**Date: May 16, 2014**

**Project**: **Addition of 13 Nursing Home Beds**

**Proposal by: Seaside HealthCare, LLC a unit of First Atlantic Healthcare**

**Prepared by: Larry Carbonneau, Manager, Health Care Oversight, DLRS**

**Richard S. Lawrence, Senior Health Care Financial Analyst, DLRS**

**Directly Affected Party None**

**Certificate of Need Unit Recommendation: Approval**

 **Proposed Approved**

 **Per Applicant** **CON**

Estimated Capital Expenditure $ 65,000 $ 65,000

Maximum Contingency $ 0 $ 0

Total Capital Expenditure with Contingency $ 65,000 $ 65,000

Pro-Forma Marginal Operating Costs $ 781,916 $ 781,916

MaineCare Neutrality Established Yes

# I. Abstract

1. **From Applicant**

“This application is prepared in accordance with Section 71.05(A) of the Bureau of Elder and Adult Services Policy Manual, Certificate of Need for Nursing Facility Level of Care Projects.”

“On behalf of Seaside Healthcare, LLC, a managed First Atlantic Healthcare facility, this application seeks approval to add an additional 13 SNF beds to its license. Since the addition of nursing facility beds triggers compliance with the Maine Certificate of Need Act of 2002 we have prepared this application for your review and approval.”

**“Background:**

Seaside Healthcare, located on Baxter Boulevard in Portland, Maine, is a multi-level long term care facility offering SNF/NF and residential care services to the elderly of the greater Portland area. Seaside has been in operation since the 1970’s and has been part of the First Atlantic Healthcare group since 1997. Currently the facility is dually licensed for Medicare and MaineCare beneficiaries in its 124 nursing facility beds and operates another 30 RCF Private Non-Medical Institution beds. Today the facility averages approximately 145 residents in its 154 beds for an average occupancy of 94%.”

**“Proposed Change:**

This proposed change would add 13 additional SNF/NF beds, increasing its current nursing facility capacity by 10% to a total of 137. The 30 RCF PNMI beds would remain as they are today. Seaside manages a brisk short term rehab business with an excess of 45 admissions and discharges on a monthly basis. The additional beds will allow Seaside flexibility to accommodate a census that regularly fluctuates due to the admission cycles of its short-term patient population and serve an expanding need for nursing facility services in the greater Portland area.”

“We propose to accomplish this increased in licensed beds by converting private rooms to semi-private rooms. As no new construction is required, this licensure expansion will occur at minimal cost. Additionally we believe the rooms are adequately sized in accordance with Regulations Governing the Licensing and Functioning of Nursing Facilities to accommodate semi-private spaces. We expect the changes requested in this application would commence within 30 days after receipt of CON approval.”

**“Capital Costs and MaineCare Neutrality:**

Because no new construction or renovations are required to add these 13 new beds, the expected capital expenditure is limited to resident room furniture at a cost of approximately $5,000 per bed or $65,000. While the cost of capital is minimal and far below CON capital thresholds, there will be operating cost increases associated with these beds, requiring MaineCare resources to meet the constraints of neutrality. We propose to use remaining beds and unallocated resources from the Collier’s Replacement Facility project and the remainder of Marshall Healthcare resources to satisfy this requirement. What shortfall remains will be funded by resources from delicensing nursing facility beds at Woodlawn Nursing and Rehab in Skowhegan. The delicensing of beds in Skowhegan is not expected to result in the relocation of any residents.”

# II. Fit, Willing and Able

1. **From Applicant**

“As noted previously, Seaside has operated as a nursing facility for decades in Portland and for seventeen years under the management of First Atlantic Healthcare. The applicant is well known and respected by DHHS officials. This application to add 13 SNF beds represents a 10% increase in Seaside’s SNF bed licensure, an increase that is easily manageable by the current facility leaders. Aside from isolated deficiencies that have been corrected in a timely manner Seaside has operated in compliance with State and Federal licensing standards.”

“Medicare’s Nursing Home Compare rating for Seaside is currently 2 stars out of 5.”

“By rating category:

Staffing – above average – 4 stars

Quality Ratings – above average - 4 stars

Health Inspections – much below average - 1 star”

“Our company standard is no fewer than 4 stars and while we are proud of our 4 star ratings for staffing and quality, we were appropriately concerned about the low health inspections score and worked diligently to improve it.”

“The low health inspection rating results from 12 deficiencies from the 3/8/2013 survey. All were level 2 deficiencies indicating minimal harm or potential for actual harm and none were considered widespread. Rather than caused by the severity of health inspection deficiencies, the low final rating was caused by the sheer number (twelve deficiencies). That said, all deficiencies were corrected in a timely manner and we enjoy full compliance with licensing regulations today.”

“Additionally the CMS website rating doesn’t reflect results from our most recent survey that occurred in March 2014. This survey reflected far fewer deficiencies and met our company expectations. Once these results are posted to Nursing Home Compare we believe the Health Inspection ratings will be significantly improved.”

“Seaside is affiliated and managed by First Atlantic Healthcare, a Maine-based company with significant experience in operating long-term care facilities. Its senior executives have been at the helm for many years guiding operations of the facilities they serve.”

“The following individuals comprise the senior executives at FAH:

 Kenneth Bowden, CEO

 Craig Coffin, CDO

Wanda Pelkey, CFO

Tammy Rolfe, COO”

“And the facilities managed by First Atlantic Healthcare are as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| Collier’s Rehabilitation & Nursing Center Ellsworth, Maine | Colonial Healthcare Lincoln, Maine | Dexter HealthcareDexter, Maine | Falmouth By the SeaFalmouth, Maine |
| Freeport PlaceFreeport, Maine | Hawthorne HouseFreeport, Maine | Katahdin HealthcareMillinocket, Maine | Marshall’s HealthcareMachias, Maine |
| Portland Center for Assisted LivingPortland, Maine | Montello ManorLewiston, Maine | Ross ManorBangor, Maine | Seal Rock HealthcareSaco, Maine |
| The Inn at Atlantic HeightsSaco, Maine | Seaside HealthcarePortland, Maine | Stillwater HealthcareBangor, Maine | Hibbard Skilled Nursing CenterDover-Foxcroft, ME |
| Washington PlaceCalais, Maine | Woodlawn Rehabilitation and Nursing CenterSkowhegan, Maine | Montello HeightsLewiston, Maine |  |

“The applicant refers the Bureau to the Division of Licensing and Certification for confirmation that the above named entities has had isolated deficiencies that have been corrected on a timely basis.”

“Neither First Atlantic nor any of the principals of the organization has been barred from participation in the Medicare or MaineCare programs at any time or found guilty of any infractions that would eliminate their participation in this project.”

**B. Certificate of Need Unit Discussion**

1. **CON Standards**

Relevant standards for inclusion in this section are specific to the determination that the applicant is fit, willing and able to provide the proposed services at the proper standard of care as demonstrated by, among other factors, whether the quality of any health care provided in the past by the applicant or a related party under the applicant's control meets industry standards.

1. **CON Unit Analysis**

Seaside Rehab & Health Care Center (Seaside) is licensed for 124 NF/SNF beds and 30 Level IV Residential Care beds. The legal name of the facility is Seaside Healthcare, LLC. The facility is located at 850 Baxter Boulevard in Portland, Maine. The administrator is Jacob Anderson, he has been the administrator since 5/16/2012. The license was issued on January 28, 2014 and is valid from February 1, 2014 through January 31, 2015.

The applicant provided a summary of Seaside Rehab’s last completed survey data. CONU verified this survey data utilizing the Medicare.gov website and DLRS files. This survey revealed the following ratings:

|  |
| --- |
| **Seaside HealthCare, LLC.** |
| **Nursing Home Compare Ratings** |
| **Category** | **Ratings** |
| Overall | Below Average |
| Health Inspections | Much Below Average |
| Staffing | Above Average |
| Quality Ratings | Average |

Seaside scored “Average” or above in only two of four categories rated by CMS with an overall rating of “Below Average”. The last recertification survey was conducted from 3/24/2014 through 3/28/2014. The on-site visit was conducted at Seaside Rehab and Healthcare for the purpose of completing the annual Quality Indicator Survey for Federal Recertification and for the purpose of investigating three complaints. The result of the survey was the identification of 7 deficiencies. Six deficiencies were Level A through E (minimal harm or potential for actual harm). One deficiency was level F and is considered a widespread issue. The average number of health deficiencies identified during a recertification survey in Maine is 4.3 and the average number of health deficiencies in the United States is 6.8. It was determined that Seaside Rehab abd Health Care was not in compliance with 41 CFR Part 483, Subpart B, Requirements for Long Term Care Facilities.

Inspectors determined that the nursing home failed to:

**1)** ensure a liability notice, which included appeal rights, was provided at least two day prior to a planned discharge whose Medicare services were discontinued.

**2)** act upon food grievances regarding food quality that were expressed in 3 of 5 reviewed Resident Council Meetings.

**3)** Develop a comprehensive care plan for 1 of 2 residents reviewed for catheter use.

**4)** Ensure that water temperature did not exceed 120 degrees Fahrenheit in 1 of 5 wings.

**5)** provide food that conserved flavor and palatability for 14 of 26 sampled residents,

**6)** Ensure food was labeled and dated when opened, cooked or removed from the original packaging and failed to remove expired liquids from unit and main refrigerators. (Level F).

**7)** Ensure that all expired medications were removed from resident use for 2 of 5 wings.

All deficiencies were corrected by 5/12/2014.

During the same period three complaint surveys were conducted and inspectors determined that two complaints were unsubstantiated but one was substantiated for the items regarding food palatability and freshness as previously indicated.

Survey data for this facility can be accessed at Medicare.gov or at DHHS DLRS and is on file at CONU.

The commissioner can rely on data available to the department regarding the quality of health care provided by the applicant as allowed at M.R.S. 22 §337(3).

**Deeming of Standard**

As provided for at 22 M.R.S. § 335 (7)(A), if the applicant is a provider of health care services that are substantially similar to those services being reviewed and is licensed in the State, the requirements of this paragraph are deemed to have been met if the services previously provided in the State by the applicant are consistent with applicable licensing and certification standards.

Seaside LLC has been under the ownership of First Atlantic for no less than 16 years and has been a provider of both SNF/NF beds and Level IV Residential Care beds. The services provided by the applicant are consistent with applicable licensing and certification standards.

1. **Conclusion**

The Certificate of Need Unit recommends that the Commissioner find that the applicant is fit, willing and able to provide the proposed services at the proper standard of care as demonstrated by, among other factors, whether the quality of any health care provided in the past by the applicant or a related party under the applicant’s control meets industry standards.

# III. Economic Feasibility

**A. From Applicant**

“Our enclosed proforma financial statement demonstrates feasibility of the proposed project now and in the near future (Schedule C). Historically, rates have kept pace with inflation and while in any given year or few years NF funding lags the rate of increasing costs, Maine’s legislature has shown a willingness to provide inflation adjustments and rebase NF rates periodically. The facility at 154 beds (124 NF and 30 RCF) is profitable now and adding more beds with little incremental cost only strengthens its ability to remain so despite the dependence on MaineCare payments to support operations.”

“We are not aware of any imminent or proposed changes in laws and regulations that would negatively affect the economic feasibility of the project. The facility has also implemented changes to comply with the Affordable Care Act without adverse impact to its financial health or operations.”

“Based upon our proforma and integral assumptions we can demonstrate economic feasibility and assert that our firm’s track record of compliance, ability to manage costs and maintain high occupancy in our facilities fits well for this project, now and in the foreseeable future.”

**B. Certificate of Need Unit Discussion**

1. **CON Standards**

Relevant standards for inclusion in this section are specific to the determination that the economic feasibility of the proposed services is demonstrated in terms of the:

* Capacity of the applicant to support the project financially over its useful life, in light of the rates the applicant expects to be able to charge for the services to be provided by the project; and
* The applicant's ability to establish and operate the project in accordance with existing and reasonably anticipated future changes in federal, state and local licensure and other applicable or potentially applicable rules.
1. **CON Unit Analysis**

Financial Feasibility and Staffing

The applicant provided a pro-forma cost report that represented the change in the provided service level for the additional thirteen SNF/NF beds. The pro-forma demonstrated the applicants proposed staffing levels, routine costs and fixed costs associated with the increased licensed capacity. The pro-forma cost report supports the applicant’s assertion that the additional 13 SNF/NF beds are financially feasible. The applicant’s goal is to increase the capacity of the facility to accommodate more short-term rehab patients while incurring minimal additional costs.

MaineCare Neutrality

This project is subject to MaineCare neutrality. MaineCare neutrality is computed by comparing the current utilization of MaineCare resources at the current 124 bed SNF/NF and 30 bed RCF capacity with the proposed 137 beds SNF/NF and 30 bed RCF capacity. The current utilization is $9,237,482.

The expected costs to the MaineCare program are calculated to be $10,019,399. The increase in MaineCare utilization is $781,916 based on a 95% occupancy.

The resources available for the project are listed below in CONU Sources and Uses of MaineCare Funding. The applicant identified sources of revenue for offsetting the project’s annual expenses.

|  |  |
| --- | --- |
| **CONU Sources and Uses of MaineCare Funding:** |  |
|  |  |  |  |  |  |
| **Source:** | **Facility** | **#of Beds** | **$ Value** | **Allocated Beds** | **$ Value** |
|   |   |   |   |   |   |
|   | Colliers | 9 | $645,221  | 9 | $645,221  |
|   | Marshall | 4 | $136,695  | 4 | $136,695  |
|   | **Total** |  | **$781,916**  |  | **$781,916**  |
|   |   |   |   |   |   |
| **Uses:** | Seaside | 13 | $781,916  | 13 | $781,916  |
| **Excess Resources** |   |   | $0  |   | $0  |

The chart indicates that the revenue stream from 9 Colliers NF beds and 4 Marshall’s beds is sufficient to offset the potential costs of the thirteen new SNF/NF beds. The value of the revenue stream is $781,916. The expected costs to the MaineCare program are calculated to be $781,916. Sufficient resources exist to achieve MaineCare neutrality.

**Changing Laws and Regulations**

Certificate of Need Unit staff is not aware of any imminent or proposed changes in laws and regulations that would impact the project, except for federal health care reform as part of the Affordable Care act (ACA). The impact of health reform as part of the ACA has not been determined.

**Deeming of Standard**

As provided for at 22 M.R.S. § 335 (7)(B), if the applicant is a provider of health care services that are substantially similar to those services being reviewed and is licensed in the State, the applicant is deemed to have fulfilled the requirements of this standard if the services provided in the State by the applicant during the most recent 3-year period are of similar size and scope and are consistent with the applicable licensing and certification standards.

The applicant has operated a mixed level of care facility with a total of 154 beds (124 SNF/NF and 30 RCF). If this application were to be approved the applicant would be operating a mixed level of care facility with 167 beds (137 SNF/NF and 30 RCF). The operations are of a similar size and

scope. Schedule L of the applicants pro forma cost report demonstrates the need for additional nursing staff to handle the increase in the SNF/NF census.

1. **Conclusion**

Certificate of Need Unit staff recommend that the Commissioner determine that the applicant has met their burden to demonstrate: (1) the capacity of the applicant to support the project financially over its useful life, in light of the rates the applicant expects to be able to charge for the services to be provided by the project; and (2) the applicant's ability to establish and operate the project in accordance with existing and reasonably anticipated future changes in federal, state and local licensure and other applicable or potentially applicable rules.

# IV. Public Need

**A. From Applicant**

“The project will have a positive impact on the health status of individuals who will be served by this project. Recently, residents and families surveyed through My Innerview reveal that 82% would recommend the facility to others.”

“Seaside does not discriminate. Services will be available to all individuals in the planned service areas who qualify for nursing facility services based on clinical and financial eligibility criteria.”

“While non-discriminatory in admission practices, Seaside does focus its efforts on short-term rehabilitation stays. To that end, 80% of Seaside’s residents return home, with 93% of them followed by home health services. This emphasis helps keep overall costs of healthcare in Maine low and improves our residents’ quality of life by helping them get home to their families as quickly as possible.”

**“Maine’s Population Trends and Implications for Proposed Projects”**

“The Muskie School of Public Service titled Chartbook, Older Adults and Adults with Physical Disabilites: Population and Service Use Trends in Maine 2012 Edition are referenced in this section and provides insight helpful in understanding the project’s need and expected contribution to health problems.”

“Pertinent Muskie Report Highlights

* Maine has one of the largest percentage populations of over 65 year olds in the country, ranked 3rd in 2010
* 65-74 year olds will be Maine’s fastest growing age group, rising 57% within 10 years.
* The number of Mainers age 85-and-above, the age group with the highest demand for long term care, will grow by 3,000 persons, a 9% increase between 2012 and 2022
* The forecast change for Cumberland county’s population between 2012 and 2022 is 46% (6,039 people) for the 75-84 age group and 13% (907 people) for the 85+ age group
* 9.5% Mainers over 65 years old are living with diabilities compared to US average of 9.0%
* In 2010, Maine ranked 38th among states in the number of nursing facility beds per 1,000 persons age 65-and –above”

“While the Muskie report describes that the use nursing facility services in Maine has declined between 2000 and 2008, the rate of decline has leveled off and in 2010 even increased slightly. The report also estimates the use of nursing facility services will be 0.8% for the 65-74 age group, 3.6% for the 75-84 age group and 11.5% for the 85+ age group.”

“Applying these utilization percentages to forecasted population changes provides the following estimated demand increase for use of nursing facility services in Cumberland County within the next 10 years.”



“While this is a rough estimate, it indicates hundreds more may need nursing facility services by 2022. The growth clearly supports this proposal of an additional 13 nursing facility beds at Seaside.”

“We also reviewed 2012 occupancy levels of nursing homes in Cumberland County (Schedule D). In 2012, full capacity was 1,648 persons and occupancies averaged 93%. The proposed addition of 13 SNF beds to Cumberland County represents an increase of only 0.8%, thus this increase will have a negligible impact on Cumberland County average occupancies, even in the near term.”

“Plus any negative impact to other nursing facilities would likely occur to those located closest to Seaside. A review of 2012 data for nursing facilities in Portland, South Portland, Falmouth, Scarborough and Westbrook reveal occupancies ranging from 91% to 98%. Thus none appear threatened by this proposed increase.”

**B. Certificate of Need Unit Discussion**

1. **CON Standards**

Relevant standards for inclusion in this section are specific to the determination there is a public need for the proposed services as demonstrated by certain factors, including, but not limited to:

* Whether, and the extent to which, the project will substantially address specific health problems as measured by health needs in the area to be served by the project;
* Whether the project will have a positive impact on the health status indicators of the population to be served;
* Whether the services affected by the project will be accessible to all residents of the area proposed to be served; and
* Whether the project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project.
1. **CON Unit Analysis**

In order to determine public need, CONU analyzed demographic and service use trends in Seaside’s service area (Cumberland County, Maine). CONU utilized the Older Adults with Physical Disabilities: population and Service Use Trends in Maine, 2012 Edition, prepared by the Muskie School of Public Service and the U.S. Census Bureau’s website located at <http://quickfacts.census.gov>.

Cumberland County has a land area of approximately 835 square miles. It is comprised of three cities: Portland, South Portland, and Westbrook and twenty-five towns. The estimated 2012 population is 283,840, consisting of 40,689 persons (or 15%) in the 65 or older age group. This population is the primary consumer of nursing home services. The breakdown of this population by age group and projected growth is contained in the following table:

|  |  |  |  |
| --- | --- | --- | --- |
| **Cumberland County Age** | **2012 Current** | **Rate of** |  **2022 Projected** |
| **Group** | **Population** | **Growth** | **Population** |
|  Age 85+ | 6,141 | 13% | 6,939 |
|  Age 75-84 | 13,494 | 46% | 19,701 |
|  Age 65-74 | 21,054 | 66% | 34,950 |

This rate of growth coincides with the State of Maine as a whole where the 65 and over population continues to grow at a rate faster than New England and the United States as a whole. Statewide nursing home utilization declined between 2000 and 2008 but leveled off in 2010. The average statewide percentages of the 65+ population utilizing SNF/NF services are as follows:

|  |  |
| --- | --- |
| **Age Group** | **% of age group needing SNF/NF care** |
| Age 85+ | 11.50% |
| Age 75-84 | 3.60% |
| Age 64-74 | 0.80% |

It is likely that additional SNF/NF services will be required over the next ten years given the projected increase in the 65+ population. Over the past two decades many new services have been added which allow persons to stay at home or receive services within the community, however, when an individual does enter a nursing home they are usually older and require more care. Adding additional SNF/NF beds would substantially address specific health problems associated with an aging population requiring more intensive care. Cumberland County had 41 nursing home beds per 1,000 person’s age 65 and above in 2010 as compared to the State-wide average of 33 nursing home beds per 1,000 person’s aged 65 and above. The available beds in Cumberland County exceeds the Statewide average however the average occupancy is greater than 93%. CONU compiled occupancy data for all Cumberland County nursing homes. Please see table below.

Table 1: Cumberland County Nursing Homes Occupancy Data

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  |  | **Mileage** | **Licensed** |  | % |
| **Facility** | **Location** | **From Applicant** | **Beds** | **Occupancy** | **Occupancy** |
| Barron Center | Portland | 0 | 219 | 213 | 97.26% |
| Brentwood | Yarmouth | 12 | 78 | 68 | 87.18% |
| Bridgton | Bridgton | 38 | 43 | 39 | 90.70% |
| Cedars | Portland | 0 | 102 | 86 | 84.31% |
| Coastal Manor | Yarmouth | 12 | 39 | 37 | 94.87% |
| Falmouth by the Sea | Falmouth | 6 | 65 | 60 | 92.31% |
| Freeport Nursing | Freeport | 17 | 61 | 56 | 91.80% |
| Gorham House | Gorham | 11 | 69 | 65 | 94.20% |
| Hawthorne House | Freeport | 17 | 81 | 79 | 97.53% |
| Horizons | Brunswick | 26 | 65 | 65 | 100.00% |
| Ledgewood Manor | Windham | 14 | 60 | 58 | 96.67% |
| MVH-Scarborough | Scarborough | 9 | 120 | 114 | 95.00% |
| Mid Coast Senior  | Brunswick | 26 | 42 | 34 | 80.95% |
| Pine Point | Scarborough | 9 | 58 | 57 | 98.28% |
| Piper Shores | Scarborough | 9 | 40 | 37 | 92.50% |
| Seaside | Scarborough | 9 | 124 | 117 | 94.35% |
| Sedgewood | Portland | 0 | 65 | 64 | 98.46% |
| South Portland | So. Portland | 3 | 73 | 73 | 100.00% |
| Springbrook | Westbrook | 8 | 123 | 118 | 95.93% |
| St. Josephs Rehab. | Portland | 0 | 121 | 106 | 87.60% |
| **TOTAL (Average)** |  |  | **1648** | **1546** | **93.50%** |

The above table shows that Cumberland County has an average occupancy rate of 93.5%. Only two facilities Cedars and Mid Coast Senior fall below an occupancy level of 85%. CONU expanded its analysis to review a full year of occupancy data for these facilities. Cedars had a 2013 average of 88.17% occupancy and Mid Coast Senior had a 2013 average occupancy of 87%. This analysis confirms that occupancy levels are high in Cumberland County nursing homes and that there is a demand for nursing services.

Maintaining and enhancing needed SNF/NF services in this area will have a positive impact on the health status indicators of the population to be served. This facility will enable residents to remain close to home and family while receiving services. According to the applicant a recent survey of residents and families indicated that 82% of respondents would recommend this facility to others.

The services affected by the project will be accessible to all residents in the area based on clinical and financial eligibility criteria.

Seaside focuses its efforts on short-term rehabilitation with most residents returning home or to a lower cost community based setting which is in line with the goals of the State of Maine. This emphasis on returning residents to their homes and families as quickly as possible improves the quality of life for residents and improves outcomes.

1. **Conclusion**

The Certificate of Need Unit recommends that the Commissioner find that the applicant has met their burden to show that there is a public need for the proposed project.

# V. Orderly and Economic Development

1. **From Applicant**

“The facility has space within the existing building footprint to add the proposed 13 SNF beds. Thus without the significant costs of building expansion or renovations, this proposal would improve the operating efficiencies of Seaside and allow the provision of nursing facility services at a lower cost per resident day than it does today. Thus on a per patient day basis, this project has a favorable impact on state-wide health care expenditures and also helps fill the increasing need for long-term care services the expanding population in Cumberland County demands.”

“Making use of existing nursing facility structures is an inexpensive way to expand the number of nursing facility beds. Indeed far less expensive than building a new facility.”

“It should also be stressed that Seaside has a focus of caring for short-term rehabilitation patients. Seaside’s mission is to transition patients from hospital to home, and the facility excels at helping its customers reach their highest level of functioning to allow most to do so. Knowing that a resident’s family home is a less expensive setting to care for health care needs, this philosophy aligns well with the state’s goal of managing care in the least expensive and restrictive setting.”

“Finally, Seaside has secured an available MaineCare funding stream to offset any increase in costs from adding 13 SNF beds, so there will be no overall increase in costs to the MaineCare system associated with the utilization of the project’s services. As noted above in Section I, total capital costs associated with this project is limited to replacement furniture amounting to $65,000. As replacement equipment is exempt from CON, costs associated with these capital assets are not subject to neutrality considerations.”

“To demonstrate MaineCare neutrality for the operating expenses associated with the increased services, we offer the following documents and analysis.”

* “Proforma MaineCare cost report reflecting a new Seaside MaineCare rate of $211.05 per patient day using a historical case mix index of 1.575 (Schedule E)
* Calculation of additional MaineCare resources needed (Schedule A)
* Analysis of Available and Used MaineCare resources demonstrating no dissaving’s (Schedule B).”
1. **Certificate of Need Unit Discussion**
2. **CON Standards**

Relevant standards for inclusion in this section are specific to the determination that the proposed services are consistent with the orderly and economic development of health facilities and health resources for the State as demonstrated by:

* The impact of the project on total health care expenditures after taking into account, to the extent practical, both the costs and benefits of the project and the competing demands in the local service area and statewide for available resources for health care;
* The availability of state funds to cover any increase in state costs associated with utilization of the project's services; and
* The likelihood that more effective, more accessible or less costly alternative technologies or methods of service delivery may become available
1. **CON Unit Analysis**

The decision to increase the Seaside facility SNF/NF capacity from 124 to 137 beds would address a demonstrated need for additional SNF/NF beds in the Portland area. This benefit would not be offset by a reduction in RCF beds in the area because of construction Seaside conducted last year to redistribute beds at this facility.

The increased operating costs associated with the 13 additional SNF/NF beds would be offset by utilization of the MaineCare revenue stream described in the Economic Feasibility section of this analysis.

No additional State funding is required for this project because MaineCare neutrality needs has been achieved.

Seaside is an existing facility and the incremental costs associated with adding an additional 13 SNF/NF beds are relatively low. It is unlikely that a less expensive alternative to these services is available.

1. **Conclusion**

The Certificate of Need Unit recommends that the Commissioner find that the applicant has met its burden to demonstrate that the proposed project is consistent with the orderly and economic development of health facilities and health resources for the State.

#

# VI. Outcomes and Community Impact

**A. From Applicant**

“As this proposal adds few new beds, appropriately adds beds that will be needed now and in the future, and replaces 13 of the more than 150 NF beds delicensed when Woodford Park converted to residential care, we believe this project will have no adverse quality of care impact on other existing service providers. We also believe that the additional services we propose will provide high-quality outcomes and will complement the services already being delivered at Seaside.”

“Both Seaside and First Atlantic Healthcare is dedicated to proper, individualized, high quality, cost-effective healthcare and services to the consumers we serve. To fulfill this vision, our company has adopted evidence based clinical best practices, and improved services through its embrace of QAPI (Quality Assurance, Process Improvement) and culture change programs.”

“A few of the initiatives undertaken at Seaside and other First Atlantic Healthcare managed homes include:

* Consistent staffing assignment
* Improving resident and family satisfaction
* Reducing pressure ulcers, UTIs and falls
* Limiting the spread of infectious disease through immunizations and use of proper hand washing techniques
* Reducing hospital readmission rates
* Reducing use of antipsychotic drugs and elimination of unnecessary medications”

“Furthermore Seaside Healthcare is improving care through use of technology. American Data Systems, our EMR, provides secure and rapid local and remote user access to vital health information. Through exception reporting, HL7 therapy data links and electronic verification checks it helps ensure complete and accurate documentation of care. Additionally its integrated medication scanning system for drug administration significantly reduces the potential for errors and resulting patient harm.”

“The facility has also partnered with local hospital systems and physician practices in Health Info Net, an innovative repository for patient health care information in single-source internet based medical record. This system allows Seaside and other residents’ health care providers immediate and accurate access to health care information including diagnostic test results and care plans which improves delivery of care to our customers and eliminates costly redundancy.”

“Lastly, please refer to our enclosed Mission and Values statement (Schedule E). It is the foundation of our company culture and it speaks directly to our quest for therapeutic interventions that are curative, comforting and dynamic. As well, it speaks to consumer satisfaction and quality of residential environments that are comfortable, clean and appropriate for consumer needs thus enabling providers under our banner to become the place of choice in the communities we serve.”

**B. Certificate of Need Unit Discussion**

**i. CON Standards**

Relevant standards for inclusion in this section are specific to the determination that the project ensures high-quality outcomes and does not negatively affect the quality of care delivered by existing service providers.

**ii. CON Unit Analysis**

The addition of 13 nursing home beds in the Cumberland County will have a minimal effect on the quality of care delivered by existing service providers. Seniors needing SNF/NF care will have a greater likelihood of finding the services offered in the area where they reside.

This proposal addresses the lack of available nursing home beds in the area. Seaside Healthcare’s focus will be on rehabilitation with the goal of returning the patient to their homes and/or to community-based services rather than placing residents permanently in a more costly long term care nursing bed. This reintroduction of a patient into the at-large community is consistent with the goals of the department and national trends of extending home-based service

1. **Conclusion**

Certificate of Need Unit recommends that the Commissioner find that the applicant has met their burden to demonstrate that this project will ensure high-quality outcomes and does not negatively affect the quality of care delivered by existing service providers.

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# VII. Service Utilization

1. **From Applicant**

“The Maine Quality Forum is geared towards Hospital and Physician based healthcare and thus its evidence-based medicine principals are generally not applicable to this application. Yet the underlying theme of inappropriate admissions, services or testing is very pertinent in all healthcare delivery settings; nursing facilities included.”

“There is a combination of ways inappropriate NF utilization is mitigated.”

“Consumers seeking NF admission and who will rely on MaineCare to pay for their care must have a physician’s order, meet the strident medical eligibility standards of DHHS and qualify based on an assessment of their income and assets. They must also receive a Goold (Goold is independent organization contracted with DHHS to perform assessments using DHHS criteria) assessment that documents NF level of care is needed based on DHHS medical eligibility standards. Generally speaking, MaineCare consumers who seek NF admission must have a three ADL loss or have cognition challenges which qualify them under Maine’s eligibility standards. The assessments continue on a set schedule to assure continuing need for NF level of services.”

“Medicare also establishes medical necessity standards for skilled care thus insuring only appropriate cases are served. Prior to the expansion of skilled care in nursing facilities most cases were treated in hospitals at significantly higher cost.”

“Seaside also benefits from a talented Utilization Review Committee to ensure care provided to individuals is always reasonable and necessary. It adheres to its and First Atlantic Healthcare’s corporate compliance policies that require all employees to follow State and Federal laws governing the provision of nursing facility services. Our employees are always required to report any known instance of non-compliance with health care laws and regulations that govern our business through use of our anonymous corporate compliance hotline.”

**B. Certificate of Need Unit Discussion**

* 1. **CON Standards**

Relevant standards for inclusion in this section are specific to the determination that the project does not result in inappropriate increases in service utilization, according to the principles of evidence-based medicine adopted by the Maine Quality Forum as established in Title 24-A, section 6951, when the principles adopted by the Maine Quality Forum are directly applicable to the application.

* 1. **CON Unit Analysis**

The Maine Quality Forum has not adopted any principles of evidence-based medicine directly applicable to the application; therefore this application meets the standard for this determination.

* 1. **Conclusion**

The Certificate of Need Unit recommends that the Commissioner find that the applicant has met their burden to demonstrate that the project does not result in inappropriate increases in service utilization, according to the principles of evidence-based medicine adopted by the Maine Quality Forum.

# VIII. MaineCare Funding Pool and MaineCare Neutrality

**A. From Applicant**

“N/A”

**B. Certificate of Need Unit Discussion**

1. **CON Standards**

Relevant standards for inclusion in this section are specific to the determination that in the case of a nursing facility project that proposes to add new nursing facility beds to the inventory of nursing facility beds within the State, is consistent with the nursing facility MaineCare funding pool and other applicable provisions of sections 333-A and 334-A.

1. **CON Unit Analysis**

This facility achieved MaineCare neutrality by utilizing MaineCare resources from other projects. No funding from the MaineCare funding pool is required.

MaineCare Neutrality

This project is subject to MaineCare neutrality. MaineCare neutrality is computed by comparing the current utilization of MaineCare resources at the current 124 bed SNF/NF and 30 bed RCF capacity with the proposed 137 beds SNF/NF and 30 bed RCF capacity. The current utilization is $9,237,482.

The expected costs to the MaineCare program are calculated to be $10,019,399. The increase in MaineCare utilization is $781,916 based on a 95% occupancy.

The resources available for the project are listed below in CONU Sources and Uses of MaineCare Funding. The applicant identified sources of revenue for offsetting the project’s annual expenses.

|  |  |
| --- | --- |
| **CONU Sources and Uses of MaineCare Funding:** |  |
|  |  |  |  |  |  |
| **Source:** | **Facility** | **#of Beds** | **$ Value** | **Allocated Beds** | **$ Value** |
|   |   |   |   |   |   |
|   | Colliers | 9 | $645,221  | 9 | $645,221  |
|   | Marshall | 4 | $136,695  | 4 | $136,695  |
|   | **Total** |  | **$781,916**  |  | **$781,916**  |
|   |   |   |   |   |   |
| **Uses:** | Seaside | 13 | $781,916  | 13 | $781,916  |
| **Excess Resources** |   |   | $0  |   | $0  |

The chart indicates that the revenue stream from 9 Colliers NF beds and 4 Marshall’s beds is sufficient to offset the potential costs of the thirteen new SNF/NF beds. The value of the revenue stream is $781,916. The expected costs to the MaineCare program are calculated to be $781,916. Sufficient resources exist to achieve MaineCare neutrality.

1. **Conclusion**

Certificate of Need Unit recommends that the Commissioner find that the applicant has met their burden to demonstrate that the project is consistent with the nursing facility MaineCare funding pool and other applicable provisions of sections 333-A and 334-A.

# IX. Timely Notice

Letter of Intent file: March 19, 2014

Subject to CON review letter issued: March 24, 2014

Technical assistance meeting held: March 27, 2014

CON Application filed: April 15, 2014

CON certified as complete: April 15, 2014

Public Information meeting Held: Not Requested

Public Hearing Held: Not Held

Comment Period Ended: May 15, 2014

# X. CON Findings and Recommendations

Based on the preceding analysis, including information contained in the record, the Certificate of Need Unit recommends that the Commissioner make the following findings:

**A.** The applicant is fit, willing and able to provide the proposed services at the proper standard of care as demonstrated by, among other factors, whether the quality of any health care provided in the past by the applicant or a related party under the applicant’s control meets industry standards.

**B.** The economic feasibility of the proposed services is demonstrated in terms of the:

1. Capacity of the applicant to support the project financially over its useful life, in light of the rates the applicant expects to be able to charge for the services to be provided by the project; and

**2.** The applicant’s ability to establish and operate the project in accordance with existing and reasonably anticipated future changes in federal, state and local licensure and other applicable or potentially applicable rules;

**C.** There is a public need for the proposed services as demonstrated by certain factors, including, but not limited to;

1. The extent to which the project will substantially address specific health problems as measured by health needs in the area to be served by the project;
2. The project has demonstrated that it will have a positive impact on the health status indicators of the population to be served;
3. The project will be accessible to all residents of the area proposed to be served; and
4. The project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project;

**D.** The proposed services are consistent with the orderly and economic development of health facilities and health resources for the State as demonstrated by:

1. The impact of the project on total health care expenditures after taking into account, to the extent practical, both the costs and benefits of the project and the competing demands in the local service area and statewide for available resources for health care;
2. The availability of State funds to cover any increase in state costs associated with utilization of the project’s services; and
3. The likelihood that more effective, more accessible or less costly alternative technologies or methods of service delivery may become available was demonstrated by the applicant;

**E.** The project ensures high-quality outcomes and does not negatively affect the quality of care delivered by existing service providers:

**F.** The project does not result in inappropriate increases in service utilization, according to the principles of evidence-based medicine adopted by the Maine Quality Forum; and

**G.** The project is consistent with the nursing facility MaineCare funding pool and other applicable provisions of sections 333-A and 334-A.

For all the reasons contained in this preliminary analysis and based upon information contained in the record, Certificate of Need Unit recommends that the Commissioner determine that this project should be **approved.**