing, Family Medicine Residency program, fellowship in Minimally Invasive Gynecologic Surgery, and fellowship in Hospital Medical programs.

SEMC is sponsored by Partners in Franciscan Ministries, Inc. (PFM), which is a not-for-profit charitable tax-exempt corporation sponsored by the Congregation of the Sisters of St. Francis of the Neumann Communities in Syracuse (SOSF). PFM

and SOSF are affiliated with the Roman Catholic Church.

The main reason put forth for this proposed affiliation is to address the increasingly challenging financial conditions the facilities are encountering, and the associated threat to the on-going provision of quality care at the facilities. The proposed active parent model is intended to reduce these concerns through the combined improvement efforts of FSL and SEMC. Overall, the active parent is intended to strengthen the facilities' quality improvement and performance initiatives and programs in a way that is not possible without this arrangement.

Some of the current financial issues that are being faced by FSL and SEMC include:

- SEMC has suffered unsustainable operating losses of almost \$2 million through June, 2013.
- FSL has lost approximately \$3.5 million from operation through June 2013.
- The shift in the payer mix away from commercially insured patients towards Medicaid and uninsured patients, which negatively impacts the hospitals' revenue.
- Changes in Medicare and Medicaid reimbursement have also reduced revenue.
- Declining inpatient and outpatient patient base.
- Sequestration.

Without the active parent the applicant indicates that SEMC's expected survival time is limited to only a few months. The main goal of this active parent is to keep these needed facilities operating.

BFA Attachment A shows the organizational chart for VHS providers under the active parent structure.

DOH Recommendation

Contingent Approval

Need Summary

This CON seeks to transition Mohawk Valley Network, Inc. (MVN) from the passive parent of Faxton-St Luke's Healthcare (FSL) to the active parent and co-operator of FSL, St. Elizabeth Medical Center, and St. Lukes Home. The joining of these entities under a common active parent will create a health system that will be able to respond to the evolving needs of the community.

Program Summary

Based on the information reviewed, staff found nothing that would reflect adversely upon the applicant's character and competence or standing in the community.

Financial Summary

There are no project costs associated with this project.

Incremental Budget

Revenues:	\$11,096,232
Expenses	<u>(\$875,083)</u>
Gain/ (Loss)	\$11,971,315

The applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

The HSA recommends approval of this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of Approval from the Office of Mental Health. [PMU]
2. Submission of a photocopy of the fully executed Restated Certificate of Incorporation of Mohawk Valley Network, Inc., acceptable to the Department. [CSL]
3. Submission of a photocopy of the amended bylaws of Mohawk Valley Network, Inc. t/b/k/a Mohawk Valley Health System, acceptable to the Department. [CSL]
4. Submission of a photocopy of the fully executed Restated Certificate of Incorporation of St. Elizabeth Medical Center, acceptable to the Department. [CSL]
5. Submission of a photocopy of the amended bylaws of St. Elizabeth Medical Center, acceptable to the Department. [CSL]
6. Submission of a photocopy of the fully executed Restated Certificate of Consolidation of Faxton-St. Luke's Healthcare, acceptable to the Department. [CSL]
7. Submission of a photocopy of the amended bylaws of Faxton-St. Luke's Healthcare, acceptable to the Department. [CSL]
8. Submission of a photocopy of the fully executed Restated Certificate of Incorporation of St. Lukes Home Residential Health Care Facility, Inc., acceptable to the Department. [CSL]
9. Submission of a photocopy of the amended bylaws of St. Lukes Home Residential Health Care Facility, Inc., acceptable to the Department. [CSL]
10. Submission of a photocopy of the fully executed Restated Certificate of Incorporation of Visiting Nurse Association of Utica and Oneida County, Inc., acceptable to the Department. [CSL]
11. Submission of a photocopy of the amended bylaws of Visiting Nurse Association of Utica and Oneida County, Inc., acceptable to the Department. [CSL]
12. Submission of a photocopy of the executed Articles of Organization of Mohawk Valley Home Care, LLC, and any amendments thereto, acceptable to the Department. [CSL]
13. Submission of a photocopy of the amended and executed operating agreement of Mohawk Valley Home Care, LLC, acceptable to the Department. [CSL]

Approval conditional upon:

1. The project must be completed within two years from the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]

Council Action Date

December 12, 2013.

Need Analysis

Project Description

Mohawk Valley Health System seeks approval to become the active parent and co-operator of Faxton-St. Luke's Healthcare, St. Elizabeth Medical Center, St. Lukes Home Residential Health Care Facility, Visiting Nursing Associating of Utica and Oneida County, and Mohawk Valley Home Care.

Background/Analysis

Faxton-St Luke's Healthcare is a 370-bed acute care hospital located at 1656 Champlain Avenue Utica, 13502, in Oneida County, and St Elizabeth Medical Center is a 201-bed acute care hospital located at 2209 Genesee Street Utica, 13501, in Oneida County.

The facilities have the following certified beds and services:

Table 1: Certified Beds: Faxton-St Luke's Healthcare St Luke's Division and St. Elizabeth Medical Center. Source: HFIS, October 2013.		
Bed Category	Faxton-St. Luke's Healthcare St. Luke's Division	St. Elizabeth Medical Center
Coronary Care	8	0
Intensive Care	22	20
Maternity	26	0
Medical / Surgical	238	149
Neonatal Continuing Care	4	0
Neonatal Intermediate Care	8	0
Pediatric	14	8
Physical Medicine and Rehabilitation	24	0
Psychiatric	26	24
Total	370	201

Table 2: Certified Services: Faxton-St Luke's Healthcare St Luke's Division and St. Elizabeth Medical Center. Source: HFIS, October 2013.		
Service	Faxton-St Luke's Healthcare St Luke's	St Elizabeth Medical Center
Ambulatory Surgery - Multi Specialty	√	√
Cardiac Catheterization - Adult Diagnostic	√	√
Cardiac Catheterization - Electrophysiology (EP)		√
Cardiac Catheterization - Percutaneous Coronary Intervention (PCI)	√	√
Cardiac Surgery - Adult		√
Clinic Part Time Services	√	√
Clinical Laboratory Service	√	√
Coronary Care	√	√
Dental O/P	√	
Emergency Department	√	√
Health Fairs O/P	√	√
Intensive Care	√	√
Maternity	√	

Table 2: Certified Services: Faxton-St Luke's Healthcare St Luke's Division and St. Elizabeth Medical Center. Source: HFIS, October 2013.		
Service	Faxton-St Luke's Healthcare St Luke's	St Elizabeth Medical Center
Medical Social Services	√	√
Medical/Surgical	√	√
Neonatal Continuing Care	√	
Neonatal Intermediate Care	√	
Nuclear Medicine - Diagnostic	√	√
Nuclear Medicine - Therapeutic		√
Pediatric	√	
Pediatric O/P	√	
Pharmaceutical Service	√	√
Physical Medical Rehabilitation	√	
Podiatry O/P	√	
Prenatal O/P	√	
Primary Medical Care O/P	√	√
Psychiatric	√	√
Psychology O/P	√	√
Radiology - Diagnostic	√	√
Renal Dialysis - Acute	√	√
Therapy - Occupational O/P	√	√
Therapy - Physical O/P	√	√
Therapy - Speech Language Pathology O/P		√
Transfusion Services - Limited	√	

Faxton-St Luke's Healthcare is authorized to operate 16 hospital extension clinics in Herkimer and Oneida Counties. These facilities provide outpatient services such as primary medical care, psychology, radiology – diagnostic, renal dialysis - chronic, linear accelerator and pediatric.

St Elizabeth Medical Center is authorized to operate one certified Home Health Agency, one school based hospital extension clinic, and 13 hospital extension clinics in Herkimer and Oneida Counties. These facilities provide outpatient services such as home health aide, medical social services, medical supplies equipment and appliances, nursing, nutritional, occupational therapy, physical therapy, speech language pathology, primary medical care, diagnostic radiology, and clinical laboratory service.

The facilities have the following New York State Designations:

Faxton-St Luke's Healthcare St Luke's Division:

- Level 2 Perinatal Center; and
- Stroke Center;

St Elizabeth Medical Center:

- Area Trauma Center.

The primary service area of the two facilities is Herkimer and Oneida Counties. In 2000, the combined population of these counties was 299,896 residents; by the 2010 census, it declined slightly 299,397 and is projected to reach 294,268 residents by 2020. The 2012 population estimates for the two counties was 298,064 residents.

Displayed in Table 3 below are the total inpatient discharges and emergency department visits for the two facilities.

Table 3: Inpatient Discharges and Emergency Department Visits: St Luke's Memorial Hospital Center and St Elizabeth Medical Center Utilization. Source: SPARCS 2011 and 2012.		
Hospital	2011	2012
Total Discharges		
St Luke's Memorial Hospital Center	16,775	17,354
St Elizabeth Medical Center	11,879	11,503
Total	28,654	28,857
Total Emergency Department		
St Elizabeth Medical Center	40,273	40,110
St Luke's Memorial Hospital Center	34,494	36,598
Total	74,767	76,708

Abortion services and patient care patterns in the service area are well established. Planned Parenthood Mohawk Hudson (PPMH) is located in the service area and is authorized to provide abortion services. The majority of abortions in the service area are performed by PPMH-Utica. Late term abortions up to 19 weeks 6 days are referred to PPMH-Schenectady. If there is a need for an in-hospital abortion, the patient is referred to Albany Medical Center. Over the last two years, Faxton-St. Luke's performed fewer than 10 in-hospital abortions allocated to APR-DRG Abortion w/o D&C, Aspiration Curettage or Hysterectomy.

Approval of the proposed active parent will bring operational collaboration and clinical integration between the two hospitals. The system is expected to achieve the following benefits:

- elimination of administrative redundancy in support and clinical functions;
- coordination of service and clinical programs in order to enhance operational efficiencies and programmatic development;
- improvement in the capacity of the local health system to respond to evolving community needs in a more efficient manner;
- streamlining of services as needed;
- strengthening of the facilities' quality improvement and performance initiatives, staff and programs;

Upon approval of the active parent, the two hospital systems plan a comprehensive review of their clinical practices in order to determine the areas with superior or best practices that could be transferred between the two hospitals.

Conclusion

As the active parent, MCHS will continue to offer the range of services in the community where MVN and SEMC already provide services. The combined resources of the two organizations will allow MVHS to develop more effective programs than the facilities could achieve alone, thereby improving health care in the community.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Program Proposal

Mohawk Valley Network (MVN) seeks approval to become the active parent and co-operator of Faxton-St. Luke's Healthcare (FSL), St. Elizabeth Medical Center (SEMC), St. Luke's Home (SLH), Visiting Nursing Association of Utica and Oneida County (VNA), and Mohawk Valley Home Care (MVHC). Upon approval, MVN will be renamed the Mohawk Valley Health System (MVHS). The active parent will allow SEMC and FSL to eliminate redundancy in support and clinical functions and streamline services. The applicant does not anticipate any change in the overall complement of services offered.

Character and Competence

The proposed board members for MVHS are as follows:

Name

Domenic Aiello, M.D.	Physician
Catherine Cominsky	Manager, Higher Education
Joan Compson	Retired CPA/Chief Financial Officer
Thomas Dennison, PhD	Professor and former nursing home administrator
Gregory Evans	President/CEO of Manufacturing Company
Maria Gesualdo, D.O.	Physician
Harrison Hummel, III	President/CEO of Office Supply Company
Todd Hutton, PhD	President/CEO of Utica College
Andrew Kowalczyk, III, JD	Attorney
Gregory McLean	President, Investment Company
Scott Perra	President/CEO of Faxton-St. Luke's
Norman Siegel, JD	Judge, Oneida County
John Sperling, MD	Physician
Stephen Sweet	Owner, Distribution Company
Richard Tantillo	Vice President of Communications & Development at Hamilton College
Symeon Tsoupelis	Owner, Symeon's Restaurant
Mark Warfel, D.O.	Physician
Bonnie Woods	Trust Executive at Bank of America
Eric Yoss, MD	Physician
Richard Zweifel	Partner, CPA Firm

Staff from the Division of Certification & Surveillance reviewed the disclosure information submitted regarding licenses held, formal education, training in pertinent health and/or related areas, employment history, a record of legal actions, and a disclosure of the applicant's ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management, the Office of Professional Medical Conduct, and the Education Department databases as well as the US Department of Health and Human Services Office of the Inspector General Medicare exclusion database.

Ms. Cominsky, Drs. Warfel and Yoss, and Messrs. Evans, Hummel, Kowalczyk, Tsoupelis, Siegel and Zweifel each disclosed the following actions which occurred during their affiliation with the entities noted below:

Around December 2007, St. Elizabeth Medical Center (SEMC) was included in a nationwide investigation conducted by the U.S. Attorney General's Office into billing for kyphoplasty procedures. It was determined that certain procedures billed as inpatient should have been billed as outpatient, therefore, SEMC entered into an agreement to pay back \$195,976 plus interest.

In March 2013, St. Elizabeth Medical Center received a citation for alleged violations relating to an employee allegation of overexposure to carbon monoxide. The citation and \$8,500 penalty are currently being contested.

Additionally, the staff from the Division of Certification & Surveillance reviewed the ten-year surveillance history of all associated facilities. Sources of information included the files, records, and reports found in the Department of Health. Included in the review were the results of any incident and/or complaint investigations, independent professional reviews, and/or comprehensive/focused inspections. The review found that any citations were properly corrected with appropriate remedial action.

In June 2007, during a recertification survey of St. Elizabeth Medical Center's Home Care, deficiencies were noted. In 2008, St. Elizabeth settled with the Department of Health (DOH). As part of the settlement, St. Elizabeth admitted to the existence of substantial evidence of violations in the following areas: policies and procedures of service delivery, patient assessment and plan of care and governing authority. A \$10,000 civil penalty was assessed of which \$5,000 was paid and the remaining \$5,000 was suspended providing St. Elizabeth did not violate certain terms and regulations within 3 years.

In January 2005, St. Elizabeth Medical Center was fined \$4,000 based on an investigation of a patient admitted to the hospital for a coronary artery bypass graft. An incision was made in the left leg to harvest a vein for bypass when it was discovered that the vein was not present due to a previous harvest.

In November 2005, Presbyterian Home was fined \$1,000 based on deficient practices relating to quality of care (specifically, pressure sores) noted during an inspection conducted in February 2005.

In January 2010, Presbyterian Home was fined \$10,000 based on deficient practices relating to quality of care (specifically, accidents) noted during an inspection conducted in October 2008.

In November 2011, Sitrin Health Care Center was fined \$6,000 based on deficient practices relating to quality of care (specifically, accidents and supervision, menus not meeting resident need, and administration) noted during an inspection conducted in August 2010.

During recent recertification inspections conducted in 2013, Presbyterian Home was issued a harm level deficiency and St. Luke's Home was issued an Immediate Jeopardy level deficiency for deficient practices relating to Advanced Directives/CPR/DNR and failure to provide continuous oxygen. The DOH will review both matters for a potential future enforcement action.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Business Plan of Efficiencies

In order to effect the change, a Business Plan of Efficiencies (BPOE) has been developed in order to define and develop the opportunities that come with the affiliation of Faxton-St. Luke's Healthcare (FSL) and St. Elizabeth Medical Center (SEMC) to create Mohawk Valley Health System (MVHS).

These opportunities can be grouped into two categories: Confirmed and Validated Opportunities (opportunities that have been identified and validated as opportunities which can be achieved as part of the affiliation) and Non-Validated Opportunities (Although identified, these opportunities will require additional discussion and validation post-transaction). In order to determine these opportunities, several distinct steps were undertaken:

- Assessment of the MVHS administrative of organization to identify functions that will become corporate or remain at the hospital level
- Development of individual departmental integration plans with the guidance and assistance of hospital senior leadership
- Development of detailed departmental assessments
- Quantitative assessment of hospital departments utilizing databases to identify opportunities for operational efficiency
- Qualitative interviews to identify opportunities to achieve potential integrative synergies

Once the report was developed the main areas that were determined to be impacted are as shown:

- Administrative functions: The geographic proximity of the two facilities will allow for consolidation of administrative functions.
- Support Services Functions:
 - The ability to centralize management in select support departments affords MVHS the ability to standardize policies and procedures system-wide while reducing unnecessary redundant functions and expense
 - Joint contracting for select support services provides MVHS the ability to renegotiate contracts and standardize functions between the two hospitals
- Clinical Service/Function Integration:
 - Clinical coordination, program alignment and the maximization of existing organizational resources
 - Redistribution of services among the existing Faxton, St. Luke's and St. Elizabeth campuses

Upon implementing the BPOE, it is expected that each of the three areas will have significant savings over the course of the first five to six years under the active parent. Each year is shown to have a confirmed savings, with an additional amount of possible savings. The total confirmed savings for the first five to six years, by function, is shown below:

- Administrative Functions: \$5.628 million confirmed savings / \$18.352 million possible savings.
- Support Functions: \$428,740 confirmed savings / \$4.339 million possible savings
- Clinical Functions: no confirmed savings / \$27.477 million possible savings

Operating Budget

The applicant has submitted the Inpatient and Outpatient operating budget, in 2013 dollars:

	<i>Current Year FSL & SEMC</i>	<i>First Year Incremental</i>	<i>Cumulative Year 1</i>	<i>Third Year Incremental</i>	<i>Cumulative Year 3</i>
<u>Revenues:</u>					
Inpatient	\$260,288,215	\$1,559,789	\$261,848,004	\$12,526,551	\$272,814,766
Outpatient	231,735,205	1,388,684	233,123,889	11,152,419	242,887,624
Other Operating Revenue (A)	15,074,046	7,074,079	22,148,125	7,646,224	22,720,270
Non-Operating Revenue (B)	<u>7,226,228</u>	<u>1,073,680</u>	<u>8,299,908</u>	<u>1,260,845</u>	<u>8,487,073</u>
Total Revenue	\$514,323,694	\$11,096,232	\$525,419,926	\$32,586,039	\$546,909,733
<u>Expenses:</u>					
Operating	\$483,704,492	(\$2,510,710)	\$481,193,782	\$5,166,945	\$488,871,437
Capital	<u>32,028,220</u>	<u>1,635,627</u>	<u>33,663,847</u>	<u>791,944</u>	<u>32,820,164</u>
Total Expenses	\$515,732,712	(\$875,083)	\$514,857,629	\$5,958,889	\$521,691,601
Excess Revenue over Expenses	<u>(\$1,409,018)</u>	<u>\$11,971,315</u>	<u>\$10,562,297</u>	<u>26,627,150</u>	<u>\$25,218,132</u>

Other Operating and Non-Operating Revenues:

(A) Other Operating Revenues:	<i>Current Year</i>	<i>Year 1 Incremental</i>	<i>Cumulative Year 1</i>	<i>Year 3 Incremental</i>	<i>Cumulative Year 3</i>
Tuition Revenue	\$2,439,641	1,144,896	\$3,584,537	1,237,494	\$3,677,135
Managed Care Incentive Revenue	530,544	248,978	779,522	269,116	799,660
Cafeteria Sales	1,113,892	522,737	1,636,629	565,015	1,678,907
Parking Garage fees	127,438	59,805	187,243	64,642	192,080
Grant Revenue	2,788,409	1,308,569	4,096,978	1,414,405	4,202,814

Electronic Health Information Revenue	3,089,004	1,449,635	4,538,639	1,566,880	4,655,884
Miscellaneous Income	1,768,339	829,861	2,598,200	896,980	2,665,319
Rents	1,327,942	623,188	1,951,130	673,591	2,001,533
Assets Released From Restriction	817,979	383,868	1,201,847	414,915	1,232,894
Joint Venture Revenue	438,531	205,798	644,329	222,442	660,973
Sold Services	360,887	169,360	530,247	183,058	543,945
Foundation Events	<u>271,440</u>	<u>127,384</u>	<u>398,824</u>	<u>137,686</u>	<u>409,126</u>
Total Other Operating Revenue	\$15,074,046	\$7,074,079	\$22,148,125	\$7,646,224	\$22,720,270
<i>(B) Non-Operating Revenue:</i>	<i>Current Year</i>	<i>Year 1 Incremental</i>	<i>Cumulative Year 1</i>	<i>Year 3 Incremental</i>	<i>Cumulative Year 3</i>
Investment Income	\$3,377,312	\$2,948,820	\$6,326,132	\$3,075,976	6,453,288
Contributions	<u>3,848,916</u>	<u>(1,875,140)</u>	<u>1,973,776</u>	<u>(1,815,131)</u>	<u>2,033,785</u>
Total Non-Operating Income	\$7,226,228	1,073,680	\$8,299,908	\$1,260,845	\$8,487,073

Inpatient and outpatient utilization by payor source as of the current year and the first and third year is shown below. The applicant assumes utilization at the current levels:

<u>Payor</u>	<u>Inpatient</u>	<u>Outpatient</u>
Medicaid Fee-for-Service	17.98%	21.13%
Medicaid Managed Care	5.91%	4.55%
Medicare Fee-for-Service	43.50%	24.16%
Medicare Managed Care	5.83%	11.02%
Commercial Fee-for-Service	22.03%	34.36%
Commercial Managed Care	.17%	1.25%
Private	1.43%	1.56%
Other	3.15%	1.97%

Capability and Feasibility

There are no project costs associated with this application.

With respect to feasibility, it is noted that the applicant indicates they cannot sustain present structural inefficiencies or the resulting operating deficits, over the long-term.

The applicant indicates that by implementing the proposed active parent structure under MVHS, and obtaining the described economies of scale, as well as eliminating some duplicative areas within their operations, they will be able to return their operations to a sustainable performance level within the next several years. Their budget appears reasonable.

Working capital for the merged entities (MVN) and (SEMC) will be derived from the net assets of the combined operation. MVHS shall have a budget and sufficient operating funds to function independently in order to accomplish its corporate purposes, mission, vision, and values. The hospitals intend that MVHS will receive funds for ongoing operations from any one or a combination of sources, consistent with the requirements of the Code applicable to tax exempt organizations, including, without limitation: (a) MVHS's operations; (b) contributions from FSL, SEMC, any FSL Affiliate, or any SEMC Affiliate; and (c) assessment of reasonable corporate fees for the value of services rendered to FSL, SEMC, the FSL Affiliates, and the SEMC Affiliates. MVHS shall determine and assess contributions from FSL, SEMC, the FSL Affiliates, and the SEMC Affiliates in a fair and equitable manner at all times.

BFA Attachment M is MVHS' pro-forma balance sheet that shows operations will start off with \$177,964,498 in positive equity.

BFA Attachment B is the 2009-2012 certified financial statements for Mohawk Valley Network, Inc. and Subsidiaries. The statement shows that MVN was operating with a positive average working capital and a positive average net asset position and generated an average net operating loss of \$1,347,711 and an average net income of \$7,435,471, for the period 2009-2012. MVN, however, experienced a loss in 2010. The explanation for the loss is detailed below. The average net income that is shown is due to MVN selling off its wholly owned for-profit subsidiary, Faxchil Realty, Inc., and its wholly owned for-profit subsidiary, Centrex Clinical Laboratories, Inc. The overall gain in connection with the sale was approximately \$30,762,000 in 2009 and \$792,000 in 2010. If this sale did not happen MVN would have recorded a loss of \$1,619,050 in 2009 and \$3,044,883 in 2010.

BFA Attachment C is the internal financial statement through 8/31/2013 for Mohawk Valley Network, Inc. and Subsidiaries. The statement shows MVN was operating with a positive working capital and a positive net asset position and generated a net operating loss of \$5,441,401 for the period 1/1/2013-8/31/2013 and a net income of \$499,461. The explanation for the loss is detailed below.

BFA Attachment D is the 2009-2012 certified financial statements for Faxton-St. Luke's Healthcare and Consolidated Subsidiaries. The statement shows that the facility was operating with an average positive working capital and an average positive net asset position and generated an average net operating income of \$369,111 and an average net income of \$9,213,989 for the period 2009-2012. The facility however, experienced a loss in 2010. The explanation for the loss is detailed below.

The sale referenced in BFA Attachment B is also shown in the financials for Faxton-St. Luke's Health Care as FSL is a subsidiary of MVN. The facility would have also have had a net loss in 2009 of \$906,398 and in 2010 of \$2,625,101 without the sale. The average net operating income for the period 2009-2012, without the sale, is \$369,111.

BFA Attachment E is the internal financial statement through 8/31/2013 for Faxton-St. Luke's Healthcare and Consolidated Subsidiaries. The statement shows that the facility was operating with a positive working capital and a positive net asset position and generated a net operating loss of \$3,031,870 for the period 1/1/2013-8/31/2013. The explanation for the loss is detailed below.

BFA Attachment F is the 2009-2012 certified financial statements for St. Elizabeth Medical Center. The statement shows that the facility was operating with an average positive working capital and an average positive net asset position and generated average net operating income of \$11,436 for the period 2009-2012. The facility, however, experienced a loss in both 2010 and 2012. The explanation for the losses are detailed below.

BFA Attachment G is the internal financial statement through 8/31/2013 for St. Elizabeth Medical Center. The statement shows that the facility was operating with a positive working capital and a negative net asset position and generated a net operating loss of \$4,484,263 for the period 1/1/2013-8/31/2013. The explanation for the loss is detailed below.

BFA Attachment H is the 2009-2012 certified financial statements for St. Luke's Home Residential Health Care Facility, Inc. The statement shows that the facility was operating with an average positive working capital and an average positive net asset position and generated an average net operating loss of \$1,216,320 for the period 2009-2012. The explanation for the loss is detailed below.

BFA Attachment I is the internal financial statement through 8/31/2013 for St. Luke's Home Residential Health Care Facility, Inc. The statement shows that the facility was operating with a positive working capital and a positive net asset position and generated a net operating loss of \$1,039,411 for the period 1/1/2013-8/31/2013. The explanation for the loss is detailed below.

BFA Attachment J is the 2009-2012 certified financial statements for Visiting Nurse Association of Utica and Oneida County, Inc. The statement shows that the facility was operating with an average positive working capital and an average positive net asset position and generated an average net operating loss of \$302,537 for the period 2009-2012. The explanation for the loss is detailed below.

BFA Attachment K is the internal financial statement through 8/31/2013 for Visiting Nurse Association of Utica and Oneida County, Inc. The statement shows that the facility was operating with a negative working capital and a positive net asset position and generated a net operating loss of \$750,862 for the period 1/1/2013-8/31/2013. The explanation for the loss is detailed below.

BFA Attachment L is the internal financial statement through 8/31/2013 for Mohawk Valley Home Care. The statement shows that the facility was operating with a positive working capital and a positive net asset position and generated a net operating income of \$22,551 for the period 1/1/2013-8/31/2013. The previous years financial statements are included in the overall financial position of MVN, no separate financial statements were created for Mohawk Valley Home Care.

A primary cause of the deterioration in the hospital finances is revenue stagnation. The combined net patient revenue for FSL and SEMC rose from about \$454 million to \$457 million from 2010 to 2012. This is an increase of less than one percent over two years. There are numerous causes of this stagnation.

- Both hospitals have experienced a shift in their payor mix away from commercially insured patients towards Medicaid and uninsured patients.
- SEMC experienced a 13% decrease in acute care commercial discharges from 2010 to 2012, compared to a 2.7% decline in acute care Medicaid discharges. During this same period, acute care charity discharges at SEMC almost doubled.
- Similarly, FSL experienced a 17% decline in acute care commercial discharges and a 6% increase in acute care Medicaid discharges from 2010 to 2012.
- FSL estimates that reductions in payments for Medicare and Medicaid dual eligibles reduced revenues to FSL by \$1 million between 2010 and 2012.
- Medicaid reimbursement reductions further reduced revenues to FSL by \$600 thousand between 2010 and 2012, and Sequestration has resulted in approximately 3.5 million in additional reductions in Medicare reimbursements in 2013.
- At SEMC, Medicaid reductions resulted in reduced revenues of \$1 million, and Sequestration has resulted in an additional reduction in Medicare reimbursements of \$1 million.

According to the applicant, increased outpatient facility competition is also having an impact on the hospitals. Recent outpatient facility entry in the region includes a gastrointestinal ambulatory surgery center (ASC), a urology clinic in Utica specializing in radiation oncology services, and an eye care ASC in Rome. FSL estimates these facilities led to revenue declines of nearly \$6 million from 2011 to 2012. While SEMC does not provide radiation oncology services, it estimates that its revenue decline from these facilities was \$3.2 million from 2011 to 2012.

Sequestration has added additional strain to the financial situation in 2013. Overall, FSL has lost \$3.5 million from operations through June, which is an annualized loss of \$7 million. SEMC expects losses similar to 2012. SEMC lost more than \$2 million through June 2013, which is an annualized loss of over \$4 million.

St. Luke's Home (SLH) has experienced losses primarily due to less than optimal occupancy rates, and a higher Medicaid payer mix than years past. SLH, as a result of the HEAL 20 Grant for \$8,008,000 (to decertify 82 skilled nursing beds: 40 beds at St. Luke's Home and 42 beds at Allen Calder Skilled Nursing, adding 10 ADHCP slots, and renovations to convert space and expand the staff cafeteria and dining area), is debt free. As a result of this, SLH can expect positive cash flow even with an annual \$800,000 operating loss.

FSL and SEMC have taken action over the past four years in an attempt to make the facilities profitable, or at least break. These include the following:

St. Elizabeth Medical Center

2011:

- Eliminated 24 FTE positions, including layoffs
- Froze the defined benefit Pension Plan for Non-Union employees
- Additional supply chain savings: \$470,000

2012:

- Eliminated 53 FTE positions, including layoffs
- Froze the defined benefit Pension Plan for UFCW Union employees
- Additional supply chain savings: \$825,000
- Capital Purchases frozen
- Confirmed plan to close School of Radiography in 2014

2013:

- Eliminated 67 FTE positions, including layoffs
- Froze the defined benefit Pension Plan for NYSNA Union employees

Faxton-St. Luke's Healthcare

2010 to 2012:

- Achieved total annual savings of \$15.7 million
- Eliminated 256 FTE positions
- Implemented weekly review process for all staffing requests

2013:

- January to June: achieved \$5.5 million in annualized savings
- Additional staffing reductions and benefit changes
- Supply pricing and utilization improvements
- July to December: Initiated plan to save additional \$10.2 million in annualized savings
- 91.3 FTE reductions
- Non-salary expenses improvements

It appears the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	Organization Chart, Mohawk Valley Health System.
BFA Attachment B	2009-2012 Financial Summary for Mohawk Valley Network, Inc. and Subsidiaries
BFA Attachment C	1/1/2013-8/31-2013 Internal Financial Summary for Mohawk Valley Network, Inc. and Subsidiaries
BFA Attachment D	2009-2012 Financial Summary for Faxton-St. Luke's Healthcare
BFA Attachment E	1/1/2013-8/31/2013 Internal Financial Summary Faxton St. Luke's Healthcare and Subsidiaries
BFA-Attachment F	2009-2012 Financial Summary for St. Elizabeth Medical Center
BFA-Attachment G	1/1/2013-8/31/2013 Internal Financial Summary for St. Elizabeth Medical Center
BFA-Attachment H	2009-2012 Financial Summary for St. Luke's Home Residential Healthcare Facility, Inc.
BFA-Attachment I	8/31/2013 Internal Financial Summary for St. Luke's Home Residential Healthcare Facility, Inc.
BFA-Attachment J	2009-2012 Financial Summary for Visiting Nurse Association of Utica and Oneida County, Inc.
BFA-Attachment K	8/31/2013 Internal financial summary for Visiting Nurse Association of Utica and Oneida County, Inc.
BFA-Attachment L	8/31/2013 Internal Financial Summary for Mohawk Valley Home Care
BFA-Attachment M	Pro-forma Balance Sheet for Mohawk Valley Health Systems.



PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

Empire State Plaza, Corning Tower, Room 1805
Albany, New York 12237

(518) 402-0964
PHHPC@health.state.ny.us

February 28, 2014

Sharon Palmer
Director, Facilities Planning and Support Services
Faxton St. Luke's Health Care
1656 Champlin Avenue
Utica, New York 13502

Re: Application No. 132204-E Mohawk Valley Health System (Oneida County)

Dear Ms. Palmer:

I HEREBY CERTIFY THAT AFTER INQUIRY and investigation, the application of Mohawk Valley Health System is APPROVED, the contingencies having now been fulfilled satisfactorily. The Public Health and Health Planning Council considered this application and imposed the contingencies at its meeting of December 12, 2013. You are expected to comply with the conditions listed on the December 30, 2013 letter from Karen Westervelt.

Public Health and Health Planning Council approval is not to be construed as approval of property costs or the lease submitted in support of the application. Such approval is not to be construed as an assurance or recommendation that property costs or lease amounts as specified in the application will be reimbursable under third party payor reimbursement guidelines.

To complete the requirements for certification approval, please contact the Central New York Regional Office of the New York State Office of Health Systems Management, 217 South Salina Street, Syracuse, New York 13202 or (315) 477-8555, within 30 days of receipt of this letter.

Sincerely,

Colleen M. Leonard
Colleen M. Leonard
Executive Secretary

/cl

PHHPC

PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

Empire State Plaza, Corning Tower, Room 1805
Albany, New York 12180

(518) 402-0964
PHHPC@health.state.ny.us

February 28, 2014

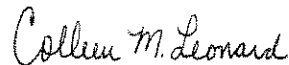
Sharon Palmer
Director, Facilities Planning and Support Services
Faxton St. Luke's Health Care
1656 Champlin Avenue
Utica, New York 13502

Re: Restated Certificate of Incorporation of Mohawk Valley Network, Inc.

Dear Ms. Palmer:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health and Health Planning Council held on the 12th day of December, 2013, I hereby certify that the Public Health and Health Planning Council consents to the filing of the Restated Certificate of Incorporation of Mohawk Valley Network, Inc., dated January 20, 2014.

Sincerely,



Colleen M. Leonard
Executive Secretary

/cl

PHHPC

PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

Empire State Plaza, Corning Tower, Room 1805
Albany, New York 12180

(518) 402-0964
PHHPC@health.state.ny.us

February 28, 2014

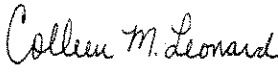
Sharon Palmer
Director, Facilities Planning and Support Services
Faxton St. Luke's Health Care
1656 Champlin Avenue
Utica, New York 13502

Re: Restated Certificate of Consolidation of Faxton-St. Luke's Healthcare

Dear Ms. Palmer:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health and Health Planning Council held on the 12th day of December, 2013, I hereby certify that the Public Health and Health Planning Council consents to the filing of the Restated Certificate of Consolidation of Faxton-St. Luke's Healthcare, dated January 20, 2014.

Sincerely,


Colleen M. Leonard
Executive Secretary

/cl



PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

Empire State Plaza, Corning Tower, Room 1805
Albany, New York 12180

(518) 402-0964
PHHPC@health.state.ny.us

February 28, 2014

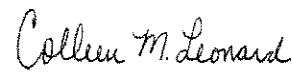
Sharon Palmer
Director, Facilities Planning and Support Services
Faxton St. Luke's Health Care
1656 Champlin Avenue
Utica, New York 13502

Re: Restated Certificate of Incorporation of St. Luke's Home Residential Health Care Facility, Inc.

Dear Ms. Palmer:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health and Health Planning Council held on the 12th day of December, 2013, I hereby certify that the Public Health and Health Planning Council consents to the filing of the Restated Certificate of Incorporation of St. Luke's Home Residential Health Care Facility, Inc., dated January 20, 2014.

Sincerely,


Colleen M. Leonard
Executive Secretary

/cl

**RESTATED CERTIFICATE OF INCORPORATION
OF
MOHAWK VALLEY NETWORK, INC.**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

The undersigned, being the President of Mohawk Valley Network, Inc., hereby certifies:

1. The name of the corporation is: **MOHAWK VALLEY NETWORK, INC.**
2. The Corporation's Certificate of Incorporation was filed by the Department of State on the 12th day of April, 1991, pursuant to the Not-for-Profit Corporation Law. A Restated Certificate of Incorporation of the Corporation was thereafter filed by the Department of State on March 8, 2005.
3. The Corporation's Certificate of Incorporation, as previously filed and restated, is hereby amended to effect the following:
 - A. To change the name of the Corporation to Mohawk Valley Health System, as provided in Paragraph 1 of this Restated Certificate of Incorporation.
 - B. To add St. Elizabeth Medical Center ("SEMC"), St. Lukes Home Residential Health Care Facility, Inc. ("SLH"), Senior Network Health, LLC ("SNH") and Mohawk Valley Home Care, LLC ("MVHC") as named affiliates of the Corporation, as provided in Paragraph 3 of this Restated Certificate of Incorporation.
 - C. To add SEMC and SLH as named distributees of the Corporation's assets upon dissolution of the Corporation, as provided in Paragraph 9 of this Restated Certificate of Incorporation.
 - D. To restate the purposes and powers of the Corporation, as provided in Paragraph 3 of this Restated Certificate of Incorporation.
4. The text of the Certificate of Incorporation, as amended, is hereby restated to read as herein set forth in full:
 1. The name of the Corporation is: **MOHAWK VALLEY HEALTH SYSTEM.**
 2. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law in that it is not formed for pecuniary profit or financial gain, and no part of the assets, income or profit of the corporation shall be distributed to, or inure to the benefit of, its members, directors, officers or any private person.

3. The Corporation is organized and shall be operated exclusively for the benefit of Faxton-St. Luke's Healthcare ("FSLH"), St. Elizabeth Medical Center ("SEMC"), St. Lukes Home Residential Health Care Facility, Inc. ("SLH"), Visiting Nurse Association of Utica and Oneida County, Inc. ("VNA"), which are New York State Not-for-Profit Corporations, and Senior Network Health, LLC ("SNH") and Mohawk Valley Home Care, LLC ("MVHC") (each individually referred to as an "Affiliate" and collectively referred to as the "Affiliates"). To this end, the Corporation shall, in addition to all other rights and powers of membership prescribed by New York law, the certificates of incorporation and/or bylaws, or the articles of organization or operating agreements of the Affiliates, have the following governance and management powers as have been delegated to the Corporation to the extent permitted by the New York Not-for-Profit Corporation Law and the New York Limited Liability Company Law:

a. Except as otherwise set forth herein, to approve and interpret the statement of mission and philosophy adopted by the Affiliates, to require that each Affiliate operate in conformance with its mission and philosophy and to coordinate the missions, visions, activities and resources of the Affiliates in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, the Corporation shall not have the power to approve or interpret those elements of SEMC's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of SEMC's Catholic mission and philosophy;

b. To elect or appoint, fix the number of, and remove, with or without cause, the directors or trustees (referred to hereinafter as "directors" or "director") or managers of the Affiliates, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Affiliates. Notwithstanding the foregoing, Partners in Franciscan Ministries, Inc. ("PFM"), as the co-member of SEMC, shall be entitled to appoint and remove, with or without cause, one additional director designated by PFM to the SEMC board of directors who does not currently serve on the Corporation's Board, and the FSLH Board shall be entitled to appoint and remove, with or without cause, one additional director to the FSLH Board who does not currently serve on the Corporation's Board;

c. To amend or repeal the Certificate of Incorporation and Bylaws or the Articles of Organization or Operating Agreements, and to adopt any new or restated Certificate of Incorporation, Bylaws, Articles of Organization, or Operating Agreements, of the Affiliates, unless such amendment would terminate SEMC's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services (hereinafter, "ERDs");

- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Affiliates;
- e. To approve the debt of the Affiliates in excess of an amount to be fixed from time to time by the Corporation;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Affiliate(s) in excess of an amount to be fixed from time to time by the Corporation. Notwithstanding the foregoing, the approval of PFM shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of SEMC in excess of an amount to be fixed from time to time by PFM, to meet the requirements of the United States Conference of Catholic Bishops;
- g. To approve the capital and operating budgets of the Affiliates;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to such Affiliate;
- i. To approve any corporate reorganization of the Affiliates and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve and coordinate the strategic plans of the Affiliates;
- k. To the extent applicable, to approve all contracts of reimbursement for the Affiliates from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Affiliate(s) to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Affiliate(s) subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by an Affiliate;
- o. To require an Affiliate to participate in any and all programs and services, as determined by the Corporation in its discretion, provided, however, that the Corporation may not require an Affiliate to participate in any program or service or take any action that would constitute a default

or event of default under any mortgage, indenture or other material agreement or instrument to which such Affiliate is a party and by which it is bound, and with respect to SEMC, may not require participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy, as determined by PFM; and

p. To accept delegations of authority on behalf of each Affiliate pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliates pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at FSLH which are proscribed by the ERDs shall not be transferred to or used for the benefit of the Corporation, SEMC or any subsidiary of SEMC, and neither the Corporation nor SEMC shall provide or support such services maintained by FSLH or any Affiliate or any subsidiary of FSLH.

For the purposes of the foregoing, the Corporation shall have: (i) the power to initiate and direct action by Affiliates without a prior recommendation of the Affiliate's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Affiliate's board of directors and to direct action by the Affiliate or to return the matter to the board of directors of the Affiliate for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, in the case of SEMC, the Corporation shall not direct any action with respect to SEMC that requires the approval of PFM without prior approval of such action by PFM. The board of directors and officers of an Affiliate shall not implement any action requiring the approval of the Corporation until the Corporation shall have exercised its reserve powers and communicated its determinations in writing to the Affiliate's board of directors and, in the case of any powers over SEMC that are also reserved to PFM, to PFM.

4. **ADDITIONAL PURPOSES AND POWERS.** The Corporation shall have the following additional purposes and powers:

a. To establish, support and maintain such other health care facilities and systems at one or more sites, whose purposes may include, but not be limited to, the provision of a full range of health and/or wellness related services, but whose services shall not include direct abortions or physician assisted suicide.

Each such service or facility shall be established and operated in accordance with all approvals required by the Public Health Law or other law of the State, and all approvals required from any other body having jurisdiction over such activities.

b. To carry on educational activities, scientific research and other health related activities or programs incident to the purposes set forth above either directly or through an Affiliate or subsidiary.

c. To solicit funds for the above purposes.

d. To pursue, enhance, and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations or other entities as may be established, operated and maintained in accordance with all approvals required by applicable law.

5. The Corporation is a Type B corporation under Section 201 of the Not-for-Profit Corporation Law.

6. Notwithstanding any other provision of this Certificate, the Corporation is organized and shall be operated exclusively for the charitable, religious, scientific and educational purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and shall not carry on any activities not permitted to be carried on by an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or by an organization, contributions to which are deductible under Section 170(c)(2) of such Code.

7. No part of the assets, income, profits or earnings of the Corporation shall inure to the benefit of any member, trustee, director or officer of the Corporation, or any private individual, except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes, and no member, trustee, director or officer of the Corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.

8. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation, except as otherwise provided by Section 501(h) of Internal Revenue Code of 1986, as amended, and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of any candidate for public office.

9. In the event of dissolution, all the remaining assets and property of the Corporation shall, after necessary expenses thereof, be distributed to FSLH, SEMC, SLH and/or VNA, provided that they shall then qualify under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, subject to an order of a Justice of the Supreme Court of the State of New York; if none of said not-for-profit corporations shall so qualify at the

time of dissolution, then distribution shall be made to such other organization or organizations that are organized and operated exclusively for religious, charitable, educational or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, subject to an order of a Justice of the Supreme Court of the State of New York.

10. In any taxable year in which the Corporation is a private foundation defined by Section 509 of the Internal Revenue Code of 1986, as amended, the Corporation shall:

(a) not engage in any act of self-dealing that is subject to tax under Section 4941 of the Code;

(b) not distribute its income for each taxable year at such time and in such manner as to subject the Corporation to tax on undistributed income under Section 4942 of the Code;

(c) not retain any excess business holdings in such manner as to subject the Corporation to tax under Section 4943 of the Code;

(d) not make any investments in such manner as to subject the Corporation to tax under Section 4944 of the Code; and

(e) not make any taxable expenditures that are subject to tax under Section 4945 of the Code.

11. The number of directors constituting the entire Board of Directors of the Corporation shall not be less than three (3). Subject to such limitation, the number shall be fixed by the bylaws pursuant to Section 702 of the Not-for-Profit Corporation Law.

12. The office of the Corporation is to be located in the County of Oneida, New York.

13. The Secretary of State is hereby designated as the agent of the Corporation upon whom process against it may be served, and the post office address to which the Secretary of State shall mail a copy of any process against the Corporation that may be served upon him is P.O. Box 4308, Utica, New York 13504-4308.

5. This Restated Certificate of Incorporation, and the foregoing amendments of the Certificate of Incorporation, were authorized by a unanimous vote of the entire Board of Directors, said affirmative vote being at least equal to a quorum. The Corporation has no members.

IN WITNESS WHEREOF, the undersigned has subscribed this Restated Certificate of Incorporation this 20th day of January, 2014, and hereby affirms that the statements contained herein are true under the penalties of perjury.

MOHAWK VALLEY NETWORK, INC.



Scott H. Perra, FACHE, President

**RESTATED CERTIFICATE OF INCORPORATION
OF
ST. ELIZABETH MEDICAL CENTER**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

The undersigned, President/CEO of St. Elizabeth Medical Center, certifies:

1. The name of the corporation is St. Elizabeth Medical Center (the "Corporation"). The Corporation was originally formed under the name of The Saint Elizabeth's Hospital and Home.
2. The Certificate of Incorporation of the Corporation was filed by the Department of State on February 8, 1870. The Corporation was formed under C. 319 of the Laws of 1848.
3. The Certificate of Incorporation of the Corporation is amended to affect the following amendments authorized by the Not-For-Profit Corporation Law:
 - a. Paragraph (6) of the Certificate of Incorporation reads as follows:
 - (6) The member of St. Elizabeth Medical Center shall be Partners in Franciscan Ministries, Inc.
 - b. Paragraph (6) of the Certificate of Incorporation is deleted in its entirety and is replaced with the following:
 - (6) Partners in Franciscan Ministries, Inc., and Mohawk Valley Health System shall serve as co-members of the Corporation.
 - c. Paragraph (7) of the Certificate of Incorporation reads as follows:
 - (7) The following powers shall be reserved to the Corporate Member to exercise and shall be referred to as Reserved Powers:
 - (a) To change the philosophy, mission, and purpose of the Corporation.
 - (b) To appoint and remove the President/CEO of the Corporation.
 - (c) To appoint and remove the Board of Trustees of the Corporation.
 - (d) To approve the Certificate of Incorporation and Bylaws of the Corporation.

- (e) To receive the annual report of the Corporation.
- (f) To approve the formation of subsidiaries, affiliates or divisions of the Corporation.
- (g) To approve a change in the name of the Corporation.
- (h) To receive, review and monitor the budget of the Corporation as deemed necessary by the Corporate Member.
- (i) To receive the annual audit of the Corporation.
- (j) To receive, review and monitor strategic, long range plans of the Corporation as deemed necessary by the Corporate Member.
- (k) To approve the financial transactions of the Corporation according to the annual United States Conference of Catholic Bishops alienation guidelines.

d. Paragraph (7) is deleted in its entirety and replaced with the following:

- (7) (a) The following powers shall be reserved to co-member, Partners in Franciscan Ministries, Inc., to exercise and shall be referred to as the Reserved Powers of the Partners in Franciscan Ministries, Inc.:
 - (i) To approve and interpret those elements of the Corporation's statement of mission and philosophy adopted by the Corporation that relate to the Corporation's status as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy, and any amendments thereof, and to require the Corporation to operate in conformance with its Catholic mission and philosophy.
 - (ii) To approve any amendment of the Corporation's purposes or powers in its Certificate of Incorporation that would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services.
 - (iii) To approve the sale, transfer, mortgage, guaranty, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by the Partners in Franciscan Ministries, Inc., to meet the requirements of the United States Conference of Catholic Bishops.

- (iv) To approve and reject appointments to the pension committee for the defined benefit pension plan sponsored by the Corporation, which qualifies as a church plan under Section 3(33) of the Employee Retirement Income Security Act of 1974.
- (v) To approve any amendments or modifications to, or the termination of, the St. Elizabeth Medical Center Church Plan.
- (vi) To elect or appoint and remove, with or without cause, one director of the Corporation who does not currently serve on the board of Mohawk Valley Health System.

For the purposes of this subsection (a) of section (7), the power of the Partners of Franciscan Ministries, Inc., to "approve" means the power to accept or reject a recommendation of the Board of Directors of the Corporation or an action by Mohawk Valley Health System or any future Members of the Corporation with respect to the powers reserved to the Partners of Franciscan Ministries, Inc. The Corporation's Board of Directors and officers or Mohawk Valley Health System or any future Members of the Corporation shall not implement any action requiring the approval of Partners of Franciscan Ministries, Inc., until Partners of Franciscan Ministries, Inc., shall have exercised its reserved powers and communicated its determination in writing to the Corporation's other Members and Board of Directors.

- (7) (b) Subject to the powers reserved to the Partners in Franciscan Ministries, Inc., the following powers shall be reserved to co-member Mohawk Valley Health System to exercise and shall be referred to as the Reserved Powers of Mohawk Valley Health System:
 - (i) To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and to coordinate the missions, visions, activities and resources of the Corporation and other affiliates of Mohawk Valley Health System in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, Mohawk Valley Health System shall not have the power to approve or interpret those elements of Corporation's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy.

- (ii) To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation. Notwithstanding the foregoing, the Partners in Franciscan Ministries, Inc., shall be entitled to appoint and remove, with or without cause, one additional director designated by the Partners in Franciscan Ministries, Inc., to the Corporation's Board of Directors.
- (iii) To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation or Bylaws of the Corporation, unless such amendment would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services.
- (iv) To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation.
- (v) To approve the debt of the Corporation in excess of an amount to be fixed from time to time by Mohawk Valley Health System.
- (vi) To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by Mohawk Valley Health System. Notwithstanding the foregoing, the approval of the Partners in Franciscan Ministries, Inc., shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of Corporation in excess of an amount to be fixed from time to time by the Partners in Franciscan Ministries, Inc., to meet the requirements of the United States Conference of Catholic Bishops.
- (vii) To approve the capital and operating budgets of the Corporation.
- (viii) To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation.
- (ix) To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization

or dissolution of any organizational relationship of the Corporation, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Corporation.

- (x) To approve and coordinate the strategic plan of the Corporation.
- (xi) To approve all contracts of reimbursement for the Corporation from governmental or private third party insurers.
- (xi) To approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to certificate of need applications to the New York State Department of Health.
- (xii) To approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York.
- (xiii) To approve any material change in the services offered by the Corporation.
- (xiv) To require the Corporation to participate in any and all programs and services, as determined by Mohawk Valley Health System in its discretion, provided, however, that Mohawk Valley Health System may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound, and may not require the Corporation's participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy, as determined by the Partners in Franciscan Ministries, Inc.
- (xv) To accept delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Corporation and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of the Corporation pursuant to any master trust

indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at affiliate Faxton St-Luke's Healthcare which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services shall not be transferred to or used for the benefit of Mohawk Valley Health System, the Corporation or any subsidiary of the Corporation, and neither Mohawk Valley Health System nor the Corporation shall provide or support such services maintained by Faxton-St. Luke's Healthcare or any subsidiary of Faxton-St. Luke's Healthcare or any affiliate of Mohawk Valley Health System.

For the purposes of this subsection (b) of section (7), Mohawk Valley Health System shall have: (a) the power to initiate and direct action by the Corporation without a prior recommendation of Corporation's Board of Directors; and (b) the power to accept, reject or modify the recommendation of the Corporation's Board of Directors and to direct action by the Corporation or to return the matter to the Corporation's Board of Directors for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, Mohawk Valley Health System shall not direct any action with respect to the Corporation that requires the approval of the Partners in Franciscan Ministries, Inc., without prior written approval of such action by the Partners in Franciscan Ministries, Inc. The Board of Directors and officers of the Corporation shall not implement any action requiring the approval of Mohawk Valley Health System until Mohawk Valley Health System shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's Board of Directors and, in the case of any powers over the Corporation that are also reserved to the Partners in Franciscan Ministries, Inc., to the Partners in Franciscan Ministries, Inc.

With respect to any entity that is controlled by Mohawk Valley Health System, such entity's charter and governing documents shall contain a section that provides for the foregoing rights and powers to be reserved to Mohawk Valley Health System. All the policies, property, affairs and businesses of the controlled entities shall be under the charge, control and direction of their respective governing bodies, subject to the powers that are or shall be reserved to Mohawk Valley Health System as described in this paragraph.

- c. Paragraph (8) of the Certificate of Incorporation reads as follows:
- (8) The business of St. Elizabeth Medical Center shall be managed by a Board of Trustees consisting of not fewer than nine nor more than fifteen persons.
- f. Paragraph (8) of the Certificate of Incorporation is deleted in its entirety and is replaced with the following:
- (8) The business of the Corporation shall be managed by a Board of Directors consisting of not fewer than nine persons.
- g. Paragraphs (11), (12), (13), (14) and (15) shall be added to address: (1) that the Corporation is organized exclusively for purposes specified in Section 501(c)(3) of the Internal Revenue Code of 1986 or corresponding provision of any subsequent federal tax law (the "Code"); (2) that no part of the Corporation's net earnings nor any distribution of assets on the dissolution of the Corporation shall inure to the benefit of any private person; (3) that no substantial part of the activities of the Corporation shall be carrying on propaganda, otherwise influencing legislation or participating in any political campaign; (4) the distribution of the Corporation's assets in the event of the Corporation's liquidation; and (5) the distribution of the Corporation's income in any taxable year in which the Corporation is a private foundation as described in Code Section 509(a). Paragraphs ((11), (12), (13), (14) and (15) are added to read as follows:
- (11) Notwithstanding any other provision of this Certificate of Incorporation, the Corporation is organized exclusively for charitable purposes, as specified in Section 501(c)(3) of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent federal tax law (the "Code") and shall not carry on any other activities not permitted to be carried on by (a) a corporation exempt from Federal Income Tax under Code Section 501(c)(3) or (b) by a corporation, contributions to which are deductible under Code Section 170(c)(2).
- (12) No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its directors, officers or any other private persons, except that the Corporation shall be authorized to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes as set forth in this Certificate of Incorporation.
- (13) No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Code Section 501(h)), and the Corporation shall

not participate in, or intervene (including the publication or distribution of statements), any political campaign on behalf of or in opposition to any candidate, or participating in, or intervening in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office.

(14) In the event of dissolution or final liquidation of the Corporation, the Board of Directors shall, after paying or making provisions for the payment of all the lawful debts and liabilities of the Corporation, distribute all the assets of the Corporation to Partners in Franciscan Ministries, Inc ("PFM") and/or the Congregation of the Sisters of St. Francis of the Neumann Communities ("Sisters"), provided that they shall then qualify under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law). If neither PFM nor the Sisters shall so qualify at the time of dissolution, then distribution shall be to such organization(s) organized and operated exclusively for charitable, education, religious or scientific purposes as shall at the time qualify as an exempt organization under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law), as SEMC shall determine.

(15) In any taxable year in which the Corporation is a private foundation as described in Code Section 509(a), the Corporation shall distribute its income for said period at such time and in such manner as not to subject it to tax under Code Section 4942; and the Corporation shall not (a) engage in any act of self dealing as defined in Code Section 4941(d); (b) retain any excess business holdings as defined in Code Section 4943(c); (c) make any investments in such manner as the subject corporation detects under Code Section 4944; or (d) make any taxable expenditures as defined in Code Section 4945(d).

h. Paragraph (16) shall be added to state the following:

(16) All references to "Trustees" shall be changed to "Directors" throughout the Certificate of Incorporation and Amendments or Restatements thereto and any reference to "Trustee" or "Trustees" shall be deemed a reference to "Director" or "Directors".

4. The text of the Certificate of Amendment is hereby restated, as amended, to read as herein set forth in full:

(1) The name of the corporation is St. Elizabeth Medical Center (the "Corporation"). The Corporation was originally formed under the name of The Saint Elizabeth's Hospital and Home.

(2) The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 (Definitions) of the Not-For-Profit Corporation Law. The Corporation is a Type B corporation under Section 201 (purposes) of the Not-For-Profit Corporation Law.

(3) The Secretary of State is designated as the agent upon whom process may be served, and the post office address within the State to which the Secretary of State shall mail a copy of any process is: 2209 Genesee Street, Utica, NY 13501.

(4) The business and objects of the Corporation hereby formed shall be:

(a) to maintain a hospital for poor, sick, aged, infirm and disabled persons;
and

(b) to operate a certified home health agency and to otherwise provide home care services.

(5) Pursuant to the establishment of the Mohawk Valley Heart Institute, Inc. pursuant to Article 28 of the Public Health Law, the Corporation hereby delegates to the Mohawk Valley Heart Institute, Inc.:

(a) Joint operational decision making authority and responsibility with the Corporation over such services for which a joint operating certificate will be issued by the New York State Department of Health to Mohawk Valley Heart Institute, Inc. and the Corporation.

(b) Notwithstanding the foregoing, the Corporation retains control over and does not delegate to Mohawk Valley Heart Institute, Inc., authority and responsibility for all other services, operations, and clinical programs, for which no authority has been delegated to Mohawk Valley Heart Institute, Inc. and for which no joint operating certificate will be issued by the New York State Department of Health.

(6) Partners in Franciscan Ministries, Inc., and Mohawk Valley Health System shall serve as co-members of the Corporation.

(7) (a) The following powers shall be reserved to co-member, Partners in Franciscan Ministries, Inc., to exercise and shall be referred to as the Reserved Powers of the Partners in Franciscan Ministries, Inc.:

(i) To approve and interpret those elements of the Corporation's statement of mission and philosophy adopted by the Corporation that relate to the Corporation's status as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy, and any amendments thereof, and to require the Corporation to operate in conformance with its Catholic mission and philosophy.

- (ii) To approve any amendment of the Corporation's purposes or powers in its Certificate of Incorporation that would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services.
- (iii) To approve the sale, transfer, mortgage, guaranty, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by the Partners in Franciscan Ministries, Inc., to meet the requirements of the United States Conference of Catholic Bishops.
- (iv) To approve and reject appointments to the pension committee for the defined benefit pension plan sponsored by the Corporation, which qualifies as a church plan under Section 3(33) of the Employee Retirement Income Security Act of 1974.
- (v) To approve any amendments or modifications to, or the termination of, the St. Elizabeth Medical Center Church Plan.
- (vi) To elect or appoint and remove, with or without cause, one director of the Corporation who does not currently serve on the board of Mohawk Valley Health System.

For the purposes of this subsection (a) of section (7), the power of the Partners of Franciscan Ministries, Inc., to "approve" means the power to accept or reject a recommendation of the Board of Directors of the Corporation or an action by Mohawk Valley Health System or any future Members of the Corporation with respect to the powers reserved to the Partners of Franciscan Ministries, Inc. The Corporation's Board of Directors and officers or Mohawk Valley Health System or any future Members of the Corporation shall not implement any action requiring the approval of Partners of Franciscan Ministries, Inc., until Partners of Franciscan Ministries, Inc., shall have exercised its reserved powers and communicated its determination in writing to the Corporation's other Members and Board of Directors.

(7) (b) Subject to the powers reserved to the Partners in Franciscan Ministries, Inc., the following powers shall be reserved to co-member Mohawk Valley Health System to exercise and shall be referred to as the Reserved Powers of Mohawk Valley Health System:

- (i) To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and to coordinate the missions, visions, activities and resources of the

Corporation and other affiliates of Mohawk Valley Health System in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, Mohawk Valley Health System shall not have the power to approve or interpret those elements of the Corporation's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of Corporation's Catholic mission and philosophy.

- (ii) To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation. Notwithstanding the foregoing, the Partners in Franciscan Ministries, Inc., shall be entitled to appoint and remove, with or without cause, one additional director designated by the Partners in Franciscan Ministries, Inc., to the Corporation's Board of Directors.
- (iii) To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation or Bylaws of the Corporation, unless such amendment would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services.
- (iv) To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation.
- (v) To approve the debt of the Corporation in excess of an amount to be fixed from time to time by Mohawk Valley Health System.
- (vi) To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by Mohawk Valley Health System. Notwithstanding the foregoing, the approval of the Partners in Franciscan Ministries, Inc., shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by the Partners in Franciscan Ministries, Inc., to meet the requirements of the United States Conference of Catholic Bishops.
- (vii) To approve the capital and operating budgets of the Corporation.

- (viii) To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation.
- (ix) To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Corporation.
- (x) To approve and coordinate the strategic plan of the Corporation.
- (xi) To approve all contracts of reimbursement for the Corporation from governmental or private third party insurers.
- (xii) To approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to certificate of need applications to the New York State Department of Health.
- (xiii) To approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York.
- (xiv) To approve any material change in the services offered by the Corporation.
- (xv) To require the Corporation to participate in any and all programs and services, as determined by Mohawk Valley Health System in its discretion, provided, however, that Mohawk Valley Health System may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound, and may not require Corporation's participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy, as determined by the Partners in Franciscan Ministries, Inc.
- (xvi) To accept delegations of authority on behalf of Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Corporation and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry

out the obligations of the Corporation pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at affiliate Faxton St-Luke's Healthcare which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services shall not be transferred to or used for the benefit of Mohawk Valley Health System, or the Corporation or any subsidiary of the Corporation, and neither Mohawk Valley Health System nor the Corporation shall provide or support such services maintained by Faxton-St. Luke's Healthcare or any subsidiary of Faxton-St. Luke's Healthcare or any affiliate of Mohawk Valley Health System.

For the purposes of this subsection (b) of section (7), Mohawk Valley Health System shall have: (a) the power to initiate and direct action by the Corporation without a prior recommendation of Corporation's Board of Directors; and (b) the power to accept, reject or modify the recommendation of the Corporation's Board of Directors and to direct action by the Corporation or to return the matter to the Corporation's Board of Directors for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, Mohawk Valley Health System shall not direct any action with respect to the Corporation that requires the approval of the Partners in Franciscan Ministries, Inc., without prior written approval of such action by the Partners in Franciscan Ministries, Inc. The Board of Directors and officers of the Corporation shall not implement any action requiring the approval of Mohawk Valley Health System until Mohawk Valley Health System shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's Board of Director and, in the case of any powers over the Corporation that are also reserved to the Partners in Franciscan Ministries, Inc., to the Partners in Franciscan Ministries, Inc.

With respect to any entity that is controlled by Mohawk Valley Health System, such entity's charter and governing documents shall contain a section that provides for the foregoing rights and powers to be reserved to Mohawk Valley Health System. All the policies, property, affairs and businesses of the controlled entities shall be under the charge, control and direction of their respective governing bodies, subject to the powers that are or shall be reserved to Mohawk Valley Health System as described in this paragraph.

(8) The business of the Corporation shall be managed by a Board of Directors consisting of not fewer than nine persons.

(9) Any action required or permitted to be taken by the Board of Trustees of the Corporation, or by any committee thereof, may be taken without a meeting if all members of the Board of Directors or the committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto by the members of the Board of Directors or committee shall be filed with the minutes of the proceedings of the Board of Directors or committee.

(10) Any one or more members of the Board of Directors or any committee thereof may participate in the meeting of such board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time.

(11) Notwithstanding any other provision of this Certificate of Incorporation, the Corporation is organized exclusively for charitable purposes, as specified in Section 501(c)(3) of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent federal tax law (the "Code") and shall not carry on any other activities not permitted to be carried on by (a) a corporation exempt from Federal Income Tax under Code Section 501(c)(3) or (b) by a corporation, contributions to which are deductible under Code Section 170(c)(2).

(12) No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its directors, officers or any other private persons, except that the Corporation shall be authorized to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes as set forth in this Certificate of Incorporation.

(13) No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Code Section 501(h)), and the Corporation shall not participate in, or intervene (including the publication or distribution of statements), any political campaign on behalf of or in opposition to any candidate, or participating in, or intervening in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office.

(14) In the event of dissolution or final liquidation of the Corporation, the Board of Directors shall, after paying or making provisions for the payment of all the lawful debts and liabilities of the Corporation, distribute all the assets of the Corporation to Partners in Franciscan Ministries, Inc ("PFM") and/or the Congregation of the Sisters of St. Francis of the Neumann Communities ("Sisters"), provided that they shall then qualify under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law). If neither PFM nor the Sisters shall so qualify at the time of dissolution, then distribution shall be to such organization(s) organized and operated exclusively for charitable, education, religious or scientific purposes as shall at the time

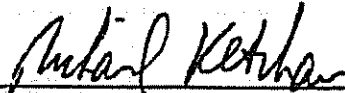
qualify as an exempt organization under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law), as SEMC shall determine.

(15) In any taxable year in which the Corporation is a private foundation as described in Code Section 509(a), the Corporation shall distribute its income for said period at such time and in such manner as not to subject it to tax under Code Section 4942; and the Corporation shall not (a) engage in any act of self dealing as defined in Code Section 4941(d); (b) retain any excess business holdings as defined in Code Section 4943(c); (c) make any investments in such manner as the subject corporation detects under Code Section 4944; or (d) make any taxable expenditures as defined in Code Section 4945(d).

(16) All references to "Trustees" shall be changed to "Directors" throughout the Certificate of Incorporation and Amendments or Restatements thereto and any reference to "Trustee" or "Trustees" shall be deemed a reference to "Director" or "Directors".

5. This restatement of the certificate of incorporation of St. Elizabeth Medical Center was authorized by unanimous vote of the Corporate Member at a meeting of the Corporate Member held on the 30th day of September, 2013 at which a quorum was present and acting throughout and authorized by unanimous vote of the Board of Trustees of the Corporation at a meeting of the Board of Trustees held on the 3rd day of October 2013 at which a quorum was present and acting throughout.

IN WITNESS WHEREOF, the undersigned has executed this Restated Certificate this 21st day of January, 2014. The undersigned affirms that statements made herein are true under the penalties of perjury.



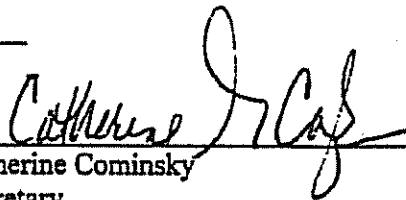
Richard Ketcham
President/CEO

Sworn to before me this 21st day of
January, 2014



Notary Public

KAREN A. BURTON
NOTARY PUBLIC-STATE OF NEW YORK
No. 018U6251652
Qualified in Oneida County
My Commission Expires November 21, 2015



Catherine Cominsky
Secretary

Sworn to before me this 20th day of
January, 2014



Notary Public

CHACI A. BOURIS
Notary Public-STATE OF NEW YORK
No. 00000000000000000000
Qualified in Oneida County
Commission Expires November 21, 2015



**RESTATED CERTIFICATE OF CONSOLIDATION
OF
FAXTON-ST. LUKE'S HEALTHCARE**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

The undersigned, being the President of Faxton-St. Luke's Healthcare, certifies:

1. The name of the corporation is: **Faxton-St. Luke's Healthcare.**
2. The corporation's Certificate of Consolidation was filed by the Department of State on the 23rd day of December, 1999, pursuant to the New York Not-for-Profit Corporation Law.
3. The corporation's Certificate of Consolidation is hereby amended to effectuate the following:
 - A. To delegate and reserve to the Corporation's sole corporate member, Mohawk Valley Health System ("MVHS") certain rights and powers as set forth in Paragraph 4 of this Restated Certificate of Consolidation.

4. The text of the Certificate of Consolidation, as amended, is hereby restated to read as herein set forth in full:

1. The name of the consolidated corporation is: **FAXTON-ST. LUKE'S HEALTHCARE** (herein, the "Corporation" or the "Hospital").
2. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law.
3. The purposes and objects of the Corporation shall be as follows:
 - a. to establish, operate and maintain a general hospital and comprehensive health care facilities and systems whose purposes may include, but not be limited to, a full range of inpatient services, outpatient services, emergency department services, medical and dental services, residential health care facility services, end stage renal dialysis services, and such other services, facilities and equipment as shall be desirable in meeting the health care needs of the community, to be located at one or more sites.
 - b. to carry on educational activities, scientific research and other health related activities and programs incident to the purposes set forth above.
 - c. to solicit funds for the above purposes.

d. to pursue, enhance and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations as may be established, operated and maintained in accordance with all approvals required by applicable law.

e. this Corporation is organized exclusively for charitable, scientific and educational purposes as a not-for-profit corporation. Upon dissolution of the Corporation, and after payment of all just debts and liabilities, all remaining assets shall be distributed to MVHS and/or the not-for-profit corporate affiliates of MVHS, provided that they shall then qualify under Code Section 501(c)(3) or corresponding provisions of any future United States Internal Revenue law. If neither MVHS nor any of its not-for-profit corporate affiliates shall so qualify at the time of dissolution, the distribution shall be made to such other organizations enjoying exempt status under Section 501(c)(3) of the Internal Revenue Code, of 1986, as amended, or successor provisions, pursuant to a plan of dissolution authorized in accordance with the laws of the State of New York. The Corporation shall not devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise.

f. pursuant to the establishment of the Mohawk Valley Heart Institute, Inc. under Article 28 of the Public Health Law, the Corporation hereby delegates to Mohawk Valley Heart Institute, Inc.:

- i. Joint operational decision making authority and responsibility with Faxton-St. Luke's Healthcare over such services for which a joint operating certificate will be issued by the New York State Department of Health to Mohawk Valley Heart Institute, Inc. and Faxton-St. Luke's Healthcare.
- ii. Notwithstanding the foregoing, Faxton-St. Luke's Healthcare retains control over and does not delegate to Mohawk Valley Heart Institute, Inc. authority and responsibility for all other services, operations and clinical programs for which no authority has been delegated to Mohawk Valley Heart Institute, Inc. and for which no joint operating certificate will be issued by the New York State Department of Health.

4. The Corporation does delegate and reserve to Mohawk Valley Health System ("MVHS") certain powers. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Hospital, to require that the Hospital operate in conformance with its mission and philosophy and that the Hospital coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and

effective health care services in Oneida County, New York, and surrounding areas.

- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Hospital, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Hospital. Notwithstanding the foregoing, the Board of the Corporation shall be entitled to appoint and remove, with or without cause, one (1) additional director to the Board of the Corporation who does not currently serve on the MVHS Board.
- c. To amend or repeal the Certificate of Consolidation and Bylaws, and to adopt any new or restated Certificate of Consolidation, and Bylaws of the Hospital;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Hospital;
- e. To approve the debt of the Hospital in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Hospital in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Hospital;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Hospital;
- i. To approve any corporate reorganization of the Hospital and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Hospital with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve and coordinate the strategic plan of the Hospital;
- k. To approve all contracts of reimbursement for the Hospital from governmental or private third party insurers;
- l. To approve all applications of the Hospital to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health, as required;

m. To approve management contracts for the Hospital subject to approval and/or regulation under the laws and regulations of the State of New York;

n. To approve any material change in the services offered by the Hospital;

o. To require the Hospital to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Hospital to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Hospital is a party and by which it is bound; and

p. To accept further delegations of authority on behalf of the Hospital pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Hospital and other MVHS affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

Notwithstanding the foregoing, any and all proceeds from services performed at the Hospital which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services (herein, the "ERDs") shall not be transferred to or used for the benefit of MVHS, St. Elizabeth Medical Center ("SEMC") or any affiliate of SEMC and neither MVHS nor SEMC shall provide or support such services maintained by the Hospital or any Affiliate or subsidiary of the Hospital.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Hospital without a prior recommendation of the Hospital's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Hospital's board of directors and to direct action by the Hospital or to return the matter to the board of directors of the Hospital for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Hospital shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Hospital's board of directors.

5. The Corporation is not organized for pecuniary profit or financial gain, and no part of its assets, income or profit shall be distributable to, or inure to the benefit

of its members, directors or officers, except to the extent permitted under the Not-for-Profit Corporation Law.

6. The Corporation shall be a Type B corporation under Section 201 of the Not-for-Profit Corporation Law.

7. The office of the Corporation is to be in the County of Oneida, State of New York.

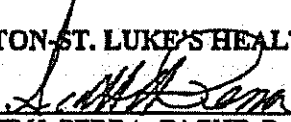
8. The duration of the Corporation is to be perpetual.

9. The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is: *P.O. Box 479, Utica, NY 13503-0479.*

5. This Restated Certificate of Consolidation was authorized by a vote of the sole member of the Corporation.

IN WITNESS WHEREOF, the undersigned has subscribed this Restated Certificate of Consolidation this 20th day of January, 2014, and hereby affirms that the statements contained herein are true under the penalties of perjury.

FAXTON-ST. LUKE'S HEALTHCARE



SCOTT H. PERRA, FACHE, President



**RESTATED CERTIFICATE OF INCORPORATION
OF
ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC.**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

The undersigned, President of St. Lukes Home Residential Health Care Facility, Inc., hereby certifies:

1. The name of the corporation is: **St. Lukes Home Residential Health Care Facility, Inc.**
2. The corporation's Certificate of Incorporation was filed by the Department of State on the 27th day of February 1995. A Certificate of Amendment of the Certificate of Incorporation was filed by the Department of State on the 1st day of August, 1995.
3. The corporation's Certificate of Incorporation is hereby amended to effectuate the following:
 - A. To delegate and reserve to the Corporation's sole corporate member, Mohawk Valley Health System ("MVHS"), certain rights and powers by adding a new Paragraph 4 as set forth in Paragraph 4 of this Restated Certificate of Incorporation and renumbering the remaining paragraphs accordingly.
 - B. To change the address for service of process as set forth in Paragraph 8 of this Restated Certificate of Incorporation.
 - C. To revoke the designation of the Registered Agent.
 - D. To change the distributee of the remaining assets of the Corporation in the event of its dissolution as set forth in Paragraph 11 of this Restated Certificate of Incorporation.
4. The text of the Certificate of Incorporation, as amended, is hereby restated to read as herein set forth in full:

1. The name of the Corporation is: **St. Lukes Home Residential Health Care Facility, Inc.** (herein, the "Corporation" or the "Home").
2. The Corporation is not organized for pecuniary profit or financial gain, and no part of its assets, income or profit shall be distributable to, or inure to the benefit of its members, directors or officers except to the extent permitted under the Not-for-Profit Corporation Law.
3. The purposes for which the Corporation is organized are:

- a. to establish and maintain within the State of New York a residential health care facility to provide care to the frail elderly and other individuals requiring skilled nursing care and/or restorative rehabilitation; to carry on educational activities and programs incident to the purposes set forth above; to do any other act or thing incidental to or connected with the above purposes or advancement thereof, but not for the pecuniary profit or financial gain of its members, Directors or Officers, except as permitted under the Not-for-Profit Corporation Law.

4. The Corporation does delegate and reserve to Mohawk Valley Health System ("MVHS"), the sole corporate Member of the Corporation, certain powers. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and that the Corporation coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation.
- c. To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation, and Bylaws of the Corporation;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- e. To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Corporation;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation;

- i. To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve and coordinate the strategic plan of the Corporation;
- k. To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by the Corporation;
- o. To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound; and
- p. To accept further delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation and other MVHS Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's board of directors.


5. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law and is a Type B corporation under Section 201 of the Not-for-Profit Corporation Law.
6. The office of the Corporation is to be in the County of Oneida, State of New York.
7. The duration of the Corporation is to be perpetual.
8. The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is: *St. Lukes Home Residential Health Care Facility, Inc., 1650 Champlin Avenue, Utica, NY 13502.*
9. Notwithstanding any other provisions of this Certificate, the Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a Corporation exempt from Federal income tax under IRC 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.
10. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by IRC 501(h)), and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of, or in opposition to, any candidates for public office.
11. In the event of dissolution, all of the remaining assets and property of the Corporation shall, after payment of necessary expenses thereof, be distributed to MVHS or such other Corporations as shall qualify under Section 501(c)(3) of the Internal Revenue Code of 1985, subject to an Order of a Justice of the Supreme Court of the State of New York.

12. In any taxable year in which the Corporation is a private foundation as described in IRC 509(a), the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under IRC 4942, and the Corporation shall not: (a) engage in any act of self-dealing as defined in IRC 4941(d), retain any excess business holdings as defined in IRC 4943(c); (b) make any investments in such manner as to subject the Corporation to tax under IRC 4944; or (c) make any taxable expenditures as defined in IRC 4945(d) or corresponding provisions of any subsequent Federal tax laws.

5. This Restated Certificate of Incorporation was authorized by a vote of the Members of the Corporation in accordance with the provisions of the New York Not-for-Profit Corporation Law.

IN WITNESS WHEREOF, the undersigned has subscribed this Restated Certificate of Incorporation this 20th day of January 2014, and hereby affirms that the statements contained herein are true under the penalties of perjury.

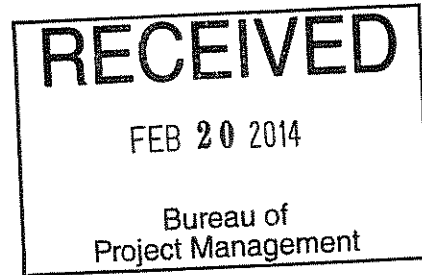
**ST. LUKES HOME RESIDENTIAL
HEALTH CARE FACILITY, INC.**



SCOTT H. PERRA, FACHE, President

February 18, 2014

Barbara DelCogliano
Director, Bureau of Project Management
Division of Health Facility Planning
Office of Health Systems Management
NYS Department of Health
Empire State Plaza
Corning Tower, Room 1842
Albany, New York 12237



RE: CON #132204-E (Mohawk Valley Health System)

Dear Ms. DelCogliano:

Enclosed please find the Office of Mental Health's approval letter, which addresses the final contingency as listed in your December 30, 2013 transmittal. Also enclosed are updated Restated Articles of Incorporation documents as listed below. The service company that is filing our Restated Articles of Incorporation with the Department of State suggested some form modifications. Please note that these changes are not substantive changes.

- ✎ 1. Copy of Restated Certificate of Incorporation of Mohawk Valley Network, Inc.
- ✎ 2. Copy of Restated Certificate of Consolidation of Faxton-St. Luke's Healthcare.
- ✎ 3. Copy of Restated Certificate of Incorporation of St. Luke's Home Residential Health Care Facility, Inc.
- ✎ 4. Copy of Restated Certificate of Incorporation of Visiting Nurse Association of Utica and Oneida County, Inc.

Should you have any questions or concerns regarding these documents, please contact our attorney, Mr. Justin Runke at Harris Beach, PLLC, 585-419-8734. If there is anything further you need to expedite your acceptance of the contingencies, please contact me at 315-624-6298 or spalmer@mvnhealth.com.

Sincerely,



Sharon A. Palmer
Director, Facility Planning & Support Services
Enclosures

Corporate Address
PO Box 479
Utica, NY 13503-0479
(315)624-6000

St. Luke's Campus
1656 Champlin Avenue
Utica, NY 13502
(315)624-6000

Faxton Campus
1676 Sunset Avenue
Utica, NY 13502
(315)624-6000

84229





February 14, 2014

Scott H. Perra
President and CEO
Mohawk Valley Health System
1656 Champlin Avenue, PO Box 479
Utica, NY 13503-0479

Re: Prior Approval Review (PAR) Application
Project #: HD-132204
St. Luke's Memorial Hospital Center Psychiatric IP Unit
OC #: 8533020
St. Elizabeth Hospital Psychiatric Inpatient Unit
OC #: 6418020
Application to: Change of Sponsor

Dear Mr. Perra:

The New York State Office of Mental Health is issuing final approval of the above referenced PAR application to establish Mohawk Valley Health System as the "active parent" and sponsor of Faxon-St. Luke's Healthcare (FSL) and St. Elizabeth Medical Center (SEMC).

The PAR application was reviewed in accordance with Sections 31.22 and 31.23 of the Mental Hygiene Law and Parts 551 and 580 of Title 14 of the Codes, Rules and Regulations of the State of New York (NYCRR).

Operating Certificates in the Hospitals for the Mentally Ill Class are issued to Mohawk Valley Health System/Faxon - St. Luke's Healthcare and Mohawk Valley Health System/St. Elizabeth Medical Center in accordance with Article 31 of the Mental Hygiene Law and Title 14, Part 580 of the Codes, Rules and Regulations of the State of New York (NYCRR). These certifications, effective on February 14, 2014, authorize the operation of psychiatric inpatient units of a general hospital program as follows:

Program: St. Luke's Memorial Hospital Center Psychiatric IP Unit
Address: 1656 Champlin Avenue, PO Box 479
Utica, NY 13503
Certificate #: 8533020
Capacity: Twenty-six (26) beds
Renewal Date: March 26, 2016

Program: St. Elizabeth Hospital Psychiatric Inpatient Unit
Address: 2209 Genesee Street
Utica, NY 13501





Certificate #: 6418020
Capacity: Twenty-four (24) beds
Renewal Date: September 30, 2014

In accordance with 14 NYCRR 580.4(d) the operating certificate shall be framed and displayed in a conspicuous place, readily accessible to the public. In accordance with 14 NYCRR 580.4(e), your acknowledgment of the receipt of the enclosed certificate and return of the previously issued operating certificates to the Central New York Field Office at 545 Cedar Street, Syracuse, NY 13210-2319 are requested.

All admissions must be in accordance with Article 9 of the Mental Hygiene Law. Detailed requirements of this Article relating to admission notification, retention, and release should be discussed with your Mental Hygiene Legal Service representative.

It is our understanding that ECT is not a service provided by either program. If in the future the hospital(s) plans to add this service, prior approval by OMH of the ECT policies and procedures is required and the Field Office should be contacted for assistance with the request.

It is the expectation of the Office of Mental Health that program performance, as required by the regulations and, as reflected by outcomes identified in the program's policies and procedures, will be continually monitored. The results of this monitoring should be utilized to revise program practices and procedures to better serve consumers and should incorporate evidence-based practices over time. The Office of Mental Health is committed to providing technical assistance to you in these efforts. Central New York Field Office Staff is available to assist in these efforts at (315) 426-3930.

Sincerely,



Michael W. Holley, Director
Bureau of Inspection and Certification

MWH:KJM
Enclosures

cc: Debra Whiteford
Edgar Scudder
Mary Hart, DOH
Emmett J. Creahan, MHLS
Lawrence Austin
Keith McCarthy
Susan Knapik/File

cc: Sabina Ondo, OITS
Linda Nelson
Richard King
Mark Simone





New York State
Office of Mental Health

Operating Certificate

Hospitals for the Mentally Ill Class

I do hereby certify that pursuant to authority conferred by law this operating certificate has been issued on **February 14, 2014**

to: Mohawk Valley Health System/Faxton - St. Luke's Healthcare

to operate a: Inpatient Psychiatric Unit of a General Hospital

to be known as: St. Luke's Memorial Hospital Center Psychiatric IP Unit

located at: 1656 Champlin Avenue, PO Box 479
Utica, NY 13503

in accordance with the rules and regulations made and established by the Commissioner as the statute provides.

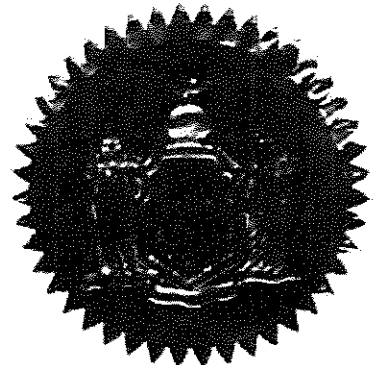
Authorized by this operating certificate:

Inpatient Treatment Program for Adults with a Certified Capacity of
Twenty-six (26) Beds

In witness whereof, I have hereunto set my hand on February 14, 2014

Michael W. Holley, Director
Bureau of Inspection and Certification

Renewal Date: **March 26, 2016**
Operating Certificate Number: **8533020**







New York State
Office of Mental Health

Operating Certificate

Hospitals for the Mentally III Class

I do hereby certify that pursuant to authority conferred by law this operating certificate has been issued on **February 14, 2014**

to: Mohawk Valley Health System/St. Elizabeth Medical Center

to operate a: Inpatient Psychiatric Unit of a General Hospital

to be known as: St. Elizabeth Hospital Psychiatric Inpatient Unit


located at: 2209 Genesee Street
Utica, NY 13501

in accordance with the rules and regulations made and established by the Commissioner as the statute provides.

Authorized by this operating certificate:

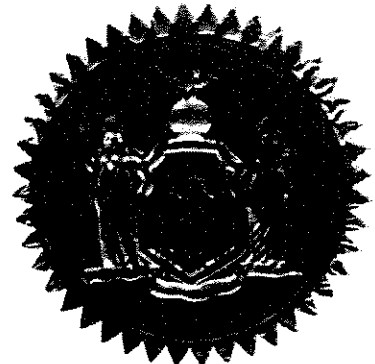
Inpatient Treatment Program for Adults with a Certified Capacity of
Twenty-four (24) Beds

In witness whereof, I have hereunto set my hand on February 14, 2014



Michael W. Holley, Director
Bureau of Inspection and Certification

Renewal Date: **September 30, 2014**
Operating Certificate Number: **6418020**





**RESTATED CERTIFICATE OF INCORPORATION
OF
MOHAWK VALLEY NETWORK, INC.**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

The undersigned, being the President of Mohawk Valley Network, Inc., hereby certifies:

1. The name of the corporation is: **MOHAWK VALLEY NETWORK, INC.**
2. The Corporation's Certificate of Incorporation was filed by the Department of State on the 12th day of April, 1991, pursuant to the Not-for-Profit Corporation Law. A Restated Certificate of Incorporation of the Corporation was thereafter filed by the Department of State on March 8, 2005.
3. The Corporation's Certificate of Incorporation, as previously filed and restated, is hereby amended to effect the following:
 - A. To change the name of the Corporation to Mohawk Valley Health System, as provided in Paragraph 1 of this Restated Certificate of Incorporation.
 - B. To add St. Elizabeth Medical Center ("SEMC"), St. Lukes Home Residential Health Care Facility, Inc. ("SLH"), Senior Network Health, LLC ("SNH") and Mohawk Valley Home Care, LLC ("MVHC") as named affiliates of the Corporation, as provided in Paragraph 3 of this Restated Certificate of Incorporation.
 - C. To add SEMC and SLH as named distributees of the Corporation's assets upon dissolution of the Corporation, as provided in Paragraph 9 of this Restated Certificate of Incorporation.
 - D. To restate the purposes and powers of the Corporation, as provided in Paragraph 3 of this Restated Certificate of Incorporation.
4. The text of the Certificate of Incorporation, as amended, is hereby restated to read as herein set forth in full:
 1. The name of the Corporation is: **MOHAWK VALLEY HEALTH SYSTEM.**
 2. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law in that it is not formed for pecuniary profit or financial gain, and no part of the assets, income or profit of the corporation shall be distributed to, or inure to the benefit of, its members, directors, officers or any private person.



3. The Corporation is organized and shall be operated exclusively for the benefit of Faxton-St. Luke's Healthcare ("FSLH"), St. Elizabeth Medical Center ("SEMC"), St. Lukes Home Residential Health Care Facility, Inc. ("SLH"), Visiting Nurse Association of Utica and Oneida County, Inc. ("VNA"), which are New York State Not-for-Profit Corporations, and Senior Network Health, LLC ("SNH") and Mohawk Valley Home Care, LLC ("MVHC") (each individually referred to as an "Affiliate" and collectively referred to as the "Affiliates"). To this end, the Corporation shall, in addition to all other rights and powers of membership prescribed by New York law, the certificates of incorporation and/or bylaws, or the articles of organization or operating agreements of the Affiliates, have the following governance and management powers as have been delegated to the Corporation to the extent permitted by the New York Not-for-Profit Corporation Law and the New York Limited Liability Company Law:

a. Except as otherwise set forth herein, to approve and interpret the statement of mission and philosophy adopted by the Affiliates, to require that each Affiliate operate in conformance with its mission and philosophy and to coordinate the missions, visions, activities and resources of the Affiliates in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, the Corporation shall not have the power to approve or interpret those elements of SEMC's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of SEMC's Catholic mission and philosophy;

b. To elect or appoint, fix the number of, and remove, with or without cause, the directors or trustees (referred to hereinafter as "directors" or "director") or managers of the Affiliates, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Affiliates. Notwithstanding the foregoing, Partners in Franciscan Ministries, Inc. ("PFM"), as the co-member of SEMC, shall be entitled to appoint and remove, with or without cause, one additional director designated by PFM to the SEMC board of directors who does not currently serve on the Corporation's Board, and the FSLH Board shall be entitled to appoint and remove, with or without cause, one additional director to the FSLH Board who does not currently serve on the Corporation's Board;

c. To amend or repeal the Certificate of Incorporation and Bylaws or the Articles of Organization or Operating Agreements, and to adopt any new or restated Certificate of Incorporation, Bylaws, Articles of Organization, or Operating Agreements, of the Affiliates, unless such amendment would terminate SEMC's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services (hereinafter, "ERDs");



- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Affiliates;
- e. To approve the debt of the Affiliates in excess of an amount to be fixed from time to time by the Corporation;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Affiliate(s) in excess of an amount to be fixed from time to time by the Corporation. Notwithstanding the foregoing, the approval of PFM shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of SEMC in excess of an amount to be fixed from time to time by PFM, to meet the requirements of the United States Conference of Catholic Bishops;
- g. To approve the capital and operating budgets of the Affiliates;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to such Affiliate;
- i. To approve any corporate reorganization of the Affiliates and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve and coordinate the strategic plans of the Affiliates;
- k. To the extent applicable, to approve all contracts of reimbursement for the Affiliates from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Affiliate(s) to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Affiliate(s) subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by an Affiliate;
- o. To require an Affiliate to participate in any and all programs and services, as determined by the Corporation in its discretion, provided, however, that the Corporation may not require an Affiliate to participate in any program or service or take any action that would constitute a default



or event of default under any mortgage, indenture or other material agreement or instrument to which such Affiliate is a party and by which it is bound, and with respect to SEMC, may not require participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy, as determined by PFM; and

p. To accept delegations of authority on behalf of each Affiliate pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliates pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at FSLH which are proscribed by the ERDs shall not be transferred to or used for the benefit of the Corporation, SEMC or any subsidiary of SEMC, and neither the Corporation nor SEMC shall provide or support such services maintained by FSLH or any Affiliate or any subsidiary of FSLH.

For the purposes of the foregoing, the Corporation shall have: (i) the power to initiate and direct action by Affiliates without a prior recommendation of the Affiliate's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Affiliate's board of directors and to direct action by the Affiliate or to return the matter to the board of directors of the Affiliate for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, in the case of SEMC, the Corporation shall not direct any action with respect to SEMC that requires the approval of PFM without prior approval of such action by PFM. The board of directors and officers of an Affiliate shall not implement any action requiring the approval of the Corporation until the Corporation shall have exercised its reserve powers and communicated its determinations in writing to the Affiliate's board of directors and, in the case of any powers over SEMC that are also reserved to PFM, to PFM.

4. **ADDITIONAL PURPOSES AND POWERS.** The Corporation shall have the following additional purposes and powers:

a. To establish, support and maintain such other health care facilities and systems at one or more sites, whose purposes may include, but not be limited to, the provision of a full range of health and/or wellness related services, but whose services shall not include direct abortions or physician assisted suicide.



Each such service or facility shall be established and operated in accordance with all approvals required by the Public Health Law or other law of the State, and all approvals required from any other body having jurisdiction over such activities.

b. To carry on educational activities, scientific research and other health related activities or programs incident to the purposes set forth above either directly or through an Affiliate or subsidiary.

c. To solicit funds for the above purposes.

d. To pursue, enhance, and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations or other entities as may be established, operated and maintained in accordance with all approvals required by applicable law.

5. The Corporation is a Type B corporation under Section 201 of the Not-for-Profit Corporation Law.

6. Notwithstanding any other provision of this Certificate, the Corporation is organized and shall be operated exclusively for the charitable, religious, scientific and educational purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and shall not carry on any activities not permitted to be carried on by an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or by an organization, contributions to which are deductible under Section 170(c)(2) of such Code.

7. No part of the assets, income, profits or earnings of the Corporation shall inure to the benefit of any member, trustee, director or officer of the Corporation, or any private individual, except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes, and no member, trustee, director or officer of the Corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.

8. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation, except as otherwise provided by Section 501(h) of Internal Revenue Code of 1986, as amended, and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of any candidate for public office.

9. In the event of dissolution, all the remaining assets and property of the Corporation shall, after necessary expenses thereof, be distributed to FSLH, SEMC, SLH and/or VNA, provided that they shall then qualify under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, subject to an order of a Justice of the Supreme Court of the State of New York; if none of said not-for-profit corporations shall so qualify at the



time of dissolution, then distribution shall be made to such other organization or organizations that are organized and operated exclusively for religious, charitable, educational or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, subject to an order of a Justice of the Supreme Court of the State of New York.

10. In any taxable year in which the Corporation is a private foundation defined by Section 509 of the Internal Revenue Code of 1986, as amended, the Corporation shall:

(a) not engage in any act of self-dealing that is subject to tax under Section 4941 of the Code;

(b) not distribute its income for each taxable year at such time and in such manner as to subject the Corporation to tax on undistributed income under Section 4942 of the Code;

(c) not retain any excess business holdings in such manner as to subject the Corporation to tax under Section 4943 of the Code;

(d) not make any investments in such manner as to subject the Corporation to tax under Section 4944 of the Code; and

(e) not make any taxable expenditures that are subject to tax under Section 4945 of the Code.

11. The number of directors constituting the entire Board of Directors of the Corporation shall not be less than three (3). Subject to such limitation, the number shall be fixed by the bylaws pursuant to Section 702 of the Not-for-Profit Corporation Law.

12. The office of the Corporation is to be located in the County of Oneida, New York.

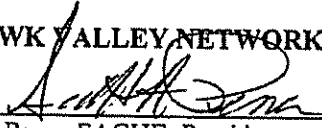
13. The Secretary of State is hereby designated as the agent of the Corporation upon whom process against it may be served, and the post office address to which the Secretary of State shall mail a copy of any process against the Corporation that may be served upon him is P.O. Box 4308, Utica, New York 13504-4308.

5. This Restated Certificate of Incorporation, and the foregoing amendments of the Certificate of Incorporation, were authorized by a unanimous vote of the entire Board of Directors, said affirmative vote being at least equal to a quorum. The Corporation has no members.



IN WITNESS WHEREOF, the undersigned has subscribed this Restated Certificate of Incorporation this 20th day of January, 2014, and hereby affirms that the statements contained herein are true under the penalties of perjury.

MOHAWK VALLEY NETWORK, INC.



Scott H. Perra, FACHE, President



**RESTATED CERTIFICATE OF CONSOLIDATION
OF
FAXTON-ST. LUKE'S HEALTHCARE**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

The undersigned, being the President of Faxton-St. Luke's Healthcare, certifies:

1. The name of the corporation is: **Faxton-St. Luke's Healthcare.**
2. The corporation's Certificate of Consolidation was filed by the Department of State on the 23rd day of December, 1999, pursuant to the New York Not-for-Profit Corporation Law.
3. The corporation's Certificate of Consolidation is hereby amended to effectuate the following:
 - A. To delegate and reserve to the Corporation's sole corporate member, Mohawk Valley Health System ("MVHS") certain rights and powers as set forth in Paragraph 4 of this Restated Certificate of Consolidation.

4. The text of the Certificate of Consolidation, as amended, is hereby restated to read as herein set forth in full:

1. The name of the consolidated corporation is: **FAXTON-ST. LUKE'S HEALTHCARE** (herein, the "Corporation" or the "Hospital").
2. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law.
3. The purposes and objects of the Corporation shall be as follows:
 - a. to establish, operate and maintain a general hospital and comprehensive health care facilities and systems whose purposes may include, but not be limited to, a full range of inpatient services, outpatient services, emergency department services, medical and dental services, residential health care facility services, end stage renal dialysis services, and such other services, facilities and equipment as shall be desirable in meeting the health care needs of the community, to be located at one or more sites.
 - b. to carry on educational activities, scientific research and other health related activities and programs incident to the purposes set forth above.
 - c. to solicit funds for the above purposes.

d. to pursue, enhance and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations as may be established, operated and maintained in accordance with all approvals required by applicable law.

e. this Corporation is organized exclusively for charitable, scientific and educational purposes as a not-for-profit corporation. Upon dissolution of the Corporation, and after payment of all just debts and liabilities, all remaining assets shall be distributed to MVHS and/or the not-for-profit corporate affiliates of MVHS, provided that they shall then qualify under Code Section 501(c)(3) or corresponding provisions of any future United States Internal Revenue law. If neither MVHS nor any of its not-for-profit corporate affiliates shall so qualify at the time of dissolution, the distribution shall be made to such other organizations enjoying exempt status under Section 501(c)(3) of the Internal Revenue Code, of 1986, as amended, or successor provisions, pursuant to a plan of dissolution authorized in accordance with the laws of the State of New York. The Corporation shall not devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise.

f. pursuant to the establishment of the Mohawk Valley Heart Institute, Inc. under Article 28 of the Public Health Law, the Corporation hereby delegates to Mohawk Valley Heart Institute, Inc.:

- i. Joint operational decision making authority and responsibility with Faxton-St. Luke's Healthcare over such services for which a joint operating certificate will be issued by the New York State Department of Health to Mohawk Valley Heart Institute, Inc. and Faxton-St. Luke's Healthcare.
- ii. Notwithstanding the foregoing, Faxton-St. Luke's Healthcare retains control over and does not delegate to Mohawk Valley Heart Institute, Inc. authority and responsibility for all other services, operations and clinical programs for which no authority has been delegated to Mohawk Valley Heart Institute, Inc. and for which no joint operating certificate will be issued by the New York State Department of Health.

4. The Corporation does delegate and reserve to Mohawk Valley Health System ("MVHS") certain powers. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Hospital, to require that the Hospital operate in conformance with its mission and philosophy and that the Hospital coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and

effective health care services in Oneida County, New York, and surrounding areas.

b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Hospital, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Hospital. Notwithstanding the foregoing, the Board of the Corporation shall be entitled to appoint and remove, with or without cause, one (1) additional director to the Board of the Corporation who does not currently serve on the MVHS Board.

c. To amend or repeal the Certificate of Consolidation and Bylaws, and to adopt any new or restated Certificate of Consolidation, and Bylaws of the Hospital;

d. To approve any plan of merger, consolidation, dissolution or liquidation of the Hospital;

e. To approve the debt of the Hospital in excess of an amount to be fixed from time to time by MVHS;

f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Hospital in excess of an amount to be fixed from time to time by MVHS.

g. To approve the capital and operating budgets of the Hospital;

h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Hospital;

i. To approve any corporate reorganization of the Hospital and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Hospital with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;

j. To approve and coordinate the strategic plan of the Hospital;

k. To approve all contracts of reimbursement for the Hospital from governmental or private third party insurers;

l. To approve all applications of the Hospital to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health, as required;

m. To approve management contracts for the Hospital subject to approval and/or regulation under the laws and regulations of the State of New York;

n. To approve any material change in the services offered by the Hospital;

o. To require the Hospital to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Hospital to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Hospital is a party and by which it is bound; and

p. To accept further delegations of authority on behalf of the Hospital pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Hospital and other MVHS affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at the Hospital which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services (herein, the "ERDs") shall not be transferred to or used for the benefit of MVHS, St. Elizabeth Medical Center ("SEMC") or any affiliate of SEMC and neither MVHS nor SEMC shall provide or support such services maintained by the Hospital or any Affiliate or subsidiary of the Hospital.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Hospital without a prior recommendation of the Hospital's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Hospital's board of directors and to direct action by the Hospital or to return the matter to the board of directors of the Hospital for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Hospital shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Hospital's board of directors.

5. The Corporation is not organized for pecuniary profit or financial gain, and no part of its assets, income or profit shall be distributable to, or inure to the benefit

of its members, directors or officers, except to the extent permitted under the Not-for-Profit Corporation Law.

6. The Corporation shall be a Type B corporation under Section 201 of the Not-for-Profit Corporation Law.

7. The office of the Corporation is to be in the County of Oneida, State of New York.

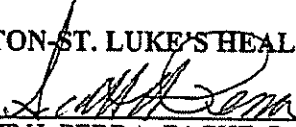
8. The duration of the Corporation is to be perpetual.

9. The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is: *P.O. Box 479, Utica, NY 13503-0479.*

5. This Restated Certificate of Consolidation was authorized by a vote of the sole member of the Corporation.

IN WITNESS WHEREOF, the undersigned has subscribed this Restated Certificate of Consolidation this 20th day of January, 2014, and hereby affirms that the statements contained herein are true under the penalties of perjury.

FAXTON-ST. LUKE'S HEALTHCARE



SCOTT H. PERRA, FACHE, President



**RESTATED CERTIFICATE OF INCORPORATION
OF
ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC.**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

The undersigned, President of St. Lukes Home Residential Health Care Facility, Inc., hereby certifies:

1. The name of the corporation is: **St. Lukes Home Residential Health Care Facility, Inc.**
2. The corporation's Certificate of Incorporation was filed by the Department of State on the 27th day of February 1995. A Certificate of Amendment of the Certificate of Incorporation was filed by the Department of State on the 1st day of August, 1995.
3. The corporation's Certificate of Incorporation is hereby amended to effectuate the following:
 - A. To delegate and reserve to the Corporation's sole corporate member, Mohawk Valley Health System ("MVHS"), certain rights and powers by adding a new Paragraph 4 as set forth in Paragraph 4 of this Restated Certificate of Incorporation and renumbering the remaining paragraphs accordingly.
 - B. To change the address for service of process as set forth in Paragraph 8 of this Restated Certificate of Incorporation.
 - C. To revoke the designation of the Registered Agent.
 - D. To change the distributee of the remaining assets of the Corporation in the event of its dissolution as set forth in Paragraph 11 of this Restated Certificate of Incorporation.
4. The text of the Certificate of Incorporation, as amended, is hereby restated to read as herein set forth in full:
 1. The name of the Corporation is: St. Lukes Home Residential Health Care Facility, Inc. (herein, the "Corporation" or the "Home").
 2. The Corporation is not organized for pecuniary profit or financial gain, and no part of its assets, income or profit shall be distributable to, or inure to the benefit of its members, directors or officers except to the extent permitted under the Not-for-Profit Corporation Law.
 3. The purposes for which the Corporation is organized are:

- a. to establish and maintain within the State of New York a residential health care facility to provide care to the frail elderly and other individuals requiring skilled nursing care and/or restorative rehabilitation; to carry on educational activities and programs incident to the purposes set forth above; to do any other act or thing incidental to or connected with the above purposes or advancement thereof, but not for the pecuniary profit or financial gain of its members, Directors or Officers, except as permitted under the Not-for-Profit Corporation Law.

4. The Corporation does delegate and reserve to Mohawk Valley Health System ("MVHS"), the sole corporate Member of the Corporation, certain powers. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and that the Corporation coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation.
- c. To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation, and Bylaws of the Corporation;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- e. To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Corporation;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation;

- i. To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve and coordinate the strategic plan of the Corporation;
- k. To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by the Corporation;
- o. To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound; and
- p. To accept further delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation and other MVHS Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's board of directors.


5. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law and is a Type B corporation under Section 201 of the Not-for-Profit Corporation Law.
6. The office of the Corporation is to be in the County of Oneida, State of New York.
7. The duration of the Corporation is to be perpetual.
8. The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is: *St. Lukes Home Residential Health Care Facility, Inc., 1650 Champlin Avenue, Utica, NY 13502.*
9. Notwithstanding any other provisions of this Certificate, the Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a Corporation exempt from Federal income tax under IRC 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.
10. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by IRC 501(h)), and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of, or in opposition to, any candidates for public office.
11. In the event of dissolution, all of the remaining assets and property of the Corporation shall, after payment of necessary expenses thereof, be distributed to MVHS or such other Corporations as shall qualify under Section 501(c)(3) of the Internal Revenue Code of 1985, subject to an Order of a Justice of the Supreme Court of the State of New York.

12. In any taxable year in which the Corporation is a private foundation as described in IRC 509(a), the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under IRC 4942, and the Corporation shall not: (a) engage in any act of self-dealing as defined in IRC 4941(d), retain any excess business holdings as defined in IRC 4943(c); (b) make any investments in such manner as to subject the Corporation to tax under IRC 4944; or (c) make any taxable expenditures as defined in IRC 4945(d) or corresponding provisions of any subsequent Federal tax laws.

5. This Restated Certificate of Incorporation was authorized by a vote of the Members of the Corporation in accordance with the provisions of the New York Not-for-Profit Corporation Law.

IN WITNESS WHEREOF, the undersigned has subscribed this Restated Certificate of Incorporation this 20th day of January 2014, and hereby affirms that the statements contained herein are true under the penalties of perjury.

ST. LUKES HOME RESIDENTIAL
HEALTH CARE FACILITY, INC.



SCOTT H. PERRA, FACHE, President



**RESTATED CERTIFICATE OF INCORPORATION
OF
VISITING NURSE ASSOCIATION OF UTICA
AND ONEIDA COUNTY, INC.**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

The undersigned, President of Visiting Nurse Association of Utica and Oneida County, Inc., hereby certifies:

1. The name of the corporation is: **Visiting Nurse Association of Utica and Oneida County, Inc.** The Corporation was originally formed under the name of "Baby Welfare Committee, Inc., Utica, N.Y." pursuant to the Membership Corporations Law of the State of New York.

2. The corporation's Certificate of Incorporation was filed by the Department of State on June 15th, 1915. The Corporation's Restated Certificate of Incorporation was filed with the Department of State on July 27th, 2000.

3. The corporation's Certificate of Incorporation is hereby amended to effectuate the following:

A. To change the address for service of process for the Corporation as set forth in Paragraph 10 of this Restated Certificate of Incorporation.

B. To delegate and reserve to the Corporation's sole corporate member, Mohawk Valley Health System ("MVHS"), certain rights and powers as set forth in Paragraph 4 of this Restated Certificate of Incorporation.

4. The text of the Certificate of Incorporation, as amended, is hereby restated to read as herein set forth in full:

1. The name of the Corporation is: Visiting Nurse Association of Utica and Oneida County, Inc. (herein, the "Corporation").

2. The Corporation is a corporation as defined in subparagraph (1)(5) of Section 102 of the Not-for-Profit Corporation Law and is a Type B corporation under Section 201 of said Law.

3. The purposes of the Corporation shall be to coordinate nursing activities in Utica and Oneida County, to more efficiently provide nursing care in the home, to reduce infant mortality, to increase the health and vitality of children, and to promote health education.

4. Mohawk Valley Health System ("MVHS"), as the sole corporate Member of the Corporation, shall have and exercise all the rights and powers of corporate membership created by the laws of the State of New York or the Certificate of Incorporation or By-laws of the Corporation. Certain additional powers have been delegated and reserved to MVHS in the MVHS organizational documents. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and that the Corporation coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation.
- c. To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation, and Bylaws of the Corporation;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- e. To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Corporation;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation;
- i. To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation with the other MVHS Affiliates, including but not limited to

subsidiary corporations, partnerships, or joint ventures of the Affiliates;

- j. To approve and coordinate the strategic plan of the Corporation;
- k. To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by the Corporation;
- o. To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound; and
- p. To accept further delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation and other MVHS Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's board of directors.

5. Notwithstanding any other provisions of this Certificate, the Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a Corporation exempt from Federal income tax under IRC 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.

6. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by IRC 501(h)), and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of, or in opposition to, any candidates for public office.

7. In the event of dissolution, all of the remaining assets and property of the Corporation shall, after payment of necessary expenses thereof, be distributed to MVHS or such other Corporations as shall qualify under Section 501(c)(3) of the Internal Revenue Code of 1985, subject to an Order of a Justice of the Supreme Court of the State of New York.

8. In any taxable year in which the Corporation is a private foundation as described in IRC 509(a), the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under IRC 4942, and the Corporation shall not: (a) engage in any act of self-dealing as defined in IRC 4941(d), retain any excess business holdings as defined in IRC 4943(c); (b) make any investments in such manner as to subject the Corporation to tax under IRC 4944; or (c) make any taxable expenditures as defined in IRC 4945(d) or corresponding provisions of any subsequent Federal tax laws.

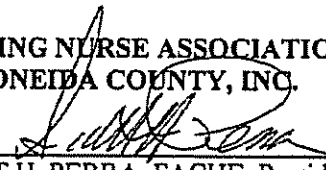
9. The office of the Corporation shall be located in the County of Oneida, State of New York.

10. The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is: *Visiting Nurse Association of Utica and Oneida County, Inc., 1650 Champlin Avenue, Utica, NY 13502.*

5. This Restated Certificate of Incorporation was authorized by a vote of the Corporation's sole Member, Mohawk Valley Network, Inc.

IN WITNESS WHEREOF, the undersigned has subscribed this Restated Certificate of Incorporation this 20th day of January 2014, and hereby affirms that the statements contained herein are true under the penalties of perjury.

VISITING NURSE ASSOCIATION OF UTICA
AND ONEIDA COUNTY, INC.



SCOTT H. PERRA, FACHE, President



123456789

January 23, 2014

Barbara DelCogliano
Director, Bureau of Project Management
Division of Health Facility Planning
Office of Health Systems Management
NYS Department of Health
Empire State Plaza
Corning Tower, Room 1842
Albany, New York 12237

RE: CON #132204-E (Mohawk Valley Health System)

Dear Ms. DelCogliano:

This is in response to the December 30, 2013 contingency approval letter. Please note that the response to Contingency #1 will be forwarded under separate cover once approval is received from the Office of Mental Health.

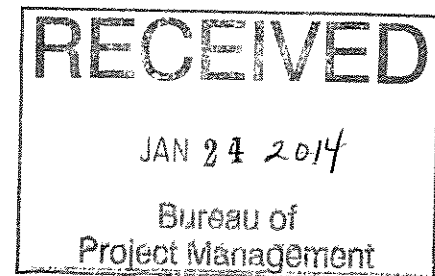
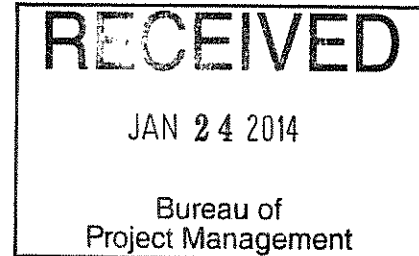
Enclosed please find four (4) copies of the following documentation.

2. Copy of fully executed Restated Certificate of Incorporation of Mohawk Valley Network, Inc.
3. Copy of the amended bylaws of Mohawk Valley Network Inc., t/b/k/a Mohawk Valley Health System.
4. Copy of the fully executed Restated Certificate of Incorporation of St. Elizabeth Medical Center.
5. Copy of the amended bylaws of St. Elizabeth Medical Center.
6. Copy of the fully executed Restated Certificate of Consolidation of Faxton-St. Luke's Healthcare.
7. Copy of the amended bylaws of Faxton-St. Luke's Healthcare.
8. Copy of fully executed Restated Certificate of Incorporation of St. Luke's Home Residential Health Care Facility, Inc.
9. Copy of the amended bylaws of St. Luke's Home Residential Health Care Facility, Inc.
10. Copy of the fully executed Restated Certificate of Incorporation of Visiting Nurse Association of Utica and Oneida County, Inc.

Corporate Address
PO Box 479
Utica, NY 13503-0479
(315)624-6000

St. Luke's Campus
1656 Champlin Avenue
Utica, NY 13502
(315)624-6000

Faxton Campus
1676 Sunset Avenue
Utica, NY 13502
(315)624-6000





11. Copy of the amended bylaws of Visiting Nurse Association of Utica and Oneida County, Inc
12. Copy of the executed Articles of Organization of Mohawk Valley Home Care, LLC, and any amendments
13. Copy of the amended and executed operating agreement of Mohawk Valley Home Care, LLC

Should you have any questions or concerns regarding this response, please contact me at (315)624-6298 or spalmer@mvnhealth.com.

Sincerely,

A handwritten signature in cursive script that reads "Sharon A. Palmer". The signature is written in black ink and is positioned below the word "Sincerely,".

Sharon A. Palmer
Director, Facility Planning & Support Services

Enclosures



**RESTATED CERTIFICATE OF INCORPORATION
OF
MOHAWK VALLEY NETWORK, INC.**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

We, the undersigned, being the President and Secretary of Mohawk Valley Network, Inc., hereby certify:

1. The name of the corporation is: **MOHAWK VALLEY NETWORK, INC.**
2. The Corporation's Certificate of Incorporation was filed by the Department of State on the 12th day of April, 1991, pursuant to the Not-for-Profit Corporation Law. A Restated Certificate of Incorporation of the Corporation was thereafter filed by the Department of State on February 15, 2005.
3. The Corporation's Certificate of Incorporation, as previously filed and restated, is hereby amended to effect the following:
 - A. To change the name of the Corporation to Mohawk Valley Health System, as provided in Paragraph 1 of this Restated Certificate of Incorporation.
 - B. To add St. Elizabeth Medical Center ("SEMC"), St. Lukes Home Residential Health Care Facility, Inc. ("SLH"), Senior Network Health, LLC ("SNH") and Mohawk Valley Home Care, LLC ("MVHC") as named affiliates of the Corporation, as provided in Paragraph 3 of this Restated Certificate of Incorporation.
 - C. To add SEMC and SLH as named distributees of the Corporation's assets upon dissolution of the Corporation, as provided in Paragraph 9 of this Restated Certificate of Incorporation.
 - D. To restate the purposes and powers of the Corporation, as provided in Paragraph 3 of this Restated Certificate of Incorporation.
4. The text of the Certificate of Incorporation, as amended, is hereby restated to read as herein set forth in full:

1. The name of the Corporation is: **MOHAWK VALLEY HEALTH SYSTEM.**
2. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law in that it is not formed for pecuniary profit or financial gain, and no part of the assets, income or profit of the corporation shall be distributed to, or inure to the benefit of, its members, directors, officers or any private person.

3. The Corporation is organized and shall be operated exclusively for the benefit of Faxton-St. Luke's Healthcare ("FSLH"), St. Elizabeth Medical Center ("SEMC"), St. Lukes Home Residential Health Care Facility, Inc. ("SLH"), Visiting Nurse Association of Utica and Oneida County, Inc. ("VNA"), which are New York State Not-for-Profit Corporations, and Senior Network Health, LLC ("SNH") and Mohawk Valley Home Care, LLC ("MVHC") (each individually referred to as an "Affiliate" and collectively referred to as the "Affiliates"). To this end, the Corporation shall, in addition to all other rights and powers of membership prescribed by New York law, the certificates of incorporation and/or bylaws, or the articles of organization or operating agreements of the Affiliates, have the following governance and management powers as have been delegated to the Corporation to the extent permitted by the New York Not-for-Profit Corporation Law and the New York Limited Liability Company Law:

a. Except as otherwise set forth herein, to approve and interpret the statement of mission and philosophy adopted by the Affiliates, to require that each Affiliate operate in conformance with its mission and philosophy and to coordinate the missions, visions, activities and resources of the Affiliates in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, the Corporation shall not have the power to approve or interpret those elements of SEMC's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of SEMC's Catholic mission and philosophy;

b. To elect or appoint, fix the number of, and remove, with or without cause, the directors or trustees (referred to hereinafter as "directors" or "director") or managers of the Affiliates, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Affiliates. Notwithstanding the foregoing, Partners in Franciscan Ministries, Inc. ("PFM"), as the co-member of SEMC, shall be entitled to appoint and remove, with or without cause, one additional director designated by PFM to the SEMC board of directors who does not currently serve on the Corporation's Board, and the FSLH Board shall be entitled to appoint and remove, with or without cause, one additional director to the FSLH Board who does not currently serve on the Corporation's Board;

c. To amend or repeal the Certificate of Incorporation and Bylaws or the Articles of Organization or Operating Agreements, and to adopt any new or restated Certificate of Incorporation, Bylaws, Articles of Organization, or Operating Agreements, of the Affiliates, unless such amendment would terminate SEMC's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services (hereinafter, "ERDs");

- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Affiliates;
- e. To approve the debt of the Affiliates in excess of an amount to be fixed from time to time by the Corporation;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Affiliate(s) in excess of an amount to be fixed from time to time by the Corporation. Notwithstanding the foregoing, the approval of PFM shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of SEMC in excess of an amount to be fixed from time to time by PFM, to meet the requirements of the United States Conference of Catholic Bishops;
- g. To approve the capital and operating budgets of the Affiliates;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to such Affiliate;
- i. To approve any corporate reorganization of the Affiliates and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve and coordinate the strategic plans of the Affiliates;
- k. To the extent applicable, to approve all contracts of reimbursement for the Affiliates from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Affiliate(s) to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Affiliate(s) subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by an Affiliate;
- o. To require an Affiliate to participate in any and all programs and services, as determined by the Corporation in its discretion, provided, however, that the Corporation may not require an Affiliate to participate in any program or service or take any action that would constitute a default

or event of default under any mortgage, indenture or other material agreement or instrument to which such Affiliate is a party and by which it is bound, and with respect to SEMC, may not require participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy, as determined by PFM; and

p. To accept delegations of authority on behalf of each Affiliate pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliates pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at FSLH which are proscribed by the ERDs shall not be transferred to or used for the benefit of the Corporation, SEMC or any subsidiary of SEMC, and neither the Corporation nor SEMC shall provide or support such services maintained by FSLH or any Affiliate or any subsidiary of FSLH.

For the purposes of the foregoing, the Corporation shall have: (i) the power to initiate and direct action by Affiliates without a prior recommendation of the Affiliate's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Affiliate's board of directors and to direct action by the Affiliate or to return the matter to the board of directors of the Affiliate for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, in the case of SEMC, the Corporation shall not direct any action with respect to SEMC that requires the approval of PFM without prior approval of such action by PFM. The board of directors and officers of an Affiliate shall not implement any action requiring the approval of the Corporation until the Corporation shall have exercised its reserve powers and communicated its determinations in writing to the Affiliate's board of directors and, in the case of any powers over SEMC that are also reserved to PFM, to PFM.

4. ADDITIONAL PURPOSES AND POWERS. The Corporation shall have the following additional purposes and powers:

a. To establish, support and maintain such other health care facilities and systems at one or more sites, whose purposes may include, but not be limited to, the provision of a full range of health and/or wellness related services, but whose services shall not include direct abortions or physician assisted suicide.

Each such service or facility shall be established and operated in accordance with all approvals required by the Public Health Law or other law of the State, and all approvals required from any other body having jurisdiction over such activities.

b. To carry on educational activities, scientific research and other health related activities or programs incident to the purposes set forth above either directly or through an Affiliate or subsidiary.

c. To solicit funds for the above purposes.

d. To pursue, enhance, and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations or other entities as may be established, operated and maintained in accordance with all approvals required by applicable law.

5. The Corporation is a Type B corporation under Section 201 of the Not-for-Profit Corporation Law.

6. Notwithstanding any other provision of this Certificate, the Corporation is organized and shall be operated exclusively for the charitable, religious, scientific and educational purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and shall not carry on any activities not permitted to be carried on by an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or by an organization, contributions to which are deductible under Section 170(c)(2) of such Code.

7. No part of the assets, income, profits or earnings of the Corporation shall inure to the benefit of any member, trustee, director or officer of the Corporation, or any private individual, except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes, and no member, trustee, director or officer of the Corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.

8. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation, except as otherwise provided by Section 501(h) of Internal Revenue Code of 1986, as amended, and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of any candidate for public office.

9. In the event of dissolution, all the remaining assets and property of the Corporation shall, after necessary expenses thereof, be distributed to FSLH, SEMC, SLH and/or VNA, provided that they shall then qualify under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, subject to an order of a Justice of the Supreme Court of the State of New York; if none of said not-for-profit corporations shall so qualify at the

time of dissolution, then distribution shall be made to such other organization or organizations that are organized and operated exclusively for religious, charitable, educational or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, subject to an order of a Justice of the Supreme Court of the State of New York.

10. In any taxable year in which the Corporation is a private foundation defined by Section 509 of the Internal Revenue Code of 1986, as amended, the Corporation shall:

(a) not engage in any act of self-dealing that is subject to tax under Section 4941 of the Code;

(b) not distribute its income for each taxable year at such time and in such manner as to subject the Corporation to tax on undistributed income under Section 4942 of the Code;

(c) not retain any excess business holdings in such manner as to subject the Corporation to tax under Section 4943 of the Code;

(d) not make any investments in such manner as to subject the Corporation to tax under Section 4944 of the Code; and

(e) not make any taxable expenditures that are subject to tax under Section 4945 of the Code.

11. The number of directors constituting the entire Board of Directors of the Corporation shall not be less than three (3). Subject to such limitation, the number shall be fixed by the bylaws pursuant to Section 702 of the Not-for-Profit Corporation Law.

12. The office of the Corporation is to be located in the County of Oneida, New York.

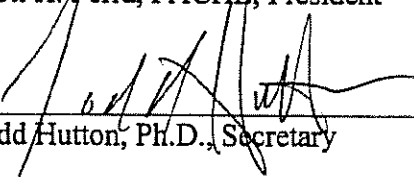
13. The Secretary of State is hereby designated as the agent of the Corporation upon whom process against it may be served, and the post office address to which the Secretary of State shall mail a copy of any process against the Corporation that may be served upon him is P.O. Box 4308, Utica, New York 13504-4308.

5. This Restated Certificate of Incorporation, and the foregoing amendments of the Certificate of Incorporation, were authorized by a unanimous vote of the entire Board of Directors, said affirmative vote being at least equal to a quorum.

IN WITNESS WHEREOF, the undersigned have subscribed this Restated Certificate of Incorporation this 20th day of January, 2014, and hereby affirm that the statements contained herein are true under the penalties of perjury.



Scott H. Perra, FACHE, President

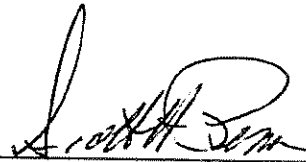


Todd Hutton, Ph.D., Secretary

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

Scott H. Perra, FACHE, being duly sworn, deposes and says, that he is the President of MOHAWK VALLEY NETWORK, INC, the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.



Scott H. Perra, FACHE

Sworn to before me this
20th day of January, 2014

Margaret O. Keblish

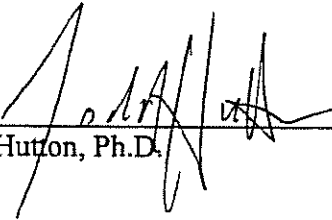
NOTARY PUBLIC – State of New York
Appointed in Oneida County
My commission expires: 8 / 9 / 2017

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/09/2017

VERIFICATION

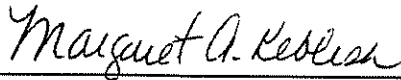
STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

Todd Hutton, Ph.D., being duly sworn, deposes and says, that he is the Secretary of MOHAWK VALLEY NETWORK, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.



Todd Hutton, Ph.D.

Sworn to before me this
20th day of January, 2014



NOTARY PUBLIC – State of New York
Appointed in Oneida County
My commission expires: 8/19/2017

MARGARET A. KEBLUSH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/03/2017



**BY-LAWS
of
MOHAWK VALLEY HEALTH SYSTEM**

**ARTICLE ONE
NAME**

1.1 NAME

The name of the Corporation is Mohawk Valley Health System (herein the "Corporation" or "MVHS").

**ARTICLE TWO
RECITALS**

2.1. MVHS is a Type B not-for-profit corporation pursuant to Section 201(b), of the New York Not-for-Profit Corporation Law, and as such has no members.

2.2. St. Elizabeth Medical Center (herein "SEMC") is a New York Not-for-Profit tax-exempt corporation, having a principal place of business at 2209 Genesee Street, Utica, NY 13501.

2.3. Faxton-St. Luke's Healthcare (herein "FSLH") is a New York Not-for-Profit tax-exempt corporation, having a principal place of business at 1656 Champlin Avenue, Utica, NY 13501.

2.4. St. Lukes Home Residential Health Care Facility, Inc. (herein the "Home") is a New York Not-for-Profit, tax-exempt corporation, having a principal place of business at 1650 Champlin Avenue, Utica, NY 13502.

2.5. Visiting Nurse Association of Utica and Oneida County, Inc. (herein "VNA") is a New York Not for Profit tax-exempt corporation, having a principal place of business at 1650 Champlin Avenue, Utica, NY 13502.

2.6. Mohawk Valley Home Care, LLC (herein "MVHC") is a New York limited liability company having a principal place of business at 1650 Champlin Avenue, Utica, NY 13502.

2.7. Senior Network Health, LLC (herein “SNH”) is a New York limited liability company having a principal place of business at 1650 Champlin Avenue, Utica, NY 13502.

2.8. Partners in Franciscan Ministries, Inc. (herein “PFM”) is a New York not-for-profit, tax exempt corporation having a principal place of business at 2500 Grant Blvd., Suite 302, Syracuse, New York 13208-1262. PFM (which is sponsored by the Congregation of the Sisters of St. Francis of the Neumann Communities) shall be the co-member of SEMC, and as such shall have the following powers:

2.8(a) to approve and interpret those elements of SEMC’s statement of mission and philosophy adopted by SEMC that relate to SEMC’s status as a Catholic organization or the pursuit of SEMC’s Catholic mission and philosophy, and any amendments thereof, and to require SEMC to operate in conformance with its Catholic mission and philosophy;

2.8(b) to approve any amendment of SEMC’s purposes or powers in its Certificate of Incorporation that would terminate SEMC’s status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services;

2.8(c) to approve the sale, transfer, mortgage, guaranty, pledge or other alienation of real or personal property of SEMC in excess of an amount to be fixed from time to time by PFM to meet the requirements of the United States Conference of Catholic Bishops; and

2.8(d) to approve and reject appointments to the Pension Committee for the defined benefit plan sponsored by SEMC which qualifies as a Church Plan under Section 3(33) of ERISA.

2.8(e) to elect or appoint and remove, with or without cause, one director of SEMC who does not currently serve on the Board of MVHS.

For the purposes of the foregoing, the power of PFM to “approve” means the power to accept or reject a recommendation of the SEMC Board or an action by MVHS or any future Members of SEMC with respect to the powers reserved to PFM. The SEMC Board and officers of SEMC or MVHS or any future Members of SEMC shall not

implement any action requiring the approval of PFM until PFM shall have exercised its reserved powers and communicated its determination in writing to SEMC, MVHS or any future Member of SEMC and the SEMC Board.

2.9. "Affiliates" or "MVHS Affiliates" shall mean SEMC, FSLH, VNA, MVHC, SNH and the Home, unless otherwise specifically set forth herein.

ARTICLE THREE OFFICES

3.1 OFFICES

The principal office of the Corporation shall be located in Oneida County, in the State of New York. The Corporation shall have and continuously maintain in New York State a registered office and a registered agent whose office shall be identical with the registered office, and may have such other offices as the Board may determine from time to time.

ARTICLE FOUR PURPOSES AND POWERS

The Corporation shall have the following purposes and powers:

4.1. **CORPORATE MEMBERSHIP.** MVHS shall serve as the sole corporate member of FSLH, VNA and the Home, as the owner of all of the Membership interests in MVHC and SNH, and as a co-member of SEMC, subject to the powers reserved to PFM, as set forth in Section 2.8 herein, the other co-member of SEMC. In addition to all other rights and powers of membership prescribed by New York Law, the Certificate of Incorporation and/or the Bylaws or the Articles of Organization and/or Operating Agreements of the Affiliates, the following governance and management powers shall be delegated to MVHS to the extent permitted by the New York Not-for-Profit Corporation Law:

- a. Except as otherwise set forth herein, to approve and interpret the statement of mission and philosophy adopted by the Affiliates, to require that each Affiliate operate in conformance with its mission

and philosophy and to coordinate the missions, visions, activities and resources of the Affiliates in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, MVHS shall not have the power to approve or interpret those elements of SEMC's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of SEMC's Catholic mission and philosophy;

- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Affiliates, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Affiliates. Notwithstanding the foregoing, PFM shall be entitled to appoint and remove, with or without cause, the one additional director designated by PFM to the SEMC Board of Directors, and the FSLH Board shall be entitled to appoint and remove, with or without cause, one additional director to the FSLH Board who does not currently serve on the MVHS Board;
- c. To amend or repeal the Certificate and Bylaws, and to adopt any new or restated Certificate of Incorporation, Bylaws, Articles of Organization, or Operating Agreements, of the Affiliate(s);
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Affiliate(s);
- e. To approve the debt of the Affiliate(s) in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Affiliate(s) in excess of an amount to be fixed from time to time by MVHS.

Notwithstanding the foregoing, the approval of PFM shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of SEMC in excess of an

-
- amount to be fixed from time to time by PFM, to meet the requirements of the United States Conference of Catholic Bishops;
- g. To approve the capital and operating budgets of the Affiliates;
 - h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to such Affiliate;
 - i. To approve any corporate reorganization of the Affiliate(s) and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Affiliate(s), including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
 - j. To approve and coordinate the strategic plans of the Affiliates;
 - k. To the extent applicable, to approve all contracts of reimbursement for the Affiliates from governmental or private third party insurers;
 - l. To the extent applicable, to approve all applications of the Affiliate(s) to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health, as required;
 - m. To the extent applicable, to approve management contracts for the Affiliate(s) subject to approval and/or regulation under the laws and regulations of the State of New York;
 - n. To approve any material change in the services offered by an Affiliate;
 - o. To require an Affiliate to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require an Affiliate to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which such Affiliate is a party

and by which it is bound, and with respect to SEMC, may not require participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy; and

- p. To accept delegations of authority on behalf of each Affiliate pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at FSLH which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services (herein, the "ERDs") shall not be transferred to or used for the benefit of MVHS, SEMC or any affiliate of SEMC and neither MVHS nor SEMC shall provide or support such services maintained by FSLH or any Affiliate or subsidiary of FSLH.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Affiliate(s) without a prior recommendation of the Affiliate's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Affiliate's board of directors and to direct action by the Affiliate or to return the matter to the board of the Affiliate for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, in the case of SEMC, MVHS shall not direct any action with respect to SEMC that requires the approval of PFM without prior approval of

such action by PFM. The board(s) of directors, trustees or managers and officers of the Affiliate(s) shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Affiliate(s)' board and, in the case of any powers over SEMC that are also reserved to PFM, to PFM.

4.2. **ADDITIONAL PURPOSES AND POWERS.** MVHS shall have the following additional purposes and powers:

- a. To establish, support and maintain such other health care facilities and systems at one or more sites, whose purposes may include, but not be limited to, the provision of a full range of health and/or wellness related services, but whose services shall not include direct abortions or physician assisted suicide.
Each such service or facility shall be established and operated in accordance with all approvals required by the Public Health Law or other law of the State, and all approvals required from any other body having jurisdiction over such activities.
- b. To carry on educational activities, scientific research and other health related activities or programs incident to the purposes set forth above either directly or through an Affiliate or subsidiary.
- c. To solicit funds for the above purposes.
- d. To pursue, enhance, and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations or other entities as may be established, operated and maintained in accordance with all approvals required by applicable law.

**ARTICLE FIVE
BOARD OF DIRECTORS**

5.1 **NUMBER**

The Board of Directors shall consist of not less than nine (9) members.

5.2 **QUALIFICATION**

Directors shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

5.3 ELECTION AND TENURE

(a) Composition of Initial Board of Directors. Commencing with the meeting to be held on or about March 4, 2014, the initial board shall be comprised of eighteen (18) Voting Directors. SEMC and FSLH shall each appoint eight (8) voting directors (the "Elected Directors"). The remaining two (2) Directors shall be the presidents of the medical staffs of SEMC and FSLH who shall serve ex-officio as Voting Directors.

(b) Terms of Office. The initial Elected Directors shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated. Each class shall have an equal number of Directors selected by SEMC and FSLH.

(c) Subsequent Election. Commencing with the 2015 annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Director may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in these Bylaws. Commencing with the 2015 annual meeting, members of the Board shall be nominated by the Governance Affairs and Ethics Committee and shall be elected by a simple majority of the Board. The Board shall not be bound or limited to such nominees.

(d) Reappointment. Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Director's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(e) Non-Elected Directors. The President of the Medical Staffs of SEMC and FSLH shall serve as Directors of the Corporation, coterminous with holding their respective positions.

5.4 VACANCIES

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Director, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board. Nominees shall be presented by the Governance Affairs and Ethics Committee, but the Board shall not be bound or limited to such nominees. Directors selected to fill vacancies shall serve the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

5.5 REMOVAL

Each member of the Board of Directors shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Directors by a vote of two-thirds of the remaining Directors. In addition, the Board of MVHS may remove any Director, with or without cause, upon a two-thirds (2/3) vote of the Board.

5.6 RESIGNATION/LEAVE OF ABSENCE.

(a) Resignation. Any Director may resign at any time by giving written notice to the Chairperson or to the Secretary of the Corporation. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

(b) Leave of Absence. Any Director may request a Leave of Absence of up to three (3) months for medical reasons relating to the Director, or a member of the Director's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Director. If the Chairperson requests a Leave, the request shall be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Director shall be excused from any attendance requirements and all other obligations of a Director as set forth in these Bylaws. The

Director's Board position shall remain vacant during the term of the Leave, and the Director's position shall not be counted in determining the presence of a quorum.

If the Director on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the remaining Directors at the next regular meeting of the Board, or at a special meeting called for such purpose. Any committee positions held by the Director may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Director may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

5.7 ADDITIONAL ADVISORS

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Directors present.

5.8 MEETINGS OF DIRECTORS

(a) Annual Meeting The Board of Directors shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, electing directors and officers and members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) Regular Meetings The Board of Directors shall hold at least seven (7) regular meetings annually.

(c) Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3) Directors. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) Place All meetings of the Board shall be held at the principal office of the Corporation or at such other place within this State as the Notice of Meeting shall provide.

(e) Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Director personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law or these Bylaws, the notice shall also state the purpose for which the meeting is called. Oral or written notice of the postponement of any scheduled regular meeting shall be given to each Director not less than one (1) day before the scheduled date of such meeting.

(f) Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(g) Quorum Unless a greater or lesser number is required by law, the Certificate of Incorporation or these By-laws, a majority of the Directors entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Directors present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 5.9(e).

(h) Voting Subject to the Conflict of Interest provisions of these By-laws, and the Board's Conflict of Interest policies, each voting Director present is entitled to vote on any matter before the Board.

(i) Manner of Acting Unless otherwise required by law, the Certificate of Incorporation or these By-laws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the

consent in writing of all Directors entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

(j) Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

5.9 POWERS AND FIDUCIARY OBLIGATIONS

(a) Powers The administrative powers of the Corporation shall be vested in the Board of Directors, which shall have: charge, control, and oversight of the property, funds, and affairs of the Corporation; the power to elect and remove, with or without cause, officers and to fill vacancies among the officers for unexpired terms; the power to establish policies for the management and operation of the Corporation; and such other power and authority to do and perform all acts and functions for the benefit of the Corporation, not inconsistent with these By-laws or the Certificate of Incorporation. The Board of Directors shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

(b) Fiduciary Obligations The members of the Board of Directors shall at all times conduct the affairs of the Corporation in strict conformance with all applicable fiduciary and ethical standards. Each Director shall act in a manner consistent with the duty of undivided loyalty to the interests of the Corporation, the duty to maintain in confidence information concerning the affairs of the Corporation, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Corporation. The Board shall adopt such mechanisms as it deems appropriate to assist the Directors in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate: the mission and vision of the Corporation; a Board Conflicts of Interest Policy to provide a formal mechanism for

identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Corporation.

ARTICLE SIX OFFICERS

6.1 OFFICERS

The Corporation shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Board of Directors may authorize. The Corporation shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the March 2014 meeting of the Board shall serve until the annual meeting of the Corporation in 2015. The Chairperson selected at the 2015 and 2016 annual meetings shall serve a one year term, or until his/her successor has been elected. The initial Chairperson and the Chairperson seated at the 2015 and 2016 annual meetings shall be selected by the initial Directors appointed by SEMC, as may be on the Board at that time. Commencing with the 2017 annual meeting the Chairperson and Vice-Chairperson shall be elected by the Board of Directors for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected at the annual meeting and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors at any regular meeting or any special meeting called for such purpose.

6.2 CHAIRPERSON

The Chairperson shall preside at all meetings of the Board of Directors, shall appoint the members and Chairperson of each Committee in accordance with these By-laws and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 2016 annual meeting shall be eligible to be elected by the full Board to serve one additional term of two (2) years, commencing in 2017. Thereafter the Chairperson may serve no more than two

consecutive terms in that office, regardless of the length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

6.3 VICE-CHAIRPERSON

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

6.4 CHAIR EMERITUS.

Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in these Bylaws. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the March 2014 annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

6.5 SECRETARY

The Secretary shall act as Secretary of both the Corporation and the Board of Directors and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Corporation and keeping the minutes of the meetings of the Board of Directors. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Corporate records.

6.6 TREASURER

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and, whenever required by the Board of Directors shall render, or cause to be rendered, financial statements of the Corporation. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

6.7 PRESIDENT

The Board shall appoint a qualified hospital administrator to serve as its President and as the Chief Executive Officer of the Corporation. The President/CEO shall be the Board's direct executive representative in the management of the Corporation. The President/CEO shall have the necessary authority and shall be responsible for management of the Corporation, subject only to the policies and directives of the Board and any of its committees to which the Board has delegated power for such action. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board of Directors in all matters except those for which the Board has designated some other individual to act.

ARTICLE SEVEN COMMITTEES OF THE BOARD OF DIRECTORS

7.1 STRUCTURE

There shall be seven (7) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Patient Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, Investment Committee and Audit and Compliance Committee. The Board may, by resolution, create such other standing or ad

hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

7.2 PROCEDURE

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in these By-Laws or in a Resolution of the Board of Directors.

7.3 POWERS

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these By-Laws, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

7.4 COMMITTEE MEMBERS

- (a) Appointment. Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to

promote experience and knowledge in all aspects of the operation of the Corporation.

- (b) Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.
- (c) Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.
- (d) Removal. Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

7.5 ADVISORS TO BOARD COMMITTEES

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Directors.

As deemed appropriate by the Committee Chair, members of the Corporation's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

7.6 MANNER OF ACTION

(a) Meetings. Each Committee shall meet as provided for in these By-Laws and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

(b) Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

(c) Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

(d) Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

(e) Meeting by Conference Telephone or Similar Device. Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the

meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

7.7 CONFLICT OF INTEREST

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

7.8 EXECUTIVE COMMITTEE

(a) Composition

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, Presidents of the Medical Staffs of SEMC and FSLH, and the Chairperson Emeritus.

(b) Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Corporation, subject to any prior limitations imposed by the Board, these By-Laws, or statute. In addition, the Executive Committee shall:

- (1) Oversee the development of labor relations and negotiation strategy and recommend to the Board approval of collective bargaining agreements.
- (2) Review and recommend to the Board, with the assistance of counsel, policies and guidelines for financial transactions with physicians, including physician recruitment, employment or other agreements with the Corporation.
- (3) Review and recommend to the Board, legislative and regulatory affairs initiatives.
- (4) Review and make recommendations to the Board as to the Corporation's completion and filing of IRS Form 990 and such other reports or filings as may be required by the Internal Revenue Service.

(c) Meetings

The Executive Committee shall meet as necessary to conduct the business of the Corporation while the full Board is not in session.

7.9 FINANCE

(a) Composition

The Finance Committee shall consist of the Treasurer of the Corporation, as Committee Chairperson, and at least 6 voting Directors, at least one of whom shall have substantial accounting or financial management expertise.

(b) Functions

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Corporation and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and oversight of the financial affairs of the Corporation and its subsidiaries. Its functions shall include:

- (1) Overseeing the President's development of a budget for the Corporation showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Board a budget developed by the President for the ensuing year;
- (3) Reviewing financial reports that report on the financial condition of the Corporation;
- (4) Reviewing and making recommendations to the Board on any request by the President for the Corporation to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;
- (5) Retaining the Corporation's independent Certified Public Accountants to provide external financial auditing to the Corporation. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the

firm's assessment of management's internal financial control system.

- b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Corporation and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Corporation and its subsidiaries.
 - (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Corporations and its subsidiaries.

(c) Meetings

The Finance Committee shall meet as needed, but not less than six (6) times per year.

7.10 QUALITY AND PATIENT SAFETY COMMITTEE

(a) Composition.

The Quality and Patient Safety Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a physician.

(b) Functions.

The Quality and Patient Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of all of the Affiliates' medical and subsidiary services for the purpose of enhancing the quality of patient and resident care and identifying and implementing

improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance for all corporate Affiliates, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;
 - (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;
 - (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by the Corporation's subsidiaries and/or third parties providing services to the subsidiaries by contract, and coordinating the provision of services by the Corporation, its subsidiaries and third parties.
- (2) Recommend policies and provide direction for the system's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the system and its subsidiaries.
- (3) Oversee regulatory compliance, safety, infection control and such other programs as shall be required to insure continuous accreditation of the Affiliates.
- (4) Review and report to the Board on Department of Health, Office of Mental Health, and other regulatory surveys and findings and any required plans of correction.

-
- (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Corporation's subsidiaries concerning quality and performance improvement activities, including reports from any required quality or advisory committees of the subsidiary boards.
 - (7) Assist in the development of Board educational processes regarding quality and service improvement with the assistance and participation of the medical staff and hospital management.

(c) Meetings

The Quality and Patient Safety Committee shall meet at least six (6) times annually, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

7.11 GOVERNANCE AFFAIRS AND ETHICS COMMITTEE

(a) Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a Board Officer.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Boards of the Corporation and its subsidiaries; developing and monitoring a Board education plan; review and amendment of corporate and subsidiary Bylaws; and nomination of directors and officers of the Corporation and members of the Boards of the Corporation's subsidiaries. Its functions shall include:

-
- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - (i) Conflict of Interest;
 - (ii) Policy based governance;
 - (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.
 - (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
 - (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
 - (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Board and Committees of the Corporation and its subsidiaries.
 - (5) Nominate directors and officers of the Board and members of the Corporation's subsidiary boards.
 - (6) Develop an orientation process for new Board and Committee members for the Corporation and its subsidiaries, with the assistance of the Chief Executive Officer.
 - (7) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.

-
- (8) Periodically review, and recommend changes to the Bylaws of the Corporation and its subsidiaries to insure compliance with the mission, vision, purpose and structure of the Corporation and its subsidiaries.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at least two (2) times per year, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

7.12 EXECUTIVE COMPENSATION COMMITTEE.

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Directors recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be "Independent Directors" as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not an "Independent Director", the Board shall appoint another Independent Director to serve in the place of the Chairperson. The President/CEO may serve as an advisor to the Committee as long as he or she is excused when the Committee is reviewing the CEO's compensation package.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the President/CEO and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of the Corporation, or its Affiliates or subsidiaries, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations ("Disqualified Persons"). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually, performance guidelines for the CEO;
- (2). Assist the board in assessing and evaluating the CEO's performance;

-
- (3). Review and recommend to the full Board the CEO's compensation, including salary, incentives, benefits and other perquisites;
 - (4) Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
 - (5) At least annually, review executive compensation to ensure that it is appropriate in view of Corporation's tax-exempt status and take the required steps to establish a "rebuttable presumption of reasonableness" [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person's background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Corporation's income and assets and the number of Corporations employees;
 - d. CEO's job performance;
 - e. relationship of the CEO's compensation to the compensation paid to Corporation's other employees; and
 - f. the number of hours the CEO spends performing his or her job.
 - (6) Review and approve the compensation package of the Chief Operating, Medical, Nursing and Financial Officers, as recommended by the CEO.

c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Corporation to advise the Committee on executive compensation and related

matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

7.13 INVESTMENT COMMITTEE.

(a) Composition

The Investment Committee shall consist of at least at least three (3) Directors, at least one of whom shall have significant experience in financial and/or investment matters.

(b) Functions.

The function of the Investment Committee shall be to establish investment standards and expectations and review and monitor investment performance of the managers of the investments, endowments and other funds of the Corporation, and its subsidiaries. Without limiting the foregoing, the Committee shall:

1. Review and recommend to the Board, the investment policy of the Corporation and its subsidiaries;
2. Review the performance of the investment managers and, as required, recommend changes to the Board;
3. At least semi-annually report to the Board on the investment activities and performance of the investments of the Corporation and its subsidiaries.

c. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

7.14 AUDIT AND COMPLIANCE COMMITTEE.

(a) Composition

The Audit and Compliance Committee shall be composed of at least three (3) directors. At least a majority of the directors so appointed shall be “Independent Directors” as defined in Section 7.12(a), above.

(b) Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board of Directors in its oversight responsibilities by overseeing management’s systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Corporation. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee’s retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the Corporate Compliance Plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.
 - b. Review the minutes of each Corporate Compliance Committee meeting, and monitor the results of the Compliance Program.
 - c. Serve as a resource to the Compliance Officer and management on compliance issues.
 - d. Review and approve the audit schedule proposed by the Compliance Officer.
 - e. Report to the Board at least semi-annually, regarding the status of the Compliance Plan.

c. Meetings.

The Committee shall convene at least four (4) times per year or as shall be necessary to discharge its responsibilities.

**ARTICLE EIGHT
INDEMNIFICATION AND INSURANCE**

8.1 INDEMNIFICATION AND INSURANCE:

It is expressly provided that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal, by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of this Corporation, will be completely indemnified by the Corporation to the full extent permitted by law. If permitted by law, this indemnification shall include, but not be limited to, the payment of one or more of the following: judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeal therein.

8.2 INSURANCE.

It is the policy of the Corporation that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of the Corporation, will be completely and fully indemnified by this Corporation to the full extent permitted by the law. The Corporation may purchase and maintain insurance to completely and fully indemnify any and every such person, whether or not this Corporation has the power to indemnify him or her against such liability under the laws of this or any other state.

**ARTICLE NINE
CONFLICT OF INTEREST**

9.1 POLICY

Any Director, officer, key employee, or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval, or ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interest.

9.2 EFFECT

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions contained in the Board approved Conflicts of Interest Policy must be observed. If so, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in the discussions or deliberations with respect to such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

9.3 FORMAL POLICY AND PROCEDURE

The Board shall adopt a formal Conflict of Interest Policy requiring annual disclosure of existing and potential conflicts of interest, mechanisms for addressing actual and potential conflicts of interest and corrective and disciplinary action with respect to transgressions of such policies.

ARTICLE TEN VOLUNTEER ORGANIZATIONS

10.1 The Board may organize a volunteer organization, or such other associated organizations as it deems appropriate, consisting of individuals who are interested in rendering services as volunteers to the Corporation or its subsidiaries and in assisting in the fulfillment of the mission of the Corporation. There shall be By-laws, rules and regulations

for such organizations, setting forth their organization and governance. Proposed By-laws may be recommended, but only those approved by the Board of Directors shall become effective.

**ARTICLE ELEVEN
AMENDMENT TO BY-LAWS**

11.1 PROCEDURE

These Bylaws may be amended or repealed, or new Bylaws may be adopted, by a two thirds (2/3) vote of the Board of Directors of the Corporation of any regular or special meeting. At least ten (10) days written notice shall be given of the intention to take such action. The Governance Affairs and Ethics Committee shall conduct an annual review of these Bylaws and make recommendations for such amendments as may be necessary to assure compliance with all applicable laws, rules and regulations.

**ARTICLE TWELVE
GENERAL**

12.1 PROCEDURE

The Board and any Board Committee may adopt rules or procedures which shall be consistent with these By-laws.

12.2 EQUAL OPPORTUNITY

The Board shall, in all matters, act without regard to discrimination as to sex, race, age, creed, handicap, sexual preference, marital status or national origin.

12.3 CONSTRUCTION OF TERMS AND HEADINGS

Words used in these By-laws shall be read as the masculine or feminine gender and as the singular or plural, as the context requires. The captions or headings in these By-laws are for convenience only and are not intended to limit or define the scope or effect of any provision of these By-laws.



**RESTATED CERTIFICATE OF INCORPORATION
OF
ST. ELIZABETH MEDICAL CENTER**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

The undersigned, President/CEO of St. Elizabeth Medical Center, certifies:

1. The name of the corporation is St. Elizabeth Medical Center (the "Corporation"). The Corporation was originally formed under the name of The Saint Elizabeth's Hospital and Home.
2. The Certificate of Incorporation of the Corporation was filed by the Department of State on February 8, 1870. The Corporation was formed under C. 319 of the Laws of 1848.
3. The Certificate of Incorporation of the Corporation is amended to affect the following amendments authorized by the Not-For-Profit Corporation Law:
 - a. Paragraph (6) of the Certificate of Incorporation reads as follows:
 - (6) The member of St. Elizabeth Medical Center shall be Partners in Franciscan Ministries, Inc.
 - b. Paragraph (6) of the Certificate of Incorporation is deleted in its entirety and is replaced with the following:
 - (6) Partners in Franciscan Ministries, Inc., and Mohawk Valley Health System shall serve as co-members of the Corporation.
 - c. Paragraph (7) of the Certificate of Incorporation reads as follows:
 - (7) The following powers shall be reserved to the Corporate Member to exercise and shall be referred to as Reserved Powers:
 - (a) To change the philosophy, mission, and purpose of the Corporation.
 - (b) To appoint and remove the President/CEO of the Corporation.
 - (c) To appoint and remove the Board of Trustees of the Corporation.
 - (d) To approve the Certificate of Incorporation and Bylaws of the Corporation.

- (e) To receive the annual report of the Corporation.
- (f) To approve the formation of subsidiaries, affiliates or divisions of the Corporation.
- (g) To approve a change in the name of the Corporation.
- (h) To receive, review and monitor the budget of the Corporation as deemed necessary by the Corporate Member.
- (i) To receive the annual audit of the Corporation.
- (j) To receive, review and monitor strategic, long range plans of the Corporation as deemed necessary by the Corporate Member.
- (k) To approve the financial transactions of the Corporation according to the annual United States Conference of Catholic Bishops alienation guidelines.

d. Paragraph (7) is deleted in its entirety and replaced with the following:

- (7) (a) The following powers shall be reserved to co-member, Partners in Franciscan Ministries, Inc., to exercise and shall be referred to as the Reserved Powers of the Partners in Franciscan Ministries, Inc.:
 - (i) To approve and interpret those elements of the Corporation's statement of mission and philosophy adopted by the Corporation that relate to the Corporation's status as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy, and any amendments thereof, and to require the Corporation to operate in conformance with its Catholic mission and philosophy.
 - (ii) To approve any amendment of the Corporation's purposes or powers in its Certificate of Incorporation that would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services.
 - (iii) To approve the sale, transfer, mortgage, guaranty, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by the Partners in Franciscan Ministries, Inc., to meet the requirements of the United States Conference of Catholic Bishops.

- (iv) To approve and reject appointments to the pension committee for the defined benefit pension plan sponsored by the Corporation, which qualifies as a church plan under Section 3(33) of the Employee Retirement Income Security Act of 1974.
- (v) To approve any amendments or modifications to, or the termination of, the St. Elizabeth Medical Center Church Plan.
- (vi) To elect or appoint and remove, with or without cause, one director of the Corporation who does not currently serve on the board of Mohawk Valley Health System.

For the purposes of this subsection (a) of section (7), the power of the Partners of Franciscan Ministries, Inc., to “approve” means the power to accept or reject a recommendation of the Board of Directors of the Corporation or an action by Mohawk Valley Health System or any future Members of the Corporation with respect to the powers reserved to the Partners of Franciscan Ministries, Inc. The Corporation’s Board of Directors and officers or Mohawk Valley Health System. or any future Members of the Corporation shall not implement any action requiring the approval of Partners of Franciscan Ministries, Inc., until Partners of Franciscan Ministries, Inc., shall have exercised its reserved powers and communicated its determination in writing to the Corporation’s other Members and Board of Directors.

- (7) (b) Subject to the powers reserved to the Partners in Franciscan Ministries, Inc., the following powers shall be reserved to co-member Mohawk Valley Health System to exercise and shall be referred to as the Reserved Powers of Mohawk Valley Health System:
 - (i) To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and to coordinate the missions, visions, activities and resources of the Corporation and other affiliates of Mohawk Valley Health System in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, Mohawk Valley Health System shall not have the power to approve or interpret those elements of Corporation’s mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of the Corporation’s Catholic mission and philosophy.

- (ii) To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation. Notwithstanding the foregoing, the Partners in Franciscan Ministries, Inc., shall be entitled to appoint and remove, with or without cause, one additional director designated by the Partners in Franciscan Ministries, Inc., to the Corporation's Board of Directors.
- (iii) To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation or Bylaws of the Corporation, unless such amendment would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services.
- (iv) To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation.
- (v) To approve the debt of the Corporation in excess of an amount to be fixed from time to time by Mohawk Valley Health System.
- (vi) To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by Mohawk Valley Health System. Notwithstanding the foregoing, the approval of the Partners in Franciscan Ministries, Inc., shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of Corporation in excess of an amount to be fixed from time to time by the Partners in Franciscan Ministries, Inc., to meet the requirements of the United States Conference of Catholic Bishops.
- (vii) To approve the capital and operating budgets of the Corporation.
- (viii) To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation.
- (ix) To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization

or dissolution of any organizational relationship of the Corporation, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Corporation.

- (x) To approve and coordinate the strategic plan of the Corporation.
- (xi) To approve all contracts of reimbursement for the Corporation from governmental or private third party insurers.
- (xi) To approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to certificate of need applications to the New York State Department of Health.
- (xii) To approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York.
- (xiii) To approve any material change in the services offered by the Corporation.
- (xiv) To require the Corporation to participate in any and all programs and services, as determined by Mohawk Valley Health System in its discretion, provided, however, that Mohawk Valley Health System may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound, and may not require the Corporation's participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy, as determined by the Partners in Franciscan Ministries, Inc.
- (xv) To accept delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Corporation and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of the Corporation pursuant to any master trust

indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at affiliate Faxton St-Luke's Healthcare which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services shall not be transferred to or used for the benefit of Mohawk Valley Health System, the Corporation or any subsidiary of the Corporation, and neither Mohawk Valley Health System nor the Corporation shall provide or support such services maintained by Faxton-St. Luke's Healthcare or any subsidiary of Faxton-St. Luke's Healthcare or any affiliate of Mohawk Valley Health System.

For the purposes of this subsection (b) of section (7), Mohawk Valley Health System shall have: (a) the power to initiate and direct action by the Corporation without a prior recommendation of Corporation's Board of Directors; and (b) the power to accept, reject or modify the recommendation of the Corporation's Board of Directors and to direct action by the Corporation or to return the matter to the Corporation's Board of Directors for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, Mohawk Valley Health System shall not direct any action with respect to the Corporation that requires the approval of the Partners in Franciscan Ministries, Inc., without prior written approval of such action by the Partners in Franciscan Ministries, Inc. The Board of Directors and officers of the Corporation shall not implement any action requiring the approval of Mohawk Valley Health System until Mohawk Valley Health System shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's Board of Directors and, in the case of any powers over the Corporation that are also reserved to the Partners in Franciscan Ministries, Inc., to the Partners in Franciscan Ministries, Inc.

With respect to any entity that is controlled by Mohawk Valley Health System, such entity's charter and governing documents shall contain a section that provides for the foregoing rights and powers to be reserved to Mohawk Valley Health System. All the policies, property, affairs and businesses of the controlled entities shall be under the charge, control and direction of their respective governing bodies, subject to the powers that are or shall be reserved to Mohawk Valley Health System as described in this paragraph.

- e. Paragraph (8) of the Certificate of Incorporation reads as follows:
- (8) The business of St. Elizabeth Medical Center shall be managed by a Board of Trustees consisting of not fewer than nine nor more than fifteen persons.
- f. Paragraph (8) of the Certificate of Incorporation is deleted in its entirety and is replaced with the following:
- (8) The business of the Corporation shall be managed by a Board of Directors consisting of not fewer than nine persons.
- g. Paragraphs (11), (12), (13), (14) and (15) shall be added to address: (1) that the Corporation is organized exclusively for purposes specified in Section 501(c)(3) of the Internal Revenue Code of 1986 or corresponding provision of any subsequent federal tax law (the "Code"); (2) that no part of the Corporation's net earnings nor any distribution of assets on the dissolution of the Corporation shall inure to the benefit of any private person; (3) that no substantial part of the activities of the Corporation shall be carrying on propaganda, otherwise influencing legislation or participating in any political campaign; (4) the distribution of the Corporation's assets in the event of the Corporation's liquidation; and (5) the distribution of the Corporation's income in any taxable year in which the Corporation is a private foundation as described in Code Section 509(a). Paragraphs ((11), (12), (13), (14) and (15) are added to read as follows:
- (11) Notwithstanding any other provision of this Certificate of Incorporation, the Corporation is organized exclusively for charitable purposes, as specified in Section 501(c)(3) of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent federal tax law (the "Code") and shall not carry on any other activities not permitted to be carried on by (a) a corporation exempt from Federal Income Tax under Code Section 501(c)(3) or (b) by a corporation, contributions to which are deductible under Code Section 170(c)(2).
- (12) No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its directors, officers or any other private persons, except that the Corporation shall be authorized to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes as set forth in this Certificate of Incorporation.
- (13) No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Code Section 501(h)), and the Corporation shall

not participate in, or intervene (including the publication or distribution of statements), any political campaign on behalf of or in opposition to any candidate, or participating in, or intervening in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office.

(14) In the event of dissolution or final liquidation of the Corporation, the Board of Directors shall, after paying or making provisions for the payment of all the lawful debts and liabilities of the Corporation, distribute all the assets of the Corporation to Partners in Franciscan Ministries, Inc ("PFM") and/or the Congregation of the Sisters of St. Francis of the Neumann Communities ("Sisters"), provided that they shall then qualify under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law). If neither PFM nor the Sisters shall so qualify at the time of dissolution, then distribution shall be to such organization(s) organized and operated exclusively for charitable, education, religious or scientific purposes as shall at the time qualify as an exempt organization under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law), as SEMC shall determine.

(15) In any taxable year in which the Corporation is a private foundation as described in Code Section 509(a), the Corporation shall distribute its income for said period at such time and in such manner as not to subject it to tax under Code Section 4942; and the Corporation shall not (a) engage in any act of self dealing as defined in Code Section 4941(d); (b) retain any excess business holdings as defined in Code Section 4943(c); (c) make any investments in such manner as the subject corporation detects under Code Section 4944; or (d) make any taxable expenditures as defined in Code Section 4945(d).

h. Paragraph (16) shall be added to state the following:

(16) All references to "Trustees" shall be changed to "Directors" throughout the Certificate of Incorporation and Amendments or Restatements thereto and any reference to "Trustee" or "Trustees" shall be deemed a reference to "Director" or "Directors".

4. The text of the Certificate of Amendment is hereby restated, as amended, to read as herein set forth in full:

(1) The name of the corporation is St. Elizabeth Medical Center (the "Corporation"). The Corporation was originally formed under the name of The Saint Elizabeth's Hospital and Home.

(2) The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 (Definitions) of the Not-For-Profit Corporation Law. The Corporation is a Type B corporation under Section 201 (purposes) of the Not-For-Profit Corporation Law.

(3) The Secretary of State is designated as the agent upon whom process may be served, and the post office address within the State to which the Secretary of State shall mail a copy of any process is: 2209 Genesee Street, Utica, NY 13501.

(4) The business and objects of the Corporation hereby formed shall be:

(a) to maintain a hospital for poor, sick, aged, infirm and disabled persons; and

(b) to operate a certified home health agency and to otherwise provide home care services.

(5) Pursuant to the establishment of the Mohawk Valley Heart Institute, Inc. pursuant to Article 28 of the Public Health Law, the Corporation hereby delegates to the Mohawk Valley Heart Institute, Inc.:

(a) Joint operational decision making authority and responsibility with the Corporation over such services for which a joint operating certificate will be issued by the New York State Department of Health to Mohawk Valley Heart Institute, Inc. and the Corporation.

(b) Notwithstanding the foregoing, the Corporation retains control over and does not delegate to Mohawk Valley Heart Institute, Inc., authority and responsibility for all other services, operations, and clinical programs, for which no authority has been delegated to Mohawk Valley Heart Institute, Inc. and for which no joint operating certificate will be issued by the New York State Department of Health.

(6) Partners in Franciscan Ministries, Inc., and Mohawk Valley Health System shall serve as co-members of the Corporation.

(7) (a) The following powers shall be reserved to co-member, Partners in Franciscan Ministries, Inc., to exercise and shall be referred to as the Reserved Powers of the Partners in Franciscan Ministries, Inc.:

(i) To approve and interpret those elements of the Corporation's statement of mission and philosophy adopted by the Corporation that relate to the Corporation's status as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy, and any amendments thereof, and to require the Corporation to operate in conformance with its Catholic mission and philosophy.

- (ii) To approve any amendment of the Corporation's purposes or powers in its Certificate of Incorporation that would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services.
- (iii) To approve the sale, transfer, mortgage, guaranty, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by the Partners in Franciscan Ministries, Inc., to meet the requirements of the United States Conference of Catholic Bishops.
- (iv) To approve and reject appointments to the pension committee for the defined benefit pension plan sponsored by the Corporation, which qualifies as a church plan under Section 3(33) of the Employee Retirement Income Security Act of 1974.
- (v) To approve any amendments or modifications to, or the termination of, the St. Elizabeth Medical Center Church Plan.
- (vi) To elect or appoint and remove, with or without cause, one director of the Corporation who does not currently serve on the board of Mohawk Valley Health System.

For the purposes of this subsection (a) of section (7), the power of the Partners of Franciscan Ministries, Inc., to "approve" means the power to accept or reject a recommendation of the Board of Directors of the Corporation or an action by Mohawk Valley Health System or any future Members of the Corporation with respect to the powers reserved to the Partners of Franciscan Ministries, Inc. The Corporation's Board of Directors and officers or Mohawk Valley Health System or any future Members of the Corporation shall not implement any action requiring the approval of Partners of Franciscan Ministries, Inc., until Partners of Franciscan Ministries, Inc., shall have exercised its reserved powers and communicated its determination in writing to the Corporation's other Members and Board of Directors.

(7) (b) Subject to the powers reserved to the Partners in Franciscan Ministries, Inc., the following powers shall be reserved to co-member Mohawk Valley Health System to exercise and shall be referred to as the Reserved Powers of Mohawk Valley Health System:

- (i) To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and to coordinate the missions, visions, activities and resources of the

Corporation and other affiliates of Mohawk Valley Health System in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, Mohawk Valley Health System shall not have the power to approve or interpret those elements of the Corporation's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of Corporation's Catholic mission and philosophy.

- (ii) To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation. Notwithstanding the foregoing, the Partners in Franciscan Ministries, Inc., shall be entitled to appoint and remove, with or without cause, one additional director designated by the Partners in Franciscan Ministries, Inc., to the Corporation's Board of Directors.
- (iii) To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation or Bylaws of the Corporation, unless such amendment would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services.
- (iv) To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation.
- (v) To approve the debt of the Corporation in excess of an amount to be fixed from time to time by Mohawk Valley Health System.
- (vi) To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by Mohawk Valley Health System. Notwithstanding the foregoing, the approval of the Partners in Franciscan Ministries, Inc., shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by the Partners in Franciscan Ministries, Inc., to meet the requirements of the United States Conference of Catholic Bishops.
- (vii) To approve the capital and operating budgets of the Corporation.

- (viii) To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation.
- (ix) To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Corporation.
- (x) To approve and coordinate the strategic plan of the Corporation.
- (xi) To approve all contracts of reimbursement for the Corporation from governmental or private third party insurers.
- (xi) To approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to certificate of need applications to the New York State Department of Health.
- (xii) To approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York.
- (xiii) To approve any material change in the services offered by the Corporation.
- (xiv) To require the Corporation to participate in any and all programs and services, as determined by Mohawk Valley Health System in its discretion, provided, however, that Mohawk Valley Health System may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound, and may not require Corporation's participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy, as determined by the Partners in Franciscan Ministries, Inc.
- (xv) To accept delegations of authority on behalf of Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Corporation and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry

out the obligations of the Corporation pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at affiliate Faxton St-Luke's Healthcare which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services shall not be transferred to or used for the benefit of Mohawk Valley Health System, or the Corporation or any subsidiary of the Corporation, and neither Mohawk Valley Health System nor the Corporation shall provide or support such services maintained by Faxton-St. Luke's Healthcare or any subsidiary of Faxton-St. Luke's Healthcare or any affiliate of Mohawk Valley Health System.

For the purposes of this subsection (b) of section (7), Mohawk Valley Health System shall have: (a) the power to initiate and direct action by the Corporation without a prior recommendation of Corporation's Board of Directors; and (b) the power to accept, reject or modify the recommendation of the Corporation's Board of Directors and to direct action by the Corporation or to return the matter to the Corporation's Board of Directors for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, Mohawk Valley Health System shall not direct any action with respect to the Corporation that requires the approval of the Partners in Franciscan Ministries, Inc., without prior written approval of such action by the Partners in Franciscan Ministries, Inc. The Board of Directors and officers of the Corporation shall not implement any action requiring the approval of Mohawk Valley Health System until Mohawk Valley Health System shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's Board of Director and, in the case of any powers over the Corporation that are also reserved to the Partners in Franciscan Ministries, Inc., to the Partners in Franciscan Ministries, Inc.

With respect to any entity that is controlled by Mohawk Valley Health System, such entity's charter and governing documents shall contain a section that provides for the foregoing rights and powers to be reserved to Mohawk Valley Health System. All the policies, property, affairs and businesses of the controlled entities shall be under the charge, control and direction of their respective governing bodies, subject to the powers that are or shall be reserved to Mohawk Valley Health System as described in this paragraph.

(8) The business of the Corporation shall be managed by a Board of Directors consisting of not fewer than nine persons.

(9) Any action required or permitted to be taken by the Board of Trustees of the Corporation, or by any committee thereof, may be taken without a meeting if all members of the Board of Directors or the committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto by the members of the Board of Directors or committee shall be filed with the minutes of the proceedings of the Board of Directors or committee.

(10) Any one or more members of the Board of Directors or any committee thereof may participate in the meeting of such board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time.

(11) Notwithstanding any other provision of this Certificate of Incorporation, the Corporation is organized exclusively for charitable purposes, as specified in Section 501(c)(3) of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent federal tax law (the "Code") and shall not carry on any other activities not permitted to be carried on by (a) a corporation exempt from Federal Income Tax under Code Section 501(c)(3) or (b) by a corporation, contributions to which are deductible under Code Section 170(c)(2).

(12) No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its directors, officers or any other private persons, except that the Corporation shall be authorized to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes as set forth in this Certificate of Incorporation.

(13) No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Code Section 501(h)), and the Corporation shall not participate in, or intervene (including the publication or distribution of statements), any political campaign on behalf of or in opposition to any candidate, or participating in, or intervening in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office.

(14) In the event of dissolution or final liquidation of the Corporation, the Board of Directors shall, after paying or making provisions for the payment of all the lawful debts and liabilities of the Corporation, distribute all the assets of the Corporation to Partners in Franciscan Ministries, Inc ("PFM") and/or the Congregation of the Sisters of St. Francis of the Neumann Communities ("Sisters"), provided that they shall then qualify under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law). If neither PFM nor the Sisters shall so qualify at the time of dissolution, then distribution shall be to such organization(s) organized and operated exclusively for charitable, education, religious or scientific purposes as shall at the time

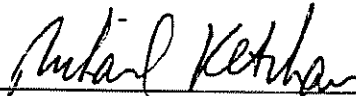
qualify as an exempt organization under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law), as SEMC shall determine.

(15) In any taxable year in which the Corporation is a private foundation as described in Code Section 509(a), the Corporation shall distribute its income for said period at such time and in such manner as not to subject it to tax under Code Section 4942; and the Corporation shall not (a) engage in any act of self dealing as defined in Code Section 4941(d); (b) retain any excess business holdings as defined in Code Section 4943(c); (c) make any investments in such manner as the subject corporation detects under Code Section 4944; or (d) make any taxable expenditures as defined in Code Section 4945(d).

(16) All references to "Trustees" shall be changed to "Directors" throughout the Certificate of Incorporation and Amendments or Restatements thereto and any reference to "Trustee" or "Trustees" shall be deemed a reference to "Director" or "Directors".

5. This restatement of the certificate of incorporation of St. Elizabeth Medical Center was authorized by unanimous vote of the Corporate Member at a meeting of the Corporate Member held on the 30th day of September, 2013 at which a quorum was present and acting throughout and authorized by unanimous vote of the Board of Trustees of the Corporation at a meeting of the Board of Trustees held on the 3rd day of October 2013 at which a quorum was present and acting throughout.

IN WITNESS WHEREOF, the undersigned has executed this Restated Certificate this 21st day of January, 2014. The undersigned affirms that statements made herein are true under the penalties of perjury.



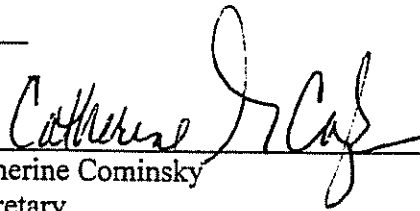
Richard Ketcham
President/CEO

Sworn to before me this 21st day of
January, 2014



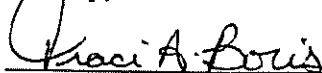
Notary Public

KAREN A. BURTON
NOTARY PUBLIC-STATE OF NEW YORK
No. 018U6251652
Qualified in Onondaga County
My Commission Expires November 21, 2015



Catherine Cominsky
Secretary

Sworn to before me this 20th day of
January, 2014



Notary Public

GRACI A. BOURIS
Notary Public - State of New York
No. 008000000001
Qualified in Onondaga County
Commission Expires November 20 14



BYLAWS
of
ST. ELIZABETH MEDICAL CENTER

ARTICLE ONE
ORGANIZATION

- 1.1 The name of the corporation is St. Elizabeth Medical Center (“Corporation” or “SEMC”).
- 1.2 St. Elizabeth Medical Center, a Roman Catholic institution, was incorporated under the name of St. Elizabeth's Hospital and Home on February 8, 1870, as a membership corporation under the laws of the State of New York.
- 1.3 The post office address of the Corporation’s principal office is: 2209 Genesee Street, Utica, NY 13501.

ARTICLE TWO
MISSION AND VISION

2.1 **MISSION OF THE CORPORATION**

St. Elizabeth Medical Center Community, inspired by St. Francis of Assisi and faithful to the teachings of the Roman Catholic Church, is committed to excellence in healthcare and education. We pledge to do this with compassion and respect for the dignity of all.

2.2 **VISION OF THE CORPORATION**

The Vision of St. Elizabeth Medical Center:

- Offer the highest quality comprehensive health care services to the greater Utica area as a Catholic Community Hospital.
- Provide access to primary and ambulatory care services through a network of community health care centers.
- Service the region as a referral center of excellence in selected specialties and as a major provider of education in health care professions.
- Respond to the needs of our patients, staff, physicians and community, and meet their expectations by continuously improving the quality of our services.
- Achieve these goals in a cost-effective manner.

ARTICLE THREE
OFFICES, PURPOSES AND POWERS

3.1 **OFFICES**

The principal office of the Corporation shall be located in New York State (“the State”). The Corporation shall have and continuously maintain in the State a registered office and a registered agent whose office shall be identical with the registered office, and may have such other offices as the Board may determine from time to time.

3.2 PURPOSES AND POWERS

The Corporation shall have the following purposes and powers:

- A. To establish, operate and maintain a general hospital and comprehensive health care facilities and systems at one or more sites, whose purposes may include, but not be limited to, the provision of a full range of inpatient and outpatient services, and other health related services and facilities. Each such service or facility shall be established and operated in accordance with all approvals required by the Public Health Law or other law of the State, and all approvals required from any other body having jurisdiction over the Corporation’s activities.
- B. To carry on educational activities, scientific research and other health related activities or programs incident to the purposes set forth above.
- C. To solicit funds for the above purposes.
- D. To pursue, enhance, and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations as may be established, operated and maintained in accordance with all approvals required by applicable law.

ARTICLE FOUR MEMBERSHIP

The Corporation shall have the following purposes and powers:

4.1. COMPOSITION

Mohawk Valley Health System (“MVHS”) and Partners in Franciscan Ministries, Inc. (“PFM”), which is sponsored by the Sisters of St. Francis of the Neumann Communities, shall be co-members of the Corporation.

4.2 RIGHTS OF MEMBERS

A. MVHS - In addition to all other rights and powers of membership prescribed by New York Law, the Certificate of Incorporation and/or the Bylaws of the Corporation, the following governance and management powers shall be delegated to MVHS to the extent permitted by the New York Not-for-Profit Corporation Law:

- (1) Except as otherwise set forth herein, to approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and to coordinate the missions, visions, activities and resources of the Corporation in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, MVHS shall not have the power to approve or interpret those elements of the Corporation's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy;
- (2) To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation. Notwithstanding the foregoing, PFM shall be entitled to appoint and remove, with or without cause, the one additional director designated by PFM to the Corporation's Board of Directors;
- (3) To amend or repeal the Certificate and Bylaws, and to adopt any new or restated Certificate of Incorporation or Bylaws, of the Corporation;
- (4) To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- (5) To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- (6) To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS. Notwithstanding the foregoing, the approval of PFM shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by PFM, to meet the requirements of the United States Conference of Catholic Bishops;
- (7) To approve the capital and operating budgets of the Corporation;

- (8) To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to such Corporation;
- (9) To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Corporation;
- (10) To approve and coordinate the strategic plans of the Corporation;
- (11) To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
- (12) To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;
- (13) To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
- (14) To approve any material change in the services offered by the Corporation;
- (15) To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound, and may not require the Corporation's participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy; and
- (16) To accept delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Corporation and to maintain a single consolidated set of books and financial records, as may

be necessary or desirable to carry out the obligations of the Corporation pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, in the case of the Corporation, MVHS shall not direct any action with respect to the Corporation that requires the approval of PFM without prior approval of such action by PFM. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's Board of Directors and, in the case of any powers over the Corporation that are also reserved to PFM, to PFM.

- B. PFM – The following powers shall be reserved exclusively to PFM:
- (1) to approve and interpret those elements of the Corporation's statement of mission and philosophy adopted by the Corporation that relate to the Corporation's status as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy, and any amendments thereof, and to require the Corporation to operate in conformance with its Catholic mission and philosophy; this power shall include approval of the individual who will serve in a position to oversee Mission, which position will report directly to the President/CEO and shall not be eliminated without the prior approval of PFM.
 - (2) to approve any amendment of the Corporation's purposes or powers in its Certificate of Incorporation that would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services; and

- (3) to approve the sale, transfer, mortgage, guaranty, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by the PFM to meet the requirements of the United States Conference of Catholic Bishops.
- (4) to approve and reject appointments to the Pension Committee for the SEMC Church Plan.
- (5) to approve any amendments or modifications to, or the termination of, the SEMC Church Plan; and
- (6) to elect or appoint and remove, with or without cause, one director of the Corporation who does not currently serve on the Board of MVHS.

4.3 ANNUAL MEETING

MVHS shall, in its capacity as the active member of the Corporation, hold its annual meeting each year at a time and place determined by MVHS. At the annual meeting, MVHS shall elect Directors of the Corporation, receive the annual report of the Directors of the corporation, and transact such other business as may properly come before the meeting.

4.4 ANNUAL REPORT TO MEMBER

At the annual meeting of the member, the Chairperson or President, and the Treasurer of the Corporation shall present an Annual Report showing in appropriate detail the following information:

- (a) a complete verified financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation;
- (b) a summary of the activities of the Corporation during the preceding year.

The Annual Report shall be filed with the minutes of the annual meeting.

ARTICLE FIVE BOARD OF DIRECTORS

5.1 NUMBER

The Board of Directors shall consist of not less than nine (9) members.

5.2 QUALIFICATION

Directors shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to

the community and the health care needs of its residents; and their personal and professional ethics and values.

5.3 ELECTION AND TENURE

A. Composition of Initial Board of Directors. Commencing with the meeting to be held on or about March 4, 2014, the initial board shall be comprised of nineteen (19) voting Directors. SEMC and Faxton-St. Luke's Healthcare ("FSLH") shall each appoint eight (8) directors (the "Elected Directors"). Two (2) of the remaining Directors shall be the presidents of the medical staffs of SEMC and FSLH, who shall serve ex-officio as voting members, and the third (3rd) and final Director shall be appointed by PFM to serve as a voting Director. In addition, the Chief Executive Officer of MVHS shall serve as an ex-officio non-voting Director

B. Terms of Office. The initial Elected Directors shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated. Each class shall have an equal number of Directors selected by SEMC and FSLH, with the exception of the PFM-appointed director who shall serve an initial term of four (4) years.

C. Subsequent Election. Commencing with the 2015 annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Director may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in these Bylaws and the PFM-appointed Director shall serve at the pleasure of PFM.

Commencing with the 2015 annual meeting, members of the Board shall be nominated by the Governance Affairs and Ethics Committee of MVHS and shall be elected by a simple majority of the Board of MVHS. The Board shall not be bound or limited to such nominees.

D. Reappointment. Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Director's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

E. Non-Elected Directors. The President of the Medical Staffs of the Corporation and FSLH shall serve as Directors of the Corporation, coterminous with holding their respective positions. Additionally, the Chief Executive Officer of MVHS shall serve ex-officio as a non-voting Director.

5.4 VACANCIES

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Director, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board of MVHS. Nominees shall be presented by the Governance Affairs and Ethics Committee of MVHS, but the MVHS Board shall not be bound or limited to such nominees. Directors selected to fill vacancies shall serve the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

5.5 REMOVAL

Each member of the Board of Directors shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Directors by a vote of two-thirds of the MVHS Directors. In addition, the Board of MVHS may remove any Director, with or without cause, upon a two-thirds (2/3) vote of the MVHS Board. Notwithstanding the foregoing, the PFM-appointed Director shall serve at the pleasure of PFM.

5.6 RESIGNATION/LEAVE OF ABSENCE.

A. Resignation. Any Director may resign at any time by giving written notice to the Chairperson or to the Secretary of the Corporation. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

B. Leave of Absence. Any Director may request a Leave of Absence of up to three (3) months for medical reasons relating to the Director, or a member of the Director's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Director. If the Chairperson requests a Leave, the request shall be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Director shall be excused from any attendance requirements and all other obligations of a Director as set forth in these Bylaws. The Director's Board position shall remain vacant during the term of the Leave, and the Director's position shall not be counted in determining the presence of a quorum.

If the Director on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the MVHS Directors at the next regular meeting of the MVHS Board, or at a special meeting called for such

purpose. Any committee positions held by the Director may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Director may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

5.7 ADDITIONAL ADVISORS

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Directors present.

5.8 MEETINGS OF DIRECTORS

A. Annual Meeting The Board of Directors shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, selecting members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

B. Regular Meetings The Board of Directors shall hold at least seven (7) regular meetings annually.

C. Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3) Directors. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

D. Place All meetings of the Board shall be held at the principal office of the Corporation or at such other place within this State as the Notice of Meeting shall provide.

E. Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Director personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law or these Bylaws, the notice shall also state the purpose for which the meeting is called. Oral or written notice of the postponement of any scheduled regular meeting shall be given to each Director not less than one (1) day before the scheduled date of such meeting.

F. Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

G. Quorum Unless a greater or lesser number is required by law, the Certificate of Incorporation or these Bylaws, a majority of the Directors entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Directors present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 5.8(e).

H. Voting Subject to the Conflict of Interest provisions of these Bylaws, and the Board's Conflict of Interest policies, each voting Director present is entitled to vote on any matter before the Board.

I. Manner of Acting Unless otherwise required by law, the Certificate of Incorporation or these Bylaws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the consent in writing of all Directors entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

J. Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

5.9 POWERS AND FIDUCIARY OBLIGATIONS

A. Powers The administrative powers of the Corporation shall be vested in the Board of Directors, which shall have: charge, control, and oversight of the property, funds, and affairs of the Corporation; the power to elect and remove, with or without cause, officers and to fill vacancies among the officers for unexpired terms; the power to establish policies for the management and operation of the Corporation; and such other power and authority to do and perform all acts and functions for the benefit of the Corporation, not inconsistent with these Bylaws or the Certificate of Incorporation. The Board of Directors shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

B. Fiduciary Obligations The members of the Board of Directors shall at all times conduct the affairs of the Corporation in strict conformance with all applicable fiduciary and

ethical standards. Each Director shall act in a manner consistent with the duty of undivided loyalty to the interests of the Corporation, the duty to maintain in confidence information concerning the affairs of the Corporation, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Corporation. The Board shall adopt such mechanisms as it deems appropriate to assist the Directors in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate: the mission and vision of the Corporation; a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Corporation.

ARTICLE SIX OFFICERS

6.1 OFFICERS

The Corporation shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Board of Directors may authorize. The Corporation shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the March 2014 meeting of the Board shall serve until the annual meeting of the Corporation in 2015. The Chairperson selected at the 2015 and 2016 annual meetings shall serve a one year term, or until his/her successor has been elected. The initial Chairperson and the Chairperson seated at the 2015 and 2016 annual meetings shall be selected by the initial Directors appointed by the Corporation, as may be on the Board at that time. Commencing with the 2017 annual meeting the Chairperson and Vice-Chairperson shall be elected by the MVHS Board for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected by MVHS at the annual meeting of MVHS and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors of MVHS at any regular meeting of the MVHS Board or any special meeting called for such purpose.

6.2 CHAIRPERSON

The Chairperson shall preside at all meetings of the Board of Directors, shall appoint the members and Chairperson of each Committee in accordance with these Bylaws and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 2016 annual meeting shall be eligible to be elected by the full Board to serve one additional term of two (2) years, commencing in 2017. Thereafter the

Chairperson may serve no more than two consecutive terms in that office, regardless of the length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

6.3 VICE-CHAIRPERSON

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

6.4 CHAIR EMERITUS.

Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in these Bylaws. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the 20XX annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

6.5 SECRETARY

The Secretary shall act as Secretary of both the Corporation and the Board of Directors and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Corporation and keeping the minutes of the meetings of the Board of Directors. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Corporate records.

6.6 TREASURER

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and, whenever required by the Board of Directors shall render, or cause to be rendered, financial statements of the Corporation. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

6.7 PRESIDENT

MVHS shall appoint a qualified hospital administrator to serve as its President and as the Chief Executive Officer of the Corporation. The President/CEO shall be the Board's direct executive representative in the management of the Corporation. The President/CEO shall have the necessary authority and shall be responsible for management of the Corporation, subject only to the policies and directives of the Board and any of its committees to which the Board has delegated power for such action. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board of Directors in all matters except those for which the Board has designated some other individual to act.

**ARTICLE SEVEN
COMMITTEES OF THE BOARD OF DIRECTORS**

7.1 STRUCTURE

There shall be nine (9) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Patient Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, Investment Committee, Audit and Compliance Committee, Joint Conference Committee and Pension Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

7.2 PROCEDURE

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in these Bylaws or in a Resolution of the Board of Directors.

7.3 POWERS

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these Bylaws, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The

performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

7.4 COMMITTEE MEMBERS

A. Appointment. Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to promote experience and knowledge in all aspects of the operation of the Corporation.

B. Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.

C. Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.

D. Removal. Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.

E. Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

7.5 ADVISORS TO BOARD COMMITTEES

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Directors.

As deemed appropriate by the Committee Chair, members of the Corporation's administrative staff shall be required to attend Committee meetings to provide information and

support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

7.6 MANNER OF ACTION

A. Meetings. Each Committee shall meet as provided for in these Bylaws and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

B. Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

C. Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

D. Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

E. Meeting by Conference Telephone or Similar Device. Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

7.7 CONFLICT OF INTEREST

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

7.8 EXECUTIVE COMMITTEE

A. Composition

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, Presidents of the Medical Staffs of SEMC and FSLH, and the Chairperson Emeritus.

B. Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Corporation, subject to any prior limitations imposed by the Board, these Bylaws, or statute. In addition, the Executive Committee shall:

- (1) Oversee the development of labor relations and negotiation strategy and recommend to the Board approval of collective bargaining agreements.
- (2) Review and recommend to the Board, with the assistance of counsel, policies and guidelines for financial transactions with physicians, including physician recruitment, employment or other agreements with the Corporation.
- (3) Review and recommend to the Board, legislative and regulatory affairs initiatives.
- (4) Review and make recommendations to the Board as to the Corporation's completion and filing of IRS Form 990 and such other reports or filings as may be required by the Internal Revenue Service.
- (5) Meetings

The Executive Committee shall meet as necessary to conduct the business of the Corporation while the full Board is not in session.

7.9 FINANCE

A. Composition

The Finance Committee shall consist of the Treasurer of the Corporation, as Committee Chairperson, and at least 6 voting Directors, at least one of whom shall have substantial accounting or financial management expertise.

B. Functions

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Corporation and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and oversight of the financial affairs of the Corporation and its subsidiaries. Its functions shall include:

- (1) Overseeing the President's development of a budget for the Corporation showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Board a budget developed by the President for the ensuing year;

- (3) Reviewing financial reports that report on the financial condition of the Corporation;
- (4) Reviewing and making recommendations to the Board on any request by the President for the Corporation to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;
- (5) Retaining the Corporation's independent Certified Public Accountants to provide external financial auditing to the Corporation. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Corporation and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Corporation and its subsidiaries.
- (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Corporations and its subsidiaries.

C. Meetings

The Finance Committee shall meet as needed, but not less than six (6) times per year.

7.10 QUALITY AND PATIENT SAFETY COMMITTEE

A. Composition.

The Quality and Patient Safety Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a physician.

B. Functions.

The Quality and Patient Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of all of the Corporation' medical and subsidiary services for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance for all corporate Corporation, including:
 - a. Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;
 - b. Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;
 - c. Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by the Corporation's subsidiaries and/or third parties providing services to the subsidiaries by contract, and coordinating the provision of services by the Corporation, its subsidiaries and third parties.
- (2) Recommend policies and provide direction for the system's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the system and its subsidiaries.
- (3) Oversee regulatory compliance, safety, infection control and such other programs as shall be required to insure continuous accreditation of the Affiliates.
- (4) Review and report to the Board on Department of Health, Office of Mental Health, and other regulatory surveys and findings and any required plans of correction.

- (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
- (6) Receive and review quality improvement plans and reports and recommendations from the Corporation's subsidiaries concerning quality and performance improvement activities, including reports from any required quality or advisory committees of the subsidiary boards.
- (7) Assist in the development of Board educational processes regarding quality and service improvement with the assistance and participation of the medical staff and hospital management.

C. Meetings

The Quality and Patient Safety Committee shall meet at least six (6) times annually, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

7.11 GOVERNANCE AFFAIRS AND ETHICS COMMITTEE

A. Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a Board Officer.

B. Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Boards of the Corporation and its subsidiaries; developing and monitoring a Board education plan; review and amendment of corporate and subsidiary Bylaws; and nomination of directors and officers of the Corporation and members of the Boards of the Corporation's subsidiaries. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - a. Conflict of Interest;
 - b. Policy based governance;
 - c. Fiduciary obligation;
 - d. Committee structure and philosophy;
 - e. Governance operations; and

- f. Officer and committee chairperson position descriptions.
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
 - (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
 - (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Board and Committees of the Corporation and its subsidiaries.
 - (5) Nominate directors and officers of the Corporation's subsidiary boards.
 - (6) Develop an orientation process for new Board and Committee members for the Corporation and its subsidiaries, with the assistance of the Chief Executive Officer.
 - (7) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
 - (8) Periodically review, and recommend changes to the Bylaws of the Corporation and its subsidiaries to insure compliance with the mission, vision, purpose and structure of the Corporation and its subsidiaries.

C. Meetings

The Governance Affairs and Ethics Committee shall meet at least two (2) times per year, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

7.12 EXECUTIVE COMPENSATION COMMITTEE.

A. Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Directors recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be "Independent Directors" as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not an "Independent Director", the Board shall appoint another Independent Director to serve in the place of the Chairperson. The President/CEO may serve as an

advisor to the Committee as long as he or she is excused when the Committee is reviewing the CEO's compensation package.

B. Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the President/CEO and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of the Corporation, or its Affiliates or subsidiaries, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations ("Disqualified Persons"). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually, performance guidelines for the CEO;
- (2) Assist the board in assessing and evaluating the CEO's performance;
- (3) Review and recommend to the full Board the CEO's compensation, including salary, incentives, benefits and other perquisites;
- (4) Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
- (5) At least annually, review executive compensation to ensure that it is appropriate in view of Corporation's tax-exempt status and take the required steps to establish a "rebuttable presumption of reasonableness" [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person's background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Corporation's income and assets and the number of Corporations employees;
 - d. CEO's job performance;
 - e. relationship of the CEO's compensation to the compensation paid to Corporation's other employees; and
 - f. the number of hours the CEO spends performing his or her job.

- (6) Review and approve the compensation package of the Chief Operating, Medical, Nursing and Financial Officers, as recommended by the CEO.

C. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Corporation to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

D. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

7.13 INVESTMENT COMMITTEE.

A. Composition

The Investment Committee shall consist of at least three (3) Directors, at least one of whom shall have significant experience in financial and/or investment matters.

B Functions.

The function of the Investment Committee shall be to establish investment standards and expectations and review and monitor investment performance of the managers of the investments, endowments and other funds of the Corporation, and its subsidiaries. Without limiting the foregoing, the Committee shall:

- (1) Review and recommend to the Board, the investment policy of the Corporation and its subsidiaries;
- (2) Review the performance of the investment managers and, as required, recommend changes to the Board;
- (3) At least semi-annually report to the Board on the investment activities and performance of the investments of the Corporation and its subsidiaries.

C. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

7.14 AUDIT AND COMPLIANCE COMMITTEE.

A. Composition

The Audit and Compliance Committee shall be composed of at least three (3) directors. At least a majority of the directors so appointed shall be "Independent Directors" as defined in Section 7.12(a), above.

B. Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board of Directors in its oversight responsibilities by overseeing management's systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Corporation. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee's retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the Corporate Compliance Plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.
 - b. Review the minutes of each Corporate Compliance Committee meeting, and monitor the results of the Compliance Program.
 - c. Serve as a resource to the Compliance Officer and management on compliance issues.
 - d. Review and approve the audit schedule proposed by the Compliance Officer.
 - e. Report to the Board at least semi-annually, regarding the status of the Compliance Plan.

C. Meetings.

The Committee shall convene at least four (4) times per year or as shall be necessary to discharge its responsibilities.

7.15 PENSION COMMITTEE

A. Composition

The Pension Committee shall consist of at least five (5) members: one (1) member shall be the PFM-appointed Director, who shall serve as the Chairperson of the Committee. The four (4) remaining members shall be appointed by the PFM-appointed Director.

The Pension Committee's membership shall share common religious bonds and convictions with the Congregation of the Sisters of St. Francis of the Neumann Communities.

B. Functions

The Pension Committee shall perform the following functions:

- (1) Provide the Board of Directors level oversight and administration of the Corporation's employee pension and retirement plans.
- (2) Serve as the Administrator of the St. Elizabeth Medical Center Employees' Retirement Plans.
- (3) Make recommendations to PFM and to the Board of Directors to approve changes to the St. Elizabeth Medical Center Employees' Retirement Plans Documents and operational systems.
- (4) Review quarterly the financial results of investment manager actions of the St. Elizabeth Medical Center Employees' Retirement Plans. Meet at least annually to review the valuation of the Plans.
- (5) Make recommendations to PFM and to the Board of Directors after receiving recommendations from management of the Corporation relative to continuation or changes in
 - a. investment managers,
 - b. Plan Trustee, and
 - c. investment policy for investments.
- (6) Review investment policy of St. Elizabeth Medical Center Employees' Retirement Plans to be followed by the Plan Trustee and investment managers for the investments of St. Elizabeth Medical Center Employees' Retirement Plan.
- (7) Take all steps that are reasonably possible to advise management and the Board of Directors whenever the St. Elizabeth Medical Center Employees' Retirement Plans fail to meet minimum funding and regulatory requirements as those requirements are applicable to a going concern.
- (8) Perform such other duties as designated by the Board of Directors.

C. Meetings.

The Committee shall convene at least four (4) times per year or as shall be necessary to discharge its responsibilities.

ARTICLE EIGHT

ADMINISTRATION

8.1 PRESIDENT/CEO

A. The Board of Directors of MVHS shall select and appoint a competent hospital administrator who shall act as President of the Board and Chief Executive Officer of the Corporation. The President/CEO shall have such qualifications as are prescribed by the New York State Hospital Code, as may be amended from time to time. The President/CEO shall be given the necessary authority and responsibility to operate the hospital in all its activities and departments, subject only to such policies as may be issued by the Board of Directors or by any of its Committees to which it has delegated power for such action. The President/CEO's performance shall be monitored in an ongoing manner by the Board of Directors and its Committees. The President/CEO shall act as the duly authorized representative of the Board in all matters in which the Board has not formally designated some other person to act.

B. The daily management and operational affairs of the hospital shall be the responsibility of the President/Chief Executive Officer. Without limiting the foregoing, the authority and responsibility of the President/Chief Executive Officer shall include:

- (1) Aid the Board in the formulation of policies and procedures and carrying out all policies established by the Board.
- (2) Development of a plan of organization of hospital personnel and other persons concerned with the conduct of the hospital's operation and submission of the plan to the Board for approval.
- (3) Preparation of an annual budget showing the expected receipts and expenditures of the hospital as required by the Board.
- (4) Development, submission and implementation, in a timely manner, of all plans to correct operational deficiencies identified by regulatory agencies, and reporting to the Board progress and carrying out plans of correction.
- (5) Assisting the Board in communication and cooperation with the hospital's Medical Staff.
- (6) Assisting the hospital's Medical Staff with its organizational and medical administrative responsibilities.
- (7) Responsibility for all management and operational affairs of the hospital as required under the New York State Hospital Code, the requirements of the Hospital's accrediting organization and the responsibilities and duties established by all other regulatory bodies having jurisdiction.

- (8) Performance of such other duties as may be necessary in the best interests of the hospital.

8.2 MEDICAL DIRECTOR

A. The Board of Directors shall, after consultation with the Medical Staff, select and appoint a competent Medical Director who shall have administrative responsibility for the hospital's clinical departments and medical education programs. Responsibility for the organization and conduct of the Medical Staff shall be developed and defined in writing, in consultation with the Medical Staff, and assigned to the Medical Director. The Medical Director shall have such qualifications as may be required by the New York State Hospital Code, as amended from time to time.

B. The Medical Director shall have such authority and responsibility as required to perform his or her duties, including:

- (1) Coordinating the appointment and re-appointment process of the members of the Medical Staff, including investigation and assurance of qualifications for membership, as provided in the Medical Staff Bylaws.
- (2) Oversee the granting of clinical privileges consistent with the practitioner's training, experience and demonstrated competence.
- (3) Monitor and ensure Medical Staff compliance with the hospital's Bylaws, the Medical Staff Bylaws, the rules and regulations and Policies of the Medical Staff, hospital policies and procedures, and all applicable laws, rules, regulations, and accrediting standards.
- (4) Oversee the activities, findings and recommendations of all medical staff quality improvement programs and promptly initiate or recommend appropriate corrective measures, consistent with the Medical Staff Bylaws.
- (5) Monitor the activities and performance of the hospital's clinical departments and Department Chairpersons and make such reports and recommendations to the Board as shall be appropriate.
- (6) Perform such other duties as may be required under the New York State Hospital Code, as may be assigned by the Board and CEO, or as shall be appropriate and necessary in the best interests of the Hospital.

ARTICLE NINE QUALITY ASSURANCE

9.1 BOARD RESPONSIBILITY

The Board shall establish, maintain, support and exercise oversight of an ongoing quality assurance program that includes specific and effective review, evaluation and monitoring mechanisms to assist, preserve and improve the overall quality and efficiency of patient care in the hospital, and to insure that each patient's rights are protected and promoted.

9.2 DELEGATION TO ADMINISTRATION AND TO MEDICAL STAFF

(a) TO ADMINISTRATION

Except as may be set forth in any policy adopted by the Board from time to time, the Board delegates to the administration and holds it accountable for providing the administrative assistance reasonably necessary to support and facilitate the implementation of an on-going operation of the hospital's quality assurance program, for implementing the quality assurance program as it concerns non-medical professional personnel and technical staffs and patient care units, for establishing and maintaining a policy and process to protect and promote patient's rights and promptly resolve patient grievances, and for analyzing information and acting upon problems involving technical, administrative and support services and hospital policy. Without limiting the foregoing, the Board of Directors specifically delegates the obligation to review and resolve patient grievances to the individual responsible for quality management or such other person as designated by the President/CEO. The process for reviewing and resolving patient grievances shall be monitored by the Quality and Patient Safety Committee which shall provide periodic reports to the full Board.

(b) TO MEDICAL STAFF

The Board delegates to the Medical Staff and holds it accountable for conducting specific activities that contribute to the preservation and improvement of the quality and efficiency of patient care provided in the hospital. These activities include:

- (1) Systematic evaluation of practitioner performance against explicit, predetermined objective criteria.

- (2) On-going monitoring of critical aspects of care including, but not limited to, antibiotic and drug usage, transfusion practices, infections, mortalities, monitoring of unexpected clinical occurrences, and such other aspects of clinical care as shall be determined by the Board.
- (3) Review utilization of the hospital's resources to provide for their proper and timely allocation to patients in need of them.
- (4) Provision of continuing professional education, fashioned in part on the needs identified through the review, evaluation and monitoring activities and on new state-of the art developments.
- (5) Definition of the clinical privileges which may be appropriately granted within the hospital and within each department, delineation of clinical privileges for members of the Medical Staff commensurate with individual credentials and demonstrated ability and judgment, and participation in assigning patient care responsibilities to other health care professionals consistent with individual qualifications and demonstrated ability.
- (6) Management of clinical affairs, including enforcement of clinical policies and consultation requirements, initiation of disciplinary actions, surveillance over requirements for performance monitoring and for the exercise of newly-acquired clinical privileges, and other clinically-oriented activities.
- (7) Such other measures as the Board may, after considering the advice of the Medical Staff, the other professional services and the hospital management, deem necessary for the preservation and improvement of the quality and efficiency of patient care.

**ARTICLE TEN
MEDICAL STAFF**

10.1 ORGANIZATION

The Board of Directors has caused to be created a Medical Staff organization, known as the Medical Staff of St. Elizabeth Medical Center, whose membership is comprised of all practitioners who are privileged to attend patients of the Corporation. Membership in this Medical Staff organization shall be a prerequisite to the exercise of clinical privileges in the Corporation, except as otherwise specifically provided in the Medical Staff Bylaws.

10.2 MEDICAL STAFF BYLAWS, RULES AND REGULATIONS

A. Purpose

The Medical Staff organization shall propose and adopt by vote bylaws, rules and regulations for its internal governance, which shall be effective when approved by the Board of Directors. These bylaws shall create an effective administrative unit to discharge the functions and responsibilities assigned to the Medical Staff by the Board of Directors. The Medical Staff bylaws, rules and regulations shall state the purpose, functions and organization of the Medical Staff and shall set forth the policies by which the Medical Staff exercises and accounts for its delegated authority and responsibilities.

B. Procedure

The Medical Staff shall have the initial responsibility to formulate, adopt, and recommend to the Board of Directors, Medical Staff bylaws and amendments thereto, which shall be effective when approved by the Board of Directors. If the Medical Staff fails to exercise this responsibility in good faith and in a reasonable timely and responsible manner, the Board of Directors may formulate or amend Medical Staff bylaws, at its own initiative. In such event, recommendations and views of the Medical Staff shall be carefully considered by the Board of Directors during its deliberations and in its actions.

10.3 MEDICAL STAFF MEMBERSHIP AND CLINICAL PRIVILEGES

A. Duties of the Medical Staff

- (1) The Medical Staff shall have the responsibility and authority to investigate and evaluate all matters relating to initial staff appointments, reappointments, the assignment or curtailment of clinical privileges and corrective action. The Board of Directors shall require the Medical Staff to adopt and forward to it specific written recommendations concerning staff appointments, reappointments, the assignment or curtailment of clinical privileges and corrective action, with appropriate supporting documentation that will allow the Board of Directors to take informed action.

- (2) The Medical Staff shall have the responsibility and authority to investigate and evaluate each allied health professional's application for specified services, department affiliation, and modification in the services such allied health professional may perform, and shall require that the Medical Staff make recommendations to the Board of Directors on such applications.
- (3) The Board of Directors has overall responsibility for making available high quality patient care. Therefore, the Medical Staff shall conduct an ongoing review and appraisal of the quality of professional care rendered in the Medical Center and shall report such activities and their results to the Board of Directors.

B. Action by the Board of Directors

Final action on all matters relating to Medical Staff membership status, clinical privileges and corrective action shall be taken by the Board of Directors after considering the recommendations of the Medical Staff, provided that the Board of Directors shall act in any event if the Medical Staff fails to adopt and submit any such recommendation within a reasonable time. Such Board of Directors action without a Medical Staff recommendation shall be based on the same kind of documented investigation and evaluation as is required for Medical Staff recommendations.

C. Criteria for Board of Directors' Action

In acting on matters of Medical Staff membership status, the Board of Directors shall consider the Medical Staff's recommendations, the Corporation's and the community's needs, and such additional criteria as are set forth in the Medical Staff bylaws. In granting and defining the scope of clinical privileges to be exercised by each practitioner, the Board of Directors shall consider the Medical Staff's recommendations, the supporting information on which they are based, and such criteria as are set forth in the Medical Staff bylaws. No aspect of membership status or specific clinical privileges shall be limited or denied to a practitioner on the basis of sex, race, age, creed, color or national origin, or on the basis of any other non-professional qualifications, to the Corporation's purposes, needs and capabilities, or to community needs.

D. Conflict Resolution

In accordance with the Medical Staff's policies and procedures as set out in the Medical Staff Bylaws, the Board of Directors will resolve any differences in recommendations concerning Medical Staff appointments, reappointments, terminations of appointments and the granting or revision of clinical privileges within a reasonable time.

10.4 TERMS AND CONDITIONS OF MEDICAL STAFF MEMBERSHIP AND CLINICAL PRIVILEGES

A. The Board of Directors shall require that the Medical Staff establish controls that are designed to ensure the achievement and maintenance of high standards of professional and ethical practice according to the Directives.

B. The Board of Directors may determine the total numbers and types of practitioners on the medical or affiliate staffs, based on the physical capabilities of the Corporation, utilization of the Corporation by its staff members, and requirements for efficient use of Corporation facilities and personnel.

C. Practitioners applying for Medical Staff membership, or for clinical privileges, must sign an agreement to abide by these Bylaws and by the Medical Staff bylaws, rules and regulations.

10.5 DUE PROCESS

A. Practitioners

In holding the Medical Staff responsible for making recommendations to it, the Board of Directors shall require that the Medical Staff bylaws shall provide for review of any adverse recommendation made to the Board of Directors with respect to a practitioner's Medical Staff appointment, reappointment, department affiliation, staff category, admitting prerogatives, clinical privileges or corrective action. The review shall be conducted in accordance with the Board of Directors approved Medical Staff Fair Hearing Plan then in effect. Such plan shall provide procedures to assure fair treatment of all practitioners and to afford opportunity for the presentation of all pertinent information, including the right to be heard, when requested by the practitioner.

B. Medical Staff-Administrative Staff

Any physician who is also an administrative officer shall be entitled to procedural due process under the Board of Directors approved Fair Hearing Plan then in effect. The Medical Staff-administrative officer shall be entitled to hearings by review committees of both the Medical Staff and the Board of Directors.

C. Medical Staff

If the Board of Directors declines to follow any Medical Staff recommendation concerning Medical Staff appointments, reappointments, the assignment or curtailment of clinical privileges, or corrective action, then the Medical Staff shall be entitled to have the adverse decision of the Board of Directors reviewed by the Board of Directors in accordance with the Board of Directors approved Fair Hearing Plan then in effect.

10.6 METHODS FOR MEDICAL ADMINISTRATIVE LIAISON

The Board of Directors shall establish medical-administrative liaison by the following methods:

- A. Appointment of Directors to attend Executive Committee meetings of the Medical Staff.
- B. Appointment of members of the Medical Staff to Committees of the Board of Directors.
- C. Appointment of the President of the Medical Staff as an ex-officio member of the Board of Directors.

10.7 OFFICERS AND CHAIRPERSONS

All elections and appointments of Medical Staff officers or chairpersons of Medical Staff committees shall be approved by the Board of Directors after consideration of the recommendation of the President of the Medical Staff. The duties and responsibilities of such officers and committee chairpersons shall be set forth in the Medical Staff bylaws.

ARTICLE ELEVEN INDEMNIFICATION AND INSURANCE

11.1 INDEMNIFICATION AND INSURANCE

It is expressly provided that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal, by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of this Corporation, will be completely indemnified by the Corporation to the full extent permitted by law. If permitted by law, this indemnification shall include, but not be limited to, the payment of one or more of the following: judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeal therein.

11.2 INSURANCE

It is the policy of the Corporation that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of the Corporation, will be completely and fully indemnified by this Corporation to the full extent permitted by the law. The Corporation may purchase and maintain insurance to completely and fully indemnify any and every such

person, whether or not this Corporation has the power to indemnify him or her against such liability under the laws of this or any other state.

ARTICLE TWELVE CONFLICT OF INTEREST

12.1 POLICY

Any Director, officer, key employee, or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval, or ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interest.

12.2 EFFECT

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions contained in the Board approved Conflicts of Interest Policy must be observed. If so, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in the discussions or deliberations with respect to such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

12.3 FORMAL POLICY AND PROCEDURE

The Board shall adopt a formal Conflict of Interest Policy requiring annual disclosure of existing and potential conflicts of interest, mechanisms for addressing actual and potential conflicts of interest and corrective and disciplinary action with respect to transgressions of such policies.

ARTICLE THIRTEEN VOLUNTEER ORGANIZATIONS

13.1 The Board may organize a volunteer organization, or such other associated organizations as it deems appropriate, consisting of individuals who are interested in rendering services as volunteers to the Corporation or its subsidiaries and in assisting in the fulfillment of the mission of the Corporation. There shall be Bylaws, rules and regulations for such organizations, setting forth

their organization and governance. Proposed Bylaws may be recommended, but only those approved by the Board of Directors shall become effective.

ARTICLE FOURTEEN AMENDMENT TO BYLAWS

14.1 PROCEDURE

These Bylaws may be amended or repealed, or new Bylaws may be adopted, by a two-thirds (2/3) vote of the Board of Directors of MVHS of any regular or special meeting. At least ten (10) days written notice shall be given of the intention to take such action. The Governance Affairs and Ethics Committee shall conduct an annual review of these Bylaws and make recommendations for such amendments as may be necessary to assure compliance with all applicable laws, rules and regulations. Notwithstanding the foregoing, any Amendment to these Bylaws which affects the mission and philosophy of the Corporation as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy or any amendment impacting the requirement of the Corporation to operate in conformance with its Catholic mission and philosophy or any amendment impacting the Pension Committee or relating to any of PFM's reserved powers, will require approval by PFM.

ARTICLE FIFTEEN GENERAL

15.1 PROCEDURE

The Board and any Board Committee may adopt rules or procedures which shall be consistent with these Bylaws.

15.2 EQUAL OPPORTUNITY

The Board shall, in all matters, act without regard to discrimination as to sex, race, age, creed, handicap, sexual preference, marital status or national origin.

15.3 CONSTRUCTION OF TERMS AND HEADINGS

Words used in these Bylaws shall be read as the masculine or feminine gender and as the singular or plural, as the context requires. The captions or headings in these Bylaws are for convenience only and are not intended to limit or define the scope or effect of any provision of these Bylaws.

**RESTATED CERTIFICATE OF CONSOLIDATION
OF
FAXTON-ST. LUKE'S HEALTHCARE**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

We, the undersigned, being respectively the President and Secretary of Faxton-St. Luke's Healthcare, certify:

1. The name of the corporation is: **Faxton-St. Luke's Healthcare.**
2. The corporation's Certificate of Consolidation was filed by the Department of State on the 23rd day of December, 1999, pursuant to the New York Not-for-Profit Corporation Law.
3. The corporation's Certificate of Consolidation is hereby amended to effectuate the following:
 - A. To delegate and reserve to the Corporation's sole corporate member, Mohawk Valley Health System ("MVHS") certain rights and powers as set forth in Paragraph 4 of this Restated Certificate of Consolidation.
4. The text of the Certificate of Consolidation, as amended, is hereby restated to read as herein set forth in full:

1. The name of the consolidated corporation is: **FAXTON-ST. LUKE'S HEALTHCARE** (herein, the "Corporation" or the "Hospital").

2. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law.

3. The purposes and objects of the Corporation shall be as follows:

- a. to establish, operate and maintain a general hospital and comprehensive health care facilities and systems whose purposes may include, but not be limited to, a full range of inpatient services, outpatient services, emergency department services, medical and dental services, residential health care facility services, end stage renal dialysis services, and such other services, facilities and equipment as shall be desirable in meeting the health care needs of the community, to be located at one or more sites.

- b. to carry on educational activities, scientific research and other health related activities and programs incident to the purposes set forth above.

- c. to solicit funds for the above purposes.

d. to pursue, enhance and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations as may be established, operated and maintained in accordance with all approvals required by applicable law.

e. this Corporation is organized exclusively for charitable, scientific and educational purposes as a not-for-profit corporation. Upon dissolution of the Corporation, and after payment of all just debts and liabilities, all remaining assets shall be distributed to MVHS and/or the not-for-profit corporate affiliates of MVHS, provided that they shall then qualify under Code Section 501(c)(3) or corresponding provisions of any future United States Internal Revenue law. If neither MVHS nor any of its not-for-profit corporate affiliates shall so qualify at the time of dissolution, the distribution shall be made to such other organizations enjoying exempt status under Section 501(c)(3) of the Internal Revenue Code, of 1986, as amended, or successor provisions, pursuant to a plan of dissolution authorized in accordance with the laws of the State of New York. The Corporation shall not devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise.

f. pursuant to the establishment of the Mohawk Valley Heart Institute, Inc. under Article 28 of the Public Health Law, the Corporation hereby delegates to Mohawk Valley Heart Institute, Inc.:

- i. Joint operational decision making authority and responsibility with Faxton-St. Luke's Healthcare over such services for which a joint operating certificate will be issued by the New York State Department of Health to Mohawk Valley Heart Institute, Inc. and Faxton-St. Luke's Healthcare.
- ii. Notwithstanding the foregoing, Faxton-St. Luke's Healthcare retains control over and does not delegate to Mohawk Valley Heart Institute, Inc. authority and responsibility for all other services, operations and clinical programs for which no authority has been delegated to Mohawk Valley Heart Institute, Inc. and for which no joint operating certificate will be issued by the New York State Department of Health.

4. The Corporation does delegate and reserve to Mohawk Valley Health System ("MVHS") certain powers. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Hospital, to require that the Hospital operate in conformance with its mission and philosophy and that the Hospital coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and

effective health care services in Oneida County, New York, and surrounding areas.

- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Hospital, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Hospital. Notwithstanding the foregoing, the Board of the Corporation shall be entitled to appoint and remove, with or without cause, one (1) additional director to the Board of the Corporation who does not currently serve on the MVHS Board.
- c. To amend or repeal the Certificate of Consolidation and Bylaws, and to adopt any new or restated Certificate of Consolidation, and Bylaws of the Hospital;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Hospital;
- e. To approve the debt of the Hospital in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Hospital in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Hospital;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Hospital;
- i. To approve any corporate reorganization of the Hospital and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Hospital with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve and coordinate the strategic plan of the Hospital;
- k. To approve all contracts of reimbursement for the Hospital from governmental or private third party insurers;
- l. To approve all applications of the Hospital to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health, as required;

m. To approve management contracts for the Hospital subject to approval and/or regulation under the laws and regulations of the State of New York;

n. To approve any material change in the services offered by the Hospital;

o. To require the Hospital to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Hospital to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Hospital is a party and by which it is bound; and

p. To accept further delegations of authority on behalf of the Hospital pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Hospital and other MVHS affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

Notwithstanding the foregoing, any and all proceeds from services performed at the Hospital which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services (herein, the "ERDs") shall not be transferred to or used for the benefit of MVHS, St. Elizabeth Medical Center ("SEMC") or any affiliate of SEMC and neither MVHS nor SEMC shall provide or support such services maintained by the Hospital or any Affiliate or subsidiary of the Hospital.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Hospital without a prior recommendation of the Hospital's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Hospital's board of directors and to direct action by the Hospital or to return the matter to the board of directors of the Hospital for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Hospital shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Hospital's board of directors.

5. The Corporation is not organized for pecuniary profit or financial gain, and no part of its assets, income or profit shall be distributable to, or inure to the benefit

of its members, directors or officers, except to the extent permitted under the Not-for-Profit Corporation Law.

6. The Corporation shall be a Type B corporation under Section 201 of the Not-for-Profit Corporation Law.

7. The office of the Corporation is to be in the County of Oneida, State of New York.

8. The duration of the Corporation is to be perpetual.

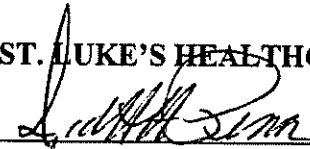
9. The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is: *P.O. Box 479, Utica, NY 13503-0479.*

10. The effective date of the consolidation of Faxton Hospital and St. Luke's-Memorial Hospital Center into Faxton-St. Luke's Healthcare was January 1, 2000.

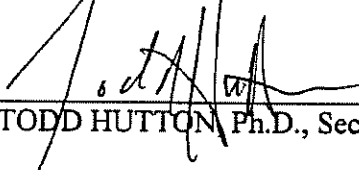
4. This Restated Certificate of Consolidation was authorized by a unanimous vote of the Board of Directors of MVHS, said vote being at least equal to a quorum.

IN WITNESS WHEREOF, the undersigned have subscribed this Restated Certificate of Incorporation this 20th day of January, 2014, and hereby affirm that the statements contained herein are true under the penalties of perjury.

FAXTON-ST. LUKE'S HEALTHCARE



SCOTT H. PERRA, FACHE, President



TODD HUTTON, Ph.D., Secretary

VERIFICATION

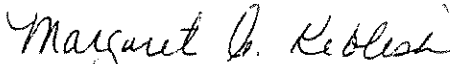
STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

SCOTT H. PERRA, FACHE, being duly sworn, deposes and says, that he is the President of FAXTON-ST. LUKE'S HEALTHCARE, the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.



Scott H. Perra, FACHE

Sworn to before me this
20th day of January, 2014



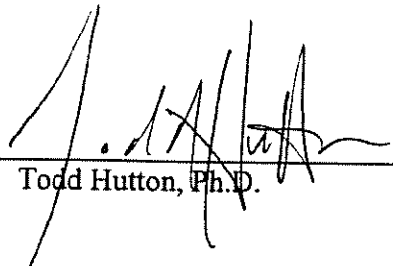
NOTARY PUBLIC - State of New York
Appointed in Oneida County
My commission expires: 8/9/2017

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County 17
Commission Expires 08/09/2017

VERIFICATION


STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

TODD HUTTON, Ph.D, being duly sworn, deposes and says, that he is the Secretary of FAXTON-ST. LUKE'S HEALTHCARE, the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.



Todd Hutton, Ph.D.

Sworn to before me this
20th day of January, 2014



NOTARY PUBLIC – State of New York
Appointed in Oneida County
My commission expires: 8/19/2017

Margaret A. Keblush
Notary Public, State of New York
No. 01KE6023261
Qualified in Oneida County
Commission Expires 08/09/2017



**BY-LAWS
of
FAXTON-ST. LUKE'S HEALTHCARE**

**ARTICLE ONE
NAME**

1.1 NAME

The name of the Corporation is Faxton-St. Luke's Healthcare (herein the Corporation or the Hospital).

**ARTICLE TWO
OFFICES, PURPOSES AND POWERS**

2.1 OFFICES

The principal office of the Corporation shall be located in New York State ("the State"). The Corporation shall have and continuously maintain in the State a registered office and a registered agent whose office shall be identical with the registered office, and may have such other offices as the Board may determine from time to time.

2.2 PURPOSES AND POWERS

The Corporation shall have the following purposes and powers:

- a. To establish, operate and maintain a general hospital and comprehensive health care facilities and systems at one or more sites, whose purposes may include, but not be limited to, the provision of a full range of inpatient and outpatient services, residential health care facilities, and other health related services and facilities. Each such service or facility shall be established and operated in accordance with all approvals required by the Public Health Law or other law of the State, and all approvals required from any other body having jurisdiction over the Corporation's activities.

-
- b. To carry on educational activities, scientific research and other health related activities or programs incident to the purposes set forth above.
 - c. To solicit funds for the above purposes.
 - d. To pursue, enhance, and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations as may be established, operated and maintained in accordance with all approvals required by applicable law.
 - e. Pursuant to the establishment of the Mohawk Valley Heart Institute, Inc., under Article 28 of the Public Health Law, the Corporation hereby delegates to the Mohawk Valley Heart Institute, Inc.:
 - i. Joint operational decision making authority and responsibility with the Corporation over such services for which a joint operating certificate is issued by the New York State Department of Health to Mohawk Valley Heart Institute, Inc. and the Corporation.
 - ii. Notwithstanding the foregoing, the Corporation retains control over and does not delegate to Mohawk Valley Heart Institute, Inc., authority and responsibility for all other services, operations, and clinical programs, for which no authority has been delegated to Mohawk Valley Heart Institute, Inc. and for which no joint operating certificate will be issued by the New York State Department of Health.

ARTICLE THREE MEMBERSHIP

3.1 COMPOSITION

Mohawk Valley Health System (“MVHS” or “Member”) shall be the sole member of the Corporation.

3.2 RIGHTS OF MEMBER

MVHS shall have and exercise all the rights and powers of corporate membership created by the laws of the State of New York or the Certificate of Consolidation or By-laws of the Corporation. Certain additional powers have been delegated and reserved to MVHS in the MVHS organizational documents. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Hospital, to require that the Hospital operate in conformance with its mission and philosophy and that the Hospital coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Hospital, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Hospital.
- c. To amend or repeal the Certificate of Consolidation and Bylaws, and to adopt any new or restated Certificate of Consolidation, and Bylaws of the Hospital;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Hospital;
- e. To approve the debt of the Hospital in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Hospital in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Hospital;

-
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Hospital;
 - i. To approve any corporate reorganization of the Hospital and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Hospital with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
 - j. To approve and coordinate the strategic plan of the Hospital;
 - k. To approve all contracts of reimbursement for the Hospital from governmental or private third party insurers;
 - l. To approve all applications of the Hospital to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health, as required;
 - m. To approve management contracts for the Hospital subject to approval and/or regulation under the laws and regulations of the State of New York;
 - n. To approve any material change in the services offered by the Hospital;
 - o. To require the Hospital to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Hospital to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Hospital is a party and by which it is bound; and
 - p. To accept further delegations of authority on behalf of the Hospital pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Hospital and other MVHS Affiliates, the

authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at the Hospital which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services (herein, the “ERDs”) shall not be transferred to or used for the benefit of MVHS, St. Elizabeth Medical Center (“SEMC”) or any affiliate of SEMC and neither MVHS nor SEMC shall provide or support such services maintained by the Hospital or any Affiliate or subsidiary of the Hospital.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Hospital without a prior recommendation of the Hospital’s board of directors; and (ii) the power to accept, reject or modify the recommendation of the Hospital’s board of directors and to direct action by the Hospital or to return the matter to the board of directors of the Hospital for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Hospital shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Hospital’s board of directors.

3.3 ANNUAL MEETING

MVHS shall, in its capacity as the member of the Corporation, hold its annual meeting each year at a time and place determined by MVHS. At the annual meeting,

MVHS shall elect Directors of the Corporation, receive the annual report of the Directors of the Corporation, and transact such other business as may properly come before the meeting. Nomination for seats on the Board of Directors of the Corporation shall be submitted to MVHS prior to MVHS' annual meeting.

3.4 ANNUAL REPORT TO MEMBER

At the annual meeting of the member, the Chairperson or President, and the Treasurer of the Corporation shall present an Annual Report showing in appropriate detail the following information:

(a) a complete verified financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation;

(b) a summary of the activities of the Corporation during the preceding year.

The Annual Report shall be filed with the minutes of the annual meeting.

3.5 ACTION BY MEMBER

Except as otherwise required by law, the Certificate of Consolidation or these By-laws, any action required or permitted to be taken by MVHS in its capacity as the sole member of the Corporation may be taken by MVHS without a meeting, without prior notice and without a vote, through written consent to such action. The written consent of MVHS shall be evidenced by a written resolution of the Board of Directors of MVHS signed by an officer of MVHS and adopted in accordance with the MVHS Certificate of Incorporation, By-laws, policies and/or procedures. An original signed copy of each executed written consent of MVHS shall be delivered to the Secretary of the Corporation and shall be maintained in the permanent records of the Corporation.

ARTICLE FOUR BOARD OF DIRECTORS

4.1 NUMBER

The Board of Directors shall consist of not less than nine (9) members.

4.2 QUALIFICATION

Directors shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

4.3 ELECTION AND TENURE

(a) Composition of Initial Board of Directors. Commencing with the meeting to be held on or about March 4, 2014, the initial board shall be comprised of eighteen (18) Voting Directors. MVHS shall appoint sixteen (16) voting directors (the "Elected Directors"). The remaining two (2) Directors shall be the presidents of the medical staffs of SEMC and the Hospital who shall serve ex-officio as Voting Directors. Should the Board of the Corporation exercise its right to appoint an additional Director to the Corporation's Board, the initial Board shall, in that event, be comprised of nineteen (19) Voting Directors.

(b) Terms of Office. The initial Elected Directors shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated.

(c) Subsequent Election. Commencing with the 2015 annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Director may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in these Bylaws. Commencing with the 2015 annual meeting, Elected Directors of the Board shall be nominated by the Governance Affairs and Ethics Committee of MVHS and shall be elected by a simple majority of the MVHS Board. The MVHS Board shall not be bound or limited to such nominees.

(d) Reappointment. Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment

of the Director's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(e) Non-Elected Directors. The Presidents of the Medical Staffs of SEMC and the Hospital shall serve as Directors of the Corporation, coterminous with holding their respective positions.

4.4 VACANCIES

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Director, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board of MVHS. Nominees shall be presented by the Governance Affairs and Ethics Committee of MVHS, but the MVHS Board shall not be bound or limited to such nominees. Directors selected to fill vacancies shall serve the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

4.5 REMOVAL

Each member of the Board of Directors shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Directors by a vote of two-thirds of the MVHS Directors. In addition, the Board of MVHS may remove any Director, with or without cause, upon a two-thirds (2/3) vote of the Board.

4.6 RESIGNATION/LEAVE OF ABSENCE.

(a) Resignation. Any Director may resign at any time by giving written notice to the Chairperson or to the Secretary of the Corporation. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

(b) Leave of Absence. Any Director may request a Leave of Absence of up to three (3) months for medical reasons relating to the Director, or a member of the Director's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Director. If the Chairperson requests a Leave, the request shall

be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Director shall be excused from any attendance requirements and all other obligations of a Director as set forth in these Bylaws. The Director's Board position shall remain vacant during the term of the Leave, and the Director's position shall not be counted in determining the presence of a quorum.

If the Director on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the MVHS Directors at the next regular meeting of MVHS, or at a special meeting called for such purpose. Any committee positions held by the Director may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Director may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

4.7 ADDITIONAL ADVISORS

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Directors present.

4.8 MEETINGS OF DIRECTORS

(a) Annual Meeting The Board of Directors shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, selecting members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) Regular Meetings The Board of Directors shall hold at least seven (7) regular meetings annually.

(c) Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3)

Directors. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) Place All meetings of the Board shall be held at the principal office of the Corporation or at such other place within this State as the Notice of Meeting shall provide.

(e) Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Director personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law or these Bylaws, the notice shall also state the purpose for which the meeting is called. Oral or written notice of the postponement of any scheduled regular meeting shall be given to each Director not less than one (1) day before the scheduled date of such meeting.

(f) Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(g) Quorum Unless a greater or lesser number is required by law, the Certificate of Consolidation or these By-laws, a majority of the Directors entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Directors present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 4.8(e).

(h) Voting Subject to the Conflict of Interest provisions of these By-laws, and the Board's Conflict of Interest policies, each voting Director present is entitled to vote on any matter before the Board.

(i) Manner of Acting Unless otherwise required by law, the Certificate of Consolidation or these By-laws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Any action

required or permitted to be taken by the Board may be taken without a meeting by the consent in writing of all Directors entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

(j) Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

4.9 POWERS AND FIDUCIARY OBLIGATIONS

(a) Powers Except to the extent that powers have been delegated and reserved to MVHS under these Bylaws, the administrative powers of the Corporation shall be vested in the Board of Directors, which shall have: charge, control, and oversight of the property, funds, and affairs of the Corporation; the power to establish policies for the management and operation of the Corporation; and such other power and authority to do and perform all acts and functions for the benefit of the Corporation, not inconsistent with these By-laws or the Certificate of Consolidation. The Board of Directors shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

(b) Fiduciary Obligations The members of the Board of Directors shall at all times conduct the affairs of the Corporation in strict conformance with all applicable fiduciary and ethical standards. Each Director shall act in a manner consistent with the duty of undivided loyalty to the interests of the Corporation, the duty to maintain in confidence information concerning the affairs of the Corporation, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Corporation. The Board shall adopt such mechanisms as it deems appropriate to assist the Directors in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate, a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and

apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Corporation.

ARTICLE FIVE OFFICERS

5.1 OFFICERS

The Corporation shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Board of Directors may authorize. The Corporation shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the March 2014 meeting of the Board shall serve until the annual meeting of the Corporation in 2015. The Chairperson selected at the 2015 and 2016 annual meetings shall serve a one year term, or until his/her successor has been elected. The initial Chairperson and the Chairperson seated at the 2015 and 2016 annual meetings shall be selected by MVHS in accordance with its Bylaws. Commencing with the 2017 annual meeting the Chairperson and Vice-Chairperson shall be elected by MVHS for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected by MVHS at the annual meeting of MVHS and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors of MVHS at any regular meeting or any special meeting called for such purpose.

5.2 CHAIRPERSON

The Chairperson shall preside at all meetings of the Board of Directors, shall appoint the members and Chairperson of each Committee in accordance with these Bylaws and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 2016 annual meeting of MVHS shall be eligible to be elected by the full Board of MVHS to serve one additional term of two (2) years, commencing in 2017. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

5.3 VICE-CHAIRPERSON

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

5.4 CHAIR EMERITUS.

Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in these Bylaws. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the March 2014 meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

5.5 SECRETARY

The Secretary shall act as Secretary of both the Corporation and the Board of Directors and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Corporation and keeping the minutes of the meetings of the Board of Directors. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Corporate records.

5.6 TREASURER

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and, whenever required by the Board of Directors shall render, or cause to be rendered, financial

statements of the Corporation. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

5.7 PRESIDENT

MVHS shall appoint a qualified hospital administrator to serve as the President and as the Chief Executive Officer of the Corporation. The President/CEO shall be the Board's direct executive representative in the management of the Corporation. The President/CEO shall have the necessary authority and shall be responsible for management of the Corporation, subject only to the policies and directives of the Board and any of its committees to which the Board has delegated power for such action. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board of Directors in all matters except those for which the Board has designated some other individual to act.

ARTICLE SIX COMMITTEES OF THE BOARD OF DIRECTORS

6.1 STRUCTURE

There shall be eight (8) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Patient Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, Investment Committee, Audit Compliance Committee and Joint Conference Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

6.2 PROCEDURE

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or

procedures are adopted for any individual committee in these By-Laws or in a Resolution of the Board of Directors.

6.3 POWERS

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these By-Laws, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

6.4 COMMITTEE MEMBERS

- (a) Appointment. Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to promote experience and knowledge in all aspects of the operation of the Corporation.
- (b) Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.
- (c) Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee.

Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.

- (d) Removal. Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

6.5 ADVISORS TO BOARD COMMITTEES

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Directors.

As deemed appropriate by the Committee Chair, members of the Corporation's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

6.6 MANNER OF ACTION

(a) Meetings. Each Committee shall meet as provided for in these By-Laws and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the

time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

(b) Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

(c) Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

(d) Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

(e) Meeting by Conference Telephone or Similar Device. Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

6.7 CONFLICT OF INTEREST

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

6.8 EXECUTIVE COMMITTEE

(a) Composition

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, Presidents of the Medical Staffs of SEMC and the Hospital, and the Chairperson Emeritus.

(b) Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Corporation, subject to any prior limitations imposed by the Board, these By-Laws, or statute. In addition, the Executive Committee shall:

- (1) Oversee the development of labor relations and negotiation strategy and recommend to the Board approval of collective bargaining agreements.
- (2) Review and recommend to the Board, with the assistance of counsel, policies and guidelines for financial transactions with physicians, including physician recruitment, employment or other agreements with the Corporation.
- (3) Review and recommend to the Board, legislative and regulatory affairs initiatives.
- (4) Review and make recommendations to the Board as to the Corporation's completion and filing of IRS Form 990 and such other reports or filings as may be required by the Internal Revenue Service.

(c) Meetings

The Executive Committee shall meet as necessary to conduct the business of the Corporation while the full Board is not in session.

6.9 FINANCE

(a) Composition

The Finance Committee shall consist of the Treasurer of the Corporation, as Committee Chairperson, and at least 6 voting Directors, at least one of whom shall have substantial accounting or financial management expertise.

(b) Functions

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Corporation and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and

oversight of the financial affairs of the Corporation and its subsidiaries. Its functions shall include:

- (1) Overseeing the President's development of a budget for the Corporation showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Board a budget developed by the President for the ensuing year;
- (3) Reviewing financial reports that report on the financial condition of the Corporation;
- (4) Reviewing and making recommendations to the Board on any request by the President for the Corporation to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;
- (5) Retaining the Corporation's independent Certified Public Accountants to provide external financial auditing to the Corporation. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Corporation and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Corporation and its subsidiaries.

-
-
- (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Corporation and its subsidiaries.

(c) Meetings

The Finance Committee shall meet as needed, but not less than six (6) times per year.

6.10 QUALITY AND PATIENT SAFETY COMMITTEE

(a) Composition.

The Quality and Patient Safety Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a physician.

(b) Functions.

The Quality and Patient Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of the Hospital with the programs of the other MVHS Affiliates for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance at the Hospital, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;
 - (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;

-
- (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by the Corporation's subsidiaries and/or third parties providing services to the subsidiaries by contract, and coordinating the provision of services by the Corporation, its subsidiaries and third parties.
 - (2) Recommend policies and provide direction for the system's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the Hospital and its subsidiaries.
 - (3) Oversee regulatory compliance, safety, infection control and such other programs as shall be required to insure continuous accreditation of the Hospital.
 - (4) Review and report to the Board on Department of Health, Office of Mental Health, and other regulatory surveys and findings and any required plans of correction.
 - (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Corporation's subsidiaries concerning quality and performance improvement activities, including reports from any required quality or advisory committees of the subsidiary boards.
 - (7) Assist in the development of Board educational processes regarding quality and service improvement with the assistance and participation of the medical staff and hospital management.

(c) Meetings

The Quality and Patient Safety Committee shall meet at least six (6) times annually, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

6.11. GOVERNANCE AFFAIRS AND ETHICS COMMITTEE

(a) Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a Board Officer.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Boards of the Corporation and its subsidiaries; developing and monitoring a Board education plan; review and amendment of subsidiary Bylaws; and nomination of directors and officers of the Boards of the Corporation's subsidiaries. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - (i) Conflict of Interest;
 - (ii) Policy based governance;
 - (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.

-
- (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
 - (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Board and/or Committees of the Corporation and its subsidiaries.
 - (5) Nominate directors and officers of the Corporation's subsidiary boards.
 - (6) Develop an orientation process for new Board and Committee members for the Corporation and its subsidiaries, with the assistance of the Chief Executive Officer.
 - (7) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
 - (8) Periodically review, and recommend changes to the Bylaws of the Corporation and its subsidiaries to insure compliance with the mission, vision, purpose and structure of the Corporation and its subsidiaries.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at least two (2) times per year, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

6.12 EXECUTIVE COMPENSATION COMMITTEE.

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Directors recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be "Independent Directors" as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not an "Independent Director", the Board shall appoint another Independent Director to serve in the place of the

Chairperson. The President/CEO may serve as an advisor to the Committee as long as he or she is excused when the Committee is reviewing the CEO's compensation package.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the President/CEO and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of the Corporation, or its Affiliates or subsidiaries, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations ("Disqualified Persons"). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually, performance guidelines for the CEO;
- (2). Assist the board in assessing and evaluating the CEO's performance;
- (3). Review and recommend to the full Board the CEO's compensation, including salary, incentives, benefits and other perquisites;
- (4) Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
- (5) At least annually, review executive compensation to ensure that it is appropriate in view of Corporation's tax-exempt status and take the required steps to establish a "rebuttable presumption of reasonableness" [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person's background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Corporation's income and assets and the number of Corporations employees;

-
- d. CEO's job performance;
 - e. relationship of the CEO's compensation to the compensation paid to Corporation's other employees; and
 - f. the number of hours the CEO spends performing his or her job.

(6) Review and approve the compensation package of the Chief Operating, Medical, Nursing and Financial Officers, as recommended by the CEO.

c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Corporation to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

6.13 INVESTMENT COMMITTEE.

(a) Composition

The Investment Committee shall consist of at least at least three (3) Directors, at least one of whom shall have significant experience in financial and/or investment matters.

(b) Functions.

The function of the Investment Committee shall be to establish investment standards and expectations and review and monitor investment performance of the managers of the investments, endowments and other funds of the Corporation, and its subsidiaries. Without limiting the foregoing, the Committee shall:

1. Review and recommend to the Board, the investment policy of the Corporation and its subsidiaries;

-
2. Review the performance of the investment managers and, as required, recommend changes to the Board;
 3. At least semi-annually report to the Board on the investment activities and performance of the investments of the Corporation and its subsidiaries.

c. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

6.14 AUDIT AND COMPLIANCE COMMITTEE.

(a) Composition

The Audit and Compliance Committee shall be composed of at least three (3) directors. At least a majority of the directors so appointed shall be “Independent Directors” as defined in Section 7.12(a), above.

(b) Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board of Directors in its oversight responsibilities by overseeing management’s systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Corporation. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee’s retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the Corporate Compliance Plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.

-
- b. Review the minutes of each Corporate Compliance Committee meeting, and monitor the results of the Compliance Program.
 - c. Serve as a resource to the Compliance Officer and management on compliance issues.
 - d. Review and approve the audit schedule proposed by the Compliance Officer.
 - e. Report to the Board at least semi-annually, regarding the status of the Compliance Plan.

c. Meetings.

The Committee shall convene at least four (4) times per year or as shall be necessary to discharge its responsibilities.

6.15 JOINT CONFERENCE COMMITTEE

(a) Composition

The Joint Conference Committee will be composed of the Chairperson, Vice Chairperson, President, Secretary and Treasurer of the Board, the Chairperson of the Quality and Patient Safety Committee of the Board, the four (4) officers of the Medical Staff and two additional medical staff members appointed by the President of the Medical Staff. The Chairperson of the Committee will alternate each meeting between the Chairperson of the Board, or his or her designee, and the President of the Medical Staff, or his or her designee. The Hospital's Chief Medical Officer, Chief Nursing Officer and Chief Operating Officer will be advisors to the Committee.

(b) Functions

The Joint Conference Committee will serve as a forum for the discussion of Hospital and Medical Staff policy, practice and planning and provide for effective liaisons between and among the Board of Directors, the Medical Staff and Administration. It shall also serve as a forum for addressing Medical Staff and Board of Directors' concerns and issues relating to operational quality and service performance. It shall exercise such specific responsibilities as assigned by the Board of Directors and as set forth in the Medical Staff Bylaws.

(c) Meetings

The Committee will convene at as shall be necessary to discharge its responsibilities.

ARTICLE SEVEN ADMINISTRATION

7.1 PRESIDENT/CEO

The Board of Directors of MVHS shall select and appoint a competent hospital administrator who shall act as President of the Board, ex officio and without vote, and Chief Executive Officer of the Corporation. The President/CEO shall have such qualifications as are prescribed by the New York State Hospital Code, as may be amended from time to time. The President/CEO shall be given the necessary authority and responsibility to operate the hospital in all its activities and departments, subject only to such policies as may be issued by the Board of Directors or by any of its Committees to which it has delegated power for such action. The President/CEO's performance shall be monitored in an ongoing manner by the Board of Directors and its Committees. The President/CEO shall act as the duly authorized representative of the Board in all matters in which the Board has not formally designated some other person to act.

The daily management and operational affairs of the hospital shall be the responsibility of the President/Chief Executive Officer. Without limiting the foregoing, the authority and responsibility of the President/Chief Executive Officer shall include:

- (a) Aid the Board in the formulation of policies and procedures and carrying out all policies established by the Board.
- (b) Development of a plan of organization of hospital personnel and other persons concerned with the conduct of the hospital's operation and submission of the plan to the Board for approval.
- (c) Preparation of an annual budget showing the expected receipts and expenditures of the hospital as required by the Board.
- (d) Development, submission and implementation, in a timely manner, of all plans to correct operational deficiencies identified by

regulatory agencies, and reporting to the Board progress in carrying out plans of correction.

- (e) Assisting the Board in communication and cooperation with the hospital's Medical Staff.
- (f) Assisting the hospital's Medical Staff with its organizational and medical administrative responsibilities.
- (g) Responsibility for all management and operational affairs of the hospital as required under the New York State Hospital Code, the requirements of the Hospital's accrediting organization and the responsibilities and duties established by all other regulatory bodies having jurisdiction.
- (h) Performance of such other duties as may be necessary in the best interests of the hospital.

7.2 MEDICAL DIRECTOR

The Board of Directors shall, after consultation with the Medical Staff, select and appoint a competent Medical Director who shall have administrative responsibility for the hospital's clinical departments and medical education programs. Responsibility for the organization and conduct of the Medical Staff shall be developed and defined in writing, in consultation with the Medical Staff, and assigned to the Medical Director. The Medical Director shall have such qualifications as may be required by the New York State Hospital Code, as amended from time to time. The Medical Director shall have such authority and responsibility as required to perform his or her duties, including:

- (a) Coordinating the appointment and re-appointment process of the members of the Medical Staff, including investigation and assurance of qualifications for membership, as provided in the Medical Staff By-Laws.
- (b) Oversee the granting of clinical privileges consistent with the practitioner's training, experience and demonstrated competence.
- (c) Monitor and ensure Medical Staff compliance with the hospital's Bylaws, the Medical Staff By-laws, the rules and regulations and

-
- policies of the Medical Staff, hospital policies and procedures, and all applicable laws, rules, regulations, and accrediting standards.
- (d) Oversee the activities, findings and recommendations of all medical staff quality improvement programs and promptly initiate or recommend appropriate corrective measures, consistent with the Medical Staff Bylaws.
 - (e) Monitor the activities and performance of the hospital's clinical departments and Department Chairpersons and make such reports and recommendations to the Board as shall be appropriate.
 - (f) Perform such other duties as may be required under the New York State Hospital Code, as may be assigned by the Board and CEO, or as shall be appropriate and necessary in the best interests of the Hospital.

ARTICLE EIGHT QUALITY ASSURANCE

8.1 BOARD RESPONSIBILITY

The Board shall establish, maintain, support and exercise oversight of an ongoing quality assurance program that includes specific and effective review, evaluation and monitoring mechanisms to assist, preserve and improve the overall quality and efficiency of patient care in the hospital, and to insure that each patient's rights are protected and promoted.

8.2 DELEGATION TO ADMINISTRATION AND TO THE MEDICAL STAFF

(a) TO ADMINISTRATION

Except as may be set forth in any policy adopted by the Board from time to time, the Board delegates to the administration and holds it accountable for providing the administrative assistance reasonably necessary to support and facilitate the implementation of an on-going operation of the hospital's quality assurance program, for implementing the quality assurance program as it concerns non-medical professional

personnel and technical staffs and patient care units, for establishing and maintaining a policy and process to protect and promote patient's rights and promptly resolve patient grievances, and for analyzing information and acting upon problems involving technical, administrative and support services and hospital policy. Without limiting the foregoing, the Board of Directors specifically delegates the obligation to review and resolve patient grievances to the individual responsible for quality management or such other person as designated by the President/CEO. The process for reviewing and resolving patient grievances shall be monitored by the Quality and Patient Safety Committee which shall provide periodic reports to the full Board.

(b) TO MEDICAL STAFF

The Board delegates to the Medical Staff and holds it accountable for conducting specific activities that contribute to the preservation and improvement of the quality and efficiency of patient care provided in the hospital. These activities include:

- (1) Systematic evaluation of practitioner performance against explicit, predetermined objective criteria.
- (2) On-going monitoring of critical aspects of care including, but not limited to, antibiotic and drug usage, transfusion practices, infections, mortalities, monitoring of unexpected clinical occurrences, and such other aspects of clinical care as shall be determined by the Board.
- (3) Review utilization of the hospital's resources to provide for their proper and timely allocation to patients in need of them.
- (4) Provision of continuing professional education, fashioned in part on the needs identified through the review, evaluation and monitoring activities and on new state-of the art developments.
- (5) Definition of the clinical privileges which may be appropriately granted within the hospital and within each

department, delineation of clinical privileges for members of the Medical Staff commensurate with individual credentials and demonstrated ability and judgment, and participation in assigning patient care responsibilities to other health care professionals consistent with individual qualifications and demonstrated ability.

(6) Management of clinical affairs, including enforcement of clinical policies and consultation requirements, initiation of disciplinary actions, surveillance over requirements for performance monitoring and for the exercise of newly-acquired clinical privileges, and other clinically-oriented activities.

(7) Such other measures as the Board may, after considering the advice of the Medical Staff, the other professional services and the hospital management, deem necessary for the preservation and improvement of the quality and efficiency of patient care.

ARTICLE NINE MEDICAL STAFF

9.1. ORGANIZATION.

The Board has caused to be created a Medical Staff organization, to be known as the Medical Staff of Faxton-St. Luke's Healthcare, whose membership shall be comprised of all practitioners who are privileged to attend patients of the Corporation. Membership in this Medical Staff organization shall be a prerequisite to the exercise of clinical privileges in the Corporation, except as otherwise specifically provided in the Medical Staff Bylaws.

9.2 MEDICAL STAFF BYLAWS, POLICIES AND RULES AND REGULATIONS.

(a). Purpose

The Medical Staff organization shall propose and adopt by vote bylaws, policies and rules and regulations for its internal governance, which shall be effective when approved by the Board . The bylaws shall create an effective administrative unit to discharge the functions and responsibilities assigned to the Medical Staff by the Board. The Medical

Staff bylaws, policies and rules and regulations shall state the purpose, functions and organization of the Medical Staff and shall set forth the policies by which the Medical Staff exercises and accounts for its delegated authority and responsibilities.

(b) Procedure

The Medical Staff shall have the initial responsibility to formulate, adopt, and recommend to the Board, Medical Staff by-laws and amendments thereto, which shall be effective when approved by the Board. If the Medical Staff fails to exercise this responsibility in good faith and in a reasonable timely and responsible manner, the Board may formulate or amend Medical Staff by-laws, at its own initiative. In such event, recommendations and views of the Medical Staff shall be carefully considered by the Board during its deliberations and in its actions.

9.3 MEDICAL STAFF MEMBERSHIP AND CLINICAL PRIVILEGES

(a) Duties of the Medical Staff

The Medical Staff shall have the responsibility and authority to investigate and evaluate all matters relating to initial staff appointments, reappointments, the assignment or curtailment of clinical privileges and corrective action. The Board shall require the Medical Staff to adopt and forward to it specific written recommendations concerning staff appointments, reappointments, the assignment or curtailment of clinical privileges and corrective action, with appropriate supporting documentation that will allow the Board to take informed action.

The Medical Staff shall have the responsibility and authority to investigate and evaluate each allied health professional's application for specified services, department affiliation, and modification in the services such allied health professional may perform, and shall require that the Medical Staff make recommendations to the Board on such applications.

The Board has overall responsibility for making available high quality patient care. Therefore, the Medical Staff shall conduct an ongoing review and appraisal of the quality of professional care rendered in the Hospital and shall report such activities and their results to the Board.

(b) Action by the Board

Final action on all matters relating to Medical Staff membership status, clinical privileges and corrective action shall be taken by the Board after considering the recommendations of the Medical Staff, provided that the Board shall act in any event if the Medical Staff fails to adopt and submit any such recommendation within a reasonable time. Such Board action without a Medical Staff recommendation shall be based on the same kind of documented investigation and evaluation as is required for Medical Staff recommendations.

(c) Criteria for Board Action

In acting on matters of Medical Staff membership status, the Board shall consider the Medical Staff's recommendations, the Corporation's and the community's needs, and such additional criteria as are set forth in the Medical Staff bylaws. In granting and defining the scope of clinical privileges to be exercised by each practitioner, the Board shall consider the Medical Staff's recommendations, the supporting information on which they are based, and such criteria as are set forth in the Medical Staff bylaws. No aspect of membership status or specific clinical privileges shall be limited or denied to a practitioner on the basis of sex, race, age, creed, color, sexual preference or national origin, or on the basis of any other non-professional qualifications, or for reasons unrelated to the Corporation's purposes, needs and capabilities, or to community needs.

(d) Conflict Resolution

In accordance with the Medical Staff's policies and procedures as set out in the Medical Staff Bylaws, the Board will resolve any differences in recommendations concerning Medical Staff appointments, reappointments, terminations of appointments and the granting or revision of clinical privileges within a reasonable time.

9.4 TERMS AND CONDITIONS OF MEDICAL STAFF MEMBERSHIP
AND CLINICAL PRIVILEGES

(a) The Board shall require that the Medical Staff establish controls that are designed to ensure the achievement and maintenance of high standards of professional and ethical practice.

(b) The Board may determine the total numbers and types of practitioners on the medical or affiliate staffs, based on the physical capabilities of the Corporation,

utilization of the Corporation by its staff members, and requirements for efficient use of Corporation facilities and personnel.

(c) Practitioners applying for Medical Staff membership, or for clinical privileges, must sign an agreement to abide by these Bylaws and by the Medical Staff bylaws, policies and rules and regulations.

9.5 DUE PROCESS

(a) Practitioners

In holding the Medical Staff responsible for making recommendations to it, the Board shall require that the Medical Staff bylaws provide for review of any adverse recommendation made to the Board with respect to a practitioner's Medical Staff appointment, reappointment, department affiliation, staff category, admitting prerogatives, clinical privileges or corrective action. The review shall be conducted in accordance with the Board approved Medical Staff fair hearing plan then in effect. Such plan shall provide procedures to assure fair treatment of all practitioners and to afford opportunity for the presentation of all pertinent information, including the right to be heard, when requested by the practitioner.

(b) Medical Staff-Administrative Staff

Any physician who is also an administrative officer shall be entitled to procedural due process under the Board approved fair hearing plan then in effect. The Medical Staff-administrative officer shall be entitled to hearings by review committees of both the Medical Staff and the Board.

(c). Medical Staff

If the Board declines to follow any Medical Staff recommendation concerning Medical Staff appointments, reappointments, the assignment or curtailment of clinical privileges, or corrective action, then the Medical Staff shall be entitled to have the adverse decision of the Board reviewed by the Board in accordance with the provisions of the Medical Staff Bylaws then in effect.

9.6 METHODS FOR MEDICAL ADMINISTRATIVE LIAISON

The Board may establish medical administrative liaison by the following methods:

-
- (a) Appointment of Directors to attend Medical Executive Committee meetings of the Medical Staff.
 - (b) Appointment of members of the Medical Staff to Committees of the Board.
 - (c) Appointment of the President of the Medical Staff as a member of the Board as set forth herein.

9.7 OFFICERS AND CHAIRPERSONS

All elections and appointments of Medical Staff officers or chairpersons of Medical Staff committees shall be approved by the Board after consideration of the recommendation of the President of the Medical Staff. The duties and responsibilities of such officers and committee chairpersons shall be set forth in the Medical Staff bylaws.

ARTICLE TEN INDEMNIFICATION AND INSURANCE

10.1 INDEMNIFICATION AND INSURANCE:

It is expressly provided that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal, by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of this Corporation, will be completely indemnified by the Corporation to the full extent permitted by law. If permitted by law, this indemnification shall include, but not be limited to, the payment of one or more of the following: judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeal therein.

10.2 INSURANCE.

It is the policy of the Corporation that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of the Corporation, will be completely and fully indemnified by this Corporation to the full extent

permitted by the law. The Corporation may purchase and maintain insurance to completely and fully indemnify any and every such person, whether or not this Corporation has the power to indemnify him or her against such liability under the laws of this or any other state.

ARTICLE ELEVEN CONFLICT OF INTEREST

11.1 POLICY

Any Director, officer, key employee, medical staff member or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval, or ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interest.

11.2 EFFECT

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions contained in the Board approved Conflicts of Interest Policy must be observed. If so, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in the discussions or deliberations with respect to such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

11.3 FORMAL POLICY AND PROCEDURE

The Board shall adopt a formal Conflict of Interest Policy requiring disclosure of existing and potential conflicts of interest, mechanisms for addressing actual and potential

conflicts of interest and corrective and disciplinary action with respect to transgressions of such policies.

**ARTICLE TWELVE
VOLUNTEER ORGANIZATIONS**

12.1 The Board may organize a volunteer organization, or such other associated organizations as it deems appropriate, consisting of individuals who are interested in rendering services as volunteers to the Hospital or its subsidiaries and in assisting in the fulfillment of the mission of the Corporation. There shall be By-laws, rules and regulations for such organizations, setting forth their organization and governance. Proposed By-laws may be recommended, but only those approved by the Board of Directors shall become effective.

**ARTICLE THIRTEEN
AMENDMENT TO BY-LAWS**

13.1 PROCEDURE

These Bylaws may be amended or repealed, or new Bylaws may be adopted, only by MVHS in its capacity as the sole member of the Corporation. For this purpose, a two thirds (2/3) vote of the Directors of MVHS shall be required. The Board of Directors of the Corporation may also propose amendments for approval by MVHS or MVHS may adopt, amend or repeal Bylaws on its own initiative following the procedures herein noted. The Governance Affairs and Ethics Committee shall conduct an annual review of these Bylaws and make recommendations for such amendments as may be necessary to assure compliance with all applicable laws, rules and regulations and the requirement of the Hospital's accrediting authority.

ARTICLE FOURTEEN GENERAL

14.1 PROCEDURE

The Board and any Board Committee may adopt rules or procedures which shall be consistent with these By-laws.

14.2 EQUAL OPPORTUNITY

The Board shall, in all matters, act without regard to discrimination as to sex, race, age, creed, handicap, sexual preference, marital status or national origin.

14.3 CONSTRUCTION OF TERMS AND HEADINGS

Words used in these By-laws shall be read as the masculine or feminine gender and as the singular or plural, as the context requires. The captions or headings in these By-laws are for convenience only and are not intended to limit or define the scope or effect of any provision of these By-laws.



**RESTATED CERTIFICATE OF INCORPORATION
OF
ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC.**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

We, the undersigned, President and Secretary of St. Lukes Home Residential Health Care Facility, Inc., hereby certify:

1. The name of the corporation is: **St. Lukes Home Residential Health Care Facility, Inc.**
2. The corporation's Certificate of Incorporation was filed by the Department of State on the 27th day of February 1995. A Certificate of Amendment of the Certificate of Incorporation was filed by the Department of State on the 1st day of August, 1995.
3. The corporation's Certificate of Incorporation is hereby amended to effectuate the following:
 - A. To delegate and reserve to the Corporation's sole corporate member, Mohawk Valley Health System ("MVHS"), certain rights and powers as set forth in Paragraph 4 of this Restated Certificate of Incorporation.
 - B. To change the address for service of process as set forth in Paragraph 8 of this Restated Certificate of Incorporation.
 - C. To change the distributee of the remaining assets of the Corporation in the event of its dissolution as set forth in Paragraph 11 of this Restated Certificate of Incorporation.
4. The text of the Certificate of Incorporation, as amended, is hereby restated to read as herein set forth in full:
 1. The name of the Corporation is: St. Lukes Home Residential Health Care Facility, Inc. (herein, the "Corporation" or the "Home").
 2. The Corporation is not organized for pecuniary profit or financial gain, and no part of its assets, income or profit shall be distributable to, or inure to the benefit of its members, directors or officers except to the extent permitted under the Not-for-Profit Corporation Law.
 3. The purposes for which the Corporation is organized are:
 - a. to establish and maintain within the State of New York a residential health care facility to provide care to the frail elderly and other individuals requiring skilled nursing care and/or

restorative rehabilitation; to carry on educational activities and programs incident to the purposes set forth above; to do any other act or thing incidental to or connected with the above purposes or advancement thereof, but not for the pecuniary profit or financial gain of its members, Directors or Officers, except as permitted under the Not-for-Profit Corporation Law.

4. The Corporation does delegate and reserve to Mohawk Valley Health System ("MVHS"), the sole corporate Member of the Corporation, certain powers. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and that the Corporation coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation.
- c. To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation, and Bylaws of the Corporation;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- e. To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Corporation;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation;
- i. To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation

with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;

- j. To approve and coordinate the strategic plan of the Corporation;
- k. To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by the Corporation;
- o. To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound; and
- p. To accept further delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation and other MVHS Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a

prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's board of directors.

5. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law and is a Type B corporation under Section 201 of the Not-for-Profit Corporation Law.

6. The office of the Corporation is to be in the County of Oneida, State of New York.

7. The duration of the Corporation is to be perpetual.

8. The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is: *St. Lukes Home Residential Health Care Facility, Inc., 1650 Champlin Avenue, Utica, NY 13502.*

9. Notwithstanding any other provisions of this Certificate, the Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a Corporation exempt from Federal income tax under IRC 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.

10. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by IRC 501(h)), and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of, or in opposition to, any candidates for public office.

11. In the event of dissolution, all of the remaining assets and property of the Corporation shall, after payment of necessary expenses thereof, be distributed to MVHS or such other Corporations as shall qualify under Section 501(c)(3) of the Internal Revenue Code of 1985, subject to an Order of a Justice of the Supreme Court of the State of New York.

12. In any taxable year in which the Corporation is a private foundation as described in IRC 509(a), the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under IRC 4942, and the Corporation shall not: (a) engage in any act of self-dealing as defined in IRC 4941(d), retain any

excess business holdings as defined in IRC 4943(c); (b) make any investments in such manner as to subject the Corporation to tax under IRC 4944; or (c) make any taxable expenditures as defined in IRC 4945(d) or corresponding provisions of any subsequent Federal tax laws.

5. This Restated Certificate of Incorporation was authorized by a unanimous vote of the Members of the Corporation in accordance with the provisions of the New York Not-for-Profit Corporation Law.

IN WITNESS WHEREOF, the undersigned have subscribed this Restated Certificate of Incorporation this 20th day of January 2014, and hereby affirm that the statements contained herein are true under the penalties of perjury.

**ST. LUKES HOME RESIDENTIAL
HEALTH CARE FACILITY, INC.**



SCOTT H. PERRA, FACHE, President



TODD HUTTON, Ph.D., Secretary

VERIFICATION


STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

SCOTT H. PERRA, FACHE, being duly sworn, deposes and says, that he is the President of ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.



Scott H. Perra, FACHE

Sworn to before me this
20th day of January 2014



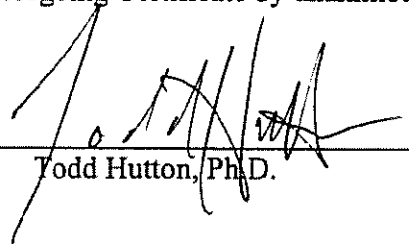
NOTARY PUBLIC – State of New York
Appointed in Oneida County
My commission expires: 8/9/2017

MARGARET D. KEBLISH
Notary Public, State of New York
No. 01KE0029201
Qualified in Oneida County
Commission Expires 08/09/2017

VERIFICATION


STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

TODD HUTTON, Ph.D, being duly sworn, deposes and says, that he is the Secretary of ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.



Todd Hutton, Ph.D.

Sworn to before me this
20th day of January 2014



NOTARY PUBLIC - State of New York
Appointed in Oneida County
My commission expires: 8/19/2017

NOTARY PUBLIC OF
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/09/2017



BY-LAWS
of
ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC.
A Not-for-Profit Corporation

ARTICLE I
NAME

1.1 NAME

The name of the Corporation is St. Lukes Home Residential Health Care Facility, Inc. (herein the Corporation or the Home).

ARTICLE II

PURPOSES:

2.1. To establish and maintain, within the State of New York, a residential health care facility to provide care to the frail, elderly and other individuals requiring skilled nursing care and/or restorative rehabilitation.

2.2 To carry on educational activities and programs incident to the purposes set forth above.

2.3. To do any other act or thing incidental to or connected with the foregoing purposes or advancement thereof, but not for the pecuniary profit or financial gain of its members, Directors or Officers, except as permitted under the New York State Not-for-Profit Corporation Law.

ARTICLE III
MEMBERSHIP

3.1 COMPOSITION

Mohawk Valley Health System ("MVHS" or "Member") shall be the sole member of the Corporation.

3.2 RIGHTS OF MEMBER

MVHS shall have and exercise all the rights and powers of corporate membership created by the laws of the State of New York or the Certificate of Incorporation or By-laws of the Corporation. Certain additional powers have been delegated and reserved to MVHS in the MVHS organizational documents. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and that the Corporation coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation.
- c. To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation, and Bylaws of the Corporation;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- e. To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Corporation;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation;

-
- i. To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
 - j. To approve and coordinate the strategic plan of the Corporation;
 - k. To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
 - l. To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;
 - m. To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
 - n. To approve any material change in the services offered by the Corporation;
 - o. To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound; and
 - p. To accept further delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation and other MVHS Affiliates, the authority to accept, utilize, transfer and

share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's board of directors.

3.3 ANNUAL MEETING

MVHS shall, in its capacity as the member of the Corporation, hold its annual meeting each year at a time and place determined by MVHS. At the annual meeting, MVHS shall elect Directors of the Corporation, receive the annual report of the Directors of the Corporation, and transact such other business as may properly come before the meeting. Nomination for seats on the Board of Directors of the Corporation shall be submitted to MVHS prior to MVHS' annual meeting.

3.4 ANNUAL REPORT TO MEMBER

At the annual meeting of the member, the Chairperson or President, and the Treasurer of the Corporation shall present an Annual Report showing in appropriate detail the following information:

(a) a complete verified financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation;

(b) a summary of the activities of the Corporation during the preceding year.

The Annual Report shall be filed with the minutes of the annual meeting.

3.5 ACTION BY MEMBER

Except as otherwise required by law, the Certificate of Incorporation or these By-laws, any action required or permitted to be taken by MVHS in its capacity as the sole member of the Corporation may be taken by MVHS without a meeting, without prior notice and without a vote, through written consent to such action. The written consent of MVHS shall be evidenced by a written resolution of the Board of Directors of MVHS signed by an officer of MVHS and adopted in accordance with the MVHS Articles of Incorporation, By-laws, policies and/or procedures. An original signed copy of each executed written consent of MVHS shall be delivered to the Secretary of the Corporation and shall be maintained in the permanent records of the Corporation.

ARTICLE IV BOARD OF DIRECTORS

4.1 NUMBER

The Board of Directors shall consist of not less than nine (9) members.

4.2 QUALIFICATION

Directors shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

4.3 ELECTION AND TENURE

(a) Composition of Initial Board of Directors. Commencing with the meeting to be held on or about March 4, 2014, the initial board shall be comprised of

eighteen (18) Voting Directors. MVHS shall appoint sixteen (16) voting directors (the "Elected Directors"). The remaining two (2) Directors shall be the presidents of the medical staffs of Faxton-St. Luke's Healthcare ("FSLH") and St. Elizabeth Medical Center ("SEMC") who shall serve ex-officio as Voting Directors.

(b) Terms of Office. The initial Elected Directors shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated.

(c) Subsequent Election. Commencing with the 2015 annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Director may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in these Bylaws. Commencing with the 2015 annual meeting, Elected Directors of the Board shall be nominated by the Governance Affairs and Ethics Committee of MVHS and shall be elected by a simple majority of the MVHS Board. The MVHS Board shall not be bound or limited to such nominees.

(d) Reappointment. Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Director's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(e) Non-Elected Directors. The Presidents of the Medical Staffs of SEMC and FSLH shall serve as Directors of the Corporation, coterminous with holding their respective positions.

4.4 VACANCIES

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Director, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board of MVHS. Nominees shall be presented by the Governance Affairs and Ethics Committee of MVHS, but the MVHS

Board shall not be bound or limited to such nominees. Directors selected to fill vacancies shall serve the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

4.5 REMOVAL

Each member of the Board of Directors shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Directors by a vote of two-thirds of the MVHS Directors. In addition, the Board of MVHS may remove any Director, with or without cause, upon a two-thirds (2/3) vote of the Board.

4.6 RESIGNATION/LEAVE OF ABSENCE

(a) Resignation. Any Director may resign at any time by giving written notice to the Chairperson or to the Secretary of the Corporation. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

(b) Leave of Absence. Any Director may request a Leave of Absence of up to three (3) months for medical reasons relating to the Director, or a member of the Director's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Director. If the Chairperson requests a Leave, the request shall be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Director shall be excused from any attendance requirements and all other obligations of a Director as set forth in these Bylaws. The Director's Board position shall remain vacant during the term of the Leave, and the Director's position shall not be counted in determining the presence of a quorum.

If the Director on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the MVHS Directors at the next regular meeting of MVHS, or at a special meeting called for such purpose. Any committee positions held by the Director may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Director may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

4.7 ADDITIONAL ADVISORS

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Directors present.

4.8 MEETINGS OF DIRECTORS

(a) Annual Meeting The Board of Directors shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, selecting members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) Regular Meetings The Board of Directors shall hold at least seven (7) regular meetings annually.

(c) Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3) Directors. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) Place All meetings of the Board shall be held at the principal office of the Corporation or at such other place within this State as the Notice of Meeting shall provide.

(e) Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Director personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law or these Bylaws, the notice shall also state the purpose for which the meeting is called. Oral or written notice of

the postponement of any scheduled regular meeting shall be given to each Director not less than one (1) day before the scheduled date of such meeting.

(f) Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(g) Quorum Unless a greater or lesser number is required by law, the Certificate of Incorporation or these By-laws, a majority of the Directors entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Directors present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 4.8(e).

(h) Voting Subject to the Conflict of Interest provisions of these By-laws, and the Board's Conflict of Interest policies, each voting Director present is entitled to vote on any matter before the Board.

(i) Manner of Acting Unless otherwise required by law, the Certificate of Incorporation or these By-laws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the consent in writing of all Directors entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

(j) Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

4.9 POWERS AND FIDUCIARY OBLIGATIONS

(a) Powers Except to the extent that powers have been delegated and reserved to MVHS under these Bylaws, the administrative powers of the Corporation shall be vested

in the Board of Directors, which shall have: charge, control, and oversight of the property, funds, and affairs of the Corporation; the power to establish policies for the management and operation of the Corporation; and such other power and authority to do and perform all acts and functions for the benefit of the Corporation, not inconsistent with these By-laws or the Certificate of Incorporation. The Board of Directors shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

(b) Fiduciary Obligations The members of the Board of Directors shall at all times conduct the affairs of the Corporation in strict conformance with all applicable fiduciary and ethical standards. Each Director shall act in a manner consistent with the duty of undivided loyalty to the interests of the Corporation, the duty to maintain in confidence information concerning the affairs of the Corporation, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Corporation. The Board shall adopt such mechanisms as it deems appropriate to assist the Directors in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate, a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Corporation.

ARTICLE FIVE OFFICERS

5.1 OFFICERS

The Corporation shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Board of Directors may authorize. The Corporation shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the March 2014 meeting of the Board shall serve until the annual meeting of the Corporation in 2015. The Chairperson selected at the 2015 and 2016 annual meetings shall serve a one year term, or until his/her successor has been elected. The initial Chairperson and the Chairperson seated at the 2015 and 2016 annual meetings shall be selected by MVHS in accordance with its Bylaws.

Commencing with the 2017 annual meeting the Chairperson and Vice-Chairperson shall be elected by MVHS for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected by MVHS at the annual meeting of MVHS and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors of MVHS at any regular meeting or any special meeting called for such purpose.

5.2 CHAIRPERSON

The Chairperson shall preside at all meetings of the Board of Directors, shall appoint the members and Chairperson of each Committee in accordance with these By-laws and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 2016 annual meeting of MVHS shall be eligible to be elected by the full Board of MVHS to serve one additional term of two (2) years, commencing in 2017. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

5.3 VICE-CHAIRPERSON

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

5.4 CHAIR EMERITUS

Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in these Bylaws. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the March 2014 annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

5.5 SECRETARY

The Secretary shall act as Secretary of both the Corporation and the Board of Directors and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Corporation and keeping the minutes of the meetings of the Board of Directors. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Corporate records.

5.6 TREASURER

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and, whenever required by the Board of Directors shall render, or cause to be rendered, financial statements of the Corporation. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

5.7 PRESIDENT

MVHS shall appoint the President and as the Chief Executive Officer of the Corporation. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board of Directors in all matters except those for which the Board has designated the Executive Director or some other individual to act.

**ARTICLE VI
COMMITTEES OF THE BOARD OF DIRECTORS**

6.1 STRUCTURE

There shall be seven (7) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Resident Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, Investment Committee and Audit Compliance Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

6.2 PROCEDURE

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in these By-Laws or in a Resolution of the Board of Directors.

6.3 POWERS

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these By-Laws, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

6.4 COMMITTEE MEMBERS

- (a) Appointment. Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at

least every three (3) years among the members of the Board so as to promote experience and knowledge in all aspects of the operation of the Corporation.

- (b) Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.
- (c) Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.
- (d) Removal. Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

6.5 ADVISORS TO BOARD COMMITTEES

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Directors.

As deemed appropriate by the Committee Chair, members of the Corporation's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

6.6 MANNER OF ACTION

(a) Meetings. Each Committee shall meet as provided for in these By-Laws and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

(b) Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

(c) Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

(d) Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

(e) Meeting by Conference Telephone or Similar Device. Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

6.7 CONFLICT OF INTEREST

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

6.8 EXECUTIVE COMMITTEE

(a) Composition

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, and the Chairperson Emeritus.

(b) Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Corporation, subject to any prior limitations imposed by the Board, these By-Laws, or statute. In addition, the Executive Committee shall:

- (1) Review and recommend to the Board, legislative and regulatory affairs initiatives.
- (2) Review and make recommendations to the Board as to the Corporation's completion and filing of IRS Form 990 and such other reports or filings as may be required by the Internal Revenue Service.

(c) Meetings

The Executive Committee shall meet as necessary to conduct the business of the Corporation while the full Board is not in session.

6.9 FINANCE

(a) Composition

The Finance Committee shall consist of the Treasurer of the Corporation, as Committee Chairperson, and at least 6 voting Directors, at least one of whom shall have substantial accounting or financial management expertise.

(b) Functions

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Corporation and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and

oversight of the financial affairs of the Corporation and its subsidiaries. Its functions shall include:

- (1) Overseeing the Executive Director's development of a budget for the Corporation showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Board a budget developed by the Executive Director for the ensuing year;
- (3) Reviewing financial reports that report on the financial condition of the Corporation;
- (4) Reviewing and making recommendations to the Board on any request by the Executive Director for the Corporation to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;
- (5) Retaining the Corporation's independent Certified Public Accountants to provide external financial auditing to the Corporation. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Corporation and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Corporation.

-
-
- (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Corporation.

(c) Meetings

The Finance Committee shall meet as needed, but not less than six (6) times per year.

6.10 QUALITY AND RESIDENT SAFETY COMMITTEE

(a) Composition.

The Quality and Resident Safety Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a physician.

(b) Functions.

The Quality and Resident Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of the Corporation with the programs of the other MVHS Affiliates for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance at the Corporation, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;
 - (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;

-
- (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by third parties providing services to the Corporation.
 - (2) Recommend policies and provide direction for the Corporation's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the Corporation.
 - (3) Oversee regulatory compliance, safety, infection control and such other programs as shall be required to insure continuous accreditation of the Corporation.
 - (4) Review and report to the Board on Department of Health, and other regulatory surveys and findings and any required plans of correction.
 - (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Corporation's affiliates concerning quality and performance improvement activities.
 - (7) Assist in the development of Board educational processes regarding quality and service improvement
 - (8) Oversee and review the quality of care provided at the Facility and, through designated representatives of the Board, participate and receive input at least three times annually from the Residents' Council.
- (c) Meetings

The Quality and Resident Safety Committee shall meet as shall be necessary to discharge the obligations and duties of the Committee.

6.11 GOVERNANCE AFFAIRS AND ETHICS COMMITTEE

(a) Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a Board Officer.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Board of the Corporation and developing and monitoring a Board education plan. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - (i) Conflict of Interest;
 - (ii) Policy based governance;
 - (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
- (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.

-
- (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Board and Committees of the Corporation.
 - (5) Develop an orientation process for new Board and Committee members for the Corporation, with the assistance of the Executive Director.
 - (6) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
 - (7) Periodically review, and recommend changes to the Bylaws of the Corporation to insure compliance with the mission, vision, purpose and structure of the Corporation.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at least two (2) times per year, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

6.12 EXECUTIVE COMPENSATION COMMITTEE.

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Directors recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be “Independent Directors” as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not an “Independent Director”, the Board shall appoint another Independent Director to serve in the place of the Chairperson.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the Executive Director and other employees or individuals that the Committee believes are in a position to exercise substantial influence

over the affairs of the Corporation, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations (“Disqualified Persons”). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually, performance guidelines for the Executive Director;
 - (2). Assist the board in assessing and evaluating the Executive Director’s performance;
 - (3). Review and recommend to the full Board the Executive Director’s compensation, including salary, incentives, benefits and other perquisites;
 - (4) Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
 - (5) At least annually, review executive compensation to ensure that it is appropriate in view of Corporation’s tax-exempt status and take the required steps to establish a “rebuttable presumption of reasonableness” [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person’s background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Corporation’s income and assets and the number of Corporations employees;
 - d. Executive Director’s job performance;
 - e. relationship of the Executive Director’s compensation to the compensation paid to Corporation’s other employees; and
 - f. the number of hours the Executive Director spends performing his or her job.
- c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Corporation to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

6.13 INVESTMENT COMMITTEE.

(a) Composition

The Investment Committee shall consist of at least three (3) Directors, at least one of whom shall have significant experience in financial and/or investment matters.

(b) Functions.

The function of the Investment Committee shall be to establish investment standards and expectations and review and monitor investment performance of the managers of the investments, endowments and other funds of the Corporation, and its subsidiaries. Without limiting the foregoing, the Committee shall:

1. Review and recommend to the Board, the investment policy of the Corporation;
2. Review the performance of the investment managers and, as required, recommend changes to the Board;
3. At least semi-annually report to the Board on the investment activities and performance of the investments of the Corporation.

c. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

6.14 AUDIT AND COMPLIANCE COMMITTEE.

(a) Composition

The Audit and Compliance Committee shall be composed of at least three (3) directors. At least a majority of the directors so appointed shall be “Independent Directors” as defined in Section 7.12(a), above.

(b) Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board of Directors in its oversight responsibilities by overseeing management’s systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Corporation. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee’s retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the corporate compliance plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.
 - b. Serve as a resource to the Compliance Officer and management on compliance issues.
 - c. Report to the Board at least semi-annually, regarding the status of the compliance plan.

c. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

ARTICLE VII

ADMINISTRATION:

SECTION 7.1 – EXECUTIVE DIRECTOR.

The Board of Directors shall select and appoint a competent nursing home administrator, duly licensed by the State of New York, who shall be the Executive Director of the Corporation and the Board's representative in the management of the residential health care facility. The Executive Director shall have the qualifications as are prescribed by the State of New York. The Executive Director shall be given the necessary authority and responsibility to operate the Facility in all its activities and departments, subject only to such policies as may be issued by the Board of Directors or by any of its committees to which it has delegated power for such action. He or she shall act as the duly authorized representative of the Board of Directors in all matters in which the Board of Directors has not formally designated some other person to act.

The authority and responsibility of the Executive Director shall include:

- (a) Working with the Board of Directors on the formulation of policies and carrying out all policies established by the Board of Directors.
- (b) Development of and submission to the Board of Directors for approval, a plan of organization of personnel and other persons concerned with the conduct of the Facility's operation.
- (c) Preparation of an annual budget showing the expected receipts and expenditures as required by the Board of Directors and regulatory agencies.
- (d) Selection, employment, control and discharge of employees, and development and maintenance of personnel policies and practices for the skilled nursing Facility.
- (e) Maintenance of physical properties in a good state of repair and operating condition.
- (f) Supervision of business affairs to insure that funds are collected and expended to the best possible advantage.
- (g) Continuing cooperation with the medical personnel and others who are involved in rendering professional health care so that safe high quality care may be rendered to residents at all times.

-
- (h) Presentation to the Board of Directors or its authorized committee of periodic reports reflecting the professional services and financial activities of the Facility and preparation and submission of such special reports as may be required by the Board of Directors and/or the New York State Department of Health, or other regulatory bodies.
 - (i) Attendance at meetings of the Board of Directors and its committees as requested by the Board.
 - (j) Preparation of a plan for the achievement of specific objectives of the Facility with a schedule for periodically reviewing and evaluating the plan.
 - (k) Serving as the Facility's representative in its relationship with other agencies.
 - (l) Performance of other duties that may be necessary in the best interests of the Facility.

ARTICLE VIII

AMENDMENTS:

These By-Laws may be amended or repealed, or new Bylaws may be adopted, only by a two-thirds (2/3) vote of the Board of Directors of the Member of the Corporation. The Board of Directors of the Corporation may propose amendments for approval by the Member or the Members may adopt, amend or repeal Bylaws on its own initiative following the procedures herein noted. The Governance Affairs and Ethics Committee shall conduct an annual review of these Bylaws and make recommendations for such amendments as may be necessary to assure compliance with all applicable laws, rules and regulations and the requirements of the Corporation's accrediting body.

ARTICLE IX

INDEMNIFICATION AND INSURANCE:

It is expressly provided that any and every person or his or her estate that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or

criminal, by reason of the fact that he or she is or was a Director or Officer of this Corporation, or served such other Corporation in any capacity at the request of this Corporation, will be completely indemnified by this Corporation to the full extent permitted by law. If permitted by law, this indemnification shall include, but not be limited to, the payment of one (1) or more of the following: judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeals therein. This Corporation may purchase and maintain insurance to completely and fully indemnify such person or his or her estate, whether or not this Corporation has the power to directly indemnify him or her against such liability under the laws of this or any other State.

ARTICLE X

TAX EXEMPT STATUS:

SECTION 10.1

Notwithstanding any other provisions of these By-laws, the Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a Corporation exempt from Federal income tax under IRC 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.

SECTION 10.2

No part of the net earnings of the Corporation shall inure to the benefit of any Director or Officer of the Corporation, or any private individual (except reasonable compensation may be paid for services rendered to or for the Corporation), and no Director or Officer of the Corporation, or any private individual shall be entitled to share in the distribution of the Corporation's assets on dissolution of the Corporation.

SECTION 10.3

No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by IRC 501(h)), and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of, or in opposition to, any candidates for public office.

SECTION 10.4

In the event of dissolution, all of the remaining assets and property of the Corporation shall, after payment of necessary expenses thereof, be distributed to MVHS or such other Corporations as shall qualify under Section 501(c)(3) of the Internal Revenue Code of 1985, subject to an Order of a Justice of the Supreme Court of the State of New York.

SECTION 10.5

In any taxable year in which the Corporation is a private foundation as described in IRC 509(a), the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under IRC 4942, and the Corporation shall not: (a) engage in any act of self-dealing as defined in IRC 4941(d); (b) retain any excess business holdings as defined in IRC 4943(c); (c) make any investments in such manner as to subject the Corporation to tax under IRC 4944; or (d) make any taxable expenditures as defined in IRC 4945(d) or corresponding provisions of any subsequent Federal tax laws.

ARTICLE XI

CONFLICT OF INTEREST:

SECTION 11.1 – POLICY

Any Director, Officer, key employee, medical staff member or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval or

ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interests.

SECTION 11.2 – EFFECT.

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions contained in the Board approved Conflicts of Policy must be observed. If so, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in discussions or deliberations with respect to such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

SECTION 11.3 – FORMAL POLICY AND PROCEDURE.

The Board shall adopt a formal Conflicts of Interest Policy requiring disclosure of existing and potential conflicts of interest, mechanisms for addressing actual and potential conflicts of interest, and corrective and disciplinary action with respect to transgressions of such policies.



**RESTATED CERTIFICATE OF INCORPORATION
OF
VISITING NURSE ASSOCIATION OF UTICA
AND ONEIDA COUNTY, INC.**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

We, the undersigned, President and Secretary of Visiting Nurse Association of Utica and Oneida County, Inc., hereby certify:

1. The name of the corporation is: **Visiting Nurse Association of Utica and Oneida County, Inc.** The Corporation was originally formed under the name of "Baby Welfare Committee, Utica, N.Y." pursuant to the Membership Corporations Law of the State of New York.

2. The corporation's Certificate of Incorporation was filed by the Department of State on June 15th, 1915. The Corporation's Restated Certificate of Incorporation was filed with the Department of State on July 27th, 2000.

3. The corporation's Certificate of Incorporation is hereby amended to effectuate the following:

A. To change the address for service of process for the Corporation as set forth in Paragraph 10 of this Restated Certificate of Incorporation.

B. To delegate and reserve to the Corporation's sole corporate member, Mohawk Valley Health System ("MVHS"), certain rights and powers as set forth in Paragraph 4 of this Restated Certificate of Incorporation.

4. The text of the Certificate of Incorporation, as amended, is hereby restated to read as herein set forth in full:

1. The name of the Corporation is: **Visiting Nurse Association of Utica and Oneida County, Inc.** (herein, the "Corporation").

2. The Corporation is a corporation as defined in subparagraph (1)(5) of Section 102 of the Not-for-Profit Corporation Law and is a Type B corporation under Section 201 of said Law.

3. The purposes of the Corporation shall be to coordinate nursing activities in Utica and Oneida County, to more efficiently provide nursing care in the home, to reduce infant mortality, to increase the health and vitality of children, and to promote health education.

4. Mohawk Valley Health System ("MVHS"), as the sole corporate Member of the Corporation, shall have and exercise all the rights and powers of corporate membership created by the laws of the State of New York or the Certificate of Incorporation or By-laws of the Corporation. Certain additional powers have been delegated and reserved to MVHS in the MVHS organizational documents. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and that the Corporation coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation.
- c. To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation, and Bylaws of the Corporation;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- e. To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Corporation;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation;
- i. To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation with the other MVHS Affiliates, including but not limited to

subsidiary corporations, partnerships, or joint ventures of the Affiliates;

- j. To approve and coordinate the strategic plan of the Corporation;
- k. To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by the Corporation;
- o. To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound; and
- p. To accept further delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation and other MVHS Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's board of directors.

5. Notwithstanding any other provisions of this Certificate, the Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a Corporation exempt from Federal income tax under IRC 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.

6. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by IRC 501(h)), and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of, or in opposition to, any candidates for public office.

7. In the event of dissolution, all of the remaining assets and property of the Corporation shall, after payment of necessary expenses thereof, be distributed to MVHS or such other Corporations as shall qualify under Section 501(c)(3) of the Internal Revenue Code of 1985, subject to an Order of a Justice of the Supreme Court of the State of New York.

8. In any taxable year in which the Corporation is a private foundation as described in IRC 509(a), the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under IRC 4942, and the Corporation shall not: (a) engage in any act of self-dealing as defined in IRC 4941(d), retain any excess business holdings as defined in IRC 4943(c); (b) make any investments in such manner as to subject the Corporation to tax under IRC 4944; or (c) make any taxable expenditures as defined in IRC 4945(d) or corresponding provisions of any subsequent Federal tax laws.

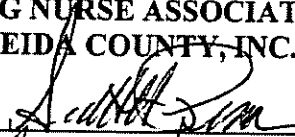
9. The office of the Corporation shall be located in the County of Oneida, State of New York.

10. The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is: *Visiting Nurse Association of Utica and Oneida County, Inc., 1650 Champlin Avenue, Utica, NY 13502.*

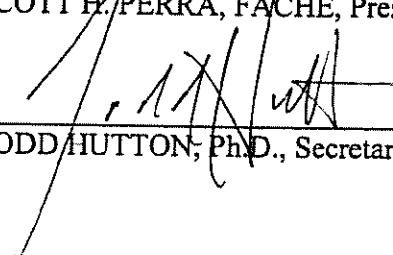
5. This Restated Certificate of Incorporation was authorized by a unanimous vote of the Directors present at a meeting of the Board of Directors of the Corporation's sole Member, Mohawk Valley Network, Inc., a quorum being present.

IN WITNESS WHEREOF, the undersigned have subscribed this Restated Certificate of Incorporation this 20th day of January 2014, and hereby affirm that the statements contained herein are true under the penalties of perjury.

**VISITING NURSE ASSOCIATION OF UTICA
AND ONEIDA COUNTY, INC.**



SCOTT H. PERRA, FACHE, President



TODD HUTTON, Ph.D., Secretary

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

SCOTT H. PERRA, FACHE, being duly sworn, deposes and says, that he is the President of VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.



Scott H. Perra, FACHE

Sworn to before me this
20th day of January, 2014



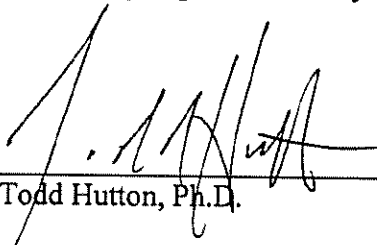
NOTARY PUBLIC – State of New York
Appointed in Oneida County
My commission expires: 8/9/2017

MARGARET A. KEBLUS
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/09/2017

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

TODD HUTTON, Ph.D, being duly sworn, deposes and says, that he is the Secretary of VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.



Todd Hutton, Ph.D.

Sworn to before me this
20th day of January, 2014

Margaret A. Keblish
NOTARY PUBLIC – State of New York
Appointed in Oneida County
My commission expires: 8/9/2017

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/09/17



**BY-LAWS
of
VISITING NURSE ASSOCIATION OF UTICA AND
ONEIDA COUNTY, INC.**

Amendment XIII (March 4, 2014)

ARTICLE I – NAME AND LOCATION

1.1. NAME

The name of the corporation is Visiting Nurse Association of Utica and Oneida County, Inc. (the “Corporation”).

1.2. LOCATION

The Post Office address of its principal place of business is 1650 Champlin Avenue, Utica, New York 13502. The corporation may also have offices at such other places within or without the State of New York as the board may from time to time determine or the business of the corporation may require.

ARTICLE II – CORPORATE SEAL

2.1. SEAL

The corporation shall have a corporate seal and shall use such seal personally, but the use of same shall be necessary only as required by law.

ARTICLE III – FISCAL YEAR

3.1. The fiscal year of this corporation shall end on the 31st day of December of each year.

ARTICLE IV – PURPOSE

4.1. The purpose for which this Corporation is formed to provide a complete range of excellent quality home health care services to the residents of Oneida County and its environs and to do so in a cost effective manner that makes the services accessible and affordable to all who require them.

ARTICLE V - MEMBER

5.1. MEMBER

Mohawk Valley Health System (the "Member" or "MVHS") shall be the sole Member of this corporation.

5.2 RIGHTS OF MEMBER

MVHS shall have and exercise all the rights and powers of corporate membership created by the laws of the State of New York or the Certificate of Incorporation or By-laws of the Corporation. Certain additional powers have been delegated and reserved to MVHS in the MVHS organizational documents. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and that the Corporation coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation.
- c. To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation, and Bylaws of the Corporation;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- e. To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Corporation;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation;

-
- i. To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
 - j. To approve and coordinate the strategic plan of the Corporation;
 - k. To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
 - l. To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to applications to the New York State Department of Health as required;
 - m. To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
 - n. To approve any material change in the services offered by the Corporation;
 - o. To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound; and
 - p. To accept further delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation and other MVHS Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first

been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's board of directors.

5.3 ANNUAL MEETING

MVHS shall, in its capacity as the member of the Corporation, hold its annual meeting each year at a time and place determined by MVHS. At the annual meeting, MVHS shall elect Directors of the Corporation, receive the annual report of the Directors of the Corporation, and transact such other business as may properly come before the meeting. Nomination for seats on the Board of Directors of the Corporation shall be submitted to MVHS prior to MVHS' annual meeting.

5.4 ANNUAL REPORT TO MEMBER

At the annual meeting of the member, the Chairperson or President, and the Treasurer of the Corporation shall present an Annual Report showing in appropriate detail the following information:

(a) a complete verified financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation;

(b) a summary of the activities of the Corporation during the preceding year.

The Annual Report shall be filed with the minutes of the annual meeting.

5.5 ACTION BY MEMBER

Except as otherwise required by law, the Certificate of Incorporation or these By-laws, any action required or permitted to be taken by MVHS in its capacity as the sole member of the Corporation may be taken by MVHS without a meeting, without prior notice and without a vote, through written consent to such action. The written consent of

MVHS shall be evidenced by a written resolution of the Board of Directors of MVHS signed by an officer of MVHS and adopted in accordance with the MVHS Certificate of Incorporation, By-laws, policies and/or procedures. An original signed copy of each executed written consent of MVHS shall be delivered to the Secretary of the Corporation and shall be maintained in the permanent records of the Corporation.

ARTICLE VI - BOARD OF DIRECTORS

6.1 NUMBER

The Board of Directors shall consist of not less than nine (9) members.

6.2 QUALIFICATION

Directors shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

6.3 ELECTION AND TENURE

(a) Composition of Initial Board of Directors. Commencing with the meeting to be held on or about March 4, 2014, the initial board shall be comprised of eighteen (18) Voting Directors. MVHS shall appoint sixteen (16) voting directors (the "Elected Directors"). The remaining two (2) Directors shall be the presidents of the medical staffs of Faxton-St. Luke's Healthcare ("FSLH") and St. Elizabeth Medical Center ("SEMC") who shall serve ex-officio as Voting Directors.

(b) Terms of Office. The initial Elected Directors shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated.

(c) Subsequent Election. Commencing with the 2015 annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Director may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in these Bylaws. Commencing with the 2015 annual meeting, Elected Directors of the Board shall be nominated by the Governance Affairs and Ethics Committee of MVHS and shall be elected by a simple majority of the MVHS Board. The MVHS Board shall not be bound or limited to such nominees.

(d) Reappointment. Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Director's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(e) Non-Elected Directors. The Presidents of the Medical Staffs of SEMC and FSLH shall serve as Directors of the Corporation, coterminous with holding their respective positions.

6.4 VACANCIES

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Director, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board of MVHS. Nominees shall be presented by the Governance Affairs and Ethics Committee of MVHS, but the MVHS Board shall not be bound or limited to such nominees. Directors selected to fill vacancies shall serve the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

6.5 REMOVAL

Each member of the Board of Directors shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Directors by a vote of two-thirds of the MVHS Directors. In addition, the Board of MVHS may remove any Director, with or without cause, upon a two-thirds (2/3) vote of the Board.

6.6 RESIGNATION/LEAVE OF ABSENCE.

(a) Resignation. Any Director may resign at any time by giving written notice to the Chairperson or to the Secretary of the Corporation. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

(b) Leave of Absence. Any Director may request a Leave of Absence of up to three (3) months for medical reasons relating to the Director, or a member of the Director's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Director. If the Chairperson requests a Leave, the request shall be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Director shall be excused from any attendance requirements and all other obligations of a Director as set forth in these Bylaws. The Director's Board position shall remain vacant during the term of the Leave, and the Director's position shall not be counted in determining the presence of a quorum.

If the Director on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the MVHS Directors at the next regular meeting of MVHS, or at a special meeting called for such purpose. Any committee positions held by the Director may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Director may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

6.7 ADDITIONAL ADVISORS

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Directors present.

6.8 MEETINGS OF DIRECTORS

(a) Annual Meeting The Board of Directors shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, selecting members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) Regular Meetings The Board of Directors shall hold at least seven (7) regular meetings annually.

(c) Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3) Directors. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) Place All meetings of the Board shall be held at the principal office of the Corporation or at such other place within this State as the Notice of Meeting shall provide.

(e) Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Director personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law or these Bylaws, the notice shall also state the purpose for which the meeting is called. Oral or written notice of

the postponement of any scheduled regular meeting shall be given to each Director not less than one (1) day before the scheduled date of such meeting.

(f) Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(g) Quorum Unless a greater or lesser number is required by law, the Certificate of Incorporation or these By-laws, a majority of the Directors entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Directors present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 6.8(e).

(h) Voting Subject to the Conflict of Interest provisions of these By-laws, and the Board's Conflict of Interest policies, each voting Director present is entitled to vote on any matter before the Board.

(i) Manner of Acting Unless otherwise required by law, the Certificate of Incorporation or these By-laws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the consent in writing of all Directors entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

(j) Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

6.9 POWERS AND FIDUCIARY OBLIGATIONS

(a) Powers Except to the extent that powers have been delegated and reserved to MVHS under these Bylaws, the administrative powers of the Corporation shall be vested in the Board of Directors, which shall have: charge, control, and oversight of the property, funds, and affairs of the Corporation; the power to establish policies for the management and operation of the Corporation; and such other power and authority to do and perform all acts and functions for the benefit of the Corporation, not inconsistent with these By-laws or the Certificate of Incorporation. The Board of Directors shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

(b) Fiduciary Obligations The members of the Board of Directors shall at all times conduct the affairs of the Corporation in strict conformance with all applicable fiduciary and ethical standards. Each Director shall act in a manner consistent with the duty of undivided loyalty to the interests of the Corporation, the duty to maintain in confidence information concerning the affairs of the Corporation, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Corporation. The Board shall adopt such mechanisms as it deems appropriate to assist the Directors in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate, a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Corporation.

ARTICLE VII - OFFICERS

7.1 OFFICERS

The Corporation shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Board of Directors may authorize. The Corporation shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the March 2014 meeting of the Board shall serve until the annual meeting of the Corporation in 2015. The Chairperson selected at the 2015 and 2016 annual meetings shall serve a one year term, or until his/her successor has been elected. The initial Chairperson and the Chairperson seated at the 2015 and 2016 annual meetings shall be selected by MVHS in accordance with its Bylaws. Commencing with the 2017 annual meeting the Chairperson and Vice-Chairperson shall be elected by MVHS for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected by MVHS at the annual meeting of MVHS and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors of MVHS at any regular meeting or any special meeting called for such purpose.

7.2 CHAIRPERSON

The Chairperson shall preside at all meetings of the Board of Directors, shall appoint the members and Chairperson of each Committee in accordance with these By-laws and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 2016 annual meeting of MVHS shall be eligible to be elected by the full Board of MVHS to serve one additional term of two (2) years, commencing in 2017. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

7.3 VICE-CHAIRPERSON

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

7.4 CHAIR EMERITUS.

Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in these Bylaws. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the March 2014 annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

7.5 SECRETARY

The Secretary shall act as Secretary of both the Corporation and the Board of Directors and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Corporation and keeping the minutes of the meetings of the Board of Directors. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Corporate records.

7.6 TREASURER

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and, whenever required by the Board of Directors shall render, or cause to be rendered, financial statements of the Corporation. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

7.7 PRESIDENT

MVHS shall appoint the President and as the Chief Executive Officer of the Corporation. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The

President/CEO shall act as the duly authorized representative of the Board of Directors in all matters except for which the Board has designated the Executive Director or some other individual to act.

ARTICLE VIII - COMMITTEES OF THE BOARD OF DIRECTORS

8.1 STRUCTURE

There shall be six (6) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, and Audit Compliance Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

8.2 PROCEDURE

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in these By-Laws or in a Resolution of the Board of Directors.

8.3 POWERS

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these By-Laws, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

8.4 COMMITTEE MEMBERS

- (a) Appointment. Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to

promote experience and knowledge in all aspects of the operation of the Corporation.

- (b) Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.
- (c) Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.
- (d) Removal. Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

8.5 ADVISORS TO BOARD COMMITTEES

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Directors.

As deemed appropriate by the Committee Chair, members of the Corporation's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

8.6 MANNER OF ACTION

- (a) Meetings. Each Committee shall meet as provided for in these By-Laws and at such additional times as may be necessary to perform its duties. Meetings of a

Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

(b) Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

(c) Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

(d) Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

(e) Meeting by Conference Telephone or Similar Device. Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

8.7 CONFLICT OF INTEREST

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

8.8 EXECUTIVE COMMITTEE

(a) Composition

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, and the Chairperson Emeritus.

(b) Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Corporation, subject to any prior limitations imposed by the Board, these By-Laws, or statute. In addition, the Executive Committee shall:

- (1) Review and recommend to the Board, legislative and regulatory affairs initiatives.

-
- (2) Review and make recommendations to the Board as to the Corporation's completion and filing of IRS Form 990 and such other reports or filings as may be required by the Internal Revenue Service.

(c) Meetings

The Executive Committee shall meet as necessary to conduct the business of the Corporation while the full Board is not in session.

8.9 FINANCE

(a) Composition

The Finance Committee shall consist of the Treasurer of the Corporation, as Committee Chairperson, and at least 6 voting Directors, at least one of whom shall have substantial accounting or financial management expertise.

(b) Functions

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Corporation and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and oversight of the financial affairs of the Corporation and its subsidiaries. Its functions shall include:

- (1) Overseeing the Executive Director's development of a budget for the Corporation showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Board a budget developed by the Executive Director for the ensuing year;
- (3) Reviewing financial reports that report on the financial condition of the Corporation;
- (4) Reviewing and making recommendations to the Board on any request by the Executive Director for the Corporation to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;
- (5) Retaining the Corporation's independent Certified Public Accountants to provide external financial auditing to the Corporation. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Corporation and

- the firm so that changes can be made if necessary; and assuring the firm's independence.
- d. reviewing financial statements audited by the firm.
 - (6) Review and develop policies concerning insurance and managed care contracting for the Corporation.
 - (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Corporation.

(c) Meetings

The Finance Committee shall meet as needed, but not less than six (6) times per year.

8.10 QUALITY AND SAFETY COMMITTEE

(a) Composition.

The Quality and Safety Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a physician.

(b) Functions.

The Quality and Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of the Corporation with the programs of the other MVHS Affiliates for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance at the Corporation, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;
 - (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;
 - (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by third parties providing services to the Corporation.
- (2) Recommend policies and provide direction for the Corporation's quality improvement plan, including

-
- (3) establishing performance improvement priorities based on the mission, vision and strategic goals of the Corporation. Oversee regulatory compliance, safety, infection control and such other programs as shall be required to insure continuous accreditation of the Corporation.
 - (4) Review and report to the Board on Department of Health, and other regulatory surveys and findings and any required plans of correction.
 - (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Corporation's affiliates concerning quality and performance improvement activities.
 - (7) Assist in the development of Board educational processes regarding quality and service improvement.

(c) Meetings

The Quality and Resident Safety Committee shall meet as shall be necessary to discharge the obligations and duties of the Committee.

8.11 GOVERNANCE AFFAIRS AND ETHICS COMMITTEE

(a) Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a Board Officer.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Board of the Corporation and developing and monitoring a Board education plan. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - (i) Conflict of Interest;
 - (ii) Policy based governance;
 - (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.

-
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
 - (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
 - (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Committees of the Corporation.
 - (5) Develop an orientation process for new Board and Committee members for the Corporation, with the assistance of the Executive Director.
 - (6) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
 - (7) Periodically review, and recommend changes to the Bylaws of the Corporation to insure compliance with the mission, vision, purpose and structure of the Corporation.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at least two (2) times per year, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

8.12 EXECUTIVE COMPENSATION COMMITTEE.

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Directors recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be "Independent Directors" as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not an "Independent Director", the Board shall appoint another Independent Director to serve in the place of the Chairperson.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the Executive Director and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of the Corporation, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations ("Disqualified Persons"). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually,

-
- (2). performance guidelines for the Executive Director;
 - (2). Assist the board in assessing and evaluating the Executive Director's performance;
 - (3). Review and recommend to the full Board the Executive Director's compensation, including salary, incentives, benefits and other perquisites;
 - (4). Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
 - (5). At least annually, review executive compensation to ensure that it is appropriate in view of Corporation's tax-exempt status and take the required steps to establish a "rebuttable presumption of reasonableness" [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person's background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Corporation's income and assets and the number of Corporation's employees;
 - d. Executive Director's job performance;
 - e. relationship of the Executive Director's compensation to the compensation paid to Corporation's other employees; and
 - f. the number of hours the Executive Director spends performing his or her job.

c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Corporation to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

8.13 **AUDIT AND COMPLIANCE COMMITTEE.**

(a) Composition

The Audit and Compliance Committee shall be composed of at least three (3) directors. At least a majority of the directors so appointed shall be "Independent Directors" as defined in Section 7.12(a), above.

(b) Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board of Directors in its oversight responsibilities by overseeing management's systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Corporation. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee's retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the corporate compliance plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.
 - b. Serve as a resource to the Compliance Officer and management on compliance issues.
 - c. Report to the Board at least semi-annually, regarding the status of the compliance plan.

c. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

ARTICLE IX – EXECUTIVE DIRECTOR

9.1 **Appointment.** The board shall select and appoint a qualified administrator to serve as the Executive Director, who shall be the Board's direct executive representative in the management of the business of the Corporation. The Executive Director shall be responsible for the day-to-day operation of the Corporation and shall be given the necessary authority and be held responsible for management of the Corporation, subject only to the policies enacted by the board or any committees to which the board has delegated power for such action. He or she shall act as the duly authorized representative of the board in all matters except those in which the board has formally designated some other person or group to act.

9.2 **Authority and Duties:** The Executive Director shall, subject to the directions of the board:

(1) be responsible for implementing policies established and plans authorized by the board for the operation of the Corporation and for advising on the formation of these policies and plans;

(2) implement an effective budgeting and account system;

-
- (3) determine the number and types of personnel needed to meet the agency's responsibilities and recruitment of qualified personnel;
 - (4) ensure a planned orientation of new personnel and provide for appropriate, regularly scheduled in-service education related to personnel responsibilities;
 - (5) ensure an annual evaluation of personnel performance;
 - (6) maintain an ongoing liaison among the governing authority, the group of professional personnel appointment as specified in the regulations governing Certified Home Health Agencies, and agency personnel;
 - (7) ensure availability of public information concerning the health care services which the agency provides, the geographic area in which these services are made available, the charges for the various types of services and the payment sources which may be available to pay for such services;
 - (8) provide the board, board committees and management committees with such staff and administrative support and personnel as they may reasonably require;
 - (9) provide the Corporation's professional staffs with the administrative support and personnel reasonably required to carry out quality assurance and improvement activities;
 - (10) develop and submit to the board a plan of organization of the Corporation's operations, its departments and other organizational components, showing lines of authority, responsibility, and interrelationships;
 - (11) be responsible, except as otherwise provided by the board, for selecting, employing, controlling, and discharging employees and for developing and maintaining personnel policies and practices;
 - (12) assist the finance committee in annually reviewing and updating operating and capital budgets showing the expected receipts and expenditures, and supervise the business affairs of the Corporation to assure that funds are expended to the best possible advantage;
 - (13) represent the Corporation in its relationship with other agencies;

(14) when requested, attend personally, or by designee, meetings of the board, meetings of board and management committees, and standing and ad hoc committees of the professional staff;

(15) perform any other duties within the express or implicit terms of his or her duties hereunder that may be necessary for the best interest of the Corporation; and

(16) perform such other duties as the board shall from time to time direct.

ARTICLE X- INDEMNIFICATION OF OFFICERS AND DIRECTORS

10.1. INDEMNIFICATION

This corporation shall indemnify any person made a party to an action, suit or proceeding by reason of the fact that he/she is or was a member of the Board of Directors or officer of this corporation or that his/her testator or intestate was a member of the Board of Directors or officer of this corporation, against judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such actions, suits or proceedings, or appeals therein, if such persons acted in good faith for a purpose which he/she reasonably believed is or was in the best interests of the corporation, and in criminal actions or proceedings, in addition, had no reasonable cause to believe that his/her conduct was unlawful. No Director or officer of the corporation shall be indemnified if a judgment or proceeding is adverse to said Director or officer and establishes that his/her acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or that he/she personally gained in fact, a financial profit or other advantage to which he/she was not legally entitled.

ARTICLE XI - CONFLICT OF INTEREST

11.1. REPORTING REQUIREMENT.

Any director, officer, key employee, or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval, or ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interest.

11.2. CONFLICT DETERMINATION AND RESTRICTIONS.

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions below must be observed.

If so, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in the discussions or deliberations with respect to, such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

11.3. CONFLICT POLICIES.

The Board shall adopt conflict of interest policies requiring:

(a) Regular annual statements from directors, officers, and key employees that disclose existing and potential conflicts of interest.

(b) Corrective and disciplinary action with respect to transgressions of such policies.

For the purposes of this section, a person shall be deemed to have an "interest" in a contract or other transaction if he or she is the party (or one of the parties) contracting or dealing with the Corporation, or if he or she is a director, trustee or officer of, or has a significant financial or influential interest in, the entity contracting or dealing with the Corporation, or if he or she is otherwise reasonably likely to gain a significant financial or other personal benefit if the contract or transaction is approved.

ARTICLE XII - AMENDMENT OF BYLAWS

These bylaws may be repealed or amended by a majority vote of the Member at any duly called regular or special meeting of the Member.

FILING RECEIPT

ENTITY NAME : MOHAWK VALLEY HOME CARE, L.L.C.

DOCUMENT TYPE : ARTICLES OF ORGANIZATION (DOM LLC)

COUNTY: ONEI

SERVICE COMPANY : ** NO SERVICE COMPANY **

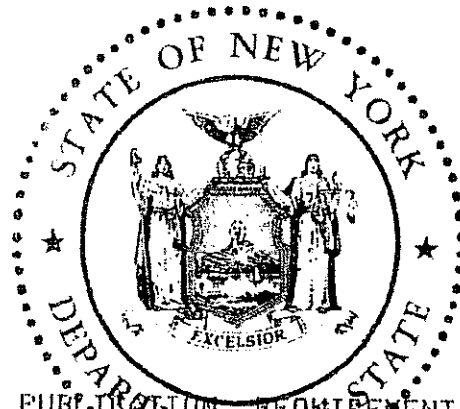
SERVICE CODE: 00

FILED: 08/04/1995 DURATION: ***** CASH #: 950804000081 FILM #: 950804000076

ADDRESS FOR PROCESS

THE LLC
430 COURT STREET
UTICA, NY 13502

REGISTERED AGENT



THIS FILING HAS AN ASSOCIATED PUBLICATION REQUIREMENT. THE NEWSPAPERS IN WHICH THIS PUBLICATION IS TO BE MADE ARE DESIGNATED BY THE COUNTY CLERK OF THE COUNTY IN WHICH THE ENTITY'S OFFICE IS LOCATED. CONTACT THE RESPECTIVE COUNTY CLERK FOR FURTHER INFORMATION.

FILER	FEES		PAYMENTS	
LOCKWOOD & GOLDEN 1412 GENESEE STREET UTICA, NY 13502	FILING : TAX : CERT : COPIES : HANDLING :	200.00 0.00 0.00 0.00 0.00	CASH : CHECK : BILLED:	200.00 0.00 200.00 0.00
			REFUND:	0.00

ARTICLES OF ORGANIZATION
OF
MOHAWK VALLEY HOME CARE, L.L.C.

Under Section 203 of the Limited Liability Company Law

FIRST: The name of the limited liability company is: MOHAWK VALLEY HOME CARE, L.L.C.

SECOND: The county within this state in which the office of the limited liability company is to be located is: Oneida.

THIRD: The secretary of state is designated as agent of the limited liability company upon whom process against it may be served. The post office address within or without this state to which the secretary of state shall mail a copy of any process against the limited liability company served upon him or her is: 430 Court Street, Utica, New York 13502.

FOURTH: The effective date of The Articles of Organization shall be effective upon filing with the Department of State.

FIFTH: The limited liability company is to be managed by (check appropriate box):

- 1 or more members
- A class or classes of members
- 1 or more managers
- A class or classes of managers

IN WITNESS WHEREOF, this certificate has been subscribed this 28th day of July, 1995, by the undersigned who affirm that the statements made herein are true under the penalties of perjury.

MOHAWK VALLEY NETWORK, INC.,
Member/Organizer

By: Keith A. Fenstemacher
Keith A. Fenstemacher,
President

FIRST COMMUNITY CARE, INC.,
Member/Organizer

By: David M. Verity
David Verity, President

COUNSELORS AT LAW 1412 GENESEE STREET UTICA, NEW YORK 13502

LOCKWOOD & GOLDEN

**CERTIFICATE OF CHANGE
OF
MOHAWK VALLEY HOME CARE, L.L.C.**

Under Section 211-A of the Limited Liability Company Law

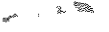
1. The name of the limited liability company is: **Mohawk Valley Home Care, L.L.C.**
2. The Articles of Organization were filed by the Department of State on August 4, 1995.
3. Paragraph "THIRD" of the Articles of Organization is changed to provide for a new address for service of process against the Limited Liability Company by the Secretary of State and, as changed, shall read as follows:

THIRD: The Secretary of State is designated as agent of the limited liability company upon whom process against it may be served. The post office address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is: 1650 Champlin Avenue, Utica, NY 13502.

IN WITNESS WHEREOF, this Certificate of Change has been subscribed this 20th day of January 2014, by the undersigned who affirms that the statements contained herein are true under the penalties of perjury.

MOHAWK VALLEY NETWORK, INC.

Member
By: 
Scott H. Perra, President



OPERATING AGREEMENT

This Agreement, dated March 19, 1999 and amended April 9th, 2008, August 15, 2013 and March 4, 2014, is among the individuals and entities signing below.

WHEREAS, the parties hereto desire to form a limited liability company known as **MOHAWK VALLEY HOME CARE, L.L.C.** pursuant to the New York Limited Liability Company Law;

WHEREAS, the parties hereto desire to establish their respective rights and obligations pursuant to the New York Limited Liability Company Law in connection with forming such a limited liability company;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

ARTICLE I Definitions

1.1 **Definitions.** In this Agreement, the following terms shall have the meanings set forth below:

a. "Articles of Organization" shall mean the Articles of Organization of the company filed or to be filed with the New York Secretary of State, as they may from time to time be amended.

b. "Board of Managers" shall have the meaning as set forth in Section 5.1.

c. "Capital Account" as of any date shall mean the capital contribution to the Company by a Member, as adjusted pursuant to this Agreement.

d. "Capital Contribution" shall mean any contribution by a Member to the capital of the Company in cash, property or services rendered or a promissory note or other obligation to contribute cash or property or to render services.

e. "Code" shall mean the Internal Revenue Code of 1986, as amended, or any superseding federal revenue statute.

f. "Company" shall refer to **Mohawk Valley Home Care, L.L.C.**

g. "Distribution" means any cash and other property paid to a Member by the Company from the operations of the Company.

h. "Fiscal Year" shall mean the fiscal year of the Company, which shall be the year ending December 31.

i. "Membership Interests" shall mean, with respect to the Company and with respect to any Member, the Membership Interest set forth after the Member's name on **Exhibit" A"** to this Agreement, as such Membership Interests shall be adjusted from time to time to reflect additional Capital Contributions or withdrawals from the Company but subject to Section 11.5 hereof.

j. "Manager" shall mean each person or entity listed in the Articles of Organization or in Exhibit "B" to this Agreement as a manager of the Company or any other person or entity that succeeds such person or entity as a manager pursuant to this Agreement.

k. "Member" shall mean Mohawk Valley Health System (the "Member" or "MVHS").

l. "Net Losses" shall mean an amount equal to the Company's taxable loss for such year or period, determined in accordance with Code Section 703 (a). For this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss.

m. "Net Profits" shall mean an amount equal to the Company's taxable income for such year or period, determined in accordance with Code Section 703(a). For this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss.

n. "New York Act" shall mean the New York Limited Liability Company Act.

o. "Person" shall mean any corporation, governmental authority, limited liability company, Partnership, trust, unincorporated association or other entity.

p. "Selling Member" shall mean a Member desiring to sell a Membership Interest.

q. "Treasury Regulations" shall mean all proposed, temporary and final regulations promulgated under the Code as from time to time *in effect*.

ARTICLE II Organization

2.1 **Formation.** One or more Persons has acted as an organizer or organizers to form a *limited* liability Company by preparing, executing and filing with the New York Secretary of State the Articles of organization pursuant to the New York Act.

2.2. **Name.** The name of the Company is **Mohawk Valley Home Care, L.L.C.**

2.3 **Principal Place of Business.** The principal place of business of the company within the State of New York shall be 1650 Champlin Avenue, Utica, New York

13502. The Company may establish any other places of business as the Manager may from time to time deem advisable.

2.4 Registered Agent. The Company shall not have a registered agent.

2.5 Term. The Company shall continue in existence following the date of filing of the Articles of Organization with the New York Secretary of State, until the Company is dissolved pursuant to this Agreement or the New York Act.

2.6 Purposes. The Company is formed for any lawful business purpose or purposes.

ARTICLE III Members

3.1 Names and Addresses. The names and addresses of the Members are as set forth in Exhibit "A" to this Agreement.

3.2 Additional Members. A Person may be admitted as a member after the date of this Agreement upon the vote or written consent of a majority of Membership Interests.

3.3 Books and Records. The Company shall keep books and records of accounts and minutes of all meetings of the members. Except as modified or amended by the manager, such books and records shall be maintained on an accrual basis in accordance with this Agreement.

3.4 Information. Each Member may inspect during ordinary business hours and at the principal place of business of the Company the Articles of Organization, the Operating Agreement, the minutes of any meeting of the Members and any tax returns of the Company for the immediately preceding three (3) Fiscal Years.

3.5 Limitation of Liability. Each Member's liability shall be limited to the greatest extent permitted under the New York Act. A Member shall not be personally liable for any indebtedness, liability or obligation of the Company, except that such Member shall remain personally liable for the payment of his Capital Contribution.

3.6 Priority and Return of Capital. No Member shall have priority over any other Member, whether for the return of a Capital Contribution or for Net Profits, Net Losses or a Distribution; provided, however, that this Section shall not apply to loans or other indebtedness (as distinguished from a Capital Contribution) made by a Member to the Company.

3.7. Liability of a Member to the Company. A Member who rightfully receives the return of any portion of a Capital Contribution is liable to the Company only to the extent

now or hereafter provided by the New York Act. A Member who receives a Distribution made by the Company in violation of this Agreement or made when the Company's liabilities exceed its assets (after giving effect to such Distribution) shall be liable to the Company for the amount of such Distribution.

3.8. Financial Adjustments. No Members admitted after the date of this Agreement shall be entitled to any retroactive allocation of losses, income or expense deductions incurred by the Company. The Board of Managers may, at the discretion of the Board of Managers, at the time a Member is admitted, close the books and records of the Company (as though the Fiscal Year had ended) or make pro rata allocations of loss, income and expense deductions to such member for that portion of the Fiscal Year in which such Member was admitted in accordance with the Code.

3.9 Disposition of Membership Interest or Voting Rights: That transfers, assignments or other disposition of membership interests or voting rights must be effectuated in accordance with Section 3611-a(1) of the Public Health Law.

ARTICLE IV **ROLE OF MEMBERS**

4.1 Rights or Powers. Except as otherwise specifically set forth herein, the Member shall have no rights or powers to take part in the management and control of the Company and its business and affairs. Notwithstanding the foregoing, the Member shall have the following rights and powers:

- a. To approve and interpret the statement of mission and philosophy adopted by the Company, to require that the Company operate in conformance with its mission and philosophy and that the Company coordinate its mission, vision, activities and resources with the other Affiliates of the Member in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the Managers of the Company, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Company.
- c. To amend or repeal the Articles of Organization and Operating Agreement, and to adopt any new or restated Articles of Organization and Operating Agreement, of the Company;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Company;
- e. To approve the debt of the Company in excess of an amount to be fixed from time to time by the Member.
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Company in excess of an amount to be fixed from time to time by the Member.

- g. To approve the capital and operating budgets of the Company;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Company;
- i. To approve any reorganization of the Company and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Company with the other Affiliates of the Member, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve the strategic plan of the Company;
- k. To the extent applicable, to approve all contracts of reimbursement for the Company from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Company to federal or state governmental agencies for establishment or operating licensure, including but not limited to applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Company subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by the Company;
- o. To require the Company to participate in any and all programs and services, as determined by the Member in its discretion, provided, however, that the Member may not require the Company to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Company is a party and by which it is bound; and
- p. To accept further delegations of authority on behalf of the Company and exercise on behalf of the Company and other Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to applicable law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, the Member shall have: (i) the power to initiate and direct action by the Company without a prior recommendation of the Company's board of managers; and (ii) the power to accept, reject or modify the recommendation of the Company's Board of Managers and to direct action by the Company or to return the matter to the Board of Managers of the Company for reconsideration, with reasons for rejection and/or

suggested change. The Board of Managers and officers of the Company shall not implement any action requiring the approval of the Member until the Member shall have exercised its reserve powers and communicated its determinations in writing to the Company's Board of Managers.

4.2 **Annual Meeting.** The Member shall, hold its annual meeting each year in April or May at a time and place determined by the Member. At the annual meeting, the Member shall elect Managers of the Company, receive the annual report of the Managers of the Company, and transact such other business as may properly come before the meeting. Nomination for seats on the Board of Managers of the Company shall be submitted to the Member prior to the Member's annual meeting.

4.3 **Annual Report to Member.** At the annual meeting of the Member, the Chairperson or President, and the Treasurer of the Company shall present an Annual Report showing in appropriate detail the following information:

(a) a complete verified financial statement of the Company for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Company;

(b) a summary of the activities of the Company during the preceding year. The Annual Report shall be filed with the minutes of the annual meeting.

4.4 **Notice.** The Secretary shall give the Members notice of the annual meeting, or any special meetings of the Members, at least ten (10) days, but not more than thirty (30) days, before the date of said meeting. The notice shall specify the place and time of the meeting and, in the case of special meetings, the purposes for which the meeting is called.

4.5 **Special Meetings of Members and Means of Voting.**

(a) Special meetings of Members may be called by the Board of Managers and shall be called upon the written request of any Member. The notice shall state the nature of the business to be transacted. Notice of any such meeting shall be given to all Members not less than two (2) days prior to the date of such meeting. Members may vote in person or by proxy at such meeting. Whenever the vote or consent of Members is permitted or required under the Agreement, such vote or consent may be given at a meeting of Members or may be given in writing. The participation of a Member at a meeting may be by means of conference, telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other. Such participation shall constitute presence in person at the meeting for the purposes hereunder. The affirmative vote of all Members shall be required for any action.

(b) Each Member may authorize any Person or Persons to act for him by proxy on all matters in which a Member is entitled to participate, whether by waiving notice of or voting or participating at a meeting. Every proxy must be signed by the Member or his/her attorney-in-fact. No proxy shall be valid after the expiration of eleven months from the date thereof unless otherwise provided in the proxy. Unless otherwise specifically stated therein, every proxy shall be revocable at the pleasure of the Member executing the same.

(c) Each corporate Member may authorize any Person to act for it. Such authorization shall be by resolution adopted by the corporate Member in accordance with its By-laws.

4.6 **Action by Member.** Except as otherwise required by law, the Articles of Organization or this Agreement, any action required or permitted to be taken by the Member of the Company may be taken without a meeting, without prior notice and without a vote, through written consent to such action. The written consent of the Member shall be evidenced by a written resolution of the Board of Directors of the Member signed by an officer of the Member and adopted in accordance with the its Articles of Incorporation, By-laws, policies and/or procedures. An original signed copy of each executed written consent of the Member shall be delivered to the Secretary of the Company and shall be maintained in the permanent records of the Company.

SECTION V MANAGEMENT

5.1 **Appointment of Board of Managers.** The Company shall have at least three (3) Managers to be appointed by the Member. The number of Managers of the Company may be amended from time to time by the unanimous vote or written consent of all membership interests. The Managers shall be collectively referred to as the Managers, Board of Managers or the Board. The members of the Board of Managers are set forth in Exhibit B, as may be amended from time to time.

5.2 Qualification

Managers shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

5.3 Election and Tenure.

(a) **Composition of the Board of Managers.** Commencing with the meeting to be held on or about March 4, 2014, the initial Board shall be comprised of eighteen (18) Voting Managers. MVHS shall appoint sixteen (16) voting Managers (the "Elected Managers"). The remaining two (2) Managers shall be the presidents of the medical staffs of Faxton-St. Luke's Healthcare ("FSLH") and St. Elizabeth Medical Center ("SEMC") who shall serve ex-officio as Voting Managers.

(b) **Terms of Office.** The initial Elected Managers shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated.

(c) **Subsequent Election.** Commencing with the 2015 annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Managers whose terms are expiring. An Elected Manager shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Manager may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so

long as needed to fulfill his or her obligations as set forth in this Agreement. Commencing with the 2015 annual meeting, Elected Managers of the Board shall be nominated by the Governance Affairs and Ethics Committee of MVHS and shall be elected by a simple majority of the MVHS Board. The MVHS Board shall not be bound or limited to such nominees.

(d) Reappointment. Manager reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Manager's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(e) Non-Elected Managers. The Presidents of the Medical Staffs of SEMC and FSLH shall serve as Managers of the Corporation, coterminous with holding their respective positions.

5.4 Vacancies.

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Manager, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board of MVHS. Nominees shall be presented by the Governance Affairs and Ethics Committee of MVHS, but the MVHS Board shall not be bound or limited to such nominees. Managers selected to fill vacancies shall serve the remainder of the term of the Manager whose seat has been vacated or until a successor has been elected.

5.5 Removal.

Each member of the Board of Managers shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Manager who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Managers by a vote of two-thirds of the MVHS Directors. In addition, the Board of MVHS may remove any Manager, with or without cause, upon a two-thirds (2/3) vote of the Board.

5.6 Resignation/Leave of Absence.

(a) Resignation. Any Manager may resign at any time by giving written notice to the Chairperson or to the Secretary of the Company. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

(b) Leave of Absence. Any Manager may request a Leave of Absence of up to three (3) months for medical reasons relating to the Manager, or a member of the Manager's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Manager. If the Chairperson requests a Leave, the request shall be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Manager shall be excused from any attendance requirements and all other obligations of a Manager as set forth in these Bylaws. The Manager's Board position shall remain vacant during the term of the Leave, and the Manager's position shall not be counted in determining the presence of a quorum.

If the Manager on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the MVHS Directors at the next regular meeting of MVHS, or at a special meeting called for such purpose. Any committee positions held by the Manager may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Manager may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

5.7 Additional Advisors.

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Managers present.

5.8 Meetings of Managers.

(a) Annual Meeting The Board of Managers shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, selecting members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) Regular Meetings The Board of Managers shall hold at least seven (7) regular meetings annually.

(c) Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3) Managers. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) Place All meetings of the Board shall be held at the principal office of the Company or at such other place within this State as the Notice of Meeting shall provide.

(e) Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Manager personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law, the notice shall also state the purpose for which the meeting is called. Oral or written notice of the postponement of any scheduled regular meeting shall be given to each Manager not less than one (1) day before the scheduled date of such meeting.

(f) Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(g) Quorum Unless a greater or lesser number is required by law, the Articles of Organization or this Agreement, a majority of the Managers entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Managers present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 5.8(e).

(h) Voting Subject to the Conflict of Interest provisions in the Board's Conflict of Interest policies, each voting Manager present is entitled to vote on any matter before the Board.

(i) Manner of Acting Unless otherwise required by law, the Articles of Organization or this Agreement, the act of a majority of the Managers present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the consent in writing of all Managers entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

(j) Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

5.9 Powers.

(a) Powers Except to the extent that powers have been delegated and reserved to MVHS, the administrative powers of the Company shall be vested in the Board of Managers, which shall have: charge, control, and oversight of the property, funds, and affairs of the Company, the power to establish policies for the management and operation of the Company, and such other power and authority to do and perform all acts and functions for the benefit of the Company, not inconsistent with this Agreement or the Articles of Organization. The Board of Managers shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

(b) Fiduciary Obligations The members of the Board shall at all times conduct the affairs of the Company in strict conformance with all applicable fiduciary and ethical standards. Each Manager shall act in a manner consistent with the duty of undivided loyalty to the interests of the Company, the duty to maintain in confidence information concerning the affairs of the Company, the duty to avoid actual or apparent conflicts of interest, and the duty

to maintain and advance the charitable purposes of the Company. The Board shall adopt such mechanisms as it deems appropriate to assist the Managers in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate, a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Company.

5.10 **Right to Rely on Manager.** Any Person dealing with the Company may rely upon a certificate signed by any Officer of the Board of Managers as to:

- (a) the identity of any Manager or Member;
- (b) the existence or nonexistence of any fact or facts which constitute a condition precedent to acts by the Board or which are in any other manner germane to the affairs of the Company;
- (c) the Persons who are authorized to execute and deliver any instrument or document on behalf of the Company; or
- (d) any act or failure to act by the Company or any other matter whatsoever involving the Company or any Member.

5.11 **Compensation and Expenses of Managers.**

(a) Except as otherwise set forth in this Agreement, no Manager shall receive any fees or other compensation for serving as a Manager, unless such fees or other compensation are approved by the Members.

5.12 **Operations Restrictions.**

(a) The Company shall at all times be operated in compliance with the tax-exempt status under Code Section 501(c)(3) of the tax-exempt Members.

(b) No rebates, kickbacks, or reciprocal arrangements may be received or entered into by any Managers, nor may any Managers participate in any business arrangement which would circumvent this Agreement.

(c) The funds of the Company shall not be commingled with the funds of any other Person.

(d) The signature of an Officer of the Board of Managers shall be necessary to convey title to any real property owned by the Company or to execute any promissory notes, trust deeds, mortgages or other instruments of hypothecation, and all of the Members agree that a copy of this Agreement may be shown to the appropriate parties in order to confirm the same, and further agree that the signature of such Officer shall be sufficient to execute any documents necessary to effectuate this or any other provision of this Agreement.

5.13 **Indemnification of Managers.**

(a) Unless otherwise provided in this Agreement, the Company, its receiver, or its trustee (in the case of its receiver or trustee, to the extent of Company property) shall indemnify, save harmless and pay all judgments and claims against any Manager relating

to any liability or damage incurred by reason of any act performed or omitted to be performed by any Manager in connection with the Business, including attorneys' fees and related expenses incurred by such Manager in connection with the defense of any action based on any such act or omission, which attorneys' fees and expenses may be paid as incurred. In the event of a determination that such Manager is not entitled to indemnification, such Manager shall promptly repay any such fees or expenses paid by the Company.

(b) Unless otherwise provided for in this Agreement, in the event of any action by a Member against any Manager, including a Company derivative suit, the Company shall indemnify, save harmless and pay all expenses of such Manager, including reasonable attorneys' fees incurred in the defense of such action, if such Managers are successful in such action.

(c) Notwithstanding the provisions of Section 6.15(a) and 6.15(b) above, such Sections shall be enforced only to the maximum extent permitted by law and no Manager shall be indemnified from any liability for fraud, intentional misconduct, gross negligence or knowing violation of law which was material to the cause of action.

5.14 **Officers.** The Board of Managers shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Members may authorize. The Company shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the March 2014 meeting of the Board shall serve until the annual meeting of the Company in 2015. The Chairperson selected at the 2015 and 2016 annual meetings shall serve a one year term, or until his/her successor has been elected. The initial Chairperson and the Chairperson seated at the 2015 and 2016 annual meetings shall be selected by the Member in accordance with its Bylaws. Commencing with the 2017 annual meeting the Chairperson and Vice-Chairperson shall be elected by the Member for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected by the Member at the annual meeting of the Member and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors of the Member at any regular meeting or any special meeting called for such purpose.

5.15 **Chairperson.** The Chairperson shall preside at all meetings of the Board of Managers, shall appoint the members and Chairperson of each Committee in accordance with this Agreement and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 2016 annual meeting of the Member shall be eligible to be elected by the full Board of the Member to serve one additional term of two (2) years, commencing in 2017. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

5.16 **Vice Chairperson.** In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Company as may be authorized by order of the Board.

5.17 **Chair Emeritus.** Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in this Agreement. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the March 2014 annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

5.18 **Secretary.** The Secretary shall act as Secretary of both the Company and the Board and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Company and keeping the minutes of the meetings of the Board. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Company records.

5.19 **Treasurer.** The Treasurer shall have general supervision over the care and custody of all funds and securities of the Company except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Company in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board, or any committee designated and vested with such power by the Board, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Company and, whenever required by the Board shall render, or cause to be rendered, financial statements of the Company. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

5.20 **President.** The Member shall appoint the President and the Chief Executive Officer of the Company. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board in all matters except those for which the Board has designated the Executive Director, or some other individual to act.

SECTION VI COMMITTEES OF THE BOARD OF MANAGERS

6.1 **Structure.**

There shall be six (6) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, and Audit and Compliance Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

6.2 **Procedure.**

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in this Agreement or in a Resolution of the Board.

6.3 **Powers.**

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in this Agreement, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

6.4 **Committee Members.**

- (a) **Appointment.** Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to promote experience and knowledge in all aspects of the operation of the Company.
- (b) **Tenure.** Each member of a Board Committee shall hold office until the next annual election of Managers and until his or her successor is elected, unless he or she sooner ceases to be a Manager or resigns or is removed from the Committee.
- (c) **Resignation.** Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.
- (d) **Removal.** Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) **Vacancies.** Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee,

may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

6.5 **Advisors to Board Committees.** The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Managers.

As deemed appropriate by the Committee Chair, members of the Company's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

6.6 **Manner of Action.**

(a) **Meetings.** Each Committee shall meet as provided for in this Agreement and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

(b) **Agenda/Minutes.** There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

(c) **Quorum.** A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

(d) **Action.** The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

(e) **Meeting by Conference Telephone or Similar Device.** Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the

meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

6.7 **Conflict of Interest.** Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board.

6.8 **Executive Committee.**

(a) **Composition**

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, and the Chairperson Emeritus.

(b) **Functions**

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Company, subject to any prior limitations imposed by the Board, this Agreement, or statute

(c) **Meetings**

The Executive Committee shall meet as necessary to conduct the business of the Company while the full Board is not in session.

6.9 **Finance.**

(a) **Composition**

The Finance Committee shall consist of the Treasurer of the Company, as Committee Chairperson, and at least 6 voting Members, at least one of whom shall have substantial accounting or financial management expertise.

(b) **Functions**

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Company and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and oversight of the financial affairs of the Company. Its functions shall include:

- (1) Overseeing the Executive Director's development of a budget for the Company showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Member a budget developed by the Executive Director for the ensuing year;
- (3) Reviewing financial reports that report on the financial condition of the Company;
- (4) Reviewing and making recommendations to the Board and the Member on any request by the Executive Director for the Company to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;

- (5) Retaining the Company's independent Certified Public Accountants to provide external financial auditing to the Company. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Company and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Company.
- (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Company.

(c) Meetings

The Finance Committee shall meet as needed.

6.10 Quality and Safety Committee.

(a) Composition.

The Quality and Safety Committee shall consist of not less than five (5) voting Managers, at least one of whom shall be a physician.

(b) Functions.

The Quality and Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of the Company with the programs of the other Affiliates of the Member for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance at the Company, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;

- (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;
 - (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by third parties providing services to the Company.
- (2) Recommend policies and provide direction for the Company's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the Company.
 - (3) Oversee regulatory compliance, safety, and such other programs as shall be required to insure continuous licensure of the Company.
 - (4) Review and report to the Board on Department of Health and other regulatory surveys and findings and any required plans of correction.
 - (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Company's affiliates concerning quality and performance improvement activities.
 - (7) Assist in the development of Board educational processes regarding quality and service improvement.

(c) Meetings

The Quality and Safety Committee shall meet as shall be necessary to discharge the obligations and duties of the Committee.

6.11 Governance Affairs and Ethics Committee.

(a) Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Managers, at least one of whom shall be a Board Officer.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Board of the Company and developing and monitoring a Board education plan. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:

- (i) Conflict of Interest;
 - (ii) Policy based governance;
 - (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
 - (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
 - (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Committees of the Company.
 - (5) Develop an orientation process for new Board and Committee members for the Company, with the assistance of the Executive Director.
 - (6) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
 - (7) Periodically review, and recommend changes to the Operating Agreement of the Company to insure compliance with the mission, vision, purpose and structure of the Company.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at such times as shall be necessary to discharge the obligations and duties of the Committee.

6.12 Executive Compensation Committee.

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Managers recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be "Independent" as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not "Independent", the Board shall appoint another Independent Manager to serve in the place of the Chairperson.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the Executive Director and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of

the Company, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations (“Disqualified Persons”). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually, performance guidelines for the Executive Director;
- (2). Assist the Board in assessing and evaluating the Executive Director’s performance;
- (3). Review and recommend to the full Board the Executive Director's compensation, including salary, incentives, benefits and other perquisites;
- (4) Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
- (5) At least annually, review executive compensation and take the required steps to establish a “rebuttable presumption of reasonableness” [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person’s background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Company’s income and assets and the number of Company employees;
 - d. Executive Director’s job performance;
 - e. relationship of the Executive Director’s compensation to the compensation paid to Company’s other employees; and
 - f. the number of hours the Executive Director spends performing his or her job.

c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Company to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

6.13 Audit and Compliance Committee.

(a) Composition

The Audit and Compliance Committee shall be composed of at least three (3) Managers. At least a majority of the Managers so appointed shall be "Independent Managers" as defined in Section 7.12(a), above.

(b) Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board in its oversight responsibilities by overseeing management's systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Company. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee's retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the corporate compliance plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.
 - b. Serve as a resource to the Compliance Officer and management on compliance issues.
 - c. Report to the Board at least semi-annually, regarding the status of the compliance plan.

c. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

ARTICLE VII

Executive Director

7.1 Executive Director. The Board of Managers shall appoint an Executive Director who shall manage the day-to-day operations of the Company and report to the President. The Executive Director shall have the necessary authority and shall be held responsible to the Board for such management of the Company, subject only to such policies as are enacted by the Board of Managers or any committees to which the Board has delegated power for such action. The Executive Director shall act as the duly authorized representative of the Board in all matters except those in which the Board has formally designated some other person or group to act.

ARTICLE VIII

Capital Contributions

8.1 Capital Contributions. Each Member has contributed the amount set forth in Exhibit "A" to this Agreement as the Capital Contribution to be made by him.

8.2 **Additional Contributions.** Except as set forth in Section 8.1 of this Agreement, no Member shall be required to make any Capital Contribution.

8.3 **Capital Accounts.** A Capital Account shall be maintained for each Member. Each Member's Capital Account shall be increased by the value of each Capital Contribution made by the Member, allocations to such Member of the Net Profits and any other allocations to such Member of income pursuant to the Code. Each Member's Capital Account will be decreased by the value of each Distribution made to the Member by the Company, allocations to such Member of Net Losses and other allocations to such Member pursuant to the Code.

8.4 **Transfers.** Upon a permitted sale or other transfer of a Membership Interest in the Company, the Capital Account of the Member transferring his Membership Interests shall become the Capital Account of the Person to whom such Membership Interest is sold or transferred in accordance with Section 1.704-1 (b)(2)(iv) of the Treasury Regulations.

8.5 **Modifications.** The manner in which Capital Accounts are to be maintained pursuant to this Section is intended to comply with the requirements of Section 704(b) of the Code and more specifically Treasury Regulation Section 1.704-1 (b)(2)(iv). If, in the opinion of the Board, the manner in which Capital Accounts are to be maintained pursuant to this Agreement should be modified to comply with Section 704(b) of the Code, then the method in which Capital Accounts are maintained shall be so modified; provided however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members.

8.6 **Deficit Capital Account.** Except as otherwise required in the New York Act or this Agreement, no Member shall have any liability to restore all or any portion of a deficit balance in a Capital Account.

8.7 **Withdrawal or Reduction of Capital Contributions.** A Member shall not receive from the Company any portion of a Capital Contribution until all indebtedness, liabilities of the Company, except any indebtedness, liabilities and obligations to Members on account of their Capital Contributions, have been paid or there remains property of the Company, in the sole discretion of the Board, sufficient to pay them. A Member, irrespective of the nature of the Capital Contribution of such Member, has only the right to demand and receive cash in return for such Capital Contribution.

ARTICLE IX Allocations and Distributions

9.1 **Allocations of Profits and Losses.**

a. The Net Profits and the Net Losses for each Fiscal Year shall be allocated to each Member prorata in accordance with his Membership Interest.

b. Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulation Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1 (b)(2)(ii)(d)(5) or 1.704-1(b)(2)(ii)(d)(6), items of Company Profit shall be specifically allocated to each such Member sufficient to eliminate, to the extent required by the Regulations, the Capital Account deficit of such Member as quickly as possible, provided that an allocation pursuant to this Section 9.1 (b) shall be made only if and to the extent that such Member would have a Capital Account Deficit after all other allocations provided for in this Section 9.1 (b) have been tentatively made as if this Section 9.1I (b) were not in the Agreement.

c. Curative Allocations. The allocations set forth in Section 9.1 (b) hereof (the "Regulatory Allocations") are intended to comply with certain requirements of Treasury Regulation Section 1.704-1 (b). Notwithstanding any other provision of this Section 9.1 (other than the Regulatory Allocations), the Regulatory Allocations shall be taken into account in allocating other Profits, Losses, and items of income, gain, loss and deduction among the Members so that, to the extent possible, the net amount of such allocations of other Profits, Losses, and other items and the Regulatory Allocations to the Members shall be equal to the net amount that would have been allocated to the Members if the Regulatory Allocations had not occurred.

d. Limitation on Allocation of Losses. Any Losses allocated pursuant to Section 9.1 (a) that would cause any Member to have a Capital Account Deficit at the end of any Fiscal Year in excess of the amount such Member is obligated to restore (as required by law or otherwise) shall be allocated to Members with positive Capital Account Balances.

e. Code Section 704(c). In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its fair market asset value at the time of contribution. Any elections or other decisions relating to such allocations shall be made by the Manager in any manner that reasonably reflects the purpose and intention of this Agreement.

f. Other Allocation Rules. For purposes of determining the Profits, Losses, or any other items allocable to any period, Profits, Losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the Board using any permissible method under Code Section 706 and the Regulations thereunder.

9.2 Distributions. The Board may from time to time, in the discretion of the Board, make Distributions to the Members. All Distributions shall be made to the Members prorata in proportion to their Membership Interests as of the record date set for such Distribution.

9.3 Offset. The Company may offset all amounts owing to the Company by a

Member against any Distribution to be made to such Member.

9.4 **Limitation Upon Distributions.** No Distribution shall be declared and paid unless, after such Distribution is made, the assets of the Company are in excess of all liabilities of the Company.

9.5 **Interest on and Return of Capital Contributions.** No Member shall be entitled to interest on his Capital Contribution or to a return of his Capital Contribution, except as specifically set forth in this Agreement.

9.6 **Accounting Period.** The accounting period of the Company shall be the Fiscal Year.

ARTICLE X Taxes

10.1 **Tax Returns.** The Board shall cause to be prepared and filed all necessary federal and state income tax returns for the Company. Each Member shall furnish to the Board all pertinent information in his possession relating to Company operations that is necessary to enable the Company's income tax returns to be prepared and filed.

10.2 **Tax Elections.** The Company shall make the following elections on the appropriate tax returns:

- a. To adopt the calendar year as the Fiscal Year;
- b. Except as modified or amended by the Board, to adopt the accrual method of accounting and keep the Company's books and records on the accrual method;
- c. If a Distribution as described in Section 734 of the Code occurs or if a transfer of a Membership Interest described in Section 743 of the Code occurs, upon the written request of any Member, to elect to adjust the basis of the property of the Company pursuant to Section 754 of the Code;
- d. To elect to amortize the organizational expenses of the Company and the start-up expenditures of the Company under Section 195 of the Code ratably over a period of sixty (60) months as permitted by Section 709(b) of the Code; and
- e. Any other election that the Board may deem appropriate and in the best interests of the Members.

Neither the Company nor any Member may make an election of the Company to be excluded from the application of Subchapter K of Chapter I of Subtitle A of the Code or

any similar provisions of applicable state law, and no provisions of this Agreement shall be interpreted to authorize any such election.

10.3 **Tax Matters Partners.** The Board of Managers may designate one Manager to be the "tax matters partner" of the Company pursuant to Section 623 I (a) (&) of the Code. Any Manager who is designated "tax matters partner" shall take any action as may be necessary to cause each other Member to become a "notice partner" within the meaning of Section 6223 of the Code.

ARTICLE XI Transferability

11.1 **General.** Except as set forth in this Agreement, no Member shall gift, sell, assign, pledge, hypothecate, exchange or otherwise transfer to another Person any portion of a Membership Interest.

11.2 **Offer to Acquire.** If a Member desires to sell a Membership Interest to another Person, such Member shall obtain from such Person a bona fide written offer to purchase such Membership Interest, stating the terms and conditions upon which the purchase is to be made. Such Member shall give written notification to the other Members of his intention to sell such membership Interest and a copy of such bona fide written offer.

11.3 **Right of First Refusal.** Each Member other than the Selling Member, on a basis pro rata to the Membership Interests of each Member exercising his right of first refusal, shall have the right to exercise a right of first refusal to purchase all (but not less than all) of the Membership Interest proposed to be sold by the Selling Member upon the same terms and conditions as stated in the bona fide written offer by giving written notification to the Selling Member of his intention to do so within ninety (90) days after receiving written notice from the Selling Member. The failure of any Member to so notify the Selling Member of a desire to exercise such right of first refusal within such ninety (90) day period shall result in the termination of such right of first refusal and the Selling Member shall be entitled to consummate the sale of his Membership Interest with respect to which such right of first refusal has not been exercised to the Person offering to do so pursuant to the bona fide written offer. If the Selling Member does not sell his Membership Interest within ninety (90) days after receiving the right to do so, his right to do so terminates and the terms and conditions of this Section shall again be in effect.

11.4 **Closing.** If any Member gives written notice to the Selling Member of his desire to exercise such right of first refusal and to purchase all of the Selling Member's Interest upon the same terms and conditions as are stated in the written offer, such Member shall have the right to designate the time, date and place of closing within ninety (90) days after receipt of written notification from the Selling Member of the bona fide offer.

11.5 **Transferee Not a Member.** No Person acquiring a Membership Interest pursuant to this Section other than a Member shall become a Member unless such Person is

approved by vote or written consent of a majority in interest of Membership Interests. If no such approval is obtained, such Person's Membership Interest shall only entitle such Person to receive the distributions and allocations of profits and losses to which the Member from whom such Person received such Membership Interest would be entitled. Any such approval may be subject to any terms and conditions imposed by the Members.

11.6 **Effective Date.** Any sale of a Membership Interest or admission of a Member pursuant to this Article shall be deemed effective as of the last day of the calendar month in which such sale or admission occurs.

ARTICLE XII

Dissolution

12.1 **Dissolution.** The Company shall be dissolved and its affairs shall be wound up upon the first to occur of the following:

- a. The latest date on which the Company is to dissolve, if any, as set forth in the Articles of Organization;
- b. The vote or written, consent of at least two-thirds in interest of all Members; or
- c. The bankruptcy, death, dissolution, expulsion, incapacity or withdrawal of any Member or the occurrence of any other event that terminates the continued membership of any Member, unless within one hundred eighty (180) days after such event, the Company is continued by the vote or written consent of a majority in interest of all of the remaining Members.

12.2 **Winding Up.** Upon the dissolution of the Company, the Board may, in the name of and for and on behalf of the Company, prosecute and defend suits, whether civil, criminal or administrative, sell and close the Company's business, dispose of and convey the Company's property, discharge the Company's liabilities and distribute to the Members any remaining assets of the Company, all without affecting the liability of Members. Upon winding up of the Company, the assets shall be distributed as follows:

- a. To creditors, including any Member who is a creditor, to the extent - permitted by law, in satisfaction of liabilities of the Company, whether by payment or by establishment of adequate reserves, other than liabilities for distributions to Members under Section 507 or Section 509 of the New York Act;
- b. To Members and former Members in satisfaction of liabilities for Distributions under Section 507 or Section 509 of the New York Act; and

c. To Members first for the return of their Capital Contributions, to the extent not previously returned, and second respecting their Membership Interests, in the proportions in which the Members share in Distributions in accordance with this Agreement.

12.3 **Articles of Dissolution.** Within ninety (90) days following the dissolution and the commencement of winding up of the Company, or at any other time there are no Members, articles of dissolution shall be filed with the New York Secretary of State pursuant to the New York Act.

12.4 **Deficit Capital Account.** Upon a liquidation of the Company within the meaning of Section 1.704-1 (b)(2)(ii)(g) of the Treasury Regulations, if any Member has a Deficit Capital Account (after giving effect to all contributions, distributions, allocations and other adjustments for all Fiscal Years, including the Fiscal Year in which such liquidation occurs), the Member shall have no obligation to make any Capital Contribution, and the negative balance of any Capital Account shall not be considered a debt owed by the Member to the Company or to any other Person for any purpose.

12.5 **Nonrecourse to Other Members.** Except as provided by applicable law or as expressly provided in this Agreement, upon dissolution, each Member shall receive a return of his Capital Contribution solely from the assets of the Company. If the assets of the Company remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return any Capital Contribution of any Member, such Member shall have no recourse against any other Member.

12.6 **Termination.** Upon completion of the dissolution, winding up, liquidation, and distribution of the assets of the Company, the Company shall be deemed terminated.

ARTICLE XIII General Provisions

13.1 **Notices.** Any notice, demand or other communication required or permitted to be given pursuant to this Agreement shall have been sufficiently given for all purposes if (a) delivered personally to the party to whom such notice, demand or other communication is directed, or (b) sent by registered or certified mail, postage prepaid, addressed to the Member at his address set forth in this Agreement. Except as otherwise provided in this Agreement, any such notice shall be deemed to be given three (3) business days after the date on which it was deposited in a regularly maintained receptacle for the deposit of United States mail, addressed and sent as set forth in this Section.

13.2 **Construction.** Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

13.3 **Headings.** The headings in this Agreement are for convenience only and

shall not be used to interpret or construe any provision of this Agreement.

13.4 **Waiver.** No failure of a Member to exercise, and no delay by a Member in exercising, any right or remedy under this Agreement shall constitute a waiver of such right or remedy. No waiver by a Member of any such right or remedy under this Agreement shall be effective unless made in a writing duly executed by all Members and specifically referring to each such right or remedy being waived.

13.5 **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. However, if any provision of this Agreement shall be prohibited by or invalid under such law, it shall be deemed modified to conform to the minimum requirements of such law or, if for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any other such provision being prohibited or invalid.

13.6 **Binding.** This Agreement shall be binding upon and inure to the benefit of all Members, and each of the successors and assignees or the Members, except that right or obligation of a Member under this Agreement may be assigned by such Member to another Person without first obtaining the written consent of all other Members.

13.7 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

13.8 **Governing Law.** This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of New York, without regard to principles of conflict of laws.

IN WITNESS WHEREOF, the parties signing this Agreement below conclusively evidence their agreement to the terms and conditions of this Agreement by so signing this Agreement.

MOHAWK VALLEY HEALTH SYSTEM

By: _____



Scott H. Perra, President

EXHIBIT "A"

MEMBERS

<u>Name</u>	<u>Membership Address</u>	<u>Interest</u>	<u>Capital Contribution</u>
Mohawk Valley Health System	P.O. Box 4308 Utica, NY 13504	100%	

EXHIBIT "B"

MANAGERS

Domenic Aiello

Catherine Cominsky

Joan Compson

Gregory Evans

Maria Gesualdo

Harrison Hummel

Todd Hutton

Andrew Kowalczyk, III

Gregory McLean

Norman Siegel

John Sperling

Stephen Sweet

Richard Tantillo

Symeon Tsoupelis

Mark Warfel

Bonnie Woods

Eric Yoss

Richard Zweifel

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

December 30, 2013

Sharon Palmer
Director, Facilities Planning and Support Services
Faxton St. Luke's Health Care
1656 Champlin Avenue
Utica, New York 13502

RE: 132204-E
Mohawk Valley Health System
(Oneida County)
Establish Mohawk Valley Health System as the
active parent/co-operator of Faxton-St. Luke's
Healthcare, St. Elizabeth Medical Center, St. Lukes
Home RHCF, VNA of Utica and Oneida County,
and Mohawk Valley Home Care.

Dear Ms. Palmer:

I am pleased to inform you that, based on action taken at its meeting on December 12, 2013, the Public Health and Health Planning Council proposes to approve the above application providing the contingencies set forth in the enclosed resolution are first satisfied. Pursuant to 10 NYCRR section 600.4, documentation to satisfy the contingencies imposed by the Council shall be submitted to the Division of Health Facility Planning within sixty (60) days of receipt of this letter, to:

Barbara DelCogliano, Director
Bureau of Project Management
Division of Health Facility Planning
Office of Health Systems Management
NYS Department of Health
Empire State Plaza
Corning Tower, Room 1842
Albany, New York 12237

In addition to the contingencies, the proposed approval included the enclosed conditions. You are expected to comply with the conditions throughout the operation of this project, including any and all conditions pertaining to specified timeframes.

HEALTH.NY.GOV
facebook.com/NYSDOH
twitter.com/HealthNYGov



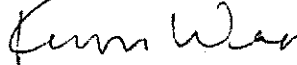
Before beginning any aspect of this project, you must submit written materials to satisfy the enclosed contingencies and receive written approval from the Public Health and Health Planning Council indicating the satisfaction of all contingencies.

This letter should not be construed as approval to file, with the Secretary of State, a certificate of incorporation, a certificate of amendment to a certificate of incorporation, a restated certificate of incorporation, an application for authority, articles of organization or any amendments thereto, or any other legal documents. A separate Public Health and Health Planning Council approval letter will be issued, as necessary, for the filing of documents with the Secretary of State after all contingencies are satisfied.

Also, this letter should not be construed as approval of property or lease costs submitted in support of this application, nor is this letter an assurance or recommendation that property costs or lease amounts as specified in the application will be reimbursable.

If you have any questions concerning this letter, please contact the Bureau of Project Management at 518-402-0911.

Sincerely,



Karen Westervelt
Deputy Commissioner
Offices of Primary Care and Health Systems
Management

Enclosure



RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 12th day of December, 2013, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish Mohawk Valley Health system as the active parent/co-operator of Faxton-St. Luke's Healthcare, St. Elizabeth Medical Center, St. Luke's Home RHCF, VNA of Utica and Oneida County and Mohawk Valley Home Care, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

FACILITY/APPLICANT:

132204 E

Mohawk Valley Health System



APPROVAL CONTINGENT UPON:

1. Submission of Approval from the Office of Mental Health. [PMU]
2. Submission of a photocopy of the fully executed Restated Certificate of Incorporation of Mohawk Valley Network, Inc., acceptable to the Department. [CSL]
3. Submission of a photocopy of the amended bylaws of Mohawk Valley Network, Inc. t/b/k/a Mohawk Valley Health System, acceptable to the Department. [CSL]
4. Submission of a photocopy of the fully executed Restated Certificate of Incorporation of St. Elizabeth Medical Center, acceptable to the Department. [CSL]
5. Submission of a photocopy of the amended bylaws of St. Elizabeth Medical Center, acceptable to the Department. [CSL]
6. Submission of a photocopy of the fully executed Restated Certificate of Consolidation of Faxton-St. Luke's Healthcare, acceptable to the Department. [CSL]
7. Submission of a photocopy of the amended bylaws of Faxton-St. Luke's Healthcare, acceptable to the Department. [CSL]
8. Submission of a photocopy of the fully executed Restated Certificate of Incorporation of St. Luke's Home Residential Health Care Facility, Inc., acceptable to the Department. [CSL]
9. Submission of a photocopy of the amended bylaws of St. Luke's Home Residential Health Care Facility, Inc., acceptable to the Department. [CSL]
10. Submission of a photocopy of the fully executed Restated Certificate of Incorporation of Visiting Nurse Association of Utica and Oneida County, Inc., acceptable to the Department. [CSL]
11. Submission of a photocopy of the amended bylaws of Visiting Nurse Association of Utica and Oneida County, Inc., acceptable to the Department. [CSL]
12. Submission of a photocopy of the executed Articles of Organization of Mohawk Valley Home Care, LLC, and any amendments thereto, acceptable to the Department. [CSL]
13. Submission of a photocopy of the amended and executed operating agreement of Mohawk Valley Home Care, LLC, acceptable to the Department. [CSL]

APPROVAL CONDITIONAL UPON:

1. The project must be completed within two years from the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]

Documentation submitted to satisfy the above-referenced contingencies (4 copies) should be submitted within sixty (60) days to:

Barbara DeICogliano
Director
Bureau of Project Management
NYS Department of Health
Empire State Plaza
Corning Tower, Room 1842
Albany, New York 12237



NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

Ms. Sharon Palmer
Director, Facilities Planning
and Support Services
Faxton St. Luke's Health Care
1656 Champlin Avenue
Utica, New York 13502

October 10, 2013

Re: 132204 E
Mohawk Valley Health System
(Oneida County)
Establish Mohawk Valley Health System
as the active parent/co-operator of
Faxton-St. Luke's Healthcare,
St. Elizabeth Medical Center,
St. Lukes Home RHCF, VNA of Utica
and Oneida County, and
Mohawk Valley Home Care

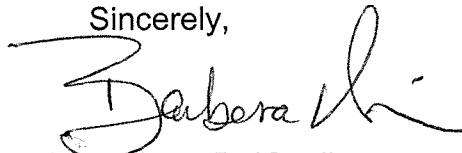
Dear Ms. Palmer:

The above referenced Certificate of Need application, for which you have been designated the contact person, has been received by the Bureau of Project Management for processing and has been distributed to all necessary reviewing units and, if operating, your local health systems agency, in accordance with 10 NYCRR 710. Please refer to the enclosed Important Notice for further information with respect to this process.

The mandatory review of your project for the criteria required by the Public Health Law may determine that the proposal is not approvable. Therefore, prior to entering into any contractual commitments or commencing construction, the final determination of the Director of the Office of Health Systems Management or the Public Health and Health Planning Council must be obtained.

If you have any questions regarding this project, please do not hesitate to contact me or my staff at (518) 402-0911.

Sincerely,



Barbara DelCogliano
Director
Bureau of Project Management

Enclosure
BD/MRC/nm

IMPORTANT NOTICE

TO: Applicants

FROM: Bureau of Project Management

SUBJECT: Additional Information Concerning the Processing of Your
CON Application

All correspondence from the Department of Health (DOH) will be directed to the contact person identified in this application. Should the contact person change during processing, written notification should be made to the Bureau of Project Management. Please identify all subsequent submissions (correspondence, plans, additional information, etc.) with the assigned project number.

You may receive requests for additional information from DOH. Please respond within the time frame noted to assure that further processing is not delayed. You may also voluntarily submit any additional information which you believe might facilitate the review of your proposal, unless specific deadlines have otherwise been established. If timely, the submission of additional information will not result in a disruption of the processing of the application unless such information represents a substantial change in the proposal, thereby revising the project. If your application is required to be presented at the Public Health and Health Planning Council, the transmission of additional information must be received sufficiently in advance of the application's presentation to enable distribution and review, since it is the desire of DOH not to defer action on applications that are scheduled for council meetings.

Questions or comments with respect to this application should be addressed to the Bureau of Project Management at (518) 402-0911.

Revised: 12/30/2010

AFFILIATION AGREEMENT

BY AND AMONG

**MOHAWK VALLEY NETWORK, INC.,
FAXTON-ST. LUKE'S HEALTHCARE,
VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC.,
MOHAWK VALLEY HOME CARE, LLC,
SENIOR NETWORK HEALTH, LLC,
ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC.
FAXTON-ST. LUKE'S HEALTHCARE FOUNDATION**

AND

ST. ELIZABETH MEDICAL CENTER

AND

CERTAIN OTHER PARTIES FOR THE LIMITED PURPOSES STATED HEREIN

Effective October 3, 2013

AFFILIATION AGREEMENT

This AFFILIATION AGREEMENT (this “**Agreement**”) is made effective as of the 3rd day of October, 2013 (the “**Execution Date**”), by and among MOHAWK VALLEY NETWORK, INC., a New York not-for-profit corporation having its executive offices at 1656 Champlin Avenue, Utica, New York 13413 (“**MVN**”), FAXTON-ST. LUKE’S HEALTHCARE, a New York not-for-profit corporation having its executive offices at 1656 Champlin Avenue, Utica, New York 13413 (“**FSL**”), VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC., a New York not-for-profit corporation having its executive offices at 1650 Champlin Avenue, Utica, New York 13413 (“**VNA**”), MOHAWK VALLEY HOME CARE, LLC, a New York limited liability company having its executive offices at 1650 Champlin Avenue, Utica, New York 13413 (“**Mohawk Valley Home Care**”), SENIOR NETWORK HEALTH, LLC, a New York limited liability company having its executive offices at 1650 Champlin Avenue, Utica, New York 13413 (“**Senior Network Health**”), ST. LUKES HOME RESIDENTIAL HEALTHCARE FACILITY, INC., a New York not-for-profit corporation having its executive offices at 1650 Champlin Avenue, Utica, New York 13413 (“**St. Luke’s Home**”), FAXTON-ST. LUKE’S HEALTH CARE FOUNDATION, a New York not-for-profit corporation having its executive offices at 1650 Champlin Avenue, Utica, New York 13413 (“**Faxton Foundation**”), and ST. ELIZABETH MEDICAL CENTER, a New York not-for-profit corporation having its executive offices at 2209 Genesee Street, Utica, New York 13501 (“**SEMC**”), and, for the limited purposes of agreeing to Section 3.2, ARTICLE IV and ARTICLE XI, the MAJOR SUPERIOR AND COUNCILORS OF THE SISTERS OF ST. FRANCIS OF THE NEUMANN COMMUNITIES, SYRACUSE, NEW YORK (the “**Sisters of Saint Francis**”), a religious corporation with an address of 2500 Grant Boulevard, Suite 302, Syracuse, New York 13208, and PARTNERS IN FRANCISCAN MINISTRIES, INC., a New York not-for profit corporation with an address of 2500 Grant Boulevard, Suite 302, Syracuse, New York 13208 (“**PFM**”). Each of the foregoing is sometimes referred to herein as a “**Party**” and collectively as the “**Parties**”. FSL and SEMC are sometimes referred to herein collectively as the “**Hospitals**” and, separately, each as a “**Hospital**”.

RECITALS

WHEREAS, FSL is a New York not-for-profit, tax exempt corporation that operates a duly licensed general acute care hospital in Utica, New York that provides a wide variety of inpatient and outpatient health care services to the residents and visitors of Oneida County and surrounding counties in New York State; and

WHEREAS, MVN is a New York not-for-profit, tax-exempt corporation that is the sole corporate parent of FSL and VNA and is the sole member of Mohawk Valley Home Care and Senior Network Health; and

WHEREAS, St. Luke’s Home and the Faxton Foundation are Affiliates of FSL because certain officers and/or directors of FSL constitute the members of each of St. Luke’s Home and the Faxton Foundation, and

WHEREAS, MVN, FSL, VNA, Mohawk Valley Home Care, Senior Network Health and the Faxton Foundation are secular organizations without religious affiliation; and

WHEREAS, SEMC is a New York not-for-profit, tax exempt corporation that operates a duly licensed general acute care hospital in Utica, New York that provides a wide variety of inpatient and outpatient health care services to the residents and visitors of Oneida County and surrounding counties in New York State; and

WHEREAS, SEMC is a Catholic organization that pursues a Catholic health care mission under the sponsorship of the Sisters of St. Francis; and

WHEREAS, the Hospitals have concluded that significant benefits would accrue to the communities they serve from an affiliation of FSL and SEMC and their respective affiliates;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and conditions set forth below, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I **DEFINITIONS**

As used in this Agreement, the following terms when capitalized are defined terms and shall have the meanings set forth below:

“**Affiliate**” means, with respect to any corporation or other entity, any entity or entities Controlling, Controlled by, or under common Control with, such corporation or other entity from time to time.

“**Affiliation**” means the transaction contemplated in this Agreement, in which FSL, SEMC and their respective Affiliates will come under the control of MVN, as reconstituted as MVHS, subject, with respect to SEMC, to the PFM Reserved Powers, in accordance with this Agreement.

“**Affiliation Date**” means the date when the Affiliation shall be deemed to be effective in accordance with this Agreement.

“**Agreement**” has the meaning set forth in the preamble and means this Affiliation Agreement.

“**Antitrust Laws**” means the Sherman Anti-Trust Act, as amended, the Clayton Act, as amended, the HSR Act, as amended, the Donnelly Act, as amended, and all other applicable federal and state antitrust, unfair competition, or anti-monopolization Law.

“**Bernadine Catering**” has the meaning set forth in Section 5.3(e).

“**CERCLA**” has the meaning set forth in Section 5.10.

“**Closing**” means the exchange of documents and other events described in Section 8.2 prior to actions that effect the Affiliation.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Control**” (including the terms “**Controlled by**” and “**Controlling**”) means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management and policies of a Person, whether through the ownership of voting securities, membership, by contract, or otherwise.

“**Contracts**” has, for the purposes of Section 5.8 and Section 5.9, the meaning set forth in Section 5.8.

“**Direct Abortion**” has the meaning given to the term under Sections 45 and 50 of the ERD subject to Section 47 of the ERD.

“**Director**” means an individual who serves as a director, trustee or member of the governing board of any entity. References herein to “**Board**” or “**Board of Directors**” shall be deemed to refer to the “Board of Trustees,” “Board of Managers” or other governing body of an entity, as applicable.

“**DNV Healthcare**” means Det Norske Veritas.

“**EEOC**” means the United States Equal Employment Opportunity Commission.

“**ERD**” means the Ethical and Religious Directives for Catholic Healthcare Services, as amended from time-to-time, as the same may be interpreted by the Bishop of the Roman Catholic Diocese of Syracuse.

“**Execution Date**” has the meaning set forth in the preamble to this Agreement.

“**Existing NDA**” means that certain Confidentiality/Non-Disclosure Agreement, dated November 22, 2011, by and between FSL and SEMC.

“**Faxton Foundation**” has the meaning set forth in the preamble to this Agreement.

“**FSL**” has the meaning set forth in the preamble to this Agreement.

“**FSL Affiliates**” means VNA, Mohawk Valley Home Care, Senior Network Health, SLM Medical Office Building, Inc., Paraffin, LLC, Network Data Systems, LLC, St. Luke’s Home, the Faxton Foundation and any other entity that is directly or indirectly Controlled by or under common Control with FSL.

“**FSL Board**” means the Board of Directors of FSL.

“**Governmental Authority**” means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or

quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction.

“**Hospitals**” and “**Hospital**” has the meaning set forth in the preamble to this Agreement.

“**HSR Act**” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

“**Indemnified Party**” has the meaning set forth in Section 9.2(a).

“**Indemnifying Party**” has the meaning set forth in Section 9.2(b).

“**Initial MVHS Bylaws**” has the meaning set forth in Section 3.1(b)(8).

“**Law**” means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any Governmental Authority.

“**Member**” means an individual or entity designated as a member of a not-for-profit corporation in the corporation’s certificate of incorporation and/or bylaws, with all the rights and privileges accorded members under the New York Not-for-Profit Corporation Law, as the same may be modified by the certificate of incorporation or bylaws of such corporation.

“**Mohawk Valley Health System**” means the health care system formed by the Affiliation of FSL, SEMC and their respective Affiliates when MVN, as reconstituted pursuant to this Agreement as MVHS, becomes the controlling Member of SEMC subject to the PFM Reserved Powers and the other terms and conditions of this Agreement.

“**MVHS**” means Mohawk Valley Health System, which shall be MVN as reconstituted contemporaneously with the Closing pursuant to this Agreement.

“**MVHS Active Parent Affiliates**” means VNA, Mohawk Valley Home Care, Senior Network Health, and St. Luke’s Home.

“**MVHS Board**” means the Board of Directors of MVHS.

“**MVHS Reserved Powers**” means the governance and management powers reserved by each of FSL and SEMC to MVN, as reconstituted as MVHS pursuant to this Agreement, as described in ARTICLE IV of this Agreement.

“**MVN**” has the meaning set forth in the preamble to this Agreement.

“**Perra Employment Agreement**” has the meaning set forth in Section 3.4.

“**Person**” means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association, or other entity.

“**PFM**” has the meaning set forth in the preamble and its successors and assigns.

“**PFM Appointed Director**” has the meaning set forth in Section 3.2(a)(3).

“**PFM Reserved Powers**” means the governance and management powers reserved by SEMC to PFM, or its designee, as described in ARTICLE IV of this Agreement.

“**Planned MVHS Chairperson**” has the meaning set forth in Section 3.1(b)(8).

“**Planned MVHS Director**” and “**Planned MVHS Directors**” have the meanings set forth in Section 3.1(b)(4).

“**Representative**” means, with respect to any Person, any and all Directors, officers, employees, consultants, financial advisors, counsel, accountants, and other agents of such Person.

“**SEMC Affiliates**” means the SEMC Foundation, St. Elizabeth College of Nursing, and any other entity that is directly or indirectly Controlled by or under common control with SEMC, including, without limitation, Bernadine Catering until Bernadine Catering dissolves.

“**SEMC Board**” means the Board of Directors of SEMC.

“**SEMC Church Plan**” means that certain defined benefit pension plan currently sponsored by SEMC, which is the subject of a favorable determination letter dated March 13, 2003 issued by the Internal Revenue Service to the effect that the plan meets the requirements of a “church plan” as defined under ERISA Section 3(33).

“**SEMC Foundation**” means St. Elizabeth Medical Center Foundation, Inc.

“**Senior Network Health**” has the meaning set forth in the preamble to this Agreement.

“**Sisters of Saint Francis**” means the Major Superior and Councilors of the Sisters of St. Francis of the Neumann Communities, Syracuse, New York, which from time-to-time operates under the name of the Sisters of Saint Francis of the Neumann Communities.

“**FSL Appointed Director**” has the meaning set forth in Section 3.2(b)(2).

“**St. Luke’s Home**” has the meaning set forth in the preamble to this Agreement.

“**Tax-Exempt Bonds**” has the meaning set forth in Section 6.12(a).

“**VNA**” has the meaning set forth in the preamble to this Agreement.

ARTICLE II **PURPOSES OF AGREEMENT AND AFFILIATION**

2.1 Purpose of Agreement. The purpose of this Agreement is to set forth the terms and conditions under which FSL and the FSL Affiliates will affiliate with SEMC and the SEMC

Affiliates and form the Mohawk Valley Health System with MVHS as the common active parent of FSL, SEMC, and the MVHS Active Parent Affiliates.

2.2 Purpose of Affiliation. The Hospitals and their respective Affiliates are affiliating in order to enhance the quality of, and access to care in, the communities they collectively serve, to be achieved, in part, by a high degree of governance, management, financial and programmatic integration between the Hospitals and their respective Affiliates.

ARTICLE III **AFFILIATION STRUCTURE AND GOVERNANCE**

3.1 MVHS and Constitution of its Board of Directors.

(a) The Hospitals have determined that the most expedient and economical way in which to create Mohawk Valley Health System and consummate the Affiliation is to transform MVN into MVHS to serve as an active parent for the Mohawk Valley Health System, because MVN currently exists as a New York not-for-profit corporation and has already been recognized as exempt from federal income taxation under Section 501(c)(3) of the Code. The Hospitals intend that the use of MVN as the basis for MVHS is for convenience only, and that use of the MVN corporate shell for MVHS will not result in MVHS being in any way materially different from what it would have been had a new not-for-profit corporation been created to serve the same role as MVN will serve for Mohawk Valley Health System once transformed into MVHS.

(b) As part of the Affiliation, the following changes to MVN's name and governance structure shall become effective as of the Affiliation Date:

(1) MVN's name shall change from "Mohawk Valley Network, Inc." to "Mohawk Valley Health System."

(2) New purposes of MVHS shall replace the current purposes of MVN and they shall be to support FSL and the tax-exempt FSL Affiliates currently supported by MVN as well as SEMC and the tax-exempt SEMC Affiliates. The Affiliation shall cause MVHS to become the active parent corporation of FSL, SEMC, and the MVHS Active Parent Affiliates. In connection with the foregoing, MVHS shall have the MVHS Reserved Powers(described in Article IV).

(3) Subject to Section 3.1(b)(4), the MVHS Board shall be a self-perpetuating board of directors.

(4) Notwithstanding Section 3.1(b)(3), the current Directors of MVN shall resign or be removed and shall be replaced by the initial MVHS Board which shall consist of eighteen (18) Directors, eight (8) of whom shall be selected initially by FSL and eight (8) of whom shall be selected initially by SEMC. The president of the medical staff of FSL and the president of the medical staff of SEMC shall each serve *ex officio* as a voting director of MVHS. In addition to such initial Directors, the Chief Executive Officer of MVHS shall serve *ex officio* as a non-voting Director of MVHS. To facilitate the Affiliation, the current Directors of MVN shall appoint the initial MVHS Board on or immediately prior to the Affiliation Date. Pursuant

to the terms of this Section, the Hospitals agree that the individuals listed on **Schedule 3.1(b)(4)** attached hereto, which includes designations as to which Hospital selected each such individual to serve as a Director, shall serve as the initial Directors of MVHS beginning on the Affiliation Date (each a “**Planned MVHS Director**” and, collectively, the “**Planned MVHS Directors**”). In the event that any Planned MVHS Director is unwilling or unable to assume his or her position as a Director of MVHS prior to the Affiliation Date, the Hospital that selected such Planned MVHS Director shall have the right to appoint a replacement to serve as of the Affiliation Date. After the Affiliation Date, however, the MVHS Board shall be self-perpetuating in accordance with Section 3.1(b)(3) and any and all future Director vacancies on the MVHS Board shall be filled by the remaining Directors of MVHS; provided, however, that the MVHS Board must always continue to include at least two physicians as Directors.

(5) To establish the rotation of Directors, the MVHS Directors shall be divided into four (4) classes having initial terms of one (1) year, two (2) years, three (3) years and four (4) years respectively. The initial Directors shall be assigned to the four (4) classes in a manner that results in each class having an equal number of people from among the Directors who were selected by FSL and the Directors who were selected by SEMC. The class assignment for each of the Planned MVHS Directors is indicated on **Schedule 3.1(b)(4)**, and any replacement for or successor to a particular Planned MVHS Director or any successor thereto shall be assigned to the same class to which his or her predecessor was assigned.

(6) When the staggered terms of the classified Directors of MVHS as set forth in Section 3.1(b)(5) subsequently expire, their successors shall be appointed to serve for terms of four (4) years, up to a maximum of three (3) successive full four-year terms; provided, however, that prior service on the Boards of MVN, SEMC, FSL, any SEMC Affiliate or any FSL Affiliate or otherwise prior to the Affiliation Date shall not be included when determining term limits.

(7) The changes to the MVN’s name, purpose and Board described above shall be memorialized in and accomplished through the filing of a Restated Certificate of Incorporation of MVN with the New York State Department of State substantially in the form attached hereto as **Exhibit 3.1(b)(7)**.

(8) The initial Chairperson of the MVHS Board shall be designated by SEMC and shall serve an initial term of one (1) year. The agreed upon initial Chairperson of the MVHS Board is identified on **Schedule 3.1(b)(8)** attached hereto (the “**Planned MVHS Chairperson**”). In the event that the Planned MVHS Chairperson is unwilling or unable to assume the position of Chairperson of the MVHS Board prior to the Affiliation Date, his or her replacement shall be selected by SEMC before the Affiliation Date or, if SEMC has designated no replacement by the Affiliation Date, then by the Directors on the initial board of MVHS selected by SEMC. The other officers of the initial MVHS Board shall be elected by the initial MVHS Board at its organizational meeting in accordance with the initial bylaws of MVHS, which shall be substantially in the form attached hereto as **Exhibit 3.1(b)(8)** (the “**Initial MVHS Bylaws**”). On the first and second anniversaries of the Affiliation Date, the initial Directors selected by SEMC who remain on the MVHS Board shall select the chairperson to serve for a term of one (1) year. Thereafter, the full MVHS Board shall have full power to elect or remove the Chairperson of the MVHS Board in its discretion.

(9) The manner in which the MVHS Board will be constituted and changed from time to time, together with details regarding the schedules of its meetings, the appointment of its officers and committees and other governance provisions, are set forth in the Initial MVHS Bylaws, as may be amended from time to time following the Affiliation Date.

3.2 Changes in the Governance of SEMC and FSL.

(a) As part of the Affiliation, the governance structure of SEMC shall be amended in the following manner effective as of the Affiliation Date:

(1) MVHS shall become SEMC's predominate Member and PFM shall become a co-Member of SEMC.

(2) SEMC shall reserve to MVHS the MVHS Reserved Powers and shall reserve to PFM the PFM Reserved Powers.

(3) The SEMC Board shall be reconstituted so that the members of the MVHS Board, other than the Chief Executive Officer of MVHS, shall serve *ex officio* with full voting power on the SEMC Board along with one additional Director of the SEMC Board, with full voting power, appointed by PFM (the "**PFM Appointed Director**"). The initial PFM Appointed Director to be appointed by PFM is identified on **Schedule 3.2(a)(3)**. If the PFM Appointed Director identified on **Schedule 3.2(a)(3)** is unwilling or unable to assume the position of Director with the SEMC Board prior to the Affiliation Date, PFM shall select a replacement to the PFM Appointed Director. In addition to the right to replace the PFM Appointed Director prior to the Affiliation Date, PFM shall also have the right to remove at any time the PFM Appointed Director and replace the PFM Appointed Director with a new individual not serving concurrently on the MVHS Board. For purposes of determining the initial length of term, election dates and term limits, the PFM Appointed Director shall be treated as if he or she were a member of the fourth class of Directors of the MVHS Board on the SEMC Board and shall therefore serve an initial four (4) year term beginning as of the Affiliation Date and be subject to the same term limits to which the Directors serving on the MVHS Board are subject. For the avoidance of doubt, prior service on the Boards of MVN, SEMC, FSL, any SEMC Affiliate, any FSL Affiliate, or otherwise prior to the Affiliation Date shall not be included when determining term limits of the PFM Appointed Director.

(4) In addition to the voting members of the SEMC Board described in Section 3.2(a)(3), the Chief Executive Officer of MVHS shall serve as an *ex officio*, non-voting Director of SEMC.

(5) To facilitate the transition described in Section 3.2(a)(3) of the SEMC Board, SEMC and PFM shall request that the SEMC Directors in office immediately prior to the Affiliation Date submit their resignations, effective as of the Affiliation Date, and shall remove or arrange for the removal of any Director who does not so resign; provided, however, that such resignation or removal shall not preclude any member of the SEMC Board prior to the Affiliation Date from sitting on the reconstituted SEMC Board either through such individual's position on the MVHS Board or as the PFM Appointed Director.

(6) The Chairperson of the MVHS Board and any other officers of the MVHS Board shall serve *ex officio* as officers of the SEMC Board in the same office as they occupy on the MVHS Board.

(7) The Chief Executive Officer and the President of MVHS shall serve *ex officio* in the same positions with SEMC.

(8) Upon the dissolution of SEMC, its assets shall, after paying or making provision for the payment of all of the liabilities of SEMC, dispose of all of the assets of SEMC to PFM and/or the Congregation of the Sisters of St. Francis of the Neumann Communities (“Sisters”), provided that they shall then qualify under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law). If neither PFM nor the Sisters shall so qualify at the time of dissolution, then distribution shall be to such organization(s) organized and operated exclusively for charitable, education, religious or scientific purposes as shall at the time qualify as an exempt organization under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law), as SEMC shall determine.

(9) The governance changes described above shall be memorialized and accomplished through the filing of a Restated Certificate of Incorporation of SEMC with the New York State Department of State substantially in the form attached hereto as **Exhibit 3.2(a)(9)(A)** and the adoption of restated bylaws substantially in the form attached hereto as **Exhibit 3.2(a)(9)(B)**.

(b) As part of the Affiliation, the governance structure of FSL shall be amended in the following manner on or before the Affiliation Date:

(1) MVHS shall be the sole Member of FSL. For the avoidance of doubt, PFM, contrary to its role with SEMC, will not be a co-Member of FSL and shall not have or exercise any reserved governance or management powers of FSL.

(2) FSL shall reserve to MVHS the MVHS Reserved Powers.

(3) The FSL Board shall be reconstituted so that the members of the MVHS Board, other than the Chief Executive Officer of MVHS, shall serve *ex officio* with voting power on the FSL Board along with one additional Director of the FSL Board, with full voting power, appointed by such *ex officio* Directors (the “**FSL Appointed Director**”). The initial FSL Appointed Director is identified on **Schedule 3.2(b)(3)**. If the FSL Appointed Director identified on **Schedule 3.2(b)(3)** is unwilling or unable to assume the position of Director with the FSL Board prior to the Affiliation Date, his or her replacement shall be selected by FSL. On or after the Affiliation Date, the FSL Directors serving *ex officio* on the FSL Board (due to their positions with the MVHS Board) shall also have the right to remove at any time the FSL Appointed Director and replace the FSL Appointed Director with a new individual not serving concurrently on the MVHS Board.. For purposes of determining the initial length of term, election dates and term limits, the FSL Appointed Director shall be treated as if he or she is a member of the fourth class of Directors of the MVHS Board on the FSL Board and shall therefore serve an initial four (4) year term beginning as of the Affiliation Date and be subject to

the same term limits to which the Directors on the MVHS Board are subject. For the avoidance of doubt, prior service on the Boards of MVN, SEMC, FSL, any SEMC Affiliate, any FSL Affiliate, or otherwise prior to the Affiliation Date shall not be included when determining term limits of the FSL Appointed Director.

(4) In addition to the voting members of the FSL Board described in Section 3.2(b)(3), the Chief Executive Officer of MVHS shall serve as an *ex officio*, non-voting Director of FSL.

(5) To facilitate the transition of the FSL Directors described in Section 3.2(b)(3), FSL and MVN shall request that the Directors in office immediately prior to the Affiliation Date submit their resignations, effective as of the Affiliation Date, and shall remove or arrange for the removal of any Director who does not so resign; provided, however, that such resignation or removal shall not preclude any member of the FSL Board prior to the Affiliation Date from sitting on the reconstituted FSL Board either through such individual's position on the MVHS Board or as the Special FSL Director.

(6) The Chairperson of the MVHS Board and any other officers of the MVHS Board shall serve *ex officio* as officers of the FSL Board in the same office as they occupy on the MVHS Board.

(7) The Chief Executive Officer and the President of MVHS shall serve *ex officio* in the same positions with FSL.

(8) Upon dissolution of FSL, all the remaining assets and property of FSL shall, after paying or making provision for the payment of all of the liabilities of FSL, be distributed to MVHS, VNA, and/or St. Luke's Home, provided that they shall then qualify under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law). If none of MVHS, VNA or St. Luke's Home shall so qualify at the time of dissolution, then distribution shall be made to such other organization or organizations that are organized and operated exclusively for religious, charitable, educational or scientific purposes as shall at the time qualify as an exempt organization or organizations under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law).

(9) The governance changes described above shall be memorialized in and accomplished through the filing of a Restated Certificate of Incorporation of FSL with the New York State Department of State substantially in the form attached hereto as Exhibit 3.2(b)(9)(A) and the adoption of restated bylaws substantially in the form attached hereto as Exhibit 3.2(b)(9)(B).

3.3 Governance of the Affiliates and the SEMC Church Plan.

(a) The Boards of the SEMC Affiliates and the FSL Affiliates, other than the MVHS Active Parent Affiliates, shall remain unchanged, subject to any resignations and removals that may occur on or before the Affiliation Date in the ordinary course. The Boards of the MVHS Active Parent Affiliates shall be composed of the same individuals as compose the MVHS Board. The composition of each Board of the SEMC Affiliates and the FSL Affiliates as of the Execution Date is as set forth on Schedule 3.3(a) attached hereto.

(b) On the Affiliation Date, MVN and the MVHS Active Parent Affiliates shall file restated certificates of incorporation or certificates of change, as applicable, in substantially the forms reflected on **Exhibit 3.3(b)(1)** and adopt restated bylaws or operating agreements, as applicable, of the MVHS Active Parent Affiliates in substantially the forms set forth on **Exhibit 3.3(b)(2)** and to make any and all other necessary or appropriate filings with, or obtain any necessary consents from, any other Governmental Authorities necessary or convenient to insert MVHS as the sole, active parent with the Reserved Powers of each such MVHS Active Parent Affiliate.

(c) On the Affiliation Date, the Faxton Foundation, FSL, and MVN shall cause, with the cooperation of the current Members of the Faxton Foundation, the filing of (i) a Restated Certificate of Incorporation for the Faxton Foundation in substantially the forms reflected on **Exhibit 3.3(c)(1)** with the New York State Department of State and the adoption of restated bylaws in substantially the forms reflected on **Exhibit 3.3(c)(2)** and (ii) any and all other necessary or appropriate filings with any other Governmental Authorities necessary or convenient to cause FSL to become the sole Member of the Faxton Foundation in compliance with all applicable Law.

(d) The SEMC Church Plan shall retain the requirement that its pension committee share common religious bonds and convictions with the Roman Catholic Church.

3.4 Management of the Mohawk Valley Health System. The current President and Chief Executive Officer of MVN and FSL, Scott H. Perra, shall continue to serve as President and Chief Executive Officer of MVHS. In furtherance thereof, at the Closing, Scott H. Perra, MVHS, FSL and SEMC shall enter into an employment agreement in a form mutually agreed to by all of the parties thereto (the “**Perra Employment Agreement**”). In accordance with Section 3.2(a)(7) and Section 3.2(b)(7) Scott H. Perra shall serve as the President and Chief Executive Officer of FSL and SEMC. The Hospitals shall continue to work in good faith during the pendency of the Affiliation to fill open leadership positions with the most qualified personnel and to prepare for the integration of like operating entities of the two systems.

3.5 Medical Staffs of FSL and SEMC.

(a) The medical staff of FSL and SEMC will remain separate and shall be governed by their respective medical staff bylaws, rules, regulations, policies, and procedures existing as of the Affiliation Date.

(b) The Hospitals recognize and agree that medical staff integration must be physician driven. While not mandated by the terms and conditions of the Affiliation, the Hospitals will encourage the medical staffs of FSL and SEMC to consider mirroring medical staff bylaws, common credentialing processes, where appropriate, and other actions that may enhance service delivery or centers of excellence.

3.6 Capitalization of MVHS. MVHS shall have a budget and sufficient operating funds to function independently in order to accomplish its corporate purposes, mission, vision, and values. Subject to Section 6.9, the Hospitals intend that MVHS will receive funds for ongoing operations from any one or a combination of sources, consistent with the requirements of the

Code applicable to tax exempt organizations, including, without limitation, (a) MVHS's operations; (b) contributions from FSL, SEMC, any FSL Affiliate, or any SEMC Affiliate; and (c) assessment of reasonable corporate fees for the value of services rendered to FSL, SEMC, the FSL Affiliates, and the SEMC Affiliates. MVHS shall determine and assess contributions from FSL, SEMC, the FSL Affiliates, and the SEMC Affiliates in a fair and equitable manner and, at all times, in compliance with Section 6.9.

ARTICLE IV **RESERVED AND RETAINED POWERS**

4.1 Reserved Powers Relating to FSL and the MVHS Active Parent Affiliates.

(a) As reflected on **Exhibits 3.2(b)(9)(A)** and **3.2(b)(9)(B)** with respect to FSL and as reflected on **Exhibits 3.3(b)(1)** and **3.3(b)(2)** with respect to the MVHS Active Parent Affiliates, but subject in all respects to Section 4.1(b) and Section 4.3, the certificate of incorporation and bylaws of FSL, VNA and St. Luke's Home and the articles of organization and operating agreements of Mohawk Valley Home Care and Senior Network Health shall be amended effective as of the Affiliation Date to delegate the following governance and management powers to MVHS, which shall be in addition to all other rights and powers of membership provided to MVHS under the Law of the State of New York:

(1) To approve and interpret the statement of mission and philosophy adopted by FSL and the MVHS Active Parent Affiliates, to require that FSL and the MVHS Active Parent Affiliates operate in conformance with their mission and philosophy and to coordinate the missions, visions, activities and resources of FSL and the MVHS Active Parent Affiliates in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas;

(2) To elect or appoint, fix the number of, and remove, with or without cause, the directors of FSL and the MVHS Active Parent Affiliates, and to appoint and remove, with or without cause, the President/Chief Executive Officer of FSL and the MVHS Active Parent Affiliates. Notwithstanding the foregoing, the FSL Board shall be entitled to appoint and remove, with or without cause, one additional director to the FSL Board who does not currently serve on the MVHS Board;

(3) To amend or repeal the Certificate of Incorporation and Bylaws or Articles of Organization and Operating Agreement, as applicable, and to adopt any new or restated Certificate of Incorporation, Bylaws, Articles of Organization, or Operating Agreements, of FSL or the MVHS Active Parent Affiliates;

(4) To approve any plan of merger, consolidation, dissolution or liquidation of FSL or any of the MVHS Active Parent Affiliates;

(5) To approve the debt of FSL or any of the MVHS Active Parent Affiliates in excess of an amount to be fixed from time to time by MVHS;

(6) To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of FSL or any of the MVHS Active Parent Affiliates in excess of an amount to be fixed from time to time by MVHS;

(7) To approve the capital and operating budgets of FSL and the MVHS Active Parent Affiliates;

(8) To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to FSL or the applicable MVHS Active Parent Affiliate;

(9) To approve any corporate reorganization of FSL or any of the MVHS Active Parent Affiliates and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of FSL or any of the MVHS Active Parent Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of FSL or any of the MVHS Active Parent Affiliates;

(10) To approve and coordinate the strategic plans of FSL and the MVHS Active Parent Affiliates;

(11) To the extent applicable, to approve all contracts of reimbursement for FSL or any of the MVHS Active Parent Affiliates from governmental or private third party insurers;

(12) To the extent applicable, to approve all applications of FSL or any of the MVHS Active Parent Affiliates to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;

(13) To the extent applicable, to approve management contracts for FSL or any of the MVHS Active Parent Affiliates subject to approval and/or regulation under the laws and regulations of the State of New York;

(14) To approve any material change in the services offered by FSL or any of the MVHS Active Parent Affiliates;

(15) To require FSL and the MVHS Active Parent Affiliates to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require FSL or any of the MVHS Active Parent Affiliates to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which FSL or such MVHS Active Parent Affiliate is a party and by which it is bound; and

(16) To accept delegations of authority on behalf of FSL and the MVHS Active Parent Affiliates pursuant to Section 701 of the Not-for Profit Corporation Law or Section 401 of the New York Limited Liability Company Law, as applicable, and exercise on behalf of FSL and the MVHS Active Parent Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of FSL and the MVHS Active Parent Affiliates and to maintain a

single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of FSL and the MVHS Active Parent Affiliates pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law or the Limited Liability Company Law, as applicable, and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

(b) For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the FSL and the MVHS Active Parent Affiliates without a prior recommendation of the FSL Board or the MVHS Active Parent Affiliates Boards; and (ii) the power to accept, reject or modify the recommendation of the FSL Board or the MVHS Active Parent Affiliates Boards and to direct action by FSL or the MVHS Active Parent Affiliates or to return the matter to the FSL Board or the MVHS Active Parent Affiliates Boards for reconsideration, with reasons for rejection and/or suggested change. The FSL Board and officers and the MVHS Active Parent Affiliates Boards and officers shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the FSL Board or the MVHS Active Parent Affiliate Boards.

4.2 Reserved Powers Relating to SEMC.

(a) As reflected on **Exhibits 3.2(a)(9)(A)** and **3.2(a)(9)(B)**, but subject in all respects to Section 4.2(b), Section 4.2(c), and Section 4.3, the certificate of incorporation and bylaws of SEMC shall be amended effective as of the Affiliation Date to delegate the following governance and management powers to MVHS, which shall be in addition to all other rights and powers of membership provided to MVHS as a Member under the Law of the State of New York:

(1) Except as otherwise set forth herein, to approve and interpret the statement of mission and philosophy adopted by SEMC, to require that SEMC operate in conformance with its mission and philosophy and to coordinate the mission, vision, activity and resources of SEMC in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, MVHS shall not have the power to approve or interpret those elements of SEMC's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of SEMC's Catholic mission and philosophy;

(2) To elect or appoint, fix the number of, and remove, with or without cause, the directors of SEMC, and to appoint and remove, with or without cause, the President/Chief Executive Officer of SEMC. Notwithstanding the foregoing, PFM shall be entitled to appoint and remove, with or without cause, the one additional director designated by PFM to the SEMC Board of Directors who does not currently serve on the MVHS Board;

(3) To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation or Bylaws of SEMC;

(4) To approve any plan of merger, consolidation, dissolution or liquidation of SEMC;

(5) To approve the debt of SEMC in excess of an amount to be fixed from time to time by MVHS;

(6) To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of SEMC in excess of an amount to be fixed from time to time by MVHS. Notwithstanding the foregoing, the approval of PFM shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of SEMC in excess of an amount to be fixed from time to time by PFM, to meet the requirements of the United States Conference of Catholic Bishops;

(7) To approve the capital and operating budgets of SEMC;

(8) To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to SEMC;

(9) To approve any corporate reorganization of SEMC and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the SEMC, including but not limited to subsidiary corporations, partnerships, or joint ventures of SEMC;

(10) To approve and coordinate the strategic plans of SEMC;

(11) To approve all contracts of reimbursement for SEMC from governmental or private third party insurers;

(12) To approve all applications of SEMC to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;

(13) To the extent applicable, to approve management contracts for SEMC subject to approval and/or regulation under the laws and regulations of the State of New York;

(14) To approve any material change in the services offered by SEMC;

(15) To require SEMC to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require SEMC to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which SEMC is a party and by which it is bound, and may not require SEMC to participate in any program or service which would be contrary to SEMC's status as a Catholic organization or the pursuit of its Catholic mission or philosophy, as determined by PFM, in its sole discretion; and

(16) To accept delegations of authority on behalf of SEMC pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of SEMC the authority to accept, utilize, transfer and share in the assets, revenues and income of SEMC and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of SEMC pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at FSL or at any FSL Affiliate which are proscribed by the ERD shall not be transferred to or used for the benefit of MVHS, SEMC or any affiliate of SEMC and neither MVHS nor SEMC shall provide or support such services maintained by FSL or any FSL Affiliate.

(b) For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by SEMC without a prior recommendation of the SEMC Board; and (ii) the power to accept, reject or modify the recommendation of the SEMC Board and to direct action by SEMC or to return the matter to the SEMC Board for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, MVHS shall not direct any action with respect to SEMC that requires the approval of PFM without prior written approval of such action by PFM. The SEMC Board shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the SEMC Board and, in the case of any powers over SEMC that are also reserved to PFM, to PFM.

(c) Notwithstanding anything in this Section 4.2 to the contrary, as reflected on **Exhibits 3.2(a)(9)(A)** and **3.2(a)(9)(B)**, the certificate of incorporation and bylaws of SEMC shall be amended effective as of the Affiliation Date to delegate the following governance and management powers to PFM:

(1) To approve and interpret those elements of SEMC's statement of mission and philosophy adopted by SEMC that relate to SEMC's status as a Catholic organization or the pursuit of SEMC's Catholic mission and philosophy, and any amendments thereof, and to require SEMC to operate in conformance with its Catholic mission and philosophy;

(2) To approve any amendment of SEMC's purposes or powers in its Certificate of Incorporation that would terminate SEMC's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the ERD;

(3) To approve the sale, transfer, mortgage, guaranty, pledge or other alienation of real or personal property of SEMC in excess of an amount to be fixed from time to time by PFM to meet the requirements of the United States Conference of Catholic Bishops;

(4) To approve and reject appointments to the Pension Committee for the SEMC Church Plan;

(5) To approve any amendments or modifications to, or the termination of, the SEMC Church Plan; and

(6) To elect or appoint and remove, with or without cause, one director of SEMC who does not currently serve on the Board of MVHS.

For the purposes of the foregoing, the power of PFM to “approve” means the power to accept or reject a recommendation of the SEMC Board or an action by MVHS or any future Members of SEMC with respect to the powers reserved to PFM. The SEMC Board and officers of SEMC or MVHS or any future Members of SEMC shall not implement any action requiring the approval of PFM until PFM shall have exercised its reserved powers and communicated its determination in writing to SEMC’s other Members and the SEMC Board.

4.3 Retained Powers of FSL, FSL Affiliates, SEMC, and SEMC Affiliates. Except as specifically reserved to MVHS by FSL or the MVHS Active Parent Affiliates or to PFM by SEMC, or to FSL by the FSL Affiliates, other than the MVHS Active Parent Affiliates, or to SEMC by the SEMC Affiliates, as applicable, all the affairs, property, business, and policies of FSL, the FSL Affiliates, SEMC and the SEMC Affiliates shall be under the charge, control, and direction of their respective Boards. Neither this Agreement, nor their respective certificates of incorporation, bylaws, articles of organization, or operating agreements, as applicable and as amended, shall be deemed to affect the fiduciary duties and responsibilities of their respective Directors and officers. Further, MVHS shall not exercise the MVHS Reserved Powers in any way that would cause FSL or the FSL Affiliates or SEMC or the SEMC Affiliates to violate their respective charitable purposes or the covenants of their respective debt documents or any other written agreements in effect as of the Affiliation Date.

ARTICLE V **REPRESENTATIONS AND WARRANTIES**

As a condition of this Agreement, FSL and the MVHS Active Parent Affiliates, jointly and severally, for themselves and for each of their Members and other FSL Affiliates, on the one hand, and SEMC for itself and for each of its Members and other SEMC Affiliates, on the other hand, represent and warrant to one another that the statements set forth in this ARTICLE V are true and correct as of the Execution Date:

5.1 Authority to Enter Into Agreement; Enforceability.

(a) The Hospital and each of its Affiliates that is a Party has obtained or has full corporate power and authority to enter into and to carry out the terms and provisions of this Agreement and the transactions contemplated hereby, including, without limitation, the Affiliation, and does not need the further approval or consent of any Person, except as provided in Section 7.1.

(b) All organizational proceedings have been taken and all organizational authorizations have been obtained by the Hospital and each of its Affiliates that is a Party that are necessary to authorize its execution, delivery and performance of this Agreement; and this Agreement is a legal, valid and binding obligation of the Hospital and each of its Affiliates that is a Party and is enforceable according to its terms, subject to applicable bankruptcy,

reorganization, insolvency, moratorium, or other similar laws affecting creditors' rights generally and subject, as to enforceability, to general principles of equity.

5.2 Organization and Standing. The Hospital and each of its Affiliates is duly organized, validly existing and in good standing under the Laws of the State of New York, and has all requisite legal power and authority to own, lease, and operate its properties and to carry on its business as it is now being conducted.

5.3 Subsidiaries and Investments.

(a) The Hospital and its Affiliates have no Affiliates or subsidiaries except for Mohawk Valley Endoscopy Center, LLC, Mohawk Valley Heart Institute, Inc., those Affiliates explicitly listed in the definition of its Affiliates in ARTICLE I, and those entities set forth on **Schedule 5.3(a)**.

(b) Neither the Hospital nor any of its Affiliates has any investment in any entity other than in Mohawk Valley Endoscopy Center, LLC, Mohawk Valley Heart Institute, Inc., and its Affiliates disclosed in ARTICLE I except for (i) publicly traded companies in which it holds less than a five percent (5%) equity interest and (ii) the entities set forth on **Schedule 5.3(b)** attached hereto.

(c) Neither the Hospital nor any of its Affiliates is a Member of another not-for-profit corporation other than the not-for-profit corporation Affiliates disclosed in ARTICLE I and those referenced in Section 5.3(b).

(d) Neither the Hospital nor any of its Affiliates is a party to any joint venture or other similar arrangement with any physician or other health care providers except for Mohawk Valley Endoscopy Center, LLC, Mohawk Valley Heart Institute, Inc., and as set forth on **Schedule 5.3(d)**.

(e) FSL and MVN acknowledge that Bernadine Catering, Inc., a New York corporation ("**Bernadine Catering**"), is in the process of being dissolved and shall not be included in the definition of "SEMC Affiliates" set forth in ARTICLE I upon such dissolution.

5.4 Financial Statements. Each Hospital has provided the other Hospital with the audited consolidated balance sheets and income statements of itself and its Affiliates for the three (3) most recent fiscal years for which audited statements are available, together with its and its Affiliates' most recent unaudited balance sheet and income statement. The foregoing financial statements: (a) are in accordance with its books and records and (b) fairly present its financial condition and result of operations as of the dates and for the periods indicated in accordance with generally accepted accounting principles applied on a consistent basis except as may be noted therein and except that the unaudited financial statements omit footnotes and certain other disclosure and presentation items and are subject to period-end adjustments which will not be materially different in type or amount from those in prior years. Each Hospital and their respective Affiliates on a consolidated basis have no material liabilities or obligations, whether contingent or absolute, direct or indirect, or matured or unmatured, except such as are shown or provided for in the most recent of such financial statements, have occurred in the ordinary course of business, or are disclosed on **Schedule 5.4** attached hereto.

5.5 Litigation. There are no suits, actions, or legal, administrative, arbitration, or other proceedings or governmental investigations pending, filed, or initiated by, or to the best of its knowledge, threatened against or directly involving the Hospital or its Affiliates that may materially and adversely affect their operations, financial condition or ability to perform hereunder except as has been disclosed on **Schedule 5.5** attached hereto.

5.6 Compliance with Laws and Other Instruments. To the best of its knowledge, the business and operations of the Hospital and its Affiliates have been and are being conducted substantially in accordance with all applicable Laws, the violation of which, individually or taken together, would materially and adversely affect the business or operations of the Hospital or any of its Affiliates. Except for Laws that commonly apply to licensed health care providers in New York and matters reflected in the financial statements referred to in Section 5.4, neither the Hospital nor any of the Hospital's Affiliates is subject to any restriction of any kind or character which may materially and adversely affect the business or operations of such entities. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, including, without limitation, the Affiliation, will conflict with or result in a material violation or breach of any term or provision of, or constitute a default under, the certificate of incorporation, bylaws, articles of organization, operating agreements, or other governing documents of the Hospital or any of its Affiliates, or any applicable Law, or any indenture, mortgage, lease, contract, agreement, instrument, commitment, or other arrangement to which the Hospital or any of its Affiliates is a party or by which it is or may be bound.

5.7 Insurance. The Hospital and its Affiliates have continuously maintained and currently maintain fire, casualty, liability, professional liability, and all other insurance coverage necessary in their businesses and operations. Such insurance coverage shall include the property, business, and operations of each entity in amounts and against losses and risks such as are generally maintained for comparably situated businesses.

5.8 Agreements and Commitments. The Hospital has delivered to the other Hospital an accurate list of all commitments, contracts, leases and agreements to which the delivering Hospital or any of its Affiliates is a party or to which any of them is bound, which require the Hospital to make payments in excess of \$100,000 annually and which do or may materially affect the Hospital or any of its Affiliates, or the operation of any of their assets, including, without limitation, (i) physician agreements, (ii) agreements with health maintenance organizations, preferred provider organizations, or other alternative delivery systems, (iii) joint venture, partnership, limited liability company, or operating agreements, (iv) employment agreements, (v) tenant leases, (vi) equipment leases, (vii) equipment maintenance agreements, (viii) agreements with Governmental Authorities, (ix) agreements with labor organizations, (x) loan agreements, bonds, mortgages, liens, or other security agreements, (xi) patent licensing agreements or any other agreements, licenses or commitments with respect to patents, patent applications, trademarks, trade names, service marks, technical assistance, or copyrights, and (xii) agreements, licenses or commitments relating to data processing programs, software, or source codes (all of the foregoing are referred to collectively as the "**Contracts**" in this Section and in Section 5.9). The Hospital has made available to the other Hospital true and correct copies of the Contracts (unless doing so was reasonably believed to cause compliance issues under Antitrust Law or other applicable Law) or has given to Representatives of the other Hospital access to the originals of the Contracts.

5.9 Contracts.

(a) To the best knowledge of the Hospital, the Contracts to which they are respectively a party constitute valid and legally binding obligations of the parties thereto and are enforceable in accordance with their terms.

(b) The Contract documents made available to the other Hospital or the other Hospital's Representative constitute the entire agreement by and between the respective parties thereto.

(c) To the best knowledge of the Hospital, all obligations required to be performed under the terms of each of the Contracts have been performed in all material respects, no act or omission has occurred or failed to occur which, with the giving of notice, the lapse of time or both would constitute a default under the Contracts and each of such Contracts is now and will be upon and after the Affiliation Date in full force and effect without default on the part of the parties thereto.

5.10 Environmental Laws. Except as may be identified on **Schedule 5.10** attached hereto, to the best knowledge of the Hospital and its Affiliates: (i) their real property, whether owned, leased or otherwise occupied, is not subject to environmental liability and (ii) such real property and appurtenances thereto (including, without limitation, underground storage tanks) are not in violation of applicable Laws pertaining to environmental matters, including, without limitation, violations of the Comprehensive Environmental Response, Compensation and Liability Act as amended ("CERCLA"), the Resource Conservation and Recovery Act, the Solid Waste Disposal Act and the New York State Environmental Conservation Law, including the Inactive Hazardous Waste Sites Act. To the best knowledge of the Hospital, no Hazardous Substance or petroleum (which for purposes of this Section shall mean and include "hazardous substance" as it is defined in Section 101(14) of CERCLA, and shall include "pollutants" and "contaminants" as defined in Section 101(33) of CERCLA; and petroleum shall mean petroleum as defined in Section 172(15) of the New York Navigation Law) has been disposed of on, or released to, or discharged from or onto such real property (including groundwater) in violation of any applicable environmental statute, regulation or ordinance except as may be identified on **Schedule 5.10** attached hereto. The Hospital believes that the assets and/or physical plant of the Hospital and/or its Affiliates may contain asbestos and/or lead paint, but the Hospital further believes that any such substances are being managed in accordance with acceptable practices and applicable Law.

5.11 Licenses and Permits. The Hospital and its Affiliates have all necessary licenses and permits required to carry on their affairs and operations and operate all of their properties as they are now being conducted, except for licenses and permits the absence or loss of which does not or would not have a material adverse effect on the Hospital and its Affiliates collectively, and no condition exists, to the best of its knowledge, which with the passage of time or the giving of notice to the appropriate Governmental Authority, could cause such licenses or permits to be modified, limited or revoked, except to the extent such modification, limitation or revocation does not or would not have a material adverse effect on the Hospital and its Affiliates collectively.

5.12 Tax-Exempt Status. Except as set forth on **Schedule 5.12** attached hereto, the Internal Revenue Service has determined that the Hospital and each of its not-for-profit Affiliates is an organization exempt from tax under Section 501(a) of the Code, and is described in Section 501(c)(3) of the Code and that neither the Hospital nor any of its not-for-profit Affiliates is a “private foundation” within the meaning of Section 509(a) of the Code. The Internal Revenue Service has not taken, or to the best of the Hospital’s knowledge, proposed to take, any action to revoke the tax-exempt status of such Hospital or any of its not-for-profit Affiliates and has not announced, or to the best of its knowledge proposed to announce, that such Hospital or any of its not-for-profit Affiliates is a “private foundation” within the meaning of Section 509(a) of the Code. Further, except as set forth on **Schedule 5.12**, such Hospital is not aware of any change in the organization or operation of itself or any of its not-for-profit Affiliates, which, to the best of its knowledge, could result in a loss of its status as an organization described in Section 501(c)(3) of the Code or which could cause it or a not-for-profit Affiliate to be treated as a “private foundation” within the meaning of Section 509(a) of the Code. Each Affiliate of the Hospital that is a limited liability company is a disregarded entity for tax purposes.

5.13 Employee Benefit Plans.

(a) To the extent required, each employee pension benefit plan established or maintained by the Hospital or any of its Affiliates has been maintained in compliance with the “minimum funding standards” under Section 302 of ERISA and Section 412 of the Code. Except as disclosed or reflected in the financial statements, no such employee pension benefit plan has a material unfunded accumulated benefit obligation based on generally accepted accounting principles as of the last evaluation date for such plan. The Hospital and its Affiliates have not been a participating employer in a “multi-employer plan” (as defined under ERISA Section 3(37) and have not incurred any material liability to the Pension Benefit Guaranty Corporation (other than for premiums). To the best of the Hospital’s knowledge, there are no “reportable events” or “prohibited transactions” with respect to any such plan, as those terms are defined in Section 4043 of ERISA and Section 4975 of the Code, respectively, which could result in any material liability. Except as disclosed or reflected in the financial statements, the Hospital and its Affiliates have no material unfunded liability to provide medical or life insurance benefits to its retirees except as may be required under Section 4980B of the Code. Each employee benefit plan of the Hospital and its Affiliates that is subject to ERISA or the Code has been maintained, funded, and administered in all material respects within the requirements of ERISA and the Code.

(b) Notwithstanding Section 5.13(a), FSL and each MVHS Active Parent Affiliate acknowledges that SEMC has a significant unfunded liability in the SEMC Church Plan, but that as a “church plan” under Section 3(33) of ERISA, the SEMC Church Plan is not currently subject to the requirements of ERISA.

5.14 Employee Relations. Except as set forth on **Schedule 5.14**, there is no pending or, to the best knowledge of the Hospital and its Affiliates, threatened employee strike, work stoppage, or labor dispute involving employees of such Hospital or its Affiliates. To the best knowledge of the Hospital and its Affiliates, except as set forth on **Schedule 5.14** attached hereto, no union representation question exists respecting their employees. No collective bargaining agreement exists or is currently being negotiated by the Hospital or its Affiliates except as set forth on

Schedule 5.14. No demand has been made for recognition by a labor organization by or, with respect to any employees of the Hospital or its Affiliates, no union organizing activities by or with respect to any employees of the Hospital or its Affiliates are, to their best knowledge, taking place except as set forth on **Schedule 5.14.** Except as set forth on **Schedule 5.14,** none of the employees of the Hospital or its Affiliates is represented by any labor union or organization. To the best of the Hospital’s knowledge, neither the Hospital nor any of its Affiliates is engaged in any unfair labor practices. Except as set forth on **Schedule 5.14,** there are no pending or, to the best knowledge of the Hospital, threatened: (a) wage and hour claims, unemployment compensation claims or workers’ compensation claims other than in the ordinary course of business; or (b) EEOC or state equal opportunity or human rights claims, pertaining to present or prior employees of the Hospital or its Affiliates.

5.15 Taxes.

(a) Each Hospital and each of its Affiliates has filed on or before the Affiliation Date (or will timely file) all tax returns required to be filed pursuant to the Code or applicable state Law, and any return, report or similar statements required to be filed with respect to any federal, state or local income, gross receipts, gains, windfall profits, severance, property, production, sales, use, license, excise, franchise, employment, unemployment compensation, payroll, withholding, alternative or add-on minimum, estimated, ad valorem, business or occupation, transfer, registration, stamp or environmental tax, or any other tax, custom, duty, governmental fee, or other like assessment or charge of any kind whatsoever, together with any interest or penalty, addition to tax or additional amount imposed by any Governmental Authority.

(b) Further, to the best of the Hospital’s knowledge, all such returns are complete and accurate and disclose all taxes required to be paid by the Hospital or any of its Affiliates for the periods covered thereby, and all taxes owed by such Hospital or Affiliate and required to be paid on or before the Affiliation Date have been (or will be) paid or the Hospital or Affiliate is currently contesting such taxes in good faith. To the best of the Hospital’s knowledge, if such Hospital or Affiliate is tax exempt, it has no “unrelated taxable income” as defined in Section 512 of the Code which could have a material adverse effect on its status as an organization exempt from tax under Section 501(a) of the Code, and there are no liens for taxes upon the assets of such Hospital or Affiliate except liens relating to current taxes not yet due.

5.16 Medicare and Medicaid. No Affiliate of the Hospital that is a licensed provider of health care services: (a) is engaged in termination proceedings as to its participation in Medicare or Medicaid or has received notice that its current participation, if any, in Medicare or Medicaid is subject to any contest, termination or suspension as a result of alleged violations or any noncompliance with participation requirements; or (b) fails to meet the conditions for participation in the Medicare and Medicaid programs or is not in material compliance with all billing requirements of such program. There is not any pending, or, to the best knowledge of the Hospital, threatened proceeding or investigation under such programs involving any of the matters which are the subject of this Section.

5.17 Accreditation. Each Affiliate of the Hospital that is a licensed hospital is accredited by DNV Healthcare. No Hospital or any of its Affiliates has received notice from DNV Healthcare

with respect to the suspension, revocation, or termination of such accreditation, nor is such Hospital aware of the proposed or threatened issuance of any such notice.

5.18 Severance Plans and Agreements. The Hospital and its Affiliates have not, since January 1, 2013, adopted any severance plan applicable to management employees, or entered into any employment contract with management personnel, except as furnished to the other Hospital and listed on **Schedule 5.18** attached hereto.

5.19 Maintenance of Exclusivity. As of the Execution Date, the Hospital has no commitments or understandings with any third party with respect to any other affiliation, merger, consolidation, partnership, joint venture, or other restructuring of its corporate system that would prevent or require a material change in the Affiliation contemplated by this Agreement.

5.20 Brokers. None of the Hospital or any of its Affiliates has engaged a broker, finder, or investment banker entitled to any brokerage or finder's fee or commission in connection with the Affiliation generally, this Agreement, or the Closing.

5.21 Exclusion Screening. Except to the extent that the failure to do so has not had and could not reasonably be contemplated to have a material adverse effect on the business or finances of the Hospital or its Affiliates, all individuals and entities that have been employed by or have contracted with the Hospital and its Affiliates for the last six (6) years were appropriately screened against Medicare and Medicaid exclusion databases.

5.22 Material Misstatements or Omissions. No representations or warranties by the Hospital contained in this Agreement or in any document, statement, certificate or schedule furnished or to be furnished by the Hospital under this Agreement contains or will contain any untrue statement of a material fact or omits to state a material fact necessary to make the statements and facts contained therein not materially misleading.

ARTICLE VI **COVENANTS AND OTHER AGREEMENTS**

From the Execution Date through the Affiliation Date, the Parties agree to the following covenants:

6.1 Interim Conduct of Business. The Parties acknowledge and agree that SEMC is in the process of causing Bernadine Catering to be dissolved, which dissolution may be completed prior to the Affiliation Date. Subject to the foregoing, each Party shall use its best efforts and shall cause each of its Affiliates to use its best efforts, from the Execution Date to the Affiliation Date, to:

- (a) preserve, protect, and maintain its businesses, properties, and assets;
- (b) operate its businesses collectively as a going concern consistent with prior practices;
- (c) maintain its books of account in the usual, regular, and ordinary manner in accordance with generally accepted accounting principles consistently applied;

(d) preserve the good will of all individuals having business or other relations with them, including physicians, employees, patients, volunteers, customers, and suppliers;

(e) prepare all documents and take all actions provided for by this Agreement and required to complete the Affiliation;

(f) keep in full force and effect all present insurance policies or other comparable insurance pertaining to its assets;

(g) not create, assume or permit to exist any new debt, mortgage, pledge, or other lien or encumbrance of any assets in an amount exceeding One Million Dollars (\$1,000,000), whether now owned or hereafter acquired, except in the ordinary course of business, without giving prior written notice to the other Hospital or the Hospital with which it is not currently affiliated, as applicable;

(h) not acquire (whether by purchase or lease) or sell, assign, lease, or otherwise transfer or dispose of any cash, cash equivalents, property, plant, or equipment, except in the ordinary course of business, without giving prior written notice to the other Hospital or the Hospital with which it is not currently affiliated, as applicable; and

(i) not amend its corporate documents with respect to membership, board composition, manner of election, or reserved powers, other than such changes as are expressly provided for in this Agreement, without written notice to, and consent of, the other Hospital or the Hospital with which it is not currently affiliated, as applicable.

6.2 Representations and Warranties. Each Party covenants and agrees, for itself and its Affiliates, that between the Execution Date and the Affiliation Date, except with the prior written consent of the other Hospital, each such Party will use all commercially reasonable efforts to refrain from performing or omitting to perform any act, which act or omission would cause any of the representations and warranties in this Agreement to be untrue if made as of the Affiliation Date. Each Hospital shall promptly notify the other Hospital of any lawsuits, claims, administrative actions, or other proceedings asserted or commenced against it, any of its Affiliates, or any of the Hospital's or Affiliates' officers, Directors, Members, employees or agents involving in any material way its business, properties, or assets and which, if determined adversely could reasonably be expected to have a material adverse effect on the other Hospital and/or any of such other Hospital's Affiliates. Each Hospital shall promptly notify the other Hospital in writing of any facts or circumstances that come to the Hospital's attention and that the Hospital reasonably believes cause, or through the passage of time may cause, any of the representations and warranties contained in ARTICLE V to be false, inaccurate, or misleading.

6.3 Access to Information.

(a) **Books, Records and Property.** Prior to the Closing, the Hospitals and their respective Representatives, will continue to conduct a review and examination of the legal status, financial condition and the operations and activities of the other Hospital and the other Hospital's Affiliates. In so doing, each Hospital shall give, and shall cause its Affiliates to give, Representatives of the other Hospital access, during normal business hours, to such properties, books, records, contracts, and other documents pertaining to the business, properties, and assets

of the Hospital and/or its Affiliates as may be reasonably requested and appropriate in order for each Hospital to perform its due diligence review and its obligations under this Agreement, to the extent not prohibited by the Antitrust Laws or any other applicable Laws.

(b) **Personnel.** Prior and through the Closing, the Hospitals shall make commercial best efforts to make their and their Affiliates' officers and employees available as reasonably requested by the other Hospital to confer with Representatives of the other Hospital regarding the Hospital's and its Affiliates' operations and legal status, except to the extent that any such conference may be prohibited by the Antitrust Laws or any other applicable Laws.

(c) **Changes.** Except as would violate Antitrust Laws or any other applicable Laws, each Hospital shall cooperate in keeping the other Hospital informed and shall promptly provide notice to the other Hospital of any material change in the normal course of business or prospects of the business of the Hospital and/or its Affiliates, including but not limited to, the following: (a) any material change in financial condition, operations, assets, liabilities, or business or accounting practices; (b) any material change in compliance with any law, regulation, order, or other requirement affecting their respective businesses or assets and promulgated by any Governmental Authority; (c) any notice of investigation or deficiency citation from any regulatory agency or accrediting body; and (d) any actual or threatened claim or litigation by or against the Hospital or its Affiliates that may materially and adversely affect their operations, financial status, or ability to perform hereunder.

6.4 Exclusivity. While this Agreement remains in effect, neither Hospital shall, and shall cause its Affiliates and Representatives not to, solicit, initiate, encourage, or accept offers from any Person not affiliated with the other Hospital as of the Execution Date or their respective Representatives regarding an affiliation, merger, consolidation, partnership, joint venture, or corporate restructuring of any kind, without first disclosing such proposed discussions, negotiations, or agreements to and receiving consent from the other Hospital.

6.5 Confidentiality and Public Statements.

(a) The Existing NDA remains in effect according to its terms and applies to the terms and conditions of this Agreement unless and until superseded by a successor confidentiality or non-disclosure agreement. By executing this Agreement, the parties hereto that did not execute the Existing NDA agree to be bound by the terms and conditions of the Existing NDA.

(b) No Hospital may and each Hospital shall cause its Affiliates not to, disclose or make any statement about the existence or contents of this Agreement or the terms and conditions of the Affiliation to any third party, not including Representatives and except as required by Law, without the prior written consent of the other Hospital. The content and forum of all public statements and press releases, unless otherwise required by Law, shall be mutually agreed to by the Hospitals.

(c) To the extent commercially reasonable, each Hospital shall notify the other in advance of the timing, content, and context of any public announcement or press release

concerning the ongoing operations of itself or its Affiliates, but no prior consent of the other Hospital shall be required for such public communications.

6.6 Costs and Expenses

(a) Except as provided for in Section 6.6(c), each Hospital shall bear its own costs and expenses of implementing the Affiliation and the terms of this Agreement including the costs and expenses of due diligence and feasibility reviews it conducts of itself and its own Affiliates, and of the other Hospital and its Affiliates, and the preparation, negotiation, and approval of implementing documentation. Such costs and expenses to be borne by the Hospitals individually shall include, but not be limited to, the fees and disbursements of their respective legal and other consultants whom they retain to advise them individually in such matters.

(b) Each Hospital shall assume the cost of responding to all reasonable due diligence information requests of the other Hospital in connection with the Affiliation, including, but not limited to, making its own documents and those of its Affiliates available to the other Hospital, providing copies of the same as reasonably requested by the other Hospital and providing personnel time involved in responding to requests for information.

(c) The Hospitals shall engage joint consulting, management, legal, and financial advisors whenever practicable in evaluating and implementing the Affiliation, and they hereby agree to share equally the filing fees and other fees that are required by applicable Law to obtain local, state, or federal regulatory approval of the Affiliation, including, without limitation, such fees required to be paid in connection with the filing of the Notification and Report Form for Certain Mergers and Acquisitions pursuant to the HSR Act, any other Antitrust Law compliance issues, and certificate of need applications with the New York State Public Health and Health Planning Council and the New York State Department of Health, and the costs and expenses described on **Schedule 6.6(c)** attached hereto, and any and all other costs incidental to the foregoing. Except as otherwise provided herein, the Hospitals shall share all joint costs equally. Obligations of the Hospitals for payment of such shared expenses shall survive the termination of this Agreement for any reason.

6.7 Satisfaction of Closing Conditions. The Parties shall, and shall cause their Affiliates to, use their best efforts: (i) to obtain all required approvals, consents and waivers from, and to give all required notifications to, Governmental Authorities, lenders and other third parties having authority to approve or the right to be notified of the Affiliation; (ii) to obtain any other approvals, consents or waivers and give any other notifications that may be desirable for the consummation of the Affiliation; (iii) to satisfy all other conditions precedent prescribed in Section 7.1; and (iv) to complete the Closing described in Section 8.2 through the delivery of all the documents required to be delivered thereat, prior to February 28, 2014.

6.8 Prohibited Services. MVHS, FSL and MVN, on behalf of themselves and the MVHS and/or FSL Affiliates, agree that, after the Affiliation Date and while the Affiliation is in effect, they shall not perform Direct Abortions or physician-assisted suicides, if applicable Law shall ever legally permit them, while there exists a qualified, New-York-State-licensed facility that provides such services within the demographic areas served by FSL or SEMC. For avoidance of doubt, nothing herein is intended, nor shall it be interpreted, to preclude FSL or its Affiliates

from providing health care services that are proscribed by the ERD other than Direct Abortions or physician-assisted suicides, if applicable Law shall ever legally permit them.

6.9 Separate Accounting. After the Affiliation Date and while the Affiliation is in effect, FSL shall separately account for any services permitted under this Agreement but proscribed by the ERD. Proceeds from such services shall not be transferred to or used for the benefit of MVHS, SEMC, or any subsidiary of SEMC. SEMC and MVHS agree not to receive any such proceeds or use any such proceeds for the benefit of SEMC, MVHS, or any subsidiary of SEMC.

6.10 Optional Withdrawal by FSL. When and if the Affiliation has occurred, FSL reserves the right, on behalf of itself and all of its Affiliates, in its sole discretion, to withdraw from the Affiliation, and SEMC shall reasonably cooperate with such withdrawal, should any of the following occur:

(a) there shall no longer be a qualified, New-York-State-licensed facility that provides Direct Abortions or physician-assisted suicide services, should such services become legal for FSL to perform, within the primary service areas served by FSL or SEMC;

(b) such other service providers of the services described in Section 6.10(a) shall become incapable to serve the needs of all patients in the primary service area of FSL and SEMC; or

(c) the ERD, as it currently exists, shall expand or be modified in a manner, which, in the reasonable judgment of the FSL Board or the MVHS Board, would create additional material restrictions on the services provided at FSL than would exist under this Agreement if the Affiliation Date were the same day as the Execution Date and such additional material restrictions are unacceptable to the FSL Board or the MVHS Board as determined by a majority vote of the applicable Board..

(d) It is the intent of the Parties that upon the withdrawal of FSL and the FSL Affiliates in accordance with this Section 6.10, to the maximum extent feasible, the Parties shall be restored to the relationships that they had to one another immediately prior to the Affiliation Date and to the governance structure that FSL and SEMC had prior to the Affiliation.. In connection with any termination of the Affiliation pursuant to this Section 6.10 or otherwise, the Parties agree to cooperate with one another and to make appropriate arrangements to unwind the Affiliation, the division of assets from any shared programs, and the satisfaction of any regulatory requirements imposed on any Party in connection with the termination of the Affiliation. Any assets acquired jointly by FSL and SEMC shall be divided in a manner that first takes into account any specific provisions that may exist in a separate agreement with respect to such assets or programs and, if there is none, the Parties shall consider in good faith, and on an asset by asset and a program by program basis, how to divide such assets and programs, in order that, as a whole, neither FSL nor SEMC will be placed at any substantial competitive disadvantage relative to the other. The Parties do not intend that an unwinding of the Affiliation automatically shall result in the discontinuation of any shared programs or contracts as of the date of this Agreement or thereafter between the Hospitals and/ or departments of the Hospitals and that instead, the Hospitals shall review independently of the unwinding, each of the shared

programs and contracts for continuation, taking into account the terms of their existing contracts, the needs of the patients of the Hospitals, and the communities served by the Hospitals.

6.11 No Transfer of Assets or Assumption Liabilities.

(a) The Parties acknowledge and agree that neither Hospital nor any of its Affiliates by operation of this Agreement shall transfer or be deemed to have transferred any of its assets to the other Hospital or its Affiliates.

(b) The Parties acknowledge and agree that neither Hospital nor any of its Affiliates by operation of this Agreement is assuming or shall become responsible for any liability, obligation, agreement, claim or any other commitment of any kind, nature or description, of the other Hospital or any of the other Hospital's Affiliates, including, without limitation, any pension or other employee benefit liability of the SEMC Church Plan or otherwise. Any such liability, obligation, agreement, claim or other commitment of a Hospital that is asserted against another Hospital shall be subject to indemnification in accordance with ARTICLE IX, provided, however, that the threshold for indemnification described in Section 9.3 shall not apply in such circumstance.

6.12 Non-Hospital Tax-Exempt Bond Financed Facilities.

(a) Each Hospital acknowledges that past financings of non-hospital facilities owned or operated by such Hospital or its Affiliates through the issuance of bonds the interest on which is excludable from gross income for federal income tax purposes (“**Tax-Exempt Bonds**”), which are considered non-hospital bonds within the meaning of Section 145(b) of the Code, will result in such bonds being included for purposes of calculating the permitted amounts of non-hospital bonds which may be issued on behalf of any entity included within the Mohawk Valley Health System from and after the Affiliation Date for the purpose of financing or refinancing capital expenditures incurred on or prior to August 5, 1997. The Hospitals agree, therefore, that no Tax-Exempt Bonds which are not “qualified hospital bonds,” within the meaning of Section 145(c) of the Code, will be issued after the Affiliation Date for the benefit of any entity included within the Mohawk Valley Health System for the purpose of financing or refinancing capital expenditures incurred on or prior to August 5, 1997 unless such entity has obtained (i) the prior consent of MVHS and (ii) an approving opinion of nationally recognized bond counsel acceptable to MVHS and in form and substance acceptable to MVHS to the effect that such bonds constitute Tax-Exempt Bonds.

(b) The Hospitals agree that after the Affiliation Date no entity included within the Mohawk Valley Health System will either (i) change the use of any existing facility financed with the proceeds of Tax-Exempt Bonds or (ii) undertake any action which could adversely affect the exclusion of the interest on the Tax-Exempt Bonds from gross income for federal income tax purposes, except as may be permitted under the applicable Bond documents, and only with the prior consent of MVHS. In all other cases, no such change in use or action shall be permitted or undertaken without the prior consent of MVHS and without first (1) obtaining an opinion of nationally recognized bond counsel acceptable to MVHS to the effect that such change in use or action will not result in such bonds no longer being Tax-Exempt Bonds, or (2)(i) causing such bonds to be retired or taking such other action approved by MVHS as may be,

in the opinion of nationally recognized bond counsel acceptable to MVHS, necessary in order to ensure that such bonds will continue to constitute Tax-Exempt Bonds following such change in use or action, and (ii) obtaining an opinion of such bond counsel to the effect that such change in use or action will not result in such bonds not being Tax-Exempt Bonds during any period prior to such change in use or action.

(c) Each Hospital acknowledges that for the time period prior to and including the Execution Date, such Hospital has complied with all requirements of the Code and related Treasury Regulations necessary in order for the interest payments on any Tax-Exempt Bond issued to finance any facilities owned or operated by such Hospital of its Affiliates to remain excludable from gross interest for federal income tax purposes.

ARTICLE VII **CONDITIONS PRECEDENT TO CLOSING**

7.1 Conditions Precedent. All obligations of each Party under this Agreement with respect to the Closing are subject to the fulfillment to its satisfaction of each of the following conditions:

(a) The representations and warranties of the other Hospital and its Affiliates contained in this Agreement and any certificate or other writing delivered pursuant hereto shall be true and correct in all respects (in the case of any representation or warranty qualified by materiality or material adverse effect) or in all material respects (in the case of any representation or warranty not qualified by materiality or material adverse effect) on and as of the Execution Date and on and as of the date of the Closing with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects).

(b) The other Hospital and its Affiliates shall have performed and complied in all material respects with all covenants and conditions required by this Agreement to be performed or complied with prior to or on the date of Closing.

(c) There shall have been no material adverse change in the financial condition, business, or operations of any Hospital or its Affiliates taken collectively from the date of their most recent financial statements provided hereunder through the date of the Closing.

(d) No suit or action against Hospital or its Affiliates, nor any investigation, inquiry, or proceeding by any Governmental Authority, nor any legal or administrative proceeding shall have been instituted, or to the best of any Hospital's knowledge threatened, on or before the Affiliation Date which:

- (1) questions or challenges the validity or legality of the Affiliation;
- (2) seeks to enjoin the Affiliation;
- (3) seeks material damages on account of the Affiliation; or
- (4) has resulted prior to the date of Closing in criminal indictments or prosecution, or in written notification by any Governmental Authority that criminal indictments

will be sought or criminal prosecution will be commenced, against a Hospital, its Affiliates(s), and/or their employee(s) relating to the discharge of their duties for a Hospital or its Affiliates.

(e) To the best of any Hospital's knowledge, no change shall have occurred or been announced or proposed after the Execution Date and prior to the date of Closing in the Law of any Governmental Authority that might reasonably be expected to affect the consummation of the Affiliation materially and adversely.

(f) The filings of each Hospital pursuant to the HSR Act shall have been made and the applicable waiting period and any extensions thereof shall have expired or been terminated and no judicial action or other proceeding shall have been instituted by any Governmental Authority, including, without limitation, the Federal Trade Commission, the U.S. Department of Justice, or the New York Attorney General's Office or by any other Person before any Governmental Authority, which challenges or seeks to restrain or prohibit the performance of this Agreement under any Antitrust Law.

(g) The certificate of need application required to be filed by the Hospitals with the New York State Public Health and Health Planning Council of the New York State Department of Health shall have been approved.

(h) The Supreme Court of the State of New York and the New York State Attorney General shall have approved of the change in purposes contained in the Restated Certificate of Incorporation of MVN and the Restated Certificate of Incorporation of the Faxton Foundation.

(i) Scott H. Perra shall have executed and delivered the Perra Employment Agreement to be effective as of the Affiliation Date.

(j) MVHS and the Hospitals shall have executed and delivered counterparts to the Perra Employment Agreement.

(k) All other required consents or waivers from Governmental Authorities, and from lenders or other non-governmental third parties, having authority to approve the Affiliation shall have been obtained, and all required notifications of the Affiliation to Governmental Authorities, and to lenders, and other third parties, shall have been given, except for consents, waivers, and notifications the absence of which would not have a material adverse effect on the Hospital or its Affiliates or on the validity or legality of the Affiliation. The Hospitals agree that the Governmental Authorities, lenders and other third parties known as of the Execution Date to have authority to approve the Affiliation or to receive advance notification of the Affiliation, other than approvals and notifications the absence of which would not have a material adverse effect on the Hospital or its Affiliates or on the validity or legality of the Affiliation, are identified in this Section 7.1 or **Schedule 7.1(k)** attached hereto.

(l) The Hospital shall have received from the other Hospital a certificate dated as of the date of the Closing and signed by a duly authorized officer of FSL or SEMC, as applicable, that (i) each of the conditions set forth in Section 7.1(a), Section 7.1(b), and Section 7.1(c) have been satisfied; (ii) that such Hospital and each of its not-for-profit Affiliates continue to be tax exempt under Section 501(c)(3) of the Code; and (iii) that such Hospital has received consents or

waivers from all Governmental Authorities, and all lenders and other non-governmental third parties, which have authority to approve the Affiliation except as permitted by Section 7.1(k)

7.2 Failure to Fulfill Conditions Precedent: Waiver. In the event that any of the conditions set forth in Section 7.1 or elsewhere in this Agreement have not been fulfilled as of the date of Closing, either Hospital may, at its option, by written notice to the other Hospital, render its obligations hereunder null and void, and thereupon this Agreement shall be of no further force or effect whatsoever with respect to either Hospital or its Affiliates, except for provisions that by their express terms survive the termination of this Agreement. By proceeding with the Closing, the Hospitals shall be conclusively deemed to have accepted or waived fulfillment of all of the conditions precedent set forth in this Agreement, unless otherwise provided in writing at such time, but no such acceptance or waiver shall operate as a waiver of any breach of any other covenant or warranty.

ARTICLE VIII

CLOSING AND EFFECTUATION OF AFFILIATION

8.1 Manner and Timing of Effectuation. The Restated Certificates of Incorporation or Articles of Organization, as applicable, of MVN (which will, among other things, cause it to become MVHS), SEMC, FSL, the Faxton Foundation, and the MVHS Active Parent Affiliates, substantially in the forms attached hereto as **Exhibit 3.1(b)(7)**, **Exhibit 3.2(a)(9)(A)**, **Exhibit 3.2(b)(9)(A)**, and **Exhibit 3.3(b)(1)** shall be delivered to the New York State Department of State for filing as soon as practicable after all the required third party approvals, consents or waivers are obtained, all required notices are given, all other conditions precedent are satisfied, and the Closing described in Section 8.2 is completed. The Affiliation Date shall be the first date on which all such Certificates of Amendment shall have been filed with the New York State Department of State. The amended bylaws of MVHS, FSL, and SEMC, including, but not limited to, the Affiliates for which a Certificate of Amendment is not required to be filed hereunder, shall become effective on the Affiliation Date. The filing of the Certificates of Amendment required to be filed under this Agreement and the effectuation of all the amended bylaws shall complete the Affiliation.

8.2 The Closing.

(a) The Closing shall occur as soon as practicable after all the required governmental and other third party approvals, consents, or waivers are obtained, all required notices are given, and all other conditions precedent are satisfied, on such date and at such time and place as the Hospitals may mutually agree in writing.

(b) At the Closing, MVN and FSL shall deliver, or cause to be delivered, to SEMC the following documents:

(1) copies of resolutions of the MVN, FSL, the Faxton Foundation, and the MVHS Active Parent Affiliate's Members and/or Boards, certified by their respective secretaries as having been duly adopted and being in full force and effect, authorizing the execution and performance of this Agreement, including, but not limited to, the amendments of the MVN, FSL,

The Faxton Foundation, and the MVHS Active Parent Affiliates' certificates of incorporation or articles of organization and bylaws or operating agreements, as applicable, in accordance with this Agreement;

(2) good standing certificates from the State of New York, dated no earlier than thirty (30) days prior to the date of the Closing, for MVN, FSL, and each of the FSL Affiliates;

(3) the duly executed counterpart to the Perra Employment Agreement from MVN and FSL as set forth in Section 7.1(j);

(4) a duly executed certificate described in Section 7.1(l) from FSL, the Faxton Foundation and the MVHS Active Parent Affiliates;

(5) copies of restated by-laws for MVHS and restated by-laws or operating agreements, as applicable, for FSL, its Affiliates and the MVHS Active Parent Affiliates; and

(6) such other documents and instruments as SEMC may reasonably require in order to consummate the transactions contemplated by this Agreement, including but not limited to documentary evidence of the satisfaction of the conditions precedent hereto.

(c) At the Closing, SEMC shall deliver, or cause to be delivered, to FSL the following documents:

(1) copies of resolutions of SEMC, PFM, and the Sister of Saint Francis Boards, certified by their respective secretaries or equivalent officers as having been duly adopted and being in full force and effect, authorizing the execution and performance of this Agreement, including but not limited to the amendment of SEMC's certificate of incorporation and bylaws as provided by this Agreement;

(2) good standing certificates from the State of New York, dated no earlier than thirty (30) days prior to the date of the Closing, for PFM, SEMC, and each of the SEMC Affiliates;

(3) the duly executed counterpart to the Perra Employment Agreement from SEMC as set forth in Section 7.1(j);

(4) a duly executed certificate described in Section 7.1(l) from SEMC;

(5) copies of restated by-laws for SEMC; and

(6) such other documents and instruments as FSL may reasonably require in order to consummate the transactions contemplated by this Agreement, including but not limited to documentary evidence of the satisfaction of the conditions precedent hereto.

ARTICLE IX
INDEMNIFICATION

9.1 Indemnification by the Hospitals.

(a) FSL and each MVHS Active Parent Affiliate respectively agree, jointly and severally, to indemnify and hold SEMC and each SEMC Affiliate and their respective Members, Directors, officers, employees, and agents, harmless from and against any and all liabilities, demands, claims, actions, or causes of action, assessments, judgments, losses, costs, damages, or expenses, including, without limitation, reasonable attorney's fees, sustained or incurred by any of them and not otherwise reimbursed by insurance (other than self-insurance) resulting from or arising out of or by virtue of:

(1) any false representation or warranty made herein by MVN (prior to it becoming reconstituted as MVHS), FSL, or any FSL Affiliate, or a breach by MVN (prior to it becoming reconstituted as MVHS), FSL, or any FSL Affiliate of any of the covenants, commitments, or obligations of this Agreement to be performed by any of them; or

(2) any act or omission (including, without limitation, alleged acts or omissions in connection with a claim by a third party) of MVN (prior to it becoming reconstituted as MVHS), FSL, or any FSL Affiliate, or any Member, Director, officer, employee, or agent of MVN (prior to it becoming reconstituted as MVHS), FSL, or any FSL Affiliate which occurred or is alleged to have occurred prior to the Affiliation Date, including, without limitation, malpractice occurring prior to the Affiliation Date, and any debt, obligation, or liability incurred by MVN (prior to it becoming reconstituted as MVHS), FSL or any FSL Affiliate prior to the Affiliation Date and not expressly assumed by SEMC or any SEMC Affiliate in writing.

(b) SEMC agrees to indemnify and save FSL and each FSL Affiliate, and their respective Members, Directors, officers, employees, and agents, harmless from and against any and all liabilities, demands, claims, actions or causes of actions, assessments, judgments, losses, costs, damages, or expenses, including, without limitation, reasonable attorney's fees, sustained or incurred by any of them and not otherwise reimbursed by insurance (other than self-insurance) resulting from or arising out of or by virtue of:

(1) any false representation or warranty made herein by SEMC or any SEMC Affiliate, or a breach by SEMC or any SEMC Affiliate of any of the covenants, commitments, or obligations of this Agreement to be performed by any of them; or

(2) any act or omission (including, without limitation, alleged acts or omissions in connection with a claim by a third party) of SEMC or any SEMC Affiliate, or any Member, Director, officer, employee, or agent of SEMC or any of its Affiliates, which occurred or is alleged to have occurred prior to the Affiliation Date, including, without limitation, malpractice occurring prior to the Affiliation Date, and any debt, obligation, or liability incurred by SEMC or any SEMC Affiliate prior to the Affiliation Date and not expressly assumed by FSL or any FSL Affiliate in writing.

9.2 Notice and Defenses.

(a) For the purposes of this Section, “**Indemnified Party**” shall refer, as the context may require, to (i) FSL and the FSL Affiliate, together with their Members, Directors, officers, employees, and agents; or (ii) SEMC and the SEMC Affiliates, together with their Members, Directors, officers, employees, and agents.

(b) In the event that any claim is asserted against an Indemnified Party as to which such Indemnified Party is entitled to indemnification hereunder, the Indemnified Party shall promptly after learning of such claim notify the entity obligated to indemnify it (the “**Indemnifying Party**”) thereof in writing; provided, however, that the failure of the Indemnified Party to give prompt notice of such claim shall not relieve the obligation of the Indemnifying Party with respect to such claim except to the extent that such delay actually and materially affected the Indemnifying Party’s ability to defend such claim. Except to the extent otherwise provided by the terms of applicable insurance policies (other than self-insurance), the Indemnifying Party shall have the right, upon written notice to the Indemnified Party within twenty-one (21) days after receipt from the Indemnified Party of notice of such claim, to conduct at its expense the defense against such claim in its own name or in the name of the Indemnified Party or, if the Indemnifying Party shall fail to give such notice, it shall be deemed to have elected not to conduct the defense of the subject claim, and in such event the Indemnified Party shall have the right to conduct such defense and to compromise and settle the claim without prior consent of the Indemnifying Party. In the event that the Indemnifying Party elects to conduct the defense of the subject claim, the Indemnified Party shall cooperate with and make reasonably available to the Indemnifying Party such assistance and materials as may be reasonably requested by it, any direct out-of-pocket expense of which shall be borne by the Indemnifying Party, and the Indemnified Party shall have the right at its expense to participate in the defense, provided that the Indemnifying Party shall have the right to compromise and settle the claim only with the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld or delayed. Any judgment entered or settlement agreed upon in the manner provided herein shall be binding upon the Indemnifying Party, and shall be deemed conclusively an obligation with respect to which the Indemnified Party is entitled to indemnification hereunder.

9.3 Threshold for Indemnification. Notwithstanding the provisions of this ARTICLE IX, and except as provided in Section 6.11(b), neither Hospital nor any of its Affiliates shall be obligated to indemnify, defend, hold the other Hospital or its Affiliates harmless from or against any liability, demand, claim, action, cause of action, assessment, judgment, loss, cost, damage, or expense, including, without limitation, attorney’s fees, arising out of any matter identified in Section 9.1 unless the total amount of claimed or actual indemnifiable loss in the aggregate exceeds One Million Dollars (\$1,000,000), and only the loss exceeding that threshold shall be indemnified.

9.4 Exclusions from Indemnification.

(a) Notwithstanding the provisions in Section 9.1, and except as provided in Section 6.11(b), neither FSL and the FSL Affiliates nor SEMC and the SEMC Affiliates shall have any indemnification obligation with respect to any liability, demand, claim, action, cause of action, assessment, judgment, loss, cost, damage, or expense sustained or incurred by an Indemnified Party resulting from or arising out of or by virtue of the structure, organization, implementation, or operation of the Affiliation as expressly provided for in this Agreement.

(b) The right of indemnification shall not inure to the benefit of any Person that is not an Indemnified Party.

9.5 Survival. Notwithstanding anything to the contrary, including but not limited to any examination or investigation and whether a Hospital shall have relied on representations or warranties made by or on behalf of the other Hospital or its Affiliates at any time, all representations and warranties of the Hospitals or their Affiliates contained in this Agreement and related indemnities shall survive the Affiliation Date by a period of two (2) years or until the applicable statute of limitations expires, whichever ends first.

9.6 Exclusive Remedy. The Hospitals acknowledge and agree that the foregoing indemnification provisions in this ARTICLE IX shall be the exclusive remedy of the Hospitals, their Affiliates and all other Indemnified Parties with respect to the transactions contemplated by this Agreement, except that this shall not prohibit any Hospital from applying for or obtaining equitable relief. Without limiting the generality of the foregoing, the Hospitals, on their behalf and on behalf of their Affiliates and all of its other Indemnified Parties, hereby waive any statutory, equitable, or common law rights or remedies relating to any such matters except as set forth in this ARTICLE IX, except for such equitable relief.

ARTICLE X **TERM AND TERMINATION**

10.1 Default. Each Hospital shall have the right to terminate the Agreement prior to the Affiliation Date upon written notice to the other Hospital in the event that the other Hospital or any of its Affiliates defaults in the performance of any material obligation hereunder or if any representation or warranty of the other Hospital or any of its Affiliates is materially false or misleading and the other Hospital fails to correct or satisfy such default or falsity within thirty (30) days after written notice is given to the other Hospital.

10.2 Mutual Consent. This Agreement may be terminated at any time by the written mutual consent of both Hospitals.

10.3 Failure to Consummate Affiliation. In the event that the Closing has not occurred on or before June 30, 2014, either Hospital may terminate this Agreement upon thirty (30) days' prior written notice to the other Hospital; provided, however, that if the Affiliation Date occurs during said thirty-day notice period, the notice of termination shall become null and void, and this Agreement shall continue in full force and effect.

10.4 Cooperation After Termination. If this Agreement is terminated under any of its provisions, the Parties shall cooperate with each other and shall perform all reasonable acts which are required and which are legally permitted and necessary to the timely and orderly unwinding of their impending relationship, including, but not limited to, the return of confidential documents and other information provided to the other Parties.

ARTICLE XI

MISCELLANEOUS

11.1 Notices. Unless otherwise specified by written notice to the other Parties, notices required or permitted to be given under this Agreement shall be addressed as follows:

If to MVN, FSL or any of the MVHS Active Parent Affiliates:	c/o Faxton-St. Luke's Healthcare 1656 Champlin Avenue Utica, New York 13501 Attention: CEO
--	---

If to SEMC:	St. Elizabeth Medical Center 2209 Genesee Street Utica, New York 13501 Attention: CEO
-------------	--

Any notice, demand or request given or required to be given under this Agreement shall be in writing and shall be personally delivered or sent by United States Postal Service certified or registered mail, return receipt requested, postage and registration or certification pre-paid, by Federal Express or similar private overnight delivery service to such address. A notice, demand, or request shall be considered given and received on the first of the following to occur: (i) the date of personal delivery; (ii) two (2) days after the postmark date; (iii) one (1) day after the date appearing on the shipping invoice of Federal Express or similar overnight delivery service; (iv) actual receipt; or (v) the date that delivery is refused upon presentation.

11.2 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Counterpart signature pages to this Agreement transmitted by facsimile transmission, by electronic mail in portable document format (.pdf), or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original signature.

11.3 Integration and Amendments. This Agreement and the Exhibits and Schedules attached hereto contain the entire Agreement of the Parties and supersede all previous agreements among or between the Parties, whether written or oral, express or implied, relating to the subject matter hereof, including but not limited to, the Memorandum of Understanding Faxton-St. Luke's Health Care and St. Elizabeth Medical Center executed by the Hospitals on December __, 2012, but excluding the Existing NDA. Neither this Agreement nor any of its Exhibits or Schedules may be amended except by a writing signed by the Parties.

11.4 Headings. The headings in this Agreement are for convenience of reference only and shall not be used to construe or interpret the provisions hereof.

11.5 Assignment. No Party may assign this Agreement without the prior express written consent of the other Parties. Any attempt to assign this Agreement without such written consent shall be null and void and of no force or effect whatsoever.

11.6 Governing Law. The laws of the State of New York, without giving effect to their conflicts of law principles that would cause another jurisdiction's laws to apply, govern all matters arising out of or relating to this Agreement and all of the transactions it contemplates, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

11.7 Severability. If any provision of this Agreement shall for any reason be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof, and the Agreement shall be construed as if such invalid or unenforceable provision were omitted.

11.8 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

11.9 Waivers. No waiver by a Party of a breach or default hereunder shall be deemed to be a waiver of any repetition of such breach or default or shall be deemed to be a waiver of any other breach or default, nor shall it in any way affect any of the other terms and conditions of this Agreement or the enforceability thereof. No failure of any Party to exercise any power given it hereunder or to insist upon strict compliance by any other Party with any obligation hereunder, and no custom or practice at variance with the terms hereof, shall constitute a waiver of the right of any Party to demand, at any time, strict compliance with the terms hereof.

11.10 Attorneys' Fees. In the event that either Hospital files formal legal action to enforce any of the terms of this Agreement, the prevailing Hospital to such action shall be entitled to reimbursement for such Hospital's expenses, including, without limitation, reasonable attorneys' fees, incurred in such action.

11.11 Remedies. In addition to other remedies available at law or provided for herein, the Hospitals shall be entitled to restrain by injunction the violation, or attempted or threatened violation, of any condition or provision of this Agreement, or to a decree specifically compelling performance of any such condition or provision; provided, however, that neither Hospital may seek injunctive relief to compel the other Hospital to consummate the Affiliation.


11.12 Exhibits and Schedules. The Parties acknowledge and agree that each Exhibit and Schedule attached to this Agreement is an integral part of this Agreement and is incorporated herein and made a part hereof as if set forth in full verbatim.

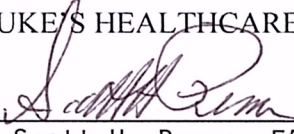
11.13 Construction. The language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction will be applied against any Party. This Agreement shall be deemed to have been prepared jointly by the Parties, and thus shall not be construed against either Hospital as the drafter hereof.


11.14 Knowledge. Whenever any statement herein or in any Exhibit, Schedule, Certificate or other document delivered by a Hospital pursuant to this Agreement is made "to the best of its

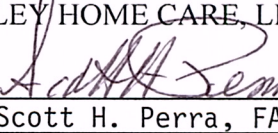
knowledge” or words of similar intent or effect of a Hospital or its representative, such language refers, as of the date the representation is given, to the actual knowledge of the Person to whom such statement is attributed after reasonable investigation. With respect to Persons that are entities, such knowledge is limited to the knowledge of its executive officers. Executive officers for this purpose shall include the chief executive officer, chief financial officer, chief operating officer, and the medical director of corporations that are licensed health care providers.

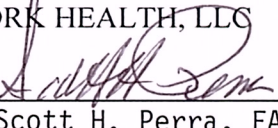
IN WITNESS WHEREOF, the Parties have signed this Agreement to be effective as of the Execution Date.

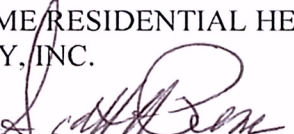
MOHAWK VALLEY NETWORK, INC.
By: 
Name: Scott H. Perra, FACHE
Title: President/CEO

FAXTON-ST. LUKE'S HEALTHCARE
By: 
Name: Scott H. Perra, FACHE
Title: President/CEO

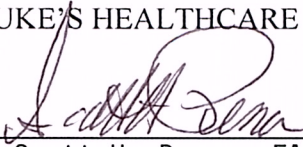
VISITING NURSE ASSOCIATION OF UTICA
AND ONEIDA COUNTY, INC.,
By: 
Name: Scott H. Perra, FACHE
Title: President/CEO

MOHAWK VALLEY HOME CARE, LLC
By: 
Name: Scott H. Perra, FACHE
Title: President/CEO

SENIOR NETWORK HEALTH, LLC
By: 
Name: Scott H. Perra, FACHE
Title: President/CEO

ST. LUKES HOME/RESIDENTIAL HEALTH
CARE FACILITY, INC.
By: 
Name: Scott H. Perra, FACHE
Title: President/CEO

FAXTON-ST. LUKE'S HEALTHCARE
FOUNDATION

By: 
Name: Scott H. Perra, FACHE
Title: President/CEO

ST. ELIZABETH MEDICAL CENTER

By: _____
Name: _____
Title: _____

**FOR THE LIMITED PURPOSES OF AGREEING TO SECTION 3.2, ARTICLE IV and
ARTICLE XI**

PARTNERS IN FRANCISCAN MINISTRIES, INC.

By: _____
Name: _____
Title: _____

MAJOR SUPERIOR AND COUNCILORS
OF THE SISTERS OF ST. FRANCIS OF
THE NEUMANN COMMUNITIES,
SYRACUSE, NEW YORK

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____

FAXTON-ST. LUKE'S HEALTHCARE
FOUNDATION

By: _____
Name: _____
Title: _____

ST. ELIZABETH MEDICAL CENTER

By: Richard Ketcham
Name: Richard Ketcham
Title: President & CEO

**FOR THE LIMITED PURPOSES OF AGREEING TO SECTION 3.2, ARTICLE IV and
ARTICLE XI**

PARTNERS IN FRANCISCAN MINISTRIES, INC.

By: _____
Name: _____
Title: _____

MAJOR SUPERIOR AND COUNCILORS
OF THE SISTERS OF ST. FRANCIS OF
THE NEUMANN COMMUNITIES,
SYRACUSE, NEW YORK

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____

FAXTON-ST. LUKE'S HEALTHCARE
FOUNDATION

By: _____
Name: _____
Title: _____

ST. ELIZABETH MEDICAL CENTER

By: _____
Name: _____
Title: _____

FOR THE LIMITED PURPOSES OF AGREEING TO SECTION 3.2, ARTICLE IV and
ARTICLE XI

PARTNERS IN FRANCISCAN MINISTRIES, INC.

By: Thomas H. Dennis
Name: Thomas H. Dennis
Title: Chair, PFM

MAJOR SUPERIOR AND COUNCILORS
OF THE SISTERS OF ST. FRANCIS OF
THE NEUMANN COMMUNITIES,
SYRACUSE, NEW YORK

By: Sister Roberta Smith 9/30/13
Name: SISTER ROBERTA SMITH
Title: GENERAL MINISTER

By: Sister Geraldine Ching, OSB 9/30/13
Name: SISTER GERALDINE CHING
Title: ASST. GENERAL MINISTER

By: Sister Helen Hoffmann 9/30/13
Name: SISTER HELEN HOFFMANN
Title: GENERAL COUNCILOR / SECRETARY

By: Sister Jeanne Wetsbeck, OSF 9/30/13
Name: SISTER JEANNE WETSBECK
Title: GENERAL COUNCILOR / TREASURER

By: Sister Mary Jo Mattes 9/30/13
Name: SISTER MARY JO MATTES

Title: GENERAL COUNCILOR
By: Master Pamela Alff 9/3/13
Name: MASTER LOUISE ALFF
Title: GENERAL COUNCILOR

TABLE OF SCHEDULES

- 3.1(b)(4) – Planned MVHS Directors
- 3.1(b)(8) – Planned MVHS Chairperson
- 3.2(a)(3) – PFM Appointed Director
- 3.2(b)(3) – Special FSL Director
- 3.3(a) – Current Boards of FSL Affiliates and SEMC Affiliates
- 5.3(a) – Affiliates and Subsidiaries
- 5.3(b) – Investments
- 5.3(d) – Joint Ventures
- 5.4 – Material Liabilities and Obligations
- 5.5 – Litigation
- 5.10 – Environmental Laws
- 5.12 – Tax Exempt Status
- 5.14 – Employee Relations
- 5.18 – Severance Plans and Agreements
- 6.6(c) – Joint Expenses
- 7.1(k) – Consents

**Schedule 3.1(b)(4)
Planned MVHS Directors**

	Name	Role	Designated By	Class
1.	Domenic Aiello, MD	Member	FSL	
2.	Catherine Cominsky	Member	SEMC	
3.	Joan Compson	Member	FSL	
4.	Gregory Evans	Member	SEMC	
5.	Maria Gesualdo, DO	Member	FSL	
6.	Harrison Hummel, III	Member	SEMC	
7.	Todd Hutton, PhD	Member	FSL	
8.	Andrew Kowalczyk, III	Member	SEMC	
9.	Gregory McLean	Member	FSL	
10.	Scott Perra	Ex Officio		
11.	Hon. Norman Siegel	Member	SEMC	
12.	John Sperling, MD	President of the FSL Medical Staff, Ex Officio Voting Member	FSL	
13.	Stephen Sweet	Member	FSL	
14.	Richard Tantillo	Member	FSL	
15.	Symeon Tsoupelis	Member	SEMC	
16.	Mark Warfel, DO, FAAFP	President of the SEMC Medical Staff, Ex Officio Voting Member	SEMC	
17.	Bonnie Woods	Member	FSL	
18.	Eric Yoss, MD	Member	SEMC	
19.	Richard Zweifel	Member	SEMC	

Schedule 3.1(b)(8)
Planned MVHS Chairperson

Hon. Norman I. Siegel

Schedule 3.2(a)(3)
PFM Appointed Director

Thomas H. Dennison

Schedule 3.2(b)(3)
Special FSL Director

To be determined.

Schedule 3.3(a)
Current Boards of FSL Affiliates and SEMC Affiliates

FSL Affiliates:

The current boards of VNA, Mohawk Valley Home Care, Senior Network Health and St. Luke's Home are comprised of:

Richard Tantillo
Domenic Aiello, M.D.
Esther Bankert, PhD, RN
Joan Compson
Leroy Cooley, M.D.
Maria Gesualdo, D.O.
Todd Hutton, PhD
Karen Leach
Gregory McLean
Roger McReynolds
William Parker, M.D.
Scott H. Perra
John Sperling, M.D.
Stephen Sweet
Bonnie Woods

The Current board of SLM Medical Office Building, Inc. is comprised of:

Scott H. Perra, FACHE
Anthony Scibelli, MS, MBA
Michael Haile
Thomas S. Soja, Esq.

The current board of Paraffin, LLC is comprised of:

Scott H. Perra, FACHE
Michael J. Haile, FHFMA
Anthony Scibelli, MS, MBA

The current board of Network Data Systems, LLC is comprised of:

Scott H. Perra, FACHE
Michael Haile, FHFMA
Patricia Roach, MS, RN, NEA

The current board of the Faxton Foundation is comprised of:

Luke Lewis
Harrison Hummel, IV
Don Edmunds
Patrick Knapp, MD
Sam Berardino, III
Blair Jones
Mary Malone McCarthy
Jim Ruffing
Nancy Shaheen, MD
Marolyn Wilson
William R. Wilson

SEMC Affiliates:

The current board of the SEMC Foundation is comprised of:

Terry Mielnicki
William Borrill, Esq.
Stephen Teti
Barbara Falatico Brodock
Marlene Anderson
Donald DeFeo
Reuben Haag
Terry Heintz
John Hobika, Jr.
Joseph Latella
Michael Scaccia

The current board of the St. Elizabeth College of Nursing is comprised of:

Sister Anna Mae Collins, CSJ
Mary Lyons Bradley, BS
Kathleen Horn, MS, RN
Marian Kovatchitch, MS, RN
William Kline, CLU
Elaine Brown, MS, RN
Suzanne Barnes, BS, RN
Richard Ketcham, FACHE
Varinya Sheppard, MS, RN.
Catherine Brownell, PhD, RN
Francis Chabot, MD
Deacon Edward Kernan
Andrea Lazarek-LaQuay, MS, RN, COS-C
Alice Savino
NYS Assemblywoman Claudia Tenney, Atty.
Matthew VanBeveren, Esq.
Louise Dean-Kelly, DNS, FNP-BC, RN

Schedule 5.3(a)
Affiliates and Subsidiaries

None.

Schedule 5.3(b)
Investments

SEMC:

St. Elizabeth Health Support Services
Cooperative Magnetic Imaging

FSL:

Cooperative Magnetic Imaging
New Hartford Scanner

Schedule 5.3(d)
Joint Ventures

SEMC:

Cooperative magnetic Imaging is a joint venture with radiologists.
St. Elizabeth Health Support Services

FSL:

Cooperative Magnetic Imaging and New Hartford Scanner, both of which are joint ventures with radiologists.

Schedule 5.4
Material Liabilities and Obligations

None.

**Schedule 5.5
Litigation**

None.

Schedule 5.10
Environmental Laws

None.

Schedule 5.12
Tax Exempt Status

None.

Schedule 5.14
Employee Relations

FSL and the FSL Affiliates:

1. There are four (4) labor disputes going to arbitration:
 - a. Employee terminated for workplace violence
 - b. Long-term employee demoted from charge nurse position for poor management
 - c. Long-term employee terminated for lying during an investigation
 - d. Employee terminated for excessive absenteeism
2. Union Representation Questions – None.
3. Collective Bargaining Agreements
 - a. Existing
 - i. Communications Workers of America, AFL-CIO, Local 1126
 - ii. Health Care Professional Guild NYSUT, FNHP, AFT LOCAL No. 5115
 - iii. Visiting Nurse Professional Guild
 - b. Under negotiation – there are currently no agreements under negotiation
4. Union Organization Activities – None
5. Employees Represented by Unions
 - a. Faxton St. Luke’s Healthcare
 - i. Union: Communications Workers of America, AFL-CIO, LOCAL No. 1126 represents
 - o Registered Nurses, Licensed Practical Nurses and Technicians
 - b. Visiting Nurses Association of Utica and Oneida County, Inc.
 - i. Union: Health Care Professional Guild NYSUT, FNHP, AFT LOCAL No. 5115 represents
 - o Community Health Nurses, Registered Nurses, Licensed Practical Nurses, and Social Workers
 - c. Visiting Nurses Association of Utica and Oneida County, Inc.
 - i. Union: Visiting Nurse Professional Guild represents
 - o Home Health Aides
6. Pending or Threatened Claims – None.

SEMC and Affiliates:

St. Elizabeth Medical Center has 2 unions representing its employees, United Food & Commercial Workers [Represent two groups of employees] and New York State Nurses Association.

1. Labor Disputes – None.
2. Union Representation Questions – None.
3. Collective Bargaining Agreements
 - a. Existing
 - i. United Food & Commercial Workers – Technical Unit
 - ii. United Food & Commercial Workers – Service and Maintenance Unit
 - iii. New York State Nurses Association
 - b. Under Negotiation – there are no agreements currently under negotiation
4. Union Organization Activities – None.
5. Employees Represented by Unions

United Food & Commercial Workers - Technical Unit

Licensed Practical Nurses, X-ray Technicians, Radiologic Technologists, Nuclear Medicine Technologists, C.A.T. Scan Technologists, Ultrasound Technologists, Medical Technicians (Laboratory), Respiratory Technicians, Surgical Scrub Technicians, Occupational Therapist Assistants, Physical Therapist Assistants, Dietetic Technicians, Anesthesia Technicians and Anesthesia Technicians/LPN, Cath Lab & EKG technicians, Cath Lab Cardio Vascular Technicians, Registered Respiratory Therapists, Electro-Physiology Lab Technicians

United Food & Commercial Workers – Service and Maintenance Unit

Nurse Assistants I and II, Ward Clerks I and II, Psychiatric Assistants, Surgical Assistants, Equipment Technicians, Transporters, Central Service Technicians, Transport Dispatchers, Senior Central Service Technicians, Emergency Department Assistants, Emergency Department Transporter/Sitters, Laboratory Assistants, Dietary Aides, Cooks, Kitchen Helpers, Grill Cooks, Kitchen Cleaners, Bakers, Salad Makers, Stock Persons, Counter Helpers, Nourishment Aides, Maintenance Employees, Painters, Housekeepers II, Utility Workers, Incinerator Operators, Laundry Workers, Linen Inventory Control Clerks, Washers, Patient Registrars, Admissions Receptionists, Switchboard Operators, Radiology Clerks, Specimen Processors, Mail Clerks, Equipment Repair Technicians, College of Nursing Housekeeper, Phlebotomy Instructors, Sterilization Aides, Surgical Core Aides Unit Assistants, Bio-Medical Specialists

New York State Nurses Association

Each full-time, regular part-time and per diem Registered Professional , including staff nurses, senior staff nurses, assistant instructors and instructors, Registered Professional Nurses in the case management department, including all case managers, PRI Review nurses, Quality Management Systems specialists and those duly authorized by permit to practice as Registered Professional Nurses in New York State employed by SEMC in nursing service, non-invasive cardiac testing, and nursing education and Case Management, and Radiology Department and Cardiac Catheterization Department (excluding the Chief Nursing Officer, Director of Nursing, President of the College of Nursing, Academic Dean of the College of Nursing, supervisors, nurse clinicians, in-service coordinators, in-service instructors, Infection Prevention Coordinator, clinical coordinators, Nurse Information Coordinator, quality management coordinator, and Sisters of the Third Franciscan Order).

6. Pending or Threatened Claims – None.

Schedule 5.18
Severance Plans and Agreements

SEMC:

On June 22, 2013 SEMC entered into a separation agreement with a former employee wherein SEMC agreed to make severance payments to the former employee. All of SEMC's payment obligations under the separation agreement will be completed in December 2013.

On March 19, 2013, the SEMC Board agreed to honor a 1-year severance benefit provision in the CEO's employment agreement provided he stays until the Affiliation Date.

The SEMC Board has approved the payment in the amount equal to six months' salary for all SEMC vice presidents of SEMC who are not offered a position with an equivalent salary following the Affiliation Date.

FSL and FSL Affiliates:

On or about March 29, 2013, FSL entered into a Separation Agreement and General Release with a former employee wherein FSL agreement to make severance payments to the former employee. All of FSL's payment obligations under the Separation Agreement and General Release will be completed on March 31, 2014.

On or about July 22, 2013, FSL entered into a Separation Agreement and General Release with a former employee wherein FSL agreement to make severance payments to the former employee. All of FSL's payment obligations under the Separation Agreement and General Release will be completed on December 31, 2013.

Schedule 6.6(c)
Joint Expenses

None.

Schedule 7.1(k)
Consents

1. Approval of the New York State Department of Health of the Certificate of Need Application relating to the establishment of MVHS as the active parent corporation of SEMC, FSL and the MVHS Active Parent Affiliates.
2. Approval of the New York State Department of Health of the change of control of Senior Network Health.
3. Approval of the New York Department of Health of the change of control of the Faxton Foundation.
4. Consent Decree with the New York Attorney General, Antitrust Bureau.
5. Filing of Hart-Scott-Rodino pre-merger Notification and Report Form with the Federal Trade Commission.

TABLE OF EXHIBITS

- 3.1(b)(7) – Restated Certificate of Incorporation of MVN
- 3.1(b)(8) – Initial MVHS Bylaws
- 3.2(a)(9)(A) – Restated Certificate of Incorporation of SEMC
- 3.2(a)(9)(B) – Restated Bylaws of SEMC
- 3.2(b)(9)(A) – Restated Certificate of Incorporation of FSL
- 3.2(b)(9)(B) – Restated Bylaws of FSL
- 3.3(b)(1) – Restated Charter Documents of MVHS Active Parent Affiliates
- 3.3(b)(2) – Restated Governing Documents of MVHS Active Parent Affiliates
- 3.3(c)(1) – Restated Certificate of Incorporation of the Faxton Foundation
- 3.3(c)(2) – Restated Bylaws of the Faxton Foundation

Exhibit 3.1(b)(7)
Restated Certificate of Incorporation of MVN

**RESTATED CERTIFICATE OF INCORPORATION
OF
MOHAWK VALLEY NETWORK, INC.**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

We, the undersigned, being the President and Secretary of Mohawk Valley Network, Inc., hereby certify:

1. The name of the corporation is: **MOHAWK VALLEY NETWORK, INC.**
2. The Corporation's Certificate of Incorporation was filed by the Department of State on the 12th day of April, 1991, pursuant to the Not-for-Profit Corporation Law. A Restated Certificate of Incorporation of the Corporation was thereafter filed by the Department of State on February 15, 2005.
3. The Corporation's Certificate of Incorporation, as previously filed and restated, is hereby amended to effect the following:
 - A. To change the name of the Corporation to Mohawk Valley Health System, as provided in Paragraph 1 of this Restated Certificate of Incorporation.
 - B. To add St. Elizabeth Medical Center ("SEMC"), St. Lukes Home Residential Health Care Facility, Inc. ("SLH"), Senior Network Health, LLC ("SNH") and Mohawk Valley Home Care, LLC ("MVHC") as named affiliates of the Corporation, as provided in Paragraph 3 of this Restated Certificate of Incorporation.
 - C. To add SEMC and SLH as named distributees of the Corporation's assets upon dissolution of the Corporation, as provided in Paragraph 9 of this Restated Certificate of Incorporation.
 - D. To restate the purposes and powers of the Corporation, as provided in Paragraph 3 of this Restated Certificate of Incorporation.
4. The text of the Certificate of Incorporation, as amended, is hereby restated to read as herein set forth in full:

1. The name of the Corporation is: **MOHAWK VALLEY HEALTH SYSTEM.**
2. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law in that it is not formed for pecuniary profit or financial gain, and no part of the assets, income or profit of the corporation shall be distributed to, or inure to the benefit of, its members, directors, officers or any private person.

3. The Corporation is organized and shall be operated exclusively for the benefit of Faxton-St. Luke's Healthcare ("FSLH"), St. Elizabeth Medical Center ("SEMC"), St. Lukes Home Residential Health Care Facility, Inc. ("SLH"), Visiting Nurse Association of Utica and Oneida County, Inc. ("VNA"), which are New York State Not-for-Profit Corporations, and Senior Network Health, LLC ("SNH") and Mohawk Valley Home Care, LLC ("MVHC") (each individually referred to as an "Affiliate" and collectively referred to as the "Affiliates"). To this end, the Corporation shall, in addition to all other rights and powers of membership prescribed by New York law, the certificates of incorporation and/or bylaws, or the articles of organization or operating agreements of the Affiliates, have the following governance and management powers as have been delegated to the Corporation to the extent permitted by the New York Not-for-Profit Corporation Law and the New York Limited Liability Company Law:

a. Except as otherwise set forth herein, to approve and interpret the statement of mission and philosophy adopted by the Affiliates, to require that each Affiliate operate in conformance with its mission and philosophy and to coordinate the missions, visions, activities and resources of the Affiliates in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, the Corporation shall not have the power to approve or interpret those elements of SEMC's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of SEMC's Catholic mission and philosophy;

b. To elect or appoint, fix the number of, and remove, with or without cause, the directors or trustees (referred to hereinafter as "directors" or "director") or managers of the Affiliates, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Affiliates. Notwithstanding the foregoing, Partners in Franciscan Ministries, Inc. ("PFM"), as the co-member of SEMC, shall be entitled to appoint and remove, with or without cause, one additional director designated by PFM to the SEMC board of directors who does not currently serve on the Corporation's Board, and the FSLH Board shall be entitled to appoint and remove, with or without cause, one additional director to the FSLH Board who does not currently serve on the Corporation's Board;

c. To amend or repeal the Certificate of Incorporation and Bylaws or the Articles of Organization or Operating Agreements, and to adopt any new or restated Certificate of Incorporation, Bylaws, Articles of Organization, or Operating Agreements, of the Affiliates, unless such amendment would terminate SEMC's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services (hereinafter, "ERDs");

- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Affiliates;
- e. To approve the debt of the Affiliates in excess of an amount to be fixed from time to time by the Corporation;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Affiliate(s) in excess of an amount to be fixed from time to time by the Corporation. Notwithstanding the foregoing, the approval of PFM shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of SEMC in excess of an amount to be fixed from time to time by PFM, to meet the requirements of the United States Conference of Catholic Bishops;
- g. To approve the capital and operating budgets of the Affiliates;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to such Affiliate;
- i. To approve any corporate reorganization of the Affiliates and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve and coordinate the strategic plans of the Affiliates;
- k. To the extent applicable, to approve all contracts of reimbursement for the Affiliates from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Affiliate(s) to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Affiliate(s) subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by an Affiliate;
- o. To require an Affiliate to participate in any and all programs and services, as determined by the Corporation in its discretion, provided, however, that the Corporation may not require an Affiliate to participate in any program or service or take any action that would constitute a default

or event of default under any mortgage, indenture or other material agreement or instrument to which such Affiliate is a party and by which it is bound, and with respect to SEMC, may not require participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy, as determined by PFM; and

p. To accept delegations of authority on behalf of each Affiliate pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliates pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at FSLH which are proscribed by the ERDs shall not be transferred to or used for the benefit of the Corporation, SEMC or any subsidiary of SEMC, and neither the Corporation nor SEMC shall provide or support such services maintained by FSLH or any Affiliate or any subsidiary of FSLH.

For the purposes of the foregoing, the Corporation shall have: (i) the power to initiate and direct action by Affiliates without a prior recommendation of the Affiliate's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Affiliate's board of directors and to direct action by the Affiliate or to return the matter to the board of directors of the Affiliate for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, in the case of SEMC, the Corporation shall not direct any action with respect to SEMC that requires the approval of PFM without prior approval of such action by PFM. The board of directors and officers of an Affiliate shall not implement any action requiring the approval of the Corporation until the Corporation shall have exercised its reserve powers and communicated its determinations in writing to the Affiliate's board of directors and, in the case of any powers over SEMC that are also reserved to PFM, to PFM.

4. **ADDITIONAL PURPOSES AND POWERS.** The Corporation shall have the following additional purposes and powers:

a. To establish, support and maintain such other health care facilities and systems at one or more sites, whose purposes may include, but not be limited to, the provision of a full range of health and/or wellness related services, but whose services shall not include direct abortions or physician assisted suicide.

Each such service or facility shall be established and operated in accordance with all approvals required by the Public Health Law or other law of the State, and all approvals required from any other body having jurisdiction over such activities.

b. To carry on educational activities, scientific research and other health related activities or programs incident to the purposes set forth above either directly or through an Affiliate or subsidiary.

c. To solicit funds for the above purposes.

d. To pursue, enhance, and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations or other entities as may be established, operated and maintained in accordance with all approvals required by applicable law.

5. The Corporation is a Type B corporation under Section 201 of the Not-for-Profit Corporation Law.

6. Notwithstanding any other provision of this Certificate, the Corporation is organized and shall be operated exclusively for the charitable, religious, scientific and educational purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and shall not carry on any activities not permitted to be carried on by an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or by an organization, contributions to which are deductible under Section 170(c)(2) of such Code.

7. No part of the assets, income, profits or earnings of the Corporation shall inure to the benefit of any member, trustee, director or officer of the Corporation, or any private individual, except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes, and no member, trustee, director or officer of the Corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.

8. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation, except as otherwise provided by Section 501(h) of Internal Revenue Code of 1986, as amended, and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of any candidate for public office.

9. In the event of dissolution, all the remaining assets and property of the Corporation shall, after necessary expenses thereof, be distributed to FSLH, SEMC, SLH and/or VNA, provided that they shall then qualify under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, subject to an order of a Justice of the Supreme Court of the State of New York; if none of said not-for-profit corporations shall so qualify at the

time of dissolution, then distribution shall be made to such other organization or organizations that are organized and operated exclusively for religious, charitable, educational or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, subject to an order of a Justice of the Supreme Court of the State of New York.

10. In any taxable year in which the Corporation is a private foundation defined by Section 509 of the Internal Revenue Code of 1986, as amended, the Corporation shall:

(a) not engage in any act of self-dealing that is subject to tax under Section 4941 of the Code;

(b) not distribute its income for each taxable year at such time and in such manner as to subject the Corporation to tax on undistributed income under Section 4942 of the Code;

(c) not retain any excess business holdings in such manner as to subject the Corporation to tax under Section 4943 of the Code;

(d) not make any investments in such manner as to subject the Corporation to tax under Section 4944 of the Code; and

(e) not make any taxable expenditures that are subject to tax under Section 4945 of the Code.

11. The number of directors constituting the entire Board of Directors of the Corporation shall not be less than three (3). Subject to such limitation, the number shall be fixed by the bylaws pursuant to Section 702 of the Not-for-Profit Corporation Law.

12. The office of the Corporation is to be located in the County of Oneida, New York.

13. The Secretary of State is hereby designated as the agent of the Corporation upon whom process against it may be served, and the post office address to which the Secretary of State shall mail a copy of any process against the Corporation that may be served upon him is P.O. Box 4308, Utica, New York 13504-4308.

5. This Restated Certificate of Incorporation, and the foregoing amendments of the Certificate of Incorporation, were authorized by a unanimous vote of the entire Board of Directors, said affirmative vote being at least equal to a quorum.

IN WITNESS WHEREOF, the undersigned have subscribed this Restated Certificate of Incorporation this ____ day of October, 2013, and hereby affirm that the statements contained herein are true under the penalties of perjury.

Scott H. Perra, FACHE, President

Todd Hutton, Ph.D., Secretary

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

Scott H. Perra, FACHE, being duly sworn, deposes and says, that he is the President of MOHAWK VALLEY NETWORK, INC, the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.

Scott H. Perra, FACHE

Sworn to before me this
___ day of October, 2013

NOTARY PUBLIC – State of New York
Appointed in _____ County
My commission expires: ___/___/___

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

Todd Hutton, Ph.D., being duly sworn, deposes and says, that he is the Secretary of MOHAWK VALLEY NETWORK, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.

Todd Hutton, Ph.D.

Sworn to before me this
___ day of October, 2013

NOTARY PUBLIC – State of New York
Appointed in _____ County
My commission expires: ____/____/____

Exhibit 3.1(b)(8)
Initial MVHS Bylaws

**BY-LAWS
of
MOHAWK VALLEY HEALTH SYSTEM**

**ARTICLE ONE
NAME**

1.1 NAME

The name of the Corporation is Mohawk Valley Health System (herein the “Corporation” or “MVHS”).

**ARTICLE TWO
RECITALS**

2.1. MVHS is a Type B not-for-profit corporation pursuant to Section 201(b), of the New York Not-for-Profit Corporation Law, and as such has no members.

2.2. St. Elizabeth Medical Center (herein “SEMC”) is a New York Not-for-Profit tax-exempt corporation, having a principal place of business at 2209 Genesee Street, Utica, NY 13501.

2.3. Faxton-St. Luke’s Healthcare (herein “FSLH”) is a New York Not-for-Profit tax-exempt corporation, having a principal place of business at 1656 Champlin Avenue, Utica, NY 13501.

2.4. St. Lukes Home Residential Health Care Facility, Inc. (herein the “Home”) is a New York Not-for-Profit, tax-exempt corporation, having a principal place of business at 1650 Champlin Avenue, Utica, NY 13502.

2.5. Visiting Nurse Association of Utica and Oneida County, Inc. (herein “VNA”) is a New York Not for Profit tax-exempt corporation, having a principal place of business at 1650 Champlin Avenue, Utica, NY 13502.

2.6. Mohawk Valley Home Care, LLC (herein “MVHC”) is a New York limited liability company having a principal place of business at 1650 Champlin Avenue, Utica, NY 13502.

2.7. Senior Network Health, LLC (herein “SNH”) is a New York limited liability company having a principal place of business at 1650 Champlin Avenue, Utica, NY 13502.

2.8. Partners in Franciscan Ministries, Inc. (herein “PFM”) is a New York not-for-profit, tax exempt corporation having a principal place of business at 2500 Grant Blvd., Suite 302, Syracuse, New York 13208-1262. PFM (which is sponsored by the Congregation of the Sisters of St. Francis of the Neumann Communities) shall be the co-member of SEMC, and as such shall have the following powers:

2.8(a) to approve and interpret those elements of SEMC’s statement of mission and philosophy adopted by SEMC that relate to SEMC’s status as a Catholic organization or the pursuit of SEMC’s Catholic mission and philosophy, and any amendments thereof, and to require SEMC to operate in conformance with its Catholic mission and philosophy;

2.8(b) to approve any amendment of SEMC’s purposes or powers in its Certificate of Incorporation that would terminate SEMC’s status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services;

2.8(c) to approve the sale, transfer, mortgage, guaranty, pledge or other alienation of real or personal property of SEMC in excess of an amount to be fixed from time to time by PFM to meet the requirements of the United States Conference of Catholic Bishops; and

2.8(d) to approve and reject appointments to the Pension Committee for the defined benefit plan sponsored by SEMC which qualifies as a Church Plan under Section 3(33) of ERISA.

2.8(e) to elect or appoint and remove, with or without cause, one director of SEMC who does not currently serve on the Board of MVHS.

For the purposes of the foregoing, the power of PFM to “approve” means the power to accept or reject a recommendation of the SEMC Board or an action by MVHS or any future Members of SEMC with respect to the powers reserved to PFM. The SEMC Board and officers of SEMC or MVHS or any future Members of SEMC shall not

implement any action requiring the approval of PFM until PFM shall have exercised its reserved powers and communicated its determination in writing to SEMC, MVHS or any future Member of SEMC and the SEMC Board.

2.9. “Affiliates” or “MVHS Affiliates” shall mean SEMC, FSLH, VNA, MVHC, SNH and the Home, unless otherwise specifically set forth herein.

ARTICLE THREE OFFICES

3.1 OFFICES

The principal office of the Corporation shall be located in Oneida County, in the State of New York. The Corporation shall have and continuously maintain in New York State a registered office and a registered agent whose office shall be identical with the registered office, and may have such other offices as the Board may determine from time to time.

ARTICLE FOUR PURPOSES AND POWERS

The Corporation shall have the following purposes and powers:

4.1. CORPORATE MEMBERSHIP. MVHS shall serve as the sole corporate member of FSLH, VNA and the Home, as the owner of all of the Membership interests in MVHC and SNH, and as a co-member of SEMC, subject to the powers reserved to PFM, as set forth in Section 2.8 herein, the other co-member of SEMC. In addition to all other rights and powers of membership prescribed by New York Law, the Certificate of Incorporation and/or the Bylaws or the Articles of Organization and/or Operating Agreements of the Affiliates, the following governance and management powers shall be delegated to MVHS to the extent permitted by the New York Not-for-Profit Corporation Law:

- a. Except as otherwise set forth herein, to approve and interpret the statement of mission and philosophy adopted by the Affiliates, to require that each Affiliate operate in conformance with its mission

and philosophy and to coordinate the missions, visions, activities and resources of the Affiliates in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, MVHS shall not have the power to approve or interpret those elements of SEMC's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of SEMC's Catholic mission and philosophy;

- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Affiliates, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Affiliates. Notwithstanding the foregoing, PFM shall be entitled to appoint and remove, with or without cause, the one additional director designated by PFM to the SEMC Board of Directors, and the FSLH Board shall be entitled to appoint and remove, with or without cause, one additional director to the FSLH Board who does not currently serve on the MVHS Board;
- c. To amend or repeal the Certificate and Bylaws, and to adopt any new or restated Certificate of Incorporation, Bylaws, Articles of Organization, or Operating Agreements, of the Affiliate(s);
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Affiliate(s);
- e. To approve the debt of the Affiliate(s) in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Affiliate(s) in excess of an amount to be fixed from time to time by MVHS.

Notwithstanding the foregoing, the approval of PFM shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of SEMC in excess of an

-
- amount to be fixed from time to time by PFM, to meet the requirements of the United States Conference of Catholic Bishops;
- g. To approve the capital and operating budgets of the Affiliates;
 - h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to such Affiliate;
 - i. To approve any corporate reorganization of the Affiliate(s) and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Affiliate(s), including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
 - j. To approve and coordinate the strategic plans of the Affiliates;
 - k. To the extent applicable, to approve all contracts of reimbursement for the Affiliates from governmental or private third party insurers;
 - l. To the extent applicable, to approve all applications of the Affiliate(s) to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health, as required;
 - m. To the extent applicable, to approve management contracts for the Affiliate(s) subject to approval and/or regulation under the laws and regulations of the State of New York;
 - n. To approve any material change in the services offered by an Affiliate;
 - o. To require an Affiliate to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require an Affiliate to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which such Affiliate is a party

and by which it is bound, and with respect to SEMC, may not require participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy; and

- p. To accept delegations of authority on behalf of each Affiliate pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at FSLH which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services (herein, the “ERDs”) shall not be transferred to or used for the benefit of MVHS, SEMC or any affiliate of SEMC and neither MVHS nor SEMC shall provide or support such services maintained by FSLH or any Affiliate or subsidiary of FSLH.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Affiliate(s) without a prior recommendation of the Affiliate’s board of directors; and (ii) the power to accept, reject or modify the recommendation of the Affiliate’s board of directors and to direct action by the Affiliate or to return the matter to the board of the Affiliate for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, in the case of SEMC, MVHS shall not direct any action with respect to SEMC that requires the approval of PFM without prior approval of

such action by PFM. The board(s) of directors, trustees or managers and officers of the Affiliate(s) shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Affiliate(s)' board and, in the case of any powers over SEMC that are also reserved to PFM, to PFM.

4.2. **ADDITIONAL PURPOSES AND POWERS.** MVHS shall have the following additional purposes and powers:

- a. To establish, support and maintain such other health care facilities and systems at one or more sites, whose purposes may include, but not be limited to, the provision of a full range of health and/or wellness related services, but whose services shall not include direct abortions or physician assisted suicide.
Each such service or facility shall be established and operated in accordance with all approvals required by the Public Health Law or other law of the State, and all approvals required from any other body having jurisdiction over such activities.
- b. To carry on educational activities, scientific research and other health related activities or programs incident to the purposes set forth above either directly or through an Affiliate or subsidiary.
- c. To solicit funds for the above purposes.
- d. To pursue, enhance, and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations or other entities as may be established, operated and maintained in accordance with all approvals required by applicable law.

**ARTICLE FIVE
BOARD OF DIRECTORS**

5.1 **NUMBER**

The Board of Directors shall consist of not less than nine (9) members.

5.2 **QUALIFICATION**

Directors shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

5.3 ELECTION AND TENURE

(a) Composition of Initial Board of Directors. Commencing with the meeting to be held on or about _____, 20XX, the initial board shall be comprised of eighteen (18) Voting Directors. SEMC and FSLH shall each appoint eight (8) voting directors (the "Elected Directors"). The remaining two (2) Directors shall be the presidents of the medical staffs of SEMC and FSLH who shall serve ex-officio as Voting Directors.

(b) Terms of Office. The initial Elected Directors shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated. Each class shall have an equal number of Directors selected by SEMC and FSLH.

(c) Subsequent Election. Commencing with the 20XY annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Director may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in these Bylaws. Commencing with the 20XY annual meeting, members of the Board shall be nominated by the Governance Affairs and Ethics Committee and shall be elected by a simple majority of the Board. The Board shall not be bound or limited to such nominees.

(d) Reappointment. Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Director's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(e) Non-Elected Directors. The President of the Medical Staffs of SEMC and FSLH shall serve as Directors of the Corporation, coterminous with holding their respective positions.

5.4 VACANCIES

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Director, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board. Nominees shall be presented by the Governance Affairs and Ethics Committee, but the Board shall not be bound or limited to such nominees. Directors selected to fill vacancies shall serve the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

5.5 REMOVAL

Each member of the Board of Directors shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Directors by a vote of two-thirds of the remaining Directors. In addition, the Board of MVHS may remove any Director, with or without cause, upon a two-thirds (2/3) vote of the Board.

5.6 RESIGNATION/LEAVE OF ABSENCE.

(a) Resignation. Any Director may resign at any time by giving written notice to the Chairperson or to the Secretary of the Corporation. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

(b) Leave of Absence. Any Director may request a Leave of Absence of up to three (3) months for medical reasons relating to the Director, or a member of the Director's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Director. If the Chairperson requests a Leave, the request shall be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Director shall be excused from any attendance requirements and all other obligations of a Director as set forth in these Bylaws. The

Director's Board position shall remain vacant during the term of the Leave, and the Director's position shall not be counted in determining the presence of a quorum.

If the Director on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the remaining Directors at the next regular meeting of the Board, or at a special meeting called for such purpose. Any committee positions held by the Director may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Director may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

5.7 ADDITIONAL ADVISORS

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Directors present.

5.8 MEETINGS OF DIRECTORS

(a) Annual Meeting The Board of Directors shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, electing directors and officers and members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) Regular Meetings The Board of Directors shall hold at least seven (7) regular meetings annually.

(c) Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3) Directors. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) Place All meetings of the Board shall be held at the principal office of the Corporation or at such other place within this State as the Notice of Meeting shall provide.

(e) Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Director personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law or these Bylaws, the notice shall also state the purpose for which the meeting is called. Oral or written notice of the postponement of any scheduled regular meeting shall be given to each Director not less than one (1) day before the scheduled date of such meeting.

(f) Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(g) Quorum Unless a greater or lesser number is required by law, the Certificate of Incorporation or these By-laws, a majority of the Directors entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Directors present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 5.9(e).

(h) Voting Subject to the Conflict of Interest provisions of these By-laws, and the Board's Conflict of Interest policies, each voting Director present is entitled to vote on any matter before the Board.

(i) Manner of Acting Unless otherwise required by law, the Certificate of Incorporation or these By-laws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the

consent in writing of all Directors entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

(j) Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

5.9 POWERS AND FIDUCIARY OBLIGATIONS

(a) Powers The administrative powers of the Corporation shall be vested in the Board of Directors, which shall have: charge, control, and oversight of the property, funds, and affairs of the Corporation; the power to elect and remove, with or without cause, officers and to fill vacancies among the officers for unexpired terms; the power to establish policies for the management and operation of the Corporation; and such other power and authority to do and perform all acts and functions for the benefit of the Corporation, not inconsistent with these By-laws or the Certificate of Incorporation. The Board of Directors shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

(b) Fiduciary Obligations The members of the Board of Directors shall at all times conduct the affairs of the Corporation in strict conformance with all applicable fiduciary and ethical standards. Each Director shall act in a manner consistent with the duty of undivided loyalty to the interests of the Corporation, the duty to maintain in confidence information concerning the affairs of the Corporation, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Corporation. The Board shall adopt such mechanisms as it deems appropriate to assist the Directors in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate: the mission and vision of the Corporation; a Board Conflicts of Interest Policy to provide a formal mechanism for

identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Corporation.

ARTICLE SIX OFFICERS

6.1 OFFICERS

The Corporation shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Board of Directors may authorize. The Corporation shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the 20XX, 20XY, and 20XZ annual meetings shall serve a one year term, or until his/her successor has been elected. The Chairperson seated at the 20XX-20XZ annual meetings shall be selected by the initial Directors appointed by SEMC, as may be on the Board at that time. Commencing with the 20XA annual meeting the Chairperson and Vice-Chairperson shall be elected by the Board of Directors for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected at the annual meeting and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors at any regular meeting or any special meeting called for such purpose.

6.2 CHAIRPERSON

The Chairperson shall preside at all meetings of the Board of Directors, shall appoint the members and Chairperson of each Committee in accordance with these By-laws and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 20XZ annual meeting shall be eligible to be elected by the full Board to serve one additional term of two (2) years, commencing in 20XA. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the length of such terms. The Chairperson

shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

6.3 VICE-CHAIRPERSON

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

6.4 CHAIR EMERITUS.

Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in these Bylaws. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the 20XX annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

6.5 SECRETARY

The Secretary shall act as Secretary of both the Corporation and the Board of Directors and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Corporation and keeping the minutes of the meetings of the Board of Directors. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Corporate records.

6.6 TREASURER

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit

the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and, whenever required by the Board of Directors shall render, or cause to be rendered, financial statements of the Corporation. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

6.7 PRESIDENT

The Board shall appoint a qualified hospital administrator to serve as its President and as the Chief Executive Officer of the Corporation. The President/CEO shall be the Board's direct executive representative in the management of the Corporation. The President/CEO shall have the necessary authority and shall be responsible for management of the Corporation, subject only to the policies and directives of the Board and any of its committees to which the Board has delegated power for such action. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board of Directors in all matters except those for which the Board has designated some other individual to act.

ARTICLE SEVEN COMMITTEES OF THE BOARD OF DIRECTORS

7.1 STRUCTURE

There shall be seven (7) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Patient Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, Investment Committee and Audit and Compliance Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees

appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

7.2 PROCEDURE

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in these By-Laws or in a Resolution of the Board of Directors.

7.3 POWERS

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these By-Laws, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

7.4 COMMITTEE MEMBERS

- (a) Appointment. Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to

promote experience and knowledge in all aspects of the operation of the Corporation.

- (b) Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.
- (c) Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.
- (d) Removal. Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

7.5 ADVISORS TO BOARD COMMITTEES

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Directors.

As deemed appropriate by the Committee Chair, members of the Corporation's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

7.6 MANNER OF ACTION

(a) Meetings. Each Committee shall meet as provided for in these By-Laws and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

(b) Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

(c) Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

(d) Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

(e) Meeting by Conference Telephone or Similar Device. Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the

meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

7.7 CONFLICT OF INTEREST

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

7.8 EXECUTIVE COMMITTEE

(a) Composition

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, Presidents of the Medical Staffs of SEMC and FSLH, and the Chairperson Emeritus.

(b) Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Corporation, subject to any prior limitations imposed by the Board, these By-Laws, or statute. In addition, the Executive Committee shall:

- (1) Oversee the development of labor relations and negotiation strategy and recommend to the Board approval of collective bargaining agreements.
- (2) Review and recommend to the Board, with the assistance of counsel, policies and guidelines for financial transactions with physicians, including physician recruitment, employment or other agreements with the Corporation.
- (3) Review and recommend to the Board, legislative and regulatory affairs initiatives.
- (4) Review and make recommendations to the Board as to the Corporation's completion and filing of IRS Form 990 and such other reports or filings as may be required by the Internal Revenue Service.

(c) Meetings

The Executive Committee shall meet as necessary to conduct the business of the Corporation while the full Board is not in session.

7.9 FINANCE

(a) Composition

The Finance Committee shall consist of the Treasurer of the Corporation, as Committee Chairperson, and at least 6 voting Directors, at least one of whom shall have substantial accounting or financial management expertise.

(b) Functions

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Corporation and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and oversight of the financial affairs of the Corporation and its subsidiaries. Its functions shall include:

- (1) Overseeing the President's development of a budget for the Corporation showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Board a budget developed by the President for the ensuing year;
- (3) Reviewing financial reports that report on the financial condition of the Corporation;
- (4) Reviewing and making recommendations to the Board on any request by the President for the Corporation to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;
- (5) Retaining the Corporation's independent Certified Public Accountants to provide external financial auditing to the Corporation. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the

firm's assessment of management's internal financial control system.

- b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Corporation and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Corporation and its subsidiaries.
 - (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Corporations and its subsidiaries.

(c) Meetings

The Finance Committee shall meet as needed, but not less than six (6) times per year.

7.10 QUALITY AND PATIENT SAFETY COMMITTEE

(a) Composition.

The Quality and Patient Safety Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a physician.

(b) Functions.

The Quality and Patient Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of all of the Affiliates' medical and subsidiary services for the purpose of enhancing the quality of patient and resident care and identifying and implementing

improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance for all corporate Affiliates, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;
 - (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;
 - (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by the Corporation's subsidiaries and/or third parties providing services to the subsidiaries by contract, and coordinating the provision of services by the Corporation, its subsidiaries and third parties.
- (2) Recommend policies and provide direction for the system's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the system and its subsidiaries.
- (3) Oversee regulatory compliance, safety, infection control and such other programs as shall be required to insure continuous accreditation of the Affiliates.
- (4) Review and report to the Board on Department of Health, Office of Mental Health, and other regulatory surveys and findings and any required plans of correction.

-
- (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Corporation's subsidiaries concerning quality and performance improvement activities, including reports from any required quality or advisory committees of the subsidiary boards.
 - (7) Assist in the development of Board educational processes regarding quality and service improvement with the assistance and participation of the medical staff and hospital management.

(c) Meetings

The Quality and Patient Safety Committee shall meet at least six (6) times annually, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

7.11 GOVERNANCE AFFAIRS AND ETHICS COMMITTEE

(a) Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a Board Officer.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Boards of the Corporation and its subsidiaries; developing and monitoring a Board education plan; review and amendment of corporate and subsidiary Bylaws; and nomination of directors and officers of the Corporation and members of the Boards of the Corporation's subsidiaries. Its functions shall include:

-
- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - (i) Conflict of Interest;
 - (ii) Policy based governance;
 - (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.
 - (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
 - (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
 - (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Board and Committees of the Corporation and its subsidiaries.
 - (5) Nominate directors and officers of the Board and members of the Corporation's subsidiary boards.
 - (6) Develop an orientation process for new Board and Committee members for the Corporation and its subsidiaries, with the assistance of the Chief Executive Officer.
 - (7) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.

-
- (8) Periodically review, and recommend changes to the Bylaws of the Corporation and its subsidiaries to insure compliance with the mission, vision, purpose and structure of the Corporation and its subsidiaries.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at least two (2) times per year, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

7.12 EXECUTIVE COMPENSATION COMMITTEE.

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Directors recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be “Independent Directors” as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not an “Independent Director”, the Board shall appoint another Independent Director to serve in the place of the Chairperson. The President/CEO may serve as an advisor to the Committee as long as he or she is excused when the Committee is reviewing the CEO’s compensation package.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the President/CEO and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of the Corporation, or its Affiliates or subsidiaries, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations (“Disqualified Persons”). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually, performance guidelines for the CEO;
- (2). Assist the board in assessing and evaluating the CEO's performance;

-
- (3). Review and recommend to the full Board the CEO's compensation, including salary, incentives, benefits and other perquisites;
 - (4). Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
 - (5). At least annually, review executive compensation to ensure that it is appropriate in view of Corporation's tax-exempt status and take the required steps to establish a "rebuttable presumption of reasonableness" [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person's background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Corporation's income and assets and the number of Corporations employees;
 - d. CEO's job performance;
 - e. relationship of the CEO's compensation to the compensation paid to Corporation's other employees; and
 - f. the number of hours the CEO spends performing his or her job.
 - (6). Review and approve the compensation package of the Chief Operating, Medical, Nursing and Financial Officers, as recommended by the CEO.

c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Corporation to advise the Committee on executive compensation and related

matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

7.13 INVESTMENT COMMITTEE.

(a) Composition

The Investment Committee shall consist of at least at least three (3) Directors, at least one of whom shall have significant experience in financial and/or investment matters.

(b) Functions.

The function of the Investment Committee shall be to establish investment standards and expectations and review and monitor investment performance of the managers of the investments, endowments and other funds of the Corporation, and its subsidiaries. Without limiting the foregoing, the Committee shall:

1. Review and recommend to the Board, the investment policy of the Corporation and its subsidiaries;
2. Review the performance of the investment managers and, as required, recommend changes to the Board;
3. At least semi-annually report to the Board on the investment activities and performance of the investments of the Corporation and its subsidiaries.

c. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

7.14 AUDIT AND COMPLIANCE COMMITTEE.

(a) Composition

The Audit and Compliance Committee shall be composed of at least three (3) directors. At least a majority of the directors so appointed shall be “Independent Directors” as defined in Section 7.12(a), above.

(b) Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board of Directors in its oversight responsibilities by overseeing management’s systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Corporation. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee’s retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the Corporate Compliance Plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.
 - b. Review the minutes of each Corporate Compliance Committee meeting, and monitor the results of the Compliance Program.
 - c. Serve as a resource to the Compliance Officer and management on compliance issues.
 - d. Review and approve the audit schedule proposed by the Compliance Officer.
 - e. Report to the Board at least semi-annually, regarding the status of the Compliance Plan.

c. Meetings.

The Committee shall convene at least four (4) times per year or as shall be necessary to discharge its responsibilities.

**ARTICLE EIGHT
INDEMNIFICATION AND INSURANCE**

8.1 INDEMNIFICATION AND INSURANCE:

It is expressly provided that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal, by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of this Corporation, will be completely indemnified by the Corporation to the full extent permitted by law. If permitted by law, this indemnification shall include, but not be limited to, the payment of one or more of the following: judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeal therein.

8.2 INSURANCE.

It is the policy of the Corporation that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of the Corporation, will be completely and fully indemnified by this Corporation to the full extent permitted by the law. The Corporation may purchase and maintain insurance to completely and fully indemnify any and every such person, whether or not this Corporation has the power to indemnify him or her against such liability under the laws of this or any other state.

**ARTICLE NINE
CONFLICT OF INTEREST**

9.1 POLICY

Any Director, officer, key employee, or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval, or ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interest.

9.2 EFFECT

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions contained in the Board approved Conflicts of Interest Policy must be observed. If so, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in the discussions or deliberations with respect to such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

9.3 FORMAL POLICY AND PROCEDURE

The Board shall adopt a formal Conflict of Interest Policy requiring annual disclosure of existing and potential conflicts of interest, mechanisms for addressing actual and potential conflicts of interest and corrective and disciplinary action with respect to transgressions of such policies.

ARTICLE TEN VOLUNTEER ORGANIZATIONS

10.1 The Board may organize a volunteer organization, or such other associated organizations as it deems appropriate, consisting of individuals who are interested in rendering services as volunteers to the Corporation or its subsidiaries and in assisting in the fulfillment of the mission of the Corporation. There shall be By-laws, rules and regulations

for such organizations, setting forth their organization and governance. Proposed By-laws may be recommended, but only those approved by the Board of Directors shall become effective.

**ARTICLE ELEVEN
AMENDMENT TO BY-LAWS**

11.1 PROCEDURE

These Bylaws may be amended or repealed, or new Bylaws may be adopted, by a two thirds (2/3) vote of the Board of Directors of the Corporation of any regular or special meeting. At least ten (10) days written notice shall be given of the intention to take such action. The Governance Affairs and Ethics Committee shall conduct an annual review of these Bylaws and make recommendations for such amendments as may be necessary to assure compliance with all applicable laws, rules and regulations.

**ARTICLE TWELVE
GENERAL**

12.1 PROCEDURE

The Board and any Board Committee may adopt rules or procedures which shall be consistent with these By-laws.

12.2 EQUAL OPPORTUNITY

The Board shall, in all matters, act without regard to discrimination as to sex, race, age, creed, handicap, sexual preference, marital status or national origin.

12.3 CONSTRUCTION OF TERMS AND HEADINGS

Words used in these By-laws shall be read as the masculine or feminine gender and as the singular or plural, as the context requires. The captions or headings in these By-laws are for convenience only and are not intended to limit or define the scope or effect of any provision of these By-laws.

Exhibit 3.2(a)(9)(A)
Restated certificate of Incorporation of SEMC

**RESTATED CERTIFICATE OF INCORPORATION
OF
ST. ELIZABETH MEDICAL CENTER**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

The undersigned, President/CEO of St. Elizabeth Medical Center, certifies:

1. The name of the corporation is St. Elizabeth Medical Center (the “Corporation”). The Corporation was originally formed under the name of The Saint Elizabeth’s Hospital and Home.
2. The Certificate of Incorporation of the Corporation was filed by the Department of State on February 8, 1870. The Corporation was formed under C. 319 of the Laws of 1848.
3. The Certificate of Incorporation of the Corporation is amended to affect the following amendments authorized by the Not-For-Profit Corporation Law:
 - a. Paragraph (6) of the Certificate of Incorporation reads as follows:
 - (6) The member of St. Elizabeth Medical Center shall be Partners in Franciscan Ministries, Inc.
 - b. Paragraph (6) of the Certificate of Incorporation is deleted in its entirety and is replaced with the following:
 - (6) Partners in Franciscan Ministries, Inc., and Mohawk Valley Health System shall serve as co-members of the Corporation.
 - c. Paragraph (7) of the Certificate of Incorporation reads as follows:
 - (7) The following powers shall be reserved to the Corporate Member to exercise and shall be referred to as Reserved Powers:
 - (a) To change the philosophy, mission, and purpose of the Corporation.
 - (b) To appoint and remove the President/CEO of the Corporation.
 - (c) To appoint and remove the Board of Trustees of the Corporation.
 - (d) To approve the Certificate of Incorporation and Bylaws of the Corporation.

- (e) To receive the annual report of the Corporation.
- (f) To approve the formation of subsidiaries, affiliates or divisions of the Corporation.
- (g) To approve a change in the name of the Corporation.
- (h) To receive, review and monitor the budget of the Corporation as deemed necessary by the Corporate Member.
- (i) To receive the annual audit of the Corporation.
- (j) To receive, review and monitor strategic, long range plans of the Corporation as deemed necessary by the Corporate Member.
- (k) To approve the financial transactions of the Corporation according to the annual United States Conference of Catholic Bishops alienation guidelines.

d. Paragraph (7) is deleted in its entirety and replaced with the following:

- (7) (a) The following powers shall be reserved to co-member, Partners in Franciscan Ministries, Inc., to exercise and shall be referred to as the Reserved Powers of the Partners in Franciscan Ministries, Inc.:
 - (i) To approve and interpret those elements of the Corporation's statement of mission and philosophy adopted by the Corporation that relate to the Corporation's status as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy, and any amendments thereof, and to require the Corporation to operate in conformance with its Catholic mission and philosophy.
 - (ii) To approve any amendment of the Corporation's purposes or powers in its Certificate of Incorporation that would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services.
 - (iii) To approve the sale, transfer, mortgage, guaranty, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by the Partners in Franciscan Ministries, Inc., to meet the requirements of the United States Conference of Catholic Bishops.

- (iv) To approve and reject appointments to the pension committee for the defined benefit pension plan sponsored by the Corporation, which qualifies as a church plan under Section 3(33) of the Employee Retirement Income Security Act of 1974.
- (v) To approve any amendments or modifications to, or the termination of, the St. Elizabeth Medical Center Church Plan.
- (vi) To elect or appoint and remove, with or without cause, one director of the Corporation who does not currently serve on the board of Mohawk Valley Health System.

For the purposes of this subsection (a) of section (7), the power of the Partners of Franciscan Ministries, Inc., to “approve” means the power to accept or reject a recommendation of the Board of Directors of the Corporation or an action by Mohawk Valley Health System or any future Members of the Corporation with respect to the powers reserved to the Partners of Franciscan Ministries, Inc. The Corporation’s Board of Directors and officers or Mohawk Valley Health System. or any future Members of the Corporation shall not implement any action requiring the approval of Partners of Franciscan Ministries, Inc., until Partners of Franciscan Ministries, Inc., shall have exercised its reserved powers and communicated its determination in writing to the Corporation’s other Members and Board of Directors.

- (7) (b) Subject to the powers reserved to the Partners in Franciscan Ministries, Inc., the following powers shall be reserved to co-member Mohawk Valley Health System to exercise and shall be referred to as the Reserved Powers of Mohawk Valley Health System:
 - (i) To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and to coordinate the missions, visions, activities and resources of the Corporation and other affiliates of Mohawk Valley Health System in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, Mohawk Valley Health System shall not have the power to approve or interpret those elements of Corporation’s mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of the Corporation’s Catholic mission and philosophy.

- (ii) To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation. Notwithstanding the foregoing, the Partners in Franciscan Ministries, Inc., shall be entitled to appoint and remove, with or without cause, one additional director designated by the Partners in Franciscan Ministries, Inc., to the Corporation's Board of Directors.
- (iii) To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation or Bylaws of the Corporation, unless such amendment would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services.
- (iv) To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation.
- (v) To approve the debt of the Corporation in excess of an amount to be fixed from time to time by Mohawk Valley Health System.
- (vi) To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by Mohawk Valley Health System. Notwithstanding the foregoing, the approval of the Partners in Franciscan Ministries, Inc., shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of Corporation in excess of an amount to be fixed from time to time by the Partners in Franciscan Ministries, Inc., to meet the requirements of the United States Conference of Catholic Bishops.
- (vii) To approve the capital and operating budgets of the Corporation.
- (viii) To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation.
- (ix) To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization

or dissolution of any organizational relationship of the Corporation, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Corporation.

- (x) To approve and coordinate the strategic plan of the Corporation.
- (xi) To approve all contracts of reimbursement for the Corporation from governmental or private third party insurers.
- (xi) To approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to certificate of need applications to the New York State Department of Health.
- (xii) To approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York.
- (xiii) To approve any material change in the services offered by the Corporation.
- (xiv) To require the Corporation to participate in any and all programs and services, as determined by Mohawk Valley Health System in its discretion, provided, however, that Mohawk Valley Health System may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound, and may not require the Corporation's participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy, as determined by the Partners in Franciscan Ministries, Inc.
- (xv) To accept delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Corporation and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of the Corporation pursuant to any master trust

indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at affiliate Faxton St-Luke's Healthcare which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services shall not be transferred to or used for the benefit of Mohawk Valley Health System, the Corporation or any subsidiary of the Corporation, and neither Mohawk Valley Health System nor the Corporation shall provide or support such services maintained by Faxton-St. Luke's Healthcare or any subsidiary of Faxton-St. Luke's Healthcare or any affiliate of Mohawk Valley Health System.

For the purposes of this subsection (b) of section (7), Mohawk Valley Health System shall have: (a) the power to initiate and direct action by the Corporation without a prior recommendation of Corporation's Board of Directors; and (b) the power to accept, reject or modify the recommendation of the Corporation's Board of Directors and to direct action by the Corporation or to return the matter to the Corporation's Board of Directors for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, Mohawk Valley Health System shall not direct any action with respect to the Corporation that requires the approval of the Partners in Franciscan Ministries, Inc., without prior written approval of such action by the Partners in Franciscan Ministries, Inc. The Board of Directors and officers of the Corporation shall not implement any action requiring the approval of Mohawk Valley Health System until Mohawk Valley Health System shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's Board of Directors and, in the case of any powers over the Corporation that are also reserved to the Partners in Franciscan Ministries, Inc., to the Partners in Franciscan Ministries, Inc.

With respect to any entity that is controlled by Mohawk Valley Health System, such entity's charter and governing documents shall contain a section that provides for the foregoing rights and powers to be reserved to Mohawk Valley Health System. All the policies, property, affairs and businesses of the controlled entities shall be under the charge, control and direction of their respective governing bodies, subject to the powers that are or shall be reserved to Mohawk Valley Health System as described in this paragraph.

- e. Paragraph (8) of the Certificate of Incorporation reads as follows:
- (8) The business of St. Elizabeth Medical Center shall be managed by a Board of Trustees consisting of not fewer than nine nor more than fifteen persons.
- f. Paragraph (8) of the Certificate of Incorporation is deleted in its entirety and is replaced with the following:
- (8) The business of the Corporation shall be managed by a Board of Directors consisting of not fewer than nine persons.
- g. Paragraphs (11), (12), (13), (14) and (15) shall be added to address: (1) that the Corporation is organized exclusively for purposes specified in Section 501(c)(3) of the Internal Revenue Code of 1986 or corresponding provision of any subsequent federal tax law (the "Code"); (2) that no part of the Corporation's net earnings nor any distribution of assets on the dissolution of the Corporation shall inure to the benefit of any private person; (3) that no substantial part of the activities of the Corporation shall be carrying on propaganda, otherwise influencing legislation or participating in any political campaign; (4) the distribution of the Corporation's assets in the event of the Corporation's liquidation; and (5) the distribution of the Corporation's income in any taxable year in which the Corporation is a private foundation as described in Code Section 509(a). Paragraphs ((11), (12), (13), (14) and (15) are added to read as follows:
- (11) Notwithstanding any other provision of this Certificate of Incorporation, the Corporation is organized exclusively for charitable purposes, as specified in Section 501(c)(3) of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent federal tax law (the "Code") and shall not carry on any other activities not permitted to be carried on by (a) a corporation exempt from Federal Income Tax under Code Section 501(c)(3) or (b) by a corporation, contributions to which are deductible under Code Section 170(c)(2).
- (12) No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its directors, officers or any other private persons, except that the Corporation shall be authorized to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes as set forth in this Certificate of Incorporation.
- (13) No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Code Section 501(h)), and the Corporation shall

not participate in, or intervene (including the publication or distribution of statements), any political campaign on behalf of or in opposition to any candidate, or participating in, or intervening in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office.

(14) In the event of dissolution or final liquidation of the Corporation, the Board of Directors shall, after paying or making provisions for the payment of all the lawful debts and liabilities of the Corporation, distribute all the assets of the Corporation to Partners in Franciscan Ministries, Inc (“PFM”) and/or the Congregation of the Sisters of St. Francis of the Neumann Communities (“Sisters”), provided that they shall then qualify under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law). If neither PFM nor the Sisters shall so qualify at the time of dissolution, then distribution shall be to such organization(s) organized and operated exclusively for charitable, education, religious or scientific purposes as shall at the time qualify as an exempt organization under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law), as SEMC shall determine.

(15) In any taxable year in which the Corporation is a private foundation as described in Code Section 509(a), the Corporation shall distribute its income for said period at such time and in such manner as not to subject it to tax under Code Section 4942; and the Corporation shall not (a) engage in any act of self dealing as defined in Code Section 4941(d); (b) retain any excess business holdings as defined in Code Section 4943(c); (c) make any investments in such manner as the subject corporation detects under Code Section 4944; or (d) make any taxable expenditures as defined in Code Section 4945(d).

h. Paragraph (16) shall be added to state the following:

(16) All references to “Trustees” shall be changed to “Directors” throughout the Certificate of Incorporation and Amendments or Restatements thereto and any reference to “Trustee” or “Trustees” shall be deemed a reference to “Director” or “Directors”.

4. The text of the Certificate of Amendment is hereby restated, as amended, to read as herein set forth in full:

(1) The name of the corporation is St. Elizabeth Medical Center (the “Corporation”). The Corporation was originally formed under the name of The Saint Elizabeth’s Hospital and Home.

(2) The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 (Definitions) of the Not-For-Profit Corporation Law. The Corporation is a Type B corporation under Section 201 (purposes) of the Not-For-Profit Corporation Law.

(3) The Secretary of State is designated as the agent upon whom process may be served, and the post office address within the State to which the Secretary of State shall mail a copy of any process is: 2209 Genesee Street, Utica, NY 13501.

(4) The business and objects of the Corporation hereby formed shall be:

- (a) to maintain a hospital for poor, sick, aged, infirm and disabled persons; and
- (b) to operate a certified home health agency and to otherwise provide home care services.

(5) Pursuant to the establishment of the Mohawk Valley Heart Institute, Inc. pursuant to Article 28 of the Public Health Law, the Corporation hereby delegates to the Mohawk Valley Heart Institute, Inc.:

- (a) Joint operational decision making authority and responsibility with the Corporation over such services for which a joint operating certificate will be issued by the New York State Department of Health to Mohawk Valley Heart Institute, Inc. and the Corporation.
- (b) Notwithstanding the foregoing, the Corporation retains control over and does not delegate to Mohawk Valley Heart Institute, Inc., authority and responsibility for all other services, operations, and clinical programs, for which no authority has been delegated to Mohawk Valley Heart Institute, Inc. and for which no joint operating certificate will be issued by the New York State Department of Health.

(6) Partners in Franciscan Ministries, Inc., and Mohawk Valley Health System shall serve as co-members of the Corporation.

(7) (a) The following powers shall be reserved to co-member, Partners in Franciscan Ministries, Inc., to exercise and shall be referred to as the Reserved Powers of the Partners in Franciscan Ministries, Inc.:

- (i) To approve and interpret those elements of the Corporation's statement of mission and philosophy adopted by the Corporation that relate to the Corporation's status as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy, and any amendments thereof, and to require the Corporation to operate in conformance with its Catholic mission and philosophy.

- (ii) To approve any amendment of the Corporation's purposes or powers in its Certificate of Incorporation that would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services.
- (iii) To approve the sale, transfer, mortgage, guaranty, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by the Partners in Franciscan Ministries, Inc., to meet the requirements of the United States Conference of Catholic Bishops.
- (iv) To approve and reject appointments to the pension committee for the defined benefit pension plan sponsored by the Corporation, which qualifies as a church plan under Section 3(33) of the Employee Retirement Income Security Act of 1974.
- (v) To approve any amendments or modifications to, or the termination of, the St. Elizabeth Medical Center Church Plan.
- (vi) To elect or appoint and remove, with or without cause, one director of the Corporation who does not currently serve on the board of Mohawk Valley Health System.

For the purposes of this subsection (a) of section (7), the power of the Partners of Franciscan Ministries, Inc., to "approve" means the power to accept or reject a recommendation of the Board of Directors of the Corporation or an action by Mohawk Valley Health System or any future Members of the Corporation with respect to the powers reserved to the Partners of Franciscan Ministries, Inc. The Corporation's Board of Directors and officers or Mohawk Valley Health System or any future Members of the Corporation shall not implement any action requiring the approval of Partners of Franciscan Ministries, Inc., until Partners of Franciscan Ministries, Inc., shall have exercised its reserved powers and communicated its determination in writing to the Corporation's other Members and Board of Directors.

(7) (b) Subject to the powers reserved to the Partners in Franciscan Ministries, Inc., the following powers shall be reserved to co-member Mohawk Valley Health System to exercise and shall be referred to as the Reserved Powers of Mohawk Valley Health System:

- (i) To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and to coordinate the missions, visions, activities and resources of the

Corporation and other affiliates of Mohawk Valley Health System in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, Mohawk Valley Health System shall not have the power to approve or interpret those elements of the Corporation's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of Corporation's Catholic mission and philosophy.

- (ii) To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation. Notwithstanding the foregoing, the Partners in Franciscan Ministries, Inc., shall be entitled to appoint and remove, with or without cause, one additional director designated by the Partners in Franciscan Ministries, Inc., to the Corporation's Board of Directors.
- (iii) To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation or Bylaws of the Corporation, unless such amendment would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services.
- (iv) To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation.
- (v) To approve the debt of the Corporation in excess of an amount to be fixed from time to time by Mohawk Valley Health System.
- (vi) To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by Mohawk Valley Health System. Notwithstanding the foregoing, the approval of the Partners in Franciscan Ministries, Inc., shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by the Partners in Franciscan Ministries, Inc., to meet the requirements of the United States Conference of Catholic Bishops.
- (vii) To approve the capital and operating budgets of the Corporation.

- (viii) To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation.
- (ix) To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Corporation.
- (x) To approve and coordinate the strategic plan of the Corporation.
- (xi) To approve all contracts of reimbursement for the Corporation from governmental or private third party insurers.
- (xi) To approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to certificate of need applications to the New York State Department of Health.
- (xii) To approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York.
- (xiii) To approve any material change in the services offered by the Corporation.
- (xiv) To require the Corporation to participate in any and all programs and services, as determined by Mohawk Valley Health System in its discretion, provided, however, that Mohawk Valley Health System may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound, and may not require Corporation's participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy, as determined by the Partners in Franciscan Ministries, Inc.
- (xv) To accept delegations of authority on behalf of Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Corporation and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry

out the obligations of the Corporation pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at affiliate Faxton St-Luke's Healthcare which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services shall not be transferred to or used for the benefit of Mohawk Valley Health System, or the Corporation or any subsidiary of the Corporation, and neither Mohawk Valley Health System nor the Corporation shall provide or support such services maintained by Faxton-St. Luke's Healthcare or any subsidiary of Faxton-St. Luke's Healthcare or any affiliate of Mohawk Valley Health System.

For the purposes of this subsection (b) of section (7), Mohawk Valley Health System shall have: (a) the power to initiate and direct action by the Corporation without a prior recommendation of Corporation's Board of Directors; and (b) the power to accept, reject or modify the recommendation of the Corporation's Board of Directors and to direct action by the Corporation or to return the matter to the Corporation's Board of Directors for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, Mohawk Valley Health System shall not direct any action with respect to the Corporation that requires the approval of the Partners in Franciscan Ministries, Inc., without prior written approval of such action by the Partners in Franciscan Ministries, Inc. The Board of Directors and officers of the Corporation shall not implement any action requiring the approval of Mohawk Valley Health System until Mohawk Valley Health System shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's Board of Director and, in the case of any powers over the Corporation that are also reserved to the Partners in Franciscan Ministries, Inc., to the Partners in Franciscan Ministries, Inc.

With respect to any entity that is controlled by Mohawk Valley Health System, such entity's charter and governing documents shall contain a section that provides for the foregoing rights and powers to be reserved to Mohawk Valley Health System. All the policies, property, affairs and businesses of the controlled entities shall be under the charge, control and direction of their respective governing bodies, subject to the powers that are or shall be reserved to Mohawk Valley Health System as described in this paragraph.

(8) The business of the Corporation shall be managed by a Board of Directors consisting of not fewer than nine persons.

(9) Any action required or permitted to be taken by the Board of Trustees of the Corporation, or by any committee thereof, may be taken without a meeting if all members of the Board of Directors or the committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto by the members of the Board of Directors or committee shall be filed with the minutes of the proceedings of the Board of Directors or committee.

(10) Any one or more members of the Board of Directors or any committee thereof may participate in the meeting of such board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time.

(11) Notwithstanding any other provision of this Certificate of Incorporation, the Corporation is organized exclusively for charitable purposes, as specified in Section 501(c)(3) of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent federal tax law (the "Code") and shall not carry on any other activities not permitted to be carried on by (a) a corporation exempt from Federal Income Tax under Code Section 501(c)(3) or (b) by a corporation, contributions to which are deductible under Code Section 170(c)(2).

(12) No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its directors, officers or any other private persons, except that the Corporation shall be authorized to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes as set forth in this Certificate of Incorporation.

(13) No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Code Section 501(h)), and the Corporation shall not participate in, or intervene (including the publication or distribution of statements), any political campaign on behalf of or in opposition to any candidate, or participating in, or intervening in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office.

(14) In the event of dissolution or final liquidation of the Corporation, the Board of Directors shall, after paying or making provisions for the payment of all the lawful debts and liabilities of the Corporation, distribute all the assets of the Corporation to Partners in Franciscan Ministries, Inc ("PFM") and/or the Congregation of the Sisters of St. Francis of the Neumann Communities ("Sisters"), provided that they shall then qualify under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law). If neither PFM nor the Sisters shall so qualify at the time of dissolution, then distribution shall be to such organization(s) organized and operated exclusively for charitable, education, religious or scientific purposes as shall at the time

qualify as an exempt organization under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law), as SEMC shall determine.

(15) In any taxable year in which the Corporation is a private foundation as described in Code Section 509(a), the Corporation shall distribute its income for said period at such time and in such manner as not to subject it to tax under Code Section 4942; and the Corporation shall not (a) engage in any act of self dealing as defined in Code Section 4941(d); (b) retain any excess business holdings as defined in Code Section 4943(c); (c) make any investments in such manner as the subject corporation detects under Code Section 4944; or (d) make any taxable expenditures as defined in Code Section 4945(d).

(16) All references to "Trustees" shall be changed to "Directors" throughout the Certificate of Incorporation and Amendments or Restatements thereto and any reference to "Trustee" or "Trustees" shall be deemed a reference to "Director" or "Directors".

5. This restatement of the certificate of incorporation of St. Elizabeth Medical Center was authorized by unanimous vote of the Corporate Member at a meeting of the Corporate Member held on the 30th day of September, 2013 at which a quorum was present and acting throughout and authorized by unanimous vote of the Board of Trustees of the Corporation at a meeting of the Board of Trustees held on the _____ day of _____, 2013 at which a quorum was present and acting throughout.

IN WITNESS WHEREOF, the undersigned has executed this Restated Certificate this _____ day of _____, 2013. The undersigned affirms that statements made herein are true under the penalties of perjury.

Richard Ketcham
President/CEO

Sworn to before me this _____ day of _____, 2013

Notary Public

Catherine Cominsky
Secretary

Sworn to before me this _____ day of _____, 2013

Notary Public

Exhibit 3.2(a)(9)(B)
Restated Bylaws of SEMC

**BYLAWS
of
ST. ELIZABETH MEDICAL CENTER**

**ARTICLE ONE
ORGANIZATION**

- 1.1 The name of the corporation is St. Elizabeth Medical Center (“Corporation” or “SEMC”).
- 1.2 St. Elizabeth Medical Center, a Roman Catholic institution, was incorporated under the name of St. Elizabeth's Hospital and Home on February 8, 1870, as a membership corporation under the laws of the State of New York.
- 1.3 The post office address of the Corporation’s principal office is: 2209 Genesee Street, Utica, NY 13501.

**ARTICLE TWO
MISSION AND VISION**

2.1 MISSION OF THE CORPORATION

St. Elizabeth Medical Center Community, inspired by St. Francis of Assisi and faithful to the teachings of the Roman Catholic Church, is committed to excellence in healthcare and education. We pledge to do this with compassion and respect for the dignity of all.

2.2 VISION OF THE CORPORATION

The Vision of St. Elizabeth Medical Center:

- Offer the highest quality comprehensive health care services to the greater Utica area as a Catholic Community Hospital.
- Provide access to primary and ambulatory care services through a network of community health care centers.
- Service the region as a referral center of excellence in selected specialties and as a major provider of education in health care professions.
- Respond to the needs of our patients, staff, physicians and community, and meet their expectations by continuously improving the quality of our services.
- Achieve these goals in a cost-effective manner.

**ARTICLE THREE
OFFICES, PURPOSES AND POWERS**

3.1 OFFICES

The principal office of the Corporation shall be located in New York State (“the State”). The Corporation shall have and continuously maintain in the State a registered office and a registered agent whose office shall be identical with the registered office, and may have such other offices as the Board may determine from time to time.

3.2 PURPOSES AND POWERS

The Corporation shall have the following purposes and powers:

- A. To establish, operate and maintain a general hospital and comprehensive health care facilities and systems at one or more sites, whose purposes may include, but not be limited to, the provision of a full range of inpatient and outpatient services, and other health related services and facilities. Each such service or facility shall be established and operated in accordance with all approvals required by the Public Health Law or other law of the State, and all approvals required from any other body having jurisdiction over the Corporation’s activities.
- B. To carry on educational activities, scientific research and other health related activities or programs incident to the purposes set forth above.
- C. To solicit funds for the above purposes.
- D. To pursue, enhance, and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations as may be established, operated and maintained in accordance with all approvals required by applicable law.

ARTICLE FOUR MEMBERSHIP

The Corporation shall have the following purposes and powers:

4.1. COMPOSITION

Mohawk Valley Health System (“MVHS”) and Partners in Franciscan Ministries, Inc. (“PFM”), which is sponsored by the Sisters of St. Francis of the Neumann Communities, shall be co-members of the Corporation.

4.2 RIGHTS OF MEMBERS

A. MVHS - In addition to all other rights and powers of membership prescribed by New York Law, the Certificate of Incorporation and/or the Bylaws of the Corporation, the following governance and management powers shall be delegated to MVHS to the extent permitted by the New York Not-for-Profit Corporation Law:

- (1) Except as otherwise set forth herein, to approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and to coordinate the missions, visions, activities and resources of the Corporation in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, MVHS shall not have the power to approve or interpret those elements of the Corporation's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy;
- (2) To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation. Notwithstanding the foregoing, PFM shall be entitled to appoint and remove, with or without cause, the one additional director designated by PFM to the Corporation's Board of Directors;
- (3) To amend or repeal the Certificate and Bylaws, and to adopt any new or restated Certificate of Incorporation or Bylaws, of the Corporation;
- (4) To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- (5) To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- (6) To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS. Notwithstanding the foregoing, the approval of PFM shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by PFM, to meet the requirements of the United States Conference of Catholic Bishops;
- (7) To approve the capital and operating budgets of the Corporation;

- (8) To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to such Corporation;
- (9) To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Corporation;
- (10) To approve and coordinate the strategic plans of the Corporation;
- (11) To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
- (12) To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;
- (13) To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
- (14) To approve any material change in the services offered by the Corporation;
- (15) To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound, and may not require the Corporation's participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy; and
- (16) To accept delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Corporation and to maintain a single consolidated set of books and financial records, as may

be necessary or desirable to carry out the obligations of the Corporation pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change.

Notwithstanding the foregoing, in the case of the Corporation, MVHS shall not direct any action with respect to the Corporation that requires the approval of PFM without prior approval of such action by PFM. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's Board of Directors and, in the case of any powers over the Corporation that are also reserved to PFM, to PFM.

B. PFM – The following powers shall be reserved exclusively to PFM:

- (1) to approve and interpret those elements of the Corporation's statement of mission and philosophy adopted by the Corporation that relate to the Corporation's status as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy, and any amendments thereof, and to require the Corporation to operate in conformance with its Catholic mission and philosophy; this power shall include approval of the individual who will serve in a position to oversee Mission, which position will report directly to the President/CEO and shall not be eliminated without the prior approval of PFM.
- (2) to approve any amendment of the Corporation's purposes or powers in its Certificate of Incorporation that would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services; and

- (3) to approve the sale, transfer, mortgage, guaranty, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by the PFM to meet the requirements of the United States Conference of Catholic Bishops.
- (4) to approve and reject appointments to the Pension Committee for the SEMC Church Plan.
- (5) to approve any amendments or modifications to, or the termination of, the SEMC Church Plan; and
- (6) to elect or appoint and remove, with or without cause, one director of the Corporation who does not currently serve on the Board of MVHS.

4.3 ANNUAL MEETING

MVHS shall, in its capacity as the active member of the Corporation, hold its annual meeting each year at a time and place determined by MVHS. At the annual meeting, MVHS shall elect Directors of the Corporation, receive the annual report of the Directors of the corporation, and transact such other business as may properly come before the meeting.

4.4 ANNUAL REPORT TO MEMBER

At the annual meeting of the member, the Chairperson or President, and the Treasurer of the Corporation shall present an Annual Report showing in appropriate detail the following information:

- (a) a complete verified financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation;
- (b) a summary of the activities of the Corporation during the preceding year.

The Annual Report shall be filed with the minutes of the annual meeting.

ARTICLE FIVE BOARD OF DIRECTORS

5.1 NUMBER

The Board of Directors shall consist of not less than nine (9) members.

5.2 QUALIFICATION

Directors shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to

the community and the health care needs of its residents; and their personal and professional ethics and values.

5.3 ELECTION AND TENURE

A. Composition of Initial Board of Directors. Commencing with the meeting to be held on or about _____, 20XX, the initial board shall be comprised of nineteen (19) voting Directors. SEMC and Faxton-St. Luke's Healthcare ("FSLH") shall each appoint eight (8) directors (the "Elected Directors"). Two (2) of the remaining Directors shall be the presidents of the medical staffs of SEMC and FSLH, who shall serve ex-officio as voting members, and the third (3rd) and final Director shall be appointed by PFM to serve as a voting Director. In addition, the Chief Executive Officer of MVHS shall serve as an ex-officio non-voting Director

B. Terms of Office. The initial Elected Directors shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated. Each class shall have an equal number of Directors selected by SEMC and FSLH, with the exception of the PFM-appointed director who shall serve an initial term of four (4) years.

C. Subsequent Election. Commencing with the 20XY annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Director may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in these Bylaws and the PFM-appointed Director shall serve at the pleasure of PFM. Commencing with the 20XY annual meeting, members of the Board shall be nominated by the Governance Affairs and Ethics Committee of MVHS and shall be elected by a simple majority of the Board of MVHS. The Board shall not be bound or limited to such nominees.

D. Reappointment. Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Director's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

E. Non-Elected Directors. The President of the Medical Staffs of the Corporation and FSLH shall serve as Directors of the Corporation, coterminous with holding their respective positions. Additionally, the Chief Executive Officer of MVHS shall serve ex-officio as a non-voting Director.

5.4 VACANCIES

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Director, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board of MVHS. Nominees shall be presented by the Governance Affairs and Ethics Committee of MVHS, but the MVHS Board shall not be bound or limited to such nominees. Directors selected to fill vacancies shall serve the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

5.5 REMOVAL

Each member of the Board of Directors shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Directors by a vote of two-thirds of the MVHS Directors. In addition, the Board of MVHS may remove any Director, with or without cause, upon a two-thirds (2/3) vote of the MVHS Board. Notwithstanding the foregoing, the PFM-appointed Director shall serve at the pleasure of PFM.

5.6 RESIGNATION/LEAVE OF ABSENCE.

A. Resignation. Any Director may resign at any time by giving written notice to the Chairperson or to the Secretary of the Corporation. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

B. Leave of Absence. Any Director may request a Leave of Absence of up to three (3) months for medical reasons relating to the Director, or a member of the Director's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Director. If the Chairperson requests a Leave, the request shall be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Director shall be excused from any attendance requirements and all other obligations of a Director as set forth in these Bylaws. The Director's Board position shall remain vacant during the term of the Leave, and the Director's position shall not be counted in determining the presence of a quorum.

If the Director on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the MVHS Directors at the next regular meeting of the MVHS Board, or at a special meeting called for such

purpose. Any committee positions held by the Director may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Director may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

5.7 ADDITIONAL ADVISORS

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Directors present.

5.8 MEETINGS OF DIRECTORS

A. Annual Meeting The Board of Directors shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, selecting members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

B. Regular Meetings The Board of Directors shall hold at least seven (7) regular meetings annually.

C. Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3) Directors. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

D. Place All meetings of the Board shall be held at the principal office of the Corporation or at such other place within this State as the Notice of Meeting shall provide.

E. Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Director personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law or these Bylaws, the notice shall also state the purpose for which the meeting is called. Oral or written notice of the postponement of any scheduled regular meeting shall be given to each Director not less than one (1) day before the scheduled date of such meeting.

F. Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

G. Quorum Unless a greater or lesser number is required by law, the Certificate of Incorporation or these Bylaws, a majority of the Directors entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Directors present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 5.8(e).

H. Voting Subject to the Conflict of Interest provisions of these Bylaws, and the Board's Conflict of Interest policies, each voting Director present is entitled to vote on any matter before the Board.

I. Manner of Acting Unless otherwise required by law, the Certificate of Incorporation or these Bylaws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the consent in writing of all Directors entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

J. Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

5.9 POWERS AND FIDUCIARY OBLIGATIONS

A. Powers The administrative powers of the Corporation shall be vested in the Board of Directors, which shall have: charge, control, and oversight of the property, funds, and affairs of the Corporation; the power to elect and remove, with or without cause, officers and to fill vacancies among the officers for unexpired terms; the power to establish policies for the management and operation of the Corporation; and such other power and authority to do and perform all acts and functions for the benefit of the Corporation, not inconsistent with these Bylaws or the Certificate of Incorporation. The Board of Directors shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

B. Fiduciary Obligations The members of the Board of Directors shall at all times conduct the affairs of the Corporation in strict conformance with all applicable fiduciary and

ethical standards. Each Director shall act in a manner consistent with the duty of undivided loyalty to the interests of the Corporation, the duty to maintain in confidence information concerning the affairs of the Corporation, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Corporation. The Board shall adopt such mechanisms as it deems appropriate to assist the Directors in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate: the mission and vision of the Corporation; a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Corporation.

ARTICLE SIX OFFICERS

6.1 OFFICERS

The Corporation shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Board of Directors may authorize. The Corporation shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Boards. The Chairperson selected at the 20XX, 20XY, and 20XZ annual meetings shall serve a one year term, or until his/her successor has been elected. The Chairperson seated at the 20XX-20XZ annual meetings shall be selected by the initial Directors appointed by the Corporation, as may be on the Board at that time. Commencing with the 20XA annual meeting the Chairperson and Vice-Chairperson shall be elected by the MVHS Board for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected by MVHS at the annual meeting of MVHS and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors of MVHS at any regular meeting of the MVHS Board or any special meeting called for such purpose.

6.2 CHAIRPERSON

The Chairperson shall preside at all meetings of the Board of Directors, shall appoint the members and Chairperson of each Committee in accordance with these Bylaws and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 20XZ annual meeting shall be eligible to be elected by the full Board to serve one additional term of two (2) years, commencing in 20XA. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the

length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

6.3 VICE-CHAIRPERSON

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

6.4 CHAIR EMERITUS.

Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in these Bylaws. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the 20XX annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

6.5 SECRETARY

The Secretary shall act as Secretary of both the Corporation and the Board of Directors and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Corporation and keeping the minutes of the meetings of the Board of Directors. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Corporate records.

6.6 TREASURER

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and, whenever required by the Board of Directors shall render, or cause to be rendered, financial statements of the Corporation. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

6.7 PRESIDENT

MVHS shall appoint a qualified hospital administrator to serve as its President and as the Chief Executive Officer of the Corporation. The President/CEO shall be the Board's direct executive representative in the management of the Corporation. The President/CEO shall have the necessary authority and shall be responsible for management of the Corporation, subject only to the policies and directives of the Board and any of its committees to which the Board has delegated power for such action. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board of Directors in all matters except those for which the Board has designated some other individual to act.

ARTICLE SEVEN COMMITTEES OF THE BOARD OF DIRECTORS

7.1 STRUCTURE

There shall be nine (9) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Patient Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, Investment Committee, Audit and Compliance Committee, Joint Conference Committee and Pension Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

7.2 PROCEDURE

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in these Bylaws or in a Resolution of the Board of Directors.

7.3 POWERS

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these Bylaws, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

7.4 COMMITTEE MEMBERS

A. Appointment. Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to promote experience and knowledge in all aspects of the operation of the Corporation.

B. Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.

C. Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.

D. Removal. Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.

E. Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

7.5 ADVISORS TO BOARD COMMITTEES

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Directors.

As deemed appropriate by the Committee Chair, members of the Corporation's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted

in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

7.6 MANNER OF ACTION

A. Meetings. Each Committee shall meet as provided for in these Bylaws and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

B. Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

C. Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

D. Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

E. Meeting by Conference Telephone or Similar Device. Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

7.7 CONFLICT OF INTEREST

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

7.8 EXECUTIVE COMMITTEE

A. Composition

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, Presidents of the Medical Staffs of SEMC and FSLH, and the Chairperson Emeritus.

B. Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Corporation, subject to any prior limitations imposed by the Board, these Bylaws, or statute. In addition, the Executive Committee shall:

- (1) Oversee the development of labor relations and negotiation strategy and recommend to the Board approval of collective bargaining agreements.
- (2) Review and recommend to the Board, with the assistance of counsel, policies and guidelines for financial transactions with physicians, including physician recruitment, employment or other agreements with the Corporation.
- (3) Review and recommend to the Board, legislative and regulatory affairs initiatives.
- (4) Review and make recommendations to the Board as to the Corporation's completion and filing of IRS Form 990 and such other reports or filings as may be required by the Internal Revenue Service.
- (5) Meetings

The Executive Committee shall meet as necessary to conduct the business of the Corporation while the full Board is not in session.

7.9 FINANCE

A. Composition

The Finance Committee shall consist of the Treasurer of the Corporation, as Committee Chairperson, and at least 6 voting Directors, at least one of whom shall have substantial accounting or financial management expertise.

B. Functions

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Corporation and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and oversight of the financial affairs of the Corporation and its subsidiaries. Its functions shall include:

- (1) Overseeing the President's development of a budget for the Corporation showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Board a budget developed by the President for the ensuing year;

- (3) Reviewing financial reports that report on the financial condition of the Corporation;
- (4) Reviewing and making recommendations to the Board on any request by the President for the Corporation to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;
- (5) Retaining the Corporation's independent Certified Public Accountants to provide external financial auditing to the Corporation. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Corporation and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Corporation and its subsidiaries.
- (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Corporations and its subsidiaries.

C. Meetings

The Finance Committee shall meet as needed, but not less than six (6) times per year.

7.10 QUALITY AND PATIENT SAFETY COMMITTEE

A. Composition.

The Quality and Patient Safety Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a physician.

B. Functions.

The Quality and Patient Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of all of the Corporation' medical and subsidiary services for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance for all corporate Corporation, including:
 - a. Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;
 - b. Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;
 - c. Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by the Corporation's subsidiaries and/or third parties providing services to the subsidiaries by contract, and coordinating the provision of services by the Corporation, its subsidiaries and third parties.
- (2) Recommend policies and provide direction for the system's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the system and its subsidiaries.
- (3) Oversee regulatory compliance, safety, infection control and such other programs as shall be required to insure continuous accreditation of the Affiliates.
- (4) Review and report to the Board on Department of Health, Office of Mental Health, and other regulatory surveys and findings and any required plans of correction.

- (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
- (6) Receive and review quality improvement plans and reports and recommendations from the Corporation's subsidiaries concerning quality and performance improvement activities, including reports from any required quality or advisory committees of the subsidiary boards.
- (7) Assist in the development of Board educational processes regarding quality and service improvement with the assistance and participation of the medical staff and hospital management.

C. Meetings

The Quality and Patient Safety Committee shall meet at least six (6) times annually, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

7.11 GOVERNANCE AFFAIRS AND ETHICS COMMITTEE

A. Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a Board Officer.

B. Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Boards of the Corporation and its subsidiaries; developing and monitoring a Board education plan; review and amendment of corporate and subsidiary Bylaws; and nomination of directors and officers of the Corporation and members of the Boards of the Corporation's subsidiaries. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - a. Conflict of Interest;
 - b. Policy based governance;
 - c. Fiduciary obligation;
 - d. Committee structure and philosophy;
 - e. Governance operations; and

- f. Officer and committee chairperson position descriptions.
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
- (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
- (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Board and Committees of the Corporation and its subsidiaries.
- (5) Nominate directors and officers of the Corporation's subsidiary boards.
- (6) Develop an orientation process for new Board and Committee members for the Corporation and its subsidiaries, with the assistance of the Chief Executive Officer.
- (7) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
- (8) Periodically review, and recommend changes to the Bylaws of the Corporation and its subsidiaries to insure compliance with the mission, vision, purpose and structure of the Corporation and its subsidiaries.

C. Meetings

The Governance Affairs and Ethics Committee shall meet at least two (2) times per year, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

7.12 EXECUTIVE COMPENSATION COMMITTEE.

A. Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Directors recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be "Independent Directors" as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not an "Independent Director", the Board shall appoint another Independent Director to serve in the place of the Chairperson. The President/CEO may serve as an

advisor to the Committee as long as he or she is excused when the Committee is reviewing the CEO's compensation package.

B. Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the President/CEO and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of the Corporation, or its Affiliates or subsidiaries, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations ("Disqualified Persons"). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually, performance guidelines for the CEO;
- (2) Assist the board in assessing and evaluating the CEO's performance;
- (3) Review and recommend to the full Board the CEO's compensation, including salary, incentives, benefits and other perquisites;
- (4) Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
- (5) At least annually, review executive compensation to ensure that it is appropriate in view of Corporation's tax-exempt status and take the required steps to establish a "rebuttable presumption of reasonableness" [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person's background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Corporation's income and assets and the number of Corporations employees;
 - d. CEO's job performance;
 - e. relationship of the CEO's compensation to the compensation paid to Corporation's other employees; and
 - f. the number of hours the CEO spends performing his or her job.

- (6) Review and approve the compensation package of the Chief Operating, Medical, Nursing and Financial Officers, as recommended by the CEO.

C. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Corporation to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

D. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

7.13 INVESTMENT COMMITTEE.

A. Composition

The Investment Committee shall consist of at least at least three (3) Directors, at least one of whom shall have significant experience in financial and/or investment matters.

B Functions.

The function of the Investment Committee shall be to establish investment standards and expectations and review and monitor investment performance of the managers of the investments, endowments and other funds of the Corporation, and its subsidiaries. Without limiting the foregoing, the Committee shall:

- (1) Review and recommend to the Board, the investment policy of the Corporation and its subsidiaries;
- (2) Review the performance of the investment managers and, as required, recommend changes to the Board;
- (3) At least semi-annually report to the Board on the investment activities and performance of the investments of the Corporation and its subsidiaries.

C. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

7.14 AUDIT AND COMPLIANCE COMMITTEE.

A. Composition

The Audit and Compliance Committee shall be composed of at least three (3) directors. At least a majority of the directors so appointed shall be “Independent Directors” as defined in Section 7.12(a), above.

B. Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board of Directors in its oversight responsibilities by overseeing management’s systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Corporation. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee’s retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the Corporate Compliance Plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.
 - b. Review the minutes of each Corporate Compliance Committee meeting, and monitor the results of the Compliance Program.
 - c. Serve as a resource to the Compliance Officer and management on compliance issues.
 - d. Review and approve the audit schedule proposed by the Compliance Officer.
 - e. Report to the Board at least semi-annually, regarding the status of the Compliance Plan.

C. Meetings.

The Committee shall convene at least four (4) times per year or as shall be necessary to discharge its responsibilities.

7.15 PENSION COMMITTEE

A. Composition

The Pension Committee shall consist of at least five (5) members: one (1) member shall be the PFM-appointed Director, who shall serve as the Chairperson of the Committee. The four (4) remaining members shall be appointed by the PFM-appointed Director.

The Pension Committee's membership shall share common religious bonds and convictions with the Congregation of the Sisters of St. Francis of the Neumann Communities.

B. Functions

The Pension Committee shall perform the following functions:

- (1) Provide the Board of Directors level oversight and administration of the Corporation's employee pension and retirement plans.
- (2) Serve as the Administrator of the St. Elizabeth Medical Center Employees' Retirement Plans.
- (3) Make recommendations to PFM and to the Board of Directors to approve changes to the St. Elizabeth Medical Center Employees' Retirement Plans Documents and operational systems.
- (4) Review quarterly the financial results of investment manager actions of the St. Elizabeth Medical Center Employees' Retirement Plans. Meet at least annually to review the valuation of the Plans.
- (5) Make recommendations to PFM and to the Board of Directors after receiving recommendations from management of the Corporation relative to continuation or changes in
 - a. investment managers,
 - b. Plan Trustee, and
 - c. investment policy for investments.
- (6) Review investment policy of St. Elizabeth Medical Center Employees' Retirement Plans to be followed by the Plan Trustee and investment managers for the investments of St. Elizabeth Medical Center Employees' Retirement Plan.
- (7) Take all steps that are reasonably possible to advise management and the Board of Directors whenever the St. Elizabeth Medical Center Employees' Retirement Plans fail to meet minimum funding and regulatory requirements as those requirements are applicable to a going concern.
- (8) Perform such other duties as designated by the Board of Directors.

C. Meetings.

The Committee shall convene at least four (4) times per year or as shall be necessary to discharge its responsibilities.

ARTICLE EIGHT

ADMINISTRATION

8.1 PRESIDENT/CEO

A. The Board of Directors of MVHS shall select and appoint a competent hospital administrator who shall act as President of the Board and Chief Executive Officer of the Corporation. The President/CEO shall have such qualifications as are prescribed by the New York State Hospital Code, as may be amended from time to time. The President/CEO shall be given the necessary authority and responsibility to operate the hospital in all its activities and departments, subject only to such policies as may be issued by the Board of Directors or by any of its Committees to which it has delegated power for such action. The President/CEO's performance shall be monitored in an ongoing manner by the Board of Directors and its Committees. The President/CEO shall act as the duly authorized representative of the Board in all matters in which the Board has not formally designated some other person to act.

B. The daily management and operational affairs of the hospital shall be the responsibility of the President/Chief Executive Officer. Without limiting the foregoing, the authority and responsibility of the President/Chief Executive Officer shall include:

- (1) Aid the Board in the formulation of policies and procedures and carrying out all policies established by the Board.
- (2) Development of a plan of organization of hospital personnel and other persons concerned with the conduct of the hospital's operation and submission of the plan to the Board for approval.
- (3) Preparation of an annual budget showing the expected receipts and expenditures of the hospital as required by the Board.
- (4) Development, submission and implementation, in a timely manner, of all plans to correct operational deficiencies identified by regulatory agencies, and reporting to the Board progress and carrying out plans of correction.
- (5) Assisting the Board in communication and cooperation with the hospital's Medical Staff.
- (6) Assisting the hospital's Medical Staff with its organizational and medical administrative responsibilities.
- (7) Responsibility for all management and operational affairs of the hospital as required under the New York State Hospital Code, the requirements of the Hospital's accrediting organization and the responsibilities and duties established by all other regulatory bodies having jurisdiction.

- (8) Performance of such other duties as may be necessary in the best interests of the hospital.

8.2 MEDICAL DIRECTOR

A. The Board of Directors shall, after consultation with the Medical Staff, select and appoint a competent Medical Director who shall have administrative responsibility for the hospital's clinical departments and medical education programs. Responsibility for the organization and conduct of the Medical Staff shall be developed and defined in writing, in consultation with the Medical Staff, and assigned to the Medical Director. The Medical Director shall have such qualifications as may be required by the New York State Hospital Code, as amended from time to time.

B. The Medical Director shall have such authority and responsibility as required to perform his or her duties, including:

- (1) Coordinating the appointment and re-appointment process of the members of the Medical Staff, including investigation and assurance of qualifications for membership, as provided in the Medical Staff Bylaws.
- (2) Oversee the granting of clinical privileges consistent with the practitioner's training, experience and demonstrated competence.
- (3) Monitor and ensure Medical Staff compliance with the hospital's Bylaws, the Medical Staff Bylaws, the rules and regulations and Policies of the Medical Staff, hospital policies and procedures, and all applicable laws, rules, regulations, and accrediting standards.
- (4) Oversee the activities, findings and recommendations of all medical staff quality improvement programs and promptly initiate or recommend appropriate corrective measures, consistent with the Medical Staff Bylaws.
- (5) Monitor the activities and performance of the hospital's clinical departments and Department Chairpersons and make such reports and recommendations to the Board as shall be appropriate.
- (6) Perform such other duties as may be required under the New York State Hospital Code, as may be assigned by the Board and CEO, or as shall be appropriate and necessary in the best interests of the Hospital.

ARTICLE NINE QUALITY ASSURANCE

9.1 BOARD RESPONSIBILITY

The Board shall establish, maintain, support and exercise oversight of an ongoing quality assurance program that includes specific and effective review, evaluation and monitoring mechanisms to assist, preserve and improve the overall quality and efficiency of patient care in the hospital, and to insure that each patient's rights are protected and promoted.

9.2 DELEGATION TO ADMINISTRATION AND TO MEDICAL STAFF

(a) TO ADMINISTRATION

Except as may be set forth in any policy adopted by the Board from time to time, the Board delegates to the administration and holds it accountable for providing the administrative assistance reasonably necessary to support and facilitate the implementation of an on-going operation of the hospital's quality assurance program, for implementing the quality assurance program as it concerns non-medical professional personnel and technical staffs and patient care units, for establishing and maintaining a policy and process to protect and promote patient's rights and promptly resolve patient grievances, and for analyzing information and acting upon problems involving technical, administrative and support services and hospital policy. Without limiting the foregoing, the Board of Directors specifically delegates the obligation to review and resolve patient grievances to the individual responsible for quality management or such other person as designated by the President/CEO. The process for reviewing and resolving patient grievances shall be monitored by the Quality and Patient Safety Committee which shall provide periodic reports to the full Board.

(b) TO MEDICAL STAFF

The Board delegates to the Medical Staff and holds it accountable for conducting specific activities that contribute to the preservation and improvement of the quality and efficiency of patient care provided in the hospital. These activities include:

- (1) Systematic evaluation of practitioner performance against explicit, predetermined objective criteria.

- (2) On-going monitoring of critical aspects of care including, but not limited to, antibiotic and drug usage, transfusion practices, infections, mortalities, monitoring of unexpected clinical occurrences, and such other aspects of clinical care as shall be determined by the Board.
- (3) Review utilization of the hospital's resources to provide for their proper and timely allocation to patients in need of them.
- (4) Provision of continuing professional education, fashioned in part on the needs identified through the review, evaluation and monitoring activities and on new state-of the art developments.
- (5) Definition of the clinical privileges which may be appropriately granted within the hospital and within each department, delineation of clinical privileges for members of the Medical Staff commensurate with individual credentials and demonstrated ability and judgment, and participation in assigning patient care responsibilities to other health care professionals consistent with individual qualifications and demonstrated ability.
- (6) Management of clinical affairs, including enforcement of clinical policies and consultation requirements, initiation of disciplinary actions, surveillance over requirements for performance monitoring and for the exercise of newly-acquired clinical privileges, and other clinically-oriented activities.
- (7) Such other measures as the Board may, after considering the advice of the Medical Staff, the other professional services and the hospital management, deem necessary for the preservation and improvement of the quality and efficiency of patient care.

**ARTICLE TEN
MEDICAL STAFF**

10.1 ORGANIZATION

The Board of Directors has caused to be created a Medical Staff organization, known as the Medical Staff of St. Elizabeth Medical Center, whose membership is comprised of all practitioners who are privileged to attend patients of the Corporation. Membership in this Medical Staff organization shall be a prerequisite to the exercise of clinical privileges in the Corporation, except as otherwise specifically provided in the Medical Staff Bylaws.

10.2 MEDICAL STAFF BYLAWS, RULES AND REGULATIONS

A. Purpose

The Medical Staff organization shall propose and adopt by vote bylaws, rules and regulations for its internal governance, which shall be effective when approved by the Board of Directors. These bylaws shall create an effective administrative unit to discharge the functions and responsibilities assigned to the Medical Staff by the Board of Directors. The Medical Staff bylaws, rules and regulations shall state the purpose, functions and organization of the Medical Staff and shall set forth the policies by which the Medical Staff exercises and accounts for its delegated authority and responsibilities.

B. Procedure

The Medical Staff shall have the initial responsibility to formulate, adopt, and recommend to the Board of Directors, Medical Staff bylaws and amendments thereto, which shall be effective when approved by the Board of Directors. If the Medical Staff fails to exercise this responsibility in good faith and in a reasonable timely and responsible manner, the Board of Directors may formulate or amend Medical Staff bylaws, at its own initiative. In such event, recommendations and views of the Medical Staff shall be carefully considered by the Board of Directors during its deliberations and in its actions.

10.3 MEDICAL STAFF MEMBERSHIP AND CLINICAL PRIVILEGES

A. Duties of the Medical Staff

- (1) The Medical Staff shall have the responsibility and authority to investigate and evaluate all matters relating to initial staff appointments, reappointments, the assignment or curtailment of clinical privileges and corrective action. The Board of Directors shall require the Medical Staff to adopt and forward to it specific written recommendations concerning staff appointments, reappointments, the assignment or curtailment of clinical privileges and corrective action, with appropriate supporting documentation that will allow the Board of Directors to take informed action.

- (2) The Medical Staff shall have the responsibility and authority to investigate and evaluate each allied health professional's application for specified services, department affiliation, and modification in the services such allied health professional may perform, and shall require that the Medical Staff make recommendations to the Board of Directors on such applications.
- (3) The Board of Directors has overall responsibility for making available high quality patient care. Therefore, the Medical Staff shall conduct an ongoing review and appraisal of the quality of professional care rendered in the Medical Center and shall report such activities and their results to the Board of Directors.

B. Action by the Board of Directors

Final action on all matters relating to Medical Staff membership status, clinical privileges and corrective action shall be taken by the Board of Directors after considering the recommendations of the Medical Staff, provided that the Board of Directors shall act in any event if the Medical Staff fails to adopt and submit any such recommendation within a reasonable time. Such Board of Directors action without a Medical Staff recommendation shall be based on the same kind of documented investigation and evaluation as is required for Medical Staff recommendations.

C. Criteria for Board of Directors' Action

In acting on matters of Medical Staff membership status, the Board of Directors shall consider the Medical Staff's recommendations, the Corporation's and the community's needs, and such additional criteria as are set forth in the Medical Staff bylaws. In granting and defining the scope of clinical privileges to be exercised by each practitioner, the Board of Directors shall consider the Medical Staff's recommendations, the supporting information on which they are based, and such criteria as are set forth in the Medical Staff bylaws. No aspect of membership status or specific clinical privileges shall be limited or denied to a practitioner on the basis of sex, race, age, creed, color or national origin, or on the basis of any other non-professional qualifications, to the Corporation's purposes, needs and capabilities, or to community needs.

D. Conflict Resolution

In accordance with the Medical Staff's policies and procedures as set out in the Medical Staff Bylaws, the Board of Directors will resolve any differences in recommendations concerning Medical Staff appointments, reappointments, terminations of appointments and the granting or revision of clinical privileges within a reasonable time.

10.4 TERMS AND CONDITIONS OF MEDICAL STAFF MEMBERSHIP AND CLINICAL PRIVILEGES

A. The Board of Directors shall require that the Medical Staff establish controls that are designed to ensure the achievement and maintenance of high standards of professional and ethical practice according to the Directives.

B. The Board of Directors may determine the total numbers and types of practitioners on the medical or affiliate staffs, based on the physical capabilities of the Corporation, utilization of the Corporation by its staff members, and requirements for efficient use of Corporation facilities and personnel.

C. Practitioners applying for Medical Staff membership, or for clinical privileges, must sign an agreement to abide by these Bylaws and by the Medical Staff bylaws, rules and regulations.

10.5 DUE PROCESS

A. Practitioners

In holding the Medical Staff responsible for making recommendations to it, the Board of Directors shall require that the Medical Staff bylaws shall provide for review of any adverse recommendation made to the Board of Directors with respect to a practitioner's Medical Staff appointment, reappointment, department affiliation, staff category, admitting prerogatives, clinical privileges or corrective action. The review shall be conducted in accordance with the Board of Directors approved Medical Staff Fair Hearing Plan then in effect. Such plan shall provide procedures to assure fair treatment of all practitioners and to afford opportunity for the presentation of all pertinent information, including the right to be heard, when requested by the practitioner.

B. Medical Staff-Administrative Staff

Any physician who is also an administrative officer shall be entitled to procedural due process under the Board of Directors approved Fair Hearing Plan then in effect. The Medical Staff-administrative officer shall be entitled to hearings by review committees of both the Medical Staff and the Board of Directors.

C. Medical Staff

If the Board of Directors declines to follow any Medical Staff recommendation concerning Medical Staff appointments, reappointments, the assignment or curtailment of clinical privileges, or corrective action, then the Medical Staff shall be entitled to have the adverse decision of the Board of Directors reviewed by the Board of Directors in accordance with the Board of Directors approved Fair Hearing Plan then in effect.

10.6 METHODS FOR MEDICAL ADMINISTRATIVE LIAISON

The Board of Directors shall establish medical-administrative liaison by the following methods:

- A. Appointment of Directors to attend Executive Committee meetings of the Medical Staff.
- B. Appointment of members of the Medical Staff to Committees of the Board of Directors.
- C. Appointment of the President of the Medical Staff as an ex-officio member of the Board of Directors.

10.7 OFFICERS AND CHAIRPERSONS

All elections and appointments of Medical Staff officers or chairpersons of Medical Staff committees shall be approved by the Board of Directors after consideration of the recommendation of the President of the Medical Staff. The duties and responsibilities of such officers and committee chairpersons shall be set forth in the Medical Staff bylaws.

ARTICLE ELEVEN INDEMNIFICATION AND INSURANCE

11.1 INDEMNIFICATION AND INSURANCE

It is expressly provided that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal, by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of this Corporation, will be completely indemnified by the Corporation to the full extent permitted by law. If permitted by law, this indemnification shall include, but not be limited to, the payment of one or more of the following: judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeal therein.

11.2 INSURANCE

It is the policy of the Corporation that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of the Corporation, will be completely and fully indemnified by this Corporation to the full extent permitted by the law. The Corporation may purchase and maintain insurance to completely and fully indemnify any and every such

person, whether or not this Corporation has the power to indemnify him or her against such liability under the laws of this or any other state.

ARTICLE TWELVE CONFLICT OF INTEREST

12.1 POLICY

Any Director, officer, key employee, or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval, or ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interest.

12.2 EFFECT

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions contained in the Board approved Conflicts of Interest Policy must be observed. If so, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in the discussions or deliberations with respect to such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

12.3 FORMAL POLICY AND PROCEDURE

The Board shall adopt a formal Conflict of Interest Policy requiring annual disclosure of existing and potential conflicts of interest, mechanisms for addressing actual and potential conflicts of interest and corrective and disciplinary action with respect to transgressions of such policies.

ARTICLE THIRTEEN VOLUNTEER ORGANIZATIONS

13.1 The Board may organize a volunteer organization, or such other associated organizations as it deems appropriate, consisting of individuals who are interested in rendering services as volunteers to the Corporation or its subsidiaries and in assisting in the fulfillment of the mission of the Corporation. There shall be Bylaws, rules and regulations for such organizations, setting forth

their organization and governance. Proposed Bylaws may be recommended, but only those approved by the Board of Directors shall become effective.

ARTICLE FOURTEEN AMENDMENT TO BYLAWS

14.1 PROCEDURE

These Bylaws may be amended or repealed, or new Bylaws may be adopted, by a two-thirds (2/3) vote of the Board of Directors of MVHS of any regular or special meeting. At least ten (10) days written notice shall be given of the intention to take such action. The Governance Affairs and Ethics Committee shall conduct an annual review of these Bylaws and make recommendations for such amendments as may be necessary to assure compliance with all applicable laws, rules and regulations. Notwithstanding the foregoing, any Amendment to these Bylaws which affects the mission and philosophy of the Corporation as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy or any amendment impacting the requirement of the Corporation to operate in conformance with its Catholic mission and philosophy or any amendment impacting the Pension Committee or relating to any of PFM's reserved powers, will require approval by PFM.

ARTICLE FIFTEEN GENERAL

15.1 PROCEDURE

The Board and any Board Committee may adopt rules or procedures which shall be consistent with these Bylaws.

15.2 EQUAL OPPORTUNITY

The Board shall, in all matters, act without regard to discrimination as to sex, race, age, creed, handicap, sexual preference, marital status or national origin.

15.3 CONSTRUCTION OF TERMS AND HEADINGS

Words used in these Bylaws shall be read as the masculine or feminine gender and as the singular or plural, as the context requires. The captions or headings in these Bylaws are for convenience only and are not intended to limit or define the scope or effect of any provision of these Bylaws.

Exhibit 3.2(b)(9)(A)
Restated Certificate of Incorporation of FSL

**RESTATED CERTIFICATE OF CONSOLIDATION
OF
FAXTON-ST. LUKE'S HEALTHCARE**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

We, the undersigned, being respectively the Chairperson and Secretary of Faxton-St. Luke's Healthcare, certify:

1. The name of the corporation is: **Faxton-St. Luke's Healthcare.**
2. The corporation's Certificate of Consolidation was filed by the Department of State on the 23rd day of December, 1999, pursuant to the New York Not-for-Profit Corporation Law.
3. The corporation's Certificate of Consolidation is hereby amended to effectuate the following:
 - A. To delegate and reserve to the Corporation's sole corporate member, Mohawk Valley Health System ("MVHS") certain rights and powers as set forth in Paragraph 4 of this Restated Certificate of Consolidation.
4. The text of the Certificate of Consolidation, as amended, is hereby restated to read as herein set forth in full:

1. The name of the consolidated corporation is: FAXTON-ST. LUKE'S HEALTHCARE (herein, the "Corporation" or the "Hospital").
2. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law.
3. The purposes and objects of the Corporation shall be as follows:
 - a. to establish, operate and maintain a general hospital and comprehensive health care facilities and systems whose purposes may include, but not be limited to, a full range of inpatient services, outpatient services, emergency department services, medical and dental services, residential health care facility services, end stage renal dialysis services, and such other services, facilities and equipment as shall be desirable in meeting the health care needs of the community, to be located at one or more sites.
 - b. to carry on educational activities, scientific research and other health related activities and programs incident to the purposes set forth above.
 - c. to solicit funds for the above purposes.

d. to pursue, enhance and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations as may be established, operated and maintained in accordance with all approvals required by applicable law.

e. this Corporation is organized exclusively for charitable, scientific and educational purposes as a not-for-profit corporation. Upon dissolution of the Corporation, and after payment of all just debts and liabilities, all remaining assets shall be distributed to MVHS and/or the not-for-profit corporate affiliates of MVHS, provided that they shall then qualify under Code Section 501(c)(3) or corresponding provisions of any future United States Internal Revenue law. If neither MVHS nor any of its not-for-profit corporate affiliates shall so qualify at the time of dissolution, the distribution shall be made to such other organizations enjoying exempt status under Section 501(c)(3) of the Internal Revenue Code, of 1986, as amended, or successor provisions, pursuant to a plan of dissolution authorized in accordance with the laws of the State of New York. The Corporation shall not devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise.

f. pursuant to the establishment of the Mohawk Valley Heart Institute, Inc. under Article 28 of the Public Health Law, the Corporation hereby delegates to Mohawk Valley Heart Institute, Inc.:

- i. Joint operational decision making authority and responsibility with Faxton-St. Luke's Healthcare over such services for which a joint operating certificate will be issued by the New York State Department of Health to Mohawk Valley Heart Institute, Inc. and Faxton-St. Luke's Healthcare.
- ii. Notwithstanding the foregoing, Faxton-St. Luke's Healthcare retains control over and does not delegate to Mohawk Valley Heart Institute, Inc. authority and responsibility for all other services, operations and clinical programs for which no authority has been delegated to Mohawk Valley Heart Institute, Inc. and for which no joint operating certificate will be issued by the New York State Department of Health.

4. The Corporation does delegate and reserve to Mohawk Valley Health System ("MVHS") certain powers. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Hospital, to require that the Hospital operate in conformance with its mission and philosophy and that the Hospital coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and

effective health care services in Oneida County, New York, and surrounding areas.

b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Hospital, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Hospital. Notwithstanding the foregoing, the Board of the Corporation shall be entitled to appoint and remove, with or without cause, one (1) additional director to the Board of the Corporation who does not currently serve on the MVHS Board.

c. To amend or repeal the Certificate of Consolidation and Bylaws, and to adopt any new or restated Certificate of Consolidation, and Bylaws of the Hospital;

d. To approve any plan of merger, consolidation, dissolution or liquidation of the Hospital;

e. To approve the debt of the Hospital in excess of an amount to be fixed from time to time by MVHS;

f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Hospital in excess of an amount to be fixed from time to time by MVHS.

g. To approve the capital and operating budgets of the Hospital;

h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Hospital;

i. To approve any corporate reorganization of the Hospital and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Hospital with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;

j. To approve and coordinate the strategic plan of the Hospital;

k. To approve all contracts of reimbursement for the Hospital from governmental or private third party insurers;

l. To approve all applications of the Hospital to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health, as required;

m. To approve management contracts for the Hospital subject to approval and/or regulation under the laws and regulations of the State of New York;

n. To approve any material change in the services offered by the Hospital;

o. To require the Hospital to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Hospital to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Hospital is a party and by which it is bound; and

p. To accept further delegations of authority on behalf of the Hospital pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Hospital and other MVHS affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at the Hospital which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services (herein, the “ERDs”) shall not be transferred to or used for the benefit of MVHS, St. Elizabeth Medical Center (“SEMC”) or any affiliate of SEMC and neither MVHS nor SEMC shall provide or support such services maintained by the Hospital or any Affiliate or subsidiary of the Hospital.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Hospital without a prior recommendation of the Hospital’s board of directors; and (ii) the power to accept, reject or modify the recommendation of the Hospital’s board of directors and to direct action by the Hospital or to return the matter to the board of directors of the Hospital for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Hospital shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Hospital’s board of directors.

5. The Corporation is not organized for pecuniary profit or financial gain, and no part of its assets, income or profit shall be distributable to, or inure to the benefit

of its members, directors or officers, except to the extent permitted under the Not-for-Profit Corporation Law.

6. The Corporation shall be a Type B corporation under Section 201 of the Not-for-Profit Corporation Law.

7. The office of the Corporation is to be in the County of Oneida, State of New York.

8. The duration of the Corporation is to be perpetual.

9. The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is: *P.O. Box 479, Utica, NY 13503-0479.*

10. The effective date of the consolidation of Faxton Hospital and St. Luke's-Memorial Hospital Center into Faxton-St. Luke's Healthcare was January 1, 2000.

4. This Restated Certificate of Consolidation was authorized by a unanimous vote of the Board of Directors of MVHS, said vote being at least equal to a quorum.

IN WITNESS WHEREOF, the undersigned have subscribed this Restated Certificate of Incorporation this _____ day of October, 2013, and hereby affirm that the statements contained herein are true under the penalties of perjury.

FAXTON-ST. LUKE'S HEALTHCARE

SCOTT H. PERRA, FACHE, President

TODD HUTTON, Ph.D., Secretary

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

SCOTT H. PERRA, FACHE, being duly sworn, deposes and says, that he is the President of FAXTON-ST. LUKE'S HEALTHCARE, the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.

Scott H. Perra, FACHE

Sworn to before me this
___ day of October, 2013

NOTARY PUBLIC – State of New York
Appointed in _____ County
My commission expires: ___/___/___

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

TODD HUTTON, Ph.D, being duly sworn, deposes and says, that he is the Secretary of FAXTON-ST. LUKE’S HEALTHCARE, the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.

Todd Hutton, Ph.D.

Sworn to before me this
___ day of October, 2013

NOTARY PUBLIC – State of New York
Appointed in _____ County
My commission expires: ___/___/___

Exhibit 3.2(b)(9)(B)
Restated Bylaws of FSL

**BY-LAWS
of
FAXTON-ST. LUKE'S HEALTHCARE**

**ARTICLE ONE
NAME**

1.1 NAME

The name of the Corporation is Faxton-St. Luke's Healthcare (herein the Corporation or the Hospital).

**ARTICLE TWO
OFFICES, PURPOSES AND POWERS**

2.1 OFFICES

The principal office of the Corporation shall be located in New York State ("the State"). The Corporation shall have and continuously maintain in the State a registered office and a registered agent whose office shall be identical with the registered office, and may have such other offices as the Board may determine from time to time.

2.2 PURPOSES AND POWERS

The Corporation shall have the following purposes and powers:

- a. To establish, operate and maintain a general hospital and comprehensive health care facilities and systems at one or more sites, whose purposes may include, but not be limited to, the provision of a full range of inpatient and outpatient services, residential health care facilities, and other health related services and facilities. Each such service or facility shall be established and operated in accordance with all approvals required by the Public Health Law or other law of the State, and all approvals required from any other body having jurisdiction over the Corporation's activities.

-
- b. To carry on educational activities, scientific research and other health related activities or programs incident to the purposes set forth above.
 - c. To solicit funds for the above purposes.
 - d. To pursue, enhance, and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations as may be established, operated and maintained in accordance with all approvals required by applicable law.
 - e. Pursuant to the establishment of the Mohawk Valley Heart Institute, Inc., under Article 28 of the Public Health Law, the Corporation hereby delegates to the Mohawk Valley Heart Institute, Inc.:
 - i. Joint operational decision making authority and responsibility with the Corporation over such services for which a joint operating certificate is issued by the New York State Department of Health to Mohawk Valley Heart Institute, Inc. and the Corporation.
 - ii. Notwithstanding the foregoing, the Corporation retains control over and does not delegate to Mohawk Valley Heart Institute, Inc., authority and responsibility for all other services, operations, and clinical programs, for which no authority has been delegated to Mohawk Valley Heart Institute, Inc. and for which no joint operating certificate will be issued by the New York State Department of Health.

ARTICLE THREE MEMBERSHIP

3.1 COMPOSITION

Mohawk Valley Health System (“MVHS” or “Member”) shall be the sole member of the Corporation.

3.2 RIGHTS OF MEMBER

MVHS shall have and exercise all the rights and powers of corporate membership created by the laws of the State of New York or the Certificate of Consolidation or By-laws of the Corporation. Certain additional powers have been delegated and reserved to MVHS in the MVHS organizational documents. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Hospital, to require that the Hospital operate in conformance with its mission and philosophy and that the Hospital coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Hospital, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Hospital.
- c. To amend or repeal the Certificate of Consolidation and Bylaws, and to adopt any new or restated Certificate of Consolidation, and Bylaws of the Hospital;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Hospital;
- e. To approve the debt of the Hospital in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Hospital in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Hospital;

-
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Hospital;
 - i. To approve any corporate reorganization of the Hospital and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Hospital with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
 - j. To approve and coordinate the strategic plan of the Hospital;
 - k. To approve all contracts of reimbursement for the Hospital from governmental or private third party insurers;
 - l. To approve all applications of the Hospital to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health, as required;
 - m. To approve management contracts for the Hospital subject to approval and/or regulation under the laws and regulations of the State of New York;
 - n. To approve any material change in the services offered by the Hospital;
 - o. To require the Hospital to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Hospital to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Hospital is a party and by which it is bound; and
 - p. To accept further delegations of authority on behalf of the Hospital pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Hospital and other MVHS Affiliates, the

authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at the Hospital which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services (herein, the “ERDs”) shall not be transferred to or used for the benefit of MVHS, St. Elizabeth Medical Center (“SEMC”) or any affiliate of SEMC and neither MVHS nor SEMC shall provide or support such services maintained by the Hospital or any Affiliate or subsidiary of the Hospital.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Hospital without a prior recommendation of the Hospital’s board of directors; and (ii) the power to accept, reject or modify the recommendation of the Hospital’s board of directors and to direct action by the Hospital or to return the matter to the board of directors of the Hospital for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Hospital shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Hospital’s board of directors.

3.3 ANNUAL MEETING

MVHS shall, in its capacity as the member of the Corporation, hold its annual meeting each year at a time and place determined by MVHS. At the annual meeting,

MVHS shall elect Directors of the Corporation, receive the annual report of the Directors of the Corporation, and transact such other business as may properly come before the meeting. Nomination for seats on the Board of Directors of the Corporation shall be submitted to MVHS prior to MVHS' annual meeting.

3.4 ANNUAL REPORT TO MEMBER

At the annual meeting of the member, the Chairperson or President, and the Treasurer of the Corporation shall present an Annual Report showing in appropriate detail the following information:

(a) a complete verified financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation;

(b) a summary of the activities of the Corporation during the preceding year.

The Annual Report shall be filed with the minutes of the annual meeting.

3.5 ACTION BY MEMBER

Except as otherwise required by law, the Certificate of Consolidation or these By-laws, any action required or permitted to be taken by MVHS in its capacity as the sole member of the Corporation may be taken by MVHS without a meeting, without prior notice and without a vote, through written consent to such action. The written consent of MVHS shall be evidenced by a written resolution of the Board of Directors of MVHS signed by an officer of MVHS and adopted in accordance with the MVHS Certificate of Incorporation, By-laws, policies and/or procedures. An original signed copy of each executed written consent of MVHS shall be delivered to the Secretary of the Corporation and shall be maintained in the permanent records of the Corporation.

ARTICLE FOUR BOARD OF DIRECTORS

4.1 NUMBER

The Board of Directors shall consist of not less than nine (9) members.

4.2 QUALIFICATION

Directors shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

4.3 ELECTION AND TENURE

(a) Composition of Initial Board of Directors. Commencing with the meeting to be held on or about _____, 20XX, the initial board shall be comprised of eighteen (18) Voting Directors. MVHS shall appoint sixteen (16) voting directors (the "Elected Directors"). The remaining two (2) Directors shall be the presidents of the medical staffs of SEMC and the Hospital who shall serve ex-officio as Voting Directors. Should the Board of the Corporation exercise its right to appoint an additional Director to the Corporation's Board, the initial Board shall, in that event, be comprised of nineteen (19) Voting Directors.

(b) Terms of Office. The initial Elected Directors shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated.

(c) Subsequent Election. Commencing with the 20XY annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Director may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in these Bylaws. Commencing with the 20XY annual meeting, Elected Directors of the Board shall be nominated by the Governance Affairs and Ethics Committee of MVHS and shall be elected by a simple majority of the MVHS Board. The MVHS Board shall not be bound or limited to such nominees.

(d) Reappointment. Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment

of the Director's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(e) Non-Elected Directors. The Presidents of the Medical Staffs of SEMC and the Hospital shall serve as Directors of the Corporation, coterminous with holding their respective positions.

4.4 VACANCIES

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Director, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board of MVHS. Nominees shall be presented by the Governance Affairs and Ethics Committee of MVHS, but the MVHS Board shall not be bound or limited to such nominees. Directors selected to fill vacancies shall serve the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

4.5 REMOVAL

Each member of the Board of Directors shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Directors by a vote of two-thirds of the MVHS Directors. In addition, the Board of MVHS may remove any Director, with or without cause, upon a two-thirds (2/3) vote of the Board.

4.6 RESIGNATION/LEAVE OF ABSENCE.

(a) Resignation. Any Director may resign at any time by giving written notice to the Chairperson or to the Secretary of the Corporation. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

(b) Leave of Absence. Any Director may request a Leave of Absence of up to three (3) months for medical reasons relating to the Director, or a member of the Director's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Director. If the Chairperson requests a Leave, the request shall

be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Director shall be excused from any attendance requirements and all other obligations of a Director as set forth in these Bylaws. The Director's Board position shall remain vacant during the term of the Leave, and the Director's position shall not be counted in determining the presence of a quorum.

If the Director on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the MVHS Directors at the next regular meeting of MVHS, or at a special meeting called for such purpose. Any committee positions held by the Director may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Director may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

4.7 ADDITIONAL ADVISORS

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Directors present.

4.8 MEETINGS OF DIRECTORS

(a) Annual Meeting The Board of Directors shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, selecting members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) Regular Meetings The Board of Directors shall hold at least seven (7) regular meetings annually.

(c) Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3)

Directors. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) Place All meetings of the Board shall be held at the principal office of the Corporation or at such other place within this State as the Notice of Meeting shall provide.

(e) Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Director personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law or these Bylaws, the notice shall also state the purpose for which the meeting is called. Oral or written notice of the postponement of any scheduled regular meeting shall be given to each Director not less than one (1) day before the scheduled date of such meeting.

(f) Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(g) Quorum Unless a greater or lesser number is required by law, the Certificate of Consolidation or these By-laws, a majority of the Directors entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Directors present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 4.8(e).

(h) Voting Subject to the Conflict of Interest provisions of these By-laws, and the Board's Conflict of Interest policies, each voting Director present is entitled to vote on any matter before the Board.

(i) Manner of Acting Unless otherwise required by law, the Certificate of Consolidation or these By-laws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Any action

required or permitted to be taken by the Board may be taken without a meeting by the consent in writing of all Directors entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

(j) Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

4.9 POWERS AND FIDUCIARY OBLIGATIONS

(a) Powers Except to the extent that powers have been delegated and reserved to MVHS under these Bylaws, the administrative powers of the Corporation shall be vested in the Board of Directors, which shall have: charge, control, and oversight of the property, funds, and affairs of the Corporation; the power to establish policies for the management and operation of the Corporation; and such other power and authority to do and perform all acts and functions for the benefit of the Corporation, not inconsistent with these By-laws or the Certificate of Consolidation. The Board of Directors shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

(b) Fiduciary Obligations The members of the Board of Directors shall at all times conduct the affairs of the Corporation in strict conformance with all applicable fiduciary and ethical standards. Each Director shall act in a manner consistent with the duty of undivided loyalty to the interests of the Corporation, the duty to maintain in confidence information concerning the affairs of the Corporation, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Corporation. The Board shall adopt such mechanisms as it deems appropriate to assist the Directors in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate, a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and

apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Corporation.

ARTICLE FIVE OFFICERS

5.1 OFFICERS

The Corporation shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Board of Directors may authorize. The Corporation shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the 20XX, 20XY, and 20XZ annual meetings shall serve a one year term, or until his/her successor has been elected. The Chairperson seated at the 20XX-20XZ annual meetings shall be selected by MVHS in accordance with its Bylaws. Commencing with the 20XA annual meeting the Chairperson and Vice-Chairperson shall be elected by MVHS for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected by MVHS at the annual meeting of MVHS and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors of MVHS at any regular meeting or any special meeting called for such purpose.

5.2 CHAIRPERSON

The Chairperson shall preside at all meetings of the Board of Directors, shall appoint the members and Chairperson of each Committee in accordance with these Bylaws and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 20XZ annual meeting of MVHS shall be eligible to be elected by the full Board of MVHS to serve one additional term of two (2) years, commencing in 20XA. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

5.3 VICE-CHAIRPERSON

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

5.4 CHAIR EMERITUS.

Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in these Bylaws. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the 20XX annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

5.5 SECRETARY

The Secretary shall act as Secretary of both the Corporation and the Board of Directors and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Corporation and keeping the minutes of the meetings of the Board of Directors. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Corporate records.

5.6 TREASURER

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and, whenever required by the Board of Directors shall render, or cause to be rendered, financial

statements of the Corporation. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

5.7 PRESIDENT

MVHS shall appoint a qualified hospital administrator to serve as the President and as the Chief Executive Officer of the Corporation. The President/CEO shall be the Board's direct executive representative in the management of the Corporation. The President/CEO shall have the necessary authority and shall be responsible for management of the Corporation, subject only to the policies and directives of the Board and any of its committees to which the Board has delegated power for such action. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board of Directors in all matters except those for which the Board has designated some other individual to act.

ARTICLE SIX COMMITTEES OF THE BOARD OF DIRECTORS

6.1 STRUCTURE

There shall be eight (8) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Patient Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, Investment Committee, Audit Compliance Committee and Joint Conference Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

6.2 PROCEDURE

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or

procedures are adopted for any individual committee in these By-Laws or in a Resolution of the Board of Directors.

6.3 POWERS

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these By-Laws, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

6.4 COMMITTEE MEMBERS

- (a) Appointment. Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to promote experience and knowledge in all aspects of the operation of the Corporation.
- (b) Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.
- (c) Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee.

Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.

- (d) Removal. Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

6.5 ADVISORS TO BOARD COMMITTEES

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Directors.

As deemed appropriate by the Committee Chair, members of the Corporation's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

6.6 MANNER OF ACTION

(a) Meetings. Each Committee shall meet as provided for in these By-Laws and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the

time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

(b) Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

(c) Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

(d) Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

(e) Meeting by Conference Telephone or Similar Device. Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

6.7 CONFLICT OF INTEREST

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

6.8 EXECUTIVE COMMITTEE

(a) Composition

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, Presidents of the Medical Staffs of SEMC and the Hospital, and the Chairperson Emeritus.

(b) Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Corporation, subject to any prior limitations imposed by the Board, these By-Laws, or statute. In addition, the Executive Committee shall:

- (1) Oversee the development of labor relations and negotiation strategy and recommend to the Board approval of collective bargaining agreements.
- (2) Review and recommend to the Board, with the assistance of counsel, policies and guidelines for financial transactions with physicians, including physician recruitment, employment or other agreements with the Corporation.
- (3) Review and recommend to the Board, legislative and regulatory affairs initiatives.
- (4) Review and make recommendations to the Board as to the Corporation's completion and filing of IRS Form 990 and such other reports or filings as may be required by the Internal Revenue Service.

(c) Meetings

The Executive Committee shall meet as necessary to conduct the business of the Corporation while the full Board is not in session.

6.9 FINANCE

(a) Composition

The Finance Committee shall consist of the Treasurer of the Corporation, as Committee Chairperson, and at least 6 voting Directors, at least one of whom shall have substantial accounting or financial management expertise.

(b) Functions

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Corporation and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and

oversight of the financial affairs of the Corporation and its subsidiaries. Its functions shall include:

- (1) Overseeing the President's development of a budget for the Corporation showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Board a budget developed by the President for the ensuing year;
- (3) Reviewing financial reports that report on the financial condition of the Corporation;
- (4) Reviewing and making recommendations to the Board on any request by the President for the Corporation to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;
- (5) Retaining the Corporation's independent Certified Public Accountants to provide external financial auditing to the Corporation. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Corporation and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Corporation and its subsidiaries.

-
- (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Corporation and its subsidiaries.

- (c) Meetings

The Finance Committee shall meet as needed, but not less than six (6) times per year.

6.10 QUALITY AND PATIENT SAFETY COMMITTEE

- (a) Composition.

The Quality and Patient Safety Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a physician.

- (b) Functions.

The Quality and Patient Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of the Hospital with the programs of the other MVHS Affiliates for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance at the Hospital, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;
 - (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;

-
- (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by the Corporation's subsidiaries and/or third parties providing services to the subsidiaries by contract, and coordinating the provision of services by the Corporation, its subsidiaries and third parties.
 - (2) Recommend policies and provide direction for the system's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the Hospital and its subsidiaries.
 - (3) Oversee regulatory compliance, safety, infection control and such other programs as shall be required to insure continuous accreditation of the Hospital.
 - (4) Review and report to the Board on Department of Health, Office of Mental Health, and other regulatory surveys and findings and any required plans of correction.
 - (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Corporation's subsidiaries concerning quality and performance improvement activities, including reports from any required quality or advisory committees of the subsidiary boards.
 - (7) Assist in the development of Board educational processes regarding quality and service improvement with the assistance and participation of the medical staff and hospital management.

(c) Meetings

The Quality and Patient Safety Committee shall meet at least six (6) times annually, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

6.11. GOVERNANCE AFFAIRS AND ETHICS COMMITTEE

(a) Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a Board Officer.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Boards of the Corporation and its subsidiaries; developing and monitoring a Board education plan; review and amendment of subsidiary Bylaws; and nomination of directors and officers of the Boards of the Corporation's subsidiaries. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - (i) Conflict of Interest;
 - (ii) Policy based governance;
 - (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.

-
- (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
 - (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Board and/or Committees of the Corporation and its subsidiaries.
 - (5) Nominate directors and officers of the Corporation's subsidiary boards.
 - (6) Develop an orientation process for new Board and Committee members for the Corporation and its subsidiaries, with the assistance of the Chief Executive Officer.
 - (7) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
 - (8) Periodically review, and recommend changes to the Bylaws of the Corporation and its subsidiaries to insure compliance with the mission, vision, purpose and structure of the Corporation and its subsidiaries.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at least two (2) times per year, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

6.12 EXECUTIVE COMPENSATION COMMITTEE.

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Directors recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be "Independent Directors" as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not an "Independent Director", the Board shall appoint another Independent Director to serve in the place of the

Chairperson. The President/CEO may serve as an advisor to the Committee as long as he or she is excused when the Committee is reviewing the CEO's compensation package.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the President/CEO and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of the Corporation, or its Affiliates or subsidiaries, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations ("Disqualified Persons"). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually, performance guidelines for the CEO;
- (2). Assist the board in assessing and evaluating the CEO's performance;
- (3). Review and recommend to the full Board the CEO's compensation, including salary, incentives, benefits and other perquisites;
- (4) Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
- (5) At least annually, review executive compensation to ensure that it is appropriate in view of Corporation's tax-exempt status and take the required steps to establish a "rebuttable presumption of reasonableness" [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person's background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Corporation's income and assets and the number of Corporations employees;

-
- d. CEO's job performance;
 - e. relationship of the CEO's compensation to the compensation paid to Corporation's other employees; and
 - f. the number of hours the CEO spends performing his or her job.

(6) Review and approve the compensation package of the Chief Operating, Medical, Nursing and Financial Officers, as recommended by the CEO.

c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Corporation to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

6.13 INVESTMENT COMMITTEE.

(a) Composition

The Investment Committee shall consist of at least at least three (3) Directors, at least one of whom shall have significant experience in financial and/or investment matters.

(b) Functions.

The function of the Investment Committee shall be to establish investment standards and expectations and review and monitor investment performance of the managers of the investments, endowments and other funds of the Corporation, and its subsidiaries. Without limiting the foregoing, the Committee shall:

1. Review and recommend to the Board, the investment policy of the Corporation and its subsidiaries;

-
2. Review the performance of the investment managers and, as required, recommend changes to the Board;
 3. At least semi-annually report to the Board on the investment activities and performance of the investments of the Corporation and its subsidiaries.

c. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

6.14 AUDIT AND COMPLIANCE COMMITTEE.

(a) Composition

The Audit and Compliance Committee shall be composed of at least three (3) directors. At least a majority of the directors so appointed shall be “Independent Directors” as defined in Section 7.12(a), above.

(b) Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board of Directors in its oversight responsibilities by overseeing management’s systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Corporation. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee’s retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the Corporate Compliance Plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.

-
- b. Review the minutes of each Corporate Compliance Committee meeting, and monitor the results of the Compliance Program.
 - c. Serve as a resource to the Compliance Officer and management on compliance issues.
 - d. Review and approve the audit schedule proposed by the Compliance Officer.
 - e. Report to the Board at least semi-annually, regarding the status of the Compliance Plan.

c. Meetings.

The Committee shall convene at least four (4) times per year or as shall be necessary to discharge its responsibilities.

6.15 JOINT CONFERENCE COMMITTEE

(a) Composition

The Joint Conference Committee will be composed of the Chairperson, Vice Chairperson, President, Secretary and Treasurer of the Board, the Chairperson of the Quality and Patient Safety Committee of the Board, the four (4) officers of the Medical Staff and two additional medical staff members appointed by the President of the Medical Staff. The Chairperson of the Committee will alternate each meeting between the Chairperson of the Board, or his or her designee, and the President of the Medical Staff, or his or her designee. The Hospital's Chief Medical Officer, Chief Nursing Officer and Chief Operating Officer will be advisors to the Committee.

(b) Functions

The Joint Conference Committee will serve as a forum for the discussion of Hospital and Medical Staff policy, practice and planning and provide for effective liaisons between and among the Board of Directors, the Medical Staff and Administration. It shall also serve as a forum for addressing Medical Staff and Board of Directors' concerns and issues relating to operational quality and service performance. It shall exercise such specific responsibilities as assigned by the Board of Directors and as set forth in the Medical Staff Bylaws.

(c) Meetings

The Committee will convene at as shall be necessary to discharge its responsibilities.

ARTICLE SEVEN ADMINISTRATION

7.1 PRESIDENT/CEO

The Board of Directors of MVHS shall select and appoint a competent hospital administrator who shall act as President of the Board, ex officio and without vote, and Chief Executive Officer of the Corporation. The President/CEO shall have such qualifications as are prescribed by the New York State Hospital Code, as may be amended from time to time. The President/CEO shall be given the necessary authority and responsibility to operate the hospital in all its activities and departments, subject only to such policies as may be issued by the Board of Directors or by any of its Committees to which it has delegated power for such action. The President/CEO's performance shall be monitored in an ongoing manner by the Board of Directors and its Committees. The President/CEO shall act as the duly authorized representative of the Board in all matters in which the Board has not formally designated some other person to act.

The daily management and operational affairs of the hospital shall be the responsibility of the President/Chief Executive Officer. Without limiting the foregoing, the authority and responsibility of the President/Chief Executive Officer shall include:

- (a) Aid the Board in the formulation of policies and procedures and carrying out all policies established by the Board.
- (b) Development of a plan of organization of hospital personnel and other persons concerned with the conduct of the hospital's operation and submission of the plan to the Board for approval.
- (c) Preparation of an annual budget showing the expected receipts and expenditures of the hospital as required by the Board.
- (d) Development, submission and implementation, in a timely manner, of all plans to correct operational deficiencies identified by

regulatory agencies, and reporting to the Board progress in carrying out plans of correction.

- (e) Assisting the Board in communication and cooperation with the hospital's Medical Staff.
- (f) Assisting the hospital's Medical Staff with its organizational and medical administrative responsibilities.
- (g) Responsibility for all management and operational affairs of the hospital as required under the New York State Hospital Code, the requirements of the Hospital's accrediting organization and the responsibilities and duties established by all other regulatory bodies having jurisdiction.
- (h) Performance of such other duties as may be necessary in the best interests of the hospital.

7.2 MEDICAL DIRECTOR

The Board of Directors shall, after consultation with the Medical Staff, select and appoint a competent Medical Director who shall have administrative responsibility for the hospital's clinical departments and medical education programs. Responsibility for the organization and conduct of the Medical Staff shall be developed and defined in writing, in consultation with the Medical Staff, and assigned to the Medical Director. The Medical Director shall have such qualifications as may be required by the New York State Hospital Code, as amended from time to time. The Medical Director shall have such authority and responsibility as required to perform his or her duties, including:

- (a) Coordinating the appointment and re-appointment process of the members of the Medical Staff, including investigation and assurance of qualifications for membership, as provided in the Medical Staff By-Laws.
- (b) Oversee the granting of clinical privileges consistent with the practitioner's training, experience and demonstrated competence.
- (c) Monitor and ensure Medical Staff compliance with the hospital's Bylaws, the Medical Staff By-laws, the rules and regulations and

-
- policies of the Medical Staff, hospital policies and procedures, and all applicable laws, rules, regulations, and accrediting standards.
- (d) Oversee the activities, findings and recommendations of all medical staff quality improvement programs and promptly initiate or recommend appropriate corrective measures, consistent with the Medical Staff Bylaws.
 - (e) Monitor the activities and performance of the hospital's clinical departments and Department Chairpersons and make such reports and recommendations to the Board as shall be appropriate.
 - (f) Perform such other duties as may be required under the New York State Hospital Code, as may be assigned by the Board and CEO, or as shall be appropriate and necessary in the best interests of the Hospital.

ARTICLE EIGHT QUALITY ASSURANCE

8.1 BOARD RESPONSIBILITY

The Board shall establish, maintain, support and exercise oversight of an ongoing quality assurance program that includes specific and effective review, evaluation and monitoring mechanisms to assist, preserve and improve the overall quality and efficiency of patient care in the hospital, and to insure that each patient's rights are protected and promoted.

8.2 DELEGATION TO ADMINISTRATION AND TO THE MEDICAL STAFF

(a) TO ADMINISTRATION

Except as may be set forth in any policy adopted by the Board from time to time, the Board delegates to the administration and holds it accountable for providing the administrative assistance reasonably necessary to support and facilitate the implementation of an on-going operation of the hospital's quality assurance program, for implementing the quality assurance program as it concerns non-medical professional

personnel and technical staffs and patient care units, for establishing and maintaining a policy and process to protect and promote patient's rights and promptly resolve patient grievances, and for analyzing information and acting upon problems involving technical, administrative and support services and hospital policy. Without limiting the foregoing, the Board of Directors specifically delegates the obligation to review and resolve patient grievances to the individual responsible for quality management or such other person as designated by the President/CEO. The process for reviewing and resolving patient grievances shall be monitored by the Quality and Patient Safety Committee which shall provide periodic reports to the full Board.

(b) TO MEDICAL STAFF

The Board delegates to the Medical Staff and holds it accountable for conducting specific activities that contribute to the preservation and improvement of the quality and efficiency of patient care provided in the hospital. These activities include:

- (1) Systematic evaluation of practitioner performance against explicit, predetermined objective criteria.
- (2) On-going monitoring of critical aspects of care including, but not limited to, antibiotic and drug usage, transfusion practices, infections, mortalities, monitoring of unexpected clinical occurrences, and such other aspects of clinical care as shall be determined by the Board.
- (3) Review utilization of the hospital's resources to provide for their proper and timely allocation to patients in need of them.
- (4) Provision of continuing professional education, fashioned in part on the needs identified through the review, evaluation and monitoring activities and on new state-of the art developments.
- (5) Definition of the clinical privileges which may be appropriately granted within the hospital and within each

department, delineation of clinical privileges for members of the Medical Staff commensurate with individual credentials and demonstrated ability and judgment, and participation in assigning patient care responsibilities to other health care professionals consistent with individual qualifications and demonstrated ability.

(6) Management of clinical affairs, including enforcement of clinical policies and consultation requirements, initiation of disciplinary actions, surveillance over requirements for performance monitoring and for the exercise of newly-acquired clinical privileges, and other clinically-oriented activities.

(7) Such other measures as the Board may, after considering the advice of the Medical Staff, the other professional services and the hospital management, deem necessary for the preservation and improvement of the quality and efficiency of patient care.

ARTICLE NINE MEDICAL STAFF

9.1. ORGANIZATION.

The Board has caused to be created a Medical Staff organization, to be known as the Medical Staff of Faxton-St. Luke's Healthcare, whose membership shall be comprised of all practitioners who are privileged to attend patients of the Corporation. Membership in this Medical Staff organization shall be a prerequisite to the exercise of clinical privileges in the Corporation, except as otherwise specifically provided in the Medical Staff Bylaws.

9.2. MEDICAL STAFF BYLAWS, POLICIES AND RULES AND REGULATIONS.

(a). Purpose

The Medical Staff organization shall propose and adopt by vote bylaws, policies and rules and regulations for its internal governance, which shall be effective when approved by the Board . The bylaws shall create an effective administrative unit to discharge the functions and responsibilities assigned to the Medical Staff by the Board. The Medical

Staff bylaws, policies and rules and regulations shall state the purpose, functions and organization of the Medical Staff and shall set forth the policies by which the Medical Staff exercises and accounts for its delegated authority and responsibilities.

(b) Procedure

The Medical Staff shall have the initial responsibility to formulate, adopt, and recommend to the Board, Medical Staff by-laws and amendments thereto, which shall be effective when approved by the Board. If the Medical Staff fails to exercise this responsibility in good faith and in a reasonable timely and responsible manner, the Board may formulate or amend Medical Staff by-laws, at its own initiative. In such event, recommendations and views of the Medical Staff shall be carefully considered by the Board during its deliberations and in its actions.

9.3 MEDICAL STAFF MEMBERSHIP AND CLINICAL PRIVILEGES

(a) Duties of the Medical Staff

The Medical Staff shall have the responsibility and authority to investigate and evaluate all matters relating to initial staff appointments, reappointments, the assignment or curtailment of clinical privileges and corrective action. The Board shall require the Medical Staff to adopt and forward to it specific written recommendations concerning staff appointments, reappointments, the assignment or curtailment of clinical privileges and corrective action, with appropriate supporting documentation that will allow the Board to take informed action.

The Medical Staff shall have the responsibility and authority to investigate and evaluate each allied health professional's application for specified services, department affiliation, and modification in the services such allied health professional may perform, and shall require that the Medical Staff make recommendations to the Board on such applications.

The Board has overall responsibility for making available high quality patient care. Therefore, the Medical Staff shall conduct an ongoing review and appraisal of the quality of professional care rendered in the Hospital and shall report such activities and their results to the Board.

(b) Action by the Board

Final action on all matters relating to Medical Staff membership status, clinical privileges and corrective action shall be taken by the Board after considering the recommendations of the Medical Staff, provided that the Board shall act in any event if the Medical Staff fails to adopt and submit any such recommendation within a reasonable time. Such Board action without a Medical Staff recommendation shall be based on the same kind of documented investigation and evaluation as is required for Medical Staff recommendations.

(c) Criteria for Board Action

In acting on matters of Medical Staff membership status, the Board shall consider the Medical Staff's recommendations, the Corporation's and the community's needs, and such additional criteria as are set forth in the Medical Staff bylaws. In granting and defining the scope of clinical privileges to be exercised by each practitioner, the Board shall consider the Medical Staff's recommendations, the supporting information on which they are based, and such criteria as are set forth in the Medical Staff bylaws. No aspect of membership status or specific clinical privileges shall be limited or denied to a practitioner on the basis of sex, race, age, creed, color, sexual preference or national origin, or on the basis of any other non-professional qualifications, or for reasons unrelated to the Corporation's purposes, needs and capabilities, or to community needs.

(d) Conflict Resolution

In accordance with the Medical Staff's policies and procedures as set out in the Medical Staff Bylaws, the Board will resolve any differences in recommendations concerning Medical Staff appointments, reappointments, terminations of appointments and the granting or revision of clinical privileges within a reasonable time.

9.4 TERMS AND CONDITIONS OF MEDICAL STAFF MEMBERSHIP
AND CLINICAL PRIVILEGES

(a) The Board shall require that the Medical Staff establish controls that are designed to ensure the achievement and maintenance of high standards of professional and ethical practice.

(b) The Board may determine the total numbers and types of practitioners on the medical or affiliate staffs, based on the physical capabilities of the Corporation,

utilization of the Corporation by its staff members, and requirements for efficient use of Corporation facilities and personnel.

(c) Practitioners applying for Medical Staff membership, or for clinical privileges, must sign an agreement to abide by these Bylaws and by the Medical Staff bylaws, policies and rules and regulations.

9.5 DUE PROCESS

(a) Practitioners

In holding the Medical Staff responsible for making recommendations to it, the Board shall require that the Medical Staff bylaws provide for review of any adverse recommendation made to the Board with respect to a practitioner's Medical Staff appointment, reappointment, department affiliation, staff category, admitting prerogatives, clinical privileges or corrective action. The review shall be conducted in accordance with the Board approved Medical Staff fair hearing plan then in effect. Such plan shall provide procedures to assure fair treatment of all practitioners and to afford opportunity for the presentation of all pertinent information, including the right to be heard, when requested by the practitioner.

(b) Medical Staff-Administrative Staff

Any physician who is also an administrative officer shall be entitled to procedural due process under the Board approved fair hearing plan then in effect. The Medical Staff-administrative officer shall be entitled to hearings by review committees of both the Medical Staff and the Board.

(c) Medical Staff

If the Board declines to follow any Medical Staff recommendation concerning Medical Staff appointments, reappointments, the assignment or curtailment of clinical privileges, or corrective action, then the Medical Staff shall be entitled to have the adverse decision of the Board reviewed by the Board in accordance with the provisions of the Medical Staff Bylaws then in effect.

9.6 METHODS FOR MEDICAL ADMINISTRATIVE LIAISON

The Board may establish medical administrative liaison by the following methods:

-
- (a) Appointment of Directors to attend Medical Executive Committee meetings of the Medical Staff.
 - (b) Appointment of members of the Medical Staff to Committees of the Board.
 - (c) Appointment of the President of the Medical Staff as a member of the Board as set forth herein.

9.7 OFFICERS AND CHAIRPERSONS

All elections and appointments of Medical Staff officers or chairpersons of Medical Staff committees shall be approved by the Board after consideration of the recommendation of the President of the Medical Staff. The duties and responsibilities of such officers and committee chairpersons shall be set forth in the Medical Staff bylaws.

ARTICLE TEN INDEMNIFICATION AND INSURANCE

10.1 INDEMNIFICATION AND INSURANCE:

It is expressly provided that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal, by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of this Corporation, will be completely indemnified by the Corporation to the full extent permitted by law. If permitted by law, this indemnification shall include, but not be limited to, the payment of one or more of the following: judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeal therein.

10.2 INSURANCE.

It is the policy of the Corporation that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of the Corporation, will be completely and fully indemnified by this Corporation to the full extent

permitted by the law. The Corporation may purchase and maintain insurance to completely and fully indemnify any and every such person, whether or not this Corporation has the power to indemnify him or her against such liability under the laws of this or any other state.

ARTICLE ELEVEN CONFLICT OF INTEREST

11.1 POLICY

Any Director, officer, key employee, medical staff member or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval, or ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interest.

11.2 EFFECT

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions contained in the Board approved Conflicts of Interest Policy must be observed. If so, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in the discussions or deliberations with respect to such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

11.3 FORMAL POLICY AND PROCEDURE

The Board shall adopt a formal Conflict of Interest Policy requiring disclosure of existing and potential conflicts of interest, mechanisms for addressing actual and potential

conflicts of interest and corrective and disciplinary action with respect to transgressions of such policies.

**ARTICLE TWELVE
VOLUNTEER ORGANIZATIONS**

12.1 The Board may organize a volunteer organization, or such other associated organizations as it deems appropriate, consisting of individuals who are interested in rendering services as volunteers to the Hospital or its subsidiaries and in assisting in the fulfillment of the mission of the Corporation. There shall be By-laws, rules and regulations for such organizations, setting forth their organization and governance. Proposed By-laws may be recommended, but only those approved by the Board of Directors shall become effective.

**ARTICLE THIRTEEN
AMENDMENT TO BY-LAWS**

13.1 PROCEDURE

These Bylaws may be amended or repealed, or new Bylaws may be adopted, only by MVHS in its capacity as the sole member of the Corporation. For this purpose, a two thirds (2/3) vote of the Directors of MVHS shall be required. The Board of Directors of the Corporation may also propose amendments for approval by MVHS or MVHS may adopt, amend or repeal Bylaws on its own initiative following the procedures herein noted. The Governance Affairs and Ethics Committee shall conduct an annual review of these Bylaws and make recommendations for such amendments as may be necessary to assure compliance with all applicable laws, rules and regulations and the requirement of the Hospital's accrediting authority.

ARTICLE FOURTEEN GENERAL

14.1 PROCEDURE

The Board and any Board Committee may adopt rules or procedures which shall be consistent with these By-laws.

14.2 EQUAL OPPORTUNITY

The Board shall, in all matters, act without regard to discrimination as to sex, race, age, creed, handicap, sexual preference, marital status or national origin.

14.3 CONSTRUCTION OF TERMS AND HEADINGS

Words used in these By-laws shall be read as the masculine or feminine gender and as the singular or plural, as the context requires. The captions or headings in these By-laws are for convenience only and are not intended to limit or define the scope or effect of any provision of these By-laws.

Exhibit 3.3(b)(1)
Restated Charter Documents of MVHS Active Parent Affiliates

**RESTATED CERTIFICATE OF INCORPORATION
OF
ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC.**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

We, the undersigned, President and Secretary of St. Lukes Home Residential Health Care Facility, Inc., hereby certify:

1. The name of the corporation is: **St. Lukes Home Residential Health Care Facility, Inc.**
2. The corporation's Certificate of Incorporation was filed by the Department of State on the 27th day of February 1995. A Certificate of Amendment of the Certificate of Incorporation was filed by the Department of State on the 1st day of August, 1995.
3. The corporation's Certificate of Incorporation is hereby amended to effectuate the following:
 - A. To delegate and reserve to the Corporation's sole corporate member, Mohawk Valley Health System ("MVHS"), certain rights and powers as set forth in Paragraph 4 of this Restated Certificate of Incorporation.
 - B. To change the address for service of process as set forth in Paragraph 8 of this Restated Certificate of Incorporation.
 - C. To change the distributee of the remaining assets of the Corporation in the event of its dissolution as set forth in Paragraph 11 of this Restated Certificate of Incorporation.
4. The text of the Certificate of Incorporation, as amended, is hereby restated to read as herein set forth in full:
 1. The name of the Corporation is: St. Lukes Home Residential Health Care Facility, Inc. (herein, the "Corporation" or the "Home").
 2. The Corporation is not organized for pecuniary profit or financial gain, and no part of its assets, income or profit shall be distributable to, or inure to the benefit of its members, directors or officers except to the extent permitted under the Not-for-Profit Corporation Law.
 3. The purposes for which the Corporation is organized are:
 - a. to establish and maintain within the State of New York a residential health care facility to provide care to the frail elderly

and other individuals requiring skilled nursing care and/or restorative rehabilitation; to carry on educational activities and programs incident to the purposes set forth above; to do any other act or thing incidental to or connected with the above purposes or advancement thereof, but not for the pecuniary profit or financial gain of its members, Directors or Officers, except as permitted under the Not-for-Profit Corporation Law.

4. The Corporation does delegate and reserve to Mohawk Valley Health System (“MVHS”), the sole corporate Member of the Corporation, certain powers. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and that the Corporation coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation.
- c. To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation, and Bylaws of the Corporation;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- e. To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Corporation;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation;

- i. To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve and coordinate the strategic plan of the Corporation;
- k. To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by the Corporation;
- o. To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound; and
- p. To accept further delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation and other MVHS Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of

the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's board of directors.

5. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law and is a Type B corporation under Section 201 of the Not-for-Profit Corporation Law.

6. The office of the Corporation is to be in the County of Oneida, State of New York.

7. The duration of the Corporation is to be perpetual.

8. The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is: ***St. Lukes Home Residential Health Care Facility, Inc., 1650 Champlin Avenue, Utica, NY 13502.***

9. Notwithstanding any other provisions of this Certificate, the Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a Corporation exempt from Federal income tax under IRC 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.

10. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by IRC 501(h)), and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of, or in opposition to, any candidates for public office.

11. In the event of dissolution, all of the remaining assets and property of the Corporation shall, after payment of necessary expenses thereof, be distributed to MVHS or such other Corporations as shall qualify under Section 501(c)(3) of the Internal

Revenue Code of 1985, subject to an Order of a Justice of the Supreme Court of the State of New York.

12. In any taxable year in which the Corporation is a private foundation as described in IRC 509(a), the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under IRC 4942, and the Corporation shall not: (a) engage in any act of self-dealing as defined in IRC 4941(d), retain any excess business holdings as defined in IRC 4943(c); (b) make any investments in such manner as to subject the Corporation to tax under IRC 4944; or (c) make any taxable expenditures as defined in IRC 4945(d) or corresponding provisions of any subsequent Federal tax laws.

5. This Restated Certificate of Incorporation was authorized by a unanimous vote of the Members of the Corporation in accordance with the provisions of the New York Not-for-Profit Corporation Law.

IN WITNESS WHEREOF, the undersigned have subscribed this Restated Certificate of Incorporation this ____ day of October, 2013, and hereby affirm that the statements contained herein are true under the penalties of perjury.

**ST. LUKES HOME RESIDENTIAL
HEALTH CARE FACILITY, INC.**

SCOTT H. PERRA, FACHE, President

TODD HUTTON, Ph.D., Secretary

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

SCOTT H. PERRA, FACHE, being duly sworn, deposes and says, that he is the President of ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.

Scott H. Perra, FACHE

Sworn to before me this
___ day of October, 2013

NOTARY PUBLIC – State of New York
Appointed in _____ County
My commission expires: ___/___/___

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

TODD HUTTON, Ph.D, being duly sworn, deposes and says, that he is the Secretary of ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.

Todd Hutton, Ph.D.

Sworn to before me this
___ day of October, 2013

NOTARY PUBLIC – State of New York
Appointed in _____ County
My commission expires: ___/___/___

**CERTIFICATE OF CHANGE
OF
MOHAWK VALLEY HOME CARE, L.L.C.**

Under Section 211-A of the Limited Liability Company Law

1. The name of the limited liability company is: **Mohawk Valley Home Care, L.L.C.**

2. The Articles of Organization were filed by the Department of State on August 4, 1995.

3. Paragraph "THIRD" of the Articles of Organization is changed to provide for a new address for service of process against the Limited Liability Company by the Secretary of State and, as changed, shall read as follows:

THIRD: The Secretary of State is designated as agent of the limited liability company upon whom process against it may be served. The post office address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is: 1650 Champlin Avenue, Utica, NY 13502.

IN WITNESS WHEREOF, this Certificate of Change has been subscribed this _____ day of October, 2013, by the undersigned who affirms that the statements contained herein are true under the penalties of perjury.

MOHAWK VALLEY NETWORK, INC.
Member

By: _____
Scott H. Perra, President

**RESTATED CERTIFICATE OF INCORPORATION
OF
VISITING NURSE ASSOCIATION OF UTICA
AND ONEIDA COUNTY, INC.**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

We, the undersigned, President and Secretary of Visiting Nurse Association of Utica and Oneida County, Inc., hereby certify:

1. The name of the corporation is: **Visiting Nurse Association of Utica and Oneida County, Inc.** The Corporation was originally formed under the name of “Baby Welfare Committee, Utica, N.Y.” pursuant to the Membership Corporations Law of the State of New York.

2. The corporation’s Certificate of Incorporation was filed by the Department of State on June 15th, 1915. The Corporation’s Restated Certificate of Incorporation was filed with the Department of State on July 27th, 2000.

3. The corporation’s Certificate of Incorporation is hereby amended to effectuate the following:

A. To change the address for service of process for the Corporation as set forth in Paragraph 10 of this Restated Certificate of Incorporation.

B. To delegate and reserve to the Corporation’s sole corporate member, Mohawk Valley Health System (“MVHS”), certain rights and powers as set forth in Paragraph 4 of this Restated Certificate of Incorporation.

4. The text of the Certificate of Incorporation, as amended, is hereby restated to read as herein set forth in full:

1. The name of the Corporation is: Visiting Nurse Association of Utica and Oneida County, Inc. (herein, the “Corporation”).

2. The Corporation is a corporation as defined in subparagraph (1)(5) of Section 102 of the Not-for-Profit Corporation Law and is a Type B corporation under Section 201 of said Law.

3. The purposes of the Corporation shall be to coordinate nursing activities in Utica and Oneida County, to more efficiently provide nursing care in the home, to reduce infant mortality, to increase the health and vitality of children, and to promote health education.

4. Mohawk Valley Health System (“MVHS”), as the sole corporate Member of the Corporation, shall have and exercise all the rights and powers of corporate

membership created by the laws of the State of New York or the Certificate of Incorporation or By-laws of the Corporation. Certain additional powers have been delegated and reserved to MVHS in the MVHS organizational documents. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and that the Corporation coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation.
- c. To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation, and Bylaws of the Corporation;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- e. To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Corporation;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation;
- i. To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve and coordinate the strategic plan of the Corporation;

- k. To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by the Corporation;
- o. To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound; and
- p. To accept further delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation and other MVHS Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS

shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's board of directors.

5. Notwithstanding any other provisions of this Certificate, the Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a Corporation exempt from Federal income tax under IRC 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.

6. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by IRC 501(h)), and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of, or in opposition to, any candidates for public office.

7. In the event of dissolution, all of the remaining assets and property of the Corporation shall, after payment of necessary expenses thereof, be distributed to MVHS or such other Corporations as shall qualify under Section 501(c)(3) of the Internal Revenue Code of 1985, subject to an Order of a Justice of the Supreme Court of the State of New York.

8. In any taxable year in which the Corporation is a private foundation as described in IRC 509(a), the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under IRC 4942, and the Corporation shall not: (a) engage in any act of self-dealing as defined in IRC 4941(d), retain any excess business holdings as defined in IRC 4943(c); (b) make any investments in such manner as to subject the Corporation to tax under IRC 4944; or (c) make any taxable expenditures as defined in IRC 4945(d) or corresponding provisions of any subsequent Federal tax laws.

9. The office of the Corporation shall be located in the County of Oneida, State of New York.

10. The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is: ***Visiting Nurse Association of Utica and Oneida County, Inc., 1650 Champlin Avenue, Utica, NY 13502.***

5. This Restated Certificate of Incorporation was authorized by a unanimous vote of the Directors present at a meeting of the Board of Directors of the Corporation's sole Member, Mohawk Valley Network, Inc., a quorum being present.

IN WITNESS WHEREOF, the undersigned have subscribed this Restated Certificate of Incorporation this ____ day of October, 2013, and hereby affirm that the statements contained herein are true under the penalties of perjury.

**VISITING NURSE ASSOCIATION OF UTICA
AND ONEIDA COUNTY, INC.**

SCOTT H. PERRA, FACHE, President

TODD HUTTON, Ph.D., Secretary

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

SCOTT H. PERRA, FACHE, being duly sworn, deposes and says, that he is the President of VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.

Scott H. Perra, FACHE

Sworn to before me this
___ day of October, 2013

NOTARY PUBLIC – State of New York
Appointed in _____ County
My commission expires: ____/____/____

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

TODD HUTTON, Ph.D, being duly sworn, deposes and says, that he is the Secretary of VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.

Todd Hutton, Ph.D.

Sworn to before me this
___ day of October, 2013

NOTARY PUBLIC – State of New York
Appointed in _____ County
My commission expires: ___/___/___

**CERTIFICATE OF CHANGE
OF
SENIOR NETWORK HEALTH, LLC**

Under Section 211-A of the Limited Liability Company Law

1. The name of the limited liability company is: **Senior Network Health, LLC.**

2. The Articles of Organization were filed by the Department of State on March 16th, 2001.

3. Paragraph "THIRD" of the Articles of Organization is changed to provide for a new address for service of process against the Limited Liability Company by the Secretary of State and, as changed, shall read as follows:

THIRD: The Secretary of State is designated as agent of the limited liability company upon whom process against it may be served. The post office address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is: 1650 Champlin Avenue, Utica, NY 13502.

IN WITNESS WHEREOF, this Certificate of Change has been subscribed this _____ day of October, 2013, by the undersigned who affirms that the statements contained herein are true under the penalties of perjury.

MOHAWK VALLEY NETWORK, INC.
Member/Organizer

By: _____
Scott H. Perra, President

Exhibit 3.3(b)(2)
Restated Governing Documents of MVHS Active Parent Affiliates

**BY-LAWS
of
ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC.**

A Not-for-Profit Corporation

**ARTICLE I
NAME**

1.1 NAME

The name of the Corporation is St. Lukes Home Residential Health Care Facility, Inc. (herein the Corporation or the Home).

ARTICLE II

PURPOSES:

2.1. To establish and maintain, within the State of New York, a residential health care facility to provide care to the frail, elderly and other individuals requiring skilled nursing care and/or restorative rehabilitation.

2.2 To carry on educational activities and programs incident to the purposes set forth above.

2.3. To do any other act or thing incidental to or connected with the foregoing purposes or advancement thereof, but not for the pecuniary profit or financial gain of its members, Directors or Officers, except as permitted under the New York State Not-for-Profit Corporation Law.

**ARTICLE III
MEMBERSHIP**

3.1 COMPOSITION

Mohawk Valley Health System (“MVHS” or “Member”) shall be the sole member of the Corporation.

3.2 RIGHTS OF MEMBER

MVHS shall have and exercise all the rights and powers of corporate membership created by the laws of the State of New York or the Certificate of Incorporation or By-laws of the Corporation. Certain additional powers have been delegated and reserved to MVHS in the MVHS organizational documents. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and that the Corporation coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation.
- c. To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation, and Bylaws of the Corporation;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- e. To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Corporation;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation;

-
- i. To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
 - j. To approve and coordinate the strategic plan of the Corporation;
 - k. To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
 - l. To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;
 - m. To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
 - n. To approve any material change in the services offered by the Corporation;
 - o. To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound; and
 - p. To accept further delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation and other MVHS Affiliates, the authority to accept, utilize, transfer and

share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's board of directors.

3.3 ANNUAL MEETING

MVHS shall, in its capacity as the member of the Corporation, hold its annual meeting each year at a time and place determined by MVHS. At the annual meeting, MVHS shall elect Directors of the Corporation, receive the annual report of the Directors of the Corporation, and transact such other business as may properly come before the meeting. Nomination for seats on the Board of Directors of the Corporation shall be submitted to MVHS prior to MVHS' annual meeting.

3.4 ANNUAL REPORT TO MEMBER

At the annual meeting of the member, the Chairperson or President, and the Treasurer of the Corporation shall present an Annual Report showing in appropriate detail the following information:

(a) a complete verified financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation;

(b) a summary of the activities of the Corporation during the preceding year.

The Annual Report shall be filed with the minutes of the annual meeting.

3.5 ACTION BY MEMBER

Except as otherwise required by law, the Certificate of Incorporation or these By-laws, any action required or permitted to be taken by MVHS in its capacity as the sole member of the Corporation may be taken by MVHS without a meeting, without prior notice and without a vote, through written consent to such action. The written consent of MVHS shall be evidenced by a written resolution of the Board of Directors of MVHS signed by an officer of MVHS and adopted in accordance with the MVHS Articles of Incorporation, By-laws, policies and/or procedures. An original signed copy of each executed written consent of MVHS shall be delivered to the Secretary of the Corporation and shall be maintained in the permanent records of the Corporation.

ARTICLE IV BOARD OF DIRECTORS

4.1 NUMBER

The Board of Directors shall consist of not less than nine (9) members.

4.2 QUALIFICATION

Directors shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

4.3 ELECTION AND TENURE

(a) Composition of Initial Board of Directors. Commencing with the meeting to be held on or about _____, 20XX, the initial board shall be

comprised of eighteen (18) Voting Directors. MVHS shall appoint sixteen (16) voting directors (the “Elected Directors”). The remaining two (2) Directors shall be the presidents of the medical staffs of Faxton-St. Luke’s Healthcare (“FSLH”) and St. Elizabeth Medical Center (“SEMC”) who shall serve ex-officio as Voting Directors.

(b) Terms of Office. The initial Elected Directors shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated.

(c) Subsequent Election. Commencing with the 20XY annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Director may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in these Bylaws. Commencing with the 20XY annual meeting, Elected Directors of the Board shall be nominated by the Governance Affairs and Ethics Committee of MVHS and shall be elected by a simple majority of the MVHS Board. The MVHS Board shall not be bound or limited to such nominees.

(d) Reappointment. Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Director’s performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(e) Non-Elected Directors. The Presidents of the Medical Staffs of SEMC and FSLH shall serve as Directors of the Corporation, coterminous with holding their respective positions.

4.4 VACANCIES

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Director, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board of MVHS. Nominees shall be presented by the Governance Affairs and Ethics Committee of MVHS, but the MVHS

Board shall not be bound or limited to such nominees. Directors selected to fill vacancies shall serve the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

4.5 REMOVAL

Each member of the Board of Directors shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Directors by a vote of two-thirds of the MVHS Directors. In addition, the Board of MVHS may remove any Director, with or without cause, upon a two-thirds (2/3) vote of the Board.

4.6 RESIGNATION/LEAVE OF ABSENCE.

(a) Resignation. Any Director may resign at any time by giving written notice to the Chairperson or to the Secretary of the Corporation. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

(b) Leave of Absence. Any Director may request a Leave of Absence of up to three (3) months for medical reasons relating to the Director, or a member of the Director's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Director. If the Chairperson requests a Leave, the request shall be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Director shall be excused from any attendance requirements and all other obligations of a Director as set forth in these Bylaws. The Director's Board position shall remain vacant during the term of the Leave, and the Director's position shall not be counted in determining the presence of a quorum.

If the Director on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the MVHS Directors at the next regular meeting of MVHS, or at a special meeting called for such purpose. Any committee positions held by the Director may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Director may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

4.7 ADDITIONAL ADVISORS

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Directors present.

4.8 MEETINGS OF DIRECTORS

(a) Annual Meeting The Board of Directors shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, selecting members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) Regular Meetings The Board of Directors shall hold at least seven (7) regular meetings annually.

(c) Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3) Directors. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) Place All meetings of the Board shall be held at the principal office of the Corporation or at such other place within this State as the Notice of Meeting shall provide.

(e) Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Director personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law or these Bylaws, the notice shall also state the purpose for which the meeting is called. Oral or written notice of

the postponement of any scheduled regular meeting shall be given to each Director not less than one (1) day before the scheduled date of such meeting.

(f) Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(g) Quorum Unless a greater or lesser number is required by law, the Certificate of Incorporation or these By-laws, a majority of the Directors entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Directors present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 4.8(e).

(h) Voting Subject to the Conflict of Interest provisions of these By-laws, and the Board's Conflict of Interest policies, each voting Director present is entitled to vote on any matter before the Board.

(i) Manner of Acting Unless otherwise required by law, the Certificate of Incorporation or these By-laws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the consent in writing of all Directors entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

(j) Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

4.9 POWERS AND FIDUCIARY OBLIGATIONS

(a) Powers Except to the extent that powers have been delegated and reserved to MVHS under these Bylaws, the administrative powers of the Corporation shall be vested

in the Board of Directors, which shall have: charge, control, and oversight of the property, funds, and affairs of the Corporation; the power to establish policies for the management and operation of the Corporation; and such other power and authority to do and perform all acts and functions for the benefit of the Corporation, not inconsistent with these By-laws or the Certificate of Incorporation. The Board of Directors shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

(b) Fiduciary Obligations The members of the Board of Directors shall at all times conduct the affairs of the Corporation in strict conformance with all applicable fiduciary and ethical standards. Each Director shall act in a manner consistent with the duty of undivided loyalty to the interests of the Corporation, the duty to maintain in confidence information concerning the affairs of the Corporation, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Corporation. The Board shall adopt such mechanisms as it deems appropriate to assist the Directors in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate, a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Corporation.

ARTICLE FIVE OFFICERS

5.1 OFFICERS

The Corporation shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Board of Directors may authorize. The Corporation shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the 20XX, 20XY, and 20XZ annual meetings shall serve a one year term, or until his/her successor has been elected. The Chairperson seated at the 20XX-20XZ annual meetings shall be selected by MVHS in accordance with its Bylaws. Commencing with the 20XA annual meeting the Chairperson and Vice-Chairperson shall be elected by MVHS s for two-year terms, or until

their successors have been duly elected and qualified. All other officers shall be elected by MVHS at the annual meeting of MVHS and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors of MVHS at any regular meeting or any special meeting called for such purpose.

5.2 CHAIRPERSON

The Chairperson shall preside at all meetings of the Board of Directors, shall appoint the members and Chairperson of each Committee in accordance with these By-laws and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 20XZ annual meeting of MVHS shall be eligible to be elected by the full Board of MVHS to serve one additional term of two (2) years, commencing in 20XA. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

5.3 VICE-CHAIRPERSON

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

5.4 CHAIR EMERITUS.

Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in these Bylaws. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the 20XX annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

5.5 SECRETARY

The Secretary shall act as Secretary of both the Corporation and the Board of Directors and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Corporation and keeping the minutes of the meetings of the Board of Directors. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Corporate records.

5.6 *TREASURER*

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and, whenever required by the Board of Directors shall render, or cause to be rendered, financial statements of the Corporation. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

5.7 *PRESIDENT*

MVHS shall appoint the President and as the Chief Executive Officer of the Corporation. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board of Directors in all matters except those for which the Board has designated the Executive Director or some other individual to act.

ARTICLE VI
COMMITTEES OF THE BOARD OF DIRECTORS

6.1 *STRUCTURE*

There shall be seven (7) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Resident Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, Investment Committee and Audit Compliance Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

6.2 PROCEDURE

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in these By-Laws or in a Resolution of the Board of Directors.

6.3 POWERS

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these By-Laws, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

6.4 COMMITTEE MEMBERS

- (a) Appointment. Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at

least every three (3) years among the members of the Board so as to promote experience and knowledge in all aspects of the operation of the Corporation.

- (b) Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.
- (c) Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.
- (d) Removal. Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

6.5 ADVISORS TO BOARD COMMITTEES

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Directors.

As deemed appropriate by the Committee Chair, members of the Corporation's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

6.6 MANNER OF ACTION

(a) Meetings. Each Committee shall meet as provided for in these By-Laws and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

(b) Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

(c) Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

(d) Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

(e) Meeting by Conference Telephone or Similar Device. Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

6.7 CONFLICT OF INTEREST

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

6.8 EXECUTIVE COMMITTEE

(a) Composition

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, and the Chairperson Emeritus.

(b) Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Corporation, subject to any prior limitations imposed by the Board, these By-Laws, or statute. In addition, the Executive Committee shall:

- (1) Review and recommend to the Board, legislative and regulatory affairs initiatives.
- (2) Review and make recommendations to the Board as to the Corporation's completion and filing of IRS Form 990 and such other reports or filings as may be required by the Internal Revenue Service.

(c) Meetings

The Executive Committee shall meet as necessary to conduct the business of the Corporation while the full Board is not in session.

6.9 FINANCE

(a) Composition

The Finance Committee shall consist of the Treasurer of the Corporation, as Committee Chairperson, and at least 6 voting Directors, at least one of whom shall have substantial accounting or financial management expertise.

(b) Functions

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Corporation and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and

oversight of the financial affairs of the Corporation and its subsidiaries. Its functions shall include:

- (1) Overseeing the Executive Director's development of a budget for the Corporation showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Board a budget developed by the Executive Director for the ensuing year;
- (3) Reviewing financial reports that report on the financial condition of the Corporation;
- (4) Reviewing and making recommendations to the Board on any request by the Executive Director for the Corporation to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;
- (5) Retaining the Corporation's independent Certified Public Accountants to provide external financial auditing to the Corporation. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Corporation and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Corporation.

-
- (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Corporation.

(c) Meetings

The Finance Committee shall meet as needed, but not less than six (6) times per year.

6.10 QUALITY AND RESIDENT SAFETY COMMITTEE

(a) Composition.

The Quality and Resident Safety Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a physician.

(b) Functions.

The Quality and Resident Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of the Corporation with the programs of the other MVHS Affiliates for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance at the Corporation, including:
- (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;
 - (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;

-
- (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by third parties providing services to the Corporation.
 - (2) Recommend policies and provide direction for the Corporation's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the Corporation.
 - (3) Oversee regulatory compliance, safety, infection control and such other programs as shall be required to insure continuous accreditation of the Corporation.
 - (4) Review and report to the Board on Department of Health, and other regulatory surveys and findings and any required plans of correction.
 - (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Corporation's affiliates concerning quality and performance improvement activities.
 - (7) Assist in the development of Board educational processes regarding quality and service improvement
 - (8) Oversee and review the quality of care provided at the Facility and, through designated representatives of the Board, participate and receive input at least three times annually from the Residents' Council.
- (c) Meetings

The Quality and Resident Safety Committee shall meet as shall be necessary to discharge the obligations and duties of the Committee.

6.11 GOVERNANCE AFFAIRS AND ETHICS COMMITTEE

(a) Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a Board Officer.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Board of the Corporation and developing and monitoring a Board education plan. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - (i) Conflict of Interest;
 - (ii) Policy based governance;
 - (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
- (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.

-
- (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Board and Committees of the Corporation.
 - (5) Develop an orientation process for new Board and Committee members for the Corporation, with the assistance of the Executive Director.
 - (6) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
 - (7) Periodically review, and recommend changes to the Bylaws of the Corporation to insure compliance with the mission, vision, purpose and structure of the Corporation.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at least two (2) times per year, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

6.12 EXECUTIVE COMPENSATION COMMITTEE.

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Directors recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be “Independent Directors” as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not an “Independent Director”, the Board shall appoint another Independent Director to serve in the place of the Chairperson.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the Executive Director and other employees or individuals that the Committee believes are in a position to exercise substantial influence

over the affairs of the Corporation, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations (“Disqualified Persons”). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually, performance guidelines for the Executive Director;
 - (2). Assist the board in assessing and evaluating the Executive Director’s performance;
 - (3). Review and recommend to the full Board the Executive Director's compensation, including salary, incentives, benefits and other perquisites;
 - (4) Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
 - (5) At least annually, review executive compensation to ensure that it is appropriate in view of Corporation’s tax-exempt status and take the required steps to establish a “rebuttable presumption of reasonableness” [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person’s background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Corporation’s income and assets and the number of Corporations employees;
 - d. Executive Director’s job performance;
 - e. relationship of the Executive Director’s compensation to the compensation paid to Corporation’s other employees; and
 - f. the number of hours the Executive Director spends performing his or her job.
- c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Corporation to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

6.13 INVESTMENT COMMITTEE.

(a) Composition

The Investment Committee shall consist of at least at least three (3) Directors, at least one of whom shall have significant experience in financial and/or investment matters.

(b) Functions.

The function of the Investment Committee shall be to establish investment standards and expectations and review and monitor investment performance of the managers of the investments, endowments and other funds of the Corporation, and its subsidiaries. Without limiting the foregoing, the Committee shall:

1. Review and recommend to the Board, the investment policy of the Corporation;
2. Review the performance of the investment managers and, as required, recommend changes to the Board;
3. At least semi-annually report to the Board on the investment activities and performance of the investments of the Corporation.

c. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

6.14 AUDIT AND COMPLIANCE COMMITTEE.

(a) Composition

The Audit and Compliance Committee shall be composed of at least three (3) directors. At least a majority of the directors so appointed shall be “Independent Directors” as defined in Section 7.12(a), above.

(b) Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board of Directors in its oversight responsibilities by overseeing management’s systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Corporation. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee’s retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the corporate compliance plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.
 - b. Serve as a resource to the Compliance Officer and management on compliance issues.
 - c. Report to the Board at least semi-annually, regarding the status of the compliance plan.

c. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

ARTICLE VII

ADMINISTRATION:

SECTION 7.1 – EXECUTIVE DIRECTOR.

The Board of Directors shall select and appoint a competent nursing home administrator, duly licensed by the State of New York, who shall be the Executive Director of the Corporation and the Board's representative in the management of the residential health care facility. The Executive Director shall have the qualifications as are prescribed by the State of New York. The Executive Director shall be given the necessary authority and responsibility to operate the Facility in all its activities and departments, subject only to such policies as may be issued by the Board of Directors or by any of its committees to which it has delegated power for such action. He or she shall act as the duly authorized representative of the Board of Directors in all matters in which the Board of Directors has not formally designated some other person to act.

The authority and responsibility of the Executive Director shall include:

- (a) Working with the Board of Directors on the formulation of policies and carrying out all policies established by the Board of Directors.
- (b) Development of and submission to the Board of Directors for approval, a plan of organization of personnel and other persons concerned with the conduct of the Facility's operation.
- (c) Preparation of an annual budget showing the expected receipts and expenditures as required by the Board of Directors and regulatory agencies.
- (d) Selection, employment, control and discharge of employees, and development and maintenance of personnel policies and practices for the skilled nursing Facility.
- (e) Maintenance of physical properties in a good state of repair and operating condition.
- (f) Supervision of business affairs to insure that funds are collected and expended to the best possible advantage.
- (g) Continuing cooperation with the medical personnel and others who are involved in rendering professional health care so that safe high quality care may be rendered to residents at all times.

-
- (h) Presentation to the Board of Directors or its authorized committee of periodic reports reflecting the professional services and financial activities of the Facility and preparation and submission of such special reports as may be required by the Board of Directors and/or the New York State Department of Health, or other regulatory bodies.
 - (i) Attendance at meetings of the Board of Directors and its committees as requested by the Board.
 - (j) Preparation of a plan for the achievement of specific objectives of the Facility with a schedule for periodically reviewing and evaluating the plan.
 - (k) Serving as the Facility's representative in its relationship with other agencies.
 - (l) Performance of other duties that may be necessary in the best interests of the Facility.

ARTICLE VIII

AMENDMENTS:

These By-Laws may be amended or repealed, or new Bylaws may be adopted, only by a two-thirds (2/3) vote of the Board of Directors of the Member of the Corporation. The Board of Directors of the Corporation may propose amendments for approval by the Member or the Members may adopt, amend or repeal Bylaws on its own initiative following the procedures herein noted. The Governance Affairs and Ethics Committee shall conduct an annual review of these Bylaws and make recommendations for such amendments as may be necessary to assure compliance with all applicable laws, rules and regulations and the requirements of the Corporation's accrediting body.

ARTICLE IX

INDEMNIFICATION AND INSURANCE:

It is expressly provided that any and every person or his or her estate that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or

criminal, by reason of the fact that he or she is or was a Director or Officer of this Corporation, or served such other Corporation in any capacity at the request of this Corporation, will be completely indemnified by this Corporation to the full extent permitted by law. If permitted by law, this indemnification shall include, but not be limited to, the payment of one (1) or more of the following: judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeals therein. This Corporation may purchase and maintain insurance to completely and fully indemnify such person or his or her estate, whether or not this Corporation has the power to directly indemnify him or her against such liability under the laws of this or any other State.

ARTICLE X

TAX EXEMPT STATUS:

SECTION 10.1

Notwithstanding any other provisions of these By-laws, the Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a Corporation exempt from Federal income tax under IRC 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.

SECTION 10.2

No part of the net earnings of the Corporation shall inure to the benefit of any Director or Officer of the Corporation, or any private individual (except reasonable compensation may be paid for services rendered to or for the Corporation), and no Director or Officer of the Corporation, or any private individual shall be entitled to share in the distribution of the Corporation's assets on dissolution of the Corporation.

SECTION 10.3

No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by IRC 501(h)), and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of, or in opposition to, any candidates for public office.

SECTION 10.4

In the event of dissolution, all of the remaining assets and property of the Corporation shall, after payment of necessary expenses thereof, be distributed to MVHS or such other Corporations as shall qualify under Section 501(c)(3) of the Internal Revenue Code of 1985, subject to an Order of a Justice of the Supreme Court of the State of New York.

SECTION 10.5

In any taxable year in which the Corporation is a private foundation as described in IRC 509(a), the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under IRC 4942, and the Corporation shall not: (a) engage in any act of self-dealing as defined in IRC 4941(d); (b) retain any excess business holdings as defined in IRC 4943(c); (c) make any investments in such manner as to subject the Corporation to tax under IRC 4944; or (d) make any taxable expenditures as defined in IRC 4945(d) or corresponding provisions of any subsequent Federal tax laws.

ARTICLE XI

CONFLICT OF INTEREST:

SECTION 11.1 – POLICY

Any Director, Officer, key employee, medical staff member or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval or

ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interests.

SECTION 11.2 – EFFECT.

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions contained in the Board approved Conflicts of Policy must be observed. If so, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in discussions or deliberations with respect to such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

SECTION 11.3 – FORMAL POLICY AND PROCEDURE.

The Board shall adopt a formal Conflicts of Interest Policy requiring disclosure of existing and potential conflicts of interest, mechanisms for addressing actual and potential conflicts of interest, and corrective and disciplinary action with respect to transgressions of such policies.

OPERATING AGREEMENT

This Agreement, dated March 19, 1999 and amended April 9th, 2008, August 15, 2013 and _____, 2013, is among the individuals and entities signing below.

WHEREAS, the parties hereto desire to form a limited liability company known as **MOHAWK VALLEY HOME CARE, L.L.C.** pursuant to the New York Limited Liability Company Law;

WHEREAS, the parties hereto desire to establish their respective rights and obligations pursuant to the New York Limited Liability Company Law in connection with forming such a limited liability company;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

ARTICLE I Definitions

1.1 **Definitions.** In this Agreement, the following terms shall have the meanings set forth below:

a. "Articles of Organization" shall mean the Articles of Organization of the company filed or to be filed with the New York Secretary of State, as they may from time to time be amended.

b. "Board of Managers" shall have the meaning as set forth in Section 5.1.

c. "Capital Account" as of any date shall mean the capital contribution to the Company by a Member, as adjusted pursuant to this Agreement.

d. "Capital Contribution" shall mean any contribution by a Member to the capital of the Company in cash, property or services rendered or a promissory note or other obligation to contribute cash or property or to render services.

e. "Code" shall mean the Internal Revenue Code of 1986, as amended, or any superseding federal revenue statute.

f. "Company" shall refer to **Mohawk Valley Home Care, L.L.C.**

g. "Distribution" means any cash and other property paid to a Member by the Company from the operations of the Company.

h. "Fiscal Year" shall mean the fiscal year of the Company, which shall be

the year ending December 31.

i. "Membership Interests" shall mean, with respect to the Company and with respect to any Member, the Membership Interest set forth after the Member's name on **Exhibit" A"** to this Agreement, as such Membership Interests shall be adjusted from time to time to reflect additional Capital Contributions or withdrawals from the Company but subject to Section 11.5 hereof.

j. "Manager" shall mean each person or entity listed in the Articles of Organization or in Exhibit "B" to this Agreement as a manager of the Company or any other person or entity that succeeds such person or entity as a manager pursuant to this Agreement.

k. "Member" shall mean Mohawk Valley Health System (the "Member" or "MVHS").

l. "Net Losses" shall mean an amount equal to the Company's taxable loss for such year or period, determined in accordance with Code Section 703 (a). For this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss.

m. "Net Profits" shall mean an amount equal to the Company's taxable income for such year or period, determined in accordance with Code Section 703(a). For this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss.

n. "New York Act" shall mean the New York Limited Liability Company Act.

o. "Person" shall mean any corporation, governmental authority, limited liability company, Partnership, trust, unincorporated association or other entity.

p. "Selling Member" shall mean a Member desiring to sell a Membership Interest.

q. "Treasury Regulations" shall mean all proposed, temporary and final regulations promulgated under the Code as from time to time *in effect*.

ARTICLE II Organization

2.1 **Formation.** One or more Persons has acted as an organizer or organizers to form a *limited* liability Company by preparing, executing and filing with the New York Secretary of State the Articles of organization pursuant to the *New York Act*.

2.2. **Name.** The name of the Company is **Mohawk Valley Home Care, L.L.C.**

2.3 **Principal Place of Business.** The principal place of business of the company within the State of New York shall be 1650 Champlin Avenue, Utica, New York 13502. The Company may establish any other places of business as the Manager may from time to time deem advisable.

2.4 **Registered Agent.** The Company shall not have a registered agent.

2.5 **Term.** The Company shall continue in existence following the date of filing of the Articles of Organization with the New York Secretary of State, until the Company is dissolved pursuant to this Agreement or the New York Act.

2.6 **Purposes.** The Company is formed for any lawful business purpose or purposes.

ARTICLE III Members

3.1 **Names and Addresses.** The names and addresses of the Members are as set forth in Exhibit "A" to this Agreement.

3.2 **Additional Members.** A Person may be admitted as a member after the date of this Agreement upon the vote or written consent of a majority of Membership Interests.

3.3 **Books and Records.** The Company shall keep books and records of accounts and minutes of all meetings of the members. Except as modified or amended by the manager, such books and records shall be maintained on an accrual basis in accordance with this Agreement.

3.4 **Information.** Each Member may inspect during ordinary business hours and at the principal place of business of the Company the Articles of Organization, the Operating Agreement, the minutes of any meeting of the Members and any tax returns of the Company for the immediately preceding three (3) Fiscal Years.

3.5 **Limitation of Liability.** Each Member's liability shall be limited to the greatest extent permitted under the New York Act. A Member shall not be personally liable for any indebtedness, liability or obligation of the Company, except that such Member shall remain personally liable for the payment of his Capital Contribution.

3.6 **Priority and Return of Capital.** No Member shall have priority over any other Member, whether for the return of a Capital Contribution or for Net Profits, Net Losses or a Distribution; provided, however, that this Section shall not apply to loans or other indebtedness (as distinguished from a Capital Contribution) made by a Member to the Company.

3.7. Liability of a Member to the Company. A Member who rightfully receives the return of any portion of a Capital Contribution is liable to the Company only to the extent now or hereafter provided by the New York Act. A Member who receives a Distribution made by the Company in violation of this Agreement or made when the Company's liabilities exceed its assets (after giving effect to such Distribution) shall be liable to the Company for the amount of such Distribution.

3.8. Financial Adjustments. No Members admitted after the date of this Agreement shall be entitled to any retroactive allocation of losses, income or expense deductions incurred by the Company. The Board of Managers may, at the discretion of the Board of Managers, at the time a Member is admitted, close the books and records of the Company (as though the Fiscal Year had ended) or make pro rata allocations of loss, income and expense deductions to such member for that portion of the Fiscal Year in which such Member was admitted in accordance with the Code.

3.9. Disposition of Membership Interest or Voting Rights: That transfers, assignments or other disposition of membership interests or voting rights must be effectuated in accordance with Section 3611-a(1) of the Public Health Law.

ARTICLE IV **ROLE OF MEMBERS**

4.1. Rights or Powers. Except as otherwise specifically set forth herein, the Member shall have no rights or powers to take part in the management and control of the Company and its business and affairs. Notwithstanding the foregoing, the Member shall have the following rights and powers:

- a. To approve and interpret the statement of mission and philosophy adopted by the Company, to require that the Company operate in conformance with its mission and philosophy and that the Company coordinate its mission, vision, activities and resources with the other Affiliates of the Member in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the Managers of the Company, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Company.
- c. To amend or repeal the Articles of Organization and Operating Agreement, and to adopt any new or restated Articles of Organization and Operating Agreement, of the Company;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Company;
- e. To approve the debt of the Company in excess of an amount to be fixed from time to time by the Member.

- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Company in excess of an amount to be fixed from time to time by the Member.
- g. To approve the capital and operating budgets of the Company;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Company;
- i. To approve any reorganization of the Company and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Company with the other Affiliates of the Member, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve the strategic plan of the Company;
- k. To the extent applicable, to approve all contracts of reimbursement for the Company from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Company to federal or state governmental agencies for establishment or operating licensure, including but not limited to applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Company subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by the Company;
- o. To require the Company to participate in any and all programs and services, as determined by the Member in its discretion, provided, however, that the Member may not require the Company to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Company is a party and by which it is bound; and
- p. To accept further delegations of authority on behalf of the Company and exercise on behalf of the Company and other Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to applicable law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, the Member shall have: (i) the power to initiate and direct action by the Company without a prior recommendation of the Company's board of

managers; and (ii) the power to accept, reject or modify the recommendation of the Company's Board of Managers and to direct action by the Company or to return the matter to the Board of Managers of the Company for reconsideration, with reasons for rejection and/or suggested change. The Board of Managers and officers of the Company shall not implement any action requiring the approval of the Member until the Member shall have exercised its reserve powers and communicated its determinations in writing to the Company's Board of Managers.

4.2 **Annual Meeting.** The Member shall, hold its annual meeting each year in April or May at a time and place determined by the Member. At the annual meeting, the Member shall elect Managers of the Company, receive the annual report of the Managers of the Company, and transact such other business as may properly come before the meeting. Nomination for seats on the Board of Managers of the Company shall be submitted to the Member prior to the Member's annual meeting.

4.3 **Annual Report to Member.** At the annual meeting of the Member, the Chairperson or President, and the Treasurer of the Company shall present an Annual Report showing in appropriate detail the following information:

(a) a complete verified financial statement of the Company for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Company;

(b) a summary of the activities of the Company during the preceding year. The Annual Report shall be filed with the minutes of the annual meeting.

4.4 **Notice.** The Secretary shall give the Members notice of the annual meeting, or any special meetings of the Members, at least ten (10) days, but not more than thirty (30) days, before the date of said meeting. The notice shall specify the place and time of the meeting and, in the case of special meetings, the purposes for which the meeting is called.

4.5 **Special Meetings of Members and Means of Voting.**

(a) Special meetings of Members may be called by the Board of Managers and shall be called upon the written request of any Member. The notice shall state the nature of the business to be transacted. Notice of any such meeting shall be given to all Members not less than two (2) days prior to the date of such meeting. Members may vote in person or by proxy at such meeting. Whenever the vote or consent of Members is permitted or required under the Agreement, such vote or consent may be given at a meeting of Members or may be given in writing. The participation of a Member at a meeting may be by means of conference, telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other. Such participation shall constitute presence in person at the meeting for the purposes hereunder. The affirmative vote of all Members shall be required for any action.

(b) Each Member may authorize any Person or Persons to act for him by proxy on all matters in which a Member is entitled to participate, whether by waiving notice of or voting or participating at a meeting. Every proxy must be signed by the Member or

his/her attorney-in-fact. No proxy shall be valid after the expiration of eleven months from the date thereof unless otherwise provided in the proxy. Unless otherwise specifically stated therein, every proxy shall be revocable at the pleasure of the Member executing the same.

(c) Each corporate Member may authorize any Person to act for it. Such authorization shall be by resolution adopted by the corporate Member in accordance with its By-laws.

4.6 **Action by Member.** Except as otherwise required by law, the Articles of Organization or this Agreement, any action required or permitted to be taken by the Member of the Company may be taken without a meeting, without prior notice and without a vote, through written consent to such action. The written consent of the Member shall be evidenced by a written resolution of the Board of Directors of the Member signed by an officer of the Member and adopted in accordance with the its Articles of Incorporation, By-laws, policies and/or procedures. An original signed copy of each executed written consent of the Member shall be delivered to the Secretary of the Company and shall be maintained in the permanent records of the Company.

SECTION V **MANAGEMENT**

5.1 **Appointment of Board of Managers.** The Company shall have at least three (3) Managers to be appointed by the Member. The number of Managers of the Company may be amended from time to time by the unanimous vote or written consent of all membership interests. The Managers shall be collectively referred to as the Managers, Board of Managers or the Board. The members of the Board of Managers are set forth in Exhibit B, as may be amended from time to time.

5.2 **Qualification**

Managers shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

5.3 **Election and Tenure.**

(a) **Composition of the Board of Managers.** Commencing with the meeting to be held on or about _____, 20XX, the initial Board shall be comprised of eighteen (18) Voting Managers. MVHS shall appoint sixteen (16) voting Managers (the "Elected Managers"). The remaining two (2) Managers shall be the presidents of the medical staffs of Faxton-St. Luke's Healthcare ("FSLH") and St. Elizabeth Medical Center ("SEMC") who shall serve ex-officio as Voting Managers.

(b) **Terms of Office.** The initial Elected Managers shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated.

(c) **Subsequent Election.** Commencing with the 20XY annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Managers whose terms are expiring. An Elected Manager shall serve for a term of four (4)

years or until his or her successor shall have been elected. No Elected Manager may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in this Agreement. Commencing with the 20XY annual meeting, Elected Managers of the Board shall be nominated by the Governance Affairs and Ethics Committee of MVHS and shall be elected by a simple majority of the MVHS Board. The MVHS Board shall not be bound or limited to such nominees.

(d) Reappointment. Manager reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Manager's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(e) Non-Elected Managers. The Presidents of the Medical Staffs of SEMC and FSLH shall serve as Managers of the Corporation, coterminous with holding their respective positions.

5.4 Vacancies.

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Manager, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board of MVHS. Nominees shall be presented by the Governance Affairs and Ethics Committee of MVHS, but the MVHS Board shall not be bound or limited to such nominees. Managers selected to fill vacancies shall serve the remainder of the term of the Manager whose seat has been vacated or until a successor has been elected.

5.5 Removal.

Each member of the Board of Managers shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Manager who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Managers by a vote of two-thirds of the MVHS Directors. In addition, the Board of MVHS may remove any Manager, with or without cause, upon a two-thirds (2/3) vote of the Board.

5.6 Resignation/Leave of Absence.

(a) Resignation. Any Manager may resign at any time by giving written notice to the Chairperson or to the Secretary of the Company. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

(b) Leave of Absence. Any Manager may request a Leave of Absence of up to three (3) months for medical reasons relating to the Manager, or a member of the Manager's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Manager. If the Chairperson requests a Leave, the request shall be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Manager shall be excused from any attendance requirements and all other obligations of a Manager as set forth in these Bylaws. The

Manager's Board position shall remain vacant during the term of the Leave, and the Manager's position shall not be counted in determining the presence of a quorum.

If the Manager on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the MVHS Directors at the next regular meeting of MVHS, or at a special meeting called for such purpose. Any committee positions held by the Manager may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Manager may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

5.7 Additional Advisors.

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Managers present.

5.8 Meetings of Managers.

(a) Annual Meeting The Board of Managers shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, selecting members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) Regular Meetings The Board of Managers shall hold at least seven (7) regular meetings annually.

(c) Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3) Managers. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) Place All meetings of the Board shall be held at the principal office of the Company or at such other place within this State as the Notice of Meeting shall provide.

(e) Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Manager personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law, the notice shall also state the purpose for which the meeting is called. Oral or written notice of the postponement of any scheduled regular meeting shall be given to each Manager not less than one (1) day before the scheduled date of such meeting.

(f) Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(g) Quorum Unless a greater or lesser number is required by law, the Articles of Organization or this Agreement, a majority of the Managers entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Managers present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 5.8(e).

(h) Voting Subject to the Conflict of Interest provisions in the Board's Conflict of Interest policies, each voting Manager present is entitled to vote on any matter before the Board.

(i) Manner of Acting Unless otherwise required by law, the Articles of Organization or this Agreement, the act of a majority of the Managers present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the consent in writing of all Managers entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

(j) Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

5.9 Powers.

(a) Powers Except to the extent that powers have been delegated and reserved to MVHS, the administrative powers of the Company shall be vested in the Board of Managers, which shall have: charge, control, and oversight of the property, funds, and affairs of the Company, the power to establish policies for the management and operation of the Company, and such other power and authority to do and perform all acts and functions for the benefit of the Company, not inconsistent with this Agreement or the Articles of Organization. The Board of Managers shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

(b) Fiduciary Obligations The members of the Board shall at all times conduct the affairs of the Company in strict conformance with all applicable fiduciary and ethical standards. Each Manager shall act in a manner consistent with the duty of undivided loyalty to the interests of the Company, the duty to maintain in confidence information concerning the

affairs of the Company, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Company. The Board shall adopt such mechanisms as it deems appropriate to assist the Managers in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate, a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Company.

5.10 **Right to Rely on Manager.** Any Person dealing with the Company may rely upon a certificate signed by any Officer of the Board of Managers as to:

- (a) the identity of any Manager or Member;
- (b) the existence or nonexistence of any fact or facts which constitute a condition precedent to acts by the Board or which are in any other manner germane to the affairs of the Company;
- (c) the Persons who are authorized to execute and deliver any instrument or document on behalf of the Company; or
- (d) any act or failure to act by the Company or any other matter whatsoever involving the Company or any Member.

5.11 **Compensation and Expenses of Managers.**

(a) Except as otherwise set forth in this Agreement, no Manager shall receive any fees or other compensation for serving as a Manager, unless such fees or other compensation are approved by the Members.

5.12 **Operations Restrictions.**

- (a) The Company shall at all times be operated in compliance with the tax-exempt status under Code Section 501(c)(3) of the tax-exempt Members.
- (b) No rebates, kickbacks, or reciprocal arrangements may be received or entered into by any Managers, nor may any Managers participate in any business arrangement which would circumvent this Agreement.
- (c) The funds of the Company shall not be commingled with the funds of any other Person.
- (d) The signature of an Officer of the Board of Managers shall be necessary to convey title to any real property owned by the Company or to execute any promissory notes, trust deeds, mortgages or other instruments of hypothecation, and all of the Members agree that a copy of this Agreement may be shown to the appropriate parties in order to confirm the same, and further agree that the signature of such Officer shall be sufficient to execute any documents necessary to effectuate this or any other provision of this Agreement.

5.13 **Indemnification of Managers.**

(a) Unless otherwise provided in this Agreement, the Company, its receiver, or its trustee (in the case of its receiver or trustee, to the extent of Company property)

shall indemnify, save harmless and pay all judgments and claims against any Manager relating to any liability or damage incurred by reason of any act performed or omitted to be performed by any Manager in connection with the Business, including attorneys' fees and related expenses incurred by such Manager in connection with the defense of any action based on any such act or omission, which attorneys' fees and expenses may be paid as incurred. In the event of a determination that such Manager is not entitled to indemnification, such Manager shall promptly repay any such fees or expenses paid by the Company.

(b) Unless otherwise provided for in this Agreement, in the event of any action by a Member against any Manager, including a Company derivative suit, the Company shall indemnify, save harmless and pay all expenses of such Manager, including reasonable attorneys' fees incurred in the defense of such action, if such Managers are successful in such action.

(c) Notwithstanding the provisions of Section 6.15(a) and 6.15(b) above, such Sections shall be enforced only to the maximum extent permitted by law and no Manager shall be indemnified from any liability for fraud, intentional misconduct, gross negligence or knowing violation of law which was material to the cause of action.

5.14 **Officers.** The Board of Managers shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Members may authorize. The Company shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the 20XX, 20XY, and 20XZ annual meetings shall serve a one year term, or until his/her successor has been elected. The Chairperson seated at the 20XX-20XZ annual meetings shall be selected by the Member in accordance with its Bylaws. Commencing with the 20XA annual meeting the Chairperson and Vice-Chairperson shall be elected by the Member for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected by the Member at the annual meeting of the Member and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors of the Member at any regular meeting or any special meeting called for such purpose.

5.15 **Chairperson.** The Chairperson shall preside at all meetings of the Board of Managers, shall appoint the members and Chairperson of each Committee in accordance with this Agreement and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 20XZ annual meeting of the Member shall be eligible to be elected by the full Board of the Member to serve one additional term of two (2) years, commencing in 20XA. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

5.16 **Vice Chairperson.** In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Company as may be authorized by order of the Board.

5.17 **Chair Emeritus.** Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in this Agreement. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the 20XX annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

5.18 **Secretary.** The Secretary shall act as Secretary of both the Company and the Board and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Company and keeping the minutes of the meetings of the Board. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Company records.

5.19 **Treasurer.** The Treasurer shall have general supervision over the care and custody of all funds and securities of the Company except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Company in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board, or any committee designated and vested with such power by the Board, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Company and, whenever required by the Board shall render, or cause to be rendered, financial statements of the Company. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

5.20 **President.** The Member shall appoint the President and the Chief Executive Officer of the Company. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board in all matters except those for which the Board has designated the Executive Director, or some other individual to act.

SECTION VI COMMITTEES OF THE BOARD OF MANAGERS

6.1 Structure.

There shall be six (6) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, and Audit and Compliance Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

6.2 **Procedure.**

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in this Agreement or in a Resolution of the Board.

6.3 **Powers.**

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in this Agreement, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

6.4 **Committee Members.**

- (a) **Appointment.** Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to promote experience and knowledge in all aspects of the operation of the Company.
- (b) **Tenure.** Each member of a Board Committee shall hold office until the next annual election of Managers and until his or her successor is elected, unless he or she sooner ceases to be a Manager or resigns or is removed from the Committee.
- (c) **Resignation.** Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.
- (d) **Removal.** Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) **Vacancies.** Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee,

may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

6.5 **Advisors to Board Committees.** The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Managers.

As deemed appropriate by the Committee Chair, members of the Company's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

6.6 **Manner of Action.**

(a) **Meetings.** Each Committee shall meet as provided for in this Agreement and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

(b) **Agenda/Minutes.** There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

(c) **Quorum.** A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

(d) **Action.** The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

(e) **Meeting by Conference Telephone or Similar Device.** Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the

meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

6.7 **Conflict of Interest.** Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board.

6.8 **Executive Committee.**

(a) **Composition**

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, and the Chairperson Emeritus.

(b) **Functions**

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Company, subject to any prior limitations imposed by the Board, this Agreement, or statute

(c) **Meetings**

The Executive Committee shall meet as necessary to conduct the business of the Company while the full Board is not in session.

6.9 **Finance.**

(a) **Composition**

The Finance Committee shall consist of the Treasurer of the Company, as Committee Chairperson, and at least 6 voting Members, at least one of whom shall have substantial accounting or financial management expertise.

(b) **Functions**

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Company and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and oversight of the financial affairs of the Company. Its functions shall include:

- (1) Overseeing the Executive Director's development of a budget for the Company showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Member a budget developed by the Executive Director for the ensuing year;
- (3) Reviewing financial reports that report on the financial condition of the Company;
- (4) Reviewing and making recommendations to the Board and the Member on any request by the Executive Director for the Company to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;

- (5) Retaining the Company's independent Certified Public Accountants to provide external financial auditing to the Company. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Company and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Company.
- (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Company.

(c) Meetings

The Finance Committee shall meet as needed.

6.10 **Quality and Safety Committee.**

(a) Composition.

The Quality and Safety Committee shall consist of not less than five (5) voting Managers, at least one of whom shall be a physician.

(b) Functions.

The Quality and Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of the Company with the programs of the other Affiliates of the Member for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance at the Company, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;

- (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;
 - (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by third parties providing services to the Company.
- (2) Recommend policies and provide direction for the Company's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the Company.
 - (3) Oversee regulatory compliance, safety, and such other programs as shall be required to insure continuous licensure of the Company.
 - (4) Review and report to the Board on Department of Health and other regulatory surveys and findings and any required plans of correction.
 - (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Company's affiliates concerning quality and performance improvement activities.
 - (7) Assist in the development of Board educational processes regarding quality and service improvement.

(c) Meetings

The Quality and Safety Committee shall meet as shall be necessary to discharge the obligations and duties of the Committee.

6.11 **Governance Affairs and Ethics Committee.**

(a) Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Managers, at least one of whom shall be a Board Officer.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Board of the Company and developing and monitoring a Board education plan. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:

- (i) Conflict of Interest;
 - (ii) Policy based governance;
 - (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
 - (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
 - (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Committees of the Company.
 - (5) Develop an orientation process for new Board and Committee members for the Company, with the assistance of the Executive Director.
 - (6) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
 - (7) Periodically review, and recommend changes to the Operating Agreement of the Company to insure compliance with the mission, vision, purpose and structure of the Company.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at such times as shall be necessary to discharge the obligations and duties of the Committee.

6.12 Executive Compensation Committee.

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Managers recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be “Independent” as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not “Independent”, the Board shall appoint another Independent Manager to serve in the place of the Chairperson.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the Executive Director and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of

the Company, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations (“Disqualified Persons”). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually, performance guidelines for the Executive Director;
- (2). Assist the Board in assessing and evaluating the Executive Director’s performance;
- (3). Review and recommend to the full Board the Executive Director’s compensation, including salary, incentives, benefits and other perquisites;
- (4) Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
- (5) At least annually, review executive compensation and take the required steps to establish a “rebuttable presumption of reasonableness” [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person’s background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Company’s income and assets and the number of Company employees;
 - d. Executive Director’s job performance;
 - e. relationship of the Executive Director’s compensation to the compensation paid to Company’s other employees; and
 - f. the number of hours the Executive Director spends performing his or her job.

c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Company to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

6.13 Audit and Compliance Committee.

(a) Composition

The Audit and Compliance Committee shall be composed of at least three (3) Managers. At least a majority of the Managers so appointed shall be “Independent Managers” as defined in Section 7.12(a), above.

(b) Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board in its oversight responsibilities by overseeing management’s systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Company. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee’s retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the corporate compliance plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.
 - b. Serve as a resource to the Compliance Officer and management on compliance issues.
 - c. Report to the Board at least semi-annually, regarding the status of the compliance plan.

c. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

ARTICLE VII

Executive Director

7.1 **Executive Director.** The Board of Managers shall appoint an Executive Director who shall manage the day-to-day operations of the Company and report to the President. The Executive Director shall have the necessary authority and shall be held responsible to the Board for such management of the Company, subject only to such policies as are enacted by the Board of Managers or any committees to which the Board has delegated power for such action. The Executive Director shall act as the duly authorized representative of the Board in all matters except those in which the Board has formally designated some other person or group to act.

ARTICLE VIII

Capital Contributions

8.1 **Capital Contributions.** Each Member has contributed the amount set forth in Exhibit "A" to this Agreement as the Capital Contribution to be made by him.

8.2 **Additional Contributions.** Except as set forth in Section 8.1 of this Agreement, no Member shall be required to make any Capital Contribution.

8.3 **Capital Accounts.** A Capital Account shall be maintained for each Member. Each Member's Capital Account shall be increased by the value of each Capital Contribution made by the Member, allocations to such Member of the Net Profits and any other allocations to such Member of income pursuant to the Code. Each Member's Capital Account will be decreased by the value of each Distribution made to the Member by the Company, allocations to such Member of Net Losses and other allocations to such Member pursuant to the Code.

8.4 **Transfers.** Upon a permitted sale or other transfer of a Membership Interest in the Company, the Capital Account of the Member transferring his Membership Interests shall become the Capital Account of the Person to whom such Membership Interest is sold or transferred in accordance with Section 1.704-1 (b)(2)(iv) of the Treasury Regulations.

8.5 **Modifications.** The manner in which Capital Accounts are to be maintained pursuant to this Section is intended to comply with the requirements of Section 704(b) of the Code and more specifically Treasury Regulation Section 1.704-1 (b)(2)(iv). If, in the opinion of the Board, the manner in which Capital Accounts are to be maintained pursuant to this Agreement should be modified to comply with Section 704(b) of the Code, then the method in which Capital Accounts are maintained shall be so modified; provided however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members.

8.6 **Deficit Capital Account.** Except as otherwise required in the New York Act or this Agreement, no Member shall have any liability to restore all or any portion of a deficit balance in a Capital Account.

8.7 **Withdrawal or Reduction of Capital Contributions.** A Member shall not receive from the Company any portion of a Capital Contribution until all indebtedness, liabilities of the Company, except any indebtedness, liabilities and obligations to Members on account of their Capital Contributions, have been paid or there remains property of the Company, in the sole discretion of the Board, sufficient to pay them. A Member, irrespective of the nature of the Capital Contribution of such Member, has only the right to demand and receive cash in return for such Capital Contribution.

ARTICLE IX

Allocations and Distributions

9.1 Allocations of Profits and Losses.

a. The Net Profits and the Net Losses for each Fiscal Year shall be allocated to each Member prorata in accordance with his Membership Interest.

b. Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulation Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1 (b)(2)(ii)(d)(5) or 1.704-1(b)(2)(ii)(d)(6), items of Company Profit shall be specifically allocated to each such Member sufficient to eliminate, to the extent required by the Regulations, the Capital Account deficit of such Member as quickly as possible, provided that an allocation pursuant to this Section 9.1 (b) shall be made only if and to the extent that such Member would have a Capital Account Deficit after all other allocations provided for in this Section 9.1 (b) have been tentatively made as if this Section 9.1I (b) were not in the Agreement.

c. Curative Allocations. The allocations set forth in Section 9.1 (b) hereof (the "Regulatory Allocations") are intended to comply with certain requirements of Treasury Regulation Section 1.704-1 (b). Notwithstanding any other provision of this Section 9.1 (other than the Regulatory Allocations), the Regulatory Allocations shall be taken into account in allocating other Profits, Losses, and items of income, gain, loss and deduction among the Members so that, to the extent possible, the net amount of such allocations of other Profits, Losses, and other items and the Regulatory Allocations to the Members shall be equal to the net amount that would have been allocated to the Members if the Regulatory Allocations had not occurred.

d. Limitation on Allocation of Losses. Any Losses allocated pursuant to Section 9.1 (a) that would cause any Member to have a Capital Account Deficit at the end of any Fiscal Year in excess of the amount such Member is obligated to restore (as required by law or otherwise) shall be allocated to Members with positive Capital Account Balances.

e. Code Section 704(c). In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its fair market asset value at the time of contribution. Any elections or other decisions relating to such allocations shall be made by the Manager in any manner that reasonably reflects the purpose and intention of this Agreement.

f. Other Allocation Rules. For purposes of determining the Profits, Losses, or any other items allocable to any period, Profits, Losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the Board using any permissible method under Code Section 706 and the Regulations thereunder.

9.2 Distributions. The Board may from time to time, in the discretion of the Board, make Distributions to the Members. All Distributions shall be made to the Members prorata in proportion to their Membership Interests as of the record date set for such Distribution.

9.3 Offset. The Company may offset all amounts owing to the Company by a

Member against any Distribution to be made to such Member.

9.4 **Limitation Upon Distributions.** No Distribution shall be declared and paid unless, after such Distribution is made, the assets of the Company are in excess of all liabilities of the Company.

9.5 **Interest on and Return of Capital Contributions.** No Member shall be entitled to interest on his Capital Contribution or to a return of his Capital Contribution, except as specifically set forth in this Agreement.

9.6 **Accounting Period.** The accounting period of the Company shall be the Fiscal Year.

ARTICLE X

Taxes

10.1 **Tax Returns.** The Board shall cause to be prepared and filed all necessary federal and state income tax returns for the Company. Each Member shall furnish to the Board all pertinent information in his possession relating to Company operations that is necessary to enable the Company's income tax returns to be prepared and filed.

10.2 **Tax Elections.** The Company shall make the following elections on the appropriate tax returns:

- a. To adopt the calendar year as the Fiscal Year;
- b. Except as modified or amended by the Board, to adopt the accrual method of accounting and keep the Company's books and records on the accrual method;
- c. If a Distribution as described in Section 734 of the Code occurs or if a transfer of a Membership Interest described in Section 743 of the Code occurs, upon the written request of any Member, to elect to adjust the basis of the property of the Company pursuant to Section 754 of the Code;
- d. To elect to amortize the organizational expenses of the Company and the start-up expenditures of the Company under Section 195 of the Code ratably over a period of sixty (60) months as permitted by Section 709(b) of the Code; and
- e. Any other election that the Board may deem appropriate and in the best interests of the Members.

Neither the Company nor any Member may make an election of the Company to be excluded from the application of Subchapter K of Chapter I of Subtitle A of the Code or

any similar provisions of applicable state law, and no provisions of this Agreement shall be interpreted to authorize any such election.

10.3 **Tax Matters Partners.** The Board of Managers may designate one Manager to be the "tax matters partner" of the Company pursuant to Section 623 I (a) (&) of the Code. Any Manager who is designated "tax matters partner" shall take any action as may be necessary to cause each other Member to become a "notice partner" within the meaning of Section 6223 of the Code.

ARTICLE XI

Transferability

11.1 **General.** Except as set forth in this Agreement, no Member shall gift, sell, assign, pledge, hypothecate, exchange or otherwise transfer to another Person any portion of a Membership Interest.

11.2 **Offer to Acquire.** If a Member desires to sell a Membership Interest to another Person, such Member shall obtain from such Person a bona fide written offer to purchase such Membership Interest, stating the terms and conditions upon which the purchase is to be made. Such Member shall give written notification to the other Members of his intention to sell such membership Interest and a copy of such bona fide written offer.

11.3 **Right of First Refusal.** Each Member other than the Selling Member, on a basis pro rata to the Membership Interests of each Member exercising his right of first refusal, shall have the right to exercise a right of first refusal to purchase all (but not less than all) of the Membership Interest proposed to be sold by the Selling Member upon the same terms and conditions as stated in the bona fide written offer by giving written notification to the Selling Member of his intention to do so within ninety (90) days after receiving written notice from the Selling Member. The failure of any Member to so notify the Selling Member of a desire to exercise such right of first refusal within such ninety (90) day period shall result in the termination of such right of first refusal and the Selling Member shall be entitled to consummate the sale of his Membership Interest with respect to which such right of first refusal has not been exercised to the Person offering to do so pursuant to the bona fide written offer. If the Selling Member does not sell his Membership Interest within ninety (90) days after receiving the right to do so, his right to do so terminates and the terms and conditions of this Section shall again be in effect.

11.4 **Closing.** If any Member gives written notice to the Selling Member of his desire to exercise such right of first refusal and to purchase all of the Selling Member's Interest upon the same terms and conditions as are stated in the written offer, such Member shall have the right to designate the time, date and place of closing within ninety (90) days after receipt of written notification from the Selling Member of the bona fide offer.

11.5 **Transferee Not a Member.** No Person acquiring a Membership Interest pursuant to this Section other than a Member shall become a Member unless such Person is

approved by vote or written consent of a majority in interest of Membership Interests. If no such approval is obtained, such Person's Membership Interest shall only entitle such Person to receive the distributions and allocations of profits and losses to which the Member from whom such Person received such Membership Interest would be entitled. Any such approval may be subject to any terms and conditions imposed by the Members.

11.6 **Effective Date.** Any sale of a Membership Interest or admission of a Member pursuant to this Article shall be deemed effective as of the last day of the calendar month in which such sale or admission occurs.

ARTICLE XII Dissolution

12.1 **Dissolution.** The Company shall be dissolved and its affairs shall be wound up upon the first to occur of the following:

- a. The latest date on which the Company is to dissolve, if any, as set forth in the Articles of Organization;
- b. The vote or written, consent of at least two-thirds in interest of all Members; or
- c. The bankruptcy, death, dissolution, expulsion, incapacity or withdrawal of any Member or the occurrence of any other event that terminates the continued membership of any Member, unless within one hundred eighty (180) days after such event, the Company is continued by the vote or written consent of a majority in interest of all of the remaining Members.

12.2 **Winding Up.** Upon the dissolution of the Company, the Board may, in the name of and for and on behalf of the Company, prosecute and defend suits, whether civil, criminal or administrative, sell and close the Company's business, dispose of and convey the Company's property, discharge the Company's liabilities and distribute to the Members any remaining assets of the Company, all without affecting the liability of Members. Upon winding up of the Company, the assets shall be distributed as follows:

- a. To creditors, including any Member who is a creditor, to the extent - permitted by law, in satisfaction of liabilities of the Company, whether by payment or by establishment of adequate reserves, other than liabilities for distributions to Members under Section 507 or Section 509 of the New York Act;
- b. To Members and former Members in satisfaction of liabilities for Distributions under Section 507 or Section 509 of the New York Act; and

c. To Members first for the return of their Capital Contributions, to the extent not previously returned, and second respecting their Membership Interests, in the proportions in which the Members share in Distributions in accordance with this Agreement.

12.3 **Articles of Dissolution.** Within ninety (90) days following the dissolution and the commencement of winding up of the Company, or at any other time there are no Members, articles of dissolution shall be filed with the New York Secretary of State pursuant to the New York Act.

12.4 **Deficit Capital Account.** Upon a liquidation of the Company within the meaning of Section 1.704-1 (b)(2)(ii)(g) of the Treasury Regulations, if any Member has a Deficit Capital Account (after giving effect to all contributions, distributions, allocations and other adjustments for all Fiscal Years, including the Fiscal Year in which such liquidation occurs), the Member shall have no obligation to make any Capital Contribution, and the negative balance of any Capital Account shall not be considered a debt owed by the Member to the Company or to any other Person for any purpose.

12.5 **Nonrecourse to Other Members.** Except as provided by applicable law or as expressly provided in this Agreement, upon dissolution, each Member shall receive a return of his Capital Contribution solely from the assets of the Company. If the assets of the Company remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return any Capital Contribution of any Member, such Member shall have no recourse against any other Member.

12.6 **Termination.** Upon completion of the dissolution, winding up, liquidation, and distribution of the assets of the Company, the Company shall be deemed terminated.

ARTICLE XIII General Provisions

13.1 **Notices.** Any notice, demand or other communication required or permitted to be given pursuant to this Agreement shall have been sufficiently given for all purposes if (a) delivered personally to the party to whom such notice, demand or other communication is directed, or (b) sent by registered or certified mail, postage prepaid, addressed to the Member at his address set forth in this Agreement. Except as otherwise provided in this Agreement, any such notice shall be deemed to be given three (3) business days after the date on which it was deposited in a regularly maintained receptacle for the deposit of United States mail, addressed and sent as set forth in this Section.

13.2 **Construction.** Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

13.3 **Headings.** The headings in this Agreement are for convenience only and

shall not be used to interpret or construe any provision of this Agreement.

13.4 **Waiver.** No failure of a Member to exercise, and no delay by a Member in exercising, any right or remedy under this Agreement shall constitute a waiver of such right or remedy. No waiver by a Member of any such right or remedy under this Agreement shall be effective unless made in a writing duly executed by all Members and specifically referring to each such right or remedy being waived.

13.5 **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. However, if any provision of this Agreement shall be prohibited by or invalid under such law, it shall be deemed modified to conform to the minimum requirements of such law or, if for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any other such provision being prohibited or invalid.

13.6 **Binding.** This Agreement shall be binding upon and inure to the benefit of all Members, and each of the successors and assignees or the Members, except that right or obligation of a Member under this Agreement may be assigned by such Member to another Person without first obtaining the written consent of all other Members.

13.7 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

13.8 **Governing Law.** This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of New York, without regard to principles of conflict of laws.

IN WITNESS WHEREOF, the parties signing this Agreement below conclusively evidence their agreement to the terms and conditions of this Agreement by so signing this Agreement.

MOHAWK VALLEY HEALTH SYSTEM

By: _____
Scott H. Perra, President

EXHIBIT "A"

MEMBERS

<u>Name</u>	<u>Membership Address</u>	<u>Interest</u>	<u>Capital Contribution</u>
Mohawk Valley Health System	P.O. Box 4308 Utica, NY 13504	100%	

EXHIBIT "B"

MANAGERS

Domenic Aiello

Catherine Cominsky

Joan Compson

Gregory Evans

Maria Gesualdo

Harrison Hummel

Todd Hutton

Andrew Kowalczyk, III

Gregory McLean

Norman Siegel

John Sperling

Stephen Sweet

Richard Tantillo

Symeon Tsoupelis

Mark Warfel

Bonnie Woods

Eric Yoss

Richard Zweifel

**BY-LAWS
of
VISITING NURSE ASSOCIATION OF UTICA AND
ONEIDA COUNTY, INC.**

Amendment XIII (_____, 2013)

ARTICLE I – NAME AND LOCATION

1.1. NAME

The name of the corporation is Visiting Nurse Association of Utica and Oneida County, Inc. (the “Corporation”).

1.2. LOCATION

The Post Office address of its principal place of business is 1650 Champlin Avenue, Utica, New York 13502. The corporation may also have offices at such other places within or without the State of New York as the board may from time to time determine or the business of the corporation may require.

ARTICLE II – CORPORATE SEAL

2.1. SEAL

The corporation shall have a corporate seal and shall use such seal personally, but the use of same shall be necessary only as required by law.

ARTICLE III – FISCAL YEAR

3.1. The fiscal year of this corporation shall end on the 31st day of December of each year.

ARTICLE IV – PURPOSE

4.1. The purpose for which this Corporation is formed to provide a complete range of excellent quality home health care services to the residents of Oneida County and its environs and to do so in a cost effective manner that makes the services accessible and affordable to all who require them.

ARTICLE V - MEMBER

5.1. MEMBER

Mohawk Valley Health System (the “Member” or “MVHS”) shall be the sole Member of this corporation.

5.2 RIGHTS OF MEMBER

MVHS shall have and exercise all the rights and powers of corporate membership created by the laws of the State of New York or the Certificate of Incorporation or By-laws of the Corporation. Certain additional powers have been delegated and reserved to MVHS in the MVHS organizational documents. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and that the Corporation coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation.
- c. To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation, and Bylaws of the Corporation;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- e. To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Corporation;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation;

-
- i. To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
 - j. To approve and coordinate the strategic plan of the Corporation;
 - k. To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
 - l. To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to applications to the New York State Department of Health as required;
 - m. To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
 - n. To approve any material change in the services offered by the Corporation;
 - o. To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound; and
 - p. To accept further delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation and other MVHS Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first

been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's board of directors.

5.3 ANNUAL MEETING

MVHS shall, in its capacity as the member of the Corporation, hold its annual meeting each year at a time and place determined by MVHS. At the annual meeting, MVHS shall elect Directors of the Corporation, receive the annual report of the Directors of the Corporation, and transact such other business as may properly come before the meeting. Nomination for seats on the Board of Directors of the Corporation shall be submitted to MVHS prior to MVHS' annual meeting.

5.4 ANNUAL REPORT TO MEMBER

At the annual meeting of the member, the Chairperson or President, and the Treasurer of the Corporation shall present an Annual Report showing in appropriate detail the following information:

(a) a complete verified financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation;

(b) a summary of the activities of the Corporation during the preceding year.

The Annual Report shall be filed with the minutes of the annual meeting.

5.5 ACTION BY MEMBER

Except as otherwise required by law, the Certificate of Incorporation or these By-laws, any action required or permitted to be taken by MVHS in its capacity as the sole member of the Corporation may be taken by MVHS without a meeting, without prior notice and without a vote, through written consent to such action. The written consent of

MVHS shall be evidenced by a written resolution of the Board of Directors of MVHS signed by an officer of MVHS and adopted in accordance with the MVHS Certificate of Incorporation, By-laws, policies and/or procedures. An original signed copy of each executed written consent of MVHS shall be delivered to the Secretary of the Corporation and shall be maintained in the permanent records of the Corporation.

ARTICLE VI - BOARD OF DIRECTORS

6.1 NUMBER

The Board of Directors shall consist of not less than nine (9) members.

6.2 QUALIFICATION

Directors shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

6.3 ELECTION AND TENURE

(a) Composition of Initial Board of Directors. Commencing with the meeting to be held on or about _____, 20XX, the initial board shall be comprised of eighteen (18) Voting Directors. MVHS shall appoint sixteen (16) voting directors (the "Elected Directors"). The remaining two (2) Directors shall be the presidents of the medical staffs of Faxton-St. Luke's Healthcare ("FSLH") and St. Elizabeth Medical Center ("SEMC") who shall serve ex-officio as Voting Directors.

(b) Terms of Office. The initial Elected Directors shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated.

(c) Subsequent Election. Commencing with the 20XY annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Director may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in these Bylaws. Commencing with the 20XY annual meeting, Elected Directors of the Board shall be nominated by the Governance Affairs and Ethics Committee of MVHS and shall be elected by a simple majority of the MVHS Board. The MVHS Board shall not be bound or limited to such nominees.

(d) Reappointment. Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Director's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(e) Non-Elected Directors. The Presidents of the Medical Staffs of SEMC and FSLH shall serve as Directors of the Corporation, coterminous with holding their respective positions.

6.4 VACANCIES

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Director, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board of MVHS. Nominees shall be presented by the Governance Affairs and Ethics Committee of MVHS, but the MVHS Board shall not be bound or limited to such nominees. Directors selected to fill vacancies shall serve the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

6.5 REMOVAL

Each member of the Board of Directors shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Directors by a vote of two-thirds of the MVHS Directors. In addition, the Board of MVHS may remove any Director, with or without cause, upon a two-thirds (2/3) vote of the Board.

6.6 RESIGNATION/LEAVE OF ABSENCE.

(a) Resignation. Any Director may resign at any time by giving written notice to the Chairperson or to the Secretary of the Corporation. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

(b) Leave of Absence. Any Director may request a Leave of Absence of up to three (3) months for medical reasons relating to the Director, or a member of the Director's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Director. If the Chairperson requests a Leave, the request shall be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Director shall be excused from any attendance requirements and all other obligations of a Director as set forth in these Bylaws. The Director's Board position shall remain vacant during the term of the Leave, and the Director's position shall not be counted in determining the presence of a quorum.

If the Director on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the MVHS Directors at the next regular meeting of MVHS, or at a special meeting called for such purpose. Any committee positions held by the Director may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Director may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

6.7 ADDITIONAL ADVISORS

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Directors present.

6.8 MEETINGS OF DIRECTORS

(a) Annual Meeting The Board of Directors shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, selecting members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) Regular Meetings The Board of Directors shall hold at least seven (7) regular meetings annually.

(c) Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3) Directors. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) Place All meetings of the Board shall be held at the principal office of the Corporation or at such other place within this State as the Notice of Meeting shall provide.

(e) Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Director personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law or these Bylaws, the notice shall also state the purpose for which the meeting is called. Oral or written notice of

the postponement of any scheduled regular meeting shall be given to each Director not less than one (1) day before the scheduled date of such meeting.

(f) Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(g) Quorum Unless a greater or lesser number is required by law, the Certificate of Incorporation or these By-laws, a majority of the Directors entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Directors present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 6.8(e).

(h) Voting Subject to the Conflict of Interest provisions of these By-laws, and the Board's Conflict of Interest policies, each voting Director present is entitled to vote on any matter before the Board.

(i) Manner of Acting Unless otherwise required by law, the Certificate of Incorporation or these By-laws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the consent in writing of all Directors entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

(j) Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

6.9 POWERS AND FIDUCIARY OBLIGATIONS

(a) Powers Except to the extent that powers have been delegated and reserved to MVHS under these Bylaws, the administrative powers of the Corporation shall be vested in the Board of Directors, which shall have: charge, control, and oversight of the property, funds, and affairs of the Corporation; the power to establish policies for the management and operation of the Corporation; and such other power and authority to do and perform all acts and functions for the benefit of the Corporation, not inconsistent with these By-laws or the Certificate of Incorporation. The Board of Directors shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

(b) Fiduciary Obligations The members of the Board of Directors shall at all times conduct the affairs of the Corporation in strict conformance with all applicable fiduciary and ethical standards. Each Director shall act in a manner consistent with the duty of undivided loyalty to the interests of the Corporation, the duty to maintain in confidence information concerning the affairs of the Corporation, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Corporation. The Board shall adopt such mechanisms as it deems appropriate to assist the Directors in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate, a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Corporation.

ARTICLE VII - OFFICERS

7.1 OFFICERS

The Corporation shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Board of Directors may authorize. The Corporation shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the 20XX, 20XY, and 20XZ annual meetings shall serve a one year term, or until his/her successor has been elected. The Chairperson seated at the 20XX-20XZ annual meetings shall be selected by MVHS in accordance with its Bylaws. Commencing with the 20XA annual meeting the Chairperson and Vice-Chairperson shall be elected by MVHS for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected by MVHS at the annual meeting of MVHS and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors of MVHS at any regular meeting or any special meeting called for such purpose.

7.2 CHAIRPERSON

The Chairperson shall preside at all meetings of the Board of Directors, shall appoint the members and Chairperson of each Committee in accordance with these Bylaws and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 20XZ annual meeting of MVHS shall be eligible to be elected by the full Board of MVHS to serve one additional term of two (2) years, commencing in 20XA. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

7.3 VICE-CHAIRPERSON

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

7.4 **CHAIR EMERITUS.**

Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in these Bylaws. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the 20XX annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

7.5 **SECRETARY**

The Secretary shall act as Secretary of both the Corporation and the Board of Directors and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Corporation and keeping the minutes of the meetings of the Board of Directors. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Corporate records.

7.6 **TREASURER**

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and, whenever required by the Board of Directors shall render, or cause to be rendered, financial statements of the Corporation. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

7.7 **PRESIDENT**

MVHS shall appoint the President and as the Chief Executive Officer of the Corporation. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board of Directors in

all matters except for which the Board has designated the Executive Director or some other individual to act.

ARTICLE VIII - COMMITTEES OF THE BOARD OF DIRECTORS

8.1 STRUCTURE

There shall be six (6) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, and Audit Compliance Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

8.2 PROCEDURE

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in these By-Laws or in a Resolution of the Board of Directors.

8.3 POWERS

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these By-Laws, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

8.4 COMMITTEE MEMBERS

- (a) Appointment. Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to

promote experience and knowledge in all aspects of the operation of the Corporation.

- (b) Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.
- (c) Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.
- (d) Removal. Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

8.5 ADVISORS TO BOARD COMMITTEES

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Directors.

As deemed appropriate by the Committee Chair, members of the Corporation's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

8.6 MANNER OF ACTION

(a) Meetings. Each Committee shall meet as provided for in these By-Laws and at such additional times as may be necessary to perform its duties. Meetings of a

Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

(b) Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

(c) Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

(d) Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

(e) Meeting by Conference Telephone or Similar Device. Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

8.7 CONFLICT OF INTEREST

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

8.8 EXECUTIVE COMMITTEE

(a) Composition

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, and the Chairperson Emeritus.

(b) Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Corporation, subject to any prior limitations imposed by the Board, these By-Laws, or statute. In addition, the Executive Committee shall:

- (1) Review and recommend to the Board, legislative and regulatory affairs initiatives.

-
- (2) Review and make recommendations to the Board as to the Corporation's completion and filing of IRS Form 990 and such other reports or filings as may be required by the Internal Revenue Service.

- (c) Meetings

The Executive Committee shall meet as necessary to conduct the business of the Corporation while the full Board is not in session.

8.9 FINANCE

- (a) Composition

The Finance Committee shall consist of the Treasurer of the Corporation, as Committee Chairperson, and at least 6 voting Directors, at least one of whom shall have substantial accounting or financial management expertise.

- (b) Functions

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Corporation and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and oversight of the financial affairs of the Corporation and its subsidiaries. Its functions shall include:

- (1) Overseeing the Executive Director's development of a budget for the Corporation showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Board a budget developed by the Executive Director for the ensuing year;
- (3) Reviewing financial reports that report on the financial condition of the Corporation;
- (4) Reviewing and making recommendations to the Board on any request by the Executive Director for the Corporation to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;
- (5) Retaining the Corporation's independent Certified Public Accountants to provide external financial auditing to the Corporation. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Corporation and

the firm so that changes can be made if necessary; and assuring the firm's independence.

- d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Corporation.
- (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Corporation.

(c) Meetings

The Finance Committee shall meet as needed, but not less than six (6) times per year.

8.10 QUALITY AND SAFETY COMMITTEE

(a) Composition.

The Quality and Safety Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a physician.

(b) Functions.

The Quality and Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of the Corporation with the programs of the other MVHS Affiliates for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance at the Corporation, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;
 - (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;
 - (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by third parties providing services to the Corporation.
- (2) Recommend policies and provide direction for the Corporation's quality improvement plan, including

-
- (3) Establishing performance improvement priorities based on the mission, vision and strategic goals of the Corporation.
 - (3) Oversee regulatory compliance, safety, infection control and such other programs as shall be required to insure continuous accreditation of the Corporation.
 - (4) Review and report to the Board on Department of Health, and other regulatory surveys and findings and any required plans of correction.
 - (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Corporation's affiliates concerning quality and performance improvement activities.
 - (7) Assist in the development of Board educational processes regarding quality and service improvement.

(c) Meetings

The Quality and Resident Safety Committee shall meet as shall be necessary to discharge the obligations and duties of the Committee.

8.11 GOVERNANCE AFFAIRS AND ETHICS COMMITTEE

(a) Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a Board Officer.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Board of the Corporation and developing and monitoring a Board education plan. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - (i) Conflict of Interest;
 - (ii) Policy based governance;
 - (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.

-
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
 - (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
 - (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Committees of the Corporation.
 - (5) Develop an orientation process for new Board and Committee members for the Corporation, with the assistance of the Executive Director.
 - (6) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
 - (7) Periodically review, and recommend changes to the Bylaws of the Corporation to insure compliance with the mission, vision, purpose and structure of the Corporation.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at least two (2) times per year, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

8.12 EXECUTIVE COMPENSATION COMMITTEE.

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Directors recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be “Independent Directors” as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not an “Independent Director”, the Board shall appoint another Independent Director to serve in the place of the Chairperson.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the Executive Director and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of the Corporation, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations (“Disqualified Persons”). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually,

-
- (2). performance guidelines for the Executive Director; Assist the board in assessing and evaluating the Executive Director's performance;
 - (3). Review and recommend to the full Board the Executive Director's compensation, including salary, incentives, benefits and other perquisites;
 - (4). Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
 - (5). At least annually, review executive compensation to ensure that it is appropriate in view of Corporation's tax-exempt status and take the required steps to establish a "rebuttable presumption of reasonableness" [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person's background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Corporation's income and assets and the number of Corporations employees;
 - d. Executive Director's job performance;
 - e. relationship of the Executive Director's compensation to the compensation paid to Corporation's other employees; and
 - f. the number of hours the Executive Director spends performing his or her job.

c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Corporation to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

8.13 **AUDIT AND COMPLIANCE COMMITTEE.**

(a) Composition

The Audit and Compliance Committee shall be composed of at least three (3) directors. At least a majority of the directors so appointed shall be "Independent Directors" as defined in Section 7.12(a), above.

(b) Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board of Directors in its oversight responsibilities by overseeing management's systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Corporation. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee's retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the corporate compliance plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.
 - b. Serve as a resource to the Compliance Officer and management on compliance issues.
 - c. Report to the Board at least semi-annually, regarding the status of the compliance plan.

c. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

ARTICLE IX – EXECUTIVE DIRECTOR

9.1 **Appointment.** The board shall select and appoint a qualified administrator to serve as the Executive Director, who shall be the Board's direct executive representative in the management of the business of the Corporation. The Executive Director shall be responsible for the day-to-day operation of the Corporation and shall be given the necessary authority and be held responsible for management of the Corporation, subject only to the policies enacted by the board or any committees to which the board has delegated power for such action. He or she shall act as the duly authorized representative of the board in all matters except those in which the board has formally designated some other person or group to act.

9.2 **Authority and Duties:** The Executive Director shall, subject to the directions of the board:

- (1) be responsible for implementing policies established and plans authorized by the board for the operation of the Corporation and for advising on the formation of these policies and plans;
- (2) implement an effective budgeting and account system;

-
- (3) determine the number and types of personnel needed to meet the agency's responsibilities and recruitment of qualified personnel;
 - (4) ensure a planned orientation of new personnel and provide for appropriate, regularly scheduled in-service education related to personnel responsibilities;
 - (5) ensure an annual evaluation of personnel performance;
 - (6) maintain an ongoing liaison among the governing authority, the group of professional personnel appointment as specified in the regulations governing Certified Home Health Agencies, and agency personnel;
 - (7) ensure availability of public information concerning the health care services which the agency provides, the geographic area in which these services are made available, the charges for the various types of services and the payment sources which may be available to pay for such services;
 - (8) provide the board, board committees and management committees with such staff and administrative support and personnel as they may reasonably require;
 - (9) provide the Corporation's professional staffs with the administrative support and personnel reasonably required to carry out quality assurance and improvement activities;
 - (10) develop and submit to the board a plan of organization of the Corporation's operations, its departments and other organizational components, showing lines of authority, responsibility, and interrelationships;
 - (11) be responsible, except as otherwise provided by the board, for selecting, employing, controlling, and discharging employees and for developing and maintaining personnel policies and practices;
 - (12) assist the finance committee in annually reviewing and updating operating and capital budgets showing the expected receipts and expenditures, and supervise the business affairs of the Corporation to assure that funds are expended to the best possible advantage;
 - (13) represent the Corporation in its relationship with other agencies;

(14) when requested, attend personally, or by designee, meetings of the board, meetings of board and management committees, and standing and ad hoc committees of the professional staff;

(15) perform any other duties within the express or implicit terms of his or her duties hereunder that may be necessary for the best interest of the Corporation; and

(16) perform such other duties as the board shall from time to time direct.

ARTICLE X- INDEMNIFICATION OF OFFICERS AND DIRECTORS

10.1. INDEMNIFICATION

This corporation shall indemnify any person made a party to an action, suit or proceeding by reason of the fact that he/she is or was a member of the Board of Directors or officer of this corporation or that his/her testator or intestate was a member of the Board of Directors or officer of this corporation, against judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such actions, suits or proceedings, or appeals therein, if such persons acted in good faith for a purpose which he/she reasonably believed is or was in the best interests of the corporation, and in criminal actions or proceedings, in addition, had no reasonable cause to believe that his/her conduct was unlawful. No Director or officer of the corporation shall be indemnified if a judgment or proceeding is adverse to said Director or officer and establishes that his/her acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or that he/she personally gained in fact, a financial profit or other advantage to which he/she was not legally entitled.

ARTICLE XI - CONFLICT OF INTEREST

11.1. REPORTING REQUIREMENT.

Any director, officer, key employee, or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval, or ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interest.

11.2. CONFLICT DETERMINATION AND RESTRICTIONS.

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions below must be observed.

If so, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in the discussions or deliberations with respect to, such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

11.3. CONFLICT POLICIES.

The Board shall adopt conflict of interest policies requiring:

(a) Regular annual statements from directors, officers, and key employees that disclose existing and potential conflicts of interest.

(b) Corrective and disciplinary action with respect to transgressions of such policies.

For the purposes of this section, a person shall be deemed to have an "interest" in a contract or other transaction if he or she is the party (or one of the parties) contracting or dealing with the Corporation, or if he or she is a director, trustee or officer of, or has a significant financial or influential interest in, the entity contracting or dealing with the Corporation, or if he or she is otherwise reasonably likely to gain a significant financial or other personal benefit if the contract or transaction is approved.

ARTICLE XII - AMENDMENT OF BYLAWS

These bylaws may be repealed or amended by a majority vote of the Member at any duly called regular or special meeting of the Member.

**OPERATING AGREEMENT
OF
SENIOR NETWORK HEALTH, LLC**

THIS OPERATING AGREEMENT dated and effective as of March 16, 2001, and amended as of April 9th, 2008, August 15, 2013 and _____, 2013 is made by *Mohawk Valley Health System (f/k/a Mohawk Valley Network, Inc.)*, the sole Member (hereinafter the “Member” or “MVHS”).

WHEREAS, the Member desires to form a limited liability company on the terms and conditions herein contained.

NOW, THEREFORE, the Member states as follows:

**SECTION 1
DEFINED TERMS**

The defined terms used in this Agreement (as indicated by the first letter of each word in the term being capitalized) shall, unless the context clearly requires otherwise, have the meanings specified in the Table of Definitions appearing as Appendix “A” at the end of this Agreement. The singular shall include the plural and the masculine gender shall include the feminine and neuter, as the context requires.

**SECTION 2
THE COMPANY**

2.1 **Formation.** The Member hereby organizes a limited liability company pursuant to the provisions of the Act and upon the terms and conditions set forth in this Agreement.

2.2 **Name.** The name of the Company shall be *Senior Network Health, LLC*, a New York limited liability company, and all business of the Company shall be conducted in such name. The Company shall hold all of its assets and property in the name of the Company and not in the name of any Member.

2.3 **Purposes.** The purposes of the Company are:

a. to perform studies, feasibility surveys and planning with respect to the development and formation of a managed long term care plan and, in conjunction therewith, to accumulate, compile and analyze statistics and such other data as will promote the health, safety and welfare of the general public;

b. to own, operate and manage a managed long term care plan (Plan), including providing or arranging for the provision of health and long term care services, as defined in the Public Health Law, to an enrolled population, and to have and exercise all powers necessary and convenient to effect any or all of the foregoing purposes for which the company is formed, together with all of the powers now or hereinafter granted to it by the State of New York; and.

c. to engage in any other lawful business, purpose or purposes consistent with the managed long term care plan and the Act.

2.4 **Principal Place of Business.** The principal place of business of the Company shall be *1650 Champlin Avenue, Utica, NY 13502*. The Member may from time to time change the principal place of business or establish additional offices.

2.5 **Term.** The term of the Company shall be of unlimited duration unless the Company is dissolved earlier as set forth in this Agreement.

2.6 **Filings.**

(a) The Articles of Organization of the Company (the "Certificate") has been filed in the Office of the New York Department of State in accordance with the provisions of the Act. The Managers shall take any and all other actions reasonably necessary to perfect and maintain the status of the Company as a limited liability company under the laws of the State of New York. The Certificate may be amended by the Member(s) pursuant to the procedures set forth in Section 9.1. The Managers shall cause amendments to the Certificate to be filed whenever required by the Act. Such amendments may be executed by any Manager.

(b) The Managers shall execute and cause to be filed original or amended certificates and shall take any and all other actions as may be reasonably necessary to perfect

and maintain the status of the Company as a limited liability company or similar type of entity under the laws of any other states or jurisdictions in which the Company engages in business.

SECTION 3

MEMBERS; CAPITAL CONTRIBUTIONS

3.1 **Members.** The name, address and Membership Percentage of the Member is set forth on Exhibit “A” hereof. Additional Persons may be admitted to the Company as Members after the date of this Agreement upon such terms as may be agreed to by the existing Members, provided, however, that no Person shall be admitted as a Member of the Company and acquire control of the Company, whether by purchase of membership interests or otherwise, without first receiving the prior approval of the Commissioner of the Department of Health. A Person admitted to the Company as a Member pursuant to this Section 3.1 shall become a party to this Agreement and shall execute such documents and instruments as the Managers shall reasonably request and Exhibits “A” and “B” to this Agreement shall be amended accordingly.

3.2 **Capital Contributions.** Subject to the terms and conditions of this Agreement and the Contribution Agreement between Member and the Company, dated as of even date herewith, the Member has contributed to the capital of the Company the cash and property described in the Contribution Agreement, and the Company has agreed to assume the liabilities described in the Contribution Agreement. The Member(s) capital contribution is set forth in Exhibit C to this Agreement.

3.3 **Return of Capital.** Except as otherwise provided in this Agreement, no Member shall be entitled to have his Capital Contribution returned to him. Under circumstances requiring a return of any Capital Contributions, no Member shall have the right to receive Property other than cash except as may be specifically provided herein.

3.4 **Interest.** No Member shall receive any interest, salary or drawing with respect to his Capital Contribution or his Capital Account or for services rendered on behalf of the Company or otherwise in his capacity as a Member, except as otherwise provided in this Agreement.

3.5 **Limited Liability.** The Member shall not be liable for the debts, liabilities, contracts or any other obligations of the Company. Except as otherwise provided by applicable state law and this Agreement, a Member shall be liable only to make its Capital Contributions and shall not be required to lend any funds to the Company or, after its Capital Contributions have been paid, to make any additional capital contributions to the Company. No Managers shall have any personal liability for the repayment of any Capital Contributions of the Members; provided, however, nothing in this Section 3.5 shall be deemed to relieve the Managers of any liability resulting from their bad faith, intentional misconduct or knowing violation of law.

3.6 **Loans.** Any Member or any Affiliate of a Member may, with the approval of the Managers, lend or advance money to the Company. If any Member or Affiliate thereof shall make any loan or loans to the Company or advance money on its behalf, the amount of any such loans or advance shall not be treated as a contribution to the capital of the Company but shall be a debt due from the Company. The amount of any such loan or advance by a lending Member or Affiliate thereof shall be repayable out of the Company's cash and shall have priority over any distributions made pursuant to Section 5 hereof. All such loans or advances shall bear interest at a rate to be agreed upon by the Member or Affiliate, as the case may be, and the Managers. None of the Member(s) shall be obligated to make any loan or advance to the Company.

3.7 **Defaults.** In the event a Member fails to make any Capital Contribution when due and such failure continues for a period of ten (10) days after notice from the Company to said Member (the "Defaulting Member"), the Defaulting Member shall be in default under this Agreement and, while such default continues, the Managers (other than any Manager(s) appointed by a Defaulting Member) without prejudice to any other right of the Company, may elect in their sole and absolute discretion:

(a) not to pay the Defaulting Member any distribution pursuant to Section 5 of this Agreement to which the Defaulting Member would otherwise be entitled and in lieu thereof to apply any undistributed amounts theretofore or thereafter distributable to the

Defaulting Member pursuant to Section 5 towards the obligation of such Defaulting Member to make such Capital Contribution;

(b) for purposes of any provision of this Agreement providing for the consent or the action of Managers, to deem any Manager appointed by the Defaulting Member not to be a Manager;

(c) to elect to treat such default as an Adverse Act; or

(d) to sue the Defaulting Member to collect the unpaid amount of any such Capital Contribution (together with interest thereon from the date such contribution was due), plus any collection expenses incurred by the Company, including, but not limited to, the reasonable fees and disbursements of counsel to the Company.

It is specifically recognized and understood that the provisions of this Section 3.7 and Section 3.6 may only be enforced by the Managers and in no way will the provisions of this Section 3.7 or Section 3.6 be deemed to expand the liability of the Members to creditors of the Company.

SECTION 4 **ALLOCATIONS**

4.1 **Profits.** After giving effect to the special allocations set forth in Appendix “B,” Profits for any fiscal year shall be allocated to the Members in proportion to their Membership Percentages.

4.2 **Losses.** After giving effect to the special allocations set forth in Appendix “B,” Losses for any fiscal year shall be allocated to the Members in proportion to their Membership Percentages.

4.3 **Tax Allocations.** The provisions set forth in Appendix “B” attached hereto are hereby incorporated by this reference and shall be deemed a part of this Section 4 as if fully set forth herein.

SECTION 5 **DISTRIBUTIONS**

5.1 **Net Available Cash.** Except as otherwise provided in Section 14.2 hereof relating to the liquidation of the Company, Net Available Cash shall be distributed to the Members in proportion to their Membership Percentages at such times and in such amounts as the Managers shall determine, provided, however, that Net Available Cash sufficient to meet the Member's income tax liability attributable to Company income, if any, shall be distributed.

5.2 **Amounts Withheld.** All amounts withheld pursuant to the Code or any provision of any state or local tax law with respect to any payment or distribution by the Company to the Members shall be treated as amounts distributed to the Members pursuant to this Section 5 for all purposes under this Agreement.

SECTION 6

MANAGEMENT; INDEMNIFICATION

6.1 **Appointment of Board of Managers.** The Company shall have at least three (3) Managers to be appointed by the Member. The number of Managers of the Company may be amended from time to time by the unanimous vote or written consent of all membership interests. The Managers shall be collectively referred to as the Managers, Board of Managers or the Board. The members of the Board of Managers are set forth in Exhibit B, as may be amended from time to time.

6.2 **Qualification**

Managers shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

6.3 **Election and Tenure.**

(a) **Composition of the Board of Managers.** Commencing with the meeting to be held on or about _____, 20XX, the initial Board shall be comprised of eighteen (18) voting Managers. MVHS shall appoint sixteen (16) Managers (the "Elected Managers"). The remaining two (2) Managers shall be the presidents of the medical

staffs of Faxton-St. Luke's Healthcare ("FSLH") and St. Elizabeth Medical Center ("SEMC") who shall serve ex-officio as Voting Managers.

(b) Terms of Office. The initial Elected Managers shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated.

(c) Subsequent Election. Commencing with the 20XY annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Managers whose terms are expiring. An Elected Manager shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Manager may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in this Agreement. Commencing with the 20XY annual meeting, Elected Managers of the Board shall be nominated by the Governance Affairs and Ethics Committee of MVHS and shall be elected by a simple majority of the MVHS Board. The MVHS Board shall not be bound or limited to such nominees.

(d) Reappointment. Manager reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Manager's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(e) Non-Elected Managers. The Presidents of the Medical Staffs of SEMC and FSLH shall serve as Managers of the Corporation, coterminous with holding their respective positions.

6.4 Vacancies.

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Manager, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board of MVHS. Nominees shall be presented by the Governance Affairs and Ethics Committee of MVHS, but the MVHS Board shall not be bound or limited to such nominees. Managers selected to fill vacancies shall serve the remainder of the term of the Manager whose seat has been vacated or until a successor has been elected.

6.5 **Removal.**

Each member of the Board of Managers shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Manager who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Managers by a vote of two-thirds of the MVHS Directors. In addition, the Board of MVHS may remove any Manager, with or without cause, upon a two-thirds (2/3) vote of the Board.

6.6 **Resignation/Leave of Absence.**

(a) **Resignation.** Any Manager may resign at any time by giving written notice to the Chairperson or to the Secretary of the Company. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

(b) **Leave of Absence.** Any Manager may request a Leave of Absence of up to three (3) months for medical reasons relating to the Manager, or a member of the Manager's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Manager. If the Chairperson requests a Leave, the request shall be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Manager shall be excused from any attendance requirements and all other obligations of a Manager as set forth in these Bylaws. The Manager's Board position shall remain vacant during the term of the Leave, and the Manager's position shall not be counted in determining the presence of a quorum.

If the Manager on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the MVHS Directors at the next regular meeting of MVHS, or at a special meeting called for such purpose. Any committee positions held by the Manager may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Manager may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

6.7 **Additional Advisors.**

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Managers present.

6.8 **Meetings of Managers.**

(a) **Annual Meeting** The Board of Managers shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, selecting members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) **Regular Meetings** The Board of Managers shall hold at least seven (7) regular meetings annually.

(c) **Special Meetings** Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3) Managers. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) **Place** All meetings of the Board shall be held at the principal office of the Company or at such other place within this State as the Notice of Meeting shall provide.

(e) **Notice** Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Manager personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law, the notice shall also state the purpose for which the meeting is called. Oral or written notice of the postponement of any scheduled regular meeting shall be given to each Manager not less than one (1) day before the scheduled date of such meeting.

(f) **Adjournment** When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting

other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(g) Quorum Unless a greater or lesser number is required by law, the Articles of Organization or this Agreement, a majority of the Managers entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Managers present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 6.8.

(h) Voting Subject to the Conflict of Interest provisions in the Board's Conflict of Interest policies, each voting Manager present is entitled to vote on any matter before the Board.

(i) Manner of Acting Unless otherwise required by law, the Articles of Organization or this Agreement, the act of a majority of the Managers present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the consent in writing of all Managers entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

(j) Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

6.9 Powers and Fiduciary Obligations.

(a) Powers Except to the extent that powers have been delegated and reserved to MVHS, the administrative powers of the Company shall be vested in the Board of Managers, which shall have: charge, control, and oversight of the property, funds, and affairs of the Company, the power to establish policies for the management and operation of the Company, and such other power and authority to do and perform all acts and functions for the benefit of the Company, not inconsistent with this Agreement or the Articles of Organization. The

Board of Managers shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

(b) Fiduciary Obligations The members of the Board shall at all times conduct the affairs of the Company in strict conformance with all applicable fiduciary and ethical standards. Each Manager shall act in a manner consistent with the duty of undivided loyalty to the interests of the Company, the duty to maintain in confidence information concerning the affairs of the Company, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Company. The Board shall adopt such mechanisms as it deems appropriate to assist the Managers in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate, a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Company.

6.10 Authority of the Board of Managers. Except as otherwise provided in this Agreement, all powers to control and manage the Business and affairs of the Company shall be exclusively vested in the Managers and the Managers may exercise all powers of the Company and do all such lawful acts as are not by statute, the Articles of Organization or this Agreement, directed or required to be exercised or done by the Members and in so doing shall have the right and authority to take all actions which the Managers deem necessary, useful or appropriate for the management and conduct of the Business. The Board of Managers shall serve as the governing authority of the managed long term care plan (“Plan”) and shall be responsible for establishment and oversight of all of the Plan’s policies, management and overall operation. Without limiting the foregoing, the responsibilities of the Board of Managers of the Plan shall include, but shall not be limited to:

(a) adopt and enforce all policies governing the Plan’s management, contracting, health care services delivery, quality assurance and utilization review programs and all other Plan operations;

(b) with the consent of the Member, hire and terminate the director of the Plan (the “Executive Director”) and other key management employees;

(c) maintain and control all books and records of the Plan and review and approve annual audits of the Plan's books and records;

(d) assure that the Plan's Medical Director performs the duties of that position in a manner that results in the operation of a quality assurance program that is effective and in all respects compliant with the standards for quality assurance programs required under the Public Health Law and regulations;

(e) with the consent of the Member, approve the disposition of assets and incurring of liabilities on behalf of the Plan;

(f) assure that the Plan's marketing and public information programs are of a factual and accurate descriptive nature;

(g) assure that the Plan will not discriminate in enrollment and service provision on the basis of race, color, sex, age, religion, national origin or source of payment;

(h) assure that the Plan complies with all applicable laws and regulations;

(i) acquire by purchase, lease or otherwise any real or personal property which may be necessary, convenient or incidental to the accomplishment of the purposes of the Company, provided however, that the approval of the Member shall be required for expenditures in excess of an amount determined by the Member;

(j) operate, maintain, finance, improve, construct, own, grant options with respect to sell, convey, assign, mortgage and lease any real estate and any personal property necessary, convenient or incidental to the accomplishment of the purposes of the Company, provided however, that the approval of the Member shall be required for expenditures in excess of an amount determined by the Member;

(k) execute any and all agreements, contracts, documents, certifications and instruments necessary or convenient in connection with the management, maintenance and operation of the Business or in connection with managing the affairs of the Company, subject to any approval rights of the Member;

(l) care for and distribute funds to the Member by way of cash income, or otherwise, all in accordance with the provisions of this Agreement, and perform all matters in furtherance of the objectives of the Company or this Agreement;

(m) hire, discharge and discipline employees and contract on behalf of the Company the services of independent contractors, and with the approval of the Member, delegate to any Person the duty to manage or supervise any of the assets or operations of the Company;

(n) expend the capital and income of the Company to the extent permitted by this Agreement;

(o) take or refrain from taking all actions not expressly proscribed or limited by this Agreement, as may be necessary or appropriate to accomplish the purposes of the Company;

(p) purchase from or through others, contracts of liability, casualty or other insurance for the protection of the Property or affairs of the Company, or the Members, or for any purpose convenient or beneficial to the Company;

(q) with the approval of the Member, execute, in furtherance of any or all of the purposes of the Company, any deed, lease, mortgage, deed of trust, mortgage note, promissory note, bill of sale, contract or other instrument purporting to convey or encumber any or all of the Company assets;

(r) with the approval of the Member, prepay in whole or in part, refinance, recast, increase, modify or extend any liabilities affecting the assets of the Company and, in connection therewith, execute any extensions or renewals of encumbrances on any or all of such assets;

(s) with the approval of the Member, institute, prosecute, defend, settle, compromise and dismiss lawsuits or other judicial or administrative proceeding brought on or in behalf of, or against the Company, or the Members or the Managers in connection with activities arising out of, connected with or incidental to this Agreement and to engage counsel or others in connection therewith;

(t) engage in any kind of activity and perform and carry out contracts of any kind necessary or incidental to, or in connection with, the accomplishment of the purposes of the Company, as may be lawfully carried on or performed by a limited liability company under the laws of each state in which the Company is then formed or qualified;

(u) make any and all elections for federal, state and local tax purposes including, without limitation, any election, if permitted by applicable law; (i) to adjust the basis of Property pursuant to Code Sections 754, 734(b) and 743(b) or the comparable provisions of state or local law, in connection with transfers of interests in the Company and Company distributions; (ii) to extend the statute of limitations for assessment of tax deficiencies against Members with respect to adjustments to the Company's federal, state or local tax returns; and (iii) to represent the Company and the Members before taxing authorities or courts of competent jurisdiction in tax matters affecting the Company and the Members in their capacity as Members and to execute any agreements or other documents relating to or affecting such tax matters, including agreements or other documents that bind the Members with respect to such tax matters or otherwise affect the rights of the Company or the Members. Each Manager is specifically authorized to act as the "Tax Matters Partner" under the Code and in any similar capacity under state or local law;

(v) purchase, take, receive, subscribe for or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of and otherwise use and deal in and with, shares or other interests in or obligations of domestic or foreign corporations, associations, general or limited partnerships, other limited liability companies, or direct or indirect obligations of the United States or of any government, state territory, government district or municipality or of any instrumentality of any of them, provided however, that the approval of the Member shall be required for expenditures in excess of an amount determined by the Member; and

(w) indemnify a Member or Manager or former Member or Manager, and to make any other indemnification that is authorized by this Agreement in accordance with the Act.

6.11 **Right to Rely on Manager.** Any Person dealing with the Company may rely upon a certificate signed by any Officer of the Board of Managers as to:

- (a) the identity of any Manager or Member;
- (b) the existence or nonexistence of any fact or facts which constitute a condition precedent to acts by the Board or which are in any other manner germane to the affairs of the Company;
- (c) the Persons who are authorized to execute and deliver any instrument or document on behalf of the Company; or
- (d) any act or failure to act by the Company or any other matter whatsoever involving the Company or any Member.

6.12 **Fiduciary Duties and Obligations of the Board of Managers.**

(a) The Board shall take all actions which may be necessary or appropriate for the continuation of the Company's valid existence as a limited liability company under the laws of the State of New York (and of each other jurisdiction in which such existence is necessary to protect the limited liability of the Members or to enable the Company to conduct the Business).

(b) The Board shall have the fiduciary duty for the safekeeping and use of all the assets of the Company, whether or not in the immediate possession or control of the Board, and shall not employ or permit another to employ Company assets in any manner except for the exclusive benefit of the Company.

(c) The Board shall devote to the Company such time as may be necessary for the proper performance of all duties hereunder; provided, however, in no event shall a Manager be required to devote full time to the performance of such duties.

(d) The Managers shall be under a fiduciary duty to conduct the affairs of the Company in the best interests of the Company and the Members, including the safekeeping and use of all Company assets and the use thereof for the exclusive benefit of the Company.

(e) Subject to the terms of the Board Conflicts of Interest Policy, neither a Member, nor a Manager shall be considered to have violated a duty or obligation to the Company merely because a Manager engages in any action which furthers the Manager's or Member's own interest. No transaction with the Company shall be voidable solely because a Member or a Manager has a direct or indirect interest in the transaction if either the transaction is fair to the Company, or the disinterested Managers, knowing the material facts of the transaction and the Member's or Manager's interest, authorize, approve, or ratify the transaction.

6.13 **Compensation and Expenses of Managers.**

(a) Except as otherwise set forth in this Agreement, no Manager shall receive any fees or other compensation for serving as a Manager, unless such fees or other compensation are approved by the Members.

6.14 **Operations Restrictions.**

(a) The Company shall at all times be operated in compliance with the tax-exempt status under Code Section 501(c)(3) of the tax-exempt Members.

(b) No rebates, kickbacks, or reciprocal arrangements may be received or entered into by any Managers, nor may any Managers participate in any business arrangement which would circumvent this Agreement.

(c) The funds of the Company shall not be commingled with the funds of any other Person.

(d) The signature of an Officer of the Board of Managers shall be necessary to convey title to any real property owned by the Company or to execute any promissory notes, trust deeds, mortgages or other instruments of hypothecation, and all of the Members agree that a copy of this Agreement may be shown to the appropriate parties in order to confirm the same, and further agree that the signature of such Officer shall be sufficient to execute any documents necessary to effectuate this or any other provision of this Agreement.

6.15 **Indemnification of Managers.**

(a) Unless otherwise provided in this Agreement, the Company, its receiver, or its trustee (in the case of its receiver or trustee, to the extent of Company property) shall indemnify, save harmless and pay all judgments and claims against any Manager relating to any liability or damage incurred by reason of any act performed or omitted to be performed by any Manager in connection with the Business, including attorneys' fees and related expenses incurred by such Manager in connection with the defense of any action based on any such act or omission, which attorneys' fees and expenses may be paid as incurred. In the event of a determination that such Manager is not entitled to indemnification, such Manager shall promptly repay any such fees or expenses paid by the Company.

(b) Unless otherwise provided for in this Agreement, in the event of any action by a Member against any Manager, including a Company derivative suit, the Company shall indemnify, save harmless and pay all expenses of such Manager, including reasonable attorneys' fees incurred in the defense of such action, if such Managers are successful in such action.

(c) Notwithstanding the provisions of Section 6.15(a) and 6.15(b) above, such Sections shall be enforced only to the maximum extent permitted by law and no Manager shall be indemnified from any liability for fraud, intentional misconduct, gross negligence or knowing violation of law which was material to the cause of action.

6.16 **Officers.** The Board of Managers shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Members may authorize. The Company shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the 20XX, 20XY, and 20XZ annual meetings shall serve a one year term, or until his/her successor has been elected. The Chairperson seated at the 20XX-20XZ annual meetings shall be selected by the Member in accordance with its Bylaws. Commencing with the 20XA annual meeting the Chairperson and Vice-Chairperson shall be elected by the Member for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected by the Member at the annual meeting of the Member and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and

qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors of the Member at any regular meeting or any special meeting called for such purpose.

6.17 **Chairperson.** The Chairperson shall preside at all meetings of the Board of Managers, shall appoint the members and Chairperson of each Committee in accordance with this Agreement and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 20XZ annual meeting of the Member shall be eligible to be elected by the full Board of the Member to serve one additional term of two (2) years, commencing in 20XA. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

6.18 **Vice Chairperson.** In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Company as may be authorized by order of the Board.

6.19 **Chair Emeritus.** Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in this Agreement. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the 20XX annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

6.20 **Secretary.** The Secretary shall act as Secretary of both the Company and the Board and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Company and keeping the minutes of the meetings of the Board. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Company records.

6.21 **Treasurer.** The Treasurer shall have general supervision over the care and custody of all funds and securities of the Company except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Company in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board, or any committee designated and vested with such power by the Board, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Company and, whenever required by the Board shall render, or cause to be rendered, financial statements of the Company. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

6.22 **President.** The Member shall appoint the President and as the Chief Executive Officer of the Company. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board in all matters except those for which the Board has designated the Executive Director or some other individual to act.

SECTION 7 COMMITTEES OF THE BOARD OF MANAGERS

7.1 Structure.

There shall be six (6) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, and Audit and Compliance Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

7.2 Procedure.

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or

procedures are adopted for any individual committee in this Agreement or in a Resolution of the Board.

7.3 **Powers.**

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in this Agreement, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

7.4 **Committee Members.**

- (a) Appointment. Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to promote experience and knowledge in all aspects of the operation of the Company.
- (b) Tenure. Each member of a Board Committee shall hold office until the next annual election of Managers and until his or her successor is elected, unless he or she sooner ceases to be a Manager or resigns or is removed from the Committee.
- (c) Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.

- (d) Removal. Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

7.5 **Advisors to Board Committees**. The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Managers.

As deemed appropriate by the Committee Chair, members of the Company's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

7.6 **Manner of Action**.

(a) Meetings. Each Committee shall meet as provided for in this Agreement and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

(b) Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's

findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Managers when requested or as required.

(c) Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

(d) Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

(e) Meeting by Conference Telephone or Similar Device. Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

7.7 **Conflict of Interest**. Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board.

7.8 **Executive Committee**.

(a) Composition

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, and the Chairperson Emeritus.

(b) Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Company, subject to any prior limitations imposed by the Board, this Agreement, or statute

(c) Meetings

The Executive Committee shall meet as necessary to conduct the business of the Company while the full Board is not in session.

7.9 **Finance.**

(a) **Composition**

The Finance Committee shall consist of the Treasurer of the Company, as Committee Chairperson, and at least 6 voting Members, at least one of whom shall have substantial accounting or financial management expertise.

(b) **Functions**

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Company and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and oversight of the financial affairs of the Company. Its functions shall include:

- (1) Overseeing the Executive Director's development of a budget for the Company showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Member a budget developed by the Executive Director for the ensuing year;
- (3) Reviewing financial reports that report on the financial condition of the Company;
- (4) Reviewing and making recommendations to the Board and the Member on any request by the Executive Director for the Company to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;
- (5) Retaining the Company's independent Certified Public Accountants to provide external financial auditing to the Company. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.

- c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Company and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Company.
 - (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Company.

(c) Meetings

The Finance Committee shall meet as needed.

7.10 **Quality and Safety Committee.**

(a) Composition.

The Quality and Safety Committee shall consist of not less than five (5) voting Managers, at least one of whom shall be a physician.

(b) Functions.

The Quality and Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of the Company with the programs of the other Affiliates of the Member for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance at the Company, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;

- (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;
 - (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by third parties providing services to the Company.
- (2) Recommend policies and provide direction for the Company's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the Company.
 - (3) Oversee regulatory compliance, safety, and such other programs as shall be required to insure continuous licensure of the Company.
 - (4) Review and report to the Board on Department of Health and other regulatory surveys and findings and any required plans of correction.
 - (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Company's affiliates concerning quality and performance improvement activities.
 - (7) Assist in the development of Board educational processes regarding quality and service improvement.

(c) Meetings

The Quality and Safety Committee shall meet as shall be necessary to discharge the obligations and duties of the Committee.

7.11 **Governance Affairs and Ethics Committee.**

(a) Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Managers, at least one of whom shall be a Board Officer.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Board of the Company and developing and monitoring a Board education plan. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - (i) Conflict of Interest;
 - (ii) Policy based governance;
 - (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
- (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
- (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Committees of the Company.
- (5) Develop an orientation process for new Board and Committee members for the Company, with the assistance of the Executive Director.

- (6) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
- (7) Periodically review, and recommend changes to the Operating Agreement of the Company to insure compliance with the mission, vision, purpose and structure of the Company.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at such times as shall be necessary to discharge the obligations and duties of the Committee.

7.12 **Executive Compensation Committee.**

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Managers recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be “Independent” as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not “Independent”, the Board shall appoint another Independent Manager to serve in the place of the Chairperson.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the Executive Director and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of the Company, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations (“Disqualified Persons”). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually, performance guidelines for the Executive Director;
- (2). Assist the Board in assessing and evaluating the Executive Director’s performance;
- (3). Review and recommend to the full Board the Executive Director’s compensation, including salary, incentives, benefits and other

perquisites;

- (4) Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
- (5) At least annually, review executive compensation and take the required steps to establish a “rebuttable presumption of reasonableness” [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person’s background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Company’s income and assets and the number of Company employees;
 - d. Executive Director’s job performance;
 - e. relationship of the Executive Director’s compensation to the compensation paid to Company’s other employees; and
 - f. the number of hours the Executive Director spends performing his or her job.

c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Company to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

7.13 **Audit and Compliance Committee.**

(a) Composition

The Audit and Compliance Committee shall be composed of at least three (3) Managers. At least a majority of the Managers so appointed shall be “Independent” Managers as defined in Section 7.12(a), above.

(b) Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board in its oversight responsibilities by overseeing management’s systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Company. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee’s retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the corporate compliance plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.
 - b. Serve as a resource to the Compliance Officer and management on compliance issues.
 - c. Report to the Board at least semi-annually, regarding the status of the compliance plan.

c. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

SECTION 8

PLAN ADMINISTRATION/EXECUTIVE DIRECTOR/ ADVISORY COMMITTEE

8.1 Executive Director. The Board of Managers, with the approval of the Member, shall select and appoint a competent administrator of the Plan (the “Executive Director”) who shall have primary responsibility for day-to-day management of the long-term

managed care Plan. The Executive Director shall report to the President/CEO who shall be given the necessary authority and responsibility to operate the Plan in accordance with applicable law and regulation, subject only to such policies as may be issued by the Board of Managers or by any of its committees to which it has delegated power for such action.

8.2 **Enrollee Advisory Council.** The Board of Managers shall establish an Enrollees Advisory Council which shall consist of not less than three (3) enrollees, enrollee family members and/or enrollee representation. The Executive Director shall provide administrative support to the Council and ensure that it has direct input to the Board of Managers.

SECTION 9

ROLE OF MEMBERS

9.1 **Rights or Powers.** Except as otherwise specifically set forth herein, the Member shall have no rights or powers to take part in the management and control of the Company and its business and affairs. Notwithstanding the foregoing, the Member shall have the following rights and powers:

- a. To approve and interpret the statement of mission and philosophy adopted by the Company, to require that the Company operate in conformance with its mission and philosophy and that the Company coordinate its mission, vision, activities and resources with the other Affiliates of the Member in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the Managers of the Company, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Company.
- c. To amend or repeal the Articles of Organization and Operating Agreement, and to adopt any new or restated Articles of Organization and Operating Agreement, of the Company;

- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Company;
- e. To approve the debt of the Company in excess of an amount to be fixed from time to time by the Member.
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Company in excess of an amount to be fixed from time to time by the Member.
- g. To approve the capital and operating budgets of the Company;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Company;
- i. To approve any reorganization of the Company and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Company with the other Affiliates of the Member, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve the strategic plan of the Company;
- k. To the extent applicable, to approve all contracts of reimbursement for the Company from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Company to federal or state governmental agencies for establishment or operating licensure, including but not limited to applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Company subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by the Company;
- o. To require the Company to participate in any and all programs and services, as determined by the Member in its discretion, provided,

however, that the Member may not require the Company to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Company is a party and by which it is bound; and

- p. To accept further delegations of authority on behalf of the Company and exercise on behalf of the Company and other Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to applicable law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, the Member shall have: (i) the power to initiate and direct action by the Company without a prior recommendation of the Company's board of managers; and (ii) the power to accept, reject or modify the recommendation of the Company's Board of Managers and to direct action by the Company or to return the matter to the Board of Managers of the Company for reconsideration, with reasons for rejection and/or suggested change. The Board of Managers and officers of the Company shall not implement any action requiring the approval of the Member until the Member shall have exercised its reserve powers and communicated its determinations in writing to the Company's Board of Managers.

9.2 **Annual Meeting.** The Member shall, hold its annual meeting each year in April or May at a time and place determined by the Member. At the annual meeting, the Member shall elect Managers of the Company, receive the annual report of the Managers of the Company, and transact such other business as may properly come before the meeting.

Nomination for seats on the Board of Managers of the Company shall be submitted to the Member prior to the Member's annual meeting.

9.3 **Annual Report to Member.** At the annual meeting of the Member, the Chairperson or President, and the Treasurer of the Company shall present an Annual Report showing in appropriate detail the following information:

(a) a complete verified financial statement of the Company for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Company;

(b) a summary of the activities of the Company during the preceding year.

The Annual Report shall be filed with the minutes of the annual meeting.

9.4 **Notice.** The Secretary shall give the Members notice of the annual meeting, or any special meetings of the Members, at least ten (10) days, but not more than thirty (30) days, before the date of said meeting. The notice shall specify the place and time of the meeting and, in the case of special meetings, the purposes for which the meeting is called.

9.5 **Special Meetings of Members and Means of Voting.**

(a) Special meetings of Members may be called by the Board of Managers and shall be called upon the written request of any Member. The notice shall state the nature of the business to be transacted. Notice of any such meeting shall be given to all Members not less than two (2) days prior to the date of such meeting. Members may vote in person or by proxy at such meeting. Whenever the vote or consent of Members is permitted or required under the Agreement, such vote or consent may be given at a meeting of Members or may be given in writing. The participation of a Member at a meeting may be by means of conference, telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other. Such participation shall constitute presence in person at the meeting for the purposes hereunder. The affirmative vote of all Members shall be required for any action.

(b) Each Member may authorize any Person or Persons to act for him by proxy on all matters in which a Member is entitled to participate, whether by waiving notice

of or voting or participating at a meeting. Every proxy must be signed by the Member or his/her attorney-in-fact. No proxy shall be valid after the expiration of eleven months from the date thereof unless otherwise provided in the proxy. Unless otherwise specifically stated therein, every proxy shall be revocable at the pleasure of the Member executing the same.

(c) Each corporate Member may authorize any Person to act for it. Such authorization shall be by resolution adopted by the corporate Member in accordance with its By-laws.

9.6 **Action by Member.** Except as otherwise required by law, the Articles of Organization or this Agreement, any action required or permitted to be taken by the Member of the Company may be taken without a meeting, without prior notice and without a vote, through written consent to such action. The written consent of the Member shall be evidenced by a written resolution of the Board of Directors of the Member signed by an officer of the Member and adopted in accordance with the its Articles of Incorporation, By-laws, policies and/or procedures. An original signed copy of each executed written consent of the Member shall be delivered to the Secretary of the Company and shall be maintained in the permanent records of the Company.

SECTION 10

BOOKS AND RECORDS

10.1 **Books and Records.** The Company shall keep adequate books and records setting forth a true and accurate account of all business transactions arising out of and in connection with the conduction of the Company. Any Member or his designated representative shall have the right, at any reasonable time and at his own expense to have access to and inspect and copy the contents of such books or records.

10.3 **Tax Information.** Necessary tax information shall be delivered to each Member as soon after the end of each fiscal year of the Company as is practicable.

SECTION 11

TRANSFERS OF INTERESTS

11.1 **Restriction on Transfers.** Except as otherwise permitted by this Agreement, no Member shall Transfer all or any portion of its Interest without the consent of each of the other Members. Any Transfer or attempted Transfer by a Member in violation of the preceding sentence shall be null and void and of no effect whatever and shall constitute an Adverse Act. The Members agree that the restrictions on Transfer contained herein shall be specifically enforceable. Notwithstanding the foregoing, a Member may assign or transfer its Membership interest to a successor corporation.

11.2 **Conditions to Permitted Transfers.** If all Members consent in writing to a Member transferring all or any portion of its Interest to an assignee, the Transfer shall be a Permitted Transfer, and the transferee shall be admitted to the Company as a Substitute Member subject to the provisions of this Section. A Transfer shall not be treated as a Permitted Transfer under this Section unless and until the following conditions are satisfied:

(a) The transferor and the transferee shall execute and deliver to the Company such documents and instruments of conveyance as may be necessary or appropriate in the opinion of counsel to the Company to effect such Transfer and to confirm the agreement of the transferee to be bound by the provisions of this Agreement, including Section 11. In the case of a Transfer involuntarily by operation of law, the Transfer shall be confirmed by presentation to the Company of legal evidence of such Transfer, in form and substance satisfactory to counsel to the Company. In all cases, the Company shall be reimbursed by the transferor and/or transferee for all costs and expenses that it reasonably incurs in connection with such Transfer.

(b) The transferor shall furnish to the Company an opinion of counsel, which counsel and opinion shall be satisfactory to the Company, that the Transfer will not cause the Company to terminate for federal income tax purposes and that such Transfer will not cause the application of the rules of Code Sections 168(g)(1)(B) and 168(h) (generally referred to as the “tax exempt entity leasing rules”) or similar rules to apply to the Company, Company assets, or the Members.

(c) The transferor and the transferee shall furnish the Company with the transferee’s taxpayer identification number, sufficient information to determine the

transferee's initial tax basis in the Interest Transferred, and any other information reasonably necessary to permit the Company to file all required federal and state tax returns and other legally required information, statements or returns. Without limiting the generality of the foregoing, the Company shall not be required to make any distribution otherwise provided for in this Agreement with respect to any Transferred Interest until it has received such information.

(d) Either: (i) such Interest shall be registered under the Securities Act of 1933, as amended, and any applicable state securities laws; or (ii) the transferor shall provide an opinion of counsel, which opinion of counsel shall be satisfactory to the Managers, to the effect that such Transfer is exempt from all applicable registration requirements and that such Transfer will not violate any applicable laws regulating the Transfer of securities.

(e) The transferor shall provide an opinion of counsel, which opinion of counsel shall be reasonably satisfactory to the Managers, to the effect that such Transfer will not cause the Company to be deemed to be an "investment company" under the Investment Company Act of 1940.

(f) The transferee becomes a party to this Agreement as a Member and executes such documents and instruments as the Managers may reasonably request (including, without limitation, amendments to the Certificate) as may be necessary or appropriate to confirm such transferee as a Member in the Company and such transferee's agreement to be bound by the terms and conditions hereof;

(g) The transferee pays or reimburses the Company for all reasonable legal, filing, and publication costs that the Company incurs in connection with the admission of the transferee as a Member with respect to the transferred interest.

11.3 **Events Requiring Repurchase of a Member's Interest.**

(a) The Company agrees to purchase and each Member agrees to sell the entire interest owned by a Member upon the happening of any of the following events:

- (i) Dissolution of a Member;
- (ii) Withdrawal of a Member pursuant to Section 12.1.

(b) The purchase and sale shall be mandatory and shall be at the purchase price and upon the terms and conditions set forth in Sections 11.5 and 11.6(a).

(c) The closing of the purchase and sale shall take place within thirty (30) days after the determination of the purchase price in accordance with the terms of this Agreement.

11.4 **Adverse Act Purchase.**

(a) Upon the occurrence of an Adverse Act with respect to a Member, such Member shall automatically be deemed to have offered to sell his entire Interest to the Company on the terms and conditions contained in this Section 11.4 and Sections 11.5 and 11.6(b) hereof. The Company shall have sixty (60) days from the later of (i) the date of receipt of actual notice of the occurrence of the Adverse Act; or (ii) the determination of the purchase price in accordance with Section 11.5 hereof during which to accept or reject the deemed offer to sell.

In the event the Company fails to accept within such sixty (60) day period, the offer shall automatically be deemed rejected.

(b) The closing of the purchase and sale of the selling Member's Interest shall occur at such time and place as the selling Member and the Company shall mutually agree; provided, however, in no event shall the closing take place earlier than the thirtieth day following the determination of the purchase price in accordance with Section 11.5 hereof or later than one (1) year from the date the Company receives notice of the Adverse Act.

At the closing, the selling Member and the Company shall each execute such documents and instruments as may be necessary or appropriate to confirm the transactions contemplated hereby, including without limitation, the transfer to the Company of the Interest of the selling Member.

11.5 **Purchase Price.**

In the event of the purchase of a Member's Interest pursuant to 11.3 or 11.4, the purchase price shall be: (a) the amount determined by multiplying the selling Member's Membership Percentage by the Net Equity of the Company as of the last day of the month

immediately preceding the month during which occurred an event described in Section 11.3, or the Adverse Act giving rise to the right to purchase reduced by (b) such amount as the Accountants shall reasonably determine to reflect any applicable discounts for lack of marketability, minority interest and/or other similar items to be uniformly applied. The determination of the Accountants as to any applicable discounts shall be binding and conclusive absent a showing of gross error or fraud.

For purposes of this Agreement, the “Net Equity of the Company” shall be an amount that would be available to be distributed to the Members if: (1) the Property which consists of Marketable Securities, real property or an interest in another entity, the principal asset of which consists of real property was sold for its Fair Market Value; (2) all of the remaining Property and assets were sold for their book value (i.e., their accounting value as determined from the accounting records of the Company); (3) the Company paid its accrued but unpaid liabilities; and (4) reasonable reserves were established for any contingent liabilities.

The Net Equity of the Company shall be determined, without audit or certification, from the books and records of the Company by the Accountants. The amount of such Net Equity shall be disclosed to the Company and the selling Member by written notice. The Net Equity determination of the Accountants shall be final and binding in the absence of gross negligence or willful misconduct.

11.6 Payment of Purchase Price.

(a) In the event of the purchase of a Member’s Interest pursuant to Section 11.3 hereof, the purchase price shall be paid as follows:

(i) There shall be paid in cash at the closing an amount equal to ten (10%) percent of the purchase price.

(ii) The balance of the purchase price shall be evidenced by a promissory note from the Company (the “Purchase Note”). The Purchase Note shall bear interest at the Prime Rate in effect on the closing date and shall be payable as follows:

(A) If the principal amount of the Purchase Note is Fifty Thousand Dollars (\$50,000) or less, the Purchase Note shall be payable in twelve (12) equal monthly installments of principal and interest;

(B) If the principal amount of the Purchase Note is more than Fifty Thousand Dollars (\$50,000), the Purchase Note shall be payable in twenty-four (24) equal monthly installments of principal and interest.

Payment of the Purchase Note shall be solely the responsibility of the Company. The selling Member shall have no recourse with respect to the Purchase Note against any of the remaining Members. Neither the Company nor any of the remaining Members shall be required to give any security for the payment of the Purchase Note.

11.7 **Legend.** Each Member hereby agrees that the following legend may be placed upon any counterpart of this Agreement, the Certificate, or any other document or instrument evidencing ownership of Interests:

The Interests represented by this document have not been registered under any securities laws and the transferability of such Interests is restricted. Such Interests may not be sold, assigned or transferred, nor will any assignee, vendee, transferee or endorsee thereof be recognized by the issuer as having acquired any such Interests for any purposes, unless (1) a registration statement under the Securities Act of 1933, as amended, with respect to such Interests shall then be in effect and such transfer has been qualified under all applicable state securities laws; or (2) the availability of an exemption from such registration and qualification shall be established to the satisfaction of counsel to the Company.

The Interests represented by this document are subject to further restriction as to their sale, transfer, hypothecation, or assignment as set forth in the Operating Agreement and agreed to by each Member. Said restriction provides, among other things, that no Interest may be transferred without the consent of each of the other Members.

If any Interest is sold, assigned, or Transferred during any fiscal year in compliance with the provisions of this Section 11, Profits, Losses, each item thereof, and all other items attributable to the Transferred Interest for such fiscal year shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during

such fiscal year in accordance with Code Section 706(d), using any conventions permitted by law and selected by Managers. All distributions on or before the date of such Transfer shall be made to the transferor, and all distributions thereafter shall be made to the transferee. Solely for purposes of making such allocations and distributions, the Company shall recognize such Transfer not later than the end of the calendar month during which it is given notice of such Transfer, provided that, if the Company is given notice of a Transfer at least ten (10) business days prior to the Transfer the Company shall recognize such Transfer as of the date of such Transfer, and provided further that, if the Company does not receive a notice stating the date such Interest was Transferred and such other information as the Managers may reasonably require within thirty (30) days after the end of the fiscal year during which the transfer occurs, then all such items shall be allocated, and all distributions shall be made, to the Person who, according to the books and records of the Company, was the owner of the Interest on the last day of the fiscal year during which the Transfer occurs. Neither the Company nor any Manager shall incur any liability for making allocations and distributions in accordance with the provisions of this Section 11.8, whether or not any Manager or the Company has knowledge of any Transfer of ownership of any Interest.

SECTION 12

WITHDRAWAL

12.1 **Covenant Not to Withdraw, Transfer, or Dissolve.** Except as otherwise permitted by this Agreement, each Member hereby covenants and agrees not to (a) withdraw or attempt to withdraw from the Company; or (b) exercise any power under the Act to dissolve the Company, except by unanimous consent of all Members.

SECTION 13

DISSOLUTION AND WINDING UP

13.1 **Dissolution.** The Company shall dissolve upon the first to occur of any of the following events (the “Liquidating Event”):

- (a) The sale by the Company of all or substantially all its assets and properties;
- (b) Upon the vote of the Member;

(c) The happening of any other event that makes it unlawful, impossible or impractical to carry on the business of the Company.

The Members hereby agree that, notwithstanding any provision of the Act, the Company shall not dissolve prior to the occurrence of a Liquidating Event. Furthermore, the Company shall not dissolve on the bankruptcy, dissolution, death, expulsion, incapacity or withdrawal of any Member (a “Statutory Dissolution Event”) and on the happening of a Statutory Dissolution Event the Company shall automatically be deemed to continue in existence. If it is determined by a court of competent jurisdiction that the Company has dissolved prior to the occurrence of a Liquidating Event then the Members hereby agree to continue the Business of the Company without a winding up or liquidation.

13.2 **Winding Up**. Upon the happening of a Liquidating Event, the Managers or court-appointed trustee if there be no Managers shall take full account of the Company’s liabilities and assets. The assets and properties of the Company shall be liquidated as promptly as is consistent with obtaining the fair value thereof, and the proceeds therefrom, to the extent sufficient therefor, shall be applied and distributed in the following order:

(a) To the payment and discharge of all of the Company’s debts and liabilities (other than those to Members), including the establishment of any necessary reserves:

(b) Second, to the payment and discharge of all of the Company’s debts and liabilities to Members; and

(c) The balance, to the Members in accordance with their Capital Accounts after giving effect to all contributions, distributions and allocations for all periods.

13.3 **Compliance with Timing Requirements of Regulations**. In the event the Company is “liquidated” within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), distributions shall be made pursuant to this Section 11 (if such liquidation constitutes a dissolution of the Company) or Section 5 hereof (if it does not) to the Members and Assignees who have positive Capital Accounts in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(2). If any Member has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all fiscal years, including the fiscal

year such liquidation occurs) such Member shall have no obligation to make any contribution to the capital of the Company with respect to such deficit, and such deficit shall not be considered a debt owed to the Company or any other Person.

13.4 **Rights of Members.** Except as otherwise provided in this Agreement, each Member shall look solely to the assets of the Company for the return of its Capital Contribution and shall have no right or power to demand or receive property other than cash from the Company. No Member shall have priority over any other Member as to the return of Capital Contributions, distributions, or allocations.

SECTION 14

MISCELLANEOUS

14.1 **Notices.** Any notice, payment, demand or communication required or permitted to be given by any provision of this Agreement shall be in writing and shall be delivered personally to the Person or to an officer of the Person to whom the same is directed, or sent by overnight courier service, regular, registered or certified mail, addressed as follows: if to the Company, to the Company at the address set forth herein, or to such other address as the Company may from time to time specify by notice to the Members; if to a Member, to such Member at the address set forth on Exhibit "A" hereto or to such other address as such Member may from time to time specify by notice to the Company; if to a Manager, to such Manager at the address set forth on Exhibit "B" hereto or to such other address as such Manager may from time to time specify by notice to the Company. Any such notice shall be deemed to be delivered, given and received for all purposes as of the date so delivered, if delivered personally or by express delivery service or, if sent by regular mail, as of the date on which the same was deposited in a regularly maintained receptacle for the deposit of United States mail, if sent by registered or certified mail, postage and charges prepaid.

14.2 **Binding Effect.** Except as otherwise provided in this Agreement, every covenant, term and provision of this Agreement shall be binding upon and inure to the benefit of the Members and their respective heirs, legatees, legal representatives, successors, transferees and assigns.

14.3 **Construction.** Every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Member.

14.4 **Headings.** Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

14.5 **Severability.** Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement.

14.6 **Incorporation by Reference.** Every exhibit, schedule and other appendix attached to this Agreement and referred to herein is hereby incorporated in this Agreement by reference.

14.7 **Additional Documents.** Each Member, upon the request of the Board of Managers, agrees to perform all further acts and execute, acknowledge and deliver any documents that may be reasonably necessary, appropriate or desirable to carry out the provisions of this Agreement.

14.8 **New York Law.** The laws of the State of New York, without reference to the choice of law doctrine of New York State, shall govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and duties of the Members.

14.9 **Waiver of Action for Partition.** Each of the Members irrevocably waives any right that he may have to maintain any action for partition with respect to any of the property of the Company.

IN WITNESS WHEREOF, the Member has executed this Operating Agreement as of the day first above set forth.

Amended as of this _____ day of _____, 2013.

MOHAWK VALLEY HEALTH SYSTEM

by: _____
Scott H. Perra, FACHE

its: _____ President/CEO _____

EXHIBIT “A”

Members

<u>Name</u>	Membership <u>Percentage</u>
Mohawk Valley Health System	100%

EXHIBIT “B”

Managers

Domenic Aiello
Catherine Cominsky
Joan Compson
Gregory Evans
Maria Gesualdo
Harrison Hummel
Todd Hutton
Andrew Kowalczyk, III
Gregory McLean
Norman Siegel
John Sperling
Stephen Sweet
Richard Tantillo
Symeon Tsoupelis
Mark Warfel
Bonnie Woods
Eric Yoss
Richard Zweifel

EXHIBIT “C”

Capital Contributions

Member

Capital Contribution

Mohawk Valley Health System

See attached Balance Sheet

Appendix “A”

TABLE OF DEFINITIONS

“**Act**” means the Limited Liability Company Act of the State of New York as the same may be amended from time to time (or any corresponding provisions of succeeding law).

“**Adverse Act**” means, with respect to any Member, any of the following:

- (a) a Transfer of all or any portion of such Member’s interest in the Company, except as expressly permitted or required by this Agreement;
- (b) an Event of Bankruptcy occurring with respect to any Member;
- (c) any other occurrence or transaction that is expressly provided elsewhere in this Agreement as constituting an Adverse Act.

“**Affiliate**” means with respect to any Person, (i) any Person directly or indirectly controlling, controlled by or under common control with such Person; (ii) any Person owning or controlling ten (10%) percent or more of the outstanding voting securities of such Person; (iii) any officer, director, or general partner of such Person; or (iv) any Person who is an officer, director, general partner, trustee or holder of ten (10%) percent or more of the voting securities of any Person described in clauses (i) through (iii) of this sentence.

“**Agreement**” or “**Operating Agreement**” means this Operating Agreement as the same may be subsequently amended from time to time. Words such as “herein,” “hereinafter,” “hereof,” “hereto,” and “hereunder” refer to this Agreement as a whole, unless the context otherwise requires.

“Business” means the business and operations of the Company, including the property thereof, both real and personal, tangible and intangible, as the same may from time to time be conducted and owned in accordance with the terms and conditions of this Agreement.

“Company” means the limited liability company formed pursuant to this Agreement and the limited liability company continuing the business of this Company in the event of dissolution as herein provided.

“Contribution Agreement” means that certain Contribution Agreement entered into and effective as of the 1st day of January 2001 by and between Mohawk Valley Network, Inc. (the “Contributing Member”) and the Company.

“Event of Bankruptcy” means, with respect to any Member or the Company, any of the following:

- (a) filing a voluntary petition in bankruptcy or for re-organization or for the adoption of an arrangement under the Bankruptcy Code (as now or in the future amended) or an admission seeking the relief therein provided;
- (b) making a general assignment for the benefit of creditors;
- (c) consenting to the appointment of a receiver for all or a substantial part of such Person’s property;
- (d) in the case of the filing of an involuntary petition in bankruptcy, the entry of an order for relief;
- (e) the entry of a court order appointing a receiver or trustee for all or a substantial part of such Person’s property without such Person’s consent; or

(f) the assumption of custody or sequestration by a court of competent jurisdiction of all or substantially all of such Person's property.

“Fair Market Value” shall mean:

(a) If the property under consideration consists of Marketable Securities, the Fair Market Value shall be:

(i) in the case of Marketable Securities listed on a national exchange, the average “close” price of the Marketable Securities for the five (5) business days immediately preceding the date on which it is necessary to determine Fair Market Value; and

(ii) in the case of Marketable Securities which are regularly quoted as part of the National Association of Securities Dealers, Inc. Automated Quotation System, the average of the “bid” and “asked” prices in the Wall Street Journal for the five (5) business days immediately preceding the date on which it is necessary to determine Fair Market Value; and

(iii) in the case of Marketable Securities which are quoted in the over-the-counter market, the average of the “bid” and “asked” prices as quoted by the two largest market makers for such Marketable Securities for the five (5) business days immediately preceding the date on which it is necessary to determine Fair Market Value; in each case reduced by such blockage or other discounts as the Managers shall reasonably determine. The determinations of the Managers as to any discounts shall be binding and conclusive absent a showing of gross error or fraud.

(b) If the Property under consideration is real property or an interest in an entity the principal asset of which consists of real property, the Fair Market Value of the Property shall be that amount mutually agreed upon by the Managers and the selling Member. If the parties are unable to reach agreement on Fair Market Value within thirty (30) days of the election by the Company to purchase the Interest, the Fair Market Value shall be determined in accordance with the following procedures:

(i) The Selling Member, on the one hand, and the Managers, on the other hand, shall each have the opportunity to appoint, at its own cost, a “Qualified Appraiser” (as herein defined), within fifteen (15) days following the expiration of the thirty (30) day period set forth above. If either party shall fail to appoint a Qualified Appraiser within this fifteen (15) day period, the one Qualified Appraiser so appointed shall unilaterally establish the Fair Market Value. If both parties appoint a Qualified Appraiser within this fifteen (15) day period, the two (2) Qualified Appraisers shall jointly establish the Fair Market Value. If the two (2) Qualified Appraisers cannot agree on the Fair Market Value of the Property within thirty (30) days of the appointment of the latter of them, the two Qualified Appraisers shall together not later than the thirtieth day appoint a third Qualified Appraiser. The third Qualified Appraiser shall establish the Fair Market Value within thirty (30) days of his appointment. The determination of the Qualified Appraiser(s) shall be binding and conclusive on the parties absent a showing of gross error or fraud. The cost and expenses of the third Qualified Appraiser shall be borne by that party whose Qualified Appraiser’s Appraised Value differs the most in absolute dollars from the

Fair Market Value established by the third Qualified Appraiser.

“**Interest**” shall mean a Member’s entire ownership interest in the Company, including the rights and obligations of such Member under this Agreement.

“**Managers**” means any Person who has become a Manager pursuant to the terms of this Agreement.

“**Marketable Securities**” shall mean all securities which are readily marketable which means they could be sold through security brokers, banks, or other similar institutions within a time period not likely to exceed thirty (30) days.

“**Members**” means all individuals or entities set forth in Exhibit “A” hereof and any Person subsequently admitted to the Company as a Member pursuant to the terms hereof. “Members” means any one of the Members.

“**Membership Percentage**” means those percentages with respect to each Member (or Assignee) as set forth on Exhibit “B.” “Membership Percentages” means the total percentages set forth on Exhibit “B.” In the event any interest in the Company is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Membership Percentage of the transferor to the extent it relates to the Transferred interest.

“**Net Available Cash**” means the gross cash proceeds of the Company whether from Company operations, sales or other disposition or refinancing of the Company assets, less the portion thereof used to pay or establish reserves for all Company expenses, debt payments, capital improvements, replacement and contingencies, all as determined by the Managers. “Net Available Cash” shall not be reduced by depreciation, amortization,

cost recovery deductions or similar allowances, but shall be increased by any reductions of reserves previously established.

“Person” means any individual, partnership, limited liability company, corporation, trust or other entity.

“Prime Rate” means the prime rate (or base rate) reported in the “Money Rates” column or Section of The Wall Street Journal as being the base rate on corporate loans at larger U.S. Money Center banks on the last business day immediately prior to the date on which it is necessary to determine such Prime Rate; provided, however, in the event The Wall Street Journal ceases publication of the Prime Rate, then the “Prime Rate” shall mean the “prime rate” or “base rate” announced by the bank with which the Company has its principal banking relationship (whether or not such rate has actually been charged by that bank) or as otherwise designated by the Managers. In the event that bank discontinues the practice of announcing that rate, Prime Rate shall mean the highest rate charged by that bank on short-term, unsecured loans to its most credit-worthy large corporate borrowers, unless otherwise designated by the Managers.

“Profits” and “Losses” means, for each fiscal year or other period, an amount equal to the Company’s taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this Section shall be added to such taxable income or loss;

(b) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits and Losses pursuant to this Section shall be subtracted from such taxable income or loss;

(c) In the event the Gross Asset Value of any Company asset is adjusted pursuant to subsections (b) or (c) of the definition of Gross Asset Value hereof, the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Profits or Losses;

(d) Gain or loss resulting from any disposition of Company assets with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

(e) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such fiscal year or other period; and

(f) Notwithstanding any other provision of this Section, any items which are specially allocated pursuant to Section (b) or Section (c) of Appendix "B" hereof shall not be taken into account in computing Profits or Losses pursuant to this Section.

“**Property**” means the property, both real, personal, tangible and intangible owned by the Company together with such additional property as may be hereafter acquired by the Company.

“**Qualified Appraiser**” means any professional appraiser or certified public accountant who is qualified by experience and ability to appraise assets and businesses similar to that owned or being conducted by the Company.

“**Substituted Member**” means a transferee of an Interest who has been admitted to the Company as a Substituted Member in accordance with Section 10.

“**Transfer**” means, as a noun, any transfer, sale, pledge, hypothecation, or other disposition, whether voluntary, involuntary or by operation of law, and, as a verb, to transfer, sell, pledge, hypothecate or otherwise dispose of in any manner whatsoever, whether voluntarily, involuntarily or by operation of law.

Appendix “B”

TAX PROVISIONS

(a) **Definitions.** For purposes of this Agreement, including this Appendix “B,” the following terms (as indicated by the first letter of each word being capitalized) shall, unless the context clearly requires otherwise, have the following meanings:

“Adjustment Capital Account Deficit” means with respect to any Member or Assignee, the deficit balance, if any, in such Person’s Capital Account as of the end of the relevant fiscal year, after giving effect to the following adjustments:

(a) Credit to such Capital Account any amounts which such Person is obligated to restore or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(I)(5); and

(b) Debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.074-1(b)(2)(ii)(d)(6) of the Regulations.

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

“Capital Account” means initially, with respect to any Member or Assignee, the Capital Account maintained for such Person in accordance with the following provisions:

(a) To each Person’s Capital Account, there shall be credited such Person’s Capital Contributions, such Person’s distributive share of Profits, and any items

in the nature of income or gain that are specially allocated pursuant to Section (b) or (c) of this Appendix “B,” and the amount of any Company liabilities that are assumed by such Person or that are secured by any Company asset distributed to such Person.

(b) To each Person’s Capital Account there shall be debited the amount of cash and the Gross Asset Value of any Company asset distributed to such Person pursuant to any provision of this Agreement, such Person’s distributive share of Losses, any items in the nature of expenses or losses that are specially allocated pursuant to Section (b) or (c) of this Appendix “B,” and the amount of any liabilities of such Person that are assumed by the Company or that are secured by any property contributed by such Person to the Company.

(c) In the event any interest in the Company is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the Transferred interest.

(d) In determining the amount of any liability for purposes of subsections (a) and (b) above, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such Regulations. In the event the Managers shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities that are secured by contributed or distributed property or that are assumed by the Company or the Members), are computed

in order to comply with such Regulations, the Managers may make such modifications, provided it is not likely to have a material effect on the amounts distributed to any Member or Assignee pursuant to Section 12 of the Agreement upon the dissolution of the Company. The Managers also shall (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Members and Assignees and the amount of Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q); and (ii) make any appropriate modifications in the event unanticipated events (for example, the acquisition by the Company of oil or gas properties) might otherwise cause this Agreement not to comply with Regulation Section 1.704-1(b).

“Capital Contribution” means, with respect to any Member or Assignee, the amount of money and the initial Gross Asset Value of any property (other than money) contributed to the Company with respect to the interest in the Company held by such Member or Assignee, adjusted for any liabilities transferred to the Company pursuant to the Contribution Agreement.

“Code” means the Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of succeeding law).

“Company Minimum Gain” has the meaning set forth in Sections 1.704-2(b)(2) and 1.704-2(d) of the Regulations substituting the term “company” for the term “partnership” whenever the context requires.

“Depreciation” means, for each fiscal year or other period, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable under the Code with respect to an asset for such year or other period, except that if the Gross

Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period. Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; provided, however, that if the federal income tax depreciation, amortization or other cost recovery deduction for such year is zero.

Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Members.

“Gross Asset Value” means, with respect to any asset, the asset’s adjusted basis for federal income tax purposes, except as follows:

(a) The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset, as determined by the contributing Member and the Company;

(b) The Gross Asset Values of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Managers, as of the following times: (i) the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a *de minimis* Capital Contribution; (ii) the distribution by the Company to a Member or Assignee of more than a *de minimis* amount of assets as consideration for an interest in the Company; and (iii) the liquidation of the Company within the meaning of Regulations 1.704-1(b)(2)(ii)(g); provided, however, that the adjustments pursuant to clauses (i) and (ii) above shall be made only if the Managers reasonably determine(s) that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members and Assignees in the Company;

(c) The Gross Asset Value of any Company asset distributed to any Member or Assignee shall be the gross fair market value of such asset on the date of distribution; and

(d) The Gross Asset Value of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulation 1.704-1(b)(2)(iv)(m) and Section (b)(vi) of this Appendix “B”; provided, however, that Gross Asset Values shall not be adjusted pursuant to this subsection (d) to the extent the Managers determine(s) that an adjustment pursuant to subsection (b) is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subsection (d). If the Gross Asset Value of an asset has been determined or adjusted pursuant to subsections (a), (b) or (d) hereof, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

“Member Nonrecourse Debt” has the meaning set forth in Sections 1.704-2(I)(1) and 1.704-2(I)(2) of the Regulations substituting the term “member” for the term “partner” whenever the context requires.

“Member Nonrecourse Debt Minimum Gain” means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Section 1.704-2(i)(3) of the Regulations substituting the term “member” for the term “partner” whenever the context requires.

“Member Nonrecourse Deductions” has the meaning set forth in Sections 1.704-2(i)(1) and 1.704-2(i)(2) of the Regulations.

“Nonrecourse Deductions” has the meaning set forth in Section 1.704-2(b)(1) of the Regulations substituting the term “member” for the term “partner” whenever the context requires.

“Nonrecourse Liability” has the meaning set forth in Section 1.704-2(b)(3) of the Regulations.

“Regulations” means the Income Tax Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

(b) **Special Allocations: Items in the Nature of Income or Gain.**

(i) In the event any Member (or Assignee) unexpectedly receives any adjustments, allocations or distributions described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), or 1.704-1(b)(2)(ii)(d)(6) of the Regulations, items of Company income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate the Adjusted Capital Account Deficit of such Member as quickly as possible; provided, however, that an allocation pursuant to this Section (b)(i) shall be made if and only to the extent that such Member (or Assignee) would have an Adjusted Capital Account Deficit after all other allocations provided for in Section 4 and this Appendix “B” have been tentatively made as if this Section (b)(i) of this Appendix “B” were not in this Agreement.

(ii) Except as provided in Section (b)(iii) hereof, in the event any Member (or Assignee) has a deficit Capital Account at the end of any fiscal year

which is in excess of the sum of (A) the amount such Member is obligated to restore and (B) the amount such Member is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(I)(5), each such Member (or Assignee) shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible; provided, however, that an allocation pursuant to this Section (b)(ii) shall be made if and only to the extent that such Member or Assignee would have a deficit Capital Account in excess of such sum after all other allocations provided for in Section 4 and this Appendix “B” have been tentatively made as if Section (b)(i) and this Section (b)(ii) were not in this Agreement.

(iii) Except as otherwise provided in Section 1.704-2(f) of the Regulations and notwithstanding any other provision of Section 4 and this Appendix “B,” if there is a net decrease in Company Minimum Gain during any Company fiscal year, each Member and Assignee shall be specially allocated items of Company income and gain for such year (and, if necessary, subsequent years) in an amount equal to the portion of such Person’s share of the net decrease in Company Minimum Gain, determined in accordance with Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member and Assignee pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(f)(6) and 1.704-2(j)(2) of the Regulations. This Section (b)(iii) is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(f) of the Regulations and shall be interpreted consistently therewith.

(iv) Except as otherwise provided in Section 1.704-2(I)(4) of the Regulations and notwithstanding any other provision of Section 4 and this Appendix

“B” except Section (b)(iii) above, if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any Company fiscal year, each Person who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Section 1.704-2(I)(5) of the Regulations, shall be specially allocated items of Company income and gain for such year (and, if necessary, subsequent years) in an amount equal to the portion of such Person’s share of the net decrease in Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(I)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member and Assignee pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(I)(4) and 1.704-2(j)(2) of the Regulations. This Section (b)(iv) is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(I)(4) of the Regulations and shall be interpreted consistently therewith.

(v) Any Member Nonrecourse Deductions for any fiscal year or other period shall be specially allocated to the Member or Assignee who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(I)(1).

(vi) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Sections 734(b) or Section 743(b) of the Code is required to be taken into account in determining Capital Accounts as the result of a distribution to a Member (or Assignee) in complete liquidation of his interest in the Company, the amount

of such adjustment to Capital Accounts shall be treated as an item of gain (if such adjustment increases the basis of the assets) or loss (if such adjustment decreases such basis) and such gain or loss shall be specifically allocated to the Members in accordance with their interests in the Company in the event Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies or to the Members to whom such distribution was made in the event Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

(vii) Nonrecourse Deductions for any fiscal year or other period shall be specifically allocated to the Members (or Assignees) in proportion to their respective Membership Percentages.

(c) **Curative Allocations**. The allocations set forth in Sections (b)(i) through (b)(vii) hereof (the “Regulatory Allocations”) are intended to comply with certain requirements of the Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss or deductions pursuant to this Section (c). Therefore, notwithstanding any other provisions of Section 4 and this Appendix “B” (other than the Regulatory Allocations) the Managers shall make such offsetting special allocations of Company income, gain, loss or deduction in whatever manner they determine appropriate so that after such offsetting allocations are made, each Member’s Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of the Agreement and all Company items were allocated pursuant to Section 4. In exercising their discretion under this Section (c) of this Appendix “B” the Managers shall take into account future Regulatory Allocations under Sections (b)(iii) and (b)(iv)

that, although not yet made, are likely to offset other Regulatory Allocations previously made under Section (b)(v) and (b)(vii).

(d) **Other Allocations Rules.**

(i) For purposes of determining the Profits, Losses or any other items allocable to any period, Profits, Losses and any such other items shall be determined on a daily, monthly or other basis, as determined by the Managers using any permissible method under Code Section 706 and the Regulations thereunder.

(ii) Except as otherwise provided in this Agreement, all items of income, gain, loss, deduction and any other allocations not otherwise provided for shall be divided among the Members in the same proportions as they share Profits and Losses, as the case may be, for the year.

(iii) The Members are aware of the income tax consequences of the allocations made by Section 4 and this Appendix “B” and hereby agree to be bound by the provisions of Section 4 and this Appendix “B” in reporting their shares of income and loss for income tax purposes.

(iv) Solely for purposes of determining a Member’s proportionate share of the “excess nonrecourse liabilities” of the Company within the meaning of Regulations Section 1.752-3(a)(3), the Members’ interests in Company Profits shall be deemed equal to their Membership Percentages.

(v) To the extent permitted by Section 1.704-2(h)(3) of the Regulations, the Managers shall endeavor to treat distributions of Net Available Cash as having been made from the proceeds of a Nonrecourse Liability or a Member Nonrecourse

Debt only to the extent that such distributions would cause or increase an Adjusted Capital Account Deficit for any Members (or Assignee).

(e) **Tax Allocations: Code Section 704(c)**. In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial Gross Asset Value.

In the event the Gross Asset Value of any asset is adjusted pursuant to the provisions of this Appendix “B” hereof dealing with the definition of Gross Asset Value, subsequent allocations of income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder.

Any election or other decisions relating to such allocations shall be made by the Managers in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section (e) are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Person’s Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provision of this Agreement.

Exhibit 3.3(c)(1)
Restated Certificate of Incorporation of the Faxton Foundation

**RESTATED CERTIFICATE OF INCORPORATION
OF
FAXTON-ST. LUKE'S HEALTHCARE FOUNDATION**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

We, the undersigned, being respectively the President and Secretary of Faxton-St. Luke's Healthcare Foundation, certify:

1. The name of the corporation is: **Faxton-St. Luke's Healthcare Foundation.** The Corporation was originally formed under the name of St. Luke's-Memorial Hospital Center Foundation.

2. The corporation's Certificate of Incorporation was filed by the Department of State on the 8th day of December 1989, pursuant to the Not-for-Profit Corporation Law. A restated Certificate of Incorporation was filed with the Department of State on the 23rd day of December, 1999.

3. The corporation's Certificate of Incorporation, as previously filed, is hereby further amended to effectuate the following:

A. To add Faxton-St. Luke's Healthcare (as successor in interest by consolidation to Faxton Hospital and St. Luke's-Memorial Hospital Center), as a named beneficiary of the Corporation's funds and activities as provided in Paragraph "THIRD" of the Restated Certificate of Incorporation;

B. To add Faxton-St. Luke's Healthcare as a named distributee of the Corporation's assets upon dissolution, as provided in paragraph "SEVENTH" of the Restated Certificate of Incorporation.

C. To change the address for service of process of the Corporation as provided in Paragraph "TWELFTH" of the Restated Certificate of Incorporation.

4. The text of the Certificate of Incorporation, as amended, is hereby restated to read as herein set forth in full:

FIRST: The name of the corporation is: FAXTON-ST. LUKE'S HEALTHCARE FOUNDATION (herein, the "Corporation").

SECOND: The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law of the State of New York and is a Type B corporation under Section 201 of the said Law.

THIRD: The purposes for which the Corporation is formed are exclusively charitable, education and scientific in nature, to wit:

A. To solicit, receive and maintain a fund of real or personal property, or both, exclusively for the benefit of Faxton-St. Luke's Healthcare ("Faxton"), a New York State Not-for-Profit Corporation which is exempt from Federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, as amended, and the St. Lukes Home Residential Health Care Facility, Inc. (the Home), a New York State Not-for-Profit Corporation which is exempt from Federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, as amended; and

B. To maintain, use and apply this fund of property and the income therefrom exclusively for the benefit of Faxton and the Home.

FOURTH: In furtherance of the foregoing purposes, the Corporation shall have all of the general powers enumerated in Section 202 of the Not-for-Profit Corporation Law. The Corporation shall have the right to exercise such other powers as now are, or hereafter may be, conferred by law upon a corporation organized for the purposes hereinabove set forth or necessary or incidental to the powers so conferred, or conducive to the furtherance thereof, subject to the limitation and condition that, notwithstanding any provision of this paragraph, FOURTH, the Corporation shall not have the power to carry on any activity or do any act which is not in furtherance of the purpose of benefiting Faxton or the Home, and which is not permitted to be carried on or done by a corporation exempt from Federal income taxation under Section 501 (c)(3) of the Internal Revenue Code of 1954, as amended, or the corresponding provision of any future United States Internal Revenue Law (hereinafter referred to as the "Code").

FIFTH: No part of the activities of the Corporation shall include carrying on propaganda, or otherwise attempting to influence legislation or participating in or intervening in (including the publication or distribution of statements) any campaign on behalf of any candidate for public office.

SIXTH: No part of the net earnings of the Corporation shall inure to the benefit of any member, trustee, director or officer of the Corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation).

SEVENTH: In the event of dissolution, all of the remaining assets and property of the Corporation shall, after payment of necessary expenses, be distributed to Faxton and/or the Home if at that time they qualify as exempt organizations under Code Section 501(c)(3), or corresponding provisions of any subsequent Federal tax laws, or if Faxton and/or the Home do not qualify, to another corporation exempt under Code Section 501(c)(3), or corresponding provisions of any subsequent Federal tax laws, or to the federal, state or local government for a public purpose, subject to the approval of a Justice of the Supreme Court of the State of New York. Any assets raised specifically for the benefit of any of these entities shall, upon dissolution, be distributed to that entity.

EIGHTH: In any taxable year in which the Corporation is a private foundation as described in Code Section 509(a), the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under Code Section 4942, and the Corporation shall not (A) engage in any act of self-dealing as defined in Code Section

4941(d); (B) retain any excess business holdings as defined in Code Section 4943(c); (C) made any investments in such manner as to subject to Corporation to tax under Code Section 5944; or (D) made any taxable expenditures as defined in Code Section 4945(d) or corresponding provisions of any subsequent Federal tax laws.

NINTH: Nothing contained herein shall authorize the Corporation to establish or operate a hospital or to provide hospital services or health-related service or to operate a certified home health agency, a hospice or a health maintenance organization or to provide a comprehensive health services plan as defined in Articles 28, 36, 40 and 44, respectively of the Public Health Law.

TENTH: The office of the Corporation is to be in the County of Oneida, State of New York.

ELEVENTH: The territory in which the Corporation's activities are principally to be conducted is in Oneida County, New York.

TWELFTH: The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is: **1676 Sunset Avenue, Utica, NY 13502.**

5. This Restated Certificate of Incorporation, and the foregoing amendments of the Certificate of Incorporation, were authorized by a unanimous vote of all the Members of the Corporation in accordance with the provisions of the New York State Not-for-Profit Corporation Law.

IN WITNESS WHEREOF, the undersigned have subscribed this Restated Certificate of Incorporation this ____ day of October, 2013, and hereby affirm that the statements contained herein are true under the penalties of perjury.

**FAXTON-ST. LUKE'S HEALTHCARE
FOUNDATION**

Robert Lewis, President

Donald Edmunds, Secretary

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

Robert Lewis, being duly sworn, deposes and says, that he is the President of FAXTON-ST. LUKE'S HEALTHCARE FOUNDATION, the Corporation described in the foregoing Certificate; that a meeting of the Members of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the Members constituting a quorum were present in person at said meeting; and that at said meeting the Members authorized your deponent to execute and file the foregoing Certificate by unanimous vote.

Robert Lewis

Sworn to before me this
___ day of October, 2013

NOTARY PUBLIC – State of New York
Appointed in _____ County
My commission expires: ___/___/___

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

Donald Edmunds, being duly sworn, deposes and says, that he is the Secretary of FAXTON-ST. LUKE’S HEALTHCARE FOUNDATION, the Corporation described in the foregoing Certificate; that a meeting of the Members of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the Members constituting a quorum were present in person at said meeting; and that at said meeting the Members authorized your deponent to execute and file the foregoing Certificate by unanimous vote.

Donald Edmunds

Sworn to before me this
___ day of October, 2013

NOTARY PUBLIC – State of New York
Appointed in _____ County
My commission expires: ___/___/___

Exhibit 3.3(c)(2)
Restated Bylaws of the Faxton Foundation

BY-LAWS
FAXTON-ST. LUKE'S HEALTHCARE FOUNDATION

ARTICLE I
NAME

The name of the Corporation is *Faxton-St. Luke's Healthcare Foundation*, hereinafter referred to as the "*Foundation*."

ARTICLE II
PURPOSES

The purposes for which the Foundation is formed are exclusively charitable, educational, and scientific in nature, to wit:

a. to solicit, receive and maintain funds, real or personal property for the benefit of Faxton - St. Luke's Healthcare ("Healthcare"), a New York State not-for-profit hospital corporation which is exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, as amended; and the St. Lukes Home Residential Health Care Facility, Inc. (the "Home"), a New York State not-for-profit corporation which is exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code; and

b. to maintain, use and apply these funds and property, and the income therefrom, exclusively for the benefit of Healthcare and the Home.

c. any funds or real or personal property raised for the specific benefit of Healthcare or the Home shall at all times be exclusively used for the benefit of such entity.

d. such other and further general powers as are enumerated in Section 202 of the Not-For-Profit Corporation Law.

ARTICLE III
MEMBERSHIP

Section 1. - Members.

Faxton-St. Luke's Healthcare shall be the sole Member of this Foundation.

Section 2. - Annual Meeting.

The Annual Meeting of the Member of the Foundation shall be held in April or May of each year at such place in Oneida County as may be designated by the President of the Board.

Section 3. - Notice of the Annual Meeting.

Notice of the time, date and place of the Annual Meeting of the Member shall be served either personally or by first class mail on the Member of the Foundation not less than ten (10) days nor more than thirty (30) days before the meeting, and if served by mail, shall be addressed to the Member at the Member's address as it appears on the records of the Foundation.

Section 4. - Special Meeting.

A Special Meeting of the Member of the Foundation may be held from time to time as necessary at such place in Oneida County as may be designated by the Chairperson of the Member.

Section 5. - Notice of Special Meetings of Foundation.

Notice of the time, date, place and purpose of Special Meetings of the Member shall be served personally or by first class mail, facsimile or, where authorized by the Member, by e-mail or other communication device, not less than three (3) days nor more than thirty (30) days before the meetings, and if served by mail, shall be addressed to the Member at the Member's address as it appears on the records of the Foundation. The notice shall also indicate by whom it is issued or at whose direction.

Section 6. - Quorum.

At all Annual and Special Meetings of the Member there shall be present in person at least a majority of the Board of Directors of the Member of the Foundation, entitled to vote at such meeting in order to constitute a quorum for the transaction of business, but less than a quorum may adjourn a meeting from time to time without notice until a quorum is present.

Section 7. - Vote.

At any meeting of the Member, the vote of a majority of the Directors present at the time of the vote, if a quorum is present at that time, shall be the act of the Member.

Section 8. - Presence at Meetings.

Any one or more individuals on the Board of Directors of the Member may participate in a meeting of the Member by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

Section 9. - Written Action.

Any action required or permitted to be taken by the Member under any provision of law, the Articles of Incorporation, or these By-Laws may be taken without a meeting by the unanimous written consent of the Board of Directors of the Member, setting forth the action so taken. Such written consent shall be filed with the proceedings of the members. Such action by written consent shall have the same force and effect as a vote of the Member taken at a meeting.

ARTICLE IV **BOARD OF DIRECTORS**

Section 1. - Number.

The Board of Directors shall consist of the President of Healthcare, and not less than three (3) additional Directors (“*Elected Directors*”). The Board of Directors of the Foundation shall hereinafter be referred to as the “Board.”

Section 2. - Term.

- a. Healthcare President

At such time that the President of Healthcare no longer holds that office, then his or her membership on the Board shall cease immediately and his or her successor shall become immediately, without vote or appointment, a Director of this Foundation.

- b. Elected Directors.

The Elected Directors shall be divided into three classes of approximately equal size. The term of office of the first class shall expire at the First Annual Meeting of the Foundation after their election, the term of the second class shall expire at the second succeeding Annual Meeting, and the third class at the third succeeding Annual Meeting. At each Annual Meeting after the election of the first classified board, Elected Directors shall be elected for a term of three years to replace those whose terms shall expire. No Elected Director shall serve more than three consecutive terms of three years..

Section 3. - Election of Elected Directors.

Elected Directors of the Foundation shall be elected at the Annual Meeting of the Member.

Section 4. - Vacancies.

Newly created Directorships resulting from an increase in the number of Elected Directors and vacancies among the Elected Directors for any reason, shall be elected at any meeting properly called and convened by the Member.

Section 5. - Powers and Duties.

The Board shall have charge, control, and management of the property, funds, and affairs of the Foundation and shall be responsible for the establishment of its policies and the management and operation of the Foundation.

Section 6. - Dismissal.

Any Elected Director of the corporation may be removed, with or without cause, at any meeting of the Members by an affirmative vote of two-thirds of the Board of Directors of the Member present at the meeting, if a quorum is present at the time of the vote.

Section 7. - Annual Meeting of the Board.

The Annual Meeting of the Board shall be held in April or May of each year following the Annual Meeting of the Member of the Foundation.

Section 8. - Regular Meetings of the Board.

The Board shall hold at least eight (8) regular meetings annually. All regular meetings of the Board shall be held at the office of the Foundation or such other place in the County of Oneida as may be designated by the President of the Board.

Section 9. - Special Meetings of the Board.

A Special Meeting of the Board may be called as necessary from time to time by the President of the Board or by a majority of the Directors of the Foundation to be held at the Office of the Foundation or such other place within the County of Oneida as may be designated by the caller(s) of the meeting.

Section 10. - Notice of Meetings of the Board.

Notice of the time, date and place of the annual and regular meetings of the Board shall be served by first class mail, facsimile, e-mail, or other communication device at least ten (10) days nor more than thirty (30) days before the date of such meeting, and in the case of special meetings not less than three (3) days, and shall be addressed to the Director at the Director's address as it appears on the records of the Foundation.

Section 11. - Quorum.

At any meeting of the Board there shall be at least ten (10) members present in person entitled to vote at such meeting to constitute a quorum for the transaction of business, but less than a quorum may adjourn such meeting from time to time without notice until a quorum is present.

Section 12. - Vote.

The vote of a majority of the Directors present at the time of the vote, if a quorum is present at such time, shall be the act of the Board.

Section 13. - Presence at Meetings.

Any one or more members of the Board, or any Committee thereof, may participate in a meeting of the Board or such Committee by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

Section 14. - Attendance at Meetings.

The Board shall establish requirements for attendance by Directors at meetings of the Board and Board Committees. Failure, without good cause, to satisfy those requirements shall be grounds for removal from the Board, or the Committee, or both.

ARTICLE V
OFFICERS OF THE BOARD

Section 1. - Officers.

The Board shall have a President, a Vice President, a Secretary and a Treasurer.

Section 2. - Term.

All Officers shall be chosen at the Annual Meeting of the Board. Each Officer shall hold office until the next Annual Meeting or until his or her successor shall have been duly elected and qualified. Any vacancy in any of the Offices may be filled for the unexpired portion of the term by the Board at any Regular or Special Meeting.

Section 3. - President of the Board.

The President of the Board shall be the Chief Executive Officer of the Foundation and shall preside at all meetings of the Board, and shall be an ex officio member of all committees. He or she shall have general management authority over the affairs of the Foundation and shall also perform all other acts and duties incidental to the office.

Section 4. - Vice-President .

In the absence or inability to act of the President of the Board, or if the office of President of the Board is vacant, the Vice-President may exercise all the power of the President of the Board.

Section 5. - Secretary.

The Secretary shall be responsible for keeping the Minutes of the Member and the Board. He or she shall be responsible for the giving and serving of all notices of meetings of the Member and the Board. He or she shall be the custodian of the Foundation records and of the Corporate Seal of the Foundation, and shall see that the Corporate Seal is affixed to all documents, execution of which, on behalf of the Foundation under its Seal, is duly authorized, and when so affixed may attest the same. He or she shall also perform all other acts and duties usually incident to the office of the Secretary and such other duties as may, from time to time, be assigned by the Board.

Section 6. - Treasurer.

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Foundation, except as expressly provided otherwise, and shall deposit and invest the same or cause the same to be deposited and invested in the name of the Foundation as directed by the Board. He or she shall keep or cause to be kept, full and accurate accounts of all receipts and disbursements of the Foundation and whenever required by the Board, he or she shall render, or cause to be rendered, financial statements of the Foundation. He or she shall also perform all such other acts or duties usually incident to the Office of the Treasurer and such other duties as may from time to time be assigned by the Board.

Section 7. - Bonds.

The Board shall have power to require any officer or employee of the Foundation to give bond for the faithful discharge of his or her duties in such form and with such surety as the Board may deem advisable.

Section 8. - Dismissal.

Any Officer of the Foundation may be removed with or without cause at any Regular or Special Meeting of the Board.

ARTICLE VI
COMMITTEES OF THE BOARD OF DIRECTORS

Section 1. - Structure.

There shall be five (5) standing committees of the Board: Executive Committee, Finance Committee, Annual Giving Committee, Planned Giving Committee, and Nominating Committee. The Board may, by resolution, create such other standing or special committees as it shall, from time to time, deem appropriate. Any Committee may, by resolution, create such subcommittees as it shall, from time to time, deem appropriate.

Section 2. - Powers.

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted in these By-Laws, or in a resolution adopted by the full Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Unless powers have been delegated by the Board, actions and recommendations of a Committee shall be subject to Board approval.

Section 3. - Committee Members.

a. Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected., unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.

b. Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation shall take effect on the date of receipt, or at such later time as may be specified therein.

c. Removal. Any member of a Board Committee may be removed at any time by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.

d. Vacancies. Any vacancy on any Board Committee resulting from resignation, removal, or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the President of the Board, subject to the approval of the Board.

Section 4. - Advisors/Ex Officio Members.

The Chairperson of any Board Committee may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee either as advisors or ex officio members of the Committee. Such advisors and/or ex officio members shall not vote or be counted in determining the existence of a quorum and may be excluded from any Executive session of the Committee by a majority vote of the Committee members present. Advisors and ex officio members need not be Directors of the Foundation.

Section 5. - Manner of Action.

a. Meetings. Each Committee shall meet as provided for in these By-Laws and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the President of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

b. Agenda/Minutes. There shall be an agenda prepared for Committee meetings, and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

c. Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

d. Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action with the relevant Minutes of the Committee.

e. Conference Telephone. Any one or members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

Section 6. - Executive Committee.

a. Composition. The Executive Committee shall be composed of the President, Vice President, Secretary, Treasurer and such additional voting Directors as shall be selected by the President of the Board.

b. Functions. When the Board is not in session the Executive Committee shall have and exercise the powers and authorities of the Board to transact all regular business of the Foundation, subject to any prior limitations imposed by the Board, these By-Laws, or statute. The Executive Committee shall review the activities of the other Board Committees and shall review future programs and activities of the Foundation.

c. Meetings. The Executive Committee shall meet as necessary to conduct the business of the Foundation while the full Board is not in session.

Section 7. - Finance Committee.

a. Composition. The Finance Committee shall consist of the Treasurer of the Foundation, as Committee Chairperson, the President, and at least five (5) voting Directors. The Senior Vice President/Finance of the Member shall serve as an advisor to the Committee.

b. Functions. The Finance Committee shall be responsible for monitoring the financial operations of the Foundation which shall include the establishment of an income budget, the review of expenditures, and performance of such other financial duties/responsibilities as may be directed by the Foundation Board. The Committee shall prepare and submit financial reports to the Board and Finance Committee of Healthcare and Mohawk Valley Health System as requested.

c. Meetings. The Finance Committee shall meet as needed, but not less than two (2) times per year.

Section 8. - Annual Giving Committee.

a. Composition. The Annual Giving Committee shall consist of not less than five (5) voting members of the Board of Directors.

b. Functions. The Annual Giving Committee shall be responsible for generating funds for the Foundation through individual and corporate contributions.

c. Meetings. The Annual Giving Committee shall meet as needed, but not less than two (2) times per year.

Section 9. - Planned Giving Committee.

a. Composition. The Planned Giving Committee shall consist of not less than five (5) Directors.

b. Function. The Planned Giving Committee is responsible for working with potential donors who wish to make major gifts or planned gifts to the Foundation.

c. Meetings. The Planned Giving Committee shall meet as needed, but not less than two (2) times per year.

Section 10. - Nominating Committee.

a. Composition. The Nominating Committee shall consist of not less than five (5) members of the Board of Directors as appointed by the President of the Board.

b. Functions. The Nominating Committee shall receive the names of potential candidates for membership on the Board, review such nominations and, if approved, forward the names to the President of the Board for submission to the Member. The Nominating Committee shall also be responsible for submitting a recommended slate of officers for election at the Annual Meeting. The Nominating Committee shall also be responsible for monitoring the attendance records of Foundation Board Members.

c. Meetings. The Nominating Committee shall meet as necessary to perform its functions.

ARTICLE VII

INDEMNIFICATION AND INSURANCE

Section 1. - Indemnification.

It is expressly provided that any and every person or his or her estate that has made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal, by reason of the fact that he or she is or was a Director or officer of this Foundation, or served such other corporation in any capacity at the request of this Foundation, will be completely indemnified by the Foundation to the full extent permitted by law. If permitted by law, this indemnification shall include, but shall not be limited to, the payment of one or more of the following: judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeal therein.

Section 2. - Insurance.

The Foundation may purchase and maintain insurance to completely and fully indemnify any and every such person, whether or not this Foundation has the power to indemnify him or her against such liability under the laws of this or any other State.

ARTICLE VIII

CONFLICT OF INTEREST

Section 1. - Policy.

Any Director, officer, key employee or Committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a Committee thereof for deliberation, authorization, approval, or ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or Committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Foundation's interests.

Section 2. - Effect.

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions contained in any Board approved conflicts of interest policy, or these By-Laws, may be observed, if so, such person shall not vote, nor use his or her personal influence on, nor participate (other than by presenting factual information or responding to questions) in the discussions or deliberations with respect to such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The Minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

Section 3. - Conflict of Interest Policy.

The Board may adopt a formal Conflict of Interest Policy requiring disclosure of potential or existing conflicts of interest, mechanisms for addressing actual and potential conflicts of interest, and corrective and disciplinary action with respect to transgressions of such policies.

ARTICLE IX
AMENDMENTS TO BY-LAWS

The Bylaws may only be amended or repealed by an affirmative vote of the majority of the Board of Directors of the Member provided the proposed amendment shall have been set forth in the notice calling the meeting. The Board of Directors of the Foundation may recommend amendments to the Member, but shall not have the power to amend or repeal these Bylaws.

Certificate of Need Project Narrative

Purpose

This Certificate of Need (“CON”) application describes the transition of Mohawk Valley Network, Inc. (“MVN”) from a passive parent to an active parent renamed the Mohawk Valley Health System (“MVHS”). Along with the transition from passive parent to active parent of Faxton-St. Luke’s Healthcare (“FSL”), the transaction will include the movement of St. Elizabeth Medical Center (“SEMC”) under the parent and the addition of St. Lukes Home Residential Health Care Facility, Inc. (“SLH”), a current affiliate of MVN. MVHS will also serve as the active parent of Visiting Nurse Association of Utica and Oneida County, Inc. (“VNA”), Mohawk Valley Home Care, LLC (“MVHC”) and Senior Network Health, LLC (“SNH”). MVN is currently the sole member of each of these entities.

Support for this transaction has been documented by the New York State Commissioner of Health Dr. Nirav R. Shah; HealtheConnections, an affiliation of the Central New York Health Systems Agency and the Health Advancement Collaborative of Central New York; Fidelis Care; and the Mohawk Valley Chamber of Commerce. (Letters of support are provided as Attachments 1E, 1F, 1G, and 1H.)

Participating Entities and Service Description

FSL is a not-for-profit hospital with 370 licensed acute care beds spanning two campuses with the same Permanent Facility Indicator (“PFI”) code. FSL’s mission is to provide the highest quality healthcare in our region, and its vision is to be the premier healthcare system in upstate New York known for clinical excellence through exceptional employees, medical staff, volunteers, relationship-based care, and financial strength.

The Faxton campus houses the Regional Dialysis Center, Cancer Center and Faxton Urgent Care, among other outpatient services. The St. Luke’s campus is home to the Mohawk Valley Vascular Center, surgical and ambulatory services, women and children’s services, total joint program, bariatric surgery, inpatient rehabilitation, and a New York State designated primary stroke center. FSL operates eight primary care offices throughout the region, including Barneveld, Boonville, Herkimer, two locations in New Hartford, North Utica, Waterville and Whitesboro, New York. The primary care network consists of approximately 40 providers, about half of whom are physicians. FSL has approximately 2,950 employees and also operates a dental residency program.

Certificate of Need Project Narrative

The St. Elizabeth Medical Center is a not-for-profit acute care facility in Utica, New York. The SEMC mission statement reads:

The SEMC Community, inspired by St. Francis of Assisi and faithful to the teachings of the Roman Catholic Church, is committed to excellence in healthcare and education. SEMC pledges to do this with compassion and respect for the dignity of all.

The vision of SEMC is to offer the highest quality comprehensive health care services to the greater Utica area as a Catholic Community Hospital; provide access to primary and ambulatory care services through a network of community health care centers; service the region as a referral center of excellence in selected specialties and as a major provider of education in healthcare professions; respond to the needs of our patients, staff, physicians and community, and meet their expectations by continuously improving the quality of our services; and, achieve these goals in a cost-effective manner.

SEMC is sponsored by Partners in Franciscan Ministries, Inc. ("PFM"). PFM is a not-for-profit, charitable, tax-exempt corporation sponsored by the Congregation of the Sisters of St. Francis of the Neumann Communities in Syracuse ("SOSF"). Both PFM and SOSF are affiliated with the Roman Catholic Church. SEMC is certified to operate 201 beds and a wide variety of inpatient services, including medical, surgical and psychiatric inpatient services. SEMC is the only New York State designated Level II Trauma Center in the community and among other services, provides cardiac surgery, cardiac catheterization, coronary, and electrophysiology testing and procedures. SEMC offers outpatient general diagnostic, ambulatory care, physical therapy, and emergency care services. In addition, SEMC provides community-based services at 15 certified hospital extension clinics, including 14 offering primary care.

SEMC's Medical Group has offices in Clinton, New Hartford, Old Forge, Little Falls, Mohawk, Sauquoit, Waterville, and numerous sites in the city of Utica, including East Utica, the Children's Health Center, the Sister Rose Vincent Family Medicine Center, North Utica, school-based Health Center at Kernan Elementary School, South Utica, and the Women's Health Center. SEMC also provides home care, health support services, and sleep disorders services. SEMC's newest facility at St. Elizabeth Medical Arts in New Hartford houses advanced wound care, sports medicine, primary care, radiology, and physical therapy practices.

Certificate of Need Project Narrative

In addition, SEMC provides important educational programs. SEMC's College of Nursing, Family Medicine Residency Program, Fellowship in Minimally Invasive Gynecologic Surgery, and Fellowship in Hospital Medicine programs are vital programs to the future of healthcare in Utica and the surrounding region. These programs educate and train nurses and physicians who eventually work in Utica and its surrounding communities. Since the Family Medicine Residency program began, 229 physicians have completed the program. Of those 229 physicians, nearly half have settled in upstate New York.

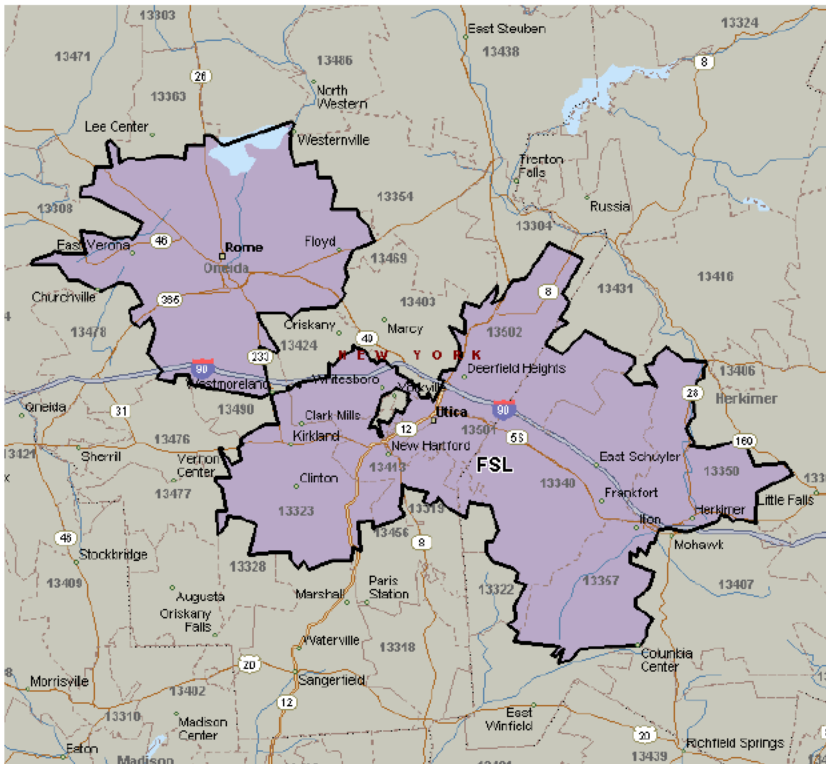
Service Area Description

The service area for the proposed MVHS includes a total of 38 ZIP Codes in Oneida and Herkimer Counties. The hospitals received 95 percent of all of their inpatient admissions from 30 of those ZIP Codes, which are listed below. The ZIP Codes below are shown in the maps on that follow.

- Blossvale
- Booneville
- Camden
- Cassville
- Chadwicks
- Clinton
- Coldbrook
- Dolgeville
- Forestport
- Frankfort
- Herkimer
- Holland Patent
- Ilion
- Little Falls
- Marcy
- Mohawk
- New Hartford
- New York Mills
- Newport
- Oneida
- Oriskany
- Remsen
- Rome
- Sauquoit
- Utica
- Vernon
- Waterville
- West Winfield
- Westmoreland
- Whitesboro

Certificate of Need Project Narrative

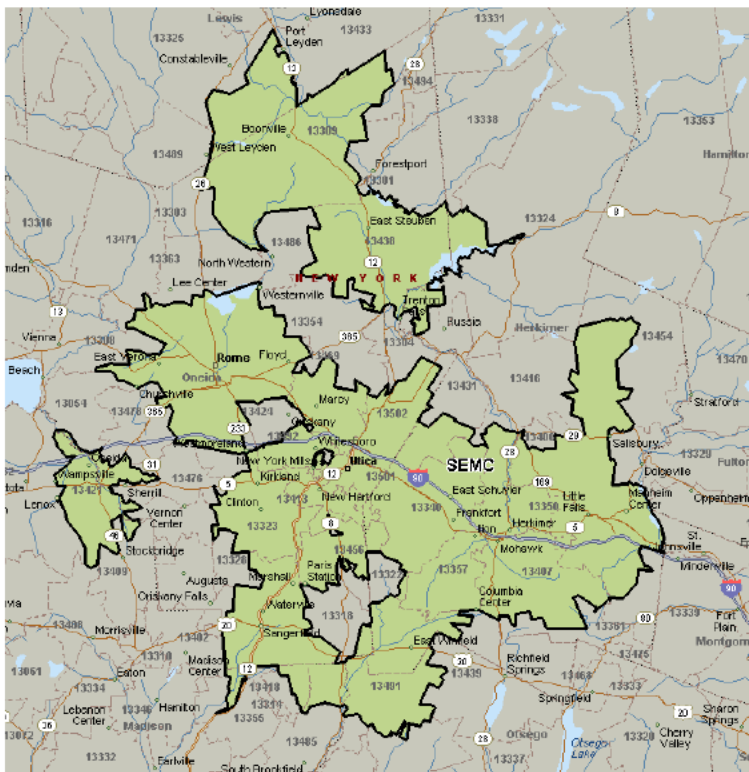
FSL's Top 75 Percent of Service Area (Eight ZIP Codes)



- FSL receives 75 percent of its volume from eight ZIP Codes across seven communities.
- These communities are also the deepest concentration of SEMC patients, representing approximately 63 percent of SEMC's total volume.

SOURCE: https://sharepoint.thecamden.com/Clients/Harris_Beach/Strat_Plan_Development_2012/Client_Deliverables/Board_Work_Group_Meetings/Camden_FSL_SEMC_BOARD_Discussion_06_19_2012.pptx

SEMC's 75 Percent of Service Area (18 ZIP Codes)



- SEMC draws from a wider region, with a lower concentration of patients in each area.
- Aside from the seven communities also covered by FSL, SEMC does not draw greater than two percent of its total volume from any single town or ZIP Code.

SOURCE: https://sharepoint.thecamden.com/Clients/Harris_Beach/Strat_Plan_Development_2012/Client_Deliverables/Board_Work_Group_Meetings/Camden_FSL_SEMC_BOARD_Discussion_06_19_2012.pptx

Certificate of Need Project Narrative

Population to be Served

Herkimer and Oneida counties have demographic trends challenging to both MVN and SEMC. According to U.S. Census data, both counties are experiencing the so-called "graying" phenomenon affecting the country, but at a higher rate than much of the country. The 85 and over age group has been the fastest growing age group in these two counties since 2000, with an eight percent increase in Herkimer County and a 22 percent increase in Oneida County.

Further, as the table below indicates, the poverty rates in Herkimer and Oneida Counties are also higher than state and the national averages:

	Herkimer	Oneida	New York State	United States
Poverty Rate	12%	15%	10%	13%

Rome and Utica, the two largest cities within the service area, exhibit stark estimated rates of poverty, with Utica having an estimated poverty rate of 28 percent and Rome having an estimated poverty rate of 17 percent. When compared to state averages, child poverty rates in Oneida County are particularly high.

These factors are compounded by Utica's very significant refugee population. Utica's refugees originate from numerous different countries speaking many different languages. Utica has one of the highest per capita refugee populations in the nation, with almost 24 percent of the population being a refugee.¹ Unlike some communities that have a refugee population from one country or region that all arrived over a decade ago, Utica's population comes from at least 33 different countries and is continuing to grow. Of the almost 15,000 local refugees, about 3,400 new refugees have arrived in Utica since 2004, with about 2,700 coming from Myanmar. Utica also has sizable refugee communities from Bhutan, Iraq, Somalia, Ukraine, and Sudan. The per capita number of refugees in Utica is significantly higher than other upstate New York communities.

FSL and SEMC both see a disproportionate percentage of these refugee and immigrant patients.² Such a concentrated refugee population causes two difficult challenges.

¹ Utica's population based on the 2010 census is about 62,000 and there are almost 15,000 refugees in Utica, which is almost 24%. See US Census Bureau, "State and County Quick Facts" available at <http://quickfacts.census.gov/qfacts/st36/3676540.html>. See "Refugee Arrivals — YTD" provided by Mohawk Valley Resource Center for Refugees.

² "Six Continents, One Hometown: Public Opinion On Refugee Resettlement in Utica," Zogby Analytics, April 1, 2013. The study reports that the local population has "declined and stagnated" but the "core city's population has actually increased." The study implies this growth is due to the refugee population.

Certificate of Need Project Narrative

One challenge is that hospitals and doctors must supply translation services for the patients. The cost for providing translation services is between \$35 and \$50 per hour. The reimbursement provided for translation services is \$11. Many private physician offices refuse to treat refugees. As a result, often the hospital-employed physicians and/or hospital emergency rooms are left to treat the refugee population and the hospitals must cover the difference between cost of translation services and the reimbursement received for providing those services. The other challenge is that many refugees have received very limited healthcare provided in their home countries and tend to be much sicker patients.

This, coupled with the communication issues presented by the language barriers, leads to longer patient appointments. The hospital systems do not receive any higher reimbursements for these additional time requirements. Again, local private-practice physicians are aware of this and typically avoid treating refugee patients.

Given the demographic trends, the community's need for strong, accessible healthcare continues to grow. Medicare and Medicaid are the dominant payers in the region, with 65.9 percent of all inpatient discharges in the market.³ Ensuring the stability of these services is important to the long-term well-being of the larger community and these fragile populations in particular.

Optimizing Performance to Respond to Community Need

Management at both institutions is aware of the increasingly challenging financial conditions and the associated threat to the continued provision of high-quality care at these institutions. They expect the proposed affiliation to mitigate much of the concern through the combination and buttressing of both FSL and SEMC's quality improvement efforts.

The consolidation of MVN and SEMC under MVHS will allow both to strengthen their quality improvement and performance initiatives, staff, and programs in a way they would have been unable to accomplish otherwise due to the rapid depletion of their financial resources. These gains will also allow the health systems to continue their pursuit of the goals expressed in their respective Community Service Implementation Plans.

Financial Condition

Due to changing demographics and shifts in utilization and reimbursement, these two hospitals systems are both facing dire financial circumstances. Although temporary cash infusions have

³ SPARCS data for January 1, 2011 through December 31, 2011.
10/4/2013

Certificate of Need Project Narrative

helped delay the inevitable and keep the two hospital systems temporarily solvent, the situation has now become critical for both FSL and SEMC. SEMC, in particular, has suffered unsustainable operating losses so far this year, losing almost \$2 million through June, 2013. SEMC's expected survival time without an affiliation now should be measured in months, not years. FSL is also facing significant financial constraints, and cannot survive long-term under current circumstances. In June 2013, in fact, FSL suffered almost a \$2 million loss - its worst monthly financial performance ever.

Despite significant efforts to control and even reduce costs, the finances of FSL and SEMC continue to deteriorate. Revenue stagnation is a primary cause of this deterioration. There are numerous causes of this stagnation.

First, both hospitals have experienced a shift in their payer mix away from commercially insured patients towards Medicaid and uninsured patients. For example, SEMC had an almost 13 percent decrease in acute-care commercial discharges from 2010 to 2012, compared with a 2.7 percent decline in acute-care Medicaid discharges. During this same period, acute-care charity discharges at SEMC almost doubled. Similarly, FSL had a 17 percent decline in acute-care commercial discharges and a six percent increase in acute-care Medicaid discharges from 2010 to 2012. Because Medicaid typically reimburses at lower rates than commercial insurers, this change in payer mix negatively impacts the hospitals' revenue. The combined net patient revenue for FSL and SEMC rose from about \$454 million to \$457 million from 2010 to 2012, a two-year increase of less than one percent.

Changes in Medicare and Medicaid reimbursements also have reduced revenues. FSL estimates that reductions in payments for Medicare and Medicaid dual eligible patients reduced revenues to FSL by \$1 million between 2010 and 2012. Medicaid reimbursement reductions further reduced revenues to FSL by \$600 thousand between 2010 and 2012. Sequestration has resulted in approximately \$2 million in additional reductions in Medicare reimbursements to FSL in 2013. At SEMC, Medicaid cuts resulted in a reduction of \$1 million and Sequestration has resulted in an additional reduction in Medicare reimbursements of \$1 million in 2013.

Since 2010, FSL lost more than \$8.5 million from operations, with its best year, 2011, resulting in a positive earnings from operations of \$1,000. However, in 2011, FSL received its portion of the one-time only Medicare budget-neutrality payment of almost \$1.6 million, offsetting what otherwise would have been a loss from operations. In addition, FSL has received other non-

Certificate of Need Project Narrative

recurring income that has helped minimize operating losses. Removing non-recurring revenue items reveals that FSL's loss from operations was over \$20 million since 2010.

SEMC has seen a similar pattern. Since 2010, SEMC lost approximately \$7 million from operations, with about \$12.5 million lost when removing non-recurring income that offset some of the losses. Therefore, the two institutions reported operating losses of more than \$15 million and, after removing the non-recurring revenue items, the two hospitals lost almost \$33 million combined since 2010.

Revenue declines primarily drive this negative financial trend. For the most part, both FSL and SEMC have been keeping expenses flat. Over the past few years, both FSL and SEMC have taken steps to cut costs. However, with falling revenue, keeping expenses flat leads to increasing losses, which is what FSL and SEMC are both experiencing

The above negative financial trends have worsened in 2013. The financial decline from 2010 to 2012 resulted from a declining patient base (both inpatient and outpatient) and worsening payer mix (mostly on the outpatient side). With those trends continuing and the additional burden of Medicare reductions caused by the Sequester, the situation in 2013 is worse for both hospital systems.

FSL's approximate \$2 million loss for June 2013 is the single worst month the hospital system has ever had financially. Overall, FSL has lost \$3.5 million from operations through June 2013, which is an annualized loss of \$7 million, just \$1.5 million less than the combined losses from 2010 to 2012.

SEMC expects losses similar to 2012. SEMC lost more than \$2 million through June 2013, which is an annualized loss of over \$4 million, compared with operating losses of about \$4.8 million in 2012.

Enhancing Quality

Another key purpose for the affiliation of FSL and SEMC is sustaining and improving the quality of care they deliver through a number of approaches:

Adoption and Transference of Superior or Best Practice Clinical Models

Immediately post-affiliation, the two hospital systems plan a comprehensive review all their clinical practices in order to determine those areas where they can readily export the superior or

Certificate of Need Project Narrative

best practice of one hospital system to the other. Currently, there is significant variation both in clinical outcomes and adherence to national evidence-based practice standards (Core Measures, Surgical Care Improvement Project Measures) between FSL and SEMC. Each hospital system has different areas of higher achievement, as demonstrated by the following data elements publicly available on Hospital Compare:

Measure	FSL	SEMC
HF-1 Discharge Instructions for Heart Failure Patients	93%	83%
HF-3 Use of ACEI/ARB in Heart Failure	91%	79%
OP-1 Antibiotic Timing for Outpatient Surgery	85%	98%
OP-2 Antibiotic Selection for Outpatient Surgery	78%	98%
IMM-2 Pneumovax Administration	93%	76%
Deaths Among Patients with Serious Treatable Complications After Surgery	Worse than U.S. National Rate	No different than U.S. National Rate
Central Line Associated Blood Stream Infections	No different than U.S. National Benchmark	Better than U.S. National Benchmark
Severe Pressure Sores	0.148	0.258
Infections from Urinary Catheters	0.517	0.172
HCAHPS Overall Rating 9 or 10	57%	69%
HCAHPS Would Definitely Recommend	61 %	71%
Colon Surgery Surgical Site Infections	3.9	7.1
Hip Replacement Surgical Site Infections	1.7	0

The proposed affiliation will allow both FSL and SEMC to compare current practices and outcomes and then adopt the best practices throughout the unified MVHS. As a result, each hospital system will provide better care by adopting the best practices already in place at the other.

Certificate of Need Project Narrative

Consolidation-related Activities to Address Specific Health Problems

Both FSL and SEMC have made considerable progress on improving the processes of care in different clinical areas. For example, FSL has developed a glycemic control initiative to improve the management of blood glucose in diabetics. SEMC has developed a massive transfusion protocol to improve the use of blood products in trauma patients. The proposed affiliation will allow these protocols to be shared between both FSL and SEMC. Further, by combining resources, MVHS will have the ability to develop many more evidence-based practice guidelines for use by both hospitals.

Both hospital systems and the entire region struggle with a high incidence of C. difficile (“C.diff”) infections. The proposed affiliation would permit the adoption of an Antibiotic Stewardship Program across both organizations. This is one of the most important strategies to prevent C.diff infections, to protect against the emergence of drug-resistant organisms, and to reduce pharmaceutical costs. The combined resources of both organizations would result in a far more effective program than either could achieve alone and would improve healthcare options, reduce healthcare costs, and improve the health of the community.

The proposed affiliation would also improve physician credentialing, privileging, and peer review. While the active parent, MVHS, would maintain two distinct medical staffs at the two hospitals, the sharing of volume and performance data on physicians would be enhanced, which would allow MVHS to develop uniform privileging guidelines. In addition, the availability of the combined membership for the two medical staffs will allow both to have far more available clinical expertise when reviewing cases. The current lack of depth in many specialty areas for each hospital system hinders effective quality/peer review.

While the above examples focus on areas of the physicians' clinical practice, there are also areas where the proposed affiliation can enhance nursing care through the exchange and transference of best practices between the two hospitals. This is especially true in critical care areas of the hospitals such as the hospitals' intensive care units, emergency departments, and surgery departments.

The close geographic proximity of the two institutions and their ability to exchange staff in support of such efforts enhances the opportunity to accomplish such quality improvements. The administrative and clinical leadership of FSL and SEMC expect the review process, plan of action, and implementation to occur within the first 24 to 36 months post-

Certificate of Need Project Narrative

affiliation. Currently, the two hospital systems are unable to share detailed information on competitive advantages either may possess, and this clinical quality review is their top priority once the organizations have consummated the proposed affiliation.

A second way the affiliation of FSL and SEMC will impact quality is through planned efficiencies and economies of scale associated with the provision of services within the clinical portfolio of the combined organization. The combined health system, MVHS, could carry out capital budgeting for clinical equipment and often reducing the need for duplicative and underutilized purchases. For example, the two hospital systems currently operate seven computerized tomography scanners across their campuses, which is more capacity than the community needs. The same rightsizing could occur in the number of cardiac catheterization laboratories and interventional radiology suites that FSL and SEMC currently maintain separately.

Each hospital system currently has gaps in specialty physician coverage due to the composition and bylaws of the respective medical staffs. This involves, among other specialties, plastic surgery, ophthalmology and otolaryngology. The proposed affiliation would allow FSL and SEMC to utilize the combined resources of the two medical staffs to improve specialty coverage at both hospitals. This would improve quality, timeliness, and efficiency and reduce costly transfers. These would be clear benefits to the community while reducing the cost of providing care.

The proliferation of new medications, along with continually changing guidelines on medication usage, creates a major challenge for all hospitals. A clinical pharmacy service which develops protocols and advises physicians on proper medication use is an effective mechanism for improving drug-prescribing practices. While both FSL and SEMC currently have such programs, a joint program across both organizations would be much more effective given the number of physicians who practice at both facilities. A joint program would reduce medication errors, adverse drug events, and pharmaceutical costs, which would be another windfall to the community.

Additionally, FSL and SEMC will target clinical services that exhibit a volume-to-outcome relationship for consolidation into a single program and/or location that will improve outcomes for technically complex procedures. While the strength of this association varies from procedure to procedure, the trend is very consistent. There are currently a number of procedures that fall into this category that are performed at both FSL and SEMC:

Certificate of Need Project Narrative

- Peripheral vascular interventional procedures
- Neurosurgical procedures (intracranial and spinal)
- Thoracic surgical procedures
- Total joint replacement surgery
- Cardiac catheterizations and coronary angioplasty
- Psychiatric care

Consolidating under MVHS would allow a rational analysis of these services to determine whether concentrating them at one facility rather than providing them at multiple facilities would improve outcomes and cost-effectiveness.

Consolidation also presents an opportunity to improve the quality and efficiency of hospital-based physician services, such as anesthesiology, radiology, pathology, emergency medicine, and hospitalist service. Staffing, coverage, and clinical practice standards are all areas of potential improvement.

The two hospital systems expect that by consolidating such services programmatically or at one location, they will be able to realize these volume (or scale-related) quality gains.

Consolidation-related Efficiencies

Overview

The proposed affiliation between MVN and SEMC to create MVHS affords significant opportunity for operational collaboration and clinical integration ("CI") between the two hospital systems. The proposed affiliation will allow FSL and SEMC to eliminate unnecessary redundancy across their administrative, support, and clinical functions. Service rationalization and clinical program coordination will provide opportunities for enhanced operational efficiency and programmatic development that would not be available absent the affiliation.

In 2012, SEMC and FSL engaged The Camden Group, a national healthcare management consulting firm to validate the scope of operating efficiencies and quantify the cost savings associated with the proposed affiliation.

The resulting development of the MVHS Business Plan of Efficiencies ("BPOE") utilized both qualitative and quantitative assessment methodologies. (The BPOE is attached hereto as

Certificate of Need Project Narrative

Attachment 1D). The process included individual interviews of over 30 hospital executives and medical staff representation from FSL and SEMC. The Camden Group used these interviews to identify potential integration opportunities that could be achieved through the affiliation. The Camden Group compiled these findings from the interviews, which findings then served as a guide for further analysis.

The development of the BPOE entailed a thorough analysis of departmental functions and programmatic offerings. This assessment included the following four phases.

Phase I: Management Structure Assessment

The current MVN Chief Executive Officer and future MVHS Chief Executive Officer developed a proposed corporate management structure for MVHS that comprised a single system-wide management team. The proposed MVHS management structure would centralize administrative functions to the corporate level, and reduce the total senior management team for the system from eighteen to thirteen members. A copy of the proposed management structure for MVHS is attached hereto as Exhibit 24.

The proposed MVHS corporate structure also establishes those functions that would become corporate and those that would remain hospital-specific. This distinction is the foundation for integration plan development at the departmental level.

Phase 2: Departmental Integration Plan Development

Preliminary departmental integration plans were developed in line with the system's integration strategy, goals, and objectives. The integration plans aimed to create maximum efficiency between the two hospital systems. Plans were developed for each department and served as the guide for opportunity identification and quantification.

Departments were grouped into three major categories based upon their function and degree of direct patient contact. Each category of department presented distinctly different integration opportunities that required slightly different assumptions, integration plans, and prioritization in the BPOE. The categories included:

- Administrative functions: back office departments focused on administration, business, workforce management, and communications with the organization
- Support functions: infrastructure and supportive departments not responsible for direct patient care

Certificate of Need Project Narrative

- Clinical functions: departments responsible for direct patient care

Phase 3: Opportunity Identification

The departmental integration plans were designed to combine and streamline comparable hospital functions within the system. Upon completing a comparative analysis of the scope of services offered at each hospital, a detailed benchmarking process was initiated.

The benchmarking process utilized hospital-specific service utilization, salary, and non-salary expense data. The Camden Group utilizes the Truven Action OI database, a national recognized hospital benchmarking database, to analyze the departments based upon their departmental integration plans. (See the BPOE at Attachment 1D). The benchmarking product outlined staffing productivity and expense per unit of service (labor and non-labor) variations between the departments and similar ones in comparable peer groups. The peer groups considered in the analysis included hospitals/systems of like size to FSL, SEMC, and MVHS, as well as those included in the Mid-Atlantic census region. (See the BPOE at Attachment 1D).

Utilizing the benchmarking results as a guide, The Camden Group met with a small group of FSL and SEMC senior management to refine the opportunities. Opportunities needed to be realistic, achievable, and sustainable for inclusion in the plan.

Phase 4: Opportunity Prioritization and Timing

Following opportunity identification, The Camden Group along with senior management representatives from FSL and SEMC prioritized the integration opportunities resulting in an anticipated operational savings schedule over five years. Consideration for sequencing of opportunities was given to ease of implementation, capital requirements for achievement, potential political hurdles, and the need for further input by additional stakeholder groups.

In addition, departments where system operational efficiencies are known to exist, but were unable to be quantified due to an inability to share sensitive information in a pre-transaction setting were flagged as priorities for further post-transaction analysis. Based upon The Camden Group's prior experience in BPOE development, opportunities for these functional savings were forecasted and identified in the analysis as "unconfirmed opportunities."

Opportunities

The BPOE process demonstrated that the affiliation between FSL and SEMC affords significant opportunity for functional consolidation and integration, due in large part to the close

Certificate of Need Project Narrative

proximity of the two organizations. Based upon 2012 hospital utilization and financial data, the total opportunities identified amount to \$20,236,414 on an annual basis upon full implementation. This includes \$13,836,414 in confirmed opportunities that have been identified, quantified, and validated as opportunities that can be achieved through the proposed affiliation (See the BPOE at Attachment 1D) for further detail on such savings. It also includes \$6,400,000 in unconfirmed opportunities that have been identified, but will require additional discussion and validation post-transaction. The table below summarizes the identified opportunities.

Departmental Categories	Confirmed Opportunities			Unconfirmed Opportunities
	Salary	Non-salary	Total Validated	
Administrative	\$2,441,066	\$2,980,000	\$5,421,066	\$0
Support	363,905	627,228	991,133	400,000
Clinical	2,930,462	4,493,753	7,424,215	6,000,000
Total	\$5,735,433	\$8,100,981	\$13,836,414	\$6,400,000

In The Camden Group's experience, affiliating hospitals similar to FSL and SEMC have been able to achieve and sustain annual savings of between four and seven percent of their combined operating expense budgets post-transaction. Affiliating hospitals can typically achieve these operating savings in the first three years post-transaction.

The identified savings associated with this affiliation identified pre-transaction is approximately five percent. At the time of transaction, the hospital systems will be able to share additional information and have more detailed conversations related to clinical program integration and savings opportunities. Based upon this fact, The Camden Group anticipates that FSL and SEMC will meet and exceed the upper threshold of seven percent savings opportunities upon full integration.

BPOE Savings Prioritization and Timing

Prioritization and timing associated with the implementation of the departmental integration plans and achievement of their associated operational efficiencies are highlighted in this section. After a thorough review of the information available pre-transaction and consideration to potential adverse organizational impact associated with implementation, the anticipated schedule of savings is outlined in the following table.

Certificate of Need Project Narrative

System Opportunities Summary	Confirmed Opportunities					
	Year 1 Savings	Year 2 Savings	Year 3 Savings	Year 4 Savings	Year 5 Savings	Total 5-year savings
Administrative Functions	\$2,297,122	\$5,421,066	\$5,421,066	\$5,421,066	\$5,421,066	\$23,981,386
Support Functions	803,768	991,133	991,133	991,133	991,133	\$4,768,300
Clinical Functions	896,596	4,308,308	7,424,215	7,424,215	7,424,215	\$27,477,549
Total Anticipated Annual Savings	\$3,997,486	\$10,720,507	\$13,836,414	\$13,836,414	\$13,836,414	\$56,227,235

It is anticipated that the full achievement of confirmed opportunities is possible by year three. This implementation timing would result in a total five-year operational savings in excess of \$56 million. (See the BPOE at Attachment 1D.)

Departmental Integration Plans

Through the BPOE process, departmental integration plans drove the identification of associated operational savings opportunities. The following provides an overview of the categorical integration approach and opportunities associated with the administrative, support, and clinical functions.

Administrative Functions

These primarily front-office and managerial functions offer significant opportunity for consolidation at the system level as they can be standardized and co-located under central leadership.

The proposed development of consolidated corporate administrative functions will allow for this extensive consolidation of administrative functions resulting in \$5,421,066 of confirmed savings opportunities.

Support Functions

Departments including food services, environmental services, and facilities/maintenance lend themselves to a centralized management approach. The ability to centralize management in select support departments due to the hospitals' close geographic proximity affords MVHS the ability to standardize policies and procedures system-wide while reducing unnecessary redundant functions and expenses. Joint contracting for commonly outsourced services is a substantial opportunity as well. Confirmed savings opportunities for the support service functions totals \$991,133. (See the BPOE Attachment 1D for further detail.)

Certificate of Need Project Narrative

Current information technology differences between SEMC and FSL offer unique challenges, and thus will require attention related to the efficiency of both hardware and software offerings, optimal secure information exchange, and medical staff deployment post-transaction.

Clinical Functions

Sensitivity will be high among areas considered for clinical alignment. The parties will follow a comprehensive and inclusive process to identify opportunities for clinical alignment and/or rationalization. While the two business units can transcend to full CI, the importance related to the involvement of clinical leadership and medical staff representatives cannot be over-emphasized.

The largest opportunity for savings afforded by the proposed affiliation is associated with the redistribution of services from the FSL Faxton campus to either the FSL St. Luke's campus or SEMC. Additional clinical program savings are anticipated, but these savings will require a collaborative evaluation of services post transaction by system leadership and medical staff providers.

Clinical coordination, program alignment, and the maximization of existing organizational resources will provide MVHS approximately \$7,424,215 worth of confirmed savings on an annual basis. (See the BPOE at Attachment 1D.)

Sustaining Community-based Services

The consolidation of MVN and SEMC under the common active parent of MVHS will allow the local health systems to respond to evolving community need in the most efficient ways possible. The systematic review and streamlining of services is not intended to reduce services, and the systems do not anticipate any change in the overall complement of services offered. MVHS will continue to offer the wide range of services in the communities where MVN and SEMC already have services. Through an integrated planning effort, the consolidated providers will ensure access to services and specialties that are currently limited because of their decentralization among the providers.

Through consolidation, MVN and SEMC will continue to keep local access to care, increase their commitment to quality, and ensure sustainability of the health delivery system for the long-term benefit of Oneida and Herkimer County residents.

A decorative graphic on the left side of the page consists of a grid of colored squares in various colors including blue, orange, green, red, purple, and grey, arranged in a pattern that tapers to the right.

**THE
CAMDEN
GROUP**

ideas. answers. action.

Business Plan of Efficiencies

Integration Opportunity Assessment and Work Plan

Mohawk Valley Health System


Utica, New York

August 8, 2013

Business Plan of Efficiencies

- The affiliation of Faxton-St. Luke’s Healthcare (“FSL”) and St. Elizabeth Medical Center (“SEMC”) to create Mohawk Valley Health System (“MVHS”) affords significant opportunity for collaboration and integration among the two hospitals
- Opportunities can be grouped into:
 - ▶ Confirmed and Validated Opportunities – These opportunities have been identified and validated as opportunities which can be achieved as part of the affiliation
 - ▶ Non-validated Opportunities – Although identified, these opportunities will require additional discussion and validation post-transaction

Departmental Categories	Confirmed Opportunities			Unconfirmed Opportunities
	Salary	Non-salary	Total Validated	
Administrative	\$2,441,066	\$2,980,000	\$5,421,066	\$0
Support	363,905	627,228	991,133	400,000
Clinical	2,930,462	4,493,753	7,424,215	6,000,000
Total	5,735,433	8,100,981	13,836,414	6,400,000


Total Identified Opportunity - \$20,236,414

Business Plan of Efficiencies

Administrative Functions

- The geographic proximity of the two facilities and the proposed Administrative Table of Organization will allow for consolidation of administrative functions
- Validated Opportunities: \$5,421,066

Support Service Functions

- The ability to centralize management in select support departments affords MVHS the ability standardize policies and procedures system-wide while reducing unnecessary redundant functions and expense
- Joint contracting for select support services provides MVHS the ability to renegotiate contracts and standardize functions between the two hospital
- Validated Opportunities: \$991,133

Business Plan of Efficiencies

Clinical Service Integration

- Clinical coordination, program alignment and the maximization of existing organizational resources will provide MVHS approximately \$7,424,215 worth of confirmed savings on an annual basis
- The largest opportunity for savings afforded by the affiliation is associated with the redistribution of services among the existing Faxton, St. Luke's and St. Elizabeth campuses
- Additional clinical programmatic savings is anticipated, but will require a collaborative evaluation of services post transaction by system leadership and medical staff providers

System Opportunities Summary	Confirmed Opportunities					
	Year 1 Savings	Year 2 Savings	Year 3 Savings	Year 4 Savings	Year 5 Savings	Total 5-year Savings
Administrative Functions	\$2,297,122	5,421,066	5,421,066	5,421,066	5,421,066	23,981,386
Support Functions	803,768	991,133	991,133	991,133	991,133	4,768,300
Clinical Functions	896,596	4,308,308	7,424,215	7,424,215	7,424,215	27,477,549
Total Anticipated Annual Savings	3,997,486	10,720,507	13,836,414	13,836,414	13,836,414	56,227,235

Savings shown above are cumulative (Amounts identified in Year 2 through Year 5 include sustained savings from previous years. Example: Year 2 savings total is \$10,720,507, which includes \$3,997,486 to be sustained from Year 1 plus an additional \$6,723,021 to be achieved in Year 2)

All savings are achieved in Years 1 through 3; beyond Year 3 savings are "sustained"

BPOE Development Process

The development of the BPOE related to the creation of MVHS required four distinct steps including:

1. Assessment of the MVHS Administrative Table of Organization to identify functions that will become corporate or remain at the hospital level
2. Development of individual departmental integration plans with the guidance and assistance of Hospital senior leadership
3. Development of detailed departmental assessments:
 - ▶ Quantitative assessment of hospital departments utilizing Truven Action OI database to identify opportunities for operational efficiency
 - ▶ Qualitative interviews to identify opportunities to achieve potential integrative synergies
4. Quantify and validate BPOE opportunities with FSL and SEMC senior team, and develop BPOE Report

Administrative Function Opportunities

- Administrative Function Departmental Plans
 - ▶ Administrative functions offer significant opportunity for consolidation through the affiliation
 - ▶ System centralization, centralized management, and joint contracting are the principal departmental integration plans proposed to achieve efficiencies among these functions
- Departments and/or Functions Assessed
 - ▶ Senior Administration
 - ▶ Financials Services (Accounting, Billings, Finance, etc.)
 - ▶ Legal and Compliance
 - ▶ Medico-administrative Functions
 - ▶ Human Resources
 - ▶ Strategy/Marketing/Public Relations/Governmental Relations
 - ▶ Nursing Administration
 - ▶ Purchasing and Materials Management

Summary of Administrative Function Opportunities

Administrative Departments	Year 1 Confirmed Savings	Year 2 Confirmed Savings	Year 3 Confirmed Savings	Year 4 Confirmed Savings	Year 5 Confirmed Savings	Total 5-Year Savings
Senior Administration	\$331,109	1,324,435	1,324,435	1,324,435	1,324,435	5,628,849
Financial Functions						
Admitting and Registration		97,097	97,097	97,097	97,097	388,388
General Accounting		103,402	103,402	103,402	103,402	413,608
Patient Accounting		529,620	529,620	529,620	529,620	2,118,480
Health Information Management						
Information Technology ("IT")		97,097	97,097	97,097	97,097	388,388
Telecommunications	201,320	201,320	201,320	201,320	201,320	1,006,600
Legal and Compliance	200,000	200,000	200,000	200,000	200,000	1,000,000
Human Resources ("HR")	281,203	1,381,203	1,381,203	1,381,203	1,381,203	5,806,015
Strategy and Governmental Relations	30,000	30,000	30,000	30,000	30,000	150,000
Medico-Administrative Functions	-	103,402	103,402	103,402	103,402	413,608
Nursing Administration	41,613	41,613	41,613	41,613	41,613	208,065
Purchasing/Materials Management	1,471,877	1,471,877	1,471,877	1,471,877	1,471,877	7,359,385
Development and Communications	100,000	200,000	200,000	200,000	200,000	900,000
Mission Services	0	0	0	0	0	0
Management Responsibility Expansion	(360,000)	(360,000)	(360,000)	(360,000)	(360,000)	(1,800,000)
TOTAL Administrative Department Opportunities	2,297,122	5,421,066	5,421,066	5,421,066	5,421,066	23,981,386

Support Function Opportunities

Support Function Departmental Plans

- Support functions offer significant opportunity for coordination system-wide through a centralized management and oversight structure
- Centralized management, joint contracting, as well as policy and procedure standardization are the principle departmental integration plans proposed to achieve efficiencies among these functions

Departments and/or Functions Assessed

- Facilities Operations and Maintenance
- Biomedical/Clinical Engineering
- Food and Nutritional Services
- Environmental and Housekeeping Services
- Laundry and Linen
- Security and Safety
- Patient Transport
- Mailroom and Print Shops

Summary of Support Function Opportunities

Support Departments	Year 1 Confirmed Savings	Year 2 Confirmed Savings	Year 3 Confirmed Savings	Year 4 Confirmed Savings	Year 5 Confirmed Savings	Total 5-year Savings
Facilities Operations and Maintenance	\$85,748	85,748	85,748	85,748	85,748	428,740
Biomedical Engineering	343,373	343,373	343,373	343,373	343,373	1,716,865
Food and Nutritional Services	283,855	471,220	471,220	471,220	471,220	2,168,735
Environmental and Housekeeping Services	65,572	65,572	65,572	65,572	65,572	327,860
Laundry and Linen	-	-	-	-	-	-
Safety and Security	-	-	-	-	-	-
Patient Transport	-	-	-	-	-	-
Mailroom and Print Shops	25,220	25,220	25,220	25,220	25,220	126,100
TOTAL Support Department Opportunities	803,768	91,133	991,133	991,133	991,133	4,768,300

Clinical Function Opportunities

Clinical Function Departmental Plans

- Clinical services and functions offer significant opportunity for coordination system-wide through maximization of existing capabilities, capacity, and resources
- Policy and procedure standardization and service rationalization are the principal departmental integration plans proposed to achieve efficiencies among these functions

Departments and/or Functions Assessed (not comprehensive list)

- Physician Practices
- Emergency Department
- Urgent Care
- Cardiac Services
- Surgical Services
- Endoscopy Services
- Central Sterilization
- Clinical Staff Education
- Clinical Resource Management
- Medical/Surgical Nursing Units
- Psychiatry Nursing Units
- Cancer Services
- Imaging (X-ray, CT, MRI, etc.)
- Pharmacy
- Laboratory
- PT/OT/Speech Therapy
- Home Care Services

Summary of Clinical Function Opportunities

Clinical Departments	Year 1 Confirmed Savings	Year 2 Confirmed Savings	Year 3 Confirmed Savings	Year 4 Confirmed Savings	Year 5 Confirmed Savings	Total 5-year Savings
Physician Practices	-	-	-	-	-	-
Emergency Department	\$250,000	250,000	250,000	250,000	250,000	1,250,000
Urgent Care	-	-	-	-	-	-
Cardiac Services	-	-	-	-	-	-
Surgical Services	-	1,719,635	3,439,269	3,439,269	3,439,269	12,037,442
Endoscopy Services	-	600,853	1,201,706	1,201,706	1,201,706	4,205,971
Central Sterilization	-	45,420	90,839	90,839	90,839	317,937
Nursing Units	-	750,000	1,500,000	1,500,000	1,500,000	5,250,000
Psychiatry Units	-	-	-	-	-	-
Clinical Education	-	353,170	598,975	598,975	598,975	2,749,070
Clinical Resource Management	-	-	-	-	-	-

Summary of Clinical Function Opportunities (cont'd)

Clinical Departments (cont'd)	Year 1 Confirmed Savings	Year 2 Confirmed Savings	Year 3 Confirmed Savings	Year 4 Confirmed Savings	Year 5 Confirmed Savings	Total 5-Year Savings
Cancer Care Services	-	-	-	-	-	-
Imaging	\$108,446	108,446	108,446	108,446	108,446	542,230
Pharmacy	126,100	126,100	126,100	126,100	126,100	630,500
Laboratory	-	-	-	-	-	-
Physical/Occupational/Speech Therapy	8,880	8,880	8,880	8,880	8,880	44,400
Home Care Services	50,000	100,000	100,000	100,000	100,000	450,000
TOTAL Clinical Functions	896,596	4,308,308	7,424,215	7,424,215	7,424,215	27,477,549

Post-Transaction Opportunity Identification

- Upon completion of the transaction, MVHS will have the opportunity to identify, refine, and achieve further BPOE opportunities as a result of:
 - ▶ Additional involvement by the medical staff and clinical representation to enhance programmatic offerings and efficiency
 - ▶ Ability to share additional information related to hospital operations
 - ▶ Centralization of management on a system-wide level to conduct further analysis of departmental opportunities and the adoption of system best practices
- Post-transaction opportunities can be prioritized utilizing the Action OI expense savings opportunities that compare FSL and SEMC with comparable organizations by bed size
- Opportunities for clinical coordination and/or integration should be identified and implemented in a highly methodical and collaborative manner with administrative and clinical representation

Post-Transaction Opportunity Implementation

- Development of an MVHS Multidisciplinary Operational Improvement Team with the charge to:
 - ▶ Create implementation plans for each opportunity identified in the BPOE with the assistance of departmental leadership
 - ▶ Re-quantify savings opportunities based upon existing salary and non-salary expenses at the time of transaction
 - ▶ Identify additional departmental opportunities post transaction and their associated implementation plans
- Creation of individual Clinical Service Line Integration Teams including system senior management and medical staff representation with the charge to:
 - ▶ Develop integration plans for each clinical program designed to enhance access, improve quality throughout the continuum, and reduce unnecessary expense
 - ▶ Identify and quantify opportunities for programmatic efficiencies within their clinical programs at a system level
 - ▶ Develop associated implementation plans

Business Plan of Efficiencies

Purpose

- To create an action-oriented, quantified business plan for the initial integration of FSL and SEMC and to identify areas of opportunities for:
 - ▶ Reduction and/or elimination of redundant/unnecessary organizational costs
 - ▶ Increase in efficiencies available as a system

Objectives

- Identify and incorporate any efficiencies associated with the Administrative Table of Organization
- Develop departmental integration plans identifying opportunities for efficiencies through the system's creation - including administrative, support, and clinical departments
- Conduct departmental assessments utilizing both quantitative and qualitative tools to identify and quantify operational savings opportunities
- Craft an organizational BPOE and work plan to achieve the identified opportunities, post-transaction

Business Plan of Efficiencies

BPOE Assumptions

- The approval of an affiliation between FSL and SEMC will allow for integration opportunities within the newly created MVHS
- Significant synergies exist between the two hospitals and thus savings opportunities can be achieved in the administrative, support, and clinical functions
- The anticipated new system and affiliate hospitals are comparable to organizations of like bed size and/or within the region (Mid-Atlantic)
- The MVHS hospitals will operate under a common administrative executive team, while maintaining their individual hospital licenses
- Opportunities identified pre-transaction may increase or decrease by the time of transaction based upon customary hospital operations
- Additional BPOE opportunities will be identified and achieved post-transaction as a result of additional data exchange, operational analysis, and centralized management implementation
- The geographic proximity of the hospitals and duplicative clinical services will require additional analysis post transaction to evaluate and plan for clinical alignment and integration efforts

NEW YORK
state department of
HEALTH

 **COPY**

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

November 20, 2012

Richard H. Ketcham, President and CEO
St. Elizabeth's Medical Center
2209 Genesee Street
Utica, New York 13501

Scott H. Perra, President and CEO
Faxton/St. Luke's Healthcare
P.O. Box 479
Utica, New York 13503-0476

Dear Mr. Ketcham and Mr. Perra:

This letter is in support of Faxton-St. Luke's Healthcare and St. Elizabeth Medical Center's efforts to affiliate through an active parent corporation. The New York State Department of Health (Department) provided each hospital with approximately \$7.1 million HEAL NY Phase 21 Medicaid Restructuring Initiative grant awards to affiliate and potentially merge.

The Utica Hospital Partnership will help these two primary hospital providers to pursue opportunities for rightsizing the healthcare infrastructure for Oneida, Herkimer and surrounding counties and pursue additional activities to improve efficiencies in care, identify cost savings and reduce reliance on inpatient care across both systems.

The Department will continue to work with these two organizations to attain their goals. If you have any questions regarding the above, please contact Lora Lefebvre at (518)-408-1828.

Sincerely,



Nirav R. Shah, M.D., M.P.H.
Commissioner of Health

cc: Ms. Lefebvre



October 1, 2013

The Honorable Nirav Shah, MD, MPH, Commissioner
New York State Department of Health
Corning Tower
Albany, New York 12223

Dear Commissioner Shah:

Please consider this **letter of support** for the affiliation between St. Elizabeth Medical Center in Utica and Faxton St. Luke's Healthcare in New Hartford.

Mr. Richard Ketcham, of St. Elizabeth and Mr. Scott Perra of Faxton St. Luke's made a presentation to the HealthConnections Health Planning Committee on September 18th. It is important that the hospitals in the Utica service area be financially secure and able to manage their resources to insure that safety net services are provided to Utica area residents. It was the consensus of the Planning Committee that the proposed active parent affiliation is a good way to insure that the hospitals are able to provide high quality, efficient care going forward.

A majority of the HealthConnections board of directors, which includes the board of the Central New York Health Systems Agency, Inc., has approved this affiliation.

If we may be of assistance, please contact me at swbollinger@healthconnections.org.

Sincerely,

Sara Wall Bollinger
Executive Director for Health Planning

HealthConnections Health Planning

109 South Warren Street, Suite 500, Syracuse, NY 13202 □ Telephone: (315) 472-8099 □ Fax: (315) 472-8033 □ e-mail: HSInfo@healthconnections.org



June 5, 2013

Richard H. Ketcham, FACHE
President & CEO
St. Elizabeth Medical Center
2209 Genessee Street
Utica, NY 13501

Dear Mr. Ketcham:

Thank you for taking the time to brief me on the plans relative to the merger of St. Elizabeth with Faxton St. Luke's. Fidelis has had a long and valued relationship with both institutions. We are pleased that the merger of St. Elizabeth and Faxton St. Luke's, under an active parent, will strengthen the hospital's delivery system in the future which will help Fidelis to continue to extend its mission of ensuring access to quality health care.

If Fidelis can be of any assistance, please do not hesitate to contact me, including should any regulatory authorities wish to speak to us about your planned merger.

Sincerely,

Rev. Patrick J. Frawley
President & CEO

NORTHEAST REGION
8 SOUTHWOODS BOULEVARD
ALBANY, NEW YORK 12211
518-427-0481

CENTRAL REGION
5010 CAMPUSWOOD DRIVE
EAST SYRACUSE, NEW YORK 13057
315-437-1835

GREATER METROPOLITAN REGION
95-25 QUEENS BOULEVARD
REGO PARK, NEW YORK 11374
718-896-6500

WESTERN REGION
480 CROSSPOINT PARKWAY
GETZVILLE, NEW YORK 14068
716-564-3630



Mohawk Valley Chamber of Commerce

Radisson Hotel • 200 Genesee Street • Suite One • Utica, NY 13502

Phone: (315) 724-3151 • Fax: (315) 724-3177 • TDD711

Web: mvchamber.org • Email: info@mvchamber.org

July 17, 2013

Mr. Richard Ketcham
St. Elizabeth Medical Center
2209 Genesee Street
Utica, NY 13501

Dear Rich:

Thank you very much for our recent conversation regarding the proposed affiliation between St. Elizabeth Medical Center and Faxton-St. Luke's Healthcare. The Mohawk Valley Chamber of Commerce is pleased that you will be forming the affiliation under an active parent which we believe will strengthen the hospital delivery system and improve the quality of care in our community.

The Mohawk Valley Chamber of Commerce is a non-profit organization of business-oriented members and a professional staff dedicated to the development of a prosperous economic climate that will enhance commercial growth and the quality of life for all who reside in the Mohawk Valley region.

The Board of Directors of the Mohawk Valley Chamber of Commerce supports the affiliation between St. Elizabeth Medical Center and Faxton-St. Luke's Healthcare.

Should you need any further assistance with this matter, please do not hesitate to contact me at (315)724.3151 ext 229, or pmatt@mvchamber.org.

Sincerely,

Pamela G. Matt, Esq.
Executive Director

CURRENT ORGANIZATION

**St. Elizabeth
Medical Center**

Mohawk Valley Network

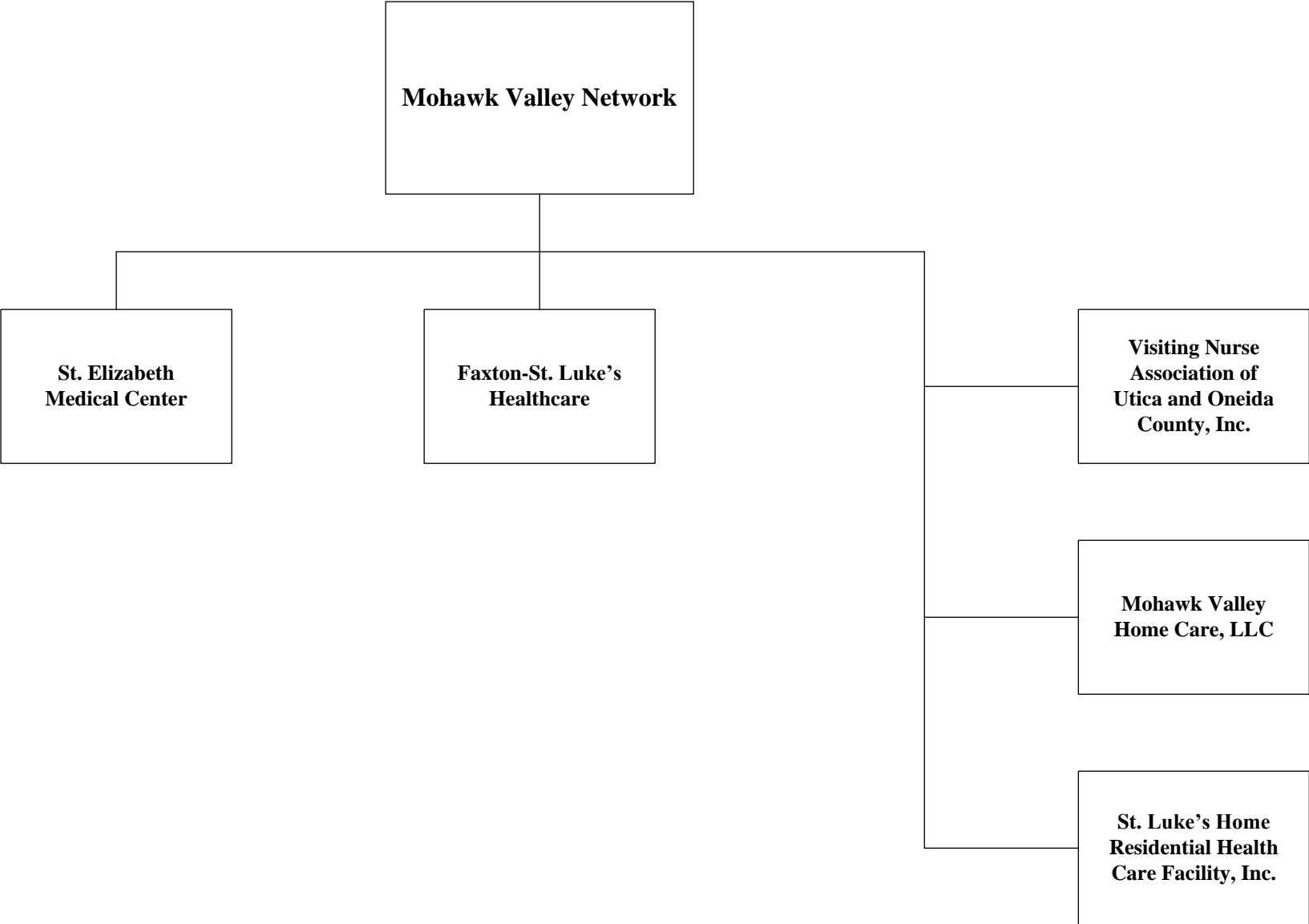
**Faxton-St. Luke's
Healthcare**

**Visiting Nurse
Association of
Utica and Oneida
County, Inc.**

**Mohawk Valley
Home Care, LLC**

**St. Luke's Home
Residential Health
Care Facility, Inc.**

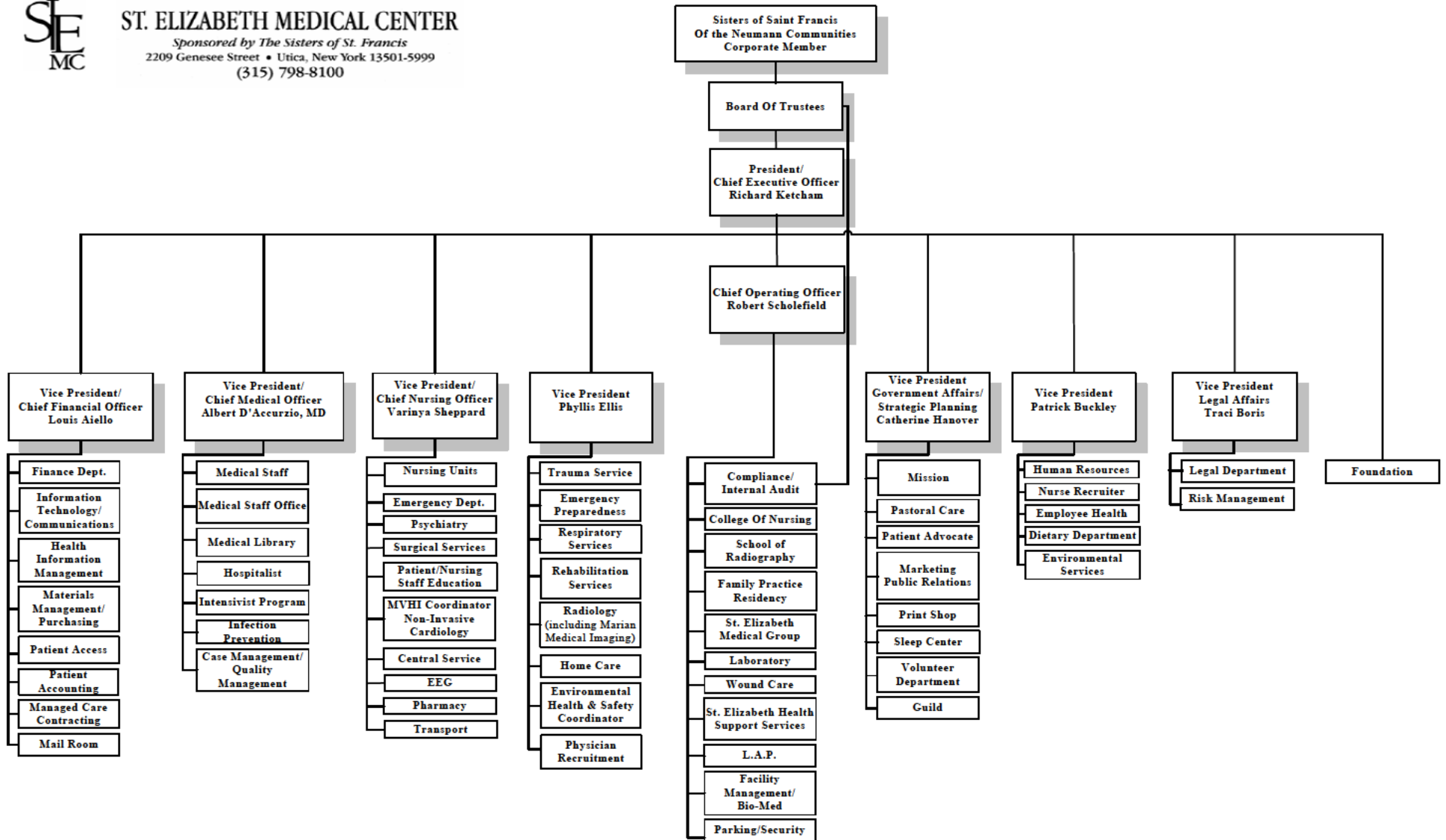
POST TRANSACTION ORGANIZATION





ST. ELIZABETH MEDICAL CENTER

Sponsored by The Sisters of St. Francis
2209 Genesee Street • Utica, New York 13501-5999
(315) 798-8100



Authorized By: Richard Ketcham
President/CEO

Effective
2/1/11

Proposed Mohawk Valley Health System Board Roster

	Name	Role	Designated By
1.	Domenic Aiello, MD	Member	MVN
2.	Catherine Cominsky	Member	SEMC
3.	Joan Compson	Member	MVN
4.	Gregory Evans	Member	SEMC
5.	Maria Gesualdo, DO	Member	MVN
6.	Harrison Hummel, III	Member	SEMC
7.	Todd Hutton, PhD	Member	MVN
8.	Andrew Kowalczyk, III	Member	SEMC
9.	Gregory McLean	Member	MVN
10.	Scott Perra	Ex Officio	MVN
11.	Hon. Norman Siegel	Member	SEMC
12.	John Sperling, MD	President of the MVN Medical Staff, Ex Officio Voting Member	MVN
13.	Stephen Sweet	Member	MVN
14.	Richard Tantillo	Member	MVN
15.	Symeon Tsoupelis	Member	SEMC
16.	Mark Warfel, DO, FAAFP	President of the SEMC Medical Staff, Ex Officio Voting Member	SEMC
17.	Bonnie Woods	Member	MVN
18.	Eric Yoss, MD	Member	SEMC
19.	Richard Zweifel	Member	SEMC

MVN = Mohawk Valley Network, Inc.

SEMC = St. Elizabeth Medical Center

Attachment 3A: Current Board Rosters

The following Board of Directors is the same for the following MVN affiliates:

- Mohawk Valley Network, Inc.
- Faxton St. Luke's Healthcare
- St. Luke's Home Residential Care Facility
- Visiting Nurse Association of Utica and Oneida County, Inc.
- Mohawk Valley Home Care, LLC
- Senior Network Health, LLC

Effective April 2013 - March 2014

Officers

Chair

Richard C. Tantillo

Vice Chair

Gregory B. McLean

Secretary

Todd Hutton, PhD

Treasurer

Stephen Sweet

President/CEO

Scott H. Perra, FACHE *

Members

Domenic P. Aiello, M.D.

Esther Bankert, PhD., RN

Joan Compson

Maria Gesualdo, D.O.

Karen Leach

Roger McReynolds

John Sperling, M.D., Medical Staff President*

Bonnie Woods

* Coterminous With Position

Proposed Faxton-St. Luke's Healthcare Board Roster

	Name	Role
1.	Domenic Aiello, MD	Member
2.	Catherine Cominsky	Member
3.	Joan Compson	Member
4.	Gregory Evans	Member
5.	Maria Gesualdo, DO	Member
6.	Harrison Hummel, III	Member
7.	Todd Hutton, PhD	Member
8.	Andrew Kowalczyk, III	Member
9.	Gregory McLean	Member
10.	Scott Perra	Ex Officio, non-voting member
11.	Hon. Norman Siegel	Chair
12.	John Sperling, MD	President of MVN Medical Staff, Ex Officio Voting Member
13.	Stephen Sweet	Member
14.	Richard Tantillo	Member
15.	Symeon Tsoupelis	Member
16.	Mark Warfel, DO, FAAFP	President of SEMC Medical Staff, Ex Officio Voting Member
17.	Bonnie Woods	Member
18.	Eric Yoss, MD	Member
19.	Richard Zweifel	Member
20.	TO BE NAMED	Special FSL Director

Proposed St. Elizabeth Medical Center Board Roster

	Name	Role
1.	Domenic Aiello, MD	Member
2.	Catherine Cominsky	Member
3.	Joan Compson	Member
4.	Thomas Dennison, PhD	Special SEMC Director
5.	Gregory Evans	Member
6.	Maria Gesualdo, DO	Member
7.	Harrison Hummel, III	Member
8.	Todd Hutton, PhD	Member
9.	Andrew Kowalczyk, III	Member
10.	Gregory McLean	Member
11.	Scott Perra	Ex Officio, non-voting member
12.	Hon. Norman Siegel	Chair
13.	John Sperling, MD	President of MVN Medical Staff, Ex Officio Voting Member
14.	Stephen Sweet	Member
15.	Richard Tantillo	Member
16.	Symeon Tsoupelis	Member
17.	Mark Warfel, DO, FAAFP	President of SEMC Medical Staff, Ex Officio Voting Member
18.	Bonnie Woods	Member
19.	Eric Yoss, MD	Member
20.	Richard Zweifel	Member

Attachment 3C: Current Board Roster for St. Elizabeth Medical Center

Board of Trustees

Name	Role
Hon. Norman I. Siegel	Chair
William Borrill	Member
Barbara Brodock	Member
Catherine Cominsky	Secretary
Gregory Evans	Vice Chair
Andrew S. Kowalczyk, III Esq	Member
Sister Donna McGartland, OSF	Member
Raymond Meier, Esq.	Member
Symeon Tsoupelis	Member
Mark E. Warfel, D.O.	Member, President of Medical Staff
Eric Yoss, M.D.	Member
Richard F. Zweifel	Treasurer
Thomas H. Dennison, PhD	Ex Officio representative from Partners in Franciscan Ministries
Richard Ketcham, FACHE	President and CEO, Ex Officio

Partners in Franciscan Ministries Board Members

Name	Position
Mr. Benjamin M. Sio	Member
Ms. Danielle E. Cummings	Member
Mr. Dennis Higashiguchi	Member
Mr. Dominic Robinson	Member
Ms. Susan M. Crossett	Secretary/Treasurer
Rev. Brad Milunski	Member
Sister Donna Zwigart	Member
Mr. Walter Engels	Member
Mr. Thomas Dennison	Chairperson
Ms. Katherine A. Cogswell	Member
Ms. Connie M. Whitton	Member

**RESTATED CERTIFICATE OF INCORPORATION
OF
MOHAWK VALLEY NETWORK, INC.**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

We, the undersigned, being the President and Secretary of Mohawk Valley Network, Inc., hereby certify:

1. The name of the corporation is: **MOHAWK VALLEY NETWORK, INC.**
2. The Corporation's Certificate of Incorporation was filed by the Department of State on the 12th day of April, 1991, pursuant to the Not-for-Profit Corporation Law. A Restated Certificate of Incorporation of the Corporation was thereafter filed by the Department of State on February 15, 2005.
3. The Corporation's Certificate of Incorporation, as previously filed and restated, is hereby amended to effect the following:
 - A. To change the name of the Corporation to Mohawk Valley Health System, as provided in Paragraph 1 of this Restated Certificate of Incorporation.
 - B. To add St. Elizabeth Medical Center ("SEMC"), St. Lukes Home Residential Health Care Facility, Inc. ("SLH"), Senior Network Health, LLC ("SNH") and Mohawk Valley Home Care, LLC ("MVHC") as named affiliates of the Corporation, as provided in Paragraph 3 of this Restated Certificate of Incorporation.
 - C. To add SEMC and SLH as named distributees of the Corporation's assets upon dissolution of the Corporation, as provided in Paragraph 9 of this Restated Certificate of Incorporation.
 - D. To restate the purposes and powers of the Corporation, as provided in Paragraph 3 of this Restated Certificate of Incorporation.
4. The text of the Certificate of Incorporation, as amended, is hereby restated to read as herein set forth in full:

1. The name of the Corporation is: **MOHAWK VALLEY HEALTH SYSTEM.**
2. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law in that it is not formed for pecuniary profit or financial gain, and no part of the assets, income or profit of the corporation shall be distributed to, or inure to the benefit of, its members, directors, officers or any private person.

3. The Corporation is organized and shall be operated exclusively for the benefit of Faxton-St. Luke's Healthcare ("FSLH"), St. Elizabeth Medical Center ("SEMC"), St. Lukes Home Residential Health Care Facility, Inc. ("SLH"), Visiting Nurse Association of Utica and Oneida County, Inc. ("VNA"), which are New York State Not-for-Profit Corporations, and Senior Network Health, LLC ("SNH") and Mohawk Valley Home Care, LLC ("MVHC") (each individually referred to as an "Affiliate" and collectively referred to as the "Affiliates"). To this end, the Corporation shall, in addition to all other rights and powers of membership prescribed by New York law, the certificates of incorporation and/or bylaws, or the articles of organization or operating agreements of the Affiliates, have the following governance and management powers as have been delegated to the Corporation to the extent permitted by the New York Not-for-Profit Corporation Law and the New York Limited Liability Company Law:

a. Except as otherwise set forth herein, to approve and interpret the statement of mission and philosophy adopted by the Affiliates, to require that each Affiliate operate in conformance with its mission and philosophy and to coordinate the missions, visions, activities and resources of the Affiliates in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, the Corporation shall not have the power to approve or interpret those elements of SEMC's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of SEMC's Catholic mission and philosophy;

b. To elect or appoint, fix the number of, and remove, with or without cause, the directors or trustees (referred to hereinafter as "directors" or "director") or managers of the Affiliates, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Affiliates. Notwithstanding the foregoing, Partners in Franciscan Ministries, Inc. ("PFM"), as the co-member of SEMC, shall be entitled to appoint and remove, with or without cause, one additional director designated by PFM to the SEMC board of directors who does not currently serve on the Corporation's Board, and the FSLH Board shall be entitled to appoint and remove, with or without cause, one additional director to the FSLH Board who does not currently serve on the Corporation's Board;

c. To amend or repeal the Certificate of Incorporation and Bylaws or the Articles of Organization or Operating Agreements, and to adopt any new or restated Certificate of Incorporation, Bylaws, Articles of Organization, or Operating Agreements, of the Affiliates, unless such amendment would terminate SEMC's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services (hereinafter, "ERDs");

- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Affiliates;
- e. To approve the debt of the Affiliates in excess of an amount to be fixed from time to time by the Corporation;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Affiliate(s) in excess of an amount to be fixed from time to time by the Corporation. Notwithstanding the foregoing, the approval of PFM shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of SEMC in excess of an amount to be fixed from time to time by PFM, to meet the requirements of the United States Conference of Catholic Bishops;
- g. To approve the capital and operating budgets of the Affiliates;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to such Affiliate;
- i. To approve any corporate reorganization of the Affiliates and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve and coordinate the strategic plans of the Affiliates;
- k. To the extent applicable, to approve all contracts of reimbursement for the Affiliates from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Affiliate(s) to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Affiliate(s) subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by an Affiliate;
- o. To require an Affiliate to participate in any and all programs and services, as determined by the Corporation in its discretion, provided, however, that the Corporation may not require an Affiliate to participate in any program or service or take any action that would constitute a default

or event of default under any mortgage, indenture or other material agreement or instrument to which such Affiliate is a party and by which it is bound, and with respect to SEMC, may not require participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy, as determined by PFM; and

p. To accept delegations of authority on behalf of each Affiliate pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliates pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at FSLH which are proscribed by the ERDs shall not be transferred to or used for the benefit of the Corporation, SEMC or any subsidiary of SEMC, and neither the Corporation nor SEMC shall provide or support such services maintained by FSLH or any Affiliate or any subsidiary of FSLH.

For the purposes of the foregoing, the Corporation shall have: (i) the power to initiate and direct action by Affiliates without a prior recommendation of the Affiliate's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Affiliate's board of directors and to direct action by the Affiliate or to return the matter to the board of directors of the Affiliate for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, in the case of SEMC, the Corporation shall not direct any action with respect to SEMC that requires the approval of PFM without prior approval of such action by PFM. The board of directors and officers of an Affiliate shall not implement any action requiring the approval of the Corporation until the Corporation shall have exercised its reserve powers and communicated its determinations in writing to the Affiliate's board of directors and, in the case of any powers over SEMC that are also reserved to PFM, to PFM.

4. **ADDITIONAL PURPOSES AND POWERS.** The Corporation shall have the following additional purposes and powers:

a. To establish, support and maintain such other health care facilities and systems at one or more sites, whose purposes may include, but not be limited to, the provision of a full range of health and/or wellness related services, but whose services shall not include direct abortions or physician assisted suicide.

Each such service or facility shall be established and operated in accordance with all approvals required by the Public Health Law or other law of the State, and all approvals required from any other body having jurisdiction over such activities.

b. To carry on educational activities, scientific research and other health related activities or programs incident to the purposes set forth above either directly or through an Affiliate or subsidiary.

c. To solicit funds for the above purposes.

d. To pursue, enhance, and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations or other entities as may be established, operated and maintained in accordance with all approvals required by applicable law.

5. The Corporation is a Type B corporation under Section 201 of the Not-for-Profit Corporation Law.

6. Notwithstanding any other provision of this Certificate, the Corporation is organized and shall be operated exclusively for the charitable, religious, scientific and educational purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and shall not carry on any activities not permitted to be carried on by an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or by an organization, contributions to which are deductible under Section 170(c)(2) of such Code.

7. No part of the assets, income, profits or earnings of the Corporation shall inure to the benefit of any member, trustee, director or officer of the Corporation, or any private individual, except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes, and no member, trustee, director or officer of the Corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.

8. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation, except as otherwise provided by Section 501(h) of Internal Revenue Code of 1986, as amended, and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of any candidate for public office.

9. In the event of dissolution, all the remaining assets and property of the Corporation shall, after necessary expenses thereof, be distributed to FSLH, SEMC, SLH and/or VNA, provided that they shall then qualify under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, subject to an order of a Justice of the Supreme Court of the State of New York; if none of said not-for-profit corporations shall so qualify at the

time of dissolution, then distribution shall be made to such other organization or organizations that are organized and operated exclusively for religious, charitable, educational or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, subject to an order of a Justice of the Supreme Court of the State of New York.

10. In any taxable year in which the Corporation is a private foundation defined by Section 509 of the Internal Revenue Code of 1986, as amended, the Corporation shall:

(a) not engage in any act of self-dealing that is subject to tax under Section 4941 of the Code;

(b) not distribute its income for each taxable year at such time and in such manner as to subject the Corporation to tax on undistributed income under Section 4942 of the Code;

(c) not retain any excess business holdings in such manner as to subject the Corporation to tax under Section 4943 of the Code;

(d) not make any investments in such manner as to subject the Corporation to tax under Section 4944 of the Code; and

(e) not make any taxable expenditures that are subject to tax under Section 4945 of the Code.

11. The number of directors constituting the entire Board of Directors of the Corporation shall not be less than three (3). Subject to such limitation, the number shall be fixed by the bylaws pursuant to Section 702 of the Not-for-Profit Corporation Law.

12. The office of the Corporation is to be located in the County of Oneida, New York.

13. The Secretary of State is hereby designated as the agent of the Corporation upon whom process against it may be served, and the post office address to which the Secretary of State shall mail a copy of any process against the Corporation that may be served upon him is P.O. Box 4308, Utica, New York 13504-4308.

5. This Restated Certificate of Incorporation, and the foregoing amendments of the Certificate of Incorporation, were authorized by a unanimous vote of the entire Board of Directors, said affirmative vote being at least equal to a quorum.

IN WITNESS WHEREOF, the undersigned have subscribed this Restated Certificate of Incorporation this ____ day of October, 2013, and hereby affirm that the statements contained herein are true under the penalties of perjury.

Scott H. Perra, FACHE, President

Todd Hutton, Ph.D., Secretary

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

Scott H. Perra, FACHE, being duly sworn, deposes and says, that he is the President of MOHAWK VALLEY NETWORK, INC, the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.

Scott H. Perra, FACHE

Sworn to before me this
___ day of October, 2013

NOTARY PUBLIC – State of New York
Appointed in _____ County
My commission expires: ___/___/___

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

Todd Hutton, Ph.D., being duly sworn, deposes and says, that he is the Secretary of MOHAWK VALLEY NETWORK, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.

Todd Hutton, Ph.D.

Sworn to before me this
___ day of October, 2013

NOTARY PUBLIC – State of New York
Appointed in _____ County
My commission expires: ____/____/____

State of New York }
Department of State } *ss:*

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on

JUN 30 2000



A handwritten signature in cursive script, appearing to read "J. Clark", followed by a long horizontal line extending to the right.

Special Deputy Secretary of State

F000628000602
52-00-3890C

RESTATED CERTIFICATE OF INCORPORATION
OF
MOHAWK VALLEY NETWORK, INC.

Pursuant to Section 805 of the Not-For-Profit Corporation Law

We, the undersigned, being the President and Secretary of Mohawk Valley Network, Inc., hereby certify:

1. The name of the corporation is: MOHAWK VALLEY NETWORK, INC.
2. The corporation's Certificate of Incorporation was filed by the Department of State on the 12th day of April, 1991, pursuant to the Not-For-Profit Corporation Law. A Restated Certificate of Incorporation of the Corporation was thereafter filed by the Department of State on February 17, 2000.
3. The corporation's Certificate of Incorporation, as previously filed and restated, is hereby amended to effect the following amendments:
 - A. To add Visiting Nurse Association of Utica and Oneida County, Inc. as a named affiliate of the Corporation, as provided in Paragraph 3. of the Certificate of Incorporation;
 - B. To add Visiting Nurse Association of Utica and Oneida County, Inc. as a named distributee of the Corporation's assets upon dissolution, as provided in Paragraph 12. of the Certificate of Incorporation.
4. The text of the Certificate of Incorporation, as amended, is hereby restated to read as herein set forth in full:

1. The name of the corporation is: MOHAWK VALLEY NETWORK, INC.
2. The corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law in that it is not formed for pecuniary profit or financial gain, and no part of the assets, income or profit of the corporation shall be distributable to, or inure to the benefit of, its members, directors, officers or any private person.
3. The corporation is organized and shall be operated exclusively for the benefit of Faxton-St. Luke's Healthcare, Little Falls Hospital, Court Street Diagnostic and Treatment Center, Inc. and Visiting Nurse Association of Utica and Oneida County, Inc. which are New York not-for-profit corporations. To this end, the corporation shall:

(a) Support and assist Faxton-St. Luke's Healthcare, Little Falls Hospital, Court Street Diagnostic and Treatment Center, Inc. and Visiting Nurse Association of Utica and Oneida County, Inc. by reviewing and monitoring their missions, objectives, activities and resources and advising them with respect to the same, including, but not limited to, the coordination of their missions, objectives, activities and resources with those of other health care providers, health care agencies and related organizations operating in central New York State, all in furtherance of the purposes of promoting efficient, effective and economical health care services in their service area;

(b) Do any other act or thing incidental to or connected with the foregoing purposes or in advancement thereof, but not for the pecuniary profit of any private person.

4. In furtherance of its corporate purposes, the corporation shall have all general powers enumerated in Section 202 of the Not-For-Profit Corporation Law.

5. Nothing contained herein shall authorize the corporation to establish, operate, construct, lease or maintain a hospital, or to provide hospital services or health related services, or to operate a drug maintenance program, a certified home health agency, a hospice or a health maintenance organization, or to provide a comprehensive health services plan, as defined in and covered by Articles 28, 33, 36, 40 and 44, respectively, of the Public Health Law. In addition, the corporation shall not solicit contributions for the establishment or maintenance of any hospital, as defined in Article 28 of the Public Health Law.

6. Nothing herein shall authorize the corporation to engage in the practice of medicine or any other profession required to be licensed by Title VIII of the Education Law.

7. Nothing contained herein shall authorize this corporation, directly or indirectly, to engage in or include among its purposes any of the activities mentioned in Section 404(b)-(v) of the New York Not-For-Profit Corporation Law.

8. The corporation is a Type B corporation under Section 201 of the Not-For-Profit Corporation Law.

9. Notwithstanding any other provision of this Certificate, the corporation is organized and shall be operated exclusively for the charitable, religious, scientific and educational purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and shall not carry on any activities not permitted to be carried on by an organization except from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or by an organization, contributions to which are deductible under Section 170(c)(2) of such Code.

10. No part of the assets, income, profits or earnings of the corporation shall inure to the benefit of any member, trustee, director or officer of the corporation, or any private individual, except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes, and no member, trustee, director or officer of the corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation.

11. No substantial part of the activities of the corporation shall be carrying on propaganda, or otherwise attempting to influence legislation, except as otherwise provided by Section 501(h) of the Internal Revenue Code of 1986, as amended, and the corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of any candidate for public office.

12. In the event of dissolution, all the remaining assets and property of the corporation shall, after necessary expenses thereof, be distributed to Faxton-St. Luke's Healthcare, Little Falls Hospital, Court Street Diagnostic and Treatment Center, Inc. and/or and Visiting Nurse Association of Utica and Oneida County, Inc., provided that they shall then qualify under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, subject to an order of a Justice of the Supreme Court of the State of New York; if neither Faxton-St. Luke's Healthcare, Little Falls Hospital, Court Street Diagnostic and Treatment Center, Inc. nor Visiting Nurse Association of Utica and Oneida County, Inc. shall so qualify at the time of dissolution, then distribution shall be made to such other organization or organizations that are organized and operated exclusively for religious, charitable, educational or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, subject to an order of a Justice of the Supreme Court of the State of New York.

13. In any taxable year in which the corporation is a private foundation defined by Section 509 of the Internal revenue Code of 1986, as amended, the corporation shall:

- (a) not engage in any act of self-dealing that is subject to tax under Section 4941 of the Code;
- (b) not distribute its income for each taxable year at such time and in such manner as to subject the corporation to tax on undistributed income under Section 4942 of the Code;
- (c) not retain any excess business holdings in such manner as to subject the corporation to tax under Section 4943 of the Code;
- (d) not make any investments in such manner as to subject the corporation to tax under Section 4944 of the Code; and

(e) not make any taxable expenditures that are subject to tax under Section 4945 of the Code.

14. The number of directors constituting the entire Board of Directors of the corporation shall not be less than three (3). Subject to such limitation, the number shall be fixed by the bylaws pursuant to Section 702 of the Not-For-Profit Corporation Law.

15. The office of the corporation is to be located in the County of Oneida, New York.

16. The Secretary of State is hereby designated as the agent of the corporation upon whom process against it may be served, and the post office address to which the Secretary of State shall mail a copy of any process against the corporation that may be served upon him is P.O. Box 4308, Utica, New York 13504-4308.

17. The Corporation is hereby authorized, by resolution of the Board of Directors, to accept subventions from affiliates or others on terms and conditions not inconsistent with the Not-For-Profit Corporation Law of the State of New York, and to issue certificates therefor. Such subventions shall consist of money or other property, tangible or intangible, actually received by the corporation or expended for its benefit or for its formation or reorganization, or a combination thereof, and shall be evidenced by the issuance of subvention certificates in accordance with the provisions of Section 505 of the Not-For-Profit Corporation Law.

5. This Restated Certificate of Incorporation, and the foregoing amendments of the Certificate of Incorporation, were authorized by an affirmative majority of the entire Board of Directors, said affirmative vote being at least equal to a quorum.

IN WITNESS WHEREOF, the undersigned have subscribed this Restated Certificate of Incorporation this 5th day of June, 2000 and hereby affirm that the statements contained herein are true under the penalties of perjury.


KEITH A. FENSTEMACHER, President


MARSHA MASON, Secretary

VERIFICATION

STATE OF NEW YORK)

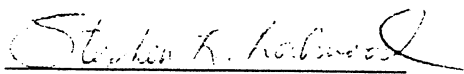
COUNTY OF ONEIDA) SS.:

KEITH A. FENSTEMACHER, being duly sworn, deposes and says, that he is the President of MOHAWK VALLEY NETWORK, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on the 30th day of May, 2000 upon notice pursuant to Section 711 of the Not-For-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponents to execute and file the foregoing Certificate by unanimous vote.



KEITH A. FENSTEMACHER

Sworn to before me this
5th day of June, 2000.



Notary Public

STEPHEN L. LOCKWOOD
Notary Public, State of New York
Appointed in Oneida County
My Commission Expires Nov. 30, 2001

VERIFICATION

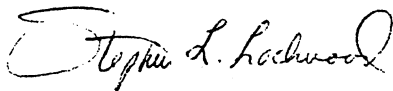
STATE OF NEW YORK)

COUNTY OF HERKIMER) SS.:

MARSHA MASON, being duly sworn, deposes and says, that she is the Secretary of MOHAWK VALLEY NETWORK, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on the 30th day of May, 2000 upon notice pursuant to Section 711 of the Not-For-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponents to execute and file the foregoing Certificate by unanimous vote.


MARSHA MASON

Sworn to before me this
5th day of June, 2000.


Notary Public

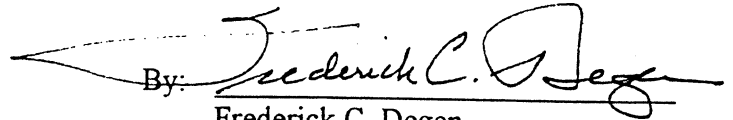
STEPHEN L. LOCKWOOD
Notary Public, State of New York
Appointed in Oneida County
My Commission Expires Nov. 30, 2001

APPROVAL OF ATTORNEY GENERAL

The undersigned has no objection to presentment of the proposed Restated Certificate of Incorporation of Mohawk Valley Network, Inc. to a New York Supreme Court Justice for judicial approval or to the filing of the proposed Restated Certificate by the Secretary of State, and hereby waives statutory notice of the same.

Dated: June 19, 2000

ELIOT SPITZER
Attorney General
State of New York

By: 
Frederick C. Degen
Associate Attorney General

STATE OF NEW YORK
SUPREME COURT COUNTY OF ONEIDA

In the Matter of the Application for Approval
of the Restated Certificate of Incorporation of
MOHAWK VALLEY NETWORK, INC.,
A Not-For-Profit Corporation.

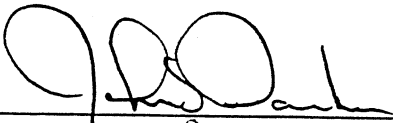
APPROVAL OF SUPREME COURT

RJI No.

09-1255

The undersigned, Hon. John S. Parker, a Justice of the Supreme Court of
the State of New York, Fifth Judicial District, does hereby approve the foregoing Restated Certificate
of Incorporation of MOHAWK VALLEY NETWORK, INC. and consent that the same be filed.

Dated: June 26, 2000
Utica, New York
L. M. M. M.



Hon. John S. Parker
Justice of the Supreme Court
Fifth Judicial District

✓ 000628000602

RESTATED CERTIFICATE OF INCORPORATION
OF
MOHAWK VALLEY NETWORK, INC.

JUN 28 12 56 PM '00

LOCKWOOD & GOLDEN
1412 Genesee Street
Utica, New York 13502
Tel. (315) 732-5134

ICC

STATE OF NEW YORK
DEPARTMENT OF STATE

JUN 28 2000

FILED
TAX S S
BY: JAN

**BLU-39
DRAWDOWN**

Oueda

9

000628000624

JUN 28 12 56 PM '00

CERTIFICATE OF CONSOLIDATION
of
FAXTON HOSPITAL and ST. LUKE'S-MEMORIAL HOSPITAL CENTER
into
FAXTON-ST. LUKE'S HEALTHCARE

Under Section 904 of the Not-For-Profit Corporation Law

We the undersigned, being respectively the Chairman and Secretary of the Board of Directors of Faxton Hospital and the Chairman and Secretary of the Board of Directors of St. Luke's-Memorial Hospital Center, certify:

- 1 (a) The names of each corporation to be consolidated are Faxton Hospital, originally formed as Faxton-Children's Hospital, and St. Luke's-Memorial Hospital Center.
- (b) Faxton Hospital was formed by the filing of the Certificate of Consolidation of the Faxton Hospital and Children's Hospital and Rehabilitation Center of Utica into Faxton-Children's Hospital on December 28, 1988. The name of Faxton-Children's Hospital was changed to Faxton Hospital by the filing of a Certificate of Amendment of Certificate of Consolidation of Faxton-Children's Hospital on October 5, 1992.
- (c) St. Luke's-Memorial Hospital Center was formed by the filing of the Certificate of Consolidation of St. Luke's Home and Hospital in the City of Utica and Utica Memorial Hospital, pursuant to Section 50 of the Membership Corporation Law, on March 13, 1950.
- 2 (a) The sole member of Faxton Hospital is Mohawk Valley Network, Inc.
- (b) The sole member of St. Luke's-Memorial Hospital Center is Mohawk Valley Network, Inc.
- (c) Neither of the constituent corporations have any holders of any certificates evidencing capital contributions or subventions.
- 3. The name of the consolidated corporation is Faxton-St. Luke's Healthcare.
- 4. The consolidated corporation shall be a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law.

/

5. The purposes and objects of the consolidated corporation shall be as follows:

- a. To establish, operate and maintain a general hospital and comprehensive health care facilities and systems whose purposes may include, but not be limited to, a full range of inpatient services, outpatient services, emergency department services, medical and dental services, residential health care facility services, end stage renal dialysis services, and such other services, facilities and equipment as shall be desirable in meeting the health care needs of the community, to be located at one or more sites.
- b. To carry on educational activities, scientific research and other health related activities and programs incident to the purposes set forth above.
- c. To solicit funds for the above purposes.
- d. To pursue, enhance and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations as may be established, operated and maintained in accordance with all approvals required by applicable law.
- e. This corporation is organized exclusively for charitable, scientific and educational purposes as a not-for-profit corporation. Upon dissolution of the corporation, and after payment of all just debts and liabilities, all remaining assets shall be distributed to organizations enjoying exempt status under Section 501(c)(3) of the Internal Revenue Code, of 1954, as amended, or successor provisions, pursuant to a plan of dissolution authorized in accordance with the laws of the State of New York. The corporation shall not devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise.
- f. Pursuant to the establishment of the Mohawk Valley Heart Institute, Inc. under Article 28 of the Public Health Law, the consolidated corporation hereby delegates to Mohawk Valley Heart Institute, Inc.:
 - i. Joint operational decision making authority and responsibility with Faxton-St. Luke's Healthcare over such services for which a

joint operating certificate will be issued by the New York State Department of Health to Mohawk Valley Heart Institute, Inc. and Faxton-St. Luke's Healthcare.

- ii. Notwithstanding the foregoing, Faxton-St. Luke's Healthcare retains control over and does not delegate to Mohawk Valley Heart Institute, Inc., authority and responsibility for all other services, operations, and clinical programs for which no authority has been delegated to Mohawk Valley Heart Institute, Inc. and for which no joint operating certificate will be issued by the New York State Department of Health.

6. The corporation is not organized for pecuniary profit or financial gain, and no part of its assets, income or profit shall be distributable to, or inure to the benefit of its members, directors or officers, except to the extent permitted under the Not-For-Profit Corporation Law.

7. The consolidated corporation shall be a Type B corporation under Section 201 of the Not-For-Profit Corporation Law.

8. The office of the corporation is to be in the County of Oneida, State of New York.

9. The duration of the corporation is to be perpetual.

10. The names and addresses of the initial directors of the corporation are as follows:

Richard Notebaert, Jr., Chair
President/CEO
Homestead Savings FA
283 Genesee Street
Utica, NY 13501

Natalie Brown, Vice Chair
Vice President, Marketing
Savings Bank of Utica
233 Genesee Street
Utica, NY 13501

Lyn Simon, Secretary
Attorney
23 Wills Drive
New Hartford, NY 13413

James B. Stewart, Treasurer
Sears Roebuck & Co.
Sangertown Square Mall
Rte. 5 & 5A
New Hartford, NY

Andrew E. Peterson, President/CEO
St. Luke's-Memorial Hospital Center
P. O. Box #479
Utica, NY 13503-0479

William Abraham
CONMED
310 Broad Street
Utica, NY 13501


Sidney J. Blatt, MD
1729 Burrstone Road
New Hartford, NY 13413

Dinesh J. Bhat, MD
2717 Genesee Street
Utica, NY 13501

Milton J. Bloch
Munson-Williams-Proctor-Institute
310 Genesee Street
Utica, NY 13502


John L. Crossley
Utica School of Commerce
201 Blecker Street
Utica, NY 13501

Alan Rosenblum
Granny's Kitchens Ltd.
10 Industrial Park Drive
Frankfort, NY 13340

Michael Damsky


John W. Soggs


Elaine Falvo


Stephen L. Sweet


James E. Frederick, MD
37 Main Street
Whitesboro, NY 13492

Nancy Taylor
Harden Furniture Inc.
Mill Pond Way
McConnellsville, NY 13401

Lawrence T. Gilroy, III
Gilroy, Kernan & Gilroy
PO Box 542
New Hartford, NY 13413

Dwight E. Vicks, III
Vicks Lithograph & Printing Co.
PO Box 270
Yorkville, NY 13495

Laurance C. Lee, MD
809 Newell Street
Utica, NY 13502

Mark Godecki, MD
St. Luke's-Memorial Medical Staff
President
1522 Burrstone Road
Utica, NY 13502

Gregory McLean
Caruso McLean & Co. Inc.
110 Lomond Court
Utica, NY 13502

John F. Houck, MD
Faxton Medical Staff President
3946 Oneida Street
New Hartford, NY 13413

Robert W. Ranger
Burrows Road
PO Box 310
West Winfield, NY 13491

Earle C. Reed
Utica Boilers Inc.
2201 Dwyer Avenue
Utica, NY 13501

11. The Secretary of State of the State of New York is hereby designated the agent of the corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is: *P.O. Box 479, Utica, New York 13503-0479.*

12. The effective date of the consolidation of Faxton Hospital and St. Luke's-Memorial Hospital Center into Faxton-St. Luke's Healthcare is January 1, 2000.

13. The plan of consolidation was approved and adopted by Resolution of the Board of Directors of Faxton Hospital on April 28, 1999, and duly approved and adopted by the sole member of the corporation, by unanimous vote of its Board of Directors at a meeting of the member duly called and held on the 18th day of MAY, 1999, which said resolution authorized the Chairman and Secretary to execute and deliver this certificate of consolidation.

14. The plan of consolidation was approved and adopted by Resolution of the Board of Directors of St. Luke's-Memorial Hospital Center on April 28, 1999, and duly approved and adopted by the sole member of the corporation, by unanimous vote of its Board of Directors at a meeting of the member duly called and held on the 18th day of

5

MAY, 1999, which said resolution authorized the Chairman and Secretary to execute and deliver this certificate of consolidation.

IN WITNESS WHEREOF, the undersigned have signed this certificate of consolidation on behalf of the respective constitute corporations on this 18th day of MAY, 1999.

FAXTON HOSPITAL

by: Richard Notebaert _____
Chair

by: Lyn Simon _____
Secretary

ST. LUKE'S-MEMORIAL HOSPITAL CENTER

by: Richard Notebaert _____
Chair

by: Lyn Simon _____
Secretary

VERIFICATION OF FAXTON HOSPITAL

STATE OF NEW)
COUNTY OF ONEIDA) ss.:

I, Richard Notebaert, being duly sworn, depose and state that I am Chairman of the Board of Directors of Faxton Hospital, the corporation named in and described in the foregoing Certificate, and that I have read the foregoing Certificate and know the contents thereof to be true, except to matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.

Richard Notebaert _____
Chair

Sworn to before me this
18th day of MAY, 1999.

Thomas S. Soja _____
Notary Public : Comm. Exp.:

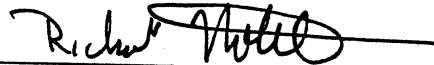
THOMAS S. SOJA
Notary Public, State of New York
No. 02SO5001279
Qualified in Oneida County
Commission Expires August 31 2000

6

VERIFICATION OF ST. LUKE'S-MEMORIAL HOSPITAL CENTER

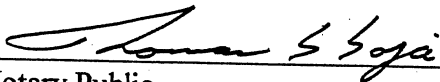
STATE OF NEW)
COUNTY OF ONEIDA) ss.:

I, Richard Notebaert, being duly sworn, depose and state that I am Chairman of the Board of Directors of St. Luke's-Memorial Hospital Center, the corporation named in and described in the foregoing Certificate, and that I have read the foregoing Certificate and know the contents thereof to be true, except to matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.



Chair

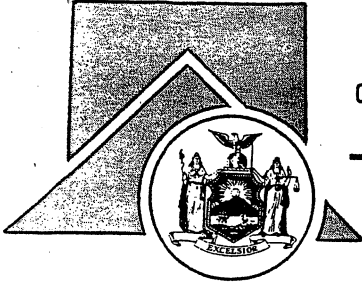
Sworn to before me this
18th day of MAY, 1999.



Notary Public

Commission Expires:

THOMAS S. SOJA
Notary Public, State of New York
No. 02S05001279
Qualified in Oneida County
Commission Expires August 31 2000



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

December 15, 1999

Mr. Henry John
Consultant
Kinnally, John & Associates
453 New Karner Road
Albany, New York 12205

Re: Certificate of Consolidation of Faxton Hospital and St. Luke's-Memorial Hospital Center
into Faxton-St. Luke's Healthcare

Dear Mr. John:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health Council held on the 22nd day of October, 1999, I hereby certify that the Certificate of Consolidation of Faxton Hospital and St. Luke's-Memorial Hospital Center into Faxton-St. Luke's Healthcare, dated May 18, 1999 is approved.

Sincerely,

Donna Peterson
Karen S. Westervelt *for*
Executive Secretary

J

STATE OF NEW YORK
SUPREME COURT COUNTY OF ONEIDA

CERTIFIED COPY

In the Matter of the Application of
St. Luke's-Memorial Hospital Center and Faxton
Hospital for an Order Approving their Plan of
Consolidation Under § 907 of the Not-For-Profit
Corporation Law into Faxton-St. Luke's Healthcare,
and authorizing the filing of the Certificate of
Consolidation under § 904 of said Law.

ORDER

Index No. 99 02690
RJ No. 32-99-810

99 DEC 20 11:10:39
FILED
ONEIDA COUNTY
CLERK

Faxton Hospital and St. Luke's-Memorial Hospital Center have duly made joint application for an Order, pursuant to § 907 of the Not-For-Profit Corporation Law, approving the Plan of Consolidation of said corporations and authorizing the filing of a Certificate of Consolidation in accordance with § 904 of the Not-For-Profit Corporation Law, and said application having regularly come on to be heard,

NOW, upon reading the Order to Show Cause dated December 8, 1999, the Affidavit of Andrew E. Peterson, President/Chief Executive Officer of Faxton Hospital and St. Luke's-Memorial Hospital Center sworn to on the 8th day of December 1999, and the Plan of Consolidation designated as Exhibit "A" therein and the Certificate of Consolidation of said corporations into Faxton-St. Luke's Healthcare under § 904 of the Not-For-Profit Corporation Law all in support of the application and the Attorney General of the State of New York having filed a Notice of Appearance and Consent dated December 15, 1999, and after due deliberation having been held thereon and it appearing that the interests of the constituent corporations and the public interest will not be adversely affected by the proposed consolidation.

NOW, upon the motion of Thomas S. Soja, Esq., attorney for the applicants, it is

ORDERED, that the Plan of Consolidation of Faxton Hospital and St. Luke's-Memorial Hospital Center, be and the same hereby is approved; and it is further

ORDERED, that this Court does hereby authorize and consent to the filing of the Certificate of Consolidation of Faxton Hospital and St. Luke's-Memorial Hospital Center into Faxton-St. Luke's Healthcare, by the Department of State in accordance with § 904 of the Not-For-Profit Corporation Law, to which Certificate a certified copy of this Order shall be annexed.

ENTER

Dated:

December 17, 1999
Utica, New York

Anthony F. Shaheen
Honorable Anthony F. Shaheen,
Supreme Court Justice

SUPREME COURT - COUNTY OF ONEIDA
STATE OF NEW YORK

In the Matter of the Application of
St. Luke's-Memorial Hospital Center
and Faxton Hospital for an Order
Approving their Plan of Consolidation
into Faxton-St. Luke's Healthcare
and Authorizing the filing of the
Certificate of Consolidation

NOTICE OF APPEARANCE
AND CONSENT

Index No. 99 02690

RJI No. 32-99-810UC

ELIOT SPITZER, Attorney General of the State of New York, by the undersigned, does hereby appear in the Supreme Court of the County of Oneida, New York, in the above entitled matter, an Application by two Not-For-Profit Corporations to consolidate, pursuant to §907 of the Not-For-Profit Corporation Law, and for permission to file a Certificate of Consolidation, under § 904 of said Law; and, a copies of the Order to Show Cause (issued by the Honorable Anthony F. Shaheen, JSC, dated December 8, 1999), the Affidavit of Andrew E. Peterson, President of both Faxton Hospital and St. Luke's-Memorial Hospital Center, sworn to December 8, 1999, the Plan of Consolidation, dated April 28, 1999, the proposed Certificate of Consolidation, as adopted on May 18, 1999, together with supporting materials, having been received and examined, does hereby consent to the proposed consolidation and the filing of the Certificate of Consolidation, and requests that the Supreme Court of said County issue an Order, granting the Application, without further or other notice to me in said matter.

Dated: December 15, 1999

ELIOT SPITZER
Attorney General

By: Frederick C. Degen

FREDERICK C. DEGEN
Associate Attorney
NYS Department of Law
207 Genesee Street
Utica, NY 13501
(315) 793-2225

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

On this 15th day of December, 1999, before me personally appeared FREDERICK C. DEGEN, Associate Attorney for the State of New York, to me known to be the same person described in, and who executed the above instrument, and he duly acknowledged to me that he executed the same.

Joseph T. Kelly
Notary Public

No. O1KE5088548

County of Oneida, State of N.Y.
My Commission Expires 11/17/2001

Joseph T. Kelly
Notary Public

F 991223000771

SERVICO 35

FILED

DEC 23 4 37 PM '99

CERTIFICATE OF CONSOLIDATION

OF

FAXTON HOSPITAL AND ST. LUKE'S-MEMORIAL HOSPITAL CENTER
INTO
FAXTON-ST. LUKE'S HEALTHCARE

STATE OF NEW YORK
DEPARTMENT OF STATE

DEC 23 1999

FILED

TAX \$

BY:

MMR
Onesta

DEC 23 9 10 AM '99

RECEIVED

1-1-2000

SERVICO 35

FILER:

THOMAS A. SOJA, ESQ.
P.O. BOX 479
UTICA, NY 13503-0479

DRAWDOWN

CUSTOMER

REFERENCE NUMBER:

- 13357

12

991223000804

**RESTATED CERTIFICATE OF INCORPORATION
OF
ST. ELIZABETH MEDICAL CENTER**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

The undersigned, President/CEO of St. Elizabeth Medical Center, certifies:

1. The name of the corporation is St. Elizabeth Medical Center (the “Corporation”). The Corporation was originally formed under the name of The Saint Elizabeth’s Hospital and Home.
2. The Certificate of Incorporation of the Corporation was filed by the Department of State on February 8, 1870. The Corporation was formed under C. 319 of the Laws of 1848.
3. The Certificate of Incorporation of the Corporation is amended to affect the following amendments authorized by the Not-For-Profit Corporation Law:
 - a. Paragraph (6) of the Certificate of Incorporation reads as follows:
 - (6) The member of St. Elizabeth Medical Center shall be Partners in Franciscan Ministries, Inc.
 - b. Paragraph (6) of the Certificate of Incorporation is deleted in its entirety and is replaced with the following:
 - (6) Partners in Franciscan Ministries, Inc., and Mohawk Valley Health System shall serve as co-members of the Corporation.
 - c. Paragraph (7) of the Certificate of Incorporation reads as follows:
 - (7) The following powers shall be reserved to the Corporate Member to exercise and shall be referred to as Reserved Powers:
 - (a) To change the philosophy, mission, and purpose of the Corporation.
 - (b) To appoint and remove the President/CEO of the Corporation.
 - (c) To appoint and remove the Board of Trustees of the Corporation.
 - (d) To approve the Certificate of Incorporation and Bylaws of the Corporation.

- (e) To receive the annual report of the Corporation.
- (f) To approve the formation of subsidiaries, affiliates or divisions of the Corporation.
- (g) To approve a change in the name of the Corporation.
- (h) To receive, review and monitor the budget of the Corporation as deemed necessary by the Corporate Member.
- (i) To receive the annual audit of the Corporation.
- (j) To receive, review and monitor strategic, long range plans of the Corporation as deemed necessary by the Corporate Member.
- (k) To approve the financial transactions of the Corporation according to the annual United States Conference of Catholic Bishops alienation guidelines.

d. Paragraph (7) is deleted in its entirety and replaced with the following:

- (7) (a) The following powers shall be reserved to co-member, Partners in Franciscan Ministries, Inc., to exercise and shall be referred to as the Reserved Powers of the Partners in Franciscan Ministries, Inc.:
 - (i) To approve and interpret those elements of the Corporation's statement of mission and philosophy adopted by the Corporation that relate to the Corporation's status as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy, and any amendments thereof, and to require the Corporation to operate in conformance with its Catholic mission and philosophy.
 - (ii) To approve any amendment of the Corporation's purposes or powers in its Certificate of Incorporation that would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services.
 - (iii) To approve the sale, transfer, mortgage, guaranty, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by the Partners in Franciscan Ministries, Inc., to meet the requirements of the United States Conference of Catholic Bishops.

- (iv) To approve and reject appointments to the pension committee for the defined benefit pension plan sponsored by the Corporation, which qualifies as a church plan under Section 3(33) of the Employee Retirement Income Security Act of 1974.
- (v) To approve any amendments or modifications to, or the termination of, the St. Elizabeth Medical Center Church Plan.
- (vi) To elect or appoint and remove, with or without cause, one director of the Corporation who does not currently serve on the board of Mohawk Valley Health System.

For the purposes of this subsection (a) of section (7), the power of the Partners of Franciscan Ministries, Inc., to “approve” means the power to accept or reject a recommendation of the Board of Directors of the Corporation or an action by Mohawk Valley Health System or any future Members of the Corporation with respect to the powers reserved to the Partners of Franciscan Ministries, Inc. The Corporation’s Board of Directors and officers or Mohawk Valley Health System. or any future Members of the Corporation shall not implement any action requiring the approval of Partners of Franciscan Ministries, Inc., until Partners of Franciscan Ministries, Inc., shall have exercised its reserved powers and communicated its determination in writing to the Corporation’s other Members and Board of Directors.

- (7) (b) Subject to the powers reserved to the Partners in Franciscan Ministries, Inc., the following powers shall be reserved to co-member Mohawk Valley Health System to exercise and shall be referred to as the Reserved Powers of Mohawk Valley Health System:
 - (i) To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and to coordinate the missions, visions, activities and resources of the Corporation and other affiliates of Mohawk Valley Health System in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, Mohawk Valley Health System shall not have the power to approve or interpret those elements of Corporation’s mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of the Corporation’s Catholic mission and philosophy.

- (ii) To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation. Notwithstanding the foregoing, the Partners in Franciscan Ministries, Inc., shall be entitled to appoint and remove, with or without cause, one additional director designated by the Partners in Franciscan Ministries, Inc., to the Corporation's Board of Directors.
- (iii) To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation or Bylaws of the Corporation, unless such amendment would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services.
- (iv) To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation.
- (v) To approve the debt of the Corporation in excess of an amount to be fixed from time to time by Mohawk Valley Health System.
- (vi) To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by Mohawk Valley Health System. Notwithstanding the foregoing, the approval of the Partners in Franciscan Ministries, Inc., shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of Corporation in excess of an amount to be fixed from time to time by the Partners in Franciscan Ministries, Inc., to meet the requirements of the United States Conference of Catholic Bishops.
- (vii) To approve the capital and operating budgets of the Corporation.
- (viii) To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation.
- (ix) To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization

or dissolution of any organizational relationship of the Corporation, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Corporation.

- (x) To approve and coordinate the strategic plan of the Corporation.
- (xi) To approve all contracts of reimbursement for the Corporation from governmental or private third party insurers.
- (xi) To approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to certificate of need applications to the New York State Department of Health.
- (xii) To approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York.
- (xiii) To approve any material change in the services offered by the Corporation.
- (xiv) To require the Corporation to participate in any and all programs and services, as determined by Mohawk Valley Health System in its discretion, provided, however, that Mohawk Valley Health System may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound, and may not require the Corporation's participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy, as determined by the Partners in Franciscan Ministries, Inc.
- (xv) To accept delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Corporation and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of the Corporation pursuant to any master trust

indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at affiliate Faxton St-Luke's Healthcare which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services shall not be transferred to or used for the benefit of Mohawk Valley Health System, the Corporation or any subsidiary of the Corporation, and neither Mohawk Valley Health System nor the Corporation shall provide or support such services maintained by Faxton-St. Luke's Healthcare or any subsidiary of Faxton-St. Luke's Healthcare or any affiliate of Mohawk Valley Health System.

For the purposes of this subsection (b) of section (7), Mohawk Valley Health System shall have: (a) the power to initiate and direct action by the Corporation without a prior recommendation of Corporation's Board of Directors; and (b) the power to accept, reject or modify the recommendation of the Corporation's Board of Directors and to direct action by the Corporation or to return the matter to the Corporation's Board of Directors for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, Mohawk Valley Health System shall not direct any action with respect to the Corporation that requires the approval of the Partners in Franciscan Ministries, Inc., without prior written approval of such action by the Partners in Franciscan Ministries, Inc. The Board of Directors and officers of the Corporation shall not implement any action requiring the approval of Mohawk Valley Health System until Mohawk Valley Health System shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's Board of Directors and, in the case of any powers over the Corporation that are also reserved to the Partners in Franciscan Ministries, Inc., to the Partners in Franciscan Ministries, Inc.

With respect to any entity that is controlled by Mohawk Valley Health System, such entity's charter and governing documents shall contain a section that provides for the foregoing rights and powers to be reserved to Mohawk Valley Health System. All the policies, property, affairs and businesses of the controlled entities shall be under the charge, control and direction of their respective governing bodies, subject to the powers that are or shall be reserved to Mohawk Valley Health System as described in this paragraph.

- e. Paragraph (8) of the Certificate of Incorporation reads as follows:
 - (8) The business of St. Elizabeth Medical Center shall be managed by a Board of Trustees consisting of not fewer than nine nor more than fifteen persons.

- f. Paragraph (8) of the Certificate of Incorporation is deleted in its entirety and is replaced with the following:
 - (8) The business of the Corporation shall be managed by a Board of Directors consisting of not fewer than nine persons.

- g. Paragraphs (11), (12), (13), (14) and (15) shall be added to address: (1) that the Corporation is organized exclusively for purposes specified in Section 501(c)(3) of the Internal Revenue Code of 1986 or corresponding provision of any subsequent federal tax law (the "Code"); (2) that no part of the Corporation's net earnings nor any distribution of assets on the dissolution of the Corporation shall inure to the benefit of any private person; (3) that no substantial part of the activities of the Corporation shall be carrying on propaganda, otherwise influencing legislation or participating in any political campaign; (4) the distribution of the Corporation's assets in the event of the Corporation's liquidation; and (5) the distribution of the Corporation's income in any taxable year in which the Corporation is a private foundation as described in Code Section 509(a). Paragraphs ((11), (12), (13), (14) and (15) are added to read as follows:
 - (11) Notwithstanding any other provision of this Certificate of Incorporation, the Corporation is organized exclusively for charitable purposes, as specified in Section 501(c)(3) of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent federal tax law (the "Code") and shall not carry on any other activities not permitted to be carried on by (a) a corporation exempt from Federal Income Tax under Code Section 501(c)(3) or (b) by a corporation, contributions to which are deductible under Code Section 170(c)(2).
 - (12) No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its directors, officers or any other private persons, except that the Corporation shall be authorized to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes as set forth in this Certificate of Incorporation.
 - (13) No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Code Section 501(h)), and the Corporation shall

not participate in, or intervene (including the publication or distribution of statements), any political campaign on behalf of or in opposition to any candidate, or participating in, or intervening in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office.

(14) In the event of dissolution or final liquidation of the Corporation, the Board of Directors shall, after paying or making provisions for the payment of all the lawful debts and liabilities of the Corporation, distribute all the assets of the Corporation to Partners in Franciscan Ministries, Inc (“PFM”) and/or the Congregation of the Sisters of St. Francis of the Neumann Communities (“Sisters”), provided that they shall then qualify under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law). If neither PFM nor the Sisters shall so qualify at the time of dissolution, then distribution shall be to such organization(s) organized and operated exclusively for charitable, education, religious or scientific purposes as shall at the time qualify as an exempt organization under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law), as SEMC shall determine.

(15) In any taxable year in which the Corporation is a private foundation as described in Code Section 509(a), the Corporation shall distribute its income for said period at such time and in such manner as not to subject it to tax under Code Section 4942; and the Corporation shall not (a) engage in any act of self dealing as defined in Code Section 4941(d); (b) retain any excess business holdings as defined in Code Section 4943(c); (c) make any investments in such manner as the subject corporation detects under Code Section 4944; or (d) make any taxable expenditures as defined in Code Section 4945(d).

h. Paragraph (16) shall be added to state the following:

(16) All references to “Trustees” shall be changed to “Directors” throughout the Certificate of Incorporation and Amendments or Restatements thereto and any reference to “Trustee” or “Trustees” shall be deemed a reference to “Director” or “Directors”.

4. The text of the Certificate of Amendment is hereby restated, as amended, to read as herein set forth in full:

(1) The name of the corporation is St. Elizabeth Medical Center (the “Corporation”). The Corporation was originally formed under the name of The Saint Elizabeth’s Hospital and Home.

(2) The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 (Definitions) of the Not-For-Profit Corporation Law. The Corporation is a Type B corporation under Section 201 (purposes) of the Not-For-Profit Corporation Law.

(3) The Secretary of State is designated as the agent upon whom process may be served, and the post office address within the State to which the Secretary of State shall mail a copy of any process is: 2209 Genesee Street, Utica, NY 13501.

(4) The business and objects of the Corporation hereby formed shall be:

- (a) to maintain a hospital for poor, sick, aged, infirm and disabled persons; and
- (b) to operate a certified home health agency and to otherwise provide home care services.

(5) Pursuant to the establishment of the Mohawk Valley Heart Institute, Inc. pursuant to Article 28 of the Public Health Law, the Corporation hereby delegates to the Mohawk Valley Heart Institute, Inc.:

- (a) Joint operational decision making authority and responsibility with the Corporation over such services for which a joint operating certificate will be issued by the New York State Department of Health to Mohawk Valley Heart Institute, Inc. and the Corporation.
- (b) Notwithstanding the foregoing, the Corporation retains control over and does not delegate to Mohawk Valley Heart Institute, Inc., authority and responsibility for all other services, operations, and clinical programs, for which no authority has been delegated to Mohawk Valley Heart Institute, Inc. and for which no joint operating certificate will be issued by the New York State Department of Health.

(6) Partners in Franciscan Ministries, Inc., and Mohawk Valley Health System shall serve as co-members of the Corporation.

(7) (a) The following powers shall be reserved to co-member, Partners in Franciscan Ministries, Inc., to exercise and shall be referred to as the Reserved Powers of the Partners in Franciscan Ministries, Inc.:

- (i) To approve and interpret those elements of the Corporation's statement of mission and philosophy adopted by the Corporation that relate to the Corporation's status as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy, and any amendments thereof, and to require the Corporation to operate in conformance with its Catholic mission and philosophy.

- (ii) To approve any amendment of the Corporation's purposes or powers in its Certificate of Incorporation that would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services.
- (iii) To approve the sale, transfer, mortgage, guaranty, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by the Partners in Franciscan Ministries, Inc., to meet the requirements of the United States Conference of Catholic Bishops.
- (iv) To approve and reject appointments to the pension committee for the defined benefit pension plan sponsored by the Corporation, which qualifies as a church plan under Section 3(33) of the Employee Retirement Income Security Act of 1974.
- (v) To approve any amendments or modifications to, or the termination of, the St. Elizabeth Medical Center Church Plan.
- (vi) To elect or appoint and remove, with or without cause, one director of the Corporation who does not currently serve on the board of Mohawk Valley Health System.

For the purposes of this subsection (a) of section (7), the power of the Partners of Franciscan Ministries, Inc., to "approve" means the power to accept or reject a recommendation of the Board of Directors of the Corporation or an action by Mohawk Valley Health System or any future Members of the Corporation with respect to the powers reserved to the Partners of Franciscan Ministries, Inc. The Corporation's Board of Directors and officers or Mohawk Valley Health System or any future Members of the Corporation shall not implement any action requiring the approval of Partners of Franciscan Ministries, Inc., until Partners of Franciscan Ministries, Inc., shall have exercised its reserved powers and communicated its determination in writing to the Corporation's other Members and Board of Directors.

(7) (b) Subject to the powers reserved to the Partners in Franciscan Ministries, Inc., the following powers shall be reserved to co-member Mohawk Valley Health System to exercise and shall be referred to as the Reserved Powers of Mohawk Valley Health System:

- (i) To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and to coordinate the missions, visions, activities and resources of the

Corporation and other affiliates of Mohawk Valley Health System in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, Mohawk Valley Health System shall not have the power to approve or interpret those elements of the Corporation's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of Corporation's Catholic mission and philosophy.

- (ii) To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation. Notwithstanding the foregoing, the Partners in Franciscan Ministries, Inc., shall be entitled to appoint and remove, with or without cause, one additional director designated by the Partners in Franciscan Ministries, Inc., to the Corporation's Board of Directors.
- (iii) To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation or Bylaws of the Corporation, unless such amendment would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services.
- (iv) To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation.
- (v) To approve the debt of the Corporation in excess of an amount to be fixed from time to time by Mohawk Valley Health System.
- (vi) To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by Mohawk Valley Health System. Notwithstanding the foregoing, the approval of the Partners in Franciscan Ministries, Inc., shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by the Partners in Franciscan Ministries, Inc., to meet the requirements of the United States Conference of Catholic Bishops.
- (vii) To approve the capital and operating budgets of the Corporation.

- (viii) To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation.
- (ix) To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Corporation.
- (x) To approve and coordinate the strategic plan of the Corporation.
- (xi) To approve all contracts of reimbursement for the Corporation from governmental or private third party insurers.
- (xi) To approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to certificate of need applications to the New York State Department of Health.
- (xii) To approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York.
- (xiii) To approve any material change in the services offered by the Corporation.
- (xiv) To require the Corporation to participate in any and all programs and services, as determined by Mohawk Valley Health System in its discretion, provided, however, that Mohawk Valley Health System may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound, and may not require Corporation's participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy, as determined by the Partners in Franciscan Ministries, Inc.
- (xv) To accept delegations of authority on behalf of Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Corporation and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry

out the obligations of the Corporation pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at affiliate Faxton St-Luke's Healthcare which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services shall not be transferred to or used for the benefit of Mohawk Valley Health System, or the Corporation or any subsidiary of the Corporation, and neither Mohawk Valley Health System nor the Corporation shall provide or support such services maintained by Faxton-St. Luke's Healthcare or any subsidiary of Faxton-St. Luke's Healthcare or any affiliate of Mohawk Valley Health System.

For the purposes of this subsection (b) of section (7), Mohawk Valley Health System shall have: (a) the power to initiate and direct action by the Corporation without a prior recommendation of Corporation's Board of Directors; and (b) the power to accept, reject or modify the recommendation of the Corporation's Board of Directors and to direct action by the Corporation or to return the matter to the Corporation's Board of Directors for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, Mohawk Valley Health System shall not direct any action with respect to the Corporation that requires the approval of the Partners in Franciscan Ministries, Inc., without prior written approval of such action by the Partners in Franciscan Ministries, Inc. The Board of Directors and officers of the Corporation shall not implement any action requiring the approval of Mohawk Valley Health System until Mohawk Valley Health System shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's Board of Director and, in the case of any powers over the Corporation that are also reserved to the Partners in Franciscan Ministries, Inc., to the Partners in Franciscan Ministries, Inc.

With respect to any entity that is controlled by Mohawk Valley Health System, such entity's charter and governing documents shall contain a section that provides for the foregoing rights and powers to be reserved to Mohawk Valley Health System. All the policies, property, affairs and businesses of the controlled entities shall be under the charge, control and direction of their respective governing bodies, subject to the powers that are or shall be reserved to Mohawk Valley Health System as described in this paragraph.

(8) The business of the Corporation shall be managed by a Board of Directors consisting of not fewer than nine persons.

(9) Any action required or permitted to be taken by the Board of Trustees of the Corporation, or by any committee thereof, may be taken without a meeting if all members of the Board of Directors or the committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto by the members of the Board of Directors or committee shall be filed with the minutes of the proceedings of the Board of Directors or committee.

(10) Any one or more members of the Board of Directors or any committee thereof may participate in the meeting of such board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time.

(11) Notwithstanding any other provision of this Certificate of Incorporation, the Corporation is organized exclusively for charitable purposes, as specified in Section 501(c)(3) of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent federal tax law (the "Code") and shall not carry on any other activities not permitted to be carried on by (a) a corporation exempt from Federal Income Tax under Code Section 501(c)(3) or (b) by a corporation, contributions to which are deductible under Code Section 170(c)(2).

(12) No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its directors, officers or any other private persons, except that the Corporation shall be authorized to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes as set forth in this Certificate of Incorporation.

(13) No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Code Section 501(h)), and the Corporation shall not participate in, or intervene (including the publication or distribution of statements), any political campaign on behalf of or in opposition to any candidate, or participating in, or intervening in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office.

(14) In the event of dissolution or final liquidation of the Corporation, the Board of Directors shall, after paying or making provisions for the payment of all the lawful debts and liabilities of the Corporation, distribute all the assets of the Corporation to Partners in Franciscan Ministries, Inc ("PFM") and/or the Congregation of the Sisters of St. Francis of the Neumann Communities ("Sisters"), provided that they shall then qualify under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law). If neither PFM nor the Sisters shall so qualify at the time of dissolution, then distribution shall be to such organization(s) organized and operated exclusively for charitable, education, religious or scientific purposes as shall at the time

qualify as an exempt organization under Code Section 501(c)(3) (or the corresponding provision of any future United States Internal Revenue Law), as SEMC shall determine.

(15) In any taxable year in which the Corporation is a private foundation as described in Code Section 509(a), the Corporation shall distribute its income for said period at such time and in such manner as not to subject it to tax under Code Section 4942; and the Corporation shall not (a) engage in any act of self dealing as defined in Code Section 4941(d); (b) retain any excess business holdings as defined in Code Section 4943(c); (c) make any investments in such manner as the subject corporation detects under Code Section 4944; or (d) make any taxable expenditures as defined in Code Section 4945(d).

(16) All references to "Trustees" shall be changed to "Directors" throughout the Certificate of Incorporation and Amendments or Restatements thereto and any reference to "Trustee" or "Trustees" shall be deemed a reference to "Director" or "Directors".

5. This restatement of the certificate of incorporation of St. Elizabeth Medical Center was authorized by unanimous vote of the Corporate Member at a meeting of the Corporate Member held on the 30th day of September, 2013 at which a quorum was present and acting throughout and authorized by unanimous vote of the Board of Trustees of the Corporation at a meeting of the Board of Trustees held on the _____ day of _____, 2013 at which a quorum was present and acting throughout.

IN WITNESS WHEREOF, the undersigned has executed this Restated Certificate this _____ day of _____, 2013. The undersigned affirms that statements made herein are true under the penalties of perjury.

Richard Ketcham
President/CEO

Sworn to before me this _____ day of _____, 2013

Notary Public

Catherine Cominsky
Secretary

Sworn to before me this _____ day of _____, 2013

Notary Public

SERVICE

RESTATED CERTIFICATE OF INCORPORATION
OF
ST. ELIZABETH MEDICAL CENTER

F

55

030820000

UNDER SECTION 805 OF THE NOT-FOR-PROFIT CORPORATION LAW

The undersigned, President of St. Elizabeth Medical Center, certifies:

1. The name of the corporation is St. Elizabeth Medical Center. The corporation was originally formed under the name of The Saint Elizabeth's Hospital and Home.

2. The Certificate of Incorporation of the corporation was filed with the Department of State on February 8, 1870. The corporation was formed under C. 319 of the Laws of 1848.

3. The Restated Certificate of Incorporation restates the text of the Certificate of Incorporation without making any amendment or change. The Restated Certificate of Incorporation is to read as follows:

(1) The name of the corporation is St. Elizabeth Medical Center. The corporation was originally formed under the name of The Saint Elizabeth's Hospital and Home.

(2) The corporation is a corporation as defined in subparagraph (a)(5) of Section 102 (Definitions) of the Not-For-Profit Corporation Law. The corporation is a Type B corporation under Section 201 (purposes) of the Not-For-Profit Corporation Law.

(3) The Secretary of State is designated as agent upon whom process may be served, and the post office address within the State to which the Secretary of State shall mail a copy of any process is: 2209 Genesee Street, Utica, NY 13501.

(4) The business and objects of the corporation hereby formed shall be:

(a) to maintain a hospital for poor, sick, aged, infirm and disabled persons; and

(b) to operate a certified home health agency and to otherwise provide home care services.

(5) Pursuant to the establishment of the Mohawk Valley Heart Institute, Inc. pursuant to Article 28 of the Public Health Law, St. Elizabeth Medical Center hereby delegates to the Mohawk Valley Heart Institute, Inc.:

(a) Joint operational decision making authority and responsibility with St. Elizabeth Medical Center over such services for which a joint operating certificate will be issued by the New York State Department of Health to Mohawk Valley Heart Institute, Inc. and St. Elizabeth Medical Center.

(b) Notwithstanding the foregoing, St. Elizabeth Medical Center retains control over and does not delegate to Mohawk Valley Heart Institute, Inc., authority and responsibility for all other services, operations, and clinical programs, for which no authority has been delegated to Mohawk Valley Heart Institute, Inc. and for which no joint operating certificate will be issued by the New York State Department of Health.

(6) The member of St. Elizabeth Medical Center shall be the Superior General and Councillors of the Sisters of the Third Franciscan Order, Syracuse, New York.

(7) The following powers shall be exercised by the membership:

(a) Approve any merger, consolidation or dissolution or the sale of all or substantially all of the assets.

(b) Approve the election of members of the Board of Trustees.

(c) Remove trustees, with or without cause.

(d) Approve amendments of the certificate of incorporation and bylaws.

(e) Approve the gift, sale, lease or other encumbrance of real property whether owned or leased, or of other assets of the corporation in excess of \$3 million.

(f) Establish the mission and philosophy of St. Elizabeth Medical Center.

(g) Elect or remove corporate officers.

(8) The business of St. Elizabeth Medical Center shall be managed by a Board of Trustees consisting of not fewer than nine nor more than fifteen persons.

(9) Any action required or permitted to be taken by the Board of Trustees of St. Elizabeth Medical Center, or by any committee thereof, may be taken without a meeting if all members of the board or the committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto by the members of the board or committee shall be filed with the minutes of the proceedings of the board or committee.

(10) Any one or more members of the board or any committee thereof may participate in the meeting of such board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time.

4. The corporate purposes are not being enlarged, limited or otherwise changed.

5. This Restated Certificate of Incorporation was authorized by unanimous vote of the Board of Trustees of the corporation at a meeting held on July 9, 2003 at which a quorum was present and acting throughout.

IN WITNESS WHEREOF, the undersigned has executed this Restated Certificate this 12 day of August, 2003. The undersigned affirms that statements made herein are true under the penalties of perjury.

Sister Rose Vincent
Sister Rose Vincent, President

Sworn to before me this 12th day
of August, 2003

Margaret Jacobsen
Notary Public

MARGARET H. JACOBSEN
Notary Public, State of New York
Appointed in Oneida County
My Commission Expires 2/18/10

F060823000064

CERTIFICATE OF AMENDMENT

OF THE

CERTIFICATE OF INCORPORATION

OF

ST. ELIZABETH MEDICAL CENTER

UNDER SECTION 803 OF THE NOT-FOR-PROFIT CORPORATION LAW

The undersigned, President of St. Elizabeth Medical Center, certifies:

1. The name of the corporation is St. Elizabeth Medical Center. The corporation was originally formed under the name of The Saint Elizabeth's Hospital and Home.

2. The Certificate of Incorporation of the corporation was filed with the Department of State on February 8, 1870. The corporation was formed under C. 319 of the Laws of 1848.

3. The corporation is a corporation as defined in subparagraph (a)(5) of Section 102 (Definitions) of the Not-For-Profit Corporation Law. The corporation is a Type B corporation under Section 201 (purposes) of the Not-For-Profit Corporation Law.

4. The corporation's Certificate of Incorporation is hereby amended as follows:

a. To amend the members of the corporation in paragraph 6 to read as follows:

(6) The members of St. Elizabeth Medical Center shall be the General Minister and the Councillors of the Sisters of St. Francis of the Neumann Communities.

b. paragraph (7) of the Certificate of Incorporation reads as follows:

(7) The following powers shall be exercised by the membership:

(a) Approve any merger, consolidation or dissolution or the sale of all or substantially all of the assets.

(b) Approve the election of members of the Board of Trustees.

(c) Remove trustees, with or without cause.

(d) Approve amendments of the certificate of incorporation and bylaws.

(e) Approve the gift, sale, lease or other encumbrance of real property whether owned or leased, or of other assets of the corporation in excess of \$3 million.

SERVICO 35

(f) Establish the mission and philosophy of St. Elizabeth Medical Center.

(g) Elect or remove corporate officers.

d. paragraph (7) is deleted in its entirety and replaced with the following:

(7) The following powers shall be exercised by the membership:

(a) Approve any merger, consolidation or dissolution or the sale of all or substantially all of the assets of the Corporation.

(b) Approve the appointment of members of the Board of Trustees.

(c) Remove Trustees, with or without cause.

(d) Approve amendments of the Certificate of Incorporation and Bylaws.

(e) Approve the gift, sale, lease or other encumbrance of real property whether owned or leased, or of other assets of the Corporation in such limits as are established from time to time by the Holy See.

(f) Approve the mission and philosophy of the Corporation.


(g) Approve the appointment of the corporate officers.

(h) Remove corporate officers with or without cause.

5. This Certificate of Amendment of the Certificate of Incorporation was authorized by unanimous vote of the Corporate Members and the Board of Trustees of the corporation at a joint meeting of the Corporate Members and the Board of Trustees held on May 10, 2006 at which a quorum was present and acting throughout.

6. The Secretary of State is designated as agent upon whom process may be served, and the post office address within the State to which the Secretary of State shall mail a copy of any process is: 2209 Genesee Street, Utica, NY 13501.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment of the Certificate of Incorporation this 10th day of May, 2006. The undersigned affirms that statements made herein are true under penalties of perjury.


Sister M. Johanna DeLelys
President

Sworn to before me this 10th day of
May, 2006


Notary Public

MARGARET H. JACOBSEN
Notary Public, State of New York
Appointed in Oneida County
My Commission Expires 2/18/2010

2

Handwritten signature

JUL 18 2008

CA08-2154

32-08-300UC

CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF
ST. ELIZABETH MEDICAL CENTER

JUDGE GROW

UNDER SECTION 803 OF THE NOT-FOR-PROFIT CORPORATION LAW

The undersigned, President of St. Elizabeth Medical Center, certifies:

1. The name of the corporation is St. Elizabeth Medical Center. The corporation was originally formed under the name of The Saint Elizabeth's Hospital and Home.
2. The Certificate of Incorporation of the corporation was filed with the Department of State on February 8, 1870. The corporation was formed under C. 319 of the Laws of 1848.
3. The corporation is a corporation as defined in subparagraph (a)(5) of Section 102 (Definitions) of the Not-For-Profit Corporation Law. The corporation is a Type B corporation under Section 201 (purposes) of the Not-For-Profit Corporation Law.
4. The corporation's Certificate of Incorporation is hereby amended as follows:
 - a. Paragraph (7) of the Certificate of Incorporation reads as follows:
 - (7) The following powers shall be exercised by the membership:
 - (a) Approve any merger, consolidation or dissolution or the sale of all or substantially all of the assets of the Corporation.
 - (b) Approve the appointment of members of the Board of Trustees.
 - (c) Remove Trustees, with or without cause.
 - (d) Approve amendments of the Certificate of Incorporation and Bylaws.
 - (e) Approve the gift, sale, lease or other encumbrance of real property whether owned or leased, or of other assets of the Corporation in such limits as are established from time to time by the Holy See.
 - (f) Approve the mission and philosophy of the Corporation.
 - (g) Approve the appointment of the corporate officers.
 - (h) Remove corporate officers with or without cause.
 - b. Paragraph (7) is deleted in its entirety and replaced with the following:
 - (7) The following powers shall be reserved to the Corporate Members to exercise and shall be referred to as Reserved Powers:
 - (a) To change the philosophy, mission, and purpose of the Corporation.

- (b) To adopt and/or amend the Certificate of Incorporation.
- (c) To adopt and/or amend the Bylaws.
- (d) To elect the Board of Trustees and to remove Board members with or without cause.
- (e) To appoint the President and the Chief Executive Officer of the Corporation.
- (f) To approve the purchase, sale, lease, mortgage of real property; to approve the purchase, sale, or gift of capital assets.
- (g) To approve the merger, consolidation, or affiliation of the Corporation with another corporation, organization, or program.
- (h) To approve the dissolution of the Corporation and disposition of assets.

5. This Certificate of Amendment of the Certificate of Incorporation was authorized by unanimous vote of the Corporate Members at a meeting of the Corporate Members held on the 29th day of May, 2008 at which a quorum was present and acting throughout and authorized by unanimous vote of the Board of Trustees of the Corporation at a meeting of the Board of Trustees held on the 14th day of May, 2008 at which a quorum was present and acting throughout.

6. The Secretary of State is designated as agent upon whom process may be served, and the post office address within the State to which the Secretary of State shall mail a copy of any process is: 2209 Genesee Street, Utica, NY 13501.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment of the Certificate of Incorporation this 20th day of June, 2008. The undersigned affirms that statements made herein are true under penalties of perjury.

Sister M. Johanna DeLelys
 Sister M. Johanna DeLelys
 President

Sworn to before me this 20th day of
 June, 2008

Margaret H. Jacobsen
 Notary Public

MARGARET H. JACOBSEN
 Notary Public, State of New York
 Appointed in Oneida County
 My Commission Expires 2/18/2010

The Attorney General hereby approves
 the foregoing Certificate of Amendment
 of the Certificate of Incorporation of
 St. Elizabeth Medical Center.

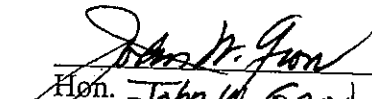
Joel L. Marmelstein
 Joel L. Marmelstein
 Assistant Attorney General-in-Charge

August 19, 2008

I, John W. Grow, a Justice of the Supreme Court of the State of New York of the Fifth Judicial District, do hereby approve the foregoing Certificate of Amendment of the Certificate of Incorporation of St. Elizabeth Medical Center, Utica, NY amending the Reserve Powers and consent that the same be filed, pursuant to Section 804 of the New York State Not-for-Profit Corporation Law.

Dated: September 2, 2008

Rome, New York


Hon. John W. Grow
Justice of the Supreme Court

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on August 15, 2013.

Anthony Giardina

Anthony Giardina
Executive Deputy Secretary of State

SERVICES

130725000377
JUDGE MACRAE
32-13-3260C

EA 2013-00 1251
Sanford J. DeCenzo
JUN 20 2013

CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF
ST. ELIZABETH MEDICAL CENTER

RECEIVED
ONEIDA CO. SUPREME COURT
CLERK'S OFFICE
2013 JUN 20 PM 3:04

Pursuant to Section 803 of the Not-for-Profit Corporation Law

The undersigned, President/CEO of St. Elizabeth Medical Center, certifies:

1. The name of the corporation is St. Elizabeth Medical Center. The corporation was originally formed under the name of The Saint Elizabeth's Hospital and Home.
2. The Certificate of Incorporation of the corporation was filed with the Department of State on February 8, 1870. The corporation was formed under C. 319 of the Laws of 1848.
3. The corporation is a corporation as defined in subparagraph (a)(5) of Section 102 (Definitions) of the Not-For-Profit Corporation Law. The corporation is a Type B corporation under Section 201 (purposes) of the Not-For-Profit Corporation Law.
4. The corporation's Certificate of Incorporation is hereby amended as follows:
 - a. Paragraph (6) of the Certificate of Incorporation reads as follows:
 - (6) The members of St. Elizabeth Medical Center shall be the General Minister and the Councilors of the Sisters of St. Francis of the Neumann Communities.
 - b. Paragraph (6) of the Certificate of Incorporation is deleted in its entirety and is replaced with the following:
 - (6) The member of St. Elizabeth Medical Center shall be Partners in Franciscan Ministries, Inc.
 - c. Paragraph (7) of the Certificate of Incorporation reads as follows:
 - (7) The following powers shall be reserved to the Corporate Members to exercise and shall be referred to as Reserved Powers:
 - (a) To change the philosophy, mission, and purpose of the Corporation.
 - (b) To adopt and/or amend the Certificate of Incorporation.
 - (c) To adopt and/or amend the Bylaws.

- (d) To elect the Board of Trustees and to remove Board members with or without cause.
- (e) To appoint the President and the Chief Executive Officer of the Corporation.
- (f) To approve the purchase, sale, lease, mortgage of real property; to approve the purchase, sale, or gift of capital assets.
- (g) To approve the merger, consolidation, or affiliation of the Corporation with another corporation, organization, or program.
- (h) To approve the dissolution of the Corporation and disposition of assets.

d. Paragraph (7) is deleted in its entirety and replaced with the following:

- (7) The following powers shall be reserved to the Corporate Member to exercise and shall be referred to as Reserved Powers:
 - (a) To change the philosophy, mission, and purpose of the Corporation.
 - (b) To appoint and remove the President/CEO of the Corporation.
 - (c) To appoint and remove the Board of Trustees of the Corporation.
 - (d) To approve the Certificate of Incorporation and Bylaws of the Corporation.
 - (e) To receive the annual report of the Corporation.
 - (f) To approve the formation of subsidiaries, affiliates or divisions of the Corporation.
 - (g) To approve a change in the name of the Corporation.
 - (h) To receive, review and monitor the budget of the Corporation as deemed necessary by the Corporate Member
 - (i) To receive the annual audit of the Corporation.
 - (j) To receive, review and monitor strategic, long range plans of the Corporation as deemed necessary by the Corporate Member.
 - (k) To approve the financial transactions of the Corporation according to the annual United States Conference of Catholic Bishops alienation guidelines.

5. This Certificate of Amendment of the Certificate of Incorporation was authorized by unanimous vote of the Corporate Member at a meeting of the Corporate Member held on the 12th day of MARCH, 2013 at which a quorum was present and acting throughout and authorized by unanimous vote of the Board of Trustees of the Corporation at a meeting of the Board of Trustees held on the 13th day of MARCH, 2013 at which a quorum was present and acting throughout.

6. The Secretary of State is designated as agent upon whom process may be served, and the post office address within the State to which the Secretary of State shall mail a copy of any process is: 2209 Genesee Street, Utica, NY 13501.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment of the Certificate of Incorporation this 13th day of March, 2013. The undersigned affirms that statements made herein are true under penalties of perjury.



Richard Ketcham
President/CEO

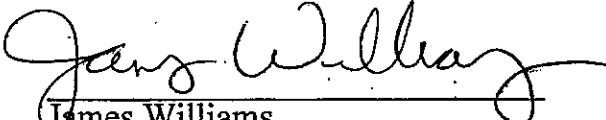
Sworn to before me this 13th day of
March, 2013


Notary Public

MARGARET H. JACOBSEN
Notary Public, State of New York
Appointed in Oneida County
My Commission Expires 2/13/2014

I, James Williams, Assistant Attorney General in Charge of the Utica Regional Office, of counsel to Eric T. Schneiderman, Attorney General of the State of New York, pursuant to Article 8 of the New York State Not-for-Profit Corporation Law, have reviewed the attached Certificate of Amendment of the Certificate of Incorporation of St. Elizabeth Medical Center, Utica, New York; said amendment consisting of three (3) pages and six (6) numbered paragraphs which was received by the Utica Regional Office on March 19, 2013, and which amended the membership of the St. Elizabeth Medical Center, and the reserved powers; and I do hereby approve the foregoing and consent that the attached Certificate of Amendment be filed pursuant to Section 804 of the New York State Not-for-Profit Corporation Law.

Dated: 12 June 2013
Utica, New York


James Williams
Assistant Attorney General -in-Charge

JUDGE MACRAE

I, _____, a Justice of the Supreme Court of the State of New York of the Fifth Judicial District, do hereby approve the foregoing Certificate of Amendment of the Certificate of Incorporation of St. Elizabeth Medical Center, Utica, NY which amended the membership of St. Elizabeth Medical Center and the Reserved Powers, and consent that the same be filed, pursuant to Section 804 of the New York State Not-for-Profit Corporation Law.

Dated: _____, 2013

July 23
Ernie, New York

Patrick F. Macrae
Hon.
Justice of the Supreme Court

130725000

377

SERVICES

FILED

2013 JUL 25 PM 12:02

CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF
ST. ELIZABETH MEDICAL CENTER

Pursuant to Section 803 of the Not-for-Profit Corporation Law

Dated: March 13, 2013

RECEIVED

2013 JUL 22 PM 12:06

RECEIVED

2013 JUL 24 PM 4:03

lee
STATE OF NEW YORK
DEPARTMENT OF STATE

FILED JUL 25 2013

TAX \$ _____

BY: am

Onei

Heather A. Haglund, Esq.
Attorney
2209 Genesee Street
Utica, NY 13501
(315) 798-8213

CUST. Ref # 50366

400

DRAWDOWN

**RESTATED CERTIFICATE OF INCORPORATION
OF
ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC.**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

We, the undersigned, President and Secretary of St. Lukes Home Residential Health Care Facility, Inc., hereby certify:

1. The name of the corporation is: **St. Lukes Home Residential Health Care Facility, Inc.**
2. The corporation's Certificate of Incorporation was filed by the Department of State on the 27th day of February 1995. A Certificate of Amendment of the Certificate of Incorporation was filed by the Department of State on the 1st day of August, 1995.
3. The corporation's Certificate of Incorporation is hereby amended to effectuate the following:
 - A. To delegate and reserve to the Corporation's sole corporate member, Mohawk Valley Health System ("MVHS"), certain rights and powers as set forth in Paragraph 4 of this Restated Certificate of Incorporation.
 - B. To change the address for service of process as set forth in Paragraph 8 of this Restated Certificate of Incorporation.
 - C. To change the distributee of the remaining assets of the Corporation in the event of its dissolution as set forth in Paragraph 11 of this Restated Certificate of Incorporation.
4. The text of the Certificate of Incorporation, as amended, is hereby restated to read as herein set forth in full:
 1. The name of the Corporation is: St. Lukes Home Residential Health Care Facility, Inc. (herein, the "Corporation" or the "Home").
 2. The Corporation is not organized for pecuniary profit or financial gain, and no part of its assets, income or profit shall be distributable to, or inure to the benefit of its members, directors or officers except to the extent permitted under the Not-for-Profit Corporation Law.
 3. The purposes for which the Corporation is organized are:
 - a. to establish and maintain within the State of New York a residential health care facility to provide care to the frail elderly

and other individuals requiring skilled nursing care and/or restorative rehabilitation; to carry on educational activities and programs incident to the purposes set forth above; to do any other act or thing incidental to or connected with the above purposes or advancement thereof, but not for the pecuniary profit or financial gain of its members, Directors or Officers, except as permitted under the Not-for-Profit Corporation Law.

4. The Corporation does delegate and reserve to Mohawk Valley Health System (“MVHS”), the sole corporate Member of the Corporation, certain powers. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and that the Corporation coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation.
- c. To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation, and Bylaws of the Corporation;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- e. To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Corporation;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation;

- i. To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve and coordinate the strategic plan of the Corporation;
- k. To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by the Corporation;
- o. To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound; and
- p. To accept further delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation and other MVHS Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of

the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's board of directors.

5. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law and is a Type B corporation under Section 201 of the Not-for-Profit Corporation Law.

6. The office of the Corporation is to be in the County of Oneida, State of New York.

7. The duration of the Corporation is to be perpetual.

8. The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is: ***St. Lukes Home Residential Health Care Facility, Inc., 1650 Champlin Avenue, Utica, NY 13502.***

9. Notwithstanding any other provisions of this Certificate, the Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a Corporation exempt from Federal income tax under IRC 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.

10. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by IRC 501(h)), and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of, or in opposition to, any candidates for public office.

11. In the event of dissolution, all of the remaining assets and property of the Corporation shall, after payment of necessary expenses thereof, be distributed to MVHS or such other Corporations as shall qualify under Section 501(c)(3) of the Internal

Revenue Code of 1985, subject to an Order of a Justice of the Supreme Court of the State of New York.

12. In any taxable year in which the Corporation is a private foundation as described in IRC 509(a), the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under IRC 4942, and the Corporation shall not: (a) engage in any act of self-dealing as defined in IRC 4941(d), retain any excess business holdings as defined in IRC 4943(c); (b) make any investments in such manner as to subject the Corporation to tax under IRC 4944; or (c) make any taxable expenditures as defined in IRC 4945(d) or corresponding provisions of any subsequent Federal tax laws.

5. This Restated Certificate of Incorporation was authorized by a unanimous vote of the Members of the Corporation in accordance with the provisions of the New York Not-for-Profit Corporation Law.

IN WITNESS WHEREOF, the undersigned have subscribed this Restated Certificate of Incorporation this ____ day of October, 2013, and hereby affirm that the statements contained herein are true under the penalties of perjury.

**ST. LUKES HOME RESIDENTIAL
HEALTH CARE FACILITY, INC.**

SCOTT H. PERRA, FACHE, President

TODD HUTTON, Ph.D., Secretary

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

SCOTT H. PERRA, FACHE, being duly sworn, deposes and says, that he is the President of ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.

Scott H. Perra, FACHE

Sworn to before me this
___ day of October, 2013

NOTARY PUBLIC – State of New York
Appointed in _____ County
My commission expires: ___/___/___

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

TODD HUTTON, Ph.D, being duly sworn, deposes and says, that he is the Secretary of ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.

Todd Hutton, Ph.D.

Sworn to before me this
___ day of October, 2013

NOTARY PUBLIC – State of New York
Appointed in _____ County
My commission expires: ___/___/___

F 950 22700002
SERVICO 35

CERTIFICATE OF INCORPORATION

OF

ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC.

Under Section 402 of the Not-for-Profit Corporation Law

We, the undersigned, acting as Incorporators of a Corporation under the New York Not-for-Profit Corporation Law, do hereby adopt the following Certificate of Incorporation for such Corporation:

ARTICLE I

The name of the Corporation is ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC.

ARTICLE II

This Corporation is not organized for pecuniary profit or financial gain, and no part of its assets, income or profit shall be distributable to, or inure to the benefit of its members, directors or officers except to the extent permitted under the Not-for-Profit Corporation Law.

ARTICLE III

The purposes for which the Corporation is organized are:

To establish and maintain within the State of New York a residential health care facility to provide care to the frail elderly and other individuals requiring skilled nursing care and/or restorative rehabilitation; to carry on educational activities and programs incident to the purposes set forth above; to do any other act or thing incidental to or connected with the above purposes or

|

advancement thereof, but not for the pecuniary profit or financial gain of its members, Directors, or Officers, except as permitted under the Not-for-Profit Law.

ARTICLE IV

The Corporation shall be a Type B Corporation under Section 201 of the Not-for-Profit Corporation Law.

ARTICLE V

The office of the Corporation is to be located in the County of Oneida, State of New York.

ARTICLE VI

The number of Trustees constituting the initial Board of Trustees of the Corporation is six (6), and the names and addresses of the persons who are to serve as the initial Directors are:

<u>Name</u>	<u>Address</u>
Jack Wood	
Andrew E. Peterson	
Scott H. Perra	
Michael D. Shaffer	
Michael P. Rominger	
Thomas S. Soja	



ARTICLE VII

The duration of this Corporation shall be for an initial period of three (3) years, through July 29, 1997.

ARTICLE VIII

The Secretary of State is designated as agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon the Secretary is: St. Luke's Memorial Hospital Center, P.O. Box 479, Utica, New York 13503-0479, Att: Executive Director.

ARTICLE IX

The name and address of the registered agent of the Corporation upon whom process against the Corporation may be served is: Thomas S. Soja, Esq., 510 Bleecker Street, City of Utica, County of Oneida, State of New York.

ARTICLE X

All approvals and consents required by the New York Not-for-Profit Corporation Law will be annexed to the Certificate.

ARTICLE XI

A. Notwithstanding any other provisions of these Articles, the Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a Corporation exempt from Federal income tax under IRC 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.

B. No part of the net earnings of the Corporation shall inure to the benefit of any member, trustee, director, officer of the Corporation, or any private individual (except reasonable

compensation may be paid for services rendered to or for the Corporation), and no member, trustee, officer of the Corporation or any private individual shall be entitled to share in the distribution of the Corporation's assets on dissolution of the Corporation.


C. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by IRC 501(h)), and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of, or in opposition to, any candidates for public office.

D. In the event of dissolution, all of the remaining assets and property of the Corporation shall, after payment of necessary expenses thereof, be distributed to the St. Luke's Memorial Hospital Center or such other Corporations as shall qualify under Section 501(c)(3) of the Internal Revenue Code of 1985, subject to an Order of a Justice of the Supreme Court of the State of New York.

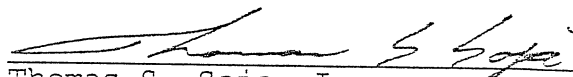
E. In any taxable year in which the Corporation is a private foundation as described in IRC 509(a), the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under IRC 4942, and the Corporation shall not: (a) engage in any act of self-dealing as defined in IRC 4941(d), retain any excess business holdings as defined in IRC 4943(c); (b) make any investments in such manner as to subject the

Corporation to tax under IRC 4944; or (c) make any taxable expenditures as defined in IRC 4945(d) or corresponding provisions of any subsequent Federal tax laws.

IN WITNESS WHEREOF, we have hereunto set our hands this 3rd day of February, 1995.



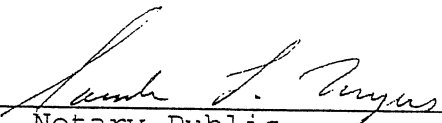
Scott H. Perra, Incorporator
Champlin Avenue, P.O. Box 479
Utica, New York 13503-0479



Thomas S. Soja, Incorporator
510 Bleecker Street
Utica, New York 13501

STATE OF NEW YORK)
COUNTY OF ONEIDA) SS:

On the 3rd day of February, 1995 before me personally came Scott H. Perra, to me known and known to me to be the same person described in and who executed the foregoing Certificate of Incorporation, and he duly acknowledged to me that he executed the same.



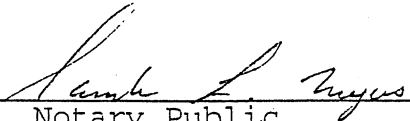
Notary Public
My Com. Exp. 9/30/95

STATE OF NEW YORK)
COUNTY OF ONEIDA) SS:

SANDRA L. MYERS
Notary Public, State of New York
Qualified in Oneida Co. No. 4795906
My Commission Expires 6-30-95

On the 3rd day of February, 1995 before me personally came

Thomas S. Soja, to me known and known to me to be the same person described in and who executed the foregoing Certificate of Incorporation, and he duly acknowledged to me that he executed the same.



Notary Public
My Com. Exp. 9/30/95

SANDRA L. MYERS
Notary Public, State of New York
Qualified in Oneida Co. No. 4795906
My Commission Expires 9-30-95

F 950 227 000 029

SERVICO 35

CERTIFICATE OF INCORPORATION

OF

ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC.

Under Section 402 of the Not-for-Profit Corporation Law

FILED
12 06 PM '95

SAC
ypub

ICC

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED FEB 27, 1995

TAX \$ _____
BY: *SAC*

Onida

FILED
11 03 PM '95

FILED

FILER:

THOMAS S. SOJA

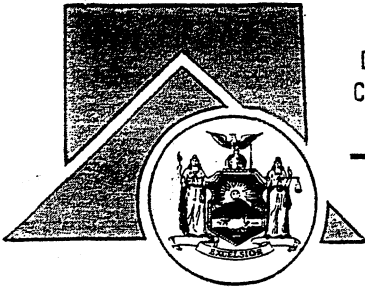
P.O. BOX 479

UTICA, NY 13503-0479

BILLED

7

950 227 000 033



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

February 9, 1995

Mr. Scott Perra
President
St. Luke's Home
1656 Champion Avenue
New Hartford, New York 13413

Re: Certificate of Incorporation of St. Lukes Home Residential
Health Care Facility, Inc.

Dear Mr. Perra:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health Council held on the 29th day of July, 1994, I hereby certify that the Public Health Council consents to the filing of the Certificate of Incorporation of St. Lukes Home Residential Health Care Facility, Inc., dated February 3, 1995 for a limited life duration expiring on July 29, 1997.

Sincerely,

Karen S. Westervelt
Executive Secretary

CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF

SERVICO 35

ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC.
UNDER SECTION 803 OF THE NOT-FOR-PROFIT CORPORATION LAW

F 950801000266

IT IS HEREBY CERTIFIED THAT:

1. The name of the Corporation is St. Lukes Home Residential Health Care Facility, Inc.
2. The Certificate of Incorporation was filed by the Department of State of the State of New York on the 27th day of February, 1995, under the Not-for-Profit Corporation Law of the State of New York.
3. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the New York State Not-for-Profit Corporation Law and is a Type B corporation under Section 201.
4. The Certificate of Incorporation is hereby amended to affect the following change:
 - a. To amend **ARTICLE VII** which sets forth the initial duration of the corporation through July 29, 1997. **ARTICLE VII** shall now read as follows:

ARTICLE VII

The duration of this Corporation shall be perpetual.

5. The amendment to the Certificate of Incorporation was authorized by a majority vote of the members entitled to vote in accordance with Section 802 of the New York State Not-for-Profit Corporation Law.
6. The Secretary of State is designated as agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon the Secretary is:

St. Luke's Memorial Hospital Center
P.O. Box 479
Utica, New York 13503-0479
Attention: Executive Director

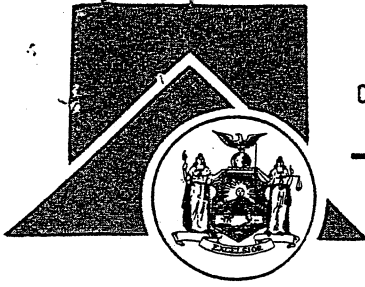
Dated: 7/24, 1995

IN WITNESS WHEREOF, the undersigned hereby affirm that the statements made herein are true, under the penalties of perjury.

**ST. LUKES HOME RESIDENTIAL HEALTH
CARE FACILITY, INC.**

By: S/Scott H. Perra
Scott H. Perra, Chairperson/President

By: Thomas S. Soja
Thomas S. Soja, Secretary



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

F 950801000266

July 25, 1995

Thomas S. Soja, Esq.
St. Luke's Memorial
The Hospital Center
1724 Burrstone Road
New Hartford, NY 13413

Re: Certificate of Amendment to the Certificate of Incorporation
of St. Lukes Home Residential Health Care Facility, Inc.

Dear Mr. Soja:

AFTER INQUIRY and INVESTIGATION and in accordance with
action taken at a meeting of the Public Health Council held on
the 29th day of July, 1994, I hereby certify that the Public
Health Council consents to the filing of the Certificate of
Amendment to the Certificate of Incorporation of St. Lukes Home
Residential Health Care Facility, Inc., dated July 24, 1995.

Sincerely,

Karen S. Westervelt
Executive Secretary

3

950801000246

PLEASE take notice that the within is a certified true copy of a duly entered in the office of the clerk of the within named court on 19

Dated: Yours, etc.
Attorney for: Office and Post Office Address

PLEASE take notice that an order of which the within is a true copy will be presented for settlement to the Hon. one of the judges of the within named court, at

on at M
Dated: Yours, etc.
Attorney for: Office and Post Office Address

To Attorney(s) for

FILED

SERVICO 35

CERTIFICATE OF AMENDMENT
OF
GENERAL LAWS OF INCORPORATION
OF
ST. JAMES HOME RESIDENTIAL HEALTH CARE
FACILITY, INC.
UNDER SECTION 802 OF THE NOT-FOR-PROFIT
CORPORATION LAW

Filee: Thomas Soja
P.O. Box 479
Utica NY 13503

Attorney for: Office and Post Office Address Telephone

To
Attorney(s) for
Service of a copy of the within is hereby admitted.
Dated:

To Attorney(s) for

FILED

SAC

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED AUG 01 1995

TAX \$
BY: SAC
Gruda

FILED

950801000287



State of New York }
Department of State }^{ss:}

I hereby certify that I have compared the annexed copy of the original document filed by the Department of State and that the same is a correct transcript of said original.

Witness my hand and seal of the Department of State on **AUG 04 1995**



Maryann F. Presswell
Secretary of State

**CERTIFICATE OF CHANGE
OF
MOHAWK VALLEY HOME CARE, L.L.C.**

Under Section 211-A of the Limited Liability Company Law

1. The name of the limited liability company is: **Mohawk Valley Home Care, L.L.C.**

2. The Articles of Organization were filed by the Department of State on August 4, 1995.

3. Paragraph "THIRD" of the Articles of Organization is changed to provide for a new address for service of process against the Limited Liability Company by the Secretary of State and, as changed, shall read as follows:

THIRD: The Secretary of State is designated as agent of the limited liability company upon whom process against it may be served. The post office address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is: 1650 Champlin Avenue, Utica, NY 13502.

IN WITNESS WHEREOF, this Certificate of Change has been subscribed this _____ day of October, 2013, by the undersigned who affirms that the statements contained herein are true under the penalties of perjury.

MOHAWK VALLEY NETWORK, INC.
Member

By: _____
Scott H. Perra, President

Certificate of Incorporation

of

MOHAWK VALLEY HOME CARE, INC.

Pursuant to Section 402 of the Business Corporation Law

Filed By:

Lockwood & Golden
1412 Genesee Street
Utica, NY 13502

Certificate of Incorporation
of

MOHAWK VALLEY HOME CARE, INC.

Pursuant to Section 402 of the Business Corporation Law

I, the undersigned, a natural person of at least 18 years of age, for the purpose of forming a corporation under Section 402 of the Business Corporation Law of the State of New York hereby certify:

FIRST: The name of The Corporation is:

MOHAWK VALLEY HOME CARE, INC.

SECOND: The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under Article IV of the Business Corporation Law, except that is not formed to engage in any act or activity requiring the consent or approval of any state official, department, board, agency or other body without such consent or approval first being obtained.

Subject to and in compliance with all laws and municipal regulations, to conduct the business of a general employment agency and personnel office.

Without limiting the foregoing, to engage in providing employment for and supplying domestic, licensed practical nurses, registered nurses, nurses aids, home and health care personnel and persons of similar training in the health and home care field, to doctors, hospitals, clinics, medical offices, private hospitals and homes.

THIRD: The office of The Corporation is to be located in the County of Oneida, State of New York.

FOURTH: The aggregate number of shares which the Corporation shall have the authority to issue is Two Hundred, each of which shall be common stock with no par value.

FIFTH: The Secretary of State is designated as agent of The Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against The Corporation served upon him is:

c/o The Corporation
P.O. Box 5068
Utica, NY 13502

SIXTH: No holder of any shares of any class of the Corporation shall as such holder have any preemptive right or be entitled as a matter of right to subscribe for or to purchase any other shares or securities of any class which at any time may be sold or offered for sale by The Corporation.

SEVENTH: No director of The Corporation shall have personal liability to The Corporation or to its shareholders for damages for any breach of duty in such capacity, provided, however, that the provision shall not eliminate or limit:

(a) the liability of any director of The Corporation if a judgment or other final adjudication adverse to him establishes that his acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law or that he personally gained in fact a financial profit or other advantage to which he was not legally entitled or, with respect to any director of The Corporation, that his acts violated Section 719 of the Business Corporation Law of the State of New York, or

(b) the liability of a director for any act or omission prior to the final adoption of this article.

IN WITNESS WHEREOF, this certificate of incorporation has been subscribed by the undersigned this 10th day of May 1994, who affirms the statements made herein are true under the penalties of perjury.

s/ Sheelah P. Della Rocca
Sheelah P. Della Rocca
Incorporator

XL Corporate & Research
Services, Inc.
194 Washington Avenue
Albany, New York 12210

OPERATING AGREEMENT

This Agreement, dated March 19, 1999 and amended April 9th, 2008, is among the individuals and entities signing below.

WHEREAS, the parties hereto desire to form a limited liability company known as **MOHAWK VALLEY HOME CARE, L.L.C.** pursuant to the New York Limited Liability Company Law;

WHEREAS, the parties hereto desire to establish their respective rights and obligations pursuant to the New York Limited Liability Company Law in connection with forming such a limited liability company;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

ARTICLE I

Definitions

1.1 **Definitions.** In this Agreement, the following terms shall have the meanings set forth below:

a. "Articles of Organization" shall mean the Articles of Organization of the company filed or to be filed with the New York Secretary of State, as they may from time to time be amended.

b. "Capital Account" as of any date shall mean the capital contribution to the Company by a Member, as adjusted pursuant to this Agreement.

c. "Capital Contribution" shall mean any contribution by a Member to the capital of the Company in cash, property or services rendered or a promissory note or other obligation to contribute cash or property or to render services.

d. "Code" shall mean the Internal Revenue Code of 1986, as amended, or any superseding federal revenue statute.

e. "Company" shall refer to **Mohawk Valley Home Care, L.L.C.**

f. "Distribution" means any cash and other property paid to a Member by the Company from the operations of the Company.

g. "Fiscal Year" shall mean the fiscal year of the Company, which shall be the year ending December 31.

h. "Membership Interests" shall mean, with respect to the Company and with respect to any Member, the Membership Interest set forth after the Member's name on Exhibit "A" to this Agreement, as such Membership Interests shall be adjusted from time to time to reflect additional Capital Contributions or withdrawals from the Company but subject to Section 9.5 hereof.

i. "Manager" shall mean each person or entity listed in the Articles of Organization or in Exhibit "B" to this Agreement as a manager of the Company or any other person or entity that succeeds such person or entity as a manager pursuant to this Agreement.

j. "Member" shall mean each Person who executes a counterpart of this Agreement as a Member and each Person who may hereafter become a part to this Agreement.

k. "Net Losses" shall mean an amount equal to the Company's taxable loss for such year or period, determined in accordance with Code Section 703 (a). For this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss.

l. "Net Profits" shall mean an amount equal to the Company's taxable income for such year or period, determined in accordance with Code Section 703(a). For this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss.

m. "New York Act" shall mean the New York Limited Liability Company Act.

n. "Person" shall mean any corporation, governmental authority, limited liability company, Partnership, trust, unincorporated association or other entity.

o. "Selling Member" shall mean a Member desiring to sell a Membership Interest.

p. "Treasury Regulations" shall mean all proposed, temporary and final regulations promulgated under the Code as from time to time *in effect*.

ARTICLE II

Organization

2.1 Formation. One or more Persons has acted or will act as an organizer or organizers to form a *limited* liability Company by preparing, executing and filing with the New York Secretary of State the Articles of organization pursuant to the New York Act.

2.2. **Name.** The name of the Company is **Mohawk Valley Home Care, L.L.C.**

2.3 **Principal Place of Business.** The principal place of business of the company within the State of New York shall be 1656 Champlin Avenue, Utica, New York 13502. The Company may establish any other places of business as the Manager may from time to time deem advisable.

2.4 **Registered Agent.** The Company shall not have a registered agent.

2.5 **Term.** The Company shall continue in existence following the date of filing of the Articles of Organization with the New York Secretary of State, until the Company is dissolved pursuant to this Agreement or the New York Act.

2.6 **Purposes.** The Company is formed for any lawful business purpose or purposes.

ARTICLE III

Members

3.1 **Names and Addresses.** The names and addresses of the Members are as set forth in Exhibit "A" to this Agreement.

3.2 **Additional Members.** A Person may be admitted as a member after the date of this Agreement upon the vote or written consent of a majority of Membership Interests.

3.3 **Books and Records.** The Company shall keep books and records of accounts and minutes of all meetings of the members. Except as modified or amended by the manager, such books and records shall be maintained on an accrual basis in accordance with this Agreement.

3.4 **Information.** Each Member may inspect during ordinary business hours and at the principal place of business of the Company the Articles of Organization, the Operating Agreement, the minutes of any meeting of the Members and any tax returns of the Company for the immediately preceding three (3) Fiscal Years.

3.5 **Limitation of Liability.** Each Member's liability shall be limited to the greatest extent permitted under the New York Act. A Member shall not be personally liable for any indebtedness, liability or obligation of the Company, except that such Member shall remain personally liable for the payment of his Capital Contribution.

3.6 **Sale of All Assets.** The Members shall have the right, by the vote or written consent of at least two-thirds of all Membership Interests, to approve the sale, lease exchange or other disposition of all or substantially all of the assets of the Company.

1

offices of Chairperson and Secretary. All officers, except the President, shall be appointed from among the members of the Board of Managers.

4.3 Powers of Manager. Except as set forth in this Agreement, the Managers shall have power and authority, on behalf of the Company to (a) purchase, lease or otherwise acquire from, or sell, lease or otherwise dispose of to, any Person any property, (b) open bank accounts and otherwise invest the funds of the Company, (c) purchase insurance on the business and assets of the Company, (d) commence lawsuits and other proceedings, (e) enter into any agreement, instrument or other writing, (f) retain accountants, attorneys or other agents and (g) take any other lawful action that the Managers consider necessary, convenient or advisable in connection with any business of the Company.

4.4 Binding Authority. No Person shall have any power or authority to bind the Company unless such Person has been authorized by the Managers or by this Agreement to act on behalf of the Company.

4.5 Liability for Certain Acts. A Manager shall perform his duties in good faith, in a manner he reasonably believes to be in the best interests of the Company and with such care as an ordinarily prudent person in a similar position would use under similar circumstances. A Manager who so performs such duties shall not have any liability by reason of being or having been a Manager. A Manager shall not be liable to the Company or any Member for any loss or damage sustained by the Company or any Member, unless the loss or damage shall have been the result of the gross negligence or willful misconduct of such Manager. Without limiting the generality of the preceding sentence, a Manager does not in any way guaranty the return of any Capital Contribution to a Member or a profit for the Members from the operations of the Company.

4.6 No Exclusive Duty to Company. A Manager shall not be required to manage the Company as his sole and exclusive function and he may have other business interests and may engage in other activities in addition to those relating to the Company. Neither the Company nor any Member shall have any right pursuant to this Agreement to share or participate in such other business interests or activities or to the income or proceeds derived therefrom. A Manager shall incur no liability to the Company or any Member as a result of engaging in any other business interests or activities.

4.7 Indemnification. The Company shall indemnify and hold harmless the Managers from and against all claims and demands to the maximum extent permitted under the New York Act.

4.8 Resignation. Any Manager may resign at any time by giving written notice to the Company. The resignation of any Manager shall take effect upon receipt of such notice or at any later time specified in such notice. Unless otherwise specified in such notice, the acceptance of the resignation shall not be necessary to make it effective. The resignation of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute the withdrawal of a Member.

4.9 Removal. Any manager may be removed or replaced with or without cause by the vote or written consent of at least a majority of Membership Interests. The removal of a Manager who is also a Member shall not affect the Manager's rights as a member and shall not constitute a

withdrawal of such Member.

4.10 Vacancies. Any vacancy occurring for any reason in the number of Managers may be filled by the vote or written consent of at least a majority of the Membership Interests. A Manager elected to fill a vacancy shall be elected for the unexpired term of the Manager's predecessor in office and shall hold office until the expiration of such term and until the Manager's successor has been elected and qualified. A Manager chosen to fill a position resulting from an increase in the number of Managers shall hold office until the next annual meeting of Members and until a successor has been elected and qualified.

4.11 Salaries. The salary and other compensation of the Managers shall be fixed from time to time by the vote or written consent of at least a majority of the Membership Interests. No Manager shall be prevented from receiving such a salary or other compensation because such Manager is also a Member.

4.12 Quorum of Managers. Unless otherwise provided in this Agreement, a majority of the entire Board of Managers shall constitute a quorum for the transaction of business or of any specified item of business.

4.13 Action of the Board of Managers.

(a) Except as otherwise provided in this Agreement, the vote of the majority of the Managers present at the time of the vote, if a quorum is present at such time, shall be the act of the Board of Managers.

(b) Anyone or more members of the Board of Managers or any committee thereof may participate in a meeting of such Board of Managers or committee by means of a conference, telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

(c) Any action required or permitted to be taken by the Board of Managers, or any committee thereof, may be taken without a meeting of all members if the Board of Managers or committee consent in writing to the adoption of a resolution authorizing the action. The resolution and written consents thereto by the members of the Board of Managers or committee shall be filed with the minutes of the proceedings of the Board of Managers or committee.

4.14 Place of Meetings. The Board of Managers may hold its meetings at the office of the Company or at any other place, either within or without the State of New York, as it may from time to time determine.

4.15 Regular/Annual Meetings. The Board of Managers shall meet as necessary to conduct the Business of the Company, but not less than quarterly. The Board of Managers shall have its annual meeting following the annual meeting of the Members in April.

4.16 Notice of Meetings of the Board of Managers.

(a) Regular meetings of the Board of Managers may be held on not less than ten (10) nor more than thirty (30) days' notice, at a time and place fixed by this Agreement or set by the Board of Managers from time to time. Special meetings of the Board of Managers shall be held upon notice to the Managers and may be called by the President or by the Secretary on written request of two (2) Managers, and upon not less than three (3) days' written notice to each Manager either personally, by mail, by e-mail, or by fax at the address listed in the Company records.

4.17 Officers of the Board of Managers. The following officers shall have the following duties:

(a) Chairperson - The Chairperson shall preside at all meetings of the Board of Managers; appoint the members and Chairperson of any Board Committee, with the approval of the Board; and, except as otherwise stated herein, be an *ex-officio* member of all committees.

(b) Vice-Chairperson - In the absence or inability to act of the Chairperson, or if the position of Chairperson is vacant, the Vice-Chairperson may exercise all of the powers of the Chairperson. The Vice-Chairperson shall have such power to perform such other duties and execute such contracts on behalf of the Company as may be assigned or authorized by order of the Board of Managers.

(c) President - The President shall act as the Chief Executive Officer of the Company. The President shall have responsibility for the management of the business of the Company and shall see that all orders and resolutions of the Board of Managers are carried into effect. The President shall be empowered to enter into contracts in the ordinary course of business on behalf of the Company.

(d) Secretary - The Secretary shall give or cause to be given notice of all meetings of Members and the Board of Managers; keep all of the documents and records of the Company as required by law or otherwise in a proper and safe manner; record all votes and minutes of all proceedings of the Members and Board of Managers in a book to be kept for that purpose; and perform other duties and have such other powers as are given by this Agreement or as from time to time assigned by the Board of Managers.

(e) Treasurer - The Treasurer shall: have custody of the Company's funds and securities; keep full and accurate account of receipts and disbursements in the books of the Company; deposit all monies and other valuables in the name and to the credit of the Company in such depositories as may be designated by the Board of Managers; disburse the funds of the Company as may be ordered or authorized by the Board of Managers; render to the Board of Managers at the meetings of the Board of Managers, or whenever they require it, an account of all transactions of the Company and of the financial condition of the Company; render a full financial report at the annual meeting of the Members if so requested; and perform such other duties and have such other powers as are given by this Agreement or as from time to time are assigned by the Board of Managers or the President.

(f) Vice Presidents - Any Vice Presidents appointed by the Board of Managers shall have and perform such duties as the Board of Managers shall prescribe by resolution.

4.18 Committees. The Board may, by resolution, create such standing or ad hoc committees as it shall, from time to time, deem appropriate.

4.19. Executive Director. The Board of Managers shall appoint an Executive Director who shall manage the day-to-day operations of the Company. The Executive Director shall have the necessary authority and shall be held responsible to the Board for such management of the Company, subject only to such policies as are enacted by the Board or any committees to which the Board has delegated power for such action. The Executive Director shall act as the duly authorized representative of the Board in all matters except those in which the Board has formally designated some other person or group to act.

ARTICLE V

Meetings of Members

5.1 Annual Meetings. The annual meeting of the Members shall be held on each first Thursday in April or at such other time as shall be determined by the vote or written consent of the Membership Interests for the purpose of the transaction of any business as may come before such meeting.

5.2 Special Meetings. Special meetings of the Members, for any purpose or purposes, may be called by any Manager or any Member holding not less than ten percent (10%) of the Membership Interests.

5.3 Place of Meetings. Meetings of the Members may be held at any place, within or outside the State of New York, for any meeting of the Members designated in any notice of such meeting. If no such designation is made, the place of any such meeting shall be the chief executive office of the Company.

5.4 Notice of Meetings. Written notice stating the place, day and hour of the meeting, indicating that it is being issued by or at the direction of the person or persons calling the meeting, stating the purpose or purposes for which the meeting is called shall be delivered no fewer than ten (10) nor more than thirty (30) days before the date of the meeting.

5.5 Record Date. For the purpose of determining the Members entitled to notice of or to vote at any meeting of Members or any adjournment of such meeting, or Members entitled to receive payment of any Distribution, or to make a determination of Members for any other purpose, the date on which notice of the meeting is mailed or the date on which the resolution declaring Distribution is adopted, as the case may be, shall be the record date for making such a determination. When a determination of members entitled to vote at any meeting of Members has been made pursuant to this Section, the determination shall apply to any adjournment of the meeting.

5.6 Quorum. Members holding not less than a majority of all Membership Interests, represented in person or by proxy, shall constitute a quorum at any meeting of Members. In the absence of a quorum at any meeting of Members, a majority of the Membership Interests so represented may adjourn the meeting from time to time for a period not to exceed sixty (60) days without further notice. However, if the adjournment is for more than sixty (60) days, or if after the

adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Member of record entitled to vote at such meeting. At an adjourned meeting at which a quorum shall be present or represented, any business may be transacted that might have been transacted at the meeting as originally noticed. The Members present at a meeting may continue to transact business until adjournment, notwithstanding the withdrawal during the meeting of Membership Interests whose absence results in less than a quorum being present.

5.7 Manner of Acting. If a quorum is present at any meeting, the vote or written consent of Members holding not less than a majority of Membership Interests shall be the act of the Members, unless the vote of a greater or lesser proportion or number is otherwise required by the New York Act, the Articles of Organization or this Agreement.

5.8 Proxies.

a. A Member may vote in person or by proxy executed in writing by the Member or by a duly authorized attorney-in-fact.

b. Every proxy must be signed by the Member or his attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Member executing it, except as otherwise provided in this Section.

c. - The authority of the holder of a proxy to act shall not be revoked by the incompetence or death of the Member who executed the proxy unless, before the authority is exercised, written notice of an adjudication of such incompetence or of such death is received by any Manager.

d. Except when other provisions shall have been made by written agreement between the parties, the record holder of a Membership Interest which he holds as pledgee or otherwise as security or which belongs to another, shall issue to the pledgor or to such owner of such Membership Interest, upon demand thereof or and payment of necessary expenses thereof, a proxy to vote or take other action thereon.

e. A proxy which is entitled "irrevocable proxy" and which states that it is irrevocable, is irrevocable when it is held by (i) a pledgee, (ii) a Person who has purchased or agreed to purchase the shares, (iii) a creditor or creditors of the Company who extend or continue credit to the Company in consideration of the proxy if the proxy states that it was given in consideration of such extension or continuation of credit, the amount thereof, and the name of the person extending continuing credit, (iv) a Person who has contracted to perform services as an officer of the

Company, if a proxy is required by the contract of employment, if the proxy states that it was given in consideration of such contract of employment, the name of the employee and the period of employment contracted for, or (v) a nominee of any of the Persons described in clauses (i) through (iv) of this sentence.

f. Notwithstanding a provision in a proxy stating that it is irrevocable, the proxy becomes revocable after the pledge is redeemed, or the debt of the Company is paid, or the period of employment provided for in the contract of employment has terminated and, in a case provided for in Section 5.8(e) (iii) or (iv) of this Agreement, becomes revocable three (3) years after the date of the proxy or at the end of the period, if any, specified therein, whichever period is less, unless the period of irrevocability is renewed from time to time by the execution of a new irrevocable proxy as provided in this Section. This paragraph does not affect the duration of a proxy under paragraph (b) of this Section.

g. A proxy may be revoked, notwithstanding a provision making it irrevocable, by a purchaser of a Membership Interest without knowledge of the existence of such proxy.

5.9 Action by Members without a Meeting.

a. Whenever the Members of the Company are required or permitted to take any action by vote, such action may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken shall be signed by the Members who hold the voting interests having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all of the Members entitled to vote therein were present and voted and shall be delivered to the office of the Company, its principal place of business or a Manager, employee or agent of the Company. Delivery made to the office of the Company shall be by hand or by certified or registered mail, return receipt requested.

b. Every written consent shall bear the date of signature of each Member who signs the consent, and no written consent shall be effective to take the action referred to therein unless, within sixty (60) days of the earliest dated consent delivered in the manner required by this Section to the Company, written consents signed by a sufficient number of Members to take the action are delivered to the office of the Company, its principal place *off* business or a Manager, employee or agent of the Company having custody of the records of the Company. Delivery made to such office, principal place of business of Manager, employee or agent shall be by hand or by certified or registered mail, return receipt requested.

c. Prompt notice of the taking of the action without a meeting by less than unanimous written consent shall be given to each Member who has not consented in writing but who would have been entitled to vote thereon had such action been taken at a meeting.

5.10 Waiver of Notice. Notice of a meeting need not be given to any Member who submits a signed waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting of the lack of notice of such meeting, shall constitute a waiver of notice by him.

ARTICLE VI

Capital Contributions

6.1 **Capital Contributions.** Each Member shall contribute the amount set forth in Exhibit "A" to this Agreement as the Capital Contribution to be made by him.

6.2 **Additional Contributions.** Except as set forth in Section 6.1 of this Agreement, no Member shall be required to make any Capital Contribution.

6.3 **Capital Accounts.** A Capital Account shall be maintained for each Member. Each Member's Capital Account shall be increased by the value of each Capital Contribution made by the Member, allocations to such Member of the Net Profits and any other allocations to such Member of income pursuant to the Code. Each Member's Capital Account will be decreased by the value of each Distribution made to the Member by the Company, allocations to such Member of Net Losses and other allocations to such Member pursuant to the Code.

6.4 **Transfers.** Upon a permitted sale or other transfer of a Membership Interest in the Company, the Capital Account of the Member transferring his Membership Interests shall become the Capital Account of the Person to whom such Membership Interest is sold or transferred in accordance with Section 1.704-1 (b)(2)(iv) of the Treasury Regulations.

6.5 **Modifications.** The manner in which Capital Accounts are to be maintained pursuant to this Section is intended to comply with the requirements of Section 704(b) of the Code and more specifically Treasury Regulation Section 1.704-1 (b)(2)(iv). If, in the opinion of the Manager, the manner in which Capital Accounts are to be maintained pursuant to this Agreement should be modified to comply with Section 704(b) of the Code, then the method in which Capital Accounts are maintained shall be so modified; provided however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members.

6.6 **Deficit Capital Account.** Except as otherwise required in the New York Act or this Agreement, no Member shall have any liability to restore all or any portion of a deficit balance in a Capital Account.

6.7 **Withdrawal or Reduction of Capital Contributions.** A Member shall not receive from the Company any portion of a Capital Contribution until all indebtedness, liabilities of the Company, except any indebtedness, liabilities and obligations to Members on account of their Capital Contributions, have been paid or there remains property of the Company, in the sole

discretion of the Manager, sufficient to pay them. A Member, irrespective of the nature of the Capital Contribution of such Member, has only the right to demand and receive cash in return for such Capital Contribution.

ARTICLE VII

Allocations and Distributions

7.1 Allocations of Profits and Losses.

a. The Net Profits and the Net Losses for each Fiscal Year shall be allocated to each Member prorata in accordance with his Membership Interest.

b. Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulation Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1 (b)(2)(ii)(d)(5) or 1.704-1(b)(2)(ii)(d)(6), items of Company Profit shall be specifically allocated to each such Member sufficient to eliminate, to the extent required by the Regulations, the Capital Account deficit of such Member as quickly as possible, provided that an allocation pursuant to this Section 7.1 (b) shall be made only if and to the extent that such Member would have a Capital Account Deficit after all other allocations provided for in this Section 7.1 (b) have been tentatively made as if this Section 7.1 (b) were not in the Agreement.

c. Curative Allocations. The allocations set forth in Section 7.1 (b) hereof (the "Regulatory Allocations") are intended to comply with certain requirements of Treasury Regulation Section 1.704-1 (b). Notwithstanding any other provision of this Section 7.1 (other than the Regulatory Allocations), the Regulatory Allocations shall be taken into account in allocating other Profits, Losses, and items of income, gain, loss and deduction among the Members so that, to the extent possible, the net amount of such allocations of other Profits, Losses, and other items and the Regulatory Allocations to the Members shall be equal to the net amount that would have been allocated to the Members if the Regulatory Allocations had not occurred.

d. Limitation on Allocation of Losses. Any Losses allocated pursuant to Section 7.1 (a) that would cause any Member to have a Capital Account Deficit at the end of any Fiscal Year in excess of the amount such Member is obligated to restore (as required by law or otherwise) shall be allocated to Members with positive Capital Account Balances.

e. Code Section 704(c). In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its fair market asset value at the time of contribution. Any elections or other decisions relating to such allocations shall be made by the Manager in any manner that reasonably reflects the purpose and intention of this Agreement.

f. Other Allocation Rules. For purposes of determining the Profits, Losses, or any other items allocable to any period, Profits, Losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the Manager using any permissible

method under Code Section 706 and the Regulations thereunder.

7.2 **Distributions.** The Manager may from time to time, in the discretion of the Manager, make Distributions to the Members. All Distributions shall be made to the Members prorata in proportion to their Membership Interests as of the record date set for such Distribution.

7.3 **Offset.** The Company may offset all amounts owing to the Company by a Member against any Distribution to be made to such Member.

7.4 **Limitation Upon Distributions.** No Distribution shall be declared and paid unless, after such Distribution is made, the assets of the Company are in excess of all liabilities of the Company.

7.5 **Interest on and Return of Capital Contributions.** No Member shall be entitled to interest on his Capital Contribution or to a return of his Capital Contribution, except as specifically set forth in this Agreement.

7.6 **Accounting Period.** The accounting period of the Company shall be the Fiscal Year.

ARTICLE VIII

Taxes

8.1 **Tax Returns.** The Manager shall cause to be prepared and filed all necessary federal and state income tax returns for the Company. Each member shall furnish to the Manager all pertinent information in his possession relating to Company operations that is necessary to enable the Company's income tax returns to be prepared and filed.

8.2 **Tax Elections.** The Company shall make the following elections on the appropriate tax returns:

- a. To adopt the calendar year as the Fiscal Year;
- b. Except as modified or amended by the Manager, to adopt the accrual method of accounting and keep the Company's books and records on the accrual method;
- c. If a Distribution as described in Section 734 of the Code occurs or if a transfer of a Membership Interest described in Section 743 of the Code occurs, upon the written request of any Member, to elect to adjust the basis of the property of the Company pursuant to Section 754 of the Code;
- d. To elect to amortize the organizational expenses of the Company and the start-up expenditures of the Company under Section 195 of the Code ratably over a period of sixty (60) months as permitted by Section 709(b) of the Code; and
- e. Any other election that the Manager may deem appropriate and in the best interests of the Members.

Neither the Company nor any Member may make an election of the Company to be excluded from the application of Subchapter K of Chapter I of Subtitle A of the Code or any similar provisions of applicable state law, and no provisions of this Agreement shall be interpreted to authorize any such election.

8.3 **Tax Matters Partners.** The Manager shall designate one Manager to be the "tax matters partner" of the Company pursuant to Section 623 I (a) (&) of the Code. Any Manager who is designated "tax matters partner" shall take any action as may be necessary to cause each other Member to become a "notice partner" within the meaning of Section 6223 of the Code.

ARTICLE IX

Transferability

9.1 **General.** Except as set forth in this Agreement, no Member shall gift, sell, assign, pledge, hypothecate, exchange or otherwise transfer to another Person any portion of a Membership Interest.

9.2 **Offer to Acquire.** If a Member desires to sell a Membership Interest to another Person, such Member shall obtain from such Person a bona fide written offer to purchase such Membership Interest, stating the terms and conditions upon which the purchase is to be made. Such Member shall give written notification to the other Members of his intention to sell such membership Interest and a copy of such bona fide written offer.

9.3 **Right of First Refusal.** Each Member other than the Selling Member, on a basis pro rata to the Membership Interests of each Member exercising his right of first refusal, shall have the right to exercise a right of first refusal to purchase all (but not less than all) of the Membership Interest proposed to be sold by the Selling Member upon the same terms and conditions as stated in the bona fide written offer by giving written notification to the Selling Member of his intention to do so within ninety (90) days after receiving written notice from the Selling Member. The failure of any Member to so notify the Selling Member of a desire to exercise such right of first refusal within such ninety (90) day period shall result in the termination of such right of first refusal and the Selling Member shall be entitled to consummate the sale of his Membership Interest with respect to which such right of first refusal has not been exercised to the Person offering to do so pursuant to the bona fide written offer. If the Selling Member does not sell his Membership Interest within ninety (90) days after receiving the right to do so, his right to do so terminates and the terms and conditions of this Section shall again be in effect.

9.4 **Closing.** If any Member gives written notice to the Selling Member of his desire to exercise such right of first refusal and to purchase all of the Selling Member's Interest upon the same terms and conditions as are stated in the written offer, such Member shall have the right to designate the time, date and place of closing within ninety (90) days after receipt of written notification from the Selling Member of the bona fide offer.

9.5 **Transferee Not a Member.** No Person acquiring a Membership Interest pursuant to this Section other than a Member shall become a Member unless such Person is approved by vote or written consent of a majority in interest of Membership Interests. If no such approval is obtained,

such Person's Membership Interest shall only entitle such Person to receive the distributions and allocations of profits and losses to which the Member from whom such Person received such Membership Interest would be entitled. Any such approval may be subject to any terms and conditions imposed by the Members.

9.6 **Effective Date.** Any sale of a Membership Interest or admission of a Member pursuant to this Article shall be deemed effective as of the last day of the calendar month in which such sale or admission occurs.

ARTICLE X

Dissolution

10.1 **Dissolution.** The Company shall be dissolved and its affairs shall be wound up upon the first to occur of the following:

a. The latest date on which the Company is to dissolve, if any, as set forth in the Articles of Organization;

b. The vote or written, consent of at least two-thirds in interest of all Members;

or

c. The bankruptcy, death, dissolution, expulsion, incapacity or withdrawal of any Member or the occurrence of any other event that terminates the continued membership of any Member, unless within one hundred eighty (180) days after such event, the Company is continued by the vote or written consent of a majority in interest of all of the remaining Members.

10.2 **Winding Up.** Upon the dissolution of the Company, the Manager may, in the name of and for and on behalf of the Company, prosecute and defend suits, whether civil, criminal or administrative, sell and close the Company's business, dispose of and convey the Company's property, discharge the Company's liabilities and distribute to the Members any remaining assets of the Company, all without affecting the liability of Members. Upon winding up of the Company, the assets shall be distributed as follows:

a. To creditors, including any Member who is a creditor, to the extent - permitted by law, in satisfaction of liabilities of the Company, whether by payment or by establishment of adequate reserves, other than liabilities for distributions to Members under Section 507 or Section 509 of the New York Act;

b. To Members and former Members in satisfaction of liabilities for Distributions under Section 507 or Section 509 of the New York Act; and

c. To Members first for the return of their Capital Contributions, to the extent not previously returned, and second respecting their Membership Interests, in the proportions in which the Members share in Distributions in accordance with this Agreement.

1 0.3 **Articles of Dissolution.** Within ninety (90) days following the dissolution and the commencement of winding up of the Company, or at any other time there are no Members, articles

of dissolution shall be filed with the New York Secretary of State pursuant to the New York Act.

10.4 **Deficit Capital Account.** Upon a liquidation of the Company within the meaning of Section 1.704-1 (b)(2)(ii)(g) of the Treasury Regulations, if any Member has a Deficit Capital Account (after giving effect to all contributions, distributions, allocations and other adjustments for all Fiscal Years, including the Fiscal Year in which such liquidation occurs), the Member shall have no obligation to make any Capital Contribution, and the negative balance of any Capital Account shall not be considered a debt owed by the Member to the Company or to any other Person for any purpose.

10.5 **Nonrecourse to Other Members.** Except as provided by applicable law or as expressly provided in this Agreement, upon dissolution, each Member shall receive a return of his Capital Contribution solely from the assets of the Company. If the assets of the Company remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return any Capital Contribution of any Member, such Member shall have no recourse against any other Member.

10.6 **Termination.** Upon completion of the dissolution, winding up, liquidation, and distribution of the assets of the Company, the Company shall be deemed terminated.

ARTICLE XI

General Provisions

11.1 **Notices.** Any notice, demand or other communication required or permitted to be given pursuant to this Agreement shall have been sufficiently given for all purposes if (a) delivered personally to the party to whom such notice, demand or other communication is directed, or (b) sent by registered or certified mail, postage prepaid, addressed to the Member at his address set forth in this Agreement. Except as otherwise provided in this Agreement, any such notice shall be deemed to be given three (3) business days after the date on which it was deposited in a regularly maintained receptacle for the deposit of United States mail, addressed and sent as set forth in this Section.

11.2 **Amendments.** This Agreement contains the entire agreement among the Members with respect to the subject matter of this Agreement, and supersedes each course of conduct previously pursued or acquiesced in, and each oral agreement and representation previously made, by the Members with respect thereto, whether or not relied or acted upon. No course of performance or other conduct subsequently pursued or acquiesced in, and no oral agreement or representation subsequently made, by the Members, whether or not relied or acted upon, and no usage of trade, whether or not relied or acted upon, shall amend this Agreement or impair or otherwise affect any Member's obligations pursuant to this Agreement or any rights and remedies of a Member pursuant to this Agreement. No amendment to this Agreement shall be effective unless made in a writing duly executed by all Members and specifically referring to each provision of this Agreement being amended.

11.3 **Construction.** Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

11.4 **Headings.** The headings in this Agreement are for convenience only and shall not be used to interpret or construe any provision of this Agreement.

11.5 **Waiver.** No failure of a Member to exercise, and no delay by a Member in exercising, any right or remedy under this Agreement shall constitute a waiver of such right or remedy. No waiver by a Member of any such right or remedy under this Agreement shall be effective unless made in a writing duly executed by all Members and specifically referring to each such right or remedy being waived.

11.6 **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. However, if any provision of this Agreement shall be prohibited by or invalid under such law, it shall be deemed modified to conform to the minimum requirements of such law or, if for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any other such provision being prohibited or invalid.

11.7 **Binding.** This Agreement shall be binding upon and inure to the benefit of all Members, and each of the successors and assignees or the Members, except that right or obligation of a Member under this Agreement may be assigned by such Member to another Person without first obtaining the written consent of all other Members.


11.8 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

11.9 **Governing Law.** This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of New York, without regard to principles of conflict of laws.

IN WITNESS WHEREOF, the parties signing this Agreement below conclusively evidence their agreement to the terms and conditions of this Agreement by so signing this Agreement.

MOHAWK VALLEY NETWORK, INC.

By:


Keith A. Fenstemacher, President

11.4 **Headlines.** The headings in this Agreement are for convenience only and shall not be used to interpret or construe any provision of this Agreement.

11.5 **Waiver.** No failure of a Member to exercise, and no delay by a Member in exercising, any right or remedy under this Agreement shall constitute a waiver of such right or remedy. No waiver by a Member of any such right or remedy under this Agreement shall be effective unless made in a writing duly executed by all Members and specifically referring to each such right or remedy being waived.

11.6 **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. However, if any provision of this Agreement shall be prohibited by or invalid under such law, it shall be deemed modified to conform to the minimum requirements of such law or, if for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any other such provision being prohibited or invalid.

11.7 **Binding.** This Agreement shall be binding upon and inure to the benefit of all Members, and each of the successors and assignees or the Members, except that right or obligation of a Member under this Agreement may be assigned by such Member to another Person without first obtaining the written consent of all other Members.


11.8 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

11.9 **Governing Law.** This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of New York, without regard to principles of conflict of laws.

IN WITNESS WHEREOF, the parties signing this Agreement below conclusively evidence their agreement to the terms and conditions of this Agreement by so signing this Agreement.

MOHAWK VALLEY NETWORK, INC.

By:


Keith A. Fenstemacher, President

**RESTATED CERTIFICATE OF INCORPORATION
OF
VISITING NURSE ASSOCIATION OF UTICA
AND ONEIDA COUNTY, INC.**

Pursuant to Section 805 of the Not-for-Profit Corporation Law

We, the undersigned, President and Secretary of Visiting Nurse Association of Utica and Oneida County, Inc., hereby certify:

1. The name of the corporation is: **Visiting Nurse Association of Utica and Oneida County, Inc.** The Corporation was originally formed under the name of “Baby Welfare Committee, Utica, N.Y.” pursuant to the Membership Corporations Law of the State of New York.

2. The corporation’s Certificate of Incorporation was filed by the Department of State on June 15th, 1915. The Corporation’s Restated Certificate of Incorporation was filed with the Department of State on July 27th, 2000.

3. The corporation’s Certificate of Incorporation is hereby amended to effectuate the following:

A. To change the address for service of process for the Corporation as set forth in Paragraph 10 of this Restated Certificate of Incorporation.

B. To delegate and reserve to the Corporation’s sole corporate member, Mohawk Valley Health System (“MVHS”), certain rights and powers as set forth in Paragraph 4 of this Restated Certificate of Incorporation.

4. The text of the Certificate of Incorporation, as amended, is hereby restated to read as herein set forth in full:

1. The name of the Corporation is: Visiting Nurse Association of Utica and Oneida County, Inc. (herein, the “Corporation”).

2. The Corporation is a corporation as defined in subparagraph (1)(5) of Section 102 of the Not-for-Profit Corporation Law and is a Type B corporation under Section 201 of said Law.

3. The purposes of the Corporation shall be to coordinate nursing activities in Utica and Oneida County, to more efficiently provide nursing care in the home, to reduce infant mortality, to increase the health and vitality of children, and to promote health education.

4. Mohawk Valley Health System (“MVHS”), as the sole corporate Member of the Corporation, shall have and exercise all the rights and powers of corporate

membership created by the laws of the State of New York or the Certificate of Incorporation or By-laws of the Corporation. Certain additional powers have been delegated and reserved to MVHS in the MVHS organizational documents. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and that the Corporation coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation.
- c. To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation, and Bylaws of the Corporation;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- e. To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Corporation;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation;
- i. To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve and coordinate the strategic plan of the Corporation;

- k. To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by the Corporation;
- o. To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound; and
- p. To accept further delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation and other MVHS Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS

shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's board of directors.

5. Notwithstanding any other provisions of this Certificate, the Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a Corporation exempt from Federal income tax under IRC 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.

6. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by IRC 501(h)), and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of, or in opposition to, any candidates for public office.

7. In the event of dissolution, all of the remaining assets and property of the Corporation shall, after payment of necessary expenses thereof, be distributed to MVHS or such other Corporations as shall qualify under Section 501(c)(3) of the Internal Revenue Code of 1985, subject to an Order of a Justice of the Supreme Court of the State of New York.

8. In any taxable year in which the Corporation is a private foundation as described in IRC 509(a), the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under IRC 4942, and the Corporation shall not: (a) engage in any act of self-dealing as defined in IRC 4941(d), retain any excess business holdings as defined in IRC 4943(c); (b) make any investments in such manner as to subject the Corporation to tax under IRC 4944; or (c) make any taxable expenditures as defined in IRC 4945(d) or corresponding provisions of any subsequent Federal tax laws.

9. The office of the Corporation shall be located in the County of Oneida, State of New York.

10. The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is: ***Visiting Nurse Association of Utica and Oneida County, Inc., 1650 Champlin Avenue, Utica, NY 13502.***

5. This Restated Certificate of Incorporation was authorized by a unanimous vote of the Directors present at a meeting of the Board of Directors of the Corporation's sole Member, Mohawk Valley Network, Inc., a quorum being present.

IN WITNESS WHEREOF, the undersigned have subscribed this Restated Certificate of Incorporation this ____ day of October, 2013, and hereby affirm that the statements contained herein are true under the penalties of perjury.

**VISITING NURSE ASSOCIATION OF UTICA
AND ONEIDA COUNTY, INC.**

SCOTT H. PERRA, FACHE, President

TODD HUTTON, Ph.D., Secretary

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

SCOTT H. PERRA, FACHE, being duly sworn, deposes and says, that he is the President of VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.

Scott H. Perra, FACHE

Sworn to before me this
___ day of October, 2013

NOTARY PUBLIC – State of New York
Appointed in _____ County
My commission expires: ____/____/____

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss:

TODD HUTTON, Ph.D, being duly sworn, deposes and says, that he is the Secretary of VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC., the Corporation described in the foregoing Certificate; that a meeting of the Board of Directors of the Corporation was held on September 26th, 2013, upon notice pursuant to Section 711 of the Not-for-Profit Corporation Law of the State of New York; that a majority of the directors constituting a quorum were present in person at said meeting; and that at said meeting the directors authorized your deponent to execute and file the foregoing Certificate by unanimous vote.

Todd Hutton, Ph.D.

Sworn to before me this
___ day of October, 2013

NOTARY PUBLIC – State of New York
Appointed in _____ County
My commission expires: ___/___/___

**BY-LAWS
of
MOHAWK VALLEY HEALTH SYSTEM**

**ARTICLE ONE
NAME**

1.1 NAME

The name of the Corporation is Mohawk Valley Health System (herein the “Corporation” or “MVHS”).

**ARTICLE TWO
RECITALS**

2.1. MVHS is a Type B not-for-profit corporation pursuant to Section 201(b), of the New York Not-for-Profit Corporation Law, and as such has no members.

2.2. St. Elizabeth Medical Center (herein “SEMC”) is a New York Not-for-Profit tax-exempt corporation, having a principal place of business at 2209 Genesee Street, Utica, NY 13501.

2.3. Faxton-St. Luke’s Healthcare (herein “FSLH”) is a New York Not-for-Profit tax-exempt corporation, having a principal place of business at 1656 Champlin Avenue, Utica, NY 13501.

2.4. St. Lukes Home Residential Health Care Facility, Inc. (herein the “Home”) is a New York Not-for-Profit, tax-exempt corporation, having a principal place of business at 1650 Champlin Avenue, Utica, NY 13502.

2.5. Visiting Nurse Association of Utica and Oneida County, Inc. (herein “VNA”) is a New York Not for Profit tax-exempt corporation, having a principal place of business at 1650 Champlin Avenue, Utica, NY 13502.

2.6. Mohawk Valley Home Care, LLC (herein “MVHC”) is a New York limited liability company having a principal place of business at 1650 Champlin Avenue, Utica, NY 13502.

2.7. Senior Network Health, LLC (herein “SNH”) is a New York limited liability company having a principal place of business at 1650 Champlin Avenue, Utica, NY 13502.

2.8. Partners in Franciscan Ministries, Inc. (herein “PFM”) is a New York not-for-profit, tax exempt corporation having a principal place of business at 2500 Grant Blvd., Suite 302, Syracuse, New York 13208-1262. PFM (which is sponsored by the Congregation of the Sisters of St. Francis of the Neumann Communities) shall be the co-member of SEMC, and as such shall have the following powers:

2.8(a) to approve and interpret those elements of SEMC’s statement of mission and philosophy adopted by SEMC that relate to SEMC’s status as a Catholic organization or the pursuit of SEMC’s Catholic mission and philosophy, and any amendments thereof, and to require SEMC to operate in conformance with its Catholic mission and philosophy;

2.8(b) to approve any amendment of SEMC’s purposes or powers in its Certificate of Incorporation that would terminate SEMC’s status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services;

2.8(c) to approve the sale, transfer, mortgage, guaranty, pledge or other alienation of real or personal property of SEMC in excess of an amount to be fixed from time to time by PFM to meet the requirements of the United States Conference of Catholic Bishops; and

2.8(d) to approve and reject appointments to the Pension Committee for the defined benefit plan sponsored by SEMC which qualifies as a Church Plan under Section 3(33) of ERISA.

2.8(e) to elect or appoint and remove, with or without cause, one director of SEMC who does not currently serve on the Board of MVHS.

For the purposes of the foregoing, the power of PFM to “approve” means the power to accept or reject a recommendation of the SEMC Board or an action by MVHS or any future Members of SEMC with respect to the powers reserved to PFM. The SEMC Board and officers of SEMC or MVHS or any future Members of SEMC shall not

implement any action requiring the approval of PFM until PFM shall have exercised its reserved powers and communicated its determination in writing to SEMC, MVHS or any future Member of SEMC and the SEMC Board.

2.9. “Affiliates” or “MVHS Affiliates” shall mean SEMC, FSLH, VNA, MVHC, SNH and the Home, unless otherwise specifically set forth herein.

ARTICLE THREE OFFICES

3.1 OFFICES

The principal office of the Corporation shall be located in Oneida County, in the State of New York. The Corporation shall have and continuously maintain in New York State a registered office and a registered agent whose office shall be identical with the registered office, and may have such other offices as the Board may determine from time to time.

ARTICLE FOUR PURPOSES AND POWERS

The Corporation shall have the following purposes and powers:

4.1. **CORPORATE MEMBERSHIP.** MVHS shall serve as the sole corporate member of FSLH, VNA and the Home, as the owner of all of the Membership interests in MVHC and SNH, and as a co-member of SEMC, subject to the powers reserved to PFM, as set forth in Section 2.8 herein, the other co-member of SEMC. In addition to all other rights and powers of membership prescribed by New York Law, the Certificate of Incorporation and/or the Bylaws or the Articles of Organization and/or Operating Agreements of the Affiliates, the following governance and management powers shall be delegated to MVHS to the extent permitted by the New York Not-for-Profit Corporation Law:

- a. Except as otherwise set forth herein, to approve and interpret the statement of mission and philosophy adopted by the Affiliates, to require that each Affiliate operate in conformance with its mission

and philosophy and to coordinate the missions, visions, activities and resources of the Affiliates in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, MVHS shall not have the power to approve or interpret those elements of SEMC's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of SEMC's Catholic mission and philosophy;

- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Affiliates, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Affiliates. Notwithstanding the foregoing, PFM shall be entitled to appoint and remove, with or without cause, the one additional director designated by PFM to the SEMC Board of Directors, and the FSLH Board shall be entitled to appoint and remove, with or without cause, one additional director to the FSLH Board who does not currently serve on the MVHS Board;
- c. To amend or repeal the Certificate and Bylaws, and to adopt any new or restated Certificate of Incorporation, Bylaws, Articles of Organization, or Operating Agreements, of the Affiliate(s);
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Affiliate(s);
- e. To approve the debt of the Affiliate(s) in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Affiliate(s) in excess of an amount to be fixed from time to time by MVHS.

Notwithstanding the foregoing, the approval of PFM shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of SEMC in excess of an

-
- amount to be fixed from time to time by PFM, to meet the requirements of the United States Conference of Catholic Bishops;
- g. To approve the capital and operating budgets of the Affiliates;
 - h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to such Affiliate;
 - i. To approve any corporate reorganization of the Affiliate(s) and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Affiliate(s), including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
 - j. To approve and coordinate the strategic plans of the Affiliates;
 - k. To the extent applicable, to approve all contracts of reimbursement for the Affiliates from governmental or private third party insurers;
 - l. To the extent applicable, to approve all applications of the Affiliate(s) to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health, as required;
 - m. To the extent applicable, to approve management contracts for the Affiliate(s) subject to approval and/or regulation under the laws and regulations of the State of New York;
 - n. To approve any material change in the services offered by an Affiliate;
 - o. To require an Affiliate to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require an Affiliate to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which such Affiliate is a party

and by which it is bound, and with respect to SEMC, may not require participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy; and

- p. To accept delegations of authority on behalf of each Affiliate pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at FSLH which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services (herein, the “ERDs”) shall not be transferred to or used for the benefit of MVHS, SEMC or any affiliate of SEMC and neither MVHS nor SEMC shall provide or support such services maintained by FSLH or any Affiliate or subsidiary of FSLH.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Affiliate(s) without a prior recommendation of the Affiliate’s board of directors; and (ii) the power to accept, reject or modify the recommendation of the Affiliate’s board of directors and to direct action by the Affiliate or to return the matter to the board of the Affiliate for reconsideration, with reasons for rejection and/or suggested change. Notwithstanding the foregoing, in the case of SEMC, MVHS shall not direct any action with respect to SEMC that requires the approval of PFM without prior approval of

such action by PFM. The board(s) of directors, trustees or managers and officers of the Affiliate(s) shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Affiliate(s)' board and, in the case of any powers over SEMC that are also reserved to PFM, to PFM.

4.2. **ADDITIONAL PURPOSES AND POWERS.** MVHS shall have the following additional purposes and powers:

- a. To establish, support and maintain such other health care facilities and systems at one or more sites, whose purposes may include, but not be limited to, the provision of a full range of health and/or wellness related services, but whose services shall not include direct abortions or physician assisted suicide.
Each such service or facility shall be established and operated in accordance with all approvals required by the Public Health Law or other law of the State, and all approvals required from any other body having jurisdiction over such activities.
- b. To carry on educational activities, scientific research and other health related activities or programs incident to the purposes set forth above either directly or through an Affiliate or subsidiary.
- c. To solicit funds for the above purposes.
- d. To pursue, enhance, and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations or other entities as may be established, operated and maintained in accordance with all approvals required by applicable law.

**ARTICLE FIVE
BOARD OF DIRECTORS**

5.1 **NUMBER**

The Board of Directors shall consist of not less than nine (9) members.

5.2 **QUALIFICATION**

Directors shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

5.3 ELECTION AND TENURE

(a) Composition of Initial Board of Directors. Commencing with the meeting to be held on or about _____, 20XX, the initial board shall be comprised of eighteen (18) Voting Directors. SEMC and FSLH shall each appoint eight (8) voting directors (the "Elected Directors"). The remaining two (2) Directors shall be the presidents of the medical staffs of SEMC and FSLH who shall serve ex-officio as Voting Directors.

(b) Terms of Office. The initial Elected Directors shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated. Each class shall have an equal number of Directors selected by SEMC and FSLH.

(c) Subsequent Election. Commencing with the 20XY annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Director may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in these Bylaws. Commencing with the 20XY annual meeting, members of the Board shall be nominated by the Governance Affairs and Ethics Committee and shall be elected by a simple majority of the Board. The Board shall not be bound or limited to such nominees.

(d) Reappointment. Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Director's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(e) Non-Elected Directors. The President of the Medical Staffs of SEMC and FSLH shall serve as Directors of the Corporation, coterminous with holding their respective positions.

5.4 VACANCIES

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Director, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board. Nominees shall be presented by the Governance Affairs and Ethics Committee, but the Board shall not be bound or limited to such nominees. Directors selected to fill vacancies shall serve the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

5.5 REMOVAL

Each member of the Board of Directors shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Directors by a vote of two-thirds of the remaining Directors. In addition, the Board of MVHS may remove any Director, with or without cause, upon a two-thirds (2/3) vote of the Board.

5.6 RESIGNATION/LEAVE OF ABSENCE.

(a) Resignation. Any Director may resign at any time by giving written notice to the Chairperson or to the Secretary of the Corporation. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

(b) Leave of Absence. Any Director may request a Leave of Absence of up to three (3) months for medical reasons relating to the Director, or a member of the Director's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Director. If the Chairperson requests a Leave, the request shall be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Director shall be excused from any attendance requirements and all other obligations of a Director as set forth in these Bylaws. The

Director's Board position shall remain vacant during the term of the Leave, and the Director's position shall not be counted in determining the presence of a quorum.

If the Director on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the remaining Directors at the next regular meeting of the Board, or at a special meeting called for such purpose. Any committee positions held by the Director may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Director may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

5.7 ADDITIONAL ADVISORS

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Directors present.

5.8 MEETINGS OF DIRECTORS

(a) Annual Meeting The Board of Directors shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, electing directors and officers and members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) Regular Meetings The Board of Directors shall hold at least seven (7) regular meetings annually.

(c) Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3) Directors. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) Place All meetings of the Board shall be held at the principal office of the Corporation or at such other place within this State as the Notice of Meeting shall provide.

(e) Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Director personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law or these Bylaws, the notice shall also state the purpose for which the meeting is called. Oral or written notice of the postponement of any scheduled regular meeting shall be given to each Director not less than one (1) day before the scheduled date of such meeting.

(f) Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(g) Quorum Unless a greater or lesser number is required by law, the Certificate of Incorporation or these By-laws, a majority of the Directors entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Directors present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 5.9(e).

(h) Voting Subject to the Conflict of Interest provisions of these By-laws, and the Board's Conflict of Interest policies, each voting Director present is entitled to vote on any matter before the Board.

(i) Manner of Acting Unless otherwise required by law, the Certificate of Incorporation or these By-laws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the

consent in writing of all Directors entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

(j) Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

5.9 POWERS AND FIDUCIARY OBLIGATIONS

(a) Powers The administrative powers of the Corporation shall be vested in the Board of Directors, which shall have: charge, control, and oversight of the property, funds, and affairs of the Corporation; the power to elect and remove, with or without cause, officers and to fill vacancies among the officers for unexpired terms; the power to establish policies for the management and operation of the Corporation; and such other power and authority to do and perform all acts and functions for the benefit of the Corporation, not inconsistent with these By-laws or the Certificate of Incorporation. The Board of Directors shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

(b) Fiduciary Obligations The members of the Board of Directors shall at all times conduct the affairs of the Corporation in strict conformance with all applicable fiduciary and ethical standards. Each Director shall act in a manner consistent with the duty of undivided loyalty to the interests of the Corporation, the duty to maintain in confidence information concerning the affairs of the Corporation, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Corporation. The Board shall adopt such mechanisms as it deems appropriate to assist the Directors in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate: the mission and vision of the Corporation; a Board Conflicts of Interest Policy to provide a formal mechanism for

identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Corporation.

ARTICLE SIX OFFICERS

6.1 OFFICERS

The Corporation shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Board of Directors may authorize. The Corporation shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the 20XX, 20XY, and 20XZ annual meetings shall serve a one year term, or until his/her successor has been elected. The Chairperson seated at the 20XX-20XZ annual meetings shall be selected by the initial Directors appointed by SEMC, as may be on the Board at that time. Commencing with the 20XA annual meeting the Chairperson and Vice-Chairperson shall be elected by the Board of Directors for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected at the annual meeting and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors at any regular meeting or any special meeting called for such purpose.

6.2 CHAIRPERSON

The Chairperson shall preside at all meetings of the Board of Directors, shall appoint the members and Chairperson of each Committee in accordance with these By-laws and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 20XZ annual meeting shall be eligible to be elected by the full Board to serve one additional term of two (2) years, commencing in 20XA. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the length of such terms. The Chairperson

shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

6.3 VICE-CHAIRPERSON

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

6.4 CHAIR EMERITUS.

Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in these Bylaws. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the 20XX annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

6.5 SECRETARY

The Secretary shall act as Secretary of both the Corporation and the Board of Directors and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Corporation and keeping the minutes of the meetings of the Board of Directors. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Corporate records.

6.6 TREASURER

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit

the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and, whenever required by the Board of Directors shall render, or cause to be rendered, financial statements of the Corporation. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

6.7 PRESIDENT

The Board shall appoint a qualified hospital administrator to serve as its President and as the Chief Executive Officer of the Corporation. The President/CEO shall be the Board's direct executive representative in the management of the Corporation. The President/CEO shall have the necessary authority and shall be responsible for management of the Corporation, subject only to the policies and directives of the Board and any of its committees to which the Board has delegated power for such action. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board of Directors in all matters except those for which the Board has designated some other individual to act.

ARTICLE SEVEN COMMITTEES OF THE BOARD OF DIRECTORS

7.1 STRUCTURE

There shall be seven (7) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Patient Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, Investment Committee and Audit and Compliance Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees

appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

7.2 PROCEDURE

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in these By-Laws or in a Resolution of the Board of Directors.

7.3 POWERS

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these By-Laws, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

7.4 COMMITTEE MEMBERS

- (a) Appointment. Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to

promote experience and knowledge in all aspects of the operation of the Corporation.

- (b) Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.
- (c) Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.
- (d) Removal. Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

7.5 ADVISORS TO BOARD COMMITTEES

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Directors.

As deemed appropriate by the Committee Chair, members of the Corporation's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

7.6 MANNER OF ACTION

(a) Meetings. Each Committee shall meet as provided for in these By-Laws and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

(b) Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

(c) Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

(d) Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

(e) Meeting by Conference Telephone or Similar Device. Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the

meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

7.7 CONFLICT OF INTEREST

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

7.8 EXECUTIVE COMMITTEE

(a) Composition

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, Presidents of the Medical Staffs of SEMC and FSLH, and the Chairperson Emeritus.

(b) Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Corporation, subject to any prior limitations imposed by the Board, these By-Laws, or statute. In addition, the Executive Committee shall:

- (1) Oversee the development of labor relations and negotiation strategy and recommend to the Board approval of collective bargaining agreements.
- (2) Review and recommend to the Board, with the assistance of counsel, policies and guidelines for financial transactions with physicians, including physician recruitment, employment or other agreements with the Corporation.
- (3) Review and recommend to the Board, legislative and regulatory affairs initiatives.
- (4) Review and make recommendations to the Board as to the Corporation's completion and filing of IRS Form 990 and such other reports or filings as may be required by the Internal Revenue Service.

(c) Meetings

The Executive Committee shall meet as necessary to conduct the business of the Corporation while the full Board is not in session.

7.9 FINANCE

(a) Composition

The Finance Committee shall consist of the Treasurer of the Corporation, as Committee Chairperson, and at least 6 voting Directors, at least one of whom shall have substantial accounting or financial management expertise.

(b) Functions

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Corporation and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and oversight of the financial affairs of the Corporation and its subsidiaries. Its functions shall include:

- (1) Overseeing the President's development of a budget for the Corporation showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Board a budget developed by the President for the ensuing year;
- (3) Reviewing financial reports that report on the financial condition of the Corporation;
- (4) Reviewing and making recommendations to the Board on any request by the President for the Corporation to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;
- (5) Retaining the Corporation's independent Certified Public Accountants to provide external financial auditing to the Corporation. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the

firm's assessment of management's internal financial control system.

- b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Corporation and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Corporation and its subsidiaries.
 - (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Corporations and its subsidiaries.

(c) Meetings

The Finance Committee shall meet as needed, but not less than six (6) times per year.

7.10 QUALITY AND PATIENT SAFETY COMMITTEE

(a) Composition.

The Quality and Patient Safety Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a physician.

(b) Functions.

The Quality and Patient Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of all of the Affiliates' medical and subsidiary services for the purpose of enhancing the quality of patient and resident care and identifying and implementing

improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance for all corporate Affiliates, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;
 - (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;
 - (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by the Corporation's subsidiaries and/or third parties providing services to the subsidiaries by contract, and coordinating the provision of services by the Corporation, its subsidiaries and third parties.
- (2) Recommend policies and provide direction for the system's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the system and its subsidiaries.
- (3) Oversee regulatory compliance, safety, infection control and such other programs as shall be required to insure continuous accreditation of the Affiliates.
- (4) Review and report to the Board on Department of Health, Office of Mental Health, and other regulatory surveys and findings and any required plans of correction.

-
- (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Corporation's subsidiaries concerning quality and performance improvement activities, including reports from any required quality or advisory committees of the subsidiary boards.
 - (7) Assist in the development of Board educational processes regarding quality and service improvement with the assistance and participation of the medical staff and hospital management.

(c) Meetings

The Quality and Patient Safety Committee shall meet at least six (6) times annually, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

7.11 GOVERNANCE AFFAIRS AND ETHICS COMMITTEE

(a) Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a Board Officer.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Boards of the Corporation and its subsidiaries; developing and monitoring a Board education plan; review and amendment of corporate and subsidiary Bylaws; and nomination of directors and officers of the Corporation and members of the Boards of the Corporation's subsidiaries. Its functions shall include:

-
- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - (i) Conflict of Interest;
 - (ii) Policy based governance;
 - (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.
 - (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
 - (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
 - (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Board and Committees of the Corporation and its subsidiaries.
 - (5) Nominate directors and officers of the Board and members of the Corporation's subsidiary boards.
 - (6) Develop an orientation process for new Board and Committee members for the Corporation and its subsidiaries, with the assistance of the Chief Executive Officer.
 - (7) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.

-
- (8) Periodically review, and recommend changes to the Bylaws of the Corporation and its subsidiaries to insure compliance with the mission, vision, purpose and structure of the Corporation and its subsidiaries.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at least two (2) times per year, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

7.12 EXECUTIVE COMPENSATION COMMITTEE.

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Directors recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be “Independent Directors” as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not an “Independent Director”, the Board shall appoint another Independent Director to serve in the place of the Chairperson. The President/CEO may serve as an advisor to the Committee as long as he or she is excused when the Committee is reviewing the CEO’s compensation package.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the President/CEO and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of the Corporation, or its Affiliates or subsidiaries, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations (“Disqualified Persons”). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually, performance guidelines for the CEO;
- (2). Assist the board in assessing and evaluating the CEO's performance;

-
- (3). Review and recommend to the full Board the CEO's compensation, including salary, incentives, benefits and other perquisites;
 - (4). Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
 - (5). At least annually, review executive compensation to ensure that it is appropriate in view of Corporation's tax-exempt status and take the required steps to establish a "rebuttable presumption of reasonableness" [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person's background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Corporation's income and assets and the number of Corporations employees;
 - d. CEO's job performance;
 - e. relationship of the CEO's compensation to the compensation paid to Corporation's other employees; and
 - f. the number of hours the CEO spends performing his or her job.
 - (6). Review and approve the compensation package of the Chief Operating, Medical, Nursing and Financial Officers, as recommended by the CEO.

c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Corporation to advise the Committee on executive compensation and related

matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

7.13 INVESTMENT COMMITTEE.

(a) Composition

The Investment Committee shall consist of at least at least three (3) Directors, at least one of whom shall have significant experience in financial and/or investment matters.

(b) Functions.

The function of the Investment Committee shall be to establish investment standards and expectations and review and monitor investment performance of the managers of the investments, endowments and other funds of the Corporation, and its subsidiaries. Without limiting the foregoing, the Committee shall:

1. Review and recommend to the Board, the investment policy of the Corporation and its subsidiaries;
2. Review the performance of the investment managers and, as required, recommend changes to the Board;
3. At least semi-annually report to the Board on the investment activities and performance of the investments of the Corporation and its subsidiaries.

c. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

7.14 AUDIT AND COMPLIANCE COMMITTEE.

(a) Composition

The Audit and Compliance Committee shall be composed of at least three (3) directors. At least a majority of the directors so appointed shall be “Independent Directors” as defined in Section 7.12(a), above.

(b) Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board of Directors in its oversight responsibilities by overseeing management’s systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Corporation. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee’s retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the Corporate Compliance Plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.
 - b. Review the minutes of each Corporate Compliance Committee meeting, and monitor the results of the Compliance Program.
 - c. Serve as a resource to the Compliance Officer and management on compliance issues.
 - d. Review and approve the audit schedule proposed by the Compliance Officer.
 - e. Report to the Board at least semi-annually, regarding the status of the Compliance Plan.

c. Meetings.

The Committee shall convene at least four (4) times per year or as shall be necessary to discharge its responsibilities.

**ARTICLE EIGHT
INDEMNIFICATION AND INSURANCE**

8.1 INDEMNIFICATION AND INSURANCE:

It is expressly provided that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal, by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of this Corporation, will be completely indemnified by the Corporation to the full extent permitted by law. If permitted by law, this indemnification shall include, but not be limited to, the payment of one or more of the following: judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeal therein.

8.2 INSURANCE.

It is the policy of the Corporation that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of the Corporation, will be completely and fully indemnified by this Corporation to the full extent permitted by the law. The Corporation may purchase and maintain insurance to completely and fully indemnify any and every such person, whether or not this Corporation has the power to indemnify him or her against such liability under the laws of this or any other state.

**ARTICLE NINE
CONFLICT OF INTEREST**

9.1 POLICY

Any Director, officer, key employee, or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval, or ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interest.

9.2 EFFECT

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions contained in the Board approved Conflicts of Interest Policy must be observed. If so, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in the discussions or deliberations with respect to such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

9.3 FORMAL POLICY AND PROCEDURE

The Board shall adopt a formal Conflict of Interest Policy requiring annual disclosure of existing and potential conflicts of interest, mechanisms for addressing actual and potential conflicts of interest and corrective and disciplinary action with respect to transgressions of such policies.

ARTICLE TEN VOLUNTEER ORGANIZATIONS

10.1 The Board may organize a volunteer organization, or such other associated organizations as it deems appropriate, consisting of individuals who are interested in rendering services as volunteers to the Corporation or its subsidiaries and in assisting in the fulfillment of the mission of the Corporation. There shall be By-laws, rules and regulations

for such organizations, setting forth their organization and governance. Proposed By-laws may be recommended, but only those approved by the Board of Directors shall become effective.

**ARTICLE ELEVEN
AMENDMENT TO BY-LAWS**

11.1 PROCEDURE

These Bylaws may be amended or repealed, or new Bylaws may be adopted, by a two thirds (2/3) vote of the Board of Directors of the Corporation of any regular or special meeting. At least ten (10) days written notice shall be given of the intention to take such action. The Governance Affairs and Ethics Committee shall conduct an annual review of these Bylaws and make recommendations for such amendments as may be necessary to assure compliance with all applicable laws, rules and regulations.

**ARTICLE TWELVE
GENERAL**

12.1 PROCEDURE

The Board and any Board Committee may adopt rules or procedures which shall be consistent with these By-laws.

12.2 EQUAL OPPORTUNITY

The Board shall, in all matters, act without regard to discrimination as to sex, race, age, creed, handicap, sexual preference, marital status or national origin.

12.3 CONSTRUCTION OF TERMS AND HEADINGS

Words used in these By-laws shall be read as the masculine or feminine gender and as the singular or plural, as the context requires. The captions or headings in these By-laws are for convenience only and are not intended to limit or define the scope or effect of any provision of these By-laws.

BYLAWS
OF
MOHAWK VALLEY NETWORK, INC.

REVISED FEBRUARY 27, 2003

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I - DESCRIPTION	1
Section 1. Name.	1
Section 2. Offices.	1
Section 3. Purposes.	1
ARTICLE II - MEMBERSHIP	1
ARTICLE III - BOARD OF DIRECTORS	1
Section 1. Authority.	1
Section 2. Number of Directors.	2
Section 3. Election and Term of Directors and Voting.	2
Section 4. Removal	3
Section 5. Resignation	3
Section 6. Vacancies and Newly Created Directorships.	3
Section 7. Annual Meeting of the Board.	3
Section 8. Annual Report.	4
Section 9. Regular Meetings of the Board	4
Section 10. Special Meetings of the Board.	4
Section 11. Waiver of Notice.	5
Section 12. Place of Board Meetings.	5
Section 13. Quorum of Directors.	5
Section 14. Action by the Board.	5
Section 15. Minutes.	6
Section 16. Attendance at Meetings.	6
Section 17. Compensation of Directors.	6
Section 18. Property Rights of Directors.	6
ARTICLE IV - OFFICERS	7
Section 1. Designation and Election of Officers.	7
Section 2. Chairperson	8
Section 3. Vice Chairperson	8
Section 4. President.	8
Section 5. Vice Presidents	8
Section 6. Treasurer.	8
Section 7. Secretary.	9

ARTICLE V - COMMITTEES OF THE BOARD OF DIRECTORS 10

Section 1. Standing Committee 10

Section 2. Committee Membership 10

Section 3. Committee Procedures 10

Section 4. Committee Meetings 11

Section 5. Finance Committee 11

 (a) Role and Scope 11

 (b) Composition 13

 (c) Meetings 13

 (d) Management Support 13

 (e) Information Flow 14

Section 6. Governance Affairs and Ethics Committee 14

 (a) Role and Scope 14

 Nominations 14

 Board Organization, Functioning and Performance 15

 Board Education 15

 Bylaws 16

 (b) Composition 16

 (c) Meetings 16

 (d) Management Support 16

 (e) Information Flow 16

Section 7. Executive and Administrative Affairs Committee 16

 (a) Role and Scope 17

 Emergency Powers 17

 Administrative Affairs 17

 (b) Composition 18

 (c) Meetings 18

 (d) Management Support 18

 (e) Information Flow 18

Section 8. Quality Committee 18

 (a) Role and Scope 19

 (b) Composition 19

 (c) Meetings 20

 (d) Management Support 20

 (e) Information Flow 20

Section 9. Ad Hoc Committee 20

	<u>Page</u>
ARTICLE VI - INDEMNIFICATION AND INSURANCE	21
Section 1. Indemnification.	21
Section 2. Insurance.	21
ARTICLE VII - FISCAL YEAR	21
ARTICLE VIII - CONFLICT OF INTEREST	21
Section 1. Reporting Requirement.	21
Section 2. Conflict Determination and Restrictions.	22
Section 3. Conflict Policies.	22
ARTICLE IX - RULES OF ORDER AND BYLAW CHANGES	23
Section 1. Rules of Order.	23
Section 2. Bylaw Changes.	23

**BYLAWS
OF
MOHAWK VALLEY NETWORK, INC.**

ARTICLE I - DESCRIPTION

Section 1. Name.

The name of the Corporation shall be MOHAWK VALLEY NETWORK, INC. (hereinafter referred to as "the Corporation" or "MVN").

Section 2. Offices.

The principal office of the Corporation shall be in the County of Oneida, State of New York. The Corporation may also have offices at such other places within the State of New York as the Board of Directors may from time to time determine or the business of the Corporation may require.

Section 3. Purposes.

The purposes of the Corporation shall be as set forth in its Certificate of Incorporation, as amended from time to time.

ARTICLE II - MEMBERSHIP

The Corporation shall have no members. All corporate powers, rights and duties shall vest in a self-perpetuating Board of Directors.

ARTICLE III - BOARD OF DIRECTORS

Section 1. Authority.

All the affairs, property, business and policies of the Corporation shall be under the charge, control and direction of the Board of Directors.

Section 2. Number of Directors.

The Board of Directors shall be comprised of not less than nine (9) directors .

Section 3. Election and Term of Directors and Voting.

(a) The members of the Board of Directors of the Corporation shall be elected by the Board following nomination by the Governance Affairs and Ethics Committee. Individuals nominated by the Governance Affairs and Ethics Committee of the Board of Directors of MVN shall be subject to approval by a simple majority of the entire Board of Directors of the Corporation (MVN). Such approval may be withheld with or without cause.

(b) The Elected Directors seated at the January 2003 meeting of the Board shall serve as Directors until the 2005 annual meeting. Commencing with the 2005 annual meeting, Elected Directors shall be divided into three (3) classes of approximately equal size, with initial terms of one, two and three years. At each subsequent annual meeting of MVN, one-third (1/3) of the Board shall be elected to full three (3) year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of three (3) years or until his or her successor shall have been elected. Commencing with the 2000 annual meeting, no Elected Director may serve more than four (4) consecutive, full three (3) year terms.

(c) Reappointment. Director reappointment is neither automatic nor guaranteed. The reappointment decision will be made on a case-by-case basis after a thorough assessment of the Board member's performance and contribution, his or her commitment to correct any deficiencies and Board and organizational needs.

(d) Non-Elected Directors. The President/Chief Executive Officer of the Corporation and the President of the Medical Staff of Faxton-St. Luke's Healthcare shall serve as Directors of the Corporation, coterminous with holding their respective positions.

(e) Notwithstanding anything contained herein to the contrary, each of the hospitals or entities affiliated with MVN for which MVN serves as the sole corporate member reserves to itself all the powers, authority, duties and responsibilities contained in Article 28 of the Public Health Law, 10 NYCRR Part 405 and such other state or federal laws, rules or regulations applicable to such hospitals or entities. Furthermore, the parties stipulate that MVN shall have no authority over matters which pursuant to federal, state or local law are reserved for or incumbent upon the governing bodies of such hospitals or entities.

Section 4. Removal.

(a) Directors of the Board may be removed from office with or without cause by an affirmative vote of two-thirds (2/3) of the directors at any regular or special meeting of the Board.

Section 5. Resignation.

A director may resign at any time by giving written notice to the Chairperson or the Secretary of the Corporation. Unless otherwise specified in the notice, the resignation shall take effect upon delivery thereof to such officer, and the acceptance of the resignation shall not be necessary to make it effective.

Section 6. Vacancies and Newly Created Directorships.

(a) Vacancies on the Board of the Corporation shall be filled in the same manner as routine term appointments, as specified in Section 3 above.

(b) A director elected to fill a vacancy caused by resignation, death, disability or removal shall be elected to hold office for the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

(c) Newly created directorships shall be filled in the manner prescribed for those directorships at the time they are created.

Section 7. Annual Meeting of the Board.

The Board of Directors shall hold an annual meeting each year in the month of April at a convenient time and location designated by the Board. Written notice of the annual meeting shall be mailed to each member of the Board not less than five (5) nor more than thirty (30) days in advance of the meeting.

Section 8. Annual Report.

At the annual meeting of the Board, the Chairperson or President and the Treasurer shall present an annual report showing in appropriate detail the following information:

(a) A complete verified or audited financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal change in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation;

(b) A summary of the activities of the Corporation during the preceding year.

The annual report shall be filed with the minutes of the annual meeting.

Section 9. Regular Meetings of the Board.

The Board shall hold regular meetings at least quarterly at convenient times designated by the Board. Written notice of all regular meetings shall be given to each director personally by first class mail, by telegram, by facsimile or, where authorized by the Director, by e-mail not less than five (5) nor more than thirty (30) days in advance of the date fixed for such meeting.

Section 10. Special Meetings of the Board.

Special meetings may be called at any time by the Chairperson and shall be called by the Chairperson or the Secretary within five (5) days after receipt of a written request from any three (3) members of the Board. Notice of each special meeting shall be given in person, by telephone or by mail, by facsimile or, where authorized by the Director, by e-mail to each member of the Board at least three (3) days in advance of the date of such special meeting. The notice shall state the business

for which the special meeting has been called, and no business other than that stated in the notice shall be transacted at the special meeting.\

Section 11. Waiver of Notice.

Notice of any meeting of the Board need not be given to any director who submits a waiver of notice either before or after the meeting, or who attends the meeting without protesting prior thereto or at its commencement the lack of notice to him.

Section 12. Place of Board Meetings.

The Board may hold its meetings at the office of the Corporation or at such other places within the State of New York as it may from time to time determine.

Section 13. Quorum of Directors.

(a) The presence in person of a majority of the entire Board shall be necessary to constitute a quorum at all meetings of the Board for the transaction of business.

(b) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. Formal notice of the adjournment need not be given to directors who were absent at the time of the adjournment.

Section 14. Action by the Board.

(a) Each director shall be entitled to one vote on each matter properly submitted to the directors for action at any meeting of the Board. Unless otherwise required by law or provided in these Bylaws, the vote of a majority of directors present at the time of the vote at a duly convened meeting, provided that a quorum is then present, shall be the action of the Board.

(b) Any action required or permitted to be taken by the Board or any committee thereof may be taken without a meeting if all members of the Board or the committee thereof consent in writing to the adoption of a resolution authorizing the action. The resolution and written consent

thereto by the members of the Board or committee shall be filed with the minutes of the proceedings of the Board or committee.

(c) Any one or more members of the Board, or of any committee thereof, may participate in a meeting of such Board or committee by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

Section 15. Minutes.

The Secretary or a designee shall maintain complete and accurate minutes of each Board meeting and shall retain each unanimous written consent executed by Board members. Said minutes and written consents shall be maintained in the permanent records of the Corporation.

Section 16. Attendance at Meetings.

Attendance at each meeting of the Board shall be recorded by the Secretary in the minutes thereof. Absence from a meeting may be excused for good cause shown. Unexcused absence from more than twenty percent (20%) of the total number of regular and special meetings of the Board during a twelve month period for any reason shall constitute cause for removal.

Section 17. Compensation of Directors.

No director of the Corporation shall receive, directly or indirectly, any salary, compensation or emolument from the Corporation in the role as director, but directors shall be reimbursed for reasonable expenses incurred in the performance of Corporate duties. Nothing herein contained shall be construed to preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

Section 18. Property Rights of Directors.

No director of the Corporation shall have any rights to or interests in the property or assets of the Corporation. In the event that the Corporation is liquidated or dissolved or ceases to

actively carry on its business, all of the remaining property and assets of the Corporation after necessary expenses thereof shall be distributed as provided in the Corporation's Certificate of Incorporation, as amended from time to time.

ARTICLE IV - OFFICERS

Section 1. Designation and Election of Officers.

(a) The officers of the Corporation shall be a Chairperson, a Vice Chairperson, a President, a Treasurer, a Secretary, and such other officers as the Board may deem necessary or advisable. They shall be nominated by the Governance Affairs and Ethics Committee of the Board, and shall be elected by the Board at its annual meeting.

(i) The office of President shall be established and filled by the Chief Executive Officer of the Corporation appointed by the Board of Directors of the Corporation.

(ii) Any other offices created by the Board may, but need not, be elected from among the members of the Board.

(b) Any officer may be removed by a majority of the entire Board with or without cause at any time.

(c) Any officer may resign at any time by giving written notice to the Chairperson or Secretary of the Corporation. Such resignation shall be effective upon delivery to such officer or on such other date specified in the notice, and acceptance of the resignation shall not be necessary to make it effective.

(d) Except when an officer dies, is removed, resigns, becomes disabled or a new position is created, officers shall succeed the incumbent officers whose terms of office expire that year and hold office for a period of one year or until their successors shall have been duly elected or appointed and qualified.

(e) A vacancy occurring among the officers of the Corporation between annual meetings may be filled by the Board of Directors at any regular or special meeting of the Board. An officer elected to fill any vacancy created by death, removal, resignation, disability or creation of a new position shall serve until the next annual meeting.

Section 2. Chairperson.

The Chairperson shall preside at all meetings of the Board of Directors and the Governance Affairs and Ethics Committee, shall appoint committee members and chairpersons, and shall undertake such other duties as may be prescribed by the Board.

Section 3. Vice Chairperson.

The Vice Chairperson shall perform the duties of the Chairperson during the absence or disability of the Chairperson, and shall have such other duties as may be assigned by the Chairperson or the Board.

Section 4. President.

The President shall be the chief executive officer of the Corporation. He shall carry out the primary management functions and responsibilities necessary to direct Mohawk Valley Network, Inc. as such functions and responsibilities are prescribed by the Board, shall report to the Chairperson and the Board, and undertake such other duties as may be prescribed by the Chairperson or the Board.

Section 5. Vice Presidents.

The Board may provide for one or more Vice Presidents with such duties and responsibilities as the Board may from time to time establish or as assigned by the President with the consent of the Board.

Section 6. Treasurer.

The Treasurer shall:

(a) be responsible for all monies belonging to the Corporation and manage and control the same under the supervision of the Board of Directors;

(b) be responsible for maintaining the Corporation's accounting system in such manner as to give a true and accurate accounting of the financial transactions and condition of the Corporation;

(c) render to the Chairperson and the Board, at the regular meetings of the Board or whenever they require it, reports of the financial transactions and condition of the Corporation. The Treasurer shall also give a full financial report at the annual meeting of the Board;

(d) perform such other acts as are incidental to the office or are directed by the Board or the Chairperson.

To the extent requested by the Treasurer, the administrative staff shall assist the Treasurer in the performance of these duties.

Section 7. Secretary.

The Secretary shall be responsible for:

(a) sending appropriate notices and preparing agendas for all meetings of the Board;

(b) maintaining custody of all records and reports of the Corporation;

(c) the keeping and reporting of complete and accurate minutes of all meetings of the Board and all unanimous written consents executed by Board members; and

(d) performing such other duties as are incidental to the office or are directed by the Board or the Chairperson.

To the extent requested by the Secretary, the administrative staff shall assist the Secretary in the performance of these duties.

ARTICLE V - COMMITTEES OF THE BOARD OF DIRECTORS

Section 1. Standing Committees

The Standing Committees of the Board shall be as follows:

- (a) Finance Committee
- (b) Governance Affairs and Ethics Committee
- (c) Executive and Administrative Affairs Committee
- (d) Quality Committee

The specific committee responsibilities for each standing committee shall be as defined in these Bylaws. These responsibilities shall be reviewed every third year by the Board and amended if needed either by amendment to these Bylaws or by a separate writing approved by the Board. There shall be no Standing Committees other than those outlined above.

Section 2. Committee Membership

The Chairperson of the Board shall recommend for Board approval the appointment of all Committee members and Chairpersons annually after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated so as to promote experience and knowledge of all aspects of the operations of MVN.

Section 3. Committee Procedures

The work of any MVN Committee, Standing or Ad Hoc, is to recommend new and/or changes in existing policies to the Board for further action and, if directed, to monitor compliance with regulatory requirements and/or Board policies and report their recommendations to the Board. No MVN Committee, Standing or Ad Hoc, shall have any decision-making power unless specifically delegated by the Board. All Committees shall submit a work plan and calendar for Board approval

at the start of each fiscal year (January 1st). The performance and function of each committee shall be reviewed annually at the last meeting of the Board prior to the annual meeting (April).

Section 4. Committee Meetings.

At all committee meetings, a quorum shall be equal to a majority of the members of the committee. A vote by a majority of the members present at a duly organized committee meeting shall constitute the action of the committee. A committee may act by unanimous written consent in lieu of a majority vote at a duly convened meeting. Each committee shall submit the minutes of its meetings to the Secretary of the Corporation.

Section 5. Finance Committee

The Finance Committee of MVN is charged with developing and making recommendations to the MVN Board regarding policies and procedures which will enable the Board to provide appropriate direction and oversight to the financial affairs of Mohawk Valley Network and its controlled subsidiaries.

(a) **Role and Scope.** The Finance Committee shall have the following responsibilities:

(i) Develop and recommend to the Board a framework by which the Board provides direction, sets performance expectations, and exercises financial oversight, including:

- (1) Measures/indicators of financial performance and volume, system-wide, and by individual or aggregations of business units, which should be monitored by the Board;
- (2) Development of policies which govern limitations on management financial authority, identify decisions reserved to the Board;
- (3) Financial reporting - define the content and format of monthly, quarterly, and annual reports on the financial performance of Mohawk Valley Network and its business entities to be received by MVN Board members and Finance Committee members.

(ii) Provide oversight and direction to the financial audit as follows:

- (1) Recommend selection/change in auditor to MVN;
- (2) Review and recommend the scope and frequency of audit(s) for MVN, and its subsidiaries;
- (3) Review the final audit reports and recommendations of the auditors;
- (4) Develop policy recommendations to the Board in response to audit reports as needed.

(iii) Review and make policy recommendations on corporate-wide, and business entity financial statements and the operating and capital expenditure budgets to the MVN Board including key assumptions driving the capital and operating budget development process.

(iv) Develop, review, and recommend financial policies for review and approval by MVN.

(v) Review all major business plans and financial transactions - the financial feasibility of both new business plans above Board approved threshold levels, and master facility plans; and develop recommendations for MVN Board action.

(vi) Review and make policy recommendations on the acceptable levels of discounting and risk to be assumed by MVN and its business entities in insurance and managed care contract negotiations.

(vii) Review and make policy recommendations to the MVN Board regarding long-range financial and capital plans for the system and key business entities including sale of key assets or businesses.

(viii) Review and monitor investment performance of the managers of all the MVN/subsidiaries investment, endowment and other funds, including the establishment of investment standards, policies, and performance expectations on a periodic basis.

(ix) Provide direction and guidance on appropriate Board education needs regarding basic healthcare finance and policy development, financial performance measurement and monitoring, and the audit process.

(x) Provide oversight and recommend policy changes to the Board's Corporate Compliance Program.

(xi) Review and evaluate the sufficiency of system and business entity insurance programs.

(xii) The Finance Committee is not expected to:

(1) Receive and discuss general management reports or provide oversight and direction to MVN senior management on operational issues and policies except for review of management plans to fix specific financial performance problems.

(2) Review general progress on development of a system-wide MVN strategy and its implementation.

(3) Provide general oversight to or make recommendations on managed care or hospital and physician relations strategies except to evaluate their financial soundness.

(4) Develop master and specific facility project plans for MVN or its business entities.

(b) **Composition**

The Finance Committee shall consist of not less than seven (7) members.

(c) **Meetings**

The Finance Committee will convene a minimum of nine (9) times per year.

(d) **Management Support**

The Finance Committee shall have the following management support:

(i) Hospital CFO/Controller/COO

(ii) CEO

- (iii) Others as needed
- (e) **Information Flow**
 - (i) Monthly reports received from all components.
 - (ii) Quarterly reports submitted to affiliate Boards.
 - (iii) Monthly and system reports submitted to MVN Board.
 - (iv) Audit reports reviewed and recommended to appropriate Board.

Section 6. Governance Affairs and Ethics Committee

The Governance Affairs and Ethics Committee of the MVN Board is charged with making policy recommendations regarding the organization, functioning, and performance evaluation of the MVN Governance System, Developing and Monitoring a Board Education Plan, and nominating, annually and/or when vacancies occur, all directors and officers of the Mohawk Valley Network and members of the subsidiary Boards.

(b) **Role and Scope:**

The Governance Affairs and Ethics Committee will act in accordance with the MVN Bylaws, and make recommendations to the Board on the following:

Nominations:

- (i) The criteria and qualifications necessary to serve on the various Committees and Boards of MVN and its subsidiaries or affiliates.
- (ii) The nominations for all:
 - (1) MVN governing body positions which are or will become vacant by the annual meeting;
 - (2) Fill any governing body positions during the year if requested by the MVN Board;
 - (3) Board officer positions for MVN governing bodies.

Board Organization, Functioning, and Performance:

(i) Recommend new and/or changes to existing policies to the MVN Board
in areas such as:

- (1) Conflict of interest;
- (2) Governance by Policy;
- (3) Trustee Creed;
- (4) Committee Structure & Philosophy;
- (5) Governance Operations;
- (6) Board Officer and Committee Chairperson Position Descriptions.

(ii) Act as the committee to review potential Board discipline issues including adherence to attendance policies, conflicts of interest, information disclosure policies, and make recommendations on disciplinary actions as required.

(iii) Develop and recommend to the MVN Board the tools, frameworks, and criteria to be used to evaluate the MVN Governance structure performance for each governing body.

(iv) Design, initial, and provide oversight to the Board Evaluation Process.

(v) Develop recommendations on changes and/or refinements to the process, criteria, and frameworks used both to improve the evaluation process and long-term Board performance.

Board Education:

(i) Work with the CEO to develop an orientation process for new MVN Board members and/or new members of Board Standing Committees, Subsidiary Boards and Ad Hoc Advisory Task Force members.

(ii) Identify annually the key healthcare topics and issues around which an annual plan for Board Education would be developed. The plan should include a schedule of

planned internal educational events and recommended external educational opportunities for all Board members.

Bylaws:

(i) Ensure the MVN and subsidiary Board bylaws reflect the operating purpose, structure and practices of the corporation and recommend changes as appropriate.

(ii) Receive and process recommendations on above from corporation counsel.

(b) **Composition:**

(i) The Governance Affairs and Ethics Committee shall consist of not less than five (5) members.

(c) **Meetings:**

(i) The Committee will convene a minimum of four (4) times per year initially and thereafter not less than two (2) times per year.

(d) **Management Support:**

(i) CEO

(ii) Legal counsel as necessary

(e) **Information Flow:**

(i) All components will submit appropriate material for review and comment with recommendation to appropriate governing body by committee.

Section 7. Executive and Administrative Affairs Committee

The Executive and Administrative Affairs Committee of MVN is charged with acting on behalf of the Board in emergency situations, managing the process of CEO and executive management performance evaluation and incentive compensation, overseeing labor relations, negotiating strategy, and providing oversight in development of employment contracts and policies for executive management and employed physicians.

(a) **Role and Scope:**

Emergency Powers:

(i) The Executive and Administrative Affairs Committee has authority to act only as delegated by the Board and in accordance with the policies of the Board. The Committee shall meet in its "emergency" capacity only in the rare times of great need.

Administrative Affairs:

(i) Oversee the development of labor relations and negotiation strategy and to recommend approval of collective bargaining agreements.

(ii) Develop policy recommendations on issues specifically delegated to it by the MVN Board.

(iii) **CEO Evaluation Process:**

(1) The Committee is expected to develop and recommend to the MVN Board new and/or changes in its existing policy(s) for Performance Evaluation of the CEO and Executive Management of MVN.

(2) The policy will identify the criteria, frameworks, process, and groups used to develop (1) input for the CEO and Executive Management evaluation; (2) recommendations for changes needed in the content or process of evaluation; and (3) the goals and expectations for CEO and Executive Management performance at the beginning of each evaluation period.

(3) The Committee will establish the CEO and Executive Management base range, benefit structures and incentive compensation based on a variety of factors including, for example, the CEO's performance evaluation, peer group compensation benchmarks, and other factors.

(4) The Committee will establish the performance expectations and goals for the Executive Management of MVN in consultation with the CEO.

(iv) **Management Incentive Compensation:**

- (1) The Committee will review, evaluate, and make recommendations to the MVN Board on new and/or changes to existing management incentive compensation programs.

(v) **Employment Agreements.** The Committee will:

- (1) Develop, review and approve employment agreements for key executives with the assistance of outside counsel;
- (2) Review and recommend physician recruitment, retention, and employment agreement policies and contract guidelines with the assistance of counsel;
- (3) Review, recommend, and support legislative and regulatory affairs incentives.

(b) **Composition:**

- (i) The Committee shall consist of not less than five (5) members.

(c) **Meetings:**

- (i) The Committee will convene a minimum of four (4) times per year initially and thereafter not less than two (2) times per year.

(d) **Management Support:**

- (i) CEOs

(e) **Information Flow:**

- (i) All components will submit appropriate material for review and comment with recommendation to appropriate governing body by committee.

Section 8. Quality Committee

The Quality Committee is charged with developing recommendations to the MVN Board regarding policies and procedures which will enable the Board and Subsidiary Boards to provide appropriate direction and oversight of the quality and service delivered by subsidiaries or affiliates of MVN.

(a) **Role and Scope:**

(i) Develop and recommend to the Board a framework by which the Board provides direction and exercises oversight of quality and service performance, including:

- (1) Indicators of clinical quality and service performance which should be monitored both by the Board and Committee;
- (2) Decisions reserved to the Board: development and recommendation of policies which govern limitations on management authority;
- (3) Process and format by which quality and service are supported and monitored by the MVN Board and Committee;
- (4) The role of each of the Boards of MVN, its subsidiaries and affiliates in the monitoring and reporting of quality and service.

(ii) Provide direction in quality and service, setting performance improvement priorities based on the mission, vision, and strategic goals of MVN, its subsidiaries and affiliates.

(iii) Provide direction and guidance to management and the medical staffs on appropriate Board education processes regarding quality and service improvement.

(iv) Review feedback from Customer Satisfaction Surveys, Performance Improvement Teams, Risk Management, Safety Management, Utilization and Case Management, and other executive level data/information impacting organizational performance.

(v) Receive reports and recommendations from the affiliate Boards and Professional Advisory Committees.

(vi) Assure compliance by all entities under the respective Board(s) oversight with applicable federal, state, and local health licensure and regulatory laws.

(b) **Composition:**

- (i) The Quality Committee shall consist of not less than seven (7) members.

(c) **Meetings:**

(i) The Committee will initially meet a minimum of six (6) times per year and thereafter at least quarterly each year.

(d) **Management Support:**

- (i) Hospital CEO
- (ii) Hospital COO
- (iii) Vice President Quality Management
- (iv) Medical Director
- (v) Management of Affiliates

(e) **Information Flow:**

- (i) Routine hospital reports submitted to QA Committee
- (ii) Quarterly compilation of QA activities from other MVN components submitted to QA Committee.
- (iii) Combined hospital/system QA reports submitted to the Board semi-annually.

Section 9. Ad Hoc Committees.

Ad Hoc Committees consisting of three (3) or more directors may be appointed by the Chairperson, subject to the approval of the Board, for such special tasks as circumstances warrant. An Ad Hoc Committee shall limit its activities to the accomplishment of the task(s) for which it is appointed and shall have no power to act except as specifically conferred by action of the Board. Upon completion of the task(s) for which appointed, the Ad Hoc Committee shall stand discharged.

ARTICLE VI - INDEMNIFICATION AND INSURANCE

Section 1. Indemnification.

The Corporation shall indemnify, including advancement of expenses in defending litigation, its directors and officers to the fullest extent authorized and permitted by law and as set forth in: (1) the Certificate of Incorporation; (2) these Bylaws; (3) a resolution of the directors; or (4) an agreement providing for such indemnification. The Corporation's directors are hereby authorized to adopt such resolutions and the Corporation is authorized to enter into such agreements. The Corporation is further authorized to indemnify its employees and other personnel to the fullest extent permitted by law.

Section 2. Insurance.

The Corporation may purchase directors' and officers' liability insurance if authorized and approved by the Board of Directors.

ARTICLE VII - FISCAL YEAR

The fiscal year of the Corporation shall begin on the 1st day of January and end on the 31st day of December in each year.

ARTICLE VIII - CONFLICT OF INTEREST

Section 1. Reporting Requirement.

Any director, officer, key employee, or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval, or ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the

interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interest.

Section 2. Conflict Determination and Restrictions.

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions below must be observed. If so, such person shall not vote on, nor use his personal influence on, nor participate (other than to present factual information or to respond to questions) in the discussions or deliberations with respect to, such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

Section 3. Conflict Policies.

The Board shall adopt conflict of interest policies requiring:

- (a) regular annual statements from directors, officers, and key employees that disclose existing and potential conflicts of interest.
- (b) corrective and disciplinary action with respect to transgressions of such policies.

For the purposes of this Section, a person shall be deemed to have an "interest" in a contract or other transaction if he is the party (or one of the parties) contracting or dealing with the corporation, or if he is a director, trustee or officer of, or has a significant financial or influential interest in, the entity contracting or dealing with the Corporation, or if he is otherwise reasonably likely to gain a significant financial or other person benefit if the contract or transaction is approved.

ARTICLE IX - RULES OF ORDER AND BYLAW CHANGES

Section 1. Rules of Order.

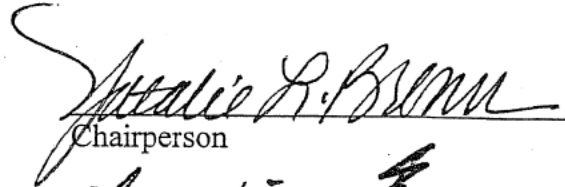
Meetings of the Board shall be governed by Robert's Rules of Order, except where they are inconsistent with the provisions of these Bylaws or applicable New York laws.

Section 2. Bvlaw Changes.

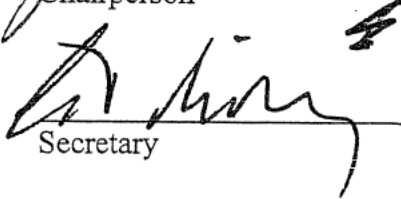
These Bylaws may be amended, repealed or adopted by a majority vote of the directors of the Corporation at any regular or special meeting of the Board. The Bylaws of any corporation of which Mohawk Valley Network, Inc. is the sole member may be amended, repealed or adopted by a majority vote of the directors of Mohawk Valley Network, Inc. at any regular or special meeting of the Board.

Utica, New York
Dated: February 27, 2003





Chairperson



Secretary

**BY-LAWS
of
FAXTON-ST. LUKE'S HEALTHCARE**

**ARTICLE ONE
NAME**

1.1 NAME

The name of the Corporation is Faxton-St. Luke's Healthcare (herein the Corporation or the Hospital).

**ARTICLE TWO
OFFICES, PURPOSES AND POWERS**

2.1 OFFICES

The principal office of the Corporation shall be located in New York State ("the State"). The Corporation shall have and continuously maintain in the State a registered office and a registered agent whose office shall be identical with the registered office, and may have such other offices as the Board may determine from time to time.

2.2 PURPOSES AND POWERS

The Corporation shall have the following purposes and powers:

- a. To establish, operate and maintain a general hospital and comprehensive health care facilities and systems at one or more sites, whose purposes may include, but not be limited to, the provision of a full range of inpatient and outpatient services, residential health care facilities, and other health related services and facilities. Each such service or facility shall be established and operated in accordance with all approvals required by the Public Health Law or other law of the State, and all approvals required from any other body having jurisdiction over the Corporation's activities.

-
- b. To carry on educational activities, scientific research and other health related activities or programs incident to the purposes set forth above.
 - c. To solicit funds for the above purposes.
 - d. To pursue, enhance, and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations as may be established, operated and maintained in accordance with all approvals required by applicable law.
 - e. Pursuant to the establishment of the Mohawk Valley Heart Institute, Inc., under Article 28 of the Public Health Law, the Corporation hereby delegates to the Mohawk Valley Heart Institute, Inc.:
 - i. Joint operational decision making authority and responsibility with the Corporation over such services for which a joint operating certificate is issued by the New York State Department of Health to Mohawk Valley Heart Institute, Inc. and the Corporation.
 - ii. Notwithstanding the foregoing, the Corporation retains control over and does not delegate to Mohawk Valley Heart Institute, Inc., authority and responsibility for all other services, operations, and clinical programs, for which no authority has been delegated to Mohawk Valley Heart Institute, Inc. and for which no joint operating certificate will be issued by the New York State Department of Health.

ARTICLE THREE MEMBERSHIP

3.1 COMPOSITION

Mohawk Valley Health System (“MVHS” or “Member”) shall be the sole member of the Corporation.

3.2 RIGHTS OF MEMBER

MVHS shall have and exercise all the rights and powers of corporate membership created by the laws of the State of New York or the Certificate of Consolidation or By-laws of the Corporation. Certain additional powers have been delegated and reserved to MVHS in the MVHS organizational documents. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Hospital, to require that the Hospital operate in conformance with its mission and philosophy and that the Hospital coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Hospital, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Hospital.
- c. To amend or repeal the Certificate of Consolidation and Bylaws, and to adopt any new or restated Certificate of Consolidation, and Bylaws of the Hospital;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Hospital;
- e. To approve the debt of the Hospital in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Hospital in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Hospital;

-
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Hospital;
 - i. To approve any corporate reorganization of the Hospital and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Hospital with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
 - j. To approve and coordinate the strategic plan of the Hospital;
 - k. To approve all contracts of reimbursement for the Hospital from governmental or private third party insurers;
 - l. To approve all applications of the Hospital to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health, as required;
 - m. To approve management contracts for the Hospital subject to approval and/or regulation under the laws and regulations of the State of New York;
 - n. To approve any material change in the services offered by the Hospital;
 - o. To require the Hospital to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Hospital to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Hospital is a party and by which it is bound; and
 - p. To accept further delegations of authority on behalf of the Hospital pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Hospital and other MVHS Affiliates, the

authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings. Notwithstanding the foregoing, any and all proceeds from services performed at the Hospital which are proscribed by the Ethical and Religious Directives for Catholic Healthcare Services (herein, the “ERDs”) shall not be transferred to or used for the benefit of MVHS, St. Elizabeth Medical Center (“SEMC”) or any affiliate of SEMC and neither MVHS nor SEMC shall provide or support such services maintained by the Hospital or any Affiliate or subsidiary of the Hospital.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Hospital without a prior recommendation of the Hospital’s board of directors; and (ii) the power to accept, reject or modify the recommendation of the Hospital’s board of directors and to direct action by the Hospital or to return the matter to the board of directors of the Hospital for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Hospital shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Hospital’s board of directors.

3.3 ANNUAL MEETING

MVHS shall, in its capacity as the member of the Corporation, hold its annual meeting each year at a time and place determined by MVHS. At the annual meeting,

MVHS shall elect Directors of the Corporation, receive the annual report of the Directors of the Corporation, and transact such other business as may properly come before the meeting. Nomination for seats on the Board of Directors of the Corporation shall be submitted to MVHS prior to MVHS' annual meeting.

3.4 ANNUAL REPORT TO MEMBER

At the annual meeting of the member, the Chairperson or President, and the Treasurer of the Corporation shall present an Annual Report showing in appropriate detail the following information:

(a) a complete verified financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation;

(b) a summary of the activities of the Corporation during the preceding year.

The Annual Report shall be filed with the minutes of the annual meeting.

3.5 ACTION BY MEMBER

Except as otherwise required by law, the Certificate of Consolidation or these By-laws, any action required or permitted to be taken by MVHS in its capacity as the sole member of the Corporation may be taken by MVHS without a meeting, without prior notice and without a vote, through written consent to such action. The written consent of MVHS shall be evidenced by a written resolution of the Board of Directors of MVHS signed by an officer of MVHS and adopted in accordance with the MVHS Certificate of Incorporation, By-laws, policies and/or procedures. An original signed copy of each executed written consent of MVHS shall be delivered to the Secretary of the Corporation and shall be maintained in the permanent records of the Corporation.

ARTICLE FOUR BOARD OF DIRECTORS

4.1 NUMBER

The Board of Directors shall consist of not less than nine (9) members.

4.2 QUALIFICATION

Directors shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

4.3 ELECTION AND TENURE

(a) Composition of Initial Board of Directors. Commencing with the meeting to be held on or about _____, 20XX, the initial board shall be comprised of eighteen (18) Voting Directors. MVHS shall appoint sixteen (16) voting directors (the "Elected Directors"). The remaining two (2) Directors shall be the presidents of the medical staffs of SEMC and the Hospital who shall serve ex-officio as Voting Directors. Should the Board of the Corporation exercise its right to appoint an additional Director to the Corporation's Board, the initial Board shall, in that event, be comprised of nineteen (19) Voting Directors.

(b) Terms of Office. The initial Elected Directors shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated.

(c) Subsequent Election. Commencing with the 20XY annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Director may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in these Bylaws. Commencing with the 20XY annual meeting, Elected Directors of the Board shall be nominated by the Governance Affairs and Ethics Committee of MVHS and shall be elected by a simple majority of the MVHS Board. The MVHS Board shall not be bound or limited to such nominees.

(d) Reappointment. Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment

of the Director's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(e) Non-Elected Directors. The Presidents of the Medical Staffs of SEMC and the Hospital shall serve as Directors of the Corporation, coterminous with holding their respective positions.

4.4 VACANCIES

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Director, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board of MVHS. Nominees shall be presented by the Governance Affairs and Ethics Committee of MVHS, but the MVHS Board shall not be bound or limited to such nominees. Directors selected to fill vacancies shall serve the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

4.5 REMOVAL

Each member of the Board of Directors shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Directors by a vote of two-thirds of the MVHS Directors. In addition, the Board of MVHS may remove any Director, with or without cause, upon a two-thirds (2/3) vote of the Board.

4.6 RESIGNATION/LEAVE OF ABSENCE.

(a) Resignation. Any Director may resign at any time by giving written notice to the Chairperson or to the Secretary of the Corporation. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

(b) Leave of Absence. Any Director may request a Leave of Absence of up to three (3) months for medical reasons relating to the Director, or a member of the Director's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Director. If the Chairperson requests a Leave, the request shall

be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Director shall be excused from any attendance requirements and all other obligations of a Director as set forth in these Bylaws. The Director's Board position shall remain vacant during the term of the Leave, and the Director's position shall not be counted in determining the presence of a quorum.

If the Director on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the MVHS Directors at the next regular meeting of MVHS, or at a special meeting called for such purpose. Any committee positions held by the Director may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Director may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

4.7 ADDITIONAL ADVISORS

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Directors present.

4.8 MEETINGS OF DIRECTORS

(a) Annual Meeting The Board of Directors shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, selecting members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) Regular Meetings The Board of Directors shall hold at least seven (7) regular meetings annually.

(c) Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3)

Directors. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) Place All meetings of the Board shall be held at the principal office of the Corporation or at such other place within this State as the Notice of Meeting shall provide.

(e) Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Director personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law or these Bylaws, the notice shall also state the purpose for which the meeting is called. Oral or written notice of the postponement of any scheduled regular meeting shall be given to each Director not less than one (1) day before the scheduled date of such meeting.

(f) Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(g) Quorum Unless a greater or lesser number is required by law, the Certificate of Consolidation or these By-laws, a majority of the Directors entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Directors present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 4.8(e).

(h) Voting Subject to the Conflict of Interest provisions of these By-laws, and the Board's Conflict of Interest policies, each voting Director present is entitled to vote on any matter before the Board.

(i) Manner of Acting Unless otherwise required by law, the Certificate of Consolidation or these By-laws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Any action

required or permitted to be taken by the Board may be taken without a meeting by the consent in writing of all Directors entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

(j) Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

4.9 POWERS AND FIDUCIARY OBLIGATIONS

(a) Powers Except to the extent that powers have been delegated and reserved to MVHS under these Bylaws, the administrative powers of the Corporation shall be vested in the Board of Directors, which shall have: charge, control, and oversight of the property, funds, and affairs of the Corporation; the power to establish policies for the management and operation of the Corporation; and such other power and authority to do and perform all acts and functions for the benefit of the Corporation, not inconsistent with these By-laws or the Certificate of Consolidation. The Board of Directors shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

(b) Fiduciary Obligations The members of the Board of Directors shall at all times conduct the affairs of the Corporation in strict conformance with all applicable fiduciary and ethical standards. Each Director shall act in a manner consistent with the duty of undivided loyalty to the interests of the Corporation, the duty to maintain in confidence information concerning the affairs of the Corporation, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Corporation. The Board shall adopt such mechanisms as it deems appropriate to assist the Directors in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate, a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and

apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Corporation.

ARTICLE FIVE OFFICERS

5.1 OFFICERS

The Corporation shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Board of Directors may authorize. The Corporation shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the 20XX, 20XY, and 20XZ annual meetings shall serve a one year term, or until his/her successor has been elected. The Chairperson seated at the 20XX-20XZ annual meetings shall be selected by MVHS in accordance with its Bylaws. Commencing with the 20XA annual meeting the Chairperson and Vice-Chairperson shall be elected by MVHS for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected by MVHS at the annual meeting of MVHS and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors of MVHS at any regular meeting or any special meeting called for such purpose.

5.2 CHAIRPERSON

The Chairperson shall preside at all meetings of the Board of Directors, shall appoint the members and Chairperson of each Committee in accordance with these Bylaws and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 20XZ annual meeting of MVHS shall be eligible to be elected by the full Board of MVHS to serve one additional term of two (2) years, commencing in 20XA. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

5.3 VICE-CHAIRPERSON

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

5.4 CHAIR EMERITUS.

Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in these Bylaws. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the 20XX annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

5.5 SECRETARY

The Secretary shall act as Secretary of both the Corporation and the Board of Directors and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Corporation and keeping the minutes of the meetings of the Board of Directors. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Corporate records.

5.6 TREASURER

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and, whenever required by the Board of Directors shall render, or cause to be rendered, financial

statements of the Corporation. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

5.7 PRESIDENT

MVHS shall appoint a qualified hospital administrator to serve as the President and as the Chief Executive Officer of the Corporation. The President/CEO shall be the Board's direct executive representative in the management of the Corporation. The President/CEO shall have the necessary authority and shall be responsible for management of the Corporation, subject only to the policies and directives of the Board and any of its committees to which the Board has delegated power for such action. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board of Directors in all matters except those for which the Board has designated some other individual to act.

ARTICLE SIX COMMITTEES OF THE BOARD OF DIRECTORS

6.1 STRUCTURE

There shall be eight (8) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Patient Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, Investment Committee, Audit Compliance Committee and Joint Conference Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

6.2 PROCEDURE

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or

procedures are adopted for any individual committee in these By-Laws or in a Resolution of the Board of Directors.

6.3 POWERS

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these By-Laws, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

6.4 COMMITTEE MEMBERS

- (a) Appointment. Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to promote experience and knowledge in all aspects of the operation of the Corporation.
- (b) Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.
- (c) Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee.

Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.

- (d) Removal. Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

6.5 ADVISORS TO BOARD COMMITTEES

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Directors.

As deemed appropriate by the Committee Chair, members of the Corporation's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

6.6 MANNER OF ACTION

(a) Meetings. Each Committee shall meet as provided for in these By-Laws and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the

time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

(b) Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

(c) Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

(d) Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

(e) Meeting by Conference Telephone or Similar Device. Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

6.7 CONFLICT OF INTEREST

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

6.8 EXECUTIVE COMMITTEE

(a) Composition

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, Presidents of the Medical Staffs of SEMC and the Hospital, and the Chairperson Emeritus.

(b) Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Corporation, subject to any prior limitations imposed by the Board, these By-Laws, or statute. In addition, the Executive Committee shall:

- (1) Oversee the development of labor relations and negotiation strategy and recommend to the Board approval of collective bargaining agreements.
- (2) Review and recommend to the Board, with the assistance of counsel, policies and guidelines for financial transactions with physicians, including physician recruitment, employment or other agreements with the Corporation.
- (3) Review and recommend to the Board, legislative and regulatory affairs initiatives.
- (4) Review and make recommendations to the Board as to the Corporation's completion and filing of IRS Form 990 and such other reports or filings as may be required by the Internal Revenue Service.

(c) Meetings

The Executive Committee shall meet as necessary to conduct the business of the Corporation while the full Board is not in session.

6.9 FINANCE

(a) Composition

The Finance Committee shall consist of the Treasurer of the Corporation, as Committee Chairperson, and at least 6 voting Directors, at least one of whom shall have substantial accounting or financial management expertise.

(b) Functions

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Corporation and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and

oversight of the financial affairs of the Corporation and its subsidiaries. Its functions shall include:

- (1) Overseeing the President's development of a budget for the Corporation showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Board a budget developed by the President for the ensuing year;
- (3) Reviewing financial reports that report on the financial condition of the Corporation;
- (4) Reviewing and making recommendations to the Board on any request by the President for the Corporation to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;
- (5) Retaining the Corporation's independent Certified Public Accountants to provide external financial auditing to the Corporation. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Corporation and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Corporation and its subsidiaries.

-
- (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Corporation and its subsidiaries.

- (c) Meetings

The Finance Committee shall meet as needed, but not less than six (6) times per year.

6.10 QUALITY AND PATIENT SAFETY COMMITTEE

- (a) Composition.

The Quality and Patient Safety Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a physician.

- (b) Functions.

The Quality and Patient Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of the Hospital with the programs of the other MVHS Affiliates for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance at the Hospital, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;
 - (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;

-
- (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by the Corporation's subsidiaries and/or third parties providing services to the subsidiaries by contract, and coordinating the provision of services by the Corporation, its subsidiaries and third parties.
 - (2) Recommend policies and provide direction for the system's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the Hospital and its subsidiaries.
 - (3) Oversee regulatory compliance, safety, infection control and such other programs as shall be required to insure continuous accreditation of the Hospital.
 - (4) Review and report to the Board on Department of Health, Office of Mental Health, and other regulatory surveys and findings and any required plans of correction.
 - (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Corporation's subsidiaries concerning quality and performance improvement activities, including reports from any required quality or advisory committees of the subsidiary boards.
 - (7) Assist in the development of Board educational processes regarding quality and service improvement with the assistance and participation of the medical staff and hospital management.

(c) Meetings

The Quality and Patient Safety Committee shall meet at least six (6) times annually, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

6.11. GOVERNANCE AFFAIRS AND ETHICS COMMITTEE

(a) Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a Board Officer.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Boards of the Corporation and its subsidiaries; developing and monitoring a Board education plan; review and amendment of subsidiary Bylaws; and nomination of directors and officers of the Boards of the Corporation's subsidiaries. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - (i) Conflict of Interest;
 - (ii) Policy based governance;
 - (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.

-
- (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
 - (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Board and/or Committees of the Corporation and its subsidiaries.
 - (5) Nominate directors and officers of the Corporation's subsidiary boards.
 - (6) Develop an orientation process for new Board and Committee members for the Corporation and its subsidiaries, with the assistance of the Chief Executive Officer.
 - (7) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
 - (8) Periodically review, and recommend changes to the Bylaws of the Corporation and its subsidiaries to insure compliance with the mission, vision, purpose and structure of the Corporation and its subsidiaries.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at least two (2) times per year, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

6.12 EXECUTIVE COMPENSATION COMMITTEE.

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Directors recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be "Independent Directors" as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not an "Independent Director", the Board shall appoint another Independent Director to serve in the place of the

Chairperson. The President/CEO may serve as an advisor to the Committee as long as he or she is excused when the Committee is reviewing the CEO's compensation package.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the President/CEO and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of the Corporation, or its Affiliates or subsidiaries, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations ("Disqualified Persons"). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually, performance guidelines for the CEO;
- (2). Assist the board in assessing and evaluating the CEO's performance;
- (3). Review and recommend to the full Board the CEO's compensation, including salary, incentives, benefits and other perquisites;
- (4) Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
- (5) At least annually, review executive compensation to ensure that it is appropriate in view of Corporation's tax-exempt status and take the required steps to establish a "rebuttable presumption of reasonableness" [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person's background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Corporation's income and assets and the number of Corporations employees;

-
- d. CEO's job performance;
 - e. relationship of the CEO's compensation to the compensation paid to Corporation's other employees; and
 - f. the number of hours the CEO spends performing his or her job.

(6) Review and approve the compensation package of the Chief Operating, Medical, Nursing and Financial Officers, as recommended by the CEO.

c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Corporation to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

6.13 INVESTMENT COMMITTEE.

(a) Composition

The Investment Committee shall consist of at least at least three (3) Directors, at least one of whom shall have significant experience in financial and/or investment matters.

(b) Functions.

The function of the Investment Committee shall be to establish investment standards and expectations and review and monitor investment performance of the managers of the investments, endowments and other funds of the Corporation, and its subsidiaries. Without limiting the foregoing, the Committee shall:

1. Review and recommend to the Board, the investment policy of the Corporation and its subsidiaries;

-
2. Review the performance of the investment managers and, as required, recommend changes to the Board;
 3. At least semi-annually report to the Board on the investment activities and performance of the investments of the Corporation and its subsidiaries.

c. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

6.14 AUDIT AND COMPLIANCE COMMITTEE.

(a) Composition

The Audit and Compliance Committee shall be composed of at least three (3) directors. At least a majority of the directors so appointed shall be “Independent Directors” as defined in Section 7.12(a), above.

(b) Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board of Directors in its oversight responsibilities by overseeing management’s systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Corporation. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee’s retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the Corporate Compliance Plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.

-
- b. Review the minutes of each Corporate Compliance Committee meeting, and monitor the results of the Compliance Program.
 - c. Serve as a resource to the Compliance Officer and management on compliance issues.
 - d. Review and approve the audit schedule proposed by the Compliance Officer.
 - e. Report to the Board at least semi-annually, regarding the status of the Compliance Plan.

c. Meetings.

The Committee shall convene at least four (4) times per year or as shall be necessary to discharge its responsibilities.

6.15 JOINT CONFERENCE COMMITTEE

(a) Composition

The Joint Conference Committee will be composed of the Chairperson, Vice Chairperson, President, Secretary and Treasurer of the Board, the Chairperson of the Quality and Patient Safety Committee of the Board, the four (4) officers of the Medical Staff and two additional medical staff members appointed by the President of the Medical Staff. The Chairperson of the Committee will alternate each meeting between the Chairperson of the Board, or his or her designee, and the President of the Medical Staff, or his or her designee. The Hospital's Chief Medical Officer, Chief Nursing Officer and Chief Operating Officer will be advisors to the Committee.

(b) Functions

The Joint Conference Committee will serve as a forum for the discussion of Hospital and Medical Staff policy, practice and planning and provide for effective liaisons between and among the Board of Directors, the Medical Staff and Administration. It shall also serve as a forum for addressing Medical Staff and Board of Directors' concerns and issues relating to operational quality and service performance. It shall exercise such specific responsibilities as assigned by the Board of Directors and as set forth in the Medical Staff Bylaws.

(c) Meetings

The Committee will convene at as shall be necessary to discharge its responsibilities.

ARTICLE SEVEN ADMINISTRATION

7.1 PRESIDENT/CEO

The Board of Directors of MVHS shall select and appoint a competent hospital administrator who shall act as President of the Board, ex officio and without vote, and Chief Executive Officer of the Corporation. The President/CEO shall have such qualifications as are prescribed by the New York State Hospital Code, as may be amended from time to time. The President/CEO shall be given the necessary authority and responsibility to operate the hospital in all its activities and departments, subject only to such policies as may be issued by the Board of Directors or by any of its Committees to which it has delegated power for such action. The President/CEO's performance shall be monitored in an ongoing manner by the Board of Directors and its Committees. The President/CEO shall act as the duly authorized representative of the Board in all matters in which the Board has not formally designated some other person to act.

The daily management and operational affairs of the hospital shall be the responsibility of the President/Chief Executive Officer. Without limiting the foregoing, the authority and responsibility of the President/Chief Executive Officer shall include:

- (a) Aid the Board in the formulation of policies and procedures and carrying out all policies established by the Board.
- (b) Development of a plan of organization of hospital personnel and other persons concerned with the conduct of the hospital's operation and submission of the plan to the Board for approval.
- (c) Preparation of an annual budget showing the expected receipts and expenditures of the hospital as required by the Board.
- (d) Development, submission and implementation, in a timely manner, of all plans to correct operational deficiencies identified by

regulatory agencies, and reporting to the Board progress in carrying out plans of correction.

- (e) Assisting the Board in communication and cooperation with the hospital's Medical Staff.
- (f) Assisting the hospital's Medical Staff with its organizational and medical administrative responsibilities.
- (g) Responsibility for all management and operational affairs of the hospital as required under the New York State Hospital Code, the requirements of the Hospital's accrediting organization and the responsibilities and duties established by all other regulatory bodies having jurisdiction.
- (h) Performance of such other duties as may be necessary in the best interests of the hospital.

7.2 MEDICAL DIRECTOR

The Board of Directors shall, after consultation with the Medical Staff, select and appoint a competent Medical Director who shall have administrative responsibility for the hospital's clinical departments and medical education programs. Responsibility for the organization and conduct of the Medical Staff shall be developed and defined in writing, in consultation with the Medical Staff, and assigned to the Medical Director. The Medical Director shall have such qualifications as may be required by the New York State Hospital Code, as amended from time to time. The Medical Director shall have such authority and responsibility as required to perform his or her duties, including:

- (a) Coordinating the appointment and re-appointment process of the members of the Medical Staff, including investigation and assurance of qualifications for membership, as provided in the Medical Staff By-Laws.
- (b) Oversee the granting of clinical privileges consistent with the practitioner's training, experience and demonstrated competence.
- (c) Monitor and ensure Medical Staff compliance with the hospital's Bylaws, the Medical Staff By-laws, the rules and regulations and

-
- policies of the Medical Staff, hospital policies and procedures, and all applicable laws, rules, regulations, and accrediting standards.
- (d) Oversee the activities, findings and recommendations of all medical staff quality improvement programs and promptly initiate or recommend appropriate corrective measures, consistent with the Medical Staff Bylaws.
 - (e) Monitor the activities and performance of the hospital's clinical departments and Department Chairpersons and make such reports and recommendations to the Board as shall be appropriate.
 - (f) Perform such other duties as may be required under the New York State Hospital Code, as may be assigned by the Board and CEO, or as shall be appropriate and necessary in the best interests of the Hospital.

ARTICLE EIGHT QUALITY ASSURANCE

8.1 BOARD RESPONSIBILITY

The Board shall establish, maintain, support and exercise oversight of an ongoing quality assurance program that includes specific and effective review, evaluation and monitoring mechanisms to assist, preserve and improve the overall quality and efficiency of patient care in the hospital, and to insure that each patient's rights are protected and promoted.

8.2 DELEGATION TO ADMINISTRATION AND TO THE MEDICAL STAFF

(a) TO ADMINISTRATION

Except as may be set forth in any policy adopted by the Board from time to time, the Board delegates to the administration and holds it accountable for providing the administrative assistance reasonably necessary to support and facilitate the implementation of an on-going operation of the hospital's quality assurance program, for implementing the quality assurance program as it concerns non-medical professional

personnel and technical staffs and patient care units, for establishing and maintaining a policy and process to protect and promote patient's rights and promptly resolve patient grievances, and for analyzing information and acting upon problems involving technical, administrative and support services and hospital policy. Without limiting the foregoing, the Board of Directors specifically delegates the obligation to review and resolve patient grievances to the individual responsible for quality management or such other person as designated by the President/CEO. The process for reviewing and resolving patient grievances shall be monitored by the Quality and Patient Safety Committee which shall provide periodic reports to the full Board.

(b) TO MEDICAL STAFF

The Board delegates to the Medical Staff and holds it accountable for conducting specific activities that contribute to the preservation and improvement of the quality and efficiency of patient care provided in the hospital. These activities include:

- (1) Systematic evaluation of practitioner performance against explicit, predetermined objective criteria.
- (2) On-going monitoring of critical aspects of care including, but not limited to, antibiotic and drug usage, transfusion practices, infections, mortalities, monitoring of unexpected clinical occurrences, and such other aspects of clinical care as shall be determined by the Board.
- (3) Review utilization of the hospital's resources to provide for their proper and timely allocation to patients in need of them.
- (4) Provision of continuing professional education, fashioned in part on the needs identified through the review, evaluation and monitoring activities and on new state-of the art developments.
- (5) Definition of the clinical privileges which may be appropriately granted within the hospital and within each

department, delineation of clinical privileges for members of the Medical Staff commensurate with individual credentials and demonstrated ability and judgment, and participation in assigning patient care responsibilities to other health care professionals consistent with individual qualifications and demonstrated ability.

(6) Management of clinical affairs, including enforcement of clinical policies and consultation requirements, initiation of disciplinary actions, surveillance over requirements for performance monitoring and for the exercise of newly-acquired clinical privileges, and other clinically-oriented activities.

(7) Such other measures as the Board may, after considering the advice of the Medical Staff, the other professional services and the hospital management, deem necessary for the preservation and improvement of the quality and efficiency of patient care.

ARTICLE NINE MEDICAL STAFF

9.1. ORGANIZATION.

The Board has caused to be created a Medical Staff organization, to be known as the Medical Staff of Faxton-St. Luke's Healthcare, whose membership shall be comprised of all practitioners who are privileged to attend patients of the Corporation. Membership in this Medical Staff organization shall be a prerequisite to the exercise of clinical privileges in the Corporation, except as otherwise specifically provided in the Medical Staff Bylaws.

9.2. MEDICAL STAFF BYLAWS, POLICIES AND RULES AND REGULATIONS.

(a). Purpose

The Medical Staff organization shall propose and adopt by vote bylaws, policies and rules and regulations for its internal governance, which shall be effective when approved by the Board . The bylaws shall create an effective administrative unit to discharge the functions and responsibilities assigned to the Medical Staff by the Board. The Medical

Staff bylaws, policies and rules and regulations shall state the purpose, functions and organization of the Medical Staff and shall set forth the policies by which the Medical Staff exercises and accounts for its delegated authority and responsibilities.

(b) Procedure

The Medical Staff shall have the initial responsibility to formulate, adopt, and recommend to the Board, Medical Staff by-laws and amendments thereto, which shall be effective when approved by the Board. If the Medical Staff fails to exercise this responsibility in good faith and in a reasonable timely and responsible manner, the Board may formulate or amend Medical Staff by-laws, at its own initiative. In such event, recommendations and views of the Medical Staff shall be carefully considered by the Board during its deliberations and in its actions.

9.3 MEDICAL STAFF MEMBERSHIP AND CLINICAL PRIVILEGES

(a) Duties of the Medical Staff

The Medical Staff shall have the responsibility and authority to investigate and evaluate all matters relating to initial staff appointments, reappointments, the assignment or curtailment of clinical privileges and corrective action. The Board shall require the Medical Staff to adopt and forward to it specific written recommendations concerning staff appointments, reappointments, the assignment or curtailment of clinical privileges and corrective action, with appropriate supporting documentation that will allow the Board to take informed action.

The Medical Staff shall have the responsibility and authority to investigate and evaluate each allied health professional's application for specified services, department affiliation, and modification in the services such allied health professional may perform, and shall require that the Medical Staff make recommendations to the Board on such applications.

The Board has overall responsibility for making available high quality patient care. Therefore, the Medical Staff shall conduct an ongoing review and appraisal of the quality of professional care rendered in the Hospital and shall report such activities and their results to the Board.

(b) Action by the Board

Final action on all matters relating to Medical Staff membership status, clinical privileges and corrective action shall be taken by the Board after considering the recommendations of the Medical Staff, provided that the Board shall act in any event if the Medical Staff fails to adopt and submit any such recommendation within a reasonable time. Such Board action without a Medical Staff recommendation shall be based on the same kind of documented investigation and evaluation as is required for Medical Staff recommendations.

(c) Criteria for Board Action

In acting on matters of Medical Staff membership status, the Board shall consider the Medical Staff's recommendations, the Corporation's and the community's needs, and such additional criteria as are set forth in the Medical Staff bylaws. In granting and defining the scope of clinical privileges to be exercised by each practitioner, the Board shall consider the Medical Staff's recommendations, the supporting information on which they are based, and such criteria as are set forth in the Medical Staff bylaws. No aspect of membership status or specific clinical privileges shall be limited or denied to a practitioner on the basis of sex, race, age, creed, color, sexual preference or national origin, or on the basis of any other non-professional qualifications, or for reasons unrelated to the Corporation's purposes, needs and capabilities, or to community needs.

(d) Conflict Resolution

In accordance with the Medical Staff's policies and procedures as set out in the Medical Staff Bylaws, the Board will resolve any differences in recommendations concerning Medical Staff appointments, reappointments, terminations of appointments and the granting or revision of clinical privileges within a reasonable time.

9.4 TERMS AND CONDITIONS OF MEDICAL STAFF MEMBERSHIP AND CLINICAL PRIVILEGES

(a) The Board shall require that the Medical Staff establish controls that are designed to ensure the achievement and maintenance of high standards of professional and ethical practice.

(b) The Board may determine the total numbers and types of practitioners on the medical or affiliate staffs, based on the physical capabilities of the Corporation,

utilization of the Corporation by its staff members, and requirements for efficient use of Corporation facilities and personnel.

(c) Practitioners applying for Medical Staff membership, or for clinical privileges, must sign an agreement to abide by these Bylaws and by the Medical Staff bylaws, policies and rules and regulations.

9.5 DUE PROCESS

(a) Practitioners

In holding the Medical Staff responsible for making recommendations to it, the Board shall require that the Medical Staff bylaws provide for review of any adverse recommendation made to the Board with respect to a practitioner's Medical Staff appointment, reappointment, department affiliation, staff category, admitting prerogatives, clinical privileges or corrective action. The review shall be conducted in accordance with the Board approved Medical Staff fair hearing plan then in effect. Such plan shall provide procedures to assure fair treatment of all practitioners and to afford opportunity for the presentation of all pertinent information, including the right to be heard, when requested by the practitioner.

(b) Medical Staff-Administrative Staff

Any physician who is also an administrative officer shall be entitled to procedural due process under the Board approved fair hearing plan then in effect. The Medical Staff-administrative officer shall be entitled to hearings by review committees of both the Medical Staff and the Board.

(c) Medical Staff

If the Board declines to follow any Medical Staff recommendation concerning Medical Staff appointments, reappointments, the assignment or curtailment of clinical privileges, or corrective action, then the Medical Staff shall be entitled to have the adverse decision of the Board reviewed by the Board in accordance with the provisions of the Medical Staff Bylaws then in effect.

9.6 METHODS FOR MEDICAL ADMINISTRATIVE LIAISON

The Board may establish medical administrative liaison by the following methods:

-
- (a) Appointment of Directors to attend Medical Executive Committee meetings of the Medical Staff.
 - (b) Appointment of members of the Medical Staff to Committees of the Board.
 - (c) Appointment of the President of the Medical Staff as a member of the Board as set forth herein.

9.7 OFFICERS AND CHAIRPERSONS

All elections and appointments of Medical Staff officers or chairpersons of Medical Staff committees shall be approved by the Board after consideration of the recommendation of the President of the Medical Staff. The duties and responsibilities of such officers and committee chairpersons shall be set forth in the Medical Staff bylaws.

ARTICLE TEN INDEMNIFICATION AND INSURANCE

10.1 INDEMNIFICATION AND INSURANCE:

It is expressly provided that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal, by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of this Corporation, will be completely indemnified by the Corporation to the full extent permitted by law. If permitted by law, this indemnification shall include, but not be limited to, the payment of one or more of the following: judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeal therein.

10.2 INSURANCE.

It is the policy of the Corporation that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of the Corporation, will be completely and fully indemnified by this Corporation to the full extent

permitted by the law. The Corporation may purchase and maintain insurance to completely and fully indemnify any and every such person, whether or not this Corporation has the power to indemnify him or her against such liability under the laws of this or any other state.

ARTICLE ELEVEN CONFLICT OF INTEREST

11.1 POLICY

Any Director, officer, key employee, medical staff member or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval, or ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interest.

11.2 EFFECT

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions contained in the Board approved Conflicts of Interest Policy must be observed. If so, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in the discussions or deliberations with respect to such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

11.3 FORMAL POLICY AND PROCEDURE

The Board shall adopt a formal Conflict of Interest Policy requiring disclosure of existing and potential conflicts of interest, mechanisms for addressing actual and potential

conflicts of interest and corrective and disciplinary action with respect to transgressions of such policies.

**ARTICLE TWELVE
VOLUNTEER ORGANIZATIONS**

12.1 The Board may organize a volunteer organization, or such other associated organizations as it deems appropriate, consisting of individuals who are interested in rendering services as volunteers to the Hospital or its subsidiaries and in assisting in the fulfillment of the mission of the Corporation. There shall be By-laws, rules and regulations for such organizations, setting forth their organization and governance. Proposed By-laws may be recommended, but only those approved by the Board of Directors shall become effective.

**ARTICLE THIRTEEN
AMENDMENT TO BY-LAWS**

13.1 PROCEDURE

These Bylaws may be amended or repealed, or new Bylaws may be adopted, only by MVHS in its capacity as the sole member of the Corporation. For this purpose, a two thirds (2/3) vote of the Directors of MVHS shall be required. The Board of Directors of the Corporation may also propose amendments for approval by MVHS or MVHS may adopt, amend or repeal Bylaws on its own initiative following the procedures herein noted. The Governance Affairs and Ethics Committee shall conduct an annual review of these Bylaws and make recommendations for such amendments as may be necessary to assure compliance with all applicable laws, rules and regulations and the requirement of the Hospital's accrediting authority.

ARTICLE FOURTEEN GENERAL

14.1 PROCEDURE

The Board and any Board Committee may adopt rules or procedures which shall be consistent with these By-laws.

14.2 EQUAL OPPORTUNITY

The Board shall, in all matters, act without regard to discrimination as to sex, race, age, creed, handicap, sexual preference, marital status or national origin.

14.3 CONSTRUCTION OF TERMS AND HEADINGS

Words used in these By-laws shall be read as the masculine or feminine gender and as the singular or plural, as the context requires. The captions or headings in these By-laws are for convenience only and are not intended to limit or define the scope or effect of any provision of these By-laws.

**BY-LAWS
of
FAXTON-ST. LUKE'S HEALTHCARE**

**ARTICLE ONE
NAME**

1.1 NAME

The name of the Corporation is Faxton-St. Luke's Healthcare (herein the Corporation or the Hospital).

**ARTICLE TWO
OFFICES, PURPOSES AND POWERS**

2.1 OFFICES

The principal office of the Corporation shall be located in New York State ("the State"). The Corporation shall have and continuously maintain in the State a registered office and a registered agent whose office shall be identical with the registered office, and may have such other offices as the Board may determine from time to time.

2.2 PURPOSES AND POWERS

The Corporation shall have the following purposes and powers:

- a. To establish, operate and maintain a general hospital and comprehensive health care facilities and systems at one or more sites, whose purposes may include, but not be limited to, the provision of a full range of inpatient and outpatient services, residential health care facilities, and other health related services and facilities.

Each such service or facility shall be established and operated in accordance with all approvals required by the Public Health Law or other law of the State, and all approvals required from any other body having jurisdiction over the Corporation's activities.

- b. To carry on educational activities, scientific research and other health related activities or programs incident to the purposes set forth above.
- c. To solicit funds for the above purposes.
- d. To pursue, enhance, and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations as may be established, operated and maintained in accordance with all approvals required by applicable law.
- e. Pursuant to the establishment of the Mohawk Valley Heart Institute, Inc., under Article 28 of the Public Health Law, the Corporation hereby delegates to the Mohawk Valley Heart Institute, Inc.:
 - i. Joint operational decision making authority and responsibility with the Corporation over such services for which a joint operating certificate is issued by the New York State Department of Health to Mohawk Valley Heart Institute, Inc. and the Corporation.
 - ii. Notwithstanding the foregoing, the Corporation retains control over and does not delegate to Mohawk Valley Heart Institute, Inc., authority and responsibility for all other services, operations, and clinical programs, for which no authority has been delegated to Mohawk Valley Heart Institute, Inc. and for which no joint operating certificate will be issued by the New York State Department of Health.

ARTICLE THREE MEMBERSHIP

3.1 COMPOSITION

Mohawk Valley Network, Inc. ("MVN" or "Member") shall be the sole member of the Corporation.

3.2 RIGHTS OF MEMBER

MVN shall have and exercise all the rights and powers of corporate membership created by the laws of the State of New York or the Certificate of Consolidation or By-laws of the Corporation.

3.3 ANNUAL MEETING

MVN shall, in its capacity as the member of the Corporation, hold its annual meeting each year in April at a time and place determined by MVN. At the annual meeting, MVN shall elect Directors of the Corporation, receive the annual report of the Directors of the Corporation, and transact such other business as may properly come before the meeting. Nomination for seats on the Board of Directors of the Corporation shall be submitted to MVN prior to MVN's annual meeting.

3.4 ANNUAL REPORT TO MEMBER

At the annual meeting of the member, the Chairperson or President, and the Treasurer of the Corporation shall present an Annual Report showing in appropriate detail the following information:

(a) a complete verified financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation;

(b) a summary of the activities of the Corporation during the preceding year.

The Annual Report shall be filed with the minutes of the annual meeting.

3.5 ACTION BY MEMBER

Except as otherwise required by law, the Certificate of Consolidation or these By-laws, any action required or permitted to be taken by MVN in its capacity as the sole member of the Corporation may be taken by MVN without a meeting, without prior notice and without a vote, through written consent to such action. The written consent of MVN shall be evidenced by a written resolution of the Board of Directors of MVN signed by an officer of MVN and adopted in accordance with the MVN Articles of Incorporation, By-laws, policies and/or procedures. An original signed copy of each executed written consent of MVN shall be delivered to the Secretary of the Corporation and shall be maintained in the permanent records of the Corporation.

ARTICLE FOUR BOARD OF DIRECTORS

4.1 NUMBER

The Board of Directors shall consist of not less than nine (9) members.

4.2 QUALIFICATION

Directors shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

4.3 ELECTION AND TENURE

(a) Elected Directors. At each annual meeting of MVN, one-third of the Board shall be elected to full three year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of three (3) years or until his or her successor shall have been elected. No Elected Director may serve more than four (4) consecutive, full three year terms. Notwithstanding the foregoing, the Chairperson, Vice-

Chairperson and Chairperson Emeritus may remain on the Board so as to fulfill his or her obligations as set forth in these Bylaws.

(b) Reappointment. Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Director's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(c) Non-Elected Directors. The President/Chief Executive Officer of the Corporation and the President of the Medical Staff shall serve as Directors of the Corporation, coterminous with holding their respective positions.

4.4 VACANCIES

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Director, or due to an increase in the number of Board seats, or any other cause, shall be filled by MVN. The Board of Directors of the Corporation may nominate candidates to fill such vacancies, but MVN shall not be bound or limited to the Board's nominees. Directors selected to fill vacancies shall serve the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

4.5 REMOVAL

(a) Each member of the Board of Directors shall be required to attend at least 80% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, shall, upon the recommendation of the Chairperson to MVN, and confirmation by MVN, be dismissed from the Board of Directors.

(b) Any Elected Director may be removed from office by MVN at any time, with or without cause by a vote of two-thirds (2/3) of the Directors of MVN.

4.6 RESIGNATION

Any Director may resign at any time by giving written notice to the Chairperson or to the Secretary of the Corporation. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

4.7 ADDITIONAL ADVISORS

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board or a Board Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board or Committee by majority vote of the Directors present.

4.8 MEETINGS OF DIRECTORS

(a) Annual Meeting As soon as reasonably possible after the annual election of Directors, the Board shall meet for the purposes of organizing itself, electing officers and members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) Regular Meetings The Board of Directors shall hold at least eight (8) regular meetings annually. Such meetings shall generally be held during the fourth week of the month.

(c) Special Meetings Special meetings of the Board may be called by the Chairperson, the President, or upon the written request of five (5) Directors. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) Emergency Special Meetings An emergency special meeting of the Board may be called by the Chairperson, the President, or by any three members of the Board. Emergency special meetings shall be limited to matters of medical necessity requiring Board action.

(e) Place All meetings of the Board shall be held at the principal office of the Corporation or at such other place within this State as the Notice of Meeting shall provide.

(f) Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Director personally by first class mail, by telegram, by facsimile or, where authorized by the Director, by e-mail or other communications device, not less than five (5) days nor more than thirty (30) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least three (3) days before the date of such special meeting. An emergency special meeting of the Board, for medical necessity only, may be called in such manner and on such notice as shall be reasonable and required under the circumstances. In the case of a special meeting or when required by law or these Bylaws, the notice shall also state the purpose for which the meeting is called. Oral or written notice of the postponement of any scheduled regular meeting shall be given to each Director not less than one (1) day before the scheduled date of such meeting.

(g) Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(h) Quorum Unless a greater or lesser number is required by law, the Certificate of Consolidation or these By-laws, a majority of the Directors then in office constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Directors present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 4.9(f).

(i) Voting Subject to the Conflict of Interest provisions of these By-laws, and the Board's Conflict of Interest policies, each voting Director present is entitled to vote on any matter before the Board.

(j) Manner of Acting Unless otherwise required by law, the Certificate of Consolidation or these By-laws, the act of a majority of the Directors

present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the consent in writing, setting forth the action so taken, of all the Directors. Such written consent(s) shall be filed with the minutes of the Board.

(k) Meeting by Conference Telephone or Similar Device Any one or more members of the Board, or any Committee thereof, may participate in a meeting of such Board or Committee by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participating by such means shall constitute presence in person at such a meeting.

4.9 POWERS AND FIDUCIARY OBLIGATIONS

(a) Powers The administrative powers of the Corporation shall be vested in the Board of Directors, which shall have: charge, control, and management of the property, funds, and affairs of the Corporation; the power to elect and replace officers and to fill vacancies among the officers for unexpired terms; the power to establish policies for the management and operation of the Corporation; and such other power and authority to do and perform all acts and functions for the benefit of the Corporation, not inconsistent with these By-laws or the Certificate of Consolidation. The Board of Directors shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

The Board of Directors shall at all times be responsible for the management and operation of the hospital, and shall not enter into any agreement limiting such responsibility.

(b) Fiduciary Obligations The members of the Board of Directors shall at all times conduct the affairs of the Corporation in strict conformance with all applicable fiduciary and ethical standards. Each Director shall act in a manner consistent with the duty of undivided loyalty to the interests of the Corporation, the duty to maintain in confidence information concerning the affairs of the Corporation, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Corporation. The Board shall adopt such mechanisms as it deems

appropriate to assist the Directors in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate: the mission and vision of the Corporation; a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Corporation.

ARTICLE FIVE OFFICERS

5.1 OFFICERS

The Corporation shall have a Chairperson and Vice-Chairperson of the Board, a President/Chief Executive Officer, and such Vice-Presidents as determined by the Board, a Secretary, and a Treasurer, and such other officers of the Corporation as the Board of Directors may authorize. All officers, except Vice-Presidents, shall be chosen from among the members of the Board of Directors. The Chairperson and Vice-Chairperson shall be elected for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected at the annual meeting and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors at any regular meeting or any special meeting called for such purpose.

5.2 CHAIRPERSON

The Chairperson shall preside at all meetings of the Board of Directors, shall appoint the members and Chairperson of each Committee in accordance with these By-laws and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson shall have the power to make and execute contracts in the ordinary course of business of the Corporation; to execute, with the President and the Secretary, all deeds, mortgages, bonds, and other obligations or instruments when authorized by the Board of Directors; and to execute, with the Treasurer, all annual or other reports or statements of the Corporation which may be

required by law. This power and authority to execute documents and instruments may also be delegated by these By-Laws, the Chairperson, or the Board, to the President or other officers or agents of the Corporation. The Chairperson shall appoint Committee Chairpersons and, after consultation with the Committee Chairpersons, the members of the Committees. Upon completion of her or his term of office, the Chairperson shall hold the title of Chairperson Emeritus for two (2) years.

5.3 VICE-CHAIRPERSON

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

5.4 PRESIDENT

The Board shall appoint a qualified Hospital Administrator to serve as its President and as the Chief Executive Officer of the Corporation. The President/Chief Executive Officer shall be the Board's direct executive representative in the management of the Hospital. The President/Chief Executive Officer shall have the necessary authority and shall be responsible for the management of the Hospital, and all of its departments, subject only to the policies and directives of the Board and any of its committees to which the Board has delegated power for such action. The President/Chief Executive Officer shall be a voting Director and, except as otherwise expressly provided, an ex officio member of all Board committees and all organizations that are associated or affiliated with the Hospital. The President/Chief Executive Officer shall act as the duly authorized representative of the Board of Directors in all matters except those for which the Board has designated some other individual to act. As the Administrator of the Hospital, the President/Chief Executive Office shall have such administrative duties and responsibilities as are set forth in Article Six, Section 7.1 of these By-Laws.

5.5 VICE PRESIDENTS

(a) *Senior Vice President.* Upon recommendation of the President, the Board may select and appoint a qualified Hospital Administrator to serve as a Senior Vice President who shall, in the absence or inability to act of the President, or if the office of President is vacant, exercise all of the powers of the President, subject to the directives of the Board. The Senior Vice President shall have such further power and authority, and shall perform such other duties on behalf of the Corporation as may be assigned and authorized by the Board or President.

(b) *Vice Presidents.* The Board may provide for one or more Senior Vice Presidents or Vice Presidents with such duties and responsibilities as the Board may from time to time establish or as assigned by the President with the consent of the Board.

5.6 SECRETARY

The Secretary shall act as Secretary of both the Corporation and the Board of Directors and shall be responsible for maintaining copies of the Resolutions of the Corporation's member and keeping the minutes of the meetings of the Board of Directors. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the member and the Board of Directors of the Corporation; shall be the custodian of the Corporate records and of the Corporate Seal of the Corporation and shall see that the Corporate Seal is affixed to all documents, execution of which on behalf of the Corporation under its Seal, is duly authorized, and when so affixed may attest the same. The Secretary shall have the power, with the Chairperson and the President, to make and execute for and in the name of the Corporation all deeds, bonds, contracts, and other obligations or instruments when authorized by the Board of Directors, and shall, in general, perform all duties incident to the office of the Secretary and such other duties as may, from time to time, be assigned by the Board of Directors.

5.7 TREASURER

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and whenever required by the Board of Directors shall render, or cause to be rendered, financial statements of the Corporation. The Treasurer shall prepare, execute and file, with the President, any annual report or statement which may be required by law.

ARTICLE SIX COMMITTEES OF THE BOARD OF DIRECTORS

6.1 STRUCTURE

There shall be six (6) Standing Committees of the Board: Executive and Administrative Affairs Committee, Finance Committee, Quality and Patient Safety Committee, Governance Affairs and Ethics Committee, Joint Conference Committee and Executive Compensation Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

6.2 PROCEDURE

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in these By-Laws or in a Resolution of the Board of Directors.

6.3 POWERS

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these By-Laws, or in a Resolution adopted by the full Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting in April.

6.4 COMMITTEE MEMBERS

- (a) Appointment. At each annual meeting, the Chairperson of the Board shall recommend, for Board approval, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to promote experience and knowledge in all aspects of the operation of the Hospital.
- (b) Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.
- (c) Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.

- (d) Removal. Any member of a Board Committee may be removed at any time by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

6.5 ADVISORS AND EX OFFICIO MEMBERS OF BOARD COMMITTEES

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee either as advisors or ex officio members of the Committee. Such advisors and/or ex officio members shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors and ex officio members need not be Directors of the Hospital.

6.6 MANNER OF ACTION

- (a) Meetings. Each Committee shall meet as provided for in these By-Laws and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, the President, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

- (b) Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.
- (c) Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.
- (d) Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action with the relevant Minutes of the Committee.
- (e) Conference Telephone. Any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

6.7 CONFLICT OF INTEREST

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

6.8 EXECUTIVE AND ADMINISTRATIVE AFFAIRS COMMITTEE

(a) Composition

The Executive and Administrative Affairs Committee (herein "Executive Committee") shall be composed of the Chairperson of the Board, the Vice Chairperson, President, Secretary, Treasurer, President of the Medical Staff, the Chairperson Emeritus and such additional voting Directors as may be selected by the Board.

(b) Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Hospital, subject to any prior limitations imposed by the Board, these By-Laws, or statute. In addition, the Executive Committee shall:

- (1) Oversee the development of labor relations and negotiation strategy and recommend to the Board approval of collective bargaining agreements.
- (2) Review and recommend to the Board, with the assistance of counsel, policies and guidelines for financial transactions with physicians, including recruitment, retention, employment or other agreements with the Corporation.
- (3) Review and recommend to the Board, legislative and regulatory affairs initiatives.
- (4) Review and report to the Board as to the Corporation's completion and filing of IRS Form 990 and such other reports or filings as may be required by the Internal Revenue Service.
- (5) Perform such other duties related to governance of the Hospital as may be assigned to it by the Board.

(c) Meetings

The Executive Committee shall meet at least two (2) times annually and as necessary to conduct the business of the Hospital while the full Board is not in session.

6.9 FINANCE

(a) Composition

The Finance Committee shall consist of the Treasurer of the Corporation, as Committee Chairperson, the President/Chief Executive Officer, and at least 6 voting Directors. The Chief Financial Officer, Chief Operating Officer and the Controller of the Hospital shall serve as advisors to the Committee.

(b) Functions

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Hospital and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and oversight of the financial affairs of the Corporation and its subsidiaries. Its functions shall include:

- (1) Develop and recommend to the Board a policy framework which will enable the Board to provide direction, set and monitor performance expectations and exercise financial oversight, including:
 - (i) Measures/indicators of financial performance and volume, for the Hospital and its subsidiaries;
 - (ii) Policies which govern limitations on management's financial authority and identify decisions requiring specific Board approval;
 - (iii) Defining the content and format of monthly, quarterly and annual reports on the financial performance of the Corporation and its subsidiaries;
 - (iv) Oversight and evaluation of overall financial performance and, where required, management plans to remedy variances from expected performance.
- (2) Provide oversight and direction to the financial audit, including:

- (i) Recommending selection of auditors and the scope and frequency of audits for the Corporation and its subsidiaries;
 - (ii) Review and report to the Board on the final audit reports and recommendations of the auditors;
 - (iii) Develop policy recommendations to the Board in response to audit reports, as needed;
- (3) Review and make policy recommendations to the Board concerning long-range financial and capital plans for the Corporation and its subsidiaries, including, as appropriate, purchase or sale of assets or businesses.
- (4) Review and make policy recommendations to the Board on operating and capital expenditure budgets for the Corporation and its subsidiaries, including analysis and recommendations concerning key assumptions underlying the budget development process.
- (5) Develop and recommend to the Board policies concerning major business and facilities plans and financial transactions requiring specific Board approval.
- (6) Review and develop policies concerning insurance and managed care contracting for the Corporation and its subsidiaries.
- (7) Establish investment standards and expectations and review and monitor investment performance of the managers of the investment, endowment and other funds of the Corporation and its subsidiaries.
- (8) Provide oversight and develop and recommend policies to the Board for its Corporate Compliance Program.

- (9) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Corporation and its subsidiaries.
- (10) Provide direction and guidance on appropriate Board education programs regarding healthcare finance
- (11) Perform such other duties related to fiscal matters as may be assigned to it by the Board or the Committee Chairperson.

(c) Meetings

The Finance Committee shall meet as needed, but not less than 9 times per year.

6.10 QUALITY AND PATIENT SAFETY COMMITTEE

(a) Composition.

The Quality and Patient Safety Committee shall consist of the President/Chief Executive Officer and not less than 6 other voting Directors. The Hospital's Chief Medical Officer, Chief Operating Officer and Chief Nursing Officer shall serve as advisors to the Committee.

(b) Functions.

The Quality and Patient Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of all Hospital and subsidiary services for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including

establishing specific indicators of clinical quality and service performance;

- (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;
 - (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by the Corporation's subsidiaries and/or third parties providing services to the hospital by contract, and coordinating the provision of services by the Corporation, its subsidiaries and third parties.
- (2) Recommend policies and provide direction for the Hospital's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the Hospital and its subsidiaries.
 - (3) Oversee regulatory compliance, safety, infection control and such other programs as shall be required to insure continuous accreditation of the Hospital.
 - (4) Review and report to the Board on Department of Health, Office of Mental Health, and other regulatory surveys and findings and any required plans of correction.
 - (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Corporation's subsidiaries concerning quality and performance improvement activities,

including reports from any required quality or advisory committees of the subsidiary boards.

- (7) Assist in the development of Board educational processes regarding quality and service improvement with the assistance and participation of the medical staff and hospital management.
- (9) Perform such other duties as may be assigned to it by the Board or the Committee Chairperson.

(c) Meetings

The Quality and Patient Safety Committee shall meet at least quarterly, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

6.11 GOVERNANCE AFFAIRS AND ETHICS COMMITTEE

(a) Composition

The Governance Affairs and Ethics Committee shall consist of the President/Chief Executive Officer and not less than four (4) other voting Directors. As necessary, the corporation's legal counsel shall serve as an advisor to the Committee.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Boards of the Corporation and its subsidiaries; developing and monitoring a Board education plan; review and amendment of corporate and subsidiary Bylaws; and nomination of directors and officers of the Corporation and members of the Boards of the Corporation's subsidiaries. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - (i) Conflict of Interest;
 - (ii) Policy based governance;

- (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
 - (3) Develop and recommend to the Board the tools, framework, and criteria to be used to evaluate the structure and performance of the governing boards of the Hospital and its subsidiaries.
 - (4) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
 - (5) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Board and Committees of the Corporation and its subsidiaries.
 - (6) Nominate directors and officers of the Board and members of the Corporation's subsidiary boards.
 - (7) Develop an orientation process for new Board and Committee members for the Hospital and its subsidiaries, with the assistance of the Chief Executive Officer.
 - (8) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
 - (9) Periodically review, and recommend changes to the Bylaws of the Corporation and its subsidiaries to insure compliance

with the mission, vision, purpose and structure of the Corporation and its subsidiaries.

- (10) Perform such other duties as may be assigned to it by the Board or Committee chairperson.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at least two (2) times per year, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

6.12 JOINT CONFERENCE COMMITTEE

(a) Composition

The Joint Conference Committee will be composed of the Chairperson, Vice Chairperson, President, Secretary and Treasurer of the Board, the Chairperson of the Quality and Patient Safety Committee of the Board, the four (4) officers of the Medical Staff and two additional medical staff members appointed by the President of the Medical Staff. The Chairperson of the Committee will alternate each meeting between the Chairperson of the Board, or his or her designee, and the President of the Medical Staff, or his or her designee. The Hospital's Chief Medical Officer, Chief Nursing Officer and Chief Operating Officer will be ex-officio, non-voting members of the Committee.

(b) Functions

The Joint Conference Committee will serve as a forum for the discussion of Hospital and Medical Staff policy, practice and planning and provide for effective liaisons between and among the Board of Directors, the Medical Staff and Administration. It shall also serve as a forum for addressing Medical Staff and Board of Directors' concerns and issues relating to operational quality and service performance. It shall exercise such specific responsibilities as assigned by the Board of Directors and as set forth in the Medical Staff Bylaws.

(c) Meetings

The Committee will convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

6.13 EXECUTIVE COMPENSATION COMMITTEE.

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Directors appointed by the Chairperson. All members of the Executive Compensation Committee shall be "Independent Directors" as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not an "Independent Director", the Board shall appoint another Independent Director to serve in the place of the Chairperson. The President/CEO of the Corporation shall not be a member of the Committee, but may serve as an advisor to the Committee as long as he or she is excused when the Committee is reviewing the CEO's compensation package.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight in determining the adequacy and reasonableness of the compensation paid to the President/CEO and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of the Corporation, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations ("Disqualified Persons"). Without limiting the foregoing, the Committee shall:

1. Recommend the terms of employment for the CEO and establish the total compensation package, including base salary, variable compensation, benefits and perquisites.
2. Develop, oversee and maintain administrative control of the Corporation's executive compensation program by identifying all individuals with substantial influence over the organization and assuring that executive compensation arrangements for the CEO and other Disqualified Persons are managed consistently and meet the "standards of reasonableness" established by the Committee.

3. Receive recommendations from the CEO and approve the terms of employment for senior leadership of the Corporation, including the COO, CFO, CMO, CNO and other members of the executive management team as determined by the Board, and, if applicable, establish ranges of reasonable compensation for each such position and authorize the CEO to set compensation within approved ranges based on an evaluation of performance.
4. With input from the remaining members of the Board of Directors, establish performance criteria at the beginning of the year for the CEO, and such other senior executives as deemed appropriate; monitor performance during the course of the year, and evaluate the performance and accomplishments of the CEO against established goals at the end of each year. The Committee shall also receive from the CEO an overview of the annual performance of senior leadership of the Corporation.
5. Have the Chairperson meet with the CEO and, as appropriate, the Committee's Compensation consultant prior to the beginning of each fiscal year to establish a timeline and agenda for the current year's executive compensation program and review.
6. Keep minutes of meetings and supporting documentation of the Committee's decisions that meet the requirements of Internal Revenue Code Section 4958.
7. Periodically review the total value and cost of severance and retirement benefits for senior executives and assess their reasonableness.

8. Monitor changes in laws and regulations pertaining to executive compensation to ensure that the Corporation complies with all requirements.
9. Regularly report its activities and findings to the Board.

c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Corporation to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

ARTICLE SEVEN ADMINISTRATION

7.1 PRESIDENT/CEO

The Board of Directors shall select and appoint a competent hospital administrator who shall act as President of the Board and Chief Executive Officer of the Corporation. The President/CEO shall have such qualifications as are prescribed by the New York State Hospital Code, as may be amended from time to time. The President/CEO shall be given the necessary authority and responsibility to operate the hospital in all its activities and departments, subject only to such policies as may be issued by the Board of Directors or by any of its Committees to which it has delegated power for such action. The President/CEO's performance shall be monitored in an ongoing manner by the Board of Directors and its Committees. The President/CEO shall act as the duly authorized representative of the Board in all matters in which the Board has not formally designated some other person to act.

The daily management and operational affairs of the hospital shall be the responsibility of the President/Chief Executive Officer. Without limiting the foregoing, the authority and responsibility of the President/Chief Executive Officer shall include:

- (a) Aid the Board in the formulation of policies and procedures and carrying out all policies established by the Board.
- (b) Development of a plan of organization of hospital personnel and other persons concerned with the conduct of the hospital's operation and submission of the plan to the Board for approval.
- (c) Preparation of an annual budget showing the expected receipts and expenditures of the hospital as required by the Board.
- (d) Development, submission and implementation, in a timely manner, of all plans to correct operational deficiencies identified by regulatory agencies, and reporting to the Board progress and carrying out plans of correction.
- (e) Assisting the Board in communication and cooperation with the hospital's Medical Staff.
- (f) Assisting the hospital's Medical Staff with its organizational and medical administrative responsibilities.
- (g) Responsibility for all management and operational affairs of the hospital as required under the New York State Hospital Code, the requirements of the Hospital's accrediting organization and the responsibilities and duties established by all other regulatory bodies having jurisdiction.
- (h) Performance of such other duties as may be necessary in the best interests of the hospital.

7.2 MEDICAL DIRECTOR

The Board of Directors shall, after consultation with the Medical Staff, select and appoint a competent Medical Director who shall have administrative responsibility for the hospital's clinical departments and medical education programs. Responsibility for the organization and conduct of the Medical Staff shall be developed and defined in writing, in consultation with the Medical Staff, and assigned to the Medical Director. The Medical Director shall have such qualifications as may be required by the New York State Hospital Code, as amended from time to time. The Medical Director shall have such authority and responsibility as required to perform his or her duties, including:

- (a) Coordinating the appointment and re-appointment process of the members of the Medical Staff, including investigation and assurance of qualifications for membership, as provided in the Medical Staff By-Laws.
- (b) Oversee the granting of clinical privileges consistent with the practitioner's training, experience and demonstrated competence.
- (c) Monitor and ensure Medical Staff compliance with the hospital's Bylaws, the Medical Staff By-laws, the rules and regulations and Policies of the Medical Staff, hospital policies and procedures, and all applicable laws, rules, regulations, and accrediting standards.
- (d) Oversee the activities, findings and recommendations of all medical staff quality improvement programs and promptly initiate or recommend appropriate corrective measures, consistent with the Medical Staff Bylaws.
- (e) Monitor the activities and performance of the hospital's clinical departments and Department Chairpersons and make such reports and recommendations to the Board as shall be appropriate.
- (f) Perform such other duties as may be required under the

New York State Hospital Code, as may be assigned by the Board and CEO, or as shall be appropriate and necessary in the best interests of the Hospital.

ARTICLE EIGHT QUALITY ASSURANCE

8.1 BOARD RESPONSIBILITY

The Board shall establish, maintain, support and exercise oversight of an ongoing quality assurance program that includes specific and effective review, evaluation and monitoring mechanisms to assist, preserve and improve the overall quality and efficiency of patient care in the hospital, and to insure that each patient's rights are protected and promoted.

8.2 DELEGATION TO ADMINISTRATION AND TO THE MEDICAL STAFF

(a) TO ADMINISTRATION

Except as may be set forth in any policy adopted by the Board from time to time, the Board delegates to the administration and holds it accountable for providing the administrative assistance reasonably necessary to support and facilitate the implementation of an on-going operation of the hospital's quality assurance program, for implementing the quality assurance program as it concerns non-medical professional personnel and technical staffs and patient care units, for establishing and maintaining a policy and process to protect and promote patient's rights and promptly resolve patient grievances, and for analyzing information and acting upon problems involving technical, administrative and support services and hospital policy. Without limiting the foregoing, the Board of Directors specifically delegates the obligation to review and resolve patient grievances to the individual responsible for Quality and Outcomes Management or such other person as designated by the President/CEO. The process for reviewing and resolving patient grievances shall be monitored by the Quality and Patient Safety Committee which shall provide periodic reports to the full Board.

(b) TO MEDICAL STAFF

The Board delegates to the Medical Staff and holds it accountable for conducting specific activities that contribute to the preservation and improvement of the quality and efficiency of patient care provided in the hospital. These activities include:

- (1) Systematic evaluation of practitioner performance against explicit, predetermined objective criteria.
- (2) On-going monitoring of critical aspects of care including, but not limited to, antibiotic and drug usage, transfusion practices, infections, mortalities, monitoring of unexpected clinical occurrences, and such other aspects of clinical care as shall be determined by the Board.
- (3) Review utilization of the hospital's resources to provide for their proper and timely allocation to patients in need of them.
- (4) Provision of continuing professional education, fashioned in part on the needs identified through the review, evaluation and monitoring activities and on new state-of-the art developments.
- (5) Definition of the clinical privileges which may be appropriately granted within the hospital and within each department, delineation of clinical privileges for members of the Medical Staff commensurate with individual credentials and demonstrated ability and judgment, and participation in assigning patient care responsibilities to other health care professionals consistent with individual qualifications and demonstrated ability.
- (6) Management of clinical affairs, including enforcement of clinical policies and consultation requirements, initiation of

disciplinary actions, surveillance over requirements for performance monitoring and for the exercise of newly-acquired clinical privileges, and other clinically-oriented activities.

- (7) Such other measures as the Board may, after considering the advice of the Medical Staff, the other professional services and the hospital management, deem necessary for the preservation and improvement of the quality and efficiency of patient care.

ARTICLE NINE MEDICAL STAFF

9.1 ORGANIZATION

The Board has created a medical staff organization, to be known as the Medical Staff of Faxton-St. Luke's Healthcare, whose membership shall be comprised of all practitioners who are privileged to attend patients in the hospital. Membership in this medical staff organization is a prerequisite to the exercise of clinical privileges in the hospital, except as otherwise specifically provided in the Medical Staff By-laws.

9.2 MEDICAL STAFF MEMBERSHIP AND CLINICAL PRIVILEGES

(a) Delegation To the Medical Staff

The Board delegates to the Medical Staff (Staff) the responsibility and authority to investigate and evaluate all matters relating to Medical Staff membership status, clinical privileges and corrective action, and shall require that the Staff adopt and forward to the Board specific written recommendations with appropriate supporting documentation that will allow it to take informed action.

(b) Action by the Board Action on all matters relating to Medical Staff membership status, clinical privileges and corrective action shall be taken by the Board after considering the Staff recommendations, provided that the Board must act in any event if the Staff fails to adopt and submit any such recommendation within the time

periods set forth in the Medical Staff By-laws. Such Board action without a Staff recommendation must be based on the same kind of documented investigation and evaluation of current ability, judgment, and character as is required for Staff recommendation.

(c) Criteria for Board Action

In acting on matters of Medical Staff membership status and in granting and defining the scope of clinical privileges to be exercised by each practitioner, the Board shall consider the Staff's recommendations, the supporting information on which they are based, and such criteria as are set forth in the Medical Staff By-laws. No aspect of membership status nor specific clinical privileges shall be limited or denied to a practitioner on the basis of sex, race, age, creed, handicap, or national origin, or on the basis of any other criterion unrelated to good patient care at the hospital, to required professional qualifications, to the hospital's purposes, needs, capacity or capabilities, or to community needs.

(d) Term and Conditions; Procedure

The terms and conditions of membership status in the Medical Staff and of the exercise of clinical privileges, and the procedures to be followed by the Medical Staff and the Board, shall be specified in the Medical Staff By-laws, and Policies (Rules and Regulations).

(e) Fair Hearing Plan

The Board shall require that any adverse recommendation or action with respect to a practitioner's staff appointment, re-appointment, department or other clinical unit affiliation, staff category, admitting prerogatives or clinical privileges, shall, except under circumstances for which specific provision is made in the Medical Staff By-laws, be accomplished in accordance with a Board-approved Fair Hearing Plan.

9.3 MEDICAL STAFF BYLAWS AND AMENDMENTS PROCESS

(a) Delegation to the Medical Staff

The Board hereby delegates to the Medical Staff the authority and responsibility to draft, debate and recommend to the Board, in a timely and good faith

manner, such By-laws, rules, regulations, procedure manuals and other organizational protocols as are appropriate for the proper governance of the Medical Staff organization, including amendments thereof, provided that the same shall not be effective until acted upon favorably by the Board.

(b) Board Action

The Board, at any regular or special meeting at which the matter is duly considered, may by an affirmative vote of a majority of the Directors present adopt the recommendation of the Medical Staff. In the event that concerns are raised by the Board with respect to Medical Staff recommendations it may refer the proposed recommendation back to the Medical Staff through the Medical Staff President, the Medical Staff Executive Committee, or such other individual or individuals as determined by the Board. These parties shall address the concerns of the Board and the Medical Staff and shall thereafter report back to the Board with any new or modified recommendations.

**ARTICLE TEN
INDEMNIFICATION AND INSURANCE**

10.1 INDEMNIFICATION AND INSURANCE:

It is expressly provided that any and every person or his or her estate that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal, by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of this Corporation, will be completely indemnified by the Corporation to the full extent permitted by law. If permitted by law, this indemnification shall include, but not be limited to, the payment of one or more of the following: judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeal therein.

10.2 INSURANCE

It is the policy of the Corporation that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether

civil or criminal by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of the Corporation, will be completely and fully indemnified by this Corporation to the full extent permitted by the law. The Corporation may purchase and maintain insurance to completely and fully indemnify any and every such person, whether or not this Corporation has the power to indemnify him or her against such liability under the laws of this or any other state.

ARTICLE ELEVEN CONFLICT OF INTEREST

11.1 POLICY

Any Director, officer, key employee, medical staff member, or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval, or ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interest.

11.2 EFFECT

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions contained in the Board approved Conflicts of Interest Policy must be observed. If so, such person shall not vote on, nor use his personal influence on, nor participate (other than to present factual information or to respond to questions) in the discussions or deliberations with respect to such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

11.3 FORMAL POLICY AND PROCEDURE

The Board shall adopt a formal Conflict of Interest Policy requiring disclosure of existing and potential conflicts of interest, mechanisms for addressing actual and potential conflicts of interest and corrective and disciplinary action with respect to transgressions of such policies.

ARTICLE TWELVE VOLUNTEER ORGANIZATIONS

12.1 The Board shall organize a volunteer organization, or such other associated organizations as it deems appropriate, consisting of individuals who are interested in rendering services as volunteers to the Hospital and in assisting in the fulfillment of the mission of the Corporation. There shall be By-laws, rules and regulations for such organizations, setting forth their organization and governance. Proposed By-laws may be recommended, but only those approved by the Board of Directors shall become effective.

ARTICLE THIRTEEN AMENDMENT TO BY-LAWS

13.1 PROCEDURE

These Bylaws may be amended or repealed, or new Bylaws may be adopted, only by Mohawk Valley Network, Inc. (MVN) in its capacity as the sole member of the Corporation. For this purpose, a majority vote of the Directors of MVN shall be required. The Board of Directors of the Corporation may also propose amendments for approval by MVN or MVN may adopt, amend, or repeal Bylaws on its own initiative following the procedures herein noted. Proposed Amendments require a majority vote of the Board of Directors taken at any regular or special meeting. At least ten (10) days written notice shall be given of the intention to take such action. The Governance Affairs and Ethics Committee shall conduct an annual review of these Bylaws and make recommendations for such amendments as may be necessary to assure compliance with all

applicable laws, rules and regulations and the requirement of the Hospital's accrediting authority.

ARTICLE FOURTEEN GENERAL

14.1 PROCEDURE

The Board and any Board Committee may adopt rules or procedures which shall not be inconsistent with these By-laws.

14.2 EQUAL OPPORTUNITY

The Board shall, in all matters, act without regard to discrimination as to sex, race, age, creed, handicap, or national origin.

14.3 CONSTRUCTION OF TERMS AND HEADINGS

Words used in these By-laws shall be read as the masculine or feminine gender and as the singular or plural, as the context requires. The captions or headings in these By-laws are for convenience only and are not intended to limit or define the scope or effect of any provision of these By-laws.

**BYLAWS
of
ST. ELIZABETH MEDICAL CENTER**

**ARTICLE ONE
ORGANIZATION**

- 1.1 The name of the corporation is St. Elizabeth Medical Center (“Corporation” or “SEMC”).
- 1.2 St. Elizabeth Medical Center, a Roman Catholic institution, was incorporated under the name of St. Elizabeth's Hospital and Home on February 8, 1870, as a membership corporation under the laws of the State of New York.
- 1.3 The post office address of the Corporation’s principal office is: 2209 Genesee Street, Utica, NY 13501.

**ARTICLE TWO
MISSION AND VISION**

2.1 MISSION OF THE CORPORATION

St. Elizabeth Medical Center Community, inspired by St. Francis of Assisi and faithful to the teachings of the Roman Catholic Church, is committed to excellence in healthcare and education. We pledge to do this with compassion and respect for the dignity of all.

2.2 VISION OF THE CORPORATION

The Vision of St. Elizabeth Medical Center:

- Offer the highest quality comprehensive health care services to the greater Utica area as a Catholic Community Hospital.
- Provide access to primary and ambulatory care services through a network of community health care centers.
- Service the region as a referral center of excellence in selected specialties and as a major provider of education in health care professions.
- Respond to the needs of our patients, staff, physicians and community, and meet their expectations by continuously improving the quality of our services.
- Achieve these goals in a cost-effective manner.

**ARTICLE THREE
OFFICES, PURPOSES AND POWERS**

3.1 OFFICES

The principal office of the Corporation shall be located in New York State (“the State”). The Corporation shall have and continuously maintain in the State a registered office and a registered agent whose office shall be identical with the registered office, and may have such other offices as the Board may determine from time to time.

3.2 PURPOSES AND POWERS

The Corporation shall have the following purposes and powers:

- A. To establish, operate and maintain a general hospital and comprehensive health care facilities and systems at one or more sites, whose purposes may include, but not be limited to, the provision of a full range of inpatient and outpatient services, and other health related services and facilities. Each such service or facility shall be established and operated in accordance with all approvals required by the Public Health Law or other law of the State, and all approvals required from any other body having jurisdiction over the Corporation’s activities.
- B. To carry on educational activities, scientific research and other health related activities or programs incident to the purposes set forth above.
- C. To solicit funds for the above purposes.
- D. To pursue, enhance, and support the above purposes through the formation of, or participation in, subsidiary or affiliated corporations as may be established, operated and maintained in accordance with all approvals required by applicable law.

ARTICLE FOUR MEMBERSHIP

The Corporation shall have the following purposes and powers:

4.1. COMPOSITION

Mohawk Valley Health System (“MVHS”) and Partners in Franciscan Ministries, Inc. (“PFM”), which is sponsored by the Sisters of St. Francis of the Neumann Communities, shall be co-members of the Corporation.

4.2 RIGHTS OF MEMBERS

A. MVHS - In addition to all other rights and powers of membership prescribed by New York Law, the Certificate of Incorporation and/or the Bylaws of the Corporation, the following governance and management powers shall be delegated to MVHS to the extent permitted by the New York Not-for-Profit Corporation Law:

- (1) Except as otherwise set forth herein, to approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and to coordinate the missions, visions, activities and resources of the Corporation in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas. Notwithstanding the foregoing, MVHS shall not have the power to approve or interpret those elements of the Corporation's mission and philosophy that relate specifically to its status as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy;
- (2) To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation. Notwithstanding the foregoing, PFM shall be entitled to appoint and remove, with or without cause, the one additional director designated by PFM to the Corporation's Board of Directors;
- (3) To amend or repeal the Certificate and Bylaws, and to adopt any new or restated Certificate of Incorporation or Bylaws, of the Corporation;
- (4) To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- (5) To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- (6) To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS. Notwithstanding the foregoing, the approval of PFM shall be required for the sale, transfer, mortgage, guarantee, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by PFM, to meet the requirements of the United States Conference of Catholic Bishops;
- (7) To approve the capital and operating budgets of the Corporation;

- (8) To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to such Corporation;
- (9) To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Corporation;
- (10) To approve and coordinate the strategic plans of the Corporation;
- (11) To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
- (12) To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;
- (13) To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
- (14) To approve any material change in the services offered by the Corporation;
- (15) To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound, and may not require the Corporation's participation in any program or service which would be contrary to its status as a Catholic organization or the pursuit of its Catholic mission or philosophy; and
- (16) To accept delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Corporation and to maintain a single consolidated set of books and financial records, as may

be necessary or desirable to carry out the obligations of the Corporation pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change.

Notwithstanding the foregoing, in the case of the Corporation, MVHS shall not direct any action with respect to the Corporation that requires the approval of PFM without prior approval of such action by PFM. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's Board of Directors and, in the case of any powers over the Corporation that are also reserved to PFM, to PFM.

B. PFM – The following powers shall be reserved exclusively to PFM:

- (1) to approve and interpret those elements of the Corporation's statement of mission and philosophy adopted by the Corporation that relate to the Corporation's status as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy, and any amendments thereof, and to require the Corporation to operate in conformance with its Catholic mission and philosophy; this power shall include approval of the individual who will serve in a position to oversee Mission, which position will report directly to the President/CEO and shall not be eliminated without the prior approval of PFM.
- (2) to approve any amendment of the Corporation's purposes or powers in its Certificate of Incorporation that would terminate the Corporation's status as a Catholic organization or diminish its commitment or ability to operate in a manner consistent with the Ethical and Religious Directives for Catholic Healthcare Services; and

- (3) to approve the sale, transfer, mortgage, guaranty, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by the PFM to meet the requirements of the United States Conference of Catholic Bishops.
- (4) to approve and reject appointments to the Pension Committee for the SEMC Church Plan.
- (5) to approve any amendments or modifications to, or the termination of, the SEMC Church Plan; and
- (6) to elect or appoint and remove, with or without cause, one director of the Corporation who does not currently serve on the Board of MVHS.

4.3 ANNUAL MEETING

MVHS shall, in its capacity as the active member of the Corporation, hold its annual meeting each year at a time and place determined by MVHS. At the annual meeting, MVHS shall elect Directors of the Corporation, receive the annual report of the Directors of the corporation, and transact such other business as may properly come before the meeting.

4.4 ANNUAL REPORT TO MEMBER

At the annual meeting of the member, the Chairperson or President, and the Treasurer of the Corporation shall present an Annual Report showing in appropriate detail the following information:

- (a) a complete verified financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation;
- (b) a summary of the activities of the Corporation during the preceding year.

The Annual Report shall be filed with the minutes of the annual meeting.

ARTICLE FIVE BOARD OF DIRECTORS

5.1 NUMBER

The Board of Directors shall consist of not less than nine (9) members.

5.2 QUALIFICATION

Directors shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to

the community and the health care needs of its residents; and their personal and professional ethics and values.

5.3 ELECTION AND TENURE

A. Composition of Initial Board of Directors. Commencing with the meeting to be held on or about _____, 20XX, the initial board shall be comprised of nineteen (19) voting Directors. SEMC and Faxton-St. Luke's Healthcare ("FSLH") shall each appoint eight (8) directors (the "Elected Directors"). Two (2) of the remaining Directors shall be the presidents of the medical staffs of SEMC and FSLH, who shall serve ex-officio as voting members, and the third (3rd) and final Director shall be appointed by PFM to serve as a voting Director. In addition, the Chief Executive Officer of MVHS shall serve as an ex-officio non-voting Director

B. Terms of Office. The initial Elected Directors shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated. Each class shall have an equal number of Directors selected by SEMC and FSLH, with the exception of the PFM-appointed director who shall serve an initial term of four (4) years.

C. Subsequent Election. Commencing with the 20XY annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Director may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in these Bylaws and the PFM-appointed Director shall serve at the pleasure of PFM. Commencing with the 20XY annual meeting, members of the Board shall be nominated by the Governance Affairs and Ethics Committee of MVHS and shall be elected by a simple majority of the Board of MVHS. The Board shall not be bound or limited to such nominees.

D. Reappointment. Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Director's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

E. Non-Elected Directors. The President of the Medical Staffs of the Corporation and FSLH shall serve as Directors of the Corporation, coterminous with holding their respective positions. Additionally, the Chief Executive Officer of MVHS shall serve ex-officio as a non-voting Director.

5.4 VACANCIES

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Director, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board of MVHS. Nominees shall be presented by the Governance Affairs and Ethics Committee of MVHS, but the MVHS Board shall not be bound or limited to such nominees. Directors selected to fill vacancies shall serve the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

5.5 REMOVAL

Each member of the Board of Directors shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Directors by a vote of two-thirds of the MVHS Directors. In addition, the Board of MVHS may remove any Director, with or without cause, upon a two-thirds (2/3) vote of the MVHS Board. Notwithstanding the foregoing, the PFM-appointed Director shall serve at the pleasure of PFM.

5.6 RESIGNATION/LEAVE OF ABSENCE.

A. Resignation. Any Director may resign at any time by giving written notice to the Chairperson or to the Secretary of the Corporation. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

B. Leave of Absence. Any Director may request a Leave of Absence of up to three (3) months for medical reasons relating to the Director, or a member of the Director's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Director. If the Chairperson requests a Leave, the request shall be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Director shall be excused from any attendance requirements and all other obligations of a Director as set forth in these Bylaws. The Director's Board position shall remain vacant during the term of the Leave, and the Director's position shall not be counted in determining the presence of a quorum.

If the Director on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the MVHS Directors at the next regular meeting of the MVHS Board, or at a special meeting called for such

purpose. Any committee positions held by the Director may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Director may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

5.7 ADDITIONAL ADVISORS

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Directors present.

5.8 MEETINGS OF DIRECTORS

A. Annual Meeting The Board of Directors shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, selecting members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

B. Regular Meetings The Board of Directors shall hold at least seven (7) regular meetings annually.

C. Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3) Directors. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

D. Place All meetings of the Board shall be held at the principal office of the Corporation or at such other place within this State as the Notice of Meeting shall provide.

E. Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Director personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law or these Bylaws, the notice shall also state the purpose for which the meeting is called. Oral or written notice of the postponement of any scheduled regular meeting shall be given to each Director not less than one (1) day before the scheduled date of such meeting.

F. Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

G. Quorum Unless a greater or lesser number is required by law, the Certificate of Incorporation or these Bylaws, a majority of the Directors entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Directors present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 5.8(e).

H. Voting Subject to the Conflict of Interest provisions of these Bylaws, and the Board's Conflict of Interest policies, each voting Director present is entitled to vote on any matter before the Board.

I. Manner of Acting Unless otherwise required by law, the Certificate of Incorporation or these Bylaws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the consent in writing of all Directors entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

J. Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

5.9 POWERS AND FIDUCIARY OBLIGATIONS

A. Powers The administrative powers of the Corporation shall be vested in the Board of Directors, which shall have: charge, control, and oversight of the property, funds, and affairs of the Corporation; the power to elect and remove, with or without cause, officers and to fill vacancies among the officers for unexpired terms; the power to establish policies for the management and operation of the Corporation; and such other power and authority to do and perform all acts and functions for the benefit of the Corporation, not inconsistent with these Bylaws or the Certificate of Incorporation. The Board of Directors shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

B. Fiduciary Obligations The members of the Board of Directors shall at all times conduct the affairs of the Corporation in strict conformance with all applicable fiduciary and

ethical standards. Each Director shall act in a manner consistent with the duty of undivided loyalty to the interests of the Corporation, the duty to maintain in confidence information concerning the affairs of the Corporation, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Corporation. The Board shall adopt such mechanisms as it deems appropriate to assist the Directors in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate: the mission and vision of the Corporation; a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Corporation.

ARTICLE SIX OFFICERS

6.1 OFFICERS

The Corporation shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Board of Directors may authorize. The Corporation shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Boards. The Chairperson selected at the 20XX, 20XY, and 20XZ annual meetings shall serve a one year term, or until his/her successor has been elected. The Chairperson seated at the 20XX-20XZ annual meetings shall be selected by the initial Directors appointed by the Corporation, as may be on the Board at that time. Commencing with the 20XA annual meeting the Chairperson and Vice-Chairperson shall be elected by the MVHS Board for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected by MVHS at the annual meeting of MVHS and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors of MVHS at any regular meeting of the MVHS Board or any special meeting called for such purpose.

6.2 CHAIRPERSON

The Chairperson shall preside at all meetings of the Board of Directors, shall appoint the members and Chairperson of each Committee in accordance with these Bylaws and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 20XZ annual meeting shall be eligible to be elected by the full Board to serve one additional term of two (2) years, commencing in 20XA. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the

length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

6.3 VICE-CHAIRPERSON

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

6.4 CHAIR EMERITUS.

Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in these Bylaws. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the 20XX annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

6.5 SECRETARY

The Secretary shall act as Secretary of both the Corporation and the Board of Directors and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Corporation and keeping the minutes of the meetings of the Board of Directors. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Corporate records.

6.6 TREASURER

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and, whenever required by the Board of Directors shall render, or cause to be rendered, financial statements of the Corporation. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

6.7 PRESIDENT

MVHS shall appoint a qualified hospital administrator to serve as its President and as the Chief Executive Officer of the Corporation. The President/CEO shall be the Board's direct executive representative in the management of the Corporation. The President/CEO shall have the necessary authority and shall be responsible for management of the Corporation, subject only to the policies and directives of the Board and any of its committees to which the Board has delegated power for such action. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board of Directors in all matters except those for which the Board has designated some other individual to act.

ARTICLE SEVEN COMMITTEES OF THE BOARD OF DIRECTORS

7.1 STRUCTURE

There shall be nine (9) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Patient Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, Investment Committee, Audit and Compliance Committee, Joint Conference Committee and Pension Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

7.2 PROCEDURE

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in these Bylaws or in a Resolution of the Board of Directors.

7.3 POWERS

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these Bylaws, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

7.4 COMMITTEE MEMBERS

A. Appointment. Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to promote experience and knowledge in all aspects of the operation of the Corporation.

B. Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.

C. Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.

D. Removal. Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.

E. Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

7.5 ADVISORS TO BOARD COMMITTEES

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Directors.

As deemed appropriate by the Committee Chair, members of the Corporation's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted

in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

7.6 MANNER OF ACTION

A. Meetings. Each Committee shall meet as provided for in these Bylaws and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

B. Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

C. Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

D. Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

E. Meeting by Conference Telephone or Similar Device. Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

7.7 CONFLICT OF INTEREST

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

7.8 EXECUTIVE COMMITTEE

A. Composition

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, Presidents of the Medical Staffs of SEMC and FSLH, and the Chairperson Emeritus.

B. Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Corporation, subject to any prior limitations imposed by the Board, these Bylaws, or statute. In addition, the Executive Committee shall:

- (1) Oversee the development of labor relations and negotiation strategy and recommend to the Board approval of collective bargaining agreements.
- (2) Review and recommend to the Board, with the assistance of counsel, policies and guidelines for financial transactions with physicians, including physician recruitment, employment or other agreements with the Corporation.
- (3) Review and recommend to the Board, legislative and regulatory affairs initiatives.
- (4) Review and make recommendations to the Board as to the Corporation's completion and filing of IRS Form 990 and such other reports or filings as may be required by the Internal Revenue Service.
- (5) Meetings

The Executive Committee shall meet as necessary to conduct the business of the Corporation while the full Board is not in session.

7.9 FINANCE

A. Composition

The Finance Committee shall consist of the Treasurer of the Corporation, as Committee Chairperson, and at least 6 voting Directors, at least one of whom shall have substantial accounting or financial management expertise.

B. Functions

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Corporation and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and oversight of the financial affairs of the Corporation and its subsidiaries. Its functions shall include:

- (1) Overseeing the President's development of a budget for the Corporation showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Board a budget developed by the President for the ensuing year;

- (3) Reviewing financial reports that report on the financial condition of the Corporation;
- (4) Reviewing and making recommendations to the Board on any request by the President for the Corporation to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;
- (5) Retaining the Corporation's independent Certified Public Accountants to provide external financial auditing to the Corporation. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Corporation and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Corporation and its subsidiaries.
- (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Corporations and its subsidiaries.

C. Meetings

The Finance Committee shall meet as needed, but not less than six (6) times per year.

7.10 QUALITY AND PATIENT SAFETY COMMITTEE

A. Composition.

The Quality and Patient Safety Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a physician.

B. Functions.

The Quality and Patient Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of all of the Corporation' medical and subsidiary services for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance for all corporate Corporation, including:
 - a. Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;
 - b. Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;
 - c. Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by the Corporation's subsidiaries and/or third parties providing services to the subsidiaries by contract, and coordinating the provision of services by the Corporation, its subsidiaries and third parties.
- (2) Recommend policies and provide direction for the system's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the system and its subsidiaries.
- (3) Oversee regulatory compliance, safety, infection control and such other programs as shall be required to insure continuous accreditation of the Affiliates.
- (4) Review and report to the Board on Department of Health, Office of Mental Health, and other regulatory surveys and findings and any required plans of correction.

- (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
- (6) Receive and review quality improvement plans and reports and recommendations from the Corporation's subsidiaries concerning quality and performance improvement activities, including reports from any required quality or advisory committees of the subsidiary boards.
- (7) Assist in the development of Board educational processes regarding quality and service improvement with the assistance and participation of the medical staff and hospital management.

C. Meetings

The Quality and Patient Safety Committee shall meet at least six (6) times annually, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

7.11 GOVERNANCE AFFAIRS AND ETHICS COMMITTEE

A. Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a Board Officer.

B. Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Boards of the Corporation and its subsidiaries; developing and monitoring a Board education plan; review and amendment of corporate and subsidiary Bylaws; and nomination of directors and officers of the Corporation and members of the Boards of the Corporation's subsidiaries. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - a. Conflict of Interest;
 - b. Policy based governance;
 - c. Fiduciary obligation;
 - d. Committee structure and philosophy;
 - e. Governance operations; and

- f. Officer and committee chairperson position descriptions.
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
- (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
- (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Board and Committees of the Corporation and its subsidiaries.
- (5) Nominate directors and officers of the Corporation's subsidiary boards.
- (6) Develop an orientation process for new Board and Committee members for the Corporation and its subsidiaries, with the assistance of the Chief Executive Officer.
- (7) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
- (8) Periodically review, and recommend changes to the Bylaws of the Corporation and its subsidiaries to insure compliance with the mission, vision, purpose and structure of the Corporation and its subsidiaries.

C. Meetings

The Governance Affairs and Ethics Committee shall meet at least two (2) times per year, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

7.12 EXECUTIVE COMPENSATION COMMITTEE.

A. Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Directors recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be "Independent Directors" as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not an "Independent Director", the Board shall appoint another Independent Director to serve in the place of the Chairperson. The President/CEO may serve as an

advisor to the Committee as long as he or she is excused when the Committee is reviewing the CEO's compensation package.

B. Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the President/CEO and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of the Corporation, or its Affiliates or subsidiaries, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations ("Disqualified Persons"). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually, performance guidelines for the CEO;
- (2) Assist the board in assessing and evaluating the CEO's performance;
- (3) Review and recommend to the full Board the CEO's compensation, including salary, incentives, benefits and other perquisites;
- (4) Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
- (5) At least annually, review executive compensation to ensure that it is appropriate in view of Corporation's tax-exempt status and take the required steps to establish a "rebuttable presumption of reasonableness" [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person's background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Corporation's income and assets and the number of Corporations employees;
 - d. CEO's job performance;
 - e. relationship of the CEO's compensation to the compensation paid to Corporation's other employees; and
 - f. the number of hours the CEO spends performing his or her job.

- (6) Review and approve the compensation package of the Chief Operating, Medical, Nursing and Financial Officers, as recommended by the CEO.

C. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Corporation to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

D. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

7.13 INVESTMENT COMMITTEE.

A. Composition

The Investment Committee shall consist of at least at least three (3) Directors, at least one of whom shall have significant experience in financial and/or investment matters.

B Functions.

The function of the Investment Committee shall be to establish investment standards and expectations and review and monitor investment performance of the managers of the investments, endowments and other funds of the Corporation, and its subsidiaries. Without limiting the foregoing, the Committee shall:

- (1) Review and recommend to the Board, the investment policy of the Corporation and its subsidiaries;
- (2) Review the performance of the investment managers and, as required, recommend changes to the Board;
- (3) At least semi-annually report to the Board on the investment activities and performance of the investments of the Corporation and its subsidiaries.

C. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

7.14 AUDIT AND COMPLIANCE COMMITTEE.

A. Composition

The Audit and Compliance Committee shall be composed of at least three (3) directors. At least a majority of the directors so appointed shall be “Independent Directors” as defined in Section 7.12(a), above.

B. Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board of Directors in its oversight responsibilities by overseeing management’s systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Corporation. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee’s retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the Corporate Compliance Plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.
 - b. Review the minutes of each Corporate Compliance Committee meeting, and monitor the results of the Compliance Program.
 - c. Serve as a resource to the Compliance Officer and management on compliance issues.
 - d. Review and approve the audit schedule proposed by the Compliance Officer.
 - e. Report to the Board at least semi-annually, regarding the status of the Compliance Plan.

C. Meetings.

The Committee shall convene at least four (4) times per year or as shall be necessary to discharge its responsibilities.

7.15 PENSION COMMITTEE

A. Composition

The Pension Committee shall consist of at least five (5) members: one (1) member shall be the PFM-appointed Director, who shall serve as the Chairperson of the Committee. The four (4) remaining members shall be appointed by the PFM-appointed Director.

The Pension Committee's membership shall share common religious bonds and convictions with the Congregation of the Sisters of St. Francis of the Neumann Communities.

B. Functions

The Pension Committee shall perform the following functions:

- (1) Provide the Board of Directors level oversight and administration of the Corporation's employee pension and retirement plans.
- (2) Serve as the Administrator of the St. Elizabeth Medical Center Employees' Retirement Plans.
- (3) Make recommendations to PFM and to the Board of Directors to approve changes to the St. Elizabeth Medical Center Employees' Retirement Plans Documents and operational systems.
- (4) Review quarterly the financial results of investment manager actions of the St. Elizabeth Medical Center Employees' Retirement Plans. Meet at least annually to review the valuation of the Plans.
- (5) Make recommendations to PFM and to the Board of Directors after receiving recommendations from management of the Corporation relative to continuation or changes in
 - a. investment managers,
 - b. Plan Trustee, and
 - c. investment policy for investments.
- (6) Review investment policy of St. Elizabeth Medical Center Employees' Retirement Plans to be followed by the Plan Trustee and investment managers for the investments of St. Elizabeth Medical Center Employees' Retirement Plan.
- (7) Take all steps that are reasonably possible to advise management and the Board of Directors whenever the St. Elizabeth Medical Center Employees' Retirement Plans fail to meet minimum funding and regulatory requirements as those requirements are applicable to a going concern.
- (8) Perform such other duties as designated by the Board of Directors.

C. Meetings.

The Committee shall convene at least four (4) times per year or as shall be necessary to discharge its responsibilities.

ARTICLE EIGHT

ADMINISTRATION

8.1 PRESIDENT/CEO

A. The Board of Directors of MVHS shall select and appoint a competent hospital administrator who shall act as President of the Board and Chief Executive Officer of the Corporation. The President/CEO shall have such qualifications as are prescribed by the New York State Hospital Code, as may be amended from time to time. The President/CEO shall be given the necessary authority and responsibility to operate the hospital in all its activities and departments, subject only to such policies as may be issued by the Board of Directors or by any of its Committees to which it has delegated power for such action. The President/CEO's performance shall be monitored in an ongoing manner by the Board of Directors and its Committees. The President/CEO shall act as the duly authorized representative of the Board in all matters in which the Board has not formally designated some other person to act.

B. The daily management and operational affairs of the hospital shall be the responsibility of the President/Chief Executive Officer. Without limiting the foregoing, the authority and responsibility of the President/Chief Executive Officer shall include:

- (1) Aid the Board in the formulation of policies and procedures and carrying out all policies established by the Board.
- (2) Development of a plan of organization of hospital personnel and other persons concerned with the conduct of the hospital's operation and submission of the plan to the Board for approval.
- (3) Preparation of an annual budget showing the expected receipts and expenditures of the hospital as required by the Board.
- (4) Development, submission and implementation, in a timely manner, of all plans to correct operational deficiencies identified by regulatory agencies, and reporting to the Board progress and carrying out plans of correction.
- (5) Assisting the Board in communication and cooperation with the hospital's Medical Staff.
- (6) Assisting the hospital's Medical Staff with its organizational and medical administrative responsibilities.
- (7) Responsibility for all management and operational affairs of the hospital as required under the New York State Hospital Code, the requirements of the Hospital's accrediting organization and the responsibilities and duties established by all other regulatory bodies having jurisdiction.

- (8) Performance of such other duties as may be necessary in the best interests of the hospital.

8.2 MEDICAL DIRECTOR

A. The Board of Directors shall, after consultation with the Medical Staff, select and appoint a competent Medical Director who shall have administrative responsibility for the hospital's clinical departments and medical education programs. Responsibility for the organization and conduct of the Medical Staff shall be developed and defined in writing, in consultation with the Medical Staff, and assigned to the Medical Director. The Medical Director shall have such qualifications as may be required by the New York State Hospital Code, as amended from time to time.

B. The Medical Director shall have such authority and responsibility as required to perform his or her duties, including:

- (1) Coordinating the appointment and re-appointment process of the members of the Medical Staff, including investigation and assurance of qualifications for membership, as provided in the Medical Staff Bylaws.
- (2) Oversee the granting of clinical privileges consistent with the practitioner's training, experience and demonstrated competence.
- (3) Monitor and ensure Medical Staff compliance with the hospital's Bylaws, the Medical Staff Bylaws, the rules and regulations and Policies of the Medical Staff, hospital policies and procedures, and all applicable laws, rules, regulations, and accrediting standards.
- (4) Oversee the activities, findings and recommendations of all medical staff quality improvement programs and promptly initiate or recommend appropriate corrective measures, consistent with the Medical Staff Bylaws.
- (5) Monitor the activities and performance of the hospital's clinical departments and Department Chairpersons and make such reports and recommendations to the Board as shall be appropriate.
- (6) Perform such other duties as may be required under the New York State Hospital Code, as may be assigned by the Board and CEO, or as shall be appropriate and necessary in the best interests of the Hospital.

ARTICLE NINE QUALITY ASSURANCE

9.1 BOARD RESPONSIBILITY

The Board shall establish, maintain, support and exercise oversight of an ongoing quality assurance program that includes specific and effective review, evaluation and monitoring mechanisms to assist, preserve and improve the overall quality and efficiency of patient care in the hospital, and to insure that each patient's rights are protected and promoted.

9.2 DELEGATION TO ADMINISTRATION AND TO MEDICAL STAFF

(a) TO ADMINISTRATION

Except as may be set forth in any policy adopted by the Board from time to time, the Board delegates to the administration and holds it accountable for providing the administrative assistance reasonably necessary to support and facilitate the implementation of an on-going operation of the hospital's quality assurance program, for implementing the quality assurance program as it concerns non-medical professional personnel and technical staffs and patient care units, for establishing and maintaining a policy and process to protect and promote patient's rights and promptly resolve patient grievances, and for analyzing information and acting upon problems involving technical, administrative and support services and hospital policy. Without limiting the foregoing, the Board of Directors specifically delegates the obligation to review and resolve patient grievances to the individual responsible for quality management or such other person as designated by the President/CEO. The process for reviewing and resolving patient grievances shall be monitored by the Quality and Patient Safety Committee which shall provide periodic reports to the full Board.

(b) TO MEDICAL STAFF

The Board delegates to the Medical Staff and holds it accountable for conducting specific activities that contribute to the preservation and improvement of the quality and efficiency of patient care provided in the hospital. These activities include:

- (1) Systematic evaluation of practitioner performance against explicit, predetermined objective criteria.

- (2) On-going monitoring of critical aspects of care including, but not limited to, antibiotic and drug usage, transfusion practices, infections, mortalities, monitoring of unexpected clinical occurrences, and such other aspects of clinical care as shall be determined by the Board.
- (3) Review utilization of the hospital's resources to provide for their proper and timely allocation to patients in need of them.
- (4) Provision of continuing professional education, fashioned in part on the needs identified through the review, evaluation and monitoring activities and on new state-of the art developments.
- (5) Definition of the clinical privileges which may be appropriately granted within the hospital and within each department, delineation of clinical privileges for members of the Medical Staff commensurate with individual credentials and demonstrated ability and judgment, and participation in assigning patient care responsibilities to other health care professionals consistent with individual qualifications and demonstrated ability.
- (6) Management of clinical affairs, including enforcement of clinical policies and consultation requirements, initiation of disciplinary actions, surveillance over requirements for performance monitoring and for the exercise of newly-acquired clinical privileges, and other clinically-oriented activities.
- (7) Such other measures as the Board may, after considering the advice of the Medical Staff, the other professional services and the hospital management, deem necessary for the preservation and improvement of the quality and efficiency of patient care.

**ARTICLE TEN
MEDICAL STAFF**

10.1 ORGANIZATION

The Board of Directors has caused to be created a Medical Staff organization, known as the Medical Staff of St. Elizabeth Medical Center, whose membership is comprised of all practitioners who are privileged to attend patients of the Corporation. Membership in this Medical Staff organization shall be a prerequisite to the exercise of clinical privileges in the Corporation, except as otherwise specifically provided in the Medical Staff Bylaws.

10.2 MEDICAL STAFF BYLAWS, RULES AND REGULATIONS

A. Purpose

The Medical Staff organization shall propose and adopt by vote bylaws, rules and regulations for its internal governance, which shall be effective when approved by the Board of Directors. These bylaws shall create an effective administrative unit to discharge the functions and responsibilities assigned to the Medical Staff by the Board of Directors. The Medical Staff bylaws, rules and regulations shall state the purpose, functions and organization of the Medical Staff and shall set forth the policies by which the Medical Staff exercises and accounts for its delegated authority and responsibilities.

B. Procedure

The Medical Staff shall have the initial responsibility to formulate, adopt, and recommend to the Board of Directors, Medical Staff bylaws and amendments thereto, which shall be effective when approved by the Board of Directors. If the Medical Staff fails to exercise this responsibility in good faith and in a reasonable timely and responsible manner, the Board of Directors may formulate or amend Medical Staff bylaws, at its own initiative. In such event, recommendations and views of the Medical Staff shall be carefully considered by the Board of Directors during its deliberations and in its actions.

10.3 MEDICAL STAFF MEMBERSHIP AND CLINICAL PRIVILEGES

A. Duties of the Medical Staff

- (1) The Medical Staff shall have the responsibility and authority to investigate and evaluate all matters relating to initial staff appointments, reappointments, the assignment or curtailment of clinical privileges and corrective action. The Board of Directors shall require the Medical Staff to adopt and forward to it specific written recommendations concerning staff appointments, reappointments, the assignment or curtailment of clinical privileges and corrective action, with appropriate supporting documentation that will allow the Board of Directors to take informed action.

- (2) The Medical Staff shall have the responsibility and authority to investigate and evaluate each allied health professional's application for specified services, department affiliation, and modification in the services such allied health professional may perform, and shall require that the Medical Staff make recommendations to the Board of Directors on such applications.
- (3) The Board of Directors has overall responsibility for making available high quality patient care. Therefore, the Medical Staff shall conduct an ongoing review and appraisal of the quality of professional care rendered in the Medical Center and shall report such activities and their results to the Board of Directors.

B. Action by the Board of Directors

Final action on all matters relating to Medical Staff membership status, clinical privileges and corrective action shall be taken by the Board of Directors after considering the recommendations of the Medical Staff, provided that the Board of Directors shall act in any event if the Medical Staff fails to adopt and submit any such recommendation within a reasonable time. Such Board of Directors action without a Medical Staff recommendation shall be based on the same kind of documented investigation and evaluation as is required for Medical Staff recommendations.

C. Criteria for Board of Directors' Action

In acting on matters of Medical Staff membership status, the Board of Directors shall consider the Medical Staff's recommendations, the Corporation's and the community's needs, and such additional criteria as are set forth in the Medical Staff bylaws. In granting and defining the scope of clinical privileges to be exercised by each practitioner, the Board of Directors shall consider the Medical Staff's recommendations, the supporting information on which they are based, and such criteria as are set forth in the Medical Staff bylaws. No aspect of membership status or specific clinical privileges shall be limited or denied to a practitioner on the basis of sex, race, age, creed, color or national origin, or on the basis of any other non-professional qualifications, to the Corporation's purposes, needs and capabilities, or to community needs.

D. Conflict Resolution

In accordance with the Medical Staff's policies and procedures as set out in the Medical Staff Bylaws, the Board of Directors will resolve any differences in recommendations concerning Medical Staff appointments, reappointments, terminations of appointments and the granting or revision of clinical privileges within a reasonable time.

10.4 TERMS AND CONDITIONS OF MEDICAL STAFF MEMBERSHIP AND CLINICAL PRIVILEGES

A. The Board of Directors shall require that the Medical Staff establish controls that are designed to ensure the achievement and maintenance of high standards of professional and ethical practice according to the Directives.

B. The Board of Directors may determine the total numbers and types of practitioners on the medical or affiliate staffs, based on the physical capabilities of the Corporation, utilization of the Corporation by its staff members, and requirements for efficient use of Corporation facilities and personnel.

C. Practitioners applying for Medical Staff membership, or for clinical privileges, must sign an agreement to abide by these Bylaws and by the Medical Staff bylaws, rules and regulations.

10.5 DUE PROCESS

A. Practitioners

In holding the Medical Staff responsible for making recommendations to it, the Board of Directors shall require that the Medical Staff bylaws shall provide for review of any adverse recommendation made to the Board of Directors with respect to a practitioner's Medical Staff appointment, reappointment, department affiliation, staff category, admitting prerogatives, clinical privileges or corrective action. The review shall be conducted in accordance with the Board of Directors approved Medical Staff Fair Hearing Plan then in effect. Such plan shall provide procedures to assure fair treatment of all practitioners and to afford opportunity for the presentation of all pertinent information, including the right to be heard, when requested by the practitioner.

B. Medical Staff-Administrative Staff

Any physician who is also an administrative officer shall be entitled to procedural due process under the Board of Directors approved Fair Hearing Plan then in effect. The Medical Staff-administrative officer shall be entitled to hearings by review committees of both the Medical Staff and the Board of Directors.

C. Medical Staff

If the Board of Directors declines to follow any Medical Staff recommendation concerning Medical Staff appointments, reappointments, the assignment or curtailment of clinical privileges, or corrective action, then the Medical Staff shall be entitled to have the adverse decision of the Board of Directors reviewed by the Board of Directors in accordance with the Board of Directors approved Fair Hearing Plan then in effect.

10.6 METHODS FOR MEDICAL ADMINISTRATIVE LIAISON

The Board of Directors shall establish medical-administrative liaison by the following methods:

- A. Appointment of Directors to attend Executive Committee meetings of the Medical Staff.
- B. Appointment of members of the Medical Staff to Committees of the Board of Directors.
- C. Appointment of the President of the Medical Staff as an ex-officio member of the Board of Directors.

10.7 OFFICERS AND CHAIRPERSONS

All elections and appointments of Medical Staff officers or chairpersons of Medical Staff committees shall be approved by the Board of Directors after consideration of the recommendation of the President of the Medical Staff. The duties and responsibilities of such officers and committee chairpersons shall be set forth in the Medical Staff bylaws.

ARTICLE ELEVEN INDEMNIFICATION AND INSURANCE

11.1 INDEMNIFICATION AND INSURANCE

It is expressly provided that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal, by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of this Corporation, will be completely indemnified by the Corporation to the full extent permitted by law. If permitted by law, this indemnification shall include, but not be limited to, the payment of one or more of the following: judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeal therein.

11.2 INSURANCE

It is the policy of the Corporation that any and every person, or his or her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal by reason of the fact that he or she is or was a director or officer of this Corporation, or served such other corporation in any capacity at the request of the Corporation, will be completely and fully indemnified by this Corporation to the full extent permitted by the law. The Corporation may purchase and maintain insurance to completely and fully indemnify any and every such

person, whether or not this Corporation has the power to indemnify him or her against such liability under the laws of this or any other state.

ARTICLE TWELVE CONFLICT OF INTEREST

12.1 POLICY

Any Director, officer, key employee, or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval, or ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interest.

12.2 EFFECT

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions contained in the Board approved Conflicts of Interest Policy must be observed. If so, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in the discussions or deliberations with respect to such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

12.3 FORMAL POLICY AND PROCEDURE

The Board shall adopt a formal Conflict of Interest Policy requiring annual disclosure of existing and potential conflicts of interest, mechanisms for addressing actual and potential conflicts of interest and corrective and disciplinary action with respect to transgressions of such policies.

ARTICLE THIRTEEN VOLUNTEER ORGANIZATIONS

13.1 The Board may organize a volunteer organization, or such other associated organizations as it deems appropriate, consisting of individuals who are interested in rendering services as volunteers to the Corporation or its subsidiaries and in assisting in the fulfillment of the mission of the Corporation. There shall be Bylaws, rules and regulations for such organizations, setting forth

their organization and governance. Proposed Bylaws may be recommended, but only those approved by the Board of Directors shall become effective.

ARTICLE FOURTEEN AMENDMENT TO BYLAWS

14.1 PROCEDURE

These Bylaws may be amended or repealed, or new Bylaws may be adopted, by a two-thirds (2/3) vote of the Board of Directors of MVHS of any regular or special meeting. At least ten (10) days written notice shall be given of the intention to take such action. The Governance Affairs and Ethics Committee shall conduct an annual review of these Bylaws and make recommendations for such amendments as may be necessary to assure compliance with all applicable laws, rules and regulations. Notwithstanding the foregoing, any Amendment to these Bylaws which affects the mission and philosophy of the Corporation as a Catholic organization or the pursuit of the Corporation's Catholic mission and philosophy or any amendment impacting the requirement of the Corporation to operate in conformance with its Catholic mission and philosophy or any amendment impacting the Pension Committee or relating to any of PFM's reserved powers, will require approval by PFM.

ARTICLE FIFTEEN GENERAL

15.1 PROCEDURE

The Board and any Board Committee may adopt rules or procedures which shall be consistent with these Bylaws.

15.2 EQUAL OPPORTUNITY

The Board shall, in all matters, act without regard to discrimination as to sex, race, age, creed, handicap, sexual preference, marital status or national origin.

15.3 CONSTRUCTION OF TERMS AND HEADINGS

Words used in these Bylaws shall be read as the masculine or feminine gender and as the singular or plural, as the context requires. The captions or headings in these Bylaws are for convenience only and are not intended to limit or define the scope or effect of any provision of these Bylaws.

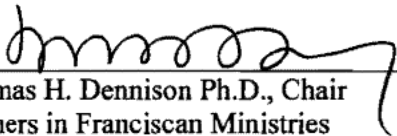


St. Elizabeth Medical Center

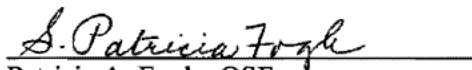
2209 Genesee Street
Utica, New York 13501-5999
(315) 798-8100
www.stemc.org

BYLAWS

Date Approved: June 18, 2012

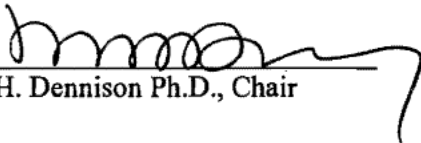


Thomas H. Dennison Ph.D., Chair
Partners in Franciscan Ministries



Patricia A. Fogle, OSF
Executive Director, Partners in Franciscan Ministries

Date Revised/Approved: October 31, 2012



Thomas H. Dennison Ph.D., Chair

Table of Contents

Article I - Organization	1
Article II - Mission and Vision.....	1
2.1 Mission of the Corporation	1
2.2 Vision of the Corporation.....	1
Article III - Corporate Member	1
3.1 Corporate Member	1
3.2 Reserved Powers	1
3.3 Board of Trustees Responsibilities vis a vis Corporate Member	2
Article IV - Board of Trustees.....	2
4.1 Board of Trustees' Organization.....	2
4.2 Trustees' Qualifications.....	2
4.3 Election of Trustees.....	2
4.4 Conflict of Interest	3
4.5 Powers, Duties and Responsibilities	3
4.6 Vacancies and Removal	4
4.7 Trustees Emeritus.....	4
4.8 Terms of Trustees.....	4
Article V - Meetings of Board of Trustees.....	5
5.1 Regular Meetings	5
5.2 Purpose of the Meetings and Minutes	5
5.3 Special Meetings	5
5.4 Quorum	5
5.5 Notice of Meetings	5
5.6 Waiver of Notice of Meetings of the Board of Trustees	5
5.7 Action by the Trustees Without a Meeting	5
5.8 Participation in Meetings of the Board of Trustees by Electronic Means.....	5
Article VI - Officers of Board of Trustees	6
6.1 Officers.....	6
6.2 Chairperson	6
6.3 Vice Chairperson.....	6
6.4 Secretary.....	6
6.5 Treasurer	6
Article VII - Committees of the Board of Trustees.....	6
7.1 Committees	6
7.2 Executive Committee	7
7.3 Finance Committee	7
7.4 Nominating Committee.....	8
7.5 Long Range Planning Committee	8
7.6 Ethics Committee	9
7.7 Quality Oversight Committee	10
7.8 Audit and Compliance Committee	10
7.9 Pension Committee	11
7.10 Bylaws Committee	12
7.11 Compensation Committee.....	12

7.12	Special Committees	13
Article VIII – Administration.....		13
8.1	President.....	13
8.2	Other Administrative Officers.....	14
Article IX - Medical Staff		14
9.1	Organization.....	14
9.2	Medical Staff Bylaws, Rules and Regulations	14
9.3	Medical Staff Membership and Clinical Privileges	15
9.4	Terms and Conditions of Medical Staff Membership and Clinical Privileges.....	16
9.5	Due Process.....	16
9.6	Methods for Medical Administrative Liaison	16
9.7	Officers and Chairpersons.....	17
Article X - Related Organizations.....		17
Article XI - Indemnification.....		17
Article XII – Dissolution.....		17
Article XIII –Amendments.....		17

Article I - Organization

- 1.1 The name of the corporation is St. Elizabeth Medical Center ("Corporation").
- 1.2 St. Elizabeth Medical Center, a Roman Catholic institution, was incorporated under the name of St. Elizabeth's Hospital and Home on February 8, 1870, as a membership corporation under the laws of the State of New York.
- 1.3 The post office address of the Corporation's principal office is: 2209 Genesee Street, Utica, NY 13501.

Article II - Mission and Vision

2.1 Mission of the Corporation

St. Elizabeth Medical Center Community, inspired by St. Francis of Assisi and faithful to the teachings of the Roman Catholic Church, is committed to excellence in healthcare and education. We pledge to do this with compassion and respect for the dignity of all.

2.2 Vision of the Corporation

The Vision of St. Elizabeth Medical Center:

- Offer the highest quality comprehensive health care services to the greater Utica area as a Catholic Community Hospital.
- Provide access to primary and ambulatory care services through a network of community health care centers.
- Service the region as a referral center of excellence in selected specialties and as a major provider of education in health care professions.
- Respond to the needs of our patients, staff, physicians and community, and meet their expectations by continuously improving the quality of our services.
- Achieve these goals in a cost-effective manner.

Article III - Corporate Member

- 3.1 The Member of the Corporation shall be Partners in Franciscan Ministries, Inc. ("hereinafter "Partners.")

3.2 Reserved Powers to the Corporate Member

The following powers shall be reserved to Partners to exercise and shall be referred to as Reserved Powers:

- A. To change the philosophy, mission and purpose of the Corporation.
- B. To appoint and remove the President/CEO of the Corporation.
- C. To appoint and remove the Board of Directors of the Corporation.
- D. To approve the Articles of Incorporation and Bylaws of the Corporation.
- E. To receive the annual report of the Corporation.
- F. To approve the formation of subsidiaries, affiliates or divisions of the Corporation.

- G. To approve a change in the name of the Corporation.
- H. To receive, review and monitor the budget of the Corporation as deemed necessary by Partners.
- I. To receive the annual audit of the Corporation.
- J. To receive, review and monitor strategic, long range plans of the Corporation as deemed necessary by Partners.
- K. To approve the financial transactions of the Corporation according to the annual USCCB alienation guidelines.

3.3 Board of Trustees Responsibilities vis a vis the Corporate Member

In addition to any and all Board of Trustees' responsibilities as outlined in these Bylaws, the Board of Trustees shall be responsible for making recommendations to Partners regarding those reserved powers outlined in Section 3.2. Partners will give due consideration to those recommendations.

Article IV - Board of Trustees

4.1 Board of Trustees' Organization

- A. The Corporation shall be governed by a Board of Trustees consisting of not fewer than nine nor more than fifteen and shall be responsible for directing the operation of the Corporation in accordance with its mission. No contracts, arrangements or other agreements may limit or diminish the responsibility of the Board of Trustees in any way. As the governing body of the Corporation, the Board of Trustees and its individual Trustees are ultimately responsible for compliance with all applicable Federal, State, and local laws, including the New York State Public Health Law, Mental Hygiene Law and the Education Law. The Corporation's administration and the Medical Staff shall provide services and information to the Board of Trustees. The Medical Staff and the Corporation's administration must report their activities and decisions to the Board of Trustees at the regularly scheduled meetings or sooner in the cases described herein.
- B. At its annual meeting, the Board of Trustees shall adopt, review or revise these Bylaws as appropriate, subject to the approval of Partners' Board of Directors.

4.2 Trustees' Qualifications

Individual Trustees should possess such basic qualities as honesty, integrity, a sense of justice, sound moral character and evidence of commitment to community health and welfare, and shall be selected for their ability to participate effectively in fulfilling the Board of Trustees' responsibilities. Trustees are required to attend at least two-thirds of the regularly scheduled meetings of the Board of Trustees each year, unless legitimately excused.

4.3 Election of Trustees

- A. The Board of Trustees shall elect, subject to appointment by Partners' Board of Directors, individuals for appointment to the Board of Trustees at the Annual Meeting of the Corporation or such other meetings as may be required.
- B. 1. The Board of Trustees shall recommend to the Partners' Board of Directors, the President/CEO of the Corporation who is responsible to the Board of Trustees for the management of the Corporation. The management of the Corporation shall not be delegated to or shared with any organization except under a management

authority contract approved by the Commissioner pursuant to Article 405.3 of Title 10 of the New York Code of Rules and Regulations. The President's responsibilities shall include, but not be limited to the duties set out in Article VIII of these Bylaws. The President shall be qualified for his/her responsibilities through education and experience. The President/CEO will serve as an ex-officio member of the Board of Trustees without voting rights.

2. The Board of Trustees shall elect, at the annual meeting, the Chairperson, Vice Chairperson, Secretary, Treasurer and such other officers as these Bylaws require to perform such duties as are set out in these Bylaws or established by the Board of Trustees.
- C. The Medical Staff of Corporation shall elect the President of the Medical Staff who shall be an ex-officio member of the Board of Trustees with the same authority and responsibility as all other members of the Board of Trustees. The Medical Staff President's term of office as a Trustee shall coincide with his term as President of the Medical Staff.
- D. A Board member from Partners will serve as an ex-officio member of the Board of Trustees without voting rights.

4.4 Conflict of Interest

Any duality of interest or possible conflict of interest on the part of any Trustee shall be disclosed to the other Trustees and made a matter of record, particularly when such interest becomes a matter of action by the Board of Trustees. Any Trustee having a duality of interest or possible conflict of interest on any matter shall not vote on the matter; cannot be counted in determining the quorum for any vote on the matter; cannot participate in the deliberations nor use his/her personal influence on the matter; and any such transaction shall be at least as fair and reasonable to the Corporation as would otherwise then be obtainable by the Corporation. The minutes of the meeting shall reflect that such disclosure was made. The foregoing requirements shall not be construed as preventing any such trustee from briefly stating his/her position in the matter or from answering pertinent questions of other trustees, since his/her knowledge may be of great assistance. Any new Trustee will be advised of this policy upon entering upon the duties of his/her office.

4.5 Powers, Duties and Responsibilities

- A. The Board of Trustees shall oversee the control and management of the affairs and interests of the Corporation, and shall ensure the provision of quality care to patients. The Board of Trustees is further responsible to ensure the effective functioning of activities related to performance improvement, risk management, appointment to the Medical Staff, as well as financial oversight. Trustees are expected to be stewards and advocates of the Corporation's Mission.
- B. The Board of Trustees shall appoint a physician referred to in Part 405 of Title 10 of the New York Code of Rules and Regulations as the Medical Director, who is qualified for membership on the Corporation's Medical Staff and who shall be responsible for directing the Medical Staff organization in accordance with provisions of Article 405.4 of Part 405 of Title 10 of the New York Code of Rules and Regulations. Such appointment shall be made after consultation with the Medical Staff and with the recommendation of the President.
- C. The Board of Trustees shall ensure that the Medical Staff has written Bylaws. The Board of Trustees shall retain the authority to approve Medical Staff Bylaws and any other Medical Staff rules and regulations. All members of the Corporation's Medical Staff must abide by the rules, regulations and Bylaws of the Medical Center and the current Ethical

and Religious Directives of the United States Conference of Catholic Bishops that apply to healthcare organizations; and practice only with the scope of privileges granted by the Board of Trustees. All members of the Corporation's Medical Staff are accountable to the Board of Trustees for the quality of care provided to patients.

- D. The Board of Trustees shall ensure that it abides by Partners' Reserved Powers and provides adequate and timely communication to Partners regarding issues outlined in this Section 4.5.

4.6 Vacancies and Removal

- A. Any Trustee may resign by delivering his/her written resignation to the Corporation at its principal office or to the Chairperson, Vice Chairperson, Secretary or Treasurer. Such resignation will be forwarded to Partners' Board of Directors for their approval. Such resignation shall be effective upon receipt by Partners unless it is specified to be effective at some other time or upon the happening of some other event.
- B. Any Trustee may be removed from office with or without cause by Partners' Board of Directors. After a majority vote of its Board of Trustees, the Corporation may recommend to Partners the removal of any trustee.
- C. Any vacancy in the Board of Trustees, however occurring, shall be filled by a recommendation of the majority of the Board of Trustees of the Corporation to the Partners for their appointment.
- D. In the event of a vacancy in the Board of Trustees, the Board of Trustees shall elect candidates subject to appointment by Partners' Board of Directors. A trustee elected to fill a vacancy shall serve the remaining term of the seat vacated.

4.7 Trustees Emeritus

Trustees who have served and retired shall be designated Trustees Emeritus. They shall be invited to attend meetings of the Board of Trustees, but shall have no obligation to attend. Trustees Emeritus shall have no power to vote. The term of a Trustee Emeritus shall be no greater than four years.

4.8 Terms of Trustees

- A. Trustees shall be appointed to serve for a term of four years and shall be eligible to serve for one additional four-year term. Trustees shall be eligible for appointment for an additional two consecutive four year terms after an absence of at least two (2) years.
- B. For all terms commencing in or after May 2012:
Trustees shall be appointed to serve for a term of five years and shall be eligible to serve for one additional five-year term. Trustees shall be eligible for appointment for an additional two consecutive five-year terms after an absence of at least two years.
- C. The Chairperson of the Board of Trustees shall serve a maximum of six, one-year terms as Chairperson. Years as Chairperson will not be counted toward Trustee term limits set forth in sections A or B above. In addition, in order to provide continuity and knowledge to the Board, if the Chairperson's term as Trustee has expired by the end of his/her term as Chairperson, s/he may stay on the Board of Trustees for up to two additional years as Trustee.

Article V - Meetings of Board of Trustees

5.1 Regular Meetings

The Board of Trustees shall hold a regular meeting at the Corporation six times per year during the months of January, March, May, July, September and November, the dates and times of these meetings will be announced by the Chairperson. The regular meeting of the Board of Trustees held in May shall be known as the Annual Meeting of the Corporation.

5.2 Purpose of the Meetings and Minutes

The Board of Trustees meets to evaluate the conduct of the Corporation including the care and treatment of patients, as well as its own performance. Based on these evaluations, the Board of Trustees shall take necessary action sufficient to correct noted problems. A record of all Board of Trustees and Committees of the Board of Trustees Meetings and proceedings must be kept, which record shall reflect a summary of the business conducted including findings, conclusions, and recommendations. These recorded Minutes shall be maintained for review and analysis.

5.3 Special Meetings

Special meetings of the Board of Trustees may be called at anytime by the Chairperson of the Board of Trustees or, upon the written request of three members of the Board of Trustees giving notice to the Secretary who will send out a notice of the meeting. The notice for a Special Meeting shall state the business for which the special meeting has been called and no business other than that stated in the notice shall be transacted at such special meeting. The meeting must take place in no more than four (4) business days after the request is made.

5.4 Quorum

For regular or special meetings of the Board of Trustees, a quorum shall be a majority of the members who are eligible to vote at the meeting of the Board of Trustees. For all Committees, with the exception of the Executive Committee of the Board of Trustees, a quorum shall be at least fifty percent (50%) of the members eligible to vote at the meeting of the Committee for which the meeting has been called. For the Executive Committee of the Board of Trustees, a quorum shall be at least fifty-one percent (51%) of the members eligible to vote at the Executive Committee.

5.5 Notice of Meetings

Notice of regular meetings of the Board of Trustees shall be given at least ten days prior to the date of such meetings, and notice of special meetings shall be given at least two days prior to the date of such meetings. The notice shall specify the object of the meetings and shall be in writing.

5.6 Waiver of Notice of Meetings of the Board of Trustees

Whenever the Board of Trustees are authorized to take any action after notice as referred to in this Article V, any Trustee entitled to the notice may waive the right to notice if such waiver is submitted in writing to the Secretary.

5.7 Action by the Trustees Without a Meeting

Any action required or permitted to be taken at a regular or special meeting of the Board of Trustees may be taken without a vote if consent, in writing, setting forth the action so taken is signed by seventy-five percent (75%) of all the Trustees eligible to vote.

5.8 Participation in Meetings of the Board of Trustees by Electronic Means

It is the preference of the Corporation to have attendance at meetings of the Board of Trustees and its Committees be in person. However, if there are circumstances where this is not possible, any

one or more Trustees may participate in meetings of the Board of Trustees by means of a conference telephone or any other telecommunication equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at the meeting.

Article VI – Officers of Board of Trustees

6.1 Officers

The officers of the Corporation shall be the Chairperson, Vice Chairperson, Secretary, Treasurer, and such other officers as the Board of Trustees may designate. No person may hold more than one Officership at the same time. The officers of the Corporation shall be elected by the Board of Trustees at the Annual Meeting of the Board of Trustees or at a Special Meeting set for that purpose.

6.2 Chairperson

The Chairperson shall call all meetings of the Board of Trustees to order and shall conduct the meetings, and shall have such other duties as are set out in these Bylaws. The primary duties shall include, but not be limited to ensure that the Mission of the Corporation is consistent with the Mission of the Sisters of St. Francis of the Neumann Communities which are the Sponsors of the Corporate Member.

6.3 Vice Chairperson

The Vice Chairperson shall act as the Chair in the Chair's absence and, when so acting, shall have his or her power and authority.

6.4 Secretary

The Secretary shall act as Secretary of the Board of Trustees and shall send or cause to be sent appropriate notices and prepare or cause to be prepared agenda for all meetings of the Board of Trustees, shall act as custodian of all records and reports or have a designee act as such custodian, and shall be responsible either directly or through his/her designee, for the keeping of adequate records of all meetings of the Board of Trustees and its Committees.

6.5 Treasurer

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Trustees, or any committee designated and vested with such power by the Board of Trustees, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and whenever required by the Board of Trustees shall render, or cause to be rendered, financial statements of the Corporation. The Treasurer shall prepare, execute and file, or cause to be prepared any annual report or statement which may be required by law.

Article VII - Committees of the Board of Trustees

7.1 Committees

Committees of the Board of Trustees shall be standing or special. All Committee members and Chairpersons shall be appointed by the Chairperson of the Board of Trustees with the consent of the Board of Trustees, with the exception of the Pension Committee. The President shall appoint all Committee members and the Chairperson for the Pension Committee. Standing committees shall be the Executive Committee, the Finance Committee, the Quality Oversight Committee, the

Nominating Committee, the Long Range Planning Committee, the Ethics Committee, the Audit and Compliance Committee, the Pension Committee, the Bylaws Committee, the Compensation Committee and such other Committees as the Board of Trustees may authorize. Each Committee meeting shall have an agenda and shall submit minutes of its meeting to the Board of Trustees and to the Secretary. Minutes must be kept of all Committee meetings and must reflect a summary of the business conducted, including findings, conclusions, and recommendations. The minutes maintained by the Secretary of the Corporation shall be subject to inspection by any members of the Board of Trustees and any member of Partners' Board of Directors in the office of the Secretary.

7.2 Executive Committee

The Executive Committee shall consist of the Chairperson of the Board of Trustees, the Vice Chairperson of the Board of Trustees, the President of the Medical Staff and at least two (2) other members of the Board of Trustees that are appointed as set out in Section 7.1 of these Bylaws. The Chairperson of the Board shall be the Chairperson of the Executive Committee. The President of the Corporation shall be a non-voting ex-officio member of the Committee. The Executive Committee shall have power to transact all regular business of the Corporation during the period between the meetings of the Board of Trustees, subject to any prior limitation imposed by the Board of Trustees, and with the understanding that all matters of major importance will be referred to the Board of Trustees at a subsequent meeting. Minutes of the Executive Committee meetings shall be submitted to the Board of Trustees.

7.3 Finance Committee

A. The function of the Finance Committee is oversight. Management is responsible for the preparation, presentation and integrity of the Corporation's financial statements. Management is responsible for maintaining appropriate accounting and financial reporting principles and policies and internal controls and procedures designed to assure compliance with accounting standards and applicable laws and regulations. The independent auditors are responsible for planning and conducting proper audits and reviews.

B. The Finance Committee shall consist of the Chairperson of the Board of Trustees, Treasurer and such other Trustees who are appointed as set out in Section 7.1 of these Bylaws at the annual meeting of the Corporation or as necessary, the President of the Corporation, and the Chief Financial Officer. The Finance Committee must have at least one Independent member who has accounting or related financial management expertise. "Independent" members of the Committee shall be defined as those members of the Committee who do not receive any compensation from Corporation; or who do not themselves or have any family member who transacts business with Corporation; or who are not in a position where his/her income could be affected by the Corporation's decisions. The Corporation's executives who serve on or staff the Committee shall not be considered to be Independent members of the Committee and they shall be precluded from voting in any transaction addressed in this Section 7.3. "Accounting or related financial management expertise" shall mean a member of the Committee who shall have a working familiarity with finance and/or accounting practices.

C. The Finance Committee shall have the following responsibilities:

1. Overseeing the President's development of a budget for the Corporation showing the expected receipts, income and expense for the ensuing year;
2. Recommending for adoption by the Board of Trustees a budget developed by the President for the ensuing year;

3. Reviewing financial reports that report on the financial condition of the Corporation which shall include reviewing the investment activities of the Corporation;
4. Reviewing and making recommendations to the Board of Trustees on any request by the President for the Corporation to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board of Trustees;
5. Retaining the Corporation's independent Certified Public Accountants to provide external financial auditing to the Corporation. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Corporation and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.

The functions of the Finance Committee under this Section 7.3 C.5. shall be performed by the members of the Finance Committee who are Independent.

6. Engaging in such other activities or responsibilities as may be delegated to the Finance Committee by the Board of Trustees or the Executive Committee.

7.4 Nominating Committee

The Nominating Committee shall consist of those Trustees appointed as set out in Section 7.1 of these Bylaws. The Nominating Committee shall have the duty of nominating and providing to the Board of Trustees, at the Annual Meeting of the Corporation, and at any other meetings when vacancies are to be filled, candidates to be considered for election as Trustees or Officers. Recommendations and references may provide a basis for judging whether an individual possesses the necessary qualifications. The Committee shall consider the qualifications of Trustees as set out in Section 4.2 of these Bylaws.

7.5 Long Range Planning Committee

The Long Range Planning Committee shall consist of the Chairperson of the Board of Trustees, President, members of the Board of Trustees appointed as set out in Section 7.1 of these Bylaws and a member of the Corporation's staff selected by the President. The Long Range Planning Committee shall review, advise and recommend to the Board of Trustees immediate and long range plans to assure that the Corporation's programs meet the health needs of the community and to ensure that the Corporation is operated in accordance with the mission and philosophy established

by the Corporate Member. The Long Range Planning Committee shall review the Corporation's strategic plan on no less frequently than an annual basis and provide input as necessary to the Corporation's management and to the Board of Trustees on the Corporation's strategic plan.

7.6 Ethics Committee

The Ethics Committee shall consist of the Chairperson of the Board of Trustees and the President of the Corporation, the President of the Medical Staff, a member of the Audit and Compliance Committee, and at least one additional Trustee appointed as set out in Section 7.1 of these Bylaws. The Chairperson of the Medical Ethics Committee shall also serve as ex officio member of the Ethics Committee.

A. The Committee shall review issues associated with the Corporation's ethics which shall include, but not be limited to business ethics and medical ethics that involve the care of patients of the Corporation or by any of its employees. It shall consider ethical and religious issues that are referred to it by the Corporation's administration, members of the Medical Staff or employees of the Corporation and it shall consider those issues in the context, where applicable, of the then current "Ethical and Religious Directives for Catholic Health Care Services" as established by the United States Conference of Catholic Bishops (hereinafter "Directives") that are applicable to healthcare. The Committee will make recommendations to the administration, Medical Director and the Medical Staff as appropriate based upon matters that are referred to it; and provide a copy of its Minutes to the Board of Trustees.

B. Medical Ethics Committee

1. The Medical Ethics Committee shall report to and operate as a subcommittee of the Board of Trustees' Ethics Committee and it shall consist of its chairperson(s) and members of the Committee appointed jointly by the President of the Corporation and the President of the Medical Staff along with other persons necessary, namely: members of Corporation's administration, clergy, social service, nursing service, community members, legal counsel and any and all others necessary for ethical decision making, or as required by law.

2. Duties:

a. Review issues associated with medical ethics or bioethics that involve the care of patients of the Corporation or by any of its employees or its Medical Staff.

b. Consider ethical and religious issues that are referred to it by the Corporation's Board of Trustees, administration, members of the Medical Staff or employees of the Corporation and it shall consider those issues in the context, where applicable, of the then current Directives.

c. Make recommendations to the Board of Trustees' Ethics Committee, administration, Medical Director and the Medical Staff as appropriate based upon matters that are referred to it; and provide a copy of its Minutes to the Board of Trustees' Ethics Committee.

d. Take steps to implement policies regarding ethical issues such as advanced directives, do-not-resuscitate policies and the provision of life sustaining treatment modalities in accordance with the mission and philosophy of the Corporation and applicable law.

- e. Provide clinical ethics consultations on individual cases when so requested by anyone involved with the care of the patient, such consultations may be done to provide support for the physicians, to assist with difficult ethical decisions or for the resolution of ethical conflicts involving differences of opinion on a particular case, such consultations will be performed by the Committee as a whole if time permits, or if on an urgent basis, by the Chairperson or his designee, the findings of such consultations may be entered into the patient's medical records, but shall be of an advisory nature only, except when the committee disagrees with a determination to withhold or withdraw life-sustaining treatment.
- f. Act as an educational resource to the Corporation, the Medical Staff, patients, and community regarding medical ethics or bioethics issues.
- g. Perform concurrent and retrospective review of ethical decisions and issues, in order to enhance the educational process regarding clinical ethics or bioethics.
- h. Ensure that patient care services are delivered in compliance with "The Ethical and Religious Directives" as developed by the United States Conference of Catholic Bishops as amended and may be in force at any point in time.

7.7 Quality Oversight Committee

The Quality Oversight Committee shall consist of the following members: the Chairpersons of the Hospital and Ambulatory Care Quality Improvement Committees; at least three Trustees, one of whom is a physician, the President of the Medical Staff or his/her designee; the Vice-Presidents with responsibility over Medical Affairs, Quality Improvement, Nursing and Risk Management, and the President of the Corporation or his/her designee. The Committee will be responsible for overseeing organization wide quality management and performance improvement activities. It will receive and make recommendations on reports from the Hospital Quality Improvement Committee; the Ambulatory Care Quality Improvement Committee; the Medical Staff, including Credentials, Peer Review and disciplinary activities, and the Corporation's departments regarding the assessment and improvement of the quality of services provided. Minutes documenting the Committee's findings and recommended actions will be submitted to the Board of Trustees for approval.

7.8 Audit and Compliance Committee

- A. The function of the Audit and Compliance Committee is oversight and to assist the Board of Trustees in its oversight responsibilities by: overseeing management's systems of internal auditing and internal controls; overseeing the Corporation's Conflict of Interest program and resolving conflicts of interest or potential conflicts of interest; and overseeing the Corporate Compliance activities of the Corporation.
- B. The Audit and Compliance Committee shall consist of at least three Trustees appointed as set out in Section 7.1 of these Bylaws. The Audit and Compliance Committee must have at least one Independent member who has accounting or related financial management expertise. "Independent" members of the Committee shall be defined as those members of the Committee who do not receive any compensation from the Corporation; or who do not themselves or have any family member who transacts business with the Corporation; or who are not in a position where his/her income could be affected by the Corporation's decisions. The Corporation's executives who serve on or staff the Committee shall not

be considered to be Independent members of the Committee and they shall be precluded from voting in any transaction addressed in this Section 7.8.

- C. The Audit and Compliance Committee shall have the following responsibilities:
1. Select and retain non-financial independent external auditors, as needed.
 2. Provide input into the Finance Committee's retention of independent external financial auditors.
 3. Oversight of internal controls through evaluation of regular management reports, including reports from the Corporation's internal auditor about its monitoring of internal controls.
 4. Oversight of corporate conflicts of interest. The Committee shall review and propose modifications to the Corporation's conflict of interest policy and evaluate conflicts of interest for effectiveness and propriety.
 5. Corporate Compliance matters:
 - a. Review the Corporate Compliance Plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board of Trustees on changes to the plan.
 - b. Review the minutes of each Corporate Compliance Committee meeting, and monitor the results of the Compliance Program.
 - c. Serve as a resource to the Compliance Officer and management on compliance issues.
 - d. Review and approve the audit schedule proposed by the Compliance Officer.
 - e. Report to the Board of Trustees at least semi-annually, regarding the status of the Compliance Plan.

7.9 Pension Committee

- A. The Pension Committee shall consist of at least five members: the President, Chief Operating Officer and at least three Trustees appointed by the President and approved by the Board at the annual meeting of the Corporation. The Pension Committee shall share common religious bonds and convictions with the Sisters of St. Francis of the Neumann Communities.
- B. The Pension Committee shall perform the following functions:
1. Provide the Board of Trustees level oversight and administration of the Corporation's employee pension and retirement plans.
 2. Serve as the Administrator of the St. Elizabeth Medical Center Employees' Retirement Plans.
 3. Make recommendations to the Board of Trustees to approve changes to the St. Elizabeth Medical Center Employees' Retirement Plans Documents and operational systems.

4. Review quarterly the financial results of investment manager actions of the St. Elizabeth Medical Center Employees' Retirement Plans. Meet at least annually to review the valuation of the Plans.
5. Make recommendations to the Board of Trustees after receiving recommendations from management of the Corporation relative to continuation or changes in
 - a. investment managers,
 - b. Plan Trustee, and
 - c. investment policy for investments.
6. Review investment policy of St. Elizabeth Medical Center Employees' Retirement Plans to be followed by the Plan Trustee and investment managers for the investments of St. Elizabeth Medical Center Employees' Retirement Plan.
7. Take all steps that are reasonably possible to advise management and the Board of Trustees whenever the St. Elizabeth Medical Center Employees' Retirement Plans fail to meet minimum funding and regulatory requirements as those requirements are applicable to a going concern.
8. Perform such other duties as designated by the Board of Trustees.

7.10 Bylaws Committee

The Bylaws Committee shall consist of at least three Trustees appointed as set out in Section 7.1 of these Bylaws at the annual meeting of the Corporation. The Bylaws Committee shall conduct a review of these Bylaws, at least biennially, and recommend amendments as necessary.

7.11 Compensation Committee

- A. The Compensation Committee shall consist of at least three Trustees appointed as set out in Section 7.1 at the annual meeting of the Corporation. The Compensation Committee must have at least one "independent" member of the Committee which is defined as those members of the Committee who do not receive any compensation from the Corporation; or who do not themselves or have any family member who transacts business with the Corporation; or who are not in a position where his or her income could be affected by the Corporation's decisions.
- B. The Compensation Committee shall have the following responsibilities:
 1. Establish, monitor, review and revise, at least annually, performance guidelines for the CEO;
 2. Assist the board in assessing and evaluating the CEO's performance;
 3. Review and recommend to the full Board the CEO's compensation, including salary, incentives, benefits and other perquisites;
 4. Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel (including the chair of the board and the CEO);
 5. At least annually, review executive compensation to ensure that it is appropriate in view of Corporation's tax-exempt status and take the required steps to establish a "rebuttable presumption of reasonableness" [under I.R.C. Section

4958] of the executive compensation, which may include evaluating:

- a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person's background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Corporation's income and assets and the number of Corporation's employees;
 - d. CEO's prior compensation arrangements [if CEO is new to position];
 - e. CEO's job performance;
 - f. relationship of the CEO's compensation to the compensation paid to Corporation's other employees; and
 - g. the number of hours the CEO spends performing his or her job
6. At least annually, Committee will be presented with salaries/compensation plans for Vice President positions in similar organizations in similar communities as well as the salaries and compensation plans for Corporation's Vice Presidents to ensure the process for establishing salaries and compensation plans meets "rebuttable presumption of reasonableness" [under I.R.C. Section 4958].

7.12 Special Committees

The Chairperson of the Board of Trustees, with the consent of the Board of Trustees, may appoint special committees to perform special tasks as circumstances warrant. A special committee shall limit its activities to the accomplishment of the task for which it is appointed and shall have no power to act otherwise. Upon completion of the task for which it is appointed, such special committee shall stand discharged.

Article VIII - Administration

8.1 President

- A. Partners, upon the recommendation of the Board of Trustees shall appoint a candidate to the office of President. The President shall be the representative of the Board of Trustees in the management of the Corporation. The President shall report to the Board of Trustees and shall be given the duties described in this Article. The President shall be given the necessary authority and responsibility to operate the Corporation in all its activities and departments, subject only to such policy limitations as may be established by the Board of Trustees. The President shall act as the duly authorized representative of the Board of Trustees in all matters in which the Board of Trustees has not formally designated some other person to so act. The President shall be evaluated by the Board of Trustees annually at a minimum.
- B. Qualifications. The President shall be qualified by education and experience appropriate to the proper discharge of these responsibilities.
- C. Duties. The authority and responsibility of the President shall include the following duties:

1. To be continuously responsible for the management of the Corporation, commensurate with the authority conferred by the Board of Trustees and consonant with its expressed aims and policies.
2. To designate an individual to act in the absence of the President in order to provide the Corporation with administrative direction at all times.
3. To organize the administrative functions of the Corporation, delegate duties and establish formal means of accountability on the part of subordinates.
4. To establish such Corporate departments as are indicated, to designate such department heads, provide for departmental and interdepartmental meetings and attend, or be represented at, such meetings.
5. To attend all meetings of the Board of Trustees, Committees to which the President is assigned and appropriate meetings of the Medical Staff.
6. To make or send reports to the Board of Trustees:
 - a. on the overall activities of the Corporation,
 - b. on appropriate federal, state and local developments that affect health care in the Corporation's facilities; and
 - c. such other reports as may be requested by the Board of Trustees.
7. To make or send appropriate reports to the Medical Staff.
8. To be responsible for the application and implementation of established policies in the operation of the Corporation.
9. To be responsible for providing liaison among the Board of Trustees, the Medical Staff and the departments of the Corporation.
10. To be responsible for naming Corporation departmental representatives to Medical Staff committees, where appropriate and when requested by the Medical Staff.
11. To be responsible for the maintenance and insurance of corporate property.

8.2 Other Administrative Officers

The President shall appoint such other Administrative Officers, with such titles that he/she deems appropriate, that he/she determines are required in order to assist the President to perform the duties set out in these Bylaws. The President shall notify the Board of Trustees of the names and responsibilities of the individual that he/she appoints to the Administrative Offices.

Article IX - Medical Staff

9.1 Organization

The Board of Trustees shall cause to be created a Medical Staff organization, to be known as the Medical Staff of St. Elizabeth Medical Center, whose membership shall be comprised of all practitioners who are privileged to attend patients of the Corporation. Membership in this Medical Staff organization shall be a prerequisite to the exercise of clinical privileges in the Corporation, except as otherwise specifically provided in the Medical Staff Bylaws.

9.2 Medical Staff Bylaws, Rules and Regulations

- A. Purpose
The Medical Staff organization shall propose and adopt by vote bylaws, rules and regulations for its internal governance, which shall be effective when approved by the Board of Trustees. These bylaws shall create an effective administrative unit to discharge the functions and responsibilities assigned to the Medical Staff by the Board of Trustees. The Medical Staff bylaws, rules and regulations shall state the purpose, functions and organization of the Medical Staff and shall set forth the policies by which the Medical Staff exercises and accounts for its delegated authority and responsibilities.
- B. Procedure
The Medical Staff shall have the initial responsibility to formulate, adopt, and recommend to the Board of Trustees, Medical Staff bylaws and amendments thereto, which shall be effective when approved by the Board of Trustees. If the Medical Staff fails to exercise this responsibility in good faith and in a reasonable timely and responsible manner, the Board of Trustees may formulate or amend Medical Staff bylaws, at its own initiative. In such event, recommendations and views of the Medical Staff shall be carefully considered by the Board of Trustees during its deliberations and in its actions.

9.3 Medical Staff Membership and Clinical Privileges

- A. Duties of the Medical Staff
The Medical Staff shall have the responsibility and authority to investigate and evaluate all matters relating to initial staff appointments, reappointments, the assignment or curtailment of clinical privileges and corrective action. The Board of Trustees shall require the Medical Staff to adopt and forward to it specific written recommendations concerning staff appointments, reappointments, the assignment or curtailment of clinical privileges and corrective action, with appropriate supporting documentation that will allow the Board of Trustees to take informed action.

The Medical Staff shall have the responsibility and authority to investigate and evaluate each allied health professional's application for specified services, department affiliation, and modification in the services such allied health professional may perform, and shall require that the Medical Staff make recommendations to the Board of Trustees on such applications.

The Board of Trustees has overall responsibility for making available high quality patient care. Therefore, the Medical Staff shall conduct an ongoing review and appraisal of the quality of professional care rendered in the Medical Center and shall report such activities and their results to the Board of Trustees.
- B. Action by the Board of Trustees
Final action on all matters relating to Medical Staff membership status, clinical privileges and corrective action shall be taken by the Board of Trustees after considering the recommendations of the Medical Staff, provided that the Board of Trustees shall act in any event if the Medical Staff fails to adopt and submit any such recommendation within a reasonable time. Such Board of Trustees action without a Medical Staff recommendation shall be based on the same kind of documented investigation and evaluation as is required for Medical Staff recommendations.
- C. Criteria for Board of Trustees' Action
In acting on matters of Medical Staff membership status, the Board of Trustees shall consider the Medical Staff's recommendations, the Corporation's and the community's needs, and such additional criteria as are set forth in the Medical Staff bylaws. In granting

and defining the scope of clinical privileges to be exercised by each practitioner, the Board of Trustees shall consider the Medical Staff's recommendations, the supporting information on which they are based, and such criteria as are set forth in the Medical Staff bylaws. No aspect of membership status or specific clinical privileges shall be limited or denied to a practitioner on the basis of sex, race, age, creed, color or national origin, or on the basis of any other non-professional qualifications, to the Corporation's purposes, needs and capabilities, or to community needs.

D. Conflict Resolution

In accordance with the Medical Staff's policies and procedures as set out in the Medical Staff Bylaws, the Board of Trustees will resolve any differences in recommendations concerning Medical Staff appointments, reappointments, terminations of appointments and the granting or revision of clinical privileges within a reasonable time.

9.4 Terms and Conditions of Medical Staff Membership and Clinical Privileges

- A. The Board of Trustees shall require that the Medical Staff establish controls that are designed to ensure the achievement and maintenance of high standards of professional and ethical practice according to the Directives.
- B. The Board of Trustees may determine the total numbers and types of practitioners on the medical or affiliate staffs, based on the physical capabilities of the Corporation, utilization of the Corporation by its staff members, and requirements for efficient use of Corporation facilities and personnel.
- C. Practitioners applying for Medical Staff membership, or for clinical privileges, must sign an agreement to abide by these Bylaws and by the Medical Staff bylaws, rules and regulations.

9.5 Due Process

- A. **Practitioners**
In holding the Medical Staff responsible for making recommendations to it, the Board of Trustees shall require that the Medical Staff bylaws shall provide for review of any adverse recommendation made to the Board of Trustees with respect to a practitioner's Medical Staff appointment, reappointment, department affiliation, staff category, admitting prerogatives, clinical privileges or corrective action. The review shall be conducted in accordance with the Board of Trustees approved Medical Staff Fair Hearing Plan then in effect. Such plan shall provide procedures to assure fair treatment of all practitioners and to afford opportunity for the presentation of all pertinent information, including the right to be heard, when requested by the practitioner.
- B. **Medical Staff-Administrative Staff**
Any physician who is also an administrative officer shall be entitled to procedural due process under the Board of Trustees approved Fair Hearing Plan then in effect. The Medical Staff-administrative officer shall be entitled to hearings by review committees of both the Medical Staff and the Board of Trustees.
- C. **Medical Staff**
If the Board of Trustees declines to follow any Medical Staff recommendation concerning Medical Staff appointments, reappointments, the assignment or curtailment of clinical privileges, or corrective action, then the Medical Staff shall be entitled to have the adverse decision of the Board of Trustees reviewed by the Board of Trustees in accordance with the Board of Trustees approved Fair Hearing Plan then in effect.

9.6 Methods for Medical Administrative Liaison

The Board of Trustees shall establish medical-administrative liaison by the following methods:

- A. Appointment of Trustees to attend Executive Committee meetings of the Medical Staff.
- B. Appointment of members of the Medical Staff to Committees of the Board of Trustees.
- C. Appointment of the President of the Medical Staff as an ex-officio member of the Board of Trustees.

9.7 Officers and Chairpersons

All elections and appointments of Medical Staff officers or chairpersons of Medical Staff committees shall be approved by the Board of Trustees after consideration of the recommendation of the President of the Medical Staff. The duties and responsibilities of such officers and committee chairpersons shall be set forth in the Medical Staff bylaws.

Article X – Related Organizations

- 10.1** Related Organizations (including but not limited to the Guild, College of Nursing, etc.) established by the Board of Trustees shall be organized into a responsible administrative unit. Each related organization shall adopt such bylaws, rules and regulations for their governance as the Corporation's Board of Trustees deems to be of greatest benefit to the Corporation.

The Board of Trustees shall review and approve any changes that are proposed for the purpose and function of each related organization.

Article XI – Indemnification

- 11.1** It is expressly provided that any and every person, or his/her estate, that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal, by reason of the fact that he/she is or was a Trustee or Officer of this Corporation, or served such other corporation in any capacity at the request of this Corporation, will be completely indemnified by this Corporation to the full extent permitted by law. If permitted by law, this indemnification shall include, but not be limited to, the payment of the following: judgments, fines, amounts paid in settlement, and reasonable expenses, including attorneys' fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeals therein. This Corporation may purchase and maintain insurance to completely and fully indemnify such person or his/her estate, whether or not this Corporation has the power to directly indemnify him or her against such liability under the laws of this or any other State. The indemnification set out in this Article shall not be limited to those circumstances where insurance coverage is or may be purchased by the Corporation.

Article XII – Dissolution

- 12.1** Upon Partners' approval of the plan of dissolution and disposition of the assets of the Corporation, the Board of Trustees, shall, after paying or making provision for the payment of all of the liabilities of the Corporation, dispose of all of the assets of the Corporation to Partners. If Partners is not in existence, the Board of Trustees shall dispose of all of the assets of the Corporation to such organization(s) organized and operated exclusively for charitable, education, religious or scientific purposes as shall at the time qualify as an exempt organization under Section 501 (c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States Internal Revenue Law), as the Board of Trustees shall determine.

Article XIII - Amendments

13.1 These Bylaws may only be amended, modified or repealed by Partners.

**BY-LAWS
of
ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC.**

A Not-for-Profit Corporation

**ARTICLE I
NAME**

1.1 NAME

The name of the Corporation is St. Lukes Home Residential Health Care Facility, Inc. (herein the Corporation or the Home).

ARTICLE II

PURPOSES:

2.1. To establish and maintain, within the State of New York, a residential health care facility to provide care to the frail, elderly and other individuals requiring skilled nursing care and/or restorative rehabilitation.

2.2 To carry on educational activities and programs incident to the purposes set forth above.

2.3. To do any other act or thing incidental to or connected with the foregoing purposes or advancement thereof, but not for the pecuniary profit or financial gain of its members, Directors or Officers, except as permitted under the New York State Not-for-Profit Corporation Law.

**ARTICLE III
MEMBERSHIP**

3.1 COMPOSITION

Mohawk Valley Health System (“MVHS” or “Member”) shall be the sole member of the Corporation.

3.2 RIGHTS OF MEMBER

MVHS shall have and exercise all the rights and powers of corporate membership created by the laws of the State of New York or the Certificate of Incorporation or By-laws of the Corporation. Certain additional powers have been delegated and reserved to MVHS in the MVHS organizational documents. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and that the Corporation coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation.
- c. To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation, and Bylaws of the Corporation;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- e. To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Corporation;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation;

-
- i. To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
 - j. To approve and coordinate the strategic plan of the Corporation;
 - k. To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
 - l. To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to Certificate of Need applications to the New York State Department of Health as required;
 - m. To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
 - n. To approve any material change in the services offered by the Corporation;
 - o. To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound; and
 - p. To accept further delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation and other MVHS Affiliates, the authority to accept, utilize, transfer and

share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's board of directors.

3.3 ANNUAL MEETING

MVHS shall, in its capacity as the member of the Corporation, hold its annual meeting each year at a time and place determined by MVHS. At the annual meeting, MVHS shall elect Directors of the Corporation, receive the annual report of the Directors of the Corporation, and transact such other business as may properly come before the meeting. Nomination for seats on the Board of Directors of the Corporation shall be submitted to MVHS prior to MVHS' annual meeting.

3.4 ANNUAL REPORT TO MEMBER

At the annual meeting of the member, the Chairperson or President, and the Treasurer of the Corporation shall present an Annual Report showing in appropriate detail the following information:

(a) a complete verified financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation;

(b) a summary of the activities of the Corporation during the preceding year.

The Annual Report shall be filed with the minutes of the annual meeting.

3.5 ACTION BY MEMBER

Except as otherwise required by law, the Certificate of Incorporation or these By-laws, any action required or permitted to be taken by MVHS in its capacity as the sole member of the Corporation may be taken by MVHS without a meeting, without prior notice and without a vote, through written consent to such action. The written consent of MVHS shall be evidenced by a written resolution of the Board of Directors of MVHS signed by an officer of MVHS and adopted in accordance with the MVHS Articles of Incorporation, By-laws, policies and/or procedures. An original signed copy of each executed written consent of MVHS shall be delivered to the Secretary of the Corporation and shall be maintained in the permanent records of the Corporation.

ARTICLE IV BOARD OF DIRECTORS

4.1 NUMBER

The Board of Directors shall consist of not less than nine (9) members.

4.2 QUALIFICATION

Directors shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

4.3 ELECTION AND TENURE

(a) Composition of Initial Board of Directors. Commencing with the meeting to be held on or about _____, 20XX, the initial board shall be

comprised of eighteen (18) Voting Directors. MVHS shall appoint sixteen (16) voting directors (the “Elected Directors”). The remaining two (2) Directors shall be the presidents of the medical staffs of Faxton-St. Luke’s Healthcare (“FSLH”) and St. Elizabeth Medical Center (“SEMC”) who shall serve ex-officio as Voting Directors.

(b) Terms of Office. The initial Elected Directors shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated.

(c) Subsequent Election. Commencing with the 20XY annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Director may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in these Bylaws. Commencing with the 20XY annual meeting, Elected Directors of the Board shall be nominated by the Governance Affairs and Ethics Committee of MVHS and shall be elected by a simple majority of the MVHS Board. The MVHS Board shall not be bound or limited to such nominees.

(d) Reappointment. Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Director’s performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(e) Non-Elected Directors. The Presidents of the Medical Staffs of SEMC and FSLH shall serve as Directors of the Corporation, coterminous with holding their respective positions.

4.4 VACANCIES

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Director, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board of MVHS. Nominees shall be presented by the Governance Affairs and Ethics Committee of MVHS, but the MVHS

Board shall not be bound or limited to such nominees. Directors selected to fill vacancies shall serve the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

4.5 REMOVAL

Each member of the Board of Directors shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Directors by a vote of two-thirds of the MVHS Directors. In addition, the Board of MVHS may remove any Director, with or without cause, upon a two-thirds (2/3) vote of the Board.

4.6 RESIGNATION/LEAVE OF ABSENCE.

(a) Resignation. Any Director may resign at any time by giving written notice to the Chairperson or to the Secretary of the Corporation. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

(b) Leave of Absence. Any Director may request a Leave of Absence of up to three (3) months for medical reasons relating to the Director, or a member of the Director's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Director. If the Chairperson requests a Leave, the request shall be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Director shall be excused from any attendance requirements and all other obligations of a Director as set forth in these Bylaws. The Director's Board position shall remain vacant during the term of the Leave, and the Director's position shall not be counted in determining the presence of a quorum.

If the Director on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the MVHS Directors at the next regular meeting of MVHS, or at a special meeting called for such purpose. Any committee positions held by the Director may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Director may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

4.7 ADDITIONAL ADVISORS

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Directors present.

4.8 MEETINGS OF DIRECTORS

(a) Annual Meeting The Board of Directors shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, selecting members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) Regular Meetings The Board of Directors shall hold at least seven (7) regular meetings annually.

(c) Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3) Directors. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) Place All meetings of the Board shall be held at the principal office of the Corporation or at such other place within this State as the Notice of Meeting shall provide.

(e) Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Director personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law or these Bylaws, the notice shall also state the purpose for which the meeting is called. Oral or written notice of

the postponement of any scheduled regular meeting shall be given to each Director not less than one (1) day before the scheduled date of such meeting.

(f) Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(g) Quorum Unless a greater or lesser number is required by law, the Certificate of Incorporation or these By-laws, a majority of the Directors entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Directors present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 4.8(e).

(h) Voting Subject to the Conflict of Interest provisions of these By-laws, and the Board's Conflict of Interest policies, each voting Director present is entitled to vote on any matter before the Board.

(i) Manner of Acting Unless otherwise required by law, the Certificate of Incorporation or these By-laws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the consent in writing of all Directors entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

(j) Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

4.9 POWERS AND FIDUCIARY OBLIGATIONS

(a) Powers Except to the extent that powers have been delegated and reserved to MVHS under these Bylaws, the administrative powers of the Corporation shall be vested

in the Board of Directors, which shall have: charge, control, and oversight of the property, funds, and affairs of the Corporation; the power to establish policies for the management and operation of the Corporation; and such other power and authority to do and perform all acts and functions for the benefit of the Corporation, not inconsistent with these By-laws or the Certificate of Incorporation. The Board of Directors shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

(b) Fiduciary Obligations The members of the Board of Directors shall at all times conduct the affairs of the Corporation in strict conformance with all applicable fiduciary and ethical standards. Each Director shall act in a manner consistent with the duty of undivided loyalty to the interests of the Corporation, the duty to maintain in confidence information concerning the affairs of the Corporation, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Corporation. The Board shall adopt such mechanisms as it deems appropriate to assist the Directors in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate, a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Corporation.

ARTICLE FIVE OFFICERS

5.1 OFFICERS

The Corporation shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Board of Directors may authorize. The Corporation shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the 20XX, 20XY, and 20XZ annual meetings shall serve a one year term, or until his/her successor has been elected. The Chairperson seated at the 20XX-20XZ annual meetings shall be selected by MVHS in accordance with its Bylaws. Commencing with the 20XA annual meeting the Chairperson and Vice-Chairperson shall be elected by MVHS s for two-year terms, or until

their successors have been duly elected and qualified. All other officers shall be elected by MVHS at the annual meeting of MVHS and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors of MVHS at any regular meeting or any special meeting called for such purpose.

5.2 CHAIRPERSON

The Chairperson shall preside at all meetings of the Board of Directors, shall appoint the members and Chairperson of each Committee in accordance with these By-laws and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 20XZ annual meeting of MVHS shall be eligible to be elected by the full Board of MVHS to serve one additional term of two (2) years, commencing in 20XA. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

5.3 VICE-CHAIRPERSON

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

5.4 CHAIR EMERITUS.

Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in these Bylaws. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the 20XX annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

5.5 SECRETARY

The Secretary shall act as Secretary of both the Corporation and the Board of Directors and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Corporation and keeping the minutes of the meetings of the Board of Directors. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Corporate records.

5.6 *TREASURER*

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and, whenever required by the Board of Directors shall render, or cause to be rendered, financial statements of the Corporation. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

5.7 *PRESIDENT*

MVHS shall appoint the President and as the Chief Executive Officer of the Corporation. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board of Directors in all matters except those for which the Board has designated the Executive Director or some other individual to act.

ARTICLE VI
COMMITTEES OF THE BOARD OF DIRECTORS

6.1 *STRUCTURE*

There shall be seven (7) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Resident Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, Investment Committee and Audit Compliance Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

6.2 PROCEDURE

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in these By-Laws or in a Resolution of the Board of Directors.

6.3 POWERS

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these By-Laws, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

6.4 COMMITTEE MEMBERS

- (a) Appointment. Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at

least every three (3) years among the members of the Board so as to promote experience and knowledge in all aspects of the operation of the Corporation.

- (b) Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.
- (c) Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.
- (d) Removal. Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

6.5 ADVISORS TO BOARD COMMITTEES

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Directors.

As deemed appropriate by the Committee Chair, members of the Corporation's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

6.6 MANNER OF ACTION

(a) Meetings. Each Committee shall meet as provided for in these By-Laws and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

(b) Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

(c) Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

(d) Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

(e) Meeting by Conference Telephone or Similar Device. Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

6.7 CONFLICT OF INTEREST

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

6.8 EXECUTIVE COMMITTEE

(a) Composition

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, and the Chairperson Emeritus.

(b) Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Corporation, subject to any prior limitations imposed by the Board, these By-Laws, or statute. In addition, the Executive Committee shall:

- (1) Review and recommend to the Board, legislative and regulatory affairs initiatives.
- (2) Review and make recommendations to the Board as to the Corporation's completion and filing of IRS Form 990 and such other reports or filings as may be required by the Internal Revenue Service.

(c) Meetings

The Executive Committee shall meet as necessary to conduct the business of the Corporation while the full Board is not in session.

6.9 FINANCE

(a) Composition

The Finance Committee shall consist of the Treasurer of the Corporation, as Committee Chairperson, and at least 6 voting Directors, at least one of whom shall have substantial accounting or financial management expertise.

(b) Functions

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Corporation and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and

oversight of the financial affairs of the Corporation and its subsidiaries. Its functions shall include:

- (1) Overseeing the Executive Director's development of a budget for the Corporation showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Board a budget developed by the Executive Director for the ensuing year;
- (3) Reviewing financial reports that report on the financial condition of the Corporation;
- (4) Reviewing and making recommendations to the Board on any request by the Executive Director for the Corporation to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;
- (5) Retaining the Corporation's independent Certified Public Accountants to provide external financial auditing to the Corporation. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Corporation and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Corporation.

-
- (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Corporation.

- (c) Meetings

The Finance Committee shall meet as needed, but not less than six (6) times per year.

6.10 QUALITY AND RESIDENT SAFETY COMMITTEE

- (a) Composition.

The Quality and Resident Safety Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a physician.

- (b) Functions.

The Quality and Resident Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of the Corporation with the programs of the other MVHS Affiliates for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance at the Corporation, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;
 - (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;

-
- (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by third parties providing services to the Corporation.
 - (2) Recommend policies and provide direction for the Corporation's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the Corporation.
 - (3) Oversee regulatory compliance, safety, infection control and such other programs as shall be required to insure continuous accreditation of the Corporation.
 - (4) Review and report to the Board on Department of Health, and other regulatory surveys and findings and any required plans of correction.
 - (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Corporation's affiliates concerning quality and performance improvement activities.
 - (7) Assist in the development of Board educational processes regarding quality and service improvement
 - (8) Oversee and review the quality of care provided at the Facility and, through designated representatives of the Board, participate and receive input at least three times annually from the Residents' Council.
- (c) Meetings

The Quality and Resident Safety Committee shall meet as shall be necessary to discharge the obligations and duties of the Committee.

6.11 GOVERNANCE AFFAIRS AND ETHICS COMMITTEE

(a) Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a Board Officer.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Board of the Corporation and developing and monitoring a Board education plan. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - (i) Conflict of Interest;
 - (ii) Policy based governance;
 - (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
- (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.

-
- (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Board and Committees of the Corporation.
 - (5) Develop an orientation process for new Board and Committee members for the Corporation, with the assistance of the Executive Director.
 - (6) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
 - (7) Periodically review, and recommend changes to the Bylaws of the Corporation to insure compliance with the mission, vision, purpose and structure of the Corporation.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at least two (2) times per year, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

6.12 EXECUTIVE COMPENSATION COMMITTEE.

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Directors recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be “Independent Directors” as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not an “Independent Director”, the Board shall appoint another Independent Director to serve in the place of the Chairperson.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the Executive Director and other employees or individuals that the Committee believes are in a position to exercise substantial influence

over the affairs of the Corporation, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations (“Disqualified Persons”). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually, performance guidelines for the Executive Director;
 - (2). Assist the board in assessing and evaluating the Executive Director’s performance;
 - (3). Review and recommend to the full Board the Executive Director's compensation, including salary, incentives, benefits and other perquisites;
 - (4) Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
 - (5) At least annually, review executive compensation to ensure that it is appropriate in view of Corporation’s tax-exempt status and take the required steps to establish a “rebuttable presumption of reasonableness” [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person’s background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Corporation’s income and assets and the number of Corporations employees;
 - d. Executive Director’s job performance;
 - e. relationship of the Executive Director’s compensation to the compensation paid to Corporation’s other employees; and
 - f. the number of hours the Executive Director spends performing his or her job.
- c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Corporation to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

6.13 INVESTMENT COMMITTEE.

(a) Composition

The Investment Committee shall consist of at least at least three (3) Directors, at least one of whom shall have significant experience in financial and/or investment matters.

(b) Functions.

The function of the Investment Committee shall be to establish investment standards and expectations and review and monitor investment performance of the managers of the investments, endowments and other funds of the Corporation, and its subsidiaries. Without limiting the foregoing, the Committee shall:

1. Review and recommend to the Board, the investment policy of the Corporation;
2. Review the performance of the investment managers and, as required, recommend changes to the Board;
3. At least semi-annually report to the Board on the investment activities and performance of the investments of the Corporation.

c. Meetings.

The Committee shall convene at least two (2) times per year or as shall be necessary to discharge its responsibilities.

6.14 AUDIT AND COMPLIANCE COMMITTEE.

(a) Composition

The Audit and Compliance Committee shall be composed of at least three (3) directors. At least a majority of the directors so appointed shall be “Independent Directors” as defined in Section 7.12(a), above.

(b) Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board of Directors in its oversight responsibilities by overseeing management’s systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Corporation. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee’s retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the corporate compliance plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.
 - b. Serve as a resource to the Compliance Officer and management on compliance issues.
 - c. Report to the Board at least semi-annually, regarding the status of the compliance plan.

c. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

ARTICLE VII

ADMINISTRATION:

SECTION 7.1 – EXECUTIVE DIRECTOR.

The Board of Directors shall select and appoint a competent nursing home administrator, duly licensed by the State of New York, who shall be the Executive Director of the Corporation and the Board's representative in the management of the residential health care facility. The Executive Director shall have the qualifications as are prescribed by the State of New York. The Executive Director shall be given the necessary authority and responsibility to operate the Facility in all its activities and departments, subject only to such policies as may be issued by the Board of Directors or by any of its committees to which it has delegated power for such action. He or she shall act as the duly authorized representative of the Board of Directors in all matters in which the Board of Directors has not formally designated some other person to act.

The authority and responsibility of the Executive Director shall include:

- (a) Working with the Board of Directors on the formulation of policies and carrying out all policies established by the Board of Directors.
- (b) Development of and submission to the Board of Directors for approval, a plan of organization of personnel and other persons concerned with the conduct of the Facility's operation.
- (c) Preparation of an annual budget showing the expected receipts and expenditures as required by the Board of Directors and regulatory agencies.
- (d) Selection, employment, control and discharge of employees, and development and maintenance of personnel policies and practices for the skilled nursing Facility.
- (e) Maintenance of physical properties in a good state of repair and operating condition.
- (f) Supervision of business affairs to insure that funds are collected and expended to the best possible advantage.
- (g) Continuing cooperation with the medical personnel and others who are involved in rendering professional health care so that safe high quality care may be rendered to residents at all times.

-
- (h) Presentation to the Board of Directors or its authorized committee of periodic reports reflecting the professional services and financial activities of the Facility and preparation and submission of such special reports as may be required by the Board of Directors and/or the New York State Department of Health, or other regulatory bodies.
 - (i) Attendance at meetings of the Board of Directors and its committees as requested by the Board.
 - (j) Preparation of a plan for the achievement of specific objectives of the Facility with a schedule for periodically reviewing and evaluating the plan.
 - (k) Serving as the Facility's representative in its relationship with other agencies.
 - (l) Performance of other duties that may be necessary in the best interests of the Facility.

ARTICLE VIII

AMENDMENTS:

These By-Laws may be amended or repealed, or new Bylaws may be adopted, only by a two-thirds (2/3) vote of the Board of Directors of the Member of the Corporation. The Board of Directors of the Corporation may propose amendments for approval by the Member or the Members may adopt, amend or repeal Bylaws on its own initiative following the procedures herein noted. The Governance Affairs and Ethics Committee shall conduct an annual review of these Bylaws and make recommendations for such amendments as may be necessary to assure compliance with all applicable laws, rules and regulations and the requirements of the Corporation's accrediting body.

ARTICLE IX

INDEMNIFICATION AND INSURANCE:

It is expressly provided that any and every person or his or her estate that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or

criminal, by reason of the fact that he or she is or was a Director or Officer of this Corporation, or served such other Corporation in any capacity at the request of this Corporation, will be completely indemnified by this Corporation to the full extent permitted by law. If permitted by law, this indemnification shall include, but not be limited to, the payment of one (1) or more of the following: judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeals therein. This Corporation may purchase and maintain insurance to completely and fully indemnify such person or his or her estate, whether or not this Corporation has the power to directly indemnify him or her against such liability under the laws of this or any other State.

ARTICLE X

TAX EXEMPT STATUS:

SECTION 10.1

Notwithstanding any other provisions of these By-laws, the Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a Corporation exempt from Federal income tax under IRC 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.

SECTION 10.2

No part of the net earnings of the Corporation shall inure to the benefit of any Director or Officer of the Corporation, or any private individual (except reasonable compensation may be paid for services rendered to or for the Corporation), and no Director or Officer of the Corporation, or any private individual shall be entitled to share in the distribution of the Corporation's assets on dissolution of the Corporation.

SECTION 10.3

No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by IRC 501(h)), and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of, or in opposition to, any candidates for public office.

SECTION 10.4

In the event of dissolution, all of the remaining assets and property of the Corporation shall, after payment of necessary expenses thereof, be distributed to MVHS or such other Corporations as shall qualify under Section 501(c)(3) of the Internal Revenue Code of 1985, subject to an Order of a Justice of the Supreme Court of the State of New York.

SECTION 10.5

In any taxable year in which the Corporation is a private foundation as described in IRC 509(a), the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under IRC 4942, and the Corporation shall not: (a) engage in any act of self-dealing as defined in IRC 4941(d); (b) retain any excess business holdings as defined in IRC 4943(c); (c) make any investments in such manner as to subject the Corporation to tax under IRC 4944; or (d) make any taxable expenditures as defined in IRC 4945(d) or corresponding provisions of any subsequent Federal tax laws.

ARTICLE XI

CONFLICT OF INTEREST:

SECTION 11.1 – POLICY

Any Director, Officer, key employee, medical staff member or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval or

ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interests.

SECTION 11.2 – EFFECT.

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions contained in the Board approved Conflicts of Policy must be observed. If so, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in discussions or deliberations with respect to such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

SECTION 11.3 – FORMAL POLICY AND PROCEDURE.

The Board shall adopt a formal Conflicts of Interest Policy requiring disclosure of existing and potential conflicts of interest, mechanisms for addressing actual and potential conflicts of interest, and corrective and disciplinary action with respect to transgressions of such policies.

BY-LAWS
OF
ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC.

A Not-For-Profit Corporation

Burrstone Road
New Hartford, New York 13413

BY-LAWS
OF
ST. LUKES HOME RESIDENTIAL HEALTH CARE FACILITY, INC.
A Not-For-Profit Corporation

ARTICLE I

NAME:

The name of the Corporation is *St. Lukes Home Residential Health Care Facility, Inc.*

ARTICLE II

PURPOSES:

The purposes of the Corporation shall be:

Section 2.1

To establish and maintain, within the State of New York, a residential health care facility to provide care to the frail, elderly and other individuals requiring skilled nursing care and/or restorative rehabilitation.

Section 2.2

To carry on educational activities and programs incident to the purposes set forth above.

Section 2.3

To do any other act or thing incidental to or connected with the foregoing purposes or advancement thereof, but not for the pecuniary profit or financial gain of its members, Directors, or Officers, except as permitted under the New York State Not-For-Profit Corporation Law.

ARTICLE III

MEMBERSHIP:

Section 3.1 - Members:

The Members of the Corporation shall be those individuals serving on the Executive and Administrative Affairs Committee ("Executive Committee") of the Board of Directors of Faxton-St. Luke's Healthcare (hereinafter "Healthcare"). At such time as a Member shall no longer serve on the Executive Committee of the Board of Directors of Healthcare, then he or she shall immediately cease to be a Member, and his or her successor on the Executive Committee shall automatically, without vote or appointment, become a Member.

Section 3.2 - Rights of Members:

The Members shall have and exercise all of the rights and powers of corporate membership created by the Not-For-Profit Corporation Law of the State of New York, or of the Articles of Incorporation or By-Laws of the Corporation, including: the right to elect Directors as set forth in Article IV herein, fill vacancies on the Board of Directors, and remove Directors in accordance with the provisions of these By-Laws; to adopt, amend, or repeal By-Laws, in accordance with §602 of the Not-For-Profit Corporation Law of the State of New York; to amend or change the Certificate of Incorporation in accordance with §802 of the Not-For-Profit Corporation Law; and to inspect the books and records of the Corporation as provided in §621 of the Not-For-Profit Corporation Law.

Section 3.3 - Annual Meeting:

The Annual Meeting of the Members shall be held each year in April at a place, time and date as designated by the Board of Directors. At the Annual Meeting, the Members shall elect Directors of the Corporation and transact such other business as may properly come before the Meeting.

Section 3.4 - Annual Report to Members:

The Chairperson and Treasurer of the Corporation shall present an Annual Report to the Members of the Corporation showing in appropriate detail the following information:

- (a) A complete verified or audited financial statement of the Corporation for the fiscal year immediately preceding the date of the Report, showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation;

- (b) A summary of the activities of the Corporation during the preceding year .

The Annual Report shall be filed with the Minutes of the meetings of the Members.

Section 3.5 - Special Meetings:

Special Meetings of the Members of the Corporation may be called by the President of Healthcare, the Board of Directors of the Corporation, or not less than three of the Members having voting rights.

Section 3.6 - Notice of Meetings:

A written or printed notice stating the place, day and hour of any meeting of Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than five (5) nor more than thirty (30) days before the date of such meeting, by or at the direction of the Chairperson, or the Secretary, or the individuals calling such meeting. In the case of a special meeting, or when required by statute or by these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. If mailed, the notice of meeting shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at his or her address as it appears on the records of the Corporation, with postage thereon prepaid.

Section 3.7 - Action by Members:

Any action required or permitted to be taken by the Members under applicable law or under the Corporation's Articles of Incorporation or these By-Laws, may be taken without a meeting, without prior notice, and without a vote, by the Members, through unanimous written consent to such action. An original signed copy of each executed written consent of the Members shall be delivered to the Secretary of the Corporation and shall be maintained in the permanent records of the Corporation.

Section 3.8 - Meeting by Conference Telephone or Similar Communications Equipment.

Any one (1) or more Members may participate in a meeting of the Members by means of a conference telephone or similar communications device which allows all participants to hear each other at the same time.

ARTICLE IV

BOARD OF DIRECTORS:

Section 4.1 - Number.

The Board of Directors shall consist of not less than nine (9) individuals.

Section 4.2 - Election of Directors.

Directors of the Corporation shall be elected at the Annual Meeting of the Members. The Directors elected at the 2003 Annual Meeting shall serve for a term of two years. Commencing with the 2005 Annual Meeting, the Directors shall be divided into three (3) classes of approximately equal size: one class shall be elected to serve a term of one (1) year; a second class shall be elected to serve a term of two (2) years; and a third class shall be elected to serve a term of three (3) years. Thereafter, the classes shall be elected to serve three (3) year terms, on a rotating basis. No elected Director shall serve more than four consecutive, full three (3) year terms.

Section 4.3 - Vacancies.

Vacancies on the Board of Directors due to the expiration of term, removal, resignation, death, disability, or for any other cause, shall be filled by the Members. The Board of Directors of the Corporation may nominate candidates to fill such vacancies, but the Members shall not be bound or limited to the Board's nominees. Directors selected to fill vacancies shall serve the unexpired portion of the term for the Board seat which had been vacated.

Section 4.4 - Powers and Duties.

The administrative powers of the Corporation shall be vested in the Board of Directors, which shall have charge, control and management of the property, funds and affairs of the Corporation; the power to elect and replace Officers and to fill vacancies amongst the Officers for unexpired terms; and such other power and authority to do and perform all acts and functions not inconsistent with these By-Laws or with any action taken by the Corporation.

The Board of Directors shall have the power to appoint standing committees, as hereinafter set forth, and such other committees as from time to time shall be deemed advisable. Each such committee shall have such number of members and such powers as shall be fixed in the Bylaws or in the Resolution of the Board of Directors creating said committee.

The Board of Directors shall be responsible for the establishment of policies and for the management and operation of the residential health care facility. It shall not enter into any agreement limiting such responsibility.

Section 4.5 - Removal.

(a) Each Member of the Board of Directors shall be required to attend at least 80% of all meetings of the Board, any committees on which he or she serves, and Board continuing education programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, shall, upon the recommendation of the Chairperson to the Members, and confirmation by the Members, be dismissed from the Board of Directors.

(b) Any Director may be removed from office by the Members at any time, with or without cause. Any Director may also be removed for cause by a vote of two-thirds (2/3) of the Directors of the Corporation. Grounds for removal for cause shall occur with respect to any Director who is declared to be of unsound mind by a court order, is convicted of a felony, fails without good cause acceptable to the Board to meeting the attendance requirements adopted by the Board, fails to fulfill the responsibilities for corporate board members specified in these Bylaws or required by law, commits fraudulent or dishonest acts, grossly abuses the authority or discretion of the office, or does any other act or makes any statement that may reflect adversely on the Corporation's standing in the community.

(c) Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Director's performance and contribution, his or her commitment to correct any deficiencies and Board and organizational needs.

Section 4.6 - Annual Meeting of the Board of Directors.

The Annual Meeting of the Board of Directors shall be held in April each year, following the Annual Meeting of the Members of the Corporation.

Section 4.7 - Notice of Annual Meeting of the Board of Directors.

Notice of the time, place and purpose of the Annual Meeting of the Board of Directors shall be served by mail, telegram, facsimile, or where authorized by the Director, by e-mail, not less than five (5), nor more than thirty (30) days before the Meeting, and shall be addressed to the Director at the Director's address as it appears in the records of the Corporation.

Section 4.8 - Regular Meeting of the Board of Directors.

The Board of Directors shall hold at least four (4) meetings annually, at such time and on such notice as determined by the Chairperson. All Regular Meetings of the Board of Directors shall be held in the office of the Corporation or such other place as may be designated by the Chairperson or by the Board of Directors.

Section 4.9 - Special Meeting of the Board of Directors.

Special Meetings of the Board of Directors may be called as necessary, from time to time, by the Chairperson, or by a majority of the Board of Directors, to be held at the offices of the Corporation, or such other place within the County of Oneida, as may be designated by the Chairperson or by the Board of Directors.

Section 4.10 - Notice of Regular and Special Meetings.

Directors shall be given reasonable notice of the date, time, place and purposes of Regular and Special Meetings of the Board, as determined by the Chairperson. Unless circumstances require a shorter time or different method for giving notice, such notice shall be served by mail, telegram, facsimile, or where authorized by the Director, by e-mail, at least five (5) days, but not more than thirty (30) days, before the date of the Regular meetings and three (3) days before the date of Special Meetings, and shall be addressed to the Director at his or her address, as it appears on the records of the Corporation.

Section 4.11 - Quorum.

At any Annual, Regular or Special Meetings of the Board of Directors, there shall be at least fifty percent (50%) of the then sitting Directors present, in person or by proxy, entitled to vote at such Meetings to constitute a quorum for the transaction of business, but less than a quorum may adjourn such Meeting from time to time without notice or until a quorum is present.

Section 4.12 - Action Without a Meeting.

Any actions required or permitted to be taken by the Board of Directors, or by a committee of the Board of Directors, may be taken without a meeting, if all members of the Board or Committee consent in writing to the adoption of a Resolution authorizing the action. The Resolution and the written consents shall be filed with the Minutes of the Board or committee proceedings.

Section 4.13 - Meeting by Conference Telephone or Similar Communications Equipment.

Any one (1) or more members of the Board of Directors or a committee of the Board of Directors may participate in a meeting of the Board or committee by means of a conference telephone or similar communications device which allows all participants to hear each other at the same time.

ARTICLE V

Section 5.1 - Officers.

The Board of Directors shall have a Chairperson, a Vice Chairperson, a President, a Secretary and a Treasurer, and such Vice Presidents as the Board of Directors may authorize. All Officers, except the President and any Vice Presidents, shall be chosen from among the members of the Board of Directors. The Chairperson and Vice Chairperson shall be elected for two-year terms, or until their successors have been duly elected and qualified. The Officers shall be elected at the first meeting of the Board of Directors following the Annual Meeting of the Members of the Corporation. All other Officers shall hold office until the corresponding meetings in the next year or until his or her successor shall have been duly elected and qualify. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors at any Regular Meeting or at any Special Meeting called for such purpose.

Section 5.2 - Chairperson.

The Chairperson shall preside at all meetings of the Board of Directors, and except as otherwise stated herein, shall be an ex-officio member of all committees. The Chairperson shall have the power, with the Treasurer, to execute all annual or other reports or statements of the Corporation which may be required by law, and shall have, subject to the approval of the Board of Directors, general oversight of the affairs of the Corporation and perform all duties incidental to the office.

Section 5.3 - Vice Chairperson.

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice Chairperson shall exercise all the power of the Chairperson. The Vice Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

Section 5.4 - President.

The President shall have such power to perform such duties and execute such documents on behalf of the Corporation as may be assigned or authorized by Order of the Board of Directors.

Section 5.5 - Secretary.

The Secretary shall keep the Minutes of the meetings of the Members and of the Board of Directors. The Secretary shall be responsible for the giving and serving of all notices of

meetings of the Members and of the Board of Directors of the Corporation, shall be the custodian of the Corporate Records, and shall, in general, perform all duties usually incident to the office of the Secretary and such other duties as may, from time to time, be assigned by the Board of Directors.

Section 5.6 - Treasurer.

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate. The Treasurer shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and whenever required by the Board of Directors, shall render or cause to be rendered, financial statements of the Corporation. The Treasurer shall prepare and execute, with the Chairperson, and file any annual report or reports or statements, which may be required by law.

Section 5.7 - Bonds.

The Board of Directors shall have the power to require any Officer or employee of the Corporation to give bond for the faithful discharge of his or her duties in such form and with such surety as the Board of Directors may deem advisable.

ARTICLE VI

COMMITTEES OF THE BOARD OF DIRECTORS:

Section 6.1 - Committees of the Board of Directors.

There shall be four (4) Standing Committees of the Board: Executive and Administrative Affairs Committee, Finance Committee, Governance Affairs and Ethics Committee and Quality Care Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

Section 6.2 - Procedure

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in these Bylaws or in a Resolution of the Board of Directors.

Section 6.3 - Powers

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these Bylaws, or in a Resolution adopted by the full Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting in April.

Section 6.4 - Committee Members

- (a) Appointment. At each annual meeting, the Chairperson of the Board shall recommend, for Board approval, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated among the members of the Board every three (3) years so as to promote experience and knowledge in all aspects of the operation of the Corporation.
- (b) Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.
- (c) Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.
- (d) Removal. Any member of a Board Committee may be removed at any time by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

Section 6.5 - Advisors and Ex Officio Members of Board Committees

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee either as advisors or ex officio members of the Committee. Such advisors and/or ex officio members shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors and ex officio members need not be Directors of the Corporation.

Section 6.6 - Manner of Action

- (a) Meetings. Each Committee shall meet as provided for in these Bylaws and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.
- (b) Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.
- (c) Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.
- (d) Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action with the relevant Minutes of the Committee.
- (e) Conference Telephone. Any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

Section 6.7 - Conflict Of Interest

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

Section 6.8 - Executive And Administrative Affairs Committee

- (a) Composition. The Executive and Administrative Affairs Committee (herein "Executive Committee") shall consist of not less than three (3) members of the Board of Directors. The Executive Director of the Corporation shall serve as an advisor to the Committee.
- (b) Functions. When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Corporation, subject to any prior limitations imposed by the Board, these Bylaws, or statute. In addition, the Executive Committee shall develop and recommend, for approval by the Board, Board policies governing the process of Executive Director and Executive Management Performance Evaluation and Compensation; oversee employee relations and negotiating strategy; and develop policies for approval by the Board and provide oversight in the development of employment contracts for Executive Management and employed physicians
- (c) Meetings. The Executive Committee shall meet at least once annually and as otherwise necessary to conduct the business of the Corporation while the full Board is not in session.

Section 6.9 - Finance Committee.

- (a) Composition. The Finance Committee shall consist of not less than three (3) members of the Board of Directors. The Executive Director and the Chief Financial Officer of the Corporation shall serve as advisors to the Committee.
- (b) Functions. The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Corporation and shall develop and recommend for Board approval, polices and procedures which will enable the Board to provide appropriate direction and oversight of the financial affairs of the Corporation.
- (c) Meetings. The Finance Committee shall meet as needed.

Section 6.10 - Quality Committee

- (a) Composition. The Quality Committee shall consist of not less than three (3) members of the Board of Directors. The Facility's Medical Director and Executive Director shall serve as advisors to the Committee.
- (b) Functions. The Quality Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program to attain the highest possible level of care for the residents of the Facility. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service improvement, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;
 - (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;
 - (2) Recommend policies and provide direction for the Facility's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the Corporation.
 - (3) Oversee JCAHO compliance and safety and infection control programs.
 - (4) Review and report to the Board on Department of Health and other regulatory surveys and findings, and any required plans of correction.
 - (5) Oversee and review the quality of care provided at the Facility and, through designated representatives of the Board, participate and receive input at least three times annually from the Residents' Council.
 - (6) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Discharge Planning Programs, and other executive level data impacting organizational quality performance.
 - (7) Provide reports to the Board of Directors and Quality and Patient Safety Committee of Faxton - St. Luke's Healthcare and Mohawk Valley Network, Inc., as requested.
 - (8) Perform such other duties as may be assigned to it by the Board or the Committee Chairperson.
- (c) Meetings. The Quality Committee shall meet at least quarterly, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

Section 6.11 - Governance Affairs And Ethics Committee

- (a) Composition. The Governance Affairs and Ethics Committee shall consist of not less than three (3) members of the Board of Directors. The Executive Director and, as necessary, the corporation's legal counsel shall serve as advisors to the Committee.

- (b) Functions. The Governance Affairs and Ethics Committee is charged with making policy recommendations to the Board regarding the organization, functioning, and performance of the Corporation's governance system; developing and monitoring a Board education plan; and nominating annually and when vacancies occur, all directors and officers of the Corporation.
- (c) Meetings. The Governance Affairs and Ethics Committee shall meet as necessary to discharge the obligations and duties of the Committee.

ARTICLE VII

ADMINISTRATION:

Section 7.1 - Executive Director .

The Board of Directors shall select and appoint a competent nursing home administrator, duly licensed by the State of New York, who shall be the Executive Director of the Corporation and the Board's representative in the management of the residential health care facility. The Executive Director shall have the qualifications as are prescribed by the State of New York. The Executive Director shall be given the necessary authority and responsibility to operate the Facility in all its activities and departments, subject only to such policies as may be issued by the Board of Directors or by any of its committees to which it has delegated power for such action. He or she shall act as the duly authorized representative of the Board of Directors in all matters in which the Board of Directors has not formally designated some other person to act.

The authority and responsibility of the Executive Director shall include:

- (a) Working with the Board of Directors on the formulation of policies and carrying out all policies established by the Board of Directors.
- (b) Development of and submission to the Board of Directors for approval, a plan of organization of personnel and other persons concerned with the conduct of the Facility's operation.
- (c) Preparation of an annual budget showing the expected receipts and expenditures as required by the Board of Directors and regulatory agencies.
- (d) Selection, employment, control and discharge of employees, and development and maintenance of personnel policies and practices for the skilled nursing Facility.
- (e) Maintenance of physical properties in a good state of repair and operating condition.
- (f) Supervision of business affairs to insure that funds are collected and expended to the best possible advantage.
- (g) Continuing cooperation with the medical personnel and others who are involved in rendering professional health

care so that safe high quality care may be rendered to residents at all times.

- (h) Presentation to the Board of Directors or its authorized committee of periodic reports reflecting the professional services and financial activities of the Facility and preparation and submission of such special reports as may be required by the Board of Directors and/or the New York State Department of Health, or other regulatory bodies.
- (i) Attendance at meetings of the Board of Directors and its committees as requested by the Board.
- (j) Preparation of a plan for the achievement of specific objectives of the Facility with a schedule for periodically reviewing and evaluating the plan.
- (k) Serving as the Facility's representative in its relationship with other agencies.
- (l) Performance of other duties that may be necessary in the best interests of the Facility.

ARTICLE VIII

AMENDMENTS:

These By-Laws may be amended or repealed, or new Bylaws may be adopted, only by the Members of the Corporation. The Board of Directors of the Corporation may propose amendments for approval by the Members or the Members may adopt, amend or repeal Bylaws on their own initiative following the procedures herein noted. Proposed amendments require a majority vote of the Board of Directors taken at any regular or special meeting. At least ten (10) days' written notice shall be given of the intention to take such action. The Governance Affairs and Ethics Committee shall conduct an annual review of these Bylaws and make recommendations for such amendments as may be necessary to assure compliance with all applicable laws, rules and regulations and the requirements of the JCAHO.

ARTICLE IX

INDEMNIFICATION AND INSURANCE:

It is expressly provided that any and every person or his or her estate that is made or is threatened to be made a party to any action, suit or proceeding, whether civil or criminal, by reason of the fact that he or she is or was a Director or Officer of this Corporation, or served such other Corporation in any capacity at the request of this Corporation, will be completely indemnified by this Corporation to the full extent permitted by law. If permitted by law, this indemnification shall include, but not be limited to, the payment of one (1) or more of the following: judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeals therein. This Corporation may purchase and maintain insurance to completely and fully indemnify such person or his or her estate, whether or not this Corporation has the power to directly indemnify him or her against such liability under the laws of this or any other State.

ARTICLE X

TAX EXEMPT STATUS:

Section 10.1

Notwithstanding any other provisions of these By-laws, the Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a Corporation exempt from Federal income tax under IRC 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.

Section 10.2

No part of the net earnings of the Corporation shall inure to the benefit of any Member, Director, Officer of the Corporation, or any private individual (except reasonable compensation may be paid for services rendered to or for the Corporation), and no Member, Director, Officer of the Corporation or any private individual shall be entitled to share in the distribution of the Corporation's assets on dissolution of the Corporation.

Section 10.3

No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by IRC 501(h)), and the Corporation shall not participate in, or intervene in, including the publication or distribution of statements, any political campaign on behalf of, or in opposition to, any candidates for public office.

Section 10.4

In the event of dissolution, all of the remaining assets and property of the Corporation shall, after payment of necessary expenses thereof, be distributed to Faxton-St. Luke's Healthcare or such other Corporations as shall qualify under Section 501(c)(3) of the Internal Revenue Code of 1985, subject to an Order of a Justice of the Supreme Court of the State of New York.

Section 10.5

In any taxable year in which the Corporation is a private foundation as described in IRC 509(a), the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under IRC 4942, and the Corporation shall not: (a) engage in any act of self-dealing as defined in IRC 4941(d); (b) retain any excess business holdings as defined in IRC 4943(c); (c) make any investments in such manner as to subject the Corporation to tax under IRC 4944; or (d) make any taxable expenditures as defined in IRC 4945(d) or corresponding provisions of any subsequent Federal tax laws.

ARTICLE XI

CONFLICT OF INTEREST:

Section 11.1 - Policy

Any Director, Officer, key employee, medical staff member or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval or ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interests.

Section 11.2 - Effect.

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions contained in the Board approved Conflicts of Policy must be observed. If so, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in discussions or deliberations with respect to such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

Section 11.3 - Formal Policy and Procedure.

The Board shall adopt a formal Conflicts of Interest Policy requiring disclosure of existing and potential conflicts of interest, mechanisms for addressing actual and potential conflicts of interest, and corrective and disciplinary action with respect to transgressions of such policies.

OPERATING AGREEMENT

This Agreement, dated March 19, 1999 and amended April 9th, 2008, August 15, 2013 and _____, 2013, is among the individuals and entities signing below.

WHEREAS, the parties hereto desire to form a limited liability company known as **MOHAWK VALLEY HOME CARE, L.L.C.** pursuant to the New York Limited Liability Company Law;

WHEREAS, the parties hereto desire to establish their respective rights and obligations pursuant to the New York Limited Liability Company Law in connection with forming such a limited liability company;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

ARTICLE I Definitions

1.1 **Definitions.** In this Agreement, the following terms shall have the meanings set forth below:

a. "Articles of Organization" shall mean the Articles of Organization of the company filed or to be filed with the New York Secretary of State, as they may from time to time be amended.

b. "Board of Managers" shall have the meaning as set forth in Section 5.1.

c. "Capital Account" as of any date shall mean the capital contribution to the Company by a Member, as adjusted pursuant to this Agreement.

d. "Capital Contribution" shall mean any contribution by a Member to the capital of the Company in cash, property or services rendered or a promissory note or other obligation to contribute cash or property or to render services.

e. "Code" shall mean the Internal Revenue Code of 1986, as amended, or any superseding federal revenue statute.

f. "Company" shall refer to **Mohawk Valley Home Care, L.L.C.**

g. "Distribution" means any cash and other property paid to a Member by the Company from the operations of the Company.

h. "Fiscal Year" shall mean the fiscal year of the Company, which shall be

the year ending December 31.

i. "Membership Interests" shall mean, with respect to the Company and with respect to any Member, the Membership Interest set forth after the Member's name on **Exhibit" A"** to this Agreement, as such Membership Interests shall be adjusted from time to time to reflect additional Capital Contributions or withdrawals from the Company but subject to Section 11.5 hereof.

j. "Manager" shall mean each person or entity listed in the Articles of Organization or in Exhibit "B" to this Agreement as a manager of the Company or any other person or entity that succeeds such person or entity as a manager pursuant to this Agreement.

k. "Member" shall mean Mohawk Valley Health System (the "Member" or "MVHS").

l. "Net Losses" shall mean an amount equal to the Company's taxable loss for such year or period, determined in accordance with Code Section 703 (a). For this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss.

m. "Net Profits" shall mean an amount equal to the Company's taxable income for such year or period, determined in accordance with Code Section 703(a). For this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss.

n. "New York Act" shall mean the New York Limited Liability Company Act.

o. "Person" shall mean any corporation, governmental authority, limited liability company, Partnership, trust, unincorporated association or other entity.

p. "Selling Member" shall mean a Member desiring to sell a Membership Interest.

q. "Treasury Regulations" shall mean all proposed, temporary and final regulations promulgated under the Code as from time to time *in effect*.

ARTICLE II Organization

2.1 **Formation.** One or more Persons has acted as an organizer or organizers to form a *limited* liability Company by preparing, executing and filing with the New York Secretary of State the Articles of organization pursuant to the *New York Act*.

2.2. **Name.** The name of the Company is **Mohawk Valley Home Care, L.L.C.**

2.3 **Principal Place of Business.** The principal place of business of the company within the State of New York shall be 1650 Champlin Avenue, Utica, New York 13502. The Company may establish any other places of business as the Manager may from time to time deem advisable.

2.4 **Registered Agent.** The Company shall not have a registered agent.

2.5 **Term.** The Company shall continue in existence following the date of filing of the Articles of Organization with the New York Secretary of State, until the Company is dissolved pursuant to this Agreement or the New York Act.

2.6 **Purposes.** The Company is formed for any lawful business purpose or purposes.

ARTICLE III Members

3.1 **Names and Addresses.** The names and addresses of the Members are as set forth in Exhibit "A" to this Agreement.

3.2 **Additional Members.** A Person may be admitted as a member after the date of this Agreement upon the vote or written consent of a majority of Membership Interests.

3.3 **Books and Records.** The Company shall keep books and records of accounts and minutes of all meetings of the members. Except as modified or amended by the manager, such books and records shall be maintained on an accrual basis in accordance with this Agreement.

3.4 **Information.** Each Member may inspect during ordinary business hours and at the principal place of business of the Company the Articles of Organization, the Operating Agreement, the minutes of any meeting of the Members and any tax returns of the Company for the immediately preceding three (3) Fiscal Years.

3.5 **Limitation of Liability.** Each Member's liability shall be limited to the greatest extent permitted under the New York Act. A Member shall not be personally liable for any indebtedness, liability or obligation of the Company, except that such Member shall remain personally liable for the payment of his Capital Contribution.

3.6 **Priority and Return of Capital.** No Member shall have priority over any other Member, whether for the return of a Capital Contribution or for Net Profits, Net Losses or a Distribution; provided, however, that this Section shall not apply to loans or other indebtedness (as distinguished from a Capital Contribution) made by a Member to the Company.

3.7. Liability of a Member to the Company. A Member who rightfully receives the return of any portion of a Capital Contribution is liable to the Company only to the extent now or hereafter provided by the New York Act. A Member who receives a Distribution made by the Company in violation of this Agreement or made when the Company's liabilities exceed its assets (after giving effect to such Distribution) shall be liable to the Company for the amount of such Distribution.

3.8. Financial Adjustments. No Members admitted after the date of this Agreement shall be entitled to any retroactive allocation of losses, income or expense deductions incurred by the Company. The Board of Managers may, at the discretion of the Board of Managers, at the time a Member is admitted, close the books and records of the Company (as though the Fiscal Year had ended) or make pro rata allocations of loss, income and expense deductions to such member for that portion of the Fiscal Year in which such Member was admitted in accordance with the Code.

3.9. Disposition of Membership Interest or Voting Rights: That transfers, assignments or other disposition of membership interests or voting rights must be effectuated in accordance with Section 3611-a(1) of the Public Health Law.

ARTICLE IV **ROLE OF MEMBERS**

4.1. Rights or Powers. Except as otherwise specifically set forth herein, the Member shall have no rights or powers to take part in the management and control of the Company and its business and affairs. Notwithstanding the foregoing, the Member shall have the following rights and powers:

- a. To approve and interpret the statement of mission and philosophy adopted by the Company, to require that the Company operate in conformance with its mission and philosophy and that the Company coordinate its mission, vision, activities and resources with the other Affiliates of the Member in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the Managers of the Company, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Company.
- c. To amend or repeal the Articles of Organization and Operating Agreement, and to adopt any new or restated Articles of Organization and Operating Agreement, of the Company;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Company;
- e. To approve the debt of the Company in excess of an amount to be fixed from time to time by the Member.

- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Company in excess of an amount to be fixed from time to time by the Member.
- g. To approve the capital and operating budgets of the Company;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Company;
- i. To approve any reorganization of the Company and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Company with the other Affiliates of the Member, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
- j. To approve the strategic plan of the Company;
- k. To the extent applicable, to approve all contracts of reimbursement for the Company from governmental or private third party insurers;
- l. To the extent applicable, to approve all applications of the Company to federal or state governmental agencies for establishment or operating licensure, including but not limited to applications to the New York State Department of Health as required;
- m. To the extent applicable, to approve management contracts for the Company subject to approval and/or regulation under the laws and regulations of the State of New York;
- n. To approve any material change in the services offered by the Company;
- o. To require the Company to participate in any and all programs and services, as determined by the Member in its discretion, provided, however, that the Member may not require the Company to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Company is a party and by which it is bound; and
- p. To accept further delegations of authority on behalf of the Company and exercise on behalf of the Company and other Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to applicable law and until all approvals required by law have first been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, the Member shall have: (i) the power to initiate and direct action by the Company without a prior recommendation of the Company's board of

managers; and (ii) the power to accept, reject or modify the recommendation of the Company's Board of Managers and to direct action by the Company or to return the matter to the Board of Managers of the Company for reconsideration, with reasons for rejection and/or suggested change. The Board of Managers and officers of the Company shall not implement any action requiring the approval of the Member until the Member shall have exercised its reserve powers and communicated its determinations in writing to the Company's Board of Managers.

4.2 **Annual Meeting.** The Member shall, hold its annual meeting each year in April or May at a time and place determined by the Member. At the annual meeting, the Member shall elect Managers of the Company, receive the annual report of the Managers of the Company, and transact such other business as may properly come before the meeting. Nomination for seats on the Board of Managers of the Company shall be submitted to the Member prior to the Member's annual meeting.

4.3 **Annual Report to Member.** At the annual meeting of the Member, the Chairperson or President, and the Treasurer of the Company shall present an Annual Report showing in appropriate detail the following information:

(a) a complete verified financial statement of the Company for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Company;

(b) a summary of the activities of the Company during the preceding year.
The Annual Report shall be filed with the minutes of the annual meeting.

4.4 **Notice.** The Secretary shall give the Members notice of the annual meeting, or any special meetings of the Members, at least ten (10) days, but not more than thirty (30) days, before the date of said meeting. The notice shall specify the place and time of the meeting and, in the case of special meetings, the purposes for which the meeting is called.

4.5 **Special Meetings of Members and Means of Voting.**

(a) Special meetings of Members may be called by the Board of Managers and shall be called upon the written request of any Member. The notice shall state the nature of the business to be transacted. Notice of any such meeting shall be given to all Members not less than two (2) days prior to the date of such meeting. Members may vote in person or by proxy at such meeting. Whenever the vote or consent of Members is permitted or required under the Agreement, such vote or consent may be given at a meeting of Members or may be given in writing. The participation of a Member at a meeting may be by means of conference, telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other. Such participation shall constitute presence in person at the meeting for the purposes hereunder. The affirmative vote of all Members shall be required for any action.

(b) Each Member may authorize any Person or Persons to act for him by proxy on all matters in which a Member is entitled to participate, whether by waiving notice of or voting or participating at a meeting. Every proxy must be signed by the Member or

his/her attorney-in-fact. No proxy shall be valid after the expiration of eleven months from the date thereof unless otherwise provided in the proxy. Unless otherwise specifically stated therein, every proxy shall be revocable at the pleasure of the Member executing the same.

(c) Each corporate Member may authorize any Person to act for it. Such authorization shall be by resolution adopted by the corporate Member in accordance with its By-laws.

4.6 **Action by Member.** Except as otherwise required by law, the Articles of Organization or this Agreement, any action required or permitted to be taken by the Member of the Company may be taken without a meeting, without prior notice and without a vote, through written consent to such action. The written consent of the Member shall be evidenced by a written resolution of the Board of Directors of the Member signed by an officer of the Member and adopted in accordance with the its Articles of Incorporation, By-laws, policies and/or procedures. An original signed copy of each executed written consent of the Member shall be delivered to the Secretary of the Company and shall be maintained in the permanent records of the Company.

SECTION V **MANAGEMENT**

5.1 **Appointment of Board of Managers.** The Company shall have at least three (3) Managers to be appointed by the Member. The number of Managers of the Company may be amended from time to time by the unanimous vote or written consent of all membership interests. The Managers shall be collectively referred to as the Managers, Board of Managers or the Board. The members of the Board of Managers are set forth in Exhibit B, as may be amended from time to time.

5.2 **Qualification**

Managers shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

5.3 **Election and Tenure.**

(a) **Composition of the Board of Managers.** Commencing with the meeting to be held on or about _____, 20XX, the initial Board shall be comprised of eighteen (18) Voting Managers. MVHS shall appoint sixteen (16) voting Managers (the "Elected Managers"). The remaining two (2) Managers shall be the presidents of the medical staffs of Faxton-St. Luke's Healthcare ("FSLH") and St. Elizabeth Medical Center ("SEMC") who shall serve ex-officio as Voting Managers.

(b) **Terms of Office.** The initial Elected Managers shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated.

(c) **Subsequent Election.** Commencing with the 20XY annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Managers whose terms are expiring. An Elected Manager shall serve for a term of four (4)

years or until his or her successor shall have been elected. No Elected Manager may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in this Agreement. Commencing with the 20XY annual meeting, Elected Managers of the Board shall be nominated by the Governance Affairs and Ethics Committee of MVHS and shall be elected by a simple majority of the MVHS Board. The MVHS Board shall not be bound or limited to such nominees.

(d) Reappointment. Manager reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Manager's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(e) Non-Elected Managers. The Presidents of the Medical Staffs of SEMC and FSLH shall serve as Managers of the Corporation, coterminous with holding their respective positions.

5.4 Vacancies.

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Manager, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board of MVHS. Nominees shall be presented by the Governance Affairs and Ethics Committee of MVHS, but the MVHS Board shall not be bound or limited to such nominees. Managers selected to fill vacancies shall serve the remainder of the term of the Manager whose seat has been vacated or until a successor has been elected.

5.5 Removal.

Each member of the Board of Managers shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Manager who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Managers by a vote of two-thirds of the MVHS Directors. In addition, the Board of MVHS may remove any Manager, with or without cause, upon a two-thirds (2/3) vote of the Board.

5.6 Resignation/Leave of Absence.

(a) Resignation. Any Manager may resign at any time by giving written notice to the Chairperson or to the Secretary of the Company. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

(b) Leave of Absence. Any Manager may request a Leave of Absence of up to three (3) months for medical reasons relating to the Manager, or a member of the Manager's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Manager. If the Chairperson requests a Leave, the request shall be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Manager shall be excused from any attendance requirements and all other obligations of a Manager as set forth in these Bylaws. The

Manager's Board position shall remain vacant during the term of the Leave, and the Manager's position shall not be counted in determining the presence of a quorum.

If the Manager on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the MVHS Directors at the next regular meeting of MVHS, or at a special meeting called for such purpose. Any committee positions held by the Manager may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Manager may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

5.7 Additional Advisors.

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Managers present.

5.8 Meetings of Managers.

(a) Annual Meeting The Board of Managers shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, selecting members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) Regular Meetings The Board of Managers shall hold at least seven (7) regular meetings annually.

(c) Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3) Managers. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) Place All meetings of the Board shall be held at the principal office of the Company or at such other place within this State as the Notice of Meeting shall provide.

(e) Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Manager personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law, the notice shall also state the purpose for which the meeting is called. Oral or written notice of the postponement of any scheduled regular meeting shall be given to each Manager not less than one (1) day before the scheduled date of such meeting.

(f) Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(g) Quorum Unless a greater or lesser number is required by law, the Articles of Organization or this Agreement, a majority of the Managers entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Managers present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 5.8(e).

(h) Voting Subject to the Conflict of Interest provisions in the Board's Conflict of Interest policies, each voting Manager present is entitled to vote on any matter before the Board.

(i) Manner of Acting Unless otherwise required by law, the Articles of Organization or this Agreement, the act of a majority of the Managers present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the consent in writing of all Managers entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

(j) Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

5.9 Powers.

(a) Powers Except to the extent that powers have been delegated and reserved to MVHS, the administrative powers of the Company shall be vested in the Board of Managers, which shall have: charge, control, and oversight of the property, funds, and affairs of the Company, the power to establish policies for the management and operation of the Company, and such other power and authority to do and perform all acts and functions for the benefit of the Company, not inconsistent with this Agreement or the Articles of Organization. The Board of Managers shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

(b) Fiduciary Obligations The members of the Board shall at all times conduct the affairs of the Company in strict conformance with all applicable fiduciary and ethical standards. Each Manager shall act in a manner consistent with the duty of undivided loyalty to the interests of the Company, the duty to maintain in confidence information concerning the

affairs of the Company, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Company. The Board shall adopt such mechanisms as it deems appropriate to assist the Managers in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate, a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Company.

5.10 **Right to Rely on Manager.** Any Person dealing with the Company may rely upon a certificate signed by any Officer of the Board of Managers as to:

- (a) the identity of any Manager or Member;
- (b) the existence or nonexistence of any fact or facts which constitute a condition precedent to acts by the Board or which are in any other manner germane to the affairs of the Company;
- (c) the Persons who are authorized to execute and deliver any instrument or document on behalf of the Company; or
- (d) any act or failure to act by the Company or any other matter whatsoever involving the Company or any Member.

5.11 **Compensation and Expenses of Managers.**

(a) Except as otherwise set forth in this Agreement, no Manager shall receive any fees or other compensation for serving as a Manager, unless such fees or other compensation are approved by the Members.

5.12 **Operations Restrictions.**

- (a) The Company shall at all times be operated in compliance with the tax-exempt status under Code Section 501(c)(3) of the tax-exempt Members.
- (b) No rebates, kickbacks, or reciprocal arrangements may be received or entered into by any Managers, nor may any Managers participate in any business arrangement which would circumvent this Agreement.
- (c) The funds of the Company shall not be commingled with the funds of any other Person.
- (d) The signature of an Officer of the Board of Managers shall be necessary to convey title to any real property owned by the Company or to execute any promissory notes, trust deeds, mortgages or other instruments of hypothecation, and all of the Members agree that a copy of this Agreement may be shown to the appropriate parties in order to confirm the same, and further agree that the signature of such Officer shall be sufficient to execute any documents necessary to effectuate this or any other provision of this Agreement.

5.13 **Indemnification of Managers.**

(a) Unless otherwise provided in this Agreement, the Company, its receiver, or its trustee (in the case of its receiver or trustee, to the extent of Company property)

shall indemnify, save harmless and pay all judgments and claims against any Manager relating to any liability or damage incurred by reason of any act performed or omitted to be performed by any Manager in connection with the Business, including attorneys' fees and related expenses incurred by such Manager in connection with the defense of any action based on any such act or omission, which attorneys' fees and expenses may be paid as incurred. In the event of a determination that such Manager is not entitled to indemnification, such Manager shall promptly repay any such fees or expenses paid by the Company.

(b) Unless otherwise provided for in this Agreement, in the event of any action by a Member against any Manager, including a Company derivative suit, the Company shall indemnify, save harmless and pay all expenses of such Manager, including reasonable attorneys' fees incurred in the defense of such action, if such Managers are successful in such action.

(c) Notwithstanding the provisions of Section 6.15(a) and 6.15(b) above, such Sections shall be enforced only to the maximum extent permitted by law and no Manager shall be indemnified from any liability for fraud, intentional misconduct, gross negligence or knowing violation of law which was material to the cause of action.

5.14 **Officers.** The Board of Managers shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Members may authorize. The Company shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the 20XX, 20XY, and 20XZ annual meetings shall serve a one year term, or until his/her successor has been elected. The Chairperson seated at the 20XX-20XZ annual meetings shall be selected by the Member in accordance with its Bylaws. Commencing with the 20XA annual meeting the Chairperson and Vice-Chairperson shall be elected by the Member for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected by the Member at the annual meeting of the Member and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors of the Member at any regular meeting or any special meeting called for such purpose.

5.15 **Chairperson.** The Chairperson shall preside at all meetings of the Board of Managers, shall appoint the members and Chairperson of each Committee in accordance with this Agreement and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 20XZ annual meeting of the Member shall be eligible to be elected by the full Board of the Member to serve one additional term of two (2) years, commencing in 20XA. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

5.16 **Vice Chairperson.** In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Company as may be authorized by order of the Board.

5.17 **Chair Emeritus.** Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in this Agreement. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the 20XX annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

5.18 **Secretary.** The Secretary shall act as Secretary of both the Company and the Board and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Company and keeping the minutes of the meetings of the Board. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Company records.

5.19 **Treasurer.** The Treasurer shall have general supervision over the care and custody of all funds and securities of the Company except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Company in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board, or any committee designated and vested with such power by the Board, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Company and, whenever required by the Board shall render, or cause to be rendered, financial statements of the Company. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

5.20 **President.** The Member shall appoint the President and the Chief Executive Officer of the Company. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board in all matters except those for which the Board has designated the Executive Director, or some other individual to act.

SECTION VI COMMITTEES OF THE BOARD OF MANAGERS

6.1 Structure.

There shall be six (6) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, and Audit and Compliance Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

6.2 **Procedure.**

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in this Agreement or in a Resolution of the Board.

6.3 **Powers.**

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in this Agreement, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

6.4 **Committee Members.**

- (a) **Appointment.** Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to promote experience and knowledge in all aspects of the operation of the Company.
- (b) **Tenure.** Each member of a Board Committee shall hold office until the next annual election of Managers and until his or her successor is elected, unless he or she sooner ceases to be a Manager or resigns or is removed from the Committee.
- (c) **Resignation.** Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.
- (d) **Removal.** Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) **Vacancies.** Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee,

may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

6.5 **Advisors to Board Committees.** The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Managers.

As deemed appropriate by the Committee Chair, members of the Company's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

6.6 **Manner of Action.**

(a) **Meetings.** Each Committee shall meet as provided for in this Agreement and at such additional times as may be necessary to perform its duties. Meetings of a Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

(b) **Agenda/Minutes.** There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

(c) **Quorum.** A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

(d) **Action.** The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

(e) **Meeting by Conference Telephone or Similar Device.** Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the

meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

6.7 **Conflict of Interest.** Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board.

6.8 **Executive Committee.**

(a) **Composition**

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, and the Chairperson Emeritus.

(b) **Functions**

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Company, subject to any prior limitations imposed by the Board, this Agreement, or statute

(c) **Meetings**

The Executive Committee shall meet as necessary to conduct the business of the Company while the full Board is not in session.

6.9 **Finance.**

(a) **Composition**

The Finance Committee shall consist of the Treasurer of the Company, as Committee Chairperson, and at least 6 voting Members, at least one of whom shall have substantial accounting or financial management expertise.

(b) **Functions**

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Company and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and oversight of the financial affairs of the Company. Its functions shall include:

- (1) Overseeing the Executive Director's development of a budget for the Company showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Member a budget developed by the Executive Director for the ensuing year;
- (3) Reviewing financial reports that report on the financial condition of the Company;
- (4) Reviewing and making recommendations to the Board and the Member on any request by the Executive Director for the Company to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;

- (5) Retaining the Company's independent Certified Public Accountants to provide external financial auditing to the Company. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Company and the firm so that changes can be made if necessary; and assuring the firm's independence.
 - d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Company.
- (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Company.

(c) Meetings

The Finance Committee shall meet as needed.

6.10 **Quality and Safety Committee.**

(a) Composition.

The Quality and Safety Committee shall consist of not less than five (5) voting Managers, at least one of whom shall be a physician.

(b) Functions.

The Quality and Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of the Company with the programs of the other Affiliates of the Member for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance at the Company, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;

- (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;
 - (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by third parties providing services to the Company.
- (2) Recommend policies and provide direction for the Company's quality improvement plan, including establishing performance improvement priorities based on the mission, vision and strategic goals of the Company.
 - (3) Oversee regulatory compliance, safety, and such other programs as shall be required to insure continuous licensure of the Company.
 - (4) Review and report to the Board on Department of Health and other regulatory surveys and findings and any required plans of correction.
 - (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Company's affiliates concerning quality and performance improvement activities.
 - (7) Assist in the development of Board educational processes regarding quality and service improvement.

(c) Meetings

The Quality and Safety Committee shall meet as shall be necessary to discharge the obligations and duties of the Committee.

6.11 **Governance Affairs and Ethics Committee.**

(a) Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Managers, at least one of whom shall be a Board Officer.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Board of the Company and developing and monitoring a Board education plan. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:

- (i) Conflict of Interest;
 - (ii) Policy based governance;
 - (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
 - (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
 - (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Committees of the Company.
 - (5) Develop an orientation process for new Board and Committee members for the Company, with the assistance of the Executive Director.
 - (6) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
 - (7) Periodically review, and recommend changes to the Operating Agreement of the Company to insure compliance with the mission, vision, purpose and structure of the Company.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at such times as shall be necessary to discharge the obligations and duties of the Committee.

6.12 Executive Compensation Committee.

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Managers recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be “Independent” as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not “Independent”, the Board shall appoint another Independent Manager to serve in the place of the Chairperson.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the Executive Director and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of

the Company, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations (“Disqualified Persons”). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually, performance guidelines for the Executive Director;
- (2). Assist the Board in assessing and evaluating the Executive Director’s performance;
- (3). Review and recommend to the full Board the Executive Director’s compensation, including salary, incentives, benefits and other perquisites;
- (4) Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
- (5) At least annually, review executive compensation and take the required steps to establish a “rebuttable presumption of reasonableness” [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person’s background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Company’s income and assets and the number of Company employees;
 - d. Executive Director’s job performance;
 - e. relationship of the Executive Director’s compensation to the compensation paid to Company’s other employees; and
 - f. the number of hours the Executive Director spends performing his or her job.

c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Company to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

6.13 Audit and Compliance Committee.

(a) Composition

The Audit and Compliance Committee shall be composed of at least three (3) Managers. At least a majority of the Managers so appointed shall be “Independent Managers” as defined in Section 7.12(a), above.

(b) Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board in its oversight responsibilities by overseeing management’s systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Company. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee’s retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the corporate compliance plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.
 - b. Serve as a resource to the Compliance Officer and management on compliance issues.
 - c. Report to the Board at least semi-annually, regarding the status of the compliance plan.

c. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

ARTICLE VII

Executive Director

7.1 **Executive Director.** The Board of Managers shall appoint an Executive Director who shall manage the day-to-day operations of the Company and report to the President. The Executive Director shall have the necessary authority and shall be held responsible to the Board for such management of the Company, subject only to such policies as are enacted by the Board of Managers or any committees to which the Board has delegated power for such action. The Executive Director shall act as the duly authorized representative of the Board in all matters except those in which the Board has formally designated some other person or group to act.

ARTICLE VIII

Capital Contributions

8.1 **Capital Contributions.** Each Member has contributed the amount set forth in Exhibit "A" to this Agreement as the Capital Contribution to be made by him.

8.2 **Additional Contributions.** Except as set forth in Section 8.1 of this Agreement, no Member shall be required to make any Capital Contribution.

8.3 **Capital Accounts.** A Capital Account shall be maintained for each Member. Each Member's Capital Account shall be increased by the value of each Capital Contribution made by the Member, allocations to such Member of the Net Profits and any other allocations to such Member of income pursuant to the Code. Each Member's Capital Account will be decreased by the value of each Distribution made to the Member by the Company, allocations to such Member of Net Losses and other allocations to such Member pursuant to the Code.

8.4 **Transfers.** Upon a permitted sale or other transfer of a Membership Interest in the Company, the Capital Account of the Member transferring his Membership Interests shall become the Capital Account of the Person to whom such Membership Interest is sold or transferred in accordance with Section 1.704-1 (b)(2)(iv) of the Treasury Regulations.

8.5 **Modifications.** The manner in which Capital Accounts are to be maintained pursuant to this Section is intended to comply with the requirements of Section 704(b) of the Code and more specifically Treasury Regulation Section 1.704-1 (b)(2)(iv). If, in the opinion of the Board, the manner in which Capital Accounts are to be maintained pursuant to this Agreement should be modified to comply with Section 704(b) of the Code, then the method in which Capital Accounts are maintained shall be so modified; provided however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members.

8.6 **Deficit Capital Account.** Except as otherwise required in the New York Act or this Agreement, no Member shall have any liability to restore all or any portion of a deficit balance in a Capital Account.

8.7 **Withdrawal or Reduction of Capital Contributions.** A Member shall not receive from the Company any portion of a Capital Contribution until all indebtedness, liabilities of the Company, except any indebtedness, liabilities and obligations to Members on account of their Capital Contributions, have been paid or there remains property of the Company, in the sole discretion of the Board, sufficient to pay them. A Member, irrespective of the nature of the Capital Contribution of such Member, has only the right to demand and receive cash in return for such Capital Contribution.

ARTICLE IX

Allocations and Distributions

9.1 Allocations of Profits and Losses.

a. The Net Profits and the Net Losses for each Fiscal Year shall be allocated to each Member prorata in accordance with his Membership Interest.

b. Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulation Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1 (b)(2)(ii)(d)(5) or 1.704-1(b)(2)(ii)(d)(6), items of Company Profit shall be specifically allocated to each such Member sufficient to eliminate, to the extent required by the Regulations, the Capital Account deficit of such Member as quickly as possible, provided that an allocation pursuant to this Section 9.1 (b) shall be made only if and to the extent that such Member would have a Capital Account Deficit after all other allocations provided for in this Section 9.1 (b) have been tentatively made as if this Section 9.1I (b) were not in the Agreement.

c. Curative Allocations. The allocations set forth in Section 9.1 (b) hereof (the "Regulatory Allocations") are intended to comply with certain requirements of Treasury Regulation Section 1.704-1 (b). Notwithstanding any other provision of this Section 9.1 (other than the Regulatory Allocations), the Regulatory Allocations shall be taken into account in allocating other Profits, Losses, and items of income, gain, loss and deduction among the Members so that, to the extent possible, the net amount of such allocations of other Profits, Losses, and other items and the Regulatory Allocations to the Members shall be equal to the net amount that would have been allocated to the Members if the Regulatory Allocations had not occurred.

d. Limitation on Allocation of Losses. Any Losses allocated pursuant to Section 9.1 (a) that would cause any Member to have a Capital Account Deficit at the end of any Fiscal Year in excess of the amount such Member is obligated to restore (as required by law or otherwise) shall be allocated to Members with positive Capital Account Balances.

e. Code Section 704(c). In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its fair market asset value at the time of contribution. Any elections or other decisions relating to such allocations shall be made by the Manager in any manner that reasonably reflects the purpose and intention of this Agreement.

f. Other Allocation Rules. For purposes of determining the Profits, Losses, or any other items allocable to any period, Profits, Losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the Board using any permissible method under Code Section 706 and the Regulations thereunder.

9.2 Distributions. The Board may from time to time, in the discretion of the Board, make Distributions to the Members. All Distributions shall be made to the Members prorata in proportion to their Membership Interests as of the record date set for such Distribution.

9.3 Offset. The Company may offset all amounts owing to the Company by a

Member against any Distribution to be made to such Member.

9.4 **Limitation Upon Distributions.** No Distribution shall be declared and paid unless, after such Distribution is made, the assets of the Company are in excess of all liabilities of the Company.

9.5 **Interest on and Return of Capital Contributions.** No Member shall be entitled to interest on his Capital Contribution or to a return of his Capital Contribution, except as specifically set forth in this Agreement.

9.6 **Accounting Period.** The accounting period of the Company shall be the Fiscal Year.

ARTICLE X

Taxes

10.1 **Tax Returns.** The Board shall cause to be prepared and filed all necessary federal and state income tax returns for the Company. Each Member shall furnish to the Board all pertinent information in his possession relating to Company operations that is necessary to enable the Company's income tax returns to be prepared and filed.

10.2 **Tax Elections.** The Company shall make the following elections on the appropriate tax returns:

- a. To adopt the calendar year as the Fiscal Year;
- b. Except as modified or amended by the Board, to adopt the accrual method of accounting and keep the Company's books and records on the accrual method;
- c. If a Distribution as described in Section 734 of the Code occurs or if a transfer of a Membership Interest described in Section 743 of the Code occurs, upon the written request of any Member, to elect to adjust the basis of the property of the Company pursuant to Section 754 of the Code;
- d. To elect to amortize the organizational expenses of the Company and the start-up expenditures of the Company under Section 195 of the Code ratably over a period of sixty (60) months as permitted by Section 709(b) of the Code; and
- e. Any other election that the Board may deem appropriate and in the best interests of the Members.

Neither the Company nor any Member may make an election of the Company to be excluded from the application of Subchapter K of Chapter I of Subtitle A of the Code or

any similar provisions of applicable state law, and no provisions of this Agreement shall be interpreted to authorize any such election.

10.3 **Tax Matters Partners.** The Board of Managers may designate one Manager to be the "tax matters partner" of the Company pursuant to Section 623 I (a) (&) of the Code. Any Manager who is designated "tax matters partner" shall take any action as may be necessary to cause each other Member to become a "notice partner" within the meaning of Section 6223 of the Code.

ARTICLE XI

Transferability

11.1 **General.** Except as set forth in this Agreement, no Member shall gift, sell, assign, pledge, hypothecate, exchange or otherwise transfer to another Person any portion of a Membership Interest.

11.2 **Offer to Acquire.** If a Member desires to sell a Membership Interest to another Person, such Member shall obtain from such Person a bona fide written offer to purchase such Membership Interest, stating the terms and conditions upon which the purchase is to be made. Such Member shall give written notification to the other Members of his intention to sell such membership Interest and a copy of such bona fide written offer.

11.3 **Right of First Refusal.** Each Member other than the Selling Member, on a basis pro rata to the Membership Interests of each Member exercising his right of first refusal, shall have the right to exercise a right of first refusal to purchase all (but not less than all) of the Membership Interest proposed to be sold by the Selling Member upon the same terms and conditions as stated in the bona fide written offer by giving written notification to the Selling Member of his intention to do so within ninety (90) days after receiving written notice from the Selling Member. The failure of any Member to so notify the Selling Member of a desire to exercise such right of first refusal within such ninety (90) day period shall result in the termination of such right of first refusal and the Selling Member shall be entitled to consummate the sale of his Membership Interest with respect to which such right of first refusal has not been exercised to the Person offering to do so pursuant to the bona fide written offer. If the Selling Member does not sell his Membership Interest within ninety (90) days after receiving the right to do so, his right to do so terminates and the terms and conditions of this Section shall again be in effect.

11.4 **Closing.** If any Member gives written notice to the Selling Member of his desire to exercise such right of first refusal and to purchase all of the Selling Member's Interest upon the same terms and conditions as are stated in the written offer, such Member shall have the right to designate the time, date and place of closing within ninety (90) days after receipt of written notification from the Selling Member of the bona fide offer.

11.5 **Transferee Not a Member.** No Person acquiring a Membership Interest pursuant to this Section other than a Member shall become a Member unless such Person is

approved by vote or written consent of a majority in interest of Membership Interests. If no such approval is obtained, such Person's Membership Interest shall only entitle such Person to receive the distributions and allocations of profits and losses to which the Member from whom such Person received such Membership Interest would be entitled. Any such approval may be subject to any terms and conditions imposed by the Members.

11.6 **Effective Date.** Any sale of a Membership Interest or admission of a Member pursuant to this Article shall be deemed effective as of the last day of the calendar month in which such sale or admission occurs.

ARTICLE XII Dissolution

12.1 **Dissolution.** The Company shall be dissolved and its affairs shall be wound up upon the first to occur of the following:

- a. The latest date on which the Company is to dissolve, if any, as set forth in the Articles of Organization;
- b. The vote or written, consent of at least two-thirds in interest of all Members; or
- c. The bankruptcy, death, dissolution, expulsion, incapacity or withdrawal of any Member or the occurrence of any other event that terminates the continued membership of any Member, unless within one hundred eighty (180) days after such event, the Company is continued by the vote or written consent of a majority in interest of all of the remaining Members.

12.2 **Winding Up.** Upon the dissolution of the Company, the Board may, in the name of and for and on behalf of the Company, prosecute and defend suits, whether civil, criminal or administrative, sell and close the Company's business, dispose of and convey the Company's property, discharge the Company's liabilities and distribute to the Members any remaining assets of the Company, all without affecting the liability of Members. Upon winding up of the Company, the assets shall be distributed as follows:

- a. To creditors, including any Member who is a creditor, to the extent - permitted by law, in satisfaction of liabilities of the Company, whether by payment or by establishment of adequate reserves, other than liabilities for distributions to Members under Section 507 or Section 509 of the New York Act;
- b. To Members and former Members in satisfaction of liabilities for Distributions under Section 507 or Section 509 of the New York Act; and

c. To Members first for the return of their Capital Contributions, to the extent not previously returned, and second respecting their Membership Interests, in the proportions in which the Members share in Distributions in accordance with this Agreement.

12.3 **Articles of Dissolution.** Within ninety (90) days following the dissolution and the commencement of winding up of the Company, or at any other time there are no Members, articles of dissolution shall be filed with the New York Secretary of State pursuant to the New York Act.

12.4 **Deficit Capital Account.** Upon a liquidation of the Company within the meaning of Section 1.704-1 (b)(2)(ii)(g) of the Treasury Regulations, if any Member has a Deficit Capital Account (after giving effect to all contributions, distributions, allocations and other adjustments for all Fiscal Years, including the Fiscal Year in which such liquidation occurs), the Member shall have no obligation to make any Capital Contribution, and the negative balance of any Capital Account shall not be considered a debt owed by the Member to the Company or to any other Person for any purpose.

12.5 **Nonrecourse to Other Members.** Except as provided by applicable law or as expressly provided in this Agreement, upon dissolution, each Member shall receive a return of his Capital Contribution solely from the assets of the Company. If the assets of the Company remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return any Capital Contribution of any Member, such Member shall have no recourse against any other Member.

12.6 **Termination.** Upon completion of the dissolution, winding up, liquidation, and distribution of the assets of the Company, the Company shall be deemed terminated.

ARTICLE XIII General Provisions

13.1 **Notices.** Any notice, demand or other communication required or permitted to be given pursuant to this Agreement shall have been sufficiently given for all purposes if (a) delivered personally to the party to whom such notice, demand or other communication is directed, or (b) sent by registered or certified mail, postage prepaid, addressed to the Member at his address set forth in this Agreement. Except as otherwise provided in this Agreement, any such notice shall be deemed to be given three (3) business days after the date on which it was deposited in a regularly maintained receptacle for the deposit of United States mail, addressed and sent as set forth in this Section.

13.2 **Construction.** Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

13.3 **Headings.** The headings in this Agreement are for convenience only and

shall not be used to interpret or construe any provision of this Agreement.

13.4 **Waiver.** No failure of a Member to exercise, and no delay by a Member in exercising, any right or remedy under this Agreement shall constitute a waiver of such right or remedy. No waiver by a Member of any such right or remedy under this Agreement shall be effective unless made in a writing duly executed by all Members and specifically referring to each such right or remedy being waived.

13.5 **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. However, if any provision of this Agreement shall be prohibited by or invalid under such law, it shall be deemed modified to conform to the minimum requirements of such law or, if for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any other such provision being prohibited or invalid.

13.6 **Binding.** This Agreement shall be binding upon and inure to the benefit of all Members, and each of the successors and assignees or the Members, except that right or obligation of a Member under this Agreement may be assigned by such Member to another Person without first obtaining the written consent of all other Members.

13.7 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

13.8 **Governing Law.** This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of New York, without regard to principles of conflict of laws.

IN WITNESS WHEREOF, the parties signing this Agreement below conclusively evidence their agreement to the terms and conditions of this Agreement by so signing this Agreement.

MOHAWK VALLEY HEALTH SYSTEM

By: _____
Scott H. Perra, President

EXHIBIT "A"

MEMBERS

<u>Name</u>	<u>Membership Address</u>	<u>Interest</u>	<u>Capital Contribution</u>
Mohawk Valley Health System	P.O. Box 4308 Utica, NY 13504	100%	

EXHIBIT "B"

MANAGERS

Domenic Aiello

Catherine Cominsky

Joan Compson

Gregory Evans

Maria Gesualdo

Harrison Hummel

Todd Hutton

Andrew Kowalczyk, III

Gregory McLean

Norman Siegel

John Sperling

Stephen Sweet

Richard Tantillo

Symeon Tsoupelis

Mark Warfel

Bonnie Woods

Eric Yoss

Richard Zweifel

**BY-LAWS
of
VISITING NURSE ASSOCIATION OF UTICA AND
ONEIDA COUNTY, INC.**

Amendment XIII (_____, 2013)

ARTICLE I – NAME AND LOCATION

1.1. NAME

The name of the corporation is Visiting Nurse Association of Utica and Oneida County, Inc. (the “Corporation”).

1.2. LOCATION

The Post Office address of its principal place of business is 1650 Champlin Avenue, Utica, New York 13502. The corporation may also have offices at such other places within or without the State of New York as the board may from time to time determine or the business of the corporation may require.

ARTICLE II – CORPORATE SEAL

2.1. SEAL

The corporation shall have a corporate seal and shall use such seal personally, but the use of same shall be necessary only as required by law.

ARTICLE III – FISCAL YEAR

3.1. The fiscal year of this corporation shall end on the 31st day of December of each year.

ARTICLE IV – PURPOSE

4.1. The purpose for which this Corporation is formed to provide a complete range of excellent quality home health care services to the residents of Oneida County and its environs and to do so in a cost effective manner that makes the services accessible and affordable to all who require them.

ARTICLE V - MEMBER

5.1. MEMBER

Mohawk Valley Health System (the “Member” or “MVHS”) shall be the sole Member of this corporation.

5.2 RIGHTS OF MEMBER

MVHS shall have and exercise all the rights and powers of corporate membership created by the laws of the State of New York or the Certificate of Incorporation or By-laws of the Corporation. Certain additional powers have been delegated and reserved to MVHS in the MVHS organizational documents. Without limiting the foregoing, the following powers are reserved and delegated to the Board of Directors of MVHS:

- a. To approve and interpret the statement of mission and philosophy adopted by the Corporation, to require that the Corporation operate in conformance with its mission and philosophy and that the Corporation coordinate its mission, vision, activities and resources with the other Affiliates of MVHS in order to promote high quality, efficient and effective health care services in Oneida County, New York, and surrounding areas.
- b. To elect or appoint, fix the number of, and remove, with or without cause, the directors of the Corporation, and to appoint and remove, with or without cause, the President/Chief Executive Officer of the Corporation.
- c. To amend or repeal the Certificate of Incorporation and Bylaws, and to adopt any new or restated Certificate of Incorporation, and Bylaws of the Corporation;
- d. To approve any plan of merger, consolidation, dissolution or liquidation of the Corporation;
- e. To approve the debt of the Corporation in excess of an amount to be fixed from time to time by MVHS;
- f. To approve the sale, acquisition, lease, transfer, mortgage, guarantee or pledge of real or personal property of the Corporation in excess of an amount to be fixed from time to time by MVHS.
- g. To approve the capital and operating budgets of the Corporation;
- h. To approve settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund available to the Corporation;

-
- i. To approve any corporate reorganization of the Corporation and the establishment, merger, consolidation, reorganization or dissolution of any organizational relationship of the Corporation with the other MVHS Affiliates, including but not limited to subsidiary corporations, partnerships, or joint ventures of the Affiliates;
 - j. To approve and coordinate the strategic plan of the Corporation;
 - k. To the extent applicable, to approve all contracts of reimbursement for the Corporation from governmental or private third party insurers;
 - l. To the extent applicable, to approve all applications of the Corporation to federal or state governmental agencies for establishment or operating licensure, including but not limited to applications to the New York State Department of Health as required;
 - m. To the extent applicable, to approve management contracts for the Corporation subject to approval and/or regulation under the laws and regulations of the State of New York;
 - n. To approve any material change in the services offered by the Corporation;
 - o. To require the Corporation to participate in any and all programs and services, as determined by MVHS in its discretion, provided, however, that MVHS may not require the Corporation to participate in any program or service or take any action that would constitute a default or event of default under any mortgage, indenture or other material agreement or instrument to which the Corporation is a party and by which it is bound; and
 - p. To accept further delegations of authority on behalf of the Corporation pursuant to Section 701 of the Not-for Profit Corporation Law and exercise on behalf of the Corporation and other MVHS Affiliates, the authority to accept, utilize, transfer and share in the assets, revenues and income of the Affiliates and to maintain a single consolidated set of books and financial records, as may be necessary or desirable to carry out the obligations of such Affiliate(s) pursuant to any master trust indenture or similar instrument and, provided, however, that no such authority shall be accepted or exercised except pursuant to the Not-for-Profit Corporation Law and until all approvals required by law have first

been obtained, including, without limitation, the prior approval of the Department of Health as may be required for obligated group financings.

For the purposes of the foregoing, MVHS shall have: (i) the power to initiate and direct action by the Corporation without a prior recommendation of the Corporation's board of directors; and (ii) the power to accept, reject or modify the recommendation of the Corporation's board of directors and to direct action by the Corporation or to return the matter to the board of directors of the Corporation for reconsideration, with reasons for rejection and/or suggested change. The board of directors and officers of the Corporation shall not implement any action requiring the approval of MVHS until MVHS shall have exercised its reserve powers and communicated its determinations in writing to the Corporation's board of directors.

5.3 ANNUAL MEETING

MVHS shall, in its capacity as the member of the Corporation, hold its annual meeting each year at a time and place determined by MVHS. At the annual meeting, MVHS shall elect Directors of the Corporation, receive the annual report of the Directors of the Corporation, and transact such other business as may properly come before the meeting. Nomination for seats on the Board of Directors of the Corporation shall be submitted to MVHS prior to MVHS' annual meeting.

5.4 ANNUAL REPORT TO MEMBER

At the annual meeting of the member, the Chairperson or President, and the Treasurer of the Corporation shall present an Annual Report showing in appropriate detail the following information:

(a) a complete verified financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation;

(b) a summary of the activities of the Corporation during the preceding year.

The Annual Report shall be filed with the minutes of the annual meeting.

5.5 ACTION BY MEMBER

Except as otherwise required by law, the Certificate of Incorporation or these By-laws, any action required or permitted to be taken by MVHS in its capacity as the sole member of the Corporation may be taken by MVHS without a meeting, without prior notice and without a vote, through written consent to such action. The written consent of

MVHS shall be evidenced by a written resolution of the Board of Directors of MVHS signed by an officer of MVHS and adopted in accordance with the MVHS Certificate of Incorporation, By-laws, policies and/or procedures. An original signed copy of each executed written consent of MVHS shall be delivered to the Secretary of the Corporation and shall be maintained in the permanent records of the Corporation.

ARTICLE VI - BOARD OF DIRECTORS

6.1 NUMBER

The Board of Directors shall consist of not less than nine (9) members.

6.2 QUALIFICATION

Directors shall be selected for their experience, expertise and skills; their ability and willingness to devote time and effort to fulfilling the Board's responsibilities; their commitment to the community and the health care needs of its residents; and their personal and professional ethics and values.

6.3 ELECTION AND TENURE

(a) Composition of Initial Board of Directors. Commencing with the meeting to be held on or about _____, 20XX, the initial board shall be comprised of eighteen (18) Voting Directors. MVHS shall appoint sixteen (16) voting directors (the "Elected Directors"). The remaining two (2) Directors shall be the presidents of the medical staffs of Faxton-St. Luke's Healthcare ("FSLH") and St. Elizabeth Medical Center ("SEMC") who shall serve ex-officio as Voting Directors.

(b) Terms of Office. The initial Elected Directors shall be divided into four classes of approximately equal size. The four classes shall serve initial terms of one, two, three and four years, or until their successors are elected and seated.

(c) Subsequent Election. Commencing with the 20XY annual meeting of MVHS, one-fourth of the Board shall be elected to full four year terms to replace the Directors whose terms are expiring. An Elected Director shall serve for a term of four (4) years or until his or her successor shall have been elected. No Elected Director may serve more than three (3) consecutive, full, four year terms. Notwithstanding the foregoing, the Chairperson, Vice-Chairperson and Chairperson Emeritus may remain on the Board for so long as needed to fulfill his or her obligations as set forth in these Bylaws. Commencing with the 20XY annual meeting, Elected Directors of the Board shall be nominated by the Governance Affairs and Ethics Committee of MVHS and shall be elected by a simple majority of the MVHS Board. The MVHS Board shall not be bound or limited to such nominees.

(d) Reappointment. Director reappointment is neither automatic nor guaranteed. The decision will be made on a case by case basis after a thorough assessment of the Director's performance and contribution, his or her commitment to correct any deficiencies, and Board and organizational need.

(e) Non-Elected Directors. The Presidents of the Medical Staffs of SEMC and FSLH shall serve as Directors of the Corporation, coterminous with holding their respective positions.

6.4 VACANCIES

Vacancies on the Board due to the expiration of term, removal, resignation, death, or incapacity of a Director, or due to an increase in the number of Board seats, or any other cause, shall be filled by a simple majority vote of the Board of MVHS. Nominees shall be presented by the Governance Affairs and Ethics Committee of MVHS, but the MVHS Board shall not be bound or limited to such nominees. Directors selected to fill vacancies shall serve the remainder of the term of the Director whose seat has been vacated or until a successor has been elected.

6.5 REMOVAL

Each member of the Board of Directors shall be required to attend at least 75% of all meetings of the Board, any Committees on which he or she serves, and Board Continuing Education Programs. Any Director who fails to maintain sufficient attendance, without good cause acceptable to the Board, may be dismissed from the Board of Directors by a vote of two-thirds of the MVHS Directors. In addition, the Board of MVHS may remove any Director, with or without cause, upon a two-thirds (2/3) vote of the Board.

6.6 RESIGNATION/LEAVE OF ABSENCE.

(a) Resignation. Any Director may resign at any time by giving written notice to the Chairperson or to the Secretary of the Corporation. Such resignation shall take effect on the date of receipt thereof or at such later time as may be specified therein.

(b) Leave of Absence. Any Director may request a Leave of Absence of up to three (3) months for medical reasons relating to the Director, or a member of the Director's immediate family ("Leave"). The request shall be made in writing to the Chairperson who may grant the Leave on such terms as determined by the Chairperson after consultation with the Director. If the Chairperson requests a Leave, the request shall be made to the Vice Chairperson who shall, for the duration of the Leave, exercise all powers of the Chairperson as set forth herein.

While on Leave, the Director shall be excused from any attendance requirements and all other obligations of a Director as set forth in these Bylaws. The Director's Board position shall remain vacant during the term of the Leave, and the Director's position shall not be counted in determining the presence of a quorum.

If the Director on Leave is a Board Officer other than the Chairperson, the Office shall be temporarily filled, for the duration of the Leave, by a majority vote of the MVHS Directors at the next regular meeting of MVHS, or at a special meeting called for such purpose. Any committee positions held by the Director may be temporarily filled for the duration of the Leave, at the discretion of the Chairperson.

As circumstances warrant, the Director may request an extension of the initial Leave for an additional period not to exceed three (3) months. Such request may be granted or denied by the Chairperson as set forth above.

6.7 **ADDITIONAL ADVISORS**

The Board or the Chairperson of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by majority vote of the Directors present.

6.8 **MEETINGS OF DIRECTORS**

(a) Annual Meeting The Board of Directors shall hold an annual meeting each year in the month of April or May for the purposes of organizing itself, selecting members of the Board Committees when appropriate, and conducting such other business as may come before the meeting. At each annual meeting, the Board shall assess its own performance and take such action or make such recommendations as are warranted.

(b) Regular Meetings The Board of Directors shall hold at least seven (7) regular meetings annually.

(c) Special Meetings Special meetings of the Board may be called by the Chairperson, the Chief Executive Officer or upon the written request of three (3) Directors. No business shall be conducted at a special meeting other than that stated in the notice of the meeting.

(d) Place All meetings of the Board shall be held at the principal office of the Corporation or at such other place within this State as the Notice of Meeting shall provide.

(e) Notice Written notice of the time and place of the annual and regular meetings of the Board shall be given to each Director personally by first class mail, by facsimile or, by e-mail or other communications device, not less than ten (10) days before such meeting. Notice of the time, place and purposes of special meetings of the Board shall be served as set forth herein at least two (2) days before the date of such special meeting. In the case of a special meeting or when required by law or these Bylaws, the notice shall also state the purpose for which the meeting is called. Oral or written notice of

the postponement of any scheduled regular meeting shall be given to each Director not less than one (1) day before the scheduled date of such meeting.

(f) Adjournment When a meeting is adjourned, it is not necessary to give any notice of the adjourned meeting or the business to be transacted at any adjourned meeting other than by motion adopted at the meeting at which such adjournment is taken and included in the minutes.

(g) Quorum Unless a greater or lesser number is required by law, the Certificate of Incorporation or these By-laws, a majority of the Directors entitled to vote constitutes a quorum for the transaction of business at any meeting of the Board. If a quorum is not present at any meeting, a majority of the Directors present may adjourn the meeting to a new date. Notice of such date shall be provided to Board members as required in Section 6.8(e).

(h) Voting Subject to the Conflict of Interest provisions of these By-laws, and the Board's Conflict of Interest policies, each voting Director present is entitled to vote on any matter before the Board.

(i) Manner of Acting Unless otherwise required by law, the Certificate of Incorporation or these By-laws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Any action required or permitted to be taken by the Board may be taken without a meeting by the consent in writing of all Directors entitled to vote. Such written consent(s) shall be filed with the minutes of the Board.

(j) Meeting by Conference Telephone or Similar Device Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

6.9 POWERS AND FIDUCIARY OBLIGATIONS

(a) Powers Except to the extent that powers have been delegated and reserved to MVHS under these Bylaws, the administrative powers of the Corporation shall be vested in the Board of Directors, which shall have: charge, control, and oversight of the property, funds, and affairs of the Corporation; the power to establish policies for the management and operation of the Corporation; and such other power and authority to do and perform all acts and functions for the benefit of the Corporation, not inconsistent with these By-laws or the Certificate of Incorporation. The Board of Directors shall further have the power to appoint standing committees as hereinafter set forth and such other committees as from time to time shall be deemed advisable.

(b) Fiduciary Obligations The members of the Board of Directors shall at all times conduct the affairs of the Corporation in strict conformance with all applicable fiduciary and ethical standards. Each Director shall act in a manner consistent with the duty of undivided loyalty to the interests of the Corporation, the duty to maintain in confidence information concerning the affairs of the Corporation, the duty to avoid actual or apparent conflicts of interest, and the duty to maintain and advance the charitable purposes of the Corporation. The Board shall adopt such mechanisms as it deems appropriate to assist the Directors in fulfilling these obligations. Without limiting the foregoing, the Board shall adopt, review and amend as appropriate, a Board Conflicts of Interest Policy to provide a formal mechanism for identifying and treating actual and apparent conflicts; and mechanisms to ensure corporate compliance with laws, rules and regulations relating to the business of the Corporation.

ARTICLE VII - OFFICERS

7.1 OFFICERS

The Corporation shall have a Chairperson and Vice-Chairperson of the Board, a Secretary, and a Treasurer, and such other officers as the Board of Directors may authorize. The Corporation shall also have a President/Chief Executive Officer, who shall be a non-voting member of the Board. The Chairperson selected at the 20XX, 20XY, and 20XZ annual meetings shall serve a one year term, or until his/her successor has been elected. The Chairperson seated at the 20XX-20XZ annual meetings shall be selected by MVHS in accordance with its Bylaws. Commencing with the 20XA annual meeting the Chairperson and Vice-Chairperson shall be elected by MVHS for two-year terms, or until their successors have been duly elected and qualified. All other officers shall be elected by MVHS at the annual meeting of MVHS and shall hold office until the corresponding meeting in the next year or until a successor shall have been duly elected and qualified. Any vacancy in any of the above offices shall be filled for the unexpired portion of the term by the Board of Directors of MVHS at any regular meeting or any special meeting called for such purpose.

7.2 CHAIRPERSON

The Chairperson shall preside at all meetings of the Board of Directors, shall appoint the members and Chairperson of each Committee in accordance with these Bylaws and with the approval of the Board, and shall, except as otherwise stated herein, be an ex officio member of all Committees. The Chairperson elected at the 20XZ annual meeting of MVHS shall be eligible to be elected by the full Board of MVHS to serve one additional term of two (2) years, commencing in 20XA. Thereafter the Chairperson may serve no more than two consecutive terms in that office, regardless of the length of such terms. The Chairperson shall be eligible for additional terms as Chairperson following his or her absence from such office for a period of at least one year.

7.3 VICE-CHAIRPERSON

In the absence or inability to act of the Chairperson, or if the office of Chairperson is vacant, the Vice-Chairperson may exercise all the powers of the Chairperson. The Vice-Chairperson shall have such further power and shall perform such other duties on behalf of the Corporation as may be authorized by order of the Board of Directors.

7.4 **CHAIR EMERITUS.**

Upon completion of her or his term as Chairperson of the Board, the Chairperson shall hold the office of Chair Emeritus. The Chair Emeritus shall serve as an advisor to the Chairperson and perform such other duties as set forth in these Bylaws. The office of Chair Emeritus shall remain vacant until completion of the term of office of the Chairperson seated at the 20XX annual meeting. Thereafter, the Chair Emeritus shall serve in that office until the succeeding Chairperson leaves office and assumes the role of Chair Emeritus.

7.5 **SECRETARY**

The Secretary shall act as Secretary of both the Corporation and the Board of Directors and shall be responsible for maintaining, or causing to be maintained, copies of the Resolutions of the Corporation and keeping the minutes of the meetings of the Board of Directors. The Minutes shall reflect all business conducted, including the Board's findings, conclusions, and recommendations. The Secretary shall be responsible for the giving and serving of all notices of meetings of the Board and shall be the custodian of the Corporate records.

7.6 **TREASURER**

The Treasurer shall have general supervision over the care and custody of all funds and securities of the Corporation except as expressly provided otherwise, and shall deposit the same or cause the same to be deposited in the name of the Corporation in such bank or banks, trust company or trust companies, and in such safe deposit company or safe deposit companies as the Board of Directors, or any committee designated and vested with such power by the Board of Directors, may designate; shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation and, whenever required by the Board of Directors shall render, or cause to be rendered, financial statements of the Corporation. The Treasurer shall prepare, execute and file, or cause to be prepared, executed and filed, any annual report or statement which may be required by law.

7.7 **PRESIDENT**

MVHS shall appoint the President and as the Chief Executive Officer of the Corporation. The President/CEO shall be a non-voting member of the Board and, except as otherwise expressly provided, a non-voting member of all Board committees. The President/CEO shall act as the duly authorized representative of the Board of Directors in

all matters except for which the Board has designated the Executive Director or some other individual to act.

ARTICLE VIII - COMMITTEES OF THE BOARD OF DIRECTORS

8.1 STRUCTURE

There shall be six (6) Standing Committees of the Board: Executive Committee, Finance Committee, Quality and Safety Committee, Governance Affairs and Ethics Committee, Executive Compensation Committee, and Audit Compliance Committee. The Board may, by resolution, create such other standing or ad hoc committees as it shall, from time to time, deem appropriate. Any ad hoc committees appointed by the Board shall be charged with such specific duties as determined by the Board and shall be disbanded upon completion of such duties.

8.2 PROCEDURE

The Standing Committees of the Board shall conduct their activities in accordance with the following general principles and procedures unless alternative principles or procedures are adopted for any individual committee in these By-Laws or in a Resolution of the Board of Directors.

8.3 POWERS

Each Board Committee shall have and exercise only such Board delegated powers and authority as are granted to it in these By-Laws, or in a Resolution adopted by the Board. Each Committee shall keep minutes of its proceedings and report its activities, conclusions and recommendations to the Board. Except as otherwise set forth herein, actions and recommendations of a Committee shall be subject to Board approval. Each Committee shall prepare a meeting calendar and an annual work plan setting forth its goals and objectives, which shall be submitted to the Board for its approval at its first meeting of each fiscal year. The performance of each Committee shall be reviewed annually at the last meeting of the Board prior to its annual meeting.

8.4 COMMITTEE MEMBERS

- (a) Appointment. Except to the extent that membership on a Committee is determined herein, the Chairperson of the Board shall recommend, for Board approval at its annual meeting, the appointment of all Committee members and Committee Chairpersons after consulting with the Governance Affairs and Ethics Committee. To the extent practicable, and except for those Committee assignments which are coterminous by position, Committee appointments shall be rotated at least every three (3) years among the members of the Board so as to

promote experience and knowledge in all aspects of the operation of the Corporation.

- (b) Tenure. Each member of a Board Committee shall hold office until the next annual election of Directors and until his or her successor is elected, unless he or she sooner ceases to be a Director or resigns or is removed from the Committee.
- (c) Resignation. Any member of a Board Committee may resign at any time by giving written notice to the Chairperson of the Committee. Such resignation takes effect on the date of receipt, or at such later time as may be specified therein.
- (d) Removal. Any member of a Board Committee may be removed at any time, with or without cause, by a resolution adopted by a majority of the Board of Directors. Any member of a Board Committee who is a member by virtue of holding a designated position or office shall cease to be a Committee member if he or she ceases to hold the designated position or office which is the basis of Committee membership.
- (e) Vacancies. Any vacancy on any Board Committee resulting from resignation, removal or increase in the membership of a Committee, may be filled for the unexpired portion of the term by the Chairperson of the Board, subject to the approval of the Board.

8.5 ADVISORS TO BOARD COMMITTEES

The Chairperson of the Board, after consultation with the Chairperson of any Board Committee, may invite additional individuals with expertise in a pertinent area to meet with and assist the Board Committee as advisors to the Committee. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Committee by a majority vote of the Committee members present. Advisors need not be Directors.

As deemed appropriate by the Committee Chair, members of the Corporation's administrative staff shall be required to attend Committee meetings to provide information and support to the members of the committee. Such administrative staff shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Committee by the Chairperson of the Committee.

8.6 MANNER OF ACTION

(a) Meetings. Each Committee shall meet as provided for in these By-Laws and at such additional times as may be necessary to perform its duties. Meetings of a

Board Committee shall be called by the Chairperson of the Board, the Chairperson of the Committee, or any two of the Committee's voting members. Oral or written notice of the time and place of any meeting of a Board Committee shall be given, except in an emergency, at least 72 hours prior to the meeting.

(b) Agenda/Minutes. There shall be an agenda prepared for Committee meetings and Minutes of the meeting shall be recorded and shall include the Committee's findings, conclusions and recommendations. The Minutes of Committee meetings shall be available to the Board of Directors when requested or as required.

(c) Quorum. A majority of the voting members of a Board Committee shall constitute a quorum for the transaction of business at any meeting of such Committee.

(d) Action. The act of a majority of the members of a Board Committee present at a meeting, at which a quorum is present, shall be the act of the Committee. No act taken at a meeting at which less than a quorum is present is valid unless approved in writing by the absent members. Any action required or permitted to be taken by a Committee may be taken without a meeting if all Committee members file written consents to a resolution authorizing the action.

(e) Meeting by Conference Telephone or Similar Device. Personal attendance at meetings is encouraged. Nevertheless, in appropriate circumstances, any one or more members of any Committee may participate in any meeting of the Committee by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other. Participation by this means shall constitute actual presence at the meeting.

8.7 CONFLICT OF INTEREST

Any Committee exercising Board delegated power or authority shall comply with the Conflict of Interest policies and procedures established by the Board of Directors.

8.8 EXECUTIVE COMMITTEE

(a) Composition

The Executive Committee shall be composed of the Chairperson of the Board, the Vice Chairperson, Secretary, Treasurer, and the Chairperson Emeritus.

(b) Functions

When the Board is not in session, the Executive Committee shall have and exercise the powers and authority of the Board to transact all regular business of the Corporation, subject to any prior limitations imposed by the Board, these By-Laws, or statute. In addition, the Executive Committee shall:

- (1) Review and recommend to the Board, legislative and regulatory affairs initiatives.

-
- (2) Review and make recommendations to the Board as to the Corporation's completion and filing of IRS Form 990 and such other reports or filings as may be required by the Internal Revenue Service.

(c) Meetings

The Executive Committee shall meet as necessary to conduct the business of the Corporation while the full Board is not in session.

8.9 FINANCE

(a) Composition

The Finance Committee shall consist of the Treasurer of the Corporation, as Committee Chairperson, and at least 6 voting Directors, at least one of whom shall have substantial accounting or financial management expertise.

(b) Functions

The Finance Committee shall have general oversight responsibility for the fiscal affairs of the Corporation and shall develop and recommend for Board approval, policies and procedures which will enable the Board to provide appropriate direction and oversight of the financial affairs of the Corporation and its subsidiaries. Its functions shall include:

- (1) Overseeing the Executive Director's development of a budget for the Corporation showing the expected receipts, income and expense for the ensuing year;
- (2) Recommending for adoption by the Board a budget developed by the Executive Director for the ensuing year;
- (3) Reviewing financial reports that report on the financial condition of the Corporation;
- (4) Reviewing and making recommendations to the Board on any request by the Executive Director for the Corporation to enter into any substantial transaction or incur a significant increase in debt according to standards established by the Board;
- (5) Retaining the Corporation's independent Certified Public Accountants to provide external financial auditing to the Corporation. This shall include, but not be limited to:
 - a. having unfettered communication with the firm, receiving reports directly from the firm regarding the audit, receiving observations from the firm regarding management and the firm's assessment of management's internal financial control system.
 - b. resolving any disputes between the firm and management and reviewing and responding to any major changes to critical accounting policies and practices.
 - c. reviewing all of the services provided by the firm, including reviewing who is principally leading the audit; what the character of the relationship is between the Corporation and

the firm so that changes can be made if necessary; and assuring the firm's independence.

- d. reviewing financial statements audited by the firm.
- (6) Review and develop policies concerning insurance and managed care contracting for the Corporation.
- (7) Provide oversight and develop policies to insure the sufficiency of the liability insurance programs of the Corporation.

(c) Meetings

The Finance Committee shall meet as needed, but not less than six (6) times per year.

8.10 QUALITY AND SAFETY COMMITTEE

(a) Composition.

The Quality and Safety Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a physician.

(b) Functions.

The Quality and Safety Committee shall have general oversight responsibility for ensuring the maintenance of a coordinated program which integrates the review activities of the Corporation with the programs of the other MVHS Affiliates for the purpose of enhancing the quality of patient and resident care and identifying and implementing improvement programs as may be required by governmental, licensing or regulatory authorities. The Committee shall specifically:

- (1) Develop and recommend to the Board a policy framework to enable the Board to provide direction and exercise oversight of all quality and service performance at the Corporation, including:
 - (i) Establish the process and format by which quality and service are measured, reported and monitored by the Board and the Committee, including establishing specific indicators of clinical quality and service performance;
 - (ii) Develop and recommend policies which define the scope of management authority without specific determination by, or direction from, the Board;
 - (iii) Assess the role and establish mechanisms for the reporting and monitoring of the quality of service provided by third parties providing services to the Corporation.
- (2) Recommend policies and provide direction for the Corporation's quality improvement plan, including

-
- (3) Establishing performance improvement priorities based on the mission, vision and strategic goals of the Corporation.
 - (3) Oversee regulatory compliance, safety, infection control and such other programs as shall be required to insure continuous accreditation of the Corporation.
 - (4) Review and report to the Board on Department of Health, and other regulatory surveys and findings and any required plans of correction.
 - (5) Review reports or information obtained from Customer Satisfaction Surveys, Performance Improvement Teams, Risk, Safety, Utilization and Case Management Programs, and other executive level data impacting organizational quality performance.
 - (6) Receive and review quality improvement plans and reports and recommendations from the Corporation's affiliates concerning quality and performance improvement activities.
 - (7) Assist in the development of Board educational processes regarding quality and service improvement.

(c) Meetings

The Quality and Resident Safety Committee shall meet as shall be necessary to discharge the obligations and duties of the Committee.

8.11 GOVERNANCE AFFAIRS AND ETHICS COMMITTEE

(a) Composition

The Governance Affairs and Ethics Committee shall consist of not less than five (5) voting Directors, at least one of whom shall be a Board Officer.

(b) Functions

The Governance Affairs and Ethics Committee shall have general responsibility for developing and recommending policies concerning the organization, functioning and performance of the Board of the Corporation and developing and monitoring a Board education plan. Its functions shall include:

- (1) Recommend new and/or changes to existing policies regarding Board organization, functioning and performance, including:
 - (i) Conflict of Interest;
 - (ii) Policy based governance;
 - (iii) Fiduciary obligation;
 - (iv) Committee structure and philosophy;
 - (v) Governance operations; and
 - (vi) Officer and committee chairperson position descriptions.

-
- (2) Review of potential and actual Board discipline issues, including adherence to attendance policy, conflicts of interest policy, and information disclosure policy and, where appropriate, make recommendations to the Board on disciplinary action.
 - (3) Design, initiate and oversee the Board Evaluation Process on an annual and long-term basis.
 - (4) Make recommendations to the Board concerning the establishment of criteria and qualifications for service on the Committees of the Corporation.
 - (5) Develop an orientation process for new Board and Committee members for the Corporation, with the assistance of the Executive Director.
 - (6) Develop an annual Board Education Plan, including internal and external educational opportunities, and identify key healthcare issues to be included in the annual plan.
 - (7) Periodically review, and recommend changes to the Bylaws of the Corporation to insure compliance with the mission, vision, purpose and structure of the Corporation.

(c) Meetings

The Governance Affairs and Ethics Committee shall meet at least two (2) times per year, and at such other times as shall be necessary to discharge the obligations and duties of the Committee.

8.12 EXECUTIVE COMPENSATION COMMITTEE.

(a) Composition

The Executive Compensation Committee shall be composed of the Chairperson and at least four (4) additional Directors recommended by the Chairperson and approved by the Board. All members of the Executive Compensation Committee shall be “Independent Directors” as that term is defined in Section 4958 of the Internal Revenue Code and supporting regulations. In the event that the Chairperson is not an “Independent Director”, the Board shall appoint another Independent Director to serve in the place of the Chairperson.

(b) Functions.

The Executive Compensation Committee is appointed to discharge the duty of the Board to fulfill its oversight responsibility in determining the adequacy and reasonableness of the compensation paid to the Executive Director and other employees or individuals that the Committee believes are in a position to exercise substantial influence over the affairs of the Corporation, all as outlined in Section 4958 of the Internal Revenue Code and supporting Regulations (“Disqualified Persons”). Without limiting the foregoing, the Committee shall:

- (1) Establish, monitor, review and revise, at least annually,

-
- (2). performance guidelines for the Executive Director; Assist the board in assessing and evaluating the Executive Director's performance;
 - (3). Review and recommend to the full Board the Executive Director's compensation, including salary, incentives, benefits and other perquisites;
 - (4). Regularly establish, review and monitor succession plans (including emergency succession plans) for all key management personnel;
 - (5). At least annually, review executive compensation to ensure that it is appropriate in view of Corporation's tax-exempt status and take the required steps to establish a "rebuttable presumption of reasonableness" [under I.R.C. Section 4958] of the executive compensation, which may include evaluating:
 - a. the compensation paid by similar organizations, both exempt and taxable, for equivalent positions in the same or similar community or geographic area;
 - b. the uniqueness of the person's background, education, training, experience, and responsibilities;
 - c. the size and complexity of the Corporation's income and assets and the number of Corporations employees;
 - d. Executive Director's job performance;
 - e. relationship of the Executive Director's compensation to the compensation paid to Corporation's other employees; and
 - f. the number of hours the Executive Director spends performing his or her job.

c. Resources of the Committee.

The Committee shall have such resources and authority as it deems appropriate to discharge its duties and responsibilities, including the authority to directly select, engage and supervise any consultant, accountant, legal counsel or other advisor hired by the Corporation to advise the Committee on executive compensation and related matters. In carrying out its responsibilities, the Committee may rely upon reasoned, written opinions of consultants and/or legal counsel.

d. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

8.13 **AUDIT AND COMPLIANCE COMMITTEE.**

(a) Composition

The Audit and Compliance Committee shall be composed of at least three (3) directors. At least a majority of the directors so appointed shall be "Independent Directors" as defined in Section 7.12(a), above.

(b) Functions.

The function of the Audit and Compliance Committee is to provide oversight and to assist the Board of Directors in its oversight responsibilities by overseeing management's systems of internal auditing and internal controls, and in overseeing the Corporate Compliance activities of the Corporation. Without limiting the foregoing, the Committee shall:

- (1) Select and retain non-financial independent external auditors, as needed.
- (2) Provide input into the Finance Committee's retention of independent external financial auditors.
- (3) Oversight of internal controls through evaluation of regular management reports.
- (4) Corporate Compliance matters:
 - a. Review the corporate compliance plan on a periodic basis, to consider changes to the plan. Make recommendations to the Board on changes to the plan.
 - b. Serve as a resource to the Compliance Officer and management on compliance issues.
 - c. Report to the Board at least semi-annually, regarding the status of the compliance plan.

c. Meetings.

The Committee shall convene as shall be necessary to discharge its responsibilities.

ARTICLE IX – EXECUTIVE DIRECTOR

9.1 **Appointment.** The board shall select and appoint a qualified administrator to serve as the Executive Director, who shall be the Board's direct executive representative in the management of the business of the Corporation. The Executive Director shall be responsible for the day-to-day operation of the Corporation and shall be given the necessary authority and be held responsible for management of the Corporation, subject only to the policies enacted by the board or any committees to which the board has delegated power for such action. He or she shall act as the duly authorized representative of the board in all matters except those in which the board has formally designated some other person or group to act.

9.2 **Authority and Duties:** The Executive Director shall, subject to the directions of the board:

- (1) be responsible for implementing policies established and plans authorized by the board for the operation of the Corporation and for advising on the formation of these policies and plans;
- (2) implement an effective budgeting and account system;

-
- (3) determine the number and types of personnel needed to meet the agency's responsibilities and recruitment of qualified personnel;
 - (4) ensure a planned orientation of new personnel and provide for appropriate, regularly scheduled in-service education related to personnel responsibilities;
 - (5) ensure an annual evaluation of personnel performance;
 - (6) maintain an ongoing liaison among the governing authority, the group of professional personnel appointment as specified in the regulations governing Certified Home Health Agencies, and agency personnel;
 - (7) ensure availability of public information concerning the health care services which the agency provides, the geographic area in which these services are made available, the charges for the various types of services and the payment sources which may be available to pay for such services;
 - (8) provide the board, board committees and management committees with such staff and administrative support and personnel as they may reasonably require;
 - (9) provide the Corporation's professional staffs with the administrative support and personnel reasonably required to carry out quality assurance and improvement activities;
 - (10) develop and submit to the board a plan of organization of the Corporation's operations, its departments and other organizational components, showing lines of authority, responsibility, and interrelationships;
 - (11) be responsible, except as otherwise provided by the board, for selecting, employing, controlling, and discharging employees and for developing and maintaining personnel policies and practices;
 - (12) assist the finance committee in annually reviewing and updating operating and capital budgets showing the expected receipts and expenditures, and supervise the business affairs of the Corporation to assure that funds are expended to the best possible advantage;
 - (13) represent the Corporation in its relationship with other agencies;

(14) when requested, attend personally, or by designee, meetings of the board, meetings of board and management committees, and standing and ad hoc committees of the professional staff;

(15) perform any other duties within the express or implicit terms of his or her duties hereunder that may be necessary for the best interest of the Corporation; and

(16) perform such other duties as the board shall from time to time direct.

ARTICLE X- INDEMNIFICATION OF OFFICERS AND DIRECTORS

10.1. INDEMNIFICATION

This corporation shall indemnify any person made a party to an action, suit or proceeding by reason of the fact that he/she is or was a member of the Board of Directors or officer of this corporation or that his/her testator or intestate was a member of the Board of Directors or officer of this corporation, against judgments, fines, amounts paid in settlement, and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such actions, suits or proceedings, or appeals therein, if such persons acted in good faith for a purpose which he/she reasonably believed is or was in the best interests of the corporation, and in criminal actions or proceedings, in addition, had no reasonable cause to believe that his/her conduct was unlawful. No Director or officer of the corporation shall be indemnified if a judgment or proceeding is adverse to said Director or officer and establishes that his/her acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or that he/she personally gained in fact, a financial profit or other advantage to which he/she was not legally entitled.

ARTICLE XI - CONFLICT OF INTEREST

11.1. REPORTING REQUIREMENT.

Any director, officer, key employee, or committee member having an existing or potential interest in a contract or other transaction presented to the Board of Directors or a committee thereof for deliberation, authorization, approval, or ratification, or any such person who reasonably believes such an interest exists in another such person, shall make a prompt, full and frank disclosure of the interest to the Board or committee prior to its acting on such contract or transaction which might reasonably be construed to be adverse to the Corporation's interest.

11.2. CONFLICT DETERMINATION AND RESTRICTIONS.

The body to which such disclosure is made shall determine, by majority vote, whether the disclosure shows that the non-voting and non-participation provisions below must be observed.

If so, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in the discussions or deliberations with respect to, such contract or transaction. Such person may not be counted in determining the existence of a quorum at any meeting where the contract or transaction is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.

11.3. CONFLICT POLICIES.

The Board shall adopt conflict of interest policies requiring:

(a) Regular annual statements from directors, officers, and key employees that disclose existing and potential conflicts of interest.

(b) Corrective and disciplinary action with respect to transgressions of such policies.

For the purposes of this section, a person shall be deemed to have an "interest" in a contract or other transaction if he or she is the party (or one of the parties) contracting or dealing with the Corporation, or if he or she is a director, trustee or officer of, or has a significant financial or influential interest in, the entity contracting or dealing with the Corporation, or if he or she is otherwise reasonably likely to gain a significant financial or other personal benefit if the contract or transaction is approved.

ARTICLE XII - AMENDMENT OF BYLAWS

These bylaws may be repealed or amended by a majority vote of the Member at any duly called regular or special meeting of the Member.

PARTNERS IN FRANCISCAN MINISTRIES

BYLAWS

Sisters of St. Francis
PARTNERS
III
FRANCISCAN MINISTRIES



Approved October 14, 2011

Sister Patricia Burkard OSF

Sister Patricia Burkard, General Minister
Sisters of St. Francis of the Neumann Communities

Table of Contents

ARTICLE I	4
The Corporation	4
1. Name and Purposes	4
2. Location.....	4
3. Sponsorship	4
ARTICLE II.....	5
The Member.....	5
1. Member	5
2. Meetings	5
3. Annual Meeting.....	5
4. Proxy	6
ARTICLE III.....	6
The Board of Directors	6
1. Powers	6
2. Membership, Composition and Election	7
3. Term and Tenure	7
4. Meetings	8
5. Notice of Special Meetings	8
6. Quorum.....	8
7. Action at Meeting.....	9
8. Action Without Meeting.....	9
9. Committees.....	9
ARTICLE IV.....	10
Resignations, Removals and Vacancies in the Board of Directors.....	10
1. Resignations	10
2. Removals.....	10
3. Vacancies.....	10
ARTICLE V.....	10
Officers of the Corporation	10
1. Officers.....	10
2. Election.....	11
3. Qualification.....	11
4. Tenure.....	11
5. Removals.....	11

6. Vacancies.....	12
7. Chairperson of the Board	12
8. President and Vice-President.....	12
9. Executive Director.....	12
10. Director of Mission Integration	12
11. Treasurer and Assistant Treasurers.....	13
12. Secretary and Assistant Secretaries	13
13. Other Officers	13
14. Other Powers and Duties	13
ARTICLE VI.....	14
Miscellaneous Provisions.....	14
1. Fiscal Year.....	14
2. Seal	14
3. Execution of Instruments.....	14
4. Corporate Records.....	14
5. Conflict of Interest.....	14
6. Evidence of Authority	15
7. Ratification	15
8. Certificate of Incorporation.....	15
ARTICLE VII	15
Indemnification of Directors, Officers and Others	15
ARTICLE VIII.....	17
Amendments	17

BYLAWS

OF

PARTNERS IN FRANCISCAN MINISTRIES, INC.

(a Corporation for the Sponsored Ministries of the
Sisters of St. Francis of the Neumann Communities)

ARTICLE I

The Corporation

1. **Name and Purposes** – The Corporation is a non-profit organization incorporated under the laws of the State of New York. The name and purposes of the Corporation shall be as set forth in its Certificate of Incorporation.
2. **Location** – The principal office of the Corporation in the State of New York shall be located initially at the place set forth in the Certificate of Incorporation. The Directors may change the location of the principal office within the State of New York upon filing a certificate with the Secretary of State of the State of New York.
3. **Sponsorship** – The Congregation of the Sisters of St. Francis of the Neumann Communities, a Roman Catholic Pontificate (hereinafter the “Congregation”), is the sponsor of the Corporation. The Congregation defines sponsorship as: publicly identifying with, exerting appropriate influence on, and providing various levels of support for the Corporation, which further the Mission of Jesus, as expressed in the philosophy of mission and ministry of the Sisters of St. Francis of the Neumann Communities. The term “sponsorship” is not intended to create any legal relationship, such as a relationship of partnership, agency, or employment, between the Congregation and any other party, but rather is intended exclusively as a statement of mission and ministry embodied in the tradition of the community of Women Religious known as the Congregation.

ARTICLE II

The Member

1. **Member** – The Congregation, acting through its Leadership, shall be the only Member of the Corporation. The reserved powers of the Member are as follows:
 1. To assure that the philosophy, mission and purpose of Partners in Franciscan Ministries ("Partners") are consistent with Franciscan values
 2. To approve any changes in the mission or purposes of Partners in Franciscan Ministries or its sponsored ministries
 3. To appoint and remove members of Partners in Franciscan Ministries Board of Directors
 4. To approve the enactment of a dissolution, liquidation, merger, or consolidation of the sponsored ministries
 5. To adopt and/or amend the Certificate of Incorporation and By-Laws of Partners
 6. The appointment of the Corporation's Director of Mission
 7. The appointment of the Executive Director of the Corporation
 8. To approve the succession plans for Partners in Franciscan Ministries and its Board of Directors
 9. To accept Partners in Franciscan Ministries annual report
 10. To approve the financial transactions of the sponsored ministries according to the annual USCCB alienation guidelines
2. **Meetings** – Except as otherwise provided herein, all procedures for holding or conducting meetings of the Member, and any action required to be taken or that may be taken at any meeting of the Member, shall be governed by the By-Laws of the Member in effect at the time and pertaining to meetings of the members of the Member.
3. **Annual Meeting** – The Annual Meeting of the Member of this Corporation shall be held on the last Wednesday in June, each year, or if that date is a legal holiday, in the place where the meeting is to be held, then on the next succeeding day not a legal holiday. If no Annual Meeting is held in accordance with the foregoing sentence, a Special Meeting may be held in

lieu thereof, and any action taken at such meeting shall have the same effect as if taken at the Annual Meeting. The Annual Meeting may be held at the principal office of the Corporation or at such other place within the United States as the Member.

4. **Proxy** – The Member may vote through its General Minister or other duly authorized officer either in person or by written proxy dated not more than six months before the meeting named therein and filed before being voted with the Secretary or other person responsible for recording the proceedings of the meeting.

A proxy shall not be valid after final adjournment of the meeting. A proxy purporting to be executed by or in behalf of the Member shall be deemed valid unless challenged at or prior to its exercise, and the burden of proving invalidity shall rest with the challenger.

ARTICLE III

The Board of Directors

1. **Powers** – The business of the Corporation shall be managed by a Board of Directors who may exercise all the powers of the Corporation, except as otherwise provided by law, the Articles of Incorporation, or these By-Laws. The Board of Directors may exercise the following powers only with the concurrence of the Member of the Corporation:
- (i) Approval of the strategic plan of the Corporation.
 - (ii) The disposition (including the sale, lease, exchange, donation, mortgage, or other transfer) of any interest in real property;
 - (iii) Approval of a voluntary dissolution, merger, consolidation, or acquisition of the Corporation.

In addition, the Board of Directors shall exercise the following reserved powers over all of the sponsored ministries:

- (1) To appoint and remove the principal director/CEO of each of the sponsored ministries
- (2) To appoint and remove the Board of Directors of each of the sponsored ministries

- (3) To approve the Articles of Incorporation and By-Laws of each of the sponsored ministries
- (4) To receive the annual report of each of the sponsored ministries
- (5) To approve the formation of subsidiaries, affiliates or divisions in each of the sponsored ministries
- (6) To approve changes in the names of each of the sponsored ministries
- (7) To receive, review and monitor to budget of each of the sponsored ministries as it deems necessary
- (8) To receive the annual audit of each of the sponsored ministries
- (9) To receive, review and monitor strategic, long range plans of each of the sponsored ministries as it deems necessary

The Chair of the Board of Directors appoints a Director to serve as an ex-officio nonvoting Director on each of the sponsored ministries. The Board of Directors may delegate any duty or function the Corporation has as a Member of any of the sponsored ministries to the Chair, any other duly authorized officer of the Corporation or any individual Director or duly constituted Committee of the Board of Directors.

2. **Membership, Composition and Election** – The Board of Directors shall consist of no fewer than 3 and no more than 15 Directors. The Board of Directors shall include (i) the General Minister of the Congregation (her designee) who shall serve ex-officio with voting rights; and (ii) the Director of Mission Integration who shall serve ex-officio without voting rights; and (iii) the Executive Director of the Corporation who shall serve ex-officio without voting rights. To the extent feasible, the majority of the Directors shall not be Sisters from the Congregation. The Incorporator shall elect the initial Directors, and thereafter, the Directors, who are not serving ex-officio, shall be appointed by the Member at each Annual Meeting of the Member.
3. **Term and Tenure** – The initial board of Directors shall be those individuals whose names are set forth on Exhibit “A” attached hereto, and except as may be otherwise provided by law, the Certificate of Incorporation, these By-Laws or by vote of the Member, each Director

shall hold for an initial term of years so noted next to their name. When the term of the initial Director expires, the new Director will be appointed for a (3) year term. No Director shall serve for more than (3) consecutive terms.

4. **Meetings** – A regular meeting of the Directors may be held without a call or notice at the same place as the Annual Meeting of the Member, or the Special Meeting held in lieu thereof, following such meeting of the Member provided either that every Director is present at the meeting at which the Annual Meeting is fixed or any absent Director has received the minutes of such meeting. The Board of Directors will hold its annual meeting shortly after the Member annual meeting. In addition to the annual meeting the Board of Directors will have (4) regular meetings each year at such time and place as the Board of Directors may from time to time determine. Special meetings of the Directors may be held upon the oral or written call by the President, Treasurer, or two or more Directors, designating the date, hour and place thereof. Directors may not vote by proxy.
5. **Notice of Special Meetings** – Notice of the date, hour and place of all special meetings of the Board of Directors shall be given to each Director by the Secretary or an Assistant Secretary, or, if there is no Secretary or Assistant Secretary, or in the case of death, absence, incapacity, or refusal of such persons, by the officer or one of the Directors calling the meeting. Notice shall be given to each Director either orally by telephone, or in writing by facsimile or electronic mail sent to the Director's facsimile telephone number or electronic mail address at least twenty-four (24) hours in advance of the meeting, or by written notice sent by first-class mail to the Director's business or home address at least forty-eight (48) hours in advance of the meeting. Notice need not be given to a Director if a written waiver of notice is executed by such Director before or after a meeting and is filed with the records of the meeting, or to any Director who attends the meeting without protesting prior thereto or at its commencement of the lack of notice to such Director. A notice or waiver of notice of a meeting of the Board of Directors need not specify the purposes of the meeting.
6. **Quorum** – At any meeting of the Board of Directors, a majority of the Directors then in office shall constitute a quorum. Less than a quorum may adjourn any meeting from time to time, and the meeting may be held as adjourned without further notice. Any one or more members of the Board of Directors or any committee of the board may participate in a

meeting of the board or committee by means of a conference, telephone, or similar communications equipment allowing all participants in the meeting to hear each other at the same time. Participation by this means shall constitute presence in person at a meeting.

7. **Action at Meeting** – At any meeting of the Board of Directors at which a quorum is present, a majority of those present may take any action on behalf of the Board of Directors except to the extent that a larger number is required by law, the Certificate of Incorporation or these By-Laws.
8. **Action Without Meeting** – Any action by the Board of Directors may be taken without a meeting if a written consent thereto is signed by all the Directors then in office and filed with the records of the meetings of the Board of Directors. Such consent shall be treated as a vote of the Board of Directors for all purposes.
9. **Committees** – The Board of Directors may, by vote of a majority of the Directors then in office, elect from its number an Executive Committee or other committees and may, by like vote, delegate thereto some or all of its powers except those which by law, by the Certificate of Incorporation, or by these By-Laws it is prohibited from delegating. In no event shall the Board of Directors delegate the following powers to any committee it establishes:
 - (i) The power to change the principal office of the Corporation;
 - (ii) The power to amend these By-Laws;
 - (iii) The power to elect officers required by law, the Certificate of Incorporation, or by these By-Laws to be elected by the Member or the Directors and the power to fill vacancies in any such offices;
 - (iv) The power to change the number of members constituting the Board of Directors and the power to fill vacancies in the Board of Directors.
 - (v) The power to remove officers from office or Directors from the Board of Directors; and
 - (vi) The power to authorize a merger of the Corporation.

Except as the Board of Directors may otherwise determine, any such committee may make rules for the conduct of its business, but, unless otherwise provided by the Board of Directors or in

such rules, its business (including the keeping of a records of its meetings) shall be conducted as nearly as may be in the same manner as is provided by these By-Laws for the Board of Directors, including the ability to participate in meetings telephonically and through similar communications equipment as provided in Section 7 of this Article III, and to act by written consent in lieu of a meeting as provided in Sections 7 and 9, respectively, of this Article III. Each such committee shall report its action to the Board of Directors, which shall have the power to rescind any action taken. However, in the case of the Executive Committee no such rescission shall have retroactive effect.

ARTICLE IV

Resignations, Removals and Vacancies in the Board of Directors

1. **Resignations** – Any Director with may resign by delivering his/her written resignation to the Corporation at its principal office or to the President, Secretary, or Treasurer. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.
2. **Removals** – Any Director with the exception of the General Minister of the Congregation and the Director of Mission Integration may be removed from office with or without cause by the Member. A Director may be removed for cause only after reasonable notice and opportunity to be heard.
3. **Vacancies** – Any vacancy in the Board of Directors, however occurring, may be filled by the Member. In the event of a vacancy in the Board of Directors, the remaining Directors, except as otherwise provided by law, may exercise the powers of the full Board until the vacancy is filled.

ARTICLE V

Officers of the Corporation

1. **Officers** – The officers of the Corporation shall consist of a President, Treasurer, Secretary, Executive Director, and Director of Mission Integration. The officers of the Corporation may

include such other officers as the Board of Directors may determine, including a Chairperson of the Board, Vice Chairperson, and one or more Vice Presidents, Assistant Treasurers, and Assistant Secretaries.

2. **Election** – The President, Treasurer and Secretary, Executive Director and the Director of Mission Integration shall be appointed annually by the Member at its Annual Meeting. Other officers may be elected by the Board of Directors at the first meeting following each Annual Meeting of the Member or at any other meeting of the Directors.
3. **Qualification** – No officer, except the Executive Director and the Director of Mission Integration need be a Director. The Secretary shall be a resident of the State of New York, unless the Corporation has a resident agent appointed for the purpose of service of process. Any officer may be required by the Board of Directors to give bond for the faithful performance of his/her duties to the Corporation in such amount and with such sureties as the Board of Directors may determine.
4. **Tenure** – Except as otherwise provided by law, the Certificate of Incorporation or these By-Laws, the President, Treasurer and Secretary shall hold office until the first meeting of the Board of Directors following each Annual Meeting of the Member and until their respective successors are chosen and qualified. All other officers shall hold office until the first meeting of the Board of Directors following the Annual Meeting of the Member, unless a shorter or longer term is specified in the vote choosing or appointing them. Any officer may resign by delivering his/her written resignation to the Corporation at its principal office or to the President, Secretary, or Treasurer, and such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.
5. **Removals** – The Member may remove the President, Treasurer, Secretary, and Director of Mission Integration and Executive Director with or without cause; provided, however, that such officers may be removed for cause only after having been given reasonable notice and opportunity to be heard by the Member. The Board of Directors may remove any other officer with or without cause, provided that such officer may be removed for cause only after having been given reasonable notice and an opportunity to be heard by the Board of Directors.

6. **Vacancies** – Any vacancy, however arising, in any office, may be filled for the unexpired portion of the term thereof by the body electing or appointing the officer, whether it be the Member or the Board of Directors.

7. **Chairperson of the Board** – The Chairperson of the Board shall preside at all meetings of the Board of Directors and shall perform such other duties and have such other powers as may be designated from time to time by the Board of Directors. The Chairperson shall be an ex-officio member of all committees of the Corporation.

8. **President and Vice-President** – The President shall, subject to the direction of the Board of Directors, have general supervision and control of the business and officers of the Corporation, preside at all meetings of the Board of Directors if no Chair of the Board is chosen, or if chose, is absent or declines to preside, and perform such other duties and have such other powers as the Board of Directors may from time to time designate. Each Vice President shall perform such duties and have such powers as the Board of Directors may from time to time designate.

9. **Executive Director** – The Member shall appoint an Executive Director, after consultation with the Board of Directors of the Corporation. The Executive Director shall be the Chief Executive Officer of the Corporation and shall have, subject to the oversight of the Board of Directors, general supervision, and control of the day-to-day operations of the Corporation. The tenure of the Executive Director shall be determined by the Member.

10. **Director of Mission Integration** – The Director of Mission Integration shall serve as the liaison between the Member and the Corporation’s Board of Directors and shall work with the Executive Director, in providing oversight of the Member’s sponsored ministries, as directed by the Member with regard to the mission effectiveness and quality of ministry of the Member’s sponsored ministries. The tenure of the Director of Mission Integration shall be determined by the Member.

11. **Treasurer and Assistant Treasurers** – The Treasurer shall, subject to the direction of the Board of Directors, have general charge of the financial affairs of the Corporation and shall cause to be kept accurate books of account of the affairs of the Corporation. The Treasurer shall have custody of all funds, securities, and valuable documents of the Corporation, except as the Board of Directors may otherwise provide. In addition, the Treasurer shall perform such other powers as the Board of Directors may from time to time designate. Each Assistant Treasurer shall perform such duties and have such other powers as the Board of Directors may from time to time designate.

12. **Secretary and Assistant Secretaries** – The Secretary shall attend and keep a record of all the meetings of the Board of Directors. In addition, the Secretary shall perform such other duties and have such other powers as may be designated from time to time by the Board of Directors. Each Assistant Secretary shall perform such duties and have such powers as may be designated from time to time by the Board of Directors. In the absence of the Secretary from any meeting of the Board of Director, an Assistant Secretary, if one is chosen, otherwise a Temporary Secretary designated by the person presiding at the meeting, shall perform the duties of the Secretary at such meeting.

13. **Other Officers** – Each other officer, who the Board of Directors may elect, shall perform such duties and have such powers as may be designated from time to time by the Board of Directors.

14. **Other Powers and Duties** – Each officer shall, subject to these By-Laws, and in addition to the duties and powers specifically set forth in these By-Laws, have such duties and powers as are customarily incident to his/her office. The exercise of any power which by law, the Certificate of Incorporation or these By-Laws, or under any vote of the Member or the Board of Directors, may be exercised by an officer of the Corporation only in the event of absence of another officer or any other contingency, shall bind the Corporation in favor of anyone relying thereon in good faith, whether or not such absence or contingency existed.

ARTICLE VI

Miscellaneous Provisions

1. **Fiscal Year** – Except as from time to time otherwise determined by the Board of Directors, the fiscal year of the Corporation shall end on December 31st in each year.
2. **Seal** – If the Board of Directors determines to adopt a seal of the Corporation, such seal shall, subject to alternation by the Board of Directors, bear its name, the words “State of New York” and year of its incorporation.
3. **Execution of Instruments** – All deeds, leases, transfers, contracts, bonds, notes and other obligations authorized to be executed by an officer of the Corporation in its behalf shall be signed by the President or the Treasurer except as the Board of Directors may generally or in particular cases, otherwise determine.
4. **Corporate Records** – The original, or attested copies, of the Certificate of Incorporation, these By-Laws, and records of all meetings of the Incorporators and the Member, which shall contain the names and the record address of the Member, and all Directors and Officers, shall be kept in the State of New York at the principal office of the Corporation. The documents shall be available at all reasonable times for the inspection by any Member, Director or Officer for any proper purpose but not to secure a list or other information for the purpose of selling said list or information or copies thereof or of using the same for a purpose other than in the interest of the applicant, as a Member, Director or Officer, relative to the affairs of the Corporation. Except as may be otherwise required by law, by the Certificate of Incorporation or by these By-Laws, the Corporation shall be entitled to treat the record address of a Member, Director or Officer as shown on its books as the address of such person for all purposes, including the giving of any notices; and it shall be the duty of each such person to notify the Corporation of his/her latest post office address.

5. **Conflict of Interest** – Each Director shall annually sign a conflict of interest statement and is expected to excuse himself or herself from any official action when issues arise that may be considered a conflict of interest, in accordance with the Conflict of Interest Policy Statement. See attached Conflict of Interest statement exhibit “B”.
6. **Evidence of Authority** – A certificate by the Secretary, or an Assistant Secretary or Secretary as to any action taken by the Member, Directors or any Officer or Representative of the Corporation shall, as to all who rely thereon in good faith, be conclusive evidence of such action.
7. **Ratification** – Any action taken on behalf of the Corporation by a Director or any Officer or Representative of the Corporation which requires authorization by the Member or by the Board of Directors shall be deemed to have been duly authorized if subsequently ratified by the Member, if action by it was necessary for authorization, or by the Board of Directors, if action by it was necessary for authorization.
8. **Certificate of Incorporation** – All references in these By-Laws to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the Corporation, as amended, and in effect, from time to time. If there be any conflict between the provisions of the Certificate of Incorporation and these By-Laws, the provisions of the Certificate of Incorporation shall govern.

ARTICLE VII

Indemnification of Directors, Officers and Others

The corporation shall indemnify any person made or threatened to be a party to any action proceeding by reason the fact that he, his testator or intestate, is or was a Director or Officer of the Corporation, in the manner and to the maximum extent permitted by Section 722 of the New York Not-for-Profit Corporation Law, as amended from time to time, and the Corporation may, in the discretion of the Board of Directors, indemnify all other corporate personnel or appointed committee person to the extent permitted by law.

Indemnification in any case, however, shall not apply when a judgment or other final adjudication adverse to the Director of Officer establishes that his her acts were committed in

bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled.

To the extent legally permissible and only to the extent that the status of the Corporation as an organization exempt under Section 501(c)(3) of the Internal Revenue Code is not adversely affected thereby, the Corporation shall indemnify: (i) each person now or hereafter elected or appointed a Director, Member or Officer of the Corporation; or (ii) any person who serves at its request as a Director, officer, employee, member or agent of any other organization in which the Corporation has any interest as a stockholder, member, creditor, or otherwise, or who serves at its request in any capacity with respect to any employee benefit plan, against all expenses reasonably incurred or paid by him/her in connection with the defense or disposition of any actual or threatened claim, action, suit, or proceeding (civil, criminal, or other, including appeals) in which he/she may be involved as a party or otherwise by reason of his/her having served in any such capacity, or by reason of any action or omission or alleged action or omission (including those antedating the adoption of these By-Laws) by him/her while serving in any such capacity; except for expense incurred or paid by him/her with respect to: (i) any matter as to which he/she shall have been adjudicated in any proceeding not to have acted in the reasonable belief that his/her action was in the best interests of the Corporation; or (ii) to any matter as to which he/she shall agree or be ordered by any Court of competent jurisdiction to make payment to the Corporation; or (iii) which the Corporation shall be prohibited by law or by order of any Court of competent jurisdiction from indemnifying him/her. Such indemnification shall include payment by the Corporation of expense incurred in defending a civil or criminal action or proceeding in advance of the final disposition of such action or proceeding, upon receipt of the undertaking by the person indemnified to repay such payment if he/she shall eventually be adjudicated to be not entitled to Indemnification under these By-Laws.

No matter disposed of by settlement, compromise, or the entry of a consent decree, nor a judgment of conviction or the entry of any plea in a criminal proceeding, shall of itself be deemed an adjudication of not having acted in the reasonable belief that the action taken or omitted was in the best interests of the Corporation. The term expense shall include, without limitation, settlements, attorney's fees, costs, judgments, fines, penalties, and other liabilities. The right of indemnification herein provided for: (i) shall be severable; (ii) shall be in addition to, and shall not affect, any other right which any such person may have or obtain; (iii) shall

continue as to any such person who has ceased to be a Director, Member or Officer of the Corporation or who has ceased to serve at its request in another entity in which the Corporation has an interest or with respect to any employment benefit plan; and (iv) shall inure to the benefit of the heirs and legal representatives of any such person. The Corporation's obligation to provide indemnification under this Article VI shall be offset by and to the extent of, and shall be secondary to any other source of indemnification or any other person. Nothing contained in this Article VI shall affect any rights to which employees or agents of the Corporation, who are not Directors, Members or Officers may be entitled by contract or otherwise.

ARTICLE VIII

Amendments

The power to make, amend, or repeal these By-Laws, in whole or in part, shall be solely in the Member.

The Partners in Franciscan Ministries Board of Directors by class:

3 year Class of 2014 term expires 12/31/2014

S. Patricia Burkard
Mary Cotter
Dominic Robinson
Susan Crossett

2 year Class of 2013 Term expires 12/31/2013

S. Donna Zwigart
Dennis Hagashiguchi
Benjamin Sio
Rev. Brad Milunski

1 year Class of 2012 term expires 12/31/2012

S. Beatrice Leising
Thomas Dennison
Danielle Cummings
Margaret Prescott

CONFLICTS OF INTEREST

SECTION 1. PURPOSE

The purpose of the conflicts of interest policy is to protect the Corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an Officer or Member of the Corporation. This policy is intended to supplement but not replace any applicable state laws or regulations governing conflicts of interest.

SECTION 2. DEFINITIONS

- A. **Interested Person.** Any Board Member, principal Officer, or Member of a committee with Board-delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person. If a person is an interested person with respect to any entity of which the Corporation is a part, he or she is an interested person with respect to all entities in the Corporate system.
- B. **Financial Interest.** A person has a financial interest if the person has, directly or indirectly, through business, investment or family:
- (1) An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement;
 - (2) A compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement; or
 - (3) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature.

SECTION 3. PROCEDURES

- A. **Duty to Disclose.** In connection with any actual or possible conflicts of interest, an interested person must disclose the existence of his or her financial interest and all material facts to the Board of Directors and members of Committees with Board-delegated powers considering the proposed transaction or arrangement.
- B. **Determining Whether a Conflict of Interest Exists.** After disclosure of the financial interest and all material facts and after any discussion with the interested person, he or she shall leave the Board or Committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board or Committee members shall decide if a conflict of interest exists.
- C. **Procedures for Addressing the Conflict of Interest.**
- (1) An interested person may make a presentation at the Board or Committee meeting, but after such presentation, he/she shall leave the meeting during the discussion of and vote on the transaction or arrangement that results in the conflict of interest.
 - (2) The Chairperson of the Board or Committee shall, if appropriate, appoint a disinterested person or Committee to investigate alternatives to the proposed transaction or arrangement.
 - (3) After exercising due diligence, the Board or Committee shall determine whether the Corporation can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.
 - (4) If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Board or Committee shall determine by a majority vote of the disinterested Members whether the transaction or arrangement is in the Corporation's best interest for its own benefit and whether the transaction is fair and reasonable to the Corporation and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.

D. Violation of the Conflicts of Interest Policy

- (1) If the Board or Committee has reasonable cause to believe that a Member has failed to disclose actual or possible conflicts of interest, it shall inform the Member of the basis for such belief and afford the Member an opportunity to explain the alleged failure to disclose.
- (2) If, after hearing the response of the Member and making such further investigation as may be warranted in the circumstances, the Board or Committee determines that the Member has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

SECTION 4. RECORDS OF PROCEEDINGS

The minutes of the Board and all Committees with Board-delegated powers shall contain:

- A. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present and the Board's or Committee's decision as to whether a conflict of interest in fact existed.
- B. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement and a record of any votes taken in connection therewith.

SECTION 5. COMPENSATION

- A. A voting Member of any Committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that Member's compensation.

SECTION 6. ANNUAL STATEMENTS

Each Board Member, principal Officer and Member of a committee with Board-delegated powers shall annually sign a statement which affirms that such person:

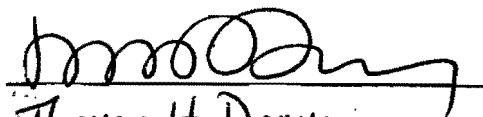
- A. Has received a copy of the conflicts of interest policy;
- B. Has read and understands the policy;
- C. Has agreed to comply with the policy; and
- D. Understands that the Corporation is a charitable organization and that in order to maintain its federal tax-exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

SECTION 7. PERIODIC REVIEWS

- A. To ensure that the Corporation operates in a manner consistent with its charitable purposes and that it does not engage in activities that could jeopardize its status as an organization exempt from federal income tax, periodic reviews shall be conducted.
- B. In conducting the periodic reviews provided for in this Section, the Corporation may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of its responsibility for ensuring that periodic reviews are conducted.

APPROVED: .

10-17-11


Thomas H. Dennis
Chair, PFN



Conflict of Interest

The standard of behavior at the Partners in Franciscan Ministries sponsored by the Sisters of St. Francis of the Neumann Communities is that all staff, volunteers, and board members scrupulously avoid any conflict of interest between the interests of the Partners in Franciscan Ministries Corporation on one hand, and personal, professional and business interests on the other. This includes avoiding actual conflicts of interest as well as perceptions of conflicts of interests.

I understand that the purposes of this policy are to protect the integrity of the Partners in Franciscan Ministries Corporation decision-making process, to enable our constituencies to have confidence in our integrity, and to protect the integrity and reputation of volunteers, staff, and board members.

Upon or before election, hiring, or appointment, I will make a full written disclosure of interest, relationships, and holdings that could potentially result in a conflict of interest. This written disclosure will be kept on file and I will update it as appropriate.

In the course of meetings or activities, I will disclose any interests in a transaction or decision where I (including my business or other nonprofit affiliation), my family or my significant other, employer, or close associates will receive a benefit or gain. After disclosure, I understand that I will be asked to leave the room for the discussion and will not be permitted to vote on the question.

I understand that this policy is meant to be a supplement to a good judgment, and I will respect its spirit as well as its working.

Signed _____ Date _____

4-6-2011

SISTERS OF ST. FRANCIS OF THE NEUMANN COMMUNITIES

2500 Grant Boulevard, Suite 3, Syracuse, NY 13208

Phone: 315 434 7084 • Cell: 315 413 1282 • Fax: 315 434 7087 • info@scf.org • www.scf.org

Mohawk Valley Health Systems
Strategic Planning Forecast
Balance Sheet

	Audited 2012	Projected 2013	Projected 2014	Incremental Year 1	Projected 2016	Incremental Year 3
Current Assets:						
Cash and Cash Equivalents	\$9,765,103	\$3,478,492	\$12,862,041	\$3,096,938	\$51,107,291	\$41,342,188
Assets limited as to use	\$1,268,370	\$912,249	\$921,371	(\$346,999)	\$939,891	(\$328,479)
Investments	\$77,360,399	\$85,781,991	\$84,826,646	\$7,466,247	\$88,992,590	\$11,632,191
Patient Accounts Receivable - Net	\$73,724,381	\$71,132,925	\$67,888,947	(\$5,835,434)	\$68,789,444	(\$4,934,937)
Other Receivables	\$9,962,700	\$16,715,575	\$17,120,594	\$7,157,894	\$18,517,634	\$8,554,934
Inventories	\$10,520,954	\$10,925,308	\$11,163,760	\$642,806	\$11,843,633	\$1,322,679
Prepaid Expenses & other current assets	\$19,386,265	\$4,816,424	\$4,952,873	(\$14,433,392)	\$5,460,543	(\$13,925,722)
Due From Affiliated Entities	\$1,077,770	\$932,323	\$936,985	(\$140,785)	\$955,819	(\$121,951)
Net Investment in direct financing lease	\$547,116	\$547,116	\$547,116	\$0	\$547,116	\$0
Due from Third Party Payers	\$9,567,612	\$10,978,838	\$11,033,732	\$1,466,120	\$11,255,510	\$1,687,898
	\$0	\$0	\$0	\$0	\$0	\$0
Total Current Assets	\$213,180,670	\$206,221,241	\$212,254,065	(\$926,605)	\$258,409,472	\$45,228,802
Investment in Foundation	\$0	\$0	\$0	\$0	\$0	\$0
Investment in Affiliates	\$137,248	\$50,483	\$50,483	(\$86,765)	\$50,483	(\$86,765)
Investment in SLM Office Building	\$0	\$0	\$0	\$0	\$0	\$0
Investment in MVEC	\$364,000	\$724,710	\$724,710	\$360,710	\$724,710	\$360,710
Investment in Paraffin	\$0	\$0	\$0	\$0	\$0	\$0
Resident funds held in trust	\$4,383,602	\$5,023,643	\$5,070,442	\$686,840	\$7,346,202	\$2,962,600
Investments	\$4,633,307	\$4,910,499	\$4,935,583	\$302,276	\$5,034,788	\$401,481
Net Investment in direct financing lease	\$3,013,803	\$2,844,008	\$2,296,892	(\$716,911)	\$1,202,660	(\$1,811,143)
Property and equipment, net	\$192,617,537	\$196,719,354	\$192,545,229	(\$72,308)	\$184,147,992	(\$8,469,545)
Unamortized Debt Issuance Costs	\$1,522,882	\$1,479,671	\$1,424,121	(\$98,761)	\$1,313,021	(\$209,861)
Other Receivables	\$4,871,330	\$0	\$0	(\$4,871,330)	\$0	(\$4,871,330)
Other Assets	\$30,651,737	\$29,646,476	\$29,794,708	(\$857,029)	\$30,393,582	(\$258,155)
Beneficial Interest in Charitable trust	\$1,247,000	\$0	\$0	(\$1,247,000)	\$0	(\$1,247,000)
Total Assets	<u>\$456,623,116</u>	<u>\$447,620,085</u>	<u>\$449,096,233</u>	<u>(\$7,526,883)</u>	<u>\$488,622,910</u>	<u>\$31,999,794</u>

Mohawk Valley Health Systems
Strategic Planning Forecast
Balance Sheet

	Audited 2012	Projected 2013	Projected 2014	Incremental Year 1	Projected 2016	Incremental Year 3
Liabilities and Net Assets						
Current Liabilities:						
Line of credit	\$4,000,000	\$16,647,060	\$16,793,531	\$12,793,531	\$17,090,881	\$13,090,881
Current Portion of Long-Term Debt	\$6,553,097	\$5,759,653	\$4,959,268	(\$1,593,829)	\$5,731,448	(\$821,649)
Current Portion of Capital Lease Obligations	\$4,035,695	\$4,556,250	\$3,808,587	(\$227,108)	\$3,591,588	(\$444,107)
Accounts Payable	\$31,408,696	\$28,942,595	\$29,166,176	(\$2,242,520)	\$29,752,417	(\$1,656,279)
Accrued Payroll, Payroll Taxes and Benefits	\$20,050,063	\$18,202,292	\$18,755,945	(\$1,294,118)	\$20,481,960	\$431,897
Current Portion of Self-Insurance Liability	\$2,068,674	\$5,501,729	\$5,529,238	\$3,460,564	\$5,640,375	\$3,571,701
Accrued Interest Payable	\$121,599	\$199,240	\$200,850	\$79,251	\$204,887	\$83,288
Other Current Liabilities	\$15,196,681	\$14,187,299	\$14,684,533	(\$512,148)	\$15,530,120	\$333,439
Revolving note payable	\$23,330,133	\$6,758,654	\$6,826,241	(\$16,503,892)	\$6,963,448	(\$16,366,685)
Accrued Pension Payable	\$0	\$0	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0	\$0	\$0
Total Current Liabilities	\$106,764,638	\$100,754,772	\$100,724,369	(\$6,040,269)	\$104,987,124	(\$1,777,514)
Long-Term Debt, Excluding Current						
Installements:						
Notes Payable	\$8,824,057	\$13,263,077	\$9,717,202	\$893,145	\$3,089,055	(\$5,735,002)
Civic Facility Revenue Bonds	\$16,845,000	\$16,300,000	\$15,790,000	(\$1,055,000)	\$14,770,000	(\$2,075,000)
Capital Lease Obligations	\$39,627,041	\$37,235,770	\$34,912,666	(\$4,714,375)	\$33,480,613	(\$6,146,428)
Other long term liabilities	\$43,231,956	\$47,686,042	\$44,080,989	\$849,034	\$42,485,256	(\$746,700)
Estimated self insurance liabilities, net of current	\$3,812,943	\$3,264,684	\$3,291,789	(\$521,154)	\$3,548,603	(\$264,340)
Residents funds held in trust	\$1,528,415	\$1,307,260	\$1,176,535	(\$351,880)	\$915,084	(\$613,331)
Unrealized loss on interest rate swaps	\$6,514,119	\$398,830	\$430,736	(\$6,083,383)	\$502,411	(\$6,011,708)
Capital Long Term Debt Mortgage	\$0	\$0	\$0	\$0	\$0	\$0
Pension Liability	\$64,445,152	\$49,445,152	\$50,445,152	(\$14,000,000)	\$52,445,152	(\$12,000,000)
Total Liabilities	\$291,593,321	\$269,655,587	\$260,569,438	(\$31,023,883)	\$256,223,297	(\$35,370,024)
Net Assets:						
Unrestricted	\$148,432,841	\$168,835,818	\$179,398,115	\$30,965,274	\$223,270,933	\$74,838,092
Temporarily Restricted	\$11,155,466	\$3,687,192	\$3,687,192	(\$7,468,274)	\$3,687,192	(\$7,468,274)
Permanently Restricted	\$5,441,488	\$5,441,488	\$5,441,488	\$0	\$5,441,488	\$0
Total Net Assets	\$165,029,795	\$177,964,498	\$188,526,795	\$23,497,000	\$232,399,613	\$67,369,818
Total Liabilities and Net Assets	<u>\$456,623,116</u>	<u>\$447,620,085</u>	<u>\$449,096,233</u>	<u>(\$7,526,883)</u>	<u>\$488,622,910</u>	<u>\$31,999,794</u>

Mohawk Valley Health Systems
Strategic Planning Forecast
Balance Sheet

	Audited 2012	Projected 2013	Projected 2014	Incremental Year 1	Projected 2016	Incremental Year 3
Current Assets:						
Cash and Cash Equivalents	\$9,765,103	\$3,478,492	\$12,862,041	\$3,096,938	\$51,107,291	\$41,342,188
Assets limited as to use	\$1,268,370	\$912,249	\$921,371	(\$346,999)	\$939,891	(\$328,479)
Investments	\$77,360,399	\$85,781,991	\$84,826,646	\$7,466,247	\$88,992,590	\$11,632,191
Patient Accounts Receivable - Net	\$73,724,381	\$71,132,925	\$67,888,947	(\$5,835,434)	\$68,789,444	(\$4,934,937)
Other Receivables	\$9,962,700	\$16,715,575	\$17,120,594	\$7,157,894	\$18,517,634	\$8,554,934
Inventories	\$10,520,954	\$10,925,308	\$11,163,760	\$642,806	\$11,843,633	\$1,322,679
Prepaid Expenses & other current assets	\$19,386,265	\$4,816,424	\$4,952,873	(\$14,433,392)	\$5,460,543	(\$13,925,722)
Due From Affiliated Entities	\$1,077,770	\$932,323	\$936,985	(\$140,785)	\$955,819	(\$121,951)
Net Investment in direct financing lease	\$547,116	\$547,116	\$547,116	\$0	\$547,116	\$0
Due from Third Party Payers	\$9,567,612	\$10,978,838	\$11,033,732	\$1,466,120	\$11,255,510	\$1,687,898
	\$0	\$0	\$0	\$0	\$0	\$0
Total Current Assets	\$213,180,670	\$206,221,241	\$212,254,065	(\$926,605)	\$258,409,472	\$45,228,802
Investment in Foundation	\$0	\$0	\$0	\$0	\$0	\$0
Investment in Affiliates	\$137,248	\$50,483	\$50,483	(\$86,765)	\$50,483	(\$86,765)
Investment in SLM Office Building	\$0	\$0	\$0	\$0	\$0	\$0
Investment in MVEC	\$364,000	\$724,710	\$724,710	\$360,710	\$724,710	\$360,710
Investment in Paraffin	\$0	\$0	\$0	\$0	\$0	\$0
Resident funds held in trust	\$4,383,602	\$5,023,643	\$5,070,442	\$686,840	\$7,346,202	\$2,962,600
Investments	\$4,633,307	\$4,910,499	\$4,935,583	\$302,276	\$5,034,788	\$401,481
Net Investment in direct financing lease	\$3,013,803	\$2,844,008	\$2,296,892	(\$716,911)	\$1,202,660	(\$1,811,143)
Property and equipment, net	\$192,617,537	\$196,719,354	\$192,545,229	(\$72,308)	\$184,147,992	(\$8,469,545)
Unamortized Debt Issuance Costs	\$1,522,882	\$1,479,671	\$1,424,121	(\$98,761)	\$1,313,021	(\$209,861)
Other Receivables	\$4,871,330	\$0	\$0	(\$4,871,330)	\$0	(\$4,871,330)
Other Assets	\$30,651,737	\$29,646,476	\$29,794,708	(\$857,029)	\$30,393,582	(\$258,155)
Beneficial Interest in Charitable trust	\$1,247,000	\$0	\$0	(\$1,247,000)	\$0	(\$1,247,000)
Total Assets	<u>\$456,623,116</u>	<u>\$447,620,085</u>	<u>\$449,096,233</u>	<u>(\$7,526,883)</u>	<u>\$488,622,910</u>	<u>\$31,999,794</u>

Mohawk Valley Health Systems
Strategic Planning Forecast
Balance Sheet

	Audited 2012	Projected 2013	Projected 2014	Incremental Year 1	Projected 2016	Incremental Year 3
Liabilities and Net Assets						
Current Liabilities:						
Line of credit	\$4,000,000	\$16,647,060	\$16,793,531	\$12,793,531	\$17,090,881	\$13,090,881
Current Portion of Long-Term Debt	\$6,553,097	\$5,759,653	\$4,959,268	(\$1,593,829)	\$5,731,448	(\$821,649)
Current Portion of Capital Lease Obligations	\$4,035,695	\$4,556,250	\$3,808,587	(\$227,108)	\$3,591,588	(\$444,107)
Accounts Payable	\$31,408,696	\$28,942,595	\$29,166,176	(\$2,242,520)	\$29,752,417	(\$1,656,279)
Accrued Payroll, Payroll Taxes and Benefits	\$20,050,063	\$18,202,292	\$18,755,945	(\$1,294,118)	\$20,481,960	\$431,897
Current Portion of Self-Insurance Liability	\$2,068,674	\$5,501,729	\$5,529,238	\$3,460,564	\$5,640,375	\$3,571,701
Accrued Interest Payable	\$121,599	\$199,240	\$200,850	\$79,251	\$204,887	\$83,288
Other Current Liabilities	\$15,196,681	\$14,187,299	\$14,684,533	(\$512,148)	\$15,530,120	\$333,439
Revolving note payable	\$23,330,133	\$6,758,654	\$6,826,241	(\$16,503,892)	\$6,963,448	(\$16,366,685)
Accrued Pension Payable	\$0	\$0	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0	\$0	\$0
Total Current Liabilities	\$106,764,638	\$100,754,772	\$100,724,369	(\$6,040,269)	\$104,987,124	(\$1,777,514)
Long-Term Debt, Excluding Current						
Installements:						
Notes Payable	\$8,824,057	\$13,263,077	\$9,717,202	\$893,145	\$3,089,055	(\$5,735,002)
Civic Facility Revenue Bonds	\$16,845,000	\$16,300,000	\$15,790,000	(\$1,055,000)	\$14,770,000	(\$2,075,000)
Capital Lease Obligations	\$39,627,041	\$37,235,770	\$34,912,666	(\$4,714,375)	\$33,480,613	(\$6,146,428)
Other long term liabilities	\$43,231,956	\$47,686,042	\$44,080,989	\$849,034	\$42,485,256	(\$746,700)
Estimated self insurance liabilities, net of current	\$3,812,943	\$3,264,684	\$3,291,789	(\$521,154)	\$3,548,603	(\$264,340)
Residents funds held in trust	\$1,528,415	\$1,307,260	\$1,176,535	(\$351,880)	\$915,084	(\$613,331)
Unrealized loss on interest rate swaps	\$6,514,119	\$398,830	\$430,736	(\$6,083,383)	\$502,411	(\$6,011,708)
Capital Long Term Debt Mortgage	\$0	\$0	\$0	\$0	\$0	\$0
Pension Liability	\$64,445,152	\$49,445,152	\$50,445,152	(\$14,000,000)	\$52,445,152	(\$12,000,000)
Total Liabilities	\$291,593,321	\$269,655,587	\$260,569,438	(\$31,023,883)	\$256,223,297	(\$35,370,024)
Net Assets:						
Unrestricted	\$148,432,841	\$168,835,818	\$179,398,115	\$30,965,274	\$223,270,933	\$74,838,092
Temporarily Restricted	\$11,155,466	\$3,687,192	\$3,687,192	(\$7,468,274)	\$3,687,192	(\$7,468,274)
Permanently Restricted	\$5,441,488	\$5,441,488	\$5,441,488	\$0	\$5,441,488	\$0
Total Net Assets	\$165,029,795	\$177,964,498	\$188,526,795	\$23,497,000	\$232,399,613	\$67,369,818
Total Liabilities and Net Assets	<u>\$456,623,116</u>	<u>\$447,620,085</u>	<u>\$449,096,233</u>	<u>(\$7,526,883)</u>	<u>\$488,622,910</u>	<u>\$31,999,794</u>

Mohawk Valley Health System
Strategic Planning Forecast
Cash Flows Statement

	<u>2014</u>	<u>2015</u>	<u>2016</u>
Cash flows from operating activities:			
Change in net assets	\$10,562,297	\$18,654,686	\$25,218,132
Adjustments to reconcile change in net assets to net cash provided by operating activities:			
Depreciation and amortization	\$29,679,747	\$29,151,559	\$28,854,908
Equity in earnings of Subsidiaries	(\$130,726)	(\$130,726)	(\$130,726)
Changes in operating assets and liabilities:			
Receivables	\$2,838,959	(\$731,643)	(\$1,565,894)
Receivable from affiliated entities	(\$4,662)	(\$9,370)	(\$9,464)
Inventories	(\$238,452)	(\$334,913)	(\$344,960)
Prepaid expenses	(\$136,449)	(\$247,644)	(\$260,026)
Other assets	(\$148,232)	(\$297,947)	(\$300,927)
Accounts payable	\$223,581	\$291,662	\$294,579
Accrued payroll, payroll taxes and benefits	\$1,553,653	\$1,844,017	\$1,881,998
Accrued interest payable	\$1,610	\$2,008	\$2,029
Amounts due to Third Party Payers	(\$54,894)	(\$110,337)	(\$111,441)
Other liabilities	\$564,821	\$535,591	\$447,203
Estimated self-insurance liabilities	\$54,614	\$179,984	\$187,967
Net cash provided by (used in) operating activities	<u>\$44,765,867</u>	<u>\$48,796,928</u>	<u>\$54,163,378</u>
Cash flow from investing activities:			
Purchase of property, plant and equipment - net	(\$25,450,072)	(\$24,798,417)	(\$24,699,713)
Purchase of investments, net	\$930,261	(\$2,594,156)	(\$1,670,993)
Change in restricted funds	\$0	\$0	\$0
Expenditure (funding) of assets whose use is limited	(\$55,921)	(\$59,919)	(\$2,234,361)
Net cash provided by (used in) investing activities	<u>(\$24,575,732)</u>	<u>(\$27,452,492)</u>	<u>(\$28,605,067)</u>
Cash flows from financing activities:			
Proceeds from short-term borrowings	\$146,471	\$147,935	\$149,415
Proceeds from long-term debt	(\$8,429,406)	(\$4,012,378)	(\$4,387,649)
Proceeds from capital lease obligations	(\$3,070,767)	(\$948,587)	(\$700,465)
Investment in direct financing lease	\$547,116	\$547,116	\$547,116
Investment in intangible assets	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Net cash provided by (used in) financing activities	<u>(\$10,806,586)</u>	<u>(\$4,265,914)</u>	<u>(\$4,391,583)</u>
Increase (decrease) in cash and cash equivalents	\$9,383,549	\$17,078,522	\$21,166,729
Cash and cash equivalents at beginning of year	\$3,478,492	\$12,862,041	\$29,940,563
Cash and cash equivalents at end of year	<u>\$12,862,041</u>	<u>\$29,940,563</u>	<u>\$51,107,291</u>

FSL Depreciation and Rent Schedule

		ACTUAL	PROJECTED
		8/31/13	12/31/13
2000156 700000-7000	DEPRECIATION EXPENSE	8,187	12,000
2000156 700000-7010	DEPRECIATION LEASEHOLD IMPROVE	333,384	500,000
2000156 700000-7020	DEPRECIATION BUILDINGS	2,580,397	3,863,000
2000156 700000-7030	DEPRECIATION FIXED EQUIPMENT	921,485	1,346,000
2000156 700000-7050	DEPRECIATION LAND IMPROVEMENT	103,722	153,000
2000156 700000-7060	DEPRECIATION MAJOR MOVEABLE	7,528,658	11,531,000
		<u>11,475,833</u>	<u>17,405,000</u>
2000156 800000-8090	BOND ISSUE EXPENSE	17,034	26,000
2000004 800000-8090	BOND ISSUE EXPENSE	22,889	41,000
		<u>39,923</u>	<u>67,000</u>
	Per Statements	<u>11,515,756</u>	<u>17,472,000</u>

Depreciation was calculated by running a projection report from our asset management system and adding an estimate of depreciation on assets to be purchases

The asset management system calculation depreciation based on individual purchases for which a useful life has been assigned based on Medicare guidelines

St. Elizabeth Medical Center
Depreciation Expense Calculation: 2012-2016

	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
Total per Fixed Asset Program	\$9,298,308	\$9,549,038	\$8,679,703	\$7,268,027	\$6,140,181
2013 Capital Purchases		\$410,068	\$530,450	\$530,450	\$530,450
2014 Capital Purchases			\$942,153	\$546,364	\$546,364
2015 Capital Purchases				\$1,279,277	\$562,754
2016 Capital Purchases					\$1,547,718
New Operating Depreciation	\$0	\$410,068	\$1,472,603	\$2,356,090	\$3,187,286
Total Depreciation	\$9,298,308	\$9,959,106	\$10,152,306	\$9,624,118	\$9,327,467

FSL Interest Costs Schedule

	ACTUAL	PROJECTED
	8/31/2013	12/31/2013
750000 7510 INTEREST BONDS	751,453	1,121,000
750000 7520 INTEREST CAPITAL LEASES	351,729	529,000
750000 7530 INTEREST LATE CHARGES	(25)	
750000 7540 INTEREST LINE OF CREDIT	82,057	123,000
750000 7550 INTEREST NOTES PAYABLE	418,380	628,000
	<u>1,603,594</u>	<u>2,401,000</u>

Interest is calculated based on the terms of borrowing documents.

INTEREST

	<u>Total Leases</u>	<u>Total Mort</u>	<u>Total Bonds</u>	<u>Total 2006 Bonds</u>	<u>Total Int Pmts</u>
Jan-12	\$21,715	\$8,984	\$124,497	\$2,053	\$157,248
Feb-12	\$21,216	\$8,948	\$124,497	\$2,053	\$156,714
Mar-12	\$20,716	\$8,911	\$124,497	\$2,053	\$156,178
Apr-12	\$20,214	\$8,875	\$124,497	\$2,053	\$155,639
May-12	\$19,710	\$8,838	\$124,497	\$2,053	\$155,098
Jun-12	\$19,204	\$8,801	\$124,497	\$2,053	\$154,554
Jul-12	\$18,696	\$8,763	\$124,497	\$2,053	\$154,008
Aug-12	\$18,185	\$8,725	\$124,497	\$2,053	\$153,460
Sep-12	\$17,673	\$8,687	\$124,497	\$2,053	\$152,910
Oct-12	\$17,159	\$8,648	\$124,497	\$2,053	\$152,357
Nov-12	\$16,644	\$8,609	\$124,497	\$2,053	\$151,793
Dec-12	\$16,293	\$8,570	\$120,455	\$2,053	\$147,370
12	\$227,594	\$105,358	\$1,489,926	\$24,631	\$1,847,509
Jan-13	\$2,294	\$8,530	\$120,455	\$2,053	\$133,331
Feb-13	\$2,073	\$8,490	\$120,455	\$2,053	\$133,070
Mar-13	\$1,851	\$8,450	\$120,455	\$2,053	\$132,808
Apr-13	\$1,628	\$8,409	\$120,455	\$2,053	\$132,545
May-13	\$1,601	\$8,409	\$120,455	\$2,053	\$132,517
Jun-13	\$1,573	\$8,368	\$103,030	\$2,053	\$115,023
Jul-13	\$1,545	\$8,327	\$103,030	\$2,053	\$114,954
Aug-13	\$1,518	\$8,285	\$103,030	\$2,053	\$114,885
Sep-13	\$1,490	\$8,243	\$103,030	\$2,053	\$114,815
Oct-13	\$1,462	\$8,200	\$103,030	\$2,053	\$114,745
Nov-13	\$1,434	\$8,157	\$103,030	\$2,053	\$114,674
Dec-13	\$1,407	\$8,114	\$101,017	\$2,053	\$112,590
12	\$19,876	\$99,982	\$1,321,469	\$24,631	\$1,465,958
Jan-14	\$1,379	\$8,070	\$101,017	\$2,258	\$112,724
Feb-14	\$1,351	\$8,026	\$101,017	\$2,258	\$112,652
Mar-14	\$1,323	\$7,982	\$101,017	\$2,258	\$112,579
Apr-14	\$1,295	\$7,937	\$101,017	\$2,258	\$112,506
May-14	\$1,267	\$7,891	\$101,017	\$2,258	\$112,433
Jun-14	\$1,239	\$7,846	\$101,017	\$2,258	\$112,359
Jul-14	\$1,210	\$7,800	\$101,017	\$2,258	\$112,285
Aug-14	\$1,182	\$7,753	\$101,017	\$2,258	\$112,210
Sep-14	\$1,154	\$7,706	\$101,017	\$2,258	\$112,135
Oct-14	\$1,126	\$7,659	\$101,017	\$2,258	\$112,060
Nov-14	\$1,098	\$7,611	\$101,017	\$2,258	\$111,984
Dec-14	\$1,069	\$7,563	\$98,909	\$2,258	\$109,799
12	\$14,691	\$93,843	\$1,210,098	\$27,094	\$1,345,726
Jan-15	\$1,041	\$7,514	\$98,909	\$2,484	\$109,947
Feb-15	\$1,012	\$7,465	\$98,909	\$2,484	\$109,870
Mar-15	\$984	\$7,416	\$98,909	\$2,484	\$109,792
Apr-15	\$956	\$7,366	\$98,909	\$2,484	\$109,714
May-15	\$927	\$7,315	\$98,909	\$2,484	\$109,635
Jun-15	\$899	\$7,264	\$98,909	\$2,484	\$109,555
Jul-15	\$870	\$7,213	\$98,909	\$2,484	\$109,476
Aug-15	\$841	\$7,161	\$98,909	\$2,484	\$109,395
Sep-15	\$813	\$7,109	\$98,909	\$2,484	\$109,314
Oct-15	\$784	\$7,057	\$98,909	\$2,484	\$109,233
Nov-15	\$755	\$7,003	\$98,909	\$2,484	\$109,151
Dec-15	\$726	\$6,950	\$96,681	\$2,484	\$106,841
12	\$10,608	\$86,834	\$1,184,678	\$29,803	\$1,311,923
Jan-16	\$698	\$6,896	\$96,681	\$2,732	\$107,006
Feb-16	\$669	\$6,841	\$96,681	\$2,732	\$106,923
Mar-16	\$640	\$6,786	\$96,681	\$2,732	\$106,839
Apr-16	\$611	\$6,731	\$96,681	\$2,732	\$106,754
May-16	\$582	\$6,674	\$96,681	\$2,732	\$106,669
Jun-16	\$553	\$6,618	\$96,681	\$2,732	\$106,584
Jul-16	\$524	\$6,561	\$96,681	\$2,732	\$106,497
Aug-16	\$495	\$6,503	\$96,681	\$2,732	\$106,411
Sep-16	\$466	\$6,445	\$96,681	\$2,732	\$106,324
Oct-16	\$436	\$6,387	\$96,681	\$2,732	\$106,236
Nov-16	\$407	\$6,328	\$96,681	\$2,732	\$106,147
Dec-16	\$378	\$6,268	\$94,093	\$2,732	\$103,471
12	\$6,458	\$79,037	\$1,157,581	\$32,783	\$1,275,860

**Mohawk Valley Health System
Strategic Planning Forecast
Statements of Revenue and Expenses
System Forecast**

	Audited	Projected	Projected			
	2012	2013	2014	Year 1 - Increm.	2016	Year 3 - Increm.
Unrestricted Revenues						
Gross Patient Service Revenue Less Deductions	509,518,670	502,631,819	513,320,861	3,802,191	534,921,289	25,402,619
Less Bad Debts	17,495,250	17,928,938	18,348,968	853,718	19,218,899	1,723,649
Net Patient Service Revenue	492,023,420	484,702,881	494,971,893	2,948,473	515,702,390	23,678,970
Other Revenue	15,074,046	21,868,124	22,148,125	7,074,079	22,720,270	7,646,224
Total revenues, gains and other support	507,097,466	506,571,005	517,120,018	10,022,552	538,422,660	31,325,194
Operating Expenses:						
Salaries and wages	239,933,101	238,207,605	236,573,458	(3,359,643)	242,720,859	2,787,758
Employee benefits	56,854,711	64,129,389	62,316,882	5,462,171	64,022,666	7,167,955
Supplies and other	186,916,680	181,340,288	182,303,442	(4,613,238)	182,127,912	(4,788,768)
Interest expense	4,658,128	4,079,200	3,984,100	(674,028)	3,965,256	(692,872)
Provision for depreciation and amortization	27,370,092	29,551,903	29,679,747	2,309,655	28,854,908	1,484,816
Total Expenses	\$515,732,712	\$517,308,385	\$514,857,629	(875,083)	\$521,691,601	5,958,889
Excess of Revenue over Expenses	(\$8,635,246)	(\$10,737,380)	\$2,262,389	10,897,635	\$16,731,059	25,366,305
Nonoperating Revenue:						
Investment Income	3,377,312	6,263,497	6,326,132	2,948,820	6,453,288	3,075,976
Other nonoperating revenue	4,083,734	1,944,925	1,973,776	(2,109,958)	2,033,785	(2,049,949)
(Loss) Gain on disposal of asset	(234,818)	-	-	234,818	-	234,818
Total Nonoperating Revenue:	7,226,228	8,208,422	8,299,908	1,073,680	8,487,073	1,260,845
Increase (Decrease) in Net Assets	(\$1,409,018)	(\$2,528,958)	\$10,562,297	11,971,315	\$25,218,132	26,627,150
Operating margin	-1.70%	-2.12%	0.44%	2.14%	3.11%	4.81%
Bottom line margin	-0.28%	-0.50%	2.04%	2.32%	4.68%	4.96%
EBIDTA	\$30,619,202	\$31,102,145	\$44,226,144	13,606,942	\$58,038,296	27,419,094

**FAXTON-ST. LUKE'S HEALTHCARE
AND CONSOLIDATED SUBSIDIARIES**

Consolidated Financial Statements

December 31, 2010 and 2009

INDEPENDENT AUDITOR'S REPORT

The Board of Directors
Faxton-St. Luke's Healthcare:

We have audited the accompanying consolidated balance sheets of Faxton-St. Luke's Healthcare and Consolidated Subsidiaries as of December 31, 2010 and 2009, and the related consolidated statements of operations and changes in net assets and cash flows for the years then ended. These consolidated financial statements are the responsibility of the management of Faxton-St. Luke's Healthcare. Our responsibility is to express an opinion on these consolidated 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 consolidated financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of Faxton-St. Luke's Healthcare and Consolidated Subsidiaries as of December 31, 2010 and 2009, and the results of their operations, changes in net assets and cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

As discussed in note 2 to the consolidated financial statements, the financial statements for 2009 have been restated to reflect a change in accounting for employee extended sick leave.

Fust Charles Chambers LLP

July 20, 2011

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Consolidated Balance Sheets

December 31, 2010 and 2009

<u>Assets</u>	<u>2010</u>	<u>2009</u>
Current assets:		
Cash and cash equivalents	\$ 4,569,452	37,791,918
Assets limited as to use	4,494,491	3,452,108
Investments	61,197,373	21,079,280
Patient accounts receivable, net of reserve for doubtful accounts of \$8,117,057 in 2010 and \$7,370,470 in 2009	42,957,950	43,621,010
Pledges receivable, net of allowance for uncollectible pledges of \$17,000 in 2009	257,977	466,459
Other receivables	969,146	3,832,674
Inventories	5,346,833	5,549,066
Prepaid expenses and other current assets	2,798,049	2,627,252
Due from affiliates, net	772,385	1,048,249
Net investment in direct financing lease	547,116	547,116
Estimated third-party payor settlements, net	4,079,514	572,479
Total current assets	127,990,286	120,587,611
Investment in affiliates	424,962	182,883
Investments	4,528,164	4,528,164
Assets limited as to use	9,544,576	9,743,910
Beneficial interest in charitable trusts	2,032,000	-
Residents' fund held in trust	86,804	100,550
Due from affiliates, net	1,035,468	1,817,792
Net investment in direct financing lease	3,543,238	3,779,935
Property and equipment, net	109,404,023	106,502,632
Unamortized debt issuance costs	1,749,665	2,008,787
Other assets	4,299,471	4,393,381
Total assets	\$ 264,638,657	253,645,645

<u>Liabilities and Net Assets</u>	<u>2010</u>	<u>2009</u>
Current liabilities:		
Line of credit	\$ 4,200,000	2,030,000
Current portion of long-term debt	9,573,405	6,150,466
Current portion of capital lease obligations	4,549,596	3,756,113
Accounts payable and accrued expenses	12,463,444	15,375,286
Accrued payroll, payroll taxes and benefits	9,493,159	8,987,719
Current portion of estimated self-insured liabilities	1,487,076	1,761,703
Other current liabilities	854,298	921,089
	<u>42,620,978</u>	<u>38,982,376</u>
Total current liabilities		
Long-term debt, net of current portion:		
Notes payable	21,364,424	11,642,070
Mortgages payable	15,438,899	16,040,571
Civic facility revenue bonds	31,476,571	36,541,481
Capital lease obligations	9,449,700	8,744,253
	<u>77,729,594</u>	<u>72,968,375</u>
Total long-term debt, net of current portion		
Other liabilities	10,015,879	10,740,762
Estimated self-insured liabilities, net of current portion	4,279,166	4,148,690
Unrealized loss on interest rate swaps	3,967,565	3,157,747
Residents' funds held in trust	86,804	100,550
	<u>138,699,986</u>	<u>130,098,500</u>
Total liabilities		
Net assets:		
Unrestricted	116,839,726	116,526,711
Temporarily restricted	4,570,781	2,492,270
Permanently restricted	4,528,164	4,528,164
	<u>125,938,671</u>	<u>123,547,145</u>
Total net assets		
Commitments and contingencies (notes 5, 9 and 13)		
Total liabilities and net assets	<u>\$ 264,638,657</u>	<u>253,645,645</u>

See accompanying notes to consolidated financial statements.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Consolidated Statements of Operations and Changes in Net Assets

Years ended December 31, 2010 and 2009

	<u>2010</u>	<u>2009</u>
Unrestricted revenues, gains and other support:		
Net patient service revenue	\$ 292,823,181	282,693,763
Other revenue	6,436,215	8,376,945
Investment income, net of fees	<u>1,552,872</u>	<u>347,432</u>
Total unrestricted revenues, gains and other support	<u>300,812,268</u>	<u>291,418,140</u>
Expenses:		
Salaries and wages	126,734,446	121,204,063
Employee benefits	33,866,904	33,937,582
Supplies and other	113,215,672	106,634,341
Depreciation and amortization	15,973,591	14,791,480
Interest	4,766,163	4,914,646
Provision for bad debts	8,710,158	9,279,003
New York State gross receipts taxes	969,204	1,334,671
Loss (gain) on disposal of property and equipment	<u>(7,500)</u>	<u>326,246</u>
Total expenses	<u>304,228,638</u>	<u>292,422,032</u>
Net loss from continuing operations	<u>(3,416,370)</u>	<u>(1,003,892)</u>
Discontinued operations:		
Gain on operations of discontinued component	-	1,707,633
Gain on sale of discontinued component	<u>791,987</u>	<u>30,761,534</u>
Gain on discontinued operations	<u>791,987</u>	<u>32,469,167</u>
Excess (deficiency) of revenues over expenses	<u>\$ (2,624,383)</u>	<u>31,465,275</u>

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Consolidated Statements of Operations and Changes in Net Assets, Continued

Years ended December 31, 2010 and 2009

	<u>2010</u>	<u>2009</u>
Unrestricted net assets:		
Excess (deficiency) of revenues over expenses	\$ (2,624,383)	31,465,275
Change in fair value of interest rate swaps	(809,818)	3,215,813
Change in net unrealized gains and losses on investments	3,705,300	4,176,524
Net assets released for capital acquisitions	530,254	541,154
Other	<u>(488,338)</u>	<u>-</u>
Increase in unrestricted net assets	<u>313,015</u>	<u>39,398,766</u>
Temporarily restricted net assets:		
Contributions and grants	3,328,543	1,996,158
Income on investments	745	508
Net assets released from restrictions	<u>(1,250,777)</u>	<u>(1,309,906)</u>
Increase in temporarily restricted net assets	<u>2,078,511</u>	<u>686,760</u>
Total increase in net assets	2,391,526	40,085,526
Net assets at beginning of year, as previously reported	<u>123,547,145</u>	<u>91,608,264</u>
Restatement (note 2)	<u>-</u>	<u>(8,146,645)</u>
Net assets at beginning of year, as restated	<u>123,547,145</u>	<u>83,461,619</u>
Net assets at end of year	<u>\$ 125,938,671</u>	<u>123,547,145</u>

See accompanying notes to consolidated financial statements.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Consolidated Statements of Cash Flows

Years ended December 31, 2010 and 2009

	<u>2010</u>	<u>2009</u>
Cash flows from operating activities:		
Change in net assets	\$ 2,391,526	40,085,526
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Depreciation and amortization	15,973,591	14,791,480
Provision for bad debts	8,710,158	9,279,003
Change in net unrealized gains and losses on investments	(3,705,300)	(4,176,524)
Change in fair value of interest rate swaps	809,818	(3,215,813)
Other	488,338	-
Amortization of unearned lease income	(310,419)	(327,332)
Net realized (gain) loss on sale of investments	(285,255)	363,266
(Gain) loss on disposal of property and equipment	(7,500)	326,246
Gain on operations of discontinued component	-	(1,707,633)
Gain on sale of discontinued component	(791,987)	(30,761,534)
Net assets released for capital acquisitions	(530,254)	(541,154)
Restricted contributions	(3,328,543)	(1,996,158)
Net assets released from restrictions	1,250,777	1,309,906
Gain in earnings of investees	(242,079)	(186,475)
Changes in operating assets and liabilities:		
Receivables	(4,975,088)	(12,649,502)
Beneficial interest in charitable trusts	(2,032,000)	-
Due from affiliates, net	1,107,371	5,429,539
Inventories, prepaid expenses and other current assets	31,436	(198,552)
Accounts payable, accrued expenses and other liabilities	(3,312,968)	1,932,164
Estimated self-insured liabilities	(29,259)	1,996,077
Estimated third-party payor settlements	(3,507,035)	4,585,946
Net cash provided by operating activities	<u>7,705,328</u>	<u>24,338,476</u>
Cash flows from investing activities:		
Purchases of property and equipment	(12,889,533)	(17,711,651)
Proceeds from sale of property and equipment	7,500	440,681
Purchases from sale of investments, net	(36,333,840)	(1,869,233)
Net (increase) decrease in assets limited as to use	(1,115,978)	(192,869)
Proceeds on sale of discontinued component, net	791,987	30,761,534
Use of project escrow funds	479,231	530,369
Increase in other assets	(461,094)	(179,646)
Net cash provided by (used in) investing activities	<u>(49,521,727)</u>	<u>11,779,185</u>

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Consolidated Statements of Cash Flows, Continued

Years ended December 31, 2010 and 2009

	<u>2010</u>	<u>2009</u>
Cash flows from financing activities:		
Restricted contributions	3,328,543	1,996,158
Net assets released from restrictions	(1,250,777)	(1,309,906)
Proceeds from (payments on) short-term borrowings, net	2,170,000	2,030,000
Proceeds from long-term debt	14,277,313	2,300,000
Principal payments on long-term debt and capitalized lease obligations	(11,008,516)	(9,333,779)
Minimum direct financing lease payments received	547,116	547,116
Contributions for capital acquisitions	530,254	541,154
	<hr/>	<hr/>
Net cash provided by (used in) financing activities	8,593,933	(3,229,257)
	<hr/>	<hr/>
Increase (decrease) in cash and cash equivalents	(33,222,466)	32,888,404
Cash and cash equivalents at beginning of year	<u>37,791,918</u>	<u>4,903,514</u>
Cash and cash equivalents at end of year	<u>\$ 4,569,452</u>	<u>37,791,918</u>

See accompanying notes to consolidated financial statements.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

December 31, 2010 and 2009

(1) Description of Organization and Summary of Significant Accounting Policies

(a) Organization

Faxton-St. Luke's Healthcare and Consolidated Subsidiaries (the Company) is a healthcare delivery system providing inpatient, outpatient, emergency care, cancer treatment, rehabilitation, dialysis, maternity, child care, long term care, surgical, psychiatric and community services to residents of the Mohawk Valley Region. Mohawk Valley Network, Inc. (MVN), a not-for-profit corporation, is the sole corporate member of Healthcare, and various other organizations involved in providing health care services to the Mohawk Valley Region.

(b) Principles of Consolidation

The accompanying consolidated financial statements include the accounts of Healthcare and the following affiliated entities: Faxton-St. Luke's Healthcare Foundation (Foundation), of which Healthcare is the sole member, St. Luke's Home Residential Health Care Facility, Inc. (Home), in which Healthcare has a sole financial interest at dissolution and Faxton Leasing, LLC (Leasing), of which Healthcare is the sole member and a 55.5% owned subsidiary. Included on the equity method of accounting are Faxchil Realty, Inc. (Faxchil), SLM Corporation, whose stock is owned by a trust, of which Healthcare is the sole beneficiary, and Paraffin, LLC (Paraffin). Centrex Clinical Laboratories, Inc. (Centrex) is a wholly owned subsidiary of Faxchil. On December 9, 2009, Healthcare sold Faxchil (see Note 3). All significant intercompany transactions and balances have been eliminated in consolidation.

The Foundation is a not-for-profit, tax-exempt corporation that carries out fund raising activities which benefit Healthcare and the Home. The Home is a not-for-profit, tax-exempt corporation that operates a 242-bed skilled nursing facility. Leasing leases property and equipment to Healthcare for radiation therapy services. Faxchil is a for-profit corporation that manages real property. Centrex was a for-profit corporation that provided clinical laboratory services to Healthcare, physicians and other entities prior to its sale in 2009. Paraffin is a not-for-profit limited liability company that subcontracts laboratory management and supervision of technical services to a local hospital.

(c) Use of Estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(d) Collective Bargaining Agreement

At December 31, 2010, the Company has approximately 30% of its employees working under collective bargaining agreements.

(e) Cash and Cash Equivalents

Cash and cash equivalents include certain investments in highly liquid debt instruments with original maturities of three months or less, excluding temporary investments included in assets limited as to use and long-term investments.

(f) Assets Limited as to Use and Investments

Assets limited as to use represent assets held by trustees under indenture agreements, and amounts held in escrow related to HUD-insured mortgages and the sale of Faxchil. Amounts required to meet current liabilities are classified in the balance sheets as current assets.

Investments in equity securities with readily determinable fair values and all investments in debt securities are measured at fair value in the balance sheets. The insurance group fixed annuity contracts (Guaranteed Investment Contracts) are valued at contract value, which is considered the best representation of fair value. Investment income or loss (including realized gains and losses on investments, interest and dividends) is included in the excess of revenues over expenses unless the income or loss is restricted by donor or law. Unrealized gains and losses on investments are excluded from the excess of revenues over expenses since none of the investments are classified as trading securities or are other than temporarily impaired.

Investment securities are exposed to various risks, such as interest rate, market and credit risks. Due to the level of risk associated with certain investment securities, it is at least possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect the amounts reported in the balance sheet.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(g) Beneficial Interest in Charitable Trusts

The Company has beneficial interests in various irrevocable split-interest agreements that are administered by independent trustees which consist of charitable remainder unitrusts (CRUT). The Company's interest in these trusts is recorded at the present value of the estimated future cash flows from the trust's assets using a discount rate that reflects current market conditions and is classified as temporarily restricted net assets. Management used a discount rate of 1.8% at December 31, 2010.

(h) Inventories

Inventories are stated at the lower of average cost or market.

(i) Property and Equipment

Property and equipment acquisitions are recorded at cost. Depreciation is calculated over the estimated useful life of each class of depreciable asset ranging from 3 - 40 years using the straight-line method. Property and equipment under capital leases and leasehold improvements are amortized on the straight-line method over the lesser of the lease term or the estimated useful life of the asset. Amortization of equipment under capital leases and leasehold improvements is included in depreciation expense.

Interest cost incurred on borrowed funds during the construction of capital assets is capitalized as a component of the cost of acquiring those assets. Net interest cost capitalized amounted to approximately \$172,000 in 2010 and \$97,000 in 2009.

Gifts of long-lived assets, such as land, buildings or equipment are reported as unrestricted support and are excluded from the excess of revenues over expenses, unless explicit donor stipulations specify how the donated asset must be used. Gifts of long-lived assets with explicit restrictions that specify how the assets are to be used and gifts of cash or other assets that must be used to acquire long-lived assets are reported as restricted support. Absent explicit donor stipulations about how long those long-lived assets must be maintained, expirations of donor restrictions are reported when the donated or acquired long-lived assets are placed in service.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(j) Unamortized Debt Issuance Costs

Debt issuance costs and bond premium are amortized using the straight-line method, which approximates the effective interest method, over the terms of the related debt.

(k) Contributions and Pledges Receivable

Unconditional promises to give cash and other assets are reported at fair value at the date the promise is received. Contributions are reported as either temporarily or permanently restricted support if they are received with donor stipulations that limit the use of the donated assets. When a donor restriction expires, that is, when a stipulated time restriction ends or purpose restriction is accomplished, temporarily restricted net assets are reclassified as unrestricted net assets and reported in the consolidated statements of operations and changes in net assets as other revenue and changes in net assets as net assets released from restrictions. Donor restricted contributions whose restrictions are met within the same year as received are reported in the consolidated statements of operations and changes in net assets as unrestricted contributions.

Pledges receivable are stated at the amount management expects to collect from outstanding balances. Management provides for probable uncollectible amounts through a provision for bad debts and an adjustment to a valuation allowance based on its assessment of the current status of individual accounts. Balances that are still outstanding after management has used reasonable collection efforts are written off through a charge to the valuation allowance and a credit to accounts receivable. The original pledge amount at December 31, 2010 approximates the net present value.

(l) Temporarily Restricted Net Assets

Temporarily restricted net assets are those whose use has been limited by donors to a specific time period or purpose.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(m) Permanently Restricted Net Assets (Endowment Funds)

The Company maintains various donor-restricted and board-designated funds whose purpose is to provide long-term support for its charitable programs. In classifying such funds for financial statement purposes as either permanently restricted, temporarily restricted or unrestricted net assets, the Board of Directors looks to the explicit directions of the donor where applicable and the provisions of the laws of the State of New York. To constitute an endowment under New York State law, the restriction must arise from a clearly expressed donor limitation, not a limitation from within the beneficiary organization. The Board has determined that, absent donor stipulations to the contrary, the provisions of New York State law do not impose either a permanent or temporary restriction on the income or capital appreciation derived from the original gift. Therefore, all income and appreciation derived from the original gift are transferred to unrestricted net assets absent any restrictions on the use made by the donor. Permanently restricted net assets consist of endowment funds of \$4,528,164 at December 31, 2010 and 2009, and are included in long-term investments in the consolidated balance sheets.

The Company utilizes an investment strategy that emphasizes preservation of principle and total return consistent with prudent levels of risk. Investments are allocated over a diversified portfolio of multiple asset classes of domestic and international equities and bonds.

Interpretation of Relevant Law

Previous to September 17, 2010, New York State law required the preservation of an endowment fund's historic dollar value. Historic dollar value is defined as the aggregate fair value in dollars of an endowment fund at the time it becomes an endowment fund, each subsequent donation to the fund at the time it is made and each accumulation made pursuant to a direction in applicable gift instrument at the time an accumulation is added to the fund. The law permitted an organization to spend the income earned by an endowment fund (i.e. interest, dividends), as well as the net appreciation (realized with respect to all assets and unrealized with respect to readily marketable assets) of such fund.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(m) Permanently Restricted Net Assets (Endowment Funds), Continued

Interpretation of Relevant Law, Continued

On September 17, 2010, the New York Prudent Management of Institutional Funds Act (NYPMIFA) was signed into New York State law. The most prominent feature of NYPMIFA is the elimination of the requirement to preserve an endowment fund's historic dollar value which allows an organization to spend from an endowment whose market value has dropped below the historic dollar value, as long as it is deemed prudent under the organization's policies. In accordance with NYPMIFA, an organization must consider the following factors in exercising a standard of prudence:

1. The duration and preservation of the endowment fund
2. The purposes of the organization and the donor-restricted endowment fund
3. General economic conditions
4. The possible effect of inflation and deflation
5. The expected total return from income and the appreciation of investments
6. Other resources of the organization
7. The investment policies of the organization
8. Where appropriate, alternatives to spending from the endowment fund and the possible effects of those alternatives on the organization

NYPMIFA requires compliance with donor intent when making investment or spending decisions with respect to an endowment fund. In addition, NYPMIFA creates a restriction on the portion of an endowment fund that is not classified as permanently restricted net assets, even in the absence of a donor restriction. Such portion is classified as temporarily restricted net assets until appropriated for expenditure by the organization.

As of December 31, 2010, the Board of Directors of the Company has not adopted and is currently evaluating the provisions of NYPMIFA. As a result, the Company continues to classify permanently restricted net assets at the historic dollar value of the fund in accordance with donor instructions.

Funds with Deficiencies

From time to time, the fair value of assets associated with individual donor-restricted endowment funds may fall below the level that the donor or NYPMIFA requires the Hospital to retain as a fund of perpetual duration. If the situation were to occur, the deficiency would be recorded in the Hospital's unrestricted net assets. The deficiency recorded in unrestricted net assets at December 31, 2010 and 2009 was approximately \$108,000 and \$552,000, respectively.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(m) Permanently Restricted Net Assets (Endowment Funds), Continued

Funds with Deficiencies, Continued

Changes in Endowment Net Assets

	2010		
	<u>Unrestricted</u>	<u>Permanently restricted</u>	<u>Total</u>
Endowment net assets, January 1, 2010	\$ (552,159)	4,528,164	3,976,005
Investment return:			
Investment income	-	80,741	80,741
Net appreciation (realized and unrealized)	-	363,478	363,478
Other	444,219	(444,219)	-
Endowment net assets (deficit), December 31, 2010	\$ (107,940)	4,528,164	4,420,224
	2009		
	<u>Unrestricted</u>	<u>Permanently restricted</u>	<u>Total</u>
Endowment net assets, January 1, 2009	\$ (1,235,276)	4,528,164	3,292,888
Investment return:			
Investment income	-	80,835	80,835
Net appreciation (realized and unrealized)	-	602,282	602,282
Other	683,117	(683,117)	-
Endowment net assets (deficit), December 31, 2009	\$ (552,159)	4,528,164	3,976,005

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(m) Permanently Restricted Net Assets (Endowment Funds), Continued

Return Objectives, Strategies, Spending Policy and Investment Objectives

The Company has adopted investment and spending policies for endowment assets that attempt to provide a predictable stream of funding to programs supported by its endowment. Under this policy, as approved by the Board of Directors, the endowment assets are to be invested in well diversified asset mix that can be expected to generate acceptable long-term returns at an acceptable level of risk. The Company targets a diversified asset allocation that places a greater emphasis on equity-based investments and bonds to achieve its long-term return objectives within prudent risk constraints.

(n) Net Patient Service Revenue and Patient Accounts Receivable

The Company has agreements with third-party payors that provide for payments to the various organizations within its healthcare delivery system at amounts different from their established rates. Payment arrangements include prospectively determined rates per discharge, cost-based reimbursement, discounted charges, per diem payments and fee-for-service payments. Net patient service revenue and the related patient accounts receivable are reported at the estimated net realizable amounts from patients, third-party payors and others for services rendered, including estimated retroactive adjustments due to future audits, reviews and investigations. Retroactive adjustments are included in the recognition of revenue on an estimated basis in the period the related services are rendered and adjusted in future periods as adjustments become known or as years are no longer subject to such audits, reviews and investigations.

An allowance for doubtful accounts receivable is estimated by management based on periodic reviews of the collectibility of accounts receivable considering historical experience and prevailing economic conditions.

Revenue from the Medicare and Medicaid programs accounted for approximately 54% and 53% of the Company's net patient service revenue for 2010 and 2009. Laws and regulations governing the Medicare and Medicaid programs are extremely complex and subject to interpretation. As a result, there is at least a reasonable possibility that recorded estimates will change by a material amount in the near term. Net patient service revenue decreased by approximately \$413,000 and \$629,000 in 2010 and 2009, respectively, related to either settlement of prior year issues or changes in estimates associated with third-party issues.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(n) Net Patient Service Revenue and Patient Accounts Receivable, Continued

At December 31, 2010 and 2009, estimated third-party payor settlements, net was comprised of estimated Medicaid initial base year settlement liabilities prior to 2009, reserves established for liabilities relating to the new base-year methodology, trend factor reductions after year end, potential capital rate recoveries based on ongoing New York State capital audits, cash receipt assessments and general reimbursement reserves for other issues.

The Company grants unsecured credit to its patients, most of whom are local residents and are insured under third-party payor agreements. The mix of receivables from patients and third-party payors at December 31 was as follows:

	<u>2010</u>	<u>2009</u>
Medicare	27%	27%
Medicaid	15%	18%
Private payors	17%	17%
Insurance and all others	<u>41%</u>	<u>38%</u>
	<u>100%</u>	<u>100%</u>

(o) Charity Care

The Company provides care to patients who meet certain criteria under its charity care policy without charge or at amounts less than established rates. Because the Company does not pursue collection of such amounts, they are not reported as net patient service revenue. Charity care charges foregone, based on established rates, were approximately \$1,690,000 and \$1,399,000 for 2010 and 2009, respectively.

(p) Excess (Deficiency) of Revenues over Expenses

The consolidated statements of operations and changes in net assets include excess (deficiency) of revenues over expenses. Changes in unrestricted net assets which are excluded from excess (deficiency) of revenues over expenses, consistent with industry practice, include changes in unrealized gains and losses on investments other than trading securities, permanent transfers of assets to and from affiliates for other than goods and services and contributions of long-lived assets (including assets acquired using contributions which by donor restriction were to be used for the purpose of acquiring such assets).

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(q) Income Taxes

Healthcare, Foundation and the Home are not-for-profit corporations and have been recognized as tax-exempt pursuant to Section 501(c)(3) of the Internal Revenue Code.

The standards for accounting for uncertainty in income taxes establish a recognition threshold and measurement for income tax positions recognized in Company's financial statements. These standards had no impact on the accompanying consolidated financial statements.

As of December 31, 2010, Healthcare, the Foundation and the Home did not have any unrecognized tax benefits or any related accrued interest or penalties.

The tax years open to examination by federal and New York State taxing authorities are 2007 through 2010.

(r) Concentration of Credit Risk

At December 31, 2010 and 2009, the Company has cash and cash equivalents in major financial institutions which exceed Federal Depository Insurance limits. These financial institutions have strong credit ratings and management believes that credit risk related to these deposits is minimal.

(s) Reclassification

Certain 2009 amounts have been reclassified to conform with the 2010 financial statement presentation.

(t) Subsequent Events

Subsequent events have been evaluated through July 20, 2011 which is the date financial statements were issued.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(2) Prior Period Restatement

Prior to 2010, the Company recorded employee extended sick leave time on the cash basis when benefits were paid out to retiring employees who had met all the required eligibility criteria. The accompanying consolidated financial statements for 2009 have been restated to reflect an accrued estimated liability for these benefits from their effective date as such benefits accumulate. The approximate effect of the adjustment required was to decrease unrestricted net assets at December 31, 2008 by approximately \$8,147,000 and to decrease the excess of revenues over expenses by approximately \$1,532,000 in 2009.

(3) Discontinued Operations

On December 9, 2009, the Company sold its wholly owned, for-profit subsidiary, Faxchil Realty, Inc. (Faxchil), including Faxchil's wholly owned, for-profit subsidiary, Centrex Clinical Laboratories, Inc. (Centrex), to Laboratory Corporation of America Holdings for \$42,000,000 with certain assets and liabilities assumed by the Company, plus an additional earn-out opportunity not to exceed \$5,000,000 if certain revenue targets are achieved during two separate one year earn-out periods. The Company has been notified that these revenue targets were not achieved for the first earn-out period and have not recorded any amount at December 31, 2010 for the second earn-out period. The Company recorded a gain in connection with the sale of approximately \$30,762,000 in 2009 and \$792,000 in 2010. The 2010 gain consists of the removal of a \$1,200,000 reserve on funds held in escrow offset by additional expenses related to the sale.

Faxchil was a holding company that managed real property prior to 2009 and Centrex provided clinical laboratory services to health care providers. In connection with the disposal of this business, Healthcare has classified the results of operations for this business as discontinued operations in the accompanying financial statements.

The operating results of Faxchil and Centrex classified as discontinued operations at December 31, 2009 are as follows:

Sales	\$ 42,885,179
Income before taxes	2,846,055
Income tax provision	1,138,422
Income from operations of discontinued operations, net of tax	1,707,633

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(4) Assets Limited as to Use and Investments

Assets Limited as to Use

At December 31, assets limited as to use, at fair value, are comprised of the following:

	<u>2010</u>	<u>2009</u>
Cash and cash equivalents - in escrow (a)	\$ 4,274,474	3,065,494
Cash and cash equivalents	6,760,686	6,901,009
Mutual funds	253,492	441,601
Guaranteed investment contracts	<u>2,750,415</u>	<u>2,787,914</u>
	14,039,067	13,196,018
Classified as current assets	<u>4,494,491</u>	<u>3,452,108</u>
Classified as non-current assets	<u>\$ 9,544,576</u>	<u>9,743,910</u>
Debt service and debt service reserve funds	8,287,863	8,316,723
Amounts held in escrow	4,274,474	3,075,671
Reserve for replacement	1,079,779	1,256,532
Amounts held for other purposes	<u>396,951</u>	<u>547,092</u>
	<u>\$ 14,039,067</u>	<u>13,196,018</u>

(a) Cash equivalents in escrow are primarily invested in short-term U.S. Treasury, money markets and government agency securities. The cash equivalents held in escrow will be released no later than July 1, 2011, as described in the escrow agreement related to the sale of Faxchil.

Investments

At December 31, investments, at fair value, are comprised of the following:

	<u>2010</u>	<u>2009</u>
Cash and cash equivalents	\$ 551,305	35,205,981
Mutual funds	32,613,676	12,778,646
Common stock	4,124,126	3,506,210
Real estate investment trust	569,926	635,258
Corporate obligations	<u>28,391,978</u>	<u>8,669,030</u>
	<u>\$ 66,251,011</u>	<u>60,795,125</u>

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(4) Assets Limited as to Use and Investments, Continued

The above amounts are included in the accompanying financial statements as follows:

	<u>2010</u>	<u>2009</u>
Investments - current assets	\$ 61,197,373	21,079,280
Cash and cash equivalents	525,474	35,187,681
Long-term investments	<u>4,528,164</u>	<u>4,528,164</u>
	<u>\$ 66,251,011</u>	<u>60,795,125</u>

Investment income and gains (losses) on unrestricted assets limited as to use, cash equivalents and investments are comprised of the following for the years ended December 31:

	<u>2010</u>	<u>2009</u>
Investment income:		
Interest income and dividends, net of fees	\$ 1,267,617	710,698
Realized gains (losses)	<u>285,255</u>	<u>(363,266)</u>
	1,552,872	347,432
Change in net unrealized gains and losses on investments	<u>3,705,300</u>	<u>4,176,524</u>
	<u>\$ 5,258,172</u>	<u>4,523,956</u>

The Company continually reviews investments for other-than-temporary impairment whenever the fair value of an investment is less than amortized cost and evidence indicates that an investment's carrying amount is not recoverable within a reasonable period of time. In the evaluation of whether an impairment is other-than-temporary, the Company considers the reasons for the impairment, its ability and intent to hold the investment until the market price recovers or the investment matures, compliance with its investment policy, the severity and duration of the impairment, and expected future performance.

The Company's investments in marketable equity securities and mutual funds consist of investments diversified in several different industries. The Company evaluated the near-term prospects of the issuer in relation to the severity and duration of impairment. Based upon the evaluation and the Company's ability and intent to hold the securities for a reasonable period of time sufficient for a forecasted recovery of fair value, the Company does not consider the securities in an unrealized loss position to be other-than-temporarily impaired at December 31, 2010 and 2009.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(4) Assets Limited as to Use and Investments, Continued

The following table presents the gross unrealized losses and fair value of the commingled investment portfolio with unrealized losses that are not deemed to be other-than-temporarily impaired, aggregated by investment category and length of time that individual securities have been in a continuous unrealized loss position at December 31, 2010 and 2009:

<u>Securities</u>	2010					
	<u>Less than Twelve Months</u>		<u>Twelve Months or Greater</u>		<u>Total</u>	
	<u>Fair value</u>	<u>Unrealized losses</u>	<u>Fair value</u>	<u>Unrealized losses</u>	<u>Fair value</u>	<u>Unrealized losses</u>
Mutual funds	\$ 863,395	(36,605)	3,859,556	(1,074,145)	4,722,951	(1,110,750)
Common stocks	152,401	(11,621)	193,122	(40,731)	345,523	(52,352)
Real estate investment trust	-	-	569,366	(277,611)	569,366	(277,611)
	<u>\$ 1,015,796</u>	<u>(48,226)</u>	<u>4,622,044</u>	<u>(1,392,487)</u>	<u>5,637,840</u>	<u>(1,440,713)</u>
<u>Securities</u>	2009					
	<u>Less than Twelve Months</u>		<u>Twelve Months or Greater</u>		<u>Total</u>	
	<u>Fair value</u>	<u>Unrealized losses</u>	<u>Fair value</u>	<u>Unrealized losses</u>	<u>Fair value</u>	<u>Unrealized losses</u>
Mutual funds	\$ 1,359,034	(18,383)	5,479,038	(1,539,807)	6,838,072	(1,558,190)
Common stocks	180,780	(12,713)	757,897	(157,401)	938,677	(170,114)
Real estate investment trust	-	-	635,257	(455,827)	635,257	(455,827)
	<u>\$ 1,539,814</u>	<u>(31,096)</u>	<u>6,872,192</u>	<u>(2,153,035)</u>	<u>8,412,006</u>	<u>(2,184,131)</u>

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(5) Property and Equipment

Property and equipment is comprised of the following at December 31:

	<u>2010</u>	<u>2009</u>
Land and improvements	\$ 8,322,573	8,082,879
Buildings	128,571,545	122,967,328
Fixed equipment	35,912,216	35,153,663
Movable equipment	77,039,041	73,837,805
Equipment under capitalized leases	25,103,273	20,484,641
	<u>274,948,648</u>	<u>260,526,316</u>
Less accumulated depreciation	174,639,749	160,280,969
	<u>100,308,899</u>	<u>100,245,347</u>
Construction-in-progress	9,095,124	6,257,285
	<u>9,095,124</u>	<u>6,257,285</u>
Property and equipment, net	<u>\$ 109,404,023</u>	<u>106,502,632</u>

Depreciation expense amounted to approximately \$15,648,000 and \$14,431,000 for the years ended December 31, 2010 and 2009, respectively. At December 31, 2010, the balance remaining on construction contract commitments approximated \$2.3 million.

(6) Direct Financing Lease

In 2001, Healthcare completed construction of a medical office building with a cost of approximately \$5 million on land owned by an affiliate of Slocum-Dickson Medical Group, P.C. (SDMG). The building is leased to SDMG under a direct financing lease for minimum lease payments of \$45,393 per month through 2022. Healthcare financed 80% of the building cost with a mortgage described in detail in note 9.

The balance sheet presentation of the direct financing lease at December 31 is as follows:

	<u>2010</u>	<u>2009</u>
Minimum lease payments receivable	\$ 5,953,711	6,500,827
Unearned lease income	<u>(1,863,357)</u>	<u>(2,173,776)</u>
Net investment in direct financing lease	4,090,354	4,327,051
Less current portion	<u>547,116</u>	<u>547,116</u>
Long-term net investment in direct financing lease	<u>\$ 3,543,238</u>	<u>3,779,935</u>

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(7) Line of Credit

At December 31, 2010 and 2009, the Company had a \$17,500,000 line of credit with a bank, collateralized by certain of the Company's investments. The line of credit on short-term borrowings bears a daily interest rate at prime (3.25% at December 31, 2010). The line of credit on long-term borrowing bears a monthly interest at LIBOR (1.21% at December 31, 2010). The line of credit is available through July 2011. At December 31, 2010, a portion of the line was reserved for four letters of credit totaling approximately \$5,069,000 related to self-insured liabilities. The line contains financial covenants including a debt service coverage ratio requirement, a day's cash on hand requirement and a minimum unrestricted liquidity to funded debt ratio. At December 31, 2010, Healthcare was not in compliance with the debt service coverage ratio for which it obtained a waiver. At December 31, 2010, the amount outstanding was \$4,200,000. At December 31, 2009, the amount outstanding was \$2,030,000.

(8) Extended Sick Leave

The Company employees are permitted to accumulate unused extended sick leave time up to specified maximum amounts. The Company accrues the estimated expense related to extended sick leave based on pay rates currently in effect. Upon retirement, employees who have met certain criteria shall have the option to receive payment or receive sick leave credits to pay for post-employment health insurance payments based upon the formula in place. The Company has accrued an estimated liability of approximately \$10,247,000 and \$9,903,000 at December 31, 2010 and 2009, respectively, for these anticipated termination payments.

Amounts are included in the accompanying consolidated financial statements as follows at December 31:

	<u>2010</u>	<u>2009</u>
Accrued payroll, payroll taxes and benefits	\$ 1,266,000	385,000
Other liabilities	<u>8,981,000</u>	<u>9,518,000</u>
	<u>\$ 10,247,000</u>	<u>9,903,000</u>

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(9) Long-Term Debt and Lease Obligations

Long-term debt consists of the following at December 31:

	<u>2010</u>	<u>2009</u>
Section 232 HUD-insured mortgage loan payable, at 5.875%, to Century Health Capital, Inc. payable in monthly principal and interest installments of \$88,000 due April 1, 2027, collateralized by a mortgage on certain property and equipment and insured by the Federal Housing Administration (FHA)	\$ 11,073,111	11,465,947
Section 241 HUD-insured mortgage loan payable, at 5.98%, to Century Health Capital, Inc. payable in monthly principal and interest installments of \$39,763 due April 1, 2027, collateralized by a mortgage on certain property and equipment and insured by the FHA	4,967,461	5,141,866
Civic Facility 1998 Revenue Bonds (Mohawk Valley Network, Inc. Obligated Group; Faxton Hospital Facility)	10,515,000	12,555,000
Civic Facility 1998 Revenue Bonds (Mohawk Valley Network, Inc. Obligated Group; St. Luke's-Memorial Hospital Center Facility)	7,615,000	9,915,000
Notes payable in varying monthly installments maturing from January 2013 through January 2016 at interest rates ranging from 5% to 6%	7,277,314	-
Note payable in monthly installments of \$116,667 at a fixed rate of 5.3%, maturing June 2015 and collateralized by Healthcare's gross receipts (a)	6,416,666	-
Variable rate demand 2006 Civic Facility Revenue Bonds (Mohawk Valley Network, Inc. Obligated Group; Faxton-St. Luke's Healthcare)	18,295,000	18,725,000
Unamortized premium on Civic Facility Revenue Bonds	91,571	116,481
Mortgage note payable in varying installments at 5% with a balloon payment estimated at \$2.5 million due January 2012, secured by property under direct financing lease (note 6)	2,748,010	2,930,150
Note payable to SLM at a fixed interest rate of 3.65% with a balloon payment for the remaining amount due December 2016	1,551,049	1,626,048

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(9) Long-Term Debt and Lease Obligations, Continued

	<u>2010</u>	<u>2009</u>
Note payable in varying monthly installments at LIBOR plus 2.15%, with a cap between 6.0%-9.0% (6.00% at December 31, 2010) with a balloon payment estimated at \$1,947,000 due January 2020, collateralized by certain property	2,950,580	3,030,850
Note payable in varying monthly installments at interest rate of prime minus .5% maturing April 2020, collateralized by certain property, (2.75% at December 31, 2010) with a balloon payment estimated at \$279,000	470,934	488,675
Notes payable in varying monthly installments maturing between November 2011 and November 2012, (interest rates ranging from 6.25% to 7.25%)	293,655	507,360
Mortgage payable in monthly installments of \$44,248 at a fixed rate of 6.5%, maturing January 2020 (a)	3,587,948	3,872,211
Capital lease obligations (interest rates ranging from 3.12% to 8.51%)	<u>13,999,296</u>	<u>12,500,366</u>
	91,852,595	82,874,954
Less current portion:		
Debt	(9,573,405)	(6,150,466)
Capital lease obligations	<u>(4,549,596)</u>	<u>(3,756,113)</u>
Long-term debt, net of current portion	<u>\$ 77,729,594</u>	<u>72,968,375</u>

- (a) The note due 2015 and the mortgage payable due 2020 contain certain financial covenants. At December 31, 2010, the Company was not in compliance with the debt service coverage ratio. The lending institutions have waived the events of noncompliance through June 30, 2011. The Company anticipates continuing to require waivers for this covenant for the remainder of 2011 and believes that such waivers will be granted. Such indebtedness has been classified as long-term because the respective banks have granted waivers to date and because reclassification of such indebtedness is considered immaterial to the Company's financial position at December 31, 2010.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(9) Long-Term Debt and Lease Obligations, Continued

In connection with the mortgage loan agreements and in consideration of the endorsement for insurance by the FHA, the Home entered into regulatory agreements with the Department of Housing and Urban Development (HUD). The regulatory agreements require the Home to, among other provisions, maintain debt service, operating escrow, residual receipts, and replacement reserve funds. As of December 31, 2010 and 2009, these funds aggregated \$4,436,521 and \$4,599,052, respectively, and are included in assets limited as to use in the accompanying consolidated financial statements. Contributions to the debt service and replacement reserve funds, calculated on a gross basis without reduction for possible future investment income allocations, required over the next five years will amount to approximately \$202,000 per year.

The Company, through the Oneida County Industrial Development Agency (OCIDA), has issued serial and term Civic Facility Revenue Bonds as follows:

<u>Series</u>	<u>Term</u>	<u>Principal/Mandatory Sinking Fund Payments</u>	<u>Rate</u>
Faxton-St. Luke's Healthcare:			
2006E - tax-exempt	2031	\$ 195,000 - 525,000	4.873 - 4.995%
2006F - taxable	2031	\$ 260,000 - 955,000	4.873 - 4.995%
Faxton Hospital Facility:			
1998A - tax-exempt	2013	\$ 610,000 - 675,000	5.000%
1998B - taxable	2013	175,000 - 200,000	6.250%
1999C - tax-exempt	2015	800,000 - 1,035,000	6.625%
1999D - taxable	2015	585,000 - 805,000	8.375%
St. Luke's-Memorial Hospital Center Facility:			
1998A - tax-exempt	2013	\$ 1,170,000 - 1,295,000	5.20%
1998B - tax-exempt	2013	1,145,000 - 1,260,000	5.00%
1998C - taxable	2013	100,000 - 110,000	6.25%

The Company may, at its option, redeem certain of the 1998 term bonds maturing after February 1, 2010 at the par value of the bond face amount.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(9) Long-Term Debt and Lease Obligations, Continued

All the bonds are insured and are collateralized by the Company's gross receipts (as defined), including all rights to receive such receipts whether in the form of accounts receivable, contract rights or other rights. The Company entered into a lease agreement with OCIDA, which also acts as security for payment of the revenue bonds. Additional security is provided by a Master Trust Indenture under which the initial Members of the Obligated Group (Healthcare and MVN) are jointly and severally responsible for payment of the Bonds. The total debt outstanding for the Master Indenture Bonds at December 31, 2010 was \$36,425,000.

The variable rate demand bonds bear interest based on one of three modes - the weekly rate, the term rate, or the fixed rate - for periods selected by the Company. The interest rate for each mode will be the current market interest rate as determined by the remarketing agent of the bonds. The Company used the weekly rate during 2010 and 2009. At December 31, 2010, the bonds carried interest at rates of .35% and .33%. At December 31, 2009 the bonds carried interest at rates of .35% and .23%.

The variable rate demand bonds are remarketed by a remarketing agent in accordance with the terms of a remarketing agreement. The bonds will be remarketed whenever a new interest rate is in effect. If the bonds cannot be remarketed, they would be due and payable under the terms of the remarketing agreement; however, the 2006 Civic Facility Revenue Bonds are credit-enhanced by an irrevocable Bank of America letter of credit, which is currently June 25, 2013.

Various agreements relating to the revenue bonds establish covenants with which the Company has agreed to comply, including the following, among others. In any year, the Company will not dispose of operating assets exceeding 2.5% of the total book value of operating assets or accounts receivable with recourse having a book value in excess of 50% of the total book value of accounts receivable. The Obligated Group may not merge or consolidate with another entity unless certain conditions are met. Additional indebtedness is limited to certain provisions including borrowings not to exceed 15% of total operating revenue. The Obligated Group agreed to maintain a minimum debt service coverage ratio, as defined, of 120% annually or employ a management consultant. The Obligated Group did not achieve the required debt service coverage ratio for the year ended December 31, 2010 and has retained a consultant.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(9) Long-Term Debt and Lease Obligations, Continued

As a result of the aforementioned bond issuances, the Company has entered into two interest rate swap contracts to reduce its risk of exposure to changes in interest rates. The interest rate swaps effectively convert the variable rate of the 2006 bonds to fixed rates of 5.938% and 4.216% through June 2031. The swaps have been designated as cash flow hedges of the variable interest rate and are recorded at fair value as a liability of \$3,967,565 on the accompanying consolidated balance sheet as of December 31, 2010. The swaps have effective dates of June 26, 2006 and termination dates of June 1, 2031. The amounts exchanged are based on the notional amounts whereby Healthcare pays the swap counter-party interest at a fixed rate (4.216% - tax-exempt, 5.938% - taxable) and the swap counter-party pays Healthcare a variable rate (based on 70% of 1 month LIBOR tax-exempt, BMA Rate - taxable). The notional amounts and fair values based on quoted market prices, of the Company's interest rate swaps are as follows at December 31, 2010:

	<u>Notional amount</u>	<u>Liability market value</u>
Healthcare - Series E	\$ 6,980,000	1,208,209
Healthcare - Series F	11,315,000	<u>2,759,356</u>
		<u>\$ 3,967,565</u>

The mark-to-market adjustments resulted in an decrease in unrestricted net assets of \$809,818 for the year ended December 31, 2010. Changes in value of the swaps determined to arise from ineffectiveness of the instruments, as determined through the hypothetical derivative method, are recorded as a component of interest expense in the consolidated statements of operations and changes in net assets. For the year ended December 31, 2010, there was no significant ineffectiveness. The Company expects that the loss existing in unrestricted net assets to be reclassified into income from operations within the next 12 months will not be significant.

The Company leases certain equipment under capital leases. The Company also leases equipment and facilities under non-cancelable operating leases, including leases with related parties. The net book value of the equipment capitalized under lease agreements at December 31, 2010 and 2009 amounted to approximately \$15,826,000 and \$16,200,000, respectively.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(9) Long-Term Debt and Lease Obligations. Continued

Scheduled principal repayments on long-term debt (excluding lines of credit) and payments under non-cancelable operating leases and the present value of future minimum capital lease payments at December 31, 2010 are:

	<u>Long-term debt</u>	<u>Capital leases</u>	<u>Operating Leases</u>	
			<u>Related party</u>	<u>Other</u>
2011	\$ 9,573,405	5,102,222	240,650	624,018
2012	12,429,812	3,481,009	170,786	534,089
2013	9,491,628	3,117,707	170,786	518,294
2014	6,160,613	1,722,310	78,248	433,613
2015	5,836,651	963,493	76,701	98,004
Thereafter	<u>34,361,190</u>	<u>1,262,082</u>		
Total payments	\$ <u>77,853,299</u>	15,648,823		
Less amounts representing interest		<u>1,649,527</u>		
Present value of capital lease obligations		13,999,296		
Less current portion		<u>4,549,596</u>		
Capital lease obligations, net of current portion		<u>\$ 9,449,700</u>		

Rent expense under operating leases amounted to approximately \$1,585,000 in 2010 and \$1,409,000 in 2009.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(10) Temporarily and Permanently Restricted Net Assets

Temporarily restricted net assets are available for the following purposes at December 31:

	<u>2010</u>	<u>2009</u>
Funds held in trust by others (for capital)	\$ 2,032,000	-
Children's Miracle Network	991,461	951,271
Continuous Learning Center	212,655	302,477
Scholarship assistance	31,104	30,359
Programs	188,617	91,661
Renovations	<u>1,114,944</u>	<u>1,116,502</u>
	<u>\$ 4,570,781</u>	<u>2,492,270</u>

Permanently restricted net assets at December 31 are restricted to:

Investments to be held in perpetuity, the income from which is to support charity care, health care services, scholarships and facility maintenance	<u>\$ 4,528,164</u>	<u>4,528,164</u>
---	---------------------	------------------

During 2010 the Company recognized at the present value \$2,032,000 of funds held in trust by others for specific use relating to charitable remainder unitrusts.

(11) Pension Plans

Healthcare and the Home sponsor a 401(k) plan that covers substantially all full-time non-union employees. Each company contributes 5% of eligible compensation to the plan (4% for employees hired before December 1, 2001). Healthcare and the Home also make a matching contribution up to 100% of the first 4% of employee contributions to the 401(k) plan. Healthcare also sponsors a 403(b) plan that covers union and certain other employees. Healthcare contributes 5% to 7% of eligible compensation to the 403(b) plan.

Pension expense under all plans aggregated approximately \$6,764,000 in 2010 and approximately \$6,611,000 in 2009.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(12) Other Revenue

Other revenue (expense) consists of the following for the years ended December 31:

	<u>2010</u>	<u>2009</u>
Rent	\$ 759,702	878,097
Mohawk Valley Heart Institute	(168,751)	1,781,149
New Hartford Scanner	1,154,334	743,092
Grant revenue	508,028	567,620
CMIC Partnership income	154,413	191,737
VHA Partnership equity earnings	274,384	301,975
Net assets released for operations	720,523	768,752
Other	<u>3,033,582</u>	<u>3,144,523</u>
	<u>\$ 6,436,215</u>	<u>8,376,945</u>

(13) Estimated Medical Malpractice and General Liability Costs

The Home maintains its malpractice and general liability insurances under an occurrence based policy. Centrex maintains claims-made professional and general liability insurance. In connection with the sale of Centrex on December 9, 2009, Healthcare purchased tail coverage for any Centrex claims that may be reported subsequent to December 10, 2009 that occurred on or prior to December 9, 2009. Effective March 15, 2004, Healthcare is insured for medical malpractice risks through claims-made professional liability insurance. Prior to that date, Healthcare maintained occurrence-based medical malpractice and general liability insurance coverage. Should any of the annual claims-made policies not be renewed or replaced with equivalent insurance, claims based on incidents during its term, but reported subsequently, will be uninsured. No accrual for possible losses attributable to incidents that may have occurred but that have not been reported has been made because the amount is not reasonably estimable.

The Company is a defendant in various malpractice and general liability claims. The ultimate outcome of such litigation cannot be determined at this time. However, management believes the final disposition of these claims will not have a material effect on the financial position or results of operations of the Company.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(13) Estimated Medical Malpractice and General Liability Costs, Continued

The Company was primarily self-insured for employee workers' compensation and disability claims through December 31, 2007. Self-insured liabilities are based on claims filed and estimates for claims incurred but not reported. As required by the State of New York Workers' Compensation Board, the Company has purchased letters of credit to guarantee payment of workers' compensation claims. Stop loss insurance for losses exceeding certain amounts has been purchased for workers' compensation. Each affiliate is jointly and severally liable for the satisfaction of all obligations. Certain of these liabilities are recorded at discounted amounts using a 4% interest rate in 2010 and 2009. Effective January 1, 2010, the Company and certain of its affiliates became enrolled in a retro premium worker's compensation and disability plan and premiums are accrued based on the ultimate cost of the experience to date of the Company.

Effective January 1, 2009, the Company became self-insured for healthcare claims. Healthcare has obtained a stop loss coverage policy for healthcare costs to supplement its self-insurance coverage. An accrual for healthcare claims, including those incurred but not reported, is included in the current portion of estimated self-insured liabilities.

(14) Affiliated Entities

The following represents summarized financial information from the financial statements of Healthcare's affiliates that are included in the accompanying financial statements on the equity method of accounting.

<u>2010</u>	<u>SLM</u>	<u>Paraffin</u>
Total assets	\$ 6,797,705	125,455
Total liabilities	<u>6,292,608</u>	<u>205,590</u>
Net assets	<u>\$ 505,097</u>	<u>(80,135)</u>
Total revenue	1,264,020	2,069,134
Total expenses	<u>(1,196,187)</u>	<u>(2,120,505)</u>
Excess (deficiency) of revenue over expenses and changes in net assets	<u>\$ 67,833</u>	<u>(51,371)</u>
Change in fair value of interest rate swap	<u>225,617</u>	<u>-</u>
Increase (decrease) in unrestricted net assets	<u>\$ 293,450</u>	<u>(51,371)</u>

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(14) Affiliated Entities, Continued

<u>2009</u>	<u>SLM</u>	<u>Paraffin</u>
Total assets	\$ 6,239,775	75,844
Total liabilities	<u>6,028,128</u>	<u>104,608</u>
Net assets (deficiency)	\$ <u>211,647</u>	<u>(28,764)</u>
Total revenue	1,266,235	108,914
Total expenses	<u>(1,209,222)</u>	<u>(137,678)</u>
Excess (deficiency) of revenue over expenses and changes in net assets	\$ <u>57,013</u>	<u>(28,764)</u>
Change in fair value of interest rate swap	<u>158,226</u>	-
Increase (decrease) in unrestricted net assets	\$ <u>215,239</u>	<u>(28,764)</u>

Healthcare rents space from SLM and provides utilities, maintenance and accounting services to SLM. Rent totaled approximately \$77,000 for 2010 and 2009 and utilities, maintenance and accounting services sold totaled approximately \$468,000 and \$554,000 in 2010 and 2009, respectively.

The following are approximate dollar amounts of significant transactions and balances with affiliated entities.

Net receivables (payables) at December 31 from the following affiliates approximated:

	<u>2010</u>	<u>2009</u>
MVN	\$ 1,035,000	1,818,000
New Hartford Scanner Associates	676,000	644,000
Others	<u>97,000</u>	<u>404,000</u>
	\$ <u>1,808,000</u>	<u>2,866,000</u>

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(14) Affiliated Entities, Continued

New Hartford Scanner Associates (NHTSA) is a joint venture between Healthcare and several radiologists to provide CT scan services. The Company receives income from NHTSA, which amounted to approximately \$878,000 and \$587,000 in 2010 and 2009, respectively. Healthcare also provides payroll services and leased equipment to NHTSA, which amounted to approximately \$276,000 and \$156,000 in 2010 and 2009, respectively.

SNH is a Medicaid managed care health plan for elderly residents located in Oneida and Herkimer counties. The Home had a net receivable from SNH of approximately \$60,000 at December 31, 2010 and a net payable to SNH of approximately \$121,000 at December 31, 2009 for resident care and expenses paid on SNH's behalf. The total net patient service revenue from SNH amounted to approximately \$673,000 and \$924,000 in 2010 and 2009, respectively.

In addition to the foregoing, the Company, through its affiliation with MVN, is affiliated with other entities all of which are independent from the Company and are engaged in serving the Mohawk Valley area as providers of various health care related services.

(15) Statements of Cash Flows - Supplemental Disclosures

The Company's non-cash investing and financing activities and cash payments for interest and income taxes for the years ended December 31 were as follows:

	<u>2010</u>	<u>2009</u>
Non-cash investing and financing:		
Property and equipment acquired under capital lease	\$ 5,499,994	4,355,391
Long-term debt transferred - Faxchil	-	3,605,264
Cash paid for interest	5,057,412	5,126,623

(16) Functional Expenses

The Company provides general health care services to residents of the Greater Utica area. Expenses related to providing these services are as follows:

	<u>2010</u>	<u>2009</u>
Health care services	\$ 261,499,173	252,992,541
General and administrative	41,730,751	38,680,414
Fund raising	998,714	749,077
	<u>\$ 304,228,638</u>	<u>292,422,032</u>

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(17) Fair Value of Financial Instruments

The Fair Value Measurements and Disclosures Topic of the FASB Accounting Standards Codification requires disclosures that categorize assets and liabilities measured at fair value based on a fair value hierarchy. The hierarchy prioritizes the inputs into three levels based on the extent to which inputs used in measuring fair value are observable in the market. Each fair value measurement is reported in one of the three levels which is determined by the lowest level input that is significant to the fair value measurement in its entirety.

The following methods and assumptions were used by the Company in estimating the fair value of its financial instruments:

Cash and Cash Equivalents: The amount reported on the balance sheet for cash and cash equivalents approximates fair value.

Investments including Assets Limited as to Use: The fair values, which are the amounts reported on the balance sheets, are based on quoted market prices, if available, or estimated using quoted market prices for similar securities.

Estimated Third-Party Payor Settlements: The amount reported on the balance sheet for estimated third-party payor settlements approximates its fair value.

Beneficial Interest in Charitable Trusts: Valued at the present value of the estimated future cash flows from the trust's assets using a discount rate that reflects current market conditions.

Long-Term Debt: The fair value of fixed rate issues was determined by price quotes from an investment banker or estimated using discounted cash flow analysis, based on the current incremental borrowing rate of similar types of borrowing arrangements. The fair value of variable rate debt approximates its reported value on the consolidated balance sheet. Fixed rate long-term debt is the only financial instrument with a difference between recorded and fair value. The recorded value of fixed rate long-term debt on the consolidated balance sheet at December 31, 2010 was approximately \$58,996,000 and the estimated fair value was approximately \$62,713,000. The recorded value of fixed rate long-term debt on the balance sheet at December 31, 2009 was approximately \$51,045,000 and the estimated fair value was approximately \$55,009,000.

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(17) Fair Value of Financial Instruments, Continued

The following tables present information about assets and liabilities and are measured at fair value on a recurring basis as of December 31 and indicate the fair value hierarchy of the valuation techniques utilized to determine such fair value. In general, fair values determined by Level 1 inputs utilize quoted prices in active markets for identical assets or liabilities. The Company considers a security that trades at least weekly to have an active market. Fair values determined by Level 2 inputs utilize data points that are observable, such as quoted prices, interest rates and yield curves. Fair values determined by Level 3 inputs are unobservable data points for the asset or liability, and include situations where there is little, if any, market activity for the asset or liability.

	Carrying amount at December 31, 2010	<u>Fair value measurements at December 31, 2010</u>		
		<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
Assets:				
Cash equivalents	\$ 841,689	841,689	-	-
Investments	65,725,537	65,155,611	-	569,926
Assets limited as to use	14,039,067	11,288,652	2,750,415	-
Beneficial interest in charitable trusts	<u>2,032,000</u>	<u>-</u>	<u>2,032,000</u>	<u>-</u>
Total	\$ <u>82,638,293</u>	<u>77,285,952</u>	<u>4,782,415</u>	<u>569,926</u>
Liabilities:				
Interest rate swap	<u>(3,967,565)</u>	<u>-</u>	<u>(3,967,565)</u>	<u>-</u>
Total	\$ <u>(3,967,565)</u>	<u>-</u>	<u>(3,967,565)</u>	<u>-</u>

FAXTON-ST. LUKE'S HEALTHCARE AND CONSOLIDATED SUBSIDIARIES

Notes to Consolidated Financial Statements

(17) Fair Value of Financial Instruments, Continued

	Carrying amount at December 31, 2009	<u>Fair value measurements at December 31, 2009</u>		
		<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
Assets:				
Cash equivalents	\$ 35,503,519	35,503,519	-	-
Investments	25,607,444	24,972,186	-	635,258
Assets limited as to use	<u>13,196,018</u>	<u>10,408,104</u>	<u>2,787,914</u>	<u>-</u>
Total	<u>\$ 74,306,981</u>	<u>70,883,809</u>	<u>2,787,914</u>	<u>635,258</u>
Liabilities:				
Interest rate swap	<u>(3,157,747)</u>	<u>-</u>	<u>(3,157,747)</u>	<u>-</u>
Total	<u>\$ (3,157,747)</u>	<u>-</u>	<u>(3,157,747)</u>	<u>-</u>

The following tables set forth a summary of changes in the fair value of the Company's level 3 assets for the years ended December 31, 2010 and 2009.

	<u>2010</u>	<u>2009</u>
Balance, beginning of year	\$ 635,258	849,618
Interest and dividends, net of investment manager fees	29,723	39,219
Net realized gains (losses) on sales of investments	7,640	(110,630)
Change in net unrealized gains (losses) on investments	44,003	(142,949)
Purchase, sales issuances and settlements, net	<u>(146,698)</u>	<u>-</u>
Balance, end of year	<u>\$ 569,926</u>	<u>635,258</u>

(18) Subsequent Event

During 2011, the Home has been awarded a grant award of approximately \$31,330,000 as part of the HEAL NY Grant Program. Receipt of the award is contingent on the approval of the related New York State Certificates of Need. The grant award is primarily to be used to construct new and renovate portions of the existing facility relating to centralizing and expanding long-term care services and for the payoff of the HUD mortgages and for capital acquisitions.



ST. ELIZABETH MEDICAL CENTER

Financial Statements

December 31, 2010 and 2009

(With Independent Auditors' Report Thereon)



KPMG LLP
300 South State Street
Syracuse, NY 13202-2024

Independent Auditors' Report

The Board of Trustees
St. Elizabeth Medical Center:

We have audited the accompanying balance sheets of St. Elizabeth Medical Center (the Medical Center) as of December 31, 2010 and 2009, and the related statements of operations and changes in net assets, and cash flows for the years then ended. These financial statements are the responsibility of the Medical Center's management. Our responsibility is to express an opinion on these 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 of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Medical Center's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of St. Elizabeth Medical Center as of December 31, 2010 and 2009, and the results of its operations and changes in net assets, and its cash flows for the years then ended in conformity with U.S. generally accepted accounting principles.

KPMG LLP

May 5, 2011

ST. ELIZABETH MEDICAL CENTER

Balance Sheets

December 31, 2010 and 2009

Assets	2010	2009
Current:		
Cash and cash equivalents	\$ 6,221,349	6,271,861
Current portion of assets whose use is limited	389,468	388,455
Investments	16,917,068	20,593,455
Patient accounts receivable, net of allowance for doubtful accounts of \$4,072,000 in 2010 and \$4,478,000 in 2009	22,615,059	23,971,266
Other receivables, net	305,964	560,497
Inventories of drugs and supplies	5,811,795	5,597,940
Prepaid expenses	523,888	493,919
Total current assets	52,784,591	57,877,393
Assets whose use is limited:		
Under bond indenture agreements	2,728,069	2,672,643
Restricted by donors	467,425	579,389
Property, plant, and equipment, net of accumulated depreciation and amortization	74,898,945	67,186,109
Interest in net assets of St. Elizabeth Medical Center Foundation, Inc.	1,696,048	1,839,425
Other assets	1,107,787	1,196,229
Total assets	\$ 133,682,865	131,351,188
Liabilities and Net Assets		
Current:		
Current installments of note payable	\$ 744,013	—
Current installments of long-term debt	1,365,000	1,295,000
Current installments of obligations under capital leases	619,667	632,634
Current installments of loans payable to Motherhouse	130,726	130,726
Accounts payable	17,450,027	17,761,335
Accrued expenses	5,259,188	4,874,154
Liabilities to third-party payors	9,329,783	11,427,173
Total current liabilities	34,898,404	36,121,022
Accrued pension liability	36,865,674	35,938,659
Long-term note payable, excluding current installments	3,855,987	—
Long-term debt, excluding current installments	33,962,411	35,151,608
Obligations under capital leases, excluding current installments	1,696,746	2,273,354
Loans payable to Motherhouse, excluding current installments	1,699,437	1,830,163
Total liabilities	112,978,659	111,314,806
Net assets:		
Unrestricted	19,793,513	18,772,238
Temporarily restricted	533,779	887,830
Permanently restricted	376,914	376,314
Total net assets	20,704,206	20,036,382
Total liabilities and net assets	\$ 133,682,865	131,351,188

See accompanying notes to financial statements.

ST. ELIZABETH MEDICAL CENTER

Statements of Operations and Changes in Net Assets

Years ended December 31, 2010 and 2009

	<u>2010</u>	<u>2009</u>
Unrestricted revenue:		
Net patient service revenue	\$ 197,921,236	199,113,192
Other operating revenue	5,219,430	4,708,874
Unrestricted contributions	317,631	228,106
Investment income	944,351	894,163
Net assets released from restrictions for operations	<u>32,345</u>	<u>23,616</u>
Total unrestricted revenue, gains, and other support	<u>204,434,993</u>	<u>204,967,951</u>
Expenses:		
Salaries and wages	92,668,262	88,402,306
Professional fees	9,275,896	8,713,580
Employee benefits	24,314,379	22,263,856
Supplies and expenses	58,656,581	60,020,177
Utilities	2,734,748	2,436,372
Depreciation and amortization	8,350,717	8,161,091
Provision for doubtful accounts	7,574,782	7,276,636
Interest	<u>1,916,191</u>	<u>1,953,752</u>
Total expenses	<u>205,491,556</u>	<u>199,227,770</u>
(Deficiency) excess of revenue over expenses	(1,056,563)	5,740,181
Net unrealized gain on other than trading securities	232,889	261,831
Pension related changes other than net periodic pension cost	(260,324)	(827,954)
Increase in interest in net assets of St. Elizabeth Medical Center Foundation, Inc.	14,652	25,853
Net assets released from restrictions for capital purchases	<u>2,090,621</u>	<u>975,958</u>
Increase in unrestricted net assets	<u>1,021,275</u>	<u>6,175,869</u>
Temporarily restricted net assets:		
Contributions	2,089,440	979,969
Interest income on permanently restricted assets	16,876	17,146
Decrease in interest in net assets of St. Elizabeth Medical Center Foundation, Inc.	(337,401)	(385,327)
Net assets released from restrictions	<u>(2,122,966)</u>	<u>(999,574)</u>
Decrease in temporarily restricted net assets	<u>(354,051)</u>	<u>(387,786)</u>
Increase in permanently restricted net assets – contributions	<u>600</u>	<u>1,000</u>
Change in net assets	667,824	5,789,083
Net assets at beginning of year	<u>20,036,382</u>	<u>14,247,299</u>
Net assets at end of year	<u>\$ 20,704,206</u>	<u>20,036,382</u>

See accompanying notes to financial statements.

ST. ELIZABETH MEDICAL CENTER

Statements of Cash Flows

Years ended December 31, 2010 and 2009

	<u>2010</u>	<u>2009</u>
Cash flows from operating and nonoperating activities:		
Change in net assets	\$ 667,824	5,789,083
Adjustments to reconcile change in net assets to net cash provided by operating and nonoperating activities:		
Depreciation and amortization	8,350,717	8,161,091
Amortization of debt discount	15,800	17,903
Contributions and grants restricted for capital purchases and endowments	(2,090,040)	(980,969)
Decrease in interest in net assets of St. Elizabeth Medical Center Foundation, Inc.	143,377	357,955
Net unrealized loss (gain) on other than trading securities	76,348	(261,831)
Change in funded status of pension plan	260,324	827,954
Provision for doubtful accounts	7,574,782	7,276,636
Loss on disposal of equipment	—	48,815
Changes in current assets and current liabilities:		
Patient and other accounts receivable	(5,964,042)	(6,889,443)
Inventories of drugs and supplies	(213,855)	(1,095,367)
Prepaid expenses	(29,969)	(93,841)
Accounts payable	(311,308)	2,259,636
Accrued expenses	385,034	(644,674)
Accrued pension liability	666,691	185,482
Liabilities to third-party payors	(2,097,390)	88,262
Net cash provided by operating and nonoperating activities	<u>7,434,293</u>	<u>15,046,692</u>
Cash flows from investing activities:		
Additions to property, plant, and equipment	(15,975,111)	(11,537,298)
Sales (purchases) of investments, net	3,600,042	(2,042,952)
Net cash used in investing activities	<u>(12,375,069)</u>	<u>(13,580,250)</u>
Cash flows from financing activities:		
Decrease (increase) in assets whose use is limited	55,525	(3,561)
Contributions and grants restricted for capital purchases and endowments	2,090,040	980,969
Proceeds from note payable	4,600,000	—
Principal payments on long-term debt	(1,135,000)	(1,500,000)
Principal payments under capital lease obligations	(589,575)	(560,536)
Principal payments on loans payable to Motherhouse	(130,726)	(130,726)
Net cash provided by (used in) financing activities	<u>4,890,264</u>	<u>(1,213,854)</u>
Net (decrease) increase in cash and cash equivalents	(50,512)	252,588
Cash and cash equivalents:		
Beginning of year	6,271,861	6,019,273
End of year	\$ <u>6,221,349</u>	<u>6,271,861</u>
Supplemental disclosure of cash flow information:		
Cash paid during the year for interest	\$ 1,919,535	1,962,699

See accompanying notes to financial statements.

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

(1) Organization

St. Elizabeth Medical Center (the Medical Center) is a voluntary not-for-profit acute care facility located in Utica, New York. The Medical Center provides medical, surgical, and psychiatric inpatient services. In addition, the Medical Center offers outpatient general diagnostic, ambulatory care, physical therapy, and emergency care services.

(2) Summary of Significant Accounting Policies

(a) *Basis of Presentation*

The Medical Center's financial statements have been prepared consistent with FASB ASC Topic 954, *Health Care Entities* (ASC Topic 954) (formerly the AICPA Audit and Accounting Guide, *Health Care Organizations*). In accordance with the provisions of ASC Topic 954, net assets and revenue, expenses, gains, and losses are classified based on the existence or absence of donor-imposed restrictions. Accordingly, unrestricted net assets are net assets that are not subject to donor-imposed stipulations and are available for operations. Assets whose use is limited include assets which are restricted under bond indenture agreements or by donor restrictions. Temporarily restricted net assets are those whose use by the Medical Center has been limited by donors to a specific time period or purpose. Permanently restricted net assets result from donors who stipulate that their donated resources be maintained permanently. The Medical Center is permitted to use or expend part or all of the income and gains derived from the donated assets, restricted only by the donors' wishes.

(b) *Use of Estimates*

The preparation of the accompanying financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions about future events. These estimates and the underlying assumptions affect the amounts of assets and liabilities reported, disclosures about contingencies, and reported amounts of revenues and expenses. Such estimates and assumptions include the allowance for uncollectible accounts, estimated third-party payor settlements, medical malpractice claims incurred but not reported, and defined benefit pension plan assumptions. These estimates and assumptions are based on management's best estimates and judgment. Management evaluates its estimates and assumptions on an ongoing basis using historical experience and other factors, including the current economic environment, which management believes to be reasonable under the circumstances. Management adjusts such estimates and assumptions when facts and circumstances dictate. As future events and their effects cannot be determined with precision, actual results could differ significantly from these estimates. Changes in those estimates resulting from continuing changes in the economic environment will be reflected in the financial statements in future periods.

(c) *(Deficiency) Excess of Revenue Over Expenses*

The statements of operations and changes in net assets include (deficiency) excess of revenue over expenses. Changes in unrestricted net assets which are excluded from (deficiency) excess of revenue over expenses, consistent with industry practice, include unrealized gains and losses on investments other than trading securities, permanent transfers of assets to and from affiliates for other than goods and services, contributions of long-lived assets (including assets acquired using contributions which

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

by donor restriction were to be used for the purposes of acquiring such assets), and pension liability adjustments in accordance with FASB ASC Subtopic 715-30, *Compensation – Retirement Benefits, Defined Benefit Plans - Pension*.

(d) Income Taxes

The Medical Center is a not-for-profit organization as described in Section 501(c)(3) of the Internal Revenue Code and is generally exempt from federal income taxes on related income pursuant to Section 501(a) of the Code.

(e) Revenue Recognition

Net patient service revenue is recognized in the period services are performed, is reported at estimated net realizable amounts from patients, third-party payors, and others for services rendered and includes estimated retroactive revenue adjustments due to future audits, reviews, and investigations. Retroactive adjustments are considered in the recognition of revenue on an estimated basis in the period the related services are rendered, and such amounts are adjusted in future periods as adjustments become known or as years are no longer subject to such audits, reviews, and investigations.

(f) Gifts and Donations

Unconditional promises to give cash and other assets are reported at fair value at the date the promise is received, which then are treated as cost. Conditional promises to give and indications of intentions are reported at fair value at the date the gift is received. Gifts and donations are reported as either temporarily or permanently restricted support if they are received with donor stipulations that limit the use of the donated assets. When a donor restriction expires, that is, when a stipulated time restriction ends or purpose restriction is accomplished, temporarily restricted net assets are reclassified as unrestricted net assets and reported in the statements of operations and changes in net assets as net assets released from restriction.

(g) Charity Care

The Medical Center does not deny services to a person who needs them but cannot pay for them, and it maintains certain records to identify and monitor the level of charity care it provides. These records relate primarily to the amount of charges foregone for services and supplies furnished under its charity care policy. The total of charges foregone, based on established charges, was approximately \$2,641,000 and \$2,689,000 in 2010 and 2009, respectively; the estimated cost incurred to provide such charity care was approximately \$1,131,000 and \$1,199,000 in 2010 and 2009, respectively.

The Medical Center grants credit without collateral to patients, most of whom are local residents and are insured under third-party agreements. Additions to the allowance for doubtful accounts are made by means of the provision for doubtful accounts. Accounts written off as uncollectible are deducted from the allowance and subsequent recoveries are added. The amount of the provision for doubtful accounts is based upon management's assessment of historical expected net collections, business and economic conditions, trends in federal and state governmental health care coverage and other

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

collection indicators. Services rendered to individuals when payment is expected and ultimately not received are written off to the allowance for doubtful accounts.

(h) Cash and Cash Equivalents

The Medical Center considers all highly liquid debt instruments with original maturities of three months or less to be cash equivalents. Only unrestricted cash and cash equivalents which are classified as current assets are considered for purposes of the statements of cash flows. Cash equivalents consist of certificates of deposit, money market funds, and daily dividend accounts.

(i) Investments and Assets Whose Use is Limited

Investments, assets whose use is limited, and pension plan assets are reported at fair market value. FASB ASC No. 820, *Fair Value and Disclosures* (ASC 820), defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. See note 5 for discussion on fair value measurements.

Gains or losses on the sale of investments and investment income are recorded as unrestricted revenue. Income of temporarily and permanently restricted net assets that is specifically restricted by the donor is recorded as an increase in the appropriate class of net assets. Unrealized gains and losses are recorded as changes in unrestricted net assets unless explicitly restricted by the donor or law. Unrealized gains and losses restricted by the donor or law are recorded as changes in temporarily or permanently restricted net assets. Unrealized gains and losses on investments are excluded from the statements of operations unless the investments are trading securities.

For 2010 and 2009, the Medical Center's investments were held for purposes other than trading. A decline in the market value of an investment security below its cost that is designated to be other than temporary is recognized through an impairment charge. The impairment charge is included in the (deficiency) excess of support, revenue, and gains over expenses in the statements of operations and changes in net assets and a new cost basis is established.

A decline in the market value of any security below cost that is deemed to be other-than-temporary results in an impairment to reduce the carrying amount to fair value. To determine whether an impairment is other-than-temporary, the Medical Center considers all available information relevant to the collectibility of the security, including past events, current conditions, and reasonable and supportable forecasts when developing estimates of cash flows expected to be collected. Evidence considered in this assessment includes the reasons for the impairment, the severity and duration of the impairment, and changes in value subsequent to year-end.

When an other-than-temporary impairment has occurred, the amount of the other-than-temporary impairment recognized in the excess revenue, gains, and other support over expenses depends on whether the Medical Center intends to sell the security or more likely than not will be required to sell the security before recovery of its amortized cost basis less any current-period credit loss. If the Medical Center intends to sell the security or more likely than not will be required to sell the security before recovery of its amortized cost basis less any current-period credit loss, the other-than-temporary impairment is recognized in the excess of revenue over expenses equal to the entire difference between the investment's amortized cost basis and its fair value at the balance sheet

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

date. If the Medical Center does not intend to sell the security and it is not more likely than not that the Medical Center will be required to sell the security before recovery of its amortized cost basis less any current-period credit loss, the other-than-temporary impairment is separated into the amount representing the credit loss and the amount related to all other factors. The amount of the total other-than-temporary impairment related to the credit loss is recognized in the excess of revenue over expenses and the amount of the total other-than-temporary impairment related to other factors is recognized as a change in net assets. No other-than-temporary impairment was recorded during the years ended December 31, 2010 and 2009.

(j) *Fair Value of Financial Instruments*

The Medical Center estimates fair value based on a valuation framework that uses a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to quoted prices in active markets for identical assets or liabilities (level 1 measurements) and the lowest priority to unobservable inputs (level 3 measurements). Financial assets recorded at fair value by the Medical Center on a recurring basis are investments. The three levels of fair value hierarchy are described below:

Level 1: Quoted prices in active markets that are accessible at the measurement date for identical assets and liabilities. Level 1 includes debt and equity securities that are traded in an active exchange market, as well as U.S. treasury securities.

Level 2: Inputs, other than quoted prices in active markets, that are observable either directly or indirectly and fair value is determined through the use of models or other valuation methodologies. This category generally includes certain U.S. government and agency obligations and fixed income securities.

Level 3: Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the asset or liabilities. Level 3 assets and liabilities include financial instruments whose value is determined using pricing models, discounted cash flow methodologies, or similar techniques, as well as instruments for which the determination of fair value requires significant management judgment or estimation. This category generally includes certain private debt and equity instruments and alternative investments.

The carrying values of cash and cash equivalents, accounts receivable, accounts payable and accrued expenses are reasonable estimates of their fair value due to the short-term nature of these financial instruments.

The Medical Center's long-term debt instruments are carried at cost. Fair values are estimated based on quoted market prices for the same or similar issues. The estimated fair value of the Medical Center's long-term debt as of December 31, 2010 and 2009 is approximately \$37,731,000 and \$37,666,000, respectively. The estimated fair value of the Medical Center's loans payable to the Motherhouse is approximately \$1,341,000 and \$1,403,000 as of December 31, 2010 and 2009, respectively. The fair value of debt and loans payable to the Motherhouse was estimated through a discounted cash flow analysis using current borrowing rates for similar types of arrangements. Judgment is required in certain circumstances to develop the estimates of fair value, and the estimates may not be indicative of the amounts that could be realized in a current market exchange.

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

(k) Inventories of Drugs and Supplies

Inventories of drugs and supplies are stated at the lower of average cost or market.

(l) Property, Plant, and Equipment

Property, plant, and equipment is stated at cost, if purchased, or at market value at the date of acquisition when acquired by gift. Equipment which is purchased under capital leases is stated at the lower of the present value of minimum lease payments at the beginning of the lease term or the fair market value at the inception of the lease.

Depreciation of property, plant, and equipment is calculated on the straight-line method over the estimated useful lives of the assets as follows:

Land improvements	2-20 years
Buildings	5-40 years
Fixed equipment	2-20 years
Movable equipment	2-10 years

Equipment held under capital leases is amortized on the straight-line method over the estimated useful life of the asset or the lease term.

(m) Interest in Net Assets of St. Elizabeth Medical Center Foundation, Inc.

The Medical Center accounts for its interest in the net assets of the St. Elizabeth Medical Center Foundation, Inc. (the Foundation) in accordance with the provisions of FASB ASC Subtopic 958-605, *Not-for-Profit Entities – Revenue Recognition* (ASC Subtopic 958-605). Under ASC Subtopic 958-605, the Medical Center recognizes its interest in the net assets of the Foundation and adjusts that interest annually for its share of the change in net assets.

(n) Debt Financing Costs

Debt financing costs are included in other noncurrent assets and are being amortized over the terms of the respective loans.

(o) Adoption of New Accounting Pronouncement

In January 2010, the FASB issued ASU 2010-06, *Improving Disclosures about Fair Value Measurements (ASU 2010-06)*, which requires reporting entities to make new disclosures about recurring or nonrecurring fair-value measurements including significant transfers into and out of Level 1 and Level 2 fair-value measurements and information on purchases, sales, issuances, and settlements on a gross basis in the reconciliation of Level 3 fair-value measurements. The FASB also clarified existing fair-value measurement disclosure guidance about the level of disaggregation, inputs, and valuation techniques. The new and revised disclosures are required to be implemented in fiscal years beginning after December 15, 2009 (for transfers into and out of Level 1 and Level 2 fair-value measurements and the level of disaggregation) and December 15, 2010 (for information on

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

Level 3 fair-value measurements). The adoption of ASU 2010-06 did not have a material impact on the accompanying financial statements.

(p) Recently Issued Accounting Pronouncements

In August 2010, the FASB's Emerging Issues Task Force (EITF) issued consensus 09-K, *Health Care Entities: Presentation of Insurance Claims and Related Insurance Recoveries* (ASU 2010-2), which states that the net presentation of receivables for insurance recoveries and related claims liabilities is not permitted. ASU 2010-2 is effective for interim and annual periods beginning after December 15, 2010. The Medical Center does not expect ASU 2010-2 to have a material impact to the accompanying financial statements.

In August 2010, the EITF issued consensus 09-L, *Health Care Entities: Measuring Charity Care for Disclosure* (ASU 2010-23), which clarified the disclosure of charity care provided by health care organizations, providing that such disclosure should be measured using cost and that related reimbursements recorded should also be separately disclosed. ASU 2010-23 will be effective for annual periods beginning on or after December 15, 2010, with retrospective application required. The Medical Center does not expect ASU 2010-23 to have a material impact to the accompanying financial statements.

In November 2010, the FASB's Emerging Issue Task Force (EITF) issued consensus 09-H, *Health Care Entities: Revenue Recognition* (EITF 09-H), which will require health care entities to separately present bad debt expense as a reduction of revenue and provide additional disclosure related to its policies for considering collectibility in the timing and amount of revenue and bad debt recognized, net patient service revenues for the period before the provision for bad debt, and a reconciliation of the activity in the allowance for doubtful accounts for the period. EITF 09-H will be effective for annual periods beginning after December 15, 2010, with retrospective application required for presenting bad debt expense as a reduction of revenue and prospective application required for expanded disclosures. The Medical Center does not believe EITF 09-H will have a material impact to the accompanying financial statements.

(q) Reclassifications

Amounts in prior year financial statements are reclassified when necessary to conform to the current year presentation.

(3) Net Patient Service Revenue

The Medical Center has agreements with third-party payors that provide for payments at amounts different from their established rates. Inpatient acute care services rendered are paid at prospectively determined rates per discharge in accordance with the Federal Prospective Payment System (PPS) for Medicare and generally at negotiated or otherwise pre-determined amounts under the provisions of the New York Health Care Reform Act (HCRA) and related legislation for all other payors. Reimbursement rates for Medicaid, Worker's Compensation, and No-Fault are determined on a prospective basis defined by HCRA that is based on clinical, diagnostic, and other factors. Inpatient nonacute and outpatient services are paid at various rates under different arrangements with third-party payors, commercial insurance carriers and health maintenance organizations. The basis for payment under these agreements includes prospectively

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

determined per diem and per visit rates, discounts from established charges, fee schedules, and reasonable cost. Medicare outpatient services are paid under a prospective payment system whereby services are reimbursed on a predetermined amount for each outpatient procedure, subject to various mandated modifications.

In addition, under HCRA, all Non-Medicare payors are required to make surcharge payments for the subsidization of indigent care and other health care initiatives. The percentage amounts of the surcharge varies by payor and applies to a broader array of health care services. Also, certain payors are required to make a covered lives payment to further fund the indigent care pools and other health care initiatives for inpatient services or through voluntary election to pay a covered lives assessment directly to the New York State Department of Health (DOH). The funds are distributed to the hospitals based on the each hospital's level of bad debt in relation to all other hospitals. The Medical Center recorded distributions of approximately \$1,810,000 and \$1,762,000 for 2010 and 2009, respectively, from the indigent care pool.

Both federal and New York State regulations provide for certain adjustments to current and prior years' payment rates and indigent care pool distributions based on industry-wide and hospital-specific data. The Medical Center has established estimates based on information presently available of the amounts due to or from Medicare, Medicaid, workers compensation and no-fault payors and amounts due from the indigent care pool for such adjustments. Those adjustments which can be reasonably estimated have been provided for in the accompanying financial statements. The Medical Center has estimated the potential impact of such adjustments based on the most recent information available. Management believes the amounts recorded in the accompanying financial statements will not be materially affected upon the implementation of such adjustments.

The Medical Center is required to prepare and file various reports of actual and allowable costs annually. Provisions have been made in the financial statements for prior and current years' estimated final settlements to the Medicare program and other third party payors. The difference between the amount provided and the actual final settlement is recorded as an adjustment to net patient service revenue in the year the final settlement is determined. The Medical Center recorded adjustments for estimated settlements with third-party payors resulting in an increase of approximately \$932,000 and \$2,258,000 in net patient service revenue for the years ended December 31, 2010 and 2009, respectively. The laws and regulations governing the reimbursement for healthcare services are complex and subject to interpretation. Third-party payors retain the right to review and propose adjustments to amounts requested and recorded by the Hospital. In the opinion of management, retroactive adjustments, if any, would not be material to the financial position or results of operations of the Medical Center. As of December 31, 2010, all cost reports through 2009 have been filed and Medicare cost reports through 2007 have been final settled.

For the years ended December 31, 2010 and 2009, revenue from the Medicare and Medicaid programs accounted for approximately 45% and 44%, respectively, of the Medical Center's net patient service revenue. At December 31, 2010 and 2009, the Medical Center had recorded patient accounts receivable, net of estimated contractual allowances, from Medicare of approximately \$5,747,000 and \$6,270,000, respectively, and Medicaid of approximately \$1,705,000 and \$1,785,000, respectively.

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

(4) Investments

(a) Assets Whose Use is Limited

The composition of assets whose use is limited at December 31 is set forth in the table below.

	<u>2010</u>	<u>2009</u>
Under bond indenture agreements:		
Cash and cash equivalents	\$ 589,371	534,120
Commercial paper	2,528,166	2,526,978
	<u>3,117,537</u>	<u>3,061,098</u>
Less current portion	389,468	388,455
	<u>\$ 2,728,069</u>	<u>2,672,643</u>
Restricted by donors:		
Cash and cash equivalents	\$ 132,539	278,237
U.S. government and government sponsored enterprise (GSE) bonds	183,423	198,630
Mortgage-backed securities	131,652	102,522
Certificate of deposit	19,811	—
	<u>\$ 467,425</u>	<u>579,389</u>

(b) Investments

The composition of investments at December 31 is set forth in the table below.

	<u>2010</u>	<u>2009</u>
Cash and cash equivalents	\$ 34,414	78,775
Certificates of deposit	4,659,780	6,959,005
Domestic marketable equity securities	1,080,171	857,163
Mutual funds:		
Domestic equity mutual funds	101,752	155,410
Internationally developed equity mutual funds	193,091	174,710
Emerging markets equity mutual funds	138,162	120,350
Real estate investment trusts	55,546	50,497
Fixed income mutual funds	109,159	78,962
U.S. Treasury obligations	2,107,234	2,159,607
U.S. government and government sponsored enterprise (GSE) bonds	4,269,935	7,184,283
Domestic corporate bonds	3,531,600	2,612,960
Mortgage and asset backed securities	26,981	30,100
Municipal bonds	490,243	—
Equity investment in medical leasing company	119,000	131,633
	<u>\$ 16,917,068</u>	<u>20,593,455</u>

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

Information regarding investments and assets whose use is limited with unrealized losses at December 31, 2010 and 2009 is presented below, segregated between those that have been in a continuous unrealized loss position for less than twelve months and those that have been in a continuous unrealized loss position for twelve or more months:

	December 31, 2010			
	Less than 12 months		12 months or longer	
	Fair value	Unrealized loss	Fair value	Unrealized loss
Assets whose use is limited:				
Certificates of deposit	\$ 19,811	189	—	—
U.S. government and government sponsored enterprise (GSE) bonds	—	—	18,559	251
Investments:				
Certificates of deposit	764,398	3,602		
Domestic marketable equity securities	90,708	6,158	242,560	19,512
U.S. government and government sponsored enterprise (GSE) bonds	2,592,894	27,106	11,342	153
Municipal bonds	289,825	6,606	—	—
Domestic corporate bonds	704,041	6,282	—	—
Total temporarily impaired securities	\$ 4,461,677	49,943	272,461	19,916

	December 31, 2009			
	Less than 12 months		12 months or longer	
	Fair value	Unrealized loss	Fair value	Unrealized loss
Assets whose use is limited:				
U.S. government and government sponsored enterprise (GSE) bonds	\$ —	—	18,444	366
Investments:				
Certificates of deposit				
Domestic marketable equity securities	2,003,123	12,877	—	—
Equity mutual funds	66,273	1,903	93,286	29,300
U.S. Treasury obligations	—	—	46,656	5,363
U.S. government and government sponsored enterprise (GSE) bonds	978,825	9,808	—	—
Domestic corporate bonds	3,111,981	18,020	11,271	224
Total temporarily impaired securities	\$ 6,932,385	48,386	169,657	35,253

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

(5) Fair Value Measurements

The following is a description of the valuation methodologies used by the Medical Center for its assets measured at fair value on a recurring basis:

Cash and cash equivalents: Consists of money market funds that are valued at the net asset value (NAV) reported by the financial institution.

Certificates of deposit: Consists of fixed-maturity certificates of deposit that are valued based on discounted future cash flows using the rates currently offered for deposits of similar remaining maturities (Level 2 measurements).

Mortgage-backed securities: Consists of the Medical Center's investment in mortgage-backed securities that are issued by publicly owned government-sponsored enterprises or wholly owned government corporations. If quoted market prices are not available, fair values are based on quoted market prices of comparable instruments or, if necessary, matrix pricing from a third party pricing vendor to determine fair value (Level 2 measurements). Matrix prices are based on quoted prices for securities with similar coupons, ratings, and maturities, rather than on specific bids and offers for the designated security.

Domestic, emerging markets, and international equities and mutual funds: Consists of actively traded equity securities and the Medical Center's investment in mutual funds. Actively traded equity securities are valued on a continuous basis and mutual funds are valued at the closing price reported on an active market on which the individual securities are traded (Level 1 measurements).

U.S. government and agency securities, U.S. Treasury obligations, domestic corporate bonds, commercial paper, municipal bonds, and government-sponsored enterprise (GSE) bonds: Consists of the Medical Center's directly owned securities and the Medical Center's investment in securities that are issued by the U.S. government or publicly owned government-sponsored enterprises. Securities owned directly by the Medical Center and securities issued by the U.S. government or publicly owned government-sponsored enterprises are valued based on quoted market prices or dealer quotes where available (Level 1 measurements). If quoted market prices are not available, fair values are based on quoted market prices of comparable instruments or, if necessary, matrix pricing from a third party pricing vendor to determine fair value (Level 2 measurements). Matrix prices are based on quoted prices for securities with similar coupons, ratings, and maturities, rather than on specific bids and offers for the designated security.

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

The following table sets forth the Medical Center's cash and cash equivalents and investments that were accounted for at fair value at December 31, 2010 and 2009:

	2010		
	<u>Level 1</u>	<u>Level 2</u>	<u>Total</u>
Cash and cash equivalents	\$ 6,221,349	—	6,221,349
Assets whose use is limited:			
Under bond indenture agreements:			
Cash and cash equivalents	589,371	—	589,371
Commercial paper	2,528,166	—	2,528,166
Restricted by donors:			
Cash and cash equivalents	132,539	—	132,539
U.S. government and government sponsored enterprise (GSE) bonds	—	57,050	57,050
Certificates of deposit	—	19,811	19,811
Mortgage and asset backed securities	—	258,025	258,025
Investments			
Cash and cash equivalents	34,414	—	34,414
Certificates of deposit	—	4,659,780	4,659,780
Domestic marketable equity securities	1,080,171	—	1,080,171
Mutual funds:			
Domestic equity	101,752	—	101,752
Internationally developed equity	193,091	—	193,091
Emerging markets equity	138,162	—	138,162
Real estate investment trusts	55,546	—	55,546
Commodity	109,159	—	109,159
U.S. Treasury obligations	2,107,234	—	2,107,234
U.S. government and government sponsored enterprise (GSE) bonds	—	4,269,935	4,269,935
Domestic corporate bonds	—	3,531,600	3,531,600
Mortgage-backed securities	—	26,981	26,981
Municipal bonds	—	490,243	490,243
	<u>\$ 13,290,954</u>	<u>13,313,425</u>	<u>26,604,379</u>

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

	2009		
	Level 1	Level 2	Total
Cash and cash equivalents	\$ 6,271,861	—	6,271,861
Assets whose use is limited:			
Under bond indenture agreements:			
Cash and cash equivalents	534,120	—	534,120
Commercial paper	2,526,978	—	2,526,978
Restricted by donors:			
Cash and cash equivalents	278,237	—	278,237
Mortgage and asset backed securities	—	301,152	301,152
Investments			
Cash and cash equivalents	78,775	—	78,775
Certificates of deposit	—	6,959,005	6,959,005
Domestic marketable equity securities	857,153	—	857,153
Mutual funds			
Domestic equity mutual funds	155,690	—	155,690
Internationally developed equity mutual funds	174,710	—	174,710
Emerging markets equity mutual funds	120,350	—	120,350
Commodity mutual funds	78,692	—	78,692
Real estate investment trusts	50,497	—	50,497
U.S. Treasury obligations	2,159,607	—	2,159,607
Government & GSE bonds	—	7,184,283	7,184,283
Domestic corporate bonds	—	2,612,960	2,612,960
Mortgage and asset backed securities	—	30,100	30,100
	<u>\$ 13,286,670</u>	<u>17,087,500</u>	<u>30,374,170</u>

There are no financial assets or liabilities included in Level 3 at December 31, 2010 or 2009.

The Medical Center's accounting policy is to recognize transfers between levels of the fair value hierarchy on the date of the event or change in circumstances that caused the transfer. There were no significant transfers into or out of Level 1 or Level 2 for the year ended December 31, 2010.

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

(6) Property, Plant, and Equipment

Property, plant, and equipment at December 31 are as follows:

	<u>2010</u>	<u>2009</u>
Land	\$ 1,198,137	1,198,138
Land improvements	5,879,973	5,669,812
Buildings	70,341,428	68,461,015
Fixed equipment	39,156,181	35,562,102
Movable equipment	44,303,064	41,539,409
	<u>160,878,783</u>	<u>152,430,476</u>
Less accumulated depreciation	<u>95,158,695</u>	<u>90,390,869</u>
	65,720,088	62,039,607
Construction in progress	<u>6,939,308</u>	<u>2,465,098</u>
	<u>72,659,396</u>	<u>64,504,705</u>
Capitalized leases:		
Buildings	1,400,000	1,400,000
Movable equipment	<u>2,766,316</u>	<u>2,766,316</u>
	4,166,316	4,166,316
Less accumulated amortization	<u>1,926,767</u>	<u>1,484,912</u>
	<u>2,239,549</u>	<u>2,681,404</u>
	<u><u>74,898,945</u></u>	<u><u>67,186,109</u></u>

Depreciation expense for 2010 and 2009 was \$8,262,275 and \$8,072,652, respectively.

Included in construction in progress at December 31, 2010 is approximately \$5.3 million related to the Medical Center's combined heat and power plant project with a total commitment of approximately \$7.7 million.

(7) Short-Term Borrowings

The Medical Center maintains a line of credit with a lender which provides for borrowings up to \$6,000,000 at December 31, 2010 and 2009 secured by the Medical Center's College of Nursing building (net book value of \$45,837 at December 31, 2010), and up to \$7,000,000 of eligible accounts receivable, as defined. Borrowings against this line of credit are payable on demand and bear interest at the lender's prime rate (3.25% at December 31, 2010 and 2009). There were no amounts outstanding under this arrangement at December 31, 2010 and 2009.

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

(8) Long-Term Debt

Long-term debt at December 31 is as follows:

	<u>2010</u>	<u>2009</u>
(a) Series 1999-A Bonds (\$15,000,000 principal amount less unamortized discount of \$110,613 and \$119,013 at December 31, 2010 and 2009, respectively)	\$ 13,889,377	14,070,977
(b) Series 1999-B Bonds (\$15,000,000 principal amount less unamortized discount of \$117,016 and \$124,416 at December 31, 2010 and 2009, respectively)	11,938,034	12,475,631
(c) Series 2006-A Bonds (\$14,000,000 principal at December 31, 2010)	<u>9,500,000</u>	<u>9,900,000</u>
	35,327,411	36,446,608
Less current installments	<u>1,365,000</u>	<u>1,295,000</u>
	<u>\$ 33,962,411</u>	<u>35,151,608</u>

- (a) In April 1999, the Medical Center obtained financing of \$15,000,000 through the placement of Oneida County Industrial Development Agency Civic Facility Revenue Bonds, Series 1999-A (the Series 1999-A Bonds). The Series 1999-A Bond proceeds were used to refinance existing mortgage indebtedness; install new boilers and chillers; make additional energy management improvements; construct a new boiler house; add a new parking lot; renovate the pediatric unit and the third floor surgical units. The Series 1999-A Bonds mature as follows: \$4,425,000 on December 2019 with interest payable semiannually at an annual rate of 5.750%; and \$9,575,000 on December 2029 with interest payable semiannually at an annual rate of 5.875%. The Medical Center is required to make sinking fund payments to be used for mandatory redemption of the Series 1999-A Bonds which commenced with a payment of \$70,000 in December 2004 and continuing annually in increasing amounts through December 2029. The Medical Center is also required to maintain certain covenants under the Bond agreement including minimum debt service coverage. The Medical Center believes it is in compliance with its covenants at December 31, 2010.
- (b) In June 1999, the Medical Center obtained additional financing of \$15,000,000 through the placement of Oneida County Industrial Development Agency Civic Facility Revenue Bonds, Series 1999-B (the Series 1999-B Bonds). The Series 1999-B Bond proceeds were used primarily to construct and equip a two-story addition to house ten new surgical suites including ambulatory surgery and a 16-bed intensive care unit. The Series 1999-B Bonds mature as follows: \$5,040,000 in December 2019 with interest payable semiannually at an annual rate of 6.00%; and \$7,560,000 in December 2029 with interest payable semiannually at an annual rate of 6.00%. The Medical Center is required to make sinking fund payments to be used for mandatory redemption of the Series 1999-B Bonds commencing with a payment of \$485,000 in December 2005 and continuing annually in increasing amounts through December 2029. The Medical Center is also required to maintain certain covenants under the Bond agreement including minimum debt service coverage. The Medical Center believes it is in compliance with its covenants at December 31, 2010.

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

- (c) In June 2006, the Medical Center obtained additional financing of \$14,000,000 through the placement of Oneida County Industrial Development Agency Multi-Mode Variable Rate Civic Facility Revenue Bonds Series 2006-A (the Series 2006-A Bonds). The proceeds were used primarily to renovate and construct the new emergency department, kitchen and cafeteria. The 2006-A Bonds were issued on a parity basis with the 1999-A and 1999-B bonds. The Series 2006-A bonds mature in June 2026. Interest is paid monthly based on the Securities Industry and Financial Markets Association Municipal Swap Index. The average rate was 0.24% and 0.36% at December 31, 2010 and 2009, respectively. The Medical Center is required to make sinking fund payments to provide for the redemption of the Series 2006-A Bonds commencing with a \$115,000 payment in 2008 and continuing annually in increasing amounts through 2026. As further security for the Bonds, the Medical Center has entered into a Reimbursement Agreement with HSBC Bank USA, pursuant to which the Bank has issued an irrevocable direct-pay letter of credit aggregating the principal amount. The letter of credit will expire on June 21, 2013. The Medical Center is also required to maintain certain covenants under the Bond agreement including minimum debt service coverage and minimum day's cash on hand. The Medical Center believes it is in compliance with its covenants at December 31, 2010.

Under the Indenture of Trust for the Series 1999-A, Series 1999-B, and Series 2006-A Bonds, the Medical Center is required to maintain certain levels of reserve accounts with the trustee. Amounts under this agreement have been classified as either current or noncurrent based upon the anticipated release date of such funds or contractual obligation and are as follows at December 31:

	<u>2010</u>	<u>2009</u>
Current assets whose use is limited:		
Bond Interest Fund – Series 1999-A Bonds	\$ 169,574	169,634
Bond Interest Fund – Series 1999-B Bonds	216,832	215,759
Project Fund – Series 1999-A Bonds	1,589	1,589
Project Fund – Series 2006-A	<u>1,473</u>	<u>1,473</u>
	<u>\$ 389,468</u>	<u>388,455</u>
Noncurrent assets whose use is limited –		
Debt Service Reserve Fund-Series 1999-A Bonds	<u>\$ 2,728,069</u>	<u>2,672,643</u>

The Series 1999-A Bonds, Series 1999-B Bonds, and Series 2006-A Bonds, described in (a), (b), and (c), respectively, are secured by a mortgage lien on the property, plant, and equipment of the Medical Center, as well as a security interest in assets whose use is limited.

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

Aggregate sinking fund requirements for the next five years are as follows:

Year:		
2011	\$	1,365,000
2012		1,430,000
2013		1,505,000
2014		1,585,000
2015		1,665,000

(9) Note Payable

In December 2010, the Medical Center obtained additional financing of \$4,600,000 in the form of a commercial promissory note (Note). The proceeds were used to fund equipment purchases for the Medical Center's combined heat and power project. The Note matures in June 2016. Interest is fixed at rate of 5% per annum. The Medical Center is required to remit monthly payments of \$80,016, beginning in January 2011 and continuing on the same day each month thereafter, through June 2016. The Note is collateralized by a purchase money security interest in the equipment purchased with the proceeds.

Scheduled annual principal payments for the next five years are as follows:

Year:		
2011	\$	744,013
2012		782,640
2013		823,275
2014		866,017
2015		910,980

(10) Capital and Operating Leases

The Medical Center leases a building which houses the Medical Center's Women and Children's Health Center and finance department, under a capital lease which expires in 2022. Interest is calculated on the capital lease at an annual rate of 10.72%. Additionally, during 2008 the Medical Center entered into a capital lease for certain equipment which expires in 2012. Interest is calculated on the capital lease at an annual rate of 4.55%.

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

Future minimum lease payments under noncancelable operating leases (with initial or remaining lease terms in excess of one year) and future minimum capital lease payments as of December 31, 2010 are:

	<u>Capital leases</u>	<u>Operating leases</u>
Year ending December 31:		
2011	\$ 774,620	1,214,075
2012	774,620	1,045,099
2013	258,270	725,004
2014	155,000	300,693
2015	155,000	273,500
Thereafter	<u>1,072,076</u>	<u>2,301,959</u>
Total minimum lease payments	3,189,586	
Less imputed interest	<u>873,173</u>	
Present value of net minimum lease payments	2,316,413	
Less current portion	<u>619,667</u>	
	\$ <u><u>1,696,746</u></u>	

Total rental expense for the years ended December 31, 2010 and 2009 for all operating leases was \$1,302,549 and \$1,367,699, respectively.

(11) Temporarily and Permanently Restricted Net Assets

Temporarily restricted net assets, consisting of cash and cash equivalents, short-term investments, and interest in net assets of St. Elizabeth Medical Center Foundation, Inc. at December 31, are available for the following purposes:

	<u>2010</u>	<u>2009</u>
Plant replacement and expansion	\$ 123,424	124,106
Emergency department project	341,255	679,156
Scholarships	<u>69,100</u>	<u>84,568</u>
	\$ <u><u>533,779</u></u>	<u><u>887,830</u></u>

Permanently restricted net assets consist of long-term investments to be held in perpetuity, the income from which is expendable for School of Nursing scholarships.

(12) Related Organizations

(a) *Motherhouse of the Sisters of the Third Franciscan Order*

Loans payable to the Motherhouse of the Sisters of the Third Franciscan Order have been interest free since January 1, 1994. In 2002, the Medical Center entered into an agreement with the

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

Motherhouse of the Sisters of the Third Franciscan Order which established repayment terms for the loan payable. Under the terms of the agreement, beginning in January 2003, the Medical Center is required to make monthly principal payments of \$6,536 through 2007, \$10,894 from 2008 through 2017, and \$15,251 from 2018 through 2022. The agreement provides for interest at 5% of the remaining outstanding balance only in the event that timely principal payments are not made and the Medical Center does not cure the untimely principal payment within 30 days.

(b) *St. Elizabeth Medical Center Foundation, Inc.*

The Foundation is an affiliated not-for-profit organization that receives and administers gifts and bequests for the benefit of the Medical Center.

(c) *Healthcare Underwriters Mutual Risk Management Group*

The Medical Center is one of five members of the Healthcare Underwriters Mutual Risk Management Group (the Group). The Group is an unincorporated association of healthcare providers in the upstate region of New York State and was organized under a trust agreement for the purpose of establishing a workers' compensation self-insurance group. The Group is governed by a board of trustees consisting of one trustee for each member. Members of the Trust are jointly and severally liable for Group activities and liabilities.

The Medical Center makes annual payments to the Group for workers' compensation risk coverage based on its relative claims experience in relation to the total Group. Payments amounted to approximately \$2,407,000 and \$1,405,000 under this arrangement in 2010 and 2009, respectively.

(13) Joint Ventures

During 1997, the Medical Center and St. Luke's Memorial Hospital Center (now known as Faxton St. Luke's Healthcare) entered into an agreement for the purpose of establishing and maintaining a joint cardiac services program. As a part of the joint venture, the two hospitals formed the Mohawk Valley Heart Institute, Inc. (MVHI), a not-for-profit corporation, primarily as a vehicle to control and monitor the quality of the joint program at the two hospitals. The services relating to the joint venture include cardiac surgery, coronary angioplasty, diagnostic cardiac catheterizations, and outpatient cardiac rehabilitation services.

The activities relating to the joint operation occur in each of the hospitals' facilities based on patient need. The Medical Center shares in 70% of the profits and losses of the joint operation, irrespective of where the services are performed. All financial activities of the joint venture flow through the hospitals' operations, and the Medical Center's proportional share of the activities of the joint venture as of and for the years ended December 31 are incorporated into the accompanying financial statements as follows:

	<u>2010</u>	<u>2009</u>
Net patient service revenue	\$ 28,108,924	31,127,099
Operating expenses	<u>27,021,300</u>	<u>27,668,997</u>
Net income from joint operations	<u>\$ 1,087,624</u>	<u>3,458,102</u>

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

On October 15, 2010, the Medical Center, Faxton St. Luke's Healthcare, and Mohawk Valley EC Holdings, LLC entered into an agreement for the purpose of owning and operating a single-specialty ambulatory surgery center, exclusively providing gastroenterology services in Oneida County. As part of the agreement, the three members formed the Mohawk Valley EC, LLC (MVEC), a New York limited liability company.

The Hospital will maintain a 20% interest and sharing ratio in MVEC. There were no capital contributions made by the Medical Center in 2010 and the operations of MVEC will not commence until 2011. The maximum capital contribution obligation of the Medical Center under this agreement is \$220,000.

(14) Pension Plan

The Medical Center has a noncontributory defined benefit plan which covers substantially all employees. Benefits are based on compensation and years of service. The Medical Center uses the accrued benefit (unit credit) actuarial method to determine its funding requirements. In 2003, the Medical Center applied for and received a favorable determination that its defined benefit plan is that of a nonelecting church plan under Section 410(d) of the Internal Revenue Code. Prior to this point, the Medical Center's policy was to fund at least an amount necessary to satisfy the minimum funding requirements under ERISA. Under status as a church plan, the Medical Center may continue to contribute the minimum amounts calculated as if the plan were subject to ERISA funding requirements, although not required. For financial reporting purposes, the Medical Center uses the "projected unit credit method" which attributes an equal portion of total projected benefits to each year of employee service.

The Medical Center applies the provisions of FASB ASC Subtopic 715-30, *Compensation – Retirement Benefits, Defined Benefit Plans – Pension* (ASC Subtopic 715-30) which requires an employer to recognize the funded status (i.e. difference between the fair value of plan assets and projected benefit obligations) of its defined benefit pension plan as an asset or liability in its balance sheet and to recognize changes in that funded status in the year in which the changes occur through changes in unrestricted net assets.

Additional actuarial gains and losses that arise in subsequent periods and are not recognized as net periodic pension cost in the same period will be recognized as a component of unrestricted net assets. These future actuarial gains and losses will be recognized as a component of net periodic pension cost on the same basis as the amounts recognized in unrestricted net assets at adoption of ASC Subtopic 715-30.

On November 10, 2010, the Medical Center's Board of Trustees amended the Plan to freeze participant and benefit accruals for nonbargaining unit members effective December 31, 2010. The effect of the amendment was a reduction in the benefit obligation of \$4,432,443.

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

The following tables present the changes in the Medical Center's plan benefit obligation and the fair value of the plan assets, and the funded status of the plan:

	<u>2010</u>	<u>2009</u>
Change in benefit obligation:		
Benefit obligation at beginning of year	\$ 71,031,035	61,448,207
Service cost	3,755,739	3,414,453
Interest cost	4,384,408	3,943,890
Actuarial loss	5,836,600	3,544,435
Benefits paid	(1,504,915)	(1,319,950)
Amendment	(4,432,443)	—
Benefit obligation at end of year	<u>79,070,424</u>	<u>71,031,035</u>
Change in plan assets:		
Fair value of plan assets at beginning of year	35,092,376	26,522,984
Actual return on plan assets, net	3,362,289	4,550,950
Employer contributions	5,255,000	5,338,392
Benefits paid	(1,504,915)	(1,319,950)
Fair value of plan assets at end of year	<u>42,204,750</u>	<u>35,092,376</u>
Funded status	\$ <u>(36,865,674)</u>	<u>(35,938,659)</u>
Amounts recognized in the balance sheet, end of year:		
Accrued pension liability	\$ (36,865,674)	(35,938,659)
Unrestricted net assets:		
Net actuarial loss	\$ 27,625,334	22,871,448
Prior service (credit) cost	(4,037,031)	456,531
	\$ <u>23,588,303</u>	<u>23,327,979</u>

The components of periodic pension cost for the years ended December 31 is as follows:

	<u>2010</u>	<u>2009</u>
Service cost	\$ 3,847,739	3,794,453
Interest cost	4,384,408	3,943,890
Expected return on plan assets	(3,308,495)	(2,885,499)
Amortization of prior service cost	61,119	61,119
Amortization of net loss	936,920	609,910
Net periodic pension cost	\$ <u>5,921,691</u>	<u>5,523,873</u>

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

Other changes in plan assets and benefit obligations recognized in unrestricted net assets in 2010 and 2009 are as follows:

	<u>2010</u>	<u>2009</u>
Net actuarial loss	\$ 5,690,806	1,498,983
Prior service credit	(4,432,443)	—
Amortization recognized	<u>(998,039)</u>	<u>(671,029)</u>
Total recognized in unrestricted net assets	<u>\$ 260,324</u>	<u>827,954</u>
Total recognized in net periodic pension cost and unrestricted net assets	\$ 6,182,015	6,351,827

The estimated amounts that will be amortized from unrestricted net assets into net periodic pension cost in 2011 are as follows:

Net actuarial loss	\$ 1,542,354
Prior service credit	<u>(367,003)</u>
	<u>\$ 1,175,351</u>

The weighted average assumptions used to determine pension cost and benefit obligations at the Plan's measurement date (December 31) are as follows:

	<u>2010</u>	<u>2009</u>
Weighted average discount rate for net periodic pension cost	6.25%	6.50%
Weighted average discount rate for benefit obligations	5.75	6.25
Expected long-term return on plan assets	8.00	8.00
Rate of compensation increase	3.00	3.00

The Medical Center's defined benefit plan's investment objectives are to emphasize total return specifically through long-term growth of capital while avoiding excessive risk, and to achieve a balanced return of current income and modest growth of principal. In order to achieve these objectives, the Medical Center has established the following asset allocation guidelines:

<u>Asset class</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Preferred</u>
Large cap equity securities	30%	50%	41%
Small cap equity securities	—	15	5
Mid cap equity securities	—	15	6
International equity securities	—	25	16
Fixed income	20	80	32
Cash and equivalents	—	5	—

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

The Medical Center's defined benefit plan weighted average asset allocations at December 31, by asset category, are as follows:

<u>Asset category</u>	<u>2010</u>	<u>2009</u>
Equity securities	54%	53%
Debt securities	34	36
International	12	11
	<u>100%</u>	<u>100%</u>

The expected long-term rate of return on plan assets is reviewed annually, taking into consideration the asset allocation, historical returns on the types of assets held, and the current economic environment. Based on these factors, it is expected that the pension assets will earn an average of 8.00% per annum.

The following tables present the Medical Center's defined benefit pension plans' assets at December 31, 2010 and 2009 that are measured at fair value on a recurring basis. The hierarchy and inputs to valuation techniques to measure fair value of the plan's assets are the same as outlined in note 5.

	<u>2010</u>		<u>Total</u>
	<u>Level 1</u>	<u>Level 2</u>	
Cash and cash equivalents	\$ 2,466,501	—	2,466,501
U.S. Treasury obligations	3,869,686	—	3,869,686
U.S. government and government sponsored (GSE) bonds	—	1,768,678	1,768,678
Corporate bonds:			
Domestic	—	4,094,896	4,094,896
International	—	174,322	174,322
Marketable equity securities:			
Domestic	20,725,580	—	20,725,580
International	5,269,151	—	5,269,151
Mutual funds:			
Domestic equity	114,999	—	114,999
International equity	1,703,896	—	1,703,896
Fixed income	—	1,987,309	1,987,309
Real estate investment trusts	—	29,732	29,732
	<u>\$ 34,149,813</u>	<u>8,054,937</u>	<u>42,204,750</u>

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

	2009		
	<u>Level 1</u>	<u>Level 2</u>	<u>Total</u>
Cash and cash equivalents	\$ 2,043,527	—	2,043,527
U.S. Treasury obligations	3,637,623	—	3,637,623
U.S. government and government sponsored (GSE) bonds	—	1,753,168	1,753,168
Corporate bonds:			
Domestic	—	4,985,668	4,985,668
International	—	205,482	205,482
Marketable equity securities:			
Domestic	19,536,472	—	19,536,472
International	2,843,622	—	2,843,622
Domestic equity mutual funds	86,814	—	86,814
	<u>\$ 28,148,058</u>	<u>6,944,318</u>	<u>35,092,376</u>

There are no plan assets included in Level 3 or any significant transfers into or out of Level 1 or Level 2 at and for the years ended December 31, 2010 and 2009.

The Medical Center expects to contribute \$3,120,000 to its defined benefit plan in 2011.

The following approximate benefit payments, which reflect expected future service, as appropriate, are expected to be paid:

<u>Year</u>	<u>Benefit payments</u>
2011	\$ 1,997,000
2012	2,285,000
2013	2,609,000
2014	2,972,000
2015	3,399,000
2016 – 2019	22,362,000

ST. ELIZABETH MEDICAL CENTER

Notes to Financial Statements

December 31, 2010 and 2009

(15) Medical Malpractice Insurance

Since June 17, 1986, the Medical Center's insurance for medical malpractice risk is covered under a claims-made policy. If the claims-made policy is not renewed or replaced with equivalent insurance, claims based on occurrences since June 17, 1986 but reported subsequent to such a change will be uninsured. The Medical Center changed to a new insurance provider in 1998. The new coverage also is claims-made and has similar terms as compared to the previous policy. Claims from June 17, 1986 to the effective date of the current policy are covered. The Medical Center has a right under its present policy to acquire extended coverage if it decides to terminate its claims-made coverage and does not expect any difficulty in renewing the policies in 2011.

In the ordinary course of operations, the Medical Center is named as a defendant in various lawsuits, or events occur which could lead to litigation, claims, or assessments. Although the outcome of such matters cannot be predicted with certainty, management believes that insurance coverage is sufficient to cover current or potential claims, or that the final outcomes of such matters will not have a material adverse effect on the financial position of the Medical Center.

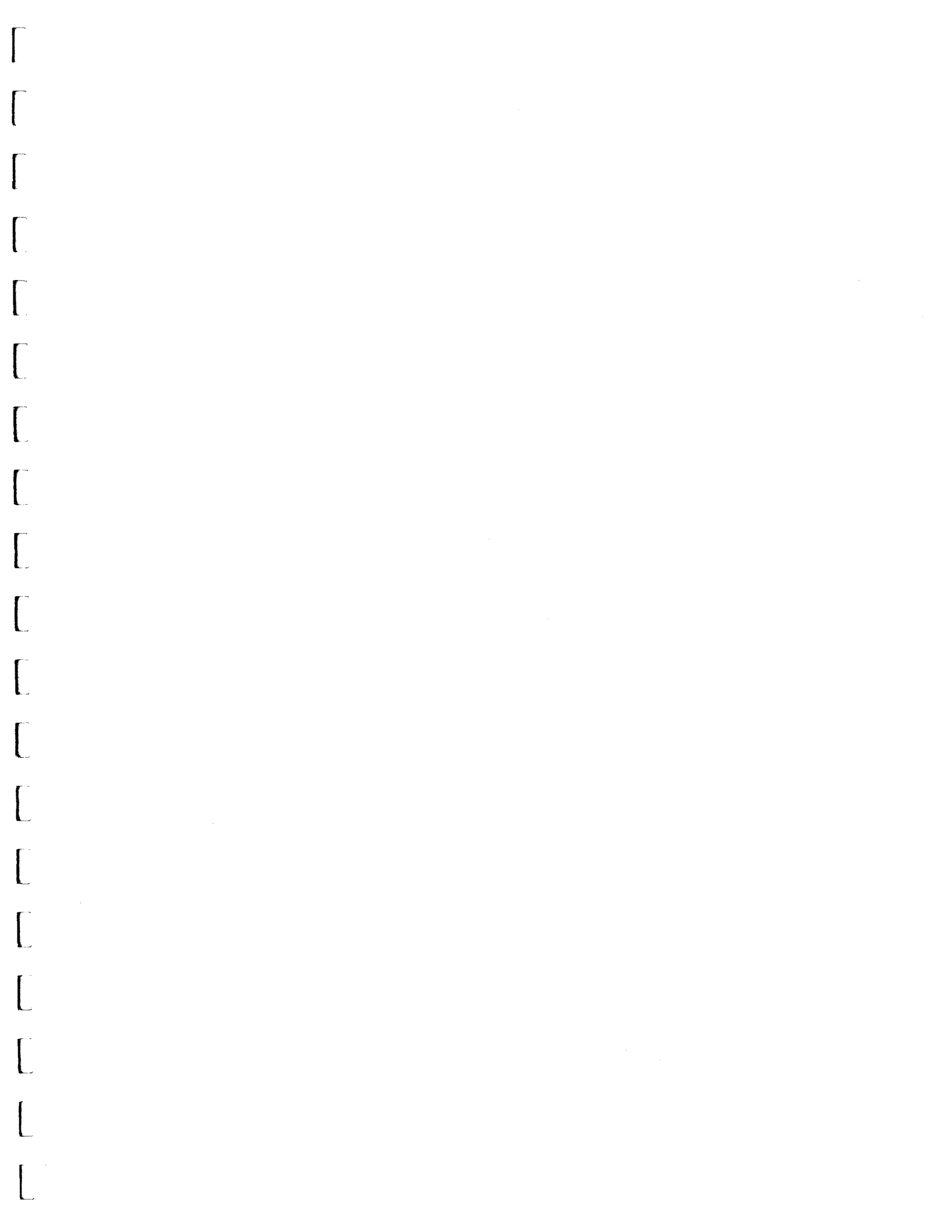
(16) Functional Expenses

The Medical Center's unrestricted expenses by function for the years ended December 31 are as follows:

	<u>2010</u>	<u>2009</u>
Healthcare services	\$ 166,375,463	163,363,868
General and administrative	39,116,093	35,863,902
	<u>\$ 205,491,556</u>	<u>199,227,770</u>

(17) Subsequent Events

The Medical Center considers events or transactions that occur after the balance sheet date, but before the financial statements are issued, to provide additional evidence relative to certain estimates or to identify matters that require additional disclosure. These financial statements were available to be issued on May 5, 2011 and subsequent events have been evaluated through that date.



**AUDITED
CONSOLIDATED FINANCIAL STATEMENTS**

ST. ELIZABETH MEDICAL CENTER

DECEMBER 31, 2011

ST. ELIZABETH MEDICAL CENTER

CONTENTS

	<u>Page</u>
Independent Auditor's Report	1
Consolidated Financial Statements:	
Balance Sheet	2
Statements of Operations and Changes in Net Assets	3
Statement of Cash Flows	4
Notes to the Consolidated Financial Statements	5 - 19



INDEPENDENT AUDITORS' REPORT

To the Board of Trustees of
St. Elizabeth Medical Center:

We have audited the accompanying consolidated balance sheet of St. Elizabeth Medical Center (the Medical Center) as of December 31, 2011, and the related consolidated statements of operations and changes in net assets, and cash flows for the year then ended. These consolidated financial statements are the responsibility of the Medical Center's management. Our responsibility is to express an opinion on these consolidated 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 consolidated financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall consolidated financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of St. Elizabeth Medical Center as of December 31, 2011, and the results of its consolidated operations and cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

Freed Maxick CPAs, P.C.

Buffalo, New York
April 27, 2012

ST. ELIZABETH MEDICAL CENTER**CONSOLIDATED BALANCE SHEET**

December 31, 2011

ASSETS**Current assets**

Cash and cash equivalents	\$	4,490,904
Current portion of assets whose use is limited		301,845
Investments		15,196,359
Patient accounts receivable, net of allowance for doubtful accounts of approximately \$4,580,000		25,899,198
Other receivables, net		1,927,746
Inventories of drugs and supplies		5,806,080
Prepaid expenses		500,747
Total current assets		<u>54,122,879</u>

Assets whose use is limited:

Under bond indenture agreements		2,925,833
Restricted by donors		1,127,155

Property, plant and equipment, net 77,593,266

Other assets 1,019,346

Total assets \$ 136,788,479

LIABILITIES AND NET ASSETS**Current liabilities**

Current installments of notes payable	\$	917,379
Current installments of long-term debt		1,430,000
Current installments of obligations under capital lease		846,017
Current installments of loans payable to Motherhouse		130,726
Current installments of accrued pension liability		2,951,000
Accounts payable		16,735,578
Accrued expenses		6,388,188
Liabilities to third-party payors, net		9,039,200
Total current liabilities		<u>38,438,088</u>

Accrued pension liability 53,428,388

Long-term notes payable 3,602,501

Long-term debt 32,932,544

Obligations under capital leases 1,827,291

Loans payable to Motherhouse 1,568,712

Other liabilities 100,000

Total liabilities 131,897,524

Net assets:

Unrestricted		3,783,143
Temporarily restricted		504,322
Permanently restricted		603,490

Total net assets 4,890,955

Total liabilities and net assets \$ 136,788,479

See accompanying notes.

ST. ELIZABETH MEDICAL CENTER**CONSOLIDATED STATEMENTS OF OPERATIONS AND CHANGES IN NET ASSETS**

For the Year Ended December 31, 2011

Unrestricted revenue and other support:	
Net patient service revenue	\$ 199,858,889
Other revenue	5,234,728
Unrestricted contributions	189,979
Investment income	954,228
Net assets released from restrictions used for operations	16,380
Total unrestricted revenue and other support	<u>206,254,204</u>
Operating expenses:	
Salaries and wages	92,094,103
Professional fees	9,646,195
Employee benefits	24,772,920
Supplies and expenses	56,308,858
Utilities expense	2,647,913
Depreciation and amortization	8,974,315
Provision for doubtful accounts	8,501,615
Interest	2,038,145
Total operating expenses	<u>204,984,064</u>
Income from operations	1,270,140
Other income (expense):	
Gain on sale of asset	747,445
	<u>747,445</u>
Excess of unrestricted revenue and other support over expenses	2,017,585
Net unrealized loss on other than trading securities	(379,472)
Pension related changes other than net periodic pension cost	(18,716,883)
Net assets released from restriction	1,068,400
	<u>(16,010,370)</u>
Decrease in unrestricted net assets	
Temporarily restricted net assets:	
Contributions	1,038,555
Interest income on permanently restricted assets	16,768
Net assets released from restriction	(1,084,780)
	<u>(29,457)</u>
Decrease in temporarily restricted net assets	
Permanently restricted net assets:	
Contributions	226,576
	<u>226,576</u>
Increase in permanently restricted net assets	
Change in net assets	(15,813,251)
Net assets at beginning of year	<u>20,704,206</u>
Net assets at end of year	<u><u>\$ 4,890,955</u></u>

See accompanying notes.

ST. ELIZABETH MEDICAL CENTER**CONSOLIDATED STATEMENT OF CASH FLOWS**
For the Year Ended December 31, 2011**Cash flows from operating activities:**

Change in net assets	\$ (15,813,251)
Adjustments to reconcile change in net assets to net cash provided by operating activities:	
Depreciation and amortization	8,974,315
Increase in the allowance for doubtful accounts	508,000
Increase in minimum pension liability	18,716,883
Net unrealized loss on investments	379,472
Gain on sale of assets	(747,445)
(Increase) decrease in assets:	
Patient accounts receivable	(3,792,139)
Other receivables, net	(1,121,765)
Inventories of drugs and supplies	5,715
Prepaid expenses	23,141
Increase (decrease) in liabilities:	
Accounts payable	(737,714)
Accrued expenses	1,129,000
Liabilities to third-party payors, net	(290,583)
Accrued pension liability	796,831
Other liabilities	100,000
Net cash and cash equivalents provided by operating activities	8,130,460

Cash flows from investing activities:

Purchases of property, plant and equipment	(11,489,432)
Proceeds from sale of property, plant and equipment	1,717,965
Change in assets whose use is limited, net	(769,871)
Change in investments, net	2,376,356
Net cash and cash equivalents used in investing activities	(8,164,982)

Cash flows from financing activities:

Proceeds from note payable	750,000
Repayments of long term debt and capital lease obligations	(2,627,504)
Net cash and cash equivalents used in financing activities	(1,877,504)

Net decrease in cash and cash equivalents

(1,912,026)

Cash and cash equivalents - beginning of year

6,402,930

Cash and cash equivalents - end of year

\$ 4,490,904

Supplemental disclosure of cash flow information:

Cash paid during the year for interest	<u>\$ 2,043,652</u>
Equipment acquired under capital lease	<u>\$ 1,058,687</u>

See accompanying notes.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1. ORGANIZATION

Organization: St. Elizabeth Medical Center (the Medical Center) is a voluntary not-for-profit acute care facility located in Utica, New York. The Medical Center provides medical, surgical, and psychiatric inpatient services. In addition, the Medical Center offers outpatient general diagnostic, ambulatory care, physical therapy, and emergency care services.

St. Elizabeth Medical Center Foundation, Inc. (the Foundation) is a not-for-profit organization whose primary purpose is to solicit, collect, and invest funds on behalf of the Medical Center.

Reporting Entity and Principals of Consolidation: The accompanying consolidated financial statements include the accounts of the Medical Center and the Foundation. The Medical Center is the sole corporate member of the Foundation. For financial reporting purposes, the Medical Center is considered the reporting entity. Intercompany balances and transactions have been eliminated in the consolidated financial statements.

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation: The Medical Center's consolidated financial statements have been prepared consistent with FASB ASC Topic 954, Health Care Entities (ASC Topic 954) (formerly the AICPA Audit and Accounting Guide, Health Care Organizations). In accordance with the provisions of ASC Topic 954, net assets and revenue, expenses, gains, and losses are classified based on the existence or absence of donor-imposed restrictions. Accordingly, unrestricted net assets are net assets that are not subject to donor-imposed stipulations and are available for operations. Assets whose use is limited include assets which are restricted under bond indenture agreements or by donor restrictions. Temporarily restricted net assets are those whose use by the Medical Center has been limited by donors to a specific time period or purpose. Permanently restricted net assets result from donors who stipulate that their donated resources be maintained permanently. The Medical Center is permitted to use or expend part or all of the income and gains derived from the donated assets, restricted only by the donors' wishes.

Use of Estimates: The preparation of the accompanying consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions about future events. These estimates and the underlying assumptions affect the amounts of assets and liabilities reported, disclosures about contingencies, and reported amounts of revenues and expenses. Such estimates and assumptions include the allowance for uncollectible accounts, estimated third-party payor settlements, medical malpractice claims incurred but not reported, and defined benefit pension plan assumptions. These estimates and assumptions are based on management's best estimates and judgment. Management evaluates its estimates and assumptions on an ongoing basis using historical experience and other factors, including the current economic environment, which management believes to be reasonable under the circumstances. Management adjusts such estimates and assumptions when facts and circumstances dictate. As future events and their effects cannot be determined with precision, actual results could differ significantly from these estimates. Changes in those estimates resulting from continuing changes in the economic environment will be reflected in the consolidated financial statements in future periods.

Recent Accounting Pronouncements: In August 2010, the FASB issued guidance that prescribes a specific measurement basis of charity care for disclosure purposes. This guidance requires that the measurement of charity care for disclosure purposes be based on the direct and indirect costs of providing the charity care. A health care entity does not recognize revenue when charity care is provided; accordingly, this guidance will have no effect on the amounts reported in the consolidated financial statements. This amendment was adopted by the Medical Center for the fiscal year ended December 31, 2011.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

In July 2011, the FASB issued guidance which amends the current presentation and disclosure requirements for health care entities that recognize significant amounts of patient service revenue at the time the services are rendered without assessing the patient's ability to pay. This guidance requires health care entities to reclassify the provision for bad debts from an operating expense to a deduction from patient service revenues. In addition, this guidance requires more disclosure on the policies for recognizing revenue, assessing bad debts, as well as quantitative and qualitative information regarding changes in the allowance for doubtful accounts. This guidance is applied retrospectively to all prior periods presented and is effective for the first annual period ending after December 15, 2012. The adoption of this guidance is not expected to have a material impact on the Medical Center's consolidated financial position, results of operations or cash flows. Upon adoption of this guidance, the Medical Center will reclassify the provision for bad debts related to prior period patient service revenue from operating expenses to a reduction in revenue.

Cash and Cash Equivalents: The Medical Center considers all highly liquid debt instruments with original maturities of three months or less to be cash equivalents. Only unrestricted cash and cash equivalents which are classified as current assets are considered for purposes of the consolidated statement of cash flows. Cash equivalents consist of certificates of deposit, money market funds, and daily dividend accounts.

Investments and Assets Whose Use is Limited: Investments, assets whose use is limited, and pension plan assets are reported at fair market value. FASB ASC No. 820, *Fair Value and Disclosures* (ASC 820), defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. See note 5 for discussion on fair value measurements.

Gains or losses on the sale of investments and investment income are recorded as unrestricted revenue. Income of temporarily and permanently restricted net assets that is specifically restricted by the donor is recorded as an increase in the appropriate class of net assets. Unrealized gains and losses are recorded as changes in unrestricted net assets unless explicitly restricted by the donor or law. Unrealized gains and losses restricted by the donor or law are recorded as changes in temporarily or permanently restricted net assets.

Inventories of Drugs and Supplies: Inventories of drugs and supplies are stated at the lower of average cost or market.

Property, Plant and Equipment: Property, plant, and equipment is stated at cost, if purchased, or at market value at the date of acquisition when acquired by gift. Equipment which is purchased under capital leases is stated at the lower of the present value of minimum lease payments at the beginning of the lease term or the fair market value at the inception of the lease.

Depreciation of property, plant, and equipment is calculated on the straight-line method over the estimated useful lives of the assets as follows:

Land improvements	2 - 20 years
Buildings	5 - 40 years
Fixed equipment	2 - 20 years
Movable equipment	2 - 10 years

Equipment held under capital leases is amortized on the straight-line method over the estimated useful life of the asset or the lease term.

Debt Financing Costs: Debt financing costs are included in other assets and are being amortized over the terms of the respective loans.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Excess of Unrestricted Revenue and Other Support Over Expenses: The consolidated statements of operations and changes in net assets include excess of unrestricted revenue and other support over expenses. Changes in unrestricted net assets which are excluded from excess of unrestricted revenue and other support over expenses, consistent with industry practice, include unrealized gains and losses on investments other than trading securities, permanent transfers of assets to and from affiliates for other than goods and services, contributions of long-lived assets (including assets acquired using contributions which by donor restriction were to be used for the purposes of acquiring such assets), and pension liability adjustments in accordance with FASB ASC Subtopic 715-30, *Compensation – Retirement Benefits, Defined Benefit Plans - Pension*.

Revenue Recognition: Net patient service revenue is recognized in the period services are performed, is reported at estimated net realizable amounts from patients, third-party payors, and others for services rendered and includes estimated retroactive revenue adjustments due to future audits, reviews, and investigations. Retroactive adjustments are considered in the recognition of revenue on an estimated basis in the period the related services are rendered, and such amounts are adjusted in future periods as adjustments become known or as years are no longer subject to such audits, reviews, and investigations.

Gifts and Donations: Unconditional promises to give cash and other assets are reported at fair value at the date the promise is received, which then are treated as cost. Conditional promises to give and indications of intentions are reported at fair value at the date the gift is received. Gifts and donations are reported as either temporarily or permanently restricted support if they are received with donor stipulations that limit the use of the donated assets. When a donor restriction expires, that is, when a stipulated time restriction ends or purpose restriction is accomplished, temporarily restricted net assets are reclassified as unrestricted net assets and reported in the consolidated statements of operations and changes in net assets as net assets released from restriction.

Charity Care: The Medical Center provides care to patients who meet certain criteria under its charity care policy without charge or at amounts less than its established rates. The Center's policy is not to pursue collection of amounts determined to qualify as charity care; therefore, these amounts are not reported in net operating revenues or in provisions for doubtful accounts. The estimated cost of providing uncompensated care to patients was approximately \$1,949,000 of charges and \$839,000 of cost for the year ended December 31, 2011.

The Medical Center grants credit without collateral to patients, most of whom are local residents and are insured under third-party agreements. Additions to the allowance for doubtful accounts are made by means of the provision for doubtful accounts. Accounts written off as uncollectible are deducted from the allowance and subsequent recoveries are added. The amount of the provision for doubtful accounts is based upon management's assessment of historical expected net collections, business and economic conditions, trends in federal and state governmental health care coverage and other collection indicators. Services rendered to individuals when payment is expected and ultimately not received are written off to the allowance for doubtful accounts.

Income Taxes: The Medical Center is a not-for-profit organization as described in Section 501(c)(3) of the Internal Revenue Code and is generally exempt from federal income taxes on related income pursuant to Section 501(a) of the Code.

The Medical Center files its Return or Organization Exempt from Income Tax in the U.S. Federal jurisdiction. The tax years 2008 - 2010 generally remain open to examination in taxing jurisdictions in which the Medical Center is subject to the filing requirements of those jurisdictions.

Subsequent Event: These consolidated financial statements have not been updated for subsequent events occurring after April 27, 2012 which is the date these consolidated financial statements were available to be issued.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 3. NET PATIENT SERVICE REVENUE

The Medical Center has agreements with third-party payors that provide for payments at amounts different from their established rates. Inpatient acute care services rendered are paid at prospectively determined rates per discharge in accordance with the Federal Prospective Payment System (PPS) for Medicare and generally at negotiated or otherwise pre-determined amounts under the provisions of the New York Health Care Reform Act (HCRA) and related legislation for all other payors. Reimbursement rates for Medicaid, Worker's Compensation, and No-Fault are determined on a prospective basis defined by HCRA that is based on clinical, diagnostic, and other factors. Inpatient nonacute and outpatient services are paid at various rates under different arrangements with third-party payors, commercial insurance carriers and health maintenance organizations. The basis for payment under these agreements includes prospectively determined per diem and per visit rates, discounts from established charges, fee schedules, and reasonable cost. Medicare outpatient services are paid under a prospective payment system whereby services are reimbursed on a predetermined amount for each outpatient procedure, subject to various mandated modifications.

In addition, under HCRA, all Non-Medicare payors are required to make surcharge payments for the subsidization of indigent care and other health care initiatives. The percentage amounts of the surcharge varies by payor and applies to a broader array of health care services. Also, certain payors are required to make a covered lives payment to further fund the indigent care pools and other health care initiatives for inpatient services or through voluntary election to pay a covered lives assessment directly to the New York State Department of Health (DOH). The funds are distributed to the hospitals based on the each hospital's level of bad debt in relation to all other hospitals. The Medical Center recorded distributions of approximately \$1,668,983 for 2011 from the indigent care pool.

Both federal and New York State regulations provide for certain adjustments to current and prior years' payment rates and indigent care pool distributions based on industry-wide and hospital-specific data. The Medical Center has established estimates based on information presently available of the amounts due to or from Medicare, Medicaid, workers compensation and no-fault payors and amounts due from the indigent care pool for such adjustments. Those adjustments which can be reasonably estimated have been provided for in the accompanying consolidated financial statements. The Medical Center has estimated the potential impact of such adjustments based on the most recent information available.

Management believes the amounts recorded in the accompanying consolidated financial statements will not be materially affected upon the implementation of such adjustments.

The Medical Center is required to prepare and file various reports of actual and allowable costs annually. Provisions have been made in the consolidated financial statements for prior and current years' estimated final settlements to the Medicare program and other third-party payors. The difference between the amount provided and the actual final settlement is recorded as an adjustment to net patient service revenue in the year the final settlement is determined. The Medical Center recorded adjustments for estimated settlements with third-party payors resulting in an increase of approximately \$1,107,000 in net patient service revenue for the year ended December 31, 2011. The laws and regulations governing the reimbursement for healthcare services are complex and subject to interpretation. Third-party payors retain the right to review and propose adjustments to amounts requested and recorded by the Medical Center. In the opinion of management, retroactive adjustments, if any, would not be material to the financial position or results of operations of the Medical Center. As of December 31, 2011, all cost reports through 2010 have been filed and Medicare cost reports through 2007 have been final settled.

For the year ended December 31, 2011, revenue from the Medicare and Medicaid programs accounted for approximately 54% of the Medical Center's net patient service revenue. At December 31, 2011, the Medical Center had recorded patient accounts receivable, net of estimated contractual allowances, from Medicare of approximately \$10,832,000 and Medicaid of approximately \$5,078,000.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 4. ASSETS LIMITED AS TO USE

The composition of assets whose use is limited at December 31, 2011 is set forth in the table below.

Under bond indenture agreements:	
Cash and cash equivalents	\$ 661,551
Commercial paper	<u>2,566,127</u>
	3,227,678
Less current portion	<u>301,845</u>
	<u>\$ 2,925,833</u>
Restricted by donors:	
Cash and cash equivalents	\$ 770,340
Common stock	4,492
U.S. government and agency debt securities	81,467
Mortgage-backed securities	250,866
Certificate of deposit	<u>19,990</u>
	<u>\$ 1,127,155</u>

NOTE 5. FAIR VALUE MEASUREMENTS

Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) ASC 820, Fair Value Measurements and Disclosures, provides the framework for measuring fair value. That framework provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy under FASB ASC 820 are described below:

- Level 1: Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets that the Medical Center has the ability to access.
- Level 2: Inputs to the valuation methodology include:
- Quoted prices for similar assets or liabilities in active markets;
 - Quoted prices for identical or similar assets or liabilities in inactive markets;
 - Inputs other than quoted prices that are observable for the asset or liability;
 - Inputs that are derived principally from or corroborated by observable market data by correlation or other means;
 - If the asset or liability has a specific (contractual) term, the Level 2 input must be observable for substantially the full term of the asset or liability.
- Level 3: Inputs to the valuation methodology are unobservable and significant to the fair value measurement.

The asset or liability's fair value measurement level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. Valuation techniques used need to maximize the use of observable inputs and minimize the use of unobservable inputs.

The following is a description of the valuation methodologies used by the Medical Center for its assets measured at fair value on a recurring basis:

Cash and Cash Equivalents: Consists of money market funds that are valued at the net asset value (NAV) reported by the financial institution.

Certificates of Deposit: Consists of fixed-maturity certificates of deposit that are valued based on discounted future cash flows using the rates currently offered for deposits of similar remaining maturities (Level 2 measurements).

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 5. FAIR VALUE MEASUREMENTS (CONTINUED)

Mortgage-Backed Securities: Consists of the Medical Center's investment in mortgage-backed securities that are issued by publicly owned government-sponsored enterprises or wholly owned government corporations. If quoted market prices are not available, fair values are based on quoted market prices of comparable instruments or, if necessary, matrix pricing from a third party pricing vendor to determine fair value (Level 2 measurements). Matrix prices are based on quoted prices for securities with similar coupons, ratings, and maturities, rather than on specific bids and offers for the designated security.

Domestic, Emerging Markets, and International Equities and Mutual Funds: Consists of actively traded equity securities and the Medical Center's investment in mutual funds. Actively traded equity securities are valued on a continuous basis and mutual funds are valued at the closing price reported on an active market on which the individual securities are traded (Level 1 measurements).

U.S. Government and Agency Securities, U.S. Treasury Obligations, Domestic Corporate Bonds, Commercial Paper, Municipal Bonds, and Government-Sponsored Enterprise (GSE) Bonds: Consists of the Medical Center's directly owned securities and the Medical Center's investment in securities that are issued by the U.S. government or publicly owned government-sponsored enterprises. Securities owned directly by the Medical Center and securities issued by the U.S. government or publicly owned government-sponsored enterprises are valued based on quoted market prices or dealer quotes where available (Level 1 measurements). If quoted market prices are not available, fair values are based on quoted market prices of comparable instruments or, if necessary, matrix pricing from a third party pricing vendor to determine fair value (Level 2 measurements). Matrix prices are based on quoted prices for securities with similar coupons, ratings, and maturities, rather than on specific bids and offers for the designated security.

Private Equity Investment: The Foundation has an investment in a limited partnership which is classified as private market equity. The estimated fair value of the private equities is based on quarterly financial information received from investment advisors and/or general partners (Level 3 measurements).

The following table sets forth the Medical Center's assets whose use is limited and investments that were accounted for at fair value at December 31, 2011:

	<u>Cost</u>	<u>Fair Value Level 1</u>	<u>Fair Value Level 2</u>	<u>Fair Value Level 3</u>	<u>Total</u>
Assets whose use is limited:					
Under bond indenture agreements:					
Cash and cash equivalents	\$ 661,551	\$ 661,551	\$ -	\$ -	\$ 661,551
Commercial paper	2,513,455	2,566,127	-	-	2,566,127
Restricted by donors:					
Cash and cash equivalents	770,340	770,340	-	-	770,340
Common Stock	2,872	4,492	-	-	4,492
U.S. government and agency debt securities	90,666	-	81,467	-	81,467
Mortgage-backed securities	227,270	-	250,866	-	250,866
Certificates of deposit	20,000	19,990	-	-	19,990
Investments:					
Cash and cash equivalents	24,324	24,324	-	-	24,324
Certificates of deposit	4,239,000	4,273,442	-	-	4,273,442
Common Stock	1,254,112	1,370,897	-	-	1,370,897
Mutual funds:					
Internationally developed equity	138,642	154,548	-	-	154,548
Emerging markets equity	200,306	186,403	-	-	186,403
U.S. government and agency debt securities	4,082,662	-	4,130,002	-	4,130,002
Domestic corporate bonds	4,375,072	-	4,426,930	-	4,426,930
Municipal bonds	498,132	-	515,813	-	515,813
Private Equity Investments	<u>114,000</u>	<u>-</u>	<u>-</u>	<u>114,000</u>	<u>114,000</u>
	<u>\$ 19,212,404</u>	<u>\$ 10,032,114</u>	<u>\$ 9,405,078</u>	<u>\$ 114,000</u>	<u>\$ 19,551,192</u>

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 5. FAIR VALUE MEASUREMENTS (CONTINUED)

The Medical Center's accounting policy is to recognize transfers between levels of the fair value hierarchy on the date of the event or change in circumstances that caused the transfer. There were no significant transfers into or out of Level 1 or Level 2 for the year ended December 31, 2011.

The table below sets forth a summary of changes in the fair value of the Medical Center's Level 3 investments for the years ended December 31, 2011:

Balance as of January 1, 2011	\$ 114,000
Acquisitions	-
Redemptions	-
Net change in investment	-
Balance as of December 31, 2011	<u>\$ 114,000</u>

NOTE 6. PROPERTY, PLANT AND EQUIPMENT

Property, plant, and equipment at December 31, 2011 are as follows:

Land	\$ 1,098,137
Land improvements	5,683,516
Buildings	69,638,812
Fixed equipment	40,037,152
Movable equipment	45,160,713
Capitalized leases:	
Buildings	1,400,000
Movable equipment	<u>3,825,003</u>
	166,843,333
Less accumulated depreciation	<u>100,875,675</u>
	65,967,658
Construction in progress	<u>11,625,608</u>
	<u>\$ 77,593,266</u>

Depreciation expense for 2011 was \$8,885,874.

Included in construction in progress at December 31, 2011 is approximately \$7.6 million related to the Medical Center's combined heat and power plant project. The remaining construction in progress is related to various infrastructure and information technology projects at the Medical Center.

NOTE 7. SHORT-TERM BORROWINGS

The Medical Center maintains a line of credit with a lender which provides for borrowings up to \$6,000,000 at December 31, 2011 secured by the Medical Center's College of Nursing and up to \$7,000,000 of eligible accounts receivable, as defined. Borrowings against this line of credit are payable on demand and bear interest at the lender's prime rate (3.25% at December 31, 2011). There were no amounts outstanding under this arrangement at December 31, 2011.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 8. LONG-TERM DEBT

Long-term debt at December 31, 2011 is as follows:

Series 1999-A Bonds (\$15,000,000 principal amount less unamortized discount of \$102,885 at December 31, 2011). (a)	\$ 13,697,105
Series 1999-B Bonds (\$15,000,000 principal amount less unamortized discount of \$109,612 at December 31, 2011). (b)	11,365,439
Series 2006-A Bonds (\$14,000,000 principal at December 31, 2011). (c)	<u>9,300,000</u>
	34,362,544
Less current installments	<u>1,430,000</u>
	<u>\$ 32,932,544</u>

- (a) In April 1999, the Medical Center obtained financing of \$15,000,000 through the placement of Oneida County Industrial Development Agency Civic Facility Revenue Bonds, Series 1999-A (the Series 1999-A Bonds). The Series 1999-A Bond proceeds were used to refinance existing mortgage indebtedness; install new boilers and chillers; make additional energy management improvements; construct a new boiler house; add a new parking lot; renovate the pediatric unit and the third floor surgical units. The Series 1999-A Bonds mature as follows: \$4,425,000 on December 2019 with interest payable semiannually at an annual rate of 5.750%; and \$9,575,000 on December 2029 with interest payable semiannually at an annual rate of 5.875%. The Medical Center is required to make sinking fund payments to be used for mandatory redemption of the Series 1999-A Bonds which commenced with a payment of \$70,000 in December 2004 and continuing annually in increasing amounts through December 2029. The Medical Center is also required to maintain certain covenants under the Bond agreement including minimum debt service coverage. The Medical Center is in compliance with its covenants at December 31, 2011.
- (b) In June 1999, the Medical Center obtained additional financing of \$15,000,000 through the placement of Oneida County Industrial Development Agency Civic Facility Revenue Bonds, Series 1999-B (the Series 1999-B Bonds). The Series 1999-B Bond proceeds were used primarily to construct and equip a two-story addition to house ten new surgical suites including ambulatory surgery and a 16-bed intensive care unit. The Series 1999-B Bonds mature as follows: \$5,040,000 in December 2019 with interest payable semiannually at an annual rate of 6.00%; and \$7,560,000 in December 2029 with interest payable semiannually at an annual rate of 6.00%. The Medical Center is required to make sinking fund payments to be used for mandatory redemption of the Series 1999-B Bonds commencing with a payment of \$485,000 in December 2005 and continuing annually in increasing amounts through December 2029. The Medical Center is also required to maintain certain covenants under the Bond agreement including minimum debt service coverage. The Medical Center is in compliance with its covenants at December 31, 2011.
- (c) In June 2006, the Medical Center obtained additional financing of \$14,000,000 through the placement of Oneida County Industrial Development Agency Multi-Mode Variable Rate Civic Facility Revenue Bonds Series 2006-A (the Series 2006-A Bonds). The proceeds were used primarily to renovate and construct the new emergency department, kitchen and cafeteria. The 2006-A Bonds were issued on a parity basis with the 1999-A and 1999-B bonds. The Series 2006-A bonds mature in June 2026. Interest is paid monthly based on the Securities Industry and Financial Markets Association Municipal Swap Index. The average rate was 0.24% at December 31, 2011. The Medical Center is required to make sinking fund payments to provide for the redemption of the Series 2006-A Bonds commencing with a \$115,000 payment in 2008 and continuing annually in increasing amounts through 2026. As further security for the Bonds, the Medical Center has entered into a Reimbursement Agreement with HSBC Bank USA, pursuant to which the Bank has issued an irrevocable direct-pay letter of credit aggregating the principal amount. The letter of credit will expire on June 21, 2013. The Medical Center is also required to maintain certain covenants under the Bond agreement including minimum debt service coverage and minimum day's cash on hand. The Medical Center is in compliance with its covenants at December 31, 2011.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 8. LONG-TERM DEBT (CONTINUED)

Under the Indenture of Trust for the Series 1999-A, Series 1999-B, and Series 2006-A Bonds, the Medical Center is required to maintain certain levels of reserve accounts with the trustee. Amounts under this agreement have been classified as either current or noncurrent based upon the anticipated release date of such funds or contractual obligation and are as follows at December 31, 2011:

Current assets whose use is limited:	
Bond Interest Fund — Series 1999-A Bonds	\$ 129,232
Bond Interest Fund — Series 1999-B Bonds	169,551
Project Fund— Series 1999-A Bonds	1,589
Project Fund — Series 2006-A	<u>1,473</u>
	<u>\$ 301,845</u>
Noncurrent assets whose use is limited	
Debt Service Reserve Fund-Series 1999-A Bonds	<u>\$ 2,925,833</u>

The Series 1999-A Bonds, Series 1999-B Bonds, and Series 2006-A Bonds, described in (a), (b), and (c), respectively, are secured by a mortgage lien on the property, plant, and equipment of the Medical Center, as well as a security interest in assets whose use is limited.

Future annual principal payments on long-term debt are summarized as follows:

2012	\$ 1,430,000
2013	1,505,000
2014	1,585,000
2015	1,665,000
2016	1,755,000
Thereafter	<u>26,422,544</u>
Total	<u>\$ 34,362,544</u>

NOTE 9. NOTES PAYABLE

In December 2010, the Medical Center obtained financing of \$4,600,000 in the form of a commercial promissory note. The proceeds were used to fund equipment purchases for the Medical Center's combined heat and power project. This note matures in June 2016. Interest is fixed at a rate of 5% per annum. The Medical Center is required to remit monthly payments of \$80,016, beginning in January 2011 and continuing on the same day each month thereafter, through June 2016. This note is collateralized by a purchase money security interest in the equipment purchased with the proceeds.

In April 2011, the Medical Center obtained additional financing of \$750,000 in the form of a commercial promissory note to fund additional costs for the Medical Center's combined heat and power project. This note also matures in June 2016 with interest fixed at a rate of 5% per annum. The Medical Center is required to remit monthly payments of \$13,778, beginning in May 2011 and continuing through June 2016. On the same date this note was signed, the Medical Center entered into a consolidation and modification agreement with the lender to consolidate the indebtedness under both notes payable. Under the consolidation and modification agreement, no terms of the original notes were modified.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 9. NOTES PAYABLE (CONTINUED)

Future annual principal payments on notes payable are summarized as follows:

2012	\$ 917,379
2013	965,014
2014	1,015,122
2015	1,067,833
2016	<u>554,532</u>
Total	\$ <u>4,519,880</u>

NOTE 10. CAPITAL AND OPERATING LEASES

The Medical Center leases a building which houses the Medical Center's Women and Children's Health Center and finance department, under a capital lease which expires in 2022. Interest is calculated on the capital lease at an annual rate of 10.72%. During 2008 the Medical Center entered into a capital lease for certain equipment which expires in 2012. Interest is calculated on the capital lease at an annual rate of 4.55%.

Additionally, during 2011 the Medical Center entered into an leasing arrangement with a vendor for the use of certain equipment. The lease was determined to be a capital type lease, pursuant to generally accepted accounting principles. The lease expires in 2016. Interest costs have been imputed on the lease at an annual rate of 5.00%.

Future minimum lease payments under non-cancelable operating leases (with initial or remaining lease terms in excess of one year) and future minimum capital lease payments as of December 31, 2011 are:

	<u>Capital Leases</u>	<u>Operating Leases</u>
2012	\$ 965,772	\$ 1,177,368
2013	459,201	789,231
2014	366,211	358,158
2015	377,017	273,504
2016	441,314	273,504
Thereafter	<u>911,105</u>	<u>273,504</u>
Total minimum lease payments	3,520,620	3,145,269
Less imputed interest	<u>847,312</u>	
Present value of net minimum lease payments	2,673,308	
Less current portion	<u>846,017</u>	
	\$ <u>1,827,291</u>	

Total rental expense for the year ended December 31, 2011 for all operating leases was \$1,263,073.

NOTE 11. TEMPORARILY AND PERMANENTLY RESTRICTED NET ASSETS

Interpretation of Relevant Law

The Board of Directors has interpreted New York State Prudent Management of Institutional Funds Act (NYPMIFA) as requiring the preservation of the historical dollar value of the corpus of the permanent restricted endowment funds absent explicit donor stipulations to the contrary. As a result of this interpretation, the Medical Center classifies as permanently restricted net assets (a) the original value of gifts donated to the permanent endowment and (b) the original value of subsequent gifts to the permanent endowment. Net appreciation of the invested assets is classified as temporarily restricted net assets until those amounts are appropriated for expenditure by the Medical Center in a manner consistent with the standard of prudence prescribed by NYPMIFA.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 11. TEMPORARILY AND PERMANENTLY RESTRICTED NET ASSETS (CONTINUED)

Temporarily restricted net assets, consisting of cash and cash equivalents and short-term investments at December 31, 2011 are available for the following purposes:

Emergency department project	\$ 205,205
Scholarships and endowments	192,161
Other	<u>106,956</u>
	<u>\$ 504,322</u>

Permanently restricted, consisting of cash and cash equivalents and short-term investments at December 31, 2011 are available for the following purposes:

Scholarships	\$ 377,814
Foundation funds restricted by donors	<u>225,676</u>
	<u>\$ 603,490</u>

NOTE 12. ENDOWMENTS

The Medical Center, including Foundation, has adopted investment and spending policies that attempt to provide a predictable stream of funding to programs supported by its endowment while seeking to maintain the purchasing power of these endowment assets over the long-term. To satisfy, its long-term rate-of-return objectives, the Medical Center relies on a total return strategy in which investment returns are achieved through both capital appreciation (realized and unrealized) and current yield (interest and dividends). The Medical Center targets a diversified asset allocation to achieve its long-term return objectives with prudent risk parameters.

Permanently restricted endowment assets are \$225,676 at December 31, 2011.

NOTE 13. RELATED ORGANIZATIONS

Motherhouse of the Sisters of the Third Franciscan Order: Loans payable to the Motherhouse of the Sisters of the Third Franciscan Order have been interest free since January 1, 1994. In 2002, the Medical Center entered into an agreement with the Motherhouse of the Sisters of the Third Franciscan Order which established repayment terms for the loan payable. Under the terms of the agreement, beginning in January 2003, the Medical Center is required to make monthly principal payments of \$6,536 through 2007, \$10,894 from 2008 through 2017, and \$15,251 from 2018 through 2022. The agreement provides for interest at 5% of the remaining outstanding balance only in the event that timely principal payments are not made and the Medical Center does not cure the untimely principal payment within 30 days. The balance of the loan payable, including the current portion, is \$1,699,438 at December 31, 2011.

Healthcare Underwriters Mutual Risk Management Group: The Medical Center is one of four members of the Healthcare Underwriters Mutual Risk Management Group (the Group). The Group is an unincorporated association of healthcare providers in the upstate region of New York State and was organized under a trust agreement for the purpose of establishing a workers' compensation self-insurance group. The Group is governed by a board of trustees consisting of one trustee for each member. Members of the Trust are jointly and severally liable for Group activities and liabilities.

The Medical Center makes annual payments to the Group for workers' compensation risk coverage based on its relative claims experience in relation to the total Group. Payments amounted to approximately \$2,201,000 under this arrangement in 2011.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 14. JOINT VENTURES

During 1997, the Medical Center and St. Luke's Memorial Hospital Center (now known as Faxton St. Luke's Healthcare) entered into an agreement for the purpose of establishing and maintaining a joint cardiac services program. As a part of the joint venture, the two hospitals formed the Mohawk Valley Heart Institute, Inc. (MVHI), a not-for-profit corporation, primarily as a vehicle to control and monitor the quality of the joint program at the two hospitals. The services relating to the joint venture include cardiac surgery, coronary angioplasty, diagnostic cardiac catheterizations, and outpatient cardiac rehabilitation services.

The activities relating to the joint operation occur in each of the hospitals' facilities based on patient need. The Medical Center shares in 70% of the profits and losses of the joint operation, irrespective of where the services are performed. All financial activities of the joint venture flow through the hospitals' operations. The amount recognized as profit based on the Medical Center's share is \$373,765 for the year ended December 31, 2011.

On October 15, 2010, the Medical Center, Faxton St. Luke's Healthcare, and Mohawk Valley EC Holdings, LLC entered into an agreement for the purpose of owning and operating a single-specialty ambulatory surgery center, exclusively providing gastroenterology services in Oneida County. As part of the agreement, the three members formed the Mohawk Valley EC, LLC (MVEC), a New York limited liability company. The Medical Center will maintain a 20% interest and sharing ratio in MVEC. The Medical Center made \$264,000 of capital contributions in 2011.

NOTE 15. PENSION PLAN

The Medical Center has a noncontributory defined benefit plan which covers substantially all employees. Benefits are based on compensation and years of service. The Medical Center uses the accrued benefit (unit credit) actuarial method to determine its funding requirements. In 2003, the Medical Center applied for and received a favorable determination that its defined benefit plan is that of a nonelecting church plan under Section 410(d) of the Internal Revenue Code. Prior to 2003, the Medical Center's policy was to fund at least an amount necessary to satisfy the minimum funding requirements under ERISA. Under status as a church plan, the Medical Center may continue to contribute the minimum amounts calculated as if the plan were subject to ERISA funding requirements, although not required. For financial reporting purposes, the Medical Center uses the "projected unit credit method" which attributes an equal portion of total projected benefits to each year of employee service.

The Medical Center applies the provisions of FASB ASC Subtopic 715-30, *Compensation – Retirement Benefits, Defined Benefit Plans – Pension* (ASC Subtopic 715-30) which requires an employer to recognize the funded status (i.e. difference between the fair value of plan assets and projected benefit obligations) of its defined benefit pension plan as an asset or liability in its balance sheet and to recognize changes in that funded status in the year in which the changes occur through changes in unrestricted net assets.

Additional actuarial gains and losses that arise in subsequent periods and are not recognized as net periodic pension cost in the same period will be recognized as a component of unrestricted net assets. These future actuarial gains and losses will be recognized as a component of net periodic pension cost on the same basis as the amounts recognized in unrestricted net assets at adoption of ASC Subtopic 715-30.

On November 10, 2010, the Medical Center's Board of Trustees amended the Plan to freeze participant and benefit accruals for non-bargaining unit members effective December, 31, 2010. Effective January 1, 2012, the employees of one of the collective bargaining units that cover approximately 600 employees voted to ratify their contract. Part of this contract froze the participants covered by this agreement from accruing additional benefits under this plan.

ST. ELIZABETH MEDICAL CENTER**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

NOTE 15. PENSION PLAN (CONTINUED)

The following tables present the changes in the Medical Center's plan benefit obligation and the fair value of the plan assets, and the funded status of the plan for the year ended December 31, 2011:

Change in benefit obligation:	
Benefit obligation at beginning of year	\$ 79,070,424
Service cost (less expenses)	2,309,315
Interest cost	4,489,136
Actuarial loss	18,230,979
Benefits paid	(1,789,836)
Amendment	-
Curtailments	<u>(2,583,568)</u>
Benefit obligation at end of year	99,726,450
Change in plan assets:	
Fair value of plan assets at beginning of year	42,204,750
Actual return on plan assets, net	(625,492)
Employer contributions	3,678,998
Benefits paid	<u>(1,911,194)</u>
Fair value of plan assets at end of year	<u>43,347,062</u>
Funded status	(56,379,388)
Unrecognized net actuarial loss	41,972,878
Unrecognized prior service cost	<u>325,986</u>
Accrued benefit cost	\$ <u>(14,080,524)</u>

The components of periodic pension cost for the year ended December 31, 2011:

Service cost	\$ 2,498,315
Interest cost	4,489,136
Expected return on plan assets	(3,714,131)
Amortization of prior service cost	59,243
Amortization of net loss	1,139,405
Curtailement recognition	<u>3,861</u>
Net periodic pension cost	\$ <u>4,475,829</u>

The weighted average assumptions used to determine benefit obligations at December 31, 2011 are as follows:

Discount rate	4.60%
Rate of compensation increase	3.00%

The weighted average assumptions used to determine net periodic benefit cost at December 31, 2011 are as follows:

Discount rate	5.75%
Expected long-term return on plan assets	8.00%
Rate of compensation increase	3.00%

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 15. PENSION PLAN (CONTINUED)

The Medical Center's defined benefit plan's investment objectives are to emphasize total return specifically through long-term growth of capital while avoiding excessive risk, and to achieve a balanced return of current income and modest growth of principal. In order to achieve these objectives, the Medical Center has established the following asset allocation guidelines:

<u>Asset Class</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Preferred</u>
Large cap equity securities	30%	50%	41%
Small cap equity securities	-	15	5
Mid cap equity securities	-	15	6
International equity securities	-	25	16
Fixed income	20	80	32
Cash and equivalents	-	5	-

The Medical Center's defined benefit plan weighted average asset allocations at December 31, 2011 by asset category, are as follows:

<u>Asset Category</u>	<u>Actual</u>
Equity securities	52%
Debt securities	35
International	12
Real Estate	<u>1</u>
	<u>100%</u>

The expected long-term rate of return on plan assets is reviewed annually, taking into consideration the asset allocation, historical returns on the types of assets held, and the current economic environment. Based on these factors, it is expected that the pension assets will earn an average of 8.00% per annum.

The following table present the Medical Center's defined benefit pension plans' assets at December 31, 2011 that are measured at fair value on a recurring basis. The hierarchy and inputs to valuation techniques to measure fair value of the plan's assets are the same as outlined in note 5.

	<u>Fair Value Level 1</u>	<u>Fair Value Level 2</u>	<u>Fair Value Total</u>
Cash and cash equivalents	\$ 1,685,523	\$ -	\$ 1,685,523
U.S. Treasury obligations	2,515,524	-	2,515,524
Government Agency Bonds	-	1,362,814	1,362,814
Corporate bonds:			
Domestic	-	4,330,166	4,330,166
International	-	180,459	180,459
Marketable equity securities:			
Domestic	20,268,515	-	20,268,515
International	4,980,061	-	4,980,061
Mutual funds:			
Equity	2,509,904	-	2,509,904
Fixed income	-	5,127,842	5,127,842
Real estate investment trusts	-	386,254	386,254
	<u>\$ 31,959,527</u>	<u>\$ 11,387,535</u>	<u>\$ 43,347,062</u>

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 15. PENSION PLAN (CONTINUED)

There are no plan assets included in Level 3 or any significant transfers into or out of Level 1 or Level 2 at and for the year ended December 31, 2011.

The Medical Center expects to contribute \$2,951,000 to its defined benefit plan in 2012.

The following approximate benefit payments, which reflect expected future service, as appropriate, are expected to be paid:

	<u>Benefit Payments</u>
2012	\$ 2,272,000
2013	\$ 2,595,000
2014	\$ 2,923,000
2015	\$ 3,370,000
2016	\$ 3,773,000
2017 – 2021	\$ 23,646,000

NOTE 16. MEDICAL MALPRACTICE INSURANCE

Since June 17, 1986, the Medical Center's insurance for medical malpractice risk is covered under a claims-made policy. If the claims-made policy is not renewed or replaced with equivalent insurance, claims based on occurrences since June 17, 1986 but reported subsequent to such a change will be uninsured. The Medical Center changed to a new insurance provider in 1998. The new coverage also is claims-made and has similar terms as compared to the previous policy. Claims from June 17, 1986 to the effective date of the current policy are covered. The Medical Center has a right under its present policy to acquire extended coverage if it decides to terminate its claims-made coverage and does not expect any difficulty in renewing the policies in 2012.

In the ordinary course of operations, the Medical Center is named as a defendant in various lawsuits, or events occur which could lead to litigation, claims, or assessments. Although the outcome of such matters cannot be predicted with certainty, management believes that insurance coverage is sufficient to cover current or potential claims, or that the final outcomes of such matters will not have a material adverse effect on the consolidated financial position of the Medical Center.

NOTE 17. FUNCTIONAL EXPENSES

The Medical Center's unrestricted expenses by function for the year ended December 31, 2011 are as follows:

Healthcare services	\$ 184,137,185
General and administrative	<u>20,846,879</u>
	<u>\$ 204,984,064</u>

**AUDITED
CONSOLIDATED FINANCIAL STATEMENTS**

ST. ELIZABETH MEDICAL CENTER

DECEMBER 31, 2012

ST. ELIZABETH MEDICAL CENTER

CONTENTS

	<u>Page</u>
Independent Auditor's Report	1
Consolidated Financial Statements:	
Balance Sheets	2
Statements of Operations and Changes in Net Assets	3
Statements of Cash Flows	4
Notes to the Consolidated Financial Statements	5 - 24



INDEPENDENT AUDITORS' REPORT

To the Board of Trustees of
St. Elizabeth Medical Center

Report on the Consolidated Financial Statements

We have audited the accompanying consolidated financial statements of St. Elizabeth Medical Center which comprise the balance sheets as of December 31, 2012 and 2011, and the related statements of operations and changes in net assets and cash flows for the years then ended and the related notes to the consolidated financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these consolidated 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 consolidated 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 these consolidated 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 consolidated financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated 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 entity'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 consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of St. Elizabeth Medical Center as of December 31, 2012 and 2011, 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.

Freed Maxick CPAs, P.C.

Buffalo, New York
May 14, 2013

ST. ELIZABETH MEDICAL CENTER

CONSOLIDATED BALANCE SHEETS

December 31,

ASSETS	2012	2011
Current assets		
Cash and cash equivalents	\$ 4,807,954	\$ 4,712,210
Current portion of assets whose use is limited	1,392,578	301,845
Investments	11,982,270	15,196,359
Patient accounts receivable, net of allowance for doubtful accounts of approximately \$4,950,000 (\$4,580,000 - 2011)	26,381,233	25,899,198
Other receivables, net	9,827,255	1,927,746
Inventories of drugs and supplies	4,826,746	5,806,080
Prepaid expenses	610,984	500,747
Total current assets	59,829,020	54,344,185
Assets whose use is limited:		
Under bond indenture agreements	2,900,595	2,925,833
Restricted by donors	1,372,360	1,127,155
Property, plant and equipment, net	77,015,017	77,593,266
Other assets	1,050,193	1,019,346
Total assets	\$ 142,167,185	\$ 137,009,785
LIABILITIES AND NET ASSETS		
Current liabilities		
Current installments of notes payable	\$ 965,014	\$ 917,379
Current installments of long-term debt	1,505,000	1,430,000
Current installments of obligations under capital lease	354,369	846,017
Current installments of loans payable to Motherhouse	130,726	130,726
Current installments of accrued pension liability	3,000,000	2,951,000
Line of Credit	1,000,000	-
Accounts payable	15,617,448	16,956,884
Accrued expenses	9,462,220	6,388,188
Liabilities to third-party payors, net	7,440,231	9,039,200
Total current liabilities	39,475,008	38,659,394
Accrued pension liability	64,445,152	53,428,388
Long-term notes payable	2,637,487	3,602,501
Long-term debt	31,847,676	32,932,544
Obligations under capital leases	1,450,864	1,827,291
Loans payable to Motherhouse	1,437,986	1,568,712
Other liabilities	369,287	100,000
Total liabilities	141,663,460	132,118,830
Net assets		
Unrestricted	(7,755,197)	3,783,143
Temporarily restricted	7,345,598	504,322
Permanently restricted	913,324	603,490
Total net assets	503,725	4,890,955
Total liabilities and net assets	\$ 142,167,185	\$ 137,009,785

See accompanying notes.

ST. ELIZABETH MEDICAL CENTER

CONSOLIDATED STATEMENTS OF OPERATIONS AND CHANGES IN NET ASSETS
For the Years Ended December 31,

	2012	2011
Unrestricted revenue and other support:		
Net patient service revenue (net of provision for bad debts of approximately \$8,332,000 in 2012 and \$8,502,000 in 2011)	\$ 189,765,421	\$ 191,357,274
Other revenue	5,369,342	5,234,728
Net assets released from restrictions used for operations	14,200	16,380
Total unrestricted revenue and other support	195,148,963	196,608,382
Operating expenses:		
Salaries and wages	97,002,635	92,094,103
Professional fees	9,269,385	9,646,195
Employee benefits	24,281,211	24,772,920
Supplies and expenses	55,987,759	56,308,858
Utilities expense	2,111,046	2,647,913
Depreciation and amortization	9,298,307	8,974,315
Interest	1,962,428	2,038,145
Total operating expenses	199,912,771	196,482,449
(Loss) income from operations	(4,763,808)	125,933
Other (expense) income:		
Unrestricted contributions	1,729,551	189,979
Investment income	908,442	954,228
(Loss) gain on disposal of asset	(234,818)	747,445
	2,403,175	1,891,652
(Deficiency) excess of unrestricted revenue and other support over expenses	(2,360,633)	2,017,585
Net unrealized loss on other than trading securities	(343,433)	(379,472)
Pension related changes other than net periodic pension cost	(9,302,546)	(18,716,883)
Net assets released from restriction	468,272	1,068,400
Decrease in unrestricted net assets	(11,538,340)	(16,010,370)
Temporarily restricted net assets:		
HEAL 21 grant funds	6,685,000	-
Contributions	627,472	1,038,555
Interest income on permanently restricted assets	11,276	16,768
Net assets released from restriction	(482,472)	(1,084,780)
Increase (decrease) in temporarily restricted net assets	6,841,276	(29,457)
Permanently restricted net assets:		
Contributions	309,834	226,576
Increase in permanently restricted net assets	309,834	226,576
Decrease in net assets	(4,387,230)	(15,813,251)
Net assets at beginning of year	4,890,955	20,704,206
Net assets at end of year	\$ 503,725	\$ 4,890,955

See accompanying notes.

ST. ELIZABETH MEDICAL CENTER

CONSOLIDATED STATEMENTS OF CASH FLOWS

For the Years Ended December 31,

	<u>2012</u>	<u>2011</u>
Cash flows from operating activities:		
Change in net assets	\$ (4,387,230)	\$ (15,813,251)
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Depreciation and amortization	9,298,307	8,974,315
Increase in the allowance for doubtful accounts	370,000	508,000
Increase in minimum pension liability	9,302,546	18,716,883
Net unrealized loss on investments	343,433	379,472
Loss (gain) on sale of assets	234,818	(747,445)
(Increase) decrease in assets:		
Patient accounts receivable	(852,035)	(3,792,139)
Other receivables, net	(7,899,509)	(1,121,765)
Inventories of drugs and supplies	979,334	5,715
Prepaid expenses	(110,237)	23,141
Other assets	(119,287)	-
Increase (decrease) in liabilities:		
Accounts payable	(1,339,436)	(516,408)
Accrued expenses	3,074,032	1,129,000
Liabilities to third-party payors, net	(1,598,969)	(290,583)
Accrued pension liability	1,763,218	796,831
Other liabilities	269,287	100,000
Net cash and cash equivalents provided by operating activities	9,328,272	8,351,766
Cash flows from investing activities:		
Purchases of property, plant and equipment	(9,816,346)	(11,489,432)
Proceeds from sale of property, plant and equipment	949,911	1,717,965
Change in assets whose use is limited, net	(1,310,700)	(769,871)
Change in investments, net	2,870,656	2,376,356
Net cash and cash equivalents used in investing activities	(7,306,479)	(8,164,982)
Cash flows from financing activities:		
Proceeds from note payable	-	750,000
Borrowings on Line of Credit	1,000,000	-
Repayments of long term debt and capital lease obligations	(2,926,049)	(2,627,504)
Net cash and cash equivalents used in financing activities	(1,926,049)	(1,877,504)
Net increase (decrease) in cash and cash equivalents	95,744	(1,690,720)
Cash and cash equivalents - beginning of year	4,712,210	6,402,930
Cash and cash equivalents - end of year	<u>\$ 4,807,954</u>	<u>\$ 4,712,210</u>
Supplemental disclosure of cash flow information:		
Cash paid during the year for interest	<u>\$ 1,966,195</u>	<u>\$ 2,043,652</u>
Equipment acquired under capital lease	<u>\$ -</u>	<u>\$ 1,058,687</u>

See accompanying notes.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1. ORGANIZATION

Organization: St. Elizabeth Medical Center (the Medical Center) is a voluntary not-for-profit acute care facility located in Utica, New York. The Medical Center provides medical, surgical, and psychiatric inpatient services. In addition, the Medical Center offers outpatient general diagnostic, ambulatory care, physical therapy, and emergency care services.

St. Elizabeth Medical Center Foundation, Inc. (the Foundation) is a not-for-profit organization whose primary purpose is to solicit, collect, and invest funds on behalf of the Medical Center.

Reporting Entity and Principals of Consolidation: The accompanying consolidated financial statements include the accounts of the Medical Center and the Foundation. The Medical Center is the sole corporate member of the Foundation. For financial reporting purposes, the Medical Center is considered the reporting entity. Intercompany balances and transactions have been eliminated in the consolidated financial statements.

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation: The Medical Center's consolidated financial statements have been prepared consistent with Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) Topic 954, Health Care Entities (ASC Topic 954) (formerly the AICPA Audit and Accounting Guide, Health Care Organizations). In accordance with the provisions of ASC Topic 954, net assets and revenue, expenses, gains, and losses are classified based on the existence or absence of donor-imposed restrictions. Accordingly, unrestricted net assets are net assets that are not subject to donor-imposed stipulations and are available for operations. Assets whose use is limited include assets which are restricted under bond indenture agreements or by donor restrictions. Temporarily restricted net assets are those whose use by the Medical Center has been limited by donors to a specific time period or purpose. Permanently restricted net assets result from donors who stipulate that their donated resources be maintained permanently. The Medical Center is permitted to use or expend part or all of the income and gains derived from the donated assets, restricted only by the donors' wishes.

Use of Estimates: The preparation of the accompanying consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions about future events. These estimates and the underlying assumptions affect the amounts of assets and liabilities reported, disclosures about contingencies, and reported amounts of revenues and expenses. Such estimates and assumptions include the allowance for uncollectible accounts, estimated third-party payor settlements, workers compensation claims incurred but not reported, and defined benefit pension plan assumptions. These estimates and assumptions are based on management's best estimates and judgment. Management evaluates its estimates and assumptions on an ongoing basis using historical experience and other factors, including the current economic environment, which management believes to be reasonable under the circumstances. Management adjusts such estimates and assumptions when facts and circumstances dictate. As future events and their effects cannot be determined with precision, actual results could differ significantly from these estimates. Changes in those estimates resulting from continuing changes in the economic environment will be reflected in the consolidated financial statements in future periods.

Recent Accounting Pronouncements: In July 2011, the FASB issued guidance which amends the current presentation and disclosure requirements for health care entities that recognize significant amounts of patient service revenue at the time the services are rendered without assessing the patient's ability to pay. This guidance requires health care entities to reclassify the provision for bad debts from an operating expense to a deduction from patient service revenues. In addition, this guidance requires additional disclosures on the policies for recognizing revenue, assessing bad debts, as well as quantitative and qualitative information regarding changes in the allowance for doubtful accounts. This guidance is applied retrospectively to all prior periods presented and is effective for the first annual period ending after December 15, 2012. The adoption of this guidance did not have a material impact on the Medical Center's consolidated financial position, results of operations or cash flows. The Medical Center adopted this guidance during the year ended December 31, 2012 and reclassified the provision for bad debts related to prior period patient service revenue from operating expenses to a reduction in revenue. See note 3 for additional disclosures related to net patient service revenue.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Insurance Claims and Related Recoveries: On January 1, 2011 the Medical Center adopted Accounting Standards Update (ASU) 2010-24 *Presentation of Insurance Claims and Related Insurance Recoveries*. The ASU requires the Medical Center to recognize liabilities associated with malpractice claims or similar contingent liabilities when the incidents that give rise to the claims occur. Further the liability shall not be presented net of anticipated insurance recoveries. Any amounts to be reimbursed from an insurance company should be presented discretely. In accordance with FASB issued guidance, amounts should be recognized only when the likelihood of payment is both probable and measurable. For the year ended December 31, 2012, \$1,350,000 has been recognized in these statements as a liability for cases experiencing negative development during the year. A corresponding receivable has been recorded to record the anticipated recovery from the insurance company. No amounts were required to be recognized during the year ended December 31, 2011.

Cash and Cash Equivalents: The Medical Center considers all highly liquid debt instruments with original maturities of three months or less to be cash equivalents. Only unrestricted cash and cash equivalents which are classified as current assets are considered for purposes of the consolidated statement of cash flows. Cash equivalents consist of certificates of deposit, money market funds, and daily dividend accounts.

Investments and Assets Whose Use is Limited: Investments, assets whose use is limited, and pension plan assets are reported at fair value. FASB ASC No. 820, *Fair Value* (ASC 820), defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. See note 5 for discussion on fair value measurements.

Gains or losses on the sale of investments and investment income are recorded as unrestricted revenue. Income of temporarily and permanently restricted net assets that is specifically restricted by the donor is recorded as an increase in the appropriate class of net assets. Unrealized gains and losses are recorded as changes in unrestricted net assets unless explicitly restricted by the donor or law. Unrealized gains and losses restricted by the donor or law are recorded as changes in temporarily or permanently restricted net assets.

Inventories of Drugs and Supplies: Inventories of drugs and supplies are stated at the lower of average cost or market.

Property, Plant and Equipment: Property, plant, and equipment is stated at cost, if purchased, or at market value at the date of acquisition when acquired by gift. Equipment which is purchased under capital leases is stated at the lower of the present value of minimum lease payments at the beginning of the lease term or the fair market value at the inception of the lease.

Depreciation of property, plant, and equipment is calculated on the straight-line method over the estimated useful lives of the assets as follows:

Land improvements	2 - 20 years
Buildings	5 - 40 years
Fixed equipment	2 - 20 years
Movable equipment	2 - 10 years

Equipment held under capital leases is amortized on the straight-line method over the estimated useful life of the asset or the lease term.

Debt Financing Costs: Debt financing costs are included in other assets and are being amortized over the terms of the respective loans.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

(Deficiency) Excess of Unrestricted Revenue and Other Support Over Expenses: The consolidated statements of operations and changes in net assets include (deficiency) excess of unrestricted revenue and other support over expenses. Changes in unrestricted net assets which are excluded from (deficiency) excess of unrestricted revenue and other support over expenses, consistent with industry practice, include unrealized gains and losses on investments other than trading securities, permanent transfers of assets to and from affiliates for other than goods and services, contributions of long-lived assets (including assets acquired using contributions which by donor restriction were to be used for the purposes of acquiring such assets), and pension liability adjustments in accordance with FASB ASC Subtopic 715-30, *Compensation – Retirement Benefits, Defined Benefit Plans - Pension*.

Revenue Recognition: Net patient service revenue is recognized in the period services are performed, is reported at estimated net realizable amounts from patients, third-party payors, and others for services rendered and includes estimated retroactive revenue adjustments due to future audits, reviews, and investigations. Retroactive adjustments are considered in the recognition of revenue on an estimated basis in the period the related services are rendered, and such amounts are adjusted in future periods as adjustments become known or as years are no longer subject to such audits, reviews, and investigations.

Medicare and Medicaid Electronic Health Record Incentive Program: Under certain provisions of the American Recovery and Reinvestment Act of 2009 (ARRA), federal incentive payments are available to hospitals, physicians and certain other professionals (Providers) when they adopt, implement or upgrade (AIU) certified electronic health record (EHR) technology or become “meaningful users,” as defined under ARRA, of EHR technology in ways that demonstrate improved quality, safety and effectiveness of care. Providers can become eligible for annual Medicare incentive payments by demonstrating meaningful use of EHR technology in each period over four periods. Medicaid providers can receive their initial incentive payment by satisfying AIU criteria, but must demonstrate meaningful use of EHR technology in subsequent years in order to qualify for additional payments. Hospitals may be eligible for both Medicare and Medicaid EHR incentive payments; however, physicians and other professionals may be eligible for either Medicare or Medicaid incentive payments, but not both. Hospitals that are meaningful users under the Medicare EHR incentive payment program are deemed meaningful users under the Medicaid EHR incentive payment program and do not need to meet additional criteria imposed by a state. Medicaid EHR incentive payments to Providers are 100% federally funded and administered by the states. The Centers for Medicare and Medicaid Services (CMS) established calendar year 2011 as the first year states could offer EHR incentive payments. Before a state may offer EHR incentive payments, the state must submit and CMS must approve the state’s incentive plan.

The Medical Center recognizes Medicaid EHR incentive payments in its consolidated statements of operations for the first payment year when: (1) CMS approves a state’s EHR incentive plan; and (2) its hospital or employed physician acquires certified EHR technology (i.e., when AIU criteria are met). Medicaid EHR incentive payments for subsequent payment years are recognized in the period during which the specified meaningful use criteria are met.

The Medical Center recognizes Medicare EHR incentive payments when: (1) the specified meaningful use criteria are met; and (2) contingencies in estimating the amount of the incentive payments to be received are resolved.

During the year ended December 31, 2012, the Medical Center satisfied the CMS AIU and/or meaningful use criteria. As a result, the Medical Center recognized approximately \$784,000 of Medicaid EHR incentive payments as other operating income in its Statement of Operations for year ended December 31, 2012 (\$0 – 2011).

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Gifts and Donations: Unconditional promises to give cash and other assets are reported at fair value at the date the promise is received, which then are treated as cost. Conditional promises to give and indications of intentions are reported at fair value at the date the gift is received. Gifts and donations are reported as either temporarily or permanently restricted support if they are received with donor stipulations that limit the use of the donated assets. When a donor restriction expires, that is, when a stipulated time restriction ends or purpose restriction is accomplished, temporarily restricted net assets are reclassified as unrestricted net assets and reported in the consolidated statements of operations and changes in net assets as net assets released from restriction.

Charity Care: The Medical Center provides care to patients who meet certain criteria under its charity care policy without charge or at amounts less than its established rates. The Center's policy is not to pursue collection of amounts determined to qualify as charity care; therefore, these amounts are not reported in net operating revenues or in provisions for doubtful accounts. The estimated cost of providing uncompensated care to patients was approximately \$2,518,000 (\$1,949,000 – 2011) of charges and \$1,001,000 (\$839,000 – 2011) of cost for the year ended December 31, 2012.

Patient Accounts Receivable: The Medical Center grants credit without collateral to patients, most of whom are local residents and are insured under third-party agreements. Additions to the allowance for doubtful accounts are made by means of the provision for doubtful accounts. Accounts written off as uncollectible are deducted from the allowance and subsequent recoveries are added. The amount of the provision for doubtful accounts is based upon management's assessment of historical expected net collections, business and economic conditions, trends in federal and state governmental health care coverage and other collection indicators. Services rendered to individuals when payment is expected and ultimately not received are written off to the allowance for doubtful accounts.

Income Taxes: The Medical Center is a not-for-profit organization as described in Section 501(c)(3) of the Internal Revenue Code and is generally exempt from federal income taxes on related income pursuant to Section 501(a) of the Code.

The Medical Center files its Return or Organization Exempt from Income Tax in the U.S. Federal jurisdiction. The tax years 2009 - 2011 generally remain open to examination in taxing jurisdictions in which the Medical Center is subject to the filing requirements of those jurisdictions.

Reclassifications: Certain 2011 amounts have been reclassified to conform to the current year presentation. These reclassifications had no effect on income from operations, net assets or the change in net assets.

Subsequent Event: These consolidated financial statements have not been updated for subsequent events occurring after May 14, 2013 which is the date these consolidated financial statements were available to be issued.

NOTE 3. NET PATIENT SERVICE REVENUE

The Medical Center has agreements with third-party payors that provide for payments at amounts different from their established rates. Inpatient acute care services rendered are paid at prospectively determined rates per discharge in accordance with the Federal Prospective Payment System (PPS) for Medicare and generally at negotiated or otherwise pre-determined amounts under the provisions of the New York Health Care Reform Act (HCRA) and related legislation for all other payors. Reimbursement rates for Medicaid, Worker's Compensation, and No-Fault are determined on a prospective basis defined by HCRA that is based on clinical, diagnostic, and other factors. Inpatient nonacute and outpatient services are paid at various rates under different arrangements with third-party payors, commercial insurance carriers and health maintenance organizations. The basis for payment under these agreements includes prospectively determined per diem and per visit rates, discounts from established charges, fee schedules, and reasonable cost. Medicare outpatient services are paid under a prospective payment system whereby services are reimbursed on a predetermined amount for each outpatient procedure, subject to various mandated modifications.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 3. NET PATIENT SERVICE REVENUE (CONTINUED)

In addition, under HCRA, all Non-Medicare payors are required to make surcharge payments for the subsidization of indigent care and other health care initiatives. The percentage amounts of the surcharge varies by payor and applies to a broader array of health care services. Also, certain payors are required to make a covered lives payment to further fund the indigent care pools and other health care initiatives for inpatient services or through voluntary election to pay a covered lives assessment directly to the New York State Department of Health (DOH). The funds are distributed to the hospitals based on the each hospital's level of bad debt in relation to all other hospitals. The Medical Center recorded distributions of approximately \$1,239,000 (\$1,669,000 – 2011) for 2012 from the indigent care pool.

Both federal and New York State regulations provide for certain adjustments to current and prior years' payment rates and indigent care pool distributions based on industry-wide and hospital-specific data. The Medical Center has established estimates based on information presently available of the amounts due to or from Medicare, Medicaid, workers compensation and no-fault payors and amounts due from the indigent care pool for such adjustments. Those adjustments which can be reasonably estimated have been provided for in the accompanying consolidated financial statements. The Medical Center has estimated the potential impact of such adjustments based on the most recent information available.

Management believes the amounts recorded in the accompanying consolidated financial statements will not be materially affected upon the implementation of such adjustments.

The Medical Center is required to prepare and file various reports of actual and allowable costs annually. Provisions have been made in the consolidated financial statements for prior and current years' estimated final settlements to the Medicare program and other third-party payors. The difference between the amount provided and the actual final settlement is recorded as an adjustment to net patient service revenue in the year the final settlement is determined. The Medical Center recorded adjustments for estimated settlements with third-party payors resulting in an increase of approximately \$2,547,000 in net patient service revenue for the year ended December 31, 2012 (\$1,107,000 – 2011). The laws and regulations governing the reimbursement for healthcare services are complex and subject to interpretation. Third-party payors retain the right to review and propose adjustments to amounts requested and recorded by the Medical Center. In the opinion of management, retroactive adjustments, if any, would not be material to the financial position or results of operations of the Medical Center. As of December 31, 2012, all cost reports through 2011 have been filed and Medicare cost reports through 2008 have been final settled.

For the year ended December 31, 2012, revenue from the Medicare and Medicaid programs accounted for approximately 53% of the Medical Center's net patient service revenue (54% - 2011). At December 31, 2012, the Medical Center had recorded patient accounts receivable, net of estimated contractual allowances, from Medicare of approximately \$10,996,000 and Medicaid of approximately \$4,620,000 (\$10,832,000 and \$5,078,000 – 2011).

	<u>2012</u>				
	<u>Medicaid</u>	<u>Medicare</u>	<u>Other Third Party Payors</u>	<u>Self Pay*</u>	<u>Total All Payors</u>
Patient service revenue (net of contractual allowances and discounts)	\$ <u>85,258,379</u>	\$ <u>32,647,256</u>	\$ <u>73,680,918</u>	\$ <u>5,918,485</u>	\$ <u>197,505,038</u>

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 3. NET PATIENT SERVICE REVENUE (CONTINUED)

	<u>2011</u>				
	<u>Medicaid</u>	<u>Medicare</u>	<u>Other Third Party Payers</u>	<u>Self Pay*</u>	<u>Total All Payers</u>
Patient service revenue (net of contractual allowances and discounts)	\$ <u>83,722,058</u>	\$ <u>29,768,510</u>	\$ <u>81,938,927</u>	\$ <u>4,429,394</u>	\$ <u>199,858,889</u>

*Based on historical collection 95% and 92% of the patient service revenue has been or will be written off to bad debt or charity care for 2012 and 2011, respectively.

NOTE 4. ASSETS LIMITED AS TO USE

The composition of assets whose use is limited at December 31, 2012 and 2011 is set forth in the table below.

	<u>2012</u>	<u>2011</u>
Under bond indenture agreements:		
Cash and cash equivalents	\$ 1,705,193	\$ 661,551
Commercial paper	<u>2,587,980</u>	<u>2,566,127</u>
	4,293,173	3,227,678
Less current portion	<u>1,392,578</u>	<u>301,845</u>
	<u>\$ 2,900,595</u>	<u>\$ 2,925,833</u>
Restricted by donors:		
Cash and cash equivalents	\$ 1,103,003	\$ 770,340
Common stock	-	4,492
U.S. government and agency debt securities	173,536	81,467
Mortgage-backed securities	-	250,866
Certificate of deposit	5,023	19,990
Domestic corporate bonds	<u>90,798</u>	<u>-</u>
	<u>\$ 1,372,360</u>	<u>\$ 1,127,155</u>

NOTE 5. FAIR VALUE MEASUREMENTS

FASB ASC 820, Fair Value Measurements, provides the framework for measuring fair value. That framework provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy under FASB ASC 820 are described below:

Level 1: Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets that the Medical Center has the ability to access.

- Level 2: Inputs to the valuation methodology include:
- Quoted prices for similar assets or liabilities in active markets;
 - Quoted prices for identical or similar assets or liabilities in inactive markets;
 - Inputs other than quoted prices that are observable for the asset or liability;
 - Inputs that are derived principally from or corroborated by observable market data by correlation or other means;
 - If the asset or liability has a specific (contractual) term, the Level 2 input must be observable for substantially the full term of the asset or liability.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 5. FAIR VALUE MEASUREMENTS (CONTINUED)

Level 3: Inputs to the valuation methodology are unobservable and significant to the fair value measurement.

The asset or liability's fair value measurement level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. Valuation techniques used need to maximize the use of observable inputs and minimize the use of unobservable inputs.

The following is a description of the valuation methodologies used by the Medical Center for its assets measured at fair value on a recurring basis:

Cash and Cash Equivalents: Consists of money market funds that are valued at the net asset value (NAV) reported by the financial institution.

Certificates of Deposit: Consists of fixed-maturity certificates of deposit that are valued based on discounted future cash flows using the rates currently offered for deposits of similar remaining maturities (Level 2 measurements).

Mortgage-Backed Securities: Consists of the Medical Center's investment in mortgage-backed securities that are issued by publicly owned government-sponsored enterprises or wholly owned government corporations. If quoted market prices are not available, fair values are based on quoted market prices of comparable instruments or, if necessary, matrix pricing from a third party pricing vendor to determine fair value (Level 2 measurements). Matrix prices are based on quoted prices for securities with similar coupons, ratings, and maturities, rather than on specific bids and offers for the designated security.

Common Stock, Domestic, Emerging Markets, and International Equities and Mutual Funds: Consists of actively traded equity securities and the Medical Center's investment in mutual funds. Actively traded equity securities are valued on a continuous basis and mutual funds are valued at the closing price reported on an active market on which the individual securities are traded (Level 1 measurements).

U.S. Government and Agency Securities, U.S. Treasury Obligations, Domestic Corporate Bonds, Commercial Paper, and Municipal Bonds: Consists of the Medical Center's directly owned securities and the Medical Center's investment in securities that are issued by the U.S. government or publicly owned government-sponsored enterprises. Securities owned directly by the Medical Center and securities issued by the U.S. government or publicly owned government-sponsored enterprises are valued based on quoted market prices or dealer quotes where available (Level 1 measurements). If quoted market prices are not available, fair values are based on quoted market prices of comparable instruments or, if necessary, matrix pricing from a third party pricing vendor to determine fair value (Level 2 measurements). Matrix prices are based on quoted prices for securities with similar coupons, ratings, and maturities, rather than on specific bids and offers for the designated security.

Private Equity Investment: The Foundation has an investment in a limited partnership which is classified as private market equity. The estimated fair value of the private equities is based on quarterly financial information received from investment advisors and/or general partners (Level 3 measurements).

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 5. FAIR VALUE MEASUREMENTS (CONTINUED)

The following table sets forth the Medical Center's assets whose use is limited and investments that were accounted for at fair value at December 31, 2012:

	<u>Cost</u>	<u>Fair Value Level 1</u>	<u>Fair Value Level 2</u>	<u>Fair Value Level 3</u>	<u>Total</u>
Assets whose use is limited:					
Under bond indenture agreements:					
Cash and cash equivalents	\$ 1,705,193	\$ 1,705,193	\$ -	\$ -	\$ 1,705,193
Commercial paper	2,514,424	2,587,980	-	-	2,587,980
Restricted by donors:					
Cash and cash equivalents	1,103,003	1,103,003	-	-	1,103,003
U.S. government and agency debt securities	159,032	-	173,536	-	173,536
Certificates of deposit	5,000	-	5,023	-	5,023
Domestic corporate bonds	88,223	-	90,798	-	90,798
Investments:					
Cash and cash equivalents	41,179	41,179	-	-	41,179
Certificates of deposit	1,910,000	-	1,934,588	-	1,934,588
Common stock	2,875,247	2,929,938	-	-	2,929,938
Mutual funds:					
Internationally developed equity	151,542	153,306	-	-	153,306
Emerging markets equity	201,722	222,427	-	-	222,427
U.S. government and agency					
debt securities	1,790,151	-	1,833,180	-	1,833,180
Domestic corporate bonds	3,782,792	-	3,928,274	-	3,928,274
Municipal bonds	499,802	-	530,411	-	530,411
Private equity investments	<u>408,968</u>	<u>-</u>	<u>-</u>	<u>408,968</u>	<u>408,968</u>
	<u>\$ 17,236,278</u>	<u>\$ 10,682,636</u>	<u>\$ 6,556,199</u>	<u>\$ 408,968</u>	<u>\$ 17,647,803</u>

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 5. FAIR VALUE MEASUREMENTS (CONTINUED)

The following table sets forth the Medical Center's assets whose use is limited and investments that were accounted for at fair value at December 31, 2011:

	<u>Cost</u>	<u>Fair Value Level 1</u>	<u>Fair Value Level 2</u>	<u>Fair Value Level 3</u>	<u>Total</u>
Assets whose use is limited:					
Under bond indenture agreements:					
Cash and cash equivalents	\$ 661,551	\$ 661,551	\$ -	\$ -	\$ 661,551
Commercial paper	2,513,455	2,566,127	-	-	2,566,127
Restricted by donors:					
Cash and cash equivalents	770,340	770,340	-	-	770,340
Common stock	2,872	4,492	-	-	4,492
U.S. government and agency debt securities	90,666	-	81,467	-	81,467
Mortgage-backed securities	227,270	-	250,866	-	250,866
Certificates of deposit	20,000	-	19,990	-	19,990
Investments:					
Cash and cash equivalents	24,324	24,324	-	-	24,324
Certificates of deposit	4,239,000	-	4,273,442	-	4,273,442
Common stock	1,254,112	1,370,897	-	-	1,370,897
Mutual funds:					
Internationally developed equity	138,642	154,548	-	-	154,548
Emerging markets equity	200,306	186,403	-	-	186,403
U.S. government and agency debt securities	4,082,662	-	4,130,002	-	4,130,002
Domestic corporate bonds	4,375,072	-	4,426,930	-	4,426,930
Municipal bonds	498,132	-	515,813	-	515,813
Private equity investments	<u>114,000</u>	<u>-</u>	<u>-</u>	<u>114,000</u>	<u>114,000</u>
	<u>\$ 19,212,404</u>	<u>\$ 10,032,114</u>	<u>\$ 9,405,078</u>	<u>\$ 114,000</u>	<u>\$ 19,551,192</u>

Investment income and losses on investments are as follows as of December 31, 2012 and 2011:

	<u>2012</u>	<u>2011</u>
Interest and dividends	\$ 624,400	\$ 742,421
Realized gain on sale of investments	<u>284,042</u>	<u>211,807</u>
	<u>\$ 908,442</u>	<u>\$ 954,228</u>

The Medical Center's accounting policy is to recognize transfers between levels of the fair value hierarchy on the date of the event or change in circumstances that caused the transfer. There were no significant transfers into or out of Level 1 or Level 2 for the year ended December 31, 2012.

The table below sets forth a summary of changes in the fair value of the Medical Center's Level 3 investments for the years ended December 31, 2012 and 2011:

	<u>2012</u>	<u>2011</u>
Balance as of January 1, 2012	\$ 114,000	\$ 114,000
Acquisitions	-	-
Redemptions	-	-
Net change in unrealized gains (losses)	<u>294,968</u>	<u>-</u>
Balance as of December 31, 2012	<u>\$ 408,968</u>	<u>\$ 114,000</u>

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 6. PROPERTY, PLANT AND EQUIPMENT

Property, plant, and equipment at December 31, 2012 and 2011 are as follows:

	<u>2012</u>	<u>2011</u>
Land	\$ 921,637	\$ 1,098,137
Land improvements	5,776,102	5,683,516
Buildings	69,510,068	69,638,812
Fixed equipment	50,914,358	40,037,152
Movable equipment	46,240,355	45,160,713
Capitalized leases:		
Buildings	1,400,000	1,400,000
Movable equipment	<u>3,825,003</u>	<u>3,825,003</u>
	178,587,523	166,843,333
Less accumulated depreciation	<u>105,059,007</u>	<u>100,875,675</u>
	73,528,516	65,967,658
Construction in progress	<u>3,486,501</u>	<u>11,625,608</u>
	<u>\$ 77,015,017</u>	<u>\$ 77,593,266</u>

Depreciation expense for 2012 was \$9,209,866 (\$8,885,874 – 2011).

During the year ended December 31, 2012 the Medical Center transferred from construction in progress approximately \$7,600,000 related to the combined heat and power plant project. This amount was recognized in construction in progress as of December 31, 2011. The remaining construction in progress is related to various infrastructure and information technology projects at the Medical Center.

NOTE 7. SHORT-TERM BORROWINGS

The Medical Center maintains a line of credit with a lender which provides for borrowings up to \$6,000,000 at December 31, 2012 secured by the Medical Center's College of Nursing and up to \$7,000,000 of eligible accounts receivable, as defined. Borrowings against this line of credit are payable on demand and bear interest at the lender's prime rate 3.25% (3.25% at December 31, 2011). As of December 31, 2012 there was \$1,000,000 outstanding under this arrangement (\$0 – 2011).

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 8. LONG-TERM DEBT

Long-term debt at December 31, 2012 and 2011 is as follows:

	<u>2012</u>	<u>2011</u>
Series 1999-A Bonds (\$15,000,000 principal amount less unamortized discount of \$95,167 and \$102,885 at December 31, 2012 and 2011, respectively). (a)	\$ 13,309,833	\$ 13,697,105
Series 1999-B Bonds (\$15,000,000 principal amount less unamortized discount of \$102,157 and \$109,612 at December 31, 2012 and 2011, respectively). (b)	10,942,843	11,365,439
Series 2006-A Bonds (\$14,000,000 principal at December 31, 2012). (c)	<u>9,100,000</u>	<u>9,300,000</u>
	33,352,676	34,362,544
Less current portion	<u>1,505,000</u>	<u>1,430,000</u>
	<u>\$ 31,847,676</u>	<u>\$ 32,932,544</u>

- (a) In April 1999, the Medical Center obtained financing of \$15,000,000 through the placement of Oneida County Industrial Development Agency Civic Facility Revenue Bonds, Series 1999-A (the Series 1999-A Bonds). The Series 1999-A Bond proceeds were used to refinance existing mortgage indebtedness; install new boilers and chillers; make additional energy management improvements; construct a new boiler house; add a new parking lot; renovate the pediatric unit and the third floor surgical units. The Series 1999-A Bonds mature as follows: \$4,425,000 on December 2019 with interest payable semiannually at an annual rate of 5.750%; and \$9,575,000 on December 2029 with interest payable semiannually at an annual rate of 5.875%. The Medical Center is required to make sinking fund payments to be used for mandatory redemption of the Series 1999-A Bonds which commenced with a payment of \$70,000 in December 2004 and continuing annually in increasing amounts through December 2029. The Medical Center is also required to maintain certain covenants under the Bond agreement including minimum debt service coverage. The Medical Center is in compliance with its covenants at December 31, 2012.
- (b) In June 1999, the Medical Center obtained additional financing of \$15,000,000 through the placement of Oneida County Industrial Development Agency Civic Facility Revenue Bonds, Series 1999-B (the Series 1999-B Bonds). The Series 1999-B Bond proceeds were used primarily to construct and equip a two-story addition to house ten new surgical suites including ambulatory surgery and a 16-bed intensive care unit. The Series 1999-B Bonds mature as follows: \$5,040,000 in December 2019 with interest payable semiannually at an annual rate of 6.00%; and \$7,560,000 in December 2029 with interest payable semiannually at an annual rate of 6.00%. The Medical Center is required to make sinking fund payments to be used for mandatory redemption of the Series 1999-B Bonds commencing with a payment of \$485,000 in December 2005 and continuing annually in increasing amounts through December 2029. The Medical Center is also required to maintain certain covenants under the Bond agreement including minimum debt service coverage. The Medical Center is in compliance with its covenants at December 31, 2012.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 8. LONG-TERM DEBT (CONTINUED)

- (c) In June 2006, the Medical Center obtained additional financing of \$14,000,000 through the placement of Oneida County Industrial Development Agency Multi-Mode Variable Rate Civic Facility Revenue Bonds Series 2006-A (the Series 2006-A Bonds). The proceeds were used primarily to renovate and construct the new emergency department, kitchen and cafeteria. The 2006-A Bonds were issued on a parity basis with the 1999-A and 1999-B bonds. The Series 2006-A bonds mature in June 2026. Interest is paid monthly based on the Securities Industry and Financial Markets Association Municipal Swap Index. The average rate was 0.16% and 0.18% at December 31, 2012 and 2011, respectively. The Medical Center is required to make sinking fund payments to provide for the redemption of the Series 2006-A Bonds commencing with a \$115,000 payment in 2008 and continuing annually in increasing amounts through 2026. As further security for the Bonds, the Medical Center has entered into a Reimbursement Agreement with HSBC Bank USA, pursuant to which the Bank has issued an irrevocable direct-pay letter of credit aggregating the principal amount. The letter of credit will expire on June 21, 2015. The Medical Center is also required to maintain certain covenants under the Bond agreement including minimum debt service coverage and minimum day's cash on hand. The Medical Center is in compliance with its covenants at December 31, 2012.

Under the Indenture of Trust for the Series 1999-A, Series 1999-B, and Series 2006-A Bonds, the Medical Center is required to maintain certain levels of reserve accounts with the trustee. Amounts under this agreement have been classified as either current or noncurrent based upon the anticipated release date of such funds or contractual obligation and are as follows at December 31, 2012 and 2011:

	<u>2012</u>	<u>2011</u>
Current assets whose use is limited:		
Bond Interest Fund — Series 1999-A Bonds	\$ 203,031	\$ 129,232
Bond Interest Fund — Series 1999-B Bonds	187,938	169,551
Bond Interest Fund — Series 2006-A Bonds	1,000,000	-
Project Fund— Series 1999-A Bonds	1,589	1,569
Project Fund — Series 2006-A	<u>-</u>	<u>1,473</u>
	<u>\$ 1,392,578</u>	<u>\$ 301,845</u>
Noncurrent assets whose use is limited:		
Debt Service Reserve Fund-Series 1999-A Bonds	<u>\$ 2,900,595</u>	<u>\$ 2,925,833</u>

The Series 1999-A Bonds, Series 1999-B Bonds, and Series 2006-A Bonds, described in (a), (b), and (c), respectively, are secured by a mortgage lien on the property, plant, and equipment of the Medical Center, as well as a security interest in assets whose use is limited.

Future annual principal payments on long-term debt are summarized as follows:

2013	\$ 1,505,000
2014	1,580,000
2015	1,665,000
2016	1,755,000
2017	1,840,000
Thereafter	<u>25,007,676</u>
Total	<u>\$ 33,352,676</u>

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 9. NOTES PAYABLE

In December 2010, the Medical Center obtained financing of \$4,600,000 in the form of a commercial promissory note. The proceeds were used to fund equipment purchases for the Medical Center's combined heat and power project. This note matures in June 2016. Interest is fixed at a rate of 5% per annum. The Medical Center is required to remit monthly payments of \$80,016, beginning in January 2011 and continuing on the same day each month thereafter, through June 2016. This note is collateralized by a purchase money security interest in the equipment purchased with the proceeds.

In April 2011, the Medical Center obtained additional financing of \$750,000 in the form of a commercial promissory note to fund additional costs for the Medical Center's combined heat and power project. This note also matures in June 2016 with interest fixed at a rate of 5% per annum. The Medical Center is required to remit monthly payments of \$13,778, beginning in May 2011 and continuing through June 2016. On the same date this note was signed, the Medical Center entered into a consolidation and modification agreement with the lender to consolidate the indebtedness under both notes payable. Under the consolidation and modification agreement, no terms of the original notes were modified.

Future annual principal payments on notes payable are summarized as follows:

2013	\$ 965,014
2014	1,015,122
2015	1,067,833
2016	<u>554,532</u>
Total	<u>\$ 3,602,501</u>

NOTE 10. CAPITAL AND OPERATING LEASES

The Medical Center leases a building which houses the Medical Center's Women and Children's Health Center and finance department, under a capital lease which expires in 2022. Interest is calculated on the capital lease at an annual rate of 10.72%. During 2008 the Medical Center entered into a capital lease for certain equipment which expired in 2012. Interest is calculated on the capital lease at an annual rate of 4.55%.

Additionally, during 2011 the Medical Center entered into an leasing arrangement with a vendor for the use of certain equipment. The lease was determined to be a capital type lease, pursuant to generally accepted accounting principles. The lease expires in 2016. Interest costs have been imputed on the lease at an annual rate of 5.00%.

The Medical Center leases various buildings and equipment from vendors with renewable lease options.

Future minimum lease payments under non-cancelable operating leases (with initial or remaining lease terms in excess of one year) and future minimum capital lease payments as of December 31, 2012 are:

	<u>Capital Leases</u>	<u>Operating Leases</u>
2013	\$ 459,201	\$ 1,094,904
2014	366,211	960,433
2015	377,017	871,476
2016	368,247	871,476
2017	155,000	588,013
Thereafter	<u>756,105</u>	<u>303,067</u>
Total minimum lease payments	2,481,781	4,689,909
Less imputed interest	<u>676,548</u>	
Present value of net minimum lease payments	1,805,233	
Less current portion	<u>354,369</u>	
	<u>\$ 1,450,864</u>	

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 10. CAPITAL AND OPERATING LEASES (CONTINUED)

Total rental expense for the year ended December 31, 2012 for all operating leases was \$1,262,248 (\$1,263,073 – 2011).

NOTE 11. TEMPORARILY AND PERMANENTLY RESTRICTED NET ASSETS

Interpretation of Relevant Law

The Board of Directors has interpreted New York State Prudent Management of Institutional Funds Act (NYPMIFA) as requiring the preservation of the historical dollar value of the corpus of the permanent restricted endowment funds absent explicit donor stipulations to the contrary. As a result of this interpretation, the Medical Center classifies as permanently restricted net assets (a) the original value of gifts donated to the permanent endowment and (b) the original value of subsequent gifts to the permanent endowment. Net appreciation of the invested assets is classified as temporarily restricted net assets until those amounts are appropriated for expenditure by the Medical Center in a manner consistent with the standard of prudence prescribed by NYPMIFA.

Temporarily restricted net assets, consisting of cash and cash equivalents and short-term investments at December 31, 2012 and 2011 are available for the following purposes:

	<u>2012</u>	<u>2011</u>
Emergency department project	\$ 54,241	\$ 205,205
HEAL Phase 21	6,685,000	-
Scholarships and endowments	187,167	192,161
Other	<u>419,190</u>	<u>106,956</u>
	<u>\$ 7,345,598</u>	<u>\$ 504,322</u>

Permanently restricted, consisting of cash and cash equivalents and short-term investments at December 31, 2012 and 2011 are available for the following purposes:

	<u>2012</u>	<u>2011</u>
Scholarships	\$ 377,156	\$ 377,814
Foundation funds restricted by donors	<u>536,168</u>	<u>225,676</u>
	<u>\$ 913,324</u>	<u>\$ 603,490</u>

NOTE 12. ENDOWMENTS

The Medical Center, including Foundation, has adopted investment and spending policies that attempt to provide a predictable stream of funding to programs supported by its endowment while seeking to maintain the purchasing power of these endowment assets over the long-term. To satisfy, its long-term rate-of-return objectives, the Medical Center relies on a total return strategy in which investment returns are achieved through both capital appreciation (realized and unrealized) and current yield (interest and dividends). The Medical Center targets a diversified asset allocation to achieve its long-term return objectives with prudent risk parameters.

Permanently restricted endowment assets are \$536,168 at December 31, 2012 (\$225,676 – 2011).

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 13. RELATED ORGANIZATIONS

Motherhouse of the Sisters of the Third Franciscan Order: Loans payable to the Motherhouse of the Sisters of the Third Franciscan Order have been interest free since January 1, 1994. In 2002, the Medical Center entered into an agreement with the Motherhouse of the Sisters of the Third Franciscan Order which established repayment terms for the loan payable. Under the terms of the agreement, beginning in January 2003, the Medical Center is required to make monthly principal payments of \$6,536 through 2007, \$10,894 from 2008 through 2017, and \$15,251 from 2018 through 2022. The agreement provides for interest at 5% of the remaining outstanding balance only in the event that timely principal payments are not made and the Medical Center does not cure the untimely principal payment within 30 days. The balance of the loan payable, including the current portion, is \$1,568,712 at December 31, 2012 (\$1,699,438 – 2011).

Healthcare Underwriters Mutual Risk Management Group: The Medical Center is one of four members of the Healthcare Underwriters Mutual Risk Management Group (the Group). The Group is an unincorporated association of healthcare providers in the upstate region of New York State and was organized under a trust agreement for the purpose of establishing a workers' compensation self-insurance group. The Group is governed by a board of trustees consisting of one trustee for each member. Members of the Trust are jointly and severally liable for Group activities and liabilities.

The Medical Center makes annual payments to the Group for workers' compensation risk coverage based on its relative claims experience in relation to the total Group. Payments amounted to approximately \$640,000 under this arrangement in 2012 (\$2,201,000 – 2011).

NOTE 14. JOINT VENTURES

During 1997, the Medical Center and St. Luke's Memorial Hospital Center (now known as Faxton St. Luke's Healthcare) entered into an agreement for the purpose of establishing and maintaining a joint cardiac services program. As a part of the joint venture, the two hospitals formed the Mohawk Valley Heart Institute, Inc. (MVHI), a not-for-profit corporation, primarily as a vehicle to control and monitor the quality of the joint program at the two hospitals. The services relating to the joint venture include cardiac surgery, coronary angioplasty, diagnostic cardiac catheterizations, and outpatient cardiac rehabilitation services.

The activities relating to the joint operation occur in each of the hospitals' facilities based on patient need. The Medical Center shares in 70% of the profits and losses of the joint operation, irrespective of where the services are performed. All financial activities of the joint venture flow through the hospitals' operations. The amount recognized as loss based on the Medical Center's share is approximately \$1,324,000 for the year ended December 31, 2012. The Medical Center's share of income was approximately \$374,000 for the year ended December 31, 2011.

On October 15, 2010, the Medical Center, Faxton St. Luke's Healthcare, and Mohawk Valley EC Holdings, LLC entered into an agreement for the purpose of owning and operating a single-specialty ambulatory surgery center, exclusively providing gastroenterology services in Oneida County. As part of the agreement, the three members formed the Mohawk Valley EC, LLC (MVEC), a New York limited liability company. The Medical Center will maintain a 20% interest and sharing ratio in MVEC. The Medical Center made no capital contributions in 2012 (\$264,000 – 2011). The amount recognized as profit based on the Medical Center's share is \$100,000 for the year ended December 31, 2012 (\$0 – 2011).

NOTE 15. PENSION PLAN

The Medical Center has a noncontributory defined benefit plan which covers substantially all employees. Benefits are based on compensation and years of service. The Medical Center uses the accrued benefit (unit credit) actuarial method to determine its funding requirements. In 2003, the Medical Center applied for and received a favorable determination that its defined benefit plan is that of a nonexempt church plan under Section 410(d) of the Internal Revenue Code. Prior to 2003, the Medical Center's policy was to fund at least an amount necessary to satisfy the minimum funding requirements under ERISA. Under status as a church plan, the Medical Center may continue to contribute the minimum amounts calculated as if the plan were subject to ERISA funding requirements, although not required. For financial reporting purposes, the Medical Center uses the "projected unit credit method" which attributes an equal portion of total projected benefits to each year of employee service.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 15. PENSION PLAN (CONTINUED)

The Medical Center applies the provisions of FASB ASC Subtopic 715-30, *Compensation – Retirement Benefits, Defined Benefit Plans – Pension* (ASC Subtopic 715-30) which requires an employer to recognize the funded status (i.e. difference between the fair value of plan assets and projected benefit obligations) of its defined benefit pension plan as an asset or liability in its balance sheet and to recognize changes in that funded status in the year in which the changes occur through changes in unrestricted net assets.

Additional actuarial gains and losses that arise in subsequent periods and are not recognized as net periodic pension cost in the same period will be recognized as a component of unrestricted net assets. These future actuarial gains and losses will be recognized as a component of net periodic pension cost on the same basis as the amounts recognized in unrestricted net assets at adoption of ASC Subtopic 715-30.

On November 10, 2010, the Medical Center's Board of Trustees amended the Plan to freeze participant and benefit accruals for non-bargaining unit members effective December 31, 2010. Effective January 1, 2012, the employees of one of the collective bargaining units that cover approximately 600 employees voted to ratify their contract. Part of this contract froze the participants covered by this agreement from accruing additional benefits under this plan. Effective April 1, 2013 the final collective bargaining unit has agreed to freeze benefits under this plan thereby rendering the plan completely frozen to accrual of future benefits as of this date. The assumptions utilized by the actuary were not modified in their calculation development of the expense for the year ended December 31, 2012 as the agreement was ratified subsequent to the end of the year. The modification to the actuarial valuation will be made in future years.

The following tables present the changes in the Medical Center's plan benefit obligation and the fair value of the plan assets, and the funded status of the plan for the years ended December 31, 2012 and 2011:

	<u>2012</u>	<u>2011</u>
Change in benefit obligation:		
Benefit obligation at beginning of year	\$ 99,726,450	\$ 79,070,424
Service cost (less expenses)	1,948,230	2,309,315
Interest cost	4,535,161	4,489,136
Actuarial loss	11,982,565	18,230,979
Benefits paid	(2,078,475)	(1,789,836)
Curtailments	-	(2,583,568)
Benefit obligation at end of year	<u>116,113,931</u>	<u>99,726,450</u>
Change in plan assets:		
Fair value of plan assets at beginning of year	43,347,062	42,204,750
Actual return on plan assets, net	4,155,903	(625,492)
Employer contributions	3,301,164	3,678,998
Benefits paid	(2,135,350)	(1,911,194)
Fair value of plan assets at end of year	<u>48,668,779</u>	<u>43,347,062</u>
Funded status	(67,445,152)	(56,379,388)
Unrecognized net actuarial loss	51,333,038	41,972,878
Unrecognized prior service cost	<u>268,372</u>	<u>325,986</u>
Accrued benefit cost	<u>\$ 15,843,742</u>	<u>\$ (14,080,524)</u>

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 15. PENSION PLAN (CONTINUED)

The components of periodic pension cost for the years ended December 31, 2012 and 2011:

	<u>2012</u>	<u>2011</u>
Service cost	\$ 2,069,230	\$ 2,498,315
Interest cost	4,535,161	4,489,136
Expected return on plan assets	(3,869,297)	(3,714,131)
Amortization of prior service cost	57,614	59,243
Amortization of net loss	2,271,674	1,139,405
Curtailement recognition	<u>-</u>	<u>3,861</u>
Net periodic pension cost	<u>\$ 5,064,382</u>	<u>\$ 4,475,829</u>

The weighted average assumptions used to determine benefit obligations at December 31, 2012 and 2011 are as follows:

	<u>2012</u>	<u>2011</u>
Discount rate	4.10%	4.60%
Rate of compensation increase	3.00%	3.00%

The weighted average assumptions used to determine net periodic benefit cost at December 31, 2012 and 2011 are as follows:

	<u>2012</u>	<u>2011</u>
Discount rate	4.60%	5.75%
Expected long-term return on plan assets	8.00%	8.00%
Rate of compensation increase	3.00%	3.00%

The Medical Center's defined benefit plan's investment objectives are to emphasize total return specifically through long-term growth of capital while avoiding excessive risk, and to achieve a balanced return of current income and modest growth of principal. In order to achieve these objectives, the Medical Center has established the following asset allocation guidelines:

<u>Asset Class</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Preferred</u>
Large cap equity securities	30%	50%	41%
Small cap equity securities	-	15	5
Mid cap equity securities	-	15	6
International equity securities	-	25	16
Fixed income	20	80	32
Cash and equivalents	-	5	-

The Medical Center's defined benefit plan weighted average asset allocations at December 31, 2012 and 2011 by asset category, are as follows:

<u>Asset Category</u>	<u>2012 Actual</u>	<u>2011 Actual</u>
Equity securities	45%	52%
Debt securities	20	35
International	22	12
Real Estate	1	1
Alternative Investments	<u>12</u>	<u>-</u>
	<u>100%</u>	<u>100%</u>

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 15. PENSION PLAN (CONTINUED)

The expected long-term rate of return on plan assets is reviewed annually, taking into consideration the asset allocation, historical returns on the types of assets held, and the current economic environment. Based on these factors, it is expected that the pension assets will earn an average of 8.00% per annum.

The following table present the Medical Center's defined benefit pension plans' assets at December 31, 2012 and 2011 that are measured at fair value on a recurring basis. The hierarchy and inputs to valuation techniques to measure fair value of the plan's assets are the same as outlined in note 5.

	2012		
	<u>Fair Value Level 1</u>	<u>Fair Value Level 2</u>	<u>Fair Value Total</u>
Cash and cash equivalents	\$ 1,528,874	\$ -	\$ 1,528,874
Government Agency Bonds	-	3,465,837	3,465,837
Corporate bonds:			
Domestic	-	8,035,315	8,035,315
International	-	5,537,071	5,537,071
Marketable equity securities:			
Domestic	-	-	-
International	5,355,226	-	5,355,226
Mutual funds:			
Equity	15,834,887	-	15,834,887
Fixed Income	-	8,911,569	8,911,569
	<u>\$ 22,718,987</u>	<u>\$ 25,949,792</u>	<u>\$ 48,668,779</u>
	2011		
	<u>Fair Value Level 1</u>	<u>Fair Value Level 2</u>	<u>Fair Value Total</u>
Cash and cash equivalents	\$ 1,685,523	\$ -	\$ 1,685,523
U.S. Treasury obligations	2,515,524	-	2,515,524
Government Agency Bonds	-	1,362,814	1,362,814
Corporate bonds:			
Domestic	-	4,330,166	4,330,166
International	-	180,459	180,459
Marketable equity securities:			
Domestic	20,268,515	-	20,268,515
International	4,980,061	-	4,980,061
Mutual funds:			
Equity	2,509,904	-	2,509,904
Fixed income	-	5,127,842	5,127,842
Real estate investment trusts	-	386,254	386,254
	<u>\$ 31,959,527</u>	<u>\$ 11,387,535</u>	<u>\$ 43,347,062</u>

There are no plan assets included in Level 3 or any significant transfers into or out of Level 1 or Level 2 at and for the years ended December 31, 2012 and 2011.

The Medical Center expects to contribute \$3,000,000 to its defined benefit plan in 2013 (\$2,951,000 – 2012).

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 15. PENSION PLAN (CONTINUED)

The following approximate benefit payments, which reflect expected future service, as appropriate, are expected to be paid:

	<u>Benefit Payments</u>
2013	\$ 2,649,000
2014	\$ 2,967,000
2015	\$ 3,428,000
2016	\$ 3,811,000
2017	\$ 4,104,000
2018 – 2022	\$ 25,750,000

The Medical Center also offers a 401(k) defined contribution retirement plan to substantially all of its non union employees. Members of UFCW were included in this plan with matching contributions outlined below for 2011. Members of the New York State Nurses Association were precluded from participation in this plan during the year ended December 31, 2012. Effective March 3, 2013 they will be admitted to the plan in conjunction with the freezing of the Pension Plan as discussed above. Each year participants may contribute up to 75% of eligible pre-tax compensation, as defined in the Plan, subject to maximum annual additions allowed by law. Employees that are not covered by a collective bargaining unit are eligible to receive a safe harbor contribution equal to 3% of compensation. Further for 2011 and 2012 non-union employees are eligible for a discretionary match on their contributions based on years of service as detailed below:

<u>Years of Service</u>	<u>% of Employer contribution (up to 4%)</u>
1 – 9	50% (or 2% in most cases)
10 – 19	75% (or 3% in most cases)
20+	100% (or 4% in most cases)

Contributions for non-union employees into this plan approximated \$1,850,287 for the year ended December 31, 2012 and \$1,874,678 for year ended December 31, 2011

In 2011, employees that are covered by the United Food and Commercial Workers (UFCW) collective bargaining unit are eligible for employer contributions as detailed below:

<u>Years of Service</u>	
Less than 1	\$ -
1-10	\$ 350
11+	\$ 475

Contributions into this plan for UFCW members approximated \$96,582 for the year ended December 31, 2011.

Effective January 1, 2012, the Medical Center contributed to a defined contribution plan on behalf of the workers covered by the UFCW collective bargaining unit. The base and matching contribution formula is identical to the formula utilized for non-union employees for 2011 and 2012 as described above. This plan is administered by representatives selected by UFCW. Contributions to this plan approximated \$693,332 for the year ended December 31, 2012 (\$0 – 2011)

Finally the Medical Center offers a 457(b) plan covering certain highly compensated employees. Participants may contribute amounts up to statutory limits on an annual basis. Under the plan the Medical Center contributes between 2% and 4% depending on the employees years of service. The Medical Center's contributions to the plan approximated \$3,488 for the year ended December 31, 2012 (\$0 – 2011). An asset and liability representing the total amount invested in the 457(b) plan totaling approximately \$119,000 has been recorded as an other long-term asset and other long-term liability.

ST. ELIZABETH MEDICAL CENTER

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 16. MEDICAL MALPRACTICE INSURANCE

Since June 17, 1986, the Medical Center's insurance for medical malpractice risk is covered under a claims-made policy. If the claims-made policy is not renewed or replaced with equivalent insurance, claims based on occurrences since June 17, 1986 but reported subsequent to such a change will be uninsured. The Medical Center changed to a new insurance provider in 1998. The new coverage also is claims-made and has similar terms as compared to the previous policy. Claims from June 17, 1986 to the effective date of the current policy are covered. The Medical Center has a right under its present policy to acquire extended coverage if it decides to terminate its claims-made coverage and does not expect any difficulty in renewing the policies in 2013.

In the ordinary course of operations, the Medical Center is named as a defendant in various lawsuits, or events occur which could lead to litigation, claims, or assessments. Although the outcome of such matters cannot be predicted with certainty, management believes that insurance coverage is sufficient to cover current or potential claims, or that the final outcomes of such matters will not have a material adverse effect on the consolidated financial position of the Medical Center.

NOTE 17. FUNCTIONAL EXPENSES

The Medical Center's unrestricted expenses by function for the years ended December 31, 2012 and 2011 are as follows:

	<u>2012</u>	<u>2011</u>
Healthcare services	\$ 186,284,957	\$ 184,137,185
General and administrative	<u>21,367,431</u>	<u>20,846,879</u>
	<u>\$ 207,652,388</u>	<u>\$ 204,984,064</u>

NOTE 18. POTENTIAL AFFILIATION

During 2012 the Medical Center applied for and was awarded a grant (HEAL – NY – Phase 21) totaling \$7,135,000. The terms of the grant require the Medical Center to seek an affiliation with another local hospital. In December, 2012 a Memorandum of Understanding (MOU) was executed between the Medical Center and the local hospital, therefore satisfying the requirements of this grant. In accordance with the grant agreement \$6,685,000 was to be used to pay down long-term debt of the Medical Center with the remaining \$450,000 to be utilized to offset expenses associated with seeking the affiliation. The Medical Center recorded approximately \$7,000,000 as a receivable for the year ended December 31, 2012, associated with this grant. The grant was paid in full in January 2013.

Site Control

The applicant is not seeking to license any site in connection with this application. Site control for all previously licensed sites was demonstrated in connection with the certificate of need applications submitted therefor and the licensed entities remain in control of all such licensed sites.

ANTI-KICKBACK AND SELF-REFERRAL ASSESSMENT


THIS ANTI-KICKBACK AND SELF-REFERRAL ASSESSMENT, to be appended as “Attachment #9” of Schedule 3B.I.(F) of the New York State Department of Health Certificate of Need Application submitted by Mohawk Valley Network (MVN”), confirms:

1. Five (5) of the proposed post-transaction directors of MVN, as reconstituted to be Mohawk Valley Health System (“MVHS”), are physicians who are in a position to make referrals to the post-transaction affiliates of MVHS, including St. Elizabeth Medical Center, Faxton St. Luke's Healthcare, Visiting Nurse Association of Utica and Oneida County, Inc., Mohawk Valley Home Care, LLC, and St. Luke’s Home Residential Health Care Facility, Inc. (Together, the “MVHS Affiliates.”).
2. These five physicians are:

Domenic Aiello, M.D.
Maria Gesualdo, D.O.
John Sperling, M.D.
Mark Warfel, M.D.
Eric Yoss, M.D.
3. All compensation flowing or proposed to flow from MVHS or any MVHS Affiliate to any of the five physicians listed in the above paragraph:
 - a. Has been determined to the satisfaction of MVN to be at fair market value; and
 - b. Has been determined by legal counsel to be structured in compliance with federal and state anti-kickback and self-referral laws.

Dated: October 2, 2013

MOHAWK VALLEY NETWORK

By: 
Scott H. Perra, FACHE
President and Chief Executive Officer

List of Certificate of Need Attachments

Attachment Number	Description	Referenced in these CON Schedule(s)
Definitive Agreement		
1	Definitive Agreement	All Schedule 4As Schedule 21_MVHC Schedule 21_VNA
1C	Project Narrative	Schedule 16_MVHS
1D	MVHS Business Plan of Efficiencies (BPOE)	Schedule 13_FSL
1E	Letter of support – Dr. Shah	Schedule 16_MVHS
1F	Letter of support – CNY HealtheConnections	Schedule 16_MVHS
1G	Letter of support – Fidelis	Schedule 16_MVHS
1H	Letter of support – Mohawk Valley Chamber of Commerce	Schedule 16_MVHS
Organizational Charts		
2A	Current MVN Org Chart	Schedule 3_FSL Schedule 3_MVHC Schedule 3_SLH Schedule 21_MVHC Schedule 21_VNA
2B	Post-Transaction Org Chart	Schedule 3_MVHS Schedule 21_MVHC Schedule 21_VNA
2C	Current SEMC Org Chart	Schedule 3_SEMC
Current Board Rosters		
3A	Current MVN Board	Schedule 3_FSL Schedule 3_SLH Schedule 3_VNA
3C	Current SEMC Board	Schedule 3_SEMC
3D	Current PFM Board	Schedule 14_SEMC
Proposed Board Rosters		
3A.1	Proposed MVHS Board	Schedule 3_MVHS Schedule 3_SLH Schedule 3_VNA Schedule 3_MVHC Schedule 14_MVHS Schedule 14_SLH

Attachment Number	Description	Referenced in these CON Schedule(s)
		Schedule 15_SLH Schedule 21_MVHC Schedule 21_VNA
3B.1	Proposed FSL Board	Schedule 3_FSL Schedule 14_FSL Schedule 15_FSL
3C.1	Proposed SEMC Board	Schedule 3_SEMC Schedule 14_SEMC Schedule 15_SEMC
Current Incorporation Documents		
4A	MVN Certificate of Incorporation	Schedule 3_VNA
4B	FSL Certificate of Incorporation	Schedule 3_FSL Schedule 15_FSL
4C	SEMC Certificate of Incorporation	Schedule 3_SEMC Schedule 15_SEMC
4D	SLH Certificate of Incorporation	Schedule 3_SLH Schedule 15_SLH
4E	MVHC Certificate of Incorporation (includes Operating Agreement)	Schedule 3_MVHC
(See 4A)	VNA Certificate of Incorporation (under MVN COI)	
4M	PFM Certificate of Incorporation	Schedule 14_SEMC
Proposed Incorporation Documents		
4A.1	MVHS Certificate of Incorporation	Schedule 3_MVHS Schedule 4_MVN Schedule 14_MVHS Schedule 15_SEMC Schedule 15_SLH Schedule 15_FSL Schedule 21_MVHC Schedule 21_VNA
4B.1	Restated FSL Certificate of Incorporation	Schedule 3_FSL Schedule 14_FSL
4C.1	Restated SEMC Certificate of Incorporation	Schedule 3_SEMC Schedule 14_SEMC
4D.1	Restated SLH Certificate of Incorporation	Schedule 3_SLH Schedule 14_SLH
4E.1	Restated MVHC Certificate of Change	Schedule 3_MVHC

Attachment Number	Description	Referenced in these CON Schedule(s)
4F.1	Restated VNA Certificate of Incorporation	Schedule 3_VNA
Current Bylaws & Operating Agreements		
5A	Current MVN Bylaws	Schedule 3_VNA
5B	Current FSL Bylaws	Schedule 3_FSL Schedule 15_FSL
5C	Current SEMC Bylaws	Schedule 3_SEMC Schedule 15_SEMC
5D	Current SLH Bylaws	Schedule 3_SLH Schedule 15_SLH
(See 4E)	Current MVHC Operating Agreement	Schedule 3_MVHC
(See 5A)	Current VNA Bylaws (under MVN)	
5G	Current PFM Bylaws	Schedule 14_SEMC
Restated Bylaws & Operating Agreements		
5A.1	MVHS Bylaws	Schedule 3_MVHS Schedule 14_MVHS Schedule 15_SEMC Schedule 15_SLH Schedule 15_FSL Schedule 21_MVHC Schedule 21_VNA
5B.1	Restated FSL Bylaws	Schedule 3_FSL Schedule 14_FSL Schedule 15_FSL
5C.1	Restated SEMC Bylaws	Schedule 3_SEMC Schedule 14_SEMC Schedule 15_SEMC
5D.1	Restated SLH Bylaws	Schedule 3_SLH Schedule 14_SLH Schedule 15_SLH
5E.1	Restated MVHC Articles of Organization	Schedule 3_MVHC
5F.1	Restated VNA Bylaws	Schedule 3_VNA
(see 5A.1)	Restated MVN Affiliate Bylaws (same as MVHS bylaws)	
Financials		
7A	MVHS Pro Forma Balance Sheet	Schedule 5_MVHS
7B	MVHS Cash Flow Analysis	Schedule 5_MVHS

Attachment Number	Description	Referenced in these CON Schedule(s)
7C_FSL 7C_SEMC	Description of Supporting Calculations for Depreciation and Rent	Schedule 13_FSL
7D_FSL 7D_SEMC	Description of Interest Costs	Schedule 13_FSL
7E	MVHS Income Statement	Schedule 13_FSL
7H	FSL Audited Financials 2010	Schedule 5_MVHS
7I	FSL Audited Financials 2011	Schedule 5_MVHS
7J	FSL Audited Financials 2012	Schedule 5_MVHS
7K	SEMC Audited Financials 2010	Schedule 5_MVHS
7L	SEMC Audited Financials 2011	Schedule 5_MVHS
7M	SEMC Audited Financials 2012	Schedule 5_MVHS
Documentation of Site Control		
8A	Documentation of site control for MVHS	All Schedule 3Bs
Anti-kickback Statement		
9	Signed statement of anti-kickback compliance for MDs on the MVN board (includes FSL, SLH, VNA, and MVHC) and the SEMC board	All Schedule 3Bs

FAXTON-ST. LUKE'S HEALTHCARE AND SUBSIDIARIES

Consolidated Balance Sheets
AUDIT FORMAT

As of August 31, 2013

<u>Assets</u>	<u>8/31/2013</u>	<u>12/31/2012</u>
Current assets:		
Cash and cash equivalents	\$ 5,585,519	2,910,193
Investments	62,971,282	59,774,878
Patient accounts receivable, net of reserve for doubtful accounts of \$7,982,207 in 2011 and \$7,784,057 in 2010	37,314,258	43,268,140
Inventories	5,784,439	5,680,657
Prepaid expenses and other current assets	15,964,823	18,012,308
Due from affiliates, net	1,220,459	2,304,477
Net investment in direct financing lease	547,116	547,116
Estimated third-party payor settlements, net	<u>8,586,948</u>	<u>8,816,309</u>
Total current assets	137,974,845	141,314,077
Interest in Faxton-St. Luke's Healthcare Foundation	6,630,234	6,567,673
Investment in affiliates	180,236	137,248
Due from affiliates, net	393,188	423,965
Investments	4,528,164	4,528,164
Net investment in direct financing lease	2,819,147	3,013,803
Property and equipment, net	96,701,131	93,838,605
Unamortized debt issuance costs	455,656	472,689
Other assets	<u>26,759,930</u>	<u>26,416,496</u>
Total assets	\$ <u><u>276,442,530</u></u>	<u><u>276,712,720</u></u>

<u>Liabilities and Net Assets</u>	<u>8/31/2013</u>	<u>12/31/2012</u>
Current liabilities:		
Revolving note payable	\$ 10,497,000	12,678,000
Current portion of long-term debt	4,490,694	3,597,989
Current portion of capital lease obligations	4,227,243	4,035,695
Accounts payable	11,551,629	14,160,692
Accrued payroll, payroll taxes and benefits	12,592,688	12,675,358
Current portion of estimated self-insured liabilities	1,592,688	1,732,116
Other current liabilities	10,836,824	10,916,858
Estimated third-party payor settlements, net	-	-
Total current liabilities	<u>55,788,766</u>	<u>59,796,709</u>
Long-term debt, net of current portion:		
Notes payable	10,090,383	8,824,055
Civic facility revenue bonds	16,300,000	16,845,000
Capital lease obligations	10,333,384	7,779,367
Total long-term debt, net of current portion	<u>36,723,767</u>	<u>33,448,422</u>
Other Liabilities	35,857,146	35,792,783
Unrealized loss on interest rate swaps	6,144,832	6,144,832
Estimated self-insured liabilities, net of current portion	2,250,239	2,670,011
Total liabilities	<u>136,764,751</u>	<u>137,852,757</u>
Net assets:		
Unrestricted	132,108,021	131,290,205
Temporarily restricted	3,041,593	3,041,593
Permanently restricted	4,528,164	4,528,164
Commitments and contingencies (notes 6, 8 and 11)		
Total liabilities and net assets	<u>\$ 276,442,530</u>	<u>276,712,720</u>

FAXTON-ST. LUKE'S HEALTHCARE AND SUBSIDIARIES

Consolidated Statements of Operations and Changes in Net Assets
AUDIT FORMAT

As of August 31, 2013

	<u>8/31/2013</u>	<u>8/31/2012</u>
Unrestricted revenues, gains and other support:		
Net patient service revenue	\$ 182,898,775	191,337,124
Provision for bad debts	<u>(6,238,225)</u>	<u>(6,119,052)</u>
Net patient service revenue less provision for bad debts	176,660,550	185,218,072
Other revenue	5,039,932	5,224,764
Investment income, net of fees	1,068,220	1,412,516
Other Contributions	498,383	152,484
Net assets released from restrictions used for operations	<u>-</u>	<u>-</u>
Total unrestricted revenues, gains and other support	<u>183,267,084</u>	<u>192,007,836</u>
Expenses:		
Salaries and wages	83,339,856	81,578,185
Employee benefits	22,160,654	22,001,767
Supplies and other	66,916,830	70,772,655
Depreciation and amortization	11,515,756	11,009,371
Interest	1,603,594	1,810,072
Loss on Debt Extinguishment	-	32,000
NYS gross receipts taxes	<u>762,265</u>	<u>778,743</u>
Total expenses	<u>186,298,955</u>	<u>187,982,793</u>
Net Income from continuing operations	<u>(3,031,870)</u>	<u>4,025,043</u>
Gain (loss) on sale of discontinued component	<u>2</u>	<u>-</u>
Gain on discontinued operations	<u>2</u>	<u>-</u>
Excess of revenues over expenses	<u>\$ (3,031,868)</u>	<u>4,025,043</u>

FAXTON-ST. LUKE'S HEALTHCARE AND SUBSIDIARIES

Consolidated Statements of Operations and Changes in Net Assets, Continued
AUDIT FORMAT

As of August 31, 2013

	<u>8/31/2013</u>	<u>8/31/2012</u>
Unrestricted net assets:		
Excess of revenues over expenses	\$ (3,031,868)	4,025,043
Change in fair value of interest rate swaps	-	-
Change in interest in unrestricted net assets of Foundation	62,561	506,802
Change in net unrealized gains and losses on investments	3,074,499	3,310,566
Contributions used for capital acquisitions	712,624	118,081
Contributions from HEAL grant	-	-
Cummulative effect of change in accounting principle	-	-
Other	-	-
	<hr/>	<hr/>
Increase (decrease) in unrestricted net assets	<u>817,816</u>	<u>7,960,492</u>
Temporarily restricted net assets:		
Income on investments		
Change in interest in temporarily restricted net assets of Foundation		
Net assets released from restrictions		
	<hr/>	<hr/>
Increase in temporarily restricted net assets	<u>-</u>	<u>-</u>
Total increase (decrease) in net assets	817,816	7,960,492
Net assets at beginning of year	<u>138,860,060</u>	<u>121,919,838</u>
Net assets at end of year	<u>\$ 139,677,875</u>	<u>129,880,330</u>

CLAIM_NO # CO-DEFENDANTS REPORT_DATE ALLEGATION

CLAIM_NO	# CO-DEFENDANTS	REPORT_DATE	ALLEGATION
[REDACTED]	[REDACTED]	2013	[REDACTED]
[REDACTED]	0	2011	[REDACTED]
[REDACTED]	0	2011	[REDACTED]
[REDACTED]	[REDACTED]	2010	[REDACTED]
[REDACTED]	[REDACTED]	2012	[REDACTED]
[REDACTED]	[REDACTED]	2013	[REDACTED]
[REDACTED]	[REDACTED]	2011	[REDACTED]
[REDACTED]	[REDACTED]	2011	[REDACTED]
[REDACTED]	[REDACTED]	2012	[REDACTED]
[REDACTED]	7	2010	[REDACTED]
[REDACTED]	[REDACTED]	2012	[REDACTED]
[REDACTED]	[REDACTED]	2013	[REDACTED]
[REDACTED]	[REDACTED]	2010	[REDACTED]
[REDACTED]	[REDACTED]	2010	[REDACTED]
[REDACTED]	[REDACTED]	2010	[REDACTED]
[REDACTED]	[REDACTED]	2011	[REDACTED]
[REDACTED]	9	2011	[REDACTED]
[REDACTED]	12	2013	[REDACTED]
[REDACTED]	[REDACTED]	2009	[REDACTED]
[REDACTED]	[REDACTED]	2013	[REDACTED]
[REDACTED]	[REDACTED]	2010	[REDACTED]
[REDACTED]	[REDACTED]	2012	[REDACTED]
[REDACTED]	[REDACTED]	2011	[REDACTED]
[REDACTED]	[REDACTED]	2013	[REDACTED]
[REDACTED]	[REDACTED]	2011	[REDACTED]
[REDACTED]	[REDACTED]	2011	[REDACTED]
[REDACTED]	11	2010	[REDACTED]
[REDACTED]	[REDACTED]	2011	[REDACTED]
[REDACTED]	[REDACTED]	2012	[REDACTED]
[REDACTED]	[REDACTED]	2011	[REDACTED]
[REDACTED]	[REDACTED]	2010	[REDACTED]
[REDACTED]	7	2010	[REDACTED]
[REDACTED]	11	2009	[REDACTED]
[REDACTED]	[REDACTED]	2008	[REDACTED]

MOHAWK VALLEY HOME CARE

AUGUST 2013

FINANCIAL REPORT

**MOHAWK VALLEY HOME CARE
FINANCIAL STATEMENTS COMMENTS
AUGUST 2013**

Overview

Mohawk Valley Home Care's actual operating profit for the month of August is \$2,380 compared to a projected operating loss of (\$395). Year to date their income from operations is \$22,550 versus a projected profit of \$8,780. The bottom line year to date is \$32,300 after including HEAL grant contributions of \$9,741 from SLH.

Balance Sheet

Cash decreased by \$28,000; AR decreased by \$15,000; Due to Affiliates increased by \$4,800.

Income Statement

Revenue is over budget as nursing visits were 121 visits over budget for the month.

Purchased Services are over budget by \$4,700 due to affiliate billings for shared salaries within the Home Care Services companies.

MOHAWK VALLEY HOME CARE
 KEY FINANCIAL INDICATORS
 2013

	January	February	March	April	May	June	July	August	Target
CURRENT MONTH									
Income from Operations	29.04%	1.49%	9.72%	7.16%	5.97%	2.10%	-7.07%	5.03%	-1.03%
Net Revenue per FTE	6,246	5,020	5,238	5,804	6,021	5,489	6,117	5,943	4,781
Salary cost per FTE	4,732	5,155	4,805	5,180	5,003	5,231	4,999	5,003	4,759
Salary & Benefits per FTE (annualized)	55,716	67,198	56,579	63,024	58,905	63,642	58,859	58,905	56,029
Salaries as a Percentage of Revenue	51.93%	75.00%	68.48%	68.55%	63.41%	72.35%	60.69%	64.78%	72.91%
Average Hourly Rate	19.96	23.17	22.07	24.49	23.50	24.44	22.85	23.69	21.45
FTE	6.8	7.6	8.0	7.3	7.2	7.7	7.8	8.0	8.0
Nursing Visits	562	509	539	585	619	554	637	631	510

MOHAWK VALLEY HOME CARE
 KEY FINANCIAL INDICATORS
 2013

	January	February	March	April	May	June	July	August	Target Goal
YEAR TO DATE									
Income from Operations	29.04%	16.03%	13.87%	12.15%	10.84%	9.39%	6.77%	6.53%	2.93%
Salary cost per FTE	4,732	9,916	14,704	20,009	25,011	30,245	35,289	40,310	37,160
Salary & Benefits per FTE (annualized)	55,716	61,347	59,634	60,859	60,458	60,990	60,757	60,548	55,816
Salaries as a Percentage of Revenue	51.93%	62.82%	64.76%	65.74%	65.27%	66.44%	65.53%	65.43%	72.21%
Average Hourly Rate	19.96	21.67	21.80	22.61	22.78	23.06	23.06	23.16	20.82
FTE	6.8	7.2	7.5	7.4	7.3	7.4	7.4	7.5	8.0
Nursing Visits	562	1,071	1,610	2,195	2,814	3,368	4,005	4,636	3,998

Mohawk Valley Home Care
Balance Sheet

	August 2013	July 2012	December 2011
ASSETS			
CURRENT ASSETS:			
Cash and Cash equivalents	\$44,434	\$16,493	\$(1,131)
Investments	0	0	0
Patients Account Rec. Net	33,525	48,450	0
Other Receivables	2,596	2,596	2,596
Inventory	13,328	12,953	13,554
Prepaid & Other Asset	6,506	6,503	3,734
Net Inv. in Phys Office Bldg	0	0	0
Due from Third Party	0	0	0
Due from Affiliates	(11,877)	(7,054)	18,503
Total Current Assets	\$88,512	\$79,941	\$37,256
Investment in VHA	\$0	\$0	\$0
Investment in Foundation	0	0	0
Investment in Paraffin	0	0	0
Investment in SLM Office Bldg	0	0	0
Investment in MVEC	0	0	0
Net Inv in Phy Office Building	0	0	0
Assets limited as to use	0	0	0
Investments	0	0	0
Property and Equipment, net	8,869	8,949	0
Unamortized Debt Issuance	0	0	0
Other Assets	15,852	15,852	15,852
Total Assets	\$113,233	\$104,742	\$53,108

Mohawk Valley Home Care
Balance Sheet

	August 2013	July 2012	December 2011
LIABILITIES AND NET ASSETS			
Current Liabilities:			
Short Term Borrowings	\$0	\$0	\$0
Current long-term debt	0	0	0
Capital lease obligations-curr	0	0	0
Self-insured Liabilities-current	31,247	28,998	15,354
Accrued Interest Payable	0	0	0
Accounts Payable	1,127	1,127	1,284
Accrued Payroll, Taxes	32,266	28,403	20,168
Other Current Liabilities	2,596	2,596	2,596
	<hr/>	<hr/>	<hr/>
Total Current Liabilities	\$67,236	\$61,124	\$39,402
Long Term Debt, Net of Current Portion			
Notes Payable	\$0	\$0	\$0
Civic Facility Revenue Bonds	0	0	0
Capital Lease Obligations	0	0	0
Other Liability	15,852	15,852	15,852
Estimated self-insured Liabilities, net	\$0	\$0	\$0
	<hr/>	<hr/>	<hr/>
Total Liabilities	\$83,088	\$76,976	\$55,254
Net Assets			
Unrestricted	\$30,145	\$27,766	\$(2,146)
Temporarily Restricted	0	0	0
Permanently Restricted	0	0	0
	<hr/>	<hr/>	<hr/>
Total Net Assets	\$30,145	\$27,766	\$(2,146)
Total Liability and Net Assets	<hr/> <u>\$113,233</u> <hr/>	<hr/> <u>\$104,742</u> <hr/>	<hr/> <u>\$53,108</u> <hr/>

Mohawk Valley Home Care
Month Ended: August 31, 2013
Income Statement

	August Actual		August Budget		August 2012
Unrestricted revenues, gain and other support:					
Net Patient Revenue	\$47,250	23.77 %	\$38,250	0.20 %	\$38,175
Other Revenue	0	0.00	0	0.00	0
Total unrestricted revenues gains and other support	<u>\$47,250</u>	<u>23.77 %</u>	<u>\$38,250</u>	<u>0.20 %</u>	<u>\$38,175</u>
Expenses:					
Salaries and Wages	\$30,610		\$27,888		\$26,320
Physicians Salaries	0		0		0
Purchase Service Employees	0		0		0
Employee Benefits	9,163		10,181		9,181
Medical Supplies	0		0		0
Non-Medical Supplies	159		116		0
Purchased Services	457		(4,281)		(3,448)
Utilities	0		0		0
Drugs	0		0		0
Other Expenses	4,402		4,741		3,744
Depreciation/Amortization	80		0		0
Taxes	0		0		0
Interest Expense	0		0		0
Bad Debt Expense	0		0		178
Total Expenses	<u>\$44,871</u>		<u>\$38,645</u>		<u>\$35,975</u>
Income from Operations	<u>\$2,379</u>		<u>\$ (395)</u>		<u>\$2,200</u>
Non-Operating Revenue	\$0		\$0		\$0
Income (Loss) from Foundati	0		0		0
Investment Income	0		0		0
Gain/Loss on Sale/Disposal	0		0		0
Increase in Unrestricted Net Assets	<u>=====</u> \$2,379		<u>=====</u> \$ (395)		<u>=====</u> \$2,200

Mohawk Valley Home Care
 Period Ended August 31, 2013
 Income Statement

	August Actual		August Budget		August 2012
Unrestricted revenues, gain and other support:					
Net Patient Revenue	\$345,021	38.19 %	\$299,850	20.10 %	\$249,675
Other Revenue	83	97.68	0	(0.00)	42
Total unrestricted revenues gains and other support	\$345,104	38.20 %	\$299,850	20.08 %	\$249,717
Expenses:					
Salaries and Wages	\$225,786		\$216,520		\$167,575
Physicians Salaries	0		0		0
Purchase Service Employees	0		0		0
Employee Benefits	76,539		80,756		65,768
Medical Supplies	0		0		0
Non-Medical Supplies	795		938		133
Purchased Services	(16,863)		(38,280)		(22,836)
Utilities	0		0		0
Drugs	0		0		0
Other Expenses	36,016		31,136		22,530
Depreciation/Amortization	320		0		0
Taxes	0		0		0
Interest Expense	0		0		0
Bad Debt Expense	(40)		0		1,424
Total Expenses	\$322,553		\$291,070		\$234,594
Income from Operations	\$22,551		\$8,780		\$15,123
Non-Operating Revenue	\$9,741		\$0		\$0
Income (Loss) from Foundati	0		0		0
Investment Income	0		0		0
Gain/Loss on Sale/Disposal	0		0		0
Increase in Unrestricted Net Assets	\$32,292		\$8,780		\$15,123

Mohawk Valley Home Care
STATEMENT OF CASH FLOW
AS OF August 31, 2013

	MONTH	YTD
Operating Income	\$2,378	\$32,291
Depreciation and Amortization	80	320
Bad Debt	0	0
	<hr/>	<hr/>
Cash Provided by Operations	\$2,458	\$32,611
	<hr/>	<hr/>
CHANGES IN OPERATING ASSETS AND LIABILITIES		
Patient Account Receivable	\$14,925	\$ (33,525)
Other Accounts Receivable	0	0
Inventories and Prepaids	(378)	(2,546)
Other Current Assets	0	0
Trade Payables	0	(158)
Third Party Pay/(Rec) Net	0	0
Payroll Liabilities	3,864	12,098
Other Liabilities	2,249	15,893
	<hr/>	<hr/>
Net Cash Flows from Operations	\$20,660	\$ (8,238)
	<hr/>	<hr/>
CASH USED IN INVESTING ACTIVITIES		
Purchase of PPE	\$0	\$ (9,189)
Changes in Investments	0	0
Changes in Limited Use Asset	0	0
Earnings of Subsidiaries	0	0
Due from Affiliates	4,823	30,380
	<hr/>	<hr/>
Net Cash Used in Investing	\$ (4,823)	\$ (21,191)
CASH USED IN FINANCING		
Proceeds/Payments LOC	\$0	\$0
Repayment of Debt	0	0
Changes in Net Assets	0	0
	<hr/>	<hr/>
Net cash used in Financing	\$0	\$0
Increase/Decrease Cash	\$27,941	\$45,564
	=====	=====

**Mohawk Valley Health System
Strategic Planning Forecast
Statements of Revenue and Expenses
System Forecast**

	Projected 1st year			Projected 3rd year		
	2014 Inpatient	2014 Outpatient	2014 Total	2016 Inpatient	2016 Outpatient	2016 Total
Unrestricted Revenues						
Gross Patient Service Revenue Less Deductions Less Bad Debts	268,296,708 6,448,704	245,024,153 11,900,264	513,320,861 18,348,968	279,634,993 6,820,226	255,286,296 12,398,673	534,921,289 19,218,899
Net Patient Service Revenue	261,848,004	233,123,889	494,971,893	272,814,767	242,887,623	515,702,390
Other Revenue	11,576,130	10,571,995	22,148,125	11,877,229	10,843,041	22,720,270
Total revenues, gains and other support	273,424,134	243,695,884	517,120,018	284,691,996	253,730,664	538,422,660
Operating Expenses:						
Salaries and wages	123,281,453	112,587,791	235,869,244	126,884,548	115,836,311	242,720,859
Employee benefits	32,483,178	29,665,526	62,148,704	33,468,434	30,554,232	64,022,666
Supplies and other	95,284,289	87,019,153	182,303,442	95,209,031	86,918,881	182,127,912
Interest expense	2,082,364	1,901,736	3,984,100	2,072,874	1,892,382	3,965,256
Provision for depreciation and amortization	15,512,673	14,167,074	29,679,747	15,084,167	13,770,741	28,854,908
Total Expenses	\$ 268,643,956	\$ 245,341,281	\$ 513,985,237	\$ 272,719,053	\$ 248,972,548	\$ 521,691,601
Excess of Revenue over Expenses	\$4,780,177	(\$1,645,397)	\$3,134,781	\$11,972,943	\$4,758,116	\$16,731,059
Nonoperating Revenue:						
Investment Income	3,306,471	3,019,661	6,326,132	3,373,515	3,079,773	6,453,288
Other nonoperating revenue	1,031,631	942,145	1,973,776	1,063,180	970,605	2,033,785
(Loss) Gain on disposal of asset	-	-	-	-	-	-
Total Nonoperating Revenue:	4,338,101	3,961,807	8,299,908	4,436,695	4,050,378	8,487,073
Increase (Decrease) in Net Assets	\$9,118,279	\$2,316,410	\$11,434,689	\$16,409,638	\$8,808,494	\$25,218,132

NOTE: Other operating revenue, operating expenses and Non-operating revenue was allocated based on Inpatient & outpatient patient revenue

**MOHAWK VALLEY NETWORK, INC.
AND SUBSIDIARIES**

Consolidated Financial Statements

December 31, 2010 and 2009

INDEPENDENT AUDITOR'S REPORT

The Board of Directors
Mohawk Valley Network, Inc. and Subsidiaries:

We have audited the accompanying consolidated balance sheets of Mohawk Valley Network, Inc. and Subsidiaries as of December 31, 2010 and 2009, and the related consolidated statements of operations and changes in net assets and cash flows for the years then ended. These consolidated financial statements are the responsibility of the management of Mohawk Valley Network, Inc. and Subsidiaries. Our responsibility is to express an opinion on these consolidated 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 consolidated financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of Mohawk Valley Network, Inc. and Subsidiaries as of December 31, 2010 and 2009, and the consolidated results of their operations, changes in net assets and cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

As discussed in note 2 to the consolidated financial statements, the financial statements for 2009 have been restated to reflect a change in accounting for employee extended sick leave.

Fust Charles Chambers LLP

August 17, 2011

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Consolidated Balance Sheets

December 31, 2010 and 2009

<u>Assets</u>	<u>2010</u>	<u>2009</u>
Current assets:		
Cash and cash equivalents	\$ 6,248,600	38,834,094
Assets limited as to use	4,885,772	3,792,563
Investments	62,723,915	22,325,842
Patient accounts receivable, net of reserve for doubtful accounts of \$8,203,423 in 2010 and \$7,461,037 in 2009	44,120,719	45,322,810
Pledges receivable, net of allowance for uncollectible pledges of \$17,000 in 2009	257,977	466,459
Other receivables	1,010,098	3,865,302
Inventories	5,346,833	5,622,527
Prepaid expenses and other current assets	2,884,602	2,747,377
Due from affiliate, net	645,983	992,692
Net investment in direct financing lease	547,116	547,116
Estimated third-party payor settlements, net	3,881,160	350,428
	132,552,775	124,867,210
Total current assets		
Investment in affiliate	424,962	182,883
Investments	4,528,164	4,528,164
Assets limited as to use	9,553,747	9,743,910
Beneficial interest in charitable trusts	2,032,000	-
Residents' fund held in trust	86,804	100,550
Net investment in direct financing lease	3,543,238	3,779,935
Property and equipment, net	111,223,273	108,887,997
Unamortized debt issuance costs	1,749,665	2,008,787
Other assets	4,587,743	4,690,646
	270,282,371	258,790,082
Total assets	\$ 270,282,371	258,790,082

<u>Liabilities and Net Assets</u>	<u>2010</u>	<u>2009</u>
Current liabilities:		
Line of credit	\$ 4,200,000	2,230,000
Current portion of long-term debt	9,573,405	6,150,466
Current portion of capital lease obligations	4,549,596	3,756,113
Accounts payable and accrued expenses	13,117,715	16,016,208
Accrued payroll, payroll taxes and benefits	10,173,224	9,646,740
Current portion of estimated self-insured liabilities	1,619,652	1,786,802
Other current liabilities	854,298	921,089
	<u>44,087,890</u>	<u>40,507,418</u>
Total current liabilities		
Long-term debt, net of current portion:		
Notes payable	21,364,424	11,642,070
Mortgages payable	15,438,899	16,040,571
Civic facility revenue bonds	31,476,571	36,541,481
Capital lease obligations	9,449,700	8,744,253
	<u>77,729,594</u>	<u>72,968,375</u>
Total long-term debt, net of current portion		
Estimated self-insured liabilities, net of current portion	4,279,166	4,148,690
Unrealized loss on interest rate swaps	3,967,565	3,157,747
Residents' funds held in trust	86,804	100,550
Other liabilities	10,107,976	10,826,651
	<u>140,258,995</u>	<u>131,709,431</u>
Total liabilities		
Net assets:		
Unrestricted	120,818,931	120,054,717
Temporarily restricted	4,676,281	2,497,770
Permanently restricted	4,528,164	4,528,164
	<u>130,023,376</u>	<u>127,080,651</u>
Total net assets		
Commitments and contingencies (notes 5, 7, 9 and 13)		
Total liabilities and net assets	\$ <u><u>270,282,371</u></u>	<u><u>258,790,082</u></u>

See accompanying notes to consolidated financial statements.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Consolidated Statements of Operations and Changes in Net Assets

Years ended December 31, 2010 and 2009

	<u>2010</u>	<u>2009</u>
Unrestricted revenues, gains and other support:		
Net patient service revenue	\$ 301,433,867	290,235,392
Premium revenue	7,951,934	7,465,134
Other revenue	6,482,832	8,406,188
Investment income, net of fees	<u>1,623,996</u>	<u>378,039</u>
Total unrestricted revenues, gains and other support	<u>317,492,629</u>	<u>306,484,753</u>
Expenses:		
Salaries and wages	135,346,876	128,971,519
Employee benefits	35,477,580	35,656,568
Supplies and other	118,843,409	112,403,771
Depreciation and amortization	16,374,413	15,134,535
Interest	4,767,313	4,921,614
Provision for bad debts	8,730,134	9,334,775
New York State gross receipts taxes	1,005,287	1,356,407
Loss (gain) on disposal of property and equipment	<u>(7,500)</u>	<u>324,614</u>
Total expenses	<u>320,537,512</u>	<u>308,103,803</u>
Net loss from continuing operations	<u>(3,044,883)</u>	<u>(1,619,050)</u>
Discontinued operations:		
Gain (loss) on operations of discontinued components	(238,567)	1,384,720
Gain on sale of discontinued components	<u>1,106,682</u>	<u>30,761,534</u>
Gain on discontinued operations	<u>868,115</u>	<u>32,146,254</u>
Excess (deficiency) of revenues over expenses	\$ <u><u>(2,176,768)</u></u>	\$ <u><u>30,527,204</u></u>

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Consolidated Statements of Operations and Changes in Net Assets, Continued

Years ended December 31, 2010 and 2009

	<u>2010</u>	<u>2009</u>
Unrestricted net assets:		
Excess (deficiency) of revenues over expenses	\$ (2,176,768)	30,527,204
Change in fair value of interest rate swaps	(809,818)	3,215,813
Change in net unrealized gains and losses on investments	3,708,884	4,194,057
Net assets released for capital acquisitions	530,254	550,154
Other	(488,338)	-
	<u>764,214</u>	<u>38,487,228</u>
Increase in unrestricted net assets		
Temporarily restricted net assets:		
Contributions and grants	3,428,543	1,996,158
Income on investments	745	508
Net assets released from restrictions	(1,250,777)	(1,309,906)
	<u>2,178,511</u>	<u>686,760</u>
Increase in temporarily restricted net assets		
Total increase in net assets	2,942,725	39,173,988
Net assets at beginning of year, as previously reported	<u>127,080,651</u>	<u>96,053,308</u>
Restatement (note 2)	<u>-</u>	<u>(8,146,645)</u>
Net assets at beginning of year, as restated	<u>127,080,651</u>	<u>87,906,663</u>
Net assets at end of year	<u>\$ 130,023,376</u>	<u>127,080,651</u>

See accompanying notes to consolidated financial statements.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Consolidated Statements of Cash Flows

Years ended December 31, 2010 and 2009

	<u>2010</u>	<u>2009</u>
Cash flows from operating activities:		
Change in net assets	\$ 2,942,725	39,173,988
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Depreciation and amortization	16,374,413	15,134,535
Provision for bad debts	8,730,134	9,334,775
Change in net unrealized gains and losses on investments	(3,708,884)	(4,194,057)
Change in fair value of interest rate swaps	809,818	(3,215,813)
Other	488,338	-
Amortization of unearned lease income	(310,419)	(327,332)
Net realized (gain) loss on sale of investments	(285,255)	363,266
(Gain) loss on disposal of property and equipment	(7,500)	324,614
(Gain) loss on operations of discontinued components	238,567	(1,384,720)
Gain on sale of discontinued components	(1,106,682)	(30,761,534)
Net assets released for capital acquisitions	(530,254)	(541,154)
Restricted contributions	(3,428,543)	(1,996,158)
Changes in operating assets and liabilities:		
Receivables	(4,394,467)	(12,742,554)
Beneficial interest in charitable trusts	(2,032,000)	-
Due from affiliates, net	482,946	5,365,316
Inventories, prepaid expenses and other current assets	130,145	(167,104)
Accounts payable, accrued expenses and other liabilities	(3,259,753)	2,332,667
Estimated self-insured liabilities	(21,449)	1,996,077
Estimated third-party payor settlements	(3,530,732)	4,859,969
Net cash provided by operating activities	<u>7,581,148</u>	<u>23,554,781</u>
Cash flows from investing activities:		
Purchases of property and equipment	(13,015,381)	(18,229,175)
Proceeds from sale of property and equipment	7,500	453,476
Purchases from sale of investments, net	(36,509,551)	(1,867,314)
Purchase of certificates of deposit	(100,685)	-
Increase in assets limited as to use	(1,115,978)	(226,769)
Proceeds on sale of discontinued components, net	1,106,682	30,761,534
Use of project escrow funds	419,234	530,369
Increase in other assets	(703,173)	(366,121)
Net cash provided by (used in) investing activities	<u>(49,911,352)</u>	<u>11,056,000</u>

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Consolidated Statements of Cash Flows, Continued

Years ended December 31, 2010 and 2009

	<u>2010</u>	<u>2009</u>
Cash flows from financing activities:		
Restricted contributions	3,428,543	1,996,158
Proceeds from (payments on) short-term borrowings, net	1,970,000	2,230,000
Proceeds from long-term debt	14,277,313	2,300,000
Principal payments on long-term debt and capitalized lease obligations	(11,008,516)	(9,333,779)
Minimum direct financing lease payments received	547,116	547,116
Contributions for capital acquisitions	<u>530,254</u>	<u>541,154</u>
Net cash provided by (used in) financing activities	<u>9,744,710</u>	<u>(1,719,351)</u>
Increase (decrease) in cash and cash equivalents	(32,585,494)	32,891,430
Cash and cash equivalents at beginning of year	<u>38,834,094</u>	<u>5,942,664</u>
Cash and cash equivalents at end of year	<u>\$ 6,248,600</u>	<u>38,834,094</u>

See accompanying notes to consolidated financial statements.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

December 31, 2010 and 2009

(1) Description of Organization and Summary of Significant Accounting Policies

(a) Organization and Principles of Consolidation

The consolidated financial statements include the accounts of Mohawk Valley Network, Inc. (MVN) and each of its subsidiaries (the Corporation). The Corporation is a health care delivery system providing inpatient, outpatient, emergency care, cancer treatment, rehabilitation, laboratory, dialysis, maternity, childcare, long term care, home care, surgical, psychiatric and community services to residents of the Mohawk Valley Region.

MVN is a not-for-profit corporation and is the sole corporate member of Faxton-St. Luke's Healthcare (Healthcare), Visiting Nurse Association of Utica and Oneida County, Inc. (VNA), Mohawk Valley Home Care, LLC (MVHC) and Senior Network Health, LLC (SNH). On September 8, 2010, MVHC sold a substantial portion of its assets (see Note 3). The Corporation is governed by a self-perpetuating Board of Directors. All significant intercompany transactions and balances have been eliminated in consolidation.

Healthcare includes the accounts of the following affiliated entities: Faxton-St. Luke's Healthcare Foundation (Foundation), of which Healthcare is the sole member, St. Luke's Home Residential Health Care Facility, Inc. (Home), in which Healthcare has a sole financial interest at dissolution and Faxton Leasing, LLC (Leasing), of which Healthcare owns 55.5%. A wholly owned subsidiary, Faxchil Realty, Inc. (Faxchil) and its wholly owned subsidiary, Centrex Clinical Laboratories, Inc. (Centrex), were sold by December 31, 2009 (see note 3). Affiliates not considered material to the consolidated financial statements and included on the equity method of accounting are SLM Corporation, whose stock is owned by a trust, of which Healthcare is the sole beneficiary, and Paraffin, LLC (Paraffin), of which Healthcare is the sole member.

(b) Use of Estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(c) Cash and Cash Equivalents

Cash and cash equivalents include certain investments in highly liquid debt instruments with original maturities of three months or less, excluding temporary investments included in assets limited as to use and long-term investments.

(d) Assets Limited as to Use and Investments

Assets limited as to use represent assets held by trustees under indenture agreements, and amounts held in escrow related to HUD-insured mortgages and sale of Faxchil. Amounts required to meet current liabilities are classified in the balance sheets as current assets.

SNH is required by the New York State Insurance Department to maintain an escrow deposit equal to the greater of five percent of the current year's projected medical expenses or \$100,000. At December 31, 2010, SNH was in compliance with that requirement and an escrow deposit of approximately \$391,000 is included in assets limited as to use. SNH must also maintain positive net worth equal to or in excess of a least eight and one half percent of the current year's net premium revenue. At December 31, 2010 and 2009, SNH was in compliance with this requirement.

Investments in equity securities with readily determinable fair values and all investments in debt securities are measured at fair value in the balance sheets. The insurance group fixed annuity contracts (Guaranteed Investment Contracts) are valued at contract value, which is considered the best representation of fair value. Investment income or loss (including realized gains and losses on investments, interest and dividends) is included in the excess of revenues over expenses unless the income or loss is restricted by donor or law. Unrealized gains and losses on investments are excluded from the excess of revenues over expenses since none of the investments are classified as trading securities or are other than temporarily impaired.

Investment securities are exposed to various risks, such as interest rate, market and credit risks. Due to the level of risk associated with certain investment securities, it is at least possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect the amounts reported in the balance sheet.

(e) Beneficial Interest in Charitable Trusts

The Corporation has beneficial interests in various irrevocable split-interest agreements that are administered by independent trustees which consist of charitable remainder unitrusts (CRUT). The Corporation's interest in these trusts is recorded at the present value of the estimated future cash flows from the trust's assets using a discount rate that reflects current market conditions and is classified as temporarily restricted net assets. Management used a discount rate of 1.8% at December 31, 2010.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(f) Residents' Funds Held in Trust

Residents' funds represent amounts deposited with the Home on behalf of residents for their discretionary use. These funds are administered by the Home with the corresponding liability to the residents reflected on the consolidated balance sheet.

(g) Inventories

Inventories are stated at the lower of average cost or market.

(h) Property and Equipment

Property and equipment acquisitions are recorded at cost. Depreciation is calculated over the estimated useful life of each class of depreciable asset ranging from 3 - 40 years using the straight-line method. Property and equipment under capital leases and leasehold improvements are amortized on the straight-line method over the lesser of the lease term or the estimated useful life of the asset. Amortization of equipment under capital leases and leasehold improvements is included in depreciation expense.

Interest cost incurred on borrowed funds during the construction of capital assets is capitalized as a component of the cost of acquiring those assets. Net interest cost capitalized amounted to approximately \$172,000 in 2010 and \$97,000 in 2009.

Gifts of long-lived assets, such as land, buildings or equipment are reported as unrestricted support and are excluded from the excess of revenues over expenses, unless explicit donor stipulations specify how the donated asset must be used. Gifts of long-lived assets with explicit restrictions that specify how the assets are to be used and gifts of cash or other assets that must be used to acquire long-lived assets are reported as restricted support. Absent explicit donor stipulations about how long those long-lived assets must be maintained, expirations of donor restrictions are reported when the donated or acquired long-lived assets are placed in service.

(i) Unamortized Debt Issuance Costs

Debt issuance costs and bond premium are amortized using the straight-line method, which approximates the effective interest method, over the terms of the related debt.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(j) Contributions and Pledges Receivable

Unconditional promises to give cash and other assets are reported at fair value at the date the promise is received. Contributions are reported as either temporarily or permanently restricted support if they are received with donor stipulations that limit the use of the donated assets. When a donor restriction expires, that is, when a stipulated time restriction ends or purpose restriction is accomplished, temporarily restricted net assets are reclassified as unrestricted net assets and reported in the consolidated statements of operations and changes in net assets as other revenue and changes in net assets as net assets released from restrictions. Donor restricted contributions whose restrictions are met within the same year as received are reported in the consolidated statements of operations and changes in net assets as unrestricted contributions.

Pledges receivable are stated at the amount management expects to collect from outstanding balances. Management provides for probable uncollectible amounts through a provision for bad debts and an adjustment to a valuation allowance based on its assessment of the current status of individual accounts. Balances that are still outstanding after management has used reasonable collection efforts are written off through a charge to the valuation allowance and a credit to accounts receivable. The original pledge amount at December 31, 2010 approximates the net present value.

(k) Temporarily Restricted Net Assets

Temporarily restricted net assets are those whose use has been limited by donors to a specific time period or purpose.

(l) Permanently Restricted Net Assets (Endowment Funds)

The Corporation maintains various donor-restricted and board-designated funds whose purpose is to provide long-term support for its charitable programs. In classifying such funds for financial statement purposes as either permanently restricted, temporarily restricted or unrestricted net assets, the Board of Directors looks to the explicit directions of the donor where applicable and the provisions of the laws of the State of New York. To constitute an endowment under New York State law, the restriction must arise from a clearly expressed donor limitation, not a limitation from within the beneficiary organization. The Board has determined that, absent donor stipulations to the contrary, the provisions of New York State law do not impose either a permanent or temporary restriction on the income or capital appreciation derived from the original gift. Therefore, all income and appreciation derived from the original gift are transferred to unrestricted net assets absent any restrictions on the use made by the donor. Permanently restricted net assets consist of endowment funds of \$4,528,164 at December 31, 2010 and 2009, and are included in long-term investments in the consolidated balance sheets.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(l) Permanently Restricted Net Assets (Endowment Funds), Continued

The Corporation utilizes an investment strategy that emphasizes preservation of principle and total return consistent with prudent levels of risk. Investments are allocated over a diversified portfolio of multiple asset classes of domestic and international equities and bonds.

Interpretation of Relevant Law

Previous to September 17, 2010, New York State law required the preservation of an endowment fund's historic dollar value. Historic dollar value is defined as the aggregate fair value in dollars of an endowment fund at the time it becomes an endowment fund, each subsequent donation to the fund at the time it is made and each accumulation made pursuant to a direction in applicable gift instrument at the time an accumulation is added to the fund. The law permitted an organization to spend the income earned by an endowment fund (i.e. interest, dividends), as well as the net appreciation (realized with respect to all assets and unrealized with respect to readily marketable assets) of such fund.

On September 17, 2010, the New York Prudent Management of Institutional Funds Act (NYPMIFA) was signed into New York State law. The most prominent feature of NYPMIFA is the elimination of the requirement to preserve an endowment fund's historic dollar value which allows an organization to spend from an endowment whose market value has dropped below the historic dollar value, as long as it is deemed prudent under the organization's policies. In accordance with NYPMIFA, an organization must consider the following factors in exercising a standard of prudence:

1. The duration and preservation of the endowment fund
2. The purposes of the organization and the donor-restricted endowment fund
3. General economic conditions
4. The possible effect of inflation and deflation
5. The expected total return from income and the appreciation of investments
6. Other resources of the organization
7. The investment policies of the organization
8. Where appropriate, alternatives to spending from the endowment fund and the possible effects of those alternatives on the organization

NYPMIFA requires compliance with donor intent when making investment or spending decisions with respect to an endowment fund. In addition, NYPMIFA creates a restriction on the portion of an endowment fund that is not classified as permanently restricted net assets, even in the absence of a donor restriction. Such portion is classified as temporarily restricted net assets until appropriated for expenditure by the organization.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(l) Permanently Restricted Net Assets (Endowment Funds), Continued

Interpretation of Relevant Law, Continued

As of December 31, 2010, the Board of Directors of the Corporation has not adopted and is currently evaluating the provisions of NYPMIFA. As a result, the Corporation continues to classify permanently restricted net assets at the historic dollar value of the fund in accordance with donor instructions.

Funds with Deficiencies

From time to time, the fair value of assets associated with individual donor-restricted endowment funds may fall below the level that the donor or NYPMIFA requires the Hospital to retain as a fund of perpetual duration. If the situation were to occur, the deficiency would be recorded in the Hospital's unrestricted net assets. The deficiency recorded in unrestricted net assets at December 31, 2010 and 2009 was approximately \$108,000 and \$552,000, respectively.

Changes in Endowment Net Assets

		2010	
	<u>Unrestricted</u>	<u>Permanently restricted</u>	<u>Total</u>
Endowment net assets, January 1, 2010	\$ (552,159)	4,528,164	3,976,005
Investment return:			
Investment income	-	80,741	80,741
Net appreciation (realized and unrealized)	-	363,478	363,478
Other	444,219	(444,219)	-
Endowment net assets (deficit), December 31, 2010	\$ (107,940)	4,528,164	4,420,224

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(l) Permanently Restricted Net Assets (Endowment Funds), Continued

Funds with Deficiencies, Continued

	2009		
	<u>Unrestricted</u>	<u>Permanently restricted</u>	<u>Total</u>
Endowment net assets, January 1, 2009	\$ (1,235,276)	4,528,164	3,292,888
Investment return:			
Investment income	-	80,835	80,835
Net appreciation (realized and unrealized)	-	602,282	602,282
Other	683,117	(683,117)	-
Endowment net assets (deficit), December 31, 2009	\$ (552,159)	4,528,164	3,976,005

Return Objectives, Strategies, Spending Policy and Investment Objectives

The Corporation has adopted investment and spending policies for endowment assets that attempt to provide a predictable stream of funding to programs supported by its endowment. Under this policy, as approved by the Board of Directors, the endowment assets are to be invested in well diversified asset mix that can be expected to generate acceptable long-term returns at an acceptable level of risk. The Corporation targets a diversified asset allocation that places a greater emphasis on equity-based investments and bonds to achieve its long-term return objectives within prudent risk constraints.

(m) Net Patient Service Revenue and Patient Accounts Receivable

The Corporation has agreements with third-party payors that provide for payments to the various organizations within its healthcare delivery system at amounts different from their established rates. Payment arrangements include prospectively determined rates per discharge, cost-based reimbursement, discounted charges, per diem payments and fee-for-service payments. Net patient service revenue and the related patient accounts receivable are reported at the estimated net realizable amounts from patients, third-party payors and others for services rendered, including estimated retroactive adjustments due to future audits, reviews and investigations. Retroactive adjustments are included in the recognition of revenue on an estimated basis in the period the related services are rendered and adjusted in future periods as adjustments become known or as years are no longer subject to such audits, reviews and investigations.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(m) Net Patient Service Revenue and Patient Accounts Receivable, Continued

An allowance for doubtful accounts receivable is estimated by management based on periodic reviews of the collectibility of accounts receivable considering historical experience and prevailing economic conditions.

Revenue from the Medicare and Medicaid programs accounted for approximately 54% and 53% of the Corporation's net patient service revenue for 2010 and 2009. Laws and regulations governing the Medicare and Medicaid programs are extremely complex and subject to interpretation. As a result, there is at least a reasonable possibility that recorded estimates will change by a material amount in the near term. Net patient service revenue decreased by approximately \$413,000 and \$629,000 in 2010 and 2009, respectively, related to either settlement of prior year issues or changes in estimates associated with third-party issues.

The Corporation grants unsecured credit to its patients, most of whom are local residents and are insured under third-party payor agreements. The mix of receivables from patients and third-party payors at December 31 was as follows:

	<u>2010</u>	<u>2009</u>
Medicare	28%	28%
Medicaid	15%	18%
Private payors	17%	17%
Insurance and all others	<u>40%</u>	<u>37%</u>
	<u>100%</u>	<u>100%</u>

(n) Premium Revenue

SNH has agreements with various health maintenance organizations (HMO) to provide medical services to subscribing participants. Under these agreements SNH receives monthly capitation payments based on the number of each HMO's participants, regardless of services actually performed by SNH.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(o) Charity Care

The Corporation provides care to patients who meet certain criteria under its charity care policy without charge or at amounts less than established rates. Because the Corporation does not pursue collection of such amounts, they are not reported as net patient service revenue. Charity care charges foregone, based on established rates, were approximately \$1,690,000 and \$1,420,000 for 2010 and 2009, respectively.

(p) Excess (Deficiency) of Revenues over Expenses

The consolidated statements of operations and changes in net assets include excess (deficiency) of revenues over expenses. Changes in unrestricted net assets which are excluded from excess (deficiency) of revenues over expenses, consistent with industry practice, include changes in unrealized gains and losses on investments other than trading securities, permanent transfers of assets to and from affiliates for other than goods and services and contributions of long-lived assets (including assets acquired using contributions which by donor restriction were to be used for the purpose of acquiring such assets).

(q) Income Taxes

Healthcare, Foundation, Home, VNA and MVN are not-for-profit corporations and have been recognized as tax-exempt pursuant to Section 501(c)(3) of the Internal Revenue Code.

MVHC and SNH are sole member New York limited liability companies. Accordingly, they are treated as disregarded entities for tax purposes and taxable income, if any, is attributed to MVN. Additionally, MVHC and SNH, disregarded entities, are considered divisions of MVN for tax purposes and, accordingly, share in MVN's 501(c)(3) not-for-profit tax status.

As of December 31, 2010, Healthcare, Foundation, Home, VNA and MVN did not have any unrecognized tax benefits or any related accrued interest or penalties. The tax years open to examination by federal and New York State taxing authorities are 2007 through 2010.

(r) Concentration of Credit Risk

At December 31, 2010 and 2009, the Corporation has cash and cash equivalents in major financial institutions which exceed Federal Depository Insurance limits. These financial institutions have strong credit ratings and management believes that credit risk related to these deposits is minimal.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(s) Reclassification

Certain 2009 amounts have been reclassified to conform with the 2010 financial statement presentation.

(t) Subsequent Events

Subsequent events have been evaluated through August 17, 2011 which is the date financial statements were issued.

(2) Prior Period Restatement

Prior to 2010, the Corporation recorded employee extended sick leave time on the cash basis when benefits were paid out to retiring employees who had met all the required eligibility criteria. The accompanying consolidated financial statements for 2009 have been restated to reflect an accrued estimated liability for these benefits from their effective date as such benefits accumulate. The approximate effect of the adjustment required was to decrease unrestricted net assets at December 31, 2008 by approximately \$8,147,000 and to decrease the excess of revenues over expenses by approximately \$1,699,000 in 2009.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(3) Discontinued Operations

On December 9, 2009, the Corporation sold its wholly owned, for-profit subsidiary, Faxchil Realty, Inc. (Faxchil), including Faxchil's wholly owned, for-profit subsidiary, Centrex Clinical Laboratories, Inc. (Centrex), to Laboratory Corporation of America Holdings for \$42,000,000 with certain assets and liabilities assumed by the Corporation, plus an additional earn-out opportunity not to exceed \$5,000,000 if certain revenue targets are achieved during two separate one year earn-out periods. The Corporation has been notified that these revenue targets were not achieved for the first earn-out period and have not recorded any amount at December 31, 2010 for the second earn-out period. The Corporation recorded a gain in connection with the sale of approximately \$30,762,000 in 2009 and \$792,000 in 2010. The 2010 gain consists of the removal of a \$1,200,000 reserve on funds held in escrow offset by additional expenses related to the sale.

Faxchil was a holding company that managed real property prior to 2009 and Centrex provided clinical laboratory services to health care providers. In connection with the disposal of this business, Healthcare has classified the results of operations for this business as discontinued operations in the accompanying financial statements.

On September 8, 2010, Mohawk Valley Home Care, LLC entered into a purchase and sale agreement, pursuant to which MVHC agreed to sell all of its inventory, fixed assets and intangible assets for approximately \$667,000.

The operating results of discontinued components classified as discontinued operations are as follows:

		<u>2010</u>	
	<u>Faxchil</u>	<u>MVHC</u>	
Sales	\$ -	506,855	
Income (loss) before taxes	-	(288,567)	
Income tax provision	-	-	
Income (loss) from operations of discontinued operations, net of tax	-	(288,567)	
	<u>Faxchil</u>	<u>MVHC</u>	
Sales	\$ 42,885,179	799,998	
Income (loss) before taxes	2,846,055	(322,913)	
Income tax provision	1,138,422	-	
Income (loss) from operations of discontinued operations, net of tax	1,707,633	(322,913)	

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(4) Assets Limited as to Use and Investments

Assets Limited as to Use

At December 31, assets limited as to use, at fair value, are comprised of the following:

	<u>2010</u>	<u>2009</u>
Cash and cash equivalents - in escrow (a)	\$ 4,665,755	3,405,949
Cash and cash equivalents	6,769,857	6,901,009
Mutual funds	253,492	441,601
Guaranteed investment contracts	2,750,415	2,787,914
	<u>14,439,519</u>	<u>13,536,473</u>
Classified as current assets	<u>4,885,772</u>	<u>3,792,563</u>
Classified as non-current assets	<u>\$ 9,553,747</u>	<u>9,743,910</u>
Debt service and debt service reserve funds	8,287,863	8,316,723
Amounts held in escrow	4,665,755	3,405,949
Reserve for replacement	1,079,779	1,256,532
Amounts held for other purposes	406,122	557,269
	<u>\$ 14,439,519</u>	<u>13,536,473</u>

(a) Cash equivalents in escrow are primarily invested in short-term U.S. Treasury, money markets and government agency securities. The cash equivalents held in escrow will be released no later than July 1, 2011, as described in the escrow agreement related to the sale of Faxchil.

Investments

At December 31, investments, at fair value, are comprised of the following:

	<u>2010</u>	<u>2009</u>
Cash and cash equivalents	\$ 692,049	35,397,935
Certificates of deposit	100,685	-
Mutual funds	33,574,966	13,518,566
Common stock	4,124,126	3,506,210
Real estate investment trust	569,926	635,258
Corporate obligations	28,391,978	8,669,030
Government agency obligations	323,823	314,688
	<u>\$ 67,777,553</u>	<u>62,041,687</u>

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(4) Assets Limited as to Use and Investments, Continued

The above amounts are included in the accompanying financial statements as follows:

	<u>2010</u>	<u>2009</u>
Investments - current assets	\$ 62,723,915	22,325,842
Cash and cash equivalents	525,474	35,187,681
Long-term investments	<u>4,528,164</u>	<u>4,528,164</u>
	<u>\$ 67,777,553</u>	<u>62,041,687</u>

Investment income and gains (losses) on unrestricted assets limited as to use, cash equivalents and investments are comprised of the following for the years ended December 31:

	<u>2010</u>	<u>2009</u>
Investment income:		
Interest income and dividends, net of fees	\$ 1,338,741	741,339
Realized gains (losses)	<u>285,255</u>	<u>(363,266)</u>
	1,623,996	378,073
Change in net unrealized gains and losses on investments	<u>3,708,884</u>	<u>4,194,057</u>
	<u>\$ 5,332,880</u>	<u>4,572,130</u>

The Corporation continually reviews investments for other-than-temporary impairment whenever the fair value of an investment is less than amortized cost and evidence indicates that an investment's carrying amount is not recoverable within a reasonable period of time. In the evaluation of whether an impairment is other-than-temporary, the Corporation considers the reasons for the impairment, its ability and intent to hold the investment until the market price recovers or the investment matures, compliance with its investment policy, the severity and duration of the impairment, and expected future performance.

The Corporation's investments in marketable equity securities and mutual funds consist of investments diversified in several different industries. The Corporation evaluated the near-term prospects of the issuer in relation to the severity and duration of impairment. Based upon the evaluation and the Corporation's ability and intent to hold the securities for a reasonable period of time sufficient for a forecasted recovery of fair value, the Corporation does not consider the securities in an unrealized loss position to be other-than-temporarily impaired at December 31, 2010 and 2009.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(4) Assets Limited as to Use and Investments, Continued

The following table presents the gross unrealized losses and fair value of the commingled investment portfolio with unrealized losses that are not deemed to be other-than-temporarily impaired, aggregated by investment category and length of time that individual securities have been in a continuous unrealized loss position at December 31, 2010 and 2009:

		2010					
		Less than Twelve Months		Twelve Months or Greater		Total	
<u>Securities</u>		<u>Fair value</u>	<u>Unrealized losses</u>	<u>Fair value</u>	<u>Unrealized losses</u>	<u>Fair value</u>	<u>Unrealized losses</u>
Mutual funds	\$	863,395	(36,605)	3,859,556	(1,074,145)	4,722,951	(1,110,750)
Common stocks		152,401	(11,621)	193,122	(40,731)	345,523	(52,352)
Real estate investment trust		-	-	569,366	(277,611)	569,366	(277,611)
	\$	1,015,796	(48,226)	4,622,044	(1,392,487)	5,637,840	(1,440,713)
		2009					
		Less than Twelve Months		Twelve Months or Greater		Total	
<u>Securities</u>		<u>Fair value</u>	<u>Unrealized losses</u>	<u>Fair value</u>	<u>Unrealized losses</u>	<u>Fair value</u>	<u>Unrealized losses</u>
Mutual funds	\$	1,359,034	(18,383)	5,479,038	(1,539,807)	6,838,072	(1,558,190)
Common stocks		180,780	(12,713)	757,897	(157,401)	938,677	(170,114)
Real estate investment trust		-	-	635,257	(455,827)	635,257	(455,827)
	\$	1,539,814	(31,096)	6,872,192	(2,153,035)	8,412,006	(2,184,131)

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(5) Property and Equipment

Property and equipment is comprised of the following at December 31:

	<u>2010</u>	<u>2009</u>
Land and improvements	\$ 8,519,373	8,132,879
Buildings	129,562,542	124,185,296
Fixed equipment	35,912,216	35,153,663
Movable equipment	79,766,653	77,901,754
Equipment under capitalized leases	<u>25,103,273</u>	<u>20,484,641</u>
	278,864,057	265,858,233
Less accumulated depreciation	<u>176,735,908</u>	<u>163,227,521</u>
	102,128,149	102,630,712
Construction-in-progress	<u>9,095,124</u>	<u>6,257,285</u>
 Property and equipment, net	 <u>\$ 111,223,273</u>	 <u>108,887,997</u>

Depreciation expense amounted to approximately \$16,183,000 and \$14,987,000 for the years ended December 31, 2010 and 2009, respectively. At December 31, 2010, the balance remaining on construction contract commitments approximated \$2.3 million.

(6) Net Investment in Direct Financing Lease

In 2001, Healthcare completed construction of a medical office building with a cost of approximately \$5 million on land owned by an affiliate of Slocum-Dickson Medical Group, P.C. (SDMG). The building is leased to SDMG under a direct financing lease for minimum lease payments of \$45,393 per month through 2022. Healthcare financed 80% of the building cost with a mortgage described in detail in note 9.

The balance sheet presentation of the direct financing lease at December 31 is as follows:

	<u>2010</u>	<u>2009</u>
Minimum lease payments receivable	\$ 5,953,711	6,500,827
Unearned lease income	<u>(1,863,357)</u>	<u>(2,173,776)</u>
 Net investment in direct financing lease	 4,090,354	 4,327,051
Less current portion	<u>547,116</u>	<u>547,116</u>
 Long-term net investment in direct financing lease	 <u>\$ 3,543,238</u>	 <u>3,779,935</u>

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(7) Lines of Credit

At December 31, 2010 and 2009, the Corporation had a \$17,500,000 line of credit with a bank, collateralized by certain of the Corporation's investments. The line of credit on short-term borrowings bears a daily interest rate at prime (3.25% at December 31, 2010). The line of credit on long-term borrowing bears a monthly interest at LIBOR (1.21% at December 31, 2010). The line of credit is available through July 2011. At December 31, 2010, a portion of the line was reserved for four letters of credit totaling approximately \$5,069,000 related to self-insured liabilities. The line contains financial covenants including a debt service coverage ratio requirement, a day's cash on hand requirement and a minimum unrestricted liquidity to funded debt ratio. At December 31, 2010, Healthcare was not in compliance with the debt service coverage ratio for which it obtained a waiver. At December 31, 2010, the amount outstanding was \$4,200,000. At December 31, 2009, the amount outstanding was \$2,030,000.

VNA has a line of credit with a bank which provides for borrowings up to \$500,000, at an interest rate equal to the bank's prime rate (3.25% at December 31, 2010) less 50 basis points or a minimum of 3%. All assets are pledged as collateral. The line expired June 30, 2011. There was no outstanding balance on the line at December 31, 2010. The amount outstanding on the line at December 31, 2009 was \$200,000.

(8) Extended Sick Leave

The Corporation employees are permitted to accumulate unused extended sick leave time up to specified maximum amounts. The Corporation accrues the estimated expense related to extended sick leave based on pay rates currently in effect. Upon retirement, employees who have met certain criteria shall have the option to receive payment or receive sick leave credits to pay for post-employment health insurance payments based upon the formula in place. The Corporation has accrued an estimated liability of approximately \$10,427,000 and \$10,070,000 at December 31, 2010 and 2009, respectively, for these anticipated termination payments.

Amounts are included in the accompanying consolidated financial statements as follows at December 31:

	<u>2010</u>	<u>2009</u>
Accrued payroll, payroll taxes and benefits	\$ 1,354,000	466,000
Other liabilities	<u>9,073,000</u>	<u>9,604,000</u>
	<u>\$ 10,427,000</u>	<u>10,070,000</u>

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(9) Long-Term Debt and Lease Obligations

Long-term debt consists of the following at December 31:

	<u>2010</u>	<u>2009</u>
Section 232 HUD-insured mortgage loan payable, at 5.875%, to Century Health Capital, Inc. payable in monthly principal and interest installments of \$88,000 due April 1, 2027, collateralized by a mortgage on certain property and equipment and insured by the Federal Housing Administration (FHA)	\$ 11,073,111	11,465,947
Section 241 HUD-insured mortgage loan payable, at 5.98%, to Century Health Capital, Inc. payable in monthly principal and interest installments of \$39,763 due April 1, 2027, collateralized by a mortgage on certain property and equipment and insured by the FHA	4,967,461	5,141,866
Civic Facility 1998 Revenue Bonds (Mohawk Valley Network, Inc. Obligated Group; Faxton Hospital Facility)	10,515,000	12,555,000
Civic Facility 1998 Revenue Bonds (Mohawk Valley Network, Inc. Obligated Group; St. Luke's-Memorial Hospital Center Facility)	7,615,000	9,915,000
Notes payable in varying monthly installments maturing from January 2013 through January 2016 at interest rates ranging from 5% to 6%	7,277,314	-
Note payable in monthly installments of \$116,667 at a fixed rate of 5.3%, maturing June 2015 and collateralized by Healthcare's gross receipts (a)	6,416,666	-
Variable rate demand 2006 Civic Facility Revenue Bonds (Mohawk Valley Network, Inc. Obligated Group; Faxton-St. Luke's Healthcare)	18,295,000	18,725,000
Unamortized premium on Civic Facility Revenue Bonds	91,571	116,481
Mortgage note payable in varying installments at 5% with a balloon payment estimated at \$2.5 million due January 2012, secured by property under direct financing lease (note 6)	2,748,010	2,930,150
Note payable to SLM at a fixed interest rate of 3.65% with a balloon payment for the remaining amount due December 2016	1,551,049	1,626,048

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(9) Long-Term Debt and Lease Obligations, Continued

	<u>2010</u>	<u>2009</u>
Note payable in varying monthly installments at LIBOR plus 2.15%, with a cap between 6.0%-9.0% (6.00% at December 31, 2010) with a balloon payment estimated at \$1,947,000 due January 2020, collateralized by certain property	2,950,580	3,030,850
Note payable in varying monthly installments at interest rate of prime minus .5% maturing April 2020, collateralized by certain property, (2.75% at December 31, 2010) with a balloon payment estimated at \$279,000	470,934	488,675
Notes payable in varying monthly installments maturing between November 2011 and November 2012, (interest rates ranging from 6.25% to 7.25%)	293,655	507,360
Mortgage payable in monthly installments of \$44,248 at a fixed rate of 6.5%, maturing January 2020 (a)	3,587,948	3,872,211
Capital lease obligations (interest rates ranging from 3.12% to 8.51%)	<u>13,999,296</u>	<u>12,500,366</u>
	91,852,595	82,874,954
Less current portion:		
Debt	(9,573,405)	(6,150,466)
Capital lease obligations	<u>(4,549,596)</u>	<u>(3,756,113)</u>
Long-term debt, net of current portion	<u>\$ 77,729,594</u>	<u>72,968,375</u>

- (a) The note due 2015 and the mortgage payable due 2020 contain certain financial covenants. At December 31, 2010, the Corporation was not in compliance with the debt service coverage ratio. The lending institutions have waived the events of noncompliance through June 30, 2011. The Corporation anticipates continuing to require waivers for this covenant for the remainder of 2011 and believes that such waivers will be granted. Such indebtedness has been classified as long-term because the respective banks have granted waivers to date and because reclassification of such indebtedness is considered immaterial to the Corporation's financial position at December 31, 2010.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(9) Long-Term Debt and Lease Obligations, Continued

In connection with the mortgage loan agreements and in consideration of the endorsement for insurance by the FHA, the Home entered into regulatory agreements with the Department of Housing and Urban Development (HUD). The regulatory agreements require the Home to, among other provisions, maintain debt service, operating escrow, residual receipts, and replacement reserve funds. As of December 31, 2010 and 2009, these funds aggregated \$4,436,521 and \$4,599,052, respectively, and are included in assets limited as to use in the accompanying consolidated financial statements. Contributions to the debt service and replacement reserve funds, calculated on a gross basis without reduction for possible future investment income allocations, required over the next five years will amount to approximately \$202,000 per year.

The Corporation, through the Oneida County Industrial Development Agency (OCIDA), has issued serial and term Civic Facility Revenue Bonds as follows:

<u>Series</u>	<u>Term</u>	<u>Principal/Mandatory Sinking Fund Payments</u>	<u>Rate</u>
Faxton-St. Luke's Healthcare:			
2006E - tax-exempt	2031	\$ 195,000 - 525,000	4.873 - 4.995%
2006F - taxable	2031	\$ 260,000 - 955,000	4.873 - 4.995%
Faxton Hospital Facility:			
1998A - tax-exempt	2013	\$ 610,000 - 675,000	5.000%
1998B - taxable	2013	175,000 - 200,000	6.250%
1999C - tax-exempt	2015	800,000 - 1,035,000	6.625%
1999D - taxable	2015	585,000 - 805,000	8.375%
St. Luke's-Memorial Hospital Center Facility:			
1998A - tax-exempt	2013	\$ 1,170,000 - 1,295,000	5.20%
1998B - tax-exempt	2013	1,145,000 - 1,260,000	5.00%
1998C - taxable	2013	100,000 - 110,000	6.25%

The Corporation may, at its option, redeem certain of the 1998 term bonds maturing after February 1, 2010 at the par value of the bond face amount.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(9) Long-Term Debt and Lease Obligations, Continued

All the bonds are insured and are collateralized by the Corporation's gross receipts (as defined), including all rights to receive such receipts whether in the form of accounts receivable, contract rights or other rights. The Corporation entered into a lease agreement with OCIDA, which also acts as security for payment of the revenue bonds. Additional security is provided by a Master Trust Indenture under which the initial Members of the Obligated Group (Healthcare and MVN) are jointly and severally responsible for payment of the Bonds. The total debt outstanding for the Master Indenture Bonds at December 31, 2010 was \$36,425,000.

The variable rate demand bonds bear interest based on one of three modes - the weekly rate, the term rate, or the fixed rate - for periods selected by the Corporation. The interest rate for each mode will be the current market interest rate as determined by the remarketing agent of the bonds. The Corporation used the weekly rate during 2010 and 2009. At December 31, 2010, the bonds carried interest at rates of .35% and .33%. At December 31, 2009 the bonds carried interest at rates of .35% and .23%.

The variable rate demand bonds are remarketed by a remarketing agent in accordance with the terms of a remarketing agreement. The bonds will be remarketed whenever a new interest rate is in effect. If the bonds cannot be remarketed, they would be due and payable under the terms of the remarketing agreement; however, the 2006 Civic Facility Revenue Bonds are credit-enhanced by an irrevocable Bank of America letter of credit, which is currently June 25, 2013.

Various agreements relating to the revenue bonds establish covenants with which the Corporation has agreed to comply, including the following, among others. In any year, the Corporation will not dispose of operating assets exceeding 2.5% of the total book value of operating assets or accounts receivable with recourse having a book value in excess of 50% of the total book value of accounts receivable. The Obligated Group may not merge or consolidate with another entity unless certain conditions are met. Additional indebtedness is limited to certain provisions including borrowings not to exceed 15% of total operating revenue. The Obligated Group agreed to maintain a minimum debt service coverage ratio, as defined, of 120% annually or employ a management consultant. The Obligated Group did not achieve the required debt service coverage ratio for the year ended December 31, 2010 and has retained a consultant.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(9) Long-Term Debt and Lease Obligations, Continued

As a result of the aforementioned bond issuances, the Corporation has entered into two interest rate swap contracts to reduce its risk of exposure to changes in interest rates. The interest rate swaps effectively convert the variable rate of the 2006 bonds to fixed rates of 5.938% and 4.216% through June 2031. The swaps have been designated as cash flow hedges of the variable interest rate and are recorded at fair value as a liability of \$3,967,565 on the accompanying consolidated balance sheet as of December 31, 2010. The swaps have effective dates of June 26, 2006 and termination dates of June 1, 2031. The amounts exchanged are based on the notional amounts whereby Healthcare pays the swap counter-party interest at a fixed rate (4.216% - tax-exempt, 5.938% - taxable) and the swap counter-party pays Healthcare a variable rate (based on 70% of 1 month LIBOR tax-exempt, BMA Rate - taxable). The notional amounts and fair values based on quoted market prices, of the Corporation's interest rate swaps are as follows at December 31, 2010:

	<u>Notional amount</u>	<u>Liability market value</u>
Healthcare - Series E	\$ 6,980,000	1,208,209
Healthcare - Series F	11,315,000	<u>2,759,356</u>
		<u>\$ 3,967,565</u>

The mark-to-market adjustments resulted in an decrease in unrestricted net assets of \$809,818 for the year ended December 31, 2010. Changes in value of the swaps determined to arise from ineffectiveness of the instruments, as determined through the hypothetical derivative method, are recorded as a component of interest expense in the consolidated statements of operations and changes in net assets. For the years ended December 31, 2010 and 2009, there was no significant ineffectiveness. The Corporation expects that the loss existing in unrestricted net assets to be reclassified into income from operations within the next 12 months will not be significant.

The Corporation leases certain equipment under capital leases. The Corporation also leases equipment and facilities under non-cancelable operating leases, including leases with related parties. The net book value of the equipment capitalized under lease agreements at December 31, 2010 and 2009 amounted to approximately \$15,826,000 and \$16,200,000, respectively.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(9) Long-Term Debt and Lease Obligations, Continued

Scheduled principal repayments on long-term debt (excluding lines of credit) and payments under non-cancelable operating leases and the present value of future minimum capital lease payments at December 31, 2010 are:

	<u>Long-term debt</u>	<u>Capital leases</u>	<u>Operating leases</u>
2011	\$ 9,573,405	5,102,222	655,118
2012	12,429,812	3,481,009	565,189
2013	9,491,628	3,117,707	548,494
2014	6,160,613	1,722,310	442,113
2015	5,836,651	963,493	98,004
Thereafter	<u>34,361,190</u>	<u>1,262,082</u>	<u>-</u>
 Total payments	 \$ <u>77,853,299</u>	 15,648,823	 <u>2,308,918</u>
Less amounts representing interest		<u>1,649,527</u>	
Present value of capital lease obligations		13,999,296	
Less current portion		<u>4,549,596</u>	
Capital lease obligations, net of current portion		<u>\$ 9,449,700</u>	

Rent expense under operating leases amounted to approximately \$1,680,000 in 2010 and \$1,454,000 in 2009.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(10) Temporarily and Permanently Restricted Net Assets

Temporarily restricted net assets are available for the following purposes at December 31:

	<u>2010</u>	<u>2009</u>
Funds held in trust by others (for capital)	\$ 2,032,000	-
Children's Miracle Network	991,461	951,271
Continuous Learning Center	212,655	302,477
Scholarship assistance	31,604	30,859
Programs	288,617	91,661
Renovations	<u>1,119,944</u>	<u>1,121,502</u>
	<u>\$ 4,676,281</u>	<u>2,497,770</u>

Permanently restricted net assets at December 31 are restricted to:

Investments to be held in perpetuity, the income from which is to support charity care, health care services, scholarships and facility maintenance	\$ <u>4,528,164</u>	<u>4,528,164</u>
---	---------------------	------------------

During 2010 the Corporation recognized at the present value \$2,032,000 in funds held in trust by others for specific use relating to charitable remainder unitrusts.

(11) Pension Plans

Healthcare and the Home sponsor a 401(k) plan that covers substantially all full-time non-union employees. Each company contributes 4% of eligible compensation to the plan (5% for employees hired before December 1, 2001). Healthcare and the Home also make a matching contribution up to 100% of the first 4% of employee contributions to the 401(k) plan. Healthcare also sponsors a 403(b) plan that covers union and certain other employees. Healthcare contributes 5% to 7% of eligible compensation to the 403(b) plan.

Pension expense under all plans aggregated approximately \$7,702,000 in 2010 and approximately \$6,809,000 in 2009.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(12) Other Revenue

Other revenue consists of the following for the years ended December 31:

	<u>2010</u>	<u>2009</u>
Rent	\$ 750,666	872,255
Mohawk Valley Heart Institute	(168,751)	1,781,149
New Hartford Scanner	1,154,334	743,092
Grant revenue	526,823	586,415
CMIC Partnership income	179,550	222,950
VHA Partnership equity earnings	282,738	310,541
Net assets released for operations	720,523	768,752
Other	<u>3,036,949</u>	<u>3,121,034</u>
	<u>\$ 6,482,832</u>	<u>8,406,188</u>

(13) Estimated Medical Malpractice and General Liability Costs

The Home maintains its malpractice and general liability insurances under an occurrence based policy. Centrex maintains claims-made professional and general liability insurance. In connection with the sale of Centrex on December 9, 2009, Healthcare purchased tail coverage for any Centrex claims that may be reported subsequent to December 10, 2009 that occurred on or prior to December 9, 2009. Effective March 15, 2004, Healthcare is insured for medical malpractice risks through claims-made professional liability insurance. Prior to that date, Healthcare maintained occurrence-based medical malpractice and general liability insurance coverage. Should any of the annual claims-made policies not be renewed or replaced with equivalent insurance, claims based on incidents during its term, but reported subsequently, will be uninsured. No accrual for possible losses attributable to incidents that may have occurred but that have not been reported has been made because the amount is not reasonably estimable.

The Corporation is a defendant in various malpractice and general liability claims. The ultimate outcome of such litigation cannot be determined at this time. However, management believes the final disposition of these claims will not have a material effect on the financial position or results of operations of the Corporation.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(13) Estimated Medical Malpractice and General Liability Costs, Continued

The Corporation was primarily self-insured for employee workers' compensation and disability claims through December 31, 2007. Self-insured liabilities are based on claims filed and estimates for claims incurred but not reported. As required by the State of New York Workers' Compensation Board, the Corporation has purchased letters of credit to guarantee payment of workers' compensation claims. Stop loss insurance for losses exceeding certain amounts has been purchased for workers' compensation. Each affiliate is jointly and severally liable for the satisfaction of all obligations. Certain of these liabilities are recorded at discounted amounts using a 4% interest rate in 2010 and 2009. Effective January 1, 2010, the Corporation and certain of its affiliates became enrolled in a retro premium worker's compensation and disability plan and premiums are accrued based on the ultimate cost of the experience to date of the Corporation.

Effective January 1, 2009, the Corporation became self-insured for healthcare claims. The Corporation has obtained a stop loss coverage policy for healthcare costs to supplement its self-insurance coverage. An accrual for healthcare claims, including those incurred but not reported, is included in the current portion of estimated self-insured liabilities.

(14) Affiliated Entities

The following represents summarized financial information from the financial statements of Healthcare's affiliates that are included in the accompanying financial statements on the equity method of accounting.

<u>2010</u>	<u>SLM</u>	<u>Paraffin</u>
Total assets	\$ 6,797,705	125,455
Total liabilities	<u>6,292,608</u>	<u>205,590</u>
Net assets	<u>\$ 505,097</u>	<u>(80,135)</u>
Total revenue	1,264,020	2,069,134
Total expenses	<u>(1,196,187)</u>	<u>(2,120,505)</u>
Excess (deficiency) of revenue over expenses and changes in net assets	<u>\$ 67,833</u>	<u>(51,371)</u>
Change in fair value of interest rate swap	<u>225,617</u>	<u>-</u>
Increase (decrease) in unrestricted net assets	<u>\$ 293,450</u>	<u>(51,371)</u>

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(14) Affiliated Entities, Continued

<u>2009</u>	<u>SLM</u>	<u>Paraffin</u>
Total assets	\$ 6,239,775	75,844
Total liabilities	<u>6,028,128</u>	<u>(104,608)</u>
Net assets (deficiency)	<u>\$ 211,647</u>	<u>(28,764)</u>
Total revenue	1,266,235	108,914
Total expenses	<u>(1,209,222)</u>	<u>(137,678)</u>
Excess (deficiency) of revenue over expenses and changes in net assets	<u>\$ 57,013</u>	<u>(28,764)</u>
Change in fair value of interest rate swap	<u>158,226</u>	<u>-</u>
Increase (decrease) in unrestricted net assets	<u>\$ 215,239</u>	<u>(28,764)</u>

Healthcare rents space from SLM and provides utilities, maintenance and accounting services to SLM. Rent totaled approximately \$77,000 for 2010 and 2009 and utilities, maintenance and accounting services sold totaled approximately \$468,000 and \$554,000 in 2010 and 2009, respectively.

The following are approximate dollar amounts of significant transactions and balances with affiliated entities.

Net receivables (payables) at December 31 from the following affiliates approximated:

	<u>2010</u>	<u>2009</u>
New Hartford Scanner Associates	\$ 676,000	644,000
Mohawk Valley Heart Institute	(28,000)	116,000
Others	<u>(2,000)</u>	<u>233,000</u>
	<u>\$ 646,000</u>	<u>993,000</u>

New Hartford Scanner Associates (NHSA) is a joint venture between Healthcare and several radiologists to provide CT scan services. The Corporation receives income from NHSA, which amounted to approximately \$878,000 and \$587,000 in 2010 and 2009, respectively. Healthcare also provides payroll services and leased equipment to NHSA, which amounted to approximately \$276,000 and \$156,000 in 2010 and 2009, respectively.

SLM Medical Office Building, which is included on the equity method, is a for-profit real estate company whose stock is owned by a trust, of which Healthcare is the sole beneficiary.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(15) Statement of Cash Flows - Supplemental Disclosures

The Corporation's non-cash investing and financing activities and cash payments for interest and income taxes for the years ended December 31 were as follows:

	<u>2010</u>	<u>2009</u>
Non-cash investing and financing:		
Property and equipment acquired under capital lease	\$ 5,499,994	4,355,391
Long-term debt transferred - Faxchil	-	3,605,264
Cash paid for interest	5,058,527	5,133,060

(16) Functional Expenses

The Corporation provides general health care services to residents of the Greater Utica area. Expenses related to providing these services are as follows:

	<u>2010</u>	<u>2009</u>
Health care services	\$ 265,725,897	257,195,203
General and administrative	53,812,901	50,159,522
Fund raising	998,714	749,078
	<u>\$ 320,537,512</u>	<u>308,103,803</u>

(17) Fair Value of Financial Instruments

The Fair Value Measurements and Disclosures Topic of the FASB Accounting Standards Codification requires disclosures that categorize assets and liabilities measured at fair value based on a fair value hierarchy. The hierarchy prioritizes the inputs into three levels based on the extent to which inputs used in measuring fair value are observable in the market. Each fair value measurement is reported in one of the three levels which is determined by the lowest level input that is significant to the fair value measurement in its entirety.

The following methods and assumptions were used by the Corporation in estimating the fair value of its financial instruments:

Cash and Cash Equivalents: The amount reported on the balance sheet for cash and cash equivalents approximates fair value.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(17) Fair Value of Financial Instruments, Continued

Investments including Assets Limited as to Use: The fair values, which are the amounts reported on the balance sheets, are based on quoted market prices, if available, or estimated using quoted market prices for similar securities.

Estimated Third-Party Payor Settlements: The amount reported on the balance sheet for estimated third-party payor settlements approximates its fair value.

Beneficial Interest in Charitable Trusts: Valued at the present value of the estimated future cash flows from the trust's assets using a discount rate that reflects current market conditions.

Long-Term Debt: The fair value of fixed rate issues was determined by price quotes from an investment banker or estimated using discounted cash flow analysis, based on the current incremental borrowing rate of similar types of borrowing arrangements. The fair value of variable rate debt approximates its reported value on the consolidated balance sheet. Fixed rate long-term debt is the only financial instrument with a difference between recorded and fair value. The recorded value of fixed rate long-term debt on the consolidated balance sheet at December 31, 2010 was approximately \$58,996,000 and the estimated fair value was approximately \$62,713,000. The recorded value of fixed rate long-term debt on the balance sheet at December 31, 2009 was approximately \$51,045,000 and the estimated fair value was approximately \$55,009,000.

The following tables present information about assets and liabilities and are measured at fair value on a recurring basis as of December 31 and indicate the fair value hierarchy of the valuation techniques utilized to determine such fair value. In general, fair values determined by Level 1 inputs utilize quoted prices in active markets for identical assets or liabilities. The Corporation considers a security that trades at least weekly to have an active market. Fair values determined by Level 2 inputs utilize data points that are observable, such as quoted prices, interest rates and yield curves. Fair values determined by Level 3 inputs are unobservable data points for the asset or liability, and include situations where there is little, if any, market activity for the asset or liability.

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(17) Fair Value of Financial Instruments, Continued

		<u>Fair value measurements at December 31, 2010</u>		
	Carrying amount at December 31, 2010	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
Assets:				
Cash equivalents	\$ 841,689	841,689	-	-
Investments	67,252,079	66,581,468	100,685	569,926
Assets limited as to use	14,439,519	11,689,104	2,750,415	-
Beneficial interest in charitable trusts	<u>2,032,000</u>	<u>-</u>	<u>2,032,000</u>	<u>-</u>
Total	\$ <u>84,565,287</u>	<u>79,112,261</u>	<u>4,883,100</u>	<u>569,926</u>
Liabilities:				
Interest rate swap	<u>(3,967,565)</u>	<u>-</u>	<u>(3,967,565)</u>	<u>-</u>
Total	\$ <u>(3,967,565)</u>	<u>-</u>	<u>(3,967,565)</u>	<u>-</u>

		<u>Fair value measurements at December 31, 2009</u>		
	Carrying amount at December 31, 2009	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
Assets:				
Cash equivalents	\$ 35,503,519	35,503,519	-	-
Investments	26,854,006	26,218,748	-	635,258
Assets limited as to use	<u>13,536,473</u>	<u>10,748,559</u>	<u>2,787,914</u>	<u>-</u>
Total	\$ <u>75,893,998</u>	<u>72,470,826</u>	<u>2,787,914</u>	<u>635,258</u>
Liabilities:				
Interest rate swap	<u>(3,157,747)</u>	<u>-</u>	<u>(3,157,747)</u>	<u>-</u>
Total	\$ <u>(3,157,747)</u>	<u>-</u>	<u>(3,157,747)</u>	<u>-</u>

MOHAWK VALLEY NETWORK, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(17) Fair Value of Financial Instruments, Continued

The following tables set forth a summary of changes in the fair value of the Corporation's level 3 assets for the years ended December 31, 2010 and 2009.

	<u>2010</u>	<u>2009</u>
Balance, beginning of year	\$ 635,258	849,618
Interest and dividends, net of investment manager fees	29,723	39,219
Net realized gains (losses) on sales of investments	7,640	(110,630)
Change in net unrealized gains (losses) on investments	44,003	(142,949)
Purchase, sales issuances and settlements, net	<u>(146,698)</u>	<u>-</u>
Balance, end of year	<u>\$ 569,926</u>	<u>635,258</u>

(18) Subsequent Event

During 2011, the Home has been awarded a grant of approximately \$31,330,000 as part of the HEAL NY Grant Program. Receipt of the award is contingent on the approval of the related New York State Certificates of Need. The grant award is primarily to be used to construct new and renovate portions of the existing facility relating to centralizing and expanding long-term care services and for the payoff of the HUD mortgages and for capital acquisitions.

Consolidated Mohawk Valley Network

FINANCIAL STATEMENTS

AUGUST 2013

MVN CONSOLIDATED
 KEY FINANCIAL INDICATORS
 August 2013

	January	February	March	April	May	June	July	August	Goal
Current Month									
% Growth in Revenues	2.99	-6.41	-2.75	0.66	-3.53	-9.68	-2.48	-7.10	5.73
% Growth in Expenses	4.65	-2.57	0.49	3.35	-0.63	-2.49	-0.04	-5.04	1.95
Personnel Cost % of Operating Revenue	55.3%	57.2%	56.2%	57.0%	55.4%	59.8%	57.1%	59.8%	54.2%
Personnel Cost % of Operating Revenue *	51.4%	53.1%	52.2%	52.8%	51.3%	55.5%	52.9%	55.4%	50.2%
Salary cost per FTE *	51,172	48,525	53,167	52,969	51,351	51,738	51,169	51,179	50,733
Salary and Benefits per FTE *	67,314	63,250	68,004	68,395	66,965	67,238	66,447	65,585	65,757
Average Hourly Wage *	26.24	24.88	27.27	27.16	26.33	26.53	26.24	26.25	26.02
Income from Operations	-0.28%	-3.36%	-0.75%	-2.02%	0.83%	-7.97%	-3.24%	-4.47%	1.45%
Bottom Line Income	7.36%	-1.38%	4.18%	4.15%	-0.28%	-12.42%	6.60%	-8.47%	2.22%
FTE	2,606	2,595	2,614	2,617	2,593	2,583	2,581	2,572	2,644

* Figures exclude physician salaries

**MVN CONSOLIDATED
KEY FINANCIAL INDICATORS
August 2013**

	January	February	March	April	May	June	July	August	Goal
Year to Date									
% Growth in Revenues	2.99	-1.67	-2.04	-1.39	-1.83	-3.13	-3.04	-3.53	2.21
% Growth in Expenses	4.65	1.06	0.86	1.47	1.05	0.45	0.38	-0.30	2.28
Personnel Cost % of Operating Revenue	53.6%	53.6%	53.6%	53.6%	53.6%	53.6%	53.6%	53.6%	55.8%
Personnel Cost % of Operating Revenue *	50.5%	50.5%	50.5%	50.5%	50.5%	50.5%	50.5%	50.5%	51.9%
Salary cost per FTE *	51,172	52,635	52,850	52,880	52,558	52,425	52,264	52,133	51,651
Salary and Benefits per FTE *	67,314	68,933	68,653	68,588	68,245	68,082	67,872	67,591	67,002
Average Hourly Wage *	26.24	26.99	27.10	27.12	26.95	26.88	26.80	26.73	26.49
Income from Operations %	-0.28%	-1.73%	-1.39%	-1.55%	-1.07%	-2.13%	-2.29%	-2.54%	0.71%
Bottom Line Income %	7.36%	3.23%	3.55%	3.70%	2.89%	0.53%	1.39%	0.23%	1.48%
FTE	2,606	2,604	2,606	2,609	2,606	2,602	2,598	2,595	2,648
Debt Service Coverage - Operations	1.95	1.50	1.67	1.65	1.72	1.44	1.36	1.20	2.14
Debt Service Coverage - Bottom line	6.79	4.13	4.39	4.51	3.68	2.89	3.16	2.39	2.37
Days Cash on Hand	81.92	82.25	85.08	88.44	87.60	88.10	90.05	90.56	85.00
Days In Accounts Receivable	52.78	52.11	52.88	54.30	50.90	52.25	53.73	48.84	51.00

* Figures exclude physician salaries

Consolidated Mohawk Valley Network
Balance Sheet

	August 2013	July 2013	December 2012
ASSETS			
CURRENT ASSETS:			
Cash and Cash equivalents	\$1,411,701	\$795,819	\$2,465,569
Investments	75,506,152	76,440,253	68,490,245
Patients Account Rec. Net	41,218,860	45,506,912	46,674,505
Other Receivables	13,102,673	13,180,231	20,778,751
Inventory	5,856,905	5,953,761	5,746,634
Prepaid & Other Asset	3,834,465	4,174,891	3,212,662
Net Inv. in Phys Office Bldg	547,116	547,116	547,116
Due from Third Party	9,984,379	10,978,838	10,356,135
Due from Affiliates	939,764	932,323	965,158
Total Current Assets	<u>\$152,402,015</u>	<u>\$158,510,144</u>	<u>\$159,236,775</u>
Investment in VHA	\$50,483	\$50,483	\$50,483
Investment in Foundation	0	0	0
Investment in Paraffin	0	0	0
Investment in SLM Office Bldg	0	0	0
Investment in MVEC	367,331	357,210	296,892
Net Inv in Phy Office Building	2,819,147	2,844,008	3,013,803
Assets limited as to use	668,485	687,538	692,272
Investments	4,750,274	4,804,305	5,201,937
Property and Equipment, net	121,890,023	122,175,816	119,383,556
Unamortized Debt Issuance	457,010	459,478	476,753
Other Assets	29,692,885	29,646,476	* 29,419,894
Total Assets	<u>\$313,097,653</u> =====	<u>\$319,535,458</u> =====	<u>\$317,772,365</u> =====

Consolidated Mohawk Valley Network
Balance Sheet

	August 2013	July 2013	December 2012
LIABILITIES AND NET ASSETS			
Current Liabilities:			
Short Term Borrowings	\$10,926,060	\$14,647,060	\$15,678,000
Current long-term debt	4,415,322	4,411,554	3,522,617
Capital lease obligations-curr	4,478,379	4,556,250	4,286,831
Self-insured Liabilities-current	5,389,690	5,501,729	4,598,820
Accrued Interest Payable	77,120	76,425	78,977
Accounts Payable	12,937,464	13,168,974	15,780,108
Accrued Payroll, Taxes	11,793,116	11,797,782	12,127,750
Other Current Liabilities	11,270,991	11,226,799	11,315,093
	<hr/>	<hr/>	<hr/>
Total Current Liabilities	\$61,288,142	\$65,386,573	\$67,388,196
Long Term Debt, Net of Current Portion			
Notes Payable	\$12,917,592	\$13,263,077	\$11,747,512
Civic Facility Revenue Bonds	16,300,000	16,300,000	16,845,000
Capital Lease Obligations	10,333,384	10,199,217	7,779,367
Other Liability	46,634,225	46,571,004	46,689,623
Estimated self-insured Liabilities, net	\$2,396,941	\$2,442,671	\$2,797,592
	<hr/>	<hr/>	<hr/>
Total Liabilities	\$149,870,284	\$154,162,542	\$153,247,290
Net Assets			
Unrestricted	\$155,657,610	\$157,803,156	\$156,192,543
Temporarily Restricted	3,041,594	3,041,594	3,804,368
Permanently Restricted	4,528,164	4,528,164	4,528,164
	<hr/>	<hr/>	<hr/>
Total Net Assets	\$163,227,368	\$165,372,914	\$164,525,075
Total Liability and Net Assets	<u>\$313,097,652</u>	<u>\$319,535,456</u>	<u>\$317,772,365</u>

MVN System
Consolidated Financial Statements
Month Ended: August 31, 2013
Income Statement

	August Actual		August Budget		August 2012
Unrestricted revenues, gain and other support:					
Net Patient Revenue	\$24,014,702	(7.15)%	\$27,133,274	4.91 %	\$25,862,485
Other Revenue	1,091,198	(6.03)	1,439,242	23.94	1,161,240
Total unrestricted revenues gains and other support	<u>\$25,105,900</u>	<u>(7.10)%</u>	<u>\$28,572,516</u>	<u>5.73 %</u>	<u>\$27,023,725</u>
Expenses:					
Salaries and Wages	\$10,851,652		\$11,038,969		\$10,876,913
Physicians Salaries	1,101,718		1,138,907		1,102,643
Purchase Service Employees	2,658		19,743		(41,652)
Employee Benefits	3,055,218		3,274,995		3,181,939
Medical Supplies	1,833,179		2,220,396		2,089,520
Non-Medical Supplies	341,455		372,211		389,054
Purchased Services	2,323,749		3,058,033		3,159,569
Utilities	393,034		415,153		397,640
Drugs	1,406,999		1,504,635		1,606,340
Other Expenses	2,113,380		2,294,272		2,196,985
Depreciation/Amortization	1,650,826		1,623,125		1,573,616
Taxes	184,982		180,387		178,491
Interest Expense	216,294		188,402		228,028
Bad Debt Expense	753,220		828,245		681,101
Total Expenses	<u>\$26,228,364</u>		<u>\$28,157,473</u>		<u>\$27,620,187</u>
Income from Operations	<u>\$(1,122,464)</u>		<u>\$415,043</u>		<u>\$(596,462)</u>
Non-Operating Revenue	\$(4,786)		\$0		\$1,051,195
Income (Loss) from Foundati	0		0		0
Investment Income	(998,777)		220,209		1,211,896
Gain/Loss on Sale/Disposal	(1,065)		0		3,032
Increase in Unrestricted Net Assets	<u>\$(2,127,092)</u> =====		<u>\$635,252</u> =====		<u>\$1,669,661</u> =====

MVN System
Consolidated Financial Statements
Period Ended August 31, 2013
Income Statement

	August Actual		August Budget		August 2012
Unrestricted revenues, gain and other support:					
Net Patient Revenue	\$203,182,822	(3.79)%	\$215,883,751	2.22 %	\$211,193,628
Other Revenue	10,693,308	1.73	10,726,781	2.04	10,511,996
Total unrestricted revenues gains and other support	<u>\$213,876,130</u>	<u>(3.53)%</u>	<u>\$226,610,532</u>	<u>2.21 %</u>	<u>\$221,705,624</u>
Expenses:					
Salaries and Wages	\$87,305,097		\$88,255,228		\$86,088,004
Physicians Salaries	8,886,679		9,035,450		8,177,796
Purchase Service Employees	139,473		157,866		266,410
Employee Benefits	25,927,402		26,277,838		25,676,445
Medical Supplies	17,310,911		18,039,735		17,517,590
Non-Medical Supplies	2,931,696		3,087,077		3,050,394
Purchased Services	23,155,041		24,344,319		24,788,567
Utilities	2,986,642		3,094,425		2,875,025
Drugs	10,536,439		11,963,086		12,950,769
Other Expenses	17,728,685		18,336,411		16,993,305
Depreciation/Amortization	12,916,413		12,836,295		12,041,691
Taxes	1,428,509		1,460,323		1,440,206
Interest Expense	1,713,318		1,575,575		1,908,358
Bad Debt Expense	6,351,226		6,526,846		6,200,182
Total Expenses	<u>\$219,317,531</u>		<u>\$224,990,474</u>		<u>\$219,974,742</u>
Income from Operations	<u>\$ (5,441,401)</u>		<u>\$1,620,058</u>		<u>\$1,730,882</u>
Non-Operating Revenue	\$1,670,819		\$0		\$7,727,164
Income (Loss) from Foundati	0		0		0
Investment Income	4,234,901		1,727,420		4,993,064
Gain/Loss on Sale/Disposal	35,142		0		(154,363)
Increase in Unrestricted Net Assets	<u>\$499,461</u> =====		<u>\$3,347,478</u> =====		<u>\$14,296,747</u> =====

MVN Consolidated
 Statements of Cash Flows
 As of August 31, 2013

	Month	YTD
Cash flows from operating activities:		
Change in Net Assets	\$ (2,145,547)	\$ (1,297,706)
Depreciation and amortization	1,650,268	12,915,855
(Increase) decrease in:		
Patient account receivable, net	4,288,052	5,455,645
Other receivables	1,072,017	8,047,834
Inventory and prepaids	437,282	(732,074)
Due from affiliates	(7,441)	25,394
Other assets	(21,548)	(78,335)
Increase (decrease) in:		
Accounts payable	(231,510)	(2,842,644)
Payroll liabilities	(4,666)	(334,634)
Other liabilities	(49,661)	288,862
Net cash provided by operating activities	<u>4,987,246</u>	<u>21,448,197</u>
Cash flows from investing activities:		
Purchase of equipment	(1,362,007)	(15,402,579)
Change in investments	934,101	(7,015,907)
Change in assets limited to use	73,084	475,450
Undistributed earnings of subsidiaries	(10,121)	(70,439)
Net cash used in investing activities	<u>(364,943)</u>	<u>(22,013,475)</u>
Cash flows from financing activities:		
Net Proceeds from short-term debt	(3,721,000)	(4,751,940)
Proceeds from long-term debt	472,574	10,257,728
Payments on long-term debt	(757,995)	(5,994,378)
Net cash provided (used) in financing activities	<u>(4,006,421)</u>	<u>(488,590)</u>
Cash at beginning of period	<u>795,819</u>	<u>2,465,569</u>
Cash at end of period	<u>\$ 1,411,701</u>	<u>\$ 1,411,701</u>

Facility Id. 599
Certificate No. 3202003H

Certified Beds - Total 370
Coronary Care 8
Intensive Care 22
Maternity 26
Medical / Surgical 238
Neonatal Continuing Care 4
Neonatal Intermediate Care 8
Pediatric 14
Physical Medicine and Rehabilitation 24
Psychiatric 26

State of New York
Department of Health
Office of Health Systems Management
OPERATING CERTIFICATE



Effective Date: 02/21/2013
Expiration Date: NONE

Hospital

Faxton-St Lukes Healthcare St Lukes Division
1656 Champlin Avenue
Utica, New York 13502

Operator: Faxton-St Lukes Healthcare
Operator Class: Voluntary Not for Profit Corporation

Has been granted this Operating Certificate pursuant to Article 28 of the Public Health Law for the service(s) specified.

Ambulatory Surgery - Multi Specialty	Cardiac Catheterization - Adult Diagnostic	Cardiac Catheterization - Percutaneous Coronary Intervention (PCI) Emergency Department	Clinic Part Time Services	Clinical Laboratory Service
Coronary Care	Dental O/P	Medical/Surgical	Health Fairs O/P	Intensive Care
Maternity	Medical Social Services	Pediatric O/P	Neonatal Continuing Care	Neonatal Intermediate Care
Nuclear Medicine - Diagnostic	Pediatric	Primary Medical Care O/P	Pharmaceutical Service	Physical Medical Rehabilitation
Podiatry O/P	Prenatal O/P	Therapy - Occupational O/P	Psychiatric	Psychology O/P
Radiology - Diagnostic	Renal Dialysis - Acute		Therapy - Physical O/P	Transfusion Services - Limited

Other Authorized Locations

Hospital Extension Clinic

Barneveld Office
7980 Route 12
Barneveld, New York 13304

Boonville Medical Office
NY State 12
Boonville, New York 13309

F-SLH Oneida Dialysis Unit
221 Broad St
Oneida, New York 13421

F-SLH Regional Cancer Center Rome
91 Perimeter Road
Rome, New York 13341

FSLH - Hamilton Dialysis Unit
10 Eaton Street
Hamilton, New York 13346

FSLH-Herkimer Dialysis Unit
201 East State Street
Herkimer, New York 13350

FSLH-Masonic Dialysis Unit
2150 Bleeker Street
Utica, New York 13501

Faxton Medical Campus
1676 Sunset Avenue
Utica, New York 13502

Faxton-St. Luke's - Imaging Services
106 Business Park Drive
Utica, New York 13502

Mohawk Valley Medical Office
201 East State St
Herkimer, New York 13350

New Hartford ACP Medical Office
8411 Seneca Turnpike
New Hartford, New York 13413

North Utica Medical Office
35 Riverside Drive
Utica, New York 13502

SLMHC - Rome Dialysis Unit
91 Perimeter Road
Rome, New York 13441

Washington Mills Office
3946 Oneida Street
New Hartford, New York 13413

Waterville Office
358 Madison Street
Waterville, New York 13480

Whitesboro Office
37 Main Street
Whitesboro, New York 13492

20130905

Deputy Commissioner
Office of Health Systems Management

This certificate must be conspicuously displayed on the premises.

Commissioner

Facility Id.
Certificate No.

597
3202003H

State of New York
Department of Health
Office of Health Systems Management
OPERATING CERTIFICATE



Effective Date: 02/19/2013
Expiration Date: NONE

Hospital Extension Clinic

Faxton Medical Campus
1676 Sunset Avenue
Utica, New York 13502

Operator: Faxton-St Lukes Healthcare
Operator Class: Voluntary Not for Profit Corporation

Has been granted this Operating Certificate pursuant to Article 28 of the Public Health Law to operate an Extension Clinic at the above site for the service(s) specified.

Ambulatory Surgery - Multi Specialty	Audiology O/P	CT Scanner	Clinical Laboratory Service O/P	Dental O/P
Family Planning O/P	Health Fairs O/P	Home Hemodialysis Training and Support	Home Peritoneal Dialysis Training and Support	Linear Accelerator
Medical Social Services O/P	Nuclear Medicine - Diagnostic O/P	Nuclear Medicine - Therapeutic O/P	Outpatient Surgery	PET Scanner
Pharmaceutical Service	Primary Medical Care O/P	Radiology - Diagnostic O/P	Radiology-Therapeutic O/P	Renal Dialysis - Chronic O/P (36)
Therapy - Occupational O/P	Therapy - Physical O/P	Therapy - Respiratory O/P	Therapy - Speech Language Pathology O/P	Therapy - Vocational Rehabilitation O/P

20130905

Deputy Commissioner
Office of Health Systems Management

This certificate must be conspicuously displayed on the premises.

Commissioner

Facility Id. 599
Certificate No. 3202003H

Certified Beds - Total 370
Coronary Care 8
Intensive Care 22
Maternity 26
Medical / Surgical 238
Neonatal Continuing Care 4
Neonatal Intermediate Care 8
Pediatric 14
Physical Medicine and Rehabilitation 24
Psychiatric 26

State of New York
Department of Health
Office of Health Systems Management
OPERATING CERTIFICATE



Effective Date: 08/21/2013
Expiration Date: NONE

Hospital

Faxton-St Lukes Healthcare St Lukes Division
1656 Champlin Avenue
Utica, New York 13502

Operator: Faxton-St Lukes Healthcare
Operator Class: Voluntary Not for Profit Corporation

Has been granted this Operating Certificate pursuant to Article 28 of the Public Health Law for the service(s) specified.

Ambulatory Surgery - Multi Specialty	Cardiac Catheterization - Adult Diagnostic	Cardiac Catheterization - Percutaneous Coronary Intervention (PCI) Emergency Department	Clinic Part Time Services	Clinical Laboratory Service
Coronary Care	Dental O/P	Medical/Surgical	Health Fairs O/P	Intensive Care
Maternity	Medical Social Services	Pediatric O/P	Neonatal Continuing Care	Neonatal Intermediate Care
Nuclear Medicine - Diagnostic	Pediatric	Primary Medical Care O/P	Pharmaceutical Service	Physical Medical Rehabilitation
Podiatry O/P	Prenatal O/P	Therapy - Occupational O/P	Psychiatric	Psychology O/P
Radiology - Diagnostic	Renal Dialysis - Acute		Therapy - Physical O/P	Transfusion Services - Limited

Other Authorized Locations

Hospital Extension Clinic

Barneveld Office
7980 Route 12
Barneveld, New York 13304

Boonville Medical Office
NY State 12
Boonville, New York 13309

F-SLH Oneida Dialysis Unit
221 Broad St
Oneida, New York 13421

F-SLH Regional Cancer Center Rome
91 Perimeter Road
Rome, New York 13341

FSLH - Hamilton Dialysis Unit
10 Eaton Street
Hamilton, New York 13346

FSLH - St. Luke's Home Renal Dialysis
1650 Champlin Avenue
Utica, New York 13502

FSLH-Herkimer Dialysis Unit
201 East State Street
Herkimer, New York 13350

FSLH-Masonic Dialysis Unit
2150 Bleeker Street
Utica, New York 13501

Faxton Medical Campus
1676 Sunset Avenue
Utica, New York 13502

Faxton-St. Luke's - Imaging Services
106 Business Park Drive
Utica, New York 13502

Mohawk Valley Medical Office
201 East State St
Herkimer, New York 13350

New Hartford ACP Medical Office
8411 Seneca Turnpike
New Hartford, New York 13413

North Utica Medical Office
35 Riverside Drive
Utica, New York 13502

SLMHC - Rome Dialysis Unit
91 Perimeter Road
Rome, New York 13441

Washington Mills Office
3946 Oneida Street
New Hartford, New York 13413

Waterville Office
358 Madison Street
Waterville, New York 13480

20130906

Deputy Commissioner
Office of Health Systems Management

Commissioner

This certificate must be conspicuously displayed on the premises.

Facility Id. 599
Certificate No. 3202003H

Certified Beds - Total 370



State of New York
Department of Health
Office of Health Systems Management
OPERATING CERTIFICATE

Effective Date: 08/21/2013
Expiration Date: NONE

Hospital

Faxton-St Lukes Healthcare St Lukes Division
1656 Champlin Avenue
Utica, New York 13502

Operator: Faxton-St Lukes Healthcare
Operator Class: Voluntary Not for Profit Corporation

Has been granted this Operating Certificate pursuant to Article 28 of the Public Health Law for the service(s) specified.

Other Authorized Locations
Whitesboro Office
37 Main Street
Whitesboro, New York 13492

20130906 Deputy Commissioner
Office of Health Systems Management

Commissioner

This certificate must be conspicuously displayed on the premises.

Facility Id.
Certificate No.

9527
3202003H

State of New York
Department of Health
Office of Health Systems Management
OPERATING CERTIFICATE



Effective Date: 08/21/2013
Expiration Date: NONE

Hospital Extension Clinic

FSLH - St. Luke's Home Renal Dialysis
1650 Champlin Avenue
Utica, New York 13502

Operator: Faxton-St Lukes Healthcare
Operator Class: Voluntary Not for Profit Corporation

Has been granted this Operating Certificate pursuant to Article 28 of the Public Health Law to operate an Extension Clinic at the above site for the service(s) specified.

Renal Dialysis - Chronic O/P (8)

Handwritten signature of the Deputy Commissioner.

20130906
Deputy Commissioner
Office of Health Systems Management

Handwritten signature of the Commissioner.

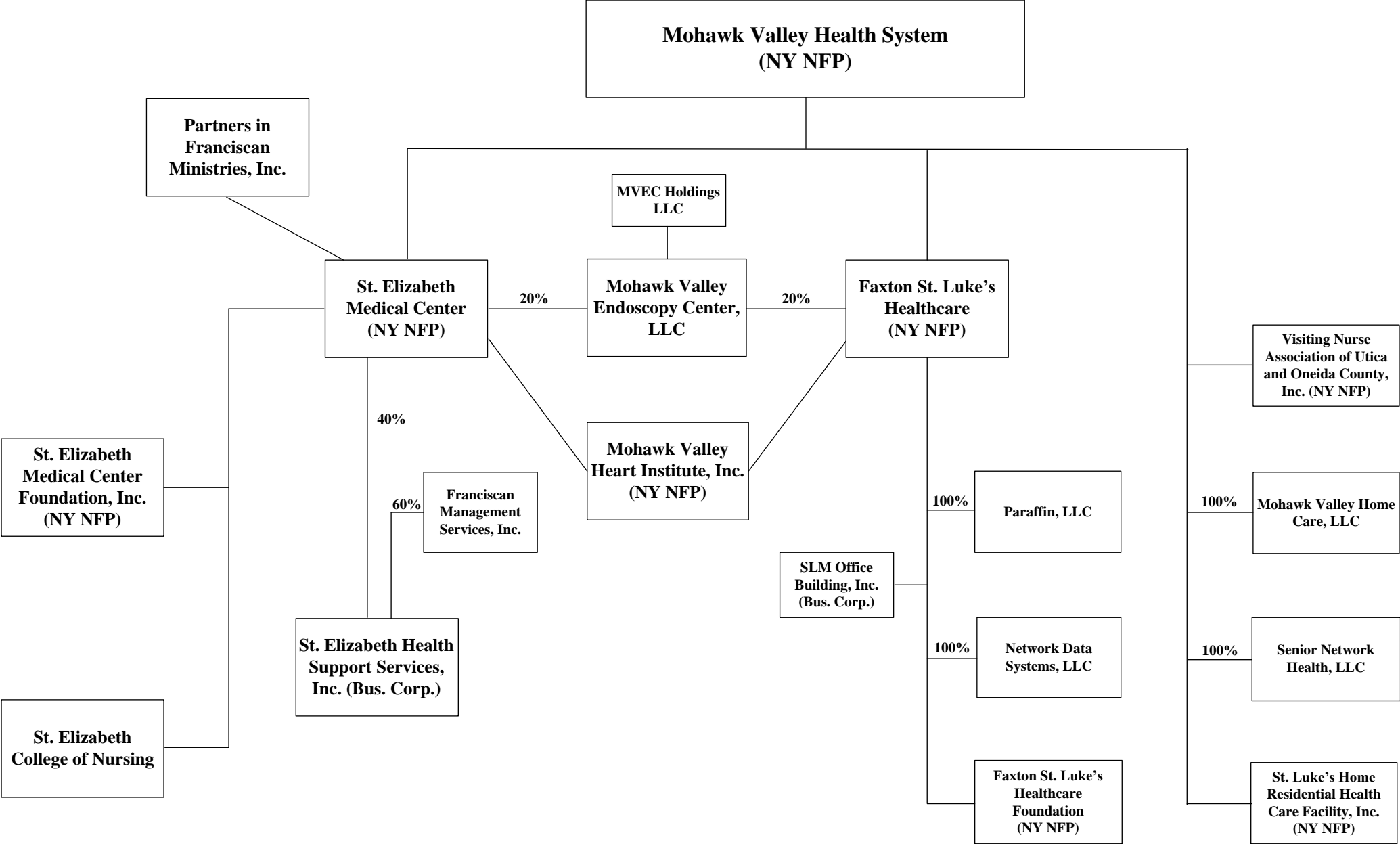
Commissioner

This certificate must be conspicuously displayed on the premises.

MVHS

	<u>AUDITED 2012</u>	2014 <u>MVHS</u>	2014 INCREMENTAL <u>1ST YEAR</u>	2016 <u>MVHS</u>	2016 INCREMENTAL <u>3RD YEAR</u>
<u>OTHER REVENUE</u>					
ELECTRONIC HEALTH INFORMATION REV	\$ 3,089,004	\$ 4,538,639	\$ 1,449,635	\$ 4,655,884	\$ 1,566,880
GRANTS	\$ 2,788,409	\$ 4,096,978	\$ 1,308,569	\$ 4,202,814	\$ 1,414,405
TUITION	\$ 2,439,641	\$ 3,584,537	\$ 1,144,896	\$ 3,677,136	\$ 1,237,494
MISCELLANEOUS INCOME	\$ 1,768,339	\$ 2,598,200	\$ 829,861	\$ 2,665,319	\$ 896,980
RENTS	\$ 1,327,942	\$ 1,951,130	\$ 623,188	\$ 2,001,532	\$ 673,591
CAFETERIA SALES	\$ 1,113,892	\$ 1,636,629	\$ 522,737	\$ 1,678,907	\$ 565,015
ASSETS RELEASED FROM RESTRICIT.	\$ 817,979	\$ 1,201,847	\$ 383,868	\$ 1,232,894	\$ 414,915
JOINT VENTURE REVENUE	\$ 438,531	\$ 644,329	\$ 205,798	\$ 660,973	\$ 222,442
SOLD SERVICES	\$ 360,887	\$ 530,247	\$ 169,360	\$ 543,945	\$ 183,058
FOUNDATION EVENTS	\$ 271,440	\$ 398,824	\$ 127,384	\$ 409,126	\$ 137,686
PARKING FACILITY	\$ 127,438	\$ 187,243	\$ 59,805	\$ 192,080	\$ 64,642
MANAGED CARE INCENTIVE REV	\$ 530,544	\$ 779,522	\$ 248,978	\$ 799,659	\$ 269,115
TOTAL OTHER REVENUE	\$ 15,074,046	\$ 22,148,125	\$ 7,074,079	\$ 22,720,270	\$ 7,646,224
<u>NONOPERATING REVENUE:</u>					
INVESTMENT INCOME	\$ 3,377,312	\$ 6,326,132	\$ 2,948,820	\$ 6,453,288	\$ 3,075,976
CONTRIBUTIONS	\$ 3,848,916	\$ 1,973,776	\$ (1,875,140)	\$ 2,033,785	\$ (1,815,131)
TOTAL NON OPERATING	\$ 7,226,228	\$ 8,299,908	\$ 1,073,680	\$ 8,487,073	\$ 1,260,845

Post Affiliation



Mohawk Valley Health System

Response to Request for Information

Please see the responses below pertaining to the request for additional information generated by the Department of Health on October 11, 2013, for CON application number 132204.

1. *Please explain if this is an obligated group.*

Mohawk Valley Health System is not creating an obligated group at this time. Faxton-St. Luke's Healthcare (FSL) and St. Elizabeth Medical Center (SEMC) currently maintain their own separate debt obligations, and those obligations will remain with the individual entities post transaction. If, in connection with future financings, the creation of an obligated group is desired, Mohawk Valley Health System will seek all necessary consents at that time.

2. *Please provide a detailed description for all of the entities related to the project. This will include information on when the facilities were started, what the bed size is, what the bed configuration is, the physical location of all the facilities, as well as what counties the facilities serve.*

Both FSL/MVN and SEMC facilities and affiliates primarily serve Oneida and Herkimer Counties, with secondary service areas including Lewis, Oswego, Fulton, Madison, and Hamilton Counties.

Mohawk Valley Network

Mohawk Valley Network (MVN), a not-for-profit corporation, is the sole corporate member of Faxton-St. Luke's Healthcare, Mohawk Valley Home Care LLC, Senior Network Health LLC, and Visiting Nurse Association of Utica and Oneida County Inc. MVN is not a licensed service provider.

Faxton-St. Luke's Healthcare

Faxton-St. Luke's Healthcare is a not-for-profit hospital providing services to residents of the Mohawk Valley in Central New York. As the key affiliate of the MVN, Faxton St. Luke's has two campuses including the Faxton Campus (outpatient services), and the St. Luke's Campus (inpatient and outpatient services).

As one of the largest employers in the area, the hospital has nearly 2,500 employees, and a medical staff that includes approximately 400 physicians.

Mohawk Valley Health System

The services offered at the Faxton and St. Luke's campuses include the following:

Faxton Campus

- The Regional Dialysis Center
- The Regional Cancer Center
- The Regional Rehabilitation Center
- Ambulatory Surgery
- Urgent Care

(Additional service offerings and locations of care included in the attached: Operating Certificate – Faxton Only – 2-19-2013.pdf.)

St. Luke's Campus

- Mohawk Valley Vascular Center
- Mohawk Valley Heart Institute
- Emergency Care
- Surgical Services
- Women's and Children's Services
- Senior and Continuing Care
- Total Joint Program
- Bariatric Surgery

(Additional service offerings and locations of care included in the attached: Operating Certificate – St. Luke's Only 8-21-2013.pdf.)

The Faxton-St. Luke's Healthcare organization is comprised of 370 beds in total:

- 346 acute care beds on the St. Luke's Campus (at 1656 Champlin Avenue, Utica, NY)
- 24 acute inpatient rehabilitation beds at the Center for Rehabilitation and Continuing Care services (at 1650 Champlin Avenue, New Hartford, New York)

The acute care beds are configured as follows on the St. Luke's Campus:

- Coronary Care – 8
- Intensive Care – 22
- Maternity – 26
- Medical / Surgical – 238

Mohawk Valley Health System

- Neonatal Continuing Care – 4
- Neonatal Intermediate Care – 8
- Pediatric – 14
- Psychiatric – 26
- Rehabilitation – 24

Dates of Establishment (per Certificates of Incorporation)

- Faxton St. Luke's Healthcare – 2000
- Mohawk Valley Network – 1991
- Senior Network Health – 2001
- St. Luke's Home – 1995
- Mohawk Valley Home Care – 1995
- Visiting Nurse Association of Utica and Oneida County – 1915
- Faxton St. Luke's Foundation – 1989

Descriptions

Senior Network Health (SNH) is an alternative to traditional nursing home care. It is a managed long-term health care plan for individuals who need assistance with day-to-day health maintenance and support activities, but want to live in the comforts of home. Approximately 400 individuals are enrolled in the managed long-term health care plan. SNH was established in 2001 and serves Oneida and Herkimer Counties.

St. Luke's Home is a 202-bed long-term care facility with a sub-acute rehabilitation unit. St. Luke's Home opened in 1996 on the St. Luke's Campus and has recently completed a \$14.3 million renovation and expansion incorporating the new Center for Rehabilitation and Continuing Care Services. The funding was provided through Phase 20 of the Health Care Efficiency and Affordability Law of New York State (HEAL NY) and the Federal-State Reform Partnership (F-SHRP).

Mohawk Valley Home Care (MVHC) provides nursing services that enable patients to maintain their health and dignity in the familiar and comfortable environment of their home. MVHC made nearly 5,400 patient visits in 2012.

Visiting Nurse Association (VNA) of Utica and Oneida County was established in 1915. In 2012, VNA made more than 90,700 visits and maintained an average daily census of 526

Mohawk Valley Health System

patients. More than \$160,000 is being invested in new electronic medical record technology and computer equipment for field clinicians. VNA expanded their TeleHealth Program to include 96 monitors, which collect patients' vitals and other important health information and transmit the data directly to registered nurses who monitor it for changes. Linking patients to nurses through TeleHealth monitors helps the nursing team to support a larger number of patients, better assess which patients are most in need of care, and more efficiently allocate resources. VNA is also expanding its Transitional Care Program to better assist patients with the transition from hospital to home.

Faxton St. Luke's Foundation is a qualified 501(c)(3) charitable organization which secures private and corporate gifts and grants through annual giving programs, proposal submissions, major and planned gift development, and special events. The Foundation's role is to secure, manage, and steward philanthropic support to benefit the healthcare mission of Faxton-St. Luke's Healthcare and St. Luke's Home. A professional staff is employed to carry out the Foundation's programs and manage its administrative and financial responsibilities.

St. Elizabeth Medical Center

Incorporated in 1871, SEMC is a not-for-profit acute care facility located on a 25-acre campus at 2209 Genesee Street, Utica, New York. SEMC is certified to operate 201 beds and a wide variety of inpatient services including medical, surgical, and psychiatric inpatient services. The Medical Center offers outpatient, general diagnostic, ambulatory care, physical therapy, and emergency care services. In addition, SEMC provides community-based services at 14 certified hospital extension clinics, including 13 offering primary medical care. Please see SEMC_Site_List.pdf for a complete list of facilities, locations, and areas served.

With 13 primary care offices, St. Elizabeth Medical Group serves more than 250,000 people. SEMC's Medical Group has offices in Clinton, Old Forge, Little Falls, Mohawk, Sauquoit, Waterville and numerous sites in the city of Utica, including East Utica; the Children's Health Center; the Sister Rose Vincent Family Medicine Center, North Utica; School-Based Health Center at Kernan Elementary School, South Utica; and the Women's Health Center. The St. Elizabeth Medical Group also provides Home Care, Health Support Services, and Sleep Disorders Services. Advanced Wound Care, Adirondack Sports Medicine, and Physical

Mohawk Valley Health System

Therapy are located at the Medical Center's newest facility at St. Elizabeth Medical Arts in New Hartford (4401 Middle Settlement Road, New Hartford, New York).

SEMC is also a regional teaching institution offering the St. Elizabeth Family Medicine Residency Program (SEMC's Hobart Street location), Endoscopic Gynecologic Surgery Fellowship Program (SEMC's Middle Settlement Road location), College of Nursing, and School of Radiography, which are located on the SEMC campus. SEMC staff encompasses approximately 1,700 employees, including 66 employed physicians, mid-level providers and family practice residents, and over 130 active medical staff members.

SEMC is certified to operate 201 beds, configured as follows:

- Intensive Care – 25
- Medical/Surgical – 144
- Pediatric – 8
- Psychiatric – 24

3. *Please provide a detailed operating budget, broken out between both inpatient and outpatient specific revenues and costs.*

Schedules 13C and 13D reference Attachment 7E_MVHS_Income_Stmt.pdf, which is the consolidated income statement with projected revenue and expenses associated with the system. The income statement includes revenues and expenses from audited 2012 financials, projected 2013 year-end financials, Year 1 projections (2104), and Year 3 projections (2016). A breakdown of the consolidated inpatient and outpatient revenue projections are included in Schedule 13D. A detailed operational breakdown of inpatient and outpatient costs is calculated based upon a percentage of inpatient and outpatient revenues to total revenues.

Please refer to attached MVHS_IP_and_OP_Budget_Forecast.pdf.

4. *Please provide all of the certified financial statements for all of the facilities that are related to this project. Explain any losses and what is being done to correct them. We need at least 3 years of the most recent financial statements for facilities that have been in operation since 2008. Please also provide the most current internal financial statements as well if available.*

Mohawk Valley Health System

Please refer to attachments provided for each of the following entities:

- Mohawk Valley Network – four most recent years plus current internal statement YTD
- Faxton-St. Luke's Healthcare – current internal statement YTD (three years prior financial statements provided with original CON submission, which include prior three years for Mohawk Valley Home Care)
- Mohawk Valley Home Care – current internal statement YTD
- Visiting Nurse Association – four most recent years plus current internal statement YTD
- St. Luke's Home – four most recent years plus current internal statement YTD
- St. Elizabeth Medical Center – current internal statement YTD (three years prior financial statements provided with original CON submission)

Explanation of Losses and Financial Condition

A primary cause of the deterioration in hospital finances is revenue stagnation. The combined net patient revenue for FSL and SEMC rose from about \$454 million to \$457 million from 2010 to 2012. This is an increase of less than one percent over two years. There are numerous causes of this stagnation.

Both hospitals have experienced a shift in their payor mix away from commercially insured patients towards Medicaid and uninsured patients. SEMC experienced a 13% decrease in acute care commercial discharges from 2010 to 2012, compared to a 2.7% decline in acute care Medicaid discharges. During this same period, acute care charity discharges at SEMC almost doubled. Similarly, FSL experienced a 17% decline in acute care commercial discharges and a 6% increase in acute care Medicaid discharges from 2010 to 2012. As Medicaid typically reimburses at lower rates than commercial insurers, this change in payor mix negatively impacts the hospitals' revenue.

Changes in Medicare and Medicaid reimbursements also have reduced revenues. FSL estimates that reductions in payments for Medicare and Medicaid dual eligibles reduced revenues to FSL by \$1 million between 2010 and 2012. Medicaid reimbursement reductions further reduced revenues to FSL by \$600 thousand between 2010 and 2012. Sequestration has resulted in approximately \$2 million in additional reductions in Medicare reimbursements to FSL in 2013. At SEMC, Medicaid cuts resulted in a reduction of \$1 million and Sequestration has resulted in an additional reduction in Medicare reimbursements of \$1 million in 2013.

Mohawk Valley Health System

Increased outpatient competition is also having an impact on the hospitals. Recent outpatient entry in the region includes a gastrointestinal Ambulatory Surgery Center (ASC), a urology clinic in Utica specializing in radiation oncology services, and an eye care ASC in Rome. FSL estimates these facilities led to revenue declines of nearly \$6 million from 2011 to 2012. While SEMC does not provide radiation oncology services, it estimates that its revenue decline from these facilities was \$3.2 million from 2011 to 2012.

Sequestration has added additional strain to the financial situation in 2013. Overall, FSL has lost \$3.5 million from operations through June, which is an annualized loss of \$7 million. SEMC expects losses similar to 2012. SEMC lost more than \$2 million through June 2013, which is an annualized loss of over \$4 million.

St. Luke's Home (SLH) has experienced losses primarily due to less than optimal occupancy rates, and a higher Medicaid payer mix than years past. SLH, as a result of the HEAL Grant, is debt free. As a result of this, SLH can expect positive cash flow even with an annual \$800,000 operating loss.

Actions Taken by FSL and SEMC

Over the past few years, both FSL and SEMC have taken significant steps to cut costs.

SEMC has made the following cost reduction efforts:

2011:

- Eliminated 24 FTE positions, including layoffs
- Froze the defined benefit Pension Plan for Non-Union employees
- Additional supply chain savings: \$470,000

2012:

- Eliminated 53 FTE positions, including layoffs
- Froze the defined benefit Pension Plan for UFCW Union employees
- Additional supply chain savings: \$825,000
- Capital Purchases frozen
- Confirmed plan to close School of Radiography in 2014

Mohawk Valley Health System

2013:

- Froze the defined benefit Pension Plan for NYSNA Union employees
- Eliminated 67 FTE positions, including layoffs

Faxton-St. Luke's Healthcare has made similar cost reduction efforts:

2010 to 2012:

- Achieved total annual savings of \$15.7 million
- Eliminated 256 FTE positions
- Implemented weekly review process for all staffing requests

2013:

- January to June: achieved \$5.5 million in annualized savings
 - ▶ Additional staffing reductions and benefit changes
 - ▶ Supply pricing and utilization improvements
- July to December: Initiated plan to save additional \$10.2 million in annualized savings
 - ▶ FTE reductions
 - ▶ Non-salary expenses improvements

The proposed affiliation provides additional cost savings opportunities as identified in the Business Plan of Efficiencies submitted with the NYS CON application on October 7, 2013.

5. *Please revise your post transaction organization chart, it shows the old name for the parent entity, as well as not showing all of the related or affiliated facilities as mentioned in the agreement.*

Please see revised attachment, Post_Transaction_Organization.pdf.

Schedule 1: Forms Required for All Certificate of Need (“CON”) Applications

Included Schedules	Notes
Schedule 1A - General Information Schedule 1B - Abbreviated Executive Summary	<ul style="list-style-type: none">■ One schedule is included for the entire project.■ MVN/FSL is the applicant.■ MVN is the project site.■ FSL is the operator.

Certain schedule sections are not applicable for this application.

Excluded Schedules	Reason for Exclusion
Schedule 1C – Other Facilities Owned or Controlled by the Applicant	Not Applicable

Schedule 1 - Forms Required For All CON Applications

Contents:

- **Schedule 1 A - General Information**
- **Schedule 1 B - Abbreviated Executive Summary**
- **Schedule 1 C - Other Facilities Owned or Controlled by the Applicant**

New York State Department of Health
Certificate of Need Application

Schedule 1A

Schedule 1 A - General Information - All Applicants

Main Site	MAIN SITE PFI	MEDICAID PROVIDER ID	TYPE OF FACILITY	MAIN SITE NAME	
	599	00384309	Hospital	Mohawk Valley Network, Inc. / Faxton St. Luke's Healthcare	
	STREET & NUMBER				
	1656 Champlin Avenue				
	CITY		COUNTY		ZIP
Utica		Oneida		13502	

Project Site	PROJECT SITE PFI	MEDICAID PROVIDER ID	TYPE OF FACILITY	PROJECT SITE NAME	
	N/A	N/A	Parent	Mohawk Valley Network, Inc.	
	STREET & NUMBER				
	1656 Champlin Avenue				
	CITY		COUNTY		ZIP
Utica		Oneida		13502	

Operator Information	OPERATING CERTIFICATE NUMBER	TYPE OF FACILITY	LEGAL ENTITY THAT WILL OPERATE OF THE FACILITY (or proposed operator)		
	3202003H	Hospital	Faxton St. Luke's Healthcare		
	STREET & NUMBER				
	1656 Champlin Avenue				
	CITY		COUNTY		ZIP
Utica		Oneida		13502	

		Title of Attachment:	
Is the applicant an existing facility? If yes, attach a photocopy of the resolution of partners, corporate directors, or LLC managers, as the case may be, authorizing the project.	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	Affiliation Agreement	
Is the applicant part of an "established article 28* network" as defined in section 401.1(j) of 10 nycrr? If yes, attach a statement that identifies the network and describes the applicant's affiliation. Attach an organizational chart, if available.	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	N/A	

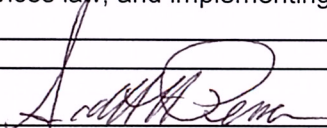
Type of Application: Establishment Construction Administrative Limited

Total Project Cost:	\$0.00
Amount of Application Fee (see Schedule 8)	\$3,000.00

Acknowledgement And Attestation

I hereby certify, under penalty of perjury, that I am duly authorized to subscribe and submit this application on behalf of the applicant: Mohawk Valley Network, Inc.

I further certify that the information contained in this application and its accompanying schedules and attachments are accurate, true and complete in all material respects. I acknowledge and agree that this application will be processed in accordance with the provisions of articles 28, 36 and 40 of the public health law and/or article 7 of the social services law, and implementing regulations, as the case may be.

SIGNATURE:	DATE
	10/4/13
PRINT OR TYPE NAME	TITLE
Scott H. Perra	President and CEO

**New York State Department of Health
Certificate of Need Application**

Schedule 1A

Contacts:

Applicant should identify the operator's chief executive officer, or equivalent official, to whom all official correspondence from DOH about this application should be addressed

CHIEF EXECUTIVE	NAME AND TITLE OF CHIEF EXECUTIVE		
	Scott H. Perra, FACHE, President and CEO		
	STREET & NUMBER		
	1656 Champlin Avenue		
	CITY	STATE	ZIP
	Utica	NY	13502
	TELEPHONE	FAX NUMBER	E-MAIL ADDRESS
315.624.6002	315.624.6956	sperra@mvnhealth.com	

Applicant may designate a second person to whom copies of all official correspondence from DOH about this application should be addressed. (This could be the applicants attorney, or a consultant)

CONTACT INFORMATION	CONTACT PERSON'S COMPANY	NAME AND TITLE OF CONTACT PERSON	
	The Camden Group	Stephen Gelineau, Senior Vice President	
	STREET & NUMBER		
	155 Federal Street, Suite 1500		
	CITY	STATE	ZIP
	Boston	MA	02110
	TELEPHONE	FAX NUMBER	E-MAIL ADDRESS
617.936.6900	617.695.1530	sgelineau@thecamdengroup.com	

The applicant's lead attorney should be identified:

ATTORNEY	NAME		
	Justin P. Runke, Partner, Harris Beach		
	STREET & NUMBER		
	99 Garnsey Road		
	CITY	STATE	ZIP
	Pittsford	NY	14534
	TELEPHONE	FAX NUMBER	E-MAIL ADDRESS
585.419.8734	585.419.8618	runke@harrisbeach.com	

If a consultant prepared the application, the consultant should be identified:

CONSULTANT	NAME		
	The Camden Group		
	STREET & NUMBER		
	155 Federal Street, Suite 1500		
	CITY	STATE	ZIP
	Boston	MA	02110
	TELEPHONE	FAX NUMBER	E-MAIL ADDRESS
617.936.6900	617.695.1530	sgelineau@thecamdengroup.com	

**New York State Department of Health
Certificate of Need Application**

Schedule 1A

The applicant's lead accountant should be identified:

ACCOUNTANT	NAME		
	Fust Charles Chambers, LLP		
	STREET & NUMBER		
	5784 Widewaters Parkway		
	CITY	STATE	ZIP
	Syracuse	NY	13214
	TELEPHONE	FAX NUMBER	E-MAIL ADDRESS
315.446.3600	315.446.3899	tknych@fcc.cpa.com	

Checklist of Schedules Included in This Application

Schedule Number	Schedule Name	Required	Included
1 (A-C)	Forms Required for all CON Applications	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2 (A-D)	Personal Qualifying and Disclosure Information-All Establishment Applications	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3 (A-B)	CON Forms Related to Legal Issues	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4 (A-B)	Legal Information for Ownership Transfers	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
5	CON Form Regarding Working Capital Plan	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
6	CON Form Regarding Architectural Submission	<input type="checkbox"/>	<input type="checkbox"/>
7	CON Forms Regarding Environmental Issues	<input type="checkbox"/>	<input type="checkbox"/>
8 (A-B)	Project & Subproject Cost Summary	<input type="checkbox"/>	<input type="checkbox"/>
9	CON Forms Regarding Project Financing	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
10	Space & Construction Cost Distribution	<input type="checkbox"/>	<input type="checkbox"/>
11	Moveable Equipment	<input type="checkbox"/>	<input type="checkbox"/>
12 (A-G)	CON Forms Specific to Adult Care Facilities	<input type="checkbox"/>	<input type="checkbox"/>
13 (A-D)	CON Forms Applicable to all Article 28 Facilities	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
14 (A-D)	Additional Legal Information-Article 28	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
15	Additional Legal Information-Article 28-Ownership Transfers	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
16 (A-F)	CON Forms Specific to Hospitals-Article 28	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
17 (A-E)	CON Forms Specific to Diagnostic & Treatment Centers-Article 28	<input type="checkbox"/>	<input type="checkbox"/>
18 (A-E)	CON Forms Specific to Residential Health Care Facilities-Article 28	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
19 (A-B)	CON Forms Specific to Adult Day Health Care Programs	<input type="checkbox"/>	<input type="checkbox"/>
20 (A-C)	CON Forms Specific to Programs of OMH, OASAS, and OMRDD (If Applicable)	<input type="checkbox"/>	<input type="checkbox"/>
21 (A-G)	CON Forms Specific to CHHA and LTHHCP Programs-Article 36	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
22 (A-F)	CON Forms Specific to Hospices-Article 40	<input type="checkbox"/>	<input type="checkbox"/>
23	CON Forms Specific to All Projects Incorporating Health IT	<input type="checkbox"/>	<input type="checkbox"/>

**New York State Department of Health
Certificate of Need Application**

Schedule 1B

Schedule 1 B - Abbreviated Executive Summary

Instructions:

New York State Department of Health Certificate of Need Application

Schedule 1B

In the space below, i.e., no more than one page, provide a succinct overview of your proposal. This may be done in bullet format. The purpose of the Abbreviated Executive Summary (AES) is to give the reviewer a conceptual understanding of the proposal. The AES should summarize the key elements of the proposed project. Details will be contained in the appropriate schedules of the application.

This Certificate of Need ("CON") application describes the transition of Mohawk Valley Network, Inc. ("MVN") from a passive parent to an active parent renamed the Mohawk Valley Health System ("MVHS"). Along with the transition from passive parent to active parent of Faxon-St. Luke's Healthcare ("FSL"), the transaction will include the movement of St. Elizabeth Medical Center ("SEMC") under the parent and the addition of St. Lukes Home Residential Health Care Facility, Inc. ("SLH") a current affiliate of MVN. MVHS will also serve as the active parent of Visiting Nurse Association of Utica and Oneida County, Inc. ("VNA"), Mohawk Valley Home Care, LLC ("MVHC") and Senior Network Health, LLC ("SNH"). MVN is currently the sole member of each of these entities.

MVN and SEMC serve Herkimer and Oneida Counties, both of which are experiencing high rates of growth for two vulnerable populations: persons over age 65 and refugees. Medicare and Medicaid make up the majority of inpatient volume at both health systems, and the systems are seeing declining inpatient utilization and eroding bottom lines.

Management at both institutions are fully aware of the increasingly challenging financial conditions of FSL and SEMC, and both are concerned as to the threat this may present to the continued provision of high-quality care at these institutions. The proposed affiliation between MVN and SEMC to create MVHS affords significant opportunity for operational collaboration and clinical integration between the two hospital systems. The proposed affiliation will allow FSL and SEMC to eliminate unnecessary redundancy across their administrative, support, and clinical functions. Service rationalization and clinical program coordination will provide opportunities for enhanced operational efficiency and programmatic development that would not be available absent the affiliation.

In the course of evaluating efficiencies to be gained through consolidation, SEMC and MVN identified significant opportunity for functional consolidation and integration, due in large part to the close proximity of the two organizations. Based upon 2012 hospital utilization and financial data, the total opportunities identified amount to \$20,236,414 on an annual basis upon full implementation. This includes \$13,836,414 in confirmed opportunities that have been identified, quantified, and validated as opportunities that can be achieved through the proposed affiliation.

The consolidation of MVN and SEMC under the common active parent of MVHS will allow the local health systems to respond to evolving community need in the most efficient ways possible. The systematic review and streamlining of services is not intended to reduce services, and the systems do not anticipate any change in the overall complement of services offered. MVHS will continue to offer the wide range of services in the communities where MVN and SEMC already have services.

The consolidation of MVN and SEMC under MVHS will allow both to strengthen their quality improvement and performance initiatives, staff, and programs in a way they would have been unable to accomplish otherwise due to the rapid depletion of their financial resources. These gains will also allow the health systems to continue their pursuit of the goals expressed in their respective Community Service Implementation Plans.

Through consolidation, MVN and SEMC will continue to keep local access to care, increase their commitment to quality, and ensure sustainability of the health delivery system for the long term benefit of Oneida and Herkimer County residents.

**New York State Department of Health
Certificate of Need Application**

Schedule 1C

Schedule 1 C - Other Facilities Owned or Controlled by the Applicant

(Establishment Applications only)

Does the applicant or any related entity (parent, member or subsidiary corporation) operate or control any of the following in New York State?

FACILITY TYPE - NEW YORK STATE	FACILITY TYPE CODE	
Hospital	HOS	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Nursing Home	NH	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Diagnostic and Treatment Center	DTC	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Licensed Home Care Services Agency	LHH	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Certified Home Health Agency	CHH	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Hospice	HSP	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Adult Home	ADH	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Assisted Living Program	ALP	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Long Term Home Health Care Program	LTC	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Enriched Housing Program	EHP	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Health Maintenance Organization	HMO	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Other	OTH	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

**New York State Department of Health
Certificate of Need Application**

Schedule 1C

For each facility or agency referenced above, enter the name, the PFI and facility type in the chart below.

	FACILITY NAME:	PFI	FACILITY TYPE
1	Faxton-St. Luke's Healthcare	599	HOS
2	St. Elizabeth Medical Center	598	HOS
3	St. Lukes Home	N/A	NH
4	Mohawk Valley Home Care	N/A	LHH
5	Visiting Nurse Association of Utica and Oneida County	3055	CHH
6	Senior Network Health	N/A	HMO
7	Faxton-St. Luke's Healthcare Foundation	N/A	OTH
8	St. Elizabeth Medical Center Foundation	N/A	OTH
9	St. Elizabeth College of Nursing	N/A	OTH
10			
11			
12			
13			
14			
15			
16			

**New York State Department of Health
Certificate of Need Application**

Schedule 1C

In addition to the information provided on the above chart, provide a complete list of all health care, adult care, behavioral, or mental health facilities, programs or agencies located outside New York State that are affiliated with the applicant corporation, as well as with parent, member and subsidiary corporations. For each health care entity identified, provide the full name, address, and type of services provided. In conjunction with this list, provide documentation from the regulatory agency in the state(s) where affiliations are noted, reflecting that the facilities/programs/agencies have operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of the affiliation, whichever is shorter). To assist you in securing this information, a recommended form and a sample letter of inquiry are provided in Schedule 2 D.

Please list the facilities outside of New York State that are owned or controlled by the applicant:

	FACILITY NAME AND ADDRESS:	Services provided:	STATE/ COUNTRY	FACILITY TYPE
1	N/A			
2				
3				
4				
5				
6				
7				
8				
9				
10				

Schedule 2: Personal Qualifying Information and Disclosures

Included Schedules	Notes
Schedule 2A – Personal Qualifying Information Schedule 2C – Director’s Statement for Not-for-Profit Applicants	<p>Schedules are included for all prospective board members for MVHS, SEMC and FSL, representing a total of 20 individuals, including:</p> <ul style="list-style-type: none"> • Aiello, Domenic • Cominsky, Catherine • Compson, Joan • Dennison, Thomas • Evans, Gregory • Gesualdo, Maria • Hummel, Harrison • Hutton, Todd • Kowalczyk, Andrew • McLean, Gregory • Perra, Scott • Siegel, Norman • Sperling, John • Sweet, Stephen • Tantillo, Richard • Tsoupelis, Symeon • Warfel, Mark • Woods, Bonnie • Yoss, Eric • Zweifel, Richard

Certain schedule sections are not applicable for this application.

Excluded Schedules	Reason for Exclusion
Schedule 2B	Not Applicable
Schedule 2D	Not Applicable

Schedule 2A - Personal Qualifying Information

Name of Individual:

Domenic Aiello

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Aiello		Domenic		P
STREET ADDRESS				
BUSINESS NAME AND ADDRESS				
Domenic P. Aiello, M.D., FACE, 1 Oxford Crossing, Suite 4				
CITY	STATE	ZIP CODE	TELEPHONE	
New Hartford	NY	13413	315-732-3300	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Board Member				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
Hershey Medical Center	Hershey, PA	1987	1988	Endo Fellowship	1989
Highland Hospital	Rochester, NY	1983	1986	IM Residency	1986
SUNY at Buffalo	Buffalo, NY	1982	1983	Fifth Pathway	
Universidad Autonoma de Guadalajara	Guadalajara, Jalisco Mexico	1978	1982	MD	1982
Pennsylvania State University	State College, PA	1973	1977	BS	1977

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date
MD / 157472	New York		

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
Self Employed		See Page 1	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2002	Present	Faxton St. Luke's Healthcare	P O Box 479, Utica, NY 13503	Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH OHSM		217 South Salina Street, Syracuse, New York 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	St. Luke's Home Residential Healthcare Facility, Inc.	1650 Champlin Ave, Utica, NY 13502	RHCF
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH OSHM		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Senior Network Health, LLC	1650 Champlin Ave, Utica, NY 13502	Managed Long-Term Care
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH OSHM		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Visiting Nurse Assoc of Utica and Oneida County, Inc.	1650 Champlin Ave, Utica, NY 13502	Certified Home Health Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Mohawk Valley Home Care, LLC	1650 Champlin Ave, Utica, NY 13502	Home Care Service Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH OSHM		217 South Salina Street, Syracuse, NY 13202

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: None			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Schedule 2a – Personal Qualifying Information

Domenic P. Aiello, M.D.

Continuation of Question a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2006	2009	Centrex Clinical Laboratory, Inc.	Faxton St. Luke's Healthcare St. Luke's Campus 1656 Champlin Ave Utica, NY 13502	Lab
Office/Nature of Interest		Name of Licensing Agenda		Address
Board Member		Clinical Laboratory Evaluation Program Wadsworth Center NYS Department of Health		Empire State Plaza PO Box 509 Albany, NY 12201-0509

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following information:

NATURE OF VIOLATION
Faxton St. Luke's Healthcare received a Statement of Deficiencies on April 22, 2003 primarily related to its surgical services. The hospital entered into a Stipulation and Order (S&O) #BHS-03-08H. By letter dated November 19, 2004, the hospital was advised the "S&O is now deemed closed."
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)
NYS Department of Health, Central Regional Office, 217 South Salina Street, Syracuse, NY 13202

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

--

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	
2) Are there any criminal actions pending against you?	
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
PERSONS AND/OR FACILITIES INVOLVED		
GIVE ANY FURTHER DETAILS		

8) Have you ever changed your name or used an alias?	
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

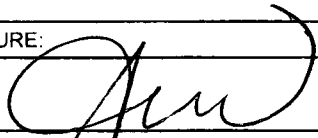
<p>9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?</p>	
<p>10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?</p>	
<p>11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:</p>	
<p>a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?</p>	
<p>b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?</p>	
<p>c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?</p>	
<p>d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?</p>	
<p>e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?</p>	
<p>f) was denied a certificate of authority or license to do business in any state?</p>	
<p>If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.</p>	
<p>Have you ever been in a position that required a fidelity bond?</p>	
<p>Were any claims made against that bond? If "Yes", provide details below</p>	
<p>Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?</p>	

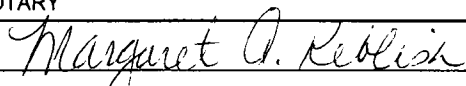
**New York State Department of Health
Certificate of Need Application**

Schedule 2A

If "Yes", provide details below	

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X 	3/28/13
PRINT OR TYPE NAME	
Domenic P. Aiello, M.D.	
TITLE	
Board Member	

NOTARY	DATE
	3/28/2013

Has the original of this document been signed and notarized? Yes No

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/09/2013

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

Domenic P. Aiello, M.D.

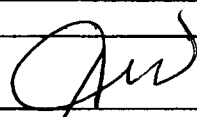
This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

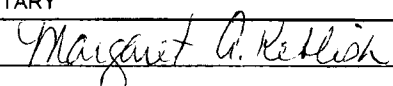
Statement of Business Associations with Health Facilities

- I do NOT receive any income directly or indirectly from any other health care facility.
- I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

[Empty box for describing relationships with health care facilities]

Has the original of this document been signed and notarized? Yes No

SIGNATURE:	DATE
X 	3/28/13
PRINT OR TYPE NAME	
Domenic P. Aiello, M.D.	
TITLE	
Board Member	

NOTARY	DATE
	3/28/2013

MARGARET A. KEBLISH
 Notary Public, State of New York
 No. 01KE6029261
 Qualified in Oneida County
 Commission Expires 08/09/2013

Schedule 2A - Personal Qualifying Information

Name of Individual:

Catherine M. Cominsky

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Cominsky		Catherine		M.
STREET ADDRESS				
BUSINESS NAME AND ADDRESS				
Cathedral Corporation				
CITY	STATE	ZIP CODE	TELEPHONE	
Rome	NY	13440		
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Trustee				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
SUNY Geneseo	Geneseo, NY	1981	1983	B.S.	1983
Utica College	Utica, NY	1998	2001	M.S.	2001

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
Cathedral Corporation		Digital Printing Firm	
STREET ADDRESS OF EMPLOYER			
632 Ellsworth Road			
CITY		STATE	ZIP CODE
Rome		NY	13441
DATES OF EMPLOYMENT	FROM	TO:	
	4/2011	present	
POSITION/RESPONSIBILITIES			
National Higher Education Solution Manager			
REASON FOR DEPARTURE			
N/A			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
Utica College		Higher Education/College	
STREET ADDRESS OF EMPLOYER			
1600 Burrstone Road			
CITY		STATE	ZIP CODE
Utica		NY	13502
DATES OF EMPLOYMENT	FROM	TO:	
	1998		
POSITION/RESPONSIBILITIES			
Adjunct Professor/Teacher Education, Part-time			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2008	present	St. Elizabeth Medical Center	2209 Genesee St, Utica, NY 13501	Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Trustee		NYS Department of Health		Albany, NY

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: Michael Cominsky			Relationship: [REDACTED]	
From	To	Name of Facility	Address of Facility	Type of Facility
2001	Present	Sitrin Health Center	Tilden Road New Hartford, NY 13413	Skilled Nursing
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Trustee		NYS Department of Health		Albany, NY

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
See Attached
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

N/A

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	
2) Are there any criminal actions pending against you?	
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
	SEE ATTACHED	
PERSONS AND/OR FACILITIES INVOLVED		
GIVE ANY FURTHER DETAILS		

8) Have you ever changed your name or used an alias?	
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

<p>9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?</p>	
<p>10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?</p>	
<p>11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:</p>	
<p>a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?</p>	
<p>b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?</p>	
<p>c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?</p>	
<p>d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?</p>	
<p>e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?</p>	
<p>f) was denied a certificate of authority or license to do business in any state?</p>	
<p>If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.</p>	
<p> </p>	
<p>Have you ever been in a position that required a fidelity bond?</p>	
<p>Were any claims made against that bond? If "Yes", provide details below</p>	
<p>n/A</p>	
<p>Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?</p>	
<p>If "Yes", provide details below</p>	

New York State Department of Health
Certificate of Need Application

Schedule 2A

--

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X <i>Catherine M. Cominsky</i>	9/3/13
PRINT OR TYPE NAME	
Catherine M. Cominsky	
TITLE	
Trustee	

NOTARY	DATE
<i>Traci A. Boris</i>	9/3/13

Has the original of this document been signed and notarized? Yes No

TRACI A. BORIS
Notary Public, State of New York
No. 02806696781
Qualified in Oneida County
Commission Expires April 21, 2014

ATTACHMENT 1 TO SCHEDULE 2
New York State Department of Health
Certificate of Need Application
Personal Qualifying and Disclosure Information

Schedule 2A

5. Offices Held or Ownership in Health Facilities

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facilities violation of applicable laws and regulations?

Yes. In or about June 2007, the Department of Health completed a recertification survey of St. Elizabeth Medical Center's Home Care [St. Elizabeth Certified Home Care] wherein they found violations of Article 36 of the Public Health Law and Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York. A Statement of Deficiencies resulted but prior to service of a Notice of Hearing and Statement of Charges and commencement by DOH of an administrative enforcement action based on the alleged violations, St. Elizabeth settled with DOH. As a part of the 2008 settlement, St. Elizabeth admitted to the existence of substantial evidence of violations of 10 NYCRR §763.4(h) [Policies and procedures of service delivery], 10 NYCRR §763.6(b) [Patient assessment and plan of care], 10 NYCRR §763.6(e) [Patient assessment and plan of care], 10 NYCRR §763.11(a) [Governing authority] and 10 NYCRR §763.11(b) [Governing authority]. A \$10,000 civil penalty was assessed of which \$5,000 was paid and the remaining \$5,000 was suspended providing St. Elizabeth did not violate certain terms and regulations within 3 years.

In March 2013, St. Elizabeth Medical Center received a citation and Notice of Penalty for alleged violations of 29 CFR 1910.1000(a)(2) and (e), and 1910.1200 (h)(3)(i),(h)(3)(ii) and (h)(3)(iii). The citations resulted from an employee allegation of overexposure to carbon monoxide. The citation and \$8500 penalty are currently being contested.

In September 2012, the Department of Health completed a recertification survey of St. Elizabeth Medical Center's Home Care (St. Elizabeth Certified Home Care) wherein they found violations of 10 NYCRR 763.11 (a)(b), 763.4 (h) and 736.6 (a),(b), (c) and (e). A Statement of Deficiencies resulted and a Plan of Correction was completed and accepted. No statement of charges has yet been filed and there has been no penalty assessed at this time as St. Elizabeth Medical and the Department of Health are in settlement discussions.

6. Record of Legal Actions

5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?

Yes. As a member of the Board of Trustees of St. Elizabeth Medical Center, the Medical Center has been named in numerous lawsuits over the course of the years, ranging from medical malpractice actions to slip and fall to wrongful termination and employment actions. It is a hospital that provides care to tens of thousands of people a year and employs over 2000 individuals.

11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:

c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?

Yes.

1. In or about December 2007 the U.S. Attorney General's Office conducted a nationwide investigation into billing for kyphoplasty procedures. St. Elizabeth Medical Center was thus a part of that investigation and it was determined that certain procedures billed as inpatient should have been billed as outpatient. St. Elizabeth Medical Center entered into an agreement to pay back \$195,976 plus interest.

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

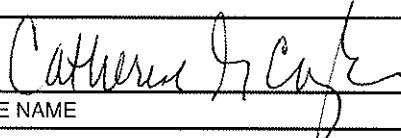
Catherine M. Cominsky

This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

Statement of Business Associations with Health Facilities

- I do NOT receive any income directly or indirectly from any other health care facility.
- I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

Has the original of this document been signed and notarized? Yes No

SIGNATURE:	DATE
X 	9/3/13
PRINT OR TYPE NAME	
Catherine M. Cominsky	
TITLE	
Trustee	

NOTARY	DATE
	9/3/13

TRACI A. BORIS
 Notary Public, State of New York
 No. 02BO6090761
 Qualified in Oneida County
 Commission Expires April 21, 20 13

Schedule 2A - Personal Qualifying Information

Name of Individual:

Joan Compson

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Compson		Joan		W
STREET ADDRESS				
BUSINESS NAME AND ADDRESS				
None				
CITY	STATE	ZIP CODE	TELEPHONE	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Board Member				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
Syracuse University	Syracuse, NY	1959	1963	BS	1963
Syracuse University	Syracuse, NY	1981	1986	MBA	1986
Penn State University	State College, PA	1963	1964	MS	1967

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date
Certified Public Accountant License #062653-1	University of the State of NY Education Department	3/1990	6/30/2012 Not currently practicing public accounting

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement: ██████████

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
Carbone Auto Group		14 Auto Dealerships, Management Co & Realty Compancies	
STREET ADDRESS OF EMPLOYER			
5700 Horatio Street			
CITY		STATE	ZIP CODE
Utica		NY	13502
DATES OF EMPLOYMENT	FROM	TO:	
	4/1/1991	12/31/2012	
POSITION/RESPONSIBILITIES			
Chief Financial Officer (CPA)			
REASON FOR DEPARTURE			
Retirement			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2000	Present	Faxton St. Luke's Healthcare	1656 Champlin Ave, Utica, NY 13502	Article 28 Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Director, Past Chair, Vice Chair, & Treasurer		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2006	Present	St. Luke's Home Residential Healthcare Facility, Inc.	1650 Champlin Ave, Utica, NY 13502	RHCF
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2006	Present	Senior Network Health, LLC	1650 Champlin Ave, Utica, NY 13502	Managed Long-Term Care
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2006	Present	Visiting Nurse Assoc of Utica & Oneida County, Inc.	1650 Champlin Ave, Utica, NY 13502	Certified Home Health Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
2006	Present	Mohawk Valley Home Care, LLD	2521 Sunset Ave, Utica, NY 13502	Home Care Service Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: None			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Schedule 2a – Personal Qualifying Information

Joan W. Compson

Continuation of Question a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
8/2010	Present	Mohawk Valley Heart Institute	2209 Genesee Street, Utica, NY 13501	
Office/Nature of Interest		Name of Licensing Agenda		Address
Board Member		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
Faxton St. Luke's Healthcare received a Statement of Deficiencies on April 22, 2003 primarily related to its surgical services. The hospital entered into a Stipulation and Order (S&O) #BHS-03-08H. By letter dated November 19, 2004, the hospital was advised the "S&O is now deemed closed."
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)
NYS Department of Health, Central Regional Office, 217 South Salina Street, Syracuse, NY 13202

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

--

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
2) Are there any criminal actions pending against you?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
PERSONS AND/OR FACILITIES INVOLVED		
Faxton St. Luke's Healthcare has from time to time been named a defendant in various professional liability actions.		
GIVE ANY FURTHER DETAILS		

8) Have you ever changed your name or used an alias?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

As a child I was adopted by my step-father and my name was changed from Joan Lawson to Joan Wheeler.	
9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:	
a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
f) was denied a certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.	
Have you ever been in a position that required a fidelity bond?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Were any claims made against that bond? If "Yes", provide details below	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

If "Yes", provide details below	

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X <i>Joan W. Compson</i>	3/28/2013
PRINT OR TYPE NAME	
Joan W. Compson	
TITLE	
Board Member	

NOTARY	DATE
<i>Margaret A. Keblish</i>	3/28/2013

Has the original of this document been signed and notarized? Yes No

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County 13
Commission Expires 08/09/2013

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

Joan W. Compson

This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

Statement of Business Associations with Health Facilities

I do NOT receive any income directly or indirectly from any other health care facility.

I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

Has the original of this document been signed and notarized? Yes No

SIGNATURE:	DATE
X <i>Joan W. Compson</i>	3/28/2013
PRINT OR TYPE NAME	
Joan W. Compson	
TITLE	
Board Member	

NOTARY	DATE
<i>Margaret A. Keblish</i>	3/28/2013

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/09/2013

Schedule 2A - Personal Qualifying Information

Name of Individual:

THOMAS H. DENNISON, Ph.D.

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Dennison		Thomas		H.
STREET ADDRESS				
BUSINESS NAME AND ADDRESS				
The Maxwell School, Syracuse University, 426 Eggers Hall				
CITY	STATE	ZIP CODE	TELEPHONE	
Syracuse	NY	13244	(315) 443-9060	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Trustee				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
Syracuse University	Syracuse, NY	9/70	8/74	BS	8/74
George University	Washington, DC	9/75	9/77	M.H.A.	9/77
Pensylvania State University	State College, PA	9/82	5/87	Ph.D.	5/87

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date
Nursing Home Administrator 02937	NYS Dept of Health	Inactive	

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
The Maxwell School, Syracuse University		University	
STREET ADDRESS OF EMPLOYER			
426 Eggers Hall			
CITY		STATE	ZIP CODE
Syracuse		NY	13244
DATES OF EMPLOYMENT	FROM	TO:	
	8/2000	Present	
POSITION/RESPONSIBILITIES			
Professor			
REASON FOR DEPARTURE			
N/A			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2011	present	St. Elizabeth Medical Center	2209 Genesee St, Utica, NY 13501	Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Trustee		NYS Department of Health		Albany, NY

From	To	Name of Facility	Address of Facility	Type of Facility
7/07	present	VNA of Central NY	1050 West Genesee Street Syracuse, NY 13204	CHHA
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Trustee		NYS Department of Health		Albany, NY

From	To	Name of Facility	Address of Facility	Type of Facility
6/12	present	Independent Health Care Services	1050 West Genesee Street Syracuse, NY 13240	LHCSA
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Trustee		NYS Department of Health		Albany, NY

From	To	Name of Facility	Address of Facility	Type of Facility
6/12	present	CCH Home Care and Palliative Services	1050 West Genesee Street Syracuse, NY 13240	CHHAA
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Trustee		NYS Department of Health		Albany, NY

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
8/13	current	Home Aides of CNY	723 James Street, Syracuse NY 13202	Licensed Home Care Services Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Trustee		New York State Department of Health		Albany, New York

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: N/A			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
See Attached
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

N/A

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
2) Are there any criminal actions pending against you?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
	SEE ATTACHED	
PERSONS AND/OR FACILITIES INVOLVED		
GIVE ANY FURTHER DETAILS		

8) Have you ever changed your name or used an alias?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:	
a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
f) was denied a certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.	
Have you ever been in a position that required a fidelity bond?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Were any claims made against that bond? If "Yes", provide details below	Yes <input type="checkbox"/> No <input type="checkbox"/>
n/A	
Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If "Yes", provide details below	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X	9-10-13
PRINT OR TYPE NAME	
Thomas H. Dennison, Ph.D.	
TITLE	
Trustee	

NOTARY	DATE
MARGARET M. AUSTIN NOTARY PUBLIC STATE OF NEW YORK No. 01AU6245406 Qualified in Onondaga County My Commission Expires 07/18/2015	 9/10/13

Has the original of this document been signed and notarized? Yes No

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

Thomas H. Dennison, Ph.D.

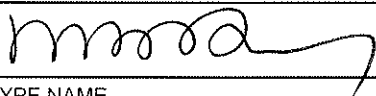
This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

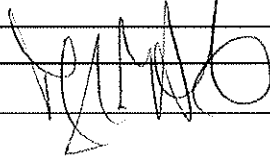
Statement of Business Associations with Health Facilities

- I do NOT receive any income directly or indirectly from any other health care facility.
- I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

Visiting Nurse Association of the Hudson Valley/Consultant/Independent Contractor
 Chenango Memorial Hospital/Consultant/Independent Contractor

Has the original of this document been signed and notarized? Yes No

SIGNATURE:	DATE
X 	9-10-13
PRINT OR TYPE NAME	
Thomas H. Dennison, Ph.D.	
TITLE	
Trustee	

NOTARY	DATE
 MARGARET M AUSTIN NOTARY PUBLIC-STATE OF NEW YORK No. 01AU6245406 Qualified in Onondaga County My Commission Expires 03/31/15	9/10/13

Schedule 2A - Personal Qualifying Information

Name of Individual:

Gregory P. Evans

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Evans		Gregory		P.
STREET ADDRESS				
BUSINESS NAME AND ADDRESS				
Indium Corporation				
CITY	STATE	ZIP CODE	TELEPHONE	
Clinton	NY	13323	(315) 853-4900	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Trustee				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
Mohawk Valley Community College	Utica, NY	9/1/77	5/1/79	AS	5/1/1979
Clarkson College	Potsdam, NY	9/1/79	5/1/1981	BS	5/1/1981
Rensselaer Polytechnic Institute	Troy, NY	9/1/88	5/1/1991	MBA	5/1/1991

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
The Indium Corporation of America		Manufacturing	
STREET ADDRESS OF EMPLOYER			
1676 Lincoln Avenue			
CITY		STATE	ZIP CODE
Utica		NY	13502
DATES OF EMPLOYMENT	FROM	TO:	
	7/6/1981	present	
POSITION/RESPONSIBILITIES			
President & Chief Operating Officer			
REASON FOR DEPARTURE			
N/A			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2009	present	St. Elizabeth Medical Center	2209 Genesee St, Utica, NY 13501	Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Trustee		NYS Department of Health		Albany, NY

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: N/A			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
See Attachment 1
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

See Attached

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

N/A

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
2) Are there any criminal actions pending against you?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
	SEE ATTACHMENT 1	
PERSONS AND/OR FACILITIES INVOLVED		
GIVE ANY FURTHER DETAILS		

8) Have you ever changed your name or used an alias?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A


9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:	
a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
f) was denied a certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.	
See Attached	
Have you ever been in a position that required a fidelity bond?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Were any claims made against that bond? If "Yes", provide details below	Yes <input type="checkbox"/> No <input type="checkbox"/>
N/A	
Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If "Yes", provide details below	


**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X 	30 Aug 2013
PRINT OR TYPE NAME	
Gregory P. Evans	
TITLE	
Trustee	

NOTARY	DATE
	30 Aug 2013

Has the original of this document been signed and notarized? Yes No

MELISSA A. LEVESQUE
Notary Public, State of New York
Appointed in Herkimer County
My Commission Expires 9-14-14

ATTACHMENT 1 TO SCHEDULE 2
New York State Department of Health
Certificate of Need Application
Personal Qualifying and Disclosure Information

Schedule 2A

5. Offices Held or Ownership in Health Facilities

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facilities violation of applicable laws and regulations?

Yes. In or about June 2007, the Department of Health completed a recertification survey of St. Elizabeth Medical Center's Home Care [St. Elizabeth Certified Home Care] wherein they found violations of Article 36 of the Public Health Law and Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York. A Statement of Deficiencies resulted but prior to service of a Notice of Hearing and Statement of Charges and commencement by DOH of an administrative enforcement action based on the alleged violations, St. Elizabeth settled with DOH. As a part of the 2008 settlement, St. Elizabeth admitted to the existence of substantial evidence of violations of 10 NYCRR §763.4(h) [Policies and procedures of service delivery], 10 NYCRR §763.6(b) [Patient assessment and plan of care], 10 NYCRR §763.6(e) [Patient assessment and plan of care], 10 NYCRR §763.11(a) [Governing authority] and 10 NYCRR §763.11(b) [Governing authority]. A \$10,000 civil penalty was assessed of which \$5,000 was paid and the remaining \$5,000 was suspended providing St. Elizabeth did not violate certain terms and regulations within 3 years.

In March 2013, St. Elizabeth Medical Center received a citation and Notice of Penalty for alleged violations of 29 CFR 1910.1000(a)(2) and (e), and 1910.1200 (h)(3)(i),(h)(3)(ii) and (h)(3)(iii). The citations resulted from an employee allegation of overexposure to carbon monoxide. The citation and \$8500 penalty are currently being contested.

In September 2012, the Department of Health completed a recertification survey of St. Elizabeth Medical Center's Home Care (St. Elizabeth Certified Home Care) wherein they found violations of 10 NYCRR 763.11 (a)(b), 763.4 (h) and 736.6 (a),(b), (c) and (e). A Statement of Deficiencies resulted and a Plan of Correction was completed and accepted. No statement of charges has yet been filed and there has been no penalty assessed at this time as St. Elizabeth Medical and the Department of Health are in settlement discussions.

6. Record of Legal Actions

5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?

Yes. As a member of the Board of Trustees of St. Elizabeth Medical Center, the Medical Center has been named in numerous lawsuits over the course of the years, ranging from medical malpractice actions to slip and fall to wrongful termination and employment actions. It is a hospital that provides care to tens of thousands of people a year and employs over 2000 individuals.

11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:

c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?

Yes.

1. In or about December 2007 the U.S. Attorney General's Office conducted a nationwide investigation into billing for kyphoplasty procedures. St. Elizabeth Medical Center was thus a part of that investigation and it was determined that certain procedures billed as inpatient should have been billed as outpatient. St. Elizabeth Medical Center entered into an agreement to pay back \$195,976 plus interest.

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

Gregory P. Evans

This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

Statement of Business Associations with Health Facilities

I do NOT receive any income directly or indirectly from any other health care facility.


I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.


--

Has the original of this document been signed and notarized?

Yes

No

SIGNATURE:	DATE
X 	30 Aug 2013
PRINT OR TYPE NAME	
Gregory P. Evans	
TITLE	

NOTARY	DATE
	30 Aug 2013

MELISSA A. LEVESQUE
Notary Public, State of New York
Appointed In Herkimer County
My Commission Expires 9-14-14

Schedule 2A - Personal Qualifying Information

Name of Individual:

Maria Gesualdo, D.O.

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Gesualdo		Maria		B.
STREET ADDRESS				
BUSINESS NAME AND ADDRESS				
CITY	STATE	ZIP CODE	TELEPHONE	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Board Member				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
Lehigh University	Bethlehem, PA	1987	1991	B.S.	1991
New York College of Osteopathic Medicine	Old Westbury, NY	1991	1995	D.O.	1995

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date
NYS 229084 (Physician)	NYS Education Department	7/2/2003	4/30/2015

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
Slocum Dickson Medical Group		Medical Group Practice	
STREET ADDRESS OF EMPLOYER			
1729 Burrstone Road			
CITY		STATE	ZIP CODE
New Hartford		NY	13413
DATES OF EMPLOYMENT	FROM	TO:	
	September 2003	Present	
POSITION/RESPONSIBILITIES			
Employed Physician			
REASON FOR DEPARTURE			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2011	Present	Faxton St. Luke's Healthcare	1656 Champlin Ave, Utica, NY 13503	Article 28 Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2011	Present	St. Luke's Home Residential Healthcare Facility, Inc.	1650 Champlin Ave, Utica, NY 13503	RHCF
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2011	Present	Senior Network Health, LLC	1650 Champlin Ave, Utica, NY 13503	Managed Long-Term Care
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2011	Present	Visiting Nurse Assoc of Utica and Oneida County, Inc.	1650 Champlin Ave, Utica, NY 13503	Certified Home Health Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
2011	Present	Mohawk Valley Home Care, LLC	1650 Champlin Ave, Utica, NY 13503	Home Care Service Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: None			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation


--

d. Affirmative Statement of Qualifications

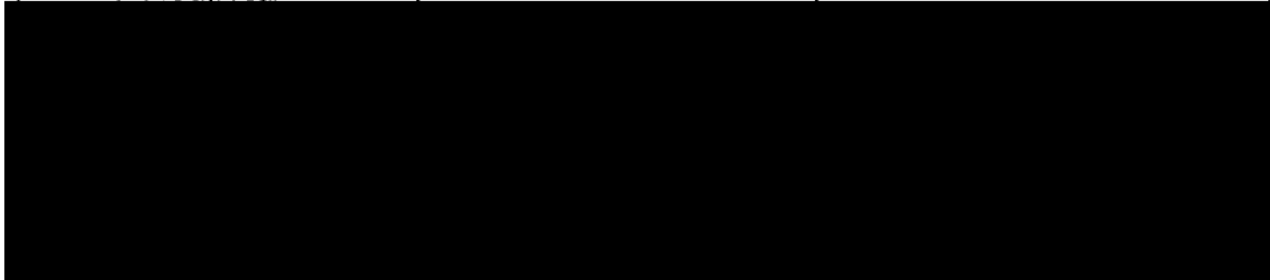
For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

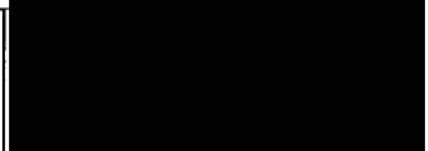

--

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	
2) Are there any criminal actions pending against you?	
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
		

8) Have you ever changed your name or used an alias?	
If Yes, provide details below:	
	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?	
10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?	
11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:	
a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?	
b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?	
c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?	
d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?	
e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?	
f) was denied a certificate of authority or license to do business in any state?	
If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.	
Have you ever been in a position that required a fidelity bond?	
Were any claims made against that bond? If "Yes", provide details below	
Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?	
If "Yes", provide details below	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X <i>Maria B. Gesualdo D.O.</i>	9/17/2013
PRINT OR TYPE NAME	
Maria B. Gesualdo, D.O.	
TITLE	
Board Member	

NOTARY	DATE
<i>Margaret A. Keblish</i>	9/17/2013

Has the original of this document been signed and notarized? Yes No

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/09/2017

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

Maria B. Gesualdo, D.O.

This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

Statement of Business Associations with Health Facilities

- I do NOT receive any income directly or indirectly from any other health care facility.
- I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

Member of Slocum Dickson Medical Group payed salary on bi-monthly basis.

Has the original of this document been signed and notarized? Yes No

SIGNATURE:	DATE
X <i>Maria B. Gesualdo D.O.</i>	9/17/2013
PRINT OR TYPE NAME	
Maria Gesualdo, D.O.	
TITLE	
Board Member	

NOTARY	DATE
<i>Margaret A. KEBLISH</i>	<i>9/17/2013</i>

MARGARET A. KEBLISH
 Notary Public, State of New York
 No. 01KE6029261
 Qualified in Oneida County *17*
 Commission Expires 08/09/20__

MARIA B. GESUALDO, D.O.

Licensure	New York State - 229084
Medical School	D.O. - New York College of Osteopathic Medicine, 1995 Old Westbury, NY B.S. – Lehigh University, 1991 Bethlehem, PA Major in Chemistry
Internal Medicine Internship	July 1995 – June 1996: Osteopathic Intern St. Luke's Hospital, Bethlehem, PA
Internal Medicine Residency	July 1996 – June 1998: Internal Medicine Resident St. Luke's Hospital, Bethlehem, PA
Pulmonary Medicine Fellowship	July 1998 – June 2001: Fellow in Pulmonary, Allergy, and Critical Care Medicine Penn State Health System, Hershey Medical Center, Hershey, PA
Board Status	Certified in Internal Medicine by the American Board of Internal Medicine Certified in Pulmonary Disease by the American Board of Internal Medicine Board Eligible in Critical Care Medicine by the American Board of Internal Medicine
Certifications	CPR
Professional experience	Sept. 2003 – Present Slocum-Dickson Medical Group May 2002 – May 2003 – Bethlehem Pulmonary Associates, Inc., Bethlehem, PA
Hospital Affiliations	Faxton – St. Luke's Healthcare St. Elizabeth's Medical Center
Awards received	St. Luke's Resident Recognition Pin Osteopathic Manipulative Medicine Honor Student

Publications

" In Virto" Inhibition of the Calcineurin Phosphatase by Cyclosporine and Tacrolimus and Their Immunophilins

Calcineurin Phosphatase Activity in Renal Transplant Patients Receiving Tactolimus

Blood Tacrolimus Levels and Calcineurin Phosphatase Activity Early After Renal Transplantation

Blood Tacrolimus Leels and Calcineurin Phosphatase Activity Early After Renal Transplantation

Schedule 2A - Personal Qualifying Information

Name of Individual:

Harrison J. Hummel, III

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Hummel, III		Harrison		J.
STREET ADDRESS				
BUSINESS NAME AND ADDRESS				
Hummel's Office Plus				
CITY	STATE	ZIP CODE	TELEPHONE	
Mohawk	NY	13407	(315) 866-3860	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Trustee				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
Herkimer County Community College	Herkimer, NY	1972	1974	AAS	1974

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
Hummel's Office Plus		Office Supply & Furniture	
STREET ADDRESS OF EMPLOYER			
25 Canal Street			
CITY		STATE	ZIP CODE
Mohawk		NY	13407
DATES OF EMPLOYMENT	FROM	TO:	
	1972	present	
POSITION/RESPONSIBILITIES			
CEO/President			
REASON FOR DEPARTURE			
N/A			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2005	5/2013	St. Elizabeth Medical Center	2209 Genesee St, Utica, NY 13501	Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Trustee		NYS Department of Health		Albany, NY

From	To	Name of Facility	Address of Facility	Type of Facility
2002	2012	Human Technologies Corporation	2260 Dwyer Avenue Utica, NY 13501	Not-for-profit organization dedicated to employing people with disabilities
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board member				

From	To	Name of Facility	Address of Facility	Type of Facility
2006	2012	Hospice & Palliative Care	Middlesettlement Road New Hartford, NY 13413	End-of-Life Care
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board member				

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: N/A			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following information:

NATURE OF VIOLATION
See Attachment 1
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

N/A

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
2) Are there any criminal actions pending against you?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
	SEE ATTACHMENT 1	
PERSONS AND/OR FACILITIES INVOLVED		
GIVE ANY FURTHER DETAILS		

8) Have you ever changed your name or used an alias?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

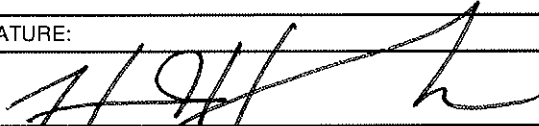
9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:	
a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
f) was denied a certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.	
See Attachment #1	
Have you ever been in a position that required a fidelity bond?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Were any claims made against that bond? If "Yes", provide details below	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
N/A	
Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If "Yes", provide details below	

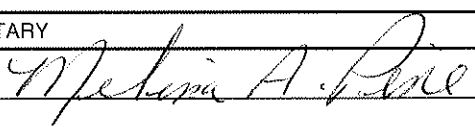
**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X 	9/6/2013
PRINT OR TYPE NAME	
Harrison J. Hummel III	
TITLE	
Trustee	

NOTARY	DATE
	9-6-13

Has the original of this document been signed and notarized? Yes No

MELISSA A. PINE
Notary Public, State of New York
No. 01PI6113796
Qualified in Herkimer County
My Commission Expires 08/02/16

ATTACHMENT 1 TO SCHEDULE 2
New York State Department of Health
Certificate of Need Application
Personal Qualifying and Disclosure Information

Schedule 2A

5. Offices Held or Ownership in Health Facilities

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facilities violation of applicable laws and regulations?

Yes. In or about June 2007, the Department of Health completed a recertification survey of St. Elizabeth Medical Center's Home Care [St. Elizabeth Certified Home Care] wherein they found violations of Article 36 of the Public Health Law and Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York. A Statement of Deficiencies resulted but prior to service of a Notice of Hearing and Statement of Charges and commencement by DOH of an administrative enforcement action based on the alleged violations, St. Elizabeth settled with DOH. As a part of the 2008 settlement, St. Elizabeth admitted to the existence of substantial evidence of violations of 10 NYCRR §763.4(h) [Policies and procedures of service delivery], 10 NYCRR §763.6(b) [Patient assessment and plan of care], 10 NYCRR §763.6(e) [Patient assessment and plan of care], 10 NYCRR §763.11(a) [Governing authority] and 10 NYCRR §763.11(b) [Governing authority]. A \$10,000 civil penalty was assessed of which \$5,000 was paid and the remaining \$5,000 was suspended providing St. Elizabeth did not violate certain terms and regulations within 3 years.

In March 2013, St. Elizabeth Medical Center received a citation and Notice of Penalty for alleged violations of 29 CFR 1910.1000(a)(2) and (e), and 1910.1200 (h)(3)(i),(h)(3)(ii) and (h)(3)(iii). The citations resulted from an employee allegation of overexposure to carbon monoxide. The citation and \$8500 penalty are currently being contested.

In September 2012, the Department of Health completed a recertification survey of St. Elizabeth Medical Center's Home Care (St. Elizabeth Certified Home Care) wherein they found violations of 10 NYCRR 763.11 (a)(b), 763.4 (h) and 736.6 (a),(b), (c) and (e). A Statement of Deficiencies resulted and a Plan of Correction was completed and accepted. No statement of charges has yet been filed and there has been no penalty assessed at this time as St. Elizabeth Medical and the Department of Health are in settlement discussions.

6. Record of Legal Actions

5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?

Yes. As a member of the Board of Trustees of St. Elizabeth Medical Center, the Medical Center has been named in numerous lawsuits over the course of the years, ranging from medical malpractice actions to slip and fall to wrongful termination and employment actions. It is a hospital that provides care to tens of thousands of people a year and employs over 2000 individuals.

11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:

c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?

Yes.

1. In or about December 2007 the U.S. Attorney General's Office conducted a nationwide investigation into billing for kyphoplasty procedures. St. Elizabeth Medical Center was thus a part of that investigation and it was determined that certain procedures billed as inpatient should have been billed as outpatient. St. Elizabeth Medical Center entered into an agreement to pay back \$195,976 plus interest.

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

Harrison J. Hummel, III


This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

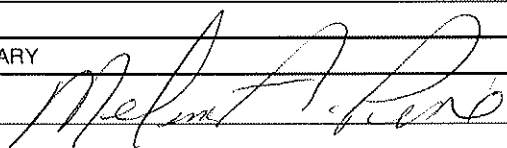
Statement of Business Associations with Health Facilities

- I do NOT receive any income directly or indirectly from any other health care facility.
- I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

[Empty box for describing relationships and payment methods]

Has the original of this document been signed and notarized? Yes No

SIGNATURE:	DATE
X 	9/6/2013
PRINT OR TYPE NAME	
Harrison J. Hummel, III	
TITLE	
Trustee	

NOTARY	DATE
	9-6-13

MELISSA A. PINE
Notary Public, State of New York
No. 01PI6113796
Qualified in Herkimer County
My Commission Expires 08/02/16

Schedule 2A - Personal Qualifying Information

Name of Individual:

Todd S. Hutton

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Hutton		Todd		S
STREET ADDRESS				
BUSINESS NAME AND ADDRESS				
Utica College, 1600 Burrstone Road				
CITY	STATE	ZIP CODE	TELEPHONE	
Utica	NY	13502	315.792.3222	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Board Member				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
Duke University	Durham, NC	1973	1982	PhD	1982
University of Florida	Gainesville, FL	1970	1973	M.Ed.	1973
Davidson College	Davidson, NC	1966	1970	A.B. (BA)	1970

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date
None			

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
Utica College		Higher Education	
STREET ADDRESS OF EMPLOYER			
1600 Burrstone Road			
CITY		STATE	ZIP CODE
Utica		NY	13502
DATES OF EMPLOYMENT	FROM	TO:	
	August 1998	Present	
POSITION/RESPONSIBILITIES			
President/CEO			
REASON FOR DEPARTURE			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
8/1/98	Present	Utica College Health Center	1600 Burrstone Road	Student Health Center
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
President/CEO		Not a licensed facility		

From	To	Name of Facility	Address of Facility	Type of Facility
2005	Present	Faxton St. Luke's Healthcare	1656 Champlin Ave, Utica, NY 13503	Article 28 Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member, Secretary		NYS DOH OSHM		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	St. Luke's Home Residential Healthcare Facility, Inc.	1650 Champlin Ave, Utica, NY 13502	RHCF
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member, Secretary		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Senior Network Health, LLC	1650 Champlin Ave, Utica, NY 13502	Manage Long-Term Care
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member, Secretary		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Mohawk Valley Home Care, LLC	1650 Champlin Ave, Utica, NY 13503	Home Care Service Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member, Secretary		NS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: None			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Schedule 2a – Personal Qualifying Information

Todd S. Hutton

Continuation of Question a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Visiting Nurse Assoc of Utica & Oneida County, Inc.	1650 Champlin Ave, Utica, NY 13503	Certified Home Health Agency
Office/Nature of Interest		Name of Licensing Agenda		Address
Board Member Secretary		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

--

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
2) Are there any criminal actions pending against you?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
	Civil Discrimination Lawsuit / FMLA	Utica, NY
PERSONS AND/OR FACILITIES INVOLVED		
Utica College: Todd Hutton, President/CEO; R. Barry White, CFO [REDACTED] Robert Grant, Controller [REDACTED]		
GIVE ANY FURTHER DETAILS		
Lawsuit for alleged violation of FMLA for circumstances in 2002. From time to time, Utica College has other lawsuits.		
Faxton St. Luke's Healthcare has from time to time been named a defendant in various professional liability actions.		

8) Have you ever changed your name or used an alias?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

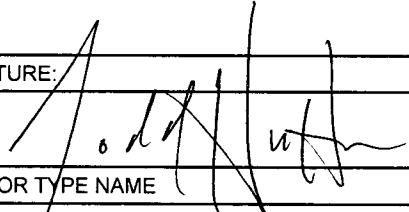
9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:	
a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
f) was denied a certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.	
Have you ever been in a position that required a fidelity bond?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Were any claims made against that bond? If "Yes", provide details below	Yes <input type="checkbox"/> No <input type="checkbox"/>
Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

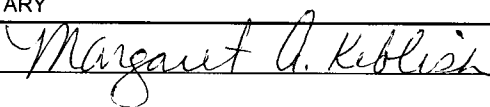
**New York State Department of Health
Certificate of Need Application**

Schedule 2A

If "Yes", provide details below	

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X 	4/2/2013
PRINT OR TYPE NAME	
Todd S. Hutton, PhD	
TITLE	
Board Member	

NOTARY	DATE
	4/2/2013

Has the original of this document been signed and notarized? Yes No

MARGARET A. KOBLSCH
Notary Public, State of New York
No. 01KE6029251
Qualified in Oneida County 13
Commission Expires 02/28/15

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

Todd S. Hutton, PhD

This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

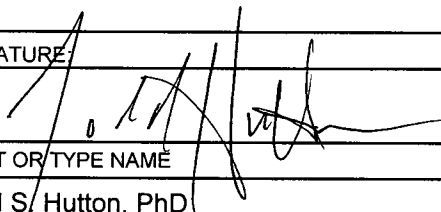
Statement of Business Associations with Health Facilities

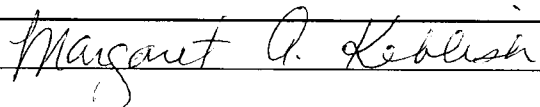
I do NOT receive any income directly or indirectly from any other health care facility.

I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

--

Has the original of this document been signed and notarized? Yes No

SIGNATURE	DATE
X 	4/2/2013
PRINT OR TYPE NAME	
Todd S. Hutton, PhD	
TITLE	
Board Member	

NOTARY	DATE
	4/2/2013

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/09/2013

Schedule 2A - Personal Qualifying Information

Name of Individual:

Andrew S. Kowalczyk, III

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Kowalczyk, III		Andrew		S.
STREET ADDRESS				
[REDACTED]				
BUSINESS NAME AND ADDRESS				
Kowalczyk Deery & Broadbent, LLP, 185 Genesee St, 12 th Floor				
CITY	STATE	ZIP CODE	TELEPHONE	
Utica	NY	13501	(315) 724-3164	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
[REDACTED]		[REDACTED]		[REDACTED]
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Trustee				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
St. Lawrence University	Ramoda Dr, Canton, NY	9/75	5/79	BS Philosophy	5/1979
Albany Law School	New Scotland Ave, Albany, NY	9/9	5/82	J.D.	5/1982

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date
New York State License to Practice Law	State of New York Supreme Court 5 th Judicial District	2/15/83	

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
Kowalczyk Deery & Broadbent LLP		Law Firm	
STREET ADDRESS OF EMPLOYER			
185 Genesee Street, 12 th Floor			
CITY		STATE	ZIP CODE
Utica		NY	13501
DATES OF EMPLOYMENT		FROM	TO:
		2/15/83	present
POSITION/RESPONSIBILITIES			
Attorney / Partner			
REASON FOR DEPARTURE			
N/A			

New York State Department of Health
 Certificate of Need Application

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY	STATE	ZIP CODE	
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY	STATE	ZIP CODE	
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2011	present	St. Elizabeth Medical Center	2209 Genesee St, Utica, NY 13501	Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Trustee		NYS Department of Health		Albany, NY

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

New York State Department of Health
 Certificate of Need Application

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: N/A			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
See Attachment 1
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

N/A

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
2) Are there any criminal actions pending against you?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
	SEE ATTACHMENT 1	
PERSONS AND/OR FACILITIES INVOLVED		
GIVE ANY FURTHER DETAILS		

8) Have you ever changed your name or used an alias?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, provide details below:	

New York State Department of Health
Certificate of Need Application

Schedule 2A

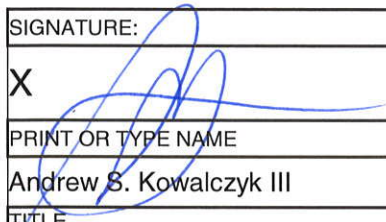
9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:	
a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
f) was denied a certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.	
Have you ever been in a position that required a fidelity bond?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Were any claims made against that bond? If "Yes", provide details below	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
N/A	
Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If "Yes", provide details below	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X 	9/10/13
PRINT OR TYPE NAME	
Andrew S. Kowalczyk III	
TITLE	
Trustee	

NOTARY	DATE
	9/10/13

Has the original of this document been signed and notarized? Yes No

CELESTE M. HACKER
 Notary Public, State of New York
 Appointed in ~~Oneida~~ County *Herkimer*
 My Commission Expires Feb. 8, 19 *2014*
 No. 4919150

ATTACHMENT 1 TO SCHEDULE 2
New York State Department of Health
Certificate of Need Application
Personal Qualifying and Disclosure Information

Schedule 2A

5. Offices Held or Ownership in Health Facilities

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facilities violation of applicable laws and regulations?

In March 2013, St. Elizabeth Medical Center received a citation and Notice of Penalty for alleged violations of 29 CFR 1910.1000(a)(2) and (e), and 1910.1200 (h)(3)(i),(h)(3)(ii) and (h)(3)(iii). The citations resulted from an employee allegation of overexposure to carbon monoxide. The citation and \$8500 penalty are currently being contested.

In September 2012, the Department of Health completed a recertification survey of St. Elizabeth Medical Center's Home Care (St. Elizabeth Certified Home Care) wherein they found violations of 10 NYCRR 763.11 (a)(b), 763.4 (h) and 736.6 (a),(b), (c) and (e). A Statement of Deficiencies resulted and a Plan of Correction was completed and accepted. No statement of charges has yet been filed and there has been no penalty assessed at this time as St. Elizabeth Medical and the Department of Health are in settlement discussions.

6. Record of Legal Actions

5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?

Yes. As a member of the Board of Trustees of St. Elizabeth Medical Center, the Medical Center has been named in numerous lawsuits over the course of the years, ranging from medical malpractice actions to slip and fall to wrongful termination and employment actions. It is a hospital that provides care to tens of thousands of people a year and employs over 2000 individuals.

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

Andrew S. Kowalczyk III

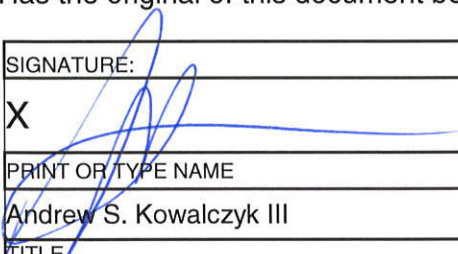
This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.


Statement of Business Associations with Health Facilities

- I do NOT receive any income directly or indirectly from any other health care facility.
- I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

--

Has the original of this document been signed and notarized? Yes No

SIGNATURE:	DATE
X 	9/10/13
PRINT OR TYPE NAME	
Andrew S. Kowalczyk III	
TITLE	
Trustee	

NOTARY	DATE
	9/10/13

GELESTE M. HACKER
 Notary Public, State of New York *Herkimer*
 Appointed in Oneida County
 My Commission Expires Feb. 8, 19 2014
 No. 4919150

Schedule 2A - Personal Qualifying Information

Name of Individual:

Gregory B. McLean

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
McLean		Gregory		B.
STREET ADDRESS				
BUSINESS NAME AND ADDRESS				
Caruso McLean & Co., Inc, 110 Lomond Court				
CITY	STATE	ZIP CODE	TELEPHONE	
Utica	NY	13502	315-724-5105	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Board Member				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
RPI	Troy, NY	1990	1991	-----	
Siena College	Loudonville, NY	1977	1980	BS	1980

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date
Series 7, 8, 66, 63	FINRA	1980	
Life/Health	NYS Insurance Commission	1980	
AAMS	College for Financial Planning	2008	
AWMA	College for Financial Planning	2010	

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
Caruso McLean & Co., Inc.		Investment Advisor	
STREET ADDRESS OF EMPLOYER			
110 Lomond Court			
CITY		STATE	ZIP CODE
Utica		NY	13502
DATES OF EMPLOYMENT	FROM	TO:	
	1988	Present	
POSITION/RESPONSIBILITIES			
President			
REASON FOR DEPARTURE			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
1995	2011	The House of Good Shepherd	Champlin Ave, New Hartford, NY 13413	Children's Care
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
VP Board of Directors		NYS DOH		

From	To	Name of Facility	Address of Facility	Type of Facility
1995	2012	Presbyterian Homes and Services	Middle Settlement Road, New Hartford, NY 13413	Skilled Nursing
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
President Foundation Board, Board Member, Homes & Services		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
1998	Present	Faxton St. Luke's Healthcare	1656 Champlin Ave, Utica, NY 13502	Article 28 Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member, Chair, Vice Chair, Treasurer		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2003	Present	St. Luke's Home Residential Health Care Facility, Inc.	1650 Champlin Ave, Utica, NY 13502	RHCF
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member, Chair, Vice Chair		NYS DOH		217 South Salina Street, Syracuse, NY 13202

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
2003	Present	Senior Network Health, LLC	1650 Champlin Ave, Utica, NY 13502	Managed Long-Term Care
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member, Chair, Vice Chair		NYS DOH		217 South Salina Street, Syracuse, NY 13202

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: None			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Schedule 2a – Personal Qualifying Information

Gregory B. McLean

Continuation of Question a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2003	Present	Mohawk Valley Home Care, LLC	1650 Champlin Ave, Utica, NY 13502	Home Care Service Agency
Office/Nature of Interest		Name of Licensing Agenda		Address
Member Board, Chair, Vice Chair		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2003	Present	Visiting Nurse Assoc of Utica & Oneida County, Inc.	1650 Champlin Ave, Utica, NY 13502	Certified Home Health Agency
Office/Nature of Interest		Name of Licensing Agenda		Address
Member Board, Chair, Vice Chair		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
Faxton St. Luke's Healthcare received a Statement of Deficiencies on April 22, 2003 primarily related to its surgical services. The hospital entered into a Stipulation and Order (S&O) #BHS-03-08H. By letter dated November 19, 2004, the hospital was advised the "S&O is now deemed closed."
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)
NYS Department of Health, Central Regional Office, 217 South Salina Street, Syracuse, NY 13202

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

--

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
2) Are there any criminal actions pending against you?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
PERSONS AND/OR FACILITIES INVOLVED		
GIVE ANY FURTHER DETAILS		
Faxton St. Luke's Healthcare has from time to time been named a defendant in various professional liability actions.		

8) Have you ever changed your name or used an alias?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

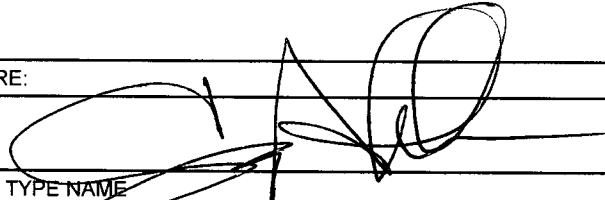
9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:	
a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
f) was denied a certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.	
Have you ever been in a position that required a fidelity bond?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Were any claims made against that bond? If "Yes", provide details below	Yes <input type="checkbox"/> No <input type="checkbox"/>
Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If "Yes", provide details below	

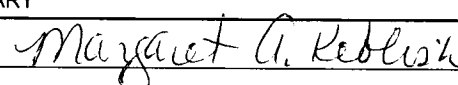
New York State Department of Health
Certificate of Need Application

Schedule 2A

--

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE: X 	DATE 3/28/13
PRINT OR TYPE NAME Gregory B. McLean	
TITLE Board Member	

NOTARY 	DATE
--	------

Has the original of this document been signed and notarized? Yes No

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/09/2013

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

Gregory B. McLean

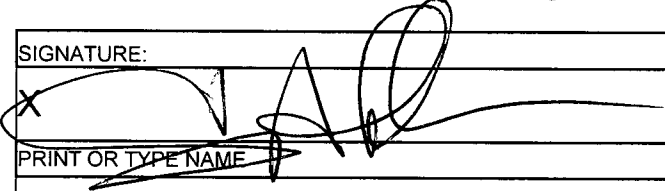
This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

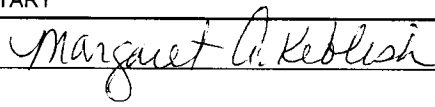
Statement of Business Associations with Health Facilities

- I do NOT receive any income directly or indirectly from any other health care facility.
- I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

My investment advisory firm provides investment advice to The House of Good Shepherd and Presbyterian Homes and Services and receives compensation based on assets.

Has the original of this document been signed and notarized? Yes No

SIGNATURE: 	DATE 3/28/13
PRINT OR TYPE NAME Gregory B. McLean	
TITLE Board Member	

NOTARY 	DATE 3/28/2013
---	-------------------

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County, 3
Commission Expires 08/09/2013

Schedule 2A - Personal Qualifying Information

Name of Individual:

Scott H. Perra

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Perra		Scott		H.
STREET ADDRESS				
BUSINESS NAME AND ADDRESS				
Faxton St. Luke's Healthcare, P. O. Box 479				
CITY	STATE	ZIP CODE	TELEPHONE	
Utica	NY	13503	315-624-6002	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
President/CEO				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
Mohawk Valley Community College	Utica, NY	1975	1977	AS Business Administration	1977
SUNY IT at Utica/Rome	Utica, NY	1977	1979	Bachelor's Health Services Mgmt	1979
SUNY at Binghamton	Binghamton, NY	1987	1989	Masters of Science Mgmt Services	1989

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date
None			

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
Faxton St. Luke's Healthcare		Healthcare	
STREET ADDRESS OF EMPLOYER			
1656 Champlin ave			
CITY		STATE	ZIP CODE
Utica		NY	13502
DATES OF EMPLOYMENT	FROM	TO:	
	1985	Present	
POSITION/RESPONSIBILITIES			
President/CEO (see attached CV)			
REASON FOR DEPARTURE			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Faxton St. Luke's Healthcare	1656 Champlin Ave, Utica, NY 13202	Article 28 Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
President/CEO		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
1996	Present	St. Luke's Home Residential Healthcare Facility, Inc.	1650 Champlin Ave, Utica, NY 13202	RHCF
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member 2009 President/CEO		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Senior Network Health, LLC	1650 Champlin Ave, Utica, NY 13202	Managed Long-Term Care
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
2009 President/CEO		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Mohawk Valley Home Care, LLC	1650 Champlin Ave, Utica, NY 13202	Home Care Service Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
2009 President/CEO		NYS DOH		217 South Salina Street, Syracuse, NY 13202

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Visiting Nurse Assoc of Utica & Oneida County, Inc.	1650 Champlin Ave, Utica, NY 13202	Certified Home Health Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
President/CEO		NYS DOH		217 South Salina Street, Syracuse, NY 13202

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: None			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Schedule 2a – Personal Qualifying Information

Scott H. Perra, FACHE

Continuation of Question a. Applicant’s Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
1997	Present	Mohawk Valley Heart Institute	2209 Genesee Street, Utica, NY 13501	
Office/Nature of Interest		Name of Licensing Agenda		Address
Board Member President Vice President		NYS DOH		217 South Salina Street, Syracuse, NY 13202
From	To	Name of Facility	Address of Facility	Type of Facility
1999	2002	Hospice & Palliative Care	4277 Middle Settlement Road, New Hartford, NY 13413	Home & Community Based Program
Office/Nature of Interest		Name of Licensing Agenda		Address
Board Member		NYS DOH Home & Community Based Programs		217 South Salina Street, Syracuse, NY 13202
From	To	Name of Facility	Address of Facility	Type of Facility
1994	2009	Centrex Clinical Laboratory, Inc.	Faxton St. Luke's Healthcare St. Luke's Campus 1656 Champlin Ave Utica, NY 13502	Lab
Office/Nature of Interest		Name of Licensing Agenda		Address
Board Member		Clinical Laboratory Evaluation Program Wadsworth Center NYS Department of Health		Empire State Plaza PO Box 509 Albany, NY 12201-0509

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
Faxton St. Luke's Healthcare received a Statement of Deficiencies on April 22, 2003 primarily related to its surgical services. The hospital entered into a Stipulation and Order (S&O) #BHS-03-08H. By letter dated November 19, 2004, the hospital was advised the "S&O is now deemed closed."
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)
NYS Department of Health, Central Regional Office, 217 South Salina Street, Syracuse, NY 13202

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

--

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
2) Are there any criminal actions pending against you?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
PERSONS AND/OR FACILITIES INVOLVED		
GIVE ANY FURTHER DETAILS		
Faxton St. Luke's Healthcare has from time to time been names a defendant in various professional liability actions.		

8) Have you ever changed your name or used an alias?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:	
a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
f) was denied a certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.	
Have you ever been in a position that required a fidelity bond?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Were any claims made against that bond? If "Yes", provide details below	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If "Yes", provide details below	

New York State Department of Health
Certificate of Need Application

Schedule 2A

--

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X <i>Scott H. Perra</i>	4/2/13
PRINT OR TYPE NAME	
Scott H. Perra, FACHE	
TITLE	
President/CEO	

NOTARY	DATE
<i>Margaret A. Keblish</i>	4/2/2013

Has the original of this document been signed and notarized? Yes No

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/09/2013

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

Scott H. Perra, FACHE

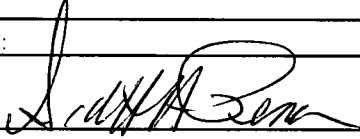
This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

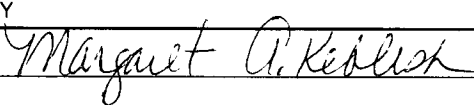
Statement of Business Associations with Health Facilities

- I do NOT receive any income directly or indirectly from any other health care facility.
- I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

Faxton St. Luke's Healthcare - President/CEO

Has the original of this document been signed and notarized? Yes No

SIGNATURE:	DATE
X 	4/2/13
PRINT OR TYPE NAME	
Scott H. Perra, FACHE	
TITLE	
President/CEO	

NOTARY	DATE
	4/2/2013

MARGARET A. KEBLISH
 Notary Public, State of New York
 No. 01KE6029261
 Qualified in Oneida County
 Commission Expires 08/09/2013

Faxton-St. Luke's Healthcare
P.O. Box 479
Utica, New York 13503
Work: (315) 624-6002
Home: [REDACTED]
E-Mail: sperra@mvnhealth.com

SCOTT H. PERRA, MS, FACHE

Executive Summary

A team oriented Senior Healthcare Executive with extensive knowledge in network development. Experienced in system design having led three consolidations. Demonstrated ability to successfully combine strategic, operational, and financial initiatives to achieve desired results. Effective in developing strong medical staff and collaborative relationships to achieve positive patient care and financial outcomes.

Experience

January 2009 – Present

**Faxton St. Luke's Healthcare
and Mohawk Valley Network (MVN), Inc., Utica, New York**

President/CEO

Promoted to the position of Chief Executive of the Hospital and Parent Corporation. MVN functions as an integrated delivery system with \$340 million in revenue, \$300 million in assets, and 3,000 (2650 FTEs) employees. Responsibilities include strategic planning, coordination of services, business development, and contract negotiations for the system.

November 1998 – December 2008

Faxton-St. Luke's Healthcare, Utica, New York

Executive Vice President/COO

Responsible for the operation of a multi-facility system that includes two acute care campuses with a total of 372 beds, a 242-bed nursing home, and 15 ambulatory care sites. Total budget over \$275 million with over 2,400 FTEs. Accountable for nursing and patient care services, Medical Staff, financial services, diagnostic and professional services, surgical services, human resources, ancillary and support services, long-term care services, and ambulatory services.

Selected Accomplishments

- Led the acquisition and assimilation of Adirondack Community Physicians a 25+ primary care provider group into an existing hospital group.
- Facilitated a comprehensive assessment and work redesign in surgical and emergency services resulting in measurable improvements in both areas.
- Obtained New York State approval and operationalized an Emergency Cardiac Angioplasty and Electrophysiology Program.
- Led the planning and implementation of a service and facilities reconfiguration plan for two campuses resulting in \$2 million in bottom line improvement.
- Planned, developed, and operationalized St. Luke's Home, a 242-bed skilled nursing facility.

- Oversaw the development and expansion of the Regional Dialysis Program from 14 to over 75 patient stations, serving 400+ patients at six sites.
- Facilitated the reorganization of nursing services, enhancing the quality of patient care and improving fiscal accountability at the nursing unit level resulting in better and more consistent nurse to patient ratios.
- Created the infrastructure to support Relationship Based Care, serving as Executive Sponsor in Wave I, which has resulted in improved patient and staff satisfaction.
- Launched the “Tomorrow’s Workforce” initiative for workplace culture enhancement, resulting in a 22% improvement in employee satisfaction over three years.
- Implemented organizational restructure to streamline processes across affiliated entities leading to the successful integration of Financial, Human Resources, and Legal/Risk Management resources resulting in bottom line savings.
- Successfully negotiated contracts with anesthesia, emergency, and primary care physicians.

Other Previous Positions:

August 1989 – October 1998

St. Luke’s-Memorial Hospital Center, Utica, New York

- Executive Vice President/Chief Operating Officer (November 1989 – October 1998)
- Assistant Executive Director for Finance (July 1986 – October 1989)
- Associate Director of Finance (August 1985 – July 1986)

December 1981 – August 1985

Cayuga Medical Center, Ithaca, New York

- Assistant Director of Fiscal Services and Physician Joint Venture Project Director

April 1979 - November 1981

Edward John Noble Hospital, Alexandria Bay, New York

- Administrative Assistant and Patient Accounts Manager

Faculty Experience:

January 1989 - May 1991

The New School for Social Research, Utica, New York

Education:

Master of Science in Management Science, May 1989

State University of New York at Binghamton, New York

Major: Systems Management

Bachelor of Professional Studies (with honors), May 1979

State University of New York College of Technology at Utica/Rome, New York

Major: Health Services Management

Associate in Science, Business Administration, May 1977

Mohawk Valley Community College, Utica, New York

Professional Activities

- Member, Healthcare Association of New York State (HANYS) Board, 2010 – Present
 - HANYS and American Hospital Association Political Action Campaign Committee - 2012
- Member, Iroquois Healthcare Alliance (IHA) Board, 2009 – Present
 - IHA Executive Committee, 2010 - Present
 - Elected as IHA Chairman 2012 - Present
- Member, Voluntary Hospital Association (VHA) Empire Metro Board, 2009 - Present
- Member, VHA UNYHealth, LLC, 2009 - Present
- Excellus BlueCross/BlueShield Utica Regional Advisory Board, 2010 - Present
- Member, Medical Liability Mutual Insurance Company Board, Elected September 2012
- American College of Healthcare Executives (ACHE), Fellow, 2000
- Member, ACHE Regents Advisory Council, 2002 - 2010
- Member, Healthcare Association of New York State COO Task Force, 2005 - 2008
- Advanced Member, Healthcare Financial Management Association (HFMA), 1985 - 2003
 - President, Central New York Chapter, HFMA 1988-1989; President-Elect and Program Chairman, Central New York Chapter HFMA, 1987-1988; Secretary, Central New York Chapter, HFMA 1986-1987; Recipient, Follmer Bronze Merit Award, HFMA 1989

Community and Board Involvement Current:

- The Community Foundation of Herkimer & Oneida Counties, Inc.
 - Audit and Compliance Committee, 2009 – Present
- Mohawk Valley EDGE Board of Directors and Executive Committee, 2010 – Present
 - EDGE Vice Chairman – 2012 - Present
- Professional Advisory Committee, Health Services Management Program, SUNY College of Technology, 2000 - Present
- Oneida County School and Business Alliance (SABA), Board of Directors, 2003 – 2012
- Board of Directors, Mohawk Valley Heart Institute, (Positions held of Chairman, Vice Chairman, Secretary) 1996 - Present
- Greater Utica United Way Campaign Fundraiser

References available upon request

Schedule 2A - Personal Qualifying Information

Name of Individual:

Norman I. Siegel

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Siegel		Norman		I.
STREET ADDRESS				
BUSINESS NAME AND ADDRESS				
New York State Supreme Court, 207 Genesee Street				
CITY	STATE	ZIP CODE	TELEPHONE	
Utica	NY	13501	(315) 793-2184	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Trustee				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
Colgate University	Hamilton, NY	9/59	5/63	B.A.	1963
Albany Law School	Albany, NY	9/63	5/66	J.D.	1966

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date
Law License, #1013887	Appellate Div, 4 th Dept	1967	None

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
NYS Unified Court System		Judge	
STREET ADDRESS OF EMPLOYER			
207 Genesee Street			
CITY		STATE	ZIP CODE
Utica		NY	13501
DATES OF EMPLOYMENT	FROM	TO:	
	6/7/2000	Present	
POSITION/RESPONSIBILITIES			
Judge, Court of Claims and Supreme Court Justice			
REASON FOR DEPARTURE			
N/A			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2000	2013	St. Elizabeth Medical Center	2209 Genesee St, Utica, NY 13501	Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Trustee/Chair of the Board		NYS Department of Health		Albany, NY

From	To	Name of Facility	Address of Facility	Type of Facility
1984	1986	Sitrin Nursing Home	Tilen Avenue, New Hartford, NY 13413	Nursing Home
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
President				

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: N/A			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

--

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
2) Are there any criminal actions pending against you?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
	SEE ATTACHED	
PERSONS AND/OR FACILITIES INVOLVED		
GIVE ANY FURTHER DETAILS		

8) Have you ever changed your name or used an alias?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

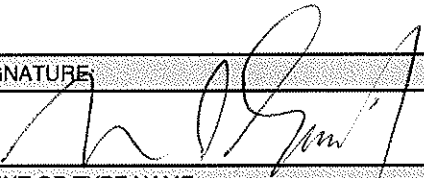
9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:	
a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
f) was denied a certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.	
Have you ever been in a position that required a fidelity bond?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Were any claims made against that bond? If "Yes", provide details below	Yes <input type="checkbox"/> No <input type="checkbox"/>
n/A	
Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If "Yes", provide details below	

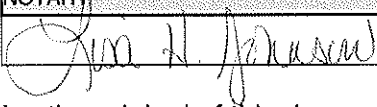
New York State Department of Health
Certificate of Need Application

Schedule 2A

Norman I. Siegel

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE	DATE
X 	9/9/13
PRINT OR TYPE NAME	
Norman I. Siegel	
TITLE	

NOTARY	DATE
	9-9-13

Has the original of this document been signed and notarized? Yes No

LISA H. JOHNSON
NOTARY PUBLIC, STATE OF NEW YORK
APPOINTED IN HERKIMER COUNTY
MY COMMISSION EXPIRES 12/31/13

ATTACHMENT 1 TO SCHEDULE 2
New York State Department of Health
Certificate of Need Application
Personal Qualifying and Disclosure Information

Schedule 2A

5. Offices Held or Ownership in Health Facilities

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facilities violation of applicable laws and regulations?

Yes. In or about June 2007, the Department of Health completed a recertification survey of St. Elizabeth Medical Center's Home Care [St. Elizabeth Certified Home Care] wherein they found violations of Article 36 of the Public Health Law and Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York. A Statement of Deficiencies resulted but prior to service of a Notice of Hearing and Statement of Charges and commencement by DOH of an administrative enforcement action based on the alleged violations, St. Elizabeth settled with DOH. As a part of the 2008 settlement, St. Elizabeth admitted to the existence of substantial evidence of violations of 10 NYCRR §763.4(h) [Policies and procedures of service delivery], 10 NYCRR §763.6(b) [Patient assessment and plan of care], 10 NYCRR §763.6(e) [Patient assessment and plan of care], 10 NYCRR §763.11(a) [Governing authority] and 10 NYCRR §763.11(b) [Governing authority]. A \$10,000 civil penalty was assessed of which \$5,000 was paid and the remaining \$5,000 was suspended providing St. Elizabeth did not violate certain terms and regulations within 3 years.

In March 2013, St. Elizabeth Medical Center received a citation and Notice of Penalty for alleged violations of 29 CFR 1910.1000(a)(2) and (e), and 1910.1200 (h)(3)(i), (h)(3)(ii) and (h)(3)(iii). The citations resulted from an employee allegation of overexposure to carbon monoxide. The citation and \$8500 penalty are currently being contested.

In September 2012, the Department of Health completed a recertification survey of St. Elizabeth Medical Center's Home Care (St. Elizabeth Certified Home Care) wherein they found violations of 10 NYCRR 763.11 (a)(b), 763.4 (h) and 736.6 (a),(b), (c) and (e). A Statement of Deficiencies resulted and a Plan of Correction was completed and accepted. No statement of charges has yet been filed and there has been no penalty assessed at this time as St. Elizabeth Medical and the Department of Health are in settlement discussions.

6. Record of Legal Actions

3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?

Yes. I have been named as a partner in a law firm in two legal malpractice matters. One matter was dismissed and the other was settled by my insurance company for \$50,000.00. Neither of those actions involved any legal work that I did. They both involved legal work of a former partner of mine.

5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?

Yes. As a member of the Board of Trustees of St. Elizabeth Medical Center, the Medical Center has been named in numerous lawsuits over the course of the years, ranging from medical malpractice actions to slip and fall to wrongful termination and employment actions. It is a hospital that provides care to tens of thousands of people a year and employs over 2000 individuals.

11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:

c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?

Yes.

1. In July 2001, St. Elizabeth Medical Center entered into a settlement agreement with the United States (through the U.S. Attorney for the Eastern District of Pennsylvania, the Office of the Inspector General and DHHS) in connection with an investigation into Medicare claims submitted by St. Elizabeth Medical Center for certain clinical laboratory outpatient services from January 1989 to December 31, 1993. The case involved recommendations made by a consulting firm, which were relied upon by St. Elizabeth Medical Center. The allegations were settled, without admission with respect to any issue of law or fact, for \$227,000. The claims for which the investigation and resulting settlement pertained, were prior to my service on the Board of Trustees. However, the finalization of the investigation and the settlement took place during my Board service.
2. In or about December 2007 the U.S. Attorney General's Office conducted a nationwide investigation into billing for kyphoplasty procedures. St. Elizabeth Medical Center was thus a part of that investigation and it was determined that certain procedures billed as inpatient should have been billed as outpatient. St. Elizabeth Medical Center entered into an agreement to pay back \$195,976 plus interest.

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

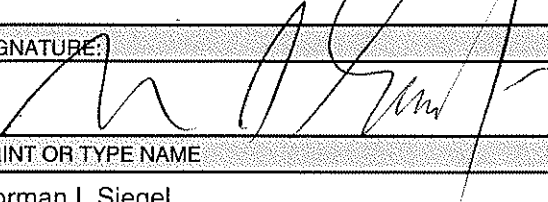
Norman I. Siegel

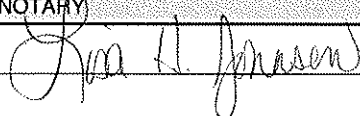
This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

Statement of Business Associations with Health Facilities

- I do NOT receive any income directly or indirectly from any other health care facility.
- I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

Has the original of this document been signed and notarized? Yes No

SIGNATURE:	DATE:
X 	9/9/13
PRINT OR TYPE NAME	
Norman I. Siegel	
TITLE	
Board Chair	

NOTARY	DATE
	9-9-13

LISA H. JOHNSON
 NOTARY PUBLIC, STATE OF NEW YORK
 APPOINTED IN HERKIMER COUNTY
 MY COMMISSION EXPIRES 12/31/13

Schedule 2A - Personal Qualifying Information

Name of Individual:

John F. Sperling, M.D.

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Sperling		John		F.
STREET ADDRESS				
[REDACTED]				
BUSINESS NAME AND ADDRESS				
Faxton St. Luke's Healthcare, 1656 Champlin Ave				
CITY	STATE	ZIP CODE	TELEPHONE	
Utica	NY	13502	315-624-4090	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
[REDACTED]		[REDACTED]		[REDACTED]
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Board Member				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
Alfred University	Alfred, NY	1972	1976	BS	1976
Georgetown University School of Medicine	Washington, DC	1980	1984	M.D.	1984

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date
NYS #181491	NYS Board of Regents	February 1990	1/31/2014

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
Faxton St. Luke's Healthcare		Hospital and Clinic Services	
STREET ADDRESS OF EMPLOYER			
1656 Champlin Ave			
CITY		STATE	ZIP CODE
Utica		NY	13202
DATES OF EMPLOYMENT	FROM	TO:	
	2011	Present	
POSITION/RESPONSIBILITIES			
Surgical Practice			
REASON FOR DEPARTURE			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
Mohawk Valley Surgical Associates, PLLC		Private Practice	
STREET ADDRESS OF EMPLOYER			
95 Genesee Street			
CITY		STATE	ZIP CODE
New Hartford		NY	13413
DATES OF EMPLOYMENT	FROM	TO:	
	2003	2011	
POSITION/RESPONSIBILITIES			
General Surgery - Private Practice			
REASON FOR DEPARTURE			
[REDACTED]			

NAME OF EMPLOYER		TYPE OF BUSINESS	
Gant, Menotti, Sperling, P.C.		Private Practice	
STREET ADDRESS OF EMPLOYER			
95 Genesee Street			
CITY		STATE	ZIP CODE
New Hartford		NY	13413
DATES OF EMPLOYMENT	FROM	TO:	
	1991	2003	
POSITION/RESPONSIBILITIES			
General Surgeon - Private Practice			
REASON FOR DEPARTURE			
[REDACTED]			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2011	Present	Faxton St. Luke's Healthcare	1656 Champlin Ave, Utica, NY 13502	Article 28 Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member Medical Staff President		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2011	Present	St. Luke's Home Residential Healthcare Facility, Inc.	1650 Champlin Ave, Utica, NY 13202	RHCF
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2011	Present	Senior Network Health, LLC	1650 Champlin Ave, Utica, NY 13202	Managed Long-Term Care
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2011	Present	Visiting Nurse Assoc of Utica and Oneida County, Inc.	1650 Champlin Ave, Utica, NY 13202	Certified Home Health Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH		217 South Salina Street, Syracuse, NY 13202

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
2011	Present	Mohawk Valley Home Care, LLC	1650 Champlin Ave, Utica, NY 13202	Home Care Service Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH		217 South Salina Street, Syracuse, NY 13202

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: None			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

--

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	
2) Are there any criminal actions pending against you?	
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION

8) Have you ever changed your name or used an alias?	
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

<p>9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?</p>	
<p>10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?</p>	
<p>11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:</p>	
<p>a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?</p>	
<p>b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?</p>	
<p>c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?</p>	
<p>d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?</p>	
<p>e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?</p>	
<p>f) was denied a certificate of authority or license to do business in any state?</p>	
<p>If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.</p>	
<p> </p>	
<p>Have you ever been in a position that required a fidelity bond?</p>	
<p>Were any claims made against that bond? If "Yes", provide details below</p>	
<p> </p>	
<p>Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?</p>	
<p>If "Yes", provide details below</p>	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

John F. Sperling, M.D.

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X <i>John F. Sperling M.D.</i>	<i>05 April 2013</i>
PRINT OR TYPE NAME	
John F. Sperling, M.D.	
TITLE	
<i>Board Member</i>	

NOTARY	DATE
<i>Margaret A. Keblish</i>	<i>4/5/2013</i>

Has the original of this document been signed and notarized? Yes No

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/09/2013

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

John F. Sperling, M.D.

This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

Statement of Business Associations with Health Facilities

- I do NOT receive any income directly or indirectly from any other health care facility.
- I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

Faxton St. Luke's Healthcare - Employed Physician

Has the original of this document been signed and notarized? Yes No

SIGNATURE:	DATE
X <i>John F. Sperling, M.D.</i>	<i>05 April 2013</i>
PRINT OR TYPE NAME	
John F. Sperling, M.D.	
TITLE	
<i>Board Member</i>	

NOTARY	DATE
<i>Margaret A. Keblish</i>	<i>4/5/2013</i>

MARGARET A. KEBLISH
 Notary Public, State of New York
 No. 01KE6029261
 Qualified in Oneida County
 Commission Expires 08/09/2013

Schedule 2A - Personal Qualifying Information

Name of Individual:

Stephen L. Sweet

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Sweet		Stephen		L.
STREET ADDRESS				
BUSINESS NAME AND ADDRESS				
Sweet Products, LLC, 7856 State Route 5				
CITY	STATE	ZIP CODE	TELEPHONE	
Clinton	NY	13323	315-853-6499 Ext. 21	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Board Member				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
Bucknell University	Lewisburg, PA	1977	1981	BA	1981

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
Sweet Products, LLC		Distribution	
STREET ADDRESS OF EMPLOYER			
7856 State Route 5			
CITY		STATE	ZIP CODE
Clinton		NY	13323
DATES OF EMPLOYMENT	FROM	TO:	
	1993	Current	
POSITION/RESPONSIBILITIES			
Owner			
REASON FOR DEPARTURE			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2004	2010	Mohawk Valley Heart Institute	2209 Genesee Street, Utica, NY 13501	
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member, Treasurer		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Faxton St. Luke's Healthcare	1656 Champlin Ave, Utica, NY 13502	Article 28 Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Treasurer		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	St. Luke's Home Residential Healthcare Facility, Inc.	1650 Champlin Ave, Utica, NY 13502	RHCF
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Treasurer		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Senior Network Health, LLC	1650 Champlin Ave, Utica, NY 13502	Managed Long-Term Care
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Treasurer		NYS DOH		217 South Salina Street, Syracuse, NY 13202

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Mohawk Valley Home Care, LLC	1650 Champlin Ave, Utica, NY 13202	Home Care Service Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Treasurer		NYS DOH		217 South Salina Street, Syracuse, NY 13202

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: None			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Schedule 2a – Personal Qualifying Information

Stephen L. Sweet

Continuation of Question a. Applicant’s Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Visiting Nurse Assoc of Utica & Oneida County, Inc.	1650 Champlin Ave, Utica, NY 13202	Certified Home Health Agency
Office/Nature of Interest		Name of Licensing Agenda		Address
Board Treasurer		NYS DOH OHSM		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2001	2009	Centrex Clinical Laboratory, Inc.	Faxton St. Luke's Healthcare St. Luke's Campus 1656 Champlin Ave Utica, NY 13502	Lab
Office/Nature of Interest		Name of Licensing Agenda		Address
Board Member Chairman		Clinical Laboratory Evaluation Program Wadsworth Center NYS Department of Health		Empire State Plaza PO Box 509 Albany, NY 12201-0509

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

--

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	
2) Are there any criminal actions pending against you?	
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
PERSONS AND/OR FACILITIES INVOLVED		
GIVE ANY FURTHER DETAILS		
Faxton St. Luke's Healthcare has from time to time been names a defendant in various professional liability actions.		

8) Have you ever changed your name or used an alias?	
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A


<p>9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?</p>	
<p>10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?</p>	
<p>11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:</p>	
<p>a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?</p>	
<p>b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?</p>	
<p>c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?</p>	
<p>d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?</p>	
<p>e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?</p>	
<p>f) was denied a certificate of authority or license to do business in any state?</p>	
<p>If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.</p>	
<p>Have you ever been in a position that required a fidelity bond?</p>	
<p>Were any claims made against that bond? If "Yes", provide details below</p>	
<p>Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?</p>	
<p>If "Yes", provide details below</p>	

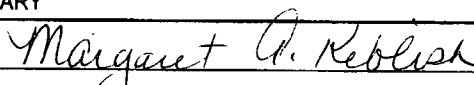
New York State Department of Health
Certificate of Need Application

Schedule 2A

--

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE: X 	DATE 4-11-13
PRINT OR TYPE NAME Stephen L. Sweet	
TITLE Board Member	

NOTARY 	DATE 7/11/2013
--	-------------------

Has the original of this document been signed and notarized? Yes No

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/09/2013 *L3*

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

Stephen L. Sweet

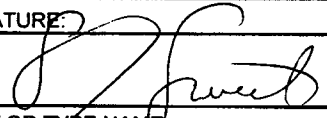
This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

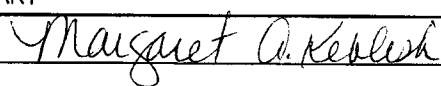
Statement of Business Associations with Health Facilities

- I do NOT receive any income directly or indirectly from any other health care facility.
- I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

--

Has the original of this document been signed and notarized? Yes No

SIGNATURE:	DATE
X 	4-11-13
PRINT OR TYPE NAME	
Stephen L. Sweet	
TITLE	
Board Member	

NOTARY	DATE
	4/11/2013

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/09/2013

Schedule 2A - Personal Qualifying Information

Name of Individual:

Richard C. Tantillo

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Tantillo		Richard		C
STREET ADDRESS				
BUSINESS NAME AND ADDRESS				
Hamilton College, 198 College Hill Road				
CITY	STATE	ZIP CODE	TELEPHONE	
Clinton	NY	13323	315-859-4412	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Board Member				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
SUNY Albany	Albany, NY	1978	1981	MS/Ed Cert	1981
St. Bonaventure	St. Bonaventure, NY	1974	1978	BA	1978

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
Hamilton College		Higher Education	
STREET ADDRESS OF EMPLOYER			
198 College Hill Road			
CITY		STATE	ZIP CODE
Clinton		NY	13323
DATES OF EMPLOYMENT	FROM	TO:	
	1994	Present	
POSITION/RESPONSIBILITIES			
Vice President, Communications & Development			
REASON FOR DEPARTURE			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2006	Present	Faxton St. Luke's Healthcare	1656 Champlin Ave, Utica, NY 13502	Article 28 Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Secretary, Vice Chair and Chair		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	St. Luke's Home Residential Healthcare Facility, Inc.	1650 Champlin Ave, Utica, NY 13502	RHCF
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Secretary, Vice Chair, And Chair		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Senior Network Health, LLC	1650 Champlin Ave, Utica, NY 13502	Managed Long-Term Care
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Secretary, Vice Chair, and Chair		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Mohawk Valley Home Care, LLC	1650 Champlin Ave, Utica, NY 13502	Home Care Service Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Secretary, Vice Chair, and Chair		NYS DOH		217 South Salina Street, Syracuse, NY 13202

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Visiting Nurse Assoc of Utica & Oneida County, Inc.	1650 Champlin Ave, Utica, NY 13502	Certified Home Health Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Secretary, Vice Chair, and Chair		NYS DOH		217 South Salina Street, Syracuse, NY 13202

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: None			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

--

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
2) Are there any criminal actions pending against you?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
PERSONS AND/OR FACILITIES INVOLVED		
GIVE ANY FURTHER DETAILS		
Faxton St. Luke's Healthcare has from time to time been named a defendant in various professional liability actions.		

8) Have you ever changed your name or used an alias?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:	
a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
f) was denied a certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.	
Have you ever been in a position that required a fidelity bond?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Were any claims made against that bond? If "Yes", provide details below	Yes <input type="checkbox"/> No <input type="checkbox"/>
Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If "Yes", provide details below	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X <i>Richard C. Tantillo</i>	3/28/2013
PRINT OR TYPE NAME	
Richard C. Tantillo	
TITLE	
Board Member	

NOTARY	DATE
<i>Margaret A. Keblish</i>	3/28/2013

Has the original of this document been signed and notarized? Yes No

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/09/2013

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

--

This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

Statement of Business Associations with Health Facilities

I do NOT receive any income directly or indirectly from any other health care facility.

I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

--

Has the original of this document been signed and notarized? Yes No

SIGNATURE:	DATE
X <i>Richard C Tantillo</i>	3/28/2012
PRINT OR TYPE NAME	
Richard C. Tantillo	
TITLE	
<i>Board Member</i>	

NOTARY	DATE
<i>Margaret A. Koblisch</i>	3/28/2013

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/09/2013

Schedule 2A - Personal Qualifying Information

Name of Individual:

SYMEON TSOUPELIS

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Tscoupelis		Symeon		
STREET ADDRESS				
BUSINESS NAME AND ADDRESS				
Symeon's Restaurant, 4941 Commercial Drive				
CITY	STATE	ZIP CODE	TELEPHONE	
Yorkville	NY	13495	(315) 736-4074	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Trustee				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
Providence College	Providence, RI	1989	1992	BS	5/92

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
Symeon's Restaurant		Restaurant	
STREET ADDRESS OF EMPLOYER			
4941 Commercial Drive			
CITY		STATE	ZIP CODE
Yorkville		NY	13495
DATES OF EMPLOYMENT	FROM	TO:	
	May 1992	Present	
POSITION/RESPONSIBILITIES			
Owner			
REASON FOR DEPARTURE			
N/A			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2012	present	St. Elizabeth Medical Center	2209 Genesee St, Utica, NY 13501	Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Trustee		NYS Department of Health		Albany, NY

From	To	Name of Facility	Address of Facility	Type of Facility
2013	present	Utica College	1600 Burrstone Road Utica, NY 13502	College
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Advisory Athletic Board				

From	To	Name of Facility	Address of Facility	Type of Facility
		Masonic Medical Research Lab	2150 Bleecker Avenue Utica, NY 13501	Research Institute
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Advisory Board				

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: N/A			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
See Attached
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

N/A

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
2) Are there any criminal actions pending against you?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
	SEE ATTACHED	
PERSONS AND/OR FACILITIES INVOLVED		
GIVE ANY FURTHER DETAILS		

8) Have you ever changed your name or used an alias?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

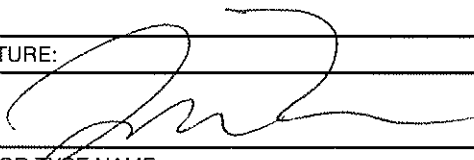
9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:	
a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
f) was denied a certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.	
Have you ever been in a position that required a fidelity bond?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Were any claims made against that bond? If "Yes", provide details below	Yes <input type="checkbox"/> No <input type="checkbox"/>
n/A	
Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If "Yes", provide details below	

New York State Department of Health
Certificate of Need Application

Schedule 2A

--

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X 	9/11/13
PRINT OR TYPE NAME	
Symeon Tsoupelis	
TITLE	
Trustee	

NOTARY	DATE
	9/11/13

Has the original of this document been signed and notarized? Yes No

KAREN A. BURTON
NOTARY PUBLIC-STATE OF NEW YORK
No. 01BU6251652
Qualified in Oneida County
My Commission Expires November 21, 2015

ATTACHMENT 1 TO SCHEDULE 2
New York State Department of Health
Certificate of Need Application
Personal Qualifying and Disclosure Information

Schedule 2A

5. Offices Held or Ownership in Health Facilities

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facilities violation of applicable laws and regulations?

In March 2013, St. Elizabeth Medical Center received a citation and Notice of Penalty for alleged violations of 29 CFR 1910.1000(a)(2) and (e), and 1910.1200 (h)(3)(i),(h)(3)(ii) and (h)(3)(iii). The citations resulted from an employee allegation of overexposure to carbon monoxide. The citation and \$8500 penalty are currently being contested.

In September 2012, the Department of Health completed a recertification survey of St. Elizabeth Medical Center's Home Care (St. Elizabeth Certified Home Care) wherein they found violations of 10 NYCRR 763.11 (a)(b), 763.4 (h) and 736.6 (a),(b), (c) and (e). A Statement of Deficiencies resulted and a Plan of Correction was completed and accepted. No statement of charges has yet been filed and there has been no penalty assessed at this time as St. Elizabeth Medical and the Department of Health are in settlement discussions.

6. Record of Legal Actions

5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?

Yes. As a member of the Board of Trustees of St. Elizabeth Medical Center, the Medical Center has been named in numerous lawsuits over the course of the years, ranging from medical malpractice actions to slip and fall to wrongful termination and employment actions. It is a hospital that provides care to tens of thousands of people a year and employs over 2000 individuals.

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

Symeon Tsoupelis

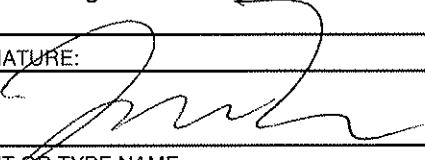
This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

Statement of Business Associations with Health Facilities

I do NOT receive any income directly or indirectly from any other health care facility.

I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

Has the original of this document been signed and notarized? Yes No

SIGNATURE: X 	DATE 9/11/13
PRINT OR TYPE NAME Symeon Tsoupelis	
TITLE Trustee	

NOTARY Karen A. Burton	DATE 9/11/13
---------------------------	-----------------

KAREN A. BURTON
NOTARY PUBLIC-STATE OF NEW YORK
No. 018U6251652
Qualified in Onondaga County
My Commission Expires November 21, 2015

Schedule 2A - Personal Qualifying Information

Name of Individual:

Mark E. Warfel, D.O., FAAFP

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Warfel		Mark		E.
STREET ADDRESS				
CITY	STATE	ZIP CODE	TELEPHONE	
BUSINESS NAME AND ADDRESS				
St. Elizabeth Medical Center				
CITY	STATE	ZIP CODE	TELEPHONE	
Utica	NY	13501	(315) 734-4401	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Trustee				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date
Medicine & Surgery 180399	New York State	October 1989	11/30/2013

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
St. Elizabeth Medical Center		Hospital	
STREET ADDRESS OF EMPLOYER			
2209 Genesee Street			
CITY		STATE	ZIP CODE
Utica		NY	13501
DATES OF EMPLOYMENT	FROM	TO:	
	9/1/2000	Present	
POSITION/RESPONSIBILITIES			
Medical Group Medical Director, DME, Residency Program Director			
REASON FOR DEPARTURE			
N/A			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2012	present	St. Elizabeth Medical Center	2209 Genesee St, Utica, NY 13501	Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Trustee		NYS Department of Health		Albany, NY

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: N/A			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
See Attached
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

N/A

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
2) Are there any criminal actions pending against you?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
	SEE ATTACHED	
PERSONS AND/OR FACILITIES INVOLVED		
GIVE ANY FURTHER DETAILS		

8) Have you ever changed your name or used an alias?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:	
a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
f) was denied a certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.	
Have you ever been in a position that required a fidelity bond?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Were any claims made against that bond? If "Yes", provide details below	Yes <input type="checkbox"/> No <input type="checkbox"/>
n/A	
Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If "Yes", provide details below	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X <i>Mark E. Warfel</i>	9/9/13
PRINT OR TYPE NAME	
Mark E. Warfel, D.O., FAAFP	
TITLE	
Trustee	

NOTARY	DATE
<i>Mary P. Bowdish</i>	9/9/13

Has the original of this document been signed and notarized? Yes No

MARY P. BOWDISH
Notary Public, State of New York
Reg. No. 01BO6183417
Qualified in Oneida County
My Commission Expires 3/17/20 16

ATTACHMENT 1 TO SCHEDULE 2
New York State Department of Health
Certificate of Need Application
Personal Qualifying and Disclosure Information

Schedule 2A

5. Offices Held or Ownership in Health Facilities

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facilities violation of applicable laws and regulations?

In March 2013, St. Elizabeth Medical Center received a citation and Notice of Penalty for alleged violations of 29 CFR 1910.1000(a)(2) and (e), and 1910.1200 (h)(3)(i),(h)(3)(ii) and (h)(3)(iii). The citations resulted from an employee allegation of overexposure to carbon monoxide. The citation and \$8500 penalty are currently being contested.

In September 2012, the Department of Health completed a recertification survey of St. Elizabeth Medical Center's Home Care (St. Elizabeth Certified Home Care) wherein they found violations of 10 NYCRR 763.11 (a)(b), 763.4 (h) and 736.6 (a),(b), (c) and (e). A Statement of Deficiencies resulted and a Plan of Correction was completed and accepted. No statement of charges has yet been filed and there has been no penalty assessed at this time as St. Elizabeth Medical and the Department of Health are in settlement discussions.

6. Record of Legal Actions

5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?

Yes. As a member of the Board of Trustees of St. Elizabeth Medical Center, the Medical Center has been named in numerous lawsuits over the course of the years, ranging from medical malpractice actions to slip and fall to wrongful termination and employment actions. It is a hospital that provides care to tens of thousands of people a year and employs over 2000 individuals.

11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:

c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?

Yes.

1. In July 2001, St. Elizabeth Medical Center entered into a settlement agreement with the United States (through the U.S. Attorney for the Eastern District of Pennsylvania, the Office of the Inspector General and DHHS) in connection with an investigation into Medicare claims submitted by St. Elizabeth Medical Center for certain clinical laboratory outpatient services from January 1989 to December 31, 1993. The case involved recommendations made by a consulting firm, which were relied upon by St. Elizabeth Medical Center. The allegations were settled, without admission with respect to any issue of law or fact, for \$227,000. The claims for which the investigation and resulting settlement pertained, were prior to my service on the Board of Trustees. However, the finalization of the investigation and the settlement took place during my Board service.
2. In or about December 2007 the U.S. Attorney General's Office conducted a nationwide investigation into billing for kyphoplasty procedures. St. Elizabeth Medical Center was thus a

part of that investigation and it was determined that certain procedures billed as inpatient should have been billed as outpatient. St. Elizabeth Medical Center entered into an agreement to pay back \$195,976 plus interest.

New York State Department of Health
Certificate of Need Application

Schedule 2C

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

Mark E. Warfel, D.O., FAAFP

This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

Statement of Business Associations with Health Facilities

- I do NOT receive any income directly or indirectly from any other health care facility.
- I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

St Elizabeth Medical Center

Has the original of this document been signed and notarized? Yes No

SIGNATURE:	DATE
X <i>Mark E Warfel D.O.</i>	<i>9/9/13</i>
PRINT OR TYPE NAME	
Mark E. Warfel, D.O., FAAFP	
TITLE	
Trustee	

NOTARY	DATE
<i>Mary P. Bowdish</i>	<i>9/9/13</i>

MARY P. BOWDISH
Notary Public, State of New York
Reg. No. 01BO6183417
Qualified in Oneida County
My Commission Expires 3/17/2016

Schedule 2A - Personal Qualifying Information

Name of Individual:

Bonnie L. Woods

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Woods		Bonnie		L.
STREET ADDRESS				
BUSINESS NAME AND ADDRESS				
Bank of America, 268 Genesee Street				
CITY	STATE	ZIP CODE	TELEPHONE	
Utica	NY	13502	315-798-2732	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Board Member				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
Hartwick College	Oneonta, NY	1986	1990	BS	1990

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date
CTFA #86215	Institute Certified Bankers Washington, DC	7/2003	Ongoing

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
Bank of America		Financial Services	
STREET ADDRESS OF EMPLOYER			
268 Genesee Street			
CITY		STATE	ZIP CODE
Utica		NY	13502
DATES OF EMPLOYMENT	FROM	TO:	
	1991	Present	
POSITION/RESPONSIBILITIES			
Trust Executive			
REASON FOR DEPARTURE			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2003	Present	St. Luke's Home Residential Healthcare Facility, Inc.	1650 Champlin Ave, Utica, NY 13502	RHCF
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2009	Present	Faxton St. Luke's Healthcare	1656 Champlin Ave, Utica, NY 13502	Article 28 Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2003	Present	Senior Network Health, LLC	1650 Champlin Ave, Utica, NY 13502	Managed Long-Term Care
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH		217 South Salina Street, Syracuse, NY 13202

From	To	Name of Facility	Address of Facility	Type of Facility
2003	Present	Mohawk Valley Home Care, LLC	1650 Champlin Ave, Utica, NY 13502	Home Care Service Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH		217 South Salina Street, Syracuse, NY 13202

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
2000	Present	Visiting Nurse Assoc of Utica & Oneida County, Inc.	NYS DOH	Certified Home Health Agency
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Board Member		NYS DOH		217 South Salina Street, Syracuse, NY 13202

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: None			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? Yes No

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)

Has the enforcement or administrative action been resolved? Yes No

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

--

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	
2) Are there any criminal actions pending against you?	
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
PERSONS AND/OR FACILITIES INVOLVED		
GIVE ANY FURTHER DETAILS		
Faxton St. Luke's Healthcare has from time to time been named a defendant in various professional liability actions.		

8) Have you ever changed your name or used an alias?	
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?

10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?

11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:

a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?

b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?

c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?

d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?

e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?

f) was denied a certificate of authority or license to do business in any state?

If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.

Have you ever been in a position that required a fidelity bond?

Were any claims made against that bond? If "Yes", provide details below

Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?

If "Yes", provide details below

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X <i>Bonnie L. Woods</i>	3/28/13
PRINT OR TYPE NAME	
Bonnie L. Woods	
TITLE	
Board Member	

NOTARY	DATE
<i>Andrea G. Johnston</i>	3/28/13

Has the original of this document been signed and notarized? Yes No

ANDREA G. JOHNSTON
Notary Public in the State of New York
Qualified in Oneida County
My Commission Expires Sept. 30, 20 14

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

Bonnie L. Woods

This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

Statement of Business Associations with Health Facilities

I do NOT receive any income directly or indirectly from any other health care facility.

I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

[Empty box for describing relationships with health care facilities]

Has the original of this document been signed and notarized? Yes No

SIGNATURE:	DATE
X <i>Bonnie L. Woods</i>	3/28/13
PRINT OR TYPE NAME	
Bonnie L. Woods	
TITLE	
Board Member	

NOTARY	DATE
<i>Andrea G. Johnston</i>	3/28/13

ANDREA G. JOHNSTON
Notary Public in the State of New York
Appointed in Onondaga County
My Commission Expires Sept. 30, 20 14

Schedule 2A - Personal Qualifying Information

Name of Individual:

Eric B. Yoss, M.D.

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Yoss		Eric		B.
STREET ADDRESS				
[REDACTED]				
BUSINESS NAME AND ADDRESS				
Pulmonary Critical Care Associate				
CITY	STATE	ZIP CODE	TELEPHONE	
New Hartford	NY	13413	(315) 735-2294	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
[REDACTED]		[REDACTED]		[REDACTED]
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Trustee				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
University of Rochester	Rochester, NY	8/1/1974	5/1/1979	BA-MS	5/1/1979
NY Medical College	Valhalla, NY	8/1/1974	5/1/1983	MD	5/1/1983
Thomas Jefferson University Medical Center	Philadelphia, PA	8/1/1983	5/1/1988	Residency & Fellowship	5/1/1988

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date
Physician, #173840	The University of the State of New York Education Department, Office of Professionals www.op.nysed.gov	7/1/2010	6/30/2014

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
Pulmonary Critical Care Associates		Medical Group Practice	
STREET ADDRESS OF EMPLOYER			
89 Genesee Street			
CITY		STATE	ZIP CODE
New Hartford		NY	13413
DATES OF EMPLOYMENT	FROM	TO:	
	9/1/1988	8/1/2013	
POSITION/RESPONSIBILITIES			
Physician Partner			
REASON FOR DEPARTURE			
Still employed			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2000	present	St. Elizabeth Medical Center	2209 Genesee St, Utica, NY 13501	Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Trustee		NYS Department of Health		Albany, NY

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
See Attachment 1
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

N/A

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	
2) Are there any criminal actions pending against you?	
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
	SEE ATTACHMENT 1	
PERSONS AND/OR FACILITIES INVOLVED		
GIVE ANY FURTHER DETAILS		

8) Have you ever changed your name or used an alias?	
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

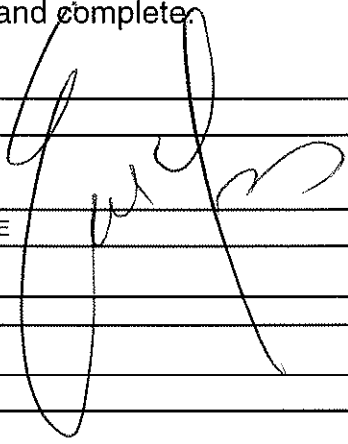
9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?	
10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?	
11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:	
a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?	
b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?	
c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?	
d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?	
e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?	
f) was denied a certificate of authority or license to do business in any state?	
If the answer is "yes to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.	
Have you ever been in a position that required a fidelity bond?	
Were any claims made against that bond? If "Yes", provide details below	
Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?	
If "Yes", provide details below	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Eric B. Yoss, MD

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X 	9/3/13
PRINT OR TYPE NAME	
Eric B. Yoss, MD	
TITLE	
Trustee	

NOTARY	DATE
Karen A Burton	9/3/13

Has the original of this document been signed and notarized? Yes No

KAREN A. BURTON
NOTARY PUBLIC-STATE OF NEW YORK
 No. 01BU6251652
 Qualified in Oneida County
 My Commission Expires November 21, 2016

ATTACHMENT 1 TO SCHEDULE 2
New York State Department of Health
Certificate of Need Application
Personal Qualifying and Disclosure Information

Schedule 2A

5. Offices Held or Ownership in Health Facilities

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facilities violation of applicable laws and regulations?

Yes. In or about June 2007, the Department of Health completed a recertification survey of St. Elizabeth Medical Center's Home Care [St. Elizabeth Certified Home Care] wherein they found violations of Article 36 of the Public Health Law and Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York. A Statement of Deficiencies resulted but prior to service of a Notice of Hearing and Statement of Charges and commencement by DOH of an administrative enforcement action based on the alleged violations, St. Elizabeth settled with DOH. As a part of the 2008 settlement, St. Elizabeth admitted to the existence of substantial evidence of violations of 10 NYCRR §763.4(h) [Policies and procedures of service delivery], 10 NYCRR §763.6(b) [Patient assessment and plan of care], 10 NYCRR §763.6(e) [Patient assessment and plan of care], 10 NYCRR §763.11(a) [Governing authority] and 10 NYCRR §763.11(b) [Governing authority]. A \$10,000 civil penalty was assessed of which \$5,000 was paid and the remaining \$5,000 was suspended providing St. Elizabeth did not violate certain terms and regulations within 3 years.

In March 2013, St. Elizabeth Medical Center received a citation and Notice of Penalty for alleged violations of 29 CFR 1910.1000(a)(2) and (e), and 1910.1200 (h)(3)(i),(h)(3)(ii) and (h)(3)(iii). The citations resulted from an employee allegation of overexposure to carbon monoxide. The citation and \$8500 penalty are currently being contested.

In September 2012, the Department of Health completed a recertification survey of St. Elizabeth Medical Center's Home Care (St. Elizabeth Certified Home Care) wherein they found violations of 10 NYCRR 763.11 (a)(b), 763.4 (h) and 736.6 (a),(b), (c) and (e). A Statement of Deficiencies resulted and a Plan of Correction was completed and accepted. No statement of charges has yet been filed and there has been no penalty assessed at this time as St. Elizabeth Medical and the Department of Health are in settlement discussions.

6. Record of Legal Actions

5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?

Yes. As a member of the Board of Trustees of St. Elizabeth Medical Center, the Medical Center has been named in numerous lawsuits over the course of the years, ranging from medical malpractice actions to slip and fall to wrongful termination and employment actions. It is a hospital that provides care to tens of thousands of people a year and employs over 2000 individuals.

11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:

c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?

Yes.

1. In July 2001, St. Elizabeth Medical Center entered into a settlement agreement with the United States (through the U.S. Attorney for the Eastern District of Pennsylvania, the Office of the Inspector General and DHHS) in connection with an investigation into Medicare claims submitted by St. Elizabeth Medical Center for certain clinical laboratory outpatient services from January 1989 to December 31, 1993. The case involved recommendations made by a consulting firm, which were relied upon by St. Elizabeth Medical Center. The allegations were settled, without admission with respect to any issue of law or fact, for \$227,000. The claims for which the investigation and resulting settlement pertained, were prior to my service on the Board of Trustees. However, the finalization of the investigation and the settlement took place during my Board service.

2. In or about December 2007 the U.S. Attorney General's Office conducted a nationwide investigation into billing for kyphoplasty procedures. St. Elizabeth Medical Center was thus a part of that investigation and it was determined that certain procedures billed as inpatient should have been billed as outpatient. St. Elizabeth Medical Center entered into an agreement to pay back \$195,976 plus interest.

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

Eric B. Yoss, M.D.

This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

Statement of Business Associations with Health Facilities

I do NOT receive any income directly or indirectly from any other health care facility.

I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

*St Elizabeth and Park St
 Partnership Receives Consulting and Medical ~~fees~~ fees*

Has the original of this document been signed and notarized? Yes No

SIGNATURE:	DATE:
<i>[Signature]</i>	9/3/13
PRINT OR TYPE NAME	
Eric B. Yoss, M.D.	
TITLE	
Trustee	

NOTARY	DATE
<i>Karen A Burton</i>	9/3/13

KAREN A. BURTON
 NOTARY PUBLIC-STATE OF NEW YORK
 No. 01BU6251652
 Qualified in Oneida County
 My Commission Expires November 21, 2016

Schedule 2A - Personal Qualifying Information

Name of Individual:

Richard F. Zweifel

1. Personal Identifying Information

LAST NAME		FIRST NAME		MIDDLE INITIAL
Zweifel		Richard		F.
STREET ADDRESS				
[REDACTED]				
BUSINESS NAME AND ADDRESS				
The Bonadio Group				
CITY	STATE	ZIP CODE	TELEPHONE	
Clinton	NY	13223	(315) 797-7781	
DATE OF BIRTH (Month/Day/Year)		PLACE OF BIRTH (County/State)		Social Security #
[REDACTED]				
CURRENT OR PROPOSED POSITION WITH PROPOSED ORGANIZATION				
Trustee				

2. Formal Education

INSTITUTION	ADDRESS	ATTENDED		DEGREE	DATE RECEIVED
		FROM	TO		
Clarkson College of Technology	Potsdam, NY	9/1/81	5/1/83	BS	5/1/83
Canton College of Tech	Canton, NY	9/1/79	5/1/81	AAS	5/1/1981

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

3. Licenses Held

Type of Professional License & License Number (Include Specialty)	Institution Granting License (Mailing Address, Phone & E-mail)	Effective Date	Expiration Date
Certified Public Accountant 057944	Office of the Professions State Education Building, 2 nd Floor Albany, NY 12234 (518) 474-3817	3/22/88	3/31/15

4. Employment History for the Past 10 Years

Currently Employed Retired

If retired, please specify date of retirement:

Start with MOST RECENT employment and include employment during the last 10 years. A resume or curriculum vitae (CV) may be substituted for this portion of the application but any additional information requested below and not contained in such resume or CV should be added. Please photocopy and attach additional sheets, if necessary.

NAME OF EMPLOYER		TYPE OF BUSINESS	
The Bonadio Group		CPA Firm	
STREET ADDRESS OF EMPLOYER			
7936 Seneca Turnpike			
CITY		STATE	ZIP CODE
Clinton		NY	13323
DATES OF EMPLOYMENT	FROM	TO:	
	11/1/12	present	
POSITION/RESPONSIBILITIES			
Partner in charge of NPO audit and small business tax services			
REASON FOR DEPARTURE			
N/A			

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

NAME OF EMPLOYER		TYPE OF BUSINESS	
Gruver, Zweifel & Scott, LLP		CPA Firm	
STREET ADDRESS OF EMPLOYER			
7936 Seneca Turnpike			
CITY		STATE	ZIP CODE
Clinton		NY	13323
DATES OF EMPLOYMENT	FROM	TO:	
	1994	10/31/12	
POSITION/RESPONSIBILITIES			
Partner in charge of NPO audit and small business tax services			
REASON FOR DEPARTURE			
[REDACTED]			

NAME OF EMPLOYER		TYPE OF BUSINESS	
STREET ADDRESS OF EMPLOYER			
CITY		STATE	ZIP CODE
DATES OF EMPLOYMENT	FROM	TO:	
POSITION/RESPONSIBILITIES			
REASON FOR DEPARTURE			

5. Offices Held or Ownership in Health Facilities

The purpose of this section is to obtain a listing of any affiliations as referenced below with which the owners, officers, directors, controlling persons or partners of the proposed organization have been associated in the past 10 years. Affiliation, for the purposes of this section, includes serving as either a voting officer, director or principal stockholder of any health care, adult care, behavioral or mental health facility, program or agency requiring licensure or certification in New York State. Officerships and directorships in similar facilities or programs outside of New York State must also be disclosed. Include facilities for which applications were previously disapproved or withdrawn.

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

Provide documentation from the appropriate regulatory agency in the states (other than New York State) where you note affiliations, reflecting that the affiliated facilities, programs and agencies operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of your affiliation, whichever is shorter). Instructions for the out-of-state review, a sample letter of inquiry and a recommended form are provided in Schedule 2D to assist you in securing this information.

a. Applicant's Offices/Ownership Interests

From	To	Name of Facility	Address of Facility	Type of Facility
2007	present	St. Elizabeth Medical Center	2209 Genesee St, Utica, NY 13501	Hospital
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency
Trustee		NYS Department of Health		Albany, NY

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

b. Relative's Ownership Interests

Name of relative and relationship to the applicant:				
Name: N/A			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

--	--	--

Name of relative and relationship to the applicant:				
Name:			Relationship:	
From	To	Name of Facility	Address of Facility	Type of Facility
Office Held/Nature of Interest		Name of Licensing Agency		Address of Licensing Agency

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facility's violation of applicable laws and regulations? **Yes** **No**

If "Yes, Please provide the following Information:

NATURE OF VIOLATION
See Attachment 1
AGENCY OR BODY ENFORCING VIOLATION (Name & Address)

Has the enforcement or administrative action been resolved? **Yes** **No**

If "No", provide an explanation

--

d. Affirmative Statement of Qualifications

For individuals who have not previously served as a director/officer nor have had managerial experience with a health facility/agency, please provide in the space below an affirmative statement explaining why you are qualified to operate the proposed facility/agency. This statement should include, but not be limited to, any relevant community/volunteer background and experience.

N/A

6. Record of Legal Actions

1) Except for minor traffic violations, have you ever been convicted of, or had a sentence imposed for, a crime?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
2) Are there any criminal actions pending against you?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3) Have you ever been named as a defendant in any civil action, including but not limited to malpractice, fraud or breach of fiduciary responsibility?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
4) Are there now or have there ever been any civil or administrative actions pending against you involving Medicaid or Medicare issues?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6) Are there now or have there ever been any insurance arbitration awards against you or any professional/business entity with which you are affiliated?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
7) Have you ever been involved in a hearing before an official body in relation to the operation of a home or institution caring for people?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

If the answer to any of the above questions is "Yes," complete the section below:

DATE OF ACTION Month/Day/Year	TYPE OF ACTION	LOCATION OF ACTION
	SEE ATTACHMENT 1	
PERSONS AND/OR FACILITIES INVOLVED		
GIVE ANY FURTHER DETAILS		

8) Have you ever changed your name or used an alias?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, provide details below:	

**New York State Department of Health
Certificate of Need Application**

Schedule 2A

9) During the last 10 years, have you been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has such a license held by you during such period been suspended, revoked or otherwise subjected to administrative action?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
10) Have you ever been involved in an action or proceeding brought by any public or governmental licensing agency or regulatory authority for violation of any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:	
a) became insolvent, declared or was forced to declare bankruptcy or was placed in receivership or conservatorship?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
b) was enjoined from or ordered to cease and desist from violating any securities, insurance or health law or regulation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
d) was required to enter into a Corporate Integrity Agreement as part of a settlement with the Office of Inspector General of the U.S. Department of Health and Human Services?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
e) suffered the suspension or revocation of its certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
f) was denied a certificate of authority or license to do business in any state?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If the answer is "yes" to Questions 9, 10, or 11 attach an explanation, including, where applicable, the date, type, and location of the action, and all relevant details.	
Have you ever been in a position that required a fidelity bond?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Were any claims made against that bond? If "Yes", provide details below	Yes <input type="checkbox"/> No <input type="checkbox"/>
N/A	
Have you ever been denied a fidelity bond or had such fidelity canceled or revoked?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If "Yes", provide details below	

New York State Department of Health
Certificate of Need Application

Schedule 2A

--

The undersigned hereby certifies, under penalty of perjury, that the above stated information is true, correct and complete.

SIGNATURE:	DATE
X <i>Richard F. Zweifel</i>	9/5/13
PRINT OR TYPE NAME	
Richard F. Zweifel	
TITLE	
Trustee	

NOTARY	DATE
<i>[Signature]</i>	9/5/13

Has the original of this document been signed and notarized? Yes No

ATTACHMENT 1 TO SCHEDULE 2
New York State Department of Health
Certificate of Need Application
Personal Qualifying and Disclosure Information

Schedule 2A

5. Offices Held or Ownership in Health Facilities

c. Enforcement Actions

During the period of your (or your relative's) affiliation, were any of the facilities subject to an enforcement or administrative action taken by the State regulatory agency due to the facilities violation of applicable laws and regulations?

Yes. In or about June 2007, the Department of Health completed a recertification survey of St. Elizabeth Medical Center's Home Care [St. Elizabeth Certified Home Care] wherein they found violations of Article 36 of the Public Health Law and Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York. A Statement of Deficiencies resulted but prior to service of a Notice of Hearing and Statement of Charges and commencement by DOH of an administrative enforcement action based on the alleged violations, St. Elizabeth settled with DOH. As a part of the 2008 settlement, St. Elizabeth admitted to the existence of substantial evidence of violations of 10 NYCRR §763.4(h) [Policies and procedures of service delivery], 10 NYCRR §763.6(b) [Patient assessment and plan of care], 10 NYCRR §763.6(e) [Patient assessment and plan of care], 10 NYCRR §763.11(a) [Governing authority] and 10 NYCRR §763.11(b) [Governing authority]. A \$10,000 civil penalty was assessed of which \$5,000 was paid and the remaining \$5,000 was suspended providing St. Elizabeth did not violate certain terms and regulations within 3 years.

In March 2013, St. Elizabeth Medical Center received a citation and Notice of Penalty for alleged violations of 29 CFR 1910.1000(a)(2) and (e), and 1910.1200 (h)(3)(i),(h)(3)(ii) and (h)(3)(iii). The citations resulted from an employee allegation of overexposure to carbon monoxide. The citation and \$8500 penalty are currently being contested.

In September 2012, the Department of Health completed a recertification survey of St. Elizabeth Medical Center's Home Care (St. Elizabeth Certified Home Care) wherein they found violations of 10 NYCRR 763.11 (a)(b), 763.4 (h) and 736.6 (a),(b), (c) and (e). A Statement of Deficiencies resulted and a Plan of Correction was completed and accepted. No statement of charges has yet been filed and there has been no penalty assessed at this time as St. Elizabeth Medical and the Department of Health are in settlement discussions.

6. Record of Legal Actions

5) Are there now or have there ever been any civil or administrative actions pending against you or any professional/business entity with which you are affiliated?

Yes. As a member of the Board of Trustees of St. Elizabeth Medical Center, the Medical Center has been named in numerous lawsuits over the course of the years, ranging from medical malpractice actions to slip and fall to wrongful termination and employment actions. It is a hospital that provides care to tens of thousands of people a year and employs over 2000 individuals.

11) Have you ever been an officer, director, trustee, member, manager, partner, management employee or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity wherein the company:

c) was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?

Yes.

1. In or about December 2007 the U.S. Attorney General's Office conducted a nationwide investigation into billing for kyphoplasty procedures. St. Elizabeth Medical Center was thus a part of that investigation and it was determined that certain procedures billed as inpatient should have been billed as outpatient. St. Elizabeth Medical Center entered into an agreement to pay back \$195,976 plus interest.

Schedule 2C - Director's Statement for Not-for-Profit Applicants

Name of individual:

Richard F. Zweifel

This statement must be completed by directors of not-for-profit corporations who are not contributing capital in support of the project. The form is completed in lieu of Schedule 2B. This schedule is required for all not-for-profit Article 7 applications and for Article 28, 36 & 40 establishment applications.

Statement of Business Associations with Health Facilities

- I do NOT receive any income directly or indirectly from any other health care facility.
- I do receive income directly or indirectly from the following health care facilities. For each, please briefly describe the nature of the relationship and method of payment.

--

Has the original of this document been signed and notarized? Yes No

SIGNATURE:	DATE
X <i>Richard F. Zweifel</i>	9/5/13
PRINT OR TYPE NAME	
Richard F. Zweifel	
TITLE	
Trustee	

NOTARY	DATE
<i>[Signature]</i>	9/5/13

Schedule 3: CON Forms Related to Legal Issues

Included Schedules	Notes
Schedule 3_FSL	Schedule 3B
Schedule 3_MVHC	Schedule 3B
Schedule 3_MVHS	Schedule 3B
Schedule 3_SEMC	Schedule 3B
Schedule 3_SLH	Schedule 3B
Schedule 3_VNA	Schedule 3B

Schedule 3 CON Forms Related to Legal Issues

Contents:

- **Schedule 3A - General Instructions and Definitions For Legal Schedules (No data entry required - informational schedule only)**
- **Schedule 3B – Basic Legal Information and Documentation**

Schedule 3A: General Instructions and Definitions For Legal Schedules

This schedule applies to all Establishment and Full Construction Applicants and some Administrative Applications.

Definitions

1. "PHL" refers to the New York State Public Health Law.
2. "SSL" refers to the New York State Social Services Law.
3. "10 NYCRR" refers to Title 10 (Health) of the Official Compilation of the Codes, Rules and Regulations of the State of New York.
4. "18 NYCRR" refers to Title 18 (Social Services) of the Official Compilation of the Codes, Rules and Regulations of the State of New York.
5. "Department" refers to the New York State Department of Health.
6. "Commissioner" refers to the Commissioner of the Department.
7. "Article 28" refers to Article 28 of the PHL, which governs general hospitals, nursing homes and diagnostic and treatment centers.
8. "Article 36" refers to Article 36 of the PHL, which governs certified home health agencies and long term home health care programs.
9. "Article 40" refers to Article 40 of the PHL, which governs hospices.
10. "Article 44" refers to Article 44 of the PHL, which governs health maintenance organizations.
11. "Article 7" refers to Article 7 of the SSL, which governs adult homes, enriched housing programs and residences for adults.
12. "Facility" refers to all types of facilities, institutions, agencies or other entities regulated under Articles 7, 28, 36, 40, or 44.

General Instructions

1. Unless otherwise specifically indicated, the required paper copies of legal documentation submitted should be photocopies of fully executed original documents and **not** the originals themselves. The electronic copies of legal documents should be legible scanned images in PDF format of fully executed original documents.
2. Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.
3. Attachments to legal schedules should be numbered sequentially for each particular schedule. The list of attachments should be completed for each required schedule, with either the number of the attachment or a check in the "Not Applicable" column. In instances where the "Not Applicable" option is not offered, inclusion of the documentation is mandatory.

[If you believe this submission contains information which may be exempted from disclosure pursuant to a FOIL request, you may so indicate to the NYSDOH and if so, must identify those sections of the submission. DOH will review your claim and make a determination in the event a FOIL request is received.]

Schedule 3B – Basic Legal Information and Documentation

Instructions:

1. The following applicants must complete Part I in its entirety:
 - a. All Article 7 applicants.
 - b. Article 28 applicants seeking establishment or combined establishment and construction approval.
 - c. Article 36 applicants seeking establishment approval.
 - d. Article 40 applicants seeking establishment approval.
2. The appropriate section of Part II must also be completed, depending on the applicant's type of legal entity, as follows:
 - a. Applicants that are sole proprietors must complete Section A.
 - b. Applicants that are general partnerships must complete Section B.
 - c. Applicants that are registered limited liability partnerships must complete Section C.
 - d. Applicants that are not-for-profit corporations must complete Section D.
 - e. Applicants that are business corporations must complete Section E
 - f. Applicants that are limited liability companies must complete Section F.
3. All Article 28 applicants must complete Part III in its entirety.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. All Applicants

- A. Is the name of the facility different from the name of the applicant's legal entity?
 Yes No

If yes, submit the Certificate of Assumed Name. Attachment # .

- B. Is the applicant a natural person? Yes No

If no, type of legal entity:

- Sole Proprietor (See II.A. below)
 General Partnership (See II.B below)
 Registered Limited Liability Partnership (See II.C below)
 Not-for-Profit Corporation (See II.D below)
 Business Corporation (See II.E below)
 Limited Liability Company (See II.F below)
 Other, specify .

- C. For Article 36 applicants only: Does the applicant have any partners, members or stockholders that are not natural persons?
 Yes No

If yes, the applicant must comply with the requirements of PHL 3611.

- D. For Article 36 business corporations only: Is the corporation publicly traded?
 Yes No

If yes, submit the most recently filed Securities Exchange Commission Form 10K. Attachment # .

E. Submit documentation of how the applicant has or will obtain site control. Lease agreements for Article 28 facilities, and for hospice residences and the inpatient components of Article 40 facilities, must contain the language set forth in 10 NYCRR 600.2(d) or 790.2(d), respectively. Attachment # 8A.

F. Are any of the directors or owners (partners, stockholders or members) of the applicant physicians who are in a position to make referrals to the facility?
 Yes No

If yes, submit a signed statement that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with the consultation of legal counsel, and it is concluded that proceeding with the proposal is appropriate. Attachment # 9.

G. Submit an organizational chart showing the applicant's legal structure. Attachment # 2A.

H. Does the applicant intend to enter into any agreement(s) involving the management, administrative, billing and/or consulting services for the facility, including, but not limited to, operational policies.
 Yes No

If yes, submit the proposed agreement(s) and the remaining questions in this part I. Attachment # .

If no, skip to Part II as applicable.

I. Has the proposed management entity previously received establishment approval under either Article 7, 28, 36 or 40 of the PHL?
 Yes No

J. Enter on the following chart, the addresses of the facilities/agencies owned, operated or managed by the proposed management entity and the time period that each was owned, operated or managed by the proposed management entity. Include out-of-state entities. Attach additional sheets, if necessary. Attachment # .

Facility Name	Type of Facility	Facility Address	Time Period Owned or Managed

K. For each facility named in Question J above, documentation must be submitted reflecting its current and past compliance with the applicable regulations in the state in which it operates. This information is required for the most recent ten-year period, or for the period it was owned, operated or managed by the proposed management entity, whichever is less. See Schedule 2D for instructions on how to acquire this documentation.

- L. Has the proposed management entity been the subject of an administrative action related to the ownership, operation or management of any health care facility or agency?
 Yes No

If yes, provide further details regarding the administrative action in the space below.

- M. Are there any criminal actions pending against the proposed management entity?
 Yes No

If yes, provide further details regarding the criminal action in the space below.

- N. Are there now or have there been any civil or administrative actions initiated by either the Medicare or Medicaid programs against the proposed management entity?
 Yes No

If yes, provide further details regarding the administrative action in the space below.

II. Additional Documentation Depending on Type of Legal Entity

Submit the following legal documentation as applicable for the applicant's type of legal entity.

A. Sole Proprietors

1. Name of Individual Proprietor:

2. Certificate of Doing Business: Attachment # .

3. Schedules 2A and 2B

B. General Partnerships

1. On the following chart, list the partners, partnership interest and percentage ownership for each partner: Attach additional sheets if necessary. Attachment # .

Partner Name	Partnership Interest	Percentage Ownership

2. Partnership Agreement: Attachment # .
3. Certificate of Doing Business as a Partnership: Attachment # .
4. Schedules 2A and 2B for each partner

N.B. Partnership agreements for Article 28, Article 36 and Article 40 applicants must contain the language set forth in 10 NYCRR 600.1(5)(ii), 760.2 (c)(2) or 790.1 (c)(2), respectively. Refer to Schedule 12B, Part II for language that must be included in partnership agreements for Article 7 general partnerships.

C. Registered Limited Liability Partnerships

1. On the following chart, list the partners, partnership interest and percentage ownership for each partner: Attach additional sheets if necessary. Attachment # .

Partner Name	Partnership Interest	Percentage Ownership

2. Partnership Agreement: Attachment # .
3. Certificate of Doing Business as a Partnership: Attachment # .
4. Certificate of Registration: Attachment # .
5. Schedules 2A and 2B for each partner

N.B. Registered limited liability partnerships are not a proper entity for adult care facilities. See 600.1(5)(ii) of 10 NYCRR for language that must be included in partnership agreements for Article 28 registered limited liability partnerships.

D. Not-for-Profit Corporations

1. Does the corporation have any members? Yes No

If yes, list the names of the members below.

Mohawk Valley Network, Inc.

2. On the following chart, list the names of the officers and directors of the applicant corporation and indicate the position held by each. Attach additional sheets if necessary. Attachment # 3A.

Officer/Director Name	Position Held
See Attachment 3A	

3. Certificate of Incorporation: Attachment #4B.
4. Bylaws: Attachment #5B.
5. If the applicant is not a New York corporation, Application for Authority to Do Business in New York: Attachment #N/A.
6. Schedule 2A for each director
7. Schedule 2B for directors who contribute capital in support of the project
8. Schedule 2C for directors who do not contribute capital in support of the project

E. Business Corporations

1. On the following chart, list the stockholders, stock interest and percentage of ownership for each stockholder. Attach additional sheets if necessary. Attachment # [].

Stockholder Name	Stock Interest	Percentage Ownership

2. On the following chart, list the names of the officers and directors of the applicant corporation and indicate the position held by each. Attach additional sheets if necessary. Attachment # [].

Officer/Director Name	Position Held

3. Certificate of Incorporation: Attachment # .
4. Bylaws: Attachment # .
5. If the applicant is not a New York corporation, Application for Authority to Do Business in New York: Attachment # .
6. Schedule 2A for each officer, director and stockholder
7. Schedule 2B for each stockholder

N.B. Only stockholders who own ten percent or more of a certified home health agency's issued stock must submit Schedule 2B. Stockholders of all other applicants, regardless of percentage ownership, must submit Schedule 2B.

F. Limited Liability Companies

1. On the following chart, list the members, membership interest and percentage of ownership for each member. Attach additional sheets if necessary. Attachment # .

Member Name	Membership Interest	Percentage Ownership

2. List the managers below.

--

3. Articles of Organization: Attachment # .
4. Operating Agreement: Attachment # .
5. If the applicant is not a New York limited liability company, Application for Authority to Do Business in New York: Attachment # .

- 6. Schedule 2A for each member and manager
- 7. Schedule 2B for each member

N.B. Only members who own ten percent or more of a CHHA's membership interest must submit Schedule 2B. Members of all other applicants, regardless of percentage of ownership, must submit Schedule 2B.

III. Representative Governance

A. Ownership

- 1. Is the applicant, or any of its owners, employed by, an owner, officer, director, or manager of, or in any way affiliated with, or acting on behalf, or for the benefit of, an outside entity which will be involved with (including through a lease, contract or agreement), or benefit from, the ownership or operation of the proposed facility?
 Yes No

If yes, in the space below, identify the outside entity and the nature of the relationship.

- 2. Are there any contractual restrictions, existing or proposed, on the ability of the owners of the applicant to assign, transfer or sell their ownership interests or voting rights in the applicant? Yes No

If yes, provide copies of the existing or proposed arrangements.
Attachment # .

B. Consulting/Administrative Agreements

- 1. Does this proposal include a consulting or administrative agreement?
 Yes No

If no, skip to Section C.

If yes, attach a copy of this agreement (if not already submitted with the CON), and continue with the questions in this section.
Attachment # .

- 2. Describe in the space below the services to be provided under the agreement.

- 3. Describe in the space below the relationship between the applicant/operator and the consultant.

- 4. Who/what owns the consultant entity?

[Empty text box]

5. Who will manage the subject facility on a day-to-day business?

[Empty text box]

6. Who employs the facility manager?

[Empty text box]

7. Will there be any subcontracts or assignments with other entities?

Yes No

If yes, attach copies of the agreements. Attachment # [Empty text box].

Describe the agreements:

[Empty text box]

8. What percentage of facility revenues flow to the consultant?

[Empty text box] %

9. Is the consultant also an equipment lessor for the facility?

Yes No

10. Is the consultant a real property lessor for the facility?

Yes No

11. Who is responsible for financial decisions and by whom is this person is employed?

[Empty text box]

C. Financing

Will another entity provide financing for this CON project?

Yes No

If yes, define the lender and it relationship to the applicant and consultant.

[Empty text box]

Completed by:

Enter Name:

Thomas Soja, Esq., General Counsel

Enter Date:

[Empty text box]

SCHEDULE 3B ATTACHMENTS

Complete the section labeled “All Applicants.” Then, check the box(es) that apply to your organizational structure and enter the corresponding information for each attached document. If the document is not applicable, enter “N/A” in the column labeled “Attachment Title.”

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
ALL APPLICANTS			
Certificate of Assumed Name	N/A		
Form SEC 10K	N/A		
Documentation of Site Control	Documentation of Site Control	8A	Attach_8A_Documentation_of_Site_Control.pdf
Anti-Kickback Statement	Anti-Kickback Statement	9	Attach_9_AKS_Statement.pdf
Organizational Chart	Current Organizational Chart	2A	Attach_2A_Current_Organization_Chart.pdf
Management Agreement	N/A		
List of Out-of-State Entities	N/A		
<input type="checkbox"/> SOLE PROPRIETORS			
Certificate of Doing Business			
<input type="checkbox"/> GENERAL PARTNERSHIPS			
List of Additional Partners			
Partnership Agreement			
Certificate of Doing Business as a Partnership			
<input type="checkbox"/> REGISTERED LIMITED LIABILITY PARTNERSHIPS			
List of Additional Partners			
Partnership Agreement			
Certificate of Doing Business as a Partnership			
Certificate of Registration			
<input checked="" type="checkbox"/> NOT-FOR-PROFIT CORPORATIONS			
List of Additional Officers & Directors	MVN Current Board Rosters	3A	Attach_3A_MVN_Current_Board_Rosters.pdf
Certificate of Incorporation	Current Faxton St Lukes Healthcare Certificate of Consolidation	4B	Attach_4B_Current_Faxton_St_Lukes_Healthcare_Cert_of_Consolidation.pdf

New York State Department of Health
Certificate of Need Application

Schedule 3B

Bylaws	Current Faxton St. Lukes Healthcare Bylaws	5B	Attach_5B_Current _Faxton-St. Lukes Healthcare Bylaws.pdf
Application for Authority to do Business in NYS	N/A		

* **PDF Format Preferred**

SCHEDULE 3B ATTACHMENTS (continued)

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
<input type="checkbox"/> BUSINESS CORPORATIONS			
List of Additional Stockholders			
List of Additional Officers & Directors			
Certificate of Incorporation			
Bylaws			
Application for Authority to do Business in NYS			
<input type="checkbox"/> LIMITED LIABILITY COMPANIES			
List of Additional Members			
Articles of Organization			
Operating Agreement			
Application for Authority to do Business in NYS			
<input type="checkbox"/> REPRESENTATIVE GOVERNANCE			
Restrictions on Ability of Applicant to Assign Ownership			
Consulting/Administrative Agreement			
Subcontracts or Assignments with Other Entities			
OTHER ATTACHMENTS (SPECIFY)			
List of Officers and Directors	FSL Proposed Board Roster	3B.1	Attach_3B.1_FSL_Proposed_Board_Roster.pdf
Certificate of Incorporation	FSL Restated Certificate of Incorporation	4B.1	Attach_4B.1_FSL_Restated_COI.pdf
Bylaws	FSL Restated Bylaws	5B.1	Attach_5B.1_FSL_Restated_Bylaws.pdf

* PDF Format Preferred

Schedule 3

CON Forms Related to Legal Issues

Contents:

- **Schedule 3A - General Instructions and Definitions For Legal Schedules (No data entry required - informational schedule only)**
- **Schedule 3B – Basic Legal Information and Documentation**

Schedule 3A: General Instructions and Definitions For Legal Schedules

This schedule applies to all Establishment and Full Construction Applicants and some Administrative Applications.

Definitions

1. "PHL" refers to the New York State Public Health Law.
2. "SSL" refers to the New York State Social Services Law.
3. "10 NYCRR" refers to Title 10 (Health) of the Official Compilation of the Codes, Rules and Regulations of the State of New York.
4. "18 NYCRR" refers to Title 18 (Social Services) of the Official Compilation of the Codes, Rules and Regulations of the State of New York.
5. "Department" refers to the New York State Department of Health.
6. "Commissioner" refers to the Commissioner of the Department.
7. "Article 28" refers to Article 28 of the PHL, which governs general hospitals, nursing homes and diagnostic and treatment centers.
8. "Article 36" refers to Article 36 of the PHL, which governs certified home health agencies and long term home health care programs.
9. "Article 40" refers to Article 40 of the PHL, which governs hospices.
10. "Article 44" refers to Article 44 of the PHL, which governs health maintenance organizations.
11. "Article 7" refers to Article 7 of the SSL, which governs adult homes, enriched housing programs and residences for adults.
12. "Facility" refers to all types of facilities, institutions, agencies or other entities regulated under Articles 7, 28, 36, 40, or 44.

General Instructions

1. Unless otherwise specifically indicated, the required paper copies of legal documentation submitted should be photocopies of fully executed original documents and **not** the originals themselves. The electronic copies of legal documents should be legible scanned images in PDF format of fully executed original documents.
2. Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.
3. Attachments to legal schedules should be numbered sequentially for each particular schedule. The list of attachments should be completed for each required schedule, with either the number of the attachment or a check in the "Not Applicable" column. In instances where the "Not Applicable" option is not offered, inclusion of the documentation is mandatory.

[If you believe this submission contains information which may be exempted from disclosure pursuant to a FOIL request, you may so indicate to the NYSDOH and if so, must identify those sections of the submission. DOH will review your claim and make a determination in the event a FOIL request is received.]

Schedule 3B – Basic Legal Information and Documentation

Instructions:

1. The following applicants must complete Part I in its entirety:
 - a. All Article 7 applicants.
 - b. Article 28 applicants seeking establishment or combined establishment and construction approval.
 - c. Article 36 applicants seeking establishment approval.
 - d. Article 40 applicants seeking establishment approval.

2. The appropriate section of Part II must also be completed, depending on the applicant's type of legal entity, as follows:
 - a. Applicants that are sole proprietors must complete Section A.
 - b. Applicants that are general partnerships must complete Section B.
 - c. Applicants that are registered limited liability partnerships must complete Section C.
 - d. Applicants that are not-for-profit corporations must complete Section D.
 - e. Applicants that are business corporations must complete Section E
 - f. Applicants that are limited liability companies must complete Section F.

3. All Article 28 applicants must complete Part III in its entirety.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. All Applicants

- A. Is the name of the facility different from the name of the applicant's legal entity?
 Yes No

If yes, submit the Certificate of Assumed Name. Attachment # .

- B. Is the applicant a natural person? Yes No

If no, type of legal entity:

- Sole Proprietor (See II.A. below)
 General Partnership (See II.B below)
 Registered Limited Liability Partnership (See II.C below)
 Not-for-Profit Corporation (See II.D below)
 Business Corporation (See II.E below)
 Limited Liability Company (See II.F below)
 Other, specify .

- C. For Article 36 applicants only: Does the applicant have any partners, members or stockholders that are not natural persons?
 Yes No

If yes, the applicant must comply with the requirements of PHL 3611.

- D. For Article 36 business corporations only: Is the corporation publicly traded?
 Yes No

If yes, submit the most recently filed Securities Exchange Commission Form 10K. Attachment # .

E. Submit documentation of how the applicant has or will obtain site control. Lease agreements for Article 28 facilities, and for hospice residences and the inpatient components of Article 40 facilities, must contain the language set forth in 10 NYCRR 600.2(d) or 790.2(d), respectively. Attachment # 8A.

F. Are any of the directors or owners (partners, stockholders or members) of the applicant physicians who are in a position to make referrals to the facility?
 Yes No

If yes, submit a signed statement that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with the consultation of legal counsel, and it is concluded that proceeding with the proposal is appropriate. Attachment # 9.

G. Submit an organizational chart showing the applicant's legal structure. Attachment # 2A.

H. Does the applicant intend to enter into any agreement(s) involving the management, administrative, billing and/or consulting services for the facility, including, but not limited to, operational policies.
 Yes No

If yes, submit the proposed agreement(s) and the remaining questions in this part I. Attachment # .

If no, skip to Part II as applicable.

I. Has the proposed management entity previously received establishment approval under either Article 7, 28, 36 or 40 of the PHL?
 Yes No

J. Enter on the following chart, the addresses of the facilities/agencies owned, operated or managed by the proposed management entity and the time period that each was owned, operated or managed by the proposed management entity. Include out-of-state entities. Attach additional sheets, if necessary. Attachment # .

Facility Name	Type of Facility	Facility Address	Time Period Owned or Managed

K. For each facility named in Question J above, documentation must be submitted reflecting its current and past compliance with the applicable regulations in the state in which it operates. This information is required for the most recent ten-year period, or for the period it was owned, operated or managed by the proposed management entity, whichever is less. See Schedule 2D for instructions on how to acquire this documentation.

- L. Has the proposed management entity been the subject of an administrative action related to the ownership, operation or management of any health care facility or agency?
 Yes No

If yes, provide further details regarding the administrative action in the space below.

- M. Are there any criminal actions pending against the proposed management entity?
 Yes No

If yes, provide further details regarding the criminal action in the space below.

- N. Are there now or have there been any civil or administrative actions initiated by either the Medicare or Medicaid programs against the proposed management entity?
 Yes No

If yes, provide further details regarding the administrative action in the space below.

II. Additional Documentation Depending on Type of Legal Entity

Submit the following legal documentation as applicable for the applicant's type of legal entity.

A. Sole Proprietors

1. Name of Individual Proprietor:

2. Certificate of Doing Business: Attachment # .

3. Schedules 2A and 2B

B. General Partnerships

1. On the following chart, list the partners, partnership interest and percentage ownership for each partner: Attach additional sheets if necessary. Attachment # .

Partner Name	Partnership Interest	Percentage Ownership

2. Partnership Agreement: Attachment # .
3. Certificate of Doing Business as a Partnership: Attachment # .
4. Schedules 2A and 2B for each partner

N.B. Partnership agreements for Article 28, Article 36 and Article 40 applicants must contain the language set forth in 10 NYCRR 600.1(5)(ii), 760.2 (c)(2) or 790.1 (c)(2), respectively. Refer to Schedule 12B, Part II for language that must be included in partnership agreements for Article 7 general partnerships.

C. Registered Limited Liability Partnerships

1. On the following chart, list the partners, partnership interest and percentage ownership for each partner: Attach additional sheets if necessary. Attachment # .

Partner Name	Partnership Interest	Percentage Ownership

2. Partnership Agreement: Attachment # .
3. Certificate of Doing Business as a Partnership: Attachment # .
4. Certificate of Registration: Attachment # .
5. Schedules 2A and 2B for each partner

N.B. Registered limited liability partnerships are not a proper entity for adult care facilities. See 600.1(5)(ii) of 10 NYCRR for language that must be included in partnership agreements for Article 28 registered limited liability partnerships.

D. Not-for-Profit Corporations

1. Does the corporation have any members? Yes No

If yes, list the names of the members below.

2. On the following chart, list the names of the officers and directors of the applicant corporation and indicate the position held by each. Attach additional sheets if necessary. Attachment # .

Officer/Director Name	Position Held

3. Certificate of Incorporation: Attachment # .
4. Bylaws: Attachment # .
5. If the applicant is not a New York corporation, Application for Authority to Do Business in New York: Attachment # .
6. Schedule 2A for each director
7. Schedule 2B for directors who contribute capital in support of the project
8. Schedule 2C for directors who do not contribute capital in support of the project

E. Business Corporations

1. On the following chart, list the stockholders, stock interest and percentage of ownership for each stockholder. Attach additional sheets if necessary. Attachment # .

Stockholder Name	Stock Interest	Percentage Ownership

2. On the following chart, list the names of the officers and directors of the applicant corporation and indicate the position held by each. Attach additional sheets if necessary. Attachment # .

Officer/Director Name	Position Held

3. Certificate of Incorporation: Attachment # .
4. Bylaws: Attachment # .
5. If the applicant is not a New York corporation, Application for Authority to Do Business in New York: Attachment # .
6. Schedule 2A for each officer, director and stockholder
7. Schedule 2B for each stockholder

N.B. Only stockholders who own ten percent or more of a certified home health agency's issued stock must submit Schedule 2B. Stockholders of all other applicants, regardless of percentage ownership, must submit Schedule 2B.

F. Limited Liability Companies

1. On the following chart, list the members, membership interest and percentage of ownership for each member. Attach additional sheets if necessary. Attachment # .

Member Name	Membership Interest	Percentage Ownership
Mohawk Valley Network, Inc		100%

2. List the managers below.

Mohawk Valley Network Board of Directors
--

3. Articles of Organization: Attachment # .
4. Operating Agreement: Attachment # .
5. If the applicant is not a New York limited liability company, Application for Authority to Do Business in New York: Attachment # .

- 6. Schedule 2A for each member and manager
- 7. Schedule 2B for each member

N.B. Only members who own ten percent or more of a CHHA's membership interest must submit Schedule 2B. Members of all other applicants, regardless of percentage of ownership, must submit Schedule 2B.

III. Representative Governance

A. Ownership

- 1. Is the applicant, or any of its owners, employed by, an owner, officer, director, or manager of, or in any way affiliated with, or acting on behalf, or for the benefit of, an outside entity which will be involved with (including through a lease, contract or agreement), or benefit from, the ownership or operation of the proposed facility?
 Yes No

If yes, in the space below, identify the outside entity and the nature of the relationship.

- 2. Are there any contractual restrictions, existing or proposed, on the ability of the owners of the applicant to assign, transfer or sell their ownership interests or voting rights in the applicant? Yes No

If yes, provide copies of the existing or proposed arrangements.
Attachment # .

B. Consulting/Administrative Agreements

- 1. Does this proposal include a consulting or administrative agreement?
 Yes No

If no, skip to Section C.

If yes, attach a copy of this agreement (if not already submitted with the CON), and continue with the questions in this section.
Attachment # .

- 2. Describe in the space below the services to be provided under the agreement.

- 3. Describe in the space below the relationship between the applicant/operator and the consultant.

- 4. Who/what owns the consultant entity?

[Empty text box]

5. Who will manage the subject facility on a day-to-day business?

[Empty text box]

6. Who employs the facility manager?

[Empty text box]

7. Will there be any subcontracts or assignments with other entities?

Yes No

If yes, attach copies of the agreements. Attachment # [Empty text box].

Describe the agreements:

[Empty text box]

8. What percentage of facility revenues flow to the consultant?

[Empty text box] %

9. Is the consultant also an equipment lessor for the facility?

Yes No

10. Is the consultant a real property lessor for the facility?

Yes No

11. Who is responsible for financial decisions and by whom is this person is employed?

[Empty text box]

C. Financing

Will another entity provide financing for this CON project?

Yes No

If yes, define the lender and it relationship to the applicant and consultant.

[Empty text box]

Completed by:

Enter Name:

Thomas Soja, Esq., General Counsel

Enter Date:

[Empty text box]

SCHEDULE 3B ATTACHMENTS

Complete the section labeled "All Applicants." Then, check the box(es) that apply to your organizational structure and enter the corresponding information for each attached document. If the document is not applicable, enter "N/A" in the column labeled "Attachment Title."

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
ALL APPLICANTS			
Certificate of Assumed Name	N/A		
Form SEC 10K	N/A		
Documentation of Site Control	Documentation of Site Control	8A	Attach_8A_Documentation_of_Site_Control.pdf
Anti-Kickback Statement	Anti-Kickback Statement	9	Attach_9_AKS_Statement.pdf
Organizational Chart	Current Organization Chart	2A	Attach_2A_Current_Organization_Chart.pdf
Management Agreement	N/A		
List of Out-of-State Entities	N/A		
<input type="checkbox"/> SOLE PROPRIETORS			
Certificate of Doing Business			
<input type="checkbox"/> GENERAL PARTNERSHIPS			
List of Additional Partners			
Partnership Agreement			
Certificate of Doing Business as a Partnership			
<input type="checkbox"/> REGISTERED LIMITED LIABILITY PARTNERSHIPS			
List of Additional Partners			
Partnership Agreement			
Certificate of Doing Business as a Partnership			
Certificate of Registration			
<input type="checkbox"/> NOT-FOR-PROFIT CORPORATIONS			
List of Additional Officers & Directors			
Certificate of Incorporation			
Bylaws			
Application for Authority to do Business in NYS			

* PDF Format Preferred

SCHEDULE 3B ATTACHMENTS (continued)

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
<input type="checkbox"/> BUSINESS CORPORATIONS			
List of Additional Stockholders			
List of Additional Officers & Directors			
Certificate of Incorporation			
Bylaws			
Application for Authority to do Business in NYS			
<input checked="" type="checkbox"/> LIMITED LIABILITY COMPANIES			
List of Additional Members	N/A		
Articles of Organization	Mohawk Valley Home Care, LLC Articles of Organization	4E	Attach_4E_Mohawk Valley Home Care LLC_Articles_of_Org_and_Op_Agmt.pdf
Operating Agreement	Mohawk Valley Home Care, LLC Operating Agreement	4E	Attach_4E_Mohawk Valley Home Care LLC_Articles_of_Org_and_Op_Agmt.pdf
Application for Authority to do Business in NYS	N/A		
<input type="checkbox"/> REPRESENTATIVE GOVERNANCE			
Restrictions on Ability of Applicant to Assign Ownership			
Consulting/Administrative Agreement			
Subcontracts or Assignments with Other Entities			
OTHER ATTACHMENTS (SPECIFY)			
List of Officers and Directors	MVHS Proposed Board Roster	3A.1	Attach_3A.1_MVHS_Proposed_Board_Roster.pdf
Certificate of Change	MVHC Certificate of Change	4E.1	Attach_4E.1_MVHC_Cert_of_Change.pdf
Operating Agreement	MVHC Restated Operating Agreement	5E.1	Attach_5E.1_MVHC_Restated_Article_of_Organization.pdf

* PDF Format Preferred

Schedule 3

CON Forms Related to Legal Issues

Contents:

- **Schedule 3A - General Instructions and Definitions For Legal Schedules (No data entry required - informational schedule only)**
- **Schedule 3B – Basic Legal Information and Documentation**

Schedule 3A: General Instructions and Definitions For Legal Schedules

This schedule applies to all Establishment and Full Construction Applicants and some Administrative Applications.

Definitions

1. "PHL" refers to the New York State Public Health Law.
2. "SSL" refers to the New York State Social Services Law.
3. "10 NYCRR" refers to Title 10 (Health) of the Official Compilation of the Codes, Rules and Regulations of the State of New York.
4. "18 NYCRR" refers to Title 18 (Social Services) of the Official Compilation of the Codes, Rules and Regulations of the State of New York.
5. "Department" refers to the New York State Department of Health.
6. "Commissioner" refers to the Commissioner of the Department.
7. "Article 28" refers to Article 28 of the PHL, which governs general hospitals, nursing homes and diagnostic and treatment centers.
8. "Article 36" refers to Article 36 of the PHL, which governs certified home health agencies and long term home health care programs.
9. "Article 40" refers to Article 40 of the PHL, which governs hospices.
10. "Article 44" refers to Article 44 of the PHL, which governs health maintenance organizations.
11. "Article 7" refers to Article 7 of the SSL, which governs adult homes, enriched housing programs and residences for adults.
12. "Facility" refers to all types of facilities, institutions, agencies or other entities regulated under Articles 7, 28, 36, 40, or 44.

General Instructions

1. Unless otherwise specifically indicated, the required paper copies of legal documentation submitted should be photocopies of fully executed original documents and **not** the originals themselves. The electronic copies of legal documents should be legible scanned images in PDF format of fully executed original documents.
2. Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.
3. Attachments to legal schedules should be numbered sequentially for each particular schedule. The list of attachments should be completed for each required schedule, with either the number of the attachment or a check in the "Not Applicable" column. In instances where the "Not Applicable" option is not offered, inclusion of the documentation is mandatory.

[If you believe this submission contains information which may be exempted from disclosure pursuant to a FOIL request, you may so indicate to the NYSDOH and if so, must identify those sections of the submission. DOH will review your claim and make a determination in the event a FOIL request is received.]

Schedule 3B – Basic Legal Information and Documentation

Instructions:

1. The following applicants must complete Part I in its entirety:
 - a. All Article 7 applicants.
 - b. Article 28 applicants seeking establishment or combined establishment and construction approval.
 - c. Article 36 applicants seeking establishment approval.
 - d. Article 40 applicants seeking establishment approval.
2. The appropriate section of Part II must also be completed, depending on the applicant's type of legal entity, as follows:
 - a. Applicants that are sole proprietors must complete Section A.
 - b. Applicants that are general partnerships must complete Section B.
 - c. Applicants that are registered limited liability partnerships must complete Section C.
 - d. Applicants that are not-for-profit corporations must complete Section D.
 - e. Applicants that are business corporations must complete Section E
 - f. Applicants that are limited liability companies must complete Section F.
3. All Article 28 applicants must complete Part III in its entirety.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. All Applicants

- A. Is the name of the facility different from the name of the applicant's legal entity?
 Yes No

If yes, submit the Certificate of Assumed Name. Attachment # .

- B. Is the applicant a natural person? Yes No

If no, type of legal entity:

- Sole Proprietor (See II.A. below)
 General Partnership (See II.B below)
 Registered Limited Liability Partnership (See II.C below)
 Not-for-Profit Corporation (See II.D below)
 Business Corporation (See II.E below)
 Limited Liability Company (See II.F below)
 Other, specify .

- C. For Article 36 applicants only: Does the applicant have any partners, members or stockholders that are not natural persons?
 Yes No

If yes, the applicant must comply with the requirements of PHL 3611.

- D. For Article 36 business corporations only: Is the corporation publicly traded?
 Yes No

If yes, submit the most recently filed Securities Exchange Commission Form 10K. Attachment # N/A.

E. Submit documentation of how the applicant has or will obtain site control. Lease agreements for Article 28 facilities, and for hospice residences and the inpatient components of Article 40 facilities, must contain the language set forth in 10 NYCRR 600.2(d) or 790.2(d), respectively. Attachment # 8A.

F. Are any of the directors or owners (partners, stockholders or members) of the applicant physicians who are in a position to make referrals to the facility?
 Yes No

If yes, submit a signed statement that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with the consultation of legal counsel, and it is concluded that proceeding with the proposal is appropriate. Attachment # 9.

G. Submit an organizational chart showing the applicant's legal structure. Attachment # 2B.

H. Does the applicant intend to enter into any agreement(s) involving the management, administrative, billing and/or consulting services for the facility, including, but not limited to, operational policies.
 Yes No

If yes, submit the proposed agreement(s) and the remaining questions in this part I. Attachment # .

If no, skip to Part II as applicable.

I. Has the proposed management entity previously received establishment approval under either Article 7, 28, 36 or 40 of the PHL?
 Yes No

J. Enter on the following chart, the addresses of the facilities/agencies owned, operated or managed by the proposed management entity and the time period that each was owned, operated or managed by the proposed management entity. Include out-of-state entities. Attach additional sheets, if necessary. Attachment # .

Facility Name	Type of Facility	Facility Address	Time Period Owned or Managed

K. For each facility named in Question J above, documentation must be submitted reflecting its current and past compliance with the applicable regulations in the state in which it operates. This information is required for the most recent ten-year period, or for the period it was owned, operated or managed by the proposed management entity, whichever is less. See Schedule 2D for instructions on how to acquire this documentation.

- L. Has the proposed management entity been the subject of an administrative action related to the ownership, operation or management of any health care facility or agency?
 Yes No

If yes, provide further details regarding the administrative action in the space below.

- M. Are there any criminal actions pending against the proposed management entity?
 Yes No

If yes, provide further details regarding the criminal action in the space below.

- N. Are there now or have there been any civil or administrative actions initiated by either the Medicare or Medicaid programs against the proposed management entity?
 Yes No

If yes, provide further details regarding the administrative action in the space below.

II. Additional Documentation Depending on Type of Legal Entity

Submit the following legal documentation as applicable for the applicant's type of legal entity.

A. Sole Proprietors

1. Name of Individual Proprietor:

2. Certificate of Doing Business: Attachment # .

3. Schedules 2A and 2B

B. General Partnerships

1. On the following chart, list the partners, partnership interest and percentage ownership for each partner: Attach additional sheets if necessary. Attachment # .

Partner Name	Partnership Interest	Percentage Ownership

2. Partnership Agreement: Attachment # .
3. Certificate of Doing Business as a Partnership: Attachment # .
4. Schedules 2A and 2B for each partner

N.B. Partnership agreements for Article 28, Article 36 and Article 40 applicants must contain the language set forth in 10 NYCRR 600.1(5)(ii), 760.2 (c)(2) or 790.1 (c)(2), respectively. Refer to Schedule 12B, Part II for language that must be included in partnership agreements for Article 7 general partnerships.

C. Registered Limited Liability Partnerships

1. On the following chart, list the partners, partnership interest and percentage ownership for each partner: Attach additional sheets if necessary. Attachment # .

Partner Name	Partnership Interest	Percentage Ownership

2. Partnership Agreement: Attachment # .
3. Certificate of Doing Business as a Partnership: Attachment # .
4. Certificate of Registration: Attachment # .
5. Schedules 2A and 2B for each partner

N.B. Registered limited liability partnerships are not a proper entity for adult care facilities. See 600.1(5)(ii) of 10 NYCRR for language that must be included in partnership agreements for Article 28 registered limited liability partnerships.

D. Not-for-Profit Corporations

1. Does the corporation have any members? Yes No

If yes, list the names of the members below.

2. On the following chart, list the names of the officers and directors of the applicant corporation and indicate the position held by each. Attach additional sheets if necessary. Attachment # 3A.1.

Officer/Director Name	Position Held
See Attachment 3A.1	

3. Certificate of Incorporation: Attachment #4A.1.
4. Bylaws: Attachment #5A.1.
5. If the applicant is not a New York corporation, Application for Authority to Do Business in New York: Attachment #N/A.
6. Schedule 2A for each director
7. Schedule 2B for directors who contribute capital in support of the project
8. Schedule 2C for directors who do not contribute capital in support of the project

E. Business Corporations

1. On the following chart, list the stockholders, stock interest and percentage of ownership for each stockholder. Attach additional sheets if necessary. Attachment # [].

Stockholder Name	Stock Interest	Percentage Ownership

2. On the following chart, list the names of the officers and directors of the applicant corporation and indicate the position held by each. Attach additional sheets if necessary. Attachment # [].

Officer/Director Name	Position Held

3. Certificate of Incorporation: Attachment # .
4. Bylaws: Attachment # .
5. If the applicant is not a New York corporation, Application for Authority to Do Business in New York: Attachment # .
6. Schedule 2A for each officer, director and stockholder
7. Schedule 2B for each stockholder

N.B. Only stockholders who own ten percent or more of a certified home health agency's issued stock must submit Schedule 2B. Stockholders of all other applicants, regardless of percentage ownership, must submit Schedule 2B.

F. Limited Liability Companies

1. On the following chart, list the members, membership interest and percentage of ownership for each member. Attach additional sheets if necessary. Attachment # .

Member Name	Membership Interest	Percentage Ownership

2. List the managers below.

--

3. Articles of Organization: Attachment # .
4. Operating Agreement: Attachment # .
5. If the applicant is not a New York limited liability company, Application for Authority to Do Business in New York: Attachment # .

- 6. Schedule 2A for each member and manager
- 7. Schedule 2B for each member

N.B. Only members who own ten percent or more of a CHHA's membership interest must submit Schedule 2B. Members of all other applicants, regardless of percentage of ownership, must submit Schedule 2B.

III. Representative Governance

A. Ownership

- 1. Is the applicant, or any of its owners, employed by, an owner, officer, director, or manager of, or in any way affiliated with, or acting on behalf, or for the benefit of, an outside entity which will be involved with (including through a lease, contract or agreement), or benefit from, the ownership or operation of the proposed facility?
 Yes No

If yes, in the space below, identify the outside entity and the nature of the relationship.

- 2. Are there any contractual restrictions, existing or proposed, on the ability of the owners of the applicant to assign, transfer or sell their ownership interests or voting rights in the applicant? Yes No

If yes, provide copies of the existing or proposed arrangements.
Attachment # .

B. Consulting/Administrative Agreements

- 1. Does this proposal include a consulting or administrative agreement?
 Yes No

If no, skip to Section C.

If yes, attach a copy of this agreement (if not already submitted with the CON), and continue with the questions in this section.
Attachment # .

- 2. Describe in the space below the services to be provided under the agreement.

- 3. Describe in the space below the relationship between the applicant/operator and the consultant.

- 4. Who/what owns the consultant entity?

[Empty text box]

5. Who will manage the subject facility on a day-to-day business?

[Empty text box]

6. Who employs the facility manager?

[Empty text box]

7. Will there be any subcontracts or assignments with other entities?

Yes No

If yes, attach copies of the agreements. Attachment # [Empty text box].

Describe the agreements:

[Empty text box]

8. What percentage of facility revenues flow to the consultant?

[Empty text box] %

9. Is the consultant also an equipment lessor for the facility?

Yes No

10. Is the consultant a real property lessor for the facility?

Yes No

11. Who is responsible for financial decisions and by whom is this person is employed?

[Empty text box]

C. Financing

Will another entity provide financing for this CON project?

Yes No

If yes, define the lender and it relationship to the applicant and consultant.

[Empty text box]

Completed by:

Enter Name:

Thomas Soja, Esq., General Counsel

Enter Date:

[Empty text box]

SCHEDULE 3B ATTACHMENTS

Complete the section labeled "All Applicants." Then, check the box(es) that apply to your organizational structure and enter the corresponding information for each attached document. If the document is not applicable, enter "N/A" in the column labeled "Attachment Title."

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
ALL APPLICANTS			
Certificate of Assumed Name	N/A		
Form SEC 10K	N/A		
Documentation of Site Control	Documentation of Site Control	8A	Attach_8A_Documentation_of_Site_Control.pdf
Anti-Kickback Statement	Anti-Kickback Statement	9	Attach_9_AKS_Statement.pdf
Organizational Chart	Post Transaction Organization	2B	Attach_2B_Post_Transaction_Organization.pdf
Management Agreement	N/A		
List of Out-of-State Entities	N/A		
<input type="checkbox"/> SOLE PROPRIETORS			
Certificate of Doing Business			
<input type="checkbox"/> GENERAL PARTNERSHIPS			
List of Additional Partners			
Partnership Agreement			
Certificate of Doing Business as a Partnership			
<input type="checkbox"/> REGISTERED LIMITED LIABILITY PARTNERSHIPS			
List of Additional Partners			
Partnership Agreement			
Certificate of Doing Business as a Partnership			
Certificate of Registration			
<input checked="" type="checkbox"/> NOT-FOR-PROFIT CORPORATIONS			
List of Additional Officers & Directors	MVHS Proposed Board Roster	3A.1	Attach_3A.1_MVHS_Proposed_Board_Roster.pdf
Certificate of Incorporation	MVHS Certificate of Incorporation	4A.1	Attach_4A.1_MVHS_Certificate_of_Incorporation.pdf
Bylaws	MVHS Bylaws	5A.1	Attach_5A.1_MVHS_Bylaws.pdf
Application for Authority to do Business in NYS	N/A		

* **PDF Format Preferred**

SCHEDULE 3B ATTACHMENTS (continued)

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
<input type="checkbox"/> BUSINESS CORPORATIONS			
List of Additional Stockholders			
List of Additional Officers & Directors			
Certificate of Incorporation			
Bylaws			
Application for Authority to do Business in NYS			
<input type="checkbox"/> LIMITED LIABILITY COMPANIES			
List of Additional Members			
Articles of Organization			
Operating Agreement			
Application for Authority to do Business in NYS			
<input type="checkbox"/> REPRESENTATIVE GOVERNANCE			
Restrictions on Ability of Applicant to Assign Ownership			
Consulting/Administrative Agreement			
Subcontracts or Assignments with Other Entities			
OTHER ATTACHMENTS (SPECIFY)			

* PDF Format Preferred

Schedule 3

CON Forms Related to Legal Issues

Contents:

- **Schedule 3A - General Instructions and Definitions For Legal Schedules (No data entry required - informational schedule only)**
- **Schedule 3B – Basic Legal Information and Documentation**

Schedule 3A: General Instructions and Definitions For Legal Schedules

This schedule applies to all Establishment and Full Construction Applicants and some Administrative Applications.

Definitions

1. "PHL" refers to the New York State Public Health Law.
2. "SSL" refers to the New York State Social Services Law.
3. "10 NYCRR" refers to Title 10 (Health) of the Official Compilation of the Codes, Rules and Regulations of the State of New York.
4. "18 NYCRR" refers to Title 18 (Social Services) of the Official Compilation of the Codes, Rules and Regulations of the State of New York.
5. "Department" refers to the New York State Department of Health.
6. "Commissioner" refers to the Commissioner of the Department.
7. "Article 28" refers to Article 28 of the PHL, which governs general hospitals, nursing homes and diagnostic and treatment centers.
8. "Article 36" refers to Article 36 of the PHL, which governs certified home health agencies and long term home health care programs.
9. "Article 40" refers to Article 40 of the PHL, which governs hospices.
10. "Article 44" refers to Article 44 of the PHL, which governs health maintenance organizations.
11. "Article 7" refers to Article 7 of the SSL, which governs adult homes, enriched housing programs and residences for adults.
12. "Facility" refers to all types of facilities, institutions, agencies or other entities regulated under Articles 7, 28, 36, 40, or 44.

General Instructions

1. Unless otherwise specifically indicated, the required paper copies of legal documentation submitted should be photocopies of fully executed original documents and **not** the originals themselves. The electronic copies of legal documents should be legible scanned images in PDF format of fully executed original documents.
2. Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.
3. Attachments to legal schedules should be numbered sequentially for each particular schedule. The list of attachments should be completed for each required schedule, with either the number of the attachment or a check in the "Not Applicable" column. In instances where the "Not Applicable" option is not offered, inclusion of the documentation is mandatory.

[If you believe this submission contains information which may be exempted from disclosure pursuant to a FOIL request, you may so indicate to the NYSDOH and if so, must identify those sections of the submission. DOH will review your claim and make a determination in the event a FOIL request is received.]

Schedule 3B – Basic Legal Information and Documentation

Instructions:

1. The following applicants must complete Part I in its entirety:
 - a. All Article 7 applicants.
 - b. Article 28 applicants seeking establishment or combined establishment and construction approval.
 - c. Article 36 applicants seeking establishment approval.
 - d. Article 40 applicants seeking establishment approval.
2. The appropriate section of Part II must also be completed, depending on the applicant's type of legal entity, as follows:
 - a. Applicants that are sole proprietors must complete Section A.
 - b. Applicants that are general partnerships must complete Section B.
 - c. Applicants that are registered limited liability partnerships must complete Section C.
 - d. Applicants that are not-for-profit corporations must complete Section D.
 - e. Applicants that are business corporations must complete Section E
 - f. Applicants that are limited liability companies must complete Section F.
3. All Article 28 applicants must complete Part III in its entirety.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. All Applicants

- A. Is the name of the facility different from the name of the applicant's legal entity?
 Yes No

If yes, submit the Certificate of Assumed Name. Attachment # .

- B. Is the applicant a natural person? Yes No

If no, type of legal entity:

- Sole Proprietor (See II.A. below)
 General Partnership (See II.B below)
 Registered Limited Liability Partnership (See II.C below)
 Not-for-Profit Corporation (See II.D below)
 Business Corporation (See II.E below)
 Limited Liability Company (See II.F below)
 Other, specify .

- C. For Article 36 applicants only: Does the applicant have any partners, members or stockholders that are not natural persons?
 Yes No

If yes, the applicant must comply with the requirements of PHL 3611.

- D. For Article 36 business corporations only: Is the corporation publicly traded?
 Yes No

If yes, submit the most recently filed Securities Exchange Commission Form 10K. Attachment # .

E. Submit documentation of how the applicant has or will obtain site control. Lease agreements for Article 28 facilities, and for hospice residences and the inpatient components of Article 40 facilities, must contain the language set forth in 10 NYCRR 600.2(d) or 790.2(d), respectively. Attachment # 8A.

F. Are any of the directors or owners (partners, stockholders or members) of the applicant physicians who are in a position to make referrals to the facility?
 Yes No

If yes, submit a signed statement that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with the consultation of legal counsel, and it is concluded that proceeding with the proposal is appropriate. Attachment # 9.

G. Submit an organizational chart showing the applicant's legal structure. Attachment # 2C.

H. Does the applicant intend to enter into any agreement(s) involving the management, administrative, billing and/or consulting services for the facility, including, but not limited to, operational policies.
 Yes No

If yes, submit the proposed agreement(s) and the remaining questions in this part I. Attachment # .

If no, skip to Part II as applicable.

I. Has the proposed management entity previously received establishment approval under either Article 7, 28, 36 or 40 of the PHL?
 Yes No

J. Enter on the following chart, the addresses of the facilities/agencies owned, operated or managed by the proposed management entity and the time period that each was owned, operated or managed by the proposed management entity. Include out-of-state entities. Attach additional sheets, if necessary. Attachment # .

Facility Name	Type of Facility	Facility Address	Time Period Owned or Managed

K. For each facility named in Question J above, documentation must be submitted reflecting its current and past compliance with the applicable regulations in the state in which it operates. This information is required for the most recent ten-year period, or for the period it was owned, operated or managed by the proposed management entity, whichever is less. See Schedule 2D for instructions on how to acquire this documentation.

- L. Has the proposed management entity been the subject of an administrative action related to the ownership, operation or management of any health care facility or agency?
 Yes No

If yes, provide further details regarding the administrative action in the space below.

- M. Are there any criminal actions pending against the proposed management entity?
 Yes No

If yes, provide further details regarding the criminal action in the space below.

- N. Are there now or have there been any civil or administrative actions initiated by either the Medicare or Medicaid programs against the proposed management entity?
 Yes No

If yes, provide further details regarding the administrative action in the space below.

II. Additional Documentation Depending on Type of Legal Entity

Submit the following legal documentation as applicable for the applicant's type of legal entity.

A. Sole Proprietors

1. Name of Individual Proprietor:

2. Certificate of Doing Business: Attachment # .

3. Schedules 2A and 2B

B. General Partnerships

1. On the following chart, list the partners, partnership interest and percentage ownership for each partner: Attach additional sheets if necessary. Attachment # .

Partner Name	Partnership Interest	Percentage Ownership

2. Partnership Agreement: Attachment # .
3. Certificate of Doing Business as a Partnership: Attachment # .
4. Schedules 2A and 2B for each partner

N.B. Partnership agreements for Article 28, Article 36 and Article 40 applicants must contain the language set forth in 10 NYCRR 600.1(5)(ii), 760.2 (c)(2) or 790.1 (c)(2), respectively. Refer to Schedule 12B, Part II for language that must be included in partnership agreements for Article 7 general partnerships.

C. Registered Limited Liability Partnerships

1. On the following chart, list the partners, partnership interest and percentage ownership for each partner: Attach additional sheets if necessary. Attachment # .

Partner Name	Partnership Interest	Percentage Ownership

2. Partnership Agreement: Attachment # .
3. Certificate of Doing Business as a Partnership: Attachment # .
4. Certificate of Registration: Attachment # .
5. Schedules 2A and 2B for each partner

N.B. Registered limited liability partnerships are not a proper entity for adult care facilities. See 600.1(5)(ii) of 10 NYCRR for language that must be included in partnership agreements for Article 28 registered limited liability partnerships.

D. Not-for-Profit Corporations

1. Does the corporation have any members? Yes No

If yes, list the names of the members below.

Partners in Franciscan Ministries, Inc.

2. On the following chart, list the names of the officers and directors of the applicant corporation and indicate the position held by each. Attach additional sheets if necessary. Attachment # 3C.

Officer/Director Name	Position Held
See Attachment 3C	

3. Certificate of Incorporation: Attachment #4C.
4. Bylaws: Attachment #5C.
5. If the applicant is not a New York corporation, Application for Authority to Do Business in New York: Attachment #N/A.
6. Schedule 2A for each director
7. Schedule 2B for directors who contribute capital in support of the project
8. Schedule 2C for directors who do not contribute capital in support of the project

E. Business Corporations

1. On the following chart, list the stockholders, stock interest and percentage of ownership for each stockholder. Attach additional sheets if necessary. Attachment # [].

Stockholder Name	Stock Interest	Percentage Ownership

2. On the following chart, list the names of the officers and directors of the applicant corporation and indicate the position held by each. Attach additional sheets if necessary. Attachment # [].

Officer/Director Name	Position Held

3. Certificate of Incorporation: Attachment # .
4. Bylaws: Attachment # .
5. If the applicant is not a New York corporation, Application for Authority to Do Business in New York: Attachment # .
6. Schedule 2A for each officer, director and stockholder
7. Schedule 2B for each stockholder

N.B. Only stockholders who own ten percent or more of a certified home health agency's issued stock must submit Schedule 2B. Stockholders of all other applicants, regardless of percentage ownership, must submit Schedule 2B.

F. Limited Liability Companies

1. On the following chart, list the members, membership interest and percentage of ownership for each member. Attach additional sheets if necessary. Attachment # .

Member Name	Membership Interest	Percentage Ownership

2. List the managers below.

--

3. Articles of Organization: Attachment # .
4. Operating Agreement: Attachment # .
5. If the applicant is not a New York limited liability company, Application for Authority to Do Business in New York: Attachment # .

- 6. Schedule 2A for each member and manager
- 7. Schedule 2B for each member

N.B. Only members who own ten percent or more of a CHHA's membership interest must submit Schedule 2B. Members of all other applicants, regardless of percentage of ownership, must submit Schedule 2B.

III. Representative Governance

A. Ownership

- 1. Is the applicant, or any of its owners, employed by, an owner, officer, director, or manager of, or in any way affiliated with, or acting on behalf, or for the benefit of, an outside entity which will be involved with (including through a lease, contract or agreement), or benefit from, the ownership or operation of the proposed facility?
 Yes No

If yes, in the space below, identify the outside entity and the nature of the relationship.

- 2. Are there any contractual restrictions, existing or proposed, on the ability of the owners of the applicant to assign, transfer or sell their ownership interests or voting rights in the applicant? Yes No

If yes, provide copies of the existing or proposed arrangements.

Attachment # .

B. Consulting/Administrative Agreements

- 1. Does this proposal include a consulting or administrative agreement?
 Yes No

If no, skip to Section C.

If yes, attach a copy of this agreement (if not already submitted with the CON), and continue with the questions in this section.

Attachment # .

- 2. Describe in the space below the services to be provided under the agreement.

- 3. Describe in the space below the relationship between the applicant/operator and the consultant.

- 4. Who/what owns the consultant entity?

[Empty text box]

5. Who will manage the subject facility on a day-to-day business?

[Empty text box]

6. Who employs the facility manager?

[Empty text box]

7. Will there be any subcontracts or assignments with other entities?

Yes No

If yes, attach copies of the agreements. Attachment # [Empty text box].

Describe the agreements:

[Empty text box]

8. What percentage of facility revenues flow to the consultant?

[Empty text box] %

9. Is the consultant also an equipment lessor for the facility?

Yes No

10. Is the consultant a real property lessor for the facility?

Yes No

11. Who is responsible for financial decisions and by whom is this person is employed?

[Empty text box]

C. Financing

Will another entity provide financing for this CON project?

Yes No

If yes, define the lender and it relationship to the applicant and consultant.

[Empty text box]

Completed by:

Enter Name:

Traci Boris, General Counsel

Enter Date:

[Empty text box]

SCHEDULE 3B ATTACHMENTS

Complete the section labeled “All Applicants.” Then, check the box(es) that apply to your organizational structure and enter the corresponding information for each attached document. If the document is not applicable, enter “N/A” in the column labeled “Attachment Title.”

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
ALL APPLICANTS			
Certificate of Assumed Name	N/A		
Form SEC 10K	N/A		
Documentation of Site Control	Documentation of Site Control	8A	Attach_8A_Documentation_of_Site_Control.pdf
Anti-Kickback Statement	Anti-Kickback Statement	9	Attach_9_AKS_Statement.pdf
Organizational Chart	Current Organization Chart	2C	Attach_2C_SEMC_Org_Chart.pdf
Management Agreement	N/A		
List of Out-of-State Entities	N/A		
<input type="checkbox"/> SOLE PROPRIETORS			
Certificate of Doing Business			
<input type="checkbox"/> GENERAL PARTNERSHIPS			
List of Additional Partners			
Partnership Agreement			
Certificate of Doing Business as a Partnership			
<input type="checkbox"/> REGISTERED LIMITED LIABILITY PARTNERSHIPS			
List of Additional Partners			
Partnership Agreement			
Certificate of Doing Business as a Partnership			
Certificate of Registration			
<input checked="" type="checkbox"/> NOT-FOR-PROFIT CORPORATIONS			
List of Additional Officers & Directors	SEMC Current Board Roster	3C	Attach_3C_SEMC_Current_Board_Roster.pdf
Certificate of Incorporation	SEMC Certificate of Incorporation	4C	Attach_4C_SEMC_Certificate_of_Incorporation.pdf
Bylaws	SEMC Bylaws	5C	Attach_5C_SEMC_Bylaws.pdf
Application for Authority to do Business in NYS	N/A		

* **PDF Format Preferred**

SCHEDULE 3B ATTACHMENTS (continued)

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
<input type="checkbox"/> BUSINESS CORPORATIONS			
List of Additional Stockholders			
List of Additional Officers & Directors			
Certificate of Incorporation			
Bylaws			
Application for Authority to do Business in NYS			
<input type="checkbox"/> LIMITED LIABILITY COMPANIES			
List of Additional Members			
Articles of Organization			
Operating Agreement			
Application for Authority to do Business in NYS			
<input type="checkbox"/> REPRESENTATIVE GOVERNANCE			
Restrictions on Ability of Applicant to Assign Ownership			
Consulting/Administrative Agreement			
Subcontracts or Assignments with Other Entities			
OTHER ATTACHMENTS (SPECIFY)			
List of Additional Officers & Directors	SEMC Proposed Board Roster	3C.1	Attach_3C.1_SEMC_Proposed_Board_Roster.pdf
Certificate of Incorporation	SEMC Restated Certificate of Incorporation	4C.1	Attach_4C.1_SEMC_Restated_COI.pdf
Bylaws	SEMC Restated Bylaws	5C.1	Attach_5C.1_SEMC_Restated_Bylaws.pdf

* PDF Format Preferred

Schedule 3

CON Forms Related to Legal Issues

Contents:

- **Schedule 3A - General Instructions and Definitions For Legal Schedules (No data entry required - informational schedule only)**
- **Schedule 3B – Basic Legal Information and Documentation**

Schedule 3A: General Instructions and Definitions For Legal Schedules

This schedule applies to all Establishment and Full Construction Applicants and some Administrative Applications.

Definitions

1. "PHL" refers to the New York State Public Health Law.
2. "SSL" refers to the New York State Social Services Law.
3. "10 NYCRR" refers to Title 10 (Health) of the Official Compilation of the Codes, Rules and Regulations of the State of New York.
4. "18 NYCRR" refers to Title 18 (Social Services) of the Official Compilation of the Codes, Rules and Regulations of the State of New York.
5. "Department" refers to the New York State Department of Health.
6. "Commissioner" refers to the Commissioner of the Department.
7. "Article 28" refers to Article 28 of the PHL, which governs general hospitals, nursing homes and diagnostic and treatment centers.
8. "Article 36" refers to Article 36 of the PHL, which governs certified home health agencies and long term home health care programs.
9. "Article 40" refers to Article 40 of the PHL, which governs hospices.
10. "Article 44" refers to Article 44 of the PHL, which governs health maintenance organizations.
11. "Article 7" refers to Article 7 of the SSL, which governs adult homes, enriched housing programs and residences for adults.
12. "Facility" refers to all types of facilities, institutions, agencies or other entities regulated under Articles 7, 28, 36, 40, or 44.

General Instructions

1. Unless otherwise specifically indicated, the required paper copies of legal documentation submitted should be photocopies of fully executed original documents and **not** the originals themselves. The electronic copies of legal documents should be legible scanned images in PDF format of fully executed original documents.
2. Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.
3. Attachments to legal schedules should be numbered sequentially for each particular schedule. The list of attachments should be completed for each required schedule, with either the number of the attachment or a check in the "Not Applicable" column. In instances where the "Not Applicable" option is not offered, inclusion of the documentation is mandatory.

[If you believe this submission contains information which may be excepted from disclosure pursuant to a FOIL request, you may so indicate to the NYSDOH and if so, must identify those sections of the submission. DOH will review your claim and make a determination in the event a FOIL request is received.]

Schedule 3B – Basic Legal Information and Documentation

Instructions:

1. The following applicants must complete Part I in its entirety:
 - a. All Article 7 applicants.
 - b. Article 28 applicants seeking establishment or combined establishment and construction approval.
 - c. Article 36 applicants seeking establishment approval.
 - d. Article 40 applicants seeking establishment approval.

2. The appropriate section of Part II must also be completed, depending on the applicant's type of legal entity, as follows:
 - a. Applicants that are sole proprietors must complete Section A.
 - b. Applicants that are general partnerships must complete Section B.
 - c. Applicants that are registered limited liability partnerships must complete Section C.
 - d. Applicants that are not-for-profit corporations must complete Section D.
 - e. Applicants that are business corporations must complete Section E
 - f. Applicants that are limited liability companies must complete Section F.

3. All Article 28 applicants must complete Part III in its entirety.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. All Applicants

- A. Is the name of the facility different from the name of the applicant's legal entity?
 Yes No

If yes, submit the Certificate of Assumed Name. Attachment # .

- B. Is the applicant a natural person? Yes No

If no, type of legal entity:

- Sole Proprietor (See II.A. below)
 General Partnership (See II.B below)
 Registered Limited Liability Partnership (See II.C below)
 Not-for-Profit Corporation (See II.D below)
 Business Corporation (See II.E below)
 Limited Liability Company (See II.F below)
 Other, specify .

- C. For Article 36 applicants only: Does the applicant have any partners, members or stockholders that are not natural persons?
 Yes No

If yes, the applicant must comply with the requirements of PHL 3611.

- D. For Article 36 business corporations only: Is the corporation publicly traded?
 Yes No

If yes, submit the most recently filed Securities Exchange Commission Form 10K. Attachment # .

E. Submit documentation of how the applicant has or will obtain site control. Lease agreements for Article 28 facilities, and for hospice residences and the inpatient components of Article 40 facilities, must contain the language set forth in 10 NYCRR 600.2(d) or 790.2(d), respectively. Attachment # 8A.

F. Are any of the directors or owners (partners, stockholders or members) of the applicant physicians who are in a position to make referrals to the facility?
 Yes No

If yes, submit a signed statement that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with the consultation of legal counsel, and it is concluded that proceeding with the proposal is appropriate. Attachment # 9.

G. Submit an organizational chart showing the applicant's legal structure. Attachment # 2A.

H. Does the applicant intend to enter into any agreement(s) involving the management, administrative, billing and/or consulting services for the facility, including, but not limited to, operational policies.
 Yes No

If yes, submit the proposed agreement(s) and the remaining questions in this part I. Attachment # .

If no, skip to Part II as applicable.

I. Has the proposed management entity previously received establishment approval under either Article 7, 28, 36 or 40 of the PHL?
 Yes No

J. Enter on the following chart, the addresses of the facilities/agencies owned, operated or managed by the proposed management entity and the time period that each was owned, operated or managed by the proposed management entity. Include out-of-state entities. Attach additional sheets, if necessary. Attachment # .

Facility Name	Type of Facility	Facility Address	Time Period Owned or Managed

K. For each facility named in Question J above, documentation must be submitted reflecting its current and past compliance with the applicable regulations in the state in which it operates. This information is required for the most recent ten-year period, or for the period it was owned, operated or managed by the proposed management entity, whichever is less. See Schedule 2D for instructions on how to acquire this documentation.

- L. Has the proposed management entity been the subject of an administrative action related to the ownership, operation or management of any health care facility or agency?
 Yes No

If yes, provide further details regarding the administrative action in the space below.

- M. Are there any criminal actions pending against the proposed management entity?
 Yes No

If yes, provide further details regarding the criminal action in the space below.

- N. Are there now or have there been any civil or administrative actions initiated by either the Medicare or Medicaid programs against the proposed management entity?
 Yes No

If yes, provide further details regarding the administrative action in the space below.

II. Additional Documentation Depending on Type of Legal Entity

Submit the following legal documentation as applicable for the applicant's type of legal entity.

A. Sole Proprietors

1. Name of Individual Proprietor:

2. Certificate of Doing Business: Attachment # .

3. Schedules 2A and 2B

B. General Partnerships

1. On the following chart, list the partners, partnership interest and percentage ownership for each partner: Attach additional sheets if necessary. Attachment # .

Partner Name	Partnership Interest	Percentage Ownership

2. Partnership Agreement: Attachment # .
3. Certificate of Doing Business as a Partnership: Attachment # .
4. Schedules 2A and 2B for each partner

N.B. Partnership agreements for Article 28, Article 36 and Article 40 applicants must contain the language set forth in 10 NYCRR 600.1(5)(ii), 760.2 (c)(2) or 790.1 (c)(2), respectively. Refer to Schedule 12B, Part II for language that must be included in partnership agreements for Article 7 general partnerships.

C. Registered Limited Liability Partnerships

1. On the following chart, list the partners, partnership interest and percentage ownership for each partner: Attach additional sheets if necessary. Attachment # .

Partner Name	Partnership Interest	Percentage Ownership

2. Partnership Agreement: Attachment # .
3. Certificate of Doing Business as a Partnership: Attachment # .
4. Certificate of Registration: Attachment # .
5. Schedules 2A and 2B for each partner

N.B. Registered limited liability partnerships are not a proper entity for adult care facilities. See 600.1(5)(ii) of 10 NYCRR for language that must be included in partnership agreements for Article 28 registered limited liability partnerships.

D. Not-for-Profit Corporations

1. Does the corporation have any members? Yes No

If yes, list the names of the members below.

Members are the individuals who sit on the Executive Committee of the Board of Directors of Faxton-St. Luke's Healthcare. The members include: Joan Compson, Todd Hutton, Gregory McLean, Scott Perra, John Sperling, MD, Stephen Sweet, and Richard Tantillo.

2. On the following chart, list the names of the officers and directors of the applicant corporation and indicate the position held by each. Attach additional sheets if necessary. Attachment # .

Officer/Director Name	Position Held
See Attachment 3A	

3. Certificate of Incorporation: Attachment #4D.
4. Bylaws: Attachment #5D.
5. If the applicant is not a New York corporation, Application for Authority to Do Business in New York: Attachment #N/A.
6. Schedule 2A for each director
7. Schedule 2B for directors who contribute capital in support of the project
8. Schedule 2C for directors who do not contribute capital in support of the project

E. Business Corporations

1. On the following chart, list the stockholders, stock interest and percentage of ownership for each stockholder. Attach additional sheets if necessary. Attachment #

Stockholder Name	Stock Interest	Percentage Ownership

2. On the following chart, list the names of the officers and directors of the applicant corporation and indicate the position held by each. Attach additional sheets if necessary. Attachment #

Officer/Director Name	Position Held

3. Certificate of Incorporation: Attachment # .
4. Bylaws: Attachment # .
5. If the applicant is not a New York corporation, Application for Authority to Do Business in New York: Attachment # .
6. Schedule 2A for each officer, director and stockholder
7. Schedule 2B for each stockholder

N.B. Only stockholders who own ten percent or more of a certified home health agency's issued stock must submit Schedule 2B. Stockholders of all other applicants, regardless of percentage ownership, must submit Schedule 2B.

F. Limited Liability Companies

1. On the following chart, list the members, membership interest and percentage of ownership for each member. Attach additional sheets if necessary. Attachment # .

Member Name	Membership Interest	Percentage Ownership

2. List the managers below.

--

3. Articles of Organization: Attachment # .
4. Operating Agreement: Attachment # .
5. If the applicant is not a New York limited liability company, Application for Authority to Do Business in New York: Attachment # .

- 6. Schedule 2A for each member and manager
- 7. Schedule 2B for each member

N.B. Only members who own ten percent or more of a CHHA's membership interest must submit Schedule 2B. Members of all other applicants, regardless of percentage of ownership, must submit Schedule 2B.

III. Representative Governance

A. Ownership

- 1. Is the applicant, or any of its owners, employed by, an owner, officer, director, or manager of, or in any way affiliated with, or acting on behalf, or for the benefit of, an outside entity which will be involved with (including through a lease, contract or agreement), or benefit from, the ownership or operation of the proposed facility?
 Yes No

If yes, in the space below, identify the outside entity and the nature of the relationship.

- 2. Are there any contractual restrictions, existing or proposed, on the ability of the owners of the applicant to assign, transfer or sell their ownership interests or voting rights in the applicant? Yes No

If yes, provide copies of the existing or proposed arrangements.
Attachment # .

B. Consulting/Administrative Agreements

- 1. Does this proposal include a consulting or administrative agreement?
 Yes No

If no, skip to Section C.

If yes, attach a copy of this agreement (if not already submitted with the CON), and continue with the questions in this section.
Attachment # .

- 2. Describe in the space below the services to be provided under the agreement.

- 3. Describe in the space below the relationship between the applicant/operator and the consultant.

- 4. Who/what owns the consultant entity?

5. Who will manage the subject facility on a day-to-day business?

6. Who employs the facility manager?

7. Will there be any subcontracts or assignments with other entities?

Yes No

If yes, attach copies of the agreements. Attachment # .

Describe the agreements:

8. What percentage of facility revenues flow to the consultant?

%

9. Is the consultant also an equipment lessor for the facility?

Yes No

10. Is the consultant a real property lessor for the facility?

Yes No

11. Who is responsible for financial decisions and by whom is this person is employed?

C. Financing

Will another entity provide financing for this CON project?

Yes No

If yes, define the lender and it relationship to the applicant and consultant.

Completed by:

Enter Name:

Thomas Soja, Esq., General Counsel

Enter Date:

SCHEDULE 3B ATTACHMENTS

Complete the section labeled "All Applicants." Then, check the box(es) that apply to your organizational structure and enter the corresponding information for each attached document. If the document is not applicable, enter "N/A" in the column labeled "Attachment Title."

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
ALL APPLICANTS			
Certificate of Assumed Name	N/A		
Form SEC 10K	N/A		
Documentation of Site Control	Documentation of Site Control	8A	Attach_8A_Documentation_of_Site_Control.pdf
Anti-Kickback Statement	Anti-Kickback Statement	9	Attach_9_AKS_Statement.pdf
Organizational Chart	Organizational Chart	2A	Attach_2A_Current_Organization_Chart.pdf
Management Agreement	N/A		
List of Out-of-State Entities	N/A		
<input type="checkbox"/> SOLE PROPRIETORS			
Certificate of Doing Business			
<input type="checkbox"/> GENERAL PARTNERSHIPS			
List of Additional Partners			
Partnership Agreement			
Certificate of Doing Business as a Partnership			
<input type="checkbox"/> REGISTERED LIMITED LIABILITY PARTNERSHIPS			
List of Additional Partners			
Partnership Agreement			
Certificate of Doing Business as a Partnership			
Certificate of Registration			
<input checked="" type="checkbox"/> NOT-FOR-PROFIT CORPORATIONS			
List of Additional Officers & Directors	MVN Current Board Rosters	3A	Attach_3A_MVN_Current_Board_Rosters.pdf
Certificate of Incorporation	St. Lukes Home Residential Health Care Facility, Inc. Certificate of Incorporation	4D	Attach_4D_St. Lukes Home Residential Health Care Facility Inc. Cert. of Incorp.pdf

New York State Department of Health
Certificate of Need Application

Schedule 3B

Bylaws	St. Lukes Home Residential Health Care Facility, Inc. Bylaws	5D	Attach_5D_St. Lukes Home Residential Health Care Facility, Inc. Bylaws.pdf
Application for Authority to do Business in NYS	N/A		

* **PDF Format Preferred**

SCHEDULE 3B ATTACHMENTS (continued)

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
<input type="checkbox"/> BUSINESS CORPORATIONS			
List of Additional Stockholders			
List of Additional Officers & Directors			
Certificate of Incorporation			
Bylaws			
Application for Authority to do Business in NYS			
<input type="checkbox"/> LIMITED LIABILITY COMPANIES			
List of Additional Members			
Articles of Organization			
Operating Agreement			
Application for Authority to do Business in NYS			
<input type="checkbox"/> REPRESENTATIVE GOVERNANCE			
Restrictions on Ability of Applicant to Assign Ownership			
Consulting/Administrative Agreement			
Subcontracts or Assignments with Other Entities			
OTHER ATTACHMENTS (SPECIFY)			
Certificate of Incorporation	St. Lukes Home Restated Certificate of Incorporation	4D.1	Attach_4D.1_SLH_Restated_COI.pdf
Bylaws	St. Lukes Home Restated Bylaws	5D.1	Attach_5D.1_SLH_Restated_Bylaws.pdf
List of Officers and Directors	MVHS Proposed Board Roster	3A.1	Attach_3A.1_MVHS_Proposed_Board_Roster.pdf

* PDF Format Preferred

Schedule 3

CON Forms Related to Legal Issues

Contents:

- **Schedule 3A - General Instructions and Definitions For Legal Schedules (No data entry required - informational schedule only)**
- **Schedule 3B – Basic Legal Information and Documentation**

Schedule 3A: General Instructions and Definitions For Legal Schedules

This schedule applies to all Establishment and Full Construction Applicants and some Administrative Applications.

Definitions

1. "PHL" refers to the New York State Public Health Law.
2. "SSL" refers to the New York State Social Services Law.
3. "10 NYCRR" refers to Title 10 (Health) of the Official Compilation of the Codes, Rules and Regulations of the State of New York.
4. "18 NYCRR" refers to Title 18 (Social Services) of the Official Compilation of the Codes, Rules and Regulations of the State of New York.
5. "Department" refers to the New York State Department of Health.
6. "Commissioner" refers to the Commissioner of the Department.
7. "Article 28" refers to Article 28 of the PHL, which governs general hospitals, nursing homes and diagnostic and treatment centers.
8. "Article 36" refers to Article 36 of the PHL, which governs certified home health agencies and long term home health care programs.
9. "Article 40" refers to Article 40 of the PHL, which governs hospices.
10. "Article 44" refers to Article 44 of the PHL, which governs health maintenance organizations.
11. "Article 7" refers to Article 7 of the SSL, which governs adult homes, enriched housing programs and residences for adults.
12. "Facility" refers to all types of facilities, institutions, agencies or other entities regulated under Articles 7, 28, 36, 40, or 44.

General Instructions

1. Unless otherwise specifically indicated, the required paper copies of legal documentation submitted should be photocopies of fully executed original documents and **not** the originals themselves. The electronic copies of legal documents should be legible scanned images in PDF format of fully executed original documents.
2. Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.
3. Attachments to legal schedules should be numbered sequentially for each particular schedule. The list of attachments should be completed for each required schedule, with either the number of the attachment or a check in the "Not Applicable" column. In instances where the "Not Applicable" option is not offered, inclusion of the documentation is mandatory.

[If you believe this submission contains information which may be exempted from disclosure pursuant to a FOIL request, you may so indicate to the NYSDOH and if so, must identify those sections of the submission. DOH will review your claim and make a determination in the event a FOIL request is received.]

Schedule 3B – Basic Legal Information and Documentation

Instructions:

1. The following applicants must complete Part I in its entirety:
 - a. All Article 7 applicants.
 - b. Article 28 applicants seeking establishment or combined establishment and construction approval.
 - c. Article 36 applicants seeking establishment approval.
 - d. Article 40 applicants seeking establishment approval.
2. The appropriate section of Part II must also be completed, depending on the applicant's type of legal entity, as follows:
 - a. Applicants that are sole proprietors must complete Section A.
 - b. Applicants that are general partnerships must complete Section B.
 - c. Applicants that are registered limited liability partnerships must complete Section C.
 - d. Applicants that are not-for-profit corporations must complete Section D.
 - e. Applicants that are business corporations must complete Section E
 - f. Applicants that are limited liability companies must complete Section F.
3. All Article 28 applicants must complete Part III in its entirety.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. All Applicants

- A. Is the name of the facility different from the name of the applicant's legal entity?
 Yes No

If yes, submit the Certificate of Assumed Name. Attachment # .

- B. Is the applicant a natural person? Yes No

If no, type of legal entity:

- Sole Proprietor (See II.A. below)
 General Partnership (See II.B below)
 Registered Limited Liability Partnership (See II.C below)
 Not-for-Profit Corporation (See II.D below)
 Business Corporation (See II.E below)
 Limited Liability Company (See II.F below)
 Other, specify .

- C. For Article 36 applicants only: Does the applicant have any partners, members or stockholders that are not natural persons?
 Yes No

If yes, the applicant must comply with the requirements of PHL 3611.

- D. For Article 36 business corporations only: Is the corporation publicly traded?
 Yes No

If yes, submit the most recently filed Securities Exchange Commission Form 10K. Attachment # .

E. Submit documentation of how the applicant has or will obtain site control. Lease agreements for Article 28 facilities, and for hospice residences and the inpatient components of Article 40 facilities, must contain the language set forth in 10 NYCRR 600.2(d) or 790.2(d), respectively. Attachment # .

F. Are any of the directors or owners (partners, stockholders or members) of the applicant physicians who are in a position to make referrals to the facility?
 Yes No

If yes, submit a signed statement that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with the consultation of legal counsel, and it is concluded that proceeding with the proposal is appropriate. Attachment # .

G. Submit an organizational chart showing the applicant's legal structure. Attachment # .

H. Does the applicant intend to enter into any agreement(s) involving the management, administrative, billing and/or consulting services for the facility, including, but not limited to, operational policies.
 Yes No

If yes, submit the proposed agreement(s) and the remaining questions in this part I. Attachment # .

If no, skip to Part II as applicable.

I. Has the proposed management entity previously received establishment approval under either Article 7, 28, 36 or 40 of the PHL?
 Yes No

J. Enter on the following chart, the addresses of the facilities/agencies owned, operated or managed by the proposed management entity and the time period that each was owned, operated or managed by the proposed management entity. Include out-of-state entities. Attach additional sheets, if necessary. Attachment # .

Facility Name	Type of Facility	Facility Address	Time Period Owned or Managed

K. For each facility named in Question J above, documentation must be submitted reflecting its current and past compliance with the applicable regulations in the state in which it operates. This information is required for the most recent ten-year period, or for the period it was owned, operated or managed by the proposed management entity, whichever is less. See Schedule 2D for instructions on how to acquire this documentation.

- L. Has the proposed management entity been the subject of an administrative action related to the ownership, operation or management of any health care facility or agency?
 Yes No

If yes, provide further details regarding the administrative action in the space below.

- M. Are there any criminal actions pending against the proposed management entity?
 Yes No

If yes, provide further details regarding the criminal action in the space below.

- N. Are there now or have there been any civil or administrative actions initiated by either the Medicare or Medicaid programs against the proposed management entity?
 Yes No

If yes, provide further details regarding the administrative action in the space below.

II. Additional Documentation Depending on Type of Legal Entity

Submit the following legal documentation as applicable for the applicant's type of legal entity.

A. Sole Proprietors

1. Name of Individual Proprietor:

2. Certificate of Doing Business: Attachment # .

3. Schedules 2A and 2B

B. General Partnerships

1. On the following chart, list the partners, partnership interest and percentage ownership for each partner: Attach additional sheets if necessary. Attachment # .

Partner Name	Partnership Interest	Percentage Ownership

2. Partnership Agreement: Attachment # .
3. Certificate of Doing Business as a Partnership: Attachment # .
4. Schedules 2A and 2B for each partner

N.B. Partnership agreements for Article 28, Article 36 and Article 40 applicants must contain the language set forth in 10 NYCRR 600.1(5)(ii), 760.2 (c)(2) or 790.1 (c)(2), respectively. Refer to Schedule 12B, Part II for language that must be included in partnership agreements for Article 7 general partnerships.

C. Registered Limited Liability Partnerships

1. On the following chart, list the partners, partnership interest and percentage ownership for each partner: Attach additional sheets if necessary. Attachment # .

Partner Name	Partnership Interest	Percentage Ownership

2. Partnership Agreement: Attachment # .
3. Certificate of Doing Business as a Partnership: Attachment # .
4. Certificate of Registration: Attachment # .
5. Schedules 2A and 2B for each partner

N.B. Registered limited liability partnerships are not a proper entity for adult care facilities. See 600.1(5)(ii) of 10 NYCRR for language that must be included in partnership agreements for Article 28 registered limited liability partnerships.

D. Not-for-Profit Corporations

1. Does the corporation have any members? Yes No

If yes, list the names of the members below.

Mohawk Valley Network, Inc.

2. On the following chart, list the names of the officers and directors of the applicant corporation and indicate the position held by each. Attach additional sheets if necessary. Attachment # .

Officer/Director Name	Position Held
See Attachment 3A	

3. Certificate of Incorporation: Attachment # 4A - under MVN.
4. Bylaws: Attachment # 5A - under MVN.
5. If the applicant is not a New York corporation, Application for Authority to Do Business in New York: Attachment # N/A.
6. Schedule 2A for each director
7. Schedule 2B for directors who contribute capital in support of the project
8. Schedule 2C for directors who do not contribute capital in support of the project

E. Business Corporations

1. On the following chart, list the stockholders, stock interest and percentage of ownership for each stockholder. Attach additional sheets if necessary. Attachment # .

Stockholder Name	Stock Interest	Percentage Ownership

2. On the following chart, list the names of the officers and directors of the applicant corporation and indicate the position held by each. Attach additional sheets if necessary. Attachment # .

Officer/Director Name	Position Held

3. Certificate of Incorporation: Attachment # .
4. Bylaws: Attachment # .
5. If the applicant is not a New York corporation, Application for Authority to Do Business in New York: Attachment # .
6. Schedule 2A for each officer, director and stockholder
7. Schedule 2B for each stockholder

N.B. Only stockholders who own ten percent or more of a certified home health agency's issued stock must submit Schedule 2B. Stockholders of all other applicants, regardless of percentage ownership, must submit Schedule 2B.

F. Limited Liability Companies

1. On the following chart, list the members, membership interest and percentage of ownership for each member. Attach additional sheets if necessary. Attachment # .

Member Name	Membership Interest	Percentage Ownership

2. List the managers below.

--

3. Articles of Organization: Attachment # .
4. Operating Agreement: Attachment # .
5. If the applicant is not a New York limited liability company, Application for Authority to Do Business in New York: Attachment # .

- 6. Schedule 2A for each member and manager
- 7. Schedule 2B for each member

N.B. Only members who own ten percent or more of a CHHA's membership interest must submit Schedule 2B. Members of all other applicants, regardless of percentage of ownership, must submit Schedule 2B.

III. Representative Governance

A. Ownership

- 1. Is the applicant, or any of its owners, employed by, an owner, officer, director, or manager of, or in any way affiliated with, or acting on behalf, or for the benefit of, an outside entity which will be involved with (including through a lease, contract or agreement), or benefit from, the ownership or operation of the proposed facility?
 Yes No

If yes, in the space below, identify the outside entity and the nature of the relationship.

- 2. Are there any contractual restrictions, existing or proposed, on the ability of the owners of the applicant to assign, transfer or sell their ownership interests or voting rights in the applicant? Yes No

If yes, provide copies of the existing or proposed arrangements.
Attachment # .

B. Consulting/Administrative Agreements

- 1. Does this proposal include a consulting or administrative agreement?
 Yes No

If no, skip to Section C.

If yes, attach a copy of this agreement (if not already submitted with the CON), and continue with the questions in this section.
Attachment # .

- 2. Describe in the space below the services to be provided under the agreement.

- 3. Describe in the space below the relationship between the applicant/operator and the consultant.

- 4. Who/what owns the consultant entity?

5. Who will manage the subject facility on a day-to-day business?

6. Who employs the facility manager?

7. Will there be any subcontracts or assignments with other entities?

Yes No

If yes, attach copies of the agreements. Attachment # .

Describe the agreements:

8. What percentage of facility revenues flow to the consultant?

%

9. Is the consultant also an equipment lessor for the facility?

Yes No

10. Is the consultant a real property lessor for the facility?

Yes No

11. Who is responsible for financial decisions and by whom is this person is employed?

C. Financing

Will another entity provide financing for this CON project?

Yes No

If yes, define the lender and it relationship to the applicant and consultant.

Completed by:

Enter Name:

Thomas Soja, Esq., General Counsel

Enter Date:

SCHEDULE 3B ATTACHMENTS

Complete the section labeled “All Applicants.” Then, check the box(es) that apply to your organizational structure and enter the corresponding information for each attached document. If the document is not applicable, enter “N/A” in the column labeled “Attachment Title.”

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
ALL APPLICANTS			
Certificate of Assumed Name	N/A		
Form SEC 10K	N/A		
Documentation of Site Control	Documentation of Site Control	8A	Attach_8A_Documentation_of_Site_Control.pdf
Anti-Kickback Statement	Anti-Kickback Statement	9	Attach_9_AKS_Statement.pdf
Organizational Chart	Organizational Chart	2A	Attach_2A_Current_Organization_Chart.pdf
Management Agreement	N/A		
List of Out-of-State Entities	N/A		
<input type="checkbox"/> SOLE PROPRIETORS			
Certificate of Doing Business			
<input type="checkbox"/> GENERAL PARTNERSHIPS			
List of Additional Partners			
Partnership Agreement			
Certificate of Doing Business as a Partnership			
<input type="checkbox"/> REGISTERED LIMITED LIABILITY PARTNERSHIPS			
List of Additional Partners			
Partnership Agreement			
Certificate of Doing Business as a Partnership			
Certificate of Registration			
<input checked="" type="checkbox"/> NOT-FOR-PROFIT CORPORATIONS			
List of Additional Officers & Directors	MVN Current Board Rosters	3A	Attach_3A_MVN_Current_Board_Rosters.pdf
Certificate of Incorporation	MVN Certificate of Incorporation	4A	Attach_4A_Mohawk_Valley_Network, Inc. Cert. of Incorp.pdf
Bylaws	MVN Bylaws	5A	Attach_5A_Mohawk_Valley_Network, Inc. Bylaws.pdf
Application for Authority to do Business in NYS	N/A		

* PDF Format Preferred

SCHEDULE 3B ATTACHMENTS (continued)

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
<input type="checkbox"/> BUSINESS CORPORATIONS			
List of Additional Stockholders			
List of Additional Officers & Directors			
Certificate of Incorporation			
Bylaws			
Application for Authority to do Business in NYS			
<input type="checkbox"/> LIMITED LIABILITY COMPANIES			
List of Additional Members			
Articles of Organization			
Operating Agreement			
Application for Authority to do Business in NYS			
<input type="checkbox"/> REPRESENTATIVE GOVERNANCE			
Restrictions on Ability of Applicant to Assign Ownership			
Consulting/Administrative Agreement			
Subcontracts or Assignments with Other Entities			
OTHER ATTACHMENTS (SPECIFY)			
Certificate of Incorporation	VNA Restated Certificate of Incorporation	4F.1	Attach_4F.1_VNA_Restated_COI.pdf
Bylaws	VNA Restated Bylaws	5F.1	Attach_5F.1_VNA_Restated_Bylaws.pdf
List of Officers and Directors	MVHS Proposed Board Roster	3A.1	Attach_3A.1_MVHS_Proposed_Board_Roster.pdf

* PDF Format Preferred

Schedule 4: Legal Information for Ownership Transfers

Included Schedules	Notes
Schedule 4_MVHC	Schedule A – Legal Information for Ownership Transfers Schedule B – Medicaid Affidavit
Schedule 4_MVN	Schedule A – Legal Information for Ownership Transfers Schedule B – Medicaid Affidavit
Schedule 4_SEMC	Schedule A – Legal Information for Ownership Transfers Schedule B – Medicaid Affidavit
Schedule 4_SLH	Schedule A – Legal Information for Ownership Transfers Schedule B – Medicaid Affidavit
Schedule 4_VNA	Schedule A – Legal Information for Ownership Transfers Schedule B – Medicaid Affidavit

Schedule 4

Legal Information for Ownership Transfers

Contents:

- **Schedule 4A – Legal Information for Ownership Transfers**
- **Schedule 4B – Medicaid Affidavit**

Schedule 4A – Legal Information for Ownership Transfers

Instructions:

All applicants seeking establishment approval for a change of ownership must complete Part I. The appropriate section of Part II must also be completed, depending on the type of ownership transfer.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. General Information

A. Type of Ownership Change (check one)

- Transfer of Assets (also Section II.A)
- Change in Active Member of an Article 28, 36 or 40 Facility (also Section II.B)
- Change in Passive Member of an Article 36 Certified Home Health Agency (also Section II.C)
- Statutory Merger or Consolidation (also Section II.D)
- Transfer of Partnership Interest (also Section II.E)
Total Percentage Interest to be Transferred: %
- Transfer of Stock (also Section II.E)
Total Percentage Interest to be Transferred: %
- Transfer of Membership Interest (also Section II.E)
Total Percentage Interest to be Transferred: %

B. Will there be a change in the facility name after the ownership transfer?

- Yes
- No

If yes, current name of facility:

New name of facility:

Submit a fully executed proposed version of one of the following documents reflecting the name change, as appropriate. (check one)

- Certificate of Assumed Name: Attachment # .
- Certificate of Amendment to the Certificate of Incorporation: Attachment # .
- Certificate of Amendment to the Articles of Organization: Attachment # .

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

C. Submit one of the following.

- A financial statement setting forth the purchase price for the ownership interest or assets being acquired and the financial resources of the applicant to make the purchase, or the basis on which the acquisition will be financed; or Attachment # .
- If a transfer by gift; submit a statement of the relationship between the parties. Attachment # 1.

D. For Article # 36 facilities, submit an original affidavit from the applicant, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement, arrangement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or any surcharges, assessments or fees due to the transferor pursuant to Article # 36 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. A model affidavit is found in Schedule 4B. Attachment # Schedule 4B.

II. Additional Information Depending on Type of Ownership Change

Submit the following legal documentation as applicable for the type of ownership transfer.

A. Asset Transfers

1. Evidence that all assets necessary for the ownership and operation of the facility, including site control, will be transferred to the applicant. Such documentation might include:
 - a. Purchase and Sale Agreement: Attachment # .
 - b. Contribution Agreement: Attachment # .
 - c. Assignment and Assumption Agreement: Attachment # ; or
 - d. Additional Transfer Documents: Attachment # .
2. Applicable legal documentation as for initial establishment, depending on the type of facility and the type of legal entity, if not included in Schedule 3B. Attachment # .
3. The following documentation, depending on the seller's type of legal entity and whether it will be dissolved following the proposed transfer:
 - a. If the seller is a not-for-profit corporation or a business corporation, a fully executed, proposed Certificate of Amendment to its Certificate of Incorporation or Certificate of Dissolution, as the case may be. Attachment # .

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

- b. If the seller is a limited liability company, a fully executed, proposed Certificate of Amendment to its Articles of Organization or Articles of Dissolution, as the case may be. Attachment # .

B. Change in Active Member of an Article 28, 36 or 40 Facility

Complete Schedule 15, 21G or 22F, depending on the type of facility.

C. Change in Passive Member of an Article 36 Facility

Complete Schedule 21G

D. Statutory Merger or Consolidation

- 1. Agreement of Merger or Consolidation, as applicable: Attachment # .
- 2. Certificate of Merger or Consolidation, as applicable: Attachment # .

E. Ownership Interest Transfers

Complete Schedules 12G, 15, 21G or 22F, depending on the type of facility.

SCHEDULE 4A ATTACHMENTS

Complete the section labeled "General Information." Then, check the box(es) that apply to your organizational structure and enter the corresponding information for each attached document. If the document is not applicable, enter "N/A" in the column labeled "Attachment Title."

DOCUMENT	ATTACHMENT TITLE	ATTACH #	FILENAME*
GENERAL INFORMATION			
Certificate of Assumed Name or Certificate of Amendment	N/A		
Financial Statement or Statement of Transfer by Gift	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf
Medicaid Affidavit	Schedule 4B	Schedule 4B	See Schedule B within this document
<input type="checkbox"/> ASSET TRANSFERS			
Evidence of Assets to be Transferred			
Applicable Legal Documentation for Initial Establishment			
If Seller is a Corporation, Certificate of Amendment or Certificate of Dissolution			
If Seller is an LLC, Certificate of Amendment or Articles of Dissolution			
<input type="checkbox"/> STATUTORY MERGER OR CONSOLIDATION			
Agreement of Merger or Consolidation			
Certificate of Merger or Consolidation			
ADDITIONAL ATTACHMENTS (SPECIFY)			
Definitive Agreement	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

* PDF Format Preferred

**New York State Department of Health
Certificate of Need Application**

Schedule 4B

Schedule 4B - Medicaid Affidavit

AFFIDAVIT OF Scott H. Perra

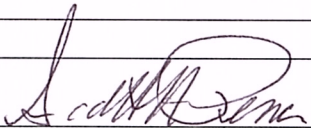
State of New York)
) SS:

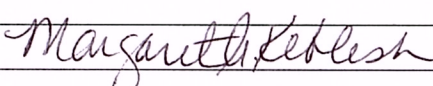
County of Oneida

Scott H. Perra, being duly sworn, hereby deposes and says:

Re: CON Application No. CON Number

1. I am the President and CEO of the Mohawk Valley Health System and am duly authorized to make and deliver this affidavit on behalf of the Mohawk Valley Health System. I submit this affidavit in connection with the application of Mohawk Valley Health System for certificate of need (CON) approval pursuant to Article # 36 of the Public Health Law and as a condition precedent to such approval.
2. Notwithstanding any agreement, arrangement or understanding between the Mohawk Valley Health System and the Mohawk Valley Home Care, LLC to the contrary, the Mohawk Valley Health System hereby agrees that it will be liable and responsible for any Medicaid overpayments made to the facility and/or any surcharges, assessments, or fees due from the Mohawk Valley Home Care, LLC pursuant to Article # 36 of the Public Health Law with respect to the period of time prior to the Mohawk Valley Health System acquiring its interest, without releasing the Mohawk Valley Home Care, LLC of its liability and responsibility.
3. I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE:		DATE	10/4/13
PRINT OR TYPE NAME	Scott H. Perra		
TITLE	President and CEO, Mohawk Valley Health System		

NOTARY		MARGARET A. KEBLISH Notary Public, State of New York No. 01KE6029261 Qualified in Oneida County Commission Expires 08/09/2017	DATE	10/4/2013
--------	---	---	------	-----------

**New York State Department of Health
Certificate of Need Application**

Schedule 4B

--	--

Schedule 4

Legal Information for Ownership Transfers

Contents:

- **Schedule 4A – Legal Information for Ownership Transfers**
- **Schedule 4B – Medicaid Affidavit**

New York State Department of Health
Certificate of Need Application

Schedule 4A

Schedule 4A – Legal Information for Ownership Transfers

Instructions:

All applicants seeking establishment approval for a change of ownership must complete Part I. The appropriate section of Part II must also be completed, depending on the type of ownership transfer.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. General Information

A. Type of Ownership Change (check one)

- Transfer of Assets (also Section II.A)
- Change in Active Member of an Article 28, 36 or 40 Facility (also Section II.B)
- Change in Passive Member of an Article 36 Certified Home Health Agency (also Section II.C)
- Statutory Merger or Consolidation (also Section II.D)
- Transfer of Partnership Interest (also Section II.E)
Total Percentage Interest to be Transferred: %
- Transfer of Stock (also Section II.E)
Total Percentage Interest to be Transferred: %
- Transfer of Membership Interest (also Section II.E)
Total Percentage Interest to be Transferred: %

B. Will there be a change in the facility name after the ownership transfer?

- Yes No

If yes, current name of facility:

Mohawk Valley Network, Inc.

New name of facility:

Mohawk Valley Health System

Submit a fully executed proposed version of one of the following documents reflecting the name change, as appropriate. (check one)

- Certificate of Assumed Name: Attachment # .
- Certificate of Amendment to the Certificate of Incorporation: Attachment # 4A.1.
- Certificate of Amendment to the Articles of Organization: Attachment # .

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

C. Submit one of the following.

- A financial statement setting forth the purchase price for the ownership interest or assets being acquired and the financial resources of the applicant to make the purchase, or the basis on which the acquisition will be financed; or Attachment # .
- If a transfer by gift; submit a statement of the relationship between the parties. Attachment # 1 Definitive Agreement.

D. For Article N/A facilities, submit an original affidavit from the applicant, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement, arrangement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or any surcharges, assessments or fees due to the transferor pursuant to Article N/A of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. A model affidavit is found in Schedule 4B. Attachment # Schedule 4B.

II. Additional Information Depending on Type of Ownership Change

Submit the following legal documentation as applicable for the type of ownership transfer.

A. Asset Transfers

1. Evidence that all assets necessary for the ownership and operation of the facility, including site control, will be transferred to the applicant. Such documentation might include:
 - a. Purchase and Sale Agreement: Attachment # .
 - b. Contribution Agreement: Attachment # .
 - c. Assignment and Assumption Agreement: Attachment # ; or
 - d. Additional Transfer Documents: Attachment # .
2. Applicable legal documentation as for initial establishment, depending on the type of facility and the type of legal entity, if not included in Schedule 3B. Attachment # .
3. The following documentation, depending on the seller's type of legal entity and whether it will be dissolved following the proposed transfer:
 - a. If the seller is a not-for-profit corporation or a business corporation, a fully executed, proposed Certificate of Amendment to its Certificate of Incorporation or Certificate of Dissolution, as the case may be. Attachment # .

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

- b. If the seller is a limited liability company, a fully executed, proposed Certificate of Amendment to its Articles of Organization or Articles of Dissolution, as the case may be. Attachment # .

B. Change in Active Member of an Article 28, 36 or 40 Facility

Complete Schedule 15, 21G or 22F, depending on the type of facility.

C. Change in Passive Member of an Article 36 Facility

Complete Schedule 21G

D. Statutory Merger or Consolidation

- 1. Agreement of Merger or Consolidation, as applicable: Attachment # .
- 2. Certificate of Merger or Consolidation, as applicable: Attachment # .

E. Ownership Interest Transfers

Complete Schedules 12G, 15, 21G or 22F, depending on the type of facility.

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

SCHEDULE 4A ATTACHMENTS

Complete the section labeled "General Information." Then, check the box(es) that apply to your organizational structure and enter the corresponding information for each attached document. If the document is not applicable, enter "N/A" in the column labeled "Attachment Title."

DOCUMENT	ATTACHMENT TITLE	ATTACH #	FILENAME*
GENERAL INFORMATION			
Certificate of Assumed Name or Certificate of Amendment	N/A		
Financial Statement or Statement of Transfer by Gift	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf
Medicaid Affidavit	Schedule 4B	Schedule 4B	See Schedule B within this document
<input type="checkbox"/> ASSET TRANSFERS			
Evidence of Assets to be Transferred			
Applicable Legal Documentation for Initial Establishment			
If Seller is a Corporation, Certificate of Amendment or Certificate of Dissolution			
If Seller is an LLC, Certificate of Amendment or Articles of Dissolution			
<input type="checkbox"/> STATUTORY MERGER OR CONSOLIDATION			
Agreement of Merger or Consolidation			
Certificate of Merger or Consolidation			
ADDITIONAL ATTACHMENTS (SPECIFY)			
Definitive Agreement	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf
Certificate of Incorporation	MVHS Certificate of Incorporation	4A.1	Attach_4A.1_MVHS_Certificate of Incorporation.pdf

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

--	--	--	--

*** PDF Format Preferred**

**New York State Department of Health
Certificate of Need Application**

Schedule 4B

Schedule 4B - Medicaid Affidavit

AFFIDAVIT OF Scott H. Perra

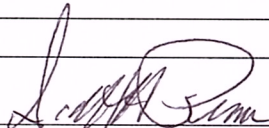
State of New York)
) SS:

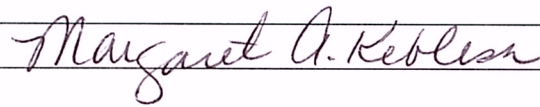
County of Oneida

Scott H. Perra, being duly sworn, hereby deposes and says:

Re: CON Application No. CON Number

1. I am the President and CEO of the Mohawk Valley Health System and am duly authorized to make and deliver this affidavit on behalf of the Mohawk Valley Health System. I submit this affidavit in connection with the application of Mohawk Valley Health System for certificate of need (CON) approval pursuant to Article N/A of the Public Health Law and as a condition precedent to such approval.
2. Notwithstanding any agreement, arrangement or understanding between the Mohawk Valley Health System and the Mohawk Valley Network, Inc. to the contrary, the Mohawk Valley Health System hereby agrees that it will be liable and responsible for any Medicaid overpayments made to the facility and/or any surcharges, assessments, or fees due from the Mohawk Valley Network, Inc. pursuant to Article N/A of the Public Health Law with respect to the period of time prior to the Mohawk Valley Health System acquiring its interest, without releasing the Mohawk Valley Network, Inc. of its liability and responsibility.
3. I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE:		DATE	10/4/13
PRINT OR TYPE NAME	Scott H. Perra		
TITLE	President and CEO, MVN Healthcare		

NOTARY		MARGARET A. KEBLUSE	DATE 10/4/2013
		Notary Public, State of New York No. 01KE6029261 Qualified in Oneida County Commission Expires 08/09/2017	

**New York State Department of Health
Certificate of Need Application**

Schedule 4B

--	--

Schedule 4

Legal Information for Ownership Transfers

Contents:

- **Schedule 4A – Legal Information for Ownership Transfers**
- **Schedule 4B – Medicaid Affidavit**

Schedule 4A – Legal Information for Ownership Transfers

Instructions:

All applicants seeking establishment approval for a change of ownership must complete Part I. The appropriate section of Part II must also be completed, depending on the type of ownership transfer.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. General Information

A. Type of Ownership Change (check one)

- Transfer of Assets (also Section II.A)
- Change in Active Member of an Article 28, 36 or 40 Facility (also Section II.B)
- Change in Passive Member of an Article 36 Certified Home Health Agency (also Section II.C)
- Statutory Merger or Consolidation (also Section II.D)
- Transfer of Partnership Interest (also Section II.E)
Total Percentage Interest to be Transferred: %
- Transfer of Stock (also Section II.E)
Total Percentage Interest to be Transferred: %
- Transfer of Membership Interest (also Section II.E)
Total Percentage Interest to be Transferred: %

B. Will there be a change in the facility name after the ownership transfer?

- Yes
- No

If yes, current name of facility:

New name of facility:

Submit a fully executed proposed version of one of the following documents reflecting the name change, as appropriate. (check one)

- Certificate of Assumed Name: Attachment # .
- Certificate of Amendment to the Certificate of Incorporation: Attachment # .
- Certificate of Amendment to the Articles of Organization: Attachment # .

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

C. Submit one of the following.

- A financial statement setting forth the purchase price for the ownership interest or assets being acquired and the financial resources of the applicant to make the purchase, or the basis on which the acquisition will be financed; or Attachment # .
- If a transfer by gift; submit a statement of the relationship between the parties. Attachment # 1.

D. For Article #28 facilities, submit an original affidavit from the applicant, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement, arrangement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or any surcharges, assessments or fees due to the transferor pursuant to Article #28 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. A model affidavit is found in Schedule 4B. Attachment # Schedule 4B.

II. Additional Information Depending on Type of Ownership Change

Submit the following legal documentation as applicable for the type of ownership transfer.

A. Asset Transfers

1. Evidence that all assets necessary for the ownership and operation of the facility, including site control, will be transferred to the applicant. Such documentation might include:
 - a. Purchase and Sale Agreement: Attachment # .
 - b. Contribution Agreement: Attachment # .
 - c. Assignment and Assumption Agreement: Attachment # ; or
 - d. Additional Transfer Documents: Attachment # .
2. Applicable legal documentation as for initial establishment, depending on the type of facility and the type of legal entity, if not included in Schedule 3B. Attachment # .
3. The following documentation, depending on the seller's type of legal entity and whether it will be dissolved following the proposed transfer:
 - a. If the seller is a not-for-profit corporation or a business corporation, a fully executed, proposed Certificate of Amendment to its Certificate of Incorporation or Certificate of Dissolution, as the case may be. Attachment # .

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

- b. If the seller is a limited liability company, a fully executed, proposed Certificate of Amendment to its Articles of Organization or Articles of Dissolution, as the case may be. Attachment # .

B. Change in Active Member of an Article 28, 36 or 40 Facility

Complete Schedule 15, 21G or 22F, depending on the type of facility.

C. Change in Passive Member of an Article 36 Facility

Complete Schedule 21G

D. Statutory Merger or Consolidation

1. Agreement of Merger or Consolidation, as applicable: Attachment # .
2. Certificate of Merger or Consolidation, as applicable: Attachment # .

E. Ownership Interest Transfers

Complete Schedules 12G, 15, 21G or 22F, depending on the type of facility.

SCHEDULE 4A ATTACHMENTS

Complete the section labeled "General Information." Then, check the box(es) that apply to your organizational structure and enter the corresponding information for each attached document. If the document is not applicable, enter "N/A" in the column labeled "Attachment Title."

DOCUMENT	ATTACHMENT TITLE	ATTACH #	FILENAME*
GENERAL INFORMATION			
Certificate of Assumed Name or Certificate of Amendment	N/A		
Financial Statement or Statement of Transfer by Gift	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf
Medicaid Affidavit	Schedule 4B	Schedule 4B	See Schedule B within this document
<input type="checkbox"/> ASSET TRANSFERS			
Evidence of Assets to be Transferred			
Applicable Legal Documentation for Initial Establishment			
If Seller is a Corporation, Certificate of Amendment or Certificate of Dissolution			
If Seller is an LLC, Certificate of Amendment or Articles of Dissolution			
<input type="checkbox"/> STATUTORY MERGER OR CONSOLIDATION			
Agreement of Merger or Consolidation			
Certificate of Merger or Consolidation			
ADDITIONAL ATTACHMENTS (SPECIFY)			
Definitive Agreement	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

* PDF Format Preferred

**New York State Department of Health
Certificate of Need Application**

Schedule 4B

Schedule 4B - Medicaid Affidavit

AFFIDAVIT OF Scott H. Perra

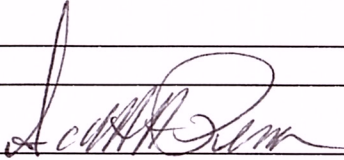
State of New York)
) SS:

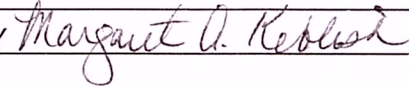
County of Oneida

Scott H. Perra, being duly sworn, hereby deposes and says:

Re: CON Application No. CON Number

1. I am the President and CEO of the Mohawk Valley Health System and am duly authorized to make and deliver this affidavit on behalf of the Mohawk Valley Health System. I submit this affidavit in connection with the application of Mohawk Valley Health System for certificate of need (CON) approval pursuant to Article #28 of the Public Health Law and as a condition precedent to such approval.
2. Notwithstanding any agreement, arrangement or understanding between the Mohawk Valley Health System and the St. Elizabeth Medical Center to the contrary, the Mohawk Valley Health System hereby agrees that it will be liable and responsible for any Medicaid overpayments made to the facility and/or any surcharges, assessments, or fees due from the St. Elizabeth Medical Center pursuant to Article #28 of the Public Health Law with respect to the period of time prior to the Mohawk Valley Health System acquiring its interest, without releasing the St. Elizabeth Medical Center of its liability and responsibility.
3. I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE:	DATE
	10/2/13
PRINT OR TYPE NAME	
Scott H. Perra	
TITLE	
President and CEO, Mohawk Valley Health System	

NOTARY 	DATE 10/2/2013
--	----------------

**New York State Department of Health
Certificate of Need Application**

Schedule 4B

--	--

Schedule 4

Legal Information for Ownership Transfers

Contents:

- **Schedule 4A – Legal Information for Ownership Transfers**
- **Schedule 4B – Medicaid Affidavit**

Schedule 4A – Legal Information for Ownership Transfers

Instructions:

All applicants seeking establishment approval for a change of ownership must complete Part I. The appropriate section of Part II must also be completed, depending on the type of ownership transfer.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. General Information

A. Type of Ownership Change (check one)

- Transfer of Assets (also Section II.A)
- Change in Active Member of an Article 28, 36 or 40 Facility (also Section II.B)
- Change in Passive Member of an Article 36 Certified Home Health Agency (also Section II.C)
- Statutory Merger or Consolidation (also Section II.D)
- Transfer of Partnership Interest (also Section II.E)
Total Percentage Interest to be Transferred: %
- Transfer of Stock (also Section II.E)
Total Percentage Interest to be Transferred: %
- Transfer of Membership Interest (also Section II.E)
Total Percentage Interest to be Transferred: %

B. Will there be a change in the facility name after the ownership transfer?

- Yes
- No

If yes, current name of facility:

New name of facility:

Submit a fully executed proposed version of one of the following documents reflecting the name change, as appropriate. (check one)

- Certificate of Assumed Name: Attachment # .
- Certificate of Amendment to the Certificate of Incorporation: Attachment # .
- Certificate of Amendment to the Articles of Organization: Attachment # .

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

C. Submit one of the following.

- A financial statement setting forth the purchase price for the ownership interest or assets being acquired and the financial resources of the applicant to make the purchase, or the basis on which the acquisition will be financed; or Attachment # .
- If a transfer by gift; submit a statement of the relationship between the parties. Attachment # 1.

D. For Article #28 facilities, submit an original affidavit from the applicant, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement, arrangement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or any surcharges, assessments or fees due to the transferor pursuant to Article #28 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. A model affidavit is found in Schedule 4B. Attachment # Schedule 4B.

II. Additional Information Depending on Type of Ownership Change

Submit the following legal documentation as applicable for the type of ownership transfer.

A. Asset Transfers

1. Evidence that all assets necessary for the ownership and operation of the facility, including site control, will be transferred to the applicant. Such documentation might include:
 - a. Purchase and Sale Agreement: Attachment # .
 - b. Contribution Agreement: Attachment # .
 - c. Assignment and Assumption Agreement: Attachment # ; or
 - d. Additional Transfer Documents: Attachment # .
2. Applicable legal documentation as for initial establishment, depending on the type of facility and the type of legal entity, if not included in Schedule 3B. Attachment # .
3. The following documentation, depending on the seller's type of legal entity and whether it will be dissolved following the proposed transfer:
 - a. If the seller is a not-for-profit corporation or a business corporation, a fully executed, proposed Certificate of Amendment to its Certificate of Incorporation or Certificate of Dissolution, as the case may be. Attachment # .

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

- b. If the seller is a limited liability company, a fully executed, proposed Certificate of Amendment to its Articles of Organization or Articles of Dissolution, as the case may be. Attachment # .

B. Change in Active Member of an Article 28, 36 or 40 Facility

Complete Schedule 15, 21G or 22F, depending on the type of facility.

C. Change in Passive Member of an Article 36 Facility

Complete Schedule 21G

D. Statutory Merger or Consolidation

1. Agreement of Merger or Consolidation, as applicable: Attachment # .
2. Certificate of Merger or Consolidation, as applicable: Attachment # .

E. Ownership Interest Transfers

Complete Schedules 12G, 15, 21G or 22F, depending on the type of facility.

SCHEDULE 4A ATTACHMENTS

Complete the section labeled "General Information." Then, check the box(es) that apply to your organizational structure and enter the corresponding information for each attached document. If the document is not applicable, enter "N/A" in the column labeled "Attachment Title."

DOCUMENT	ATTACHMENT TITLE	ATTACH #	FILENAME*
GENERAL INFORMATION			
Certificate of Assumed Name or Certificate of Amendment	N/A		
Financial Statement or Statement of Transfer by Gift	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf
Medicaid Affidavit	Schedule 4B	Schedule 4B	See Schedule B within this document
<input type="checkbox"/> ASSET TRANSFERS			
Evidence of Assets to be Transferred			
Applicable Legal Documentation for Initial Establishment			
If Seller is a Corporation, Certificate of Amendment or Certificate of Dissolution			
If Seller is an LLC, Certificate of Amendment or Articles of Dissolution			
<input type="checkbox"/> STATUTORY MERGER OR CONSOLIDATION			
Agreement of Merger or Consolidation			
Certificate of Merger or Consolidation			
ADDITIONAL ATTACHMENTS (SPECIFY)			
Definitive Agreement	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

* PDF Format Preferred

**New York State Department of Health
Certificate of Need Application**

Schedule 4B

NOTARY	DATE
<i>Margaret A. Keblish</i>	10/4/2013

MARGARET A. KEBLISH
Notary Public, State of New York
No. 01KE6029261
Qualified in Oneida County
Commission Expires 08/09/2017

Schedule 4

Legal Information for Ownership Transfers

Contents:

- **Schedule 4A – Legal Information for Ownership Transfers**
- **Schedule 4B – Medicaid Affidavit**

Schedule 4A – Legal Information for Ownership Transfers

Instructions:

All applicants seeking establishment approval for a change of ownership must complete Part I. The appropriate section of Part II must also be completed, depending on the type of ownership transfer.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. General Information

A. Type of Ownership Change (check one)

- Transfer of Assets (also Section II.A)
- Change in Active Member of an Article 28, 36 or 40 Facility (also Section II.B)
- Change in Passive Member of an Article 36 Certified Home Health Agency (also Section II.C)
- Statutory Merger or Consolidation (also Section II.D)
- Transfer of Partnership Interest (also Section II.E)
Total Percentage Interest to be Transferred: %
- Transfer of Stock (also Section II.E)
Total Percentage Interest to be Transferred: %
- Transfer of Membership Interest (also Section II.E)
Total Percentage Interest to be Transferred: %

B. Will there be a change in the facility name after the ownership transfer?

- Yes
- No

If yes, current name of facility:

New name of facility:

Submit a fully executed proposed version of one of the following documents reflecting the name change, as appropriate. (check one)

- Certificate of Assumed Name: Attachment # .
- Certificate of Amendment to the Certificate of Incorporation: Attachment # .
- Certificate of Amendment to the Articles of Organization: Attachment # .

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

C. Submit one of the following.

- A financial statement setting forth the purchase price for the ownership interest or assets being acquired and the financial resources of the applicant to make the purchase, or the basis on which the acquisition will be financed; or Attachment # .
- If a transfer by gift; submit a statement of the relationship between the parties. Attachment # 1.

D. For Article #36 facilities, submit an original affidavit from the applicant, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement, arrangement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or any surcharges, assessments or fees due to the transferor pursuant to Article #36 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. A model affidavit is found in Schedule 4B. Attachment # Schedule 4B.

II. Additional Information Depending on Type of Ownership Change

Submit the following legal documentation as applicable for the type of ownership transfer.

A. Asset Transfers

1. Evidence that all assets necessary for the ownership and operation of the facility, including site control, will be transferred to the applicant. Such documentation might include:
 - a. Purchase and Sale Agreement: Attachment # .
 - b. Contribution Agreement: Attachment # .
 - c. Assignment and Assumption Agreement: Attachment # ; or
 - d. Additional Transfer Documents: Attachment # .
2. Applicable legal documentation as for initial establishment, depending on the type of facility and the type of legal entity, if not included in Schedule 3B. Attachment # .
3. The following documentation, depending on the seller's type of legal entity and whether it will be dissolved following the proposed transfer:
 - a. If the seller is a not-for-profit corporation or a business corporation, a fully executed, proposed Certificate of Amendment to its Certificate of Incorporation or Certificate of Dissolution, as the case may be. Attachment # .

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

- b. If the seller is a limited liability company, a fully executed, proposed Certificate of Amendment to its Articles of Organization or Articles of Dissolution, as the case may be. Attachment # .

B. Change in Active Member of an Article 28, 36 or 40 Facility

Complete Schedule 15, 21G or 22F, depending on the type of facility.

C. Change in Passive Member of an Article 36 Facility

Complete Schedule 21G

D. Statutory Merger or Consolidation

- 1. Agreement of Merger or Consolidation, as applicable: Attachment # .
- 2. Certificate of Merger or Consolidation, as applicable: Attachment # .

E. Ownership Interest Transfers

Complete Schedules 12G, 15, 21G or 22F, depending on the type of facility.

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

SCHEDULE 4A ATTACHMENTS

Complete the section labeled "General Information." Then, check the box(es) that apply to your organizational structure and enter the corresponding information for each attached document. If the document is not applicable, enter "N/A" in the column labeled "Attachment Title."

DOCUMENT	ATTACHMENT TITLE	ATTACH #	FILENAME*
GENERAL INFORMATION			
Certificate of Assumed Name or Certificate of Amendment	N/A		
Financial Statement or Statement of Transfer by Gift	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf
Medicaid Affidavit	Schedule 4B	Schedule 4B	See Schedule B within this document
<input type="checkbox"/> ASSET TRANSFERS			
Evidence of Assets to be Transferred			
Applicable Legal Documentation for Initial Establishment			
If Seller is a Corporation, Certificate of Amendment or Certificate of Dissolution			
If Seller is an LLC, Certificate of Amendment or Articles of Dissolution			
<input type="checkbox"/> STATUTORY MERGER OR CONSOLIDATION			
Agreement of Merger or Consolidation			
Certificate of Merger or Consolidation			
ADDITIONAL ATTACHMENTS (SPECIFY)			
Definitive Agreement	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf

**New York State Department of Health
Certificate of Need Application**

Schedule 4A

* PDF Format Preferred

**New York State Department of Health
Certificate of Need Application**

Schedule 4B

Schedule 4B - Medicaid Affidavit

AFFIDAVIT OF Scott H. Perra

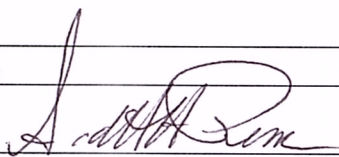
State of New York)
) SS:


County of Oneida

Scott H. Perra, being duly sworn, hereby deposes and says:

Re: CON Application No. CON Number

1. I am the President and CEO of the Mohawk Valley Health System and am duly authorized to make and deliver this affidavit on behalf of the Mohawk Valley Health System. I submit this affidavit in connection with the application of Mohawk Valley Health System for certificate of need (CON) approval pursuant to Article #36 of the Public Health Law and as a condition precedent to such approval.
2. Notwithstanding any agreement, arrangement or understanding between the Mohawk Valley Health System and the Visiting Nurse Association of Utica and Oneida County ("VNA"), Inc. to the contrary, the Mohawk Valley Health System hereby agrees that it will be liable and responsible for any Medicaid overpayments made to the facility and/or any surcharges, assessments, or fees due from the VNA pursuant to Article #36 of the Public Health Law with respect to the period of time prior to the Mohawk Valley Health System acquiring its interest, without releasing the VNA of its liability and responsibility.
3. I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE: 	DATE
	10/4/13
PRINT OR TYPE NAME	
Scott H. Perra	
TITLE	
President and CEO, Mohawk Valley Health System	

NOTARY 	MARGARET A. KEBLISH	DATE 10/4/2013
Notary Public, State of New York		
No. 01KE6029261		
Qualified in Oneida County ¹⁷		
Commission Expires 08/09/2017		

**New York State Department of Health
Certificate of Need Application**

Schedule 4B

--	--

Schedule 5: CON Form Regarding Working Capital Plan

Included Schedules	Notes
Schedule 5_MVHS	A single Schedule 5 for MVHS is submitted for this application.

Schedule 5 - CON Form Regarding Working Capital Plan

Contents:

- **Schedule 5 - Working Capital Plan**

Working Capital Financing Plan

1. Working Capital Financing Plan and Pro Forma Balance Sheet:

This section should be completed in conjunction with the monthly Cash Flow. The general guidelines for working capital requirements are two months of first year expenses for changes of ownership and two months' of third year expenses for construction projects. Any deviation from these guidelines must be supported by the monthly cash flow analysis. If working capital is required for the project, all sources of working capital must be indicated clearly. Borrowed funds are limited to 50% of total working capital requirements. If borrowed funds are a source of working capital, please summarize the terms below, and attach a letter of interest from the intended source of funds, to include an estimate of the principal, term, interest rate and payout period being considered. Also, describe and document the source(s) of working capital equity.

List Titles of Attachments related to Borrowed Funds	List Filenames of Attachments
Example: <i>First borrowed fund source</i>	Example: <i>first_bor_fund.pdf</i>
N/A	

In the section below, briefly describe and document the source(s) of working capital equity

MVHS shall have a budget and sufficient operating funds to function independently in order to accomplish its corporate purposes, mission, vision, and values. The Hospitals intend that MVHS will receive funds for ongoing operations from any one or a combination of sources, consistent with the requirements of the Code applicable to tax exempt organizations, including, without limitation: (a) MVHS's operations; (b) contributions from FSL, SEMC, any FSL Affiliate, or any SEMC Affiliate; and (c) assessment of reasonable corporate fees for the value of services rendered to FSL, SEMC, the FSL Affiliates, and the SEMC Affiliates. MVHS shall determine and assess contributions from FSL, SEMC, the FSL Affiliates, and the SEMC Affiliates in a fair and equitable manner at all times.

2. Pro Forma Balance Sheet

**New York State Department of Health
Certificate of Need Application**

Schedule 5

This section should be completed for all new establishment and change in ownership applications. On a separate attachment identified below, provide a pro forma (opening day) balance sheet. If the operation and real estate are to be owned by separate entities, provide a pro forma balance sheet for each entity. Fully identify all assumptions used in preparation of the pro forma balance sheet. If the pro forma balance sheet(s) is submitted in conjunction with a change in ownership application, on a line-by-line basis, provide a comparison between the submitted pro forma balance sheet(s), the most recently available facility certified financial statements and the transfer agreement. Fully explain and document all assumptions.

List Titles of Attachments Related to Pro Forma Balance Sheets	List Filenames of Attachments
<i>Example: Attachment to operational balance sheet</i>	<i>Example: Operational_bal_sheet.pdf</i>
MVHS Pro Forma Balance Sheet	Attach_7A_MVHS_Pro_Forma_Balance_Sheet.pdf
MVHS Cash Flow Analysis	Attach_7B_MVHS_Cash_Flow_Analysis.pdf
FSL Audited Financials Years 2010-2012	Attach_7H_FSL_Audited_Financials_2010.pdf Attach_7I_FSL_Audited_Financials_2011.pdf Attach_7J_FSL_Audited_Financials_2012.pdf
SEMC Audited Financials Years 2010-2012	Attach_7K_SEMC_Audited_Financials_2010.pdf Attach_7L_SEMC_Audited_Financials_2011.pdf Attach_7M_SEMC_Audited_Financials_2012.pdf

Schedule 9: CON Form Regarding Project Financing

Included Schedules	Notes
Schedule 9	This schedule is included as a blank schedule, as no financing will be sought for this project.

Schedule 9 - CON Forms Regarding Project Financing

Contents:

- **Schedule 9 - Proposed Plan for Project Financing**

**New York State Department of Health
Certificate of Need Application**

Schedule 9

Schedule 9 Proposed Plan for Project Financing:

I. Summary of Proposed Financial plan:

Check all that apply and fill in corresponding amounts.

	Type	Amount
<input type="checkbox"/>	A. Lease	
<input type="checkbox"/>	B. Cash	
<input type="checkbox"/>	C. Land	
<input type="checkbox"/>	D. Other	
<input type="checkbox"/>	E. Mortgage, Notes, or Bonds	
<input type="checkbox"/>	Total Project Financing (Sum A to E) (equals line 10, Column C of Sch. 8b)	

If refinancing is used, please complete area below.

<input type="checkbox"/>	Refinancing	
<input type="checkbox"/>	Total Mortgage/Notes/Bonds (Sum E) plus Refinancing:	

II. Details

A. Leases

	Not Applicable	Title of attachment
1. List each lease with corresponding cost as if purchased each leased item. Breakdown each lease by total project cost and subproject costs, if applicable.	<input type="checkbox"/>	
2. Attach a copy of the proposed lease(s).	<input type="checkbox"/>	
3. Submit an affidavit indicating any business or family relationships between principals of the landlord and tenant.	<input type="checkbox"/>	
4. If applicable, provide a copy of the lease assignment agreement and the Landlord's consent to the proposed lease assignment.	<input type="checkbox"/>	
5. If applicable, identify separately the total square footage to be occupied by the Article 28 facility and the total square footage of the building.	<input type="checkbox"/>	
6. Attach two letters from independent realtors verifying square footage rate.	<input type="checkbox"/>	

**New York State Department of Health
Certificate of Need Application**

Schedule 9

7. For all capital leases as defined by FASB Statement No. 13, "Accounting for Leases", provide the net present value of the monthly, quarterly or annual lease payments.	<input type="checkbox"/>	
---	--------------------------	--

B. Cash - Not required for limited review

Type	Amount
Accumulated Funds	
Sale of Existing Assets	
Gifts (fundraising program)	
Government Grants	
Other	
TOTAL CASH	

	Not Applicable	Title of attachment
1. Provide a breakdown of the sources of cash. See sample table above.	<input type="checkbox"/>	
2. Attach a copy of the latest certified financial statement and interim monthly or quarterly financial reports to cover the balance of time to date.	<input type="checkbox"/>	
3. If amounts are listed in "Accumulated Funds" provide cross-reference to certified financial statement or Schedule 2b, if applicable.	<input type="checkbox"/>	
4. Attach a full and complete description of the assets to be sold, if applicable.	<input type="checkbox"/>	
5. If amounts are listed in "Gifts (fundraising program)": <ul style="list-style-type: none"> • Provide a breakdown of total amount expected, amount already raised, and any terms and conditions affixed to pledges. • If a professional fundraiser has been engaged, submit fundraiser's contract and fundraising plan. • Provide a history of recent fund drives, including amount pledged and amount collected 	<input type="checkbox"/>	
6. If amounts are listed in "Government Grants": <ul style="list-style-type: none"> • List the grant programs which are to provide the funds with corresponding amounts. Include the date the application was submitted. • Provide documentation of eligibility for the funds. • Attach the name and telephone number of the contact person at the awarding Agency(ies). 	<input type="checkbox"/>	
7. If amounts are listed in "Other" attach a description of the source of financial support and documentation of its availability.	<input type="checkbox"/>	
8. Current Department policy requires a minimum equity contribution of 10% of total project cost (Schedule 8b line 10).	<input type="checkbox"/>	

C. Mortgage, Notes, or Bonds - Not required for limited review

1. Provide a breakdown of the terms of the mortgage. See sample table below.

**New York State Department of Health
Certificate of Need Application**

Schedule 9

	Total Project	Units
Interest		%
Term		Years
Payout Period		Years
Principal		\$

	Not Applicable	Title of attachment
2. Attach a copy of a letter of interest from the intended source of permanent financing that indicates principal, interest, term, and payout period.	<input type="checkbox"/>	
3. If New York State Dormitory Authority (DASNY) financing, then attach a copy of a letter from a mortgage banker.	<input type="checkbox"/>	
4. If the financing of this project becomes part of a larger overall financing, then a new business plan inclusive of a feasibility package for the overall financing will be required for DOH review prior to proceeding with the combined financing.	<input type="checkbox"/>	

D. Land: Not required for limited review

1. Provide details for the land including but not limited to; appraised value, historical cost, and purchase price. See sample table below.

	Total Project
Appraised Value	
Historical Cost	
Purchase Price	
Other	

	Not Applicable	Title of attachment
2. If amounts are listed in "Other", attach documentation and a description as applicable.	<input type="checkbox"/>	
3. Attach a copy of the Appraisal. Supply the appraised date and the name of the appraiser.	<input type="checkbox"/>	
4. Submit a copy of the proposed purchase/option agreement.	<input type="checkbox"/>	
5. Provide an affidavit indicating any and all relationships between seller and the proposed operator/owner.	<input type="checkbox"/>	

E. Other - Not required for limited review

1. Provide listing and breakdown of other financing mechanisms.

**New York State Department of Health
Certificate of Need Application**

Schedule 9

	Total Project
Notes	
Stock	
Other	

	Not Applicable	Title of attachment
2. Attach documentation and a description of the method of financing.	<input type="checkbox"/>	

F. Refinancing - Not required for limited Review

	Not Applicable	Title of attachment
1. Provide a breakdown of the terms of the refinancing, including principal, interest rate, and term remaining.	<input type="checkbox"/>	
2. Attach a description of the mortgage to be refinanced. Provide full details of the existing debt and refinancing plan inclusive of original and current amount, term, assumption date, and refinancing fees. The term of the debt to be refunded may not exceed the remaining average useful life of originally financed assets. If existing mortgage debt will not be refinanced, provide documentation of consent from existing lien holders of the proposed financing plan.	<input type="checkbox"/>	

Schedule 13: CON Forms Applicable to All Article 28 Facilities

Included Schedules	Notes
Schedule 13_FSL	<ul style="list-style-type: none">■ One schedule is submitted for this project as a consolidated new entity, MVHS. The schedules include FSL and SEMC combined projections.■ Schedules 13A, 13B, 13C, and 13D are included.■ See references to Attachments in Tables 13C-1 and 13D-1.

Certain schedule sections are not applicable for this application.

Section	Reason for Exclusion
13B, page 2	Applicable only to diagnostic and treatment centers
Table 13B-2	Applicable only for ambulatory surgery centers

Schedule 13- CON Forms Applicable to all Article 28 Facilities

Contents:

- **Schedule 13 A - Assurances**
- **Schedule 13 B - Staffing**
- **Schedule 13 C - Annual Operating Costs**
- **Schedule 13 D - Annual Operating Revenue**

Schedule 13 A. Assurances From Article 28 Applicants

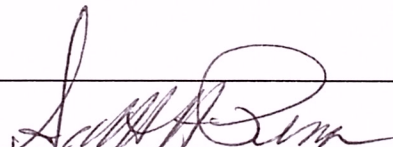
Article 28 applicants seeking combined establishment and construction or construction approval only must complete this schedule.

The undersigned, as a duly authorized representative of the applicant, hereby gives the following assurances:

- a) The applicant has or will have a fee simple or such other estate or interest in the site, including necessary easements and rights-of-way, sufficient to assure use and possession for the purpose of the construction and operation of the facility.
- b) The applicant will obtain the approval of the Commissioner of Health of all required submissions, which shall conform to the standards of construction and equipment in Subchapter C of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York (Title 10).
- c) The applicant will submit to the Commissioner of Health final working drawings and specifications, which shall conform to the standards of construction and equipment of Subchapter C of Title 10, prior to contracting for construction, unless otherwise provided for in Title 10.
- d) The applicant will cause the project to be completed in accordance with the application and approved plans and specifications.
- e) The applicant will provide and maintain competent and adequate architectural and/or engineering inspection at the construction site to insure that the completed work conforms to the approved plans and specifications.
- f) If the project is an addition to a facility already in existence, upon completion of construction all patients shall be removed from areas of the facility that are not in compliance with pertinent provisions of Title 10, unless a waiver is granted by the Commissioner of Health, under Title 10.
- g) The facility will be operated and maintained in accordance with the standards prescribed by law.
- h) The applicant will comply with the provisions of the Public Health Law and the applicable provisions of Title 10 with respect to the operation of all established, existing medical facilities in which the applicant has a controlling interest.
- i) The applicant understands and recognizes that any approval of this application is not to be construed as an approval of, nor does it provide assurance of, reimbursement for any costs identified in the application. Reimbursement for all cost shall be in accordance with and subject to the provisions of Part 86 of Title 10.

Date

10/2/13



Signature:

Scott H. Perra

Name (Please Type)

President and CEO, FSL Healthcare

Title (Please type)

**New York State Department of Health
Certificate of Need Application**

Schedule 13B

Schedule 13 B. Staffing

Table 13B - 1: See “Schedules Required for Each Type of CON” to determine when this form is required. Use the “Other” categories for providers, such as dentists, that are not mentioned in the staff categories. If a project involves multiple sites please create a staffing table for each site.

Total Project Subproject number

A		B	C	D
		Number of FTEs to the Nearest Tenth		
Staffing Categories		Current Year*	First Year incremental	Third Year incremental
1.	Management & Supervision	318.8	-10.0	-13.0
2.	Technician & Specialist	589.6	-2.0	-3.7
3.	Registered Nurses	1115.7	-3.0	-25.1
4.	Licensed Practical Nurses	128.1		-8.5
5.	Aides, Orderlies & Attendants	467.9		
6.	Physicians	74.8		
7.	PGY Physicians	29.4		
8.	Physicians' Assistants	14.2		
9.	Nurse Practitioners	35.1		
10.	Nurse Midwife	0.0		
11.	Social Workers and Psychologist**	21.4		
12.	Physical Therapists and PT Assistants	47.1		
13.	Occupational Therapists and OT Assistants	28.1		
14.	Speech Therapists and Speech Assistants	7.7		
15.	Other Therapists and Assistants	59.9		
16.	Infection Control, Environment and Food Service	363.2		
17.	Clerical & Other Administrative	884.3	-9.0	-26.0
18.	Other Dentist	4.0		
19.	Other Dental Residents	1.0		
20.	Other			
21.	Total Number of Employees	4190.3	-24.0	-76.3

*Last complete year prior to submitting application

**Use only for RHCF and D and T Center proposals

Describe how the number and mix of staff were determined:

The parties have developed the MVHS Business Plan of Efficiencies ("BPOE") utilizing both qualitative and quantitative assessment methodologies. (The BPOE is attachment 1D). The process included individual interviews of over 30 hospital executives and medical staff representation from

**New York State Department of Health
Certificate of Need Application**

Schedule 13B

FSL and SEMC as well as a thorough analysis of departmental functions and programmatic offerings. This assessment included an assessment of the management structure, development of departmental integration plans, identification of opportunities, and prioritization of those opportunities.

1.) All diagnostic and treatment centers should complete the following section:

Name of medical director:	
License number of the Medical Director	

	Not Applicable:	Title of Attachment	Filename of attachment
Attach a copy of the medical director's curriculum vitae.	<input type="checkbox"/>		

Acute care facility with which an affiliation agreement is being negotiated:	
In the space below, Indicate the status of those negotiations:	

	Not Applicable:	Title of Attachment	Filename of attachment
Attach a copy of a letter of intent or the affiliation agreement, if appropriate.	<input type="checkbox"/>		

Distance in miles from the proposed facility to the acute care affiliate.	
Distance in minutes of travel time from the proposed facility to the acute care affiliate.	
Name of the acute care facility, nearest the proposed facility:	
Distance in miles from the proposed facility to the nearest acute care facility:	
Distance in minutes of travel time from the proposed facility to the nearest acute care facility.	

**New York State Department of Health
Certificate of Need Application**

Schedule 13B

Table 13B - 2. Ambulatory surgery centers should complete the following Table:

List all practitioners -- including surgeons, Dentists and Podiatrists, who have expressed an interest in practicing at the Center.
NOTE: Attach copies of letters from each giving the number and type of procedures he or she expects to perform per year.

Practitioner's Name	License No.	Specialty (s)	Board Certified or Eligible	Expected Number of Procedures	List hospitals where Physician has Admitting Privileges:	Title and File Name of attachment
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			

**New York State Department of Health
Certificate of Need Application**

Schedule 13C

Schedule 13 C. Annual Operating Costs

See "Schedules Required for Each Type of CON" to determine when this form is required.

Use this schedule to summarize the first and third full year's incremental cost for the categories, which are affected by this project. The first full year is defined as the first 12 months of full operation after project completion. Project the first and third full year's total incremental costs in current year dollars. Current year costs added to first year incremental cost impact should equal total first year budget. Current year costs added to third year incremental budget should equal total third year budget. Show cost reductions in parentheses.

- Total Project
- Subproject Number

Table 13C - 1

	a	b	c
Categories	Current Year	Year 1 Incremental Cost Impact	Year 3 Incremental Cost Impact
Start date of year in question:(m/d/yyyy)	1/1/2014		
1. Salaries and Wages	See: Attach_7E_MVHS_Income Stmt.pdf		
1a. FTEs			
2. Employee Benefits			
3. Professional Fees			
4. Medical & Surgical Supplies			
5. Non-med., non-surg. Supplies			
6. Utilities			
7. Purchased Services			
8. Other Direct Expenses			
9. Subtotal (total 1-8)			
10. Interest			
11. Depreciation and Rent			
12. Total Incremental Operating Costs			

	Title of Attachment	Filename of attachment
1. In an attachment, provide the basis and supporting calculations for depreciation and rent expense	Description of Depreciation and Rent	Attach_7C_Depreciation_and_Rent_FSL Attach_7C_Depreciation_and_Rent_SEM C
2. In an attachment, provide the basis for interest cost. Separately identify, with supporting calculations, interest attributed to mortgages and working capital	Description of Interest Costs	Attach_7D_Interest_Costs_FSL Attach_7D_Interest_Costs_SEM C

Any approval of this application is not to be construed as an approval of any of the above indicated current or projected operating costs. Reimbursement of any such costs shall be in accordance with and subject to the provisions of Part 86 of 10 NYCRR. Approval of this

**New York State Department of Health
Certificate of Need Application**

Schedule 13C

application does not assure reimbursement of any of the costs indicated therein by payers under Title XIX of the Federal Social Security Act (Medicaid) or Article 43 of The State Insurance Law or by any other payers.

Schedule 13 D: Annual Operating Revenues

See "Schedules Required for Each Type of CON" to determine when this form is required.

This schedule is to be used for all proposals except (a) establishment applications for RHCs and D&TCs, and (b) RCHF and D&TC applications which will increase total year current costs by more than 10%.

One schedule must be completed for the total project and one for each of the subprojects. Indicate which one is being reported by checking the appropriate box at the top of the schedule.

Use this schedule to summarize the current year's operating revenue, and the first and third year's incremental operating revenue for the categories that are affected by this project.

Table 1. Enter the current year data in column 1. This should represent the total revenue for the last complete year before submitting the application, using audited data.

Project the first and third year's total incremental revenue in current year dollars

Current year revenues added to first year incremental revenue impact should equal total first year budget.

Current year revenues added to third year incremental revenue impact should equal total third year budget.

Revenue reductions should be shown in parentheses.

Tables 2a and 2b. Enter current year data in the appropriate block. This should represent revenue by payer for the last complete year before submitting the application, using audited data.

Indicate in the appropriate blocks incremental revenues (i.e., additional operating revenues by payer to be received during the first and third years of operation after project completion). As an attachment, provide documentation for the rates assumed for each payer. Where the project will result in a rate change, provide supporting calculations. For managed care, include rates and information from which the rates are derived, including payer, enrollees, and utilization assumptions.

The total of Inpatient and Outpatient Services at the bottom of tables' 2a and b should equal the totals given on line 10 of table 1.

Provide as an attachment to this schedule a cash flow analysis for the first year of operations after the changes proposed by the application, which identifies the amount of working capital, if any, needed to implement the project. Please complete Schedule 5, Working Capital Schedule, in conjunction with the cash flow analysis.

**New York State Department of Health
Certificate of Need Application**

Schedule 13D

Table 13D - 1

	a	b	c
Categories	Current Year	Year 1 Incremental Revenue Impact	Year 3 Incremental Revenue Impact
Start date of year in question:(m/d/yyyy)	1/1/2014		
1. Daily Hospital Services	See: Attach_7E_ MVHS_Income_ Stmt.pdf		
2. Ambulatory Services			
3. Ancillary Services			
4. Total Gross Patient Care Services Rendered			
5. Deductions from Revenue			
6. Net Patient Care Services Revenue			
7. Other Operating Revenue (Identify sources)			
8. Total Operating Revenue (Total 1-7)			
9. Non-Operating Revenue			
10. Total Project Revenue			

**New York State Department of Health
Certificate of Need Application**

Schedule 13D

Table 13D – 3

* Various inpatient services may be reimbursed as discharges or days. Applicant should indicate which method applies to this table by choosing the appropriate checkbox.

Patient Days Patient discharges

Inpatient Services Source of Revenue		Total Current Year			First Year Incremental			Third Year Incremental		
		Patient Days or dis- charges *	Net Revenue*		Patient Days or dis- charges*	Net Revenue*		Patient Days or dis- charges*	Net Revenue*	
			%	Dollars (\$)		%	Dollars (\$)		%	Dollars (\$)
Commercial	Fee for Service	6,275	33.6	87,495,249		No change	524,319		No change	4,210,770
	Managed Care	48	0.3	830,060		NC	4,974		NC	39,947
Medicare	Fee for Service	12,392	40.4	105,107,320		NC	629,860		NC	5,058,363
	Managed Care	1,662	7.2	18,747,768		NC	112,347		NC	902,249
Medicaid	Fee for Service	5,122	14.8	38,608,755		NC	231,365		NC	1,858,073
	Managed Care	1,684	5.2	13,618,137		NC	81,607		NC	655,382
Private Pay		408	0.1	371,922		NC	2,229		NC	17,899
OASAS										
OMH										
Charity Care		0	(0.7)	(1,797,637)		NC	(10,772)		NC	(86,513)
Bad Debt		0	(3.1)	(8,138,914)		NC	(48,773)		NC	(391,691)
All Other		896	2.1	5,445,555		NC	32,633		NC	262,071
Total		28,487	100%	260,288,215		100%	1,559,789		100%	12,526,551

**New York State Department of Health
Certificate of Need Application**

Schedule 13D

Table 13D - 4

Outpatient Services** Source of Revenue		Total Current Year			First Year Incremental			Third Year Incremental		
		Visits	Net Revenue*		Visits	Net Revenue*		Visits	Net Revenue*	
			%	Dollars (\$)		%	Dollars (\$)		%	Dollars (\$)
Commercial	Fee for Service	222,037	43.3	100,341,316		No change	601,300		No change	4,828,996
	Managed Care	8,076	2.6	6,007,362		NC	35,999		NC	289,108
Medicare	Fee for Service	156,129	36.8	85,245,779		NC	510,839		NC	4,102,513
	Managed Care	71,171	3.7	8,622,791		NC	51,672		NC	414,978
Medicaid	Fee for Service	136,496	11.5	26,739,688		NC	160,239		NC	1,286,866
	Managed Care	29,424	4.9	11,251,120		NC	67,423		NC	541,468
Private Pay		10,072	0.3	691,827		NC	4,146		NC	33,295
OASAS										
OMH										
Charity Care		0	(0.7)	(1,628,709)		NC	(9,760)		NC	(78,383)
Bad Debt		0	(5.1)	(11,829,376)		NC	(70,888)		NC	(569,297)
All Other		12,714	2.7	6,293,407		NC	37,714		NC	302,875
Total		646,119	100%	231,735,205		100%	1,388,684		100%	11,152,419
Total of Inpatient and Outpatient Services				492,023,420			2,948,473			23,678,970

Schedule 14: Additional Legal Information - Article 28

Included Schedules	Notes
Schedule 14_FSL	Schedule 14C is included – Additional Legal Information Article 28 Not-for-Profit Corporations
Schedule 14_MVHS	Schedule 14C is included – Additional Legal Information Article 28 Not-for-Profit Corporations
Schedule 14_SEMC	Schedule 14C is included – Additional Legal Information Article 28 Not-for-Profit Corporations
Schedule 14_SLH	Schedule 14C is included – Additional Legal Information Article 28 Not-for-Profit Corporations

Certain schedule sections are not applicable for this application.

Section	Reason for Exclusion
Schedule 14A	Not applicable
Schedule 14B	Not applicable
Schedule 14D	Not applicable

Schedule 14 - Additional Legal Information - Article 28

Contents:

- **Schedule 14A - Additional Legal Information - Article 28
Business Corporations and General Partnerships**
- **Schedule 14B - Additional Legal Information Article 28 Limited
Liability Companies**
- **Schedule 14C - Additional Legal Information Article 28 Not-For-
Profit Corporations**
- **Schedule 14D - Additional Legal Information Article 28 General
and Limited Liability Partnerships**

**New York State Department of Health
Certificate of Need Application**

Schedule 14A

Schedule 14A - Additional Legal Information - Article 28 Business Corporations

Instructions:

Article 28 applicants seeking establishment or combined establishment and construction approval that are business corporations must complete this schedule.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

Business Corporations:

A. Affidavits: Attach the originals of stockholder affidavits from each stockholder including the specific information set forth in 10 NYCRR 620.1(b).

B. Stock Certificate: Attach a sample stock certificate including the specific language set forth in 10 NYCRR 620.1(a)(4).

N.B.: The Certificate of Incorporation must comply with the language requirements set forth in 10 NYCRR 620.1(a).

C. Limited Liability Corporation Stockholders: Does the applicant have any stockholders that are limited liability companies (LLCs)?

Yes No

If yes, identify each LLC-stockholder in the following table:

Name of LLC Shareholder:	Address

D. Documentation for LLC Stockholders: For each LLC-stockholder (2nd Level Stockholder), attach the following documentation:

1. A list providing the name, membership interest and percentage ownership interest in the 2nd Level Stockholder and indirect ownership percentage in the Article 28 business corporation. (Indirect ownership is determined by multiplying the percentage of ownership in each entity. For example, if A owns 10 percent of a 2nd Level Stockholder which itself owns 80 percent of an Article 28 business corporation, A owns an indirect ownership interest of eight percent in the Article 28 business corporation.) for each member;

N.B.: All members of the 2nd Level Stockholder must be natural persons.

2. A list of all managers;
3. Articles of Organization; and
4. Operating Agreement.

New York State Department of Health Certificate of Need Application

Schedule 14A

E. Articles of Organization: In addition to any other provisions required by the Limited Liability Company Law, the Articles of Organization of the 2nd Level Stockholder must include provisions to the following effect:

1. That all members of must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health; and
2. That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(c) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

F. Operating Agreement: The Operating Agreement of the 2nd Level Stockholder must include provisions to the following effect:

- a. That all members must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health;
- b. That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(c) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health; and
- c. That, if the 2nd Level Stockholder will be managed by managers who are not members, the following powers with respect to the ownership and operation of the Article 28 business corporation are reserved to the members of the 2nd Level Stockholder:
 - i. direct independent authority over the appointment or dismissal of hospital management-level employees and medical staff,
 - ii. approval of hospital operating and capital budgets and independent control of the books and records,
 - iii. adoption or approval of hospital operating policies and procedures and independent adoption of policies affecting the delivery of health care services,
 - iv. authority over the disposition of assets and authority to incur liabilities not normally associated with day-today operations,
 - v. approval of certificate of need applications filed by or on behalf of the hospital,
 - vi. approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law,
 - vii. approval of hospital contracts for management or for clinical services, and
 - viii. approval of settlements of administrative proceedings or litigation to which the hospital is a party, and that this provision may not be deleted, modified or amended without the prior approval of the Department of Health.

**New York State Department of Health
Certificate of Need Application**

Schedule 14A

SCHEDULE 14A CHECKLIST OF ATTACHMENTS

DOCUMENT	NA	Atta- ched	Attach- ment number	Electronic Document file name
Business Corporations:				
Stockholder affidavits	<input type="checkbox"/>	<input type="checkbox"/>		
Sample stock certificate	<input type="checkbox"/>	<input type="checkbox"/>		
Stockholder-LLCs	<input type="checkbox"/>	<input type="checkbox"/>		
List of members	<input type="checkbox"/>	<input type="checkbox"/>		
List of managers	<input type="checkbox"/>	<input type="checkbox"/>		
Articles of Organization	<input type="checkbox"/>	<input type="checkbox"/>		
Operating Agreement	<input type="checkbox"/>	<input type="checkbox"/>		

Schedule 14B Additional Legal Information Article 28 Limited Liability Companies

Instructions:

Article 28 applicants seeking establishment or combined establishment and construction approval that are *limited liability companies* must complete this Schedule in its entirety.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. Articles of Organization

Provisions to the following effect must be included:

- A. The name of the LLC which must contain either the words "Limited Liability Company" or the abbreviations "LLC" or "L.L.C.";
- B. Designation of the Secretary of State as agent of the LLC for service of process and an address to which the Secretary of State may mail a copy of any such process;
- C. How the LLC will be managed and that neither the management structure nor the provision setting forth such structure may be deleted, modified or amended without the prior approval of the New York State Department of Health;
- D. If the LLC will be managed by managers who are not members, that the manager may not be changed without the prior approval of the New York State Department of Health;
- E. That the powers and purposes of the LLC are limited to the ownership and operation of the Article 28 facility specifically named and the location of the facility by street address, city, town, village or locality and county;

N.B.: The powers and purposes may also include the operation of an Article 36 facility, an Article 40 facility and/or an Article 44 entity if the applicant has received all appropriate approvals and certifications.

- F. The location of the principal office of the LLC, which must be the same address as the facility; and
- G. That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of New York State Department of Health membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law.

II. Operating Agreement

Provisions to the following effect must be included:

- A. That the powers and purposes of the LLC are limited to the ownership and operation of the Article 28 facility specifically named and the location of the facility by street address, city, town, village or locality and county;
- B. That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law;
- C. How the LLC will be managed and that neither the management structure nor the provision setting forth such structure may be deleted, modified or amended without the prior approval of the Department of Health;
- D. If the LLC will be managed by managers who are not members, that the manager may not be changed without the prior approval of the Department of Health; and

New York State Department of Health Certificate of Need Application

Schedule 14B

E. If the LLC will be managed by managers who are not members, that the following powers are reserved to the members:

- (i) direct independent authority over the appointment or dismissal of hospital management-level employees and medical staff;
- (ii) approval of hospital operating and capital budgets and independent control of the books and records;
- (iii) adoption or approval of hospital operating policies and procedures and independent adoption of policies affecting the delivery of health care services;
- (iv) authority over the disposition of assets and authority to incur liabilities not normally associated with day-to-day operations;
- (v) approval of certificate of need applications filed by or on behalf of the hospital;
- (vi) approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law;
- (vii) approval of hospital contracts for management or for clinical services; and
- (viii) approval of settlements of administrative proceedings or litigation to which the hospital is a party.

III. Management

Will the applicant be managed by managers who are not members?

Yes No

If yes, attach the proposed Management Agreement between the applicant and the manager, which must meet the following requirements and be approved by the Commissioner.

A. The management agreement must include provisions to the following effect:

1. A description of the proposed roles of the members of the Article 28 LLC during the period of the proposed management contract, which must clearly reflect retention by the members of ongoing responsibility for statutory and regulatory compliance,
2. A provision that clearly recognizes that the responsibilities of the members of the Article 28 LLC are in no way obviated by entering into a management agreement and that any powers not specifically delegated to the manager through the provisions of the management agreement remain with the members,
3. The following powers are reserved to the members of the Article 28 LLC:
 - i. direct independent authority over the appointment or dismissal of hospital management-level employees and medical staff;
 - ii. approval of hospital operating and capital budgets and independent control of the books and records;
 - iii. adoption or approval of hospital operating policies and procedures and independent adoption of policies affecting the delivery of health care services;
 - iv. authority over the disposition of assets and authority to incur liabilities not normally associated with day-to-day operations;
 - v. approval of certificate of need applications filed by or on behalf of the hospital;
 - vi. approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law;

New York State Department of Health Certificate of Need Application

Schedule 14B

- vii. approval of hospital contracts for management or for clinical services; and
- viii. approval of settlements of administrative proceedings or litigation to which the hospital is a party; and that this provision may not be deleted; modified or amended without the prior approval of the Department of Health.

4. The following language:

"Notwithstanding any other provision in this contract, the facility remains responsible for ensuring that any service provided pursuant to this contract complies with all pertinent provisions of Federal, State and local statutes, rules and regulations.",

- 5. A plan for assuring maintenance of the fiscal stability, the level of services provided and the quality of care rendered by the facility during the term of the management agreement, and
- 6. Retention of authority by the members of the Article 28 LLC to discharge the manager and its employees from their positions at the facility with or without cause on not more than 90 days' notice. In such event, the facility shall notify the Department in writing at the time the manager is notified. The members of the Article 28 LLC must provide a plan for the operation of the facility subsequent to the discharge of the manager and such plan must be submitted with the notification to the Department.
- 7. That the manager may not be changed and its responsibilities and obligations under the management agreement may not be subcontracted, assigned or otherwise assumed without the prior approval of the Department of Health;

B. The members of the Article 28 LLC must retain sufficient authority and control to discharge its statutory and regulatory responsibility. The following powers must be specifically reserved to the Article 28 LLC members:

- i. Direct independent authority over the appointment or dismissal of the facility's management-level employees and medical staff,
- ii. Approval of the facility's operating and capital budgets and independent control of the books and records,
- iii. Adoption or approval of the facility's operating policies and procedures and independent adoption of policies affecting the delivery of health care services,
- iv. Authority over the disposition of assets and authority to incur liabilities not normally associated with day-to-day operations,
- v. Approval of certificate of need applications filed by or on behalf of the facility,
- vi. Approval of debt necessary to finance the cost of compliance with operational or physical plant standards required by law,
- vii. Approval of the facility's contracts for management or for clinical services, and
- viii. Approval of settlements of administrative proceedings or litigation to which the facility is a party;

C. An Article 28 LLC desiring to be managed by managers who are not members must submit a proposed written management agreement to the Department at least 60 days before the intended effective date, unless a shorter period is approved in writing by the Commissioner, due to extraordinary circumstances. In addition, the Article 28 LLC shall also submit, within the same time frame, the following:

- 1. Documentation demonstrating that the proposed manager holds all necessary approvals to do business within New York,

New York State Department of Health Certificate of Need Application

Schedule 14B

2. Documentation of the goals and objectives of the management arrangement, including a mechanism for periodic evaluation by the members of the Article 28 LLC of the effectiveness of the arrangement in meeting those goals and objectives,
3. Evidence of the manager's financial stability,
4. Information necessary to determine that the character and competence of the proposed manager, and its principals, officers and directors, are satisfactory, including evidence that all facilities it has managed within New York have provided a substantially consistent high level of care in accordance with applicable statutes and regulations, during the term of any management agreement contract or the period they held an operating certificate, and
5. Evidence that it is financially feasible for the facility to enter into the proposed management agreement for the term of the agreement and for a period of one year following expiration, recognizing that the costs of the agreement are subject to all applicable provisions of Part 86 of 10 NYCRR. To demonstrate evidence of financial feasibility, the facility shall submit projected operating and capital budgets for the required periods. Such budgets shall be consistent with previous certified financial statements and be subject to future audits;

D. During the period between a facility's submission of a request for initial approval of a management contract and disposition of that request, a facility may not enter into any arrangement for management contract services other than a written interim consultative agreement with the proposed manager. Any interim agreement must be consistent with these provisions and submitted to the Department no later than five days after its effective date.

E. The term of a management contract shall be limited to three years and may be renewed for additional periods not to exceed three years only when authorized by the Commissioner. The Commissioner shall approve an application for renewal provided that compliance with this section and the following provisions can be demonstrated:

1. That the goals and objectives of the arrangement have been met within specified time frames,
2. That the quality of care provided by the facility during the term of the arrangement has been maintained or has improved, and
3. That the level of service to meet community needs and patient access to care and services has been maintained or improved.

IV. Membership Certificates

Does the applicant intend to issue membership certificates?

Yes No

If yes, attach a sample membership certificate including the following legend:

"That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law."

V. Business Corporation Members

Does the applicant have any members which are business corporations?

Yes No

If yes:

A. Identify each business corporation-member (2nd level member) in the following table:

—

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

2 nd Level Member:	Address

B. For each business corporation-member, attach the following documentation:

1. A list providing the name, stock interest and percentage ownership interest in the 2nd Level Member and indirect ownership percentage in the Article 28 LLC for each stockholder. (Indirect ownership is determined by multiplying the percentage of ownership in each entity. For example, if A owns 10 percent of a 2nd Level Member which itself owns 80 percent of an Article 28 LLC, A owns an indirect ownership interest of eight percent in the Article 28 LLC.);

N.B.: All stockholders of the 2nd Level Member must be natural persons.

2. A list providing the name and position held for each officer and director; and
3. Certificate of Incorporation. In addition to any other provisions required by the Business Corporation Law, the Certificate of Incorporation of the 2nd Level Member must include provisions to the following effect:
 - a. That all stockholders must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health; and
 - b. That notwithstanding anything to the contrary in the Certificate of Incorporation or the Bylaws, transfers, assignments or other dispositions of ownership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

VI. General or Registered Limited Liability Partnership Members

Does the applicant have any members which are general or registered limited liability partnerships?

Yes No

If yes:

A. Identify each partnership-member (2nd level member) in the following table:

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

2 nd Level Member:	Address

B. For each partnership-member, attach the following documentation:

- 1 A list providing the name, partnership interest and percentage ownership interest in the 2nd Level Member and indirect ownership percentage in the Article 28 LLC for each partner. (Indirect ownership is determined by multiplying the percentage of ownership in each entity. For example, if A owns 10 percent of a 2nd Level Member which itself owns 80 percent of an Article 28 LLC, A owns an indirect ownership interest of eight percent in the Article 28 LLC.); and

N.B.: All partners of the 2nd Level Member must be natural persons.

- 2 The Partnership Agreement of the 2nd Level Member must include provisions to the following effect:
 - a. That all partners must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health;
 - b. That transfers, assignments or other dispositions of partnership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

VII. Not-for-Profit Corporation Members

Does the applicant have any members which are not-for-profit corporations?

Yes No

If yes:

A. Identify each not-for-profit corporation-member (2nd Level Member):

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

2nd Level Member:	Address

B. For each not-for-profit corporation-member, attach the following documentation:

- 1 A list providing the name and interest or position held for each member, director, and officer;
- 2 Certificate of Incorporation; and
- 3 Bylaws.

C. Are any of the following powers reserved to any of the corporation's member(s):

Appointment or dismissal of hospital management-level employees and medical staff, except the election or removal of corporate officers.

Yes No

Member:

Approval of hospital operating and capital budgets.

Yes No

Member:

Adoption or approval of hospital operating policies and procedures.

Yes No

Member:

• • Approval of certificate of need applications filed by or on behalf of the hospital

Yes No

Member:

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

If yes, attach documentation of approval for this application.

Approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law.

Yes No

Member:

Approval of hospital contracts for management or for clinical services.

Yes No

Member:

Approval of settlements of administrative proceedings or litigation to which the hospital is a party, except approval of settlements of litigation that exceed insurance coverage or any applicable self-insurance fund.

Yes No

Member:

N.B.: If any of the corporation's members have been or will be delegated any of these powers, the member itself must have or obtain establishment approval as an active 2nd level member. If so, submit Schedule 2A for each individual listed in item B(1) above. Directors who contribute capital in support of the project must also submit Schedule 2B. Directors who do not contribute capital in support of the project must also submit Schedule 2C.

VIII. Limited Liability Company Members

Does the applicant have any members which are also LLCs?

Yes No

If yes:

A. In the following table, identify each LLC 2nd level member :

2 nd Level Member	Address

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

2 nd Level Member	Address

B. For each LLC-member, attach the following documentation:

- 1 A list providing the name, membership interest and percentage ownership interest in the 2nd Level Member and indirect ownership percentage in the Article 28 LLC. (Indirect ownership is determined by multiplying the percentage of ownership in each entity. For example, if A owns 10 percent of a 2nd Level Member which itself owns 80 percent of an Article 28 LLC, A owns an indirect ownership interest of eight percent in the Article 28 LLC.)

N.B.: All members of the 2nd Level Member must be natural persons.

- 2 A list of all managers;
- 3 Articles of Organization; and
- 4 Operating Agreement.

C. In addition to any other provisions required by the Limited Liability Company Law, the Articles of Organization of the 2nd Level Member must include provisions to the following effect:

- 1 That all members must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health;
- 2 That transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

D. The Operating Agreement of the 2nd Level Member must include provisions to the following effect:

- 1 That all members must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health,
- 2 That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights

New York State Department of Health Certificate of Need Application

Schedule 14B

must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health; and

- 3 That, if the 2nd Level Member will be managed by managers who are not members, that the following powers with respect to the ownership and operation of the Article 28 LLC are reserved to the members of the 2nd Level Member:
 - (i) direct independent authority over the appointment or dismissal of hospital management-level employees and medical staff;
 - (ii) approval of hospital operating and capital budgets and independent control of the books and records;
 - (iii) adoption or approval of hospital operating policies and procedures and independent adoption of policies affecting the delivery of health care services;
 - (iv) authority over the disposition of assets and authority to incur liabilities not normally associated with day-to-day operations;
 - (v) approval of certificate of need applications filed by or on behalf of the hospital;
 - (vi) (approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law;
 - (vii) approval of hospital contracts for management or for clinical services; and
 - (viii) approval of settlements of administrative proceedings or litigation to which the hospital is a party; and that this provision may not be deleted; modified or amended without the prior approval of the Department of Health.

SCHEDULE 14B CHECKLIST OF ATTACHMENTS

DOCUMENT	NA	Atta- ched	Attach- ment number	Electronic Document file name
Management Agreement	<input type="checkbox"/>	<input type="checkbox"/>		
Sample membership certificate	<input type="checkbox"/>	<input type="checkbox"/>		
Business Corporation- Members				
Members	<input type="checkbox"/>	<input type="checkbox"/>		
List of stockholders	<input type="checkbox"/>	<input type="checkbox"/>		
List of officers and directors	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>		
Not-for-Profit Corporation- Members				
Members	<input type="checkbox"/>	<input type="checkbox"/>		
List of members	<input type="checkbox"/>	<input type="checkbox"/>		
List of officers and directors	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>		
Bylaws	<input type="checkbox"/>	<input type="checkbox"/>		
Documentation of approval for the application	<input type="checkbox"/>	<input type="checkbox"/>		
Limited Liability Company - Members				
Members	<input type="checkbox"/>	<input type="checkbox"/>		
List of members	<input type="checkbox"/>	<input type="checkbox"/>		
List of managers	<input type="checkbox"/>	<input type="checkbox"/>		
Articles of Organization	<input type="checkbox"/>	<input type="checkbox"/>		
Operating Agreement	<input type="checkbox"/>	<input type="checkbox"/>		
General or Registered Limited Liability Company - Members				
List of Partners	<input type="checkbox"/>	<input type="checkbox"/>		
Partnership Agreement	<input type="checkbox"/>	<input type="checkbox"/>		

Schedule 14c Additional Legal Information Article 28 Not-For-Profit Corporations

Instructions:

Article 28 applicants seeking establishment or combined establishment and construction approval that are *not-for-profit corporations* must complete this Schedule in its entirety.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. Directors

A. Number of director positions set by bylaws or otherwise fixed:

(See Not-for-Profit Corporation Law 702.)

B. Number of director positions currently filled:

C. Explain how and by whom the directors will be appointed or elected:

The FSL Board shall be reconstituted so that the members of the MVHS Board, other than the Chief Executive Officer of MVHS, shall serve ex officio with full voting power on the FSL Board along with one additional Director appointed by such ex officio Directors who may not be serving concurrently with the MVHS Board (the "Special FSL Director"). The Special FSL Director shall be treated as if he or she is a member of the fourth class of Directors of the MVHS Board on the FSL Board and shall therefore serve an initial four (4) year term beginning as of the Affiliation Date and be subject to the same term limits to which the Directors on the MVHS Board are subject. For the avoidance of doubt, prior service on the Boards of MVN, SEMC, FSL, any SEMC Affiliate, any FSL Affiliate, or otherwise prior to the Affiliation Date shall not be included when determining term limits of the Special FSL Director.

The Chief Executive Officer of MVHS shall serve as an ex officio, non-voting Director of FSL. The Chairperson and officers of MVHS shall serve as ex officio officers of the FSL Board in the same office as they occupy on the MVHS Board. The Board will be self-perpetuating, following the rotation schedule of the MVHS Board as outlined in the Definitive Agreement, section III.3.1(6).

II. Members

A. In the following table, identify each member of the applicant:

Member:	Address
Mohawk Valley Health System	1656 Champlin Avenue, Utica, NY 13502

**New York State Department of Health
Certificate of Need Application**

Schedule 14C

B. For each member, attach the following documentation:

1. A list of the name and position held for each officer and director;
2. Certificate of Incorporation; and
3. Bylaws.

III. Reserved Powers

A. Are or will any of the following powers be reserved to any of the applicant's member(s):

Appointment or dismissal of hospital management-level employees and medical staff, except the election or removal of corporate officers.

Yes No

Member:

Approval of hospital operating and capital budgets.

Yes No

Member:

Adoption or approval of hospital operating policies and procedures.

Yes No

Member:

Approval of certificate of need applications filed by or on behalf of the hospital.

Yes No

Member:

If yes, attach documentation of approval for this application.

Approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law.

Yes No

Member:

Approval of hospital contracts for management or for clinical services.

**New York State Department of Health
Certificate of Need Application**

Schedule 14C

Yes No

Member:

Approval of settlements of administrative proceedings or litigation to which the hospital is a party, except approval of settlements of litigation that exceed insurance coverage or any applicable self-insurance fund.

Yes No

Member:

N.B.: If any of the applicant's members have been or will be delegated any of these powers, the member itself must have or obtain establishment approval. If so, submit Schedule 2a for each individual listed in item B(1) above. Directors who contribute capital to the project must also submit Schedule 2b. Directors who do not contribute capital to the project must also submit Schedule 2c.

B. Do any of the applicant's members reserve the power to approve certificate of need applications to ensure that they conform to the facility's stated mission and philosophy?

Yes No

Member:

If yes, attach documentation of approval for this application.

**New York State Department of Health
Certificate of Need Application**

Schedule 14C

SCHEDULE 14C CHECKLIST OF ATTACHMENTS

DOCUMENT	NA	Attached	Attachment number	Electronic Document file name
Members	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
List of officers and directors	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3B.1	Attach_3B.1_FSL_Proposed_Board_Roster.pdf
Certificate of Incorporation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4B.1	Attach_4B.1_FSL_Restated_COI.pdf
Bylaws	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5B.1	Attach_5B.1_FSL_Restated_Bylaws.pdf

**New York State Department of Health
Certificate of Need Application**

Schedule 14D

Schedule 14D Additional Legal Information - Article 28 General or Registered Limited Liability Partnerships

Instructions:

1. The language in Section A of this schedule must be included in the Partnership Agreements for Article 28 applicants seeking establishment or combined establishment and approval that are partnerships.
2. The language in section B of this schedule must be included in the Certificate of Registration for Article 28 applicants seeking establishment or combined establishment and construction approval that are registered limited liability partnerships.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

- A. Partnership Agreement – The language in section 600.1(5)(ii) of 10NYCRR must be included in its entirety for general or registered limited liability partnerships.
- B. Certificate of Registration – must include provisions to the following effect::
 1. That the powers and purposes specifically include the ownership and operation of the facility and the name of the facility; and
 2. That, notwithstanding anything to the contrary in the Certificate of Partnership agreement, transfers, assignments or other dispositions of partnership interests or voting rights must be effectuated in accordance with section 2801-4(b) of the PHL.

SCHEDULE 14D CHECKLIST OF ATTACHMENTS

DOCUMENT	NA	Attached	Attach- ment number	Electronic Document file name
Certificate of Registration	<input type="checkbox"/>	<input type="checkbox"/>		

Schedule 14 - Additional Legal Information - Article 28

Contents:

- **Schedule 14A - Additional Legal Information - Article 28
Business Corporations and General Partnerships**
- **Schedule 14B - Additional Legal Information Article 28 Limited
Liability Companies**
- **Schedule 14C - Additional Legal Information Article 28 Not-For-
Profit Corporations**
- **Schedule 14D - Additional Legal Information Article 28 General
and Limited Liability Partnerships**

**New York State Department of Health
Certificate of Need Application**

Schedule 14A

Schedule 14A - Additional Legal Information - Article 28 Business Corporations

Instructions:

Article 28 applicants seeking establishment or combined establishment and construction approval that are business corporations must complete this schedule.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

Business Corporations:

A. Affidavits: Attach the originals of stockholder affidavits from each stockholder including the specific information set forth in 10 NYCRR 620.1(b).

B. Stock Certificate: Attach a sample stock certificate including the specific language set forth in 10 NYCRR 620.1(a)(4).

N.B.: The Certificate of Incorporation must comply with the language requirements set forth in 10 NYCRR 620.1(a).

C. Limited Liability Corporation Stockholders: Does the applicant have any stockholders that are limited liability companies (LLCs)?

Yes No

If yes, identify each LLC-stockholder in the following table:

Name of LLC Shareholder:	Address

D. Documentation for LLC Stockholders: For each LLC-stockholder (2nd Level Stockholder), attach the following documentation:

1. A list providing the name, membership interest and percentage ownership interest in the 2nd Level Stockholder and indirect ownership percentage in the Article 28 business corporation. (Indirect ownership is determined by multiplying the percentage of ownership in each entity. For example, if A owns 10 percent of a 2nd Level Stockholder which itself owns 80 percent of an Article 28 business corporation, A owns an indirect ownership interest of eight percent in the Article 28 business corporation.) for each member;

N.B.: All members of the 2nd Level Stockholder must be natural persons.

2. A list of all managers;
3. Articles of Organization; and
4. Operating Agreement.

New York State Department of Health Certificate of Need Application

Schedule 14A

E. Articles of Organization: In addition to any other provisions required by the Limited Liability Company Law, the Articles of Organization of the 2nd Level Stockholder must include provisions to the following effect:

1. That all members of must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health; and
2. That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(c) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

F. Operating Agreement: The Operating Agreement of the 2nd Level Stockholder must include provisions to the following effect:

- a. That all members must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health;
- b. That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(c) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health; and
- c. That, if the 2nd Level Stockholder will be managed by managers who are not members, the following powers with respect to the ownership and operation of the Article 28 business corporation are reserved to the members of the 2nd Level Stockholder:
 - i. direct independent authority over the appointment or dismissal of hospital management-level employees and medical staff,
 - ii. approval of hospital operating and capital budgets and independent control of the books and records,
 - iii. adoption or approval of hospital operating policies and procedures and independent adoption of policies affecting the delivery of health care services,
 - iv. authority over the disposition of assets and authority to incur liabilities not normally associated with day-today operations,
 - v. approval of certificate of need applications filed by or on behalf of the hospital,
 - vi. approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law,
 - vii. approval of hospital contracts for management or for clinical services, and
 - viii. approval of settlements of administrative proceedings or litigation to which the hospital is a party, and that this provision may not be deleted, modified or amended without the prior approval of the Department of Health.

**New York State Department of Health
Certificate of Need Application**

Schedule 14A

SCHEDULE 14A CHECKLIST OF ATTACHMENTS

DOCUMENT	NA	Atta- ched	Attach- ment number	Electronic Document file name
Business Corporations:				
Stockholder affidavits	<input type="checkbox"/>	<input type="checkbox"/>		
Sample stock certificate	<input type="checkbox"/>	<input type="checkbox"/>		
Stockholder-LLCs	<input type="checkbox"/>	<input type="checkbox"/>		
List of members	<input type="checkbox"/>	<input type="checkbox"/>		
List of managers	<input type="checkbox"/>	<input type="checkbox"/>		
Articles of Organization	<input type="checkbox"/>	<input type="checkbox"/>		
Operating Agreement	<input type="checkbox"/>	<input type="checkbox"/>		

Schedule 14B Additional Legal Information Article 28 Limited Liability Companies

Instructions:

Article 28 applicants seeking establishment or combined establishment and construction approval that are *limited liability companies* must complete this Schedule in its entirety.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. Articles of Organization

Provisions to the following effect must be included:

- A. The name of the LLC which must contain either the words "Limited Liability Company" or the abbreviations "LLC" or "L.L.C.";
- B. Designation of the Secretary of State as agent of the LLC for service of process and an address to which the Secretary of State may mail a copy of any such process;
- C. How the LLC will be managed and that neither the management structure nor the provision setting forth such structure may be deleted, modified or amended without the prior approval of the New York State Department of Health;
- D. If the LLC will be managed by managers who are not members, that the manager may not be changed without the prior approval of the New York State Department of Health;
- E. That the powers and purposes of the LLC are limited to the ownership and operation of the Article 28 facility specifically named and the location of the facility by street address, city, town, village or locality and county;

N.B.: The powers and purposes may also include the operation of an Article 36 facility, an Article 40 facility and/or an Article 44 entity if the applicant has received all appropriate approvals and certifications.

- F. The location of the principal office of the LLC, which must be the same address as the facility; and
- G. That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of New York State Department of Health membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law.

II. Operating Agreement

Provisions to the following effect must be included:

- A. That the powers and purposes of the LLC are limited to the ownership and operation of the Article 28 facility specifically named and the location of the facility by street address, city, town, village or locality and county;
- B. That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law;
- C. How the LLC will be managed and that neither the management structure nor the provision setting forth such structure may be deleted, modified or amended without the prior approval of the Department of Health;
- D. If the LLC will be managed by managers who are not members, that the manager may not be changed without the prior approval of the Department of Health; and

New York State Department of Health Certificate of Need Application

Schedule 14B

E. If the LLC will be managed by managers who are not members, that the following powers are reserved to the members:

- (i) direct independent authority over the appointment or dismissal of hospital management-level employees and medical staff;
- (ii) approval of hospital operating and capital budgets and independent control of the books and records;
- (iii) adoption or approval of hospital operating policies and procedures and independent adoption of policies affecting the delivery of health care services;
- (iv) authority over the disposition of assets and authority to incur liabilities not normally associated with day-to-day operations;
- (v) approval of certificate of need applications filed by or on behalf of the hospital;
- (vi) approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law;
- (vii) approval of hospital contracts for management or for clinical services; and
- (viii) approval of settlements of administrative proceedings or litigation to which the hospital is a party.

III. Management

Will the applicant be managed by managers who are not members?

Yes No

If yes, attach the proposed Management Agreement between the applicant and the manager, which must meet the following requirements and be approved by the Commissioner.

A. The management agreement must include provisions to the following effect:

1. A description of the proposed roles of the members of the Article 28 LLC during the period of the proposed management contract, which must clearly reflect retention by the members of ongoing responsibility for statutory and regulatory compliance,
2. A provision that clearly recognizes that the responsibilities of the members of the Article 28 LLC are in no way obviated by entering into a management agreement and that any powers not specifically delegated to the manager through the provisions of the management agreement remain with the members,
3. The following powers are reserved to the members of the Article 28 LLC:
 - i. direct independent authority over the appointment or dismissal of hospital management-level employees and medical staff;
 - ii. approval of hospital operating and capital budgets and independent control of the books and records;
 - iii. adoption or approval of hospital operating policies and procedures and independent adoption of policies affecting the delivery of health care services;
 - iv. authority over the disposition of assets and authority to incur liabilities not normally associated with day-to-day operations;
 - v. approval of certificate of need applications filed by or on behalf of the hospital;
 - vi. approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law;

New York State Department of Health Certificate of Need Application

Schedule 14B

- vii. approval of hospital contracts for management or for clinical services; and
- viii. approval of settlements of administrative proceedings or litigation to which the hospital is a party; and that this provision may not be deleted; modified or amended without the prior approval of the Department of Health.

4. The following language:

"Notwithstanding any other provision in this contract, the facility remains responsible for ensuring that any service provided pursuant to this contract complies with all pertinent provisions of Federal, State and local statutes, rules and regulations.",

- 5. A plan for assuring maintenance of the fiscal stability, the level of services provided and the quality of care rendered by the facility during the term of the management agreement, and
- 6. Retention of authority by the members of the Article 28 LLC to discharge the manager and its employees from their positions at the facility with or without cause on not more than 90 days' notice. In such event, the facility shall notify the Department in writing at the time the manager is notified. The members of the Article 28 LLC must provide a plan for the operation of the facility subsequent to the discharge of the manager and such plan must be submitted with the notification to the Department.
- 7. That the manager may not be changed and its responsibilities and obligations under the management agreement may not be subcontracted, assigned or otherwise assumed without the prior approval of the Department of Health;

B. The members of the Article 28 LLC must retain sufficient authority and control to discharge its statutory and regulatory responsibility. The following powers must be specifically reserved to the Article 28 LLC members:

- i. Direct independent authority over the appointment or dismissal of the facility's management-level employees and medical staff,
- ii. Approval of the facility's operating and capital budgets and independent control of the books and records,
- iii. Adoption or approval of the facility's operating policies and procedures and independent adoption of policies affecting the delivery of health care services,
- iv. Authority over the disposition of assets and authority to incur liabilities not normally associated with day-to-day operations,
- v. Approval of certificate of need applications filed by or on behalf of the facility,
- vi. Approval of debt necessary to finance the cost of compliance with operational or physical plant standards required by law,
- vii. Approval of the facility's contracts for management or for clinical services, and
- viii. Approval of settlements of administrative proceedings or litigation to which the facility is a party;

C. An Article 28 LLC desiring to be managed by managers who are not members must submit a proposed written management agreement to the Department at least 60 days before the intended effective date, unless a shorter period is approved in writing by the Commissioner, due to extraordinary circumstances. In addition, the Article 28 LLC shall also submit, within the same time frame, the following:

- 1. Documentation demonstrating that the proposed manager holds all necessary approvals to do business within New York,

New York State Department of Health Certificate of Need Application

Schedule 14B

2. Documentation of the goals and objectives of the management arrangement, including a mechanism for periodic evaluation by the members of the Article 28 LLC of the effectiveness of the arrangement in meeting those goals and objectives,
3. Evidence of the manager's financial stability,
4. Information necessary to determine that the character and competence of the proposed manager, and its principals, officers and directors, are satisfactory, including evidence that all facilities it has managed within New York have provided a substantially consistent high level of care in accordance with applicable statutes and regulations, during the term of any management agreement contract or the period they held an operating certificate, and
5. Evidence that it is financially feasible for the facility to enter into the proposed management agreement for the term of the agreement and for a period of one year following expiration, recognizing that the costs of the agreement are subject to all applicable provisions of Part 86 of 10 NYCRR. To demonstrate evidence of financial feasibility, the facility shall submit projected operating and capital budgets for the required periods. Such budgets shall be consistent with previous certified financial statements and be subject to future audits;

D. During the period between a facility's submission of a request for initial approval of a management contract and disposition of that request, a facility may not enter into any arrangement for management contract services other than a written interim consultative agreement with the proposed manager. Any interim agreement must be consistent with these provisions and submitted to the Department no later than five days after its effective date.

E. The term of a management contract shall be limited to three years and may be renewed for additional periods not to exceed three years only when authorized by the Commissioner. The Commissioner shall approve an application for renewal provided that compliance with this section and the following provisions can be demonstrated:

1. That the goals and objectives of the arrangement have been met within specified time frames,
2. That the quality of care provided by the facility during the term of the arrangement has been maintained or has improved, and
3. That the level of service to meet community needs and patient access to care and services has been maintained or improved.

IV. Membership Certificates

Does the applicant intend to issue membership certificates?

Yes No

If yes, attach a sample membership certificate including the following legend:

"That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law."

V. Business Corporation Members

Does the applicant have any members which are business corporations?

Yes No

If yes:

A. Identify each business corporation-member (2nd level member) in the following table:

—

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

2 nd Level Member:	Address

B. For each business corporation-member, attach the following documentation:

1. A list providing the name, stock interest and percentage ownership interest in the 2nd Level Member and indirect ownership percentage in the Article 28 LLC for each stockholder. (Indirect ownership is determined by multiplying the percentage of ownership in each entity. For example, if A owns 10 percent of a 2nd Level Member which itself owns 80 percent of an Article 28 LLC, A owns an indirect ownership interest of eight percent in the Article 28 LLC.);

N.B.: All stockholders of the 2nd Level Member must be natural persons.

2. A list providing the name and position held for each officer and director; and
3. Certificate of Incorporation. In addition to any other provisions required by the Business Corporation Law, the Certificate of Incorporation of the 2nd Level Member must include provisions to the following effect:
 - a. That all stockholders must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health; and
 - b. That notwithstanding anything to the contrary in the Certificate of Incorporation or the Bylaws, transfers, assignments or other dispositions of ownership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

VI. General or Registered Limited Liability Partnership Members

Does the applicant have any members which are general or registered limited liability partnerships?

Yes No

If yes:

A. Identify each partnership-member (2nd level member) in the following table:

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

2 nd Level Member:	Address

B. For each partnership-member, attach the following documentation:

- 1 A list providing the name, partnership interest and percentage ownership interest in the 2nd Level Member and indirect ownership percentage in the Article 28 LLC for each partner. (Indirect ownership is determined by multiplying the percentage of ownership in each entity. For example, if A owns 10 percent of a 2nd Level Member which itself owns 80 percent of an Article 28 LLC, A owns an indirect ownership interest of eight percent in the Article 28 LLC.); and

N.B.: All partners of the 2nd Level Member must be natural persons.

- 2 The Partnership Agreement of the 2nd Level Member must include provisions to the following effect:
 - a. That all partners must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health;
 - b. That transfers, assignments or other dispositions of partnership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

VII. Not-for-Profit Corporation Members

Does the applicant have any members which are not-for-profit corporations?

Yes No

If yes:

A. Identify each not-for-profit corporation-member (2nd Level Member):

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

2nd Level Member:	Address

B. For each not-for-profit corporation-member, attach the following documentation:

- 1 A list providing the name and interest or position held for each member, director, and officer;
- 2 Certificate of Incorporation; and
- 3 Bylaws.

C. Are any of the following powers reserved to any of the corporation's member(s):

Appointment or dismissal of hospital management-level employees and medical staff, except the election or removal of corporate officers.

Yes No

Member:

Approval of hospital operating and capital budgets.

Yes No

Member:

Adoption or approval of hospital operating policies and procedures.

Yes No

Member:

• • Approval of certificate of need applications filed by or on behalf of the hospital

Yes No

Member:

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

If yes, attach documentation of approval for this application.

Approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law.

Yes No

Member:

Approval of hospital contracts for management or for clinical services.

Yes No

Member:

Approval of settlements of administrative proceedings or litigation to which the hospital is a party, except approval of settlements of litigation that exceed insurance coverage or any applicable self-insurance fund.

Yes No

Member:

N.B.: If any of the corporation's members have been or will be delegated any of these powers, the member itself must have or obtain establishment approval as an active 2nd level member. If so, submit Schedule 2A for each individual listed in item B(1) above. Directors who contribute capital in support of the project must also submit Schedule 2B. Directors who do not contribute capital in support of the project must also submit Schedule 2C.

VIII. Limited Liability Company Members

Does the applicant have any members which are also LLCs?

Yes No

If yes:

A. In the following table, identify each LLC 2nd level member :

2 nd Level Member	Address

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

2 nd Level Member	Address

B. For each LLC-member, attach the following documentation:

- 1 A list providing the name, membership interest and percentage ownership interest in the 2nd Level Member and indirect ownership percentage in the Article 28 LLC. (Indirect ownership is determined by multiplying the percentage of ownership in each entity. For example, if A owns 10 percent of a 2nd Level Member which itself owns 80 percent of an Article 28 LLC, A owns an indirect ownership interest of eight percent in the Article 28 LLC.)

N.B.: All members of the 2nd Level Member must be natural persons.

- 2 A list of all managers;
- 3 Articles of Organization; and
- 4 Operating Agreement.

C. In addition to any other provisions required by the Limited Liability Company Law, the Articles of Organization of the 2nd Level Member must include provisions to the following effect:

- 1 That all members must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health;
- 2 That transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

D. The Operating Agreement of the 2nd Level Member must include provisions to the following effect:

- 1 That all members must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health,
- 2 That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights

New York State Department of Health Certificate of Need Application

Schedule 14B

must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health; and

- 3 That, if the 2nd Level Member will be managed by managers who are not members, that the following powers with respect to the ownership and operation of the Article 28 LLC are reserved to the members of the 2nd Level Member:
 - (i) direct independent authority over the appointment or dismissal of hospital management-level employees and medical staff;
 - (ii) approval of hospital operating and capital budgets and independent control of the books and records;
 - (iii) adoption or approval of hospital operating policies and procedures and independent adoption of policies affecting the delivery of health care services;
 - (iv) authority over the disposition of assets and authority to incur liabilities not normally associated with day-to-day operations;
 - (v) approval of certificate of need applications filed by or on behalf of the hospital;
 - (vi) (approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law;
 - (vii) approval of hospital contracts for management or for clinical services; and
 - (viii) approval of settlements of administrative proceedings or litigation to which the hospital is a party; and that this provision may not be deleted; modified or amended without the prior approval of the Department of Health.

SCHEDULE 14B CHECKLIST OF ATTACHMENTS

DOCUMENT	NA	Atta- ched	Attach- ment number	Electronic Document file name
Management Agreement	<input type="checkbox"/>	<input type="checkbox"/>		
Sample membership certificate	<input type="checkbox"/>	<input type="checkbox"/>		
Business Corporation- Members				
Members	<input type="checkbox"/>	<input type="checkbox"/>		
List of stockholders	<input type="checkbox"/>	<input type="checkbox"/>		
List of officers and directors	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>		
Not-for-Profit Corporation- Members				
Members	<input type="checkbox"/>	<input type="checkbox"/>		
List of members	<input type="checkbox"/>	<input type="checkbox"/>		
List of officers and directors	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>		
Bylaws	<input type="checkbox"/>	<input type="checkbox"/>		
Documentation of approval for the application	<input type="checkbox"/>	<input type="checkbox"/>		
Limited Liability Company - Members				
Members	<input type="checkbox"/>	<input type="checkbox"/>		
List of members	<input type="checkbox"/>	<input type="checkbox"/>		
List of managers	<input type="checkbox"/>	<input type="checkbox"/>		
Articles of Organization	<input type="checkbox"/>	<input type="checkbox"/>		
Operating Agreement	<input type="checkbox"/>	<input type="checkbox"/>		
General or Registered Limited Liability Company - Members				
List of Partners	<input type="checkbox"/>	<input type="checkbox"/>		
Partnership Agreement	<input type="checkbox"/>	<input type="checkbox"/>		

Schedule 14c Additional Legal Information Article 28 Not-For-Profit Corporations

Instructions:

Article 28 applicants seeking establishment or combined establishment and construction approval that are *not-for-profit corporations* must complete this Schedule in its entirety.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. Directors

A. Number of director positions set by bylaws or otherwise fixed:

(See Not-for-Profit Corporation Law 702.)

B. Number of director positions currently filled:

C. Explain how and by whom the directors will be appointed or elected:

The current Directors of MVN shall resign or be removed and shall be replaced by the initial MVHS Board, which shall consist of eighteen (18) Directors, eight (8) of whom shall be selected initially by FSL and eight (8) of whom shall be selected initially by SEMC. The president of the medical staff of FSL and the president of the medical staff of SEMC shall each serve ex officio as a voting director of MVHS. In addition to such initial Directors, the Chief Executive Officer of MVHS shall serve ex officio as a non-voting Director of MVHS. To facilitate the Affiliation, the current Directors of MVN shall appoint the initial MVHS Board on or immediately prior to the Affiliation Date.

After the Affiliation Date, the MVHS Board shall be self-perpetuating and any and all future Director vacancies on the MVHS Board shall be filled by the remaining Directors of MVHS; provided, however, that the MVHS Board must always continue to include at least two physicians as Directors.

The MVHS Directors shall be divided into four (4) classes having initial terms of one (1) year, two (2) years, three (3) years, and four (4) years respectively. The initial Directors shall be assigned to the four (4) classes in a manner that results in each class having an equal number of people from among the Directors who were selected by FSL and the Directors who were selected by SEMC.

The initial Chairperson of the MVHS Board shall be designated by SEMC and shall serve an initial term of one (1) year. The other officers of the initial MVHS Board shall be elected by the initial MVHS Board at its organizational meeting in accordance with the initial bylaws of MVHS.

II. Members

A. In the following table, identify each member of the applicant:

Member:	Address

**New York State Department of Health
Certificate of Need Application**

Schedule 14C

B. For each member, attach the following documentation:

1. A list of the name and position held for each officer and director;
2. Certificate of Incorporation; and
3. Bylaws.

III. Reserved Powers

A. Are or will any of the following powers be reserved to any of the applicant's member(s):

Appointment or dismissal of hospital management-level employees and medical staff, except the election or removal of corporate officers.

Yes No

Member:

Approval of hospital operating and capital budgets.

Yes No

Member:

Adoption or approval of hospital operating policies and procedures.

Yes No

Member:

Approval of certificate of need applications filed by or on behalf of the hospital.

Yes No

Member:

If yes, attach documentation of approval for this application.

Approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law.

**New York State Department of Health
Certificate of Need Application**

Schedule 14C

Yes No

Member:

Approval of hospital contracts for management or for clinical services.

Yes No

Member:

Approval of settlements of administrative proceedings or litigation to which the hospital is a party, except approval of settlements of litigation that exceed insurance coverage or any applicable self-insurance fund.

Yes No

Member:

N.B.: If any of the applicant's members have been or will be delegated any of these powers, the member itself must have or obtain establishment approval. If so, submit Schedule 2a for each individual listed in item B(1) above. Directors who contribute capital to the project must also submit Schedule 2b. Directors who do not contribute capital to the project must also submit Schedule 2c.

B. Do any of the applicant's members reserve the power to approve certificate of need applications to ensure that they conform to the facility's stated mission and philosophy?

Yes No

Member:

If yes, attach documentation of approval for this application.

**New York State Department of Health
Certificate of Need Application**

Schedule 14C

SCHEDULE 14C CHECKLIST OF ATTACHMENTS

DOCUMENT	NA	Atta- ched	Attach- ment number	Electronic Document file name
Members	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
List of officers and directors	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3A.1	Attach_3A.1_MVHS_Pr oposed_Board_Roster. pdf
Certificate of Incorporation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4A.1	Attach_4A.1_MVHS_C ertificate_of_Incorporati on.pdf
Bylaws	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5A.1	Attach_5A.1_MVHS_By laws.pdf

**New York State Department of Health
Certificate of Need Application**

Schedule 14D

Schedule 14D Additional Legal Information - Article 28 General or Registered Limited Liability Partnerships

Instructions:

1. The language in Section A of this schedule must be included in the Partnership Agreements for Article 28 applicants seeking establishment or combined establishment and approval that are partnerships.
2. The language in section B of this schedule must be included in the Certificate of Registration for Article 28 applicants seeking establishment or combined establishment and construction approval that are registered limited liability partnerships.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

- A. Partnership Agreement – The language in section 600.1(5)(ii) of 10NYCRR must be included in its entirety for general or registered limited liability partnerships.
- B. Certificate of Registration – must include provisions to the following effect::
 1. That the powers and purposes specifically include the ownership and operation of the facility and the name of the facility; and
 2. That, notwithstanding anything to the contrary in the Certificate of Partnership agreement, transfers, assignments or other dispositions of partnership interests or voting rights must be effectuated in accordance with section 2801-4(b) of the PHL.

SCHEDULE 14D CHECKLIST OF ATTACHMENTS

DOCUMENT	NA	Attached	Attach- ment number	Electronic Document file name
Certificate of Registration	<input type="checkbox"/>	<input type="checkbox"/>		

Schedule 14 - Additional Legal Information - Article 28

Contents:

- **Schedule 14A - Additional Legal Information - Article 28
Business Corporations and General Partnerships**
- **Schedule 14B - Additional Legal Information Article 28 Limited
Liability Companies**
- **Schedule 14C - Additional Legal Information Article 28 Not-For-
Profit Corporations**
- **Schedule 14D - Additional Legal Information Article 28 General
and Limited Liability Partnerships**

**New York State Department of Health
Certificate of Need Application**

Schedule 14A

Schedule 14A - Additional Legal Information - Article 28 Business Corporations

Instructions:

Article 28 applicants seeking establishment or combined establishment and construction approval that are business corporations must complete this schedule.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

Business Corporations:

A. Affidavits: Attach the originals of stockholder affidavits from each stockholder including the specific information set forth in 10 NYCRR 620.1(b).

B. Stock Certificate: Attach a sample stock certificate including the specific language set forth in 10 NYCRR 620.1(a)(4).

N.B.: The Certificate of Incorporation must comply with the language requirements set forth in 10 NYCRR 620.1(a).

C. Limited Liability Corporation Stockholders: Does the applicant have any stockholders that are limited liability companies (LLCs)?

Yes No

If yes, identify each LLC-stockholder in the following table:

Name of LLC Shareholder:	Address

D. Documentation for LLC Stockholders: For each LLC-stockholder (2nd Level Stockholder), attach the following documentation:

1. A list providing the name, membership interest and percentage ownership interest in the 2nd Level Stockholder and indirect ownership percentage in the Article 28 business corporation. (Indirect ownership is determined by multiplying the percentage of ownership in each entity. For example, if A owns 10 percent of a 2nd Level Stockholder which itself owns 80 percent of an Article 28 business corporation, A owns an indirect ownership interest of eight percent in the Article 28 business corporation.) for each member;

N.B.: All members of the 2nd Level Stockholder must be natural persons.

2. A list of all managers;
3. Articles of Organization; and
4. Operating Agreement.

New York State Department of Health Certificate of Need Application

Schedule 14A

E. Articles of Organization: In addition to any other provisions required by the Limited Liability Company Law, the Articles of Organization of the 2nd Level Stockholder must include provisions to the following effect:

1. That all members of must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health; and
2. That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(c) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

F. Operating Agreement: The Operating Agreement of the 2nd Level Stockholder must include provisions to the following effect:

- a. That all members must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health;
- b. That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(c) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health; and
- c. That, if the 2nd Level Stockholder will be managed by managers who are not members, the following powers with respect to the ownership and operation of the Article 28 business corporation are reserved to the members of the 2nd Level Stockholder:
 - i. direct independent authority over the appointment or dismissal of hospital management-level employees and medical staff,
 - ii. approval of hospital operating and capital budgets and independent control of the books and records,
 - iii. adoption or approval of hospital operating policies and procedures and independent adoption of policies affecting the delivery of health care services,
 - iv. authority over the disposition of assets and authority to incur liabilities not normally associated with day-today operations,
 - v. approval of certificate of need applications filed by or on behalf of the hospital,
 - vi. approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law,
 - vii. approval of hospital contracts for management or for clinical services, and
 - viii. approval of settlements of administrative proceedings or litigation to which the hospital is a party, and that this provision may not be deleted, modified or amended without the prior approval of the Department of Health.

**New York State Department of Health
Certificate of Need Application**

Schedule 14A

SCHEDULE 14A CHECKLIST OF ATTACHMENTS

DOCUMENT	NA	Atta- ched	Attach- ment number	Electronic Document file name
Business Corporations:				
Stockholder affidavits	<input type="checkbox"/>	<input type="checkbox"/>		
Sample stock certificate	<input type="checkbox"/>	<input type="checkbox"/>		
Stockholder-LLCs	<input type="checkbox"/>	<input type="checkbox"/>		
List of members	<input type="checkbox"/>	<input type="checkbox"/>		
List of managers	<input type="checkbox"/>	<input type="checkbox"/>		
Articles of Organization	<input type="checkbox"/>	<input type="checkbox"/>		
Operating Agreement	<input type="checkbox"/>	<input type="checkbox"/>		

Schedule 14B Additional Legal Information Article 28 Limited Liability Companies

Instructions:

Article 28 applicants seeking establishment or combined establishment and construction approval that are *limited liability companies* must complete this Schedule in its entirety.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. Articles of Organization

Provisions to the following effect must be included:

A. The name of the LLC which must contain either the words "Limited Liability Company" or the abbreviations "LLC" or "L.L.C.";

B. Designation of the Secretary of State as agent of the LLC for service of process and an address to which the Secretary of State may mail a copy of any such process;

C. How the LLC will be managed and that neither the management structure nor the provision setting forth such structure may be deleted, modified or amended without the prior approval of the New York State Department of Health;

D. If the LLC will be managed by managers who are not members, that the manager may not be changed without the prior approval of the New York State Department of Health;

E. That the powers and purposes of the LLC are limited to the ownership and operation of the Article 28 facility specifically named and the location of the facility by street address, city, town, village or locality and county;

N.B.: The powers and purposes may also include the operation of an Article 36 facility, an Article 40 facility and/or an Article 44 entity if the applicant has received all appropriate approvals and certifications.

F. The location of the principal office of the LLC, which must be the same address as the facility; and

G. That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of New York State Department of Health membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law.

II. Operating Agreement

Provisions to the following effect must be included:

A. That the powers and purposes of the LLC are limited to the ownership and operation of the Article 28 facility specifically named and the location of the facility by street address, city, town, village or locality and county;

B. That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law;

C. How the LLC will be managed and that neither the management structure nor the provision setting forth such structure may be deleted, modified or amended without the prior approval of the Department of Health;

D. If the LLC will be managed by managers who are not members, that the manager may not be changed without the prior approval of the Department of Health; and

New York State Department of Health Certificate of Need Application

Schedule 14B

E. If the LLC will be managed by managers who are not members, that the following powers are reserved to the members:

- (i) direct independent authority over the appointment or dismissal of hospital management-level employees and medical staff;
- (ii) approval of hospital operating and capital budgets and independent control of the books and records;
- (iii) adoption or approval of hospital operating policies and procedures and independent adoption of policies affecting the delivery of health care services;
- (iv) authority over the disposition of assets and authority to incur liabilities not normally associated with day-to-day operations;
- (v) approval of certificate of need applications filed by or on behalf of the hospital;
- (vi) approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law;
- (vii) approval of hospital contracts for management or for clinical services; and
- (viii) approval of settlements of administrative proceedings or litigation to which the hospital is a party.

III. Management

Will the applicant be managed by managers who are not members?

Yes No

If yes, attach the proposed Management Agreement between the applicant and the manager, which must meet the following requirements and be approved by the Commissioner.

A. The management agreement must include provisions to the following effect:

1. A description of the proposed roles of the members of the Article 28 LLC during the period of the proposed management contract, which must clearly reflect retention by the members of ongoing responsibility for statutory and regulatory compliance,
2. A provision that clearly recognizes that the responsibilities of the members of the Article 28 LLC are in no way obviated by entering into a management agreement and that any powers not specifically delegated to the manager through the provisions of the management agreement remain with the members,
3. The following powers are reserved to the members of the Article 28 LLC:
 - i. direct independent authority over the appointment or dismissal of hospital management-level employees and medical staff;
 - ii. approval of hospital operating and capital budgets and independent control of the books and records;
 - iii. adoption or approval of hospital operating policies and procedures and independent adoption of policies affecting the delivery of health care services;
 - iv. authority over the disposition of assets and authority to incur liabilities not normally associated with day-to-day operations;
 - v. approval of certificate of need applications filed by or on behalf of the hospital;
 - vi. approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law;

New York State Department of Health Certificate of Need Application

Schedule 14B

- vii. approval of hospital contracts for management or for clinical services; and
- viii. approval of settlements of administrative proceedings or litigation to which the hospital is a party; and that this provision may not be deleted; modified or amended without the prior approval of the Department of Health.

4. The following language:

"Notwithstanding any other provision in this contract, the facility remains responsible for ensuring that any service provided pursuant to this contract complies with all pertinent provisions of Federal, State and local statutes, rules and regulations.",

- 5. A plan for assuring maintenance of the fiscal stability, the level of services provided and the quality of care rendered by the facility during the term of the management agreement, and
- 6. Retention of authority by the members of the Article 28 LLC to discharge the manager and its employees from their positions at the facility with or without cause on not more than 90 days' notice. In such event, the facility shall notify the Department in writing at the time the manager is notified. The members of the Article 28 LLC must provide a plan for the operation of the facility subsequent to the discharge of the manager and such plan must be submitted with the notification to the Department.
- 7. That the manager may not be changed and its responsibilities and obligations under the management agreement may not be subcontracted, assigned or otherwise assumed without the prior approval of the Department of Health;

B. The members of the Article 28 LLC must retain sufficient authority and control to discharge its statutory and regulatory responsibility. The following powers must be specifically reserved to the Article 28 LLC members:

- i. Direct independent authority over the appointment or dismissal of the facility's management-level employees and medical staff,
- ii. Approval of the facility's operating and capital budgets and independent control of the books and records,
- iii. Adoption or approval of the facility's operating policies and procedures and independent adoption of policies affecting the delivery of health care services,
- iv. Authority over the disposition of assets and authority to incur liabilities not normally associated with day-to-day operations,
- v. Approval of certificate of need applications filed by or on behalf of the facility,
- vi. Approval of debt necessary to finance the cost of compliance with operational or physical plant standards required by law,
- vii. Approval of the facility's contracts for management or for clinical services, and
- viii. Approval of settlements of administrative proceedings or litigation to which the facility is a party;

C. An Article 28 LLC desiring to be managed by managers who are not members must submit a proposed written management agreement to the Department at least 60 days before the intended effective date, unless a shorter period is approved in writing by the Commissioner, due to extraordinary circumstances. In addition, the Article 28 LLC shall also submit, within the same time frame, the following:

- 1. Documentation demonstrating that the proposed manager holds all necessary approvals to do business within New York,

New York State Department of Health Certificate of Need Application

Schedule 14B

2. Documentation of the goals and objectives of the management arrangement, including a mechanism for periodic evaluation by the members of the Article 28 LLC of the effectiveness of the arrangement in meeting those goals and objectives,
3. Evidence of the manager's financial stability,
4. Information necessary to determine that the character and competence of the proposed manager, and its principals, officers and directors, are satisfactory, including evidence that all facilities it has managed within New York have provided a substantially consistent high level of care in accordance with applicable statutes and regulations, during the term of any management agreement contract or the period they held an operating certificate, and
5. Evidence that it is financially feasible for the facility to enter into the proposed management agreement for the term of the agreement and for a period of one year following expiration, recognizing that the costs of the agreement are subject to all applicable provisions of Part 86 of 10 NYCRR. To demonstrate evidence of financial feasibility, the facility shall submit projected operating and capital budgets for the required periods. Such budgets shall be consistent with previous certified financial statements and be subject to future audits;

D. During the period between a facility's submission of a request for initial approval of a management contract and disposition of that request, a facility may not enter into any arrangement for management contract services other than a written interim consultative agreement with the proposed manager. Any interim agreement must be consistent with these provisions and submitted to the Department no later than five days after its effective date.

E. The term of a management contract shall be limited to three years and may be renewed for additional periods not to exceed three years only when authorized by the Commissioner. The Commissioner shall approve an application for renewal provided that compliance with this section and the following provisions can be demonstrated:

1. That the goals and objectives of the arrangement have been met within specified time frames,
2. That the quality of care provided by the facility during the term of the arrangement has been maintained or has improved, and
3. That the level of service to meet community needs and patient access to care and services has been maintained or improved.

IV. Membership Certificates

Does the applicant intend to issue membership certificates?

Yes No

If yes, attach a sample membership certificate including the following legend:

"That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law."

V. Business Corporation Members

Does the applicant have any members which are business corporations?

Yes No

If yes:

A. Identify each business corporation-member (2nd level member) in the following table:

—

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

2 nd Level Member:	Address

B. For each business corporation-member, attach the following documentation:

1. A list providing the name, stock interest and percentage ownership interest in the 2nd Level Member and indirect ownership percentage in the Article 28 LLC for each stockholder. (Indirect ownership is determined by multiplying the percentage of ownership in each entity. For example, if A owns 10 percent of a 2nd Level Member which itself owns 80 percent of an Article 28 LLC, A owns an indirect ownership interest of eight percent in the Article 28 LLC.);

N.B.: All stockholders of the 2nd Level Member must be natural persons.

2. A list providing the name and position held for each officer and director; and
3. Certificate of Incorporation. In addition to any other provisions required by the Business Corporation Law, the Certificate of Incorporation of the 2nd Level Member must include provisions to the following effect:
 - a. That all stockholders must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health; and
 - b. That notwithstanding anything to the contrary in the Certificate of Incorporation or the Bylaws, transfers, assignments or other dispositions of ownership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

VI. General or Registered Limited Liability Partnership Members

Does the applicant have any members which are general or registered limited liability partnerships?

Yes No

If yes:

A. Identify each partnership-member (2nd level member) in the following table:

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

2 nd Level Member:	Address

B. For each partnership-member, attach the following documentation:

- 1 A list providing the name, partnership interest and percentage ownership interest in the 2nd Level Member and indirect ownership percentage in the Article 28 LLC for each partner. (Indirect ownership is determined by multiplying the percentage of ownership in each entity. For example, if A owns 10 percent of a 2nd Level Member which itself owns 80 percent of an Article 28 LLC, A owns an indirect ownership interest of eight percent in the Article 28 LLC.); and

N.B.: All partners of the 2nd Level Member must be natural persons.

- 2 The Partnership Agreement of the 2nd Level Member must include provisions to the following effect:
 - a. That all partners must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health;
 - b. That transfers, assignments or other dispositions of partnership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

VII. Not-for-Profit Corporation Members

Does the applicant have any members which are not-for-profit corporations?

Yes No

If yes:

A. Identify each not-for-profit corporation-member (2nd Level Member):

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

2nd Level Member:	Address

B. For each not-for-profit corporation-member, attach the following documentation:

- 1 A list providing the name and interest or position held for each member, director, and officer;
- 2 Certificate of Incorporation; and
- 3 Bylaws.

C. Are any of the following powers reserved to any of the corporation's member(s):

Appointment or dismissal of hospital management-level employees and medical staff, except the election or removal of corporate officers.

Yes No

Member:

Approval of hospital operating and capital budgets.

Yes No

Member:

Adoption or approval of hospital operating policies and procedures.

Yes No

Member:

• • Approval of certificate of need applications filed by or on behalf of the hospital

Yes No

Member:

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

If yes, attach documentation of approval for this application.

Approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law.

Yes No

Member:

Approval of hospital contracts for management or for clinical services.

Yes No

Member:

Approval of settlements of administrative proceedings or litigation to which the hospital is a party, except approval of settlements of litigation that exceed insurance coverage or any applicable self-insurance fund.

Yes No

Member:

N.B.: If any of the corporation's members have been or will be delegated any of these powers, the member itself must have or obtain establishment approval as an active 2nd level member. If so, submit Schedule 2A for each individual listed in item B(1) above. Directors who contribute capital in support of the project must also submit Schedule 2B. Directors who do not contribute capital in support of the project must also submit Schedule 2C.

VIII. Limited Liability Company Members

Does the applicant have any members which are also LLCs?

Yes No

If yes:

A. In the following table, identify each LLC 2nd level member :

2 nd Level Member	Address

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

2 nd Level Member	Address

B. For each LLC-member, attach the following documentation:

- 1 A list providing the name, membership interest and percentage ownership interest in the 2nd Level Member and indirect ownership percentage in the Article 28 LLC. (Indirect ownership is determined by multiplying the percentage of ownership in each entity. For example, if A owns 10 percent of a 2nd Level Member which itself owns 80 percent of an Article 28 LLC, A owns an indirect ownership interest of eight percent in the Article 28 LLC.)

N.B.: All members of the 2nd Level Member must be natural persons.

- 2 A list of all managers;
- 3 Articles of Organization; and
- 4 Operating Agreement.

C. In addition to any other provisions required by the Limited Liability Company Law, the Articles of Organization of the 2nd Level Member must include provisions to the following effect:

- 1 That all members must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health;
- 2 That transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

D. The Operating Agreement of the 2nd Level Member must include provisions to the following effect:

- 1 That all members must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health,
- 2 That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights

New York State Department of Health Certificate of Need Application

Schedule 14B

must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health; and

- 3 That, if the 2nd Level Member will be managed by managers who are not members, that the following powers with respect to the ownership and operation of the Article 28 LLC are reserved to the members of the 2nd Level Member:
 - (i) direct independent authority over the appointment or dismissal of hospital management-level employees and medical staff;
 - (ii) approval of hospital operating and capital budgets and independent control of the books and records;
 - (iii) adoption or approval of hospital operating policies and procedures and independent adoption of policies affecting the delivery of health care services;
 - (iv) authority over the disposition of assets and authority to incur liabilities not normally associated with day-to-day operations;
 - (v) approval of certificate of need applications filed by or on behalf of the hospital;
 - (vi) (approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law;
 - (vii) approval of hospital contracts for management or for clinical services; and
 - (viii) approval of settlements of administrative proceedings or litigation to which the hospital is a party; and that this provision may not be deleted; modified or amended without the prior approval of the Department of Health.

SCHEDULE 14B CHECKLIST OF ATTACHMENTS

DOCUMENT	NA	Atta- ched	Attach- ment number	Electronic Document file name
Management Agreement	<input type="checkbox"/>	<input type="checkbox"/>		
Sample membership certificate	<input type="checkbox"/>	<input type="checkbox"/>		
Business Corporation- Members				
Members	<input type="checkbox"/>	<input type="checkbox"/>		
List of stockholders	<input type="checkbox"/>	<input type="checkbox"/>		
List of officers and directors	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>		
Not-for-Profit Corporation- Members				
Members	<input type="checkbox"/>	<input type="checkbox"/>		
List of members	<input type="checkbox"/>	<input type="checkbox"/>		
List of officers and directors	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>		
Bylaws	<input type="checkbox"/>	<input type="checkbox"/>		
Documentation of approval for the application	<input type="checkbox"/>	<input type="checkbox"/>		
Limited Liability Company - Members				
Members	<input type="checkbox"/>	<input type="checkbox"/>		
List of members	<input type="checkbox"/>	<input type="checkbox"/>		
List of managers	<input type="checkbox"/>	<input type="checkbox"/>		
Articles of Organization	<input type="checkbox"/>	<input type="checkbox"/>		
Operating Agreement	<input type="checkbox"/>	<input type="checkbox"/>		
General or Registered Limited Liability Company - Members				
List of Partners	<input type="checkbox"/>	<input type="checkbox"/>		
Partnership Agreement	<input type="checkbox"/>	<input type="checkbox"/>		

Schedule 14c Additional Legal Information Article 28 Not-For-Profit Corporations

Instructions:

Article 28 applicants seeking establishment or combined establishment and construction approval that are *not-for-profit corporations* must complete this Schedule in its entirety.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. Directors

A. Number of director positions set by bylaws or otherwise fixed:

(See Not-for-Profit Corporation Law 702.)

B. Number of director positions currently filled:

C. Explain how and by whom the directors will be appointed or elected:

The SEMC Board shall be reconstituted so that the members of the MVHS Board, other than the Chief Executive Officer of MVHS, shall serve ex officio with full voting power on the SEMC Board along with one additional Director of the SEMC Board appointed by PFM (the "PFM Appointed Director"). For purposes of determining the initial length of term, election dates and term limits, the PFM Appointed Director shall be treated as if he or she were a member of the fourth class of Directors of the MVHS Board on the SEMC Board and shall therefore serve an initial four (4) year term beginning as of the Affiliation Date and be subject to the same term limits to which the Directors serving on the MVHS Board are subject. For the avoidance of doubt, prior service on the Boards of MVN, SEMC, FSL, any SEMC Affiliate, any FSL Affiliate, or otherwise prior to the Affiliation Date shall not be included when determining term limits of the PFM Appointed Director.

The Chief Executive Officer of MVHS shall serve as an ex officio, non-voting Director of SEMC. The Chairperson and officers MVHS shall serve as ex officio officers of the SEMC Board in the same office as they occupy on the MVHS Board. The Board will be self-perpetuating, following the rotation schedule of the MVHS Board as outlined in the Definitive Agreement, section III.3.1(6).

II. Members

A. In the following table, identify each member of the applicant:

Member:	Address
Mohawk Valley Health System	1656 Champlin Avenue, Utica, NY 13502
Partners in Franciscan Ministries	2500 Grant Boulevard, Suite 302, Syracuse, NY 13208

**New York State Department of Health
Certificate of Need Application**

Schedule 14C

B. For each member, attach the following documentation:

1. A list of the name and position held for each officer and director;
2. Certificate of Incorporation; and
3. Bylaws.

III. Reserved Powers

A. Are or will any of the following powers be reserved to any of the applicant's member(s):

Appointment or dismissal of hospital management-level employees and medical staff, except the election or removal of corporate officers.

Yes No

Member:

Approval of hospital operating and capital budgets.

Yes No

Member:

Adoption or approval of hospital operating policies and procedures.

Yes No

Member:

Approval of certificate of need applications filed by or on behalf of the hospital.

Yes No

Member:

If yes, attach documentation of approval for this application.

Approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law.

Yes No

**New York State Department of Health
Certificate of Need Application**

Schedule 14C

Member:

MVHS and PFM

Approval of hospital contracts for management or for clinical services.

Yes No

Member:

MVHS

Approval of settlements of administrative proceedings or litigation to which the hospital is a party, except approval of settlements of litigation that exceed insurance coverage or any applicable self-insurance fund.

Yes No

Member:

MVHS

N.B.: If any of the applicant's members have been or will be delegated any of these powers, the member itself must have or obtain establishment approval. If so, submit Schedule 2a for each individual listed in item B(1) above. Directors who contribute capital to the project must also submit Schedule 2b. Directors who do not contribute capital to the project must also submit Schedule 2c.

B. Do any of the applicant's members reserve the power to approve certificate of need applications to ensure that they conform to the facility's stated mission and philosophy?

Yes No

Member:

MVHS. SEMC also reserves powers to PFM for those CONs in which a change in service could effect the Catholicity of the organization. See section 4.2(c) of the Definitive Agreement, Attachment 1.

If yes, attach documentation of approval for this application.

**New York State Department of Health
Certificate of Need Application**

Schedule 14C

SCHEDULE 14C CHECKLIST OF ATTACHMENTS

DOCUMENT	NA	Atta- ched	Attach- ment number	Electronic Document file name
Members	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
List of officers and directors	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3C.1 3D	Attach_3C.1_SEMC_Proposed_Board_Roster.pdf Attach_3D_PFM_Board.pdf
Certificate of Incorporation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4C.1 4M	Attach_4C.1_SEMC_Restated_COI.pdf Attach_4M_PFM_COI.pdf
Bylaws	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5C.1 5G	Attach_5C.1_SEMC_Restated_Bylaws.pdf Attach_5G_PFM_Bylaws.pdf

**New York State Department of Health
Certificate of Need Application**

Schedule 14D

Schedule 14D Additional Legal Information - Article 28 General or Registered Limited Liability Partnerships

Instructions:

1. The language in Section A of this schedule must be included in the Partnership Agreements for Article 28 applicants seeking establishment or combined establishment and approval that are partnerships.
2. The language in section B of this schedule must be included in the Certificate of Registration for Article 28 applicants seeking establishment or combined establishment and construction approval that are registered limited liability partnerships.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

- A. Partnership Agreement – The language in section 600.1(5)(ii) of 10NYCRR must be included in its entirety for general or registered limited liability partnerships.
- B. Certificate of Registration – must include provisions to the following effect::
 1. That the powers and purposes specifically include the ownership and operation of the facility and the name of the facility; and
 2. That, notwithstanding anything to the contrary in the Certificate of Partnership agreement, transfers, assignments or other dispositions of partnership interests or voting rights must be effectuated in accordance with section 2801-4(b) of the PHL.

SCHEDULE 14D CHECKLIST OF ATTACHMENTS

DOCUMENT	NA	Attached	Attach- ment number	Electronic Document file name
Certificate of Registration	<input type="checkbox"/>	<input type="checkbox"/>		

Schedule 14 - Additional Legal Information - Article 28

Contents:

- **Schedule 14A - Additional Legal Information - Article 28
Business Corporations and General Partnerships**
- **Schedule 14B - Additional Legal Information Article 28 Limited
Liability Companies**
- **Schedule 14C - Additional Legal Information Article 28 Not-For-
Profit Corporations**
- **Schedule 14D - Additional Legal Information Article 28 General
and Limited Liability Partnerships**

**New York State Department of Health
Certificate of Need Application**

Schedule 14A

Schedule 14A - Additional Legal Information - Article 28 Business Corporations

Instructions:

Article 28 applicants seeking establishment or combined establishment and construction approval that are business corporations must complete this schedule.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

Business Corporations:

A. Affidavits: Attach the originals of stockholder affidavits from each stockholder including the specific information set forth in 10 NYCRR 620.1(b).

B. Stock Certificate: Attach a sample stock certificate including the specific language set forth in 10 NYCRR 620.1(a)(4).

N.B.: The Certificate of Incorporation must comply with the language requirements set forth in 10 NYCRR 620.1(a).

C. Limited Liability Corporation Stockholders: Does the applicant have any stockholders that are limited liability companies (LLCs)?

Yes No

If yes, identify each LLC-stockholder in the following table:

Name of LLC Shareholder:	Address

D. Documentation for LLC Stockholders: For each LLC-stockholder (2nd Level Stockholder), attach the following documentation:

1. A list providing the name, membership interest and percentage ownership interest in the 2nd Level Stockholder and indirect ownership percentage in the Article 28 business corporation. (Indirect ownership is determined by multiplying the percentage of ownership in each entity. For example, if A owns 10 percent of a 2nd Level Stockholder which itself owns 80 percent of an Article 28 business corporation, A owns an indirect ownership interest of eight percent in the Article 28 business corporation.) for each member;

N.B.: All members of the 2nd Level Stockholder must be natural persons.

2. A list of all managers;
3. Articles of Organization; and
4. Operating Agreement.

New York State Department of Health Certificate of Need Application

Schedule 14A

E. Articles of Organization: In addition to any other provisions required by the Limited Liability Company Law, the Articles of Organization of the 2nd Level Stockholder must include provisions to the following effect:

1. That all members of must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health; and
2. That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(c) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

F. Operating Agreement: The Operating Agreement of the 2nd Level Stockholder must include provisions to the following effect:

- a. That all members must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health;
- b. That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(c) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health; and
- c. That, if the 2nd Level Stockholder will be managed by managers who are not members, the following powers with respect to the ownership and operation of the Article 28 business corporation are reserved to the members of the 2nd Level Stockholder:
 - i. direct independent authority over the appointment or dismissal of hospital management-level employees and medical staff,
 - ii. approval of hospital operating and capital budgets and independent control of the books and records,
 - iii. adoption or approval of hospital operating policies and procedures and independent adoption of policies affecting the delivery of health care services,
 - iv. authority over the disposition of assets and authority to incur liabilities not normally associated with day-today operations,
 - v. approval of certificate of need applications filed by or on behalf of the hospital,
 - vi. approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law,
 - vii. approval of hospital contracts for management or for clinical services, and
 - viii. approval of settlements of administrative proceedings or litigation to which the hospital is a party, and that this provision may not be deleted, modified or amended without the prior approval of the Department of Health.

**New York State Department of Health
Certificate of Need Application**

Schedule 14A

SCHEDULE 14A CHECKLIST OF ATTACHMENTS

DOCUMENT	NA	Atta- ched	Attach- ment number	Electronic Document file name
Business Corporations:				
Stockholder affidavits	<input type="checkbox"/>	<input type="checkbox"/>		
Sample stock certificate	<input type="checkbox"/>	<input type="checkbox"/>		
Stockholder-LLCs	<input type="checkbox"/>	<input type="checkbox"/>		
List of members	<input type="checkbox"/>	<input type="checkbox"/>		
List of managers	<input type="checkbox"/>	<input type="checkbox"/>		
Articles of Organization	<input type="checkbox"/>	<input type="checkbox"/>		
Operating Agreement	<input type="checkbox"/>	<input type="checkbox"/>		

Schedule 14B Additional Legal Information Article 28 Limited Liability Companies

Instructions:

Article 28 applicants seeking establishment or combined establishment and construction approval that are *limited liability companies* must complete this Schedule in its entirety.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. Articles of Organization

Provisions to the following effect must be included:

A. The name of the LLC which must contain either the words "Limited Liability Company" or the abbreviations "LLC" or "L.L.C.";

B. Designation of the Secretary of State as agent of the LLC for service of process and an address to which the Secretary of State may mail a copy of any such process;

C. How the LLC will be managed and that neither the management structure nor the provision setting forth such structure may be deleted, modified or amended without the prior approval of the New York State Department of Health;

D. If the LLC will be managed by managers who are not members, that the manager may not be changed without the prior approval of the New York State Department of Health;

E. That the powers and purposes of the LLC are limited to the ownership and operation of the Article 28 facility specifically named and the location of the facility by street address, city, town, village or locality and county;

N.B.: The powers and purposes may also include the operation of an Article 36 facility, an Article 40 facility and/or an Article 44 entity if the applicant has received all appropriate approvals and certifications.

F. The location of the principal office of the LLC, which must be the same address as the facility; and

G. That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of New York State Department of Health membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law.

II. Operating Agreement

Provisions to the following effect must be included:

A. That the powers and purposes of the LLC are limited to the ownership and operation of the Article 28 facility specifically named and the location of the facility by street address, city, town, village or locality and county;

B. That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law;

C. How the LLC will be managed and that neither the management structure nor the provision setting forth such structure may be deleted, modified or amended without the prior approval of the Department of Health;

D. If the LLC will be managed by managers who are not members, that the manager may not be changed without the prior approval of the Department of Health; and

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

E. If the LLC will be managed by managers who are not members, that the following powers are reserved to the members:

- (i) direct independent authority over the appointment or dismissal of hospital management-level employees and medical staff;
- (ii) approval of hospital operating and capital budgets and independent control of the books and records;
- (iii) adoption or approval of hospital operating policies and procedures and independent adoption of policies affecting the delivery of health care services;
- (iv) authority over the disposition of assets and authority to incur liabilities not normally associated with day-to-day operations;
- (v) approval of certificate of need applications filed by or on behalf of the hospital;
- (vi) approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law;
- (vii) approval of hospital contracts for management or for clinical services; and
- (viii) approval of settlements of administrative proceedings or litigation to which the hospital is a party.

III. Management

Will the applicant be managed by managers who are not members?

Yes No

If yes, attach the proposed Management Agreement between the applicant and the manager, which must meet the following requirements and be approved by the Commissioner.

A. The management agreement must include provisions to the following effect:

- 1. A description of the proposed roles of the members of the Article 28 LLC during the period of the proposed management contract, which must clearly reflect retention by the members of ongoing responsibility for statutory and regulatory compliance,
- 2. A provision that clearly recognizes that the responsibilities of the members of the Article 28 LLC are in no way obviated by entering into a management agreement and that any powers not specifically delegated to the manager through the provisions of the management agreement remain with the members,
- 3. The following powers are reserved to the members of the Article 28 LLC:
 - i. direct independent authority over the appointment or dismissal of hospital management-level employees and medical staff;
 - ii. approval of hospital operating and capital budgets and independent control of the books and records;
 - iii. adoption or approval of hospital operating policies and procedures and independent adoption of policies affecting the delivery of health care services;
 - iv. authority over the disposition of assets and authority to incur liabilities not normally associated with day-to-day operations;
 - v. approval of certificate of need applications filed by or on behalf of the hospital;
 - vi. approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law;

New York State Department of Health Certificate of Need Application

Schedule 14B

- vii. approval of hospital contracts for management or for clinical services; and
- viii. approval of settlements of administrative proceedings or litigation to which the hospital is a party; and that this provision may not be deleted; modified or amended without the prior approval of the Department of Health.

4. The following language:

"Notwithstanding any other provision in this contract, the facility remains responsible for ensuring that any service provided pursuant to this contract complies with all pertinent provisions of Federal, State and local statutes, rules and regulations.",

- 5. A plan for assuring maintenance of the fiscal stability, the level of services provided and the quality of care rendered by the facility during the term of the management agreement, and
- 6. Retention of authority by the members of the Article 28 LLC to discharge the manager and its employees from their positions at the facility with or without cause on not more than 90 days' notice. In such event, the facility shall notify the Department in writing at the time the manager is notified. The members of the Article 28 LLC must provide a plan for the operation of the facility subsequent to the discharge of the manager and such plan must be submitted with the notification to the Department.
- 7. That the manager may not be changed and its responsibilities and obligations under the management agreement may not be subcontracted, assigned or otherwise assumed without the prior approval of the Department of Health;

B. The members of the Article 28 LLC must retain sufficient authority and control to discharge its statutory and regulatory responsibility. The following powers must be specifically reserved to the Article 28 LLC members:

- i. Direct independent authority over the appointment or dismissal of the facility's management-level employees and medical staff,
- ii. Approval of the facility's operating and capital budgets and independent control of the books and records,
- iii. Adoption or approval of the facility's operating policies and procedures and independent adoption of policies affecting the delivery of health care services,
- iv. Authority over the disposition of assets and authority to incur liabilities not normally associated with day-to-day operations,
- v. Approval of certificate of need applications filed by or on behalf of the facility,
- vi. Approval of debt necessary to finance the cost of compliance with operational or physical plant standards required by law,
- vii. Approval of the facility's contracts for management or for clinical services, and
- viii. Approval of settlements of administrative proceedings or litigation to which the facility is a party;

C. An Article 28 LLC desiring to be managed by managers who are not members must submit a proposed written management agreement to the Department at least 60 days before the intended effective date, unless a shorter period is approved in writing by the Commissioner, due to extraordinary circumstances. In addition, the Article 28 LLC shall also submit, within the same time frame, the following:

- 1. Documentation demonstrating that the proposed manager holds all necessary approvals to do business within New York,

New York State Department of Health Certificate of Need Application

Schedule 14B

2. Documentation of the goals and objectives of the management arrangement, including a mechanism for periodic evaluation by the members of the Article 28 LLC of the effectiveness of the arrangement in meeting those goals and objectives,
3. Evidence of the manager's financial stability,
4. Information necessary to determine that the character and competence of the proposed manager, and its principals, officers and directors, are satisfactory, including evidence that all facilities it has managed within New York have provided a substantially consistent high level of care in accordance with applicable statutes and regulations, during the term of any management agreement contract or the period they held an operating certificate, and
5. Evidence that it is financially feasible for the facility to enter into the proposed management agreement for the term of the agreement and for a period of one year following expiration, recognizing that the costs of the agreement are subject to all applicable provisions of Part 86 of 10 NYCRR. To demonstrate evidence of financial feasibility, the facility shall submit projected operating and capital budgets for the required periods. Such budgets shall be consistent with previous certified financial statements and be subject to future audits;

D. During the period between a facility's submission of a request for initial approval of a management contract and disposition of that request, a facility may not enter into any arrangement for management contract services other than a written interim consultative agreement with the proposed manager. Any interim agreement must be consistent with these provisions and submitted to the Department no later than five days after its effective date.

E. The term of a management contract shall be limited to three years and may be renewed for additional periods not to exceed three years only when authorized by the Commissioner. The Commissioner shall approve an application for renewal provided that compliance with this section and the following provisions can be demonstrated:

1. That the goals and objectives of the arrangement have been met within specified time frames,
2. That the quality of care provided by the facility during the term of the arrangement has been maintained or has improved, and
3. That the level of service to meet community needs and patient access to care and services has been maintained or improved.

IV. Membership Certificates

Does the applicant intend to issue membership certificates?

Yes No

If yes, attach a sample membership certificate including the following legend:

"That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law."

V. Business Corporation Members

Does the applicant have any members which are business corporations?

Yes No

If yes:

A. Identify each business corporation-member (2nd level member) in the following table:

—

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

2 nd Level Member:	Address

B. For each business corporation-member, attach the following documentation:

1. A list providing the name, stock interest and percentage ownership interest in the 2nd Level Member and indirect ownership percentage in the Article 28 LLC for each stockholder. (Indirect ownership is determined by multiplying the percentage of ownership in each entity. For example, if A owns 10 percent of a 2nd Level Member which itself owns 80 percent of an Article 28 LLC, A owns an indirect ownership interest of eight percent in the Article 28 LLC.);

N.B.: All stockholders of the 2nd Level Member must be natural persons.

2. A list providing the name and position held for each officer and director; and
3. Certificate of Incorporation. In addition to any other provisions required by the Business Corporation Law, the Certificate of Incorporation of the 2nd Level Member must include provisions to the following effect:
 - a. That all stockholders must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health; and
 - b. That notwithstanding anything to the contrary in the Certificate of Incorporation or the Bylaws, transfers, assignments or other dispositions of ownership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

VI. General or Registered Limited Liability Partnership Members

Does the applicant have any members which are general or registered limited liability partnerships?

Yes No

If yes:

A. Identify each partnership-member (2nd level member) in the following table:

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

2 nd Level Member:	Address

B. For each partnership-member, attach the following documentation:

- 1 A list providing the name, partnership interest and percentage ownership interest in the 2nd Level Member and indirect ownership percentage in the Article 28 LLC for each partner. (Indirect ownership is determined by multiplying the percentage of ownership in each entity. For example, if A owns 10 percent of a 2nd Level Member which itself owns 80 percent of an Article 28 LLC, A owns an indirect ownership interest of eight percent in the Article 28 LLC.); and

N.B.: All partners of the 2nd Level Member must be natural persons.

- 2 The Partnership Agreement of the 2nd Level Member must include provisions to the following effect:
 - a. That all partners must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health;
 - b. That transfers, assignments or other dispositions of partnership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

VII. Not-for-Profit Corporation Members

Does the applicant have any members which are not-for-profit corporations?

Yes No

If yes:

A. Identify each not-for-profit corporation-member (2nd Level Member):

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

2nd Level Member:	Address

B. For each not-for-profit corporation-member, attach the following documentation:

- 1 A list providing the name and interest or position held for each member, director, and officer;
- 2 Certificate of Incorporation; and
- 3 Bylaws.

C. Are any of the following powers reserved to any of the corporation's member(s):

Appointment or dismissal of hospital management-level employees and medical staff, except the election or removal of corporate officers.

Yes No

Member:

Approval of hospital operating and capital budgets.

Yes No

Member:

Adoption or approval of hospital operating policies and procedures.

Yes No

Member:

• • Approval of certificate of need applications filed by or on behalf of the hospital

Yes No

Member:

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

If yes, attach documentation of approval for this application.

Approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law.

Yes No

Member:

Approval of hospital contracts for management or for clinical services.

Yes No

Member:

Approval of settlements of administrative proceedings or litigation to which the hospital is a party, except approval of settlements of litigation that exceed insurance coverage or any applicable self-insurance fund.

Yes No

Member:

N.B.: If any of the corporation's members have been or will be delegated any of these powers, the member itself must have or obtain establishment approval as an active 2nd level member. If so, submit Schedule 2A for each individual listed in item B(1) above. Directors who contribute capital in support of the project must also submit Schedule 2B. Directors who do not contribute capital in support of the project must also submit Schedule 2C.

VIII. Limited Liability Company Members

Does the applicant have any members which are also LLCs?

Yes No

If yes:

A. In the following table, identify each LLC 2nd level member :

2 nd Level Member	Address

**New York State Department of Health
Certificate of Need Application**

Schedule 14B

2 nd Level Member	Address

B. For each LLC-member, attach the following documentation:

- 1 A list providing the name, membership interest and percentage ownership interest in the 2nd Level Member and indirect ownership percentage in the Article 28 LLC. (Indirect ownership is determined by multiplying the percentage of ownership in each entity. For example, if A owns 10 percent of a 2nd Level Member which itself owns 80 percent of an Article 28 LLC, A owns an indirect ownership interest of eight percent in the Article 28 LLC.)

N.B.: All members of the 2nd Level Member must be natural persons.

- 2 A list of all managers;
- 3 Articles of Organization; and
- 4 Operating Agreement.

C. In addition to any other provisions required by the Limited Liability Company Law, the Articles of Organization of the 2nd Level Member must include provisions to the following effect:

- 1 That all members must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health;
- 2 That transfers, assignments or other dispositions of membership interests or voting rights must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

D. The Operating Agreement of the 2nd Level Member must include provisions to the following effect:

- 1 That all members must be natural persons and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health,
- 2 That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights

New York State Department of Health Certificate of Need Application

Schedule 14B

must be effectuated in accordance with section 2801-a(4)(b) of the Public Health Law and that this provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health; and

- 3 That, if the 2nd Level Member will be managed by managers who are not members, that the following powers with respect to the ownership and operation of the Article 28 LLC are reserved to the members of the 2nd Level Member:
 - (i) direct independent authority over the appointment or dismissal of hospital management-level employees and medical staff;
 - (ii) approval of hospital operating and capital budgets and independent control of the books and records;
 - (iii) adoption or approval of hospital operating policies and procedures and independent adoption of policies affecting the delivery of health care services;
 - (iv) authority over the disposition of assets and authority to incur liabilities not normally associated with day-to-day operations;
 - (v) approval of certificate of need applications filed by or on behalf of the hospital;
 - (vi) (approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law;
 - (vii) approval of hospital contracts for management or for clinical services; and
 - (viii) approval of settlements of administrative proceedings or litigation to which the hospital is a party; and that this provision may not be deleted; modified or amended without the prior approval of the Department of Health.

SCHEDULE 14B CHECKLIST OF ATTACHMENTS

DOCUMENT	NA	Atta- ched	Attach- ment number	Electronic Document file name
Management Agreement	<input type="checkbox"/>	<input type="checkbox"/>		
Sample membership certificate	<input type="checkbox"/>	<input type="checkbox"/>		
Business Corporation- Members				
Members	<input type="checkbox"/>	<input type="checkbox"/>		
List of stockholders	<input type="checkbox"/>	<input type="checkbox"/>		
List of officers and directors	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>		
Not-for-Profit Corporation- Members				
Members	<input type="checkbox"/>	<input type="checkbox"/>		
List of members	<input type="checkbox"/>	<input type="checkbox"/>		
List of officers and directors	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>		
Bylaws	<input type="checkbox"/>	<input type="checkbox"/>		
Documentation of approval for the application	<input type="checkbox"/>	<input type="checkbox"/>		
Limited Liability Company - Members				
Members	<input type="checkbox"/>	<input type="checkbox"/>		
List of members	<input type="checkbox"/>	<input type="checkbox"/>		
List of managers	<input type="checkbox"/>	<input type="checkbox"/>		
Articles of Organization	<input type="checkbox"/>	<input type="checkbox"/>		
Operating Agreement	<input type="checkbox"/>	<input type="checkbox"/>		
General or Registered Limited Liability Company - Members				
List of Partners	<input type="checkbox"/>	<input type="checkbox"/>		
Partnership Agreement	<input type="checkbox"/>	<input type="checkbox"/>		

**New York State Department of Health
Certificate of Need Application**

Schedule 14C

Schedule 14c Additional Legal Information Article 28 Not-For-Profit Corporations

Instructions:

Article 28 applicants seeking establishment or combined establishment and construction approval that are *not-for-profit corporations* must complete this Schedule in its entirety.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

I. Directors

A. Number of director positions set by bylaws or otherwise fixed:

(See Not-for-Profit Corporation Law 702.)

B. Number of director positions currently filled:

C. Explain how and by whom the directors will be appointed or elected:

The Board of St. Luke's Home will mirror board of MVN. The MVHS Board, other than the Chief Executive Officer of MVHS, shall serve ex officio with full voting powers on the SLH Board. The Chief Executive Officer of MVHS shall serve as an ex officio, non-voting Director of SLH. The Chairperson and officers of MVHS shall serve as ex officio officers of the SLH Board in the same office as they occupy on the MVHS Board. The Board will be self-perpetuating, following the rotation schedule of the MVHS Board as outlined in the Definitive Agreement, section III.3.1(6).

II. Members

A. In the following table, identify each member of the applicant:

Member:	Address
Mohawk Valley Health System	1656 Champlin Avenue, Utica, NY 13502

**New York State Department of Health
Certificate of Need Application**

Schedule 14C

B. For each member, attach the following documentation:

- 1. A list of the name and position held for each officer and director;
- 2. Certificate of Incorporation; and
- 3. Bylaws.

III. Reserved Powers

A. Are or will any of the following powers be reserved to any of the applicant's member(s):

Appointment or dismissal of hospital management-level employees and medical staff, except the election or removal of corporate officers.

Yes No

Member:

Approval of hospital operating and capital budgets.

Yes No

Member:

Adoption or approval of hospital operating policies and procedures.

Yes No

Member:

Approval of certificate of need applications filed by or on behalf of the hospital.

Yes No

Member:

If yes, attach documentation of approval for this application.

Approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law.

Yes No

Member:

Approval of hospital contracts for management or for clinical services.

Yes No

Member:

Approval of settlements of administrative proceedings or litigation to which the hospital is a party, except approval of settlements of litigation that exceed insurance coverage or any applicable self-insurance fund.

**New York State Department of Health
Certificate of Need Application**

Schedule 14C

Yes No

Member:

N.B.: If any of the applicant's members have been or will be delegated any of these powers, the member itself must have or obtain establishment approval. If so, submit Schedule 2a for each individual listed in item B(1) above. Directors who contribute capital to the project must also submit Schedule 2b. Directors who do not contribute capital to the project must also submit Schedule 2c.

B. Do any of the applicant's members reserve the power to approve certificate of need applications to ensure that they conform to the facility's stated mission and philosophy?

Yes No

Member:

If yes, attach documentation of approval for this application.

**New York State Department of Health
Certificate of Need Application**

Schedule 14C

SCHEDULE 14C CHECKLIST OF ATTACHMENTS

DOCUMENT	NA	Attached	Attachment number	Electronic Document file name
Members	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
List of officers and directors	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3A.1	Attach_3A.1_MVHS_Proposed_Board_Roster.pdf
Certificate of Incorporation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4D.1	Attach_4D.1_SLH_Restated_COI.pdf
Bylaws	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5D.1	Attach_5D.1_SLH_Restated_Bylaws.pdf

**New York State Department of Health
Certificate of Need Application**

Schedule 14D

Schedule 14D Additional Legal Information - Article 28 General or Registered Limited Liability Partnerships

Instructions:

1. The language in Section A of this schedule must be included in the Partnership Agreements for Article 28 applicants seeking establishment or combined establishment and approval that are partnerships.
2. The language in section B of this schedule must be included in the Certificate of Registration for Article 28 applicants seeking establishment or combined establishment and construction approval that are registered limited liability partnerships.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

- A. Partnership Agreement – The language in section 600.1(5)(ii) of 10NYCRR must be included in its entirety for general or registered limited liability partnerships.
- B. Certificate of Registration – must include provisions to the following effect::
 1. That the powers and purposes specifically include the ownership and operation of the facility and the name of the facility; and
 2. That, notwithstanding anything to the contrary in the Certificate of Partnership agreement, transfers, assignments or other dispositions of partnership interests or voting rights must be effectuated in accordance with section 2801-4(b) of the PHL.

SCHEDULE 14D CHECKLIST OF ATTACHMENTS

DOCUMENT	NA	Attached	Attach- ment number	Electronic Document file name
Certificate of Registration	<input type="checkbox"/>	<input type="checkbox"/>		

Schedule 15: Additional Legal Information – Article 28 Ownership Transfers

Included Schedules	Notes
Schedule 15_FSL	None
Schedule 15_SEMC	None
Schedule 15_SLH	None

Schedule 15 - Additional Legal Information - Article 28 Ownership Transfers

Contents:

- **Schedule 15 - Additional Legal Information - Article 28
Ownership Transfers**

**New York State Department of Health
Certificate of Need Application**

Schedule 15

Schedule 15 - Additional Legal Information - Article 28 Ownership Transfers

Instructions:

Article 28 applicants seeking establishment approval for a change in ownership through an ownership interest transfer or by a change in active member must complete this schedule, depending on the applicant's type of legal entity, as follows:

1. Applicants that are general partnerships must complete Part I.
2. Applicants that are registered limited liability partnerships must complete Part II.
3. Applicants that are not-for-profit corporations seeking approval for a change in active member must complete Part III.
4. Applicants that are business corporations must complete Part IV.
5. Applicants that are limited liability companies must complete Part V.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

Pursuant to section PHL 2801-a(2-a), a change in an existing Article 28 legal entity to a limited liability company or a business corporation does not require CON approval but may be approved administratively, under the following circumstances:

- (i) the Certificate of Incorporation or Articles of Organization reflect solely a change in the form of business organization approved by the Public Health Council;
- (ii) every stockholder, member, and director of the proposed entity was an owner, partner, stockholder, member, or director of the existing entity;
- (iii) the distribution of ownership interests and voting rights in the proposed entity is identical to the existing entity;
- (iv) there is no change in the operator of an Article 28 facility other than the form of business entity; and
- (v) the proposed entity has site control and all required assets to own and operate the Article 28 facility.

New York State Department of Health Certificate of Need Application

Schedule 15

I. General Partnerships

N.B.: Only transfers of partnership interests of ten percent or more to a new partner require CON approval.

Transfers of less than ten percent to a new partner require only prior notice. See PHL 2801-a(4)(b).

A. Attach the following legal documentation:

1. A list providing the following information for each incoming partner: name, partnership interest, and percentage ownership being acquired;
2. Documentation of the transfer of partnership interest;
3. Partnership Agreement, including documentation that each incoming partner will be legally bound by the Agreement;
4. A list of the names, partnership interest and percentage ownership for all partners before and after the proposed transfer;
5. Certificate of Doing Business as a Partnership, as filed; and
6. Fully executed proposed Certificate of Amendment to the Certificate reflecting the change(s) in partner(s); and
7. Documentation of consent of the existing partners, if necessary; and

B. Submit Schedules 2a and 2b for each incoming partner.

II. Registered Limited Liability Partnerships

N.B.: Only transfers of partnership interests of ten percent or more to a new partner require CON approval.

Transfers of less than ten percent to a new partner require only prior notice. See PHL 2801-a(4)(b).

A. Attach the following legal documentation:

1. A list providing the following information for each incoming partner: name, partnership interest, and percentage ownership being acquired;
2. Documentation of the transfer of partnership interest;
3. Partnership Agreement, including documentation that each incoming partner will be legally bound by the Agreement;
4. Certificate of Registration;
5. A list of the names, partnership interest and percentage ownership for all partners before and after the proposed transfer;
6. Certificate of Doing Business as a Partnership, as filed;
7. Fully executed proposed Certificate of Amendment to the Certificate reflecting the change(s) in partner(s);
8. Documentation of consent of the existing partners, if necessary; and

B. Submit Schedules 2a and 2b for each incoming partner.

III. Not-for-Profit Corporations

Change in Active Member

N.B.: A change in active member requires CON approval. A member is active if it has any of the following reserved powers with respect to the Article 28 corporation:

New York State Department of Health

Certificate of Need Application

Schedule 15

1. Appointment or dismissal of hospital management-level employees and medical staff, except the election or removal of corporate officers.
2. Approval of hospital operating and capital budgets.
3. Adoption or approval of hospital operating policies and procedures.
4. Approval of certificate of need applications filed by or on behalf of the hospital.
5. Approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law.
6. Approval of hospital contracts for management or for clinical services.
7. Approval of settlements of administrative proceedings or litigation to which the hospital is a party, except approval of settlements of litigation that exceed insurance coverage or any applicable self-insurance fund.

A change in a passive member does not require CON approval. If the change in passive member results in a change in officers and/or directors of the Article 28 corporation, however, such changes must be reported in the facility's annual report statement pursuant to 10 NYCRR 610.3.

A. Attach the following legal documentation:

With respect to the Article 28 corporation:

1. Certificate of Incorporation, as filed;
2. Fully executed proposed Certificate of Amendment reflecting the delegation of powers to the active member;
3. Bylaws;
4. Proposed amendments to Bylaws, if any; and
5. With respect to the proposed active member corporation:
 - a. Certificate of Incorporation, as filed;
 - b. Fully executed proposed Certificate of Amendment reflecting the delegation of active powers from the Article 28 corporation;
 - c. Bylaws;
 - d. Proposed amendments to Bylaws, if any; and
 - e. A list of names and position held for all officers and directors; and

B. Submit Schedule 2A for each individual listed in item 5e above. Directors of a not-for profit corporation who contribute capital in support of the project must also submit Schedule 2B Directors of a not-for-profit corporation who do not contribute capital in support of the project must also submit Schedule 2C.

IV. Business Corporations

N.B.: Only transfers of ten percent or more of stock interests or voting rights to a new stockholder and transfers which result in an individual, who has not yet been established, becoming an owner of ten percent or more require CON approval. Transfers of ten percent or more to an existing stockholder who has previously been approved by the Public Health Council only require prior notice. See PHL 2801-a(4)(c).

A. Attach the following legal documentation:

1. A list providing the following information for each incoming stockholder: name, stock interest, and percentage ownership being acquired;
2. Documentation of the transfer of stock;

**New York State Department of Health
Certificate of Need Application**

Schedule 15

3. Certificate of Incorporation;
4. Bylaws;
5. A list of the names, stock interest and percentage ownership for all stockholders before and after the proposed transfer; and
6. Original of stock transfer affidavit from each incoming stockholder and each selling stockholder, including the specific information set forth in 10 NYCRR 620.3(a)(2) and (3), respectively; and

B. Submit Schedules 2A and 2B for each incoming stockholder.

V. Limited Liability Companies

N.B.: Only transfers of membership interests of ten percent or more to a new member require CON approval. Transfers of less than ten percent to a new member only require prior notice. See PHL 2801-a(4)(b).

A. Attach the following legal documentation:

1. A list providing the following information for each incoming member: name, membership interest, and percentage ownership being acquired;
2. Documentation of the transfer of membership interest;
3. Articles of Organization;
4. Operating Agreement, including documentation that each incoming member will be legally bound by it;
5. A list of the names, membership interest and percentage ownership for all members before and after the proposed transfer;
6. Documentation of consent of existing members, if necessary; and

B. Submit Schedules 2a and 2b for each incoming member.

**New York State Department of Health
Certificate of Need Application**

Schedule 15

Checklist and Summary of Attachments to Schedule 15

DOCUMENTATION	NA	Attached	Attachment number	Electronic Document file name
I. General Partnerships				
List regarding each incoming partner	<input type="checkbox"/>	<input type="checkbox"/>		
Evidence of transfer of partnership interest	<input type="checkbox"/>	<input type="checkbox"/>		
Partnership Agreement, including documentation by incoming partner(s)	<input type="checkbox"/>	<input type="checkbox"/>		
List regarding all partners (before and after)	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Doing Business as a Partnership	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Amendment	<input type="checkbox"/>	<input type="checkbox"/>		
Consent of existing partners	<input type="checkbox"/>	<input type="checkbox"/>		
II. Registered Limited Liability Partnerships				
List regarding each incoming partner	<input type="checkbox"/>	<input type="checkbox"/>		
Evidence of transfer of partnership interest	<input type="checkbox"/>	<input type="checkbox"/>		
Partnership Agreement, including documentation by incoming partner(s)	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Registration	<input type="checkbox"/>	<input type="checkbox"/>		
List regarding all partners (before and after)	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Doing Business as a Partnership	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Amendment	<input type="checkbox"/>	<input type="checkbox"/>		
Consent of existing partners	<input type="checkbox"/>	<input type="checkbox"/>		
III. Not-for-Profit Corporations – Article 28				
Corporation	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Certificate of Incorporation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4B	Attach_4B_Current_F axton_St_Lukes Healthcare Cert of Consolidation.pdf
Certificate of Amendment	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Bylaws	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5B	Attach_5B_Current_F axton-St. Lukes Healthcare ByLaws.pdf
Amendments to Bylaws	<input checked="" type="checkbox"/>	<input type="checkbox"/>		

**New York State Department of Health
Certificate of Need Application**

Schedule 15

DOCUMENTATION	NA	Attached	Attachment number	Electronic Document file name
<i>Not-for-Profit Corporations – Proposed Active Member Corporation</i>				
Certificate of Incorporation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4A.1	Attach_4A.1_MVHS_Certificate_of_Incorporation.pdf
Certificate of Amendment	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Bylaws	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5A.1	Attach_5A.1_MVHS_Bylaws.pdf
Amendments to Bylaws	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5B.1	Attach_5B.1_FSL_Re stated_Bylaws.pdf
List of officers and directors	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3B.1	Attach_3B.1_FSL_Proposed_Board_Roster.pdf
IV. Business Corporations				
List regarding each incoming stockholder	<input type="checkbox"/>	<input type="checkbox"/>		
Evidence of transfer of stock	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>		
Bylaws	<input type="checkbox"/>	<input type="checkbox"/>		
List of all stockholders (before and after)	<input type="checkbox"/>	<input type="checkbox"/>		
Transfer affidavits	<input type="checkbox"/>	<input type="checkbox"/>		
V. Limited Liability Companies				
List regarding each incoming member	<input type="checkbox"/>	<input type="checkbox"/>		
Evidence of transfer of partnership interest	<input type="checkbox"/>	<input type="checkbox"/>		
Articles of Organization	<input type="checkbox"/>	<input type="checkbox"/>		
Operating Agreement, including documentation by incoming member(s).	<input type="checkbox"/>	<input type="checkbox"/>		
List of all members (before and after)	<input type="checkbox"/>	<input type="checkbox"/>		
Consent of existing partners	<input type="checkbox"/>	<input type="checkbox"/>		

Schedule 15 - Additional Legal Information - Article 28 Ownership Transfers

Contents:

- **Schedule 15 - Additional Legal Information - Article 28
Ownership Transfers**

**New York State Department of Health
Certificate of Need Application**

Schedule 15

Schedule 15 - Additional Legal Information - Article 28 Ownership Transfers

Instructions:

Article 28 applicants seeking establishment approval for a change in ownership through an ownership interest transfer or by a change in active member must complete this schedule, depending on the applicant's type of legal entity, as follows:

1. Applicants that are general partnerships must complete Part I.
2. Applicants that are registered limited liability partnerships must complete Part II.
3. Applicants that are not-for-profit corporations seeking approval for a change in active member must complete Part III.
4. Applicants that are business corporations must complete Part IV.
5. Applicants that are limited liability companies must complete Part V.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

Pursuant to section PHL 2801-a(2-a), a change in an existing Article 28 legal entity to a limited liability company or a business corporation does not require CON approval but may be approved administratively, under the following circumstances:

- (i) the Certificate of Incorporation or Articles of Organization reflect solely a change in the form of business organization approved by the Public Health Council;
- (ii) every stockholder, member, and director of the proposed entity was an owner, partner, stockholder, member, or director of the existing entity;
- (iii) the distribution of ownership interests and voting rights in the proposed entity is identical to the existing entity;
- (iv) there is no change in the operator of an Article 28 facility other than the form of business entity; and
- (v) the proposed entity has site control and all required assets to own and operate the Article 28 facility.

New York State Department of Health Certificate of Need Application

Schedule 15

I. General Partnerships

N.B.: Only transfers of partnership interests of ten percent or more to a new partner require CON approval.

Transfers of less than ten percent to a new partner require only prior notice. See PHL 2801-a(4)(b).

A. Attach the following legal documentation:

1. A list providing the following information for each incoming partner: name, partnership interest, and percentage ownership being acquired;
2. Documentation of the transfer of partnership interest;
3. Partnership Agreement, including documentation that each incoming partner will be legally bound by the Agreement;
4. A list of the names, partnership interest and percentage ownership for all partners before and after the proposed transfer;
5. Certificate of Doing Business as a Partnership, as filed; and
6. Fully executed proposed Certificate of Amendment to the Certificate reflecting the change(s) in partner(s); and
7. Documentation of consent of the existing partners, if necessary; and

B. Submit Schedules 2a and 2b for each incoming partner.

II. Registered Limited Liability Partnerships

N.B.: Only transfers of partnership interests of ten percent or more to a new partner require CON approval.

Transfers of less than ten percent to a new partner require only prior notice. See PHL 2801-a(4)(b).

A. Attach the following legal documentation:

1. A list providing the following information for each incoming partner: name, partnership interest, and percentage ownership being acquired;
2. Documentation of the transfer of partnership interest;
3. Partnership Agreement, including documentation that each incoming partner will be legally bound by the Agreement;
4. Certificate of Registration;
5. A list of the names, partnership interest and percentage ownership for all partners before and after the proposed transfer;
6. Certificate of Doing Business as a Partnership, as filed;
7. Fully executed proposed Certificate of Amendment to the Certificate reflecting the change(s) in partner(s);
8. Documentation of consent of the existing partners, if necessary; and

B. Submit Schedules 2a and 2b for each incoming partner.

III. Not-for-Profit Corporations

Change in Active Member

N.B.: A change in active member requires CON approval. A member is active if it has any of the following reserved powers with respect to the Article 28 corporation:

New York State Department of Health

Certificate of Need Application

Schedule 15

1. Appointment or dismissal of hospital management-level employees and medical staff, except the election or removal of corporate officers.
2. Approval of hospital operating and capital budgets.
3. Adoption or approval of hospital operating policies and procedures.
4. Approval of certificate of need applications filed by or on behalf of the hospital.
5. Approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law.
6. Approval of hospital contracts for management or for clinical services.
7. Approval of settlements of administrative proceedings or litigation to which the hospital is a party, except approval of settlements of litigation that exceed insurance coverage or any applicable self-insurance fund.

A change in a passive member does not require CON approval. If the change in passive member results in a change in officers and/or directors of the Article 28 corporation, however, such changes must be reported in the facility's annual report statement pursuant to 10 NYCRR 610.3.

A. Attach the following legal documentation:

With respect to the Article 28 corporation:

1. Certificate of Incorporation, as filed;
2. Fully executed proposed Certificate of Amendment reflecting the delegation of powers to the active member;
3. Bylaws;
4. Proposed amendments to Bylaws, if any; and
5. With respect to the proposed active member corporation:
 - a. Certificate of Incorporation, as filed;
 - b. Fully executed proposed Certificate of Amendment reflecting the delegation of active powers from the Article 28 corporation;
 - c. Bylaws;
 - d. Proposed amendments to Bylaws, if any; and
 - e. A list of names and position held for all officers and directors; and

B. Submit Schedule 2A for each individual listed in item 5e above. Directors of a not-for profit corporation who contribute capital in support of the project must also submit Schedule 2B Directors of a not-for-profit corporation who do not contribute capital in support of the project must also submit Schedule 2C.

IV. Business Corporations

N.B.: Only transfers of ten percent or more of stock interests or voting rights to a new stockholder and transfers which result in an individual, who has not yet been established, becoming an owner of ten percent or more require CON approval. Transfers of ten percent or more to an existing stockholder who has previously been approved by the Public Health Council only require prior notice. See PHL 2801-a(4)(c).

A. Attach the following legal documentation:

1. A list providing the following information for each incoming stockholder: name, stock interest, and percentage ownership being acquired;
2. Documentation of the transfer of stock;

**New York State Department of Health
Certificate of Need Application**

Schedule 15

3. Certificate of Incorporation;
4. Bylaws;
5. A list of the names, stock interest and percentage ownership for all stockholders before and after the proposed transfer; and
6. Original of stock transfer affidavit from each incoming stockholder and each selling stockholder, including the specific information set forth in 10 NYCRR 620.3(a)(2) and (3), respectively; and

B. Submit Schedules 2A and 2B for each incoming stockholder.

V. Limited Liability Companies

N.B.: Only transfers of membership interests of ten percent or more to a new member require CON approval. Transfers of less than ten percent to a new member only require prior notice. See PHL 2801-a(4)(b).

A. Attach the following legal documentation:

1. A list providing the following information for each incoming member: name, membership interest, and percentage ownership being acquired;
2. Documentation of the transfer of membership interest;
3. Articles of Organization;
4. Operating Agreement, including documentation that each incoming member will be legally bound by it;
5. A list of the names, membership interest and percentage ownership for all members before and after the proposed transfer;
6. Documentation of consent of existing members, if necessary; and

B. Submit Schedules 2a and 2b for each incoming member.

**New York State Department of Health
Certificate of Need Application**

Schedule 15

Checklist and Summary of Attachments to Schedule 15

DOCUMENTATION	NA	Attached	Attachment number	Electronic Document file name
I. General Partnerships				
List regarding each incoming partner	<input type="checkbox"/>	<input type="checkbox"/>		
Evidence of transfer of partnership interest	<input type="checkbox"/>	<input type="checkbox"/>		
Partnership Agreement, including documentation by incoming partner(s)	<input type="checkbox"/>	<input type="checkbox"/>		
List regarding all partners (before and after)	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Doing Business as a Partnership	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Amendment	<input type="checkbox"/>	<input type="checkbox"/>		
Consent of existing partners	<input type="checkbox"/>	<input type="checkbox"/>		
II. Registered Limited Liability Partnerships				
List regarding each incoming partner	<input type="checkbox"/>	<input type="checkbox"/>		
Evidence of transfer of partnership interest	<input type="checkbox"/>	<input type="checkbox"/>		
Partnership Agreement, including documentation by incoming partner(s)	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Registration	<input type="checkbox"/>	<input type="checkbox"/>		
List regarding all partners (before and after)	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Doing Business as a Partnership	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Amendment	<input type="checkbox"/>	<input type="checkbox"/>		
Consent of existing partners	<input type="checkbox"/>	<input type="checkbox"/>		
III. Not-for-Profit Corporations – Article 28				
Corporation	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Certificate of Incorporation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4C	Attach_4C_SEMC_Certificate_of_Incorporation.pdf
Certificate of Amendment	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Bylaws	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5C	Attach_5C_SEMC_Bylaws.pdf
Amendments to Bylaws	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Not-for-Profit Corporations – Proposed Active Member Corporation				

**New York State Department of Health
Certificate of Need Application**

Schedule 15

DOCUMENTATION	NA	Attached	Attachment number	Electronic Document file name
Certificate of Incorporation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4A.1	Attach_4A.1_MVHS_Certificate_of_Incorporation.pdf
Certificate of Amendment	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Bylaws	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5A.1	Attach_5A.1_MVHS_Bylaws
Amendments to Bylaws	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5C.1	Attach_5C.1_SEMC_Restated_Bylaws.pdf
List of officers and directors	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3C.1	Attach_3C.1_SEMC_Proposed_Board_Roster.pdf
IV. Business Corporations				
List regarding each incoming stockholder	<input type="checkbox"/>	<input type="checkbox"/>		
Evidence of transfer of stock	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>		
Bylaws	<input type="checkbox"/>	<input type="checkbox"/>		
List of all stockholders (before and after)	<input type="checkbox"/>	<input type="checkbox"/>		
Transfer affidavits	<input type="checkbox"/>	<input type="checkbox"/>		
V. Limited Liability Companies				
List regarding each incoming member	<input type="checkbox"/>	<input type="checkbox"/>		
Evidence of transfer of partnership interest	<input type="checkbox"/>	<input type="checkbox"/>		
Articles of Organization	<input type="checkbox"/>	<input type="checkbox"/>		
Operating Agreement, including documentation by incoming member(s).	<input type="checkbox"/>	<input type="checkbox"/>		
List of all members (before and after)	<input type="checkbox"/>	<input type="checkbox"/>		
Consent of existing partners	<input type="checkbox"/>	<input type="checkbox"/>		

Schedule 15 - Additional Legal Information - Article 28 Ownership Transfers

Contents:

- **Schedule 15 - Additional Legal Information - Article 28
Ownership Transfers**

**New York State Department of Health
Certificate of Need Application**

Schedule 15

Schedule 15 - Additional Legal Information - Article 28 Ownership Transfers

Instructions:

Article 28 applicants seeking establishment approval for a change in ownership through an ownership interest transfer or by a change in active member must complete this schedule, depending on the applicant's type of legal entity, as follows:

1. Applicants that are general partnerships must complete Part I.
2. Applicants that are registered limited liability partnerships must complete Part II.
3. Applicants that are not-for-profit corporations seeking approval for a change in active member must complete Part III.
4. Applicants that are business corporations must complete Part IV.
5. Applicants that are limited liability companies must complete Part V.

N.B.: Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

Pursuant to section PHL 2801-a(2-a), a change in an existing Article 28 legal entity to a limited liability company or a business corporation does not require CON approval but may be approved administratively, under the following circumstances:

- (i) the Certificate of Incorporation or Articles of Organization reflect solely a change in the form of business organization approved by the Public Health Council;
- (ii) every stockholder, member, and director of the proposed entity was an owner, partner, stockholder, member, or director of the existing entity;
- (iii) the distribution of ownership interests and voting rights in the proposed entity is identical to the existing entity;
- (iv) there is no change in the operator of an Article 28 facility other than the form of business entity; and
- (v) the proposed entity has site control and all required assets to own and operate the Article 28 facility.

New York State Department of Health Certificate of Need Application

Schedule 15

I. General Partnerships

N.B.: Only transfers of partnership interests of ten percent or more to a new partner require CON approval.

Transfers of less than ten percent to a new partner require only prior notice. See PHL 2801-a(4)(b).

A. Attach the following legal documentation:

1. A list providing the following information for each incoming partner: name, partnership interest, and percentage ownership being acquired;
2. Documentation of the transfer of partnership interest;
3. Partnership Agreement, including documentation that each incoming partner will be legally bound by the Agreement;
4. A list of the names, partnership interest and percentage ownership for all partners before and after the proposed transfer;
5. Certificate of Doing Business as a Partnership, as filed; and
6. Fully executed proposed Certificate of Amendment to the Certificate reflecting the change(s) in partner(s); and
7. Documentation of consent of the existing partners, if necessary; and

B. Submit Schedules 2a and 2b for each incoming partner.

II. Registered Limited Liability Partnerships

N.B.: Only transfers of partnership interests of ten percent or more to a new partner require CON approval.

Transfers of less than ten percent to a new partner require only prior notice. See PHL 2801-a(4)(b).

A. Attach the following legal documentation:

1. A list providing the following information for each incoming partner: name, partnership interest, and percentage ownership being acquired;
2. Documentation of the transfer of partnership interest;
3. Partnership Agreement, including documentation that each incoming partner will be legally bound by the Agreement;
4. Certificate of Registration;
5. A list of the names, partnership interest and percentage ownership for all partners before and after the proposed transfer;
6. Certificate of Doing Business as a Partnership, as filed;
7. Fully executed proposed Certificate of Amendment to the Certificate reflecting the change(s) in partner(s);
8. Documentation of consent of the existing partners, if necessary; and

B. Submit Schedules 2a and 2b for each incoming partner.

III. Not-for-Profit Corporations

Change in Active Member

N.B.: A change in active member requires CON approval. A member is active if it has any of the following reserved powers with respect to the Article 28 corporation:

New York State Department of Health

Certificate of Need Application

Schedule 15

1. Appointment or dismissal of hospital management-level employees and medical staff, except the election or removal of corporate officers.
2. Approval of hospital operating and capital budgets.
3. Adoption or approval of hospital operating policies and procedures.
4. Approval of certificate of need applications filed by or on behalf of the hospital.
5. Approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law.
6. Approval of hospital contracts for management or for clinical services.
7. Approval of settlements of administrative proceedings or litigation to which the hospital is a party, except approval of settlements of litigation that exceed insurance coverage or any applicable self-insurance fund.

A change in a passive member does not require CON approval. If the change in passive member results in a change in officers and/or directors of the Article 28 corporation, however, such changes must be reported in the facility's annual report statement pursuant to 10 NYCRR 610.3.

A. Attach the following legal documentation:

With respect to the Article 28 corporation:

1. Certificate of Incorporation, as filed;
2. Fully executed proposed Certificate of Amendment reflecting the delegation of powers to the active member;
3. Bylaws;
4. Proposed amendments to Bylaws, if any; and
5. With respect to the proposed active member corporation:
 - a. Certificate of Incorporation, as filed;
 - b. Fully executed proposed Certificate of Amendment reflecting the delegation of active powers from the Article 28 corporation;
 - c. Bylaws;
 - d. Proposed amendments to Bylaws, if any; and
 - e. A list of names and position held for all officers and directors; and

B. Submit Schedule 2A for each individual listed in item 5e above. Directors of a not-for profit corporation who contribute capital in support of the project must also submit Schedule 2B Directors of a not-for-profit corporation who do not contribute capital in support of the project must also submit Schedule 2C.

IV. Business Corporations

N.B.: Only transfers of ten percent or more of stock interests or voting rights to a new stockholder and transfers which result in an individual, who has not yet been established, becoming an owner of ten percent or more require CON approval. Transfers of ten percent or more to an existing stockholder who has previously been approved by the Public Health Council only require prior notice. See PHL 2801-a(4)(c).

A. Attach the following legal documentation:

1. A list providing the following information for each incoming stockholder: name, stock interest, and percentage ownership being acquired;
2. Documentation of the transfer of stock;

**New York State Department of Health
Certificate of Need Application**

Schedule 15

3. Certificate of Incorporation;
4. Bylaws;
5. A list of the names, stock interest and percentage ownership for all stockholders before and after the proposed transfer; and
6. Original of stock transfer affidavit from each incoming stockholder and each selling stockholder, including the specific information set forth in 10 NYCRR 620.3(a)(2) and (3), respectively; and

B. Submit Schedules 2A and 2B for each incoming stockholder.

V. Limited Liability Companies

N.B.: Only transfers of membership interests of ten percent or more to a new member require CON approval. Transfers of less than ten percent to a new member only require prior notice. See PHL 2801-a(4)(b).

A. Attach the following legal documentation:

1. A list providing the following information for each incoming member: name, membership interest, and percentage ownership being acquired;
2. Documentation of the transfer of membership interest;
3. Articles of Organization;
4. Operating Agreement, including documentation that each incoming member will be legally bound by it;
5. A list of the names, membership interest and percentage ownership for all members before and after the proposed transfer;
6. Documentation of consent of existing members, if necessary; and

B. Submit Schedules 2a and 2b for each incoming member.

**New York State Department of Health
Certificate of Need Application**

Schedule 15

Checklist and Summary of Attachments to Schedule 15

DOCUMENTATION	NA	Atta- ched	Attach- ment number	Electronic Document file name
I. General Partnerships				
List regarding each incoming partner	<input type="checkbox"/>	<input type="checkbox"/>		
Evidence of transfer of partnership interest	<input type="checkbox"/>	<input type="checkbox"/>		
Partnership Agreement, including documentation by incoming partner(s)	<input type="checkbox"/>	<input type="checkbox"/>		
List regarding all partners (before and after)	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Doing Business as a Partnership	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Amendment	<input type="checkbox"/>	<input type="checkbox"/>		
Consent of existing partners	<input type="checkbox"/>	<input type="checkbox"/>		
II. Registered Limited Liability Partnerships				
List regarding each incoming partner	<input type="checkbox"/>	<input type="checkbox"/>		
Evidence of transfer of partnership interest	<input type="checkbox"/>	<input type="checkbox"/>		
Partnership Agreement, including documentation by incoming partner(s)	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Registration	<input type="checkbox"/>	<input type="checkbox"/>		
List regarding all partners (before and after)	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Doing Business as a Partnership	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Amendment	<input type="checkbox"/>	<input type="checkbox"/>		
Consent of existing partners	<input type="checkbox"/>	<input type="checkbox"/>		
III. Not-for-Profit Corporations – Article 28				
Corporation	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Certificate of Incorporation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4D	Attach_4D_SLH_Certificate_of_Incorporation.pdf
Certificate of Amendment	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Bylaws	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5D	Attach_5D_SLH_Bylaws.pdf
Amendments to Bylaws	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Not-for-Profit Corporations – Proposed Active Member Corporation				

**New York State Department of Health
Certificate of Need Application**

Schedule 15

DOCUMENTATION	NA	Attached	Attachment number	Electronic Document file name
Certificate of Incorporation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4A.1	Attach_4A.1_MVHS_Certificate_of_Incorporation.pdf
Certificate of Amendment	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Bylaws	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5A.1	Attach_5A.1_MVHS_Bylaws
Amendments to Bylaws	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5D.1	Attach_5D.1_SLH_Rested_Bylaws.pdf
List of officers and directors	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3A.1	Attach_3A.1_MVHS_Proposed_Board_Roster.pdf
IV. Business Corporations				
List regarding each incoming stockholder	<input type="checkbox"/>	<input type="checkbox"/>		
Evidence of transfer of stock	<input type="checkbox"/>	<input type="checkbox"/>		
Certificate of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>		
Bylaws	<input type="checkbox"/>	<input type="checkbox"/>		
List of all stockholders (before and after)	<input type="checkbox"/>	<input type="checkbox"/>		
Transfer affidavits	<input type="checkbox"/>	<input type="checkbox"/>		
V. Limited Liability Companies				
List regarding each incoming member	<input type="checkbox"/>	<input type="checkbox"/>		
Evidence of transfer of partnership interest	<input type="checkbox"/>	<input type="checkbox"/>		
Articles of Organization	<input type="checkbox"/>	<input type="checkbox"/>		
Operating Agreement, including documentation by incoming member(s).	<input type="checkbox"/>	<input type="checkbox"/>		
List of all members (before and after)	<input type="checkbox"/>	<input type="checkbox"/>		
Consent of existing partners	<input type="checkbox"/>	<input type="checkbox"/>		

Schedule 16: CON Forms Specific to Hospitals Article 28

Included Schedules	Review Notes
Schedule 16_MVHS	<ul style="list-style-type: none">■ One schedule is included for both hospitals (see Schedules 16A and 16B).■ In Schedule 16B, please see references to Attachment 1C, Project Narrative.

Certain schedule sections are not applicable for this application.

Excluded Schedules	Reason for Exclusion
Schedule 16C	No change in service
Schedule 16D	No change in service
Schedule 16E	No change in service
Schedule 16F	No change in service

Schedule 16 CON Forms Specific to Hospitals Article 28

Contents:

- **Schedule 16 A - Hospital Program Information.**
- **Schedule 16 B - Hospital Community Need.**
- **Schedule 16 C - Impact of CON Application on Hospital Operating Certificate**
- **Schedule 16 D - Hospital Outpatient Departments**
- **Schedule 16 E - Hospital Utilization**
- **Schedule 16 F - Hospital Facility Access**

**New York State Department of Health
Certificate of Need Application
Schedule 16 A. Hospital Program Information**

Schedule 16A

See "Schedules Required for Each Type of CON" to determine when this form is required.

Instructions: Briefly indicate how the facility intends to comply with state and federal regulations specific to the services requested, such as cardiac surgery, bone marrow transplants. For clinic services, please include the hours of service for each day of operation, name of the hospital providing back-up services (indicating the travel time and distance from the clinic) and how the facility intends to provide quality oversight including credentialing, utilization and quality assurance monitoring.

Integrating St. Elizabeth Medical Center with Mohawk Valley Network through the active parent Mohawk Valley Health Services does not involve a change in service delivery or service configuration within any of the involved organizations. Each hospital will continue to adhere to and comply with the mandatory state and federal regulations specific to all article 28 facilities.

It is anticipated that as a result of the affiliation, the facilities will leverage existing best practices pertaining to quality oversight and compliance activities, including but not limited to the assessment, revision, and integration of existing policies and procedures to oversee quality improvement and assurance, utilization monitoring, and credentialing of the facilities' respective medical staffs.

Schedule 16 B. Community Need

See "Schedules Required for Each Type of CON" to determine when this form is required.

Public Need Summary:

Briefly summarize on this schedule why the project is needed. Use additional paper, as necessary. If the following items have been addressed in the project narrative, please cite the relevant section and pages.

1. Identify the relevant service area (e.g., Minor Civil Division(s), Census Tract(s), street boundaries, Zip Code(s), Health Professional Shortage Area (HPSA) etc.)

See section, "Service Area Description" in Project Narrative (Attachment 1C, page 3).

2. Provide a quantitative and qualitative description of the population to be served. Data may include median income, ethnicity, payor mix, etc.

See section, "Population to be Served" in the Project Narrative (Attachment 1C, page 5).

3. Document the current and projected demand for the proposed service in the population you plan to serve. If the proposed service is covered by a DOH need methodology, demonstrate how the proposed service is consistent with it.

See section, "Sustaining Community-based Services" in the Project Narrative (Attachment 1C, page 17).

4. (a) Describe how this project responds to and reflects the needs of the residents in the community you propose to serve.

See section, "Optimizing Performance to Respond to Community Need" in the Project Narrative (Attachment 1C, page 6).

(b) Describe how this project is consistent with your facility's Community Service Implementation Plan (voluntary not-for-profit hospitals) or strategic plan (other providers).

See section, "Optimizing Performance to Respond to Community Need" in the Project Narrative (Attachment 1C, page 6).

5. Describe where and how the population to be served currently receives the proposed services.

See section, "Participating Entities and Service Description" in the Project Narrative (Attachment 1C, page 1).

6. Describe how the proposed services will be address specific health problems prevalent in the service area, including any special experience, programs or methods that will be implemented to address these health issues.

See section, "Consolidation-related Activities to Address Specific Health Problems" in the Project Narrative (Attachment 1C, page 10).

**New York State Department of Health
Certificate of Need Application**

Schedule 16C

Impact of CON Application on Hospital Operating Certificate

Name of Active Parent:(if applicable):

Name of Facility:

Address of Facility:

Note: If the application involves an extension clinic, indicate which services should be added or removed from the certificate of the extension clinic alone, rather than for the hospital system as a whole. If multiple sites are involved, complete a separate 16C for each site.

TABLE 16C-1 AUTHORIZED BEDS

Category	Code	Current Capacity	Add	Remove	Proposed Capacity
AIDS	30		<input type="checkbox"/>	<input type="checkbox"/>	
BONE MARROW TRANSPLANT	21		<input type="checkbox"/>	<input type="checkbox"/>	
BURNS CARE	09		<input type="checkbox"/>	<input type="checkbox"/>	
CHEMICAL DEPENDENCE-DETOX *	12		<input type="checkbox"/>	<input type="checkbox"/>	
CHEMICAL DEPENDENCE-REHAB *	13		<input type="checkbox"/>	<input type="checkbox"/>	
COMA RECOVERY	26		<input type="checkbox"/>	<input type="checkbox"/>	
CORONARY CARE	03		<input type="checkbox"/>	<input type="checkbox"/>	
INTENSIVE CARE	02		<input type="checkbox"/>	<input type="checkbox"/>	
MATERNITY	05		<input type="checkbox"/>	<input type="checkbox"/>	
MED/SURG	01		<input type="checkbox"/>	<input type="checkbox"/>	
NEONATAL CONTINUING CARE	27		<input type="checkbox"/>	<input type="checkbox"/>	
NEONATAL INTENSIVE CARE	28		<input type="checkbox"/>	<input type="checkbox"/>	
NEONATAL INTERMEDIATE CARE	29		<input type="checkbox"/>	<input type="checkbox"/>	
PEDIATRIC	04		<input type="checkbox"/>	<input type="checkbox"/>	
PEDIATRIC ICU	10		<input type="checkbox"/>	<input type="checkbox"/>	
PHYSICAL MEDICINE & REHABILITATION	07		<input type="checkbox"/>	<input type="checkbox"/>	
PRISONER				<input type="checkbox"/>	
PSYCHIATRIC	08		<input type="checkbox"/>	<input type="checkbox"/>	
RESPIRATORY				<input type="checkbox"/>	
SPECIAL USE				<input type="checkbox"/>	
SWING BED PROGRAM				<input type="checkbox"/>	
TRANSITIONAL CARE DEMONSTRATION				<input type="checkbox"/>	
TRANSITIONAL CARE-RHCF	33		<input type="checkbox"/>	<input type="checkbox"/>	
TRAUMATIC BRAIN INJURY	11		<input type="checkbox"/>	<input type="checkbox"/>	
TOTAL			<input type="checkbox"/>	<input type="checkbox"/>	

* CHEMICAL DEPENDENCE: Requires additional approval by the Office of Alcohol and Substance Abuse Services (OASAS)

Does the applicant have previously submitted Certificate of Need (CON) applications that have not been completed involving addition or decertification of beds?

No

Yes (Enter CON numbers to the right)

**New York State Department of Health
Certificate of Need Application**

Schedule 16C

TABLE 16C-2 AUTHORIZED SERVICES

LOCATION: <small>(Enter street address of facility)</small>	<input type="checkbox"/> MOBILE CLINIC DESIGNATION <small>(217) **</small>			
	<u>Current</u>	<u>Add</u>	<u>Remove</u>	<u>Proposed</u>
ABORTION		<input type="checkbox"/>	<input type="checkbox"/>	
AIDS		<input type="checkbox"/>	<input type="checkbox"/>	
AIDS CENTER		<input type="checkbox"/>	<input type="checkbox"/>	
AMBULANCE		<input type="checkbox"/>	<input type="checkbox"/>	
AMBULATORY SURGERY ***				
SINGLE SPECIALTY ***		<input type="checkbox"/>	<input type="checkbox"/>	
SINGLE SPEC- GASTROENTEROLOGY ***		<input type="checkbox"/>	<input type="checkbox"/>	
SINGLE SPECIALTY – OPTHAMOLOGY***		<input type="checkbox"/>	<input type="checkbox"/>	
SINGLE SPECIALTY – ORTHOPEDICS ***		<input type="checkbox"/>	<input type="checkbox"/>	
MULTI-SPECIALTY ***		<input type="checkbox"/>	<input type="checkbox"/>	
STEPDOWN PROCEDURES ***		<input type="checkbox"/>	<input type="checkbox"/>	
AUDIOLOGY		<input type="checkbox"/>	<input type="checkbox"/>	
BIRTHING SERVICE O/P		<input type="checkbox"/>	<input type="checkbox"/>	
BURNS CARE		<input type="checkbox"/>	<input type="checkbox"/>	
BURNS CENTER		<input type="checkbox"/>	<input type="checkbox"/>	
BURNS PROGRAM		<input type="checkbox"/>	<input type="checkbox"/>	
CARDIAC CATHETERIZATION				
ADULT DIAGNOSTIC		<input type="checkbox"/>	<input type="checkbox"/>	
ADULT INTERVENTION ELECTIVE		<input type="checkbox"/>	<input type="checkbox"/>	
ADULT INTERVENTION EMERGENCY		<input type="checkbox"/>	<input type="checkbox"/>	
PEDIATRIC DIAGNOSTIC		<input type="checkbox"/>	<input type="checkbox"/>	
PEDIATRIC INTERVENTION ELECTIVE		<input type="checkbox"/>	<input type="checkbox"/>	
CARDIAC ELECTROPHYSIOLOGY				
ADULT DIAGNOSTIC		<input type="checkbox"/>	<input type="checkbox"/>	
ADULT INTERVENTION		<input type="checkbox"/>	<input type="checkbox"/>	
CARDIAC SURGERY ADULT		<input type="checkbox"/>	<input type="checkbox"/>	
CARDIAC SURGERY PEDIATRIC		<input type="checkbox"/>	<input type="checkbox"/>	
CERTIFIED MENTAL HEALTH O/P****		<input type="checkbox"/>	<input type="checkbox"/>	
CHEMICAL DEPENDENCE -REHAB		<input type="checkbox"/>	<input type="checkbox"/>	
CHEMICAL DEPENDENCE -WITHDR O/P		<input type="checkbox"/>	<input type="checkbox"/>	
CLINIC PART TIME SERVICES *****		<input type="checkbox"/>	<input type="checkbox"/>	
CLINIC OMRDD ARTICLE 16 SERVICE		<input type="checkbox"/>	<input type="checkbox"/>	
COMPREHENSIVE EPILEPSY CENTER		<input type="checkbox"/>	<input type="checkbox"/>	
COMPREHENSIVE PSYCH EMERG PROGR		<input type="checkbox"/>	<input type="checkbox"/>	
CT SCANNER		<input type="checkbox"/>	<input type="checkbox"/>	
DENTAL		<input type="checkbox"/>	<input type="checkbox"/>	
EMERGENCY DEPARTMENT		<input type="checkbox"/>	<input type="checkbox"/>	

** MOBILE CLINIC: For each site where the Mobile Clinic vehicle will be parked to provide services, a separate "Mobile Clinic Site Approval Request" must be attached. A blank form is included below.

*** AMBULATORY SURGERY requires additional approval by Medicare

****PART-TIME CLINICS: For each site, enclose a completed copy of form DOH-4-197 (9/00), which is available from: Project Management Group, Division of Health Facility Planning, Offices of Primary Care and Health Systems Management, New York State Department of Health, Corning Tower, ESP, Room 1842, Albany, NY 12237

**New York State Department of Health
Certificate of Need Application**

Schedule 16C

TABLE 16C-2 AUTHORIZED SERVICES (cont.)	Current	Add	Remove	Proposed
FAMILY PLANNING O/P		<input type="checkbox"/>	<input type="checkbox"/>	
HEALTH FAIRS O/P		<input type="checkbox"/>	<input type="checkbox"/>	
HYPERBARIC CHAMBER		<input type="checkbox"/>	<input type="checkbox"/>	
LINEAR ACCELERATOR		<input type="checkbox"/>	<input type="checkbox"/>	
LITHOTRIPSY		<input type="checkbox"/>	<input type="checkbox"/>	
MAGNETIC RESONANCE IMAGING		<input type="checkbox"/>	<input type="checkbox"/>	
MEDICAL SOCIAL SERVICES		<input type="checkbox"/>	<input type="checkbox"/>	
METHADONE MAINTENANCE O/P		<input type="checkbox"/>	<input type="checkbox"/>	
MULTIPHASIC SCREENING FACILITY		<input type="checkbox"/>	<input type="checkbox"/>	
MULTIPHASIC SCREENING O/P		<input type="checkbox"/>	<input type="checkbox"/>	
NUCLEAR MEDICINE (DIAGNOSTIC)		<input type="checkbox"/>	<input type="checkbox"/>	
NUCLEAR MEDICINE (THERAPEUTIC)		<input type="checkbox"/>	<input type="checkbox"/>	
NUTRITIONAL		<input type="checkbox"/>	<input type="checkbox"/>	
OPHTHAMOLOGY O/P		<input type="checkbox"/>	<input type="checkbox"/>	
OPTOMETRY O/P		<input type="checkbox"/>	<input type="checkbox"/>	
PET SCANNER		<input type="checkbox"/>	<input type="checkbox"/>	
PEDIATRIC O/P		<input type="checkbox"/>	<input type="checkbox"/>	
PODIATRY		<input type="checkbox"/>	<input type="checkbox"/>	
POISON CONTROL CENTER		<input type="checkbox"/>	<input type="checkbox"/>	
PHARMACEUTICAL SERVICE		<input type="checkbox"/>	<input type="checkbox"/>	
PHYSICAL MEDICAL REHABILITATION		<input type="checkbox"/>	<input type="checkbox"/>	
PRENATAL		<input type="checkbox"/>	<input type="checkbox"/>	
PRIMARY MEDICAL CARE O/P		<input type="checkbox"/>	<input type="checkbox"/>	
PSYCHOLOGY		<input type="checkbox"/>	<input type="checkbox"/>	
RADIOLOGY - DIAGNOSTIC		<input type="checkbox"/>	<input type="checkbox"/>	
RADIOLOGY-THERAPEUTIC		<input type="checkbox"/>	<input type="checkbox"/>	
REGIONAL PERINATAL CENTER		<input type="checkbox"/>	<input type="checkbox"/>	
RENAL DIALYSIS, ACUTE		<input type="checkbox"/>	<input type="checkbox"/>	
RENAL DIALYSIS, CHRONIC (Complete the ESRD section below)				
RENAL DIALYSIS, HOME TRAINING O/P		<input type="checkbox"/>	<input type="checkbox"/>	
RESPIRATORY CARE		<input type="checkbox"/>	<input type="checkbox"/>	
SEXUAL ASSAULT FORENSIC EXAM (SAFE)		<input type="checkbox"/>	<input type="checkbox"/>	
STROKE CENTER		<input type="checkbox"/>	<input type="checkbox"/>	
THERAPY - OCCUPATIONAL		<input type="checkbox"/>	<input type="checkbox"/>	
THERAPY - PHYSICAL		<input type="checkbox"/>	<input type="checkbox"/>	
THERAPY - RESPIRATORY O/P		<input type="checkbox"/>	<input type="checkbox"/>	
THERAPY - SPEECH LANGUAGE PATHOLOGY		<input type="checkbox"/>	<input type="checkbox"/>	
THERAPY - VOCATIONAL REHABILITATION O/P		<input type="checkbox"/>	<input type="checkbox"/>	
TRANSFUSION SERVICES -FULL		<input type="checkbox"/>	<input type="checkbox"/>	
TRANSFUSION SERVICES -LIMITED		<input type="checkbox"/>	<input type="checkbox"/>	
TRANSPLANT				
HEART - ADULT		<input type="checkbox"/>	<input type="checkbox"/>	
HEART - PEDIATRIC		<input type="checkbox"/>	<input type="checkbox"/>	
KIDNEY		<input type="checkbox"/>	<input type="checkbox"/>	
LIVER		<input type="checkbox"/>	<input type="checkbox"/>	
TRAUMA CENTER		<input type="checkbox"/>	<input type="checkbox"/>	
TRAUMATIC BRAIN INJURY		<input type="checkbox"/>	<input type="checkbox"/>	
WELL CHILD CARE O/P		<input type="checkbox"/>	<input type="checkbox"/>	

END STAGE RENAL DISEASE (ESRD)

TABLE 16C-2(a) CAPACITY	Existing	Add	Remove	Proposed
CHRONIC DIALYSIS				

If application involves dialysis service with existing capacity, complete the following table:

TABLE 16C-2(b) PROCEDURES	Last 12 mos	2 years prior	3 years prior
CHRONIC DIALYSIS			

All Chronic Dialysis applicants must provide the following information in compliance with 10 NYCRR 670.6.

1. Provide a five-year analysis of projected costs and revenues that demonstrates that the proposed dialysis services will be utilized sufficiently to be financially feasible.

--

2. Provide evidence that the proposed dialysis services will enhance access to dialysis by patients, including members of medically underserved groups which have traditionally experienced difficulties obtaining access to health care, such as; racial and ethnic minorities, women, disabled persons , and residents of remote rural areas.

--

3. Provide evidence that the hours of operation and admission policy of the facility will promote the availability of dialysis at times preferred by the patients, particularly to enable patients to continue employment.

--

4. Provide evidence that the facility is willing to and capable of safely serving patients.

--

5. Provide evidence that the proposed facility will not jeopardize the quality of care or the financial viability of existing dialysis facilities. This evidence should be derived from analysis of factors including, but not necessarily limited to current and projected referral and use patterns of both the proposed facility and existing facilities. A finding that the proposed facility will jeopardize the financial viability of one or more existing facilities will not of itself require a recommendation to of disapproval.

--

**New York State Department of Health
Certificate of Need Application**

Schedule 16C

Mobile Clinic Site Approval Request:

One form must be submitted for each proposed mobile clinic site. Please feel free to photocopy this form as necessary. You may attach additional sheets as necessary.

Facility Name		
Proposed Site Address		
CITY	COUNTY	ZIP
Type of Facility at Site		
Name and Title of Representative at site:		
Type of Service		

Is mobile clinic in a self-contained vehicle or is equipment moved into the temporary site?

--

Schedule of operation

--

Justification for service at this site

--

List of current sites where these services will no longer be offered

--

**New York State Department of Health
Certificate of Need Application**

Schedule 16D

Schedule 16 D. Hospital Outpatient Department - Utilization projections

	a	b	c	d
	Current Year	First Year	Third Year	
	Visits	visits	visits	visits
Abortion				
AIDS/AIDS Center				
Audiology				
Ambulance				
Burns Care				
Burns Center				
Burns Program				
Cardiac Catheterization - Adult)				
Cardiac Catheterization - Pediatric				
Cardiac – Electrophysiology (EP)- Adult)				
Chemical Dependence, Screening				
Chemical Dependence, Rehabilitation				
Chemical Dependence, Withdrawl				
Clinical Laboratory Services				
Clinic OMRDD Article 16 Services				
Clinic Part-Time				
Comprehensive Epilepsy Center				
Comprehensive Psych Emergency Program				
Computerized Tomography (CT)				
Dental				
Emergency Department (ED)				
Family Planning				
Health Fairs				
Hyperbaric Chamber				
Linear Accelerator				
Lithotripter				
Magnetic Resonance Imaging				
Medical Social Services				
Mental Health Services - Certified				
Methadone Maintenance				
Multiphasic Screening				
Non-surgical Eye Care				
Nuclear Medicine (Diagnostic)				
Nuclear Medicine (Therapeutic)				
Nutritional				
Ophthalmology				
Optometry				
Pediatric				
Pharmaceutical Services				
Physical Medicine & Rehabilitation				
Podiatry				
Poison Control				
Prenatal				
Primary Medical Care				
Psychology				
Radiology - Diagnostic				
Radiology-Therapeutic				
Renal Dialysis, Chronic				
Renal Dialysis, Chronic, Home Training				
Regional Perinatal Center				
Respiratory				
Sexual Assault Forensic Exam (SAFE)				
Stroke Center				
Surgery,- Ambulatory				
Surgery - Outpatient				
Therapy-Occupational				
Therapy-Physical				
Therapy-Speech Language Pathology				
Therapy-Vocational				
Transfusion Services, Full				
Transfusion Services, Limited				
Trauma Center				
Well Child				
OTHER, specify				
OTHER, specify				
OTHER, specify				
Total				

Note: In the case of an extension clinic, the service estimates in this table should apply to the site in question, not to the hospital or network as a whole.

Schedule 16 E. Utilization/discharge and patient days

See “Schedules Required for Each Type of CON” to determine when this form is required

This schedule is for hospital inpatient projects only. This schedule is required if hospital discharges or patient days will be affected by $\pm 5\%$ or more, or if this utilization is created for the first time by your proposal.

Include only those areas affected by your project. Current year data, as shown in columns 1 and 2, should represent the last complete year before submitting the application. Enter the starting and ending month and year in the column heading.

Forecast the first and third years after project completion. The first year is the first twelve months of operation after project completion. Enter the starting and ending month and year being reported in the column headings.

For hospital establishment applications and major modernizations, submit a summary business plan to address operations of the facility upon project completion. All appropriate assumptions regarding market share, demand, utilization, payment source, revenue and expense levels, and related matters should be included. Also, include your strategic plan response to the escalating managed care environment. Provide a complete answer and indicate the hospital’s current managed care situation, including identification of contracts and services.

Prior versions of this table referred to “incremental” changes in discharges and days. Note that the table now requires the full count of discharges and days.

Utilization/Discharge and Patient Days

Service (Beds) Classification	Current Year Start date:		1st Year Start date:		3rd Year Start date:	
	Discharges	Patient Days	Discharges	Patient Days	Discharges	Patient Days
AIDS						
BONE MARROW TRANSPLANT						
BURNS CARE						
CHEMICAL DEPENDENCE - DETOX						
CHEMICAL DEPENDENCE - REHAB						
COMA RECOVERY						
CORONARY CARE						
INTENSIVE CARE						
MATERNITY						
MED/SURG						
NEONATAL CONTINUING CARE						
NEONATAL INTENSIVE CARE						
NEONATAL INTERMEDIATE CARE						
PEDIATRIC						
PEDIATRIC ICU						
PHYSICAL MEDICINE & REHABILITATION						
PSYCHIATRIC						
RESPIRATORY						
SPECIAL USE						
SWING BED PROGRAM						
TRANSITIONAL CARE DEMO						
TRANSITIONAL CARE - RHCF						
TRAUMATIC BRAIN-INJURY						
OTHER (describe)						
TOTAL						

Prior versions of this table referred to "incremental" changes in discharges and days. Note that the table now requires the full count of discharges and days.

Schedule 16 F. Facility Access

See "Schedules Required for Each Type of CON" to determine when this form is required.

Complete Table 1 to indicate the method of payment for inpatients and for inpatients and outpatients who were transferred to other health care facilities for the calendar year immediately preceding this application.

Start date of year for which data applies (m/d/yyyy):

Table 1. Patient Characteristics	Total Number of Inpatients	Number of Patients Transferred		
		Inpatient	OPD	ER
Payment Source				
Medicare				
Blue Cross				
Medicaid				
Title V				
Workers' Compensation				
Self Pay in Full				
Other (incl. Partial Pay)				
Free				
Commercial Insurance				
Total Patients				

Complete Table 2 to indicate the method of payment for outpatients.

Table 2. Outpatient Characteristics	Emergency Room		Outpatient Clinic		Community MH Center	
	Visits	Visits Resulting in Inpatient Admissions	Visits	Visits Resulting in Inpatient Admissions	Visits	Visits Resulting in Inpatient Admissions
Primary Payment Source						
Medicare						
Blue Cross						
Medicaid						
Title V						
Workers' Compensation						
Self Pay in Full						
Other (incl. Partial Pay)						
Free						
Commercial Insurance						
Total Patients						

A. Attach a copy of your discharge planning policy and procedures.

B. Is your facility a recipient of federal assistance under Title VI or XVI of the Public Health Service Act (Hill-Burton)?

Yes No

If yes, answer the following questions and attach the most recent report on Hill-Burton compliance from the Federal Department of Health and Human Services:

**New York State Department of Health
Certificate of Need Application**

Schedule 16F

1. Is your facility currently obligated to provide uncompensated service under the Public Health Service Act?

Yes No

If yes, provide details on how your facility has met such requirement for the last three fiscal years - including notification of the requirement in a newspaper of general circulation. Also, list any restricted trusts and endowments that were used to provide free, below-cost or charity care services to persons unable to pay.

2. With respect to all or any portion of the facility which has been constructed, modernized, or converted with Hill-Burton assistance, are the services provided therein available to all persons residing in your facility's service area without discrimination on the basis of race, color, national origin, creed, or any basis unrelated to an individual's need for the service or the availability of the needed service in the facility?

Yes No

If no, provide an explanation.

3. Does the facility have a policy or practice of admitting only those patients who are referred by physicians with staff privileges at the facility?

Yes No

4. Do Medicaid beneficiaries have full access to all of your facility's health services?

Yes No

If no, provide a list of services where access by Medicaid beneficiaries is denied or limited.

Schedule 18: CON Forms Specific to Residential Health Care Facilities

Article 28

Included Schedules	Notes
Schedule 18_SLH	Schedule 18B is included.

Certain schedule sections are not applicable for this application.

Excluded Section	Reason for Exclusion
Schedule 18A	No change in service
Schedule 18C	No change in service
Schedule 18D	No change in service
Schedule 18E	No change in service

Schedule 18

CON Forms Specific to

Residential Health Care Facilities

Article 28

Contents:

- **Schedule 18 Part A - Residential Health Care Facility Program Information**
- **Schedule 18 Part B - Impact of CON Application on Residential Health Care Facilities' Operating Certificate**
- **Schedule 18 Part C - RHCF Space & Construction Distribution**
- **Schedule 18 Part D - RHCF Statement of Functional Expenses (Excel Spreadsheet)**
- **Schedule 18 Part E - RHCF Analysis of Net Patient Revenue**

A. Residential Health Care Facility Program Information

This schedule is required for full review construction applications.

COMMUNITY

- How does your program or service proposal fit into the existing array of services available in the health and social services area? How did you determine this?

- Provides an accurate depiction of currently available services and a service gap analysis or marketing study.

- What transportation considerations in your community/service area/catchment area affect consumers or consumers' friends and family access to your program/service? How do you propose to address these? How will you know if you are successful?

- What linkages have you developed with other community service providers that will complement, support and/or supplement the needs, e.g. housing, social, environmental or medical supports of your proposed client base? How will you maintain current information of this nature for consumers? How will you educate program staff on new program initiatives?

- What local planning processes have been required for your proposal?

- What specific population will you serve? How does it match the demographic need in your service area and the desires of consumers?

- How does your program/service fit into the community's long-range plan? Please document the local source for this information. How will you evaluate the continued effectiveness of your program?

- Document the current and projected demand for the proposed service. If the proposed service is covered by an existing DOH need methodology, demonstrate how the proposed service is consistent with the relevant need methodology.

CONSUMER

How did you determine this service meets consumer needs in the proposed service area/catchment area? How will you incorporate consumers in planning, implementation and ongoing operation of this program/service?

Will you include active consumer involvement in advisory committees or boards?

- Given the consumer alternatives currently available in your community service area, why would consumers want your proposed program or service?

- Education: how will consumers know about your service? What specific information and referral information will be available to assist consumers in making informed decisions on the services they need?

PROGRAM/SYSTEM

- Provide a statement of facility philosophy (whether new or existing).

- Describe in detail the projected resident profile characteristics of the population to be served using the language of the regulations and/or nationally accepted criteria; include any specialty populations. The project must demonstrate an awareness that as many as 70% of residents admitted to residential health care facilities are cognitively impaired and design a therapeutic environment which compensates for these impairments as well as for functional disabilities. Should a facility choose to designate a distinct unit for a subset of residents with dementia, specific descriptors which distinguish this group from the majority of other residents with dementia, admission and discharge criteria for the unit and delivery of services must be addressed.

- Describe resident needs based on the proposed resident population.

- Provide a complete plan for programs and services to meet the needs of the residents. This plan must address all services required by regulation (e.g., specialized rehabilitation, dietary, nursing services and for each service).

- Goals and objectives of program/service
- Function and activities involved
- Unique characteristics of each
- Relationships between services
- Location in the facility and rationale for placement
- Resources needed, e.g., staffing

- How will you evaluate program/service effectiveness? What consumer satisfaction measures will you employ?

- How do you propose to address cultural, rural vs. urban and/or ADA considerations in the design and operation of your program/service?

ENVIRONMENT

Provide a floor plan for an overall design that facilitates use of the facility by residents and caregivers. Explain how the proposed floor plan layout will promote planned programs. In addition, include in the floor plans the area where it attaches to the original building. If the project includes renovation of existing areas, provide a floor plan that shows the areas before and after renovation.

- Provide an enlarged floor plan for each type of resident bedroom. Each bedroom shall be designed to permit:
 - Wheelchair access and a minimum 5'0" diameter turnaround adjacent to at least one side of the bed(s).

- Access to furniture and equipment intended for resident use by residents confined to a wheelchair.
- Specialized furniture and equipment as may be needed.
- Privacy spaces.
- An area for socialization for residents, family, friends and staff.
- An outside view.
- Personalization of the resident's room: rooms show individualization with personal belongings such as pictures, chairs, and favorite objects.

- Describe how the proposed facility design provides wayfinding and orientation through the use of:
 - Signs: visible, eye level, "eye catchy," appropriate location, use of cues.
 - Hallways: visually distinct, color, wall treatment, art work appropriate to age and interests, interactive or tactile wall hangings.
 - Individualized resident cues to orient residents to their own rooms.

- Describe how the proposed facility design provides areas for privacy and socialization of residents to include the following items:
 - At intervals along corridors/wandering path(s), the provision of small rest areas to encourage social interaction on a one-to-one or in small groups and enable limited ambulators to progress short distances toward a goal.

- Dining rooms that provide opportunities for residents to eat in small groups with a minimum of distraction.

- Chair placement to encourage conversation in resident rooms as well as in public areas.

- Rooms designed to residential scale.

- Traffic kept to a minimum.

- “Watching space”: people like watching life going on around the elevator/nursing station area; windows or sunrooms, porches or verandas overlooking the main entrance, busy streets, etc.

- Describe how the interior design and finishes will be chosen to reduce resident confusion and to contribute to the homelike environment of the facility.

- Strictly limit use of fluorescent lights. Sufficient lighting for general activities without unnecessary glare and adequate individual lighting for visually impaired to read, do handwork, etc.

- Visual contrast between objects and background, between walls and floor.

- Floor colors/patterns that minimize the illusion of steps or varying levels.

- Carpeting: although it lowers noise levels and creates a residential feeling, it may increase the problems of mobility for wheelchair bound residents.

- Aural concerns addressed, i.e., carpeting, wall coverings, curtains, etc., for noise abatement; TV and radio noise controlled or confined.

- Describe how physical outlets for residents will be provided and accessed. Address the following items in this plan:

- Meaningful wandering circuits.

- Access to outdoors:
 - Direct to an enclosed or limited access courtyard.
 - Visual access or other monitoring method of area by staff.
 - Chairs and benches.
 - Sunny and shady.
 - Visual objects of interest.

- Space to place an angry/agitated resident without disturbing others, “quiet area.”

- Identification of space for “unstructured” activities during, evenings, nights and weekends as well as on days.

WORKFORCE

- What is the current availability of professional/paraprofessional workers to staff your proposal? Who are the competing employers? What will you do to successfully compete? Include training, recruitment and transportation strategies. How do you coordinate with Department of Labor or any other local workforce initiatives?

- What measures will you adopt to promote retention of specific categories of your workforce?

- What will the impact be of opening/expanding your program on the workforce of other health care providers in the community? How will you minimize any adverse impact?

**Impact of CON Application on Residential Health Care Facility
 Operating Certificate**

TABLE 18B-1 AUTHORIZED BEDS

<u>Category</u>	<u>Code</u>	<u>Current</u>	<u>Add</u>	<u>Remove</u>	<u>Proposed</u>
AIDS	30		<input type="checkbox"/>	<input type="checkbox"/>	
BEHAVIORAL INTERVENTION	32		<input type="checkbox"/>	<input type="checkbox"/>	
BEHAVIORAL INTERVENTION STEPDOWN	35		<input type="checkbox"/>	<input type="checkbox"/>	
COMA RECOVERY	26		<input type="checkbox"/>	<input type="checkbox"/>	
PEDIATRIC	04		<input type="checkbox"/>	<input type="checkbox"/>	
PEDIATRIC VENTILATOR DEPENDENT	36		<input type="checkbox"/>	<input type="checkbox"/>	
RHCF	16	202	<input type="checkbox"/>	<input type="checkbox"/>	202
TRAUMATIC BRAIN INJURY	11		<input type="checkbox"/>	<input type="checkbox"/>	
VENTILATOR DEPENDENT	31		<input type="checkbox"/>	<input type="checkbox"/>	

TABLE 18B-2 AUTHORIZED SERVICES ¹

<u>Category</u>	<u>Code</u>	<u>Current</u>	<u>Add</u>	<u>Remove</u>	<u>Proposed</u>
ADULT DAY HEALTH CARE	58	50	<input type="checkbox"/>	<input type="checkbox"/>	50
ADULT DAY HEALTH CARE - AIDS	172		<input type="checkbox"/>	<input type="checkbox"/>	
CLINICAL LABORATORY SERVICES	18		<input type="checkbox"/>	<input type="checkbox"/>	
HEALTH FAIRS O/P	197		<input type="checkbox"/>	<input type="checkbox"/>	
PSYCHOLOGY	85		<input type="checkbox"/>	<input type="checkbox"/>	
RADIOLOGY - DIAGNOSTIC	109		<input type="checkbox"/>	<input type="checkbox"/>	
RESPIRATORY CARE	91		<input type="checkbox"/>	<input type="checkbox"/>	
RESPIRE 1	178		<input type="checkbox"/>	<input type="checkbox"/>	
RESPIRE 2	179		<input type="checkbox"/>	<input type="checkbox"/>	
THERAPY-PHYSICAL O/P	147		<input type="checkbox"/>	<input type="checkbox"/>	
THERAPY-OCCUPATIONAL O/P	146		<input type="checkbox"/>	<input type="checkbox"/>	
THERAPY-SPEECH LANGUAGE PATHO/P	155		<input type="checkbox"/>	<input type="checkbox"/>	
TRANSFUSION SERVICES- LIMITED	233		<input type="checkbox"/>	<input type="checkbox"/>	
TRANSFUSION SERVICES- LIMITED O/P	189		<input type="checkbox"/>	<input type="checkbox"/>	

¹ Services listed below are baseline services included in the establishment of an RHCF and do not need to be requested:

- Audiology
- Dental
- Health Education
- Medical Social Services
- Medical Suppl Equip & Appl
- Optometry
- Nursing
- Nutritional
- Pharmaceutical Services
- Physician Services

C. RHCf Space & Construction Distribution -

For Construction Projects Requiring Full or Administrative

On the following table, record the total Gross Square Footage of the facility before and after completion of this project and the gross square footage dedicated to each of four functions, inpatient care, staff and patient areas, administrative and public areas, and service and maintenance areas. The functions are labeled as A through B in the table.

a	b	c	d	e	f	g
Building Gross Square Feet	Existing Space			Total Space Upon completion		
	Existin g Beds before project:	Total G.S.F	Total G.S.F. Per Bed	Beds on completion	Total G.S.F.	Total G.S.F. Per Bed
A. Inpatient						
B. Staff/Patient						
C. Admin/Public						
D. Serv/Maint						
TOTALS						

The following table (next page) summarizes the uses associated with each functional area.

**New York State Department of Health
Certificate of Need Application**

Schedule 18C

A. INPATIENT	B. STAFF/PATIENT	C. ADMINISTRATION AND PUBLIC AREAS	D. SERVICE/MAINTENANCE AREAS	
<p>1. Nursing Unit</p> <p>Patient</p> <p>MultiBed Rm. (Multi: Single)</p> <p>Toilet</p> <p>Closet</p> <p>Bath/Shower</p> <p>Nurses Station</p> <p>Drug Prep</p> <p>Lounge</p> <p>Toilet</p> <p>Exam & Treatment Rm. '(without nursing units)</p> <p>Clean Work/Holding Rm.</p> <p>Soiled Work/Holding Rm.</p> <p>Clean Linen Storage</p> <p>Nourishment Station</p> <p>Equipment Storage Rm.</p> <p>Parking for Stretchers and Wheelchairs</p> <p>2. Patient Dining and Recreation Area</p> <p>Recreation Area</p> <p>Dietary Preparation Area</p> <p>Dining Day Room (SNF)</p> <p>Dining Room (HRF)</p> <p>Lounges</p> <p>Chapel/Meditation</p> <p>Storage Space</p> <p>Toilets</p>	<p>1. Physical Therapy Facilities</p> <p>Treatment Areas</p> <p>Thermotherapy</p> <p>Diathermy</p> <p>Ultrasonics</p> <p>Hydrotherapy</p> <p>Exercise Area</p> <p>Patient Dressing Areas</p> <p>Showers</p> <p>Lockers</p> <p>Toilet Rooms</p> <p>Office Space</p> <p>Storage</p> <p>Wheelchair and Stretcher Storage</p> <p>2. Occupational Therapy Facilities</p> <p>Activities Area</p> <p>Storage</p> <p>Toilet Rooms</p> <p>3. Personal Care Unit</p> <p>4. Dental</p> <p>5. Pharmacy</p> <p>6. Speech/Audiology</p> <p>7. Medical Services</p> <p>8. Podiatry</p> <p>9. Laboratory</p>	<p>1. Entry</p> <p>2. Lobby</p> <p>Reception</p> <p>Coffee Shop</p> <p>Gift Shop</p> <p>Waiting</p> <p>Storage for Wheelchairs</p> <p>Toilets</p> <p>3. Interview</p> <p>Social Services</p> <p>Credit</p> <p>Admissions</p> <p>4. General or Individual Offices</p> <p>Business Transactions</p> <p>Medical Records</p> <p>Financial Records</p> <p>Administrative Staff</p> <p>Professional Staff</p> <p>5. Multipurpose Room (Not Patient Use Areas)</p> <p>Conferences</p> <p>Meeting and Rooms</p> <p>Health Education</p> <p>6. Storage</p> <p>Office Equipment</p> <p>Supplies</p> <p>7. Counseling</p> <p>Social Services</p> <p>3. Central Stores</p>	<p>1. Dietary (Kitchen Area) Control</p> <p>Station/Receiving</p> <p>Storage</p> <p>Refrigerated</p> <p>Dry Food Preparation</p> <p>Patient Meal Service</p> <p>Dishwashing</p> <p>Potwashing</p> <p>Sanitizing Facilities</p> <p>Storage Cans</p> <p>Carts</p> <p>Mobile Tray</p> <p>Waste Storage Facilities</p> <p>Office (Dietitian or Dietary Manager)</p> <p>Staff Toilets</p> <p>Janitors Closet</p> <p>2. Linen Services (Onsite Processing)</p> <p>Laundry Processing Room</p> <p>Soiled Linen Receiving</p> <p>Holding</p> <p>Sorting</p> <p>Storage for Laundry</p> <p>Supplies</p> <p>Clean Linen Inspection</p> <p>Mending</p> <p>Clean Linen Storage</p> <p>Issue</p> <p>Holding</p> <p>Janitors Chest</p> <p>Storage, Housekeeping</p>	<p>Equipment and Supplies</p> <p>Sanitizing Facilities and Storage for Carts</p> <p>3. Central stores</p> <p>4. Employees Facilities</p> <p>Locker Rooms</p> <p>Lounges</p> <p>Toilets</p> <p>Showers</p> <p>5. Janitors Closets and Housekeeping</p> <p>Storage Housekeeping</p> <p>Equipment and Supplies</p> <p>6. Engineering Service and Equipment Areas</p> <p>Equipment Room</p> <p>Boiler Room</p> <p>Mechanical Equipment Room(s)</p> <p>Electrical Equipment Room</p> <p>Engineers Quarters</p> <p>Office</p> <p>Maintenance Shop(s)</p> <p>Storage Room for Maintenance Supplies</p> <p>Yard Equipment Storage</p> <p>Yard Maintenance Equipment</p> <p>Yard Maintenance Supplies</p> <p>7. Waste Disposal Storage</p> <p>Storage and Disposal Incinerator</p>

Schedule 18 Part D is an Excel spreadsheet available from the DOH website.

E. RHCf Analysis of Net Patient Revenue:

This section must be completed for

- all RHCf establishment applications
- all establishment and construction RHCf applications which will increase current year total costs by more than 10%.

If neither condition applies, Schedule 13d – Annual Operating Revenue will be sufficient, and the detailed monthly cash flow analysis will not be required.

This schedule consists of two parts:

I. Analysis of Net Patient Revenue. Provide a breakdown of utilization by payor source indicated; provide supporting calculations for the rates assumed for each payor. A separate schedule should be provided for each discrete program. The breakdown must be provided for the current year, as well as the first and third year of the project.

II. Cash Flow Analysis. Provide as an attachment to this schedule a cash flow analysis for the first full year of operation after the changes proposed by the application, which identifies the amount of working capital, if any, needed to implement the project. Please complete Schedule 5, Working Capital Schedule, in conjunction with the cash flow analysis.

	Attachment Title	Attachment Filename
Cash Flow Analysis Attachment		

**New York State Department of Health
 Certificate of Need Application
 Analysis of Net Patient Revenue**

Schedule 18E

A	B	C	D	E
I. Analysis of Net Patient Revenue	Skilled Nursing Facility	Long Term Home Health Care Program	Adult Day Health Care Program	All Other Program Revenue Centers
Current Year:				
Medicaid Revenue:				
Medicare Revenue				
A. Part A--All Income				
B. Part B--Income				
Commercial Insurance				
Private Pay				
Other Revenue ()				
Other Patient Revenue				
Total Revenue				
Bad Debt				
First Year:				
Medicaid Revenue:				
Medicare Revenue				
A. Part A--All Income				
B. Part B--Income				
Commercial Insurance				
Private Pay				
Other Revenue ()				
Other Patient Revenue				
Total Revenue				
Bad Debt				
Third Year:				
Medicaid Revenue:				
Medicare Revenue				
A. Part A--All Income				
B. Part B--Income				
Commercial Insurance				
Private Pay				
Other Revenue ()				
Other Patient Revenue				
Total Revenue				
Bad Debt				

Schedule 21: CON Forms Specific to Certified Home Health Agencies

Included Schedules	Notes
Schedule 21_MVHC	Schedule 21G – Additional Legal Information for CHHA Ownership Transfers are included.
Schedule 21_VNA	Schedule 21C – Additional Legal Information for CHHAs, and Schedule 21G – Additional Legal Information for CHHA Ownership Transfers are included.

Certain schedule sections are not applicable for this application.

Excluded Section	Reason for Exclusion
Schedule 21A—except Section II, question 7 and Section IV, questions 10 and 11	No change in service
Schedule 21B	No change in service
Schedule 21C for MVHC	Not applicable
Schedule 21D	No change in service
Schedule 21E	No change in service
Schedule 21F	No change in service

**Schedule 21
CON Forms Specific to
Certified Home Health Agencies
Long Term Home Health Care Programs
Article 36**

Contents:

Schedule 21A – CHHA/LTHHCP Program Information

**Schedule 21B - Impact of Proposed CON on CHHA/LTHHCP
Operating Certificate**

Schedule 21C - Additional Legal Information for CHHAs

Schedule 21D – CHHA/LTHHCP Operating Costs

Schedule 21E - CHHA/LTHHCP Projected Operating Revenue

Schedule 21F - CHHA/LTHHCP Projected Utilization

**Schedule 21G - Additional Legal Information for CHHA Ownership
Transfers**

Schedule 21A – CHHA/LTHHCP Program Information

These instructions apply to Schedule 21A only.

Refer to the following chart to determine which sections and questions in Schedule 21A apply to your application. Unless otherwise noted, each section must be completed in its entirety.

APPLICATION TYPE	SECTIONS/QUESTIONS TO BE COMPLETED
CHHA Establishment	I, II, III, IV, V
Expansion of CHHA Geographic Service Area	I II, questions 3, 5, 8 III IV, questions 2, 3, 11, 12 V
Addition of CHHA Service	I, questions 1, 2 IV, questions 1, 2, 3, 11 V, questions 1, 2
CHHA Transfer of Ownership	II, question 7 IV, questions 1, 10, 11
LTHHCP Initiation	I, II, III, IV, V, VI
Expansion of LTHHCP Geographic Service Area	I II, questions 3, 5 III IV, questions 2, 11, 12 V VII
Increase in LTHHCP Capacity	VII
LTHHCP Transfer of Ownership	IV, questions 1, 10, 11

I. Community Planning

1. How does your program proposal fit into the existing array of services available in the health and social services area? How did you determine this?

2. Provide an accurate depiction of current available services, service gap analysis or marketing studies.

3. Describe your proposed or existing relationships with local health and social services departments.

4. What linkages have you developed with other community service providers that will complement, support, and/or supplement the total needs (e.g. housing, social, environmental, or medical supports) for your proposed client base? How will you maintain current information of this nature for consumers? How will you educate program staff on new program initiatives?

5. What local planning processes have been required for your proposal?

6. How does your program fit into the community's long-range plan? Document the local source for this information. How will you evaluate the continued effectiveness of your program as it relates to the community's long-range plan?

7. Document the current and projected demand for the proposed services. If the proposed services are covered by an existing Department of Health need methodology, demonstrate how the services are consistent with the methodology.

8. Describe your primary sources of referral. Be specific in relation to your proposed service area.

9. What specific population will you serve? How does it match the demographic need in your service area and the desires of consumers?

10. Provide a demographic profile of the target population including socio-economic, health status and any other pertinent information demonstrating consumer choice.

II. Consumers

1. Describe any education, training, community outreach or support programs, which will be offered to increase public awareness and enhance the quality of services provided by your program. How will consumers know about your program? What specific information and referral information will be available to assist consumers in making informed decisions on the services they need?

2. Briefly describe the manner in which the needs of low-income persons, racial and ethnic minorities, women, handicapped or disabled persons and other potentially under served groups will be addressed through this proposal.

3. How did you determine that your program meets 'consumer needs' in the proposed service/catchment area? How will you incorporate consumers in planning, implementation and ongoing operation of this program?

4. Will you include active consumer involvement in advisory committees or boards? Please explain.

5. Given the consumer alternatives and choices currently available in your community service area, why would consumers choose your proposed program?

6. Describe the measures that will be taken to maximize the use of your consumers' informal supports.

7. For CHHA applicants only, in accordance with Section 763.11 (a) (11) of Title 10 of the New York Compilation of Codes, Rules and Regulations, certified agencies must ensure the provision of charity care in each fiscal year in an amount no less than two percent (2%) of the total operating costs of the agency in that fiscal year for not-for-profit and for-profit agencies and agencies operated by public benefit corporations. Public agencies must provide charity care in an amount no less than three and one-third percent (3 1/3%) of total operating costs. Charity care is provided at no charge or reduced charge for the services the agency is certified to provide to consumers who are unable to pay full charges, are not eligible for covered benefits under Title XVIII or XIX of the Social Security Act, are not covered by private insurance, and whose household income is less than two hundred percent (200%) of the federal poverty level.

Indicate how the proposed program will meet this requirement. Describe the anticipated sources of funding to cover charity care costs. Estimate the anticipated percentage of charity care cases and include a description of the sliding fee scale to be used. Also describe the plan for the continued provision of services when the consumer has exhausted all payment sources.

8. For CHHA applicants only, enter on the following table the anticipated first and third year patient caseload for each county in the proposed service area.

Table 21A-1 Caseload Projections by County

County	First Year Patient Caseload	Third Year Patient Caseload

III. Geographic Service Area

1. Provide a geographic description of the service area. Applicants should develop proposals to serve the entirety of each county in the service area. For each county, estimate the furthest distance (in both miles and time) which staff will travel to make home visits.

2. If the proposed service area differs from that of the project sponsor, explain the reasons for the difference.

3. What are the current transportation considerations in your community/service area/catchment area affecting consumers or consumers' family and friends' access your program? How do you propose to address these? How will you know if you are successful?

IV. Program Characteristics

1. Indicate on the following table the services you will be providing, the method of delivery and the availability of each service. For each service, indicate by full-time equivalents (FTE) the anticipated number of personnel (both contract staff and agency employees) needed to sufficiently meet the needs of the projected caseload. CHHAs must provide nursing; home health aide; medical supplies, equipment and appliances; and at least one additional service. All thirteen services are required for the LTHHCP. Both programs require that either home health aide, nursing, physical therapy, speech pathology, occupational therapy or medical social services be provided in its entirety directly by agency employees. For existing CHHAs applying to certify a new service, provide information for the proposed service(s) only.

Table 21A-2 Program Staffing Plan

Service	Direct	Contract	Availability (Hours & Days per Week)	Number of FTEs
AUDIOLOGY	<input type="checkbox"/>	<input type="checkbox"/>		
HOME HEALTH AIDE	<input type="checkbox"/>	<input type="checkbox"/>		
HOMEMAKER	<input type="checkbox"/>	<input type="checkbox"/>		
HOUSEKEEPER	<input type="checkbox"/>	<input type="checkbox"/>		
MEDICAL SOCIAL SERVICES	<input type="checkbox"/>	<input type="checkbox"/>		
MEDICAL SUPPLY EQUIPMENT & APPLIANCES	<input type="checkbox"/>	<input type="checkbox"/>		
NURSING	<input type="checkbox"/>	<input type="checkbox"/>		
NUTRITIONAL	<input type="checkbox"/>	<input type="checkbox"/>		
OCCUPATIONAL THERAPY	<input type="checkbox"/>	<input type="checkbox"/>		
PERSONAL CARE	<input type="checkbox"/>	<input type="checkbox"/>		
PHYSICAL THERAPY	<input type="checkbox"/>	<input type="checkbox"/>		
RESPIRATORY THERAPY	<input type="checkbox"/>	<input type="checkbox"/>		
SPEECH PATHOLOGY	<input type="checkbox"/>	<input type="checkbox"/>		
OTHER (SPECIFY)	<input type="checkbox"/>	<input type="checkbox"/>		

2. For contracted services, enter the name and address of the proposed contractor. Attach additional sheets if necessary. For existing CHHAs applying to certify a new service, complete this information for the proposed service(s) only.

--

Table 21A-3 Contracted Services

Service	Contractor

Service	Contractor

3. Estimate the number of cases and visits for each of the specified age groups in the first three years of operation. For existing CHHAs applying to certify a new service, estimate only the total visits/cases for the proposed service for years 1 through 3. A case is defined as an individual who is admitted to an agency during a calendar year. The following are NOT counted in the agency’s caseload:

- Assessments that do not result in an admission to the agency;
- Admissions for maternal and preventive care;
- Assessment or supervision of personal care services;
- Cases in which the agency is the secondary provider of services; and
- Cases identified as ‘ill without diagnosis’.

Table 21A-4 Caseload Projections by Age

Age	Year 1		Year 2		Year 3	
	Cases	Visits	Cases	Visits	Cases	Visits
Under 1						
1 - 4						
5 - 19						
20 - 44						
45 - 64						
65 - 84						
85 & Over						
Total						

4. Describe the methodologies to be used in consumer screening, assessment and utilization review. Specify who will be responsible for these activities and the frequency with which they will occur.

--

5. Describe how the proposed program supports the sponsor’s short and long-term goals.

6. Explain how professional assistance will be available on a 24-hour, 7-day-week basis.

7. Describe the processes that are in place to ensure that services are provided in an efficient manner and will minimize the cost per home care case.

8. Describe the quality assurance plan, which will be used to evaluate program effectiveness. What consumer satisfaction measures will you employ?

9. How do you propose to address cultural, rural vs. urban and/or ADA (American Disabilities Act) considerations in the design and operation of your program?

10. All CHHAs and LTHHCPs are required to collect and data enter, via internet access, a standardized set of data items known as the Outcome and Assessment Information Set (OASIS) in order to meet the Medicare Conditions of Participation. Details of these requirements are published in the January 25, 1999 Federal Register (64 FR 3748 and 64 FR 3764) and updated in the June 18, 1999 Federal Register (64 FR 32984). Please document the applicant's capability for meeting the OASIS requirements at program start-up.

11. Describe your goals toward initiating operations in a timely manner. Indicate the anticipated operational date and provide a time frame for developing policies and procedures, hiring and training staff, establishing contracts and referral agreements, etc.

12. Indicate if the agency will have any branch offices. If so, provide the address below.

V. Workforce

1. What is the current availability of professional/paraprofessional workers to staff your program? Who are the competing employers? How do you propose to successfully compete? Include training, recruitment and transportation strategies. How do you coordinate with the Department of Labor or any other local workforce initiatives?

2. What impact will the initiation/expansion of your program have on the workforce of other health care providers in the community? How will you minimize any adverse impact?

3. What measures will you adopt to promote retention of specific categories of your workforce?

VI. Additional Questions for LTHHCP Initiation

1. Indicate on the following chart, the number of LTHHCP registrants requested for each county in the proposed service area.

Table 21A-5 LTHHCP Registrants Requested by County

County	Number of Requested Registrants

2. If the proposed LTHHCP is operated by a CHHA, indicate whether 1) the LTHHCP will be administered by a full-time director of patient services or 2) if the director of the CHHA will act as a part-time administrator of the LTHHCP and a full-time supervising community health nurse will be employed by the LTHHCP to act as coordinator of the program.

3. Describe how the LTHHCP will provide 24-hour, 7-day-week nursing coverage separate and distinct from the sponsoring organization.

4. Describe how the LTHHCP will provide nursing supervision.

5. Indicate if medical supplies, equipment and appliances will be provided by contract with an approved DME vendor or if the LTHHCP will provide this service directly as an approved DME vendor.

VII. LTHHCP Capacity Increase

1. On the following chart, indicate the current approved capacity, the current census, the number of pending registrants and the requested number of additional registrants for each county in the program's approved geographic service area.

Table 21A-6 LTHHCP Capacity Increase by County

County	Approved Capacity	Current Census	No. of Pending Registrants	Requested No. of Slots

2. For patients receiving skilled services, provide a breakdown of your current caseload by type of skilled service. (For example, 25 registrants receive skilled nursing only; 10 registrants receive skilled nursing and physical therapy, etc.)

3. Provide a breakdown of the number of registrants receiving waived services by type of service. Use the same format described in Question #2.

4. Provide a DMS-1 score distribution for existing registrants using the following ranges: 60-180; 181-300; and 300+.

5. What is the average registrant budget for your program in relation to the registrant budget cap? Provide a distribution of your current registrant budgets by aggregating them into the following categories: those < 25% of the cap; those 25% to 50% of the cap; and those 51% to 75% of the cap.

6. How many potential registrants are currently on your waiting list?

7. What are the sources of referral for your pending cases?

8. What percentage of pending registrants have DMS-1 scores greater than 180? Greater than 300?

9. How many registrants on your waiting list do you anticipate requiring one skilled service? Two skilled services? More than two skilled services?

10. What percentage of registrants on the waiting list will require waived services? Will any patients require more than one waived service? If so, estimate how many.

**New York State Department of Health
Certificate of Need Application**

Schedule 21B

**Impact of Proposed CON on Certified Home Health Agency and/or
Long Term Home Health Care Program Operating Certificate(s)**

**Changes in Patient Capacity and/or Services for
Long Term Home Health Care Programs**

Table 21B-1 Certified Capacity	Current	Add	Remove	Proposed
LONG-TERM HOME HEALTH CARE PROGRAM				

Table 21B-2 Certified Services¹		Current	Add	Remove	Proposed
AIDS HOME HEALTH CARE PROGRAM	170	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHYSICIAN SERVICES	75	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

¹ Services listed below are required services included in the establishment of a LTHHCP and do not need to be requested:

- Audiology
- Home Health Aide
- Homemaker
- Housekeeper
- Medical Social Services
- Medical Suppl Equip & Appl
- Nursing
- Nutritional
- Personal Care
- Therapy-Occupational
- Therapy-Physical
- Therapy-Respiratory
- Therapy-Speech Language Pathology

Changes in Certified Services for Certified Home Health Care Agencies

Table 21B-3 Certified Services CHHA²		Current	Add	Remove	Proposed
AUDIOLOGY	6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HOMEMAKER	39	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HOUSEKEEPER	40	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MEDICAL SOCIAL SERVICES	95	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NUTRITIONAL	60	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PERSONAL CARE	72	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHYSICIAN SERVICES	75	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
THERAPY-OCCUPATIONAL	61	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
THERAPY-PHYSICAL	74	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
THERAPY-RESPIRATORY	92	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
THERAPY-SPEECH LANGUAGE PATHOLOGY	98	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

² Services listed below are required services included in the establishment of a CHHA and do not need to be requested:

- Home Health Aide
- Medical Suppl Equip & Appl
- Nursing

Changes in Counties Served for CHHA and/or LTHHCP

Table 21B-4 Counties Served CHHA/LTHHCP	Current	Add	Remove	Proposed
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Schedule 21C – Additional Legal Information
Article 36 Certified Home Health Agencies (CHHA)**

Instructions

1. All Article 36 applicants seeking establishment approval must complete Part I.
2. The appropriate section of Part II must also be completed, depending on the Article 36 applicant’s type of legal entity, as follows:
 - a. Applicants that are not-for-profit corporations must complete Section A.
 - b. Applicants that are business corporations must complete Section B.
 - c. Applicants that are limited liability companies (LLC) must complete Section C.
 - d. Applicants that are government entities must complete Section D.

N.B. Whenever a requested legal document has been amended, modified or restated, all amendments, modifications and/or restatements should also be submitted.

N.B. An entity cannot be approved to operate both a CHHA and a licensed home care services agency (LHCSA). If an entity is currently approved to operate a LHCSA and it wishes to operate a CHHA, a separate legal entity (partnership, corporation or limited liability company) must be proposed.

I. All Applicants

For purposes of the application, a “controlling person” is one who exercises control over the CHHA by directing or causing the direction of the actions, management or policies of the agency, whether through the ownership of voting securities or voting rights, electing or appointing directors, the direct or indirect determination of policies, or otherwise. Full disclosure of the CHHA operator (in Schedule 3B), as well as the governing bodies of each immediate, intermediate and ultimate parent or member entity of the CHHA is required since these entities/persons possess direct or indirect operational authority over the CHHA. This includes directors (if a corporation), managers (if an LLC), and principal stockholders (if a business corporation), as well as both active and passive parent/member corporations.

A. Controlling Person

Does the CHHA have a controlling person or an immediate, intermediate or ultimate parent or member entity? Yes No

If yes, list the controlling person(s) or immediate, intermediate or ultimate parent entity(ies) below. Attach additional sheets if necessary. Attachment #

Legal Name of Controlling Person	Type of Legal Entity (Specify For-Profit or Not-for-Profit, if a Corporation)

**New York State Department of Health
Certificate of Need Application**

Schedule 21C

For each legal entity named above, submit the following documentation.

Formation Documents

If a corporation, Certificate of Incorporation and Bylaws.

Attachments # and # .

If an LLC, Articles of Organization and the Operating Agreement.

Attachments # and # .

Agreements

All agreements between the CHHA and the controlling person or parent entity relating to the manner and mechanisms by which the controlling person or parent entity controls or will control the CHHA. Attachment # .

Control

Submit a detailed description of such control relationship.

Attachment # .

Ownership and Governing Authority

If a corporation, submit a list of the names and position held for all officers, directors and principal stockholders (those owning ten percent or more of the corporation's issued stock) of each parent or member corporation.

Attachment # .

If an LLC, submit a list of the names and positions held for each controlling person (managers, directors, principal members and/or stockholders, whichever is applicable). Attachment # .

Submit Schedule 2A for each individual listed in Item 4a or 4b. Directors of business corporations, members of LLCs, and directors of not-for-profit corporations who contribute capital in support of the project must also submit Schedule 2B.

Directors of not-for-profit corporations who do not contribute capital in support of the project must also submit Schedule 2C.

Management

If the response to Question I.H is Schedule 3B is 'Yes' and the applicant intends to enter into a management or consulting contract, the proposed agreement must be submitted for Department approval and must meet the requirements of 10 NYCRR 763.11 (c) and (d). If the agreement is referenced as an attachment in response

**New York State Department of Health
Certificate of Need Application**

Schedule 21C

to Question I.H in Schedule 3B, indicate the attachment number and do not submit a second copy. Attachment # .

If the response to Question I.I in Schedule 3B is 'No' and the applicant intends to enter into a management consulting agreement with an entity that has not previously received establishment approval (under Articles 7, 28, 36, 40 or 44) in New York State, the management entity itself must be disclosed.

Has the management entity previously received establishment approval in New York State? Yes No

If yes, skip to Section C.

If the response to the above question is no:

Submit a list of the principal stockholders/members (those owning ten percent or more of the manager's issued stock/membership interest) and/or directors of the management entity. Attachment # .

Each director, principal stockholder or member of the management entity must submit Schedule 2A. Each individual must also submit Schedule 2B or 2C, as applicable.

Affiliations

Submit an organizational chart that depicts the CHHA's relationship to all sister and subsidiary entities, as well as all immediate, intermediate and ultimate parent/member entities. Attachment # .

N.B. If the CHHA's organizational chart is duplicative of the chart submitted in response to Question I.G in Schedule 3B, check the following box and do not submit an additional chart.

Organizational chart is duplicative of that submitted in Schedule 3B.

N.B. As indicated in Schedule 1C, the Department must receive documentation from the appropriate state regulatory agency that all health care entities affiliated with the applicant or with the applicant's member/parent corporations, have operated in substantial compliance with all applicable codes, rules and regulations. Ensure that a list of such agencies is included with this application (See Schedule 1C) and refer to Schedule 2D for instructions on how to obtain this information for facilities located outside of New York State.

II. Additional Documentation Depending on Type of Legal Entity

A. Not-for-Profit Corporations

Number of director positions set by the bylaws or otherwise fixed (See Not-for-Profit Corporation Law 702): .

**New York State Department of Health
Certificate of Need Application**

Schedule 21C

Number of director positions currently filled: .

Explain how and by whom the directors will be appointed or elected.

The Certificate of Incorporation must include purposes that are adequate to encompass the authority to operate a CHHA. Language similar to the following would be acceptable to the Department:

“The purpose for which the corporation is formed is to establish and operate a certified home health agency approved under Article 36 of the Public Health Law, provided that no such certified home health agency shall be established and operated without the prior written approval of the New York State Department of Health.”

B. Business Corporations

The Certificate of Incorporation must include purposes that are adequate to encompass the authority to operate a CHHA. Language similar to the following would be acceptable to the Department:

“The purpose for which the corporation is formed is to establish and operate a certified home health agency approved under Article 36 of the Public Health Law, provided that no such certified home health agency shall be established and operated without the prior written approval of the New York State Department of Health.

As an alternative, the Certificate of Incorporation may include general purposes. The purpose clause should state, either alone or with other purposes, that the purpose of the corporation is to engage in any lawful act or activity for which corporations may be formed under the New York State Business Corporation Law. It must also state that it is not to engage in any act or activity requiring the approval of any state official, department, board, agency or other body without such consent or approval first being obtained.

N.B. Stockholders of a CHHA applicant that is a business corporation not incorporated in New York State must be natural persons. Otherwise, a New York subsidiary must be incorporated.

C. Limited Liability Companies

The Articles of Organization must include provisions to the following effect:

The name of the LLC, which must contain either the words, “Limited Liability Company”, or the abbreviations, “LLC”, or “L.L.C.”;

Designation of the Secretary of State as agent of the LLC for service or process and an address to which the Secretary of State may mail a copy of any such process;

**New York State Department of Health
Certificate of Need Application**

Schedule 21C

If the LLC is to be managed by managers, a statement to that effect;

Sufficient powers and purposes to operate a CHHA; and

That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments, or other dispositions of membership interests or voting rights must be effectuated in accordance with Section 3611-a(1) of the Public Health Law and implementing regulations.

The Operating Agreement must include provisions to the following effect:

That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments, or other disposition of membership interests or voting rights must be effectuated in accordance with Section 3611-a(1) of the Public Health Law and implementing regulations;

How the LLC will be managed and that neither the management structure nor the provision setting forth such structure may be deleted, modified or amended without the prior approval of the Department of Health;

If the LLC is managed by managers who are not members, that the manager may not be changed without the prior approval of the Department of Health; and

If the LLC will be managed by managers who are not members, that the following powers are reserved to the members: (i) direct authority to hire or fire the administrator; (ii) independent control of the books and records; (iii) authority over the disposition of assets and the authority to incur on behalf of the agency liabilities not normally associated with the day-to-day operation of an agency; and (iv) independent adoption of policies affecting the delivery of health care services.

Will the LLC be managed by managers who are not members?

Yes No

If yes, submit the proposed Management Agreement (see Section I.B of this schedule) between the LLC and the manager, which must include provisions to the following effect:

That the manager may not be changed without the prior approval of the Department of Health; and

That the following powers are reserved to the members: (i) direct authority to hire or fire the administrator; (ii) independent control of the books and records; (iii) authority over the disposition of assets and the authority to incur on behalf of the agency liabilities not normally associated with the day-to-day operation of an agency; and (iv) independent adoption of policies affecting the delivery of health care services.

**New York State Department of Health
Certificate of Need Application**

Schedule 21C

Does the LLC intend to issue membership certificates? Yes No

If yes, submit a sample membership certificate including the following legend:
Attachment # .

“That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments, or other disposition of membership interests or voting rights must be effectuated in accordance with Section 3611-a(1) of the Public Health Law and implementing regulations.”

N.B. Members of a CHHA applicant that is an LLC not organized in New York must be natural persons. Otherwise, a New York subsidiary must be organized.

D. Government Entities

Submit documentation of all necessary governing authority approvals for this application.
Attachment # .

**New York State Department of Health
Certificate of Need Application**

Schedule 21C

Schedule 21C Attachments

Complete the section labeled "Controlling Persons - All Applicants." Then, check the box(es) that apply to your organizational structure and enter the corresponding information for each attached document. If the document is not applicable, enter "N/A" in the column labeled "Attachment Title."

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
CONTROLLING PERSONS - ALL APPLICANTS			
List of Additional Controlling Persons/Parent Entities			
<input type="checkbox"/> CONTROLLING PERSONS - CORPORATIONS			
Certificate of Incorporation			
Bylaws			
Agreement(s) re: Control Relationship			
Description of Control			
List of Officers, Directors & Stockholders			
<input type="checkbox"/> CONTROLLING PERSONS – LIMITED LIABILITY COMPANIES			
Articles of Organization			
Operating Agreement			
Agreement(s) re: Control Relationship			
Description of Control			
List of Managers & Principal Members			
Sample Membership Certificate			
<input type="checkbox"/> MANAGEMENT			
Management Agreement			
List of Directors & Principal Members/Stockholders of Management Entity			
<input type="checkbox"/> AFFILIATIONS			
Organizational Chart			
<input type="checkbox"/> GOVERNMENT ENTITIES			
Documentation of Government Approvals for Application			
OTHER ATTACHMENTS (SPECIFY)			

* PDF Format Preferred

Schedule 21D – CHHA/LTHHCP Operating Costs

For Establishment and/or Construction Requiring Full/Administrative Review.

Section I Summary of Operating Costs

General Instructions

Both Certified Home Health Agencies (CHHAs) and Long Term Home Health Care Programs (LTHHCPs) should complete Section I summarizing the operating cost information for the proposed project. Information concerning costs should be consistent with costs reported on the HCFA-1728 for Medicare reimbursement. Complete only those line items that apply to your agency and/or your project (prorate salaries when applicable). New CHHAs as well as LTHHCPs should project operational costs for the first and third years of operation.

Organizations applying for establishment as a CHHA should also complete Section II. Organizations applying for certification as a home health agency should also report current costs of existing operations.

All applicants proposing to initiate a LTHHCP must complete Section III.

For any agencies or programs based in a facility certified under Article 28, enter the step-down costs of the parent facility as appropriate.

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D - 1 Summary of Operating Costs

	Present Costs - If Applicable	Operational Cost First Year	Operational Cost Third Year
1. Salaries			
a. Director/Administrator (for LTHHCP prorate)			
b. Director of Patient Services			
c. Coordinator (LTHHCP only)			
d. Consultants			
e. Supervisors			
f. Professional nurses providing generalized services			
g. Specialists – PT, OT, SP, etc.			
h. Home Health Aides			
i. Clerical Staff			
j. Others (specify) - Housekeeping Program			
k. Total Fringe			
2. Transportation Costs (Items a-f)			
a. Automobile operating costs			
b. Automobile insurance			
c. Automobile depreciation (furnish details)			
d. Gains or losses on sale or disposal of automobiles			
e. Automobile allowances paid to staff members			
f. Other (specify)			
3. Services Purchased From Other Agencies Or Under Arrangements (contract services)			
4. Medical And Nursing Supplies (including non-depreciable equipment)			
5. Space Occupancy Costs (total items a-f)			
a. Rent			
b. Heat and Light			
c. Maintenance and repairs			
d. Taxes			
e. Depreciation if building owned or donated (furnish details)			
f. Other (specify)			
6. Office Costs			
a. Stationery and printing			
b. Telephone and telegraph			
c. Postage			
d. Other (specify)			
7. Other General Costs			
a. Depreciation on furniture and equipment (furnish details)			
b. Legal and accounting fees			
c. Laundry			
d. In-service and staff education			
e. Insurance (other than automobile)			
8. Cost For Space Occupancy, Office And Other General Costs, Fringe Benefits, Etc. Not Identifiable And Not Included In Items 1-7			
Total			

Section II - CHHA Operating Costs

This section is to be completed by those organizations requesting establishment of a CHHA.

**Table 21D-2 Certified Home Health Agency Allocation of Operating Costs -
Instructions:**

Table 21D-2 provides the operating cost data needed to derive cost per direct service work unit. Cost information should be consistent with information on Table 21D -1.

- Column A - Provide total dollar amounts by cost category from Table 21D-1. Columns B through I should equal the total in column A.
- Column B - Enter costs that cannot be identified to a specific discipline.
- Column C through I - Enter costs that can be identified to a specific discipline.
- Line 10 - To calculate the percent: Column B Line 9 / Sum of Lines 1 & 2 in Columns C through I apply the rates to Line 1 of each column C through I.
- Line 11 - To calculate percent: Administrative Salaries in Line 1 Column B / All other salaries in Line 1, Columns C through I apply the rates to Line 1 of each column C through I
- Line 12 - Total columns C through I
- Line 13 - Enter the number of projected visits for each discipline. Professional services should be reported by visits.
- Line 14 - Enter the number of projected hours for each discipline where appropriate Paraprofessional services only should be reported by hours.
- Line 15 - Cost Per visit: divide line 12 by line 13 where necessary.
- Line 16 - Cost Per visit: divide line 12 by line 15 where necessary.

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-2 Certified Home Health Agency Allocation of Operating Costs - Year 1

Classification of Costs	Total All Disciplines Sum(B thru I)	Costs un-identified with Specific Discipline	Costs Identifiable to Specific Discipline						
			Skilled Nursing Care	Physical Therapy	Speech Therapy	Occupational Therapy	Medical Social Services	Home Health Aides	Other (Specify)
	A	B	C	D	E	F	G	H	I
1. Salaries and Fringe Benefits									
2. Contracted Services									
Total Salaries plus contracted services									
3. Transportation Costs									
4. Medical & Nursing Supplies									
5. Space Occupancy Costs									
6. Office Costs									
7. Other General Costs									
8. Other Costs not incl. in items 1-7, Section I, Item 8									
9. Total Cost (excluding salaries) Sum of Lines 2 - 8									
Computed Costs for specific discipline as % of Total All Disciplines 8									
10. Amount of unidentified costs to be charged to each discipline. Apply ratio in Col. B to Lines 1 and 3 on each column C through I.									
11. a Administrative Salaries to be allocated									
b. Other Salaries to be allocated									
12. Total Costs by discipline (sum of 1, 9, 10, and 11)									
13. Projected number of visits									
14. Projected number of hours									
15. Projected cost per visit									
16. Projected cost per hour									

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-2 Certified Home Health Agency Allocation of Operating Costs - Year 3

Classification of Costs	Total All Disciplines Sum(B thru I)	Costs un-identified with Specific Discipline	Costs Identifiable to Specific Discipline						
			Skilled Nursing Care	Physical Therapy	Speech Therapy	Occupational Therapy	Medical Social Services	Home Health Aides	Other (Specify)
	A	B	C	D	E	F	G	H	I
1. Salaries and Fringe Benefits									
2. Contracted Services									
Total Salaries plus contracted services									
3. Transportation Costs									
4. Medical & Nursing Supplies									
5. Space Occupancy Costs									
6. Office Costs									
7. Other General Costs									
8. Other Costs not incl. in items 1-7, Section I, Item 8									
9. Total Cost (excluding salaries) Sum of Lines 2 - 8									
Computed Costs for specific discipline as % of Total All Disciplines 8									
10. Amount of unidentified costs to be charged to each discipline. Apply ratio in Col. B to Lines 1 and 3 on each column C through I.									
11. a Administrative Salaries to be allocated									
b. Other Salaries to be allocated									
12. Total Costs by discipline (sum of 1, 9, 10, and 11)									
13. Projected number of visits									
14. Projected number of hours									
15. Projected cost per visit									
16. Projected cost per hour									

Section III - Long Term Home Health Care Program Operating Costs

All applicants proposing to initiate an LTHHCP must complete this section.

Please note that the budget submitted must reflect the total capacity of the proposed LTHHCP and include costs for all required services.

Table 21D-3 (former A1) Long Term Home Health Care Program Personal Services - Salaries and Wages. Instructions:

Instructions: Enter the salaries or portion thereof for all personnel performing work within each of the specific LTHHCP cost centers (lines 1 through 15) in accordance with the titles shown in the column headings. Include Audiology with Speech Pathology if the therapist has dual qualifications. Otherwise enter contract costs on line 1 (Administration) under column H (All Other).

Although a discrete rate will not be set for patient assessments, the costs (previously considered in administrative expense) must be identified, and reported separately on line 3. Patient assessment costs are defined as: "the direct costs of personnel employed by the facility that is related to the time and involvement in the initial determination of each patient's eligibility for participation in the LTHHCP and the subsequent 120-day reassessments."

The salaries of individuals functioning within two or more cost centers must be split between the appropriate cost centers. For example, if an administrator or director will be performing patient assessment 25% of the time, 75% of the salary should be entered on line 1 (Administrative) and 25% of the salary entered on line 3 (Patient Assessment).

NOTE: The preparation of Table 21D-7 prior to or in conjunction with Table 21D-3 may simplify the completion of both tables.

Columns A-E -Self Explanatory

Column F - Therapists - includes Physical Therapy (line 5), Speech Pathology (line 6), Occupational Therapy (line 7) and Medical Social Services (line 12).

Column G -Self Explanatory

Column H - All Other - includes clerical staff, Homemaker, Housekeeper, Personal Care Services, Nutrition and Respiratory Therapy.

Transfer total Column I lines 1-16 to Table 21D-9 Column 1.

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Name of Program:

Table 21D-3 (former A-1) Personal Services- Salaries & Wages

	Admin./ Director of Facility	Director Coordinator of Patient Services	Consultant	Supervisors	Nurses	Therapists	Home Health Aides	All Other	Total 9
	A	B	C	D	E	F	G	H	I
1. Administrative									
2. Unidentified to Specific Functions									
3. Patient Assessment									
4. Nursing									
5. Physical Therapy									
6. Speech Pathology									
7. Occupational Therapy									
8. Home Health Aide									
9. Homemaker									
10. Housekeeper									
11. Personal Care									
12. Medical Social Service									
13. Nutrition									
14. Respiratory Therapy									
15. Other: Specify									
16: Total									

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Certified Home Health Agency And Long Term Home Health Care Program Application for Establishment/Construction

Table 21D-4 (Former A-2) Personal Services- Employee Benefits

Instructions: Enter all payroll-related employee benefits in the same manner as used for reporting salaries and wages on Table 21D-3. Transfer total Column 9 lines 1-16 to Table C Column 2

Name of Program:

	Admin./ Director of Facility	Director of Patient Services	Consultant	Supervisors	Nurses	Therapists	Home Health Aides	All other	Total
	A	B	C	D	E	F	G	H	I
1. Administrative									
2. Unidentified to Specific Functions									
3. Patient Assessment									
4. Nursing									
5. Physical Therapy									
6. Speech Pathology									
7. Occupational Therapy									
8. Home Health Aide									
9. Homemaker									
10. Housekeeper									
11. Personal Care									
12. Medical Social Service									
13. Nutrition									
14. Respiratory Therapy									
15. Other: Specify									
16: Total									

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Certified Home Health Agency And Long Term Home Health Care Program Application for Establishment/Construction

Table 21D-5 (Former Schedule A-3) Personal Services- Contracted/Purchased Services

Instructions: Include only the costs of services to be provided to patients by other agencies/individuals under contract. Do not include services such as cleaning, bookkeeping, computer services and other services not directly related to patient care. Include Audiology with Speech Pathology if they are contracted as a combined service; otherwise enter contract costs on line 1 (Administration) under column 8 (All Other).

Transfer total Column 9 lines 1-16 to Table C Column 3.

Name of Program: Report Period:

	Admin./ Director of facility	Director of Patient Services	Consultant	Supervisors	Nurses	Therapists	Home Health Aides	All other	Total
	A	B	C	D	E	F	G	H	I
1. Administrative									
2. Unidentified to Specific Functions									
3. Patient Assessment									
4. Nursing									
5. Physical Therapy									
6. Speech Pathology									
7. Occupational Therapy									
8. Home Health Aide									
9. Homemaker									
10. Housekeeper									
11. Personal Care									
12. Medical Social Service									
13. Nutrition									
14. Respiratory Therapy									
15. Other: Specify									
16: Total									

* Include services for which a rate is not set by OHSM

Table 21D-6 (former Schedule A-4) Other Than Personal Services - Instructions:

This table provides for reporting all operating costs not included in the Personal Services Tables 21D-3, 21D-4, and 21D-5. Except for salaries, travel and possibly specific supplies, detailed cost data may not be available. However, if the costs for the various services are to be maintained in separate accounts, enter the costs in the specific cost centers (line 1-15) in the appropriate columns. Enter costs that cannot be identified with a specific cost center, or that are chargeable to the agency as a whole, on line 2 (Unidentified to Specific Function), in the appropriate columns.

- Transportation (Column A) - Record the cost of transportation for staff members only, and not patient transportation, include automobile operating costs, insurance and depreciation, automobile allowances paid to staff, public transportation and car rental.
- Medical Supplies (Column B) - Include only supplies routinely carried by staff in order to carry out their home visiting functions. Do not include the cost of supplies for which a separate charge is made.
- Space Occupancy Costs (Column C) - Includes rent, heat, lights, maintenance and repairs, taxes, depreciation on building, amortization of leasehold improvements and other related expenses.
- Office Costs (Column D) - Include costs relative to the LTHHCP only, stationery and printing, telephone, postage etc.
- Other General Costs (Column E) - Include depreciation on office equipment and other depreciable items not included under transportation or space occupancy, dues and subscriptions, legal and accounting fees, in-service and staff education, insurance (other than automobile), and the cost of equipment furnished to patients (include depreciation and maintenance of loan closet items available for use by patients). Do not include the cost of equipment furnished to patients for which a separate charge is to be made.
- Other Costs not Identifiable and not Included in Columns 1-5 (Column F) - Include the appropriate portion of costs incurred by the facility for services maintained by the organization for its component parts (such as the LTHHCP), which may include the cost of such services as computer services, general administrative costs, record storage etc.

In addition, costs incident to the start-up period should be included here. Start-up costs are those costs incurred during the development period prior to the time the first patient is admitted for treatment. These start-up costs should be capitalized as deferred charges and amortized over a period of 60 months, starting with the month in which the first patient was admitted (provide details on separate attachment). Any costs properly identifiable as organization costs or capitalized as construction costs must be appropriately classified as such and excluded from start-up costs.

- If depreciation expense is reported in this table, attach a separate document with details of depreciation expense.
- Transfer totals Column G line 1-16 to Table 21D-9 Column 4. Transfer amounts from line 2, columns A through G of this table to Table 21D-12 as indicated.

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-6 (former Schedule A-4) Other Than Personal Services

Name of Program:

Reporting period: from to

	Transportation	Medical Supplies	Space occupancy	Office Costs	Other General	Other Costs Not Identifiable and not included in Cols. 1-5	Total
	A	B	C	D	E	F	G
1. Administrative							
2. Unidentified to Specific Functions							
3. Patient Assessment							
4. Nursing							
5. Physical Therapy							
6. Speech Pathology							
7. Occupational Therapy							
8. Home Health Aide							
9. Homemaker							
10. Housekeeper							
11. Personal Care							
12. Medical Social Service							
13. Nutrition							
14. Respiratory Therapy							
15. Other: Specify							
16: Total							

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-7 (Former Schedule B-1) Allocation of Total FTEs to LTHHCP Cost Centers - Instructions

Application for Establishment/Construction

Full-time equivalents are to be calculated on the basis of the sum of all hours for which employees will be paid, divided by 2,080 hours, rounded off to 2 decimal places (00.00).

Separate FTEs are to be calculated and identified for staff personnel as well as for service provided by contract.

Determine the total number of hours, for staff and/or purchased services, for the employee(s) functioning under each of the titles listed on lines 1-17 during the 12 month report period. Divide by 2,080 hours and enter the results in Column A, lines 1-17. Identify staff FTEs with the prefix "D" and contracted service FTEs with the prefix "C".

Columns B through O provide space to allocate the total FTEs for each title to the appropriate LTHHCP cost centers. For some of the titles the allocation will simply be the transfer of the total FTEs to a single cost center (e.g. Homemakers Column A line 11 to Column H line 11). However, where personnel in a job title function under two or more cost centers an allocation must be made. For example, is an administrator or director also performs patient assessment 25% of the time, 75% of the FTE should be entered on line 1, column B (Administrative) and 25% of the FTE entered on line 1, column C (Patient Assessment). The same principle will also apply to those titles where more than one person is in the title and only one may function under more than one cost center. For example, line 6 would have the following entries: Column A - 02.00, column C - 00.50 and column D - 01.50.

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-7 (Former Schedule B-1) Allocation of Total FTEs to LTHHCP Cost Centers

Name of Program:

	Total	Adminis- trative	Patient Assess- ment	Nursing	Physical Therapy	Speech Pathology	Occupation al Therapy	Home Health Aide	Home Maker	House- keeper	Personal Care	Medical Social Services	Nutrition	Respiratory Therapy	Other
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1. Administrator															
2. Other Administrative (Account, Clerical, Steno, etc.)															
3. Director/ Coordinator of Services															
4. Consultants															
5. Supervisors															
6. Nurses															
7. Physical Therapists															
8. Speech Pathologists															
9. Occupational Therapists															
10. Home Health Aides															
11. Homemakers															
12. Housekeepers															
13. Personal Care Aides															
14. Medical Social Workers															
15. Nutritionists															
16. Respiratory Therapy															
17. Other (Specify)															

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-8 (Former Schedule B-2) - Summary of Arrangement for Purchased Services Long Term Home Health Care Program Other Than Personal Services

Instructions: Enter the vendor/contractor name and address and indicate in the appropriate column(s) the amount per visit or hourly payment to be made in accordance with the agreement as well as the estimated number of related visits/hours of service provided for the period of this budget.

Vendor/ Contractor (Name & Address)	Effective Period (m/d/yyyy)		Nursing Visit	P.T. Visit	Speech Path.	Occup. Therapy Visit	HHA Hour	Home Maker Hour	House Keeper Hour	Personal Care	M.S.S. Visit	Nutrit. Visit	Respir. Therapy Visit
	From	To											
1. Name and address													
Terms Amount													
Number of Visits/ Hours													
Current Terms													
2. Contractor Name and address													
Terms Amount													
Number of Visits/ Hours													
Current Terms													
3. Contractor Name and address													
Terms Amount													
Number of Visits/ Hours													
Current Terms													
4. Contractor Name and address													
Terms Amount													
Number of Visits/ Hours													
Current Terms													

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

**Table 21D-9 - Summary of Costs and Calculation of Per Visit/Hour Costs
and Table 21D-10 Basis and Calculation of Cost Allocations**

These tables summarize the total projected operating costs of the LTHHCP and provide for the allocation of Administrative, Unidentified and Patient Assessment costs, based on the ratio of visits to total visits.

**Table 21D-9 Former (Schedule C) Long Term Home Health Care Program Other Than Personal Services - Summary of Costs
and Calculation of Visit Costs - Instructions:**

Enter totals of Columns A, B, C and D for each line (lines 1-16) in Column E.

In order to complete the remaining columns on this table, Table 21D-10 must be complete.

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-9 (Former Schedule C) Long Term Home Health Care Program Other Than Personal Services - Summary of Costs and Calculation of Visit Costs

		Salaries & Wages	Employee Benefits	Contract/Purchased Services	All Other	Total (Cols. 1-4)	Alloc. of Adminis. Costs	Alloc. of Unident. Costs	Total (Cols. 5-7)	Alloc. of Patient Assessment Costs	Total (Cols. 8-10)	Number of Visits/Hours	Avg. Cost Per Visit/Hours
		A	B	C	D	E	F	G	H	I	J	K	L
1. Administrative	099												
2. Unidentified to Specific Function	100												
3. Patient Assessment	101												
4. Nursing	102												
5. Physical Therapy	103												
6. Speech Pathology	104												
7. Occupational Therapy	105												
8. Home Health Aide	106												
9. Homemaker	107												
10. Housekeeper	108												
11. Personal Care	109												
12. Medical Social Service (110												
13. Nutrition	111												
14. Respiratory Therapy	112												
15. Other (Specify)	113												
16. Total													

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-10

Column A - Number of Visits - Enter the total number of visits for each service listed on lines 1-15. NOTE: Although rates for Home Health Aide, Homemaker, Housekeeper and Personal Care are established as hourly rates, for the purpose of cost allocation, these services must be reported on Table 21D-10 by visit. Show both house and visits at the bottom of the table, as indicated.

Compute the percentage of each line amount (lines 1-15) to the total (line 16) and enter the results in Column B on the appropriate line (round off percentages to two decimal places 00.00).

Columns C and D - Enter in the space provided in the heading the amounts on Table C Column E, lines 1 and 2. Multiply these amounts by the percentages shown in Column B and enter the results for each respective service on lines 3-15 in the appropriate column (Column C, Administrative and Column 4, Unidentified).

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-10 (Former Schedule C-1) Basis and Calculation of Cost Allocations - Long Term Home Health Care Program Other Than Personal Services

		Number of Visits	% of Visits	Allocation		Total Visits	% of Total	Allocation
		A	B	C Administrative & General % Column 2 x	D Unidentified % Column 2 x \$ —	E	F	G Patient Assessment % Column 6 x
Adjustment %								
1. Administrative	099							
2. Unidentified to Specific Function	100							
3. Patient Assessment	101							
4. Nursing	102							
5. Physical Therapy	103							
6. Speech Pathology	104							
7. Occupational Therapy	105							
8. Home Health Aide	106							
9. Homemaker	107							
10. Housekeeper	108							
11. Personal Care	109							
12. Medical Social Service	110							
13. Nutrition	111							
14. Respiratory Therapy	112							
15. Other (Specify)	113							
16. Total								

Hrs /Visits Conversions HHA . Hrs. = Visits

Housekeeper Hrs. = Visits

Homemaker Hrs. = Visits

Personal Care Hrs. = Visits

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-11 (Former Table D-1) - Table of Costs Allocated to the LTHHCP -Personal Services- Employee Benefits

Enter details of applicable regarding all costs included in this report which have been allocated to the long term home health care program from a hospital, residential health care facility, or certified home health agency.

Are there costs reflected in this report, which are allocated from a hospital, residential health care facility, or certified home health agency to the LTHHCP? (131)
 Yes No

If YES, from where are they allocated from?

Facility Name

Operating Certificate No.

Hospital RHCF CHHA

List details of cost allocated to LTHHCP:

Expense Category A	Total Expense * B	Location on Hospital RHCF or CHHA Cost Report C	Expense allocated to LTHHCP D		Location on LTHHCP Cost Report E	Basis of Allocation F
				(132)		
				(133)		
				(134)		
				(135)		
				(136)		

*Total expense for category indicated in column 1, as recorded for the hospital, RHCF or CHHA prior to allocation of any portion to LTHHCP.

Table 21D-12: Detail of Costs Unidentifiable to Specific Function

Transfer amount entered in Column A line 2 of Table 21D-6 to line 1 of Table 21D-12

Transfer amount entered in Column B line 2 of Table 21D-6 to line 2 of Table 21D-12

Transfer amount entered in Column C line 2 of Table 21D-6 to line 3 of Table 21D-12

Transfer amount entered in Column D line 2 of Table 21D-6 to line 4 of Table 21D-12

Transfer amount entered in Column E line 2 of Table 21D-6 to line 5 of Table 21D-12

Transfer amount entered in Column F line 2 of Table 21D-6 to line 6 of Table 21D-12

Transfer amount entered in Column G line 2 of Table 21D-6 to line 7 of Table 21D-12

For lines 3-6, the details should be entered in the lines above the total amount.

Refer to page 3 of the instructions for Table 21D-6 for explanation of cost detail to be shown in Table 21D-12

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

**Table 21D-12 - (former D-2) Detail of Costs Unidentified to Specific Function Personal Services
- Employee Benefits**

1. Total Transportation unidentified to specific function (from Table 21D-6, Line 2, Column A)
(137)

2. Total Medical Supplies unidentified to specific function (from Table 21D-6, Line 2, Column B)
(138)

Space Occupancy

Rent	(129)	<input type="text"/>
Heat and light	(140)	<input type="text"/>
Maintenance and Repair	(141)	<input type="text"/>
Amortz. Leasehold Improv.	(142)	<input type="text"/>
Depreciation	(143)	<input type="text"/>
Other (Specify)	(144)	<input type="text"/>

3. Total space occupancy unidentified to specific function (from Table 21D-6, Line 2, Column C)
(145)

Office Cost

Telephone	(146)	<input type="text"/>
Office Supplies	(147)	<input type="text"/>
Other (Specify)	(148)	<input type="text"/>

4. Total office cost unidentified to specific function (from Table 21D-6, Line 2, Column D)
(150)

Other General Cost

Legal	(131)	<input type="text"/>
Accounting	(132)	<input type="text"/>
Insurance	(133)	<input type="text"/>
Depreciation	(134)	<input type="text"/>
Other (Specify)	(135)	<input type="text"/>
Other (Specify)	(136)	<input type="text"/>

5. Total other general unidentified to Specific function (from Table 21D-6, Line 2, Column F)
(157)

Table 21D-12 - Detail of Costs Unidentified to Specific Function Personal Services - Employee Benefits

Other Costs

Amortization start-up costs	(158)	<input type="text"/>
(Specify)	(159)	<input type="text"/>
(Specify)	(160)	<input type="text"/>

6. Total other costs unidentified to specific function (from Table 21D-6, Line 2, Column G)
(161)

7. Total other costs unidentified to specific function (from Table 21D-6, Line 2, Column H)
(162)

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-13 - (Former D-3) DSS Waivered Services Cost Identification, Personal Services - Employee Benefits

Enter breakdown requested on waived services, if any, on lines 1-7 of this table.

Rates for services listed on this table are set by the Department of Social Services and therefore direct costs related to them should not be included on Tables 21D-3, 21D-6 or 21D-9. These direct costs should not be included in services for which the rates are promulgated by the Department of Health.

Does the information contained in long term home health care cost report include costs for any of the following services? Yes No

If yes, please provide the total dollar amount and its location on this long-term home health care cost report.

	Cost Included	Cost Not Included	Total Amount	Page	Location Line	Column
	A	B	C	D	E	F
1. Respite care (provided by a SNF, HRF, nurse, home health aide, personal care worker, homemaker, housekeeper)						
2. Moving Assistance						
3. Congregate or home delivered meals						
4. Social day care						
5. Social transportation						
6. Housing improvement (e.g. installation of handrails and ramps, door widening)						
7. Home maintenance (e.g. heavy cleaning, yard work, emergency alarm response system, telephone modification)						

**Table 21D-14 - (Former E-1) Detail of FTE's and Salaries/Wages Attributable to Case Management Function Personal Services-
Employee Benefits**

This table will provide the data necessary to determine the cost of case management services.

Case management is broken down into six functions: intake, assessment, service prescription, service acquisition, service coordination and monitoring, and patient monitoring and reassessment.

Intake - Intake encompasses the activities necessary to identify potential patients, and receive and screen referrals. Outreach activities, for example community education and governmental relations and interfacing with sources of referrals such as hospital discharge planners, is part of intake. The initial screening of referrals and assistance provided to potential patients to facilitate Medicaid eligibility is also considered intake.

Assessment - Assessment is the process of collecting, integrating and analyzing whatever data is necessary to develop a care plan. Assessment includes both the medical assessment (the completion of the DMS-1 or its successor) and the home assessment (the completion of the Home Assessment Abstract or an approved equivalent). Any evaluation or assessments performed by specialists in order to determine care needs, such as evaluations by occupational or physical therapists, are also considered assessment.

Service Prescription - Service prescription is the development, coordination and initiation of patient-specific treatment goals and service parameters. It includes the development of the Summary of Service Requirements which is a listing of the types, frequency, and amounts of services which will be necessary to maintain the patient at home in accordance with the physician's orders and the joint assessment. This listing can be found on the Home Assessment Abstract and should represent all the services - medical, nursing, social work, therapies, health aide, personal care, homemaking, housekeeping, drugs, and all other support services - which will be "packaged" as part of the total service plan to be delivered to the patient. It also includes the development of the Plan of Care, an internal, practical clinical document (developed by the LTHHCP) describing the care to be given the patient. This plan of care, based on the summary of service requirements, is drawn up by the nurse from the LTHHCP, includes goals and objectives for the patient and the staff and outlines the methodology and procedures which will be employed to reach these goals. Service prescription also includes negotiations and discussions with the local DSS social worker concerning the care plan and the budget.

Service Acquisition - Service Acquisition encompasses all the activities necessary to ensure that the required services are obtained and initiated as prescribed in the care plan. Arranging for the patient's transportation to and from a service provider is considered part of this case management function, as is arranging for any service to family and other informal supports that facilitate their continued provision of assistance to informal supports that facilitate their continued provision of assistance to the patient. Obtaining prior approval from the LDSS or area OHSM for durable equipment and other waived services is also considered service acquisition.

Service Coordination and Monitoring - Service coordination and monitoring is the day-to-day oversight and management of service delivery. It is the active gathering of information to ensure that appropriate and timely services are delivered as described in the care plan. Service monitoring and coordination encompasses:

- a. Assuring via the nursing plan of care, that the physician's orders are carried out, that care is documented, and that medical orders are renewed as required.

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

b. Providing supervision to persons providing home health aide and personal care services. This includes evaluating the ability of these persons to relate well to patients and to work effectively as a member of a team of health workers with particular attention to being able to carry out the plan of care.

Patient Monitoring and Reassessment - Patient monitoring and reassessment is the routine oversight of the patient to detect and document any changes in his/her condition and environment. It includes continuous and frequent observation of the relationships between the patient and his/her environment and formal/informal sources of care to ensure that treatment goals and the plan of care remain appropriate to the patient and his/her surroundings. Reassessment refers to any activities necessary to evaluate the patient and the appropriateness of the plan of care, and includes but is not limited to the formal complete reassessment performed every 120 days, and any re-evaluations by occupational or physical therapists and other specialists to determine the continued necessity and appropriateness of their services.

In completing Table 21D-14, please note that estimates may be provided since actual cost data are not available. The time and cost of any record-keeping activity and travel performance as part of a case management function should be included in the table on the line appropriate to the particular case management function.

The following data are required for each of the six functions:

- Type of personnel (e.g. nurse or home health aide) performing functions, expressed in terms of full time equivalents (FTEs).
- For each type of personnel, total salaries/wages for the FTEs performing the case management function.
- The page number, line number, and column number for the corresponding salary/wage entry on Tables 21D-3, 21D-4 and 21D-5.

Table 21D-14 - Detail of FTE's and Salaries/Wages Attributable to Case Management Function Personal Services-Employee Benefits

	Nurse Supervisors			Nurses			Social Workers			Other (Specify)		
	Total FTEs A	Total Salaries Wages B	Where Reported C	Total FTEs D	Total Salaries Wages E	Where Reported F	Total FTEs G	Total Salaries Wages H	Where Reported I	Total FTEs J	Total Salaries Wages K	Where Reported L
Intake												
Assessment												
Service prescription and care plan development												
Service acquisition												
Service monitoring												
Patient monitoring and reassessment												
Totals for all case management functions												

If this table is completed using estimates, please describe the basis of the estimates:

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Operating Costs

**Table 21D-14 Continued Detail of FTE's and Salaries/Wages Attributable to Case Management Function
Personal Services-Employee Benefits**

	Other (Specify)			Other (Specify)			Total for All Personnel with Case Management Functions	
	Total FTEs	Total Salaries Wages	Where Reported	Total FTEs	Total Salaries Wages	Where Reported	Total FTEs	Total Salaries/Wages
	M	N	O	P	Q	R	S	T
Intake								
Assessment								
Service prescription and care plan development								
Service acquisition								
Service monitoring								
Patient monitoring and reassessment								
Totals for all case management functions								

If this table is completed using estimates, please describe the basis of the estimates:

**New York State Department of Health
Certificate of Need Application**

Schedule 21E

Schedule 21E - CHHA/LTHHCP Projected Operating Revenue

Table 21E - 1 CHHA/LTHHCP Projected Operating Revenue For Year 1

Payment Source		Nursing	Physical Therapy	Occup. Therapy	Speech Path.	Medical Social Svcs	Home Health Aide	Home-maker	House-keeper	Personal Care	Nutrit. Visits	Resp. Therapy	Other (Specify)	Total in thousands
Commercial	Fee for Service													
	Managed Care													
Medicare	Fee for Service													
	Managed Care													
Medicaid	Fee for Service													
	Managed Care													
Private Pay														
OASAS														
OMH														
Charity Care														
Bad Debt														
All Other														
Total														

**New York State Department of Health
Certificate of Need Application**

Schedule 21E

Table 21E - 1 CHHA/LTHHCP Projected Operating Revenue For Year 3

Payment Source		Nursing	Physical Therapy	Occup. Therapy	Speech Path.	Medical Social Svcs	Home Health Aide	Home-maker	House-keeper	Personal Care	Nutrit. Visits	Resp. Therapy	Other (Specify)	Total in thousands
Commercial	Fee for Service													
	Managed Care													
Medicare	Fee for Service													
	Managed Care													
Medicaid	Fee for Service													
	Managed Care													
Private Pay														
OASAS														
OMH														
Charity Care														
Bad Debt														
All Other														
Total														

**New York State Department of Health
Certificate of Need Application**

Schedule 21F

Schedule 21F - CHHA/LTHHCP Projected Utilization

Table 21F - 1 Utilization Projections for Year 1

Payment Source		Nursing	Physical Therapy	Occup. Therapy	Speech Path.	Medical Social Svcs	Home Health Aide	Home-maker	House-keeper	Personal Care	Nutrition Visits	Resp. Therapy	Medical Supplies/ Appliances	Other (Specify)	Total Visits	Total Hours
	Units	Visits	Visits	Visits	Visits	Visits	Hours	Visits	Hours <input type="checkbox"/> Visits <input type="checkbox"/>	Hours <input type="checkbox"/> Visits <input type="checkbox"/>	Visits	Visits			Visits	Hours
Commercial	Fee for Service															
	Managed Care															
Medicare	Fee for Service															
	Managed Care															
Medicaid	Fee for Service															
	Managed Care															
Private Pay																
OASAS																
OMH																
Charity Care																
Bad Debt																
All Other																
Total																

**New York State Department of Health
Certificate of Need Application**

Schedule 21F

Table 21F - 1 Utilization projections for Year 3

Payment Source		Nursing	Physical Therapy	Occup. Therapy	Speech Path.	Medical Social Svcs.	Home Health Aide	Home-maker	House-keeper	Personal Care	Nutrition Visits	Resp. Therapy	Medical supplies/ Appliances	Other (Specify)	Total Visits	Total Hours
	Units	Visits	Visits	Visits	Visits	Visits	Hours	Visits	Hours <input type="checkbox"/> Visits <input type="checkbox"/>	Hours <input type="checkbox"/> Visits <input type="checkbox"/>	Visits	Visits			Visits	Hours
Commercial	Fee for Service															
	Managed Care															
Medicare	Fee for Service															
	Managed Care															
Medicaid	Fee for Service															
	Managed Care															
Private Pay																
OASAS																
OMH																
Charity Care																
Bad Debt																
All Other																
Total																

Schedule 21G - Additional Legal Information for CHHA Ownership Transfers

Instructions

Article 36 applicants seeking establishment approval for a change of ownership through an ownership interest transfer, change in member or change in controlling person must complete this schedule, as follows:

All applicants must complete Section I.

Applicants that are general partnerships must complete Section II.

Applicants that are not-for-profit corporations must complete Section III.

Applicants that are business corporations must complete Section IV.

Applicants that are limited liability companies (LLC) must complete Section V.

N.B. Whenever a requested legal document has been amended, modified or restated, all amendments, modifications and/or restatements should also be submitted.

I. All Applicants

For purposes of this application, a “controlling person” is one who exercises control over the CHHA by directing or causing the direction of the actions, management or policies of the agency, whether through the ownership of voting securities or voting rights, electing or appointing directors, the direct or indirect determination of policies, or otherwise. Full disclosure of the CHHA operator (in Schedule 3B), as well as the governing bodies of each immediate, intermediate and ultimate parent or member entity of the CHHA is required since these entities/persons possess direct or indirect operational authority over the CHHA. This includes directors (if a corporation), managers (if an LLC) and principal stockholders (if a business corporation), as well as both active and passive parent/member corporations.

Submit two organizational charts that depict the applicant’s relationship to all sister and subsidiary entities, as well as all immediate, intermediate and ultimate parent/member entities, **before and after the ownership transfer**.

Attachments #2A and #2B.

N.B. As indicated in Schedule 1C, the Department must receive documentation from the appropriate state regulatory agency that all health care entities affiliated with the applicant or with the applicant’s (new) members, have operated in substantial compliance with all applicable codes, rules and regulations. Ensure that a list of such agencies is included with this application (See Schedule 1C) and refer to Schedule 2D for instructions on how to obtain this information for facilities located outside of New York State.

**New York State Department of Health
Certificate of Need Application**

Schedule 21G

If the ownership of the CHHA is being transferred to a new operator or if ownership interest is being transferred to new stockholders, partners or LLC members, please check the appropriate box below to indicate whether the applicant intends to retain the CHHA's existing Medicare provider number or obtain a new Medicare provider number.

- Existing Medicare provider number will be retained
- New Medicare provider number is requested
- Not applicable

N.B. For any ownership transfer involving new stockholders, partners or LLC members, the applicant must contact the CHHA's fiscal intermediary to obtain Form 855A - Medicare Federal Health Care Provider/Supplier Application for Health Care Providers that Bill Medicare Fiscal Intermediaries. Form 855A must be completed and submitted to the fiscal intermediary to report the ownership transfer. The Department must receive the fiscal intermediary's approval of the ownership transfer before the Centers for Medicare and Medicaid Services (CMS) will transfer an existing Medicare provider number or assign a new Medicare provider number. An initial pre-opening survey will be required if a new Medicare provider number is requested. Contact the fiscal intermediary for more information regarding Form 855A.

If a new controlling person or parent entity is proposed, submit all agreements between the CHHA and its controlling person or parent entity relating to the manner and mechanisms by which the controlling person or parent entity will control the CHHA. Attachment #.

If a new controlling person or parent entity is proposed, submit a detailed description of such control relationship. Attachment #.

II. General Partnerships

Submit the following legal information.

On the following chart, a list of the partners, partnership interest and percentage of ownership **before and after the ownership transfer**. Attach additional sheets if necessary. Attachment #.

BEFORE			AFTER		
Name	Partnership Interest	Percentage Ownership	Name	Partnership Interest	Percentage Ownership

Documentation of the transfer of partnership interest. Attachment #.

Documentation (in the Partnership Agreement requested in Schedule 3B) that the incoming partner(s) will be legally bound. Attachment # .

Fully executed, proposed Certificate of Amendment reflecting the change(s) in partner(s). Attachment # .

As requested in Schedule 3B, Schedules 2A and 2B for **each remaining and incoming partner**.

III. Not-for-Profit Corporations

N.B. Any change in the member(s) of a CHHA that is a not-for-profit corporation requires CON approval. This is inclusive of both passive and active members. (See Schedule 2 Instructions for the definition of passive and active members.) CON approval is required regardless of whether the transfer of interest occurs in the immediate, intermediate or ultimate member corporation. Full disclosure of the officers and directors of each member corporation in the CHHA's corporate structure is required.

With respect to the Article 36 corporation that will operate the CHHA, submit the following legal documentation.

Documentation of the transfer of interest. Attachment # .

Legal documents (and amendments, if applicable) regarding the Article 36 corporation are requested in Schedule 3B.

With respect to each member corporation, submit the following legal documentation:

A list of the officers and directors, and positions held by each:
Attachment # .

Certificate of Incorporation: Attachment # .

Fully executed proposed Certificate of Amendment, if any:
Attachment # .

Bylaws: Attachment # .

Proposed amendments to Bylaws: Attachment # .

As requested in Schedule 3B, ensure that Schedules 2A and 2C are submitted for each officer and director of the Article 36 corporation. Additionally, submit Schedules 2A, and 2B or 2C, as appropriate, for each remaining and incoming officer and director of the CHHA's member corporations.

**New York State Department of Health
Certificate of Need Application**

Schedule 21G

IV. Business Corporations

N.B. Transfers of ten percent or more of stock interests or voting rights to a new stockholder, and transfers which result in an individual becoming an owner of ten percent or more of the corporation's issued stock require CON approval.

With respect to the Article 36 corporation that will operate the CHHA, submit the following legal documentation.

On the following chart, a list of the stockholders, stock interest and percentage of ownership **before and after the ownership transfer**. Attach additional sheets if necessary. Attachment # .

BEFORE			AFTER		
Name	Stock Interest	Percentage Ownership	Name	Stock Interest	Percentage Ownership

Documentation of the transfer of stock. Attachment # .

Legal documents (and amendments, if applicable) regarding the Article 36 corporation are requested in Schedule 3B.

With respect to **each parent corporation** of the Article 36 corporation, submit the following:

Certificate of Incorporation: Attachment # .

Bylaws: Attachment # .

A list of the officers and directors, and the positions held by each.
Attachment # .

As requested in Schedule 3B, ensure that Schedules 2A and 2B are submitted for each principal stockholder (owning ten percent or more of the corporation's issued stock), and each officer and director of the Article 36 corporation. Additionally, submit Schedules 2A and 2B for **each remaining and incoming principal stockholder, officer and director** of the CHHA's parent corporations.

V. Limited Liability Companies

N.B. Transfers of ten percent or more of the membership interest or voting rights to a new member, and transfers which result in an individual becoming an owner of ten percent or more of the membership interest require CON approval.

**New York State Department of Health
Certificate of Need Application**

Schedule 21G

With respect to the limited liability company that will operate the CHHA, submit the following:

On the following chart, a list of the members, membership interest and percentage of ownership for each member, **before and after the ownership transfer**. Attach additional sheets if necessary.

Attachment # .

BEFORE			AFTER		
Name	Membership Interest	Percentage Ownership	Name	Membership Interest	Percentage Ownership

Documentation of the transfer of membership interest.

Attachment # .

Documentation (in the Operating Agreement requested in Schedule 3B) that the incoming member(s) will be legally bound. Attachment # .

Legal documents (and amendments, if applicable) for the Article 36 limited liability company are requested in Schedule 3B.

With respect to any new controlling persons of the LLC that are not natural persons, submit the following:

If a new controlling person is an LLC, submit the following:

Articles of Organization: Attachment #

Operating Agreement: Attachment # ; and

List of the members of the LLC: Attachment # .

If a new controlling person is a corporation, submit the following:

Certificate of Incorporation: Attachment # .

Bylaws: Attachment #

List of stockholders (if applicable), and a list of officers and directors of the corporation: Attachment # .

As requested in Schedule 3B, ensure that Schedules 2A and 2B are submitted for each principal member (owning ten percent or more of the membership interest) of the Article 36 LLC. Additionally, submit Schedules 2A, and 2B or 2C,

**New York State Department of Health
Certificate of Need Application**

Schedule 21G

as appropriate, for **each remaining and incoming principal member, stockholder, officer and director, as appropriate**, of the CHHA's parent members/corporations.

SCHEDULE 21G ATTACHMENTS

Complete the section labeled "All Applicants." Then, check the box(es) that apply to your organizational structure and enter the corresponding information for each attached document. If the document is not applicable, enter "N/A" in the column labeled "Attachment Title."

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
ALL APPLICANTS			
Organizational Chart – Before Ownership Transfer	Current MVN Organizational Chart	2A	Attach_2A_Current_Organization_Chart.pdf
Organizational Chart – After Ownership Transfer	Proposed MVHS Organizational Chart	2B	Attach_2B_Post_Transaction_Organization.pdf
Controlling Person – Agreements re: Control Relationship	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf
Controlling Person – Description of Control	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf
<input type="checkbox"/> GENERAL PARTNERSHIP			
List of Additional Partners			
Documentation of Transfer of Interest			
Documentation that Incoming Partners are Legally Bound			
Certificate of Amendment			
<input checked="" type="checkbox"/> NOT-FOR- PROFIT CORPORATIONS			
Documentation of Transfer of Interest	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf
Member Corporation(s) – List of Officers & Directors	MVHS Board of Directors	3A.1	Attach_3A.1_MVHS_Proposed_Board_Roster.pdf
Member Corporation(s) - Certificate of Incorporation	MVHS Certificate of Incorporation	4A.1	Attach_4A.1_MVHS_Certificate_of_Incorporation.pdf
Member Corporation(s) – Certificate of Amendment	N/A		
Member Corporation(s) - Bylaws	MVHS Bylaws	5A.1	Attach_5A.1_MVHS_Bylaws.pdf
Member Corporation(s) – Amendments to Bylaws	N/A		
<input type="checkbox"/> BUSINESS CORPORATIONS			

**New York State Department of Health
Certificate of Need Application**

Schedule 21G

List of Additional Stockholders			
Documentation of Transfer of Stock			
Parent Corporation(s) - Certificate of Incorporation			

* **PDF Format Preferred**

SCHEDULE 21G ATTACHMENTS (continued)

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
Parent Corporation(s) - Bylaws			
Parent Corporation(s) – List of Officers and Directors			
<input type="checkbox"/> LIMITED LIABILITY COMPANIES			
List of Additional Members			
Documentation of Transfer of Interest			
Documentation that Incoming Members are Legally Bound			
Controlling Person(s) – LLC Articles of Organization			
Controlling Person(s) – LLC Operating Agreement			
Controlling Person(s) – LLC List of Members			
Controlling Person(s) – Corp. Certificate of Incorporation			
Controlling Person(s) – Corp. Bylaws			
Controlling Person(s) – Corp. List of Officers & Directors			
OTHER ATTACHMENTS (SPECIFY)			

* **PDF Format Preferred**

**Schedule 21
CON Forms Specific to
Certified Home Health Agencies
Long Term Home Health Care Programs
Article 36**

Contents:

Schedule 21A – CHHA/LTHHCP Program Information

**Schedule 21B - Impact of Proposed CON on CHHA/LTHHCP
Operating Certificate**

Schedule 21C - Additional Legal Information for CHHAs

Schedule 21D – CHHA/LTHHCP Operating Costs

Schedule 21E - CHHA/LTHHCP Projected Operating Revenue

Schedule 21F - CHHA/LTHHCP Projected Utilization

**Schedule 21G - Additional Legal Information for CHHA Ownership
Transfers**

Schedule 21A – CHHA/LTHHCP Program Information

These instructions apply to Schedule 21A only.

Refer to the following chart to determine which sections and questions in Schedule 21A apply to your application. Unless otherwise noted, each section must be completed in its entirety.

APPLICATION TYPE	SECTIONS/QUESTIONS TO BE COMPLETED
CHHA Establishment	I, II, III, IV, V
Expansion of CHHA Geographic Service Area	I II, questions 3, 5, 8 III IV, questions 2, 3, 11, 12 V
Addition of CHHA Service	I, questions 1, 2 IV, questions 1, 2, 3, 11 V, questions 1, 2
CHHA Transfer of Ownership	II, question 7 IV, questions 1, 10, 11
LTHHCP Initiation	I, II, III, IV, V, VI
Expansion of LTHHCP Geographic Service Area	I II, questions 3, 5 III IV, questions 2, 11, 12 V VII
Increase in LTHHCP Capacity	VII
LTHHCP Transfer of Ownership	IV, questions 1, 10, 11

I. Community Planning

1. How does your program proposal fit into the existing array of services available in the health and social services area? How did you determine this?

2. Provide an accurate depiction of current available services, service gap analysis or marketing studies.

3. Describe your proposed or existing relationships with local health and social services departments.

4. What linkages have you developed with other community service providers that will complement, support, and/or supplement the total needs (e.g. housing, social, environmental, or medical supports) for your proposed client base? How will you maintain current information of this nature for consumers? How will you educate program staff on new program initiatives?

5. What local planning processes have been required for your proposal?

6. How does your program fit into the community's long-range plan? Document the local source for this information. How will you evaluate the continued effectiveness of your program as it relates to the community's long-range plan?

7. Document the current and projected demand for the proposed services. If the proposed services are covered by an existing Department of Health need methodology, demonstrate how the services are consistent with the methodology.

8. Describe your primary sources of referral. Be specific in relation to your proposed service area.

9. What specific population will you serve? How does it match the demographic need in your service area and the desires of consumers?

10. Provide a demographic profile of the target population including socio-economic, health status and any other pertinent information demonstrating consumer choice.

II. Consumers

1. Describe any education, training, community outreach or support programs, which will be offered to increase public awareness and enhance the quality of services provided by your program. How will consumers know about your program? What specific information and referral information will be available to assist consumers in making informed decisions on the services they need?

2. Briefly describe the manner in which the needs of low-income persons, racial and ethnic minorities, women, handicapped or disabled persons and other potentially under served groups will be addressed through this proposal.

3. How did you determine that your program meets 'consumer needs' in the proposed service/catchment area? How will you incorporate consumers in planning, implementation and ongoing operation of this program?

4. Will you include active consumer involvement in advisory committees or boards? Please explain.

5. Given the consumer alternatives and choices currently available in your community service area, why would consumers choose your proposed program?

6. Describe the measures that will be taken to maximize the use of your consumers' informal supports.

7. For CHHA applicants only, in accordance with Section 763.11 (a) (11) of Title 10 of the New York Compilation of Codes, Rules and Regulations, certified agencies must ensure the provision of charity care in each fiscal year in an amount no less than two percent (2%) of the total operating costs of the agency in that fiscal year for not-for-profit and for-profit agencies and agencies operated by public benefit corporations. Public agencies must provide charity care in an amount no less than three and one-third percent (3 1/3%) of total operating costs. Charity care is provided at no charge or reduced charge for the services the agency is certified to provide to consumers who are unable to pay full charges, are not eligible for covered benefits under Title XVIII or XIX of the Social Security Act, are not covered by private insurance, and whose household income is less than two hundred percent (200%) of the federal poverty level.

Indicate how the proposed program will meet this requirement. Describe the anticipated sources of funding to cover charity care costs. Estimate the anticipated percentage of charity care cases and include a description of the sliding fee scale to be used. Also describe the plan for the continued provision of services when the consumer has exhausted all payment sources.

The change from passive parent to active parent does not include any change in service configuration or provision for the Visiting Nurse Association of Utica and Oneida County ("VNA"). All charity care policies and procedures currently in place will continue, and MVHS will comply with all New York State Codes, Rules, and Regulations for the provision of charity care through VNA.

8. For CHHA applicants only, enter on the following table the anticipated first and third year patient caseload for each county in the proposed service area.

Table 21A-1 Caseload Projections by County

County	First Year Patient Caseload	Third Year Patient Caseload

III. Geographic Service Area

1. Provide a geographic description of the service area. Applicants should develop proposals to serve the entirety of each county in the service area. For each county, estimate the furthest distance (in both miles and time) which staff will travel to make home visits.

2. If the proposed service area differs from that of the project sponsor, explain the reasons for the difference.

3. What are the current transportation considerations in your community/service area/catchment area affecting consumers or consumers' family and friends' access your program? How do you propose to address these? How will you know if you are successful?

--

IV. Program Characteristics

1. Indicate on the following table the services you will be providing, the method of delivery and the availability of each service. For each service, indicate by full-time equivalents (FTE) the anticipated number of personnel (both contract staff and agency employees) needed to sufficiently meet the needs of the projected caseload. CHHAs must provide nursing; home health aide; medical supplies, equipment and appliances; and at least one additional service. All thirteen services are required for the LTHHCP. Both programs require that either home health aide, nursing, physical therapy, speech pathology, occupational therapy or medical social services be provided in its entirety directly by agency employees. For existing CHHAs applying to certify a new service, provide information for the proposed service(s) only.

Table 21A-2 Program Staffing Plan

Service	Direct	Contract	Availability (Hours & Days per Week)	Number of FTEs
AUDIOLOGY	<input type="checkbox"/>	<input type="checkbox"/>	No changes	
HOME HEALTH AIDE	<input type="checkbox"/>	<input type="checkbox"/>	No changes	
HOMEMAKER	<input type="checkbox"/>	<input type="checkbox"/>	No changes	
HOUSEKEEPER	<input type="checkbox"/>	<input type="checkbox"/>	No changes	
MEDICAL SOCIAL SERVICES	<input type="checkbox"/>	<input type="checkbox"/>	No changes	
MEDICAL SUPPLY EQUIPMENT & APPLIANCES	<input type="checkbox"/>	<input type="checkbox"/>	No changes	
NURSING	<input type="checkbox"/>	<input type="checkbox"/>	No changes	
NUTRITIONAL	<input type="checkbox"/>	<input type="checkbox"/>	No changes	
OCCUPATIONAL THERAPY	<input type="checkbox"/>	<input type="checkbox"/>	No changes	
PERSONAL CARE	<input type="checkbox"/>	<input type="checkbox"/>	No changes	
PHYSICAL THERAPY	<input type="checkbox"/>	<input type="checkbox"/>	No changes	
RESPIRATORY THERAPY	<input type="checkbox"/>	<input type="checkbox"/>	No changes	
SPEECH PATHOLOGY	<input type="checkbox"/>	<input type="checkbox"/>	No changes	
OTHER (SPECIFY)	<input type="checkbox"/>	<input type="checkbox"/>	No changes	

2. For contracted services, enter the name and address of the proposed contractor. Attach additional sheets if necessary. For existing CHHAs applying to certify a new service, complete this information for the proposed service(s) only.

--

Table 21A-3 Contracted Services

Service	Contractor

Service	Contractor

3. Estimate the number of cases and visits for each of the specified age groups in the first three years of operation. For existing CHHAs applying to certify a new service, estimate only the total visits/cases for the proposed service for years 1 through 3. A case is defined as an individual who is admitted to an agency during a calendar year. The following are NOT counted in the agency’s caseload:

Assessments that do not result in an admission to the agency;

Admissions for maternal and preventive care;

Assessment or supervision of personal care services;

Cases in which the agency is the secondary provider of services; and

Cases identified as ‘ill without diagnosis’.

Table 21A-4 Caseload Projections by Age

Age	Year 1		Year 2		Year 3	
	Cases	Visits	Cases	Visits	Cases	Visits
Under 1						
1 - 4						
5 - 19						
20 - 44						
45 - 64						
65 - 84						
85 & Over						
Total						

4. Describe the methodologies to be used in consumer screening, assessment and utilization review. Specify who will be responsible for these activities and the frequency with which they will occur.

--

5. Describe how the proposed program supports the sponsor’s short and long-term goals.

6. Explain how professional assistance will be available on a 24-hour, 7-day-week basis.

7. Describe the processes that are in place to ensure that services are provided in an efficient manner and will minimize the cost per home care case.

8. Describe the quality assurance plan, which will be used to evaluate program effectiveness. What consumer satisfaction measures will you employ?

9. How do you propose to address cultural, rural vs. urban and/or ADA (American Disabilities Act) considerations in the design and operation of your program?

10. All CHHAs and LTHHCPs are required to collect and data enter, via internet access, a standardized set of data items known as the Outcome and Assessment Information Set (OASIS) in order to meet the Medicare Conditions of Participation. Details of these requirements are published in the January 25, 1999 Federal Register (64 FR 3748 and 64 FR 3764) and updated in the June 18, 1999 Federal Register (64 FR 32984). Please document the applicant's capability for meeting the OASIS requirements at program start-up.

VNA is and shall remain compliant with the OASIS reporting requirements under Medicare.

11. Describe your goals toward initiating operations in a timely manner. Indicate the anticipated operational date and provide a time frame for developing policies and procedures, hiring and training staff, establishing contracts and referral agreements, etc.

VNA is operating and will continue to do so in the same manner outlined by its corporate bylaws when its existing parent, MVN, becomes an active parent as Mohawk Valley Health System.

12. Indicate if the agency will have any branch offices. If so, provide the address below.

V. Workforce

1. What is the current availability of professional/paraprofessional workers to staff your program? Who are the competing employers? How do you propose to successfully compete? Include training, recruitment and transportation strategies. How do you coordinate with the Department of Labor or any other local workforce initiatives?

2. What impact will the initiation/expansion of your program have on the workforce of other health care providers in the community? How will you minimize any adverse impact?

3. What measures will you adopt to promote retention of specific categories of your workforce?

VI. Additional Questions for LTHHCP Initiation

1. Indicate on the following chart, the number of LTHHCP registrants requested for each county in the proposed service area.

Table 21A-5 LTHHCP Registrants Requested by County

County	Number of Requested Registrants

2. If the proposed LTHHCP is operated by a CHHA, indicate whether 1) the LTHHCP will be administered by a full-time director of patient services or 2) if the director of the CHHA will act as a part-time administrator of the LTHHCP and a full-time supervising community health nurse will be employed by the LTHHCP to act as coordinator of the program.

3. Describe how the LTHHCP will provide 24-hour, 7-day-week nursing coverage separate and distinct from the sponsoring organization.

4. Describe how the LTHHCP will provide nursing supervision.

5. Indicate if medical supplies, equipment and appliances will be provided by contract with an approved DME vendor or if the LTHHCP will provide this service directly as an approved DME vendor.

VII. LTHHCP Capacity Increase

1. On the following chart, indicate the current approved capacity, the current census, the number of pending registrants and the requested number of additional registrants for each county in the program's approved geographic service area.

Table 21A-6 LTHHCP Capacity Increase by County

County	Approved Capacity	Current Census	No. of Pending Registrants	Requested No. of Slots

2. For patients receiving skilled services, provide a breakdown of your current caseload by type of skilled service. (For example, 25 registrants receive skilled nursing only; 10 registrants receive skilled nursing and physical therapy, etc.)

3. Provide a breakdown of the number of registrants receiving waived services by type of service. Use the same format described in Question #2.

4. Provide a DMS-1 score distribution for existing registrants using the following ranges: 60-180; 181-300; and 300+.

5. What is the average registrant budget for your program in relation to the registrant budget cap? Provide a distribution of your current registrant budgets by aggregating them into the following categories: those < 25% of the cap; those 25% to 50% of the cap; and those 51% to 75% of the cap.

6. How many potential registrants are currently on your waiting list?

7. What are the sources of referral for your pending cases?

8. What percentage of pending registrants have DMS-1 scores greater than 180? Greater than 300?

9. How many registrants on your waiting list do you anticipate requiring one skilled service? Two skilled services? More than two skilled services?

10. What percentage of registrants on the waiting list will require waived services? Will any patients require more than one waived service? If so, estimate how many.

**New York State Department of Health
Certificate of Need Application**

Schedule 21B

**Impact of Proposed CON on Certified Home Health Agency and/or
Long Term Home Health Care Program Operating Certificate(s)**

**Changes in Patient Capacity and/or Services for
Long Term Home Health Care Programs**

Table 21B-1 Certified Capacity	Current	Add	Remove	Proposed
LONG-TERM HOME HEALTH CARE PROGRAM				

Table 21B-2 Certified Services¹		Current	Add	Remove	Proposed
AIDS HOME HEALTH CARE PROGRAM	170	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHYSICIAN SERVICES	75	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

¹ Services listed below are required services included in the establishment of a LTHHCP and do not need to be requested:

- Audiology
- Home Health Aide
- Homemaker
- Housekeeper
- Medical Social Services
- Medical Suppl Equip & Appl
- Nursing
- Nutritional
- Personal Care
- Therapy-Occupational
- Therapy-Physical
- Therapy-Respiratory
- Therapy-Speech Language Pathology

Changes in Certified Services for Certified Home Health Care Agencies

Table 21B-3 Certified Services CHHA²		Current	Add	Remove	Proposed
AUDIOLOGY	6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HOMEMAKER	39	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HOUSEKEEPER	40	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MEDICAL SOCIAL SERVICES	95	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NUTRITIONAL	60	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PERSONAL CARE	72	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHYSICIAN SERVICES	75	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
THERAPY-OCCUPATIONAL	61	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
THERAPY-PHYSICAL	74	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
THERAPY-RESPIRATORY	92	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
THERAPY-SPEECH LANGUAGE PATHOLOGY	98	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

² Services listed below are required services included in the establishment of a CHHA and do not need to be requested:

- Home Health Aide
- Medical Suppl Equip & Appl
- Nursing

Changes in Counties Served for CHHA and/or LTHHCP

Table 21B-4 Counties Served CHHA/LTHHCP	Current	Add	Remove	Proposed
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Schedule 21C – Additional Legal Information
Article 36 Certified Home Health Agencies (CHHA)**

Instructions

1. All Article 36 applicants seeking establishment approval must complete Part I.
2. The appropriate section of Part II must also be completed, depending on the Article 36 applicant’s type of legal entity, as follows:
 - a. Applicants that are not-for-profit corporations must complete Section A.
 - b. Applicants that are business corporations must complete Section B.
 - c. Applicants that are limited liability companies (LLC) must complete Section C.
 - d. Applicants that are government entities must complete Section D.

N.B. Whenever a requested legal document has been amended, modified or restated, all amendments, modifications and/or restatements should also be submitted.

N.B. An entity cannot be approved to operate both a CHHA and a licensed home care services agency (LHCSA). If an entity is currently approved to operate a LHCSA and it wishes to operate a CHHA, a separate legal entity (partnership, corporation or limited liability company) must be proposed.

I. All Applicants

For purposes of the application, a “controlling person” is one who exercises control over the CHHA by directing or causing the direction of the actions, management or policies of the agency, whether through the ownership of voting securities or voting rights, electing or appointing directors, the direct or indirect determination of policies, or otherwise. Full disclosure of the CHHA operator (in Schedule 3B), as well as the governing bodies of each immediate, intermediate and ultimate parent or member entity of the CHHA is required since these entities/persons possess direct or indirect operational authority over the CHHA. This includes directors (if a corporation), managers (if an LLC), and principal stockholders (if a business corporation), as well as both active and passive parent/member corporations.

A. Controlling Person

Does the CHHA have a controlling person or an immediate, intermediate or ultimate parent or member entity? Yes No

If yes, list the controlling person(s) or immediate, intermediate or ultimate parent entity(ies) below. Attach additional sheets if necessary. Attachment #

Legal Name of Controlling Person	Type of Legal Entity (Specify For-Profit or Not-for-Profit, if a Corporation)
Mohawk Valley Health System	Not-for-Profit

**New York State Department of Health
Certificate of Need Application**

Schedule 21C

For each legal entity named above, submit the following documentation.

Formation Documents

If a corporation, Certificate of Incorporation and Bylaws.
Attachments #4A.1 and #5A.1.

If an LLC, Articles of Organization and the Operating Agreement.
Attachments # and #.

Agreements

All agreements between the CHHA and the controlling person or parent entity relating to the manner and mechanisms by which the controlling person or parent entity controls or will control the CHHA. Attachment #1.

Control

Submit a detailed description of such control relationship.
Attachment #.

Ownership and Governing Authority

If a corporation, submit a list of the names and position held for all officers, directors and principal stockholders (those owning ten percent or more of the corporation's issued stock) of each parent or member corporation.
Attachment #3A.1.

If an LLC, submit a list of the names and positions held for each controlling person (managers, directors, principal members and/or stockholders, whichever is applicable). Attachment #.

Submit Schedule 2A for each individual listed in Item 4a or 4b. Directors of business corporations, members of LLCs, and directors of not-for-profit corporations who contribute capital in support of the project must also submit Schedule 2B. Directors of not-for-profit corporations who do not contribute capital in support of the project must also submit Schedule 2C.

Management

If the response to Question I.H is Schedule 3B is 'Yes' and the applicant intends to enter into a management or consulting contract, the proposed agreement must be submitted for Department approval and must meet the requirements of 10 NYCRR 763.11 (c) and (d). If the agreement is referenced as an attachment in response

New York State Department of Health Certificate of Need Application

Schedule 21C

to Question I.H in Schedule 3B, indicate the attachment number and do not submit a second copy. Attachment # .

If the response to Question I.I in Schedule 3B is 'No' and the applicant intends to enter into a management consulting agreement with an entity that has not previously received establishment approval (under Articles 7, 28, 36, 40 or 44) in New York State, the management entity itself must be disclosed.

Has the management entity previously received establishment approval in New York State? Yes No

If yes, skip to Section C.

If the response to the above question is no:

Submit a list of the principal stockholders/members (those owning ten percent or more of the manager's issued stock/membership interest) and/or directors of the management entity. Attachment # .

Each director, principal stockholder or member of the management entity must submit Schedule 2A. Each individual must also submit Schedule 2B or 2C, as applicable.

Affiliations

Submit an organizational chart that depicts the CHHA's relationship to all sister and subsidiary entities, as well as all immediate, intermediate and ultimate parent/member entities. Attachment # .

N.B. If the CHHA's organizational chart is duplicative of the chart submitted in response to Question I.G in Schedule 3B, check the following box and do not submit an additional chart.

Organizational chart is duplicative of that submitted in Schedule 3B.

N.B. As indicated in Schedule 1C, the Department must receive documentation from the appropriate state regulatory agency that all health care entities affiliated with the applicant or with the applicant's member/parent corporations, have operated in substantial compliance with all applicable codes, rules and regulations. Ensure that a list of such agencies is included with this application (See Schedule 1C) and refer to Schedule 2D for instructions on how to obtain this information for facilities located outside of New York State.

II. Additional Documentation Depending on Type of Legal Entity

A. Not-for-Profit Corporations

Number of director positions set by the bylaws or otherwise fixed (See Not-for-Profit Corporation Law 702): .

New York State Department of Health Certificate of Need Application

Schedule 21C

Number of director positions currently filled: 19.

Explain how and by whom the directors will be appointed or elected.

The Board of VNA is a mirror board of MVN. The MVHS Board, other than the Chief Executive Officer of MVHS, shall serve ex officio with full voting powers on the VNA Board. The Chief Executive Officer of MVHS shall serve as an ex officio, non-voting Director of VNA. The Chairperson and officers of MVHS shall serve as ex officio officers of the VNA Board in the same office as they occupy on the MVHS Board. The Board will be self-perpetuating, following the rotation schedule of the MVHS Board as outlined in the Definitive Agreement, section III.3.1(6).

The Certificate of Incorporation must include purposes that are adequate to encompass the authority to operate a CHHA. Language similar to the following would be acceptable to the Department:

“The purpose for which the corporation is formed is to establish and operate a certified home health agency approved under Article 36 of the Public Health Law, provided that no such certified home health agency shall be established and operated without the prior written approval of the New York State Department of Health.”

B. Business Corporations

The Certificate of Incorporation must include purposes that are adequate to encompass the authority to operate a CHHA. Language similar to the following would be acceptable to the Department:

“The purpose for which the corporation is formed is to establish and operate a certified home health agency approved under Article 36 of the Public Health Law, provided that no such certified home health agency shall be established and operated without the prior written approval of the New York State Department of Health.

As an alternative, the Certificate of Incorporation may include general purposes. The purpose clause should state, either alone or with other purposes, that the purpose of the corporation is to engage in any lawful act or activity for which corporations may be formed under the New York State Business Corporation Law. It must also state that it is not to engage in any act or activity requiring the approval of any state official, department, board, agency or other body without such consent or approval first being obtained.

N.B. Stockholders of a CHHA applicant that is a business corporation not incorporated in New York State must be natural persons. Otherwise, a New York subsidiary must be incorporated.

C. Limited Liability Companies

The Articles of Organization must include provisions to the following effect:

**New York State Department of Health
Certificate of Need Application**

Schedule 21C

The name of the LLC, which must contain either the words, "Limited Liability Company", or the abbreviations, "LLC", or "L.L.C.";

Designation of the Secretary of State as agent of the LLC for service or process and an address to which the Secretary of State may mail a copy of any such process;

If the LLC is to be managed by managers, a statement to that effect;

Sufficient powers and purposes to operate a CHHA; and

That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments, or other dispositions of membership interests or voting rights must be effectuated in accordance with Section 3611-a(1) of the Public Health Law and implementing regulations.

The Operating Agreement must include provisions to the following effect:

That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments, or other disposition of membership interests or voting rights must be effectuated in accordance with Section 3611-a(1) of the Public Health Law and implementing regulations;

How the LLC will be managed and that neither the management structure nor the provision setting forth such structure may be deleted, modified or amended without the prior approval of the Department of Health;

If the LLC is managed by managers who are not members, that the manager may not be changed without the prior approval of the Department of Health; and

If the LLC will be managed by managers who are not members, that the following powers are reserved to the members: (i) direct authority to hire or fire the administrator; (ii) independent control of the books and records; (iii) authority over the disposition of assets and the authority to incur on behalf of the agency liabilities not normally associated with the day-to-day operation of an agency; and (iv) independent adoption of policies affecting the delivery of health care services.

Will the LLC be managed by managers who are not members?

Yes No

If yes, submit the proposed Management Agreement (see Section I.B of this schedule) between the LLC and the manager, which must include provisions to the following effect:

That the manager may not be changed without the prior approval of the Department of Health; and

**New York State Department of Health
Certificate of Need Application**

Schedule 21C

That the following powers are reserved to the members: (i) direct authority to hire or fire the administrator; (ii) independent control of the books and records; (iii) authority over the disposition of assets and the authority to incur on behalf of the agency liabilities not normally associated with the day-to-day operation of an agency; and (iv) independent adoption of policies affecting the delivery of health care services.

Does the LLC intend to issue membership certificates? Yes No

If yes, submit a sample membership certificate including the following legend:
Attachment # .

“That notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments, or other disposition of membership interests or voting rights must be effectuated in accordance with Section 3611-a(1) of the Public Health Law and implementing regulations.”

N.B. Members of a CHHA applicant that is an LLC not organized in New York must be natural persons. Otherwise, a New York subsidiary must be organized.

D. Government Entities

Submit documentation of all necessary governing authority approvals for this application.
Attachment # .

**New York State Department of Health
Certificate of Need Application**

Schedule 21C

Schedule 21C Attachments

Complete the section labeled "Controlling Persons - All Applicants." Then, check the box(es) that apply to your organizational structure and enter the corresponding information for each attached document. If the document is not applicable, enter "N/A" in the column labeled "Attachment Title."

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
CONTROLLING PERSONS - ALL APPLICANTS			
List of Additional Controlling Persons/Parent Entities	N/A		
<input checked="" type="checkbox"/> CONTROLLING PERSONS - CORPORATIONS			
Certificate of Incorporation	MVHS Certificate of Incorporation	4A.1	Attach_4A.1_MVHS_Certificate_of_Incorporation.pdf
Bylaws	MVHS Bylaws	5A.1	Attach_5A.1_MVHS_Bylaws.pdf
Agreement(s) re: Control Relationship	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf
Description of Control	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf
List of Officers, Directors & Stockholders	MVHS Board of Directors	3A.1	Attach_3A.1_MVHS_Proposed_Board_Roster.pdf
<input type="checkbox"/> CONTROLLING PERSONS – LIMITED LIABILITY COMPANIES			
Articles of Organization			
Operating Agreement			
Agreement(s) re: Control Relationship			
Description of Control			
List of Managers & Principal Members			
Sample Membership Certificate			
<input type="checkbox"/> MANAGEMENT			
Management Agreement			
List of Directors & Principal Members/Stockholders of Management Entity			
<input type="checkbox"/> AFFILIATIONS			
Organizational Chart			
<input type="checkbox"/> GOVERNMENT ENTITIES			
Documentation of Government Approvals for Application			
OTHER ATTACHMENTS (SPECIFY)			

**New York State Department of Health
Certificate of Need Application**

Schedule 21C

--	--	--	--

* PDF Format Preferred

Schedule 21D – CHHA/LTHHCP Operating Costs

For Establishment and/or Construction Requiring Full/Administrative Review.

Section I Summary of Operating Costs

General Instructions

Both Certified Home Health Agencies (CHHAs) and Long Term Home Health Care Programs (LTHHCPs) should complete Section I summarizing the operating cost information for the proposed project. Information concerning costs should be consistent with costs reported on the HCFA-1728 for Medicare reimbursement. Complete only those line items that apply to your agency and/or your project (prorate salaries when applicable). New CHHAs as well as LTHHCPs should project operational costs for the first and third years of operation.

Organizations applying for establishment as a CHHA should also complete Section II. Organizations applying for certification as a home health agency should also report current costs of existing operations.

All applicants proposing to initiate a LTHHCP must complete Section III.

For any agencies or programs based in a facility certified under Article 28, enter the step-down costs of the parent facility as appropriate.

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D - 1 Summary of Operating Costs

	Present Costs - If Applicable	Operational Cost First Year	Operational Cost Third Year
1. Salaries			
a. Director/Administrator (for LTHHCP prorate)			
b. Director of Patient Services			
c. Coordinator (LTHHCP only)			
d. Consultants			
e. Supervisors			
f. Professional nurses providing generalized services			
g. Specialists – PT, OT, SP, etc.			
h. Home Health Aides			
i. Clerical Staff			
j. Others (specify) - Housekeeping Program			
k. Total Fringe			
2. Transportation Costs (Items a-f)			
a. Automobile operating costs			
b. Automobile insurance			
c. Automobile depreciation (furnish details)			
d. Gains or losses on sale or disposal of automobiles			
e. Automobile allowances paid to staff members			
f. Other (specify)			
3. Services Purchased From Other Agencies Or Under Arrangements (contract services)			
4. Medical And Nursing Supplies (including non-depreciable equipment)			
5. Space Occupancy Costs (total items a-f)			
a. Rent			
b. Heat and Light			
c. Maintenance and repairs			
d. Taxes			
e. Depreciation if building owned or donated (furnish details)			
f. Other (specify)			
6. Office Costs			
a. Stationery and printing			
b. Telephone and telegraph			
c. Postage			
d. Other (specify)			
7. Other General Costs			
a. Depreciation on furniture and equipment (furnish details)			
b. Legal and accounting fees			
c. Laundry			
d. In-service and staff education			
e. Insurance (other than automobile)			
8. Cost For Space Occupancy, Office And Other General Costs, Fringe Benefits, Etc. Not Identifiable And Not Included In Items 1-7			
Total			

Section II - CHHA Operating Costs

This section is to be completed by those organizations requesting establishment of a CHHA.

**Table 21D-2 Certified Home Health Agency Allocation of Operating Costs -
Instructions:**

Table 21D-2 provides the operating cost data needed to derive cost per direct service work unit. Cost information should be consistent with information on Table 21D -1.

- Column A - Provide total dollar amounts by cost category from Table 21D-1. Columns B through I should equal the total in column A.
- Column B - Enter costs that cannot be identified to a specific discipline.
- Column C through I - Enter costs that can be identified to a specific discipline.
- Line 10 - To calculate the percent: Column B Line 9 / Sum of Lines 1 & 2 in Columns C through I apply the rates to Line 1 of each column C through I.
- Line 11 - To calculate percent: Administrative Salaries in Line 1 Column B / All other salaries in Line 1, Columns C through I apply the rates to Line 1 of each column C through I
- Line 12 - Total columns C through I
- Line 13 - Enter the number of projected visits for each discipline. Professional services should be reported by visits.
- Line 14 - Enter the number of projected hours for each discipline where appropriate Paraprofessional services only should be reported by hours.
- Line 15 - Cost Per visit: divide line 12 by line 13 where necessary.
- Line 16 - Cost Per visit: divide line 12 by line 15 where necessary.

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-2 Certified Home Health Agency Allocation of Operating Costs - Year 1

Classification of Costs	Total All Disciplines Sum(B thru I)	Costs un-identified with Specific Discipline	Costs Identifiable to Specific Discipline						
			Skilled Nursing Care	Physical Therapy	Speech Therapy	Occupational Therapy	Medical Social Services	Home Health Aides	Other (Specify)
	A	B	C	D	E	F	G	H	I
1. Salaries and Fringe Benefits									
2. Contracted Services									
Total Salaries plus contracted services									
3. Transportation Costs									
4. Medical & Nursing Supplies									
5. Space Occupancy Costs									
6. Office Costs									
7. Other General Costs									
8. Other Costs not incl. in items 1-7, Section I, Item 8									
9. Total Cost (excluding salaries) Sum of Lines 2 - 8									
Computed Costs for specific discipline as % of Total All Disciplines 8									
10. Amount of unidentified costs to be charged to each discipline. Apply ratio in Col. B to Lines 1 and 3 on each column C through I.									
11. a Administrative Salaries to be allocated									
b. Other Salaries to be allocated									
12. Total Costs by discipline (sum of 1, 9, 10, and 11)									
13. Projected number of visits									
14. Projected number of hours									
15. Projected cost per visit									
16. Projected cost per hour									

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-2 Certified Home Health Agency Allocation of Operating Costs - Year 3

Classification of Costs	Total All Disciplines Sum(B thru I)	Costs un-identified with Specific Discipline	Costs Identifiable to Specific Discipline						
			Skilled Nursing Care	Physical Therapy	Speech Therapy	Occupational Therapy	Medical Social Services	Home Health Aides	Other (Specify)
	A	B	C	D	E	F	G	H	I
1. Salaries and Fringe Benefits									
2. Contracted Services									
Total Salaries plus contracted services									
3. Transportation Costs									
4. Medical & Nursing Supplies									
5. Space Occupancy Costs									
6. Office Costs									
7. Other General Costs									
8. Other Costs not incl. in items 1-7, Section I, Item 8									
9. Total Cost (excluding salaries) Sum of Lines 2 - 8									
Computed Costs for specific discipline as % of Total All Disciplines 8									
10. Amount of unidentified costs to be charged to each discipline. Apply ratio in Col. B to Lines 1 and 3 on each column C through I.									
11. a Administrative Salaries to be allocated									
b. Other Salaries to be allocated									
12. Total Costs by discipline (sum of 1, 9, 10, and 11)									
13. Projected number of visits									
14. Projected number of hours									
15. Projected cost per visit									
16. Projected cost per hour									

Section III - Long Term Home Health Care Program Operating Costs

All applicants proposing to initiate an LTHHCP must complete this section.
Please note that the budget submitted must reflect the total capacity of the proposed LTHHCP and include costs for all required services.

Table 21D-3 (former A1) Long Term Home Health Care Program Personal Services - Salaries and Wages. Instructions:

Instructions: Enter the salaries or portion thereof for all personnel performing work within each of the specific LTHHCP cost centers (lines 1 through 15) in accordance with the titles shown in the column headings. Include Audiology with Speech Pathology if the therapist has dual qualifications. Otherwise enter contract costs on line 1 (Administration) under column H (All Other).

Although a discrete rate will not be set for patient assessments, the costs (previously considered in administrative expense) must be identified, and reported separately on line 3. Patient assessment costs are defined as: "the direct costs of personnel employed by the facility that is related to the time and involvement in the initial determination of each patient's eligibility for participation in the LTHHCP and the subsequent 120-day reassessments."

The salaries of individuals functioning within two or more cost centers must be split between the appropriate cost centers. For example, if an administrator or director will be performing patient assessment 25% of the time, 75% of the salary should be entered on line 1 (Administrative) and 25% of the salary entered on line 3 (Patient Assessment).

NOTE: The preparation of Table 21D-7 prior to or in conjunction with Table 21D-3 may simplify the completion of both tables.

Columns A-E -Self Explanatory

Column F - Therapists - includes Physical Therapy (line 5), Speech Pathology (line 6), Occupational Therapy (line 7) and Medical Social Services (line 12).

Column G -Self Explanatory

Column H - All Other - includes clerical staff, Homemaker, Housekeeper, Personal Care Services, Nutrition and Respiratory Therapy.

Transfer total Column I lines 1-16 to Table 21D-9 Column 1.

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Name of Program:

Table 21D-3 (former A-1) Personal Services- Salaries & Wages

	Admin./ Director of Facility	Director Coordinator of Patient Services	Consultant	Supervisors	Nurses	Therapists	Home Health Aides	All Other	Total 9
	A	B	C	D	E	F	G	H	I
1. Administrative									
2. Unidentified to Specific Functions									
3. Patient Assessment									
4. Nursing									
5. Physical Therapy									
6. Speech Pathology									
7. Occupational Therapy									
8. Home Health Aide									
9. Homemaker									
10. Housekeeper									
11. Personal Care									
12. Medical Social Service									
13. Nutrition									
14. Respiratory Therapy									
15. Other: Specify									
16: Total									

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Certified Home Health Agency And Long Term Home Health Care Program Application for Establishment/Construction

Table 21D-4 (Former A-2) Personal Services- Employee Benefits

Instructions: Enter all payroll-related employee benefits in the same manner as used for reporting salaries and wages on Table 21D-3. Transfer total Column 9 lines 1-16 to Table C Column 2

Name of Program:

	Admin./ Director of Facility	Director of Patient Services	Consultant	Supervisors	Nurses	Therapists	Home Health Aides	All other	Total
	A	B	C	D	E	F	G	H	I
1. Administrative									
2. Unidentified to Specific Functions									
3. Patient Assessment									
4. Nursing									
5. Physical Therapy									
6. Speech Pathology									
7. Occupational Therapy									
8. Home Health Aide									
9. Homemaker									
10. Housekeeper									
11. Personal Care									
12. Medical Social Service									
13. Nutrition									
14. Respiratory Therapy									
15. Other: Specify									
16: Total									

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Certified Home Health Agency And Long Term Home Health Care Program Application for Establishment/Construction

Table 21D-5 (Former Schedule A-3) Personal Services- Contracted/Purchased Services

Instructions: Include only the costs of services to be provided to patients by other agencies/individuals under contract. Do not include services such as cleaning, bookkeeping, computer services and other services not directly related to patient care. Include Audiology with Speech Pathology if they are contracted as a combined service; otherwise enter contract costs on line 1 (Administration) under column 8 (All Other).

Transfer total Column 9 lines 1-16 to Table C Column 3.

Name of Program: Report Period:

	Admin./ Director of facility	Director of Patient Services	Consultant	Supervisors	Nurses	Therapists	Home Health Aides	All other	Total
	A	B	C	D	E	F	G	H	I
1. Administrative									
2. Unidentified to Specific Functions									
3. Patient Assessment									
4. Nursing									
5. Physical Therapy									
6. Speech Pathology									
7. Occupational Therapy									
8. Home Health Aide									
9. Homemaker									
10. Housekeeper									
11. Personal Care									
12. Medical Social Service									
13. Nutrition									
14. Respiratory Therapy									
15. Other: Specify									
16: Total									

* Include services for which a rate is not set by OHSM

Table 21D-6 (former Schedule A-4) Other Than Personal Services - Instructions:

This table provides for reporting all operating costs not included in the Personal Services Tables 21D-3, 21D-4, and 21D-5. Except for salaries, travel and possibly specific supplies, detailed cost data may not be available. However, if the costs for the various services are to be maintained in separate accounts, enter the costs in the specific cost centers (line 1-15) in the appropriate columns. Enter costs that cannot be identified with a specific cost center, or that are chargeable to the agency as a whole, on line 2 (Unidentified to Specific Function), in the appropriate columns.

- Transportation (Column A) - Record the cost of transportation for staff members only, and not patient transportation, include automobile operating costs, insurance and depreciation, automobile allowances paid to staff, public transportation and car rental.
- Medical Supplies (Column B) - Include only supplies routinely carried by staff in order to carry out their home visiting functions. Do not include the cost of supplies for which a separate charge is made.
- Space Occupancy Costs (Column C) - Includes rent, heat, lights, maintenance and repairs, taxes, depreciation on building, amortization of leasehold improvements and other related expenses.
- Office Costs (Column D) - Include costs relative to the LTHHCP only, stationery and printing, telephone, postage etc.
- Other General Costs (Column E) - Include depreciation on office equipment and other depreciable items not included under transportation or space occupancy, dues and subscriptions, legal and accounting fees, in-service and staff education, insurance (other than automobile), and the cost of equipment furnished to patients (include depreciation and maintenance of loan closet items available for use by patients). Do not include the cost of equipment furnished to patients for which a separate charge is to be made.
- Other Costs not Identifiable and not Included in Columns 1-5 (Column F) - Include the appropriate portion of costs incurred by the facility for services maintained by the organization for its component parts (such as the LTHHCP), which may include the cost of such services as computer services, general administrative costs, record storage etc.

In addition, costs incident to the start-up period should be included here. Start-up costs are those costs incurred during the development period prior to the time the first patient is admitted for treatment. These start-up costs should be capitalized as deferred charges and amortized over a period of 60 months, starting with the month in which the first patient was admitted (provide details on separate attachment). Any costs properly identifiable as organization costs or capitalized as construction costs must be appropriately classified as such and excluded from start-up costs.

- If depreciation expense is reported in this table, attach a separate document with details of depreciation expense.
- Transfer totals Column G line 1-16 to Table 21D-9 Column 4. Transfer amounts from line 2, columns A through G of this table to Table 21D-12 as indicated.

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-6 (former Schedule A-4) Other Than Personal Services

Name of Program:

Reporting period: from to

	Transportation	Medical Supplies	Space occupancy	Office Costs	Other General	Other Costs Not Identifiable and not included in Cols. 1-5	Total
	A	B	C	D	E	F	G
1. Administrative							
2. Unidentified to Specific Functions							
3. Patient Assessment							
4. Nursing							
5. Physical Therapy							
6. Speech Pathology							
7. Occupational Therapy							
8. Home Health Aide							
9. Homemaker							
10. Housekeeper							
11. Personal Care							
12. Medical Social Service							
13. Nutrition							
14. Respiratory Therapy							
15. Other: Specify							
16: Total							

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-7 (Former Schedule B-1) Allocation of Total FTEs to LTHHCP Cost Centers - Instructions

Application for Establishment/Construction

Full-time equivalents are to be calculated on the basis of the sum of all hours for which employees will be paid, divided by 2,080 hours, rounded off to 2 decimal places (00.00).

Separate FTEs are to be calculated and identified for staff personnel as well as for service provided by contract.

Determine the total number of hours, for staff and/or purchased services, for the employee(s) functioning under each of the titles listed on lines 1-17 during the 12 month report period. Divide by 2,080 hours and enter the results in Column A, lines 1-17. Identify staff FTEs with the prefix "D" and contracted service FTEs with the prefix "C".

Columns B through O provide space to allocate the total FTEs for each title to the appropriate LTHHCP cost centers. For some of the titles the allocation will simply be the transfer of the total FTEs to a single cost center (e.g. Homemakers Column A line 11 to Column H line 11). However, where personnel in a job title function under two or more cost centers an allocation must be made. For example, is an administrator or director also performs patient assessment 25% of the time, 75% of the FTE should be entered on line 1, column B (Administrative) and 25% of the FTE entered on line 1, column C (Patient Assessment). The same principle will also apply to those titles where more than one person is in the title and only one may function under more than one cost center. For example, line 6 would have the following entries: Column A - 02.00, column C - 00.50 and column D - 01.50.

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-7 (Former Schedule B-1) Allocation of Total FTEs to LTHHCP Cost Centers

Name of Program:

	Total	Adminis- trative	Patient Assess- ment	Nursing	Physical Therapy	Speech Pathology	Occupation al Therapy	Home Health Aide	Home Maker	House- keeper	Personal Care	Medical Social Services	Nutrition	Respiratory Therapy	Other
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1. Administrator															
2. Other Administrative (Account, Clerical, Steno, etc.)															
3. Director/ Coordinator of Services															
4. Consultants															
5. Supervisors															
6. Nurses															
7. Physical Therapists															
8. Speech Pathologists															
9. Occupational Therapists															
10. Home Health Aides															
11. Homemakers															
12. Housekeepers															
13. Personal Care Aides															
14. Medical Social Workers															
15. Nutritionists															
16. Respiratory Therapy															
17. Other (Specify)															

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-8 (Former Schedule B-2) - Summary of Arrangement for Purchased Services Long Term Home Health Care Program Other Than Personal Services

Instructions: Enter the vendor/contractor name and address and indicate in the appropriate column(s) the amount per visit or hourly payment to be made in accordance with the agreement as well as the estimated number of related visits/hours of service provided for the period of this budget.

Vendor/ Contractor (Name & Address)	Effective Period (m/d/yyyy)		Nursing Visit	P.T. Visit	Speech Path.	Occup. Therapy Visit	HHA Hour	Home Maker Hour	House Keeper Hour	Personal Care	M.S.S. Visit	Nutrit. Visit	Respir. Therapy Visit
	From	To											
1. Name and address													
Terms Amount													
Number of Visits/ Hours													
Current Terms													
2. Contractor Name and address													
Terms Amount													
Number of Visits/ Hours													
Current Terms													
3. Contractor Name and address													
Terms Amount													
Number of Visits/ Hours													
Current Terms													
4. Contractor Name and address													
Terms Amount													
Number of Visits/ Hours													
Current Terms													

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

**Table 21D-9 - Summary of Costs and Calculation of Per Visit/Hour Costs
and Table 21D-10 Basis and Calculation of Cost Allocations**

These tables summarize the total projected operating costs of the LTHHCP and provide for the allocation of Administrative, Unidentified and Patient Assessment costs, based on the ratio of visits to total visits.

**Table 21D-9 Former (Schedule C) Long Term Home Health Care Program Other Than Personal Services - Summary of Costs
and Calculation of Visit Costs - Instructions:**

Enter totals of Columns A, B, C and D for each line (lines 1-16) in Column E.

In order to complete the remaining columns on this table, Table 21D-10 must be complete.

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-9 (Former Schedule C) Long Term Home Health Care Program Other Than Personal Services - Summary of Costs and Calculation of Visit Costs

		Salaries & Wages	Employee Benefits	Contract/Purchased Services	All Other	Total (Cols. 1-4)	Alloc. of Adminis. Costs	Alloc. of Unident. Costs	Total (Cols. 5-7)	Alloc. of Patient Assessment Costs	Total (Cols. 8-10)	Number of Visits/Hours	Avg. Cost Per Visit/Hours
		A	B	C	D	E	F	G	H	I	J	K	L
1. Administrative	099												
2. Unidentified to Specific Function	100												
3. Patient Assessment	101												
4. Nursing	102												
5. Physical Therapy	103												
6. Speech Pathology	104												
7. Occupational Therapy	105												
8. Home Health Aide	106												
9. Homemaker	107												
10. Housekeeper	108												
11. Personal Care	109												
12. Medical Social Service (110												
13. Nutrition	111												
14. Respiratory Therapy	112												
15. Other (Specify)	113												
16. Total													

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-10

Column A - Number of Visits - Enter the total number of visits for each service listed on lines 1-15. NOTE: Although rates for Home Health Aide, Homemaker, Housekeeper and Personal Care are established as hourly rates, for the purpose of cost allocation, these services must be reported on Table 21D-10 by visit. Show both house and visits at the bottom of the table, as indicated.

Compute the percentage of each line amount (lines 1-15) to the total (line 16) and enter the results in Column B on the appropriate line (round off percentages to two decimal places 00.00).

Columns C and D - Enter in the space provided in the heading the amounts on Table C Column E, lines 1 and 2. Multiply these amounts by the percentages shown in Column B and enter the results for each respective service on lines 3-15 in the appropriate column (Column C, Administrative and Column 4, Unidentified).

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-10 (Former Schedule C-1) Basis and Calculation of Cost Allocations - Long Term Home Health Care Program Other Than Personal Services

		Number of Visits	% of Visits	Allocation		Total Visits	% of Total	Allocation
		A	B	C Administrative & General % Column 2 x	D Unidentified % Column 2 x \$ —	E	F	G Patient Assessment % Column 6 x
Adjustment %								
1. Administrative	099							
2. Unidentified to Specific Function	100							
3. Patient Assessment	101							
4. Nursing	102							
5. Physical Therapy	103							
6. Speech Pathology	104							
7. Occupational Therapy	105							
8. Home Health Aide	106							
9. Homemaker	107							
10. Housekeeper	108							
11. Personal Care	109							
12. Medical Social Service	110							
13. Nutrition	111							
14. Respiratory Therapy	112							
15. Other (Specify)	113							
16. Total								

Hrs /Visits Conversions HHA . Hrs. = Visits

Housekeeper Hrs. = Visits

Homemaker Hrs. = Visits

Personal Care Hrs. = Visits

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-11 (Former Table D-1) - Table of Costs Allocated to the LTHHCP -Personal Services- Employee Benefits

Enter details of applicable regarding all costs included in this report which have been allocated to the long term home health care program from a hospital, residential health care facility, or certified home health agency.

Are there costs reflected in this report, which are allocated from a hospital, residential health care facility, or certified home health agency to the LTHHCP? (131)
 Yes No

If YES, from where are they allocated from?

Facility Name

Operating Certificate No.

Hospital RHCF CHHA

List details of cost allocated to LTHHCP:

Expense Category A	Total Expense * B	Location on Hospital RHCF or CHHA Cost Report C	Expense allocated to LTHHCP D		Location on LTHHCP Cost Report E	Basis of Allocation F
				(132)		
				(133)		
				(134)		
				(135)		
				(136)		

*Total expense for category indicated in column 1, as recorded for the hospital, RHCF or CHHA prior to allocation of any portion to LTHHCP.

Table 21D-12: Detail of Costs Unidentifiable to Specific Function

Transfer amount entered in Column A line 2 of Table 21D-6 to line 1 of Table 21D-12

Transfer amount entered in Column B line 2 of Table 21D-6 to line 2 of Table 21D-12

Transfer amount entered in Column C line 2 of Table 21D-6 to line 3 of Table 21D-12

Transfer amount entered in Column D line 2 of Table 21D-6 to line 4 of Table 21D-12

Transfer amount entered in Column E line 2 of Table 21D-6 to line 5 of Table 21D-12

Transfer amount entered in Column F line 2 of Table 21D-6 to line 6 of Table 21D-12

Transfer amount entered in Column G line 2 of Table 21D-6 to line 7 of Table 21D-12

For lines 3-6, the details should be entered in the lines above the total amount.

Refer to page 3 of the instructions for Table 21D-6 for explanation of cost detail to be shown in Table 21D-12

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-12 - (former D-2) Detail of Costs Unidentified to Specific Function Personal Services - Employee Benefits

1. Total Transportation unidentified to specific function (from Table 21D-6, Line 2, Column A)
(137)

2. Total Medical Supplies unidentified to specific function (from Table 21D-6, Line 2, Column B)
(138)

Space Occupancy

Rent	(129)	<input type="text"/>
Heat and light	(140)	<input type="text"/>
Maintenance and Repair	(141)	<input type="text"/>
Amortz. Leasehold Improv.	(142)	<input type="text"/>
Depreciation	(143)	<input type="text"/>
Other (Specify)	(144)	<input type="text"/>

3. Total space occupancy unidentified to specific function (from Table 21D-6, Line 2, Column C)
(145)

Office Cost

Telephone	(146)	<input type="text"/>
Office Supplies	(147)	<input type="text"/>
Other (Specify)	(148)	<input type="text"/>

4. Total office cost unidentified to specific function (from Table 21D-6, Line 2, Column D)
(150)

Other General Cost

Legal	(131)	<input type="text"/>
Accounting	(132)	<input type="text"/>
Insurance	(133)	<input type="text"/>
Depreciation	(134)	<input type="text"/>
Other (Specify)	(135)	<input type="text"/>
Other (Specify)	(136)	<input type="text"/>

5. Total other general unidentified to Specific function (from Table 21D-6, Line 2, Column F)
(157)

Table 21D-12 - Detail of Costs Unidentified to Specific Function Personal Services - Employee Benefits

Other Costs

Amortization start-up costs	(158)	<input type="text"/>
(Specify)	(159)	<input type="text"/>
(Specify)	(160)	<input type="text"/>

6. Total other costs unidentified to specific function (from Table 21D-6, Line 2, Column G)
(161)

7. Total other costs unidentified to specific function (from Table 21D-6, Line 2, Column H)
(162)

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Table 21D-13 - (Former D-3) DSS Waivered Services Cost Identification, Personal Services - Employee Benefits

Enter breakdown requested on waived services, if any, on lines 1-7 of this table.

Rates for services listed on this table are set by the Department of Social Services and therefore direct costs related to them should not be included on Tables 21D-3, 21D-6 or 21D-9. These direct costs should not be included in services for which the rates are promulgated by the Department of Health.

Does the information contained in long term home health care cost report include costs for any of the following services? Yes No

If yes, please provide the total dollar amount and its location on this long-term home health care cost report.

	Cost Included	Cost Not Included	Total Amount	Page	Location Line	Column
	A	B	C	D	E	F
1. Respite care (provided by a SNF, HRF, nurse, home health aide, personal care worker, homemaker, housekeeper)						
2. Moving Assistance						
3. Congregate or home delivered meals						
4. Social day care						
5. Social transportation						
6. Housing improvement (e.g. installation of handrails and ramps, door widening)						
7. Home maintenance (e.g. heavy cleaning, yard work, emergency alarm response system, telephone modification)						

Table 21D-14 - (Former E-1) Detail of FTE's and Salaries/Wages Attributable to Case Management Function Personal Services- Employee Benefits

This table will provide the data necessary to determine the cost of case management services.

Case management is broken down into six functions: intake, assessment, service prescription, service acquisition, service coordination and monitoring, and patient monitoring and reassessment.

Intake - Intake encompasses the activities necessary to identify potential patients, and receive and screen referrals. Outreach activities, for example community education and governmental relations and interfacing with sources of referrals such as hospital discharge planners, is part of intake. The initial screening of referrals and assistance provided to potential patients to facilitate Medicaid eligibility is also considered intake.

Assessment - Assessment is the process of collecting, integrating and analyzing whatever data is necessary to develop a care plan. Assessment includes both the medical assessment (the completion of the DMS-1 or its successor) and the home assessment (the completion of the Home Assessment Abstract or an approved equivalent). Any evaluation or assessments performed by specialists in order to determine care needs, such as evaluations by occupational or physical therapists, are also considered assessment.

Service Prescription - Service prescription is the development, coordination and initiation of patient-specific treatment goals and service parameters. It includes the development of the Summary of Service Requirements which is a listing of the types, frequency, and amounts of services which will be necessary to maintain the patient at home in accordance with the physician's orders and the joint assessment. This listing can be found on the Home Assessment Abstract and should represent all the services - medical, nursing, social work, therapies, health aide, personal care, homemaking, housekeeping, drugs, and all other support services - which will be "packaged" as part of the total service plan to be delivered to the patient. It also includes the development of the Plan of Care, an internal, practical clinical document (developed by the LTHHCP) describing the care to be given the patient. This plan of care, based on the summary of service requirements, is drawn up by the nurse from the LTHHCP, includes goals and objectives for the patient and the staff and outlines the methodology and procedures which will be employed to reach these goals. Service prescription also includes negotiations and discussions with the local DSS social worker concerning the care plan and the budget.

Service Acquisition - Service Acquisition encompasses all the activities necessary to ensure that the required services are obtained and initiated as prescribed in the care plan. Arranging for the patient's transportation to and from a service provider is considered part of this case management function, as is arranging for any service to family and other informal supports that facilitate their continued provision of assistance to informal supports that facilitate their continued provision of assistance to the patient. Obtaining prior approval from the LDSS or area OHSM for durable equipment and other waived services is also considered service acquisition.

Service Coordination and Monitoring - Service coordination and monitoring is the day-to-day oversight and management of service delivery. It is the active gathering of information to ensure that appropriate and timely services are delivered as described in the care plan. Service monitoring and coordination encompasses:

- a. Assuring via the nursing plan of care, that the physician's orders are carried out, that care is documented, and that medical orders are renewed as required.

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

b. Providing supervision to persons providing home health aide and personal care services. This includes evaluating the ability of these persons to relate well to patients and to work effectively as a member of a team of health workers with particular attention to being able to carry out the plan of care.

Patient Monitoring and Reassessment - Patient monitoring and reassessment is the routine oversight of the patient to detect and document any changes in his/her condition and environment. It includes continuous and frequent observation of the relationships between the patient and his/her environment and formal/informal sources of care to ensure that treatment goals and the plan of care remain appropriate to the patient and his/her surroundings. Reassessment refers to any activities necessary to evaluate the patient and the appropriateness of the plan of care, and includes but is not limited to the formal complete reassessment performed every 120 days, and any re-evaluations by occupational or physical therapists and other specialists to determine the continued necessity and appropriateness of their services.

In completing Table 21D-14, please note that estimates may be provided since actual cost data are not available. The time and cost of any record-keeping activity and travel performance as part of a case management function should be included in the table on the line appropriate to the particular case management function.

The following data are required for each of the six functions:

- Type of personnel (e.g. nurse or home health aide) performing functions, expressed in terms of full time equivalents (FTEs).
- For each type of personnel, total salaries/wages for the FTEs performing the case management function.
- The page number, line number, and column number for the corresponding salary/wage entry on Tables 21D-3, 21D-4 and 21D-5.

Table 21D-14 - Detail of FTE's and Salaries/Wages Attributable to Case Management Function Personal Services-Employee Benefits

	Nurse Supervisors			Nurses			Social Workers			Other (Specify)		
	Total FTEs A	Total Salaries Wages B	Where Reported C	Total FTEs D	Total Salaries Wages E	Where Reported F	Total FTEs G	Total Salaries Wages H	Where Reported I	Total FTEs J	Total Salaries Wages K	Where Reported L
Intake												
Assessment												
Service prescription and care plan development												
Service acquisition												
Service monitoring												
Patient monitoring and reassessment												
Totals for all case management functions												

If this table is completed using estimates, please describe the basis of the estimates:

**New York State Department of Health
Certificate of Need Application**

Schedule 21D

Operating Costs

**Table 21D-14 Continued Detail of FTE's and Salaries/Wages Attributable to Case Management Function
Personal Services-Employee Benefits**

	Other (Specify)			Other (Specify)			Total for All Personnel with Case Management Functions	
	Total FTEs	Total Salaries Wages	Where Reported	Total FTEs	Total Salaries Wages	Where Reported	Total FTEs	Total Salaries/Wages
	M	N	O	P	Q	R	S	T
Intake								
Assessment								
Service prescription and care plan development								
Service acquisition								
Service monitoring								
Patient monitoring and reassessment								
Totals for all case management functions								

If this table is completed using estimates, please describe the basis of the estimates:

**New York State Department of Health
Certificate of Need Application**

Schedule 21E

Schedule 21E - CHHA/LTHHCP Projected Operating Revenue

Table 21E - 1 CHHA/LTHHCP Projected Operating Revenue For Year 1

Payment Source		Nursing	Physical Therapy	Occup. Therapy	Speech Path.	Medical Social Svcs	Home Health Aide	Home-maker	House-keeper	Personal Care	Nutrit. Visits	Resp. Therapy	Other (Specify)	Total in thousands
Commercial	Fee for Service													
	Managed Care													
Medicare	Fee for Service													
	Managed Care													
Medicaid	Fee for Service													
	Managed Care													
Private Pay														
OASAS														
OMH														
Charity Care														
Bad Debt														
All Other														
Total														

**New York State Department of Health
Certificate of Need Application**

Schedule 21E

Table 21E - 1 CHHA/LTHHCP Projected Operating Revenue For Year 3

Payment Source		Nursing	Physical Therapy	Occup. Therapy	Speech Path.	Medical Social Svcs	Home Health Aide	Home-maker	House-keeper	Personal Care	Nutrit. Visits	Resp. Therapy	Other (Specify)	Total in thousands
Commercial	Fee for Service													
	Managed Care													
Medicare	Fee for Service													
	Managed Care													
Medicaid	Fee for Service													
	Managed Care													
Private Pay														
OASAS														
OMH														
Charity Care														
Bad Debt														
All Other														
Total														

**New York State Department of Health
Certificate of Need Application**

Schedule 21F

Schedule 21F - CHHA/LTHHCP Projected Utilization

Table 21F - 1 Utilization Projections for Year 1

Payment Source		Nursing	Physical Therapy	Occup. Therapy	Speech Path.	Medical Social Svcs	Home Health Aide	Home-maker	House-keeper	Personal Care	Nutrition Visits	Resp. Therapy	Medical Supplies/ Appliances	Other (Specify)	Total Visits	Total Hours
	Units	Visits	Visits	Visits	Visits	Visits	Hours	Visits	Hours <input type="checkbox"/> Visits <input type="checkbox"/>	Hours <input type="checkbox"/> Visits <input type="checkbox"/>	Visits	Visits			Visits	Hours
Commercial	Fee for Service															
	Managed Care															
Medicare	Fee for Service															
	Managed Care															
Medicaid	Fee for Service															
	Managed Care															
Private Pay																
OASAS																
OMH																
Charity Care																
Bad Debt																
All Other																
Total																

**New York State Department of Health
Certificate of Need Application**

Schedule 21F

Table 21F - 1 Utilization projections for Year 3

Payment Source		Nursing	Physical Therapy	Occup. Therapy	Speech Path.	Medical Social Svcs.	Home Health Aide	Home-maker	House-keeper	Personal Care	Nutrition Visits	Resp. Therapy	Medical supplies/ Appliances	Other (Specify)	Total Visits	Total Hours
	Units	Visits	Visits	Visits	Visits	Visits	Hours	Visits	Hours <input type="checkbox"/> Visits <input type="checkbox"/>	Hours <input type="checkbox"/> Visits <input type="checkbox"/>	Visits	Visits			Visits	Hours
Commercial	Fee for Service															
	Managed Care															
Medicare	Fee for Service															
	Managed Care															
Medicaid	Fee for Service															
	Managed Care															
Private Pay																
OASAS																
OMH																
Charity Care																
Bad Debt																
All Other																
Total																

**Schedule 21G - Additional Legal Information for CHHA
Ownership Transfers**

Instructions

Article 36 applicants seeking establishment approval for a change of ownership through an ownership interest transfer, change in member or change in controlling person must complete this schedule, as follows:

All applicants must complete Section I.

Applicants that are general partnerships must complete Section II.

Applicants that are not-for-profit corporations must complete Section III.

Applicants that are business corporations must complete Section IV.

Applicants that are limited liability companies (LLC) must complete Section V.

N.B. Whenever a requested legal document has been amended, modified or restated, all amendments, modifications and/or restatements should also be submitted.

I. All Applicants

For purposes of this application, a “controlling person” is one who exercises control over the CHHA by directing or causing the direction of the actions, management or policies of the agency, whether through the ownership of voting securities or voting rights, electing or appointing directors, the direct or indirect determination of policies, or otherwise. Full disclosure of the CHHA operator (in Schedule 3B), as well as the governing bodies of each immediate, intermediate and ultimate parent or member entity of the CHHA is required since these entities/persons possess direct or indirect operational authority over the CHHA. This includes directors (if a corporation), managers (if an LLC) and principal stockholders (if a business corporation), as well as both active and passive parent/member corporations.

Submit two organizational charts that depict the applicant’s relationship to all sister and subsidiary entities, as well as all immediate, intermediate and ultimate parent/member entities, **before and after the ownership transfer**.

Attachments #2A and #2B.

N.B. As indicated in Schedule 1C, the Department must receive documentation from the appropriate state regulatory agency that all health care entities affiliated with the applicant or with the applicant’s (new) members, have operated in substantial compliance with all applicable codes, rules and regulations. Ensure that a list of such agencies is included with this application (See Schedule 1C) and refer to Schedule 2D for instructions on how to obtain this information for facilities located outside of New York State.

**New York State Department of Health
Certificate of Need Application**

Schedule 21G

If the ownership of the CHHA is being transferred to a new operator or if ownership interest is being transferred to new stockholders, partners or LLC members, please check the appropriate box below to indicate whether the applicant intends to retain the CHHA's existing Medicare provider number or obtain a new Medicare provider number.

- Existing Medicare provider number will be retained
- New Medicare provider number is requested
- Not applicable

N.B. For any ownership transfer involving new stockholders, partners or LLC members, the applicant must contact the CHHA's fiscal intermediary to obtain Form 855A - Medicare Federal Health Care Provider/Supplier Application for Health Care Providers that Bill Medicare Fiscal Intermediaries. Form 855A must be completed and submitted to the fiscal intermediary to report the ownership transfer. The Department must receive the fiscal intermediary's approval of the ownership transfer before the Centers for Medicare and Medicaid Services (CMS) will transfer an existing Medicare provider number or assign a new Medicare provider number. An initial pre-opening survey will be required if a new Medicare provider number is requested. Contact the fiscal intermediary for more information regarding Form 855A.

If a new controlling person or parent entity is proposed, submit all agreements between the CHHA and its controlling person or parent entity relating to the manner and mechanisms by which the controlling person or parent entity will control the CHHA. Attachment #1.

If a new controlling person or parent entity is proposed, submit a detailed description of such control relationship. Attachment #1.

II. General Partnerships

Submit the following legal information.

On the following chart, a list of the partners, partnership interest and percentage of ownership **before and after the ownership transfer**. Attach additional sheets if necessary. Attachment # .

BEFORE			AFTER		
Name	Partnership Interest	Percentage Ownership	Name	Partnership Interest	Percentage Ownership

Documentation of the transfer of partnership interest. Attachment # .

Documentation (in the Partnership Agreement requested in Schedule 3B) that the incoming partner(s) will be legally bound. Attachment # .

Fully executed, proposed Certificate of Amendment reflecting the change(s) in partner(s). Attachment # .

As requested in Schedule 3B, Schedules 2A and 2B for **each remaining and incoming partner**.

III. Not-for-Profit Corporations

N.B. Any change in the member(s) of a CHHA that is a not-for-profit corporation requires CON approval. This is inclusive of both passive and active members. (See Schedule 2 Instructions for the definition of passive and active members.) CON approval is required regardless of whether the transfer of interest occurs in the immediate, intermediate or ultimate member corporation. Full disclosure of the officers and directors of each member corporation in the CHHA's corporate structure is required.

With respect to the Article 36 corporation that will operate the CHHA, submit the following legal documentation.

Documentation of the transfer of interest. Attachment # .

Legal documents (and amendments, if applicable) regarding the Article 36 corporation are requested in Schedule 3B.

With respect to each member corporation, submit the following legal documentation:

A list of the officers and directors, and positions held by each:
Attachment # .

Certificate of Incorporation: Attachment # .

Fully executed proposed Certificate of Amendment, if any:
Attachment # .

Bylaws: Attachment # .

Proposed amendments to Bylaws: Attachment # .

As requested in Schedule 3B, ensure that Schedules 2A and 2C are submitted for each officer and director of the Article 36 corporation. Additionally, submit Schedules 2A, and 2B or 2C, as appropriate, for each remaining and incoming officer and director of the CHHA's member corporations.

**New York State Department of Health
Certificate of Need Application**

Schedule 21G

IV. Business Corporations

N.B. Transfers of ten percent or more of stock interests or voting rights to a new stockholder, and transfers which result in an individual becoming an owner of ten percent or more of the corporation's issued stock require CON approval.

With respect to the Article 36 corporation that will operate the CHHA, submit the following legal documentation.

On the following chart, a list of the stockholders, stock interest and percentage of ownership **before and after the ownership transfer**. Attach additional sheets if necessary. Attachment # .

BEFORE			AFTER		
Name	Stock Interest	Percentage Ownership	Name	Stock Interest	Percentage Ownership

Documentation of the transfer of stock. Attachment # .

Legal documents (and amendments, if applicable) regarding the Article 36 corporation are requested in Schedule 3B.

With respect to **each parent corporation** of the Article 36 corporation, submit the following:

Certificate of Incorporation: Attachment # .

Bylaws: Attachment # .

A list of the officers and directors, and the positions held by each.
Attachment # .

As requested in Schedule 3B, ensure that Schedules 2A and 2B are submitted for each principal stockholder (owning ten percent or more of the corporation's issued stock), and each officer and director of the Article 36 corporation. Additionally, submit Schedules 2A and 2B for **each remaining and incoming principal stockholder, officer and director** of the CHHA's parent corporations.

V. Limited Liability Companies

N.B. Transfers of ten percent or more of the membership interest or voting rights to a new member, and transfers which result in an individual becoming an owner of ten percent or more of the membership interest require CON approval.

**New York State Department of Health
Certificate of Need Application**

Schedule 21G

With respect to the limited liability company that will operate the CHHA, submit the following:

On the following chart, a list of the members, membership interest and percentage of ownership for each member, **before and after the ownership transfer**. Attach additional sheets if necessary.

Attachment # .

BEFORE			AFTER		
Name	Membership Interest	Percentage Ownership	Name	Membership Interest	Percentage Ownership

Documentation of the transfer of membership interest.

Attachment # .

Documentation (in the Operating Agreement requested in Schedule 3B) that the incoming member(s) will be legally bound. Attachment # .

Legal documents (and amendments, if applicable) for the Article 36 limited liability company are requested in Schedule 3B.

With respect to any new controlling persons of the LLC that are not natural persons, submit the following:

If a new controlling person is an LLC, submit the following:

Articles of Organization: Attachment #

Operating Agreement: Attachment # ; and

List of the members of the LLC: Attachment # .

If a new controlling person is a corporation, submit the following:

Certificate of Incorporation: Attachment # .

Bylaws: Attachment #

List of stockholders (if applicable), and a list of officers and directors of the corporation: Attachment # .

As requested in Schedule 3B, ensure that Schedules 2A and 2B are submitted for each principal member (owning ten percent or more of the membership interest) of the Article 36 LLC. Additionally, submit Schedules 2A, and 2B or 2C,

**New York State Department of Health
Certificate of Need Application**

Schedule 21G

as appropriate, for **each remaining and incoming principal member, stockholder, officer and director, as appropriate**, of the CHHA's parent members/corporations.

SCHEDULE 21G ATTACHMENTS

Complete the section labeled "All Applicants." Then, check the box(es) that apply to your organizational structure and enter the corresponding information for each attached document. If the document is not applicable, enter "N/A" in the column labeled "Attachment Title."

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
ALL APPLICANTS			
Organizational Chart – Before Ownership Transfer	Current MVN Organizational Chart	2A	Attach_2A_Current_Organization_Chart.pdf
Organizational Chart – After Ownership Transfer	Proposed MVHS Organizational Chart	2B	Attach_2B_Post_Transaction_Organization.pdf
Controlling Person – Agreements re: Control Relationship	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf
Controlling Person – Description of Control	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf
<input type="checkbox"/> GENERAL PARTNERSHIP			
List of Additional Partners			
Documentation of Transfer of Interest			
Documentation that Incoming Partners are Legally Bound			
Certificate of Amendment			
<input checked="" type="checkbox"/> NOT-FOR- PROFIT CORPORATIONS			
Documentation of Transfer of Interest	Definitive Agreement	1	Attach_1_Affiliation_Agreement.pdf
Member Corporation(s) – List of Officers & Directors	MVHS Board of Directors	3A.1	Attach_3A.1_MVHS_Proposed_Board_Roster.pdf
Member Corporation(s) - Certificate of Incorporation	MVHS Certificate of Incorporation	4A.1	Attach_4A.1_MVHS_Certificate_of_Incorporation.pdf
Member Corporation(s) – Certificate of Amendment	N/A		
Member Corporation(s) - Bylaws	MVHS Bylaws	5A.1	Attach_5A.1_MVHS_Bylaws.pdf
Member Corporation(s) – Amendments to Bylaws	N/A		
<input type="checkbox"/> BUSINESS CORPORATIONS			

**New York State Department of Health
Certificate of Need Application**

Schedule 21G

List of Additional Stockholders			
Documentation of Transfer of Stock			
Parent Corporation(s) - Certificate of Incorporation			

* **PDF Format Preferred**

SCHEDULE 21G ATTACHMENTS (continued)

DOCUMENT	ATTACHMENT TITLE	ATTACH #	ELECTRONIC FILE NAME*
Parent Corporation(s) - Bylaws			
Parent Corporation(s) – List of Officers and Directors			
<input type="checkbox"/> LIMITED LIABILITY COMPANIES			
List of Additional Members			
Documentation of Transfer of Interest			
Documentation that Incoming Members are Legally Bound			
Controlling Person(s) – LLC Articles of Organization			
Controlling Person(s) – LLC Operating Agreement			
Controlling Person(s) – LLC List of Members			
Controlling Person(s) – Corp. Certificate of Incorporation			
Controlling Person(s) – Corp. Bylaws			
Controlling Person(s) – Corp. List of Officers & Directors			
OTHER ATTACHMENTS (SPECIFY)			

* **PDF Format Preferred**

**St. Elizabeth Medical Center
Strategic Planning Forecast
Balance Sheet**

YTD AUG

2013

Current Assets:

Cash and Cash Equivalents	\$4,311,456
Assets limited as to use	\$887,792
Investments	\$11,352,749
Patient Accounts Receivable - Net	26,521,821
Other Receivables	\$5,966,481
Inventories	\$3,942,444
Prepaid Expenses & other current assets	\$1,295,515

Total Current Assets \$54,278,258

Investment in MVEC	\$367,500
Assets limited as to use	\$3,684,371
Investments	\$106,990
Property and equipment, net	\$75,862,608
Unamortized Debt Issuance Costs	\$871,945

Total Assets \$135,171,672

Liabilities and Net Assets

Current Liabilities:

Notes Payable	\$0
Current Portion of Long-Term Debt	\$2,138,876
Accounts Payable	\$15,613,181
Accrued Payroll, Payroll Taxes and Benefits	\$7,071,941
Accrued Interest Payable	\$309,644
Accrued Pension Liability	\$2,960,500
Other Current Liabilities	\$13,138,294

Total Current Liabilities \$41,232,436

Long-Term Debt, Excluding Current

Installments:

Civic Facility Revenue Bonds	\$27,486,640
Capital Lease Obligations	\$1,276,061
Capital Long-Term Debt Mortgage	\$822,013
Other long term liabilities-Srs	\$1,350,836
Other Liabilities	\$250,000
Unearned revenue	
Pension Liability	\$65,826,843

Total Liabilities \$138,244,829

Net Assets:

Unrestricted	(\$4,637,667)
Temporarily Restricted	\$651,086
Permanently Restricted	\$913,424

Total Net Assets (\$3,073,157)

Total Liabilities and Net Assets \$135,171,672

**St. Elizabeth Medical Center
Strategic Planning Forecast
Statements of Revenue and Expenses**

	<u>YTD Aug 2013</u>
Unrestricted Revenues	
Gross Patient Revenue Less Deductions	\$131,137,431
Less Bad Debt	\$5,650,460
Net Patient Service Revenue	125,486,971
Other Revenue	\$3,948,418
Total revenues, gains and other support	<u>\$129,435,389</u>
Operating Expenses:	
Salaries and wages	\$64,231,754
Employee benefits	\$17,309,408
Supplies and other	\$44,647,137
Interest expense	\$1,081,827
Provision for depreciation and amortization	<u>\$6,649,526</u>
Total Expenses	<u>\$133,919,652</u>
Excess of Revenue over Expenses	(\$4,484,263)
Nonoperating Revenue:	
Investment Income	\$328,266
Other nonoperating revenue	\$56,421
(Loss) Gain on disposal of asset	<u>\$0</u>
Total Nonoperating Revenue:	<u>\$384,687</u>
Increase in Net Assets	<u><u>(\$4,099,576)</u></u>

St. Elizabeth Medical Center
Strategic Planning Forecast
Cash Flows Statement

	<u>YTD AUG</u> <u>2013</u>
Cash flows from operating activities:	
Change in net assets	\$3,117,627
Adjustments to reconcile change in net assets to net cash provided by operating activities:	
Depreciation and amortization	\$6,649,526
Equity in earnings of Subsidiaries	(\$3,500)
Changes in operating assets and liabilities:	
Receivables	\$3,720,184
Inventories	\$884,301
Prepaid expenses	(\$684,531)
Accounts payable	(\$4,266)
Accrued payroll, payroll taxes and benefits	\$943,223
Accrued pension payable	(\$39,500)
Accrued interest payable	\$188,045
Other Current Liabilities	\$2,486,161
Other Liabilities	(\$119,287)
Net cash provided by (used in) operating activities	<u>\$17,137,983</u>
Cash flow from investing activities:	
Purchase of property, plant and equipment - net	(\$5,318,867)
Purchase of investments, net	\$627,674
Expenditure (funding) of assets whose use is limited	\$624,227
Net cash provided by (used in) investing activities	<u>(\$10,761,478)</u>
Cash flows from financing activities:	
Proceeds from short-term borrowings	(\$1,000,000)
(Payments) long-term debt	(\$5,327,886)
(Payments) capital lease obligations/Proceeds	(\$1,926,809)
Pension Liability	<u>\$1,381,691</u>
Net cash provided by (used in) financing activities	<u>(\$6,873,004)</u>
Increase (decrease) in cash and cash equivalents	(\$496,499)
Cash and cash equivalents at beginning of year	\$4,807,955
Cash and cash equivalents at end of year	<u>\$4,311,456</u>

St. Elizabeth Medical Center

Plantiff Date of File Allegations

Plantiff	Date of File	Allegations
	2007 SUIT	
	2007 SUIT	
	2009 SUIT	
	2008 SUIT	
	2008 SUIT	
	2010 SUIT	
	2010 SUIT	
	2010 SUIT	
	2010 SUIT	
	2010 SUIT	
	2011 SUIT	
	2010 SUIT	
	2010 SUIT	
	2011 SUIT	
	2011 SUIT	
	2011 SUIT	
	2011 SUIT	
	2011 SUIT	
	2012 SUIT	
	2011 SUIT	
	2013 SUIT	
	2012 SUIT	
	2012 SUIT	
	2012 CLAIM	
	2013 SUIT	
	2013 SUIT	
	2013 SUIT	
	2012 SUIT	
	2013 CLAIM	
	2012 SUIT	
	2013 SUIT	
	2013 CLAIM	
	2006 SUIT	
	2008 SUIT	
	2007 SUIT	
	2010 SUIT	
	2009 SUIT	
	2010 SUIT	
	2009 SUIT	
	2013 SUIT	

Name of Site	Description	Location	Primary Svc Area	Secondary Svc Area
St. Elizabeth Medical Center	~ General Medical & Surgical Hospital ~ Founded in 1866 ~ Certified Beds Total: 201 Intensive Care: 20 Medical/Surgical: 149 Pediatric: 8 Psychiatric: 24	2209 Genesee St. Utica, NY 13501	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
Advanced Wound Care	Wound Care Services	4401 Middle Settlement Rd. New Hartford, NY 13413	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
Children's Health Center	Pediatric	2212 Genesee St. Utica, NY 13501	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
Clinton Family Health Center	Internal Medicine	101 College St. Clinton, NY 13323	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
East Utica Community Medicine	Family Medicine & Pediatrics	1256 Culver Ave. Utica, NY 13501	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
Imaging at St. Elizabeth Medical Arts	CT, Ultrasound, XRay, Mammography	4401 Middle Settlement Rd. New Hartford, NY 13413	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
Little Falls Family Practice	Family Medicine	500 E. Main St. Little Falls, NY 13365	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
Mohawk Community Medical Services	Family Medicine	5 Ann St. Mohawk, NY 13407	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
Neurosurgical Specialists	Neurosurgery Services	86 Genesee St. New Hartford, NY 13413	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
New Hartford Medical Group	Family Medicine	4401 Middle Settlement Rd. New Hartford, NY 13413	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
North Utica Community Health Center	Family Medicine	417 Trenton Rd. Utica, NY 13502	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
Sauquoit Community Medicine	Primary Care	2888 Oneida St. Sauquoit, NY 13456	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
School Based Health Center	Primary Care Svcs Hospital Extension Clinic	926 York St. Utica, NY 13502	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties

Sister Rose Vincent Family Medicine Center	Family Medicine	120 Hobart St. Utica, NY 13501	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
South Utica Medical Group	Family Medicine	6 Hampden Pl. Utica, NY 13501	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
Sports Medicine & Physical Therapy Center	Rehab Services	4401 Middle Settlement Rd. New Hartford, NY 13413	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
St. Elizabeth Home Care	Homecare Services	14 Foery Dr. Utica, NY 13501	Oneida County	NONE
St. Elizabeth Medical Arts	Laboratory Svcs, Imaging, & Private Offices	4401 Middle Settlement Rd. New Hartford, NY 13413	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
Town of Webb Health Center	Family Medicine & Laboratory Svcs	114 South Shore Rd. Old Forge, NY 13420	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
Waterville Family Health Center	Family Medicine	117 West Main St. Waterville, NY 13480	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties
Women's Health Center	Obstetrics & Gynecology	2212 Genesee St. Utica, NY 13501	Oneida & Herkimer Counties	Lewis, Oswego, Fulton, Madison & Hamilton Counties

**ST. LUKE'S HOME
RESIDENTIAL HEALTH CARE FACILITY, INC.**

Financial Statements

December 31, 2012 and 2011

INDEPENDENT AUDITOR'S REPORT

The Board of Directors
St. Luke's Home Residential Health Care Facility, Inc.:

We have audited the accompanying financial statements of St. Luke's Home Residential Health Care Facility, Inc., which comprise the balance sheets as of December 31, 2012 and 2011, and the related statements of operations and changes in net assets and cash flows for the years then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these 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 these 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 the auditor's 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, the auditor considers internal control relevant to the entity'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 entity'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.

(Continued)

Board of Directors
Page 2 of 2

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of St. Luke's Home Residential Health Care Facility, Inc. as of December 31, 2012 and 2011, and the results of its operations, changes in net assets and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Fust Charles Chambers LLP

March 27, 2013

ST. LUKE'S HOME RESIDENTIAL HEALTH CARE FACILITY, INC.

Balance Sheets

December 31, 2012 and 2011

<u>Assets</u>	<u>2012</u>	<u>2011</u>
Current assets:		
Cash	\$ 97,164	-
Patient accounts receivable, net of allowance for doubtful accounts of approximately \$291,000 in 2012 and \$379,000 in 2011	2,883,264	3,000,833
Prepaid expenses and other assets	461,389	444,371
Due from affiliated entities, net	3,642,554	2,631,088
Estimated third-party payor settlements, net	<u>760,116</u>	<u>510,552</u>
Total current assets	7,844,487	6,586,844
Long-term portion of due from affiliated entities, net	762,774	12,468,581
Property and equipment, net	19,473,108	8,740,794
Residents' funds held in trust	90,429	72,091
Other assets	<u>3,092,699</u>	<u>2,174,501</u>
Total assets	<u>\$ 31,263,497</u>	<u>30,042,811</u>
<u>Liabilities and Net Assets</u>		
Current liabilities:		
Bank overdraft	-	158,431
Short-term borrowings	3,000,000	-
Accounts payable and accrued expenses	862,412	546,183
Accrued payroll, payroll taxes and benefits	472,498	545,938
Self insurance liability	265,869	355,366
Other liabilities	<u>893,941</u>	<u>642,023</u>
Total current liabilities	5,494,720	2,247,941
Residents' funds held in trust	90,429	72,091
Long-term portion of self insurance liability	241,599	497,937
Other liabilities	<u>3,332,634</u>	<u>2,410,712</u>
Total liabilities	<u>9,159,382</u>	<u>5,228,681</u>
Net assets:		
Unrestricted	21,341,341	12,345,549
Temporarily restricted	<u>762,774</u>	<u>12,468,581</u>
Total net assets	<u>22,104,115</u>	<u>24,814,130</u>
Contingent liabilities (note 10)		
Total liabilities and net assets	<u>\$ 31,263,497</u>	<u>30,042,811</u>

See accompanying notes to financial statements.

ST. LUKE'S HOME RESIDENTIAL HEALTH CARE FACILITY, INC.

Statements of Operations and Changes in Net Assets

Years ended December 31, 2012 and 2011

	<u>2012</u>	<u>2011</u>
Unrestricted net assets:		
Revenues, gains and other support:		
Net patient service revenue	\$ 16,488,697	18,686,563
Other revenue	870,653	334,366
Contributions from HEAL grant	-	782,657
	<hr/>	<hr/>
Total revenues, gains and other support	17,359,350	19,803,586
	<hr/>	<hr/>
Expenses:		
Salaries and wages	9,716,227	9,954,504
Fringe benefits	3,130,372	3,653,323
Supplies and other expenses	4,679,433	5,207,507
Depreciation and amortization	1,063,091	1,108,503
Interest	-	852,516
New York State gross receipts tax	750,257	776,464
Provision for bad debts	210,440	192,042
	<hr/>	<hr/>
Total expenses	19,549,820	21,744,859
	<hr/>	<hr/>
Deficiency of revenues, gains and other support over expenses	(2,190,470)	(1,941,273)
Contributions from HEAL grant	-	18,078,270
Net assets released from restrictions used for purchase of property and equipment	11,705,807	-
Contributions to affiliates	(516,197)	(73,820)
Loss on extinguishment of long-term debt	-	(1,256,348)
Contribution of property	-	142,069
Other	(3,348)	-
	<hr/>	<hr/>
Increase in unrestricted restricted net assets	8,995,792	14,948,898
	<hr/>	<hr/>
Temporarily restricted net assets:		
Contributions from HEAL grant	-	12,468,581
Net assets released from restrictions used for purchase of property and equipment	(11,705,807)	-
	<hr/>	<hr/>
Increase (decrease) in temporarily restricted net assets	(11,705,807)	12,468,581
	<hr/>	<hr/>
Change in net assets	(2,710,015)	27,417,479
	<hr/>	<hr/>
Net assets (deficit) at beginning of year	24,814,130	(2,603,349)
	<hr/>	<hr/>
Net assets at end of year	\$ <u>22,104,115</u>	<u>24,814,130</u>

See accompanying notes to financial statements.

ST. LUKE'S HOME RESIDENTIAL HEALTH CARE FACILITY, INC.

Statements of Cash Flows

Years ended December 31, 2012 and 2011

	<u>2012</u>	<u>2011</u>
Cash flows from operating activities:		
Change in net assets	\$ (2,710,015)	27,417,479
Adjustments to reconcile changes in net assets to net cash used in operating activities:		
Depreciation and amortization	1,063,091	1,108,503
Provision for bad debts	210,440	192,042
Loss on extinguishment of long-term debt	-	1,256,348
Contributions from HEAL grant	-	(30,546,851)
Contribution of property	-	(142,069)
Changes in operating assets and liabilities:		
Patient accounts receivable	(92,871)	(734,882)
Prepaid expenses and other assets	(3,004)	6,217
Estimated third-party payor settlements, net	(249,564)	375,754
Bank overdraft	(158,431)	158,431
Accounts payable and accrued expenses	316,229	(167,353)
Accrued payroll, payroll taxes and benefits	(73,440)	(30,669)
Self insurance liability	(345,835)	44,429
Due to/from affiliated entities, net	475,310	(999,667)
Grant receivable from affiliated entity	706,147	(706,147)
Other liabilities	241,628	390,947
Net cash used in operating activities	<u>(620,315)</u>	<u>(2,377,488)</u>
Cash flows from investing activities:		
Purchase of property and equipment	(11,795,405)	(1,765,202)
Cash invested in assets limited as to use	-	(254,800)
Use of project escrow funds and released from restrictions	-	4,691,321
Net cash provided by (used in) investing activities	<u>(11,795,405)</u>	<u>2,671,319</u>
Cash flows from financing activities:		
Proceeds from short-term borrowings	3,000,000	-
Payments on long-term debt	-	(16,040,572)
Prepayment penalty on debt extinguishment	-	(621,667)
Contributions from HEAL grant	9,512,884	16,163,323
Net cash provided by (used in) financing activities	<u>12,512,884</u>	<u>(498,916)</u>
Net increase (decrease) in cash	97,164	(205,085)
Cash at beginning of year	-	205,085
Cash at end of year	\$ <u>97,164</u>	<u>-</u>

See accompanying notes to financial statements.

ST. LUKE'S HOME RESIDENTIAL HEALTH CARE FACILITY, INC.

Notes to Financial Statements

December 31, 2012 and 2011

(1) Description of Organization and Summary of Significant Accounting Policies

(a) Organization

St. Luke's Home Residential Health Care Facility, Inc. (Home), located in New Hartford, New York, operates a 202-bed residential health care facility to provide nursing home accommodations for the sick, invalid, infirmed and disabled of the Greater Utica area. The New York State Department of Health approved the Home's operating certificate for the decertification of 40 beds effective January 13, 2012, as further described in note 2.

The Home is governed by the Board of Directors of Faxton-St. Luke's Healthcare (Healthcare). In the event of dissolution, all of the remaining assets and property of the Home shall be distributed to Healthcare.

(b) Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America, requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

(c) Inventories

Inventories (included in prepaid expenses and other assets) are stated at the lower of cost, (first-in, first-out method) or market.

(d) Residents' Funds Held in Trust

Residents' funds represent amounts deposited with the Home on behalf of residents for their discretionary use. These funds are administered by the Home with the corresponding liability to the residents reflected on the balance sheet.

(e) Property and Equipment

Property and equipment is recorded at cost. Depreciation is provided over the estimated useful life of each class of depreciable asset ranging from 3 - 40 years and is computed using the straight-line method. Interest cost incurred on borrowed funds during the period of construction of capital assets is capitalized as a component of the cost of acquiring those assets.

ST. LUKE'S HOME RESIDENTIAL HEALTH CARE FACILITY, INC.

Notes to Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(e) Property and Equipment, Continued

Gifts of long-lived assets, such as land, buildings or equipment are reported as unrestricted support and are excluded from the deficiency of revenues, gains and other support over expenses, unless explicit donor stipulations specify how the donated assets must be used. Gifts of long-lived assets with explicit restrictions that specify how the assets are to be used and gifts of cash and other assets that must be used to acquire long-lived assets are reported as restricted support. Absent explicit donor stipulations about how long those long-lived assets must be maintained, expirations of donor restrictions are reported when the donated or acquired long-lived assets are placed in service.

(f) Net Patient Service Revenue and Related Receivables

Net patient service revenue and the related receivables are reported at the estimated net realizable amounts from residents, third-party payors and others for services rendered.

Revenue under third party payor agreements is subject to audit and retroactive adjustment. Provisions for estimated third-party payor settlements are provided in the period the related services are rendered. Differences between the estimated amounts accrued and interim and final settlements are reported in net patient service revenue in the year of settlement.

The allowance for doubtful accounts is established as losses are estimated to have occurred through a provision for doubtful accounts charged to earnings. Doubtful accounts are charged against the allowance when management believes the uncollectibility of a receivable balance is confirmed. Subsequent recoveries, if any, are credited to the allowance. The allowance for doubtful accounts is evaluated on a regular basis by management and is based upon management's periodic review of the collectibility of the receivables in light of historical experience, the nature and volume of the receivables, adverse situations that may affect the resident's ability to repay and prevailing economic conditions.

The Home grants credit without collateral to its residents, most of whom are local residents and are insured under third-party payor agreements. The mix of receivables from patients and third-party payors at December 31 was as follows:

	<u>2012</u>	<u>2011</u>
Medicare	22%	15%
Medicaid	43%	52%
Private and other payors	<u>35%</u>	<u>33%</u>
	<u>100%</u>	<u>100%</u>

ST. LUKE'S HOME RESIDENTIAL HEALTH CARE FACILITY, INC.

Notes to Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(g) Contributions

Unconditional promises to give cash and other assets to the Home are reported at fair value at the date the promise is received. Conditional promises to give and indications of intentions to give are reported at fair value at the date the gift is received. The contributions are reported as either temporarily or permanently restricted support if they are received with donor stipulations that limit the use of the donated assets. When a donor restriction expires, that is, when a stipulated time restriction ends or purpose restriction is accomplished, temporarily restricted net assets are reclassified as unrestricted net assets and reported in the statement of operations and changes in net assets as net assets released from restrictions. Donor restricted contributions whose restrictions are met within the same year as received are reported as unrestricted contributions in the statements of operations and changes in net assets.

(h) Income Taxes

The Home has been recognized by the Internal Revenue Service as a not-for-profit corporation as described in Section 501(c)(3) of the Internal Revenue Code and is exempt from federal income taxes pursuant to Section 501(a) of the Code.

As of December 31, 2012, the Home did not have any unrecognized tax benefits or any related accrued interest or penalties. The tax years open to examination by federal and New York State taxing authorities are 2009 through 2012.

(i) Deficiency of Revenues, Gains and Other Support over Expenses

The statements of operations and changes in net assets include deficiency of revenues, gains and other support over expenses. Changes in unrestricted net assets which are excluded from deficiency of revenues, gains and other support over expenses, consistent with industry practice, include permanent transfers of assets to and from affiliates for other than goods and services and contributions of long-lived assets (including assets acquired using contributions which by donor restriction were to be used for the purpose of acquiring such assets).

(j) Temporarily Restricted Net Assets

Temporarily restricted net assets are those whose use has been limited by donors to a specific time period or purpose. Temporarily restricted net assets are comprised of an unexpended HEAL grant for capital projects and renovations at December 31, 2012 and 2011.

ST. LUKE'S HOME RESIDENTIAL HEALTH CARE FACILITY, INC.

Notes to Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(k) Reclassifications

Certain 2011 amounts have been reclassified to conform with the 2012 financial statement presentation.

(l) Subsequent Events

Subsequent events have been evaluated through March 27, 2013, which is the date the financial statements were available to be issued.

(2) Affiliated Entities

Significant transactions with affiliated entities are as follows:

Mohawk Valley Network, Inc. (MVN)

MVN is a not-for-profit corporation organized for the benefit of the Home, Faxton-St. Luke's Healthcare (Healthcare), Visiting Nurse Association of Utica and Oneida County, Inc. (VNA), Senior Network Health (SNH) and other affiliated entities.

During 2011, MVN was approved for a grant award of \$31,329,508 as part of the New York State HEAL grant program. The grant award is primarily to be used to construct new and renovate existing portions of the Home's facility in order to centralize and expand long-term care services; to pay off the outstanding HUD mortgages at the Home; and for capital acquisitions for certain affiliates. In 2011, the Home applied to decertify 40 of its RHCF beds and closed one of its nursing wings to make space for these renovations. The beds were decertified as of January 13, 2012.

For accounting purposes, MVN is being treated as a pass-through entity for the grant as these funds are primarily being utilized by the Home in accordance with the Revenue Recognition Topic of the FASB Accounting Standards Codification. As such, the activity is recorded through the net assets of the Home. At December 31, 2012 and 2011, the Home had a receivable due from MVN of approximately \$4,871,000 and \$15,090,000, respectively, related to the HEAL grant.

During 2011, the Home recorded approximately \$18,861,000 of contributions from HEAL grant as unrestricted contributions. The funds were utilized as follows:

Payment of HUD guaranteed mortgages including penalties	\$ 17,211,000
Renovations and construction at St. Luke's Home	1,489,000
Reimbursement of costs for wing closure at St. Luke's Home	87,000
Capital acquisitions for VNA	74,000
	<u>\$ 18,861,000</u>

ST. LUKE'S HOME RESIDENTIAL HEALTH CARE FACILITY, INC.

Notes to Financial Statements

(2) Affiliated Entities, Continued

Faxton-St. Luke's Healthcare (Healthcare)

Healthcare is a not-for-profit, tax-exempt acute care hospital. The Home has contracted with Healthcare to provide certain operational services. In 2012 and 2011, the Home purchased services totalling approximately \$558,000 and \$541,000, respectively, from Healthcare. In addition, in 2012 and 2011, the Home billed Healthcare approximately \$670,000 and \$278,000, respectively, for services rendered and rental of space within the Home. In 2012, the Home contributed approximately \$453,000 to Healthcare for capital acquisitions made in accordance with the provisions of the HEAL grant contract. At December 31, 2012, the Home had a net payable to Healthcare of approximately \$525,000 for HEAL grant expenses paid by Healthcare on behalf of the Home and for services performed and other pass through expenses. At December 31, 2011, the Home had a net receivable from Healthcare of approximately \$60,000 for services performed and other pass through expenses.

Faxton-St. Luke's Healthcare Foundation (Foundation)

The Foundation is a not-for-profit, tax-exempt corporation which carries out fund raising activities which benefit Healthcare and the Home. Healthcare has a financial interest in and effective control over the Foundation. The Home's revenues as part of fund raising activities amounted to approximately \$500 and \$4,200 in 2012 and 2011, respectively. The Home has a receivable due from the Foundation at December 31, 2012 and 2011 of approximately \$20,000 and \$22,000, respectively.

Senior Network Health (SNH)

SNH is a Medicaid managed care health plan for elderly residents located in Oneida and Herkimer counties. The Home had a net receivable from SNH at December 31, 2012 and 2011 of approximately \$39,000 and \$3,000, respectively, for resident care and expenses paid on SNH's behalf. The total net patient service revenue from SNH amounted to approximately \$529,000 and \$528,000 in 2012 and 2011, respectively.

Visiting Nurse Association of Utica and Oneida County, Inc. (VNA)

VNA provides home health care through professional nurses, therapists and aides primarily in Oneida County. In 2012 and 2011, the Home contributed approximately \$63,000 and \$74,000, respectively, to VNA for capital acquisitions made in accordance with the provisions of the HEAL grant contract. The Home had a payable to VNA at December 31, 2011 of approximately \$74,000 for HEAL grant expenses paid by VNA on behalf of the Home.

ST. LUKE'S HOME RESIDENTIAL HEALTH CARE FACILITY, INC.

Notes to Financial Statements

(3) Third-Party Reimbursement

The Home has agreements with third-party payors which provide for reimbursement at amounts different from its established charges. A summary of the basis of reimbursement with significant third-party payors follows:

- Medicaid - The New York State Medicaid program provides for per diem reimbursement to nursing homes on a prospective basis with certain provisions for retroactive adjustment due to changes in the intensity of care provided to residents, as well as for adjustments resulting from audits by the third-party agency.
- Medicare - The Medicare program provides for per diem reimbursement to nursing homes on a prospective basis based on the federal rate for services rendered to residents. The per diem rate is modified for intensity of care provided to residents.

Net patient service revenues from Medicaid and Medicare patients amounted to approximately 82% and 80%, respectively, of total net patient service revenue for the years ended December 31, 2012 and 2011. Laws and regulations governing Medicare and Medicaid programs are extremely complex and subject to interpretation. As a result, there is at least a reasonable possibility that recorded estimates will change by a material amount in the near term. In 2012 and 2011, net patient service revenue increased by approximately \$7,000 and decreased by approximately \$120,000, respectively, related to either settlement of prior year issues or changes in estimates associated with third-party issues.

At December 31, 2012 and 2011, estimated third-party payor settlements, net was comprised of estimated capital rate settlements, cash receipt assessments and general reimbursement reserves for other issues.

ST. LUKE'S HOME RESIDENTIAL HEALTH CARE FACILITY, INC.

Notes to Financial Statements

(4) Property and Equipment

Property and equipment by major category at December 31 is as follows:

	<u>2012</u>	<u>2011</u>
Land	\$ 434,727	434,727
Land improvements	2,657,969	1,064,518
Building and building improvements	20,095,388	18,969,404
Furniture, fixtures and equipment	4,432,323	3,775,262
Construction in progress	8,855,218	1,502,059
	<u>36,475,625</u>	<u>25,745,970</u>
Less accumulated depreciation	<u>(17,002,517)</u>	<u>(17,005,176)</u>
	<u>\$ 19,473,108</u>	<u>8,740,794</u>

Depreciation expense amounted to approximately \$1,063,000 and \$1,072,000 for the years ended December 31, 2012 and 2011, respectively.

(5) Short-Term Borrowings

The Home has a line of credit of \$3,000,000 available through a bank. Interest is calculated at the thirty-day LIBOR rate (0.21% at December 31, 2012) plus 2.25%.

In 2012, the Home capitalized \$46,630 of interest cost incurred on amounts outstanding.

(6) Long-Term Debt

In November 2011, the Home exercised its option to prepay its 5.875% and 5.98% mortgage loan payables to Century Health Capital, Inc. earlier than their original maturity dates of 2027. The Home utilized funds as awarded by New York State through the HEAL grant as further described in note 2. As part of the loan payoff, the Home incurred a prepayment penalty approximating \$622,000 and wrote off debt issuance costs of approximately \$634,000 recorded as a loss on extinguishment of long-term debt in the statements of operations and changes in net assets. The loss on extinguishment of long-term debt is excluded from the deficiency of revenues, gains and other support over expenses as the loss incurred directly correlated and was a result of the loan payoff under the HEAL grant.

(7) Extended Sick Leave

The Home employees are permitted to accumulate unused extended sick leave time up to specified maximum amounts. The Home accrues the estimated expense related to extended sick leave based on pay rates currently in effect. Upon retirement, employees who have met certain criteria shall have the option to receive payment or receive sick leave credits to pay for post-employment health insurance payments based upon the formula in place. The Home has accrued an estimated liability of approximately \$251,000 and \$249,000 at December 31, 2012 and 2011, respectively, for these anticipated termination payments.

ST. LUKE'S HOME RESIDENTIAL HEALTH CARE FACILITY, INC.

Notes to Financial Statements

(8) Retirement Plan

The Home maintains defined contribution retirement plans which cover all employees who have completed one year of service and are age twenty-one or older. Participants may contribute a percentage of compensation, but not in excess of the maximum allowed under the Internal Revenue Code. The plans provide for matching contributions based on participant contributions at varying percentages of the participant's compensation for the year. In addition, under one plan, the Home will contribute a fixed amount up to 5% of the participant's compensation. The Home's contribution to the plans, net of forfeitures, amounted to approximately \$399,000 in 2012 and \$392,000 in 2011.

(9) Functional Expenses

Expenses related to providing nursing home accommodations for the sick and infirmed of the community are as follows at December 31:

	<u>2012</u>	<u>2011</u>
Residential care	\$ 18,000,796	20,152,779
General and administrative	<u>1,549,024</u>	<u>1,592,080</u>
	<u>\$ 19,549,820</u>	<u>21,744,859</u>

(10) Contingent Liabilities

General and malpractice insurance coverage is provided under an occurrence based policy, which provides for \$1,000,000 coverage for each claim, not to exceed \$3,000,000 in aggregate annual coverage. Claims alleging malpractice have been asserted against the Home and are currently in various stages of litigation. It is the opinion of management, however, that malpractice coverage described above is adequate to provide for potential losses resulting from pending or threatened litigation.

The Home and its affiliates are self-insured for employee healthcare costs. The group has obtained a stop loss coverage policy for healthcare costs to supplement its self insurance coverage. An accrual for healthcare claims, including those incurred but not reported, is included in the current portion of estimated self-insured liabilities.

ST. LUKE'S HOME RESIDENTIAL HEALTH CARE FACILITY, INC.

Notes to Financial Statements

(10) Contingent Liabilities, Continued

The Home is primarily self-insured for employee workers' compensation and disability claims along with Healthcare and certain of its other affiliates for the years 2004 through 2007. Self-insured liabilities are based on claims filed and estimates for claims incurred but not reported. As required by the State of New York Workers' Compensation Board, Healthcare has purchased letters of credit to guarantee payment of workers' compensation claims. Stop loss insurance for losses exceeding certain amounts has been purchased for workers' compensation. Each affiliate is jointly and severally liable for the satisfaction of all obligations. The Home's estimated liabilities are recorded at discounted amounts using a 4% interest rate in 2012 and 2011. Effective January 1, 2010, Healthcare and certain of its affiliates became insured in a retrospectively rated workers' compensation and disability policy and premiums are accrued based on the ultimate cost of the experience to date of Healthcare and its affiliates.

Insurance claims liabilities and related insurance recoveries are included in other liabilities and other assets, respectively, in the balance sheets.

(11) Statements of Cash Flows - Supplemental Disclosures

The Home's cash payments for interest for the years ended December 31 were as follows:

	<u>2012</u>	<u>2011</u>
Cash paid during the year for interest	\$ 40,262	931,483

St. LUKE'S NURSING HOME
RESIDENTIAL HEALTH CARE FACILITY
AUGUST 2013
FINANCIAL REPORT

**ST. LUKE'S HOME
RESIDENTIAL HEALTH CARE FACILITY
FINANCIAL STATEMENTS COMMENTS
August 2013**

Overview

St. Luke's Home had a loss from operations of \$116,700 compared to a budgeted loss of \$137,000.

Occupancy for August was 97.88% compared to a budget of 95.63%.

ADHC Occupancy for August was 58.36% compared to a budget of 68.86%.

Medicaid days were at 68.67% compared to a budget of 70.00%.

Medicare days were at 13.88%, compared to a budget of 14.20%

Balance Sheet

Cash increased by \$40,600; AR increased by \$127,900; AP increased by \$63,500; Due from Affiliates decreased by \$51,700.

Income Statement

Other Revenue was over budget by \$800 due to the re-class entry from NOR Contribution PPE to Other Revenue HEAL Grant for the HEAL Purchase that can't be capitalized for \$10,600. Also, since Dialysis moved into SLH on 8/22/2013, it increased the other revenue by \$4,300.

Salaries were over budget by \$15,600 due to FTE's and AHW were being overbudget.

Medical Supplies were under budget by \$9,900.

Non Medical Supplies were over budget by \$3,100 due to the purchase of binders and tabs through HEAL Grant for \$2,800 that can't be capitalized.

Purchased Services were under budget by \$11,900 due to Sodexo retail accrual; Centrex and Birnie Bus bills were less for the month than were expected; Harmony Consultant visit is once every 3 months.

Drugs were under budget by \$9,500.

Food charges were over budget by \$5,500 as we opened a new cafeteria, IRU, and ADHC.

Insurance Expenses were under budget by \$2,100 since the MLMIC Insurance bill was less than budgeted.

Equipment Rental was over budget by \$13,600 for rent of a rehab platform, VAC freedom, wound surface, and bari drop arm commode.

Maintenance and Repairs were over budget by \$1,200.

**ST. LUKE'S HOME
KEY FINANCIAL INDICATORS
2013**

	January	February	March	April	May	June	July	August	Target Goal
Current Month									
Net Revenue per FTE	5,418	4,862	5,300	5,192	5,188	4,991	5,218	5,120	5,213
Revenue Per Resident Day	250	246	242	256	245	240	243	243	247
Expenses Per Resident Day	277	291	290	297	287	281	271	282	289
Expenses Per Resident Day (Excl Capital)	261	275	267	270	264	258	250	257	263
Salary cost per FTE	4,065	3,771	4,073	3,929	4,015	3,861	3,880	3,861	3,932
Salary & Benefits per FTE (annualized)	47,860	49,156	47,951	47,805	47,278	46,978	45,680	45,455	46,296
Salaries as a Percentage of Revenue	55.25%	57.96%	58.31%	57.39%	59.15%	58.53%	56.63%	57.23%	56.73%
Average Hourly Rate	18.42	17.34	19.02	18.34	18.88	17.98	18.18	18.03	18.20
Income from Operations	-7.32%	-13.02%	-12.28%	-8.60%	-9.55%	-9.60%	-4.19%	-7.83%	-9.28%
FTE	273.8	275.2	271.9	280.0	281.3	283.1	287.6	291.2	283.3
Resident Days	5,925	5,432	5,945	5,684	5,948	5,893	6,178	6,129	5,988
Occupancy	94.62%	96.04%	94.94%	93.80%	94.99%	97.24%	98.66%	97.88%	95.63%
Depreciation & Amortization Expense as a Percentage of Operating Expenses	5.70%	5.76%	7.79%	9.32%	7.85%	8.14%	8.06%	8.84%	8.94%
Payor Mix:									
Medicaid	65.91%	66.81%	67.89%	64.71%	67.17%	66.79%	68.57%	68.67%	70.00%
Medicare	18.09%	17.38%	15.39%	14.71%	15.13%	12.54%	12.79%	13.88%	14.20%
Medicare HMO	4.68%	4.34%	4.51%	8.43%	3.24%	5.11%	6.47%	4.21%	4.50%
Private Insurance	0.89%	0.77%	1.63%	1.44%	3.45%	4.21%	2.54%	2.24%	2.20%
Private Pay	7.12%	6.94%	6.64%	7.41%	7.89%	8.33%	6.86%	8.44%	5.30%
SNH	3.31%	3.76%	3.94%	3.31%	3.13%	3.02%	2.77%	2.56%	3.30%
Adult Day Care Occupancy	60.34%	60.88%	52.76%	53.82%	58.45%	61.80%	58.73%	58.36%	68.86%

ST. LUKE'S HOME
KEY FINANCIAL INDICATORS
2013

	January	February	March	April	May	June	July	August	Target Goal
YTD									
Net Revenue per FTE	5,418	10,274	15,594	20,792	25,961	30,962	36,189	41,314	40,686
Revenue Per Resident Day	250	248	246	249	248	247	246	246	244
Expenses Per Resident Day	277	284	286	289	288	287	285	284	289
Expenses Per Resident Day (Excluding Capital)	261	268	267	268	267	266	263	262	265
Salary cost per FTE	4,065	7,832	11,919	15,852	19,854	23,724	27,606	31,469	31,374
Salary & Benefits per FTE (annualized)	47,860	48,451	48,338	48,217	47,991	47,841	47,530	47,268	47,126
Salaries as a Percentage of Revenue	55.25%	56.53%	57.13%	57.20%	57.60%	57.75%	57.58%	57.54%	57.67%
Average Hourly Rate	18.42	17.87	18.28	18.30	18.40	18.34	18.32	18.29	18.05
Income from Operations	-7.32%	-10.02%	-10.79%	-10.23%	-10.09%	-10.01%	-9.14%	-8.98%	-10.14%
FTE	273.8	274.6	273.3	274.9	276.4	277.4	278.8	280.3	281.4
Resident Days	5,925	11,357	17,302	22,986	28,934	34,827	41,005	47,134	46,941
Occupancy	94.62%	95.29%	95.17%	94.83%	94.86%	95.25%	95.75%	96.02%	95.63%
Depreciation & Amortization Expense as a Percentage of Operating Expenses	5.70%	5.73%	6.45%	7.18%	7.32%	7.45%	7.54%	7.71%	8.09%
Payor Mix:									
Medicaid	65.91%	66.34%	66.87%	66.05%	66.28%	66.37%	66.70%	66.95%	70.00%
Medicare	18.09%	17.75%	16.94%	16.39%	16.13%	15.52%	15.11%	14.95%	14.20%
Medicare HMO	4.68%	4.52%	4.51%	5.48%	5.02%	5.04%	5.25%	5.12%	4.50%
Private Insurance-	0.89%	0.84%	1.11%	1.19%	1.66%	2.09%	2.16%	2.17%	2.20%
Private Pay	7.12%	7.04%	6.90%	7.31%	7.43%	7.58%	7.47%	7.60%	5.30%
SNH	3.31%	3.52%	3.66%	3.58%	3.48%	3.41%	3.31%	3.21%	3.30%
Cash on Hand	1.65	2.31	(1.72)	2.34	5.42	1.57	1.04	1.84	-
Days In Accounts Receivable	64.39	61.64	65.09	65.52	51.52	67.28	67.82	70.41	-
Adult Day Care Occupancy	60.34%	60.60%	57.58%	56.50%	56.94%	57.76%	57.91%	57.97%	63.5%

St Luke's Home RHC
Balance Sheet

	August 2013	July 2013	December 2012
ASSETS			
CURRENT ASSETS:			
Cash and Cash equivalents	\$93,585	\$53,011	\$97,164
Investments	0	0	0
Patients Account Rec. Net	3,355,531	3,227,653	2,883,264
Other Receivables	342,606	339,606	342,939
Inventory	59,137	63,765	52,423
Prepaid & Other Asset	49,988	68,529	66,027
Net Inv. in Phys Office Bldg	0	0	0
Due from Third Party	756,619	776,797	760,116
Due from Affiliates	300,891	352,601	4,405,327
Total Current Assets	<u>\$4,958,357</u>	<u>\$4,881,962</u>	<u>\$8,607,260</u>
Investment in VHA	\$0	\$0	\$0
Investment in Foundation	0	0	0
Investment in Paraffin	0	0	0
Investment in SLM Office Bldg	0	0	0
Investment in MVEC	0	0	0
Net Inv in Phy Office Building	0	0	0
Assets limited as to use	72,378	85,504	90,429
Investments	0	0	0
Property and Equipment, net	19,373,484	19,444,374	19,473,108
Unamortized Debt Issuance	0	0	0
Other Assets	3,092,699	3,092,699	3,092,699
Total Assets	<u>\$27,496,918</u> =====	<u>\$27,504,539</u> =====	<u>\$31,263,496</u> =====

St Luke's Home RHC
Balance Sheet

	August 2013	July 2013	December 2012
LIABILITIES AND NET ASSETS			
Current Liabilities:			
Short Term Borrowings	\$279,060	\$279,060	\$3,000,000
Current long-term debt	0	0	0
Capital lease obligations-curr	0	0	0
Self-insured Liabilities-current	1,129,777	1,084,191	820,204
Accrued Interest Payable	0	0	0
Accounts Payable	631,709	628,591	931,342
Accrued Payroll, Taxes	623,827	563,462	472,498
Other Current Liabilities	365,115	362,381	361,105
	<hr/>	<hr/>	<hr/>
Total Current Liabilities	\$3,029,488	\$2,917,685	\$5,585,149
Long Term Debt, Net of Current Portion			
Notes Payable	\$0	\$0	\$0
Civic Facility Revenue Bonds	0	0	0
Capital Lease Obligations	0	0	0
Other Liability	3,339,439	3,339,439	3,332,634
Estimated self-insured Liabilities, net	\$259,135	\$257,038	\$241,599
	<hr/>	<hr/>	<hr/>
Total Liabilities	\$6,628,062	\$6,514,162	\$9,159,382
Net Assets			
Unrestricted	\$20,868,857	\$20,990,377	\$21,341,341
Temporarily Restricted	0	0	762,774
Permanently Restricted	0	0	0
	<hr/>	<hr/>	<hr/>
Total Net Assets	\$20,868,857	\$20,990,377	\$22,104,115
Total Liability and Net Assets	<hr/> <u>\$27,496,919</u> <hr/>	<hr/> <u>\$27,504,539</u> <hr/>	<hr/> <u>\$31,263,497</u> <hr/>

St Luke's Home RHC
 Month Ended: August 31, 2013
 Income Statement

	August Actual	%	August Budget	%	August 2012
Unrestricted revenues, gain and other support:					
Net Patient Revenue	\$1,490,992	9.22 %	\$1,476,800	8.18 %	\$1,365,102
Other Revenue	118,511	98.80	117,718	97.47	59,612
Total unrestricted revenues gains and other support	<u>\$1,609,503</u>	<u>12.97 %</u>	<u>\$1,594,518</u>	<u>11.92 %</u>	<u>\$1,424,714</u>
Expenses:					
Salaries and Wages	\$853,340		\$837,764		\$818,938
Physicians Salaries	0		0		0
Purchase Service Employees	0		493		0
Employee Benefits	270,854		276,137		252,056
Medical Supplies	26,563		36,492		26,855
Non-Medical Supplies	48,630		45,501		50,878
Purchased Services	84,925		96,783		115,906
Utilities	33,018		31,887		25,761
Drugs	40,229		49,729		51,439
Other Expenses	134,337		119,887		112,672
Depreciation/Amortization	152,526		154,760		84,471
Taxes	56,205		56,462		51,187
Interest Expense	0		0		0
Bad Debt Expense	25,626		25,626		17,083
Total Expenses	<u>\$1,726,253</u>		<u>\$1,731,521</u>		<u>\$1,607,246</u>
Income from Operations	<u>\$(116,750)</u>		<u>\$(137,003)</u>		<u>\$(182,532)</u>
Non-Operating Revenue	\$(4,786)		\$0		\$949,183
Income (Loss) from Foundati	0		0		24,097
Investment Income	0		0		0
Gain/Loss on Sale/Disposal	17		0		0
Increase in Unrestricted Net Assets	<u>\$(121,519)</u>		<u>\$(137,003)</u>		<u>\$790,748</u>

St Luke's Home RHC
 Period Ended August 31, 2013
 Income Statement

	August Actual	%	August Budget	%	August 2012
Unrestricted revenues, gain and other support:					
Net Patient Revenue	\$11,580,745	5.69 %	\$11,448,935	4.49 %	\$10,957,346
Other Revenue	778,407	62.63	941,742	96.76	478,627
Total unrestricted revenues gains and other support	<u>\$12,359,152</u>	<u>8.07 %</u>	<u>\$12,390,677</u>	<u>8.35 %</u>	<u>\$11,435,973</u>
Expenses:					
Salaries and Wages	\$6,663,391		\$6,602,438		\$6,463,093
Physicians Salaries	0		0		0
Purchase Service Employees	0		3,866		3,871
Employee Benefits	2,157,681		2,226,290		2,100,461
Medical Supplies	229,520		286,048		284,344
Non-Medical Supplies	363,488		356,673		351,866
Purchased Services	699,979		758,652		847,323
Utilities	295,471		314,028		225,986
Drugs	334,281		389,729		375,008
Other Expenses	1,070,976		965,539		932,698
Depreciation/Amortization	1,032,734		1,096,701		641,149
Taxes	451,041		451,718		409,510
Interest Expense	0		0		0
Bad Debt Expense	100,001		100,001		66,667
Total Expenses	<u>\$13,398,563</u>		<u>\$13,551,683</u>		<u>\$12,701,976</u>
Income from Operations	<u>\$(1,039,411)</u>		<u>\$(1,161,006)</u>		<u>\$(1,266,003)</u>
Non-Operating Revenue	\$568,240		\$0		\$7,575,242
Income (Loss) from Foundati	0		0		24,097
Investment Income	0		0		0
Gain/Loss on Sale/Disposal	(1,313)		0		0
Increase in Unrestricted Net Assets	<u>\$(472,484)</u> =====		<u>\$(1,161,006)</u> =====		<u>\$6,333,336</u> =====

St Luke's Home RHC
STATEMENT OF CASH FLOW
AS OF August 31, 2013

	MONTH	YTD
Operating Income	\$ (121,520)	\$ (472,484)
Depreciation and Amortization	152,509	1,032,191
Bad Debt	100,134	94,592
	<hr/>	<hr/>
Cash Provided by Operations	\$131,123	\$654,299
	<hr/>	<hr/>
CHANGES IN OPERATING ASSETS AND LIABILITIES		
Patient Account Receivable	\$ (228,012)	\$ (566,859)
Other Accounts Receivable	(3,000)	333
Inventories and Prepaids	23,169	9,325
Other Current Assets	0	0
Trade Payables	3,118	(299,633)
Third Party Pay/(Rec) Net	20,178	3,497
Payroll Liabilities	60,365	151,329
Other Liabilities	50,416	337,923
	<hr/>	<hr/>
Net Cash Flows from Operations	\$ (73,766)	\$ (364,085)
	<hr/>	<hr/>
CASH USED IN INVESTING ACTIVITIES		
Purchase of PPE	\$ (81,619)	\$ (932,567)
Changes in Investments	0	0
Changes in Limited Use Asset	13,126	18,051
Earnings of Subsidiaries	0	0
Due from Affiliates	51,710	4,104,436
	<hr/>	<hr/>
Net Cash Used in Investing	\$16,783	\$ (3,189,920)
CASH USED IN FINANCING		
Proceeds/Payments LOC	\$0	\$ (2,720,940)
Repayment of Debt	0	0
Changes in Net Assets	0	(762,774)
	<hr/>	<hr/>
Net cash used in Financing	\$0	\$3,483,714
Increase/Decrease Cash	\$40,574	\$ (3,580)
	<hr/>	<hr/>
	=====	=====

**VISITING NURSE ASSOCIATION
OF UTICA AND ONEIDA COUNTY, INC.**

Financial Statements

December 31, 2012 and 2011

INDEPENDENT AUDITOR'S REPORT

The Board of Directors
Visiting Nurse Association of Utica and Oneida County, Inc.:

We have audited the accompanying financial statements of Visiting Nurse Association of Utica and Oneida County, Inc., which comprise the balance sheets as of December 31, 2012 and 2011, and the related statements of operations and changes in net assets and cash flows for the years then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these 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 these 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 the auditor's 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, the auditor considers internal control relevant to the entity'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 entity'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.

(Continued)

Board of Directors
Page 2 of 2

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Visiting Nurse Association of Utica and Oneida County, Inc. as of December 31, 2012 and 2011, and the results of its operations, changes in net assets and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Fust Charles Chambers LLP

April 19, 2013

VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC.

Balance Sheets

December 31, 2012 and 2011

<u>Assets</u>	<u>2012</u>	<u>2011</u>
Current assets:		
Cash and cash equivalents	\$ 146,665	261,416
Certificates of deposit	102,028	101,652
Patient accounts receivable, net of allowance for doubtful accounts of \$36,453 in 2012 and \$46,894 in 2011	1,170,101	1,294,948
Due from affiliated entities, net	54,924	38,529
Due from third-party payor	-	39,489
Prepaid expenses and other assets	<u>182,435</u>	<u>177,327</u>
Total current assets	1,656,153	1,913,361
Property and equipment, net	1,173,458	1,490,018
Other assets	<u>689,624</u>	<u>504,343</u>
Total assets	\$ <u><u>3,519,235</u></u>	\$ <u><u>3,907,722</u></u>
<u>Liabilities and Net Assets</u>		
Current liabilities:		
Accounts payable	102,761	111,893
Accrued payroll, payroll taxes and benefits	641,775	608,296
Self insurance liability	39,681	96,253
Due to third-party payor	25,889	-
Other liabilities	<u>183,043</u>	<u>82,211</u>
Total current liabilities	993,149	898,653
Due to affiliated entities, net	323,965	-
Other liabilities	<u>740,294</u>	<u>566,007</u>
Total liabilities	<u>2,057,408</u>	<u>1,464,660</u>
Net assets:		
Unrestricted	1,456,327	2,418,662
Temporarily restricted	<u>5,500</u>	<u>24,400</u>
Total net assets	<u>1,461,827</u>	<u>2,443,062</u>
Commitments and contingencies (notes 8 and 9)		
Total liabilities and net assets	\$ <u><u>3,519,235</u></u>	\$ <u><u>3,907,722</u></u>

See accompanying notes to financial statements.

VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC.

Statements of Operations and Changes in Net Assets

Years ended December 31, 2012 and 2011

	<u>2012</u>	<u>2011</u>
Unrestricted revenues, gains and other support:		
Net patient service revenue	\$ 9,204,813	9,954,355
Other revenue	48,252	59,214
Net assets released from restrictions used for operations	<u>18,900</u>	<u>-</u>
Total unrestricted revenues, gains and other support	<u>9,271,965</u>	<u>10,013,569</u>
Expenses:		
Salaries and wages	6,509,344	6,599,147
Contract services	624,355	494,961
Employee benefits	1,620,481	1,411,461
Transportation	465,540	484,322
Supplies and other expenses	196,959	202,571
Occupancy	72,033	78,093
Office and general	746,327	811,787
Loss on disposal of equipment	<u>62,626</u>	<u>-</u>
Total expenses	<u>10,297,665</u>	<u>10,082,342</u>
Deficiency of revenues over expenses	(1,025,700)	(68,773)
Grant received for purchase of property and equipment	63,365	73,820
Net assets released from restrictions used for purchase of property and equipment	-	81,100
Equity transfer to Mohawk Valley Network, Inc.	<u>-</u>	<u>(300,000)</u>
Decrease in unrestricted net assets	<u>(962,335)</u>	<u>(213,853)</u>
Temporarily restricted net assets:		
Net assets released from restrictions used for operations	(18,900)	-
Net assets released from restrictions used for purchase of property and equipment	<u>-</u>	<u>(81,100)</u>
Decrease in temporarily restricted net assets	<u>(18,900)</u>	<u>(81,100)</u>
Decrease in net assets	(981,235)	(294,953)
Net assets at beginning of year	<u>2,443,062</u>	<u>2,738,015</u>
Net assets at end of year	\$ <u><u>1,461,827</u></u>	\$ <u><u>2,443,062</u></u>

See accompanying notes to financial statements.

VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC.

Statements of Cash Flows

Years ended December 31, 2012 and 2011

	<u>2012</u>	<u>2011</u>
Cash flows from operating activities:		
Change in net assets	\$ (981,235)	(294,953)
Adjustments to reconcile change in net assets to net cash used in operating activities:		
Depreciation	321,835	311,032
Provision for doubtful accounts	17,432	42,170
Loss on disposal of equipment	62,626	-
Grant received for purchase of property and equipment	(63,365)	(73,820)
Equity transfer to Mohawk Valley Network, Inc.	-	300,000
Changes in operating assets and liabilities:		
Patient accounts receivable, net	107,415	(308,072)
Due to/from affiliated entities, net	307,570	(23,061)
Prepaid expenses and other assets	2,728	(22,297)
Accounts payable	(9,132)	9,096
Accrued payroll, payroll taxes and benefits	33,479	53,040
Self insurance liability	(56,572)	34,508
Due to/from third-party payor	65,378	(237,843)
Other liabilities	82,002	(30,433)
	<u>(109,839)</u>	<u>(240,633)</u>
Cash flows from investing activities:		
Purchase of certificates of deposit, net	(376)	(967)
Purchase of property and equipment	<u>(67,901)</u>	<u>(218,089)</u>
	<u>(68,277)</u>	<u>(219,056)</u>
Cash flows from financing activities:		
Grant received for purchase of property and equipment	63,365	73,820
Equity transfer to Mohawk Valley Network, Inc.	-	<u>(300,000)</u>
	<u>63,365</u>	<u>(226,180)</u>
Net decrease in cash and cash equivalents	(114,751)	(685,869)
Cash and cash equivalents at beginning of year	<u>261,416</u>	<u>947,285</u>
Cash and cash equivalents at end of year	\$ <u><u>146,665</u></u>	<u><u>261,416</u></u>

See accompanying notes to financial statements.

VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC.

Notes to Financial Statements

December 31, 2012 and 2011

(1) Description of Organization and Summary of Significant Accounting Policies

(a) Organization

Visiting Nurse Association of Utica and Oneida County, Inc. (VNA) provides home health care through professional nurses, therapists and aides primarily in Oneida County. VNA is a certified home health agency in New York State and is licensed to sponsor a long-term home health care program.

Mohawk Valley Network, Inc. (MVN) is the sole member of VNA and several other entities. See also note 8.

(b) Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

(c) Cash and Cash Equivalents

Cash and cash equivalents include money market instruments and certain investments in highly liquid debt instruments with original maturities of three months or less.

VNA maintains its cash balances at financial institutions that are insured by the Federal Deposit Insurance Corporation. While VNA attempts to limit any financial exposure, its deposit balances may, at times, exceed federally insured limits. The financial institutions have strong credit ratings and management believes that the credit risk related to these deposits is minimal.

(d) Certificates of Deposit

Certificates of deposit in financial institutions with original maturities greater than three months have been recorded at fair value in the balance sheet using Level 2 inputs as defined by the Fair Value Measurement Topic of the FASB Accounting Standards Codification.

VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC.

Notes to Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(e) Property and Equipment

Property and equipment is stated at cost. Depreciation is calculated by the straight-line method over the estimated useful lives of the related assets ranging from 5 to 40 years.

(f) Net Assets

Unrestricted net assets represent resources that are generally available for support of VNA's activities and exclude any funds temporarily or permanently restricted by a donor except for any donor restricted gifts or grants received and expended within the same year. Temporarily restricted net assets are those whose use by VNA has been limited by donors to a specific time period or purpose.

(g) Deficiency of Revenues over Expenses

The statements of operations and changes in net assets include deficiency of revenues over expenses. Changes in unrestricted net assets which are excluded from deficiency of revenues over expenses, consistent with industry practice, include unrealized gains and losses on investments other than trading securities, permanent transfers of assets to and from affiliates for other than goods and services and contributions of long-lived assets (including assets acquired using contributions which by donor restriction were to be used for the purpose of acquiring such assets).

(h) Net Patient Service Revenue and Patient Accounts Receivable

VNA has agreements with third-party payors, primarily Medicare and Medicaid, that provide for payments at amounts different from its established rates. Payment arrangements include prospectively determined rates per visit or episode of care, cost-based reimbursement and discounted charges. Net patient service revenue and the related patient accounts receivable are reported at the estimated net realizable amounts from patients, third-party payors and others for services rendered, including estimated retroactive adjustments under reimbursement agreements with third-party payors. Unearned Medicare and Medicaid billings amounting to approximately \$250,000 and \$271,000 at December 31, 2012 and 2011, respectively, are netted against patient accounts receivable. Retroactive adjustments are considered in the recognition of revenue on an estimated basis in the period the related services are rendered and adjusted in future periods as adjustments become known or as years are no longer subject to such audits, reviews and investigations.

Revenue from the Medicare and Medicaid programs accounted for approximately 79% and 81% of net patient service revenue for 2012 and 2011, respectively.

VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC.

Notes to Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies, Continued

(h) Net Patient Service Revenue and Related Receivables, Continued

An allowance for doubtful accounts is maintained to record patient accounts receivable at its net realizable value. The allowance for doubtful accounts is evaluated on a regular basis by management and is based upon management's periodic review of the collectibility of the patient accounts receivable considering historical experience, adverse situations that may affect the patient's ability to pay and prevailing economic conditions. Doubtful accounts are charged against the allowance when management believes the uncollectibility of the receivable balance is confirmed. Subsequent recoveries, if any, are credited to the allowance.

VNA grants unsecured credit to its patients, most of whom are local residents and are insured under third-party payor agreements. The mix of receivables from patients and third-party payors at December 31 was as follows:

	<u>2012</u>	<u>2011</u>
Medicare	60%	67%
Medicaid	29%	18%
Insurance and all others	10%	13%
Private payors	<u>1%</u>	<u>2%</u>
	<u>100%</u>	<u>100%</u>

(i) Charity Care

VNA has a policy of providing charity care to patients who are unable to pay. Such patients are identified based on financial information obtained from the patient and subsequent analysis. Since payment is not expected, estimated charges for charity care are not included in revenue. Because most patients are covered by some third-party payment, the provision of charity care is not significant for VNA.

(j) Income Taxes

VNA is a not-for-profit corporation described in Section 501(c)(3) of the Internal Revenue Code and is exempt from federal income taxes pursuant to Section 501(a) of the Code. As of December 31, 2012 and 2011, VNA did not have any unrecognized tax benefits or any related accrued interest or penalties.

The tax years open to examination by federal and New York State authorities are 2009 through 2012. VNA does not anticipate that the total unrecognized tax benefits will change in the next twelve months.

VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC.

Notes to Financial Statements

(1) Description of Organization and Summary of Significant Accounting Policies. Continued

(k) Reclassifications

Certain reclassifications of 2011 amounts have been made in order to conform with the 2012 financial statement presentation.

(l) Subsequent Events

Subsequent events have been evaluated through April 19, 2013, which is the date the financial statements were available to be issued.

(2) Property and Equipment

A summary of property and equipment at December 31 follows:

	<u>2012</u>	<u>2011</u>
Land and improvements	\$ 63,105	63,105
Building and improvements	990,997	990,997
Office furniture and equipment	<u>1,771,316</u>	<u>2,245,883</u>
	2,825,418	3,299,985
Less accumulated depreciation	<u>(1,651,960)</u>	<u>(1,809,967)</u>
Property and equipment, net	<u>\$ 1,173,458</u>	<u>1,490,018</u>

(3) Short-Term Borrowings

VNA has a line of credit with a bank which provides for borrowings up to \$500,000, at an interest rate equal to the bank's prime rate (3.25% at December 31, 2012) less 50 basis points or a minimum of 3%. All assets are pledged as collateral. The line expires June 30, 2013. There was no outstanding balance on the line at December 31, 2012 and 2011.

VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC.

Notes to Financial Statements

(4) Temporarily Restricted Net Assets

Temporarily restricted net assets are available for the following purposes at December 31:

	<u>2012</u>	<u>2011</u>
Telehealth program	\$ -	18,900
Facility improvements	5,000	5,000
Scholarships	<u>500</u>	<u>500</u>
	<u>\$ 5,500</u>	<u>24,400</u>

(5) Pension Plans

VNA sponsors two defined contribution pension plans covering substantially all employees. VNA matches employee contributions up to specified limits. Pension plan contributions for the years ended December 31, 2012 and 2011 amounted to approximately \$200,000 and \$215,000, respectively.

(6) Extended Sick Leave Benefit

VNA employees are permitted to accumulate unused extended sick leave time up to specified maximum amounts. VNA accrues the estimated expense related to extended sick leave based on pay rates currently in effect. Upon retirement, employees who have met certain criteria shall have the option to receive payment for unused sick leave time based upon the formula in place. VNA has accrued an estimated current and long-term liability totalling approximately \$195,000 and \$190,000 at December 31, 2012 and 2011, respectively, for these anticipated termination payments.

(7) Functional Expenses

Functional expenses for the years ended December 31 are as follows:

	<u>2012</u>	<u>2011</u>
Administrative and general	\$ 3,528,406	3,419,897
Program:		
Nursing	3,855,768	3,661,408
Home health aides	1,738,091	1,677,454
Therapy	1,025,998	1,182,460
Other	<u>149,402</u>	<u>141,123</u>
	<u>\$ 10,297,665</u>	<u>10,082,342</u>

VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC.

Notes to Financial Statements

(8) Transactions with Affiliates

As a member of MVN, VNA is affiliated with and transacts business with other healthcare providers in the MVN network. Senior Network Health, LLC (SNH), a wholly owned subsidiary of MVN, provides Medicaid managed care to seniors. Mohawk Valley Home Care, LLC (MVHC), a wholly owned subsidiary of MVN, provides nursing services. Faxton-St. Luke's Healthcare (FSLH), whose sole member is MVN, is a healthcare delivery system providing various inpatient and outpatient services. St. Luke's Home Residential Health Care Facility (Home), in which FSLH has a sole financial interest at dissolution, is a residential health care facility providing nursing home accommodations.

MVN charged VNA a management fee of \$15,000 and \$60,000 during 2012 and 2011, respectively. VNA charged MVN a management fee of approximately \$43,000 and \$165,000 during 2012 and 2011, respectively. During 2011, VNA transferred \$300,000 to MVN. The transaction was recorded as an equity transfer and is excluded from the deficiency of revenues over expenses. There were no amounts due to MVN as of December 31, 2012 and 2011.

VNA provided home care services to patients of SNH and various administrative services to SNH during 2012 and 2011 generating revenue amounting to approximately \$457,000 and \$597,000, respectively. The net receivable from SNH as of December 31, 2012 and 2011 was approximately \$55,000 and \$90,000, respectively. VNA leases office space to SNH under a lease agreement. Rental income associated with this lease during 2012 and 2011 was approximately \$20,000. In February 2013, VNA and SNH mutually agreed to terminate the lease agreement.

VNA reimburses FSLH and MVHC for certain shared operating expenses paid on its behalf. The net payable to FSLH as of December 31, 2012 and 2011 was approximately \$324,000 and \$46,000, respectively. The net payable to MVHC as of December 31, 2011 was approximately \$5,000. At December 31, 2012, FSLH has agreed to waive its right to demand payment of the net amount due through January 1, 2014, and, accordingly, VNA has classified the net payable as long term as of December 31, 2012.

VNA leases office and storage space to FSLH under a lease agreement. Rental income associated with this lease during 2012 and 2011 was approximately \$9,000. In February 2013, VNA and FSLH mutually agreed to terminate the lease agreement.

During February 2013, VNA entered into a lease agreement with Home expiring February 2023 for office space to be used for its operations.

VISITING NURSE ASSOCIATION OF UTICA AND ONEIDA COUNTY, INC.

Notes to Financial Statements

(8) Transactions with Affiliates, Continued

As of December 31, 2012, future minimum lease payments under the lease are as follows:

<u>Years ended December 31</u>	<u>Amount</u>
2013	\$ 106,345
2014	117,539
2015	117,539
2016	117,539
2017	117,539
	<u>\$ 576,501</u>

(9) Commitments and Contingencies

Operating Lease

VNA entered into an operating lease agreement expiring December 2013 for office space to be used for its operations.

Total rent expense for 2012 and 2011 was approximately \$12,000 and \$11,000, respectively. Rent expense for 2013 is expected to be approximately \$10,000.

Professional Liability Insurance

VNA maintains occurrence-based professional liability insurance with \$1,000,000/\$3,000,000 coverage limits. Management does not believe there are any potential claims liabilities in excess of coverage limits.

Workers' Compensation Insurance

Effective January 1, 2012, VNA began participating in an existing retrospectively rated workers' compensation and disability policy with FSLH and certain of its affiliates and premiums are accrued based on the ultimate cost of experience to date.

Self-Insured Risks

VNA participates in a self-insured plan administered by FSLH for employee healthcare costs. FSLH has obtained a stop loss coverage policy for healthcare costs to supplement the self-insurance coverage. FSLH charges VNA a monthly premium based on the plan's overall claims experience. An accrual for additional premiums based on healthcare claims incurred but not reported to the plan is included in the balance sheet within self insurance liability.

Insurance claims liabilities and related insurance recoveries are included in other liabilities and other assets, respectively, in the balance sheets.

VISITING NURSE ASSOCIATION

AUGUST 2013

FINANCIAL REPORT

VISITING NURSES ASSOCIATION
FINANCIAL STATEMENTS COMMENTS
AUGUST 2013

Overview

Visiting Nurses Association's actual operating loss for the month of August is (\$70,150) compared to a projected operating loss of (\$38,100). Year to date their income from operations was (\$750,800) versus a projected loss of (\$630,800). The bottom line year to date is (\$680,900) after including HEAL grant contributions of \$70,500 from SLH.

Balance Sheet

Cash increased by \$79,500; AR increased by \$95,100; AP decreased by \$37,300. VNA had to draw \$150,000 from the line of credit for the month of August.

Income Statement

Revenue is under budget by \$144,000 due to a low census, a low number of Medicare RAPS and a low case mix.

Salary expense is under budget by \$63,500 due to open nursing positions.

Employee benefits are under budget by \$13,000 due to Social Security, Health Insurance and Worker's Comp being under budget due to open nursing positions.

Purchased Services are under budget by \$20,000 due to additional affiliate billings to SNH and MVHC for shared employees and a decrease in outside contracted services.

Other Expenses are under budget by \$14,496 due to an \$11,000 credit from Ed and Ed Business Technology for a back dated copier meter reading adjustment.

VISITING NURSES ASSOCIATIONS
KEY FINANCIAL INDICATORS
2013

	January	February	March	April	May	June	July	August	Target
Current Month									
Income from Operations	-16.36%	-3.96%	-14.52%	-11.88%	-12.36%	-17.12%	-21.34%	-9.79%	-4.43%
Net Revenue per FTE	5,954	6,408	6,118	6,257	6,320	5,740	5,649	6,102	6,516
Salary cost per FTE	5,647	5,277	5,629	5,494	5,776	5,393	5,537	5,540	5,512
Salary & Benefits per FTE (annualized)	66,484	68,791	66,279	66,841	68,012	65,617	65,195	65,231	64,900
Salaries as a Percentage of Revenue	74.27%	65.51%	73.57%	71.08%	73.77%	75.36%	78.60%	73.13%	68.28%
Average Hourly Rate	27.21	25.83	27.70	27.37	28.69	26.62	27.33	27.46	27.38
PPS Case Mix	1.3109	1.3222	1.3307	1.3862	1.4032	1.3693	1.3231	1.3519	1.3400
Avg Daily Census	486	504	500	499	474	462	459	465	559
PPS Raps	161	169	196	174	191	151	151	176	211
New cases (Start of care)	221	196	204	213	202	194	193	195	220
FTE	116.89	117.41	116.83	117.23	116.05	116.71	116.83	117.39	132.01
Depreciation Expense as a % of Operating Expenses	2.63%	2.93%	3.33%	2.95%	2.84%	2.96%	2.90%	2.95%	2.33%

**VISITING NURSES ASSOCIATION
KEY FINANCIAL INDICATORS
2013**

	January	February	March	April	May	June	July	August	Target Goal
YEAR TO DATE									
Net Revenue per FTE	5,954	12,353	18,482	24,757	31,071	36,812	42,462	48,565	48,620
Income from Operations	-16.36%	-9.92%	-11.44%	-11.55%	-11.71%	-12.56%	-13.72%	-13.23%	-9.70%
PPS Case Mix	1.3109	1.3169	1.3196	1.3400	1.3563	1.3532	1.3459	1.3464	1.3400
Avg Daily Census	486	487	486	487	479	474	469	467	559
PPS Raps	161	330	526	700	891	1,042	1,193	1,369	1,586
New cases (Start of care)	221	423	628	840	1,043	1,238	1,433	1,629	1,658
Salary cost per FTE	5,647	10,914	16,552	22,062	27,832	33,226	38,764	44,305	43,237
Salary & Benefits per FTE (annualized)	66,484	67,521	67,128	67,106	67,277	67,186	66,739	66,548	64,945
Salaries as a Percentage of Revenue	74.27%	69.72%	70.99%	71.01%	71.57%	72.16%	73.02%	73.03%	72.03%
Average Hourly Rate	27.21	26.50	26.91	27.05	27.37	27.24	27.26	27.28	26.94
FTE	116.89	117.24	117.04	117.00	116.83	116.81	116.81	116.88	133.70
Depreciation Expense as a % of Operating Expenses	2.63%	2.78%	2.96%	2.96%	2.94%	2.94%	2.93%	2.94%	2.33%
Days Cash on Hand	4.65	6.13	3.39	5.57	(0.03)	(1.68)	(1.41)	1.68	-
Current Ratio	1.41	1.41	1.29	1.21	1.15	1.05	0.91	0.88	
Days In Accounts Receivable	49.02	45.74	48.60	48.65	46.45	49.70	42.79	46.93	54.00
Average Payment Period	31.02	30.03	31.70	35.17	30.55	32.87	31.61	38.54	45.00

Visiting Nurses Association
Balance Sheet

	August 2013	July 2013	December 2012
ASSETS			
CURRENT ASSETS:			
Cash and Cash equivalents	\$43,065	\$ (36,500)	\$112,968
Investments	0	0	102,028
Patients Account Rec. Net	1,096,283	1,001,161	1,170,100
Other Receivables	77,598	77,598	87,081
Inventory	0	0	0
Prepaid & Other Asset	50,540	64,536	87,519
Net Inv. in Phys Office Bldg	0	0	0
Due from Third Party	(26,954)	(39,643)	(25,889)
Due from Affiliates	(345,776)	(301,680)	(269,041)
Total Current Assets	\$894,756	\$765,472	\$1,264,766
Investment in VHA	\$0	\$0	\$0
Investment in Foundation	0	0	0
Investment in Paraffin	0	0	0
Investment in SLM Office Bldg	0	0	0
Investment in MVEC	0	0	0
Net Inv in Phy Office Building	0	0	0
Assets limited as to use	33,697	33,697	33,697
Investments	0	0	0
Property and Equipment, net	1,029,657	1,051,064	1,173,459
Unamortized Debt Issuance	0	0	0
Other Assets	521,843	521,843	521,843
Total Assets	\$2,479,953	\$2,372,076	\$2,993,765

Visiting Nurses Association
Balance Sheet

	August 2013	July 2013	December 2012
LIABILITIES AND NET ASSETS			
Current Liabilities:			
Short Term Borrowings	\$150,000	\$0	\$0
Current long-term debt	0	0	0
Capital lease obligations-curr	0	0	0
Self-insured Liabilities-current	203,588	191,846	132,677
Accrued Interest Payable	0	0	0
Accounts Payable	35,323	72,627	89,756
Accrued Payroll, Taxes	533,032	481,077	497,378
Other Current Liabilities	97,413	95,246	95,216
	<hr/>	<hr/>	<hr/>
Total Current Liabilities	\$1,019,356	\$840,796	\$815,027
Long Term Debt, Net of Current Portion			
Notes Payable	\$0	\$0	\$0
Civic Facility Revenue Bonds	0	0	0
Capital Lease Obligations	0	0	0
Other Liability	679,655	679,655	716,910
Estimated self-insured Liabilities, net	\$0	\$0	\$0
	<hr/>	<hr/>	<hr/>
Total Liabilities	\$1,699,011	\$1,520,451	\$1,531,937
Net Assets			
Unrestricted	\$780,942	\$851,624	\$1,461,828
Temporarily Restricted	0	0	0
Permanently Restricted	0	0	0
	<hr/>	<hr/>	<hr/>
Total Net Assets	\$780,942	\$851,624	\$1,461,828
Total Liability and Net Assets	<hr/> <u>\$2,479,953</u> <hr/>	<hr/> <u>\$2,372,075</u> <hr/>	<hr/> <u>\$2,993,765</u> <hr/>

Visiting Nurses Association
Month Ended: August 31, 2013
Income Statement

	August Actual		August Budget		August 2012
Unrestricted revenues, gain and other support:					
Net Patient Revenue	\$713,523	(5.38)%	\$856,435	13.57 %	\$754,087
Other Revenue	2,774	(42.71)	3,774	(22.05)	4,842
Total unrestricted revenues gains and other support	<u>\$716,297</u>	<u>(5.62)%</u>	<u>\$860,209</u>	<u>13.35 %</u>	<u>\$758,929</u>
Expenses:					
Salaries and Wages	\$523,843		\$587,313		\$529,919
Physicians Salaries	0		0		0
Purchase Service Employees	3,245		0		0
Employee Benefits	126,518		140,332		128,199
Medical Supplies	11,460		13,908		11,064
Non-Medical Supplies	1,804		4,848		1,268
Purchased Services	29,032		49,156		62,145
Utilities	279		0		1,916
Drugs	0		100		1,133
Other Expenses	62,623		77,119		65,170
Depreciation/Amortization	23,179		20,902		26,134
Taxes	3,160		3,334		3,334
Interest Expense	0		0		0
Bad Debt Expense	1,299		1,299		0
Total Expenses	<u>\$786,442</u>		<u>\$898,311</u>		<u>\$830,282</u>
Income from Operations	<u>\$ (70,145)</u>		<u>\$ (38,102)</u>		<u>\$ (71,353)</u>
Non-Operating Revenue	\$0		\$0		\$63,390
Income (Loss) from Foundati	0		0		0
Investment Income	0		0		0
Gain/Loss on Sale/Disposal	(539)		0		0
Increase in Unrestricted Net Assets	<u>\$ (70,684)</u> =====		<u>\$ (38,102)</u> =====		<u>\$ (7,963)</u> =====

Visiting Nurses Association
 Period Ended August 31, 2013
 Income Statement

	August Actual		August Budget		August 2012
Unrestricted revenues, gain and other support:					
Net Patient Revenue	\$5,647,472	(8.39)%	\$6,470,303	4.96 %	\$6,164,517
Other Revenue	28,760	(62.48)	30,195	(60.61)	76,653
Total unrestricted revenues gains and other support	<u>\$5,676,232</u>	<u>(9.05)%</u>	<u>\$6,500,498</u>	<u>4.16 %</u>	<u>\$6,241,170</u>
Expenses:					
Salaries and Wages	\$4,145,480		\$4,682,088		\$4,337,838
Physicians Salaries	0		0		0
Purchase Service Employees	26,953		0		6,255
Employee Benefits	1,032,868		1,098,741		1,020,256
Medical Supplies	88,387		109,023		110,007
Non-Medical Supplies	26,378		37,771		34,853
Purchased Services	325,982		385,317		474,004
Utilities	14,335		4,000		20,381
Drugs	0		800		1,133
Other Expenses	542,164		607,661		515,851
Depreciation/Amortization	188,684		166,156		208,987
Taxes	24,754		29,348		29,348
Interest Expense	718		0		0
Bad Debt Expense	10,391		10,392		10,391
Total Expenses	<u>\$6,427,094</u>		<u>\$7,131,297</u>		<u>\$6,769,304</u>
Income from Operations	<u>\$ (750,862)</u>		<u>\$ (630,799)</u>		<u>\$ (528,134)</u>
Non-Operating Revenue	\$70,516		\$0		\$63,642
Income (Loss) from Foundati	0		0		0
Investment Income	0		0		0
Gain/Loss on Sale/Disposal	(539)		0		0
Increase in Unrestricted Net Assets	<u>\$ (680,885)</u> =====		<u>\$ (630,799)</u> =====		<u>\$ (464,492)</u> =====

Visiting Nurses Association
STATEMENT OF CASH FLOW
AS OF August 31, 2013

	MONTH	YTD
Operating Income	\$ (70,682)	\$ (680,885)
Depreciation and Amortization	23,179	188,684
Bad Debt	1,299	6,662
	<hr/>	<hr/>
Cash Provided by Operations	\$ (46,204)	\$ (485,539)
	<hr/>	<hr/>
CHANGES IN OPERATING ASSETS AND LIABILITIES		
Patient Account Receivable	\$ (96,421)	\$67,156
Other Accounts Receivable	0	9,483
Inventories and Prepaids	13,996	36,979
Other Current Assets	0	0
Trade Payables	(37,304)	(54,434)
Third Party Pay/(Rec) Net	(12,689)	1,065
Payroll Liabilities	51,955	35,654
Other Liabilities	13,908	35,853
	<hr/>	<hr/>
Net Cash Flows from Operations	\$ (66,555)	\$131,756
	<hr/>	<hr/>
CASH USED IN INVESTING ACTIVITIES		
Purchase of PPE	\$ (1,772)	\$ (44,882)
Changes in Investments	0	102,028
Changes in Limited Use Asset	0	0
Earnings of Subsidiaries	0	0
Due from Affiliates	44,096	76,735
	<hr/>	<hr/>
Net Cash Used in Investing	\$ (42,324)	\$ (133,881)
CASH USED IN FINANCING Proceeds/Payments LOC	\$150,000	\$150,000
Repayment of Debt	0	0
Changes in Net Assets	0	0
	<hr/>	<hr/>
Net cash used in Financing	\$ (150,000)	\$ (150,000)
Increase/Decrease Cash	\$79,565	\$ (69,902)
	<hr/> <hr/>	<hr/> <hr/>