

# **BRIEFING MEMO**

## **Genesis Health Care of Maine, Inc.** **Marshwood Center**

**DATE:** April 7, 2010

**TO:** Brenda M. Harvey, Commissioner, DHHS

**THROUGH:** Catherine Cobb, Director, Division of Licensing and Regulatory Services

**FROM:** Phyllis Powell, Assistant Director, Planning, Development and Quality  
Larry Carbonneau, Health Care Financial Analyst  
Richard April, Health Care Financial Analyst

**SUBJECT:** Addition of 16 nursing facility beds at Marshwood Center in Lewiston, Maine

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**ISSUE ACTIVATED BY:** The referenced proposal requires Certificate of Need (CON) approval as defined in "The Maine Certificate of Need Act of 2002," 22 M.R.S.A. §326 et seq., as amended.

**REGISTERED AFFECTED PARTIES:** None

### **I. BACKGROUND:**

Marshwood Center is a 108 bed long term care facility located in Lewiston, Maine that currently operates 92 licensed nursing facility beds and 16 licensed residential care beds. Marshwood Center's operating company is Lewiston Operations, LLC, which is a subsidiary of Genesis HealthCare of Maine, Inc. On December 5, 2006, Genesis ME was granted a Certificate of Need to lease and operate Marshwood Center. A new license for Marshwood Center was issued to Lewiston Operations, LLC on December 29, 2006, effective January 1, 2007.

### **II. PROJECT DESCRIPTION:**

Marshwood Center is seeking CON approval to add 16 nursing facility beds to its total nursing facility bed inventory. Capital expenditures involved in this project are being kept to a minimal because the applicant plans to delicense 16 residential care beds. MaineCare neutrality is accomplished by the applicant acquiring bed rights from other facilities. The nursing facility beds, currently on reserve, will be acquired from two facilities: 9 from Presque Isle Rehab and Nursing and 22 from Fryeburg Health Care Center. The project does not involve new construction or renovations and total bed capacity will remain at 108. The total project cost to acquire reserved nursing facility beds is estimated to be \$288,000. This cost is not recoverable through MaineCare.

The Preliminary Review by CONU staff, dated October 12, 2009, concluded that this application failed the following CON review criteria which are addressed in comments received from the applicant. See Section IV.

#### **Public Need**

The applicant has not demonstrated that 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.

#### **Ordinary and Economic Development**

The applicant has not demonstrated that 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 not demonstrated by the applicant;

#### **Consistency with State Health Plan**

The applicant has not demonstrated that the project is consistent with and furthers the goals of the State Health Plan;

#### **Ensuring High-Quality Outcomes**

The applicant has not demonstrated that the project ensures high-quality outcomes and does not negatively affect the quality of care delivered by existing service providers;

### **III. HIGHLIGHTS:**

Letter of Intent dated October 7, 2008  
Application filed and certified as complete on June 17, 2009  
Public Informational Meeting held July 8, 2009  
Preliminary analysis released on October 12, 2009  
Letter to suspend review dated October 26, 2009  
Letter to resume review dated February 22, 2010  
Record Closed on February 23, 2010

### **IV. PUBLIC COMMENTS RECEIVED IN RESPONSE TO THE PRELIMINARY ANALYSIS:**

Following release of the Preliminary Analysis, no public comments were received.

### **V. CONU ANALYSIS/APPLICANTS COMMENTS:**

#### **i. Public Need:**

According to information provided by the applicant, there will be no impact to the communities where the reserved beds are being transferred from:

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#### **i. Public Need:**

According to information provided by the applicant, there will be no impact to the communities where the reserved beds are being transferred from:

“The banked beds in Freeport were taken offline as a result of reducing four (4), three (3) bed rooms to semi-private rooms. It is very challenging to market three bed rooms and the residents’ quality of life was enhanced with their removal. Without a major remodeling project at Freeport Nursing Home, the owners do not believe they would ever be able to bring them back into service and have no intention of doing so.”

“The banked beds in Fryeburg were as a result of closing the Hicks Assisted Living Center (20 beds) and moving their residential care beds into Fryeburg Nursing Care Center (FHCC). FHCC had NF occupancy problems so the owners converted a twenty-two (22) bed NF wing into Residential Care. The owners feel that unless the demand for NF beds in the Fryeburg area changes in the immediate future, it is very unlikely that they would ever consider bringing more NF beds on line beyond current capacity. Therefore, rather than lose the beds at either Freeport or Fryeburg, Hicks Family Services, Inc. would rather see them used in an area or facility that has the demand for them.”

“Presque Isle Rehab and Nursing Center was built in 1969. In the original construction, there were 10 four bed wards. In 2000, one of the wards was converted to a therapy room. In 2004, three of the wards were converted to office space and a family visiting room. In 2005, the last six wards were converted to large semi-private rooms. The owners would not convert these rooms back to four bed wards and have no intention of bringing these beds back on line, nor do they feel there is a need for addition NF beds in Aroostook County, which has the highest number of beds per 1000 residents over the age of 65 in the state.”

The department agrees with the applicant’s assessment that there will be no impact on the communities where the reserved beds will be transferred from as these beds are not currently being utilized.

In their follow-up to the Preliminary Analysis, Marshwood Center refers to the Office of Elder Services/Muskie School “Assessment of Maine’s Long Term Care Needs” report. Highlights of the report include:

- by 2030, Maine will have the second highest percentage of population 65+ of any state in the United States
- the percentage of people 65+ will increase 27% by 2030

In addition, the applicant utilized a “Senior Life Report” from Claritas, Inc. a national demographic analysis research firm. The report states that the number of persons aged 65+ in Androscoggin County will increase to 17,487 in 2014. Using this data from the Claritas, Inc. report, the applicant estimates a need for 595 nursing facility beds in 2014. This is 50 beds beyond what currently exists in the service area. CONU believes 595 beds is a reasonable estimate of future bed need in Androscoggin County.

Another concern of CONU with the original application was that the applicant failed to discuss health needs. According to the applicant, the 16 nursing facility beds relating to the project will be used in an enhanced sub-acute or transitional care unit. Patients are admitted into this program as a result of an acute illness, injury or exacerbation of a disease-related process. Depending on patient needs, a transitional program may include a cardiac program, an orthopedic program, a pulmonary program, or provide support following reconstructive surgeries or traumatic injuries. Approximately 98% of the Marshwood Center’s admissions are for rehabilitative services following an acute event and come from a hospital such as

Central Maine Medical Center and St. Mary's Regional Medical Center. Marshwood Center admitted and discharged approximately 400 residents in 2008. In 2009, the Marshwood Center had 783 referrals but were able to admit only 416 due to the facility being full or not having the appropriate type of beds. CONU concurs that the applicant would be meeting a critical health need by expanding its sub-acute care unit. Marshwood is currently unable to admit 46% of its referrals which is indicative of a shortage of available transitional care beds in Androscoggin County. Patients discharged from a hospital who are 65+ years old may require transitional care before they are able to return home. The applicant suggested the following conditions in order to alleviate the concern of CONU regarding the transition of the patients in the residential care unit:

- The applicant agrees not to enter into any agreement to sell the cash flow of the MaineCare Income stream from the RC beds until all of the MaineCare residents of the Marshwood RC unit have been relocated to MaineCare eligible beds in appropriate RC facilities.
- In the event there are not enough vacant MaineCare RC beds for all of the Marshwood MaineCare RC residents, a sufficient amount of the cash flow from these beds will be used to fund MaineCare beds for these residents.
- The applicant is willing to relinquish to the State of Maine any remaining MaineCare income stream balance that is not used to relocate residents.

To address CONU's concerns about the applicant's initial failure to describe quality services, Marshwood Center lists numerous quality-related training programs that are offered by Genesis HealthCare. One such program, recently implemented by Genesis HealthCare, is a process to track outcomes for short-term medical and rehabilitation patients receiving care on one of the 14 Transitional Care Units that are in operation throughout the Genesis HealthCare system. The program tracks specific metrics such as surgical wound infection rates and weight loss. CONU believes that in addition to training programs, successful quality improvement programs must provide periodic quality metrics to determine if the organization is successful in meeting its quality goals. CONU believes that applying the Genesis HealthCare methodology specifically to the Marshwood Center transitional care unit(s) would be more meaningful than the "overall" 14 unit Genesis HealthCare measurements.

CONU still shares the concern of the Office of Elder Services about the negative impact on the number of Residential Care beds, specifically the reduction of Alzheimer's care beds. The applicant plans to close 16 Residential Care beds, representing a critical service for patients who suffer from diseases like Alzheimer's. Those beds will be replaced with 16 sub-acute transitional care nursing facility beds, representing another critical service. The regulation of Residential Care beds is beyond the scope of the CONU. In order to ensure that the project provides quality services CONU recommends the following condition:

- The applicant will present to CONU a plan that addresses quality metrics applicable to the Marshwood Center transitional care unit, including current metrics at the facility and future goals, as well as, annual progress reports for two years in accomplishing these goals.

CONU recommends the Commissioner find that the applicant has demonstrated that they meet the CON Public Need criteria.

## **ii. Orderly and Economic Development:**

According to the applicant, the proposal would result in no additional increase to total healthcare expenses. The applicant plans to relinquish 16 Residential Care beds and to ensure MaineCare neutrality, purchase 31 nursing facility beds currently on reserve.

The applicant makes the argument and CONU agrees in principle that “without the strong rehab programs of facilities such as Marshwood, there would be increased usage of NF MaineCare beds and increased financial pressure on Maine’s health care expenses. Patients with high acuity care needs would either remain in the acute care sector longer, or be admitted inappropriately to a traditional long-term care setting within a nursing home.” The applicant further states “Marshwood’s focus on a strong sub-acute care unit and program actually saves the State resources by transitioning acute care residents through specialized rehab programs and returning them back home. Again, of the 416 residents admitted YTD through November, 2009, 95% have been able to return home.”

CONU recommends the Commissioner find that the applicant has demonstrated that they meet the CON Orderly and Economic Development criteria.

## **iii. State Health Plan:**

The applicant states “the overriding goal is to discharge patients out of costly acute settings as soon as possible and into less costly nursing home based sub-acute care programs where the patient can receive rehabilitation treatment and return home as soon as possible, often under the continued care of home health agencies.”

Despite the elimination of 16 residential care beds which serve patients such as those suffering with Alzheimer’s disease, the applicant is proposing to add a transitional care unit which will expand access to transitional care for the population of Androscoggin County. According to the applicant, almost 30% of Marshwood Center’s occupancy relates to short-term sub-acute care. These are the programs that have been developed in collaboration with the hospitals to treat patients and effectively return the elderly back home.

CONU agrees with the applicant that these points demonstrate this proposal would support aspects of the State Health Plan by increasing access to short-term transitional care services which will in turn decrease patient healthcare costs and encourage the patient to return home when he/she is able to.

CONU recommends the Commissioner find that the applicant has demonstrated that they meet the CON State Health Plan criteria.

## **iv. Outcomes and Community Impact:**

The applicant states “Without the strong rehab programs of facilities such as Marshwood, there would undoubtedly be increased usage of NF MaineCare beds and a decrease in positive outcomes for Maine’s seniors who benefit from being able to return home following an acute event.” “The best measure of outcome is that patients complete appropriate sub-acute rehab and end up returning home, sometimes with the support of home and community-based services, rather than placed as residents in long term care beds in nursing homes.” CONU

agrees with the applicant's statements which are backed by Marshwood's high percentage of discharges in relation to admissions.

CONU recommends the Commissioner find that the applicant has demonstrated that they meet the CON Outcomes and Community Impact criteria.

## **VI. CONCLUSION:**

For all the reasons set forth in the Preliminary Analysis, in the record and considering clarifying information provided by the applicant, CONU concludes that the review criteria have been satisfied. CONU recommends the approval of a CON with conditions.

## **VII. RECOMMENDATION:**

CONU recommends this proposal be **Approved with Conditions:**

1. The applicant agrees not to enter into any agreement to sell the cash flow of the MaineCare Income stream from the RC beds until all of the MaineCare residents of the Marshwood RC unit have been relocated to MaineCare eligible beds in appropriate RC facilities.
2. In the event there are not enough vacant MaineCare RC beds for all of the Marshwood MaineCare RC residents, a sufficient amount of the cash flow from these beds will be used to fund MaineCare beds for these residents.
3. The applicant will relinquish to the State of Maine any remaining MaineCare income stream balance that is not used to relocate residents.
4. The applicant will submit prior to implementation of this project, a plan that addresses quality metrics applicable to the Marshwood Center transitional care unit, including current metrics at the facility and future goals. The applicant will also submit annual progress reports for two years following implementation of this project in accomplishing these goals.

Estimated Capital Expenditure:           \$288,000