



Project # 222274-B
Modern Associates, LLC d/b/a Dr. K Health Center

Program: Diagnostic and Treatment Center **County:** Queens
Purpose: Establishment and Construction **Acknowledged:** January 30, 2023

Executive Summary

Description

Modern Associates, LLC d/b/a Dr. K Health Center, a New York limited liability company, requests approval to establish and construct an Article 28 Diagnostic and Treatment Center (D&TC) to provide Primary Medical Care and Other Medical Specialties. Other Medical Specialties include Internal Medicine, Neurology, Ophthalmology, Physical Therapy, Occupational Therapy, Cardiology, Pain Management, Psychiatry and Psychology, Pulmonology, Gastroenterology, Orthopedics, and Endocrinology. This conversion of a private practice proposes to serve primarily Rego Park and Forest Hills, as well as other areas of surrounding Queens County.

The applicant will lease space on the first floor of an existing one-story retail building at 63-18 Austin Street, Rego Park. The site will include six (6) exam rooms and the requisite support areas.

The sole member of Modern Associates, LLC is Dmitriy Kolesnik, M.D., who will also act as the Medical Director. He is board certified in Psychiatry and Neurology. The applicant will enter into a Transfer and Affiliation Agreement for backup and emergency services with Northwell Forest Hills Hospital, 1 mile (5 minutes travel time) from the Center.

OPCHSM Recommendation
Contingent Approval

Need Summary
The applicant projects 9,980 procedures in Year One and 14,151 in Year Three with 57% Medicaid and 2% Charity Care in both years.

Program Summary
The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §2801-a(3).

Financial Summary
Total project costs of \$758,110 will be funded by member equity of \$75,811, with the remaining \$682,299 balance being financed by a 10-year, 6% interest loan through Hudsonshine Capital.

Budget:	<u>Year One</u>	<u>Year Three</u>
	<u>2024</u>	<u>2026</u>
Revenues	\$1,579,856	\$2,240,266
Expenses:	<u>1,316,750</u>	<u>\$1,937,491</u>
Gain/(Loss)	\$263,106	\$302,775

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0. [AER]
3. The submission of Engineering (MEP) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0. [AER]
4. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
5. Submission of an executed loan commitment acceptable to the Department of Health. [BFA]
6. Submission of an executed working capital loan commitment acceptable to the Department of Health. [BFA]

Approval conditional upon:

1. This project must be completed by **October 1, 2024**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **January 1, 2024**, and construction must be completed by **July 1, 2024**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]
4. The staff of the facility must be separate and distinct from the staff of other entities; the signage must clearly denote the facility is separate and distinct from other entities; the clinical space must be used exclusively for the approved purpose; and the entrance must not disrupt any other entity's clinical program space. [HSP]
5. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary: https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf. Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov. [HSP]

Council Action Date

June 29, 2023

Need Analysis

Background and Analysis

The proposed service area is Queens County, with an emphasis on Forest Hills/Rego Park and surrounding areas. The population of Queens County in 2022 was 2,278,029, according to the most recent US Census Bureau data. The population of the county is estimated to increase to 2,544,231 by 2028 per projection data from the Cornell Program on Applied Demographics, an increase of 11.7%. The NYC Community Health Profile data shows the following demographics for Rego Park and Forest Hills 50% White, 31% Asian, 15% Latino, and 3% Black.

According to Data USA, in 2018, 89.5% of the population of Queens County had health coverage as follows:

Employee plans	43.2%
Medicaid	25.9%
Medicare	9.8%
Non-group plans	10.3%
Military or VA plans	0.302%

The number of projected procedures is 9,980 in Year One and 14,151 in Year Three. The projected payor mix includes 21% Medicare, 57% Medicaid, and 2% Charity Care in Year 1 and Year 3 of operations. The applicant is committed to providing services to all patients needing care, regardless of their ability to pay or the source of payment.

The other medical specialties the center proposes include internal medicine, neurology, ophthalmology, physical therapy, occupational therapy, cardiology, pain management, psychiatry, psychology, pulmonology, gastroenterology, orthopedics, and endocrinology.

The center's hours will be reflective of the needs of the community, including evening hours to accommodate working parents and school children. The hours of operation of the program will be from Monday through Thursday will be from 9:00 AM to 8:00 PM, and on Friday from 9:00 AM to 5:00 PM, and will be adjusted as needed to better reflect the needs of the community.

Prevention Quality Indicators (PQIs) are rates of admission to the hospital for conditions for which good outpatient care can potentially prevent the need for hospitalization or for which early intervention can prevent complications or more severe disease. The table below provides information on PQI rates for 2020 related to this application:

PQI Name	Observed Rate per 100,000 Adults Zip Code 11374	Observed Rate per 100,000 Adults Queens County	Observed Rate per 100,000 Adults New York State
Diabetes Short-Term Complications	60.34	38.17	70.6
Diabetes Long-Term Complications	95.7	49.07	106.05
Chronic Obstructive Pulmonary Disease or Asthma	173.61	106.12	243.83
Hypertension	117.23	77.39	62.52
Heart Failure	310.38	261.72	336.22
Bacterial Pneumonia	65.47	57.25	105.13
Uncontrolled Diabetes	38.17	46.22	44.81
Urinary Tract Infections	111.77	84.17	94.99
Asthma in Younger Adults	19.36	0	27.6

PQI Name	Observed Rate per 100,000 Adults Zip Code 11374	Observed Rate per 100,000 Adults Queens County	Observed Rate per 100,000 Adults New York State
Lower-Extremity Amputation among Patients with Diabetes	29.34	8.18	29.16
Prevention Quality Overall Composite	169.02	149.64	200.12

Conclusion

Approval of this project will allow for expanded access to primary care, other medical specialties, occupational therapy, and physical therapy services for residents of Queens County.

Program Analysis

Project Proposal

Modern Associates LLC, an existing New York State Limited Liability Company, seeks approval to convert a PC practice for the establishment and construction of an Article 28 diagnostic and treatment center to be located at 63-18 Austin Street in Rego Park (Queens County). The proposed center will provide Medical Services-Primary Care and Medical Services- Other Medical Specialties, including Neurology, Ophthalmology, Cardiology, Pain Management, Psychiatry, Psychology, Pulmonology, Gastroenterology, Orthopedics, Endocrinology, Physical Therapy, and Occupational Therapy.

Proposed Operator	Modern Associates LLC
To Be Known As	Dr. K Health Center
Site Address	63-18 Austin Street Rego Park, New York 11374 (Queens County)
Specialties	Medical Services-Primary Care Medical Services-Other Medical Specialties Neurology Ophthalmology Cardiology Pain Management Psychiatry Psychology Pulmonology Gastroenterology Orthopedics Endocrinology Physical Therapy Occupational Therapy
Hours of Operation	Monday to Thursday, 9:00 am to 8:00 pm, and Friday, 9:00 am to 5:00 pm
Staffing (1st Year / 3rd Year)	14.40 FTEs / 23.10 FTEs
Medical Director(s)	Dmitriy Kolesnik, M.D.
Emergency, In-Patient and Backup Support Services Agreement and Distance	Expected to be provided by Northwell Health/Forest Hill Hospital 1 mile / 5 minutes

Character and Competence

The sole member of Modern Associates LLC is:

Name	Ownership Interest
Dmitriy Kolesnik, M.D.	100.00%

Dr. Dmitriy Kolesnik is the proposed sole Owner and proposed Medical Director. He is the Medical Director of Vector Sleep Center for 14 years. He is a Staff Neurologist, Medical Director, and President of NYC Medical and Neurodiagnostic, P.C. for 21 years. He is an Attending Physician and Adjunct Steff of Neurology at Long Island Jewish Medical Center for over 22 years. He was an Attending Physician at Winthrop University Hospital for seven (7) years. He was an Attending Physician and Consulting Medical Staff of Neurology at Good Samaritan Hospital Medical Center for 11 years. He was an Attending Physician of Epilepsy and Neurology for nine (9) years. He was an Attending Physician of Outpatient Neurology for over six (6) years. He was a Neurologist at Medex D&TC for three (3) years. He received his medical degree from First Pavlov State Medical University in Russia. He completed his Neurology Residency at First Pavlov State Medical University and Long Island Jewish Medical Center. He completed his Epilepsy/EEG Fellowship at Long Island Jewish Medical Center. He is a Diplomate in Psychiatry and Neurology. He is Board Certified in Sleep Medicine.

Staff from the Division of Certification & Surveillance reviewed the disclosure information submitted regarding licenses held, formal education, training in pertinent health and/or related areas, employment history, a record of legal actions, and a disclosure of the applicant's ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management, the Office of Professional Medical Conduct, and the Education Department databases, as well as the US Department of Health and Human Services Office of the Inspector General Medicare exclusion database.

Additionally, the staff from the Division of Certification & Surveillance reviewed the ten-year surveillance history of all associated facilities. Sources of information included the files, records, and reports found in the Department of Health. Included in the review were the results of any incident and/or complaint investigations, independent professional reviews, and/or comprehensive/focused inspections. The review found that any citations were properly corrected with appropriate remedial action.

Conclusion

The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §2801-a(3).

Financial Analysis

Total Project Cost and Financing

Total project costs for renovations and the acquisition of moveable equipment are estimated at \$758,110, broken down as follows:

Renovation & Demolition	\$360,500
Design Contingency	36,050
Construction Contingency	36,050
Planning Consultant Fees	7,000
Architect/Engineering Fees	28,000
Other Fees	65,000
Movable Equipment	195,407
Financing Costs	13,315
Interim Interest Expense	10,652
CON Application Fee	2,000
CON Processing Fee	<u>4,136</u>
Total Project Cost	\$758,110

The applicant's financing plan appears as follows:

Cash Equity (Applicant)	\$75,811
Bank Loan (6% interest, 10-year term)	<u>682,299</u>
Total	\$758,110

BFA Attachment A presents the members' net worth, which shows sufficient resources to meet the equity requirement. Hudsonshine Capital has provided a letter of interest.

Operating Budget

The applicant has submitted first and third-year operating budgets in 2023 dollars, as summarized below:

	<u>Year One</u>		<u>Year Three</u>	
	<u>2024</u>		<u>2026</u>	
	<u>Per Visit</u>	<u>Total</u>	<u>Per Visit</u>	<u>Total</u>
Revenues:				
Medicaid-FFS	\$199.43	\$39,886	\$199.43	\$56,439
Medicaid-MC	\$159.54	875,737	\$159.54	1,241,731
Medicare-FFS	\$165.00	280,005	\$165.00	396,990
Medicare-MC	\$132.00	52,800	\$132.00	74,580
Commercial-FFS	\$170.00	220,490	\$170.00	312,800
Commercial-MC	\$136.00	54,128	\$136.00	76,976
Private Pay	\$190.00	<u>56,810</u>	\$190.00	<u>80,750</u>
Total		\$1,579,856		\$2,240,266
Expenses:				
Operating	\$107.65	\$1,074,312	\$120.77	\$1,709,067
Capital	<u>\$24.29</u>	<u>242,438</u>	<u>\$16.14</u>	<u>228,424</u>
Total	\$131.94	\$1,316,750	\$136.91	\$1,937,491
Net Income		\$263,106		\$302,775
Total Visits		9,980		14,151
Cost per Visits		\$131.94		\$136.91

Utilization broken down by payor source during Year One and Year Three is as follows:

Payer:	<u>Year One</u>		<u>Year Three</u>	
	<u>2024</u>		<u>2026</u>	
	<u>Visits</u>	<u>%</u>	<u>Visits</u>	<u>%</u>
Medicaid-FFS	200	2.00%	283	2.00%
Medicaid-MC	5,489	55.00%	7,783	55.00%
Medicare-FFS	1,697	17.00%	2,406	17.00%
Medicare-MC	400	4.01%	565	4.00%
Commercial-FFS	1,297	13.00%	1,840	13.00%
Commercial-MC	398	3.99%	566	4.00%
Private Pay	299	3.00%	425	3.00%
Charity Care	<u>200</u>	<u>2.00%</u>	<u>283</u>	<u>2.00%</u>
Total	9,980	100%	14,151	100%

The following is noted concerning the submitted budget:

- Medicaid Fee for Service (FFS) rate is based upon the basic per-visit rate plus the cost of capital as obtained from the Bureau of D&TC Reimbursement. Managed Care is assumed to be 80% of the Medicaid FFS's basic rate.
- Medicare Fee for Service rate is based on the Medicare Part B fee schedule. Managed Care is assumed to be 80% of the Medicare FFS rate. The Commercial Fee for Service rate is based on a fee schedule, while the Commercial Managed Care rate is projected at approximately 80% of that.
- Staffing and expenses are based on the experience from the existing private practice, review of existing AHCF-1a, plus an adjustment for added services.
- Utilization projections are based on the experience from the existing private practice.

Amendment to Lease

The applicant has submitted an executed lease for the proposed site, the terms of which are summarized below:

Date:	April 18, 2023
Premises:	4,398 square feet located at 63-18 Austin Street, Rego Park, NY 11374
Landlord:	ADJ Austin, LLC
Lessee:	NYC Medical and Neurodiagnostic P.C.
Term:	Five years (ending 3/31/28), one (1) renewal of 5-year term
Rental:	\$144,000 year one (\$32.75 sq. ft) 3% annual increase, 4% yearly increase during the renewal period.
Provisions:	Utilities, Maintenance, Insurance, and Taxes

The applicant has submitted an affidavit attesting that the lease is an arm's length agreement. The applicant has submitted letters from two New York State real estate brokers attesting to the rental rate being fair market value.

Capability and Feasibility

Total project costs of \$758,110 will be met through member equity of \$75,811, with the remaining \$682,299 balance being financed over ten years through Hudsonshine Capital at 6% interest for a 10-year term.

Working capital requirements are estimated at \$322,916, based on two months of third-year expenses. The working capital will be funded with \$161,458 from member equity, with the remaining \$161,458 satisfied through a three-year loan from Hudsonshine Capital at the firm's five-year cost of funds with an indicative interest rate of 6%. Hudsonshine Capital has provided a letter of interest. A review of BFA Attachments A reveals that Dmitriy Kolesnik, M.D. has sufficient resources to meet all the equity requirements. BFA Attachment B presents Modern Associates, LLC., pro forma balance sheet that shows operations will start with \$237,269 in equity. The Center projects an operating surplus of \$263,106 and \$302,775 in the first and third years. The applicant's budgets appear to be reasonable.

Conclusion

The applicant has demonstrated the capability to proceed in a financially feasible manner.

Attachments

BFA Attachment A	Net Worth Statements of Proposed Members of A Modern Associates, LLC
BFA Attachment B	Pro Forma Balance Sheet of Modern Associates, LLC