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Lt. Governor

December 23, 2014

MARY E. O'DOWD, M.P.H.
Commissioner

VIA UNITED PARCEL SERVICE

Richard P. Miller
Chief Executive Officer
Virtua – West Jersey Hospital Berlin
Whitehorse Pike and Townsend Avenue
Berlin, New Jersey 08103

Re: Virtua – West Jersey Hospital Berlin
CN# FR 140501-04-01
Project Cost: 0
Expiration Date: December 23, 2019

Dear Mr. Miller:

Pursuant to N.J.A.C. 8:3.2, I am approving your certificate of need (CN) application as submitted by Virtua West Jersey Health System (Virtua Health System) on May 1, 2014, for the closure of Virtua – West Jersey Hospital Berlin (Virtua-Berlin) as a 95-bed general acute care hospital. There are no project costs associated with this project.

Virtua-Berlin consists of 89 medical/surgical beds and six ICU/CCU beds. The hospital's licensed service complement also includes one Computerized Tomography (CT)-Fixed, three Inpatient Operating Rooms, and one MRI-fixed. As set forth in the CN application, after the closure of Virtua-Berlin, the applicant plans to repurpose the Berlin campus into an outpatient and emergency service facility, which would include a Satellite Emergency Department (SED) with a point of care laboratory, diagnostic x-ray, and CT services. The proposed imaging services will consist of 24/7 diagnostic imaging (e.g., full-service CT scan and diagnostic X-Ray) to support and meet the needs of all SED patients, and outpatient radiology services will consist of walk-in non-contrast enhanced diagnostic X-Ray and scheduled non-contrast enhanced CT studies to support and meet the needs of the community. In addition, the applicant plans to retain its 128-bed Long Term Care and Sub-Acute Rehab services located at the site.

The standards that I am compelled to use in evaluating this application are set forth in statute (N.J.S.A. 26:2H-1 et seq.) and by administrative rule (N.J.A.C. 8:33). I must be satisfied that the project submitted by Virtua-Berlin is consistent with those

requirements. Therefore, for the reasons that follow, I am approving, with conditions, the application submitted for the closure of Virtua-Berlin as a 95-bed general acute care hospital. I note for the record that my decision to approve this application is consistent with the recommendation of the State Health Planning Board (SHPB), which recommended approval of this application with conditions, at its November 13, 2014 meeting. In issuing this decision, I reviewed the CN application for the closure of Virtua-Berlin, completeness questions and responses, meeting materials including correspondences from interested parties in the community, the transcript of the public hearing, the Department of Health (Department) staff analysis and recommendations, and the SHPB's recommendations. These referenced materials are incorporated and made a part of this decision.

N.J.S.A. 26:2H-8, as well as N.J.A.C. 8:33-4.9(a), provide for the issuance of a CN only where the action proposed in the application for such certificate is necessary to provide required health care in the area to be served, can be economically accomplished and maintained, will not have an adverse economic or financial impact on the delivery of health services in the region or statewide, and will contribute to the orderly development of adequate and effective health care services. In making such determinations, I must take into consideration: (a) the availability of facilities or services which may serve as alternatives or substitutes, (b) the need for special equipment and services in the area, (c) the possible economies and improvement in services to be anticipated from the operation of joint central services, (d) the adequacy of financial resources and sources of present and future revenues, (e) the availability of sufficient manpower in the several professional disciplines, and (f) such other factors as may be established by regulation.

I am also mindful that in 1992, the Legislature enacted P.L. 1992, c. 160, the "Health Care Reform Act" (HCRA) to "move in the direction of a deregulated hospital reimbursement system" and promote a "truly competitive market environment." Indeed, in the years since the HCRA became law, the health care environment has changed dramatically: among other things, it has become increasingly competitive and in many ways more financially challenging for hospitals. For example, managed care penetration has grown significantly during this period, and partly as a result of this, unnecessary hospital utilization has decreased substantially. The HCRA also eliminated authority for hospital rate-setting, which in the past may have shielded hospitals from the financial consequences of their actions or inactions. Additionally, many services and procedures that were performed on an inpatient basis in the past may now be safely performed on an outpatient basis. This further decreases the need for inpatient services and lowers utilization. These changes in the dynamics of inpatient hospital care are reflected in Virtua-Berlin's low utilization. Both the occupancy rate and average daily census (ADC) have been steadily declining in both its medical/surgical and ICU/CCU beds since 2009, with an ADC of less than 41 combined patients for the annualized 2014 data.

As part of the review process, the SHPB is also required to hold at least one public hearing in the service area of the health care facility within 30 days of the application being declared complete by the Department. A public hearing was held at the Berlin Township Municipal Building in West Berlin on October 22, 2014. Approximately 44 people attended this hearing. Five attendees spoke at the meeting, including two Virtua-Berlin representatives and three members of the public. Of the five people who presented testimony during the hearing, four were in support and one member of the community was opposed to the closure of Virtua-Berlin. The two Virtua representatives noted Virtua's efforts in opening additional outpatient community settings, as part of its emphasis on prevention and wellness. These speakers noted such alternatives to inpatient care are necessary because fewer people now require hospitalization. One member of the community expressed support of the application and Virtua's efforts to focus on expanding alternatives to inpatient services. This speaker also expressed appreciation of Virtua's commitment to maintain the Virtua-Berlin site with health care services. The Captain of Berlin Emergency Medical Services (EMS) also spoke in support of the application and stated that he did not feel that the closure of inpatient services would have a negative impact on the provision of EMS services or patients. The person speaking in opposition felt that the lifting of the sewer moratorium in a nearby town might lead to population increases and, thus, Virtua should consider expanding Virtua-Berlin rather than closing it. The Department and the SHPB reviewed these concerns and, I believe, adequately addressed the issues in the staff analysis and recommendations approved by the SHPB.

As to the specifics of this application, N.J.S.A. 26:2H-8(a) requires that I consider the availability of facilities or services which may serve as alternatives or substitutes. In the transformation of Virtua-Berlin, only inpatient services will be discontinued, whereas emergency and outpatient services will remain in operation. There are six acute care hospitals that have comparable or expanded capabilities within the region that may serve as possible alternatives, all of which are within a 5- to 17-mile radius from the Virtua-Berlin campus. Virtua – West Jersey Hospital Voorhees (Virtua-Voorhees), with 222 licensed medical/surgical and 24 ICU/CCU beds, is the closest hospital to Virtua-Berlin, only 5.1 miles away or 10 minutes. Kennedy Memorial Hospital – Stratford Division and Virtua-West Jersey Hospital Marlton (Virtua-Marlton) are within a 7-mile radius, and there are 302 maintained medical/surgical and 37 ICU/CCU beds between these two hospitals. Kennedy Memorial Hospital – Washington Township, Kennedy Memorial Hospital – Cherry Hill Division and Our Lady of Lourdes Medical Center are located within an 11- to 17-mile radius of Virtua-Berlin. These three hospitals all operate the same licensed bed services that are offered at Virtua-Berlin; each has more than an ample supply of beds to accommodate the patients from Virtua-Berlin (e.g., a total of 485 maintained medical/surgical and 107 ICU/CCU beds). The aforementioned hospitals operate with an average occupancy rate ranging from 46.80% to 78.78% of maintained beds, indicating that there is sufficient number of unused beds available

throughout the region to easily absorb the relatively small annualized 2014 inpatient census of 41 at Virtua-Berlin. I am confident that the proposed closure will not have any significant adverse effect on accessing health care services for the community, including for the medically indigent and medically underserved population. I also note that the Board of Trustees of Virtua-Berlin exercised its fiduciary duty in researching, reviewing and discussing proposals to address the closure of Virtua-Berlin. Department Staff note the recommendation of the Board is that the proposed closure best meets the needs of the community.

Furthermore, ample public transportation services will continue to be available via NJ Transit bus services as well as a variety of taxi services. SED patients requiring hospital admissions will be transported to other area hospitals as patient needs and care require. Twenty-four hour Basic Life Support (BLS) service will also continue to be available to the Virtua-Berlin site and surrounding communities. Additionally, Virtua Health System is licensed to provide Advanced Life Support (ALS) services via the Mobile Intensive Care Unit (MICU) located at twelve sites in both Burlington and Camden Counties; therefore, such a patient who presents to the SED is determined in need of ALS, the patient will be transported via MICU to the nearest hospital with a full Emergency Department.

I also find that the requirement at N.J.S.A. 26:2H-8(b) to consider the need for special equipment and services in the area would be met in this case, since the hospital does not currently provide specialized services or equipment. I note that the existing level of specialized services within the region will continue at their same operating levels to satisfy the demand from the former patients of Virtua-Berlin without any disruption in their care.

With respect to N.J.S.A. 26:2H-8(c) regarding the possible economies and improvement in services to be anticipated from the operation of joint central services, although the proposal is to discontinue inpatient services, the planned hospital-based offsite ambulatory care facility transforming the Berlin campus from an inpatient hospital to a SED and outpatient setting under the license of Virtua – West Jersey Hospital Voorhees could provide benefits to Virtua Health System through the operation of joint central services.

N.J.S.A. 26:2H-8(d) requires me to examine the adequacy of financial resources and sources of present and future revenues. I am convinced that in view of the continuous trend of declining admissions at Virtua-Berlin, the closure would result in operational efficiencies and improved resource utilization to Virtua Health System. Virtua's rationale to discontinue inpatient services at the Berlin site is a realistic assessment of the healthcare environment in the region. I believe that continued duplication of inpatient services, which compete in the same market share of the

population, would be counterproductive, and any further investment in the facility's inpatient component would not be cost effective.

With respect to N.J.S.A. 26:2H-8(e) regarding the availability of sufficient manpower in the several professional disciplines, I am satisfied that there will be sufficient qualified personnel in this regard, since the application proposes closure of the site as an inpatient facility making adequate staffing not an issue. However, I note that the application indicates efforts by Virtua Health System to offer and hire displaced employees at Virtua-Berlin within its own system without loss of seniority or benefits. For those employees that may not be successful at securing a position prior to closure, employee counseling will be offered in resume writing, interviewing skills and networking. Individual counseling will be made available as needed and impacted employees shall also be able to access an employee assistance program as needed during the transition period.

N.J.S.A. 26:2H-8(f) requires consideration of such other factors as may be established by regulation; therefore, I have taken into consideration the applicable administrative rules governing the services subject to full review (i.e., N.J.A.C. 8:33-1.1 et seq.). Virtua Health System is in compliance with the access requirements set forth in N.J.A.C. 8:33-1.1 et seq., N.J.A.C. 8:33-4.9(a) and N.J.A.C. 8:33-4.10(a). Specifically, Virtua Health System states that it will not make any changes to the care or services currently provided at its remaining hospitals and that outreach efforts will continue to low income, racial and ethnic minorities, women, disabled, elderly and all other patients in need of prevention, diagnostic and treatment services. The applicant states that there will be no change in its policies regarding the provision of indigent care, and it will continue to accept all patients regardless of their ability to pay. Virtua Health System notes that it will maintain a commitment to the community to continue providing medical care and treatment for medically underserved populations. Virtua Health System's commitment to retain its 128-bed Long Term Care and Sub-Acute Rehab Services, and repurpose the Berlin campus into an outpatient and emergency service facility, which would include a satellite emergency department with a point of care laboratory, diagnostic x-ray, and CT services, demonstrates its long-range commitment to the community. These outpatient services in conjunction with the remaining inpatient services provided at the remaining regional hospitals would maintain a comparable level of access to health care services for the entire Virtua-Berlin community.

Moreover, I find that Virtua Health System has provided an appropriate project description, which includes information as to the financial impact, services affected, equipment involved, source of funds, utilization statistics, and justification for the proposed project (N.J.A.C. 8:33-4.10(b)).

In accordance with factors set forth at N.J.A.C. 8:33-4.10(d), the Department reviewed Virtua Health System's track record and has not identified any track record violations to warrant denial of this application.

I have also taken into consideration the statutory requirement to determine whether the action proposed will have an adverse economic or financial impact on the delivery of health care services in the region or statewide and will contribute to the orderly development of adequate and effective health care services. I note that the project will result in the closure of a 95-bed acute-care facility, which is currently being underutilized. I conclude that the applicant's decision to close Virtua-Berlin appears sound and in the best interest of the region's health care delivery system. With a declining patient population at Virtua-Berlin since 2009, clinical skills would become underutilized over time potentially weakening the quality of patient care. It is doubtful that Virtua-Berlin would be able to recapture the lost market share and rebuild their service levels. The objectives of this closure would be accomplished in that current levels of accessibility and availability will remain relatively undisturbed in the affected areas, strengthen the remaining program and services offered at the other Virtua hospital locations, and eliminate the needless duplication of services.

Additionally, as previously noted, there will be sufficient regional capacity to meet the need for inpatient acute care services, even after closure of the Virtua-Berlin. As to whether the discontinuance of acute inpatient services at Virtua-Berlin would contribute to the orderly development of adequate and effective health care services, I find that the established regional health care network would serve as the foundation for an orderly transition for Virtua-Berlin from providing inpatient care to providing emergency and outpatient services, as well as becoming the anchor for continuing to provide effective diagnostic and outpatient health care services for all patients throughout the region. I also conclude that this hospital closure would be accomplished without any disruption in the scope or level of services being eliminated at Virtua-Berlin since there are a sufficient number of hospitals in the region offering the same or similar services for private pay, insured and uninsured populations. Continuity and access for the population historically served by Virtua-Berlin should remain relatively unimpaired given the ample number of available medical/surgical and ICU/CCU beds in both the county and region. No data exists to suggest that the closure of Virtua-Berlin would either compromise or adversely impact the health status of the hospital's primary service area, county or region.

Based on the foregoing, I am approving the application for the closure of Virtua-Berlin. My decision to allow this closure is based on the fact that the application meets statutory (N.J.S.A. 26:2H-1 et seq.) and regulatory (N.J.A.C. 8:33-3.2) criteria requirements for termination/discontinuance of a CN regulated service. I also acknowledge that the level of access for the population historically served by Virtua-Berlin will remain comparable, including for the medically indigent and medically

underserved population, and this closure will also alleviate the continued downward patient volume trend and duplication of inpatient services, which compete for the same market share. I am confident the remaining regional health care network will have an ample supply of inpatient and outpatient providers to adequately bridge any health care service gaps that may arise. I believe the existing data clearly shows that the existing hospitals within the region would not be adversely impacted and may even benefit with slight increases in patient volume.

Finally, I acknowledge that Virtua Health System will continue its long standing commitment to the residents in Camden County through the provision of outpatient and emergency services into the foreseeable future. I also note that the components of the remaining health care landscape are more than sufficient to provide both inpatient and outpatient services to treat the former patients of Virtua-Berlin and maintain a comparable level of continuity and quality of care. For the reasons set forth in this letter, and noting the approval of the SHPB, I am approving Virtua Health System's application for the closure of Virtua-Berlin subject to the following conditions, which I note were accepted by a representative of the applicant while addressing the SHPB:

1. The applicant shall submit a detailed communication plan to the Department for review and approval within 30 days of CN approval and prior to the closure of any services at Virtua-Berlin. The purpose of the communication plan is to indicate how Virtua would inform all residents in Virtua-Berlin's primary service area and surrounding communities, as well as local governments, emergency service providers and alternative area service providers regarding the approval of this closure and the availability of the SED and outpatient health services as of the closure date of Virtua-Berlin. The plan shall include a mechanism for responding to questions from the public regarding implementation of the closure and transportation/access concerns. Written communication shall be developed and published in at least two newspapers of general circulation in Virtua-Berlin's service area. The applicant shall not cease services at Virtua-Berlin until 30 days after the publication of the notices of closure in at least the two noted newspapers.
2. An outreach effort shall be placed into effect to ensure that all residents of the former hospital's primary service area, especially the medically indigent, have access to the available services in the area. A self-evaluation of this effort shall be conducted on a yearly basis for five years after certificate of need approval to measure its effectiveness and submitted to the Department annually on the anniversary of the certificate of need approval for review and comment.
3. Virtua Health System shall establish and maintain a SED at the former Virtua-Berlin site.

- a. The SED shall be operated and licensed in accordance with the Department's regulations for such services at N.J.A.C. 8:43G-36.
 - b. The SED shall remain in operation for a minimum of three years, and Virtua-Berlin must provide 120-days' notice and receive written approval from the Department prior to ceasing or reducing services or hours of operation.
4. Virtua Health System shall periodically reassess its bed inventory by category to ensure that an adequate number of beds for each category would be available. In the first year after approval, this reassessment shall be done on a quarterly basis and the results reported to the Department within ten business days of completion. This report shall include admissions, patient days, and percent of occupancy, ADC and average length of stay. In the second year after approval, this reassessment shall be completed on a biannual basis and the results reported to the Department within ten business days of completion. If any reassessment indicates the need for additional beds, Virtua Health System shall file the appropriate application for either its Voorhees and/or Marlton hospitals to increase beds.
 5. The applicant shall notify the Department's Certificate of Need and Healthcare Facility Licensure (CNHFL) Program in writing, specifying who is responsible for the safekeeping and accessibility of all Virtua-Berlin's patients' medical records (both active and stored) in accordance with N.J.S.A. 8:26-8.5 et seq. and N.J.A.C. 8:43G-15.1.
 6. In accordance with N.J.S.A. 26:2H-18.64 and N.J.A.C. 8:43G-5.2(c), Virtua Health System shall not only comply with federal EMTALA requirements, but also provide care for all patients who present themselves at any Virtua Health System hospitals or hospital based off-site ambulatory care facilities without regard to their ability to pay or payment source.
 7. All reports required in these conditions shall be reported annually and/or as required by a specific condition to the Department's CNHFL Program.
 8. The applicant shall report to the Department's CNHFL Program concerning the status of all of the conditions referenced within the time frames noted in the conditions.

Failure to satisfy the aforementioned conditions of approval may result in sanctions, including license suspension, monetary penalties and other sanctions in accordance with N.J.S.A. 26:2H-1 et seq. and all other applicable requirements. Acceptance of these conditions will be presumed unless written objections are

Virtua – West Jersey Hospital Berlin
CN# FR 140501-04-01
Page 9

submitted to the Department within 30 days of receipt of this letter. Upon receipt of such objections, this approval will be deemed suspended, and the project shall be reexamined in light of the objections.

We look forward to working with you and helping you to provide a high quality of care to the patients of Virtua Health System. If you have any questions concerning this CN, please do not hesitate to contact John Calabria, CNHFL Director, at (609) 292-8773.

Sincerely,



Mary E. O'Dowd, M.P.H.
Commissioner

c: John A. Calabria