



Rhode Island Department of Health

Decision with Conditions

Applications of

HERITAGE HILLS OPERATOR LLC D/B/A HERITAGE HILLS REHABILITATION AND HEALTHCARE CENTER NAME(S) OF PARENT ENTITY(IES): QUINTO NEXGEN LLC (“QUINTO”) (78.6%), SKILLED VENTURE LLC (1.4%) AND UKR NEXGEN LLC (“UKR”) (20%); QUINTO TO BE OWNED BY TRYKO NEXGEN HOLDINGS LLC (“TRYKO”) (72.26%) AND RSBRMK HOLDINGS LLC (“RSBRMK”) (27.74%); UKR TO BE OWNED BY UAK 2020 IRREVOCABLE TRUST (99.999%) AND URI KAHANOW (.001%); TRYKO TO BE OWNED BY YR NEXGEN TRUST (50.002%), SK NEXGEN TRUST (24.999%) AND YK NEXGEN TRUST (24.999%); RSBRMK TO BE OWNED BY NFR 2020 IRREVOCABLE TRUST (99.999%) AND FRAIDE ROKEACH (.001%) FOR A CHANGE IN EFFECTIVE CONTROL OF HERITAGE HILLS NURSING & REHABILITATION CENTER (LTC00778), LOCATED AT 80 DOUGLAS PIKE, SMITHFIELD, RHODE ISLAND;

MORGAN OPERATOR LLC D/B/A MORGAN REHABILITATION AND HEALTHCARE CENTER NAME(S) OF PARENT ENTITY(IES): QUINTO NEXGEN LLC (“QUINTO”) (78.6%), SKILLED VENTURE LLC (1.4%) AND UKR NEXGEN LLC (“UKR”) (20%); QUINTO TO BE OWNED BY TRYKO NEXGEN HOLDINGS LLC (“TRYKO”) (72.26%) AND RSBRMK HOLDINGS LLC (“RSBRMK”) (27.74%); UKR TO BE OWNED BY UAK 2020 IRREVOCABLE TRUST (99.999%) AND URI KAHANOW (.001%); TRYKO TO BE OWNED BY YR NEXGEN TRUST (50.002%), SK NEXGEN TRUST (24.999%) AND YK NEXGEN TRUST (24.999%); RSBRMK TO BE OWNED BY NFR 2020 IRREVOCABLE TRUST (99.999%) AND FRAIDE ROKEACH (.001%) FOR A CHANGE IN EFFECTIVE CONTROL OF MORGAN HEALTH CENTER (LTC00622), LOCATED AT 80 MORGAN AVENUE, JOHNSTON, RHODE ISLAND;

RIVERVIEW OPERATOR LLC D/B/A RIVERVIEW REHABILITATION AND HEALTHCARE CENTER NAME(S) OF PARENT ENTITY(IES): QUINTO NEXGEN LLC (“QUINTO”) (78.6%), SKILLED VENTURE LLC (1.4%) AND UKR NEXGEN LLC (“UKR”) (20%); QUINTO TO BE OWNED BY TRYKO NEXGEN HOLDINGS LLC (“TRYKO”) (72.26%) AND RSBRMK HOLDINGS LLC (“RSBRMK”) (27.74%); UKR TO BE OWNED BY UAK 2020 IRREVOCABLE TRUST (99.999%) AND URI KAHANOW (.001%); TRYKO

TO BE OWNED BY YR NEXGEN TRUST (50.002%), SK NEXGEN TRUST (24.999%) AND YK NEXGEN TRUST (24.999%); RSBRMK TO BE OWNED BY NFR 2020 IRREVOCABLE TRUST (99.999%) AND FRAIDE ROKEACH (.001%) FOR A CHANGE IN EFFECTIVE CONTROL OF RIVERVIEW HEALTHCARE COMMUNITY (LTC00579), LOCATED AT 546 MAIN STREET, COVENTRY, RHODE ISLAND; AND

WESTERLY OPERATOR LLC D/B/A WESTERLY REHABILITATION AND HEALTHCARE CENTER NAME(S) OF PARENT ENTITY(IES): QUINTO NEXGEN LLC (“QUINTO”) (78.6%), SKILLED VENTURE LLC (1.4%) AND UKR NEXGEN LLC (“UKR”) (20%); QUINTO TO BE OWNED BY TRYKO NEXGEN HOLDINGS LLC (“TRYKO”) (72.26%) AND RSBRMK HOLDINGS LLC (“RSBRMK”) (27.74%); UKR TO BE OWNED BY UAK 2020 IRREVOCABLE TRUST (99.999%) AND URI KAHANOW (.001%); TRYKO TO BE OWNED BY YR NEXGEN TRUST (50.002%), SK NEXGEN TRUST (24.999%) AND YK NEXGEN TRUST (24.999%); RSBRMK TO BE OWNED BY NFR 2020 IRREVOCABLE TRUST (99.999%) AND FRAIDE ROKEACH (.001%) FOR A CHANGE IN EFFECTIVE CONTROL OF WESTERLY HEALTH CENTER (LTC00652), LOCATED AT 280 HIGH STREET, WESTERLY, RHODE ISLAND.

Utpala Bandy, MD, MPH

Interim Director of Health

September 2, 2022

Introduction:

After careful and deliberate consideration, the applications as identified in the *Report of the Health Services Council on the Applications of Heritage Hills Operator LLC d/b/a Heritage Hills Rehabilitation and Healthcare Center (“Heritage Hills”) for the Change in Effective Control of Heritage Hills Nursing & Rehabilitation Center (LTC00778), located at 80 Douglas Pike, Smithfield, Rhode Island; Morgan Operator LLC d/b/a Morgan Rehabilitation and Healthcare Center (“Morgan”) for the Change in Effective Control of Morgan Health Center (LTC00622), located at 80 Morgan Avenue, Johnston, Rhode Island; Riverview Operator LLC d/b/a Riverview Rehabilitation and Healthcare Center (“Riverview”) for the Change in Effective Control of Riverview Healthcare Community (LTC00579), located at 546 Main Street, Coventry, Rhode Island; and Westerly Operator LLC d/b/a Westerly Rehabilitation and Healthcare Center (“Westerly”) for the Change in Effective Control of Westerly Health Center (LTC00652), located at 280 High Street, Westerly, Rhode Island (“HSC Report”)* (attached hereto), the Rhode Island Department of Health (“RIDOH”) hereby adopts the facts contained therein, but varies from the actions of the Health Services Council (“HSC” or “Council”), and approves each application subject to the conditions as set forth in the HSC Report along with additional conditions of approval as contained within this Decision with Conditions.

In deciding to approve these applications with conditions, the RIDOH has carefully and deliberately considered the entire record in light of the purpose of the Health Care Facility Licensing Act of Rhode Island (R.I. Gen. Laws 23-17-3):

The purpose of this chapter is to provide for the development, establishment, and enforcement of standards:

- (1) For the care and treatment of individuals in health care facilities.*
- (2) For the maintenance and operation of health care facilities which in the light of advancing knowledge, will promote appropriate access and safe and adequate treatment for individuals receiving health care facility services; and*
- (3) For the encouragement of quality improvement in all aspects of the operations of health care facilities.*

Also, carefully and deliberately considered are four statutory review criteria found in Rhode Island Gen. Laws Section 23-17-14.3, which states:

Except as otherwise provided in this section, a review by the health services council of an application for an initial license or a license in the case of a proposed change in the owner, operator, or lessee of any licensed health care facility may not be made subject to any criterion unless the criterion directly relates to the statutory purpose expressed in § 23-17-3. In conducting reviews of the applications, the health services council shall specifically consider:

- (1) The character, commitment, competence, and standing in the community of the proposed owners, operators, or directors of the health care facility;*

(2) In cases of initial licensure or of proposed change in owner, operator, or lessee, the extent to which the facility will provide or will continue to provide, without material effect on its viability at the time of initial licensure or of change of owner, operator, or lessee, safe and adequate treatment for individuals receiving the health care facility's services;

(3) The extent to which the facility will provide or will continue to provide safe and adequate treatment for individuals receiving the health care facility's services; and

(4) The extent to which the facility will provide or will continue to provide appropriate access with respect to traditionally underserved populations and in consideration of the proposed continuation or termination of health care services by the health care facility.

Rhode Island General Laws Section 23-17-6 (b) further provides that, *Any change in owner, operator, or lessee of a licensed healthcare facility... shall require prior review by the health services council and approval of the licensing agency as a condition precedent to the transfer, assignment, or issuance of a new license. Issuance of the license may be made subject to any condition; provided, that no condition may be made unless it directly relates to the statutory purpose expressed in § 23-17-3 or to the review criteria set forth in § 23-17-14.3. This shall not limit the authority of the licensing agency to require correction of conditions or defects which existed prior to the proposed change of owner, operator, or lessee and of which notice had been given to the healthcare facility by the licensing agency.*

Health Services Council Recommendations:

At the August 9, 2022 meeting of the HSC, a motion was made and seconded to recommend the approval of the applications of Heritage Hills Operator LLC d/b/a Heritage Hills Rehabilitation and Healthcare Center (“Heritage Hills”) for the Change in Effective Control of Heritage Hills Nursing & Rehabilitation Center (LTC00778), located at 80 Douglas Pike, Smithfield, Rhode Island; Morgan Operator LLC d/b/a Morgan Rehabilitation and Healthcare Center (“Morgan”) for the Change in Effective Control of Morgan Health Center (LTC00622), located at 80 Morgan Avenue, Johnston, Rhode Island; Riverview Operator LLC d/b/a Riverview Rehabilitation and Healthcare Center (“Riverview”) for the Change in Effective Control of Riverview Healthcare Community (LTC00579), located at 546 Main Street, Coventry, Rhode Island; and Westerly Operator LLC d/b/a Westerly Rehabilitation and Healthcare Center (“Westerly”) for the Change in Effective Control of Westerly Health Center (LTC00652), located at 280 High Street, Westerly, Rhode Island. The motion was approved by a unanimous vote with the standard conditions of approval. At the August 30, 2022 meeting of the HSC, the attached Report was adopted by a unanimous vote of the Council.

Considerations:

(1) The character, commitment, competence, and standing in the community of the proposed owners, operators, or directors of the health care facility. (RIGL Section 23-17-14.3.)

As noted in the HSC Report, RIDOH engaged the law firm of Holland & Knight (“H&K”) to assist the Council and RIDOH in their review of these applications. Along with assisting with an explanation of the elements of the complex transaction, RIDOH specifically requested that H&K examine the Kadima nursing facilities in Pennsylvania¹ using the Center for Medicare and Medicaid Services’ (CMS) Nursing Home Five-Star Quality Rating System. Although RIDOH did not request H&K to present the Applicants’ affiliates’ ratings to the HSC, this chart shows the star ratings for each affiliated nursing facility in Rhode Island:

Name of Tryko Nursing Facility	# CMS Stars as of August 31, 2022	Date of Acquisition by Tryko
Lincolnwood Rehabilitation & Healthcare Center	1	12/31/2021
Elmhurst Rehabilitation & Healthcare Center	2	12/22/2016
Bayview Rehabilitation & Healthcare Center	3	7/20/2021

CMS created the rating system to assist the public in comparing staffing and quality of care measures useful in selecting a nursing home.² The CMS star system is updated quarterly using information provided by state survey teams and as self-reported by nursing facilities. CMS reports an overall rating as well as specific ratings that reflect a nursing facility’s performance on: 1. Health inspection results; 2. Staffing; and 3. Quality measures. Five is the maximum number of stars that may be achieved in any category. The Affordable Care Act³ also requires nursing facilities to report ownership information that appears on the CMS website (e.g., legal business name; ownership type; owners; and operators).

Rhode Island Nursing Homes	
Overall CMS Star Rating	Total Number of Facilities
1 Star	14
2 Stars	16
3 Stars	18
4 Stars	10
5 Stars	17
No rating	1
Total Nursing Homes	76

In Rhode Island, H&K reported that of 76 total nursing homes, 17 (22%) have a five-star rating; 10 (13%) have a four-star rating; 18 (24%) have a three-star rating; 16 (21%) have a two-star rating; and 14 (18%) nursing homes have a one-star rating. (See table at left).

According to a recent survey by the Center for Health Policy Evaluation in Long-Term Care, 24 states were identified as having

value-based Medicaid incentive programs for nursing homes. Of those 24 states, six states

¹ H&K prepared a PowerPoint that provides additional detail on the CMS rating system and Kadima’s past performance. The PowerPoint is available here for reference: [CMS Star Ratings of Pennsylvania Kadima Facilities, Prepared by Holland & Knight LLP.pptx - Google Slides](#)

² See: [Finding a Nursing Home | CMS](#)

³ See: Title VI, Subtitle B of the PPACA, entitled “Nursing Home Transparency and Improvement.” The law includes two parts; Part I – Improving Transparency of Information is section 6101 – Required Disclosure of Ownership and Additional Disclosure Information.

use the CMS star ratings, in part, to determine incentive payments. These six states include: Florida, Illinois, Massachusetts, Michigan, Nebraska, and Ohio.⁴

According to a recent article in *McKnight's Long-Term Care News*, “CMS highlighted efforts in California and Illinois, specifically, which have acted to tie state Medicaid payments to quality outcomes. CMS encouraged other states to use any federal or state data at their disposal to improve and better target oversight of facilities. It pointed out that a number of states use the CMS Nursing Home Five-Star Quality Rating System as part of their calculation of bonus payment to nursing facilities. States may also develop incentives to encourage provider participation in Medicaid-specific quality improvement activities based on state-developed program goals.”⁵

RIDOH has concluded that the CMS Nursing Home Five-Star Quality Rating System is a credible and relevant proxy for gauging an applicant’s character, competence, commitment and standing in the community. The CMS system is targeted to consumers who are searching for superior nursing facility providers. Although CMS’ methodology is complex,⁶ the agency has developed a relatively simple tool that is understood by professionals and the public alike.

Therefore, RIDOH finds the Applicants’ record in Rhode Island to be of particular concern and, thus, requires the imposition of a condition of approval (#11) to ensure that the additional Rhode Island nursing facilities being acquired, one of which presently has a five-star rating, and one other presently has a four-star rating, will, at a minimum, maintain these ratings after the acquisitions are completed.

(2) In cases of initial licensure or of proposed change in owner, operator, or lessee, the extent to which the facility will provide or will continue to provide, without material effect on its viability at the time of initial licensure or of change of owner, operator, or lessee, safe and adequate treatment for individuals receiving the health care facility's services; (RIGL Section 23-17-14.3.)

The four applications filed with RIDOH and which the HSC recommended approval, and as specifically detailed in the HSC Report, stated that the financing of the acquisitions will include a minimum of twenty-percent equity and will be funded by the Applicant’s cash on hand. Therefore, the imposition of condition of approval #10 shall ensure that the Applicants have a vested interest in the successful operations of each nursing facility.

⁴ Brown, Erin, Marsida Domi, and David Gifford. “A Review of Nursing Home Medicaid Value-Based Payment Programs”, The Center for Health Policy Evaluation in Long-Term Care, February 23, 2022. Available here: [CHPE-Report-A Review of NH Medicaid VBP Programs 02.23.2022.pdf \(ahcancal.org\)](#) Accessed on August 26, 2022.

⁵ See: Marselas, Kimberly and James M. Berklan. “Breaking: CMS bulletin presses states on Medicaid nursing home spending.” *McKnight's Long-Term Care News*, August 22, 2022.

⁶ For more detail on CMS’ methodology, consult: [Care Compare Nursing Home Five-Star Quality Rating Technical Users’ Guide \(cms.gov\)](#)

(3) *The extent to which the facility will provide or will continue to provide safe and adequate treatment for individuals receiving the health care facility's services; (RIGL Section 23-17-14.3.)*

(See (1) above).

(4) *The extent to which the facility will provide or will continue to provide appropriate access with respect to traditionally underserved populations and in consideration of the proposed continuation or termination of health care services by the health care facility. (RIGL Section 23-17-14.3.)*

The Applicant projects that Medicaid beneficiaries will have access to each of the nursing facilities substantially similar to the present access.

WHEREAS, despite the HSC's findings that the Applicants satisfied criterion one of Rhode Island Gen. Laws Section 23-17-14.3 (*[t]he character, commitment, competence, and standing in the community of the proposed owners, operators, or directors of the health care facility*), RIDOH finds the Applicants' operation of its three (3) nursing home facilities in Rhode Island to be of concern in that the Rhode Island facilities function at or below the standards of the four (4) additional homes they seek to operate in Rhode Island.

THEREFORE, in light of the four criteria noted above and taken together with RIDOH's interest in ensuring that all nursing homes are operated with the highest possible degree of care and competency, it imposes the following conditions of approval with particular emphasis on condition (#11).

Conditions of Approval:

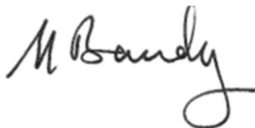
1. that the total project cost of **Heritage Hills Operator LLC d/b/a Heritage Hills Rehabilitation and Healthcare Center** not exceed \$6,920,543.00, to be financed with a minimum equity contribution of \$1,384,109.00 (i.e., 20%) which will be funded by the Applicant's cash on hand, and debt not to exceed \$5,536,434.00 (i.e., 80%);
2. that the total project cost of **Morgan Operator LLC d/b/a Morgan Rehabilitation and Healthcare Center** not exceed \$8,304,651.00 to be financed with a minimum equity contribution of \$1,660,930.00 (i.e., 20%) which will be funded by the Applicant's cash on hand, and debt not to exceed \$6,643,721.00 (i.e., 80%);
3. that the total project cost of **Riverview Operator LLC d/b/a Riverview Rehabilitation and Healthcare Center** not exceed \$13,149,031.00, to be financed with a minimum equity contribution of \$2,629,806.00 (i.e., 20%) which will be funded by the Applicant's cash on hand, and debt not to exceed \$10,519,225.00 (i.e., 80%);
4. that the total project cost of **Westerly Operator LLC d/b/a Westerly Rehabilitation and Healthcare Center** not exceed \$7,335,775.00, to be financed with a minimum equity contribution of \$1,467,155.00 (i.e., 20%) which will be funded by the Applicant's cash on hand, and debt not to exceed \$5,868,620.00 (i.e., 80%);

5. that the Applicants implement the projects as approved;
6. that the Applicants shall conduct national criminal background checks on their employees prior to employment;
7. that data, including but not limited to, finances, utilization and demographic resident information, be furnished to the state agency, upon request;
8. that the Applicants will provide services to all residents without discrimination including payment source and ability to pay;
9. that the Applicants will work in good faith with residents to establish an alternative payor source when another payor source is no longer available. Further that the Applicants will not withhold or discontinue care or discharge the resident while an application for an alternative payor source (such as Medicaid) is pending and for Medicaid residents, maintain compliance with state regulation, 210-RICR-50-00-7, "Involuntary Discharge from a Long-Term Care Facility.";
10. that within forty-eight hours after the closings, the Applicants provide sufficient closing documents to confirm that the 20% equity for each application, as appears in conditions of approval 1 through 6 (above), was funded by the Applicants' cash on hand, as so stated in the application;
11. that the Tryko/Licensees shall ensure that it maintains or increases the star rating currently assessed to the nursing facilities by CMS. If the current star rating falls by more than two (2) stars at any of the four nursing facilities at any point over the next five (5) years, the Tryko/Licensees will be required to hire an independent third-party monitor, approved by RIDOH, at the Tryko/Licensees' expense. The monitor will conduct a minimum of weekly inspections of the subject nursing facility for any and all conditions required pursuant to [216-RICR-40-10-1, Licensing of Nursing Facilities]. The Tryko/Licensees shall ensure that the independent monitoring inspections are conducted and that the resulting written report is submitted to RIDOH's Center for Health Facilities Regulation immediately following each inspection. If RIDOH surveyors are required to attend to conditions revealed by the independent monitor, the Tryko/Licensees may be required to reimburse RIDOH for its costs. During this five-year period, any independent monitor hired as a result of the Tryko/Licensees' underperformance described in this condition will remain in place until such time as either the relevant CMS star rating is restored to its original rating and maintained as such, or by written approval of RIDOH;

Name of Nursing Facility	# CMS Stars as of August 31, 2022
Morgan Health Center	2
Riverview Healthcare Community	2
Westerly Health Center	4
Heritage Hills Nursing & Rehabilitation Center	5

12. that within forty-eight hours after the closings, the Applicants provide the extant Articles of Organization and Operating Agreements for each of the Applicants' Realty LLCs and each of the Applicants' Operations LLCs for each of the four subject nursing facilities in Rhode Island; and
13. that the Tryko/Licensees will be responsible for identifying any deficiencies currently pending against any of the four (4) nursing homes it is acquiring and is responsible for notifying RIDOH, within five (5) days, whether it intends to adopt any existing plans of correction or propose new ones. If the Tryko/Licensees opts to propose a new plan of correction, they shall not delay the implementation of corrective actions and ensure the facility attains compliance within required timeframes.

RHODE ISLAND DEPARTMENT OF HEALTH



BY:

Utpala Bandy, MD, MPH
Interim Director of Health
Rhode Island Department of Health

9/2/22

Date