

**DIVISION OF HEALTH PLANNING
AND RESOURCE DEVELOPMENT
AUGUST 2004**

CON REVIEW NH-A-0604-026

**ATTALA CARE CENTER, LLC DBA ATTALA CARE CENTER
AMENDMENT OF CON #R-0558 (CONSTRUCTION OF A 60-BED NURSING
FACILITY) TRANSFER OF CERTIFICATE OF NEED AND SITE CHANGE
(GARRY V. HUGHES DBA THE KENNINGTON)**

ORIGINAL CAPITAL EXPENDITURE: \$968,424

PROPOSED ADDITIONAL CAPITAL EXPENDITURE: \$-0-

REVISED CAPITAL EXPENDITURE: NA

LOCATION: KOSCIUSKO, MISSISSIPPI

COUNTY: ATTALA

DISTRICT: LONG TERM CARE PLANNING DISTRICT I (LTCPD)

STAFF ANALYSIS

I. PROJECT SUMMARY

A. Applicant Information

Garry V. Hughes dba The Kennington, Kosciusko (**current owner of CON #R-0558**) is a Mississippi for-profit corporation. Garry V. Hughes currently owns **Certificate of Need #R-0558** (construction of a 60-bed nursing facility).

Attala Care Center, LLC dba Attala Care Center, Kosciusko (**proposed new owner of CON #R-0558**) is a Mississippi Limited Liability Company formed on May 14, 2004. The registered office of said limited liability company is located at:

645 Lakeland East Drive, Suite 101
Flowood, Mississippi 39232

The registered agent at the referenced address is CT Corporation System. The sole member of Attala Care Center, LLC is The Elton G. Beebe, Sr. Irrevocable Family Mortgage Trust.

B. Project Background (CON #R-0558)

Garry V. Hughes dba The Kennington was granted Certificate of Need CON #R-0558 on June 27, 2002, for construction of a 60-bed facility in Attala County, Kosciusko, Mississippi. The capital expenditure authorized by CON #R-0558 was \$968,424.

The 60-bed nursing facility will contain 15,919 square feet of space and will require 77.0 full-time equivalent personnel at an estimated annual cost of \$666,069 the first year. Garry V. Hughes dba The Kennington plans to finance the proposed project with a loan from Bank Plus of Jackson in the amount of \$968,424 for 30 years.

The following gives a chronology of events regarding CON #R-0558 (construction of a 60-bed nursing facility):

- June 1, 2002** - The applicant's (Garry V. Hughes dba The Kennington) Certificate of Need application #NH-CB-0601-028 (construction of a 60-bed nursing facility) was received by the Department.
- June 27, 2002** - CON #R-0558 was issued with an effective date of June 27, 2002, and an expiration date of June 27, 2003.
- July 16, 2002** - Attala County Board of Supervisors dba Attala Care Center filed a notice of appeal with the Attala Chancery Court concerning the final order of the Mississippi State Department of Health in granting a Certificate of Need to Gary V. Hughes dba The Kennington for construction of a 60-bed nursing facility in Attala County.
- October 21, 2002** - The Chancery Court of Attala County, Mississippi, issued a memorandum opinion and judgement which ordered that the action of the State Health Department in awarding the Certificate of Need (CON #R-0558 for construction of a 60-bed nursing facility) to Gary Hughes dba The Kennington be affirmed.
- November 22, 2002** - The Chancery Court of Attala County, Mississippi, issued an opinion on motion for reconsideration on which the Court concluded that an appellate court will have to override the method and procedure used by the Department if the referenced project is to be remanded.
- November 27, 2002** - Attala County Board of Supervisors dba Attala Care Center filed a notice of appeal with the Supreme Court of Mississippi/Court of Appeals of the State of Mississippi regarding CON #R-0558 (construction of a 60-bed nursing facility).
- February 26, 2004** - The Supreme Court affirmed the judgement of the Chancery Court.

C. Project Description

The applicant is requesting approval of an amendment/transfer of Certificate of Need (CON #R-0558) and site change for the project. The scope of the original project has not changed due to the proposed amendment. The applicant asserts that the proposed amendment involves only the following two changes to the approved Certificate of Need (**not a part of the original project**):

1. The ownership of CON #R-0558 would be transferred from Garry V. Hughes dba the Kennington (**current owner**) to Attala Care Center, LLC (**proposed owner**). The nursing home would be constructed by Attala Care Center, LLC, or its affiliate, which intends to lease the facility to Attala County, Mississippi, acting by and through its Board of Supervisors. The proposed amendment contains a copy of the transfer agreement between Attala Care Center, LLC and Garry V. Hughes dba regarding CON #R-0558.
2. The amendment proposes a site change for the location of the nursing home facility. The new site is located 3/10's of a mile from the currently approved site.

The application contains a letter from the Division of Health Facilities Licensure and Certification which approves the proposed new site for the project. This site was approved at the time the original **CON #R-0558** application was submitted to the Department for the construction of a 60-bed nursing facility at the site. The applicant asserts that a legal description of the site is on file in the office of the Division of Health Facilities Licensure and Certification.

According to the applicant, this amendment will not require a change in the project's original staffing.

The applicant indicates that the proposed project will be completed within 8-9 months following commencement of construction.

II. TYPE OF REVIEW REQUIRED

The State Health Officer reviews all projects for amendment, site change, and transfer of ownership in accordance with duly adopted procedures and standards of the Mississippi State Department of Health.

In accordance with Section 41-7-197 (2) of the Mississippi Code of 1972 Annotated, as amended, any affected person may request a public hearing on this project within 20 days of publication of the staff analysis. The opportunity to request a hearing expires on September 7, 2004.

III. CONFORMANCE WITH THE STATE HEALTH PLAN AND OTHER ADOPTED CRITERIA AND STANDARDS

A. State Health Plan

The original application was found to be in substantial compliance with the **Plan** in effect at the time the application was reviewed. This amendment continues to be in substantial compliance with the **Plan**. However, as previously mentioned, this amendment does not change the scope and overall objectives of the original project.

B. General Review Criteria

The original application was found to be in substantial compliance with the general review criteria contained in Chapter 8 of the **Mississippi Certificate of Need Review Manual**, 2000 revisions.

This amendment continues to be in substantial compliance with Chapter 8 of the **Mississippi Certificate of Need Review Manual**, Revised May 13, 2000.

The project involves a site change approximately 3/10's of a mile away from the originally proposed project's site, and transfer of CON #R-0558. As previously stated, the amendment does not change the overall objectives of the original project.

IV. FINANCIAL ANALYSIS

A. Capital Expenditure Summary

According to the applicant, there will be no change in the original capital expenditure of \$968,424 as a result of this amendment. Accordingly, the capital expenditure summary, as set forth in the original application, remains the same.

The applicant submits that \$5,000 has been expended to date. This expenditure consists primarily of development costs for the project.

B. Method of Financing

The proposed amendment does not require any additional capital expenditure.

The proposed amendment, which includes the original capital expenditure of \$968,424, will be financed with a commercial bank loan.

The application contains a letter from Trustmark National Bank, Jackson, stating its commitment to finance the amended project.

The original application indicated that the project would be financed with a loan from Bank Plus of Jackson in the amount of \$968,424 for a period of 30 years.

C. Effect on Operating Cost

According to the applicant, the proposed amendment does not alter the original application's three-year projected operating statement, occupancy rate, patient days, cost per patient day or charge per patient day. The applicant asserts that the information, as contained in the original application, remains unchanged.

The original application projects net revenue of \$1,121,295 the first year of operation and expenses of \$1,045,398.03, for net income of \$68,792.

D. Cost to Medicaid/Medicare

There will be no change in the percentage of the specified groups (**proposed in the original, CON #R-0558**), which are expected to utilize this service as a result of this project.

V. RECOMMENDATIONS OF OTHER AFFECTED AGENCIES

The Division of Medicaid was provided a copy of this application for review. According to the Division of Medicaid, the proposed project's changes are not expected to increase Medicaid expenditures above the projection for the original CON proposal for Attala Care Center.

VI. CONCLUSION AND RECOMMENDATION

The original application was found to be in substantial compliance with the criteria and standards for the establishment of a 60-bed nursing facility contained in the **Mississippi State Health Plan, Mississippi Certificate of Need Review Manual**, and all adopted rules, procedures, and plans of the Mississippi State Department of Health in effect at the time of the approval. This request for an amendment, site change, and transfer of ownership of CON #R-0558 continues to be in substantial compliance with applicable criteria and standards and adopted rules, procedures, and plans of the Department.

The project also continues to comply with Senate Bill 2679 of the 1999 Legislative Session, which authorized the Department of Health to issue a CON for the construction or expansion of nursing facility beds or the conversion of other beds to nursing facility beds in each county in the state having a need for 50 beds or more additional nursing facility beds, as shown in the **Fiscal Year 1999 State Health Plan**.

Therefore, the Division of Health Planning and Resource Development recommends approval of this amended application submitted by Garry V. Hughes, dba The Kennington for an amendment, site change and transfer of CON #R-0558.