

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

May 2, 2013

Christine C. Quinn, Esq.
Deputy County Executive
Office of the Albany County Executive
112 State Street, Suite 825
Albany, New York 12207

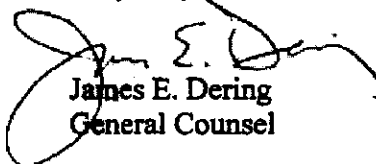
Re: Nursing Home Inquiry

Dear Ms. Quinn:

This is in response to your email to New York State Department of Health Deputy Commissioner Karen Westervelt dated May 2, 2013, in which you ask whether a county operated skilled nursing facility may enter into a third party management agreement to operate that nursing facility.

Please be advised that the governing authority of an operator of a skilled nursing facility established under Article 28 of the Public Health Law is prohibited from entering into an agreement for management services with an entity that has not received establishment approval for that facility. Section 600.9 (d) (1) of Title 10 of the New York State Codes, Rules and Regulations ("10 NYCRR") states that, "[e]xcept as provided in section 405.3 of this Title, the governing authority or operator may not contract for management services with a party which has not received establishment approval." Note that the referenced section 405.3 applies to general hospitals only (*see* 10 NYCRR § 405.1 [a]) and is therefore not applicable to other types of facilities that are established under Article 28 of the Public Health Law, such as skilled nursing facilities.

Very truly yours,


James E. Dering
General Counsel

JED/dlm