



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

December 17, 2014

Daniel Merriman, Compliance Analyst
Life Care Services, LLC
Capital Square
400 Locust Street, #820
Des Moines, Iowa 50309

RE: DOR #15-04

Dear Mr. Merriman:

Certificate of Need Program staff has been notified that the December 12, 2014, letter sent to you incorrectly identifies the certificate holder and licensee for the nursing home. This letter corrects that error and supersedes the December 12, 2014, letter.

The Department of Health (department) has completed the review of your request under Washington Administrative Code (WAC) 246-310-050 for exemption regarding the addition of skilled nursing beds to an existing Type A continuing care retirement community (CCRC). Below is the information considered and the facts relied upon by the Certificate of Need Program in reaching its conclusion regarding your project.

INFORMATION CONSIDERED

- Exemption request and supporting information received from LCS-Westminster Partnership III, LLP on July 24, 2014
- Supplemental information received from LCS-Westminster Partnership III, LLP on September 11, 2014, and October 7, 2014
- Supplemental information received from Jonathan Bashford, attorney with Lane Powell law firm on December 1, 2014
- Certificate of Need Program staff notes from telephone conversations or meetings conducted on April 28, 2014, May 1, 2014, May 7, 2014, and November 6, 2014.
- Revised Code of Washington (RCW) 70.38
- Washington Administrative Code (WAC) 246-310
- Portions of the 1987 State Health Plan as it relates to Type A CCRCs
- Certificate of Need historical files

FACTS CONSIDERED

- LCS-Westminster Partnership III, LLP is the licensee of Timber Ridge at Talus, an existing Type A CCRC located at 100 Timber Ridge Way Northwest in Issaquah, within King County.
- Timber Ridge at Talus, and the associated nursing home, Briarwood at Timber Ridge, were both established under the approval of Certificates of Need #1312 and #1312A issued on July 7, 2005, and September 20, 2006, respectively.¹
- As of July 24, 2014, Timber Ridge at Talus is operating 184 independent living units and 36 skilled nursing beds.
- Your letter requests an exemption from review to add 9 nursing home beds to Briarwood at Timber Ridge. The 9 nursing home beds would be built out in ‘phase II’ of the project, which also includes the addition of 145 independent living units and the establishment of 26 assisted living units.
- At completion of phase II, Timber Ridge at Talus would be operating 329 independent living units, 26 assisted living units, and a 45-bed nursing home.

CONCLUSION

Revised Code of Washington (RCW) 70.38.111(5)(a) and (b) provide guidance related to bed additions at a Type A CCRC. It states:

- “(a) *The department shall not require a certificate of need for the construction, development, or other establishment of a nursing home, or the addition of beds to an existing nursing home, that is owned and operated by a continuing care retirement community that*
- (i) Offers services only to contractual members;*
 - (ii) Provides its members a contractually guaranteed range of services from independent living through skilled nursing, including some assistance with daily living activities;*
 - (iii) Contractually assumes responsibility for the cost of services exceeding the member's financial responsibility under the contract, so that no third party, with the exception of insurance purchased by the retirement community or its members, but including the Medicaid program, is liable for costs of care even if the member depletes his or her personal resources;*
 - (iv) Has offered continuing care contracts and operated a nursing home continuously since January 1, 1988, or has obtained a certificate of need to establish a nursing home;*

¹ CN #1312A was issued to correct a typographical error on CN #1312.

- (v) *Maintains a binding agreement with the state assuring that financial liability for services to members, including nursing home services, will not fall upon the state;*
 - (vi) *Does not operate, and has not undertaken a project that would result in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and*
 - (vii) *Has obtained a professional review of pricing and long-term solvency within the prior five years which was fully disclosed to members.*
- (b) *A continuing care retirement community shall not be exempt under this subsection from obtaining a certificate of need unless:*
- (i) *It has submitted an application for exemption at least thirty days prior to commencing construction of, is submitting an application for the licensure of, or is commencing operation of a nursing home, whichever comes first; and*
 - (ii) *The application documents to the department that the continuing care retirement community qualifies for exemption.”*

LCS-Westminster Partnership III, LLP provided documentation to demonstrate that the project meets the exemption requirements under RCW 70.38.111(5) for the addition of nursing home beds at Briarwood at Timber Ridge. Since this conclusion relies on a draft document provided in the supplemental information, the exemption approval includes two conditions.

Conditions of Exemption Approval

- 1) LCS-Westminster Partnership III, LLP must provide a copy of the final Assisted Living Residency Agreement for review and approval. The final agreement must be consistent with the draft agreement relied on for this exemption approval.
- 2) LCS-Westminster Partnership III, LLP agrees it will not modify any member resident contract that would result in the continuing care retirement community accepting non-contractual members into any of the independent, assisting, or skill nursing units.

Please notify the Department of Health within 20 days of the date of this letter whether you accept the above conditions for your project. If you reject any of the above conditions, your application will be denied. The department will send you a letter denying your application and provide you information about your appeal rights.

Daniel Merriman, Compliance Analyst
Life Care Services, LLC
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Send your written response to the Certificate of Need Program, at one of the following addresses.

Mailing Address:

Department of Health
Certificate of Need Program
Mail Stop 47852
Olympia, WA 98504-7852

Physical Address:

Department of Health
Certificate of Need Program
111 Israel Road SE
Tumwater, WA 98501

Please call me at (360) 236-2957 if you have any questions regarding this determination.

Sincerely,

A handwritten signature in blue ink that reads "Karen Nidermayer". The signature is fluid and cursive, with the first name "Karen" being larger and more prominent than the last name "Nidermayer".

Karen Nidermayer, Analyst
Certificate of Need Program
Community Health Services

cc: Department of Health, Construction Review Services #60371522
Jonathan Bashford, Attorney