

Visiting Nurse and Hospice Care of Southwestern CT, Inc.
Application for Certificate of Need
Closure of the Richard L. Rosenthal Residence

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AFFIDAVIT

APPLICANT: Visiting Nurse and Hospice Care of Southwestern CT, Inc.

PROJECT TITLE: Closure of the Richard L. Rosenthal Hospice Residence

I, Ingrid Jimenez, President & CEO

Name

Position

of Visiting Nurse and Hospice Care of ^{Sw. Ct.}, being duly sworn, depose and state that the information in this Certificate of Need

Application Entitled "Closure of the Richard L. Rosenthal Hospice / ^{Residence}"

is accurate and correct to the best of my knowledge

Ingrid Jimenez

Signature

President & CEO

Title

Subscribed and sworn to before me on October 17, 2011

Date

Monica Marie Compsett

Notary Public/Commission of Superior Court

State of Connecticut - Department of Social Services
Office of CON & Rate Setting
25 Sigourney Street
Hartford, CT 06106-5033

APPLICATION FOR CERTIFICATE OF NEED

PROJECT TITLE: Closure of the Richard L. Rosenthal Residence

I. General Information

A. Identification of Applicant

1. Specify the Name and Address of the Applicant

NAME:
Visiting Nurse and Hospice Care
of Southwestern CT, Inc.

ADDRESS:
1266 East Main Street
Stamford, CT 06901

2. Specify the Name, Title, Address and Telephone Number of the Contact Person for this Application. The contact person shall be the person to whom all communications are directed.

NAME:
Ingrid Jimenez

ADDRESS:
1266 East Main Street
Stamford, CT 06901

TITLE:
President and Chief
Executive Officer

(203) 276-3000
(Telephone)
(203) 276-3001
(Telefax)

3. Specify the Name, Title, Address and Telephone Number of another person who may be contacted regarding this application, in the event that the contact person specified above is not available.

NAME:
Paul Chase

ADDRESS:
1266 East Main Street
Stamford, CT 06901

TITLE:
Chief Financial Officer

(203) 276-3000
(Telephone)

4. Specify existing (E) and/or proposed (P), Department of Health Services licensure categories.

(Check)

(Circle)

Home for the Aged (E) and/or (P)

Rest Home with Nursing Supervision (RHNS) (E) and/or (P)

Chronic and Convalescent Nursing Home (CCNH) (E) and/or (P)

Other, specify _____ (E) and/or (P)

_____ (E) and/or (P)

5. If the applicant is an existing facility, provide the following information where appropriate:

- o Number of licensed beds, by licensure category.
- o Primary service area (specify basis for derivation and identify geographic area encompassed, by town.

There are twelve licensed chronic and convalescent nursing home beds. The facility's primary service area, based on utilization, includes Greenwich, Stamford, Darien, New Canaan and Norwalk.

B. Type of Application

1. Specify if a new or additional function(s) or service(s), and/or a termination of a function or service and/or a capital expenditure exceeding statutory thresholds for review, is being proposed:

- New or Additional Function(s) or Service(s);
(Includes staff expansion proposed by coordination, assessment, and monitoring ("CAM") agencies.)
- Termination of Service(s);
- Capital Expenditures: (*see definition)
- Major Medical Equipment, exceed statutory thresholds;
- Other Capital Expenditure, exceeding statutory thresholds;
- Imaging Equipment, exceeding statutory thresholds;
- Other, specify _____

NOTE - Conversion to different licensure categories should be reported as a termination of service and also as an introduction of an additional function or service.

2. Specify the total amount of capital expenditures proposed:

Proposed Capital Expenditures: * \$0 **

*Capital Expenditures: The total of all expenditures or proposed expenditures for the acquisition, installation and initial operation of items which at the time of acquisition, have an estimated useful life of at least three years and a purchase price of at least \$500 for groups of related items, which are capitalized under generally accepted accounting principles. Such items shall include but not be limited to the following.

- a. Land, buildings, fixed equipment, major movable equipment and any attendant improvements thereto.
- b. The total cost of all studies, surveys, designs, plans, working drawings, specifications and other activities essential to acquisition, improvement, expansion or replacement of physical plant or equipment or both in question, when such total costs in aggregate exceed \$50,000.
- c. Lease assets. Purchase price for leased assets, including equipment, land and/or building(s), shall be the fair market value at lease inception.
- d. Maintenance expenditures capitalized in accordance with generally accepted accounting principles.
- e. Donated assets: Donations of property and equipment which under generally accepted accounting principles, are capitalized at the fair market value at the date of contribution.

**Should agree with page 4, Total Proposed Capital Expenditures."

C. Proposed Capital Expenditures and Funding Sources

1. Itemize all anticipated capital expenditures related to the proposal, as follows:

- a. Total Building Work Costs...\$ _____
- b. Total Site Work Costs..... _____
- c. Total Off-Site Works Costs.. _____

Total Construction Costs.....\$ 0

- d. Fixed Equipment* (use fair market value, if leased)..... _____
- e. Movable Equipment* (use fair market value, if leased)..... _____
- f. Architectural & Engineering Costs..... _____
- h. Land (use fair market value, if leased).... _____
- i. Building(s) (use fair market value, leased)..... _____
- j. Works of Art..... _____
- k. Consultants (specify)..... _____
- l. Other Costs (specify)..... _____

Total Proposed Capital Expenditures.....\$ 0

- m. Financing Fees (specify)..... _____
- n. Construction Period Interest..... _____
- o. Total Capitalized Financing Costs..... _____

Total Proposed Capital Expenditures, which include Capitalized Financing Costs...\$ 0

* Include an itemized listing of equipment acquisitions identifying the amount of the proposed capital expenditure for each item. Major medical equipment acquisitions exceeding statutory thresholds, as well as any capital expenditures regardless of amount which result in a new or expanded service, should be listed separately and identified with a new or expanded service, where appropriate.

2. Itemize the anticipated proposed funding sources to be used in order to finance the proposed capital expenditures:

Equity Contribution.....\$ _____

Debt Financing..... _____

Lease Financing..... _____

Other (Specify)..... _____

Total Proposed Funding Sources.....\$ 0

D. Ownership

For new facilities complete the following items. For existing facilities, submit the most recent copy of the Disclosure Statement of Ownership and Operation, Part I, and complete pertinent sections of 1 through 5d if required information is not included in the Disclosure Statement. All applicants must submit a Certificate of Incorporation or a Certificate of Partnership.

1a. Name of Facility Richard L. Rosenthal Residence

Doing Business as _____

Address of Facility 100 Shelburne Avenue
Stamford, CT 06902

Telephone Number of Facility (203) 276-3000

Contact Person Ingrid Jimenez

Title President and Chief Executive Officer

2a. Type of Facility

X Chronic and Convalescent Nursing Home-
Licensed Capacity 12 Beds

Rest Home with Nursing Supervision-
Licensed Capacity _____ Beds

Home for the Aged-Licensed Bed Capacity _____ Beds

Chronic Disease Hospital-Licensed Capacity _____ Beds

2b. Form of Ownership

- _____ Sole Proprietorship
- _____ General Partnership
- _____ Limited Partnership
- _____ Profit Corporation
- _____ Professional Corporation
- Non-Profit Corporation
- _____ Municipality
- _____ Joint Venture
- _____ Other (Specify) _____

2c. Owner(s) of Facility - Please list in descending order ownership share. Also include associates, incorporators, directors and sponsors.

<u>Name and Address</u>	<u>Business Phone</u>	<u>Ownership Phone</u>
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Please see attached for a list of directors, including addresses and telephone numbers.

- 2d. If an above owner is a corporation or partnership or if the facility is operated by a corporation or partnership under a contract, identify the following related to owners or beneficial owners of ten percent (10%) or more of the stock of that corporation or for each general or limited partner of that partnership.

<u>Name and Address</u>	<u>Business Phone</u>	<u>Ownership Percent*</u>	<u>Partnership Type**</u>
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N/A. The Applicant is a non-profit corporation that does not issue stock or make distributions.

*List in descending order by ownership share
 **Indicate general or limited

- 3a. Administrator of Facility - Individuals and/or contracted management company.

<u>Title</u>	<u>Name and Address</u>	<u>Business Phone</u>
Administrator	Michael LaMagna	(203) 276-3003

- 3b. If a management company has been contracted to manage the day-to-day operations, identify them and specify their responsibilities in relation to those of the owner(s) and/or operators.

N/A. There is no management company.

4a. Land Information

Identify who holds the record title of the land on which the facility is located

Name The Stamford Hospital

Street 30 Shelburne Road

City Stamford State CT Zip 06904

If the above-named owner is not the same as that identified in 2(c), specify all owner interest of the land owner in the facility and the policy making responsibilities as related to the facility's owners.

None

4b. Building Information

Identify who holds the record title of the building in which the facility is located.

Name The Stamford Hospital

Street 30 Shelburne Road

City Stamford State CT Zip 06904

If the above-named owner is not the same as that identified in 2(c), specify all owner interest of the building owner in the facility and the policy making responsibilities as related to the facility's owners.

None

4c. Equipment Information

Note: Complete separate page for each owner of the Facility's equipment. Identify who holds title to the equipment of the facility.

Name Applicant owns all equipment.

Street

City

State

Zip

List all the equipment to which the owner holds title. If the facility or specified owner holds title to all equipment, indicate "All".

If the above-named owner is not that same as that identified in 2(c), specify all owner interest of the building owner in the facility and the policy making responsibilities as related to the facility's owners.

5a. Submit the organization chart and a chart of legal corporate structure which identifies any relationship or affiliation with any parent or hold company, subsidiary of the facility and subsidiary of a parent or holding company.

5b. For each entity identified in 5a, above, identify:

<u>Name and Address</u>	<u>Form of Ownership*</u>	<u>Ownership Interest in the Facility</u>	<u>Type of Business Activity</u>
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N/A. Applicant has no affiliates.

Also indicate profit or non-for-profit.

II. Project Description

A. Summary

Provide a summary or overview of the project which includes the principal reason why the application should be approved.

N/A. As set forth in this Application, Applicant is seeking to terminate all services and close the Facility because it is no longer financially viable.

B. Linkages

Where the proposed service is intended as a regional resource or where other providers of care are integral to ensure an effective continuum of care, provide evidence of existing or proposed agreements/understandings with these providers.

N/A. Applicant is seeking to terminate services.

Visiting Nurse and Hospice Care of Southwestern CT, Inc.
Responses to Supplemental Questions to
Application for Certificate of Need
Closure of the Richard L. Rosenthal Residence

3) *Please summarize the reasons for your request.* Visiting Nurse and Hospice Care of Southwestern CT, Inc. (the “Applicant” or “VNHC”) operates both the Richard L. Rosenthal Hospice Residence (the “Residence”) and a home health care agency. The Residence has had operating losses since its inception over a decade ago. Historically, these losses have been covered by the Applicant’s home health care agency operations. However, at this point, the home health care agency itself is no longer financially viable, and Applicant is in the process of terminating its home health care operations. The Residence is far short of having the funds necessary to sustain itself (pay the necessary employees’ salaries, purchase supplies, pay vendors, etc.). Furthermore, in ceasing the operations of the home health care agency, VNHC will be terminating its Medicare hospice provider identification number and will no longer be able to accept Medicare hospice patients. VNHC anticipates that all of its home health care patients will be discharged or transferred to other providers, if necessary, no later than November 30, 2011.

4) *Describe and quantify the current financial condition of the Residence.* The estimated operating loss for the Residence for the fiscal year which ended on September 30, 2011 is \$979,000. The estimated operating loss for the same time period for the Applicant, inclusive of the Residence, is \$1,902,000.

5) *Describe the changes that would be needed to continue operations.* In order to continue to operate, VNHC would need immediate and substantial donations to create an endowment to subsidize the care provided by VNHC, including the care provided at the Residence. The donations would have to total in the millions of dollars. Without such an

endowment, there is no way for the Residence to recoup its losses and cover its costs going forward.

6) *Describe any relationship between the Residence's current and historical utilization statistics and this request to close the Residence.* The most important financial indicator at the Residence is the length of patients' stays. As most of the expense is incurred at the beginning of a patient's stay, short stays are much more costly for the Residence. In 2009, the average length of stay was 22 days. In 2010, the average length of stay dropped to 18 days, and in 2011, it dropped to 9 days. This dramatic decrease in the average length of stay has led to substantial losses in revenue, as described in Question 4 above.

7) *Please provide a best estimate of the attrition schedule. Explain your assumptions.* The Residence currently has three patients. Our social worker is working closely with the patients and their families to determine how best to accommodate the patients' and their families' needs, which, depending on timing, could include transferring the patients to another facility. We will develop appropriate discharge plans, if required, and provide support for an appropriate and smooth transition for these patients and families, if necessary.

8) *Quantify the need or lack of need for nursing facility beds dedicated to hospice in the Greater Stamford area and explain any relationship between the need or lack thereof and the request to close the Residence.* The Greater Stamford area has a number of skilled nursing facilities that hospice programs contract with for hospice needs. By way of example, the following Greater Stamford nursing facilities make beds available for hospice patients: Regency Heights of Stamford, Connecticut Health of Greenwich, Greenwich Woods, Honey Hill, Tandet, Nathaniel Witherell Home, Smith House, Waveny, Westport Health Care Center, St. Camillus and Edgehill. VNHC does not believe that the closure of the Residence will have a negative

impact on the ability of other hospice providers to admit hospice patients to nursing beds when necessary. The other Greater Stamford hospice providers and nursing facilities with hospice beds have adequate capacity to meet the needs of the Greater Stamford hospice patient population.

9) *Please describe the effect of this proposed change on the Residence's current residents. Describe the discharge planning process that will be followed in transferring current residents. Discuss the availability of appropriate placements for the current residents in the region. Please see the response to Question 7 above.*

10) *Please discuss the planned use of this property after the services are terminated.* The Residence sits on the campus of Stamford Hospital, and VNHC leases the building from the Hospital. Upon closure of the Residence, the lease will terminate, and Stamford Hospital will have control over the premises.

11) *The funding sources for the facility development included \$400,000 from a Neighborhood Facilities Grant approved by this Department, which does not require repayment provided that the building is used for a Hospice Residence for ten years. Please either provide assurances that the Hospice Residence has met the grant requirements or discuss the provisions for repayment of amounts due to the Department. As required by the terms of the grant-in-aid for neighborhood facilities, more than ten years have passed since the date of the grant for the Residence renovations. Such grant was effective on December 17, 1999.*

12) *Identify any other factor that the Department should consider in determining whether this request will be granted, modified or denied. Please provide supporting documentation. All factors which the Department should consider are discussed above. In summary, the Residence simply cannot continue to sustain itself while suffering such significant*

2010-2011 VNHC BOARD OF DIRECTORS

Mark P. Santagata, Esq.
Chair
Cacace, Tusch & Santagata
777 Summer Street
Stamford, CT 06901-1022
(203) 327-2000

Nicholas F. Coggnetta, Jr.
Nicholas F. Coggnetta
Funeral Home
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(203) 348-4949

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Fairfield County Personal Med.
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Vice Chair
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(203) 357-9200

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Stamford, CT 06903
(203) 322-9163

Roger J. Preis
Director Emeritus
RPE Career Dynamics
235 Boulder Hill Drive
Shelburne, VT 05482
(802) 985-3775

Franklin A. Loria, MD
Greenwich Hospital, 2-268
5 Perryridge Road
Greenwich, CT 06830
(203) 863-3671

Ingrid Jimenez
President & CEO
VNHC of SW CT
1266 East Main Street
Stamford, CT 06901
(203) 276-3030

Thomas L. Rich
Director Emeritus
President and CEO
F.D. Rich Company
222 Summer Street
Stamford, CT 06901
(203) 359-2900

Paul Chase (Ex-Officio)
Director, Finance/Reimbursement
VNHC of SW CT
1266 East Main Street
Stamford, CT 06901
(203) 276-3024

losses. Absent donations of millions of dollars, there is no way for the Residence to continue to provide quality care to hospice patients.

EXHIBIT A

**AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
VISITING NURSE AND HOSPICE CARE OF SOUTHWESTERN CT, INC.
(Nonstock Corporation)**

1. The name of the corporation (the "Corporation") is **Visiting Nurse and Hospice Care of Southwestern CT, Inc.**
2. The nature of the activities to be conducted, or the purposes to be promoted or carried out by the Corporation, are as follows:
 - (a) To establish, develop, maintain and operate a home health care agency to help individuals regain or improve their health status; to provide skilled nursing, physical therapy, health guidance, and other services commonly provided by home health care agencies, on a visiting basis, in the individual's home or a place of residence used as the individual's home.
 - (b) To establish, develop, maintain and operate a hospice to provide palliative care and improve end-of-life care and quality of life for terminally ill patients and their families through the management of the physical, emotional, social and spiritual symptoms which accompany terminal illness and its aftermath, bereavement; to provide care in the home, hospice facility and inpatient environment.
 - (c) To develop, provide, evaluate, and improve services and programs specializing in patient/family-centered health care in order to help patients regain or maintain their health, experience fewer symptoms, or approach the end of life with dignity and in comfort.
 - (d) In general, to possess and exercise all the powers and privileges granted by the Revised Nonstock Corporation Act of Connecticut (the "Act") or by this Amended and Restated Certificate of Incorporation, together with any powers incidental thereto, so far as such powers and privileges are necessary or convenient to the conduct, promotion or attainment of the business of the Corporation, which shall in all cases, be limited exclusively for charitable, educational and scientific purposes, including for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1954, or the corresponding provision of any future United States Internal Revenue Law (hereinafter referred to as the "Code," which term shall include with respect to each citation the corresponding provision of any future United States Internal Revenue Law).

3. The Corporation is nonprofit and shall not have or issue shares of stock or make distributions.

4. The Corporation shall not have members.

5. The Corporation shall operate under the management of its Board of Directors, which shall be self-perpetuating. Directors shall be elected as provided in the Bylaws of the Corporation. The Bylaws may provide that persons occupying certain positions within or without the Corporation shall be ex-officio members of the Board of Directors who may not vote or be counted in determining a quorum, unless otherwise provided in the Bylaws. As may be further provided in the Bylaws, the terms of elected members of the Board of Directors may be staggered by dividing the members of the Board of Directors into not more than five (5) groups so that approximately an equal number of such members have terms that expire each year.

6. No part of the income or net earnings of the Corporation shall inure to the benefit of or be distributable to the directors or officers of the Corporation or any private individual except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered to or for the benefit of the Corporation and to make payments and distributions in furtherance of any of the purposes set forth in Article 2 of this Amended and Restated Certificate of Incorporation.

7. No substantial part of the activities of the Corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office.

8. Notwithstanding any other provision of this Amended and Restated Certificate of Incorporation, the Corporation shall not conduct any other activities not permitted to be conducted by (a) a corporation exempt from federal income tax under Section 501(c)(3) of the Code, or (b) a corporation, contributions to which are deductible under Section 170(c)(2) of the Code.

9. In the event of the liquidation or dissolution of the Corporation, whether voluntary or involuntary, no director, private individual or corporation shall be entitled to any distribution or division of the Corporation's remaining assets or proceeds, except as provided by law. After payment or provision for the payment of all debts and obligations of the Corporation, the balance of all assets and other property then remaining in the possession of the Corporation shall be used or distributed in accordance with a resolution of the Board of Directors exclusively for the purposes contained in Article 2 of this Amended and Restated Certificate of Incorporation and within the intentment of Section 501(c)(3) of the Code.

10. The personal liability of a director to the Corporation for monetary damages for breach of duty by such director as a director shall be limited to an amount equal to the compensation, if any, received by said director in his capacity as a director of the Corporation during the year in which the violation occurs. Notwithstanding the foregoing, a director shall be liable to the extent provided by applicable law if the breach (a) involves a knowing and culpable violation of law by such director, (b) enables such director or an associate (as such term is defined in Section 33-374d(3) of the Connecticut Business Corporation Act) to receive an improper personal economic gain, (c) shows a lack of good faith and a conscious disregard of such director's duty to the Corporation under circumstances in which such director was aware that his or her conduct or omission created an unjustifiable risk of serious injury to the Corporation, or (d) constitutes a sustained and unexcused pattern or inattention tantamount to an abdication of such director's duty to the Corporation. This Article 10 shall not limit or preclude the liability of a director for any act or omission occurring prior to the effective date of this Article 10. Neither the amendment nor repeal of this Article 10, nor the adoption of any provision of the Amended and Restated Certificate of Incorporation of the Corporation inconsistent with this Article 10 shall eliminate or reduce the effect of this Article 10 in respect of any matter occurring, or any cause of action, suit or claim that, but for this Article 10, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

11. (a) The Corporation shall, to the fullest extent legally permissible under the Chapter 602, Sections 33-1116 to 33-1124 of the Connecticut General Statutes, as amended from time to time, or any successor statute, indemnify and reimburse any person serving or who has served as a member, director or officer of the Corporation (collectively referred to herein as an "indemnitee") against all liabilities and expenses, including amounts paid in satisfaction of judgments, in settlement or compromise or as fines and penalties, court costs and attorneys' fees (collectively, "Costs"), reasonably incurred by him in connection with the defense or disposition of any action, suit or other proceeding, whether civil or criminal, in which he may be involved or with which he may be threatened, while serving or thereafter, by reason of his serving or having served in such capacity; unless such Costs arise from an action, suit or proceeding which has been, or is threatened to be initiated against the indemnitee by the Corporation.

(b) The Corporation may, pursuant to a resolution by its Board of Directors and to the extent allowed under Chapter 602, Sections 33-1116 to 33-1124 of the Connecticut General Statutes, as amended from time to time, indemnify and reimburse any person serving or who has served as an employee or agent of the Corporation against all or any portion of Costs reasonably incurred by him in connection with the defense or disposition of any action, suit or other proceeding, whether civil or criminal, in which he may be involved or with which he may be threatened, while serving or thereafter, by reason of his serving or having served in such capacity; unless such Costs arise from an action, suit or proceeding which has been, or is threatened to be, initiated against the indemnitee by the Corporation.

12. The address of the Corporation's Registered Office is 1029 East Main Street in Stamford, Connecticut 06902-4108.

13. The Corporation's Registered Agent is Winship Service Corporation. Such Registered Agent's address is in care of Shipman & Goodwin LLP, One Constitution Plaza, Hartford, Connecticut 06103-1919.

The foregoing designation as Registered Agent for Visiting Nurse and Hospice Care of Southwestern CT, Inc. is hereby accepted.

WINSHIP SERVICE CORPORATION

By:



Patricia B. Chouinard, Secretary

571082 v.03