

**Department of Health and Human Services
Division of Licensing and Regulatory Services
State House, Augusta, ME
Preliminary Analysis**

Date: October 5, 2009

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

Proposal by: Genesis HealthCare of Maine

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Directly Affected Party: None

Recommendation: DISAPPROVE

	Proposed Per Applicant	Approved CON
Estimated Capital Expenditure	\$ 288,000	\$ 0
Maximum Contingency	\$ 0	\$ 0
Total Capital Expenditure with Contingency	\$ 288,000	\$ 0
Pro-Forma Operating Costs	\$ 0	\$ 0
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MaineCare Funding Pool Impact:	\$ 0	\$ 0
NF Allocated Costs Portion	\$ 0	\$ 0
RCF Allocated Costs Portion	\$ 0	\$ 0
Other Program Costs	\$ 0	\$ 0
Non-Reimbursable Costs	<u>\$ 0</u>	<u>\$ 0</u>
Total Program Costs	\$ 0	\$ 0
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Estimated Costs to NF MaineCare System	\$ 0	\$ 0
Estimated New Costs to MaineCare System	\$ 0	\$ 0

I. Abstract

I. Abstract

A. From Applicant

“Marshwood Center is a 108 bed facility located in Lewiston and consisting of 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. (“Genesis ME”). On December 5, 2006, Genesis ME was granted a Certificate of Need (“CON”) to lease and operate, among other facilities, Marshwood Center. A new license for Marshwood Center was issued to Lewiston Operations, LLC on December 29, 2006, effective January 1, 2007. Please refer to Exhibit I-A for an Organization Chart related to Genesis ME and Lewiston Operations, LLC.”

“Marshwood Center is seeking CON approval to add 16 nursing facility beds to its total nursing facility bed inventory. This will be facilitated by delicensing its 16 residential care beds and acquiring 32 appropriately reserved nursing facility beds (16 from Presque Isle Rehab and Nursing (See Exhibit I-B) and 16 from Fryeburg Health Care Center (See Exhibit I-D). Marshwood Center will use part of the Maine Care income stream associated with the 32 acquired reserved beds to add 16 nursing facility beds; thus remaining Medicaid neutral.”

“If there is Maine Care income stream left over after the neutrality calculation has been finalized, of at least equal to 1 bed’s worth of income stream, Marshwood may choose to retain the rights to any extra reserved beds to potentially be used on another project or sold. The total cost to acquire the 32 reserved beds required to provide a sufficient Medicaid income stream is \$288,000.”

“The addition and fill-up of the 16 nursing facility beds will commence once the 16 residential care beds have been vacated. Marshwood Center will work closely with other residential care facilities in the service area to relocate the existing residential care residents at Marshwood Center. It is anticipated that these residents will have no problem being transferred and absorbed into one of the other 12 residential care facilities in the service area that total approximately 532 residential care beds.”

“Marshwood Center’s existing 16 bed residential care unit was a new addition to the facility in 1997. This unit was constructed to nursing facility standards and requires no additional capital costs as a result of this proposed project.”

“Genesis ME and Marshwood Center are making a business decision to eliminate the residential care beds at Marshwood Center and add additional nursing facility beds in order to focus on the core business of delivering nursing care level services and expanding the Medicare skilled rehabilitative component of the facility.”

I. Abstract

“Attached as Exhibit I-D is a floor plan of the facility and the space program showing the 1997 addition to the main building, which will be the location of the new 16 nursing facility beds. There will be no other changes in the main building.”

“This proposed change does not involve new construction or renovations, nor is there a change in the total bed capacity – it will remain at 108. Thus, there is no requirement for approval by the City of Lewiston to make this change.”

II. Fit, Willing and Able

II. Fit, Willing and Able

A. From Applicant

“Marshwood Center is an existing nursing home that has been operated by Lewiston Operations, LLC since January 1, 2007. Marshwood Center is located at 33 Roger Street, Lewiston, Maine.”

“Prior to the transfer of operations and Lewiston Operations, LLC becoming the operator, Marshwood Center was operated by the Sandy River Health System (“Sandy River”). In order to accomplish the transfer of operations, a CON was obtained on December 5, 2006 by Genesis ME, a subsidiary of Genesis HealthCare Corporation. The CON determined that Genesis ME was “fit, willing and able to provide the proposed services at the proper standard of care” – i.e., appropriate to operate the 11 Sandy River nursing and long term care facilities. Genesis ME formed 11 separate limited liability companies (“LLCs”) to operate the 11 facilities, including forming Lewiston Operations, LLC to operate Marshwood Center. As part of the CON review process, extensive information was provided regarding the extent of Genesis HealthCare Corporation’s overall operations. This corporation has subsidiaries that own, lease or manage 213 healthcare facilities in thirteen states, including 178 skilled nursing, 22 assisted living, and 13 transitional care units, which total approximately 25,948 beds.”

“Marshwood Center intends to discontinue providing residential care services and hereby requests that it be permitted to utilize the residential care unit with 16 new nursing facility beds, thus increasing the number of nursing facility beds at the facility to 108. This CON does not involve a physical change to the existing facility and there will not be a change in overall bed capacity of 108. It simply involves delicensing the residential care beds and adding an equal number of nursing facility beds in a facility that is primarily focused on providing nursing care services.”

“Thus, Genesis ME and Marshwood Center will ensure the continuation of ongoing nursing care operations at Marshwood Center. In addition, Genesis ME and Marshwood Center will continue to implement all necessary measures to remain in good standing with the Maine Department of Health and Human Services.”

“Please refer to Exhibit II-A for resumes of the facility Administrator and the Regional Vice President of Operations for Genesis ME.”

“Please refer to Exhibit II-B for a copy of the license to operate Marshwood Center.”

II. Fit, Willing and Able

B. CONU Discussion

i. CON Criteria

Relevant criteria 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.

ii. CON Analysis

Genesis acquired control of the facility in December of 2006. This was part of the Genesis Healthcare CON to acquire operating rights to Sandy River Health Systems facilities in Maine. Although Genesis is new to Maine, many of the managers of Sandy River Health System stayed on in some capacity with Genesis of Maine. The 2006 CON has been reviewed subsequently on three occasions for various changes involving corporate structure, including the sale of Genesis Healthcare to Formation Capital. The implementation reports indicate that all aspects of the transaction have not occurred as of the date of this review.

Marshwood's last licensing review occurred on November 26, 2008. There were several findings related to proper handling of medications and disposal as well as a repeat finding for not following the previous plan of correction (2007). The repeat finding related to ensuring that expired multi-use medications were disposed of properly and not maintained on medicine carts. The Marshwood facility was last licensed on December 31, 2008 and its license remains effective until 12/31/09. In its last CON review, Genesis HealthCare of Maine explained its quality assurance plan as summarized below:

“The Corporate Clinical Leadership Group (CCLG) is responsible and accountable for clinical care and outcomes. Membership is comprised of corporate, area and ancillary clinical leadership and operations representatives. The function of the CCLG is to:

- Trend and monitor clinical performance;
- Respond to identified problems;
- Create standardized clinical practice through policy, procedures, programs, and standards of care;
- Spread clinical best practices; and
- Identify appropriate clinical products.”

“The SVP, Corporate Clinical Services serves as the Senior Nurse Executive of the company with functional reporting of Area Vice Presidents of Clinical Services and together they assure consistency of nursing practice.”

II. Fit, Willing and Able

“The SVP, Corporate Clinical Services also provides oversight of clinical practice staff that support clinical leadership activities, develops clinical policies, procedures, programs and education, and monitor compliance; and outcomes management staff who produce outcomes reports for corporate, area, state, and center-based quality improvement, assist users with data interpretation, and coordinate clinical research.”

“At the Corporate level, there is also a Chief Medical Officer responsible for clinical care with functional reporting of the Area Vice Presidents of Medical Affairs. The CMO is a member of the CCLG.”

“Each area has a Vice President of Clinical Services (VPCS) who serves as the Nurse Executive of the area and is a member of CCLG. The VPCS is responsible for area nursing management and is a mutual partner with the Senior Vice President of Operations and leaders of other disciplines within the Area. Reporting to the VPCS is the Director of Clinical Services, Director of Clinical Education, Director of Dementia Services, and Recreation Therapy Consultant. These Directors are responsible for the Clinical Service Managers and Clinical Educators who support the Centers in a variety of ways.”

“Clinical Service Managers (CSM) partner with Regional Vice Presidents of Operations (RVPO) to proactively monitor key center processes and outcomes. Together they provide clinical/operational oversight to ensure regulatory and Genesis policy and procedure compliance, assess interdisciplinary operations and nursing care delivery, evaluate the Center’s core and advanced capabilities, and make recommendations regarding clinical care.”

“If a sentinel event occurs, it is reported to the CSM and RVPO, and to Area and Corporate senior leaders as appropriate. Support is provided to the center throughout the event, investigation, and related reporting and corrections. The sentinel event and response is reviewed at Center and Area quality improvement committees, and if warranted, at the CCLG. The related learning is spread throughout the company in order to prevent similar occurrences, and policies, procedures, and education are revised accordingly.”

“Center education is provided by Clinical Educators who may be generalists or specialists in areas such as wound care, infection control, or social services. The Educators provide direct education, competency evaluations, serve as mentors, and in the case of the specialist may provide direct patient consultation.”

“Each area also has a Vice President of Medical Affairs who serves as the Area Physician Executive and is a member of CCLG. The VPMA provides oversight of the Center Medical Director who is an integral member of the Center leadership team.”

CONU concludes that the applicant is fit, willing and able.

II. Fit, Willing and Able

iii. Conclusion

CONU recommends that the Commissioner find that Genesis HealthCare of Maine 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

III. Economic Feasibility

A. From Applicant

“Marshwood Center is seeking CON approval to add 16 nursing facility beds. Marshwood Center will facilitate this by delicensing its 16 residential care beds and acquiring the Medicaid income stream of 32 appropriately reserved nursing facility beds from Presque Isle Rehab and Nursing and Fryeburg Health Care Center. Marshwood Center will utilize 16 reserved nursing facility beds from Presque Isle Rehab and Nursing and 16 reserved nursing facility beds from Fryeburg Health Care Center to provide a sufficient Medicaid income stream that allows Marshwood Center to add the 16 nursing facility beds.”

“The total cost to acquire the 32 reserved nursing facility beds, which is required to provide a sufficient Medicaid income stream to add 16 nursing facility beds, is \$288,000.”

“Marshwood Center’s existing 16 bed residential care unit was a new addition added to the facility in 1997. This unit was constructed to nursing facility standards and requires no additional capital costs as a result of this proposed project.”

“Genesis ME and Marshwood Center are making a business decision to eliminate the residential care beds at Marshwood Center and add additional nursing facility beds in order to focus on the core business of delivering nursing care level services and expanding the Medicare skilled rehabilitative component of the facility.”

“Attached as Exhibit III-A is Marshwood Center’s Operating Statement for the past 12 months. Please note that Genesis ME and Marshwood Center are in the process of converting from a June 30 Fiscal Year to a December 31 Fiscal Year.”

“Marshwood Center continues to be a very strong performing facility with Net Income for the past 12 months (after capital costs) at \$788,000. Attached as Exhibit III-B is a Pro Forma Operating Statement and a table with the proposed changes census, bed type and utilization (including “Quality Mix” percent). Attached as Exhibit III-C is a pro forma MaineCare cost report. Attached as Exhibit III-D is the Historical Balance Sheet for Marshwood Center and Balance Sheet projections through 2011.”

“The Pro Forma Income Statement and related supplemental data show that the proposed change of Marshwood Center offering only nursing care services will improve the overall operating results by approximately \$100,000 annually. Operating expenses are projected to increase by approximately \$425,000, with the largest increases being in nursing staffing and rehabilitative services. The forecasts include an additional five nursing positions and one nursing support position to meet the increased clinical needs of the residents. Revenue, however, is anticipated to increase by approximately \$540,000,

III. Economic Feasibility

as a result of the additional nursing care services that are being proposed. The increase in Medicare revenue will be the largest component of the increase.”

“Attached as Exhibit III-E is the most recent completed MaineCare cost report for Marshwood Center.”

B. CONU Discussion

i. CON Criteria

Relevant criteria 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.

ii. CON Analysis

The applicant states that \$288,000 of capital for this project will be provided by its own equity financing.

MaineCare Neutrality

The applicant has entered into written agreements with several other nursing facility providers to delicense beds in their facilities in order to transfer the MaineCare cash flow from those facilities to Marshwood. The applicant has obtained agreements for 44 beds. The applicant expects that resources from those 44 beds will be sufficient for MaineCare neutrality. The applicant suggests that it will hold onto the remaining assets for Marshwood. Current CON law does not allow for the transfer of reserved bed rights except in the case where an applicant for a CON and a holder of bed rights agrees to delicense those rights. Transfer of the rights is therefore not direct but rather the consequence of the “relinquishing party” delicensing and giving up its rights to the reserved beds and the “bed adding party” subsequent to an approved CON using the income stream from those particular beds to fund new beds at their own facility.

Since the nature of the project is adding beds to the State of Maine current bed capacity, it is limited to the 100 bed annual limit. 22 M.R.S.A §334-A(1). The MaineCare neutrality question will be determined by equating the value of the beds voluntarily given up with the expected first year costs generated by converting the residential care beds to

III. Economic Feasibility

nursing facility beds. The cost of the transaction where the parties gained the right to use the cash flow is not reimbursable by MaineCare. Therefore, the requirement that the transaction preserve MaineCare “budget neutrality” will be met.

The applicant presented a one-year pro-forma indicating the first year results for the facility. They anticipate an occupancy rate of 96.76%. The applicant also presents an increase in MaineCare NF days of 3,285 days and an increase of Medicare days of 1,095. Patient mix between funding sources remains relatively stable.

First year operating expenses are projected to be \$8,865,679 including \$1,734,903 in non-reimbursable costs. The total of reimbursable costs is \$7,106,774. Costs that are not allowable include \$94,320 in non-reimbursable costs, ancillary costs of \$1,642,636 and \$155,517 in non-allowable rent expenses in excess of cost of ownership. Costs that were otherwise allowable but not part of the operating costs of the facility are \$134,200 in central office overhead and a difference of \$23,370 in allowable administration and management fees.

In terms of MaineCare reimbursement for nursing facilities, the applicant projects \$3,958,494 in reimbursement for Year 1, while the 2008 filed cost report would suggest reimbursement for Nursing facility services was \$3,268,306. This is a difference of \$690,188.

Determining the reasonableness of this increase in reimbursement is a process made difficult by the need to provide valuations that are comparable to the values determined for the reserved beds. Reserved bed values were determined through the same process that determined the valuation of the initial MaineCare Funding Pool and the values of the reserved beds that are not part of the pool but have the potential to be part of that pool due to the time limitation of the reserved beds.

For fixed costs the change in the allowable costs is the difference between 2008 allocated costs of \$1,085,906 and the allowable costs of the pro-forma \$1,282,896. This amounts to a difference of \$169,990.

CONU utilizes a pro-forma 95% occupancy rate. The proposed project would therefore lead to an increased cost of \$698,456. Comparing this \$698,456 calculated by CONU to the applicant’s \$690,188 shows a difference of only \$8,268. CONU has determined that the approximation is appropriate and the increase in MaineCare revenue from this project to the applicant is \$698,456. MaineCare offsets of no less than \$698,456 need to be identified.

The applicant identified two sources of revenue for offsetting the project’s annual expenses. The first source is an agreement with Presque Isle Nursing and Rehabilitation Center for assigning the income stream from 16 reserved beds at that facility. These beds were “banked” at two different times and have a 7/1/2009 valuation of \$212,069 for ten

III. Economic Feasibility

beds and a \$127,242 valuation for 6 beds. The second source is an agreement with the common operator of Fryeburg Health Care Center (22 beds) and Freeport Nursing and Rehabilitation Center (4 beds) to assign the income stream from these two sources to the applicants for this project. These beds have a valuation of \$509,627 (Fryeburg) and \$78,874 (Freeport). The sources and uses of this income stream are reflected in the Sources and Uses of MaineCare chart below:

Sources and Uses of MaineCare Funding:

Source	Facility	#Beds	Value	Allocated	Value
	Presque Isle	10	\$212,069	9	\$190,862
	Presque Isle	6	\$127,242		
	Fryeburg	22	\$509,627	22	\$509,627
	Freeport	4	\$78,874		
	Total	42	\$927,812	31	\$700,489
Uses	Marshwood	16	\$698,456	16	\$698,456
Excess Resources			\$229,356		\$2,033

The above chart indicates that using the 22 beds from Fryeburg and 9 of the oldest beds from Presque Isle would maintain MaineCare neutrality. The excess of \$2,033 in resources from the transaction would be placed in the MaineCare Funding Pool for future use. The resources identified with the 11 remaining beds would be retained by their current facilities.

Financial Ratio Analysis

The pertinent financial ratios, as well as financial projections are on file with CONU. The following discussion relies on the information as presented by the applicant. 2010 Balance sheet projections were done using estimates developed by CONU.

There are four areas of financial ratio analysis related to the ability of the project to be successful. These ratios are profitability, liquidity, capital structure, and activity ratios.

Profitability: These ratios show how well the nursing facility does in achieving an excess of revenues over expenses or providing a return. Generating revenue in excess of expenses is important to secure the resources necessary to update plant and equipment, implement strategic plans, or respond to emergent opportunities for investment. Losses, on the other hand, threaten liquidity, drain other investments, and may threaten the long-term viability of the organization.

III. Economic Feasibility

Financial Performance Indicators

Profitability	2007	2008	2009	Proforma 2010
Return on Total Assets	1.02%	2.72%	16.72%	14.89%

A review of financial indicators is important because they can present a fair and equitable representation of the financial health of an organization and assist in presenting appropriate comparisons. This provides a sound basis for determining whether the facility has the ability to commit the financial resources to develop and sustain the project. Facilities need to perform at financially sustainable levels in order to carry out their public-interest missions. The applicant shows significant earnings.

Financial Performance Indicators

Profitability	2007	2008	2009	2010
Operating Surplus	\$45,139	\$113,007	\$820,334	\$844,944

Expected surplus is reasonable given the assumptions described by the applicant. Assuming the projections will materialize, this level of surplus would allow the facility enough cash flow to maintain operations.

Liquidity: Current ratios and acid test ratios are indicators of the ability of a facility to meet its short-term obligations. This liquidity alleviates the need for decision making to be focused on short-term goals and allows for more efficient planning and operations of a nursing facility. The current ratio assumes that inventory and accounts receivable can be liquidated sufficiently to meet short-term obligations. This ratio can provide a cursory indication of cash management performance.

Financial Performance Indicators

Liquidity	2007	2008	2009	2010
Current Ratio	1.24	1.60	2.12	2.08

The current ratio as presented above shows a strong ability to make timely payments.

Activity and Capital Structure: Activity ratios indicate the efficiency with which an organization uses its resources, typically in an attempt to generate revenue. Activity ratios can present a complicated picture because they are influenced both by revenues and the value of assets owned by the organization.

III. Economic Feasibility

Financial Performance Indicators

Solvency	2007	2008	2009	2010
Equity Financing	101%	106%	86%	72%
Fixed Asset Financing	40%	40%	40%	40%

With a large decrease in equity financing, operations will be less expensive than with a more leveraged operation.

In review, the financial indicators are indicative of a well-run organization where expenses are kept to allowable minimums and revenues should allow for a reasonable return given the expected continuation of the payment mix of revenues.

Staffing

As part of the proforma provided, the applicant disclosed direct care staffing as follows:

DIRECT CARE	# FTE's Before	# FTE's After	Change
Registered Nurses	9.33	8.73	-.6
Licensed Practical Nurses	3.90	9.52	5.62
CNA	37.36	43.85	6.49
Ward Clerks	1.33	1.01	-.32
Activities	1.24	1.08	-.16
Total	53.16	64.19	11.03

In 2008, the applicant used contracted nursing services for over four full-time equivalent positions (FTEs). In its proforma the applicant decreased its estimated use of contracted nursing to 0.57 FTEs. The overall difference in direct care staffing is 7.5 FTEs.

Changing Laws and Regulations

CONU staff is not aware of any imminent or proposed changes in laws and regulations that would impact the project. Genesis of Maine and the Marshwood staff have the organizational strength to adjust to reasonable changes in laws and regulations.

III. Economic Feasibility

iii. Conclusion

CONU recommends that the Commissioner determine that Genesis HealthCare of Maine 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

IV. Public Need

A. From Applicant

“This proposal involves taking out of service the 16 residential care beds at Marshwood Center and transferring residents to existing resident care facilities in the service area. Consequently, there will be a slight decrease in the number of licensed residential care beds in the service area. The decrease in 16 residential care beds in the service area only represents 2.9% of the total existing residential care beds.”

“The following is a table of the existing facilities with residential care beds”:

Facility	Location	RC Beds
Auburn Res Care	Auburn	35
Bolster Heights	Auburn	84
Clover Manor-Alz	Auburn	36
Clover Manor-Geriatric	Auburn	99
Fern Cottage	Leeds	5
Lamp-Alzheimer's	Lisbon	28
Marshwood Center	Lewiston	16
Montello Commons	Lewiston	44
Odd Fellows Home	Auburn	37
Russell Park	Lewiston	41
Sabattus Res Care	Sabattus	19
Sarah Frye Home	Auburn	37
Seville Park Plaza	Auburn	37
The Chapman House	Auburn	30
Total RC Beds		548
Marshwood Center as % of Total		2.92%

“Marshwood Center proposes to acquire the Medicaid income stream of 32 appropriately reserved nursing facility beds and converting 16 of the 32 reserved beds back to licensed beds, but permanently retiring the remaining 16 reserved beds in order to ensure a sufficient Medicaid income stream.”

“An increase of only 16 nursing facility beds is around 2.9% of the total nursing facility beds in the service area. According to the “Assessment of Maine’s Long Term Care Needs” dated December 20, 2007, the statewide average of nursing facility beds per thousand persons ages 65+ and over is 37, and the Lewiston/Auburn service area is at 36 beds per thousand. The increase in beds will not significantly add beds to the service area.”

IV. Public Need

“The table below is a list of the existing facilities with nursing facility beds in the service area”:

Facility	Location	NF Beds
Clover Manor	Auburn	110
Marshwood Center	Lewiston	92
Montello Manor	Lewiston	57
Odd Fellows Home	Auburn	26
Russell Park	Lewiston	50
St. Marguerite D'Youville	Lewiston	210
Total NF Beds		545
% Increase of 16 NF Beds at Marshwood Center		2.94%

“Furthermore, it is the intention of Marshwood Center to build upon its strong position in the service area as a Medicare skilled rehabilitation provider. The 16 nursing facility beds will be located in a 1997 addition and become an enhanced Medicare skilled rehabilitation unit that occupies the first floor of the facility. Marshwood Center has a strong relationship with Central Maine Medical Center as a leading rehabilitation provider and hospital discharge option in the service area.”

“There is also support for the additional nursing facility beds at Marshwood Center as evidenced by a nursing facility occupancy of approximately 95% for the past 12 months. In light of this demand, the proposed addition of 16 nursing facility beds allows Marshwood Center to move away from the residential care business and focus all of its operating attention on nursing care with a very strong Medicare rehabilitation program. Marshwood Center’s Medicare utilization has been approximately 20% for the past 12 months.”

“It is important to note that the two largest referral sources for Marshwood Center, as expected, are Central Maine Medical Center and St. Mary’s Regional Hospital. Indeed, most admissions for the facility come directly from a hospital for rehabilitative services following an acute event, which is typical for a nursing facility with a strong Medicare skilled program. Marshwood Center admitted over 398 residents in 2008 and discharged 387 residents. Please refer to Exhibit IV-A, Monthly Census for Periods Ending 2007 and 2008 and Referral and Admission Activity Reports for 2007 and 2008.”

“In further evaluating the service area of Androscoggin County, in 2006, the Office of Elder Services requested the assistance of the Muskie School to develop an assessment of long term care service use in Maine. The Muskie School worked with the Lewin Group to develop a model for estimating future need of long term care services. Table 9A of the Maine Long Term Care Projection Model indicates that there are 545 actual beds in the

IV. Public Need

service area in 2008 and a need for 570 beds in 2010. Marshwood Center proposes to add 16 nursing facility beds, which will bring the total to 561 beds, which is still under the projected need according to the report.”

“An increase of only 16 nursing facility beds will not significantly add beds to the service area.”

B. CONU Discussion

i. CON Criteria

Relevant criteria 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.

ii. Office of Elder Services Analysis

“We have reviewed the CON application from Lewiston Operations, LLC, which is a subsidiary of Genesis HealthCare of Maine, Inc., to add 16 nursing facility (NF) beds to its Marshwood Center nursing facility located at 33 Roger Street in Lewiston. The facility is now a multi-level NF with 92 NF beds and 16 residential care (RC) beds. If the CON application is approved, the applicant will delicense the 16 RC beds and replace them with the 16 NF beds. We offer the following comments.”

NF Bed Need:

“In the application’s Section IV (Public Need) and Section V (Orderly and Economic Development), the applicant states that the additional 16 NF beds will not have a significant impact on the Marshwood service area, which is Androscoggin County, because (1) the service area’s NF bed inventory will increase by only 2.94%, and (2) the service area’s NF bed need continues to increase. As evidence that the NF bed need

IV. Public Need

continues to increase, the applicant refers to Table 9A in the “Maine Long Term Care Projection Model”, which was prepared for the Department of Health and Human Services (DHHS) by The Lewin Group, Inc. with assistance from the Muskie School of Public Service. The model forecasts a need for 570 NF beds in the service area in 2010. The applicant states that since there are now only 545 NF beds in the service area, the additional 16 NF beds will revise the total to only 561 NF beds, which is less than the 2010 forecast.”

“Table 9A forecasts NF bed need for 2010 and 2015 based on the assumption that the decline in nursing facility age-related use rates observed from 2000 to 2006 will continue. It appears that the 2010 forecast for 570 NF beds may tie to the 627 NF beds in the service area in 2006 rather than the 545 NF beds now in the service area. If it does tie, the 2010 forecast contradicts the applicant’s statement that the service area’s NF bed need continues to increase.”

RC Bed Need:

“In the application’s Section I (Abstract), Section IV (Public Need), and Section V (Orderly and Economic Development), the applicant states that the discontinuation of the 16 bed RC unit will not have a significant impact on residential care services in the Marshwood service area because (1) the service area’s RC bed inventory will decrease by only 2.92%, and (2) the RC unit’s residents will be easily transferred to the other RC facilities in the service area.”

“Although there are 14 RC facilities/units in the Marshwood service area, only 3 of these receive MaineCare reimbursement based on the Alzheimer’s peer group for services to adults with Alzheimer’s disease, or other dementias, in a secure (locked) facility/unit in compliance with DHHS licensing regulations for assisted living facilities. They are the Clover Manor Alzheimer’s RC unit (36 beds) in Auburn, The Lamp Alzheimer’s RCF (28 beds) in Lisbon, and the Marshwood Center Alzheimer’s RC unit (16 beds) in Lewiston. The Marshwood beds comprise 20% of the 80 Alzheimer’s RC beds in the service area. And, since only 20 of the Clover Manor beds are MaineCare eligible, the Marshwood beds comprise 25% of the 64 MaineCare eligible Alzheimer’s RC beds in the service area.”

“From 2006 through 2008, the Marshwood RC unit averaged 97.8% overall occupancy including 9-11 MaineCare residents. During that period, Clover Manor averaged 97.5% overall occupancy, with all of its MaineCare eligible beds occupied, and The Lamp averaged 92.5% overall occupancy including 11-13 MaineCare residents. Although the 2009 “point-in-time” RC occupancy reports, which are prepared by the Muskie School, indicate that The Lamp has vacant beds, all of which are MaineCare eligible, we are concerned that if the Marshwood RC unit is discontinued, there will insufficient vacant beds available in Clover Manor and The Lamp to accommodate all of the Marshwood RC residents, thus requiring that some of the residents be relocated beyond the Marshwood

IV. Public Need

service area.”

“On September 24, 2008, Genesis HealthCare signed a Letter of Intent (LOI) to sell the MaineCare cash flow of the Marshwood RC beds to the Bolster Heights RCF in Auburn. Bolster Heights, which is an 84 bed geriatric RCF, planned to use the cash flow to fund MaineCare eligible beds in a 16 bed addition to the facility for adults with Alzheimer’s disease, or other dementias. The Marshwood residents would be given priority for admission when the addition was complete. Bolster Heights has since postponed building the addition, and has not indicated when, or if, the project will continue. Therefore, we recommend that Genesis be asked to rescind the Bolster LOI and not enter into another LOI to sell the cash flow without including a condition that the sale cannot proceed until all of the MaineCare residents of the Marshwood RC unit have been relocated to MaineCare eligible beds in appropriate RC facilities/units, preferably within the Marshwood service area. 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 will be used to fund beds for them.”

“In conclusion, we are concerned that the CON application has not adequately supported the applicant’s assurances that (1) the need for NF beds continues to increase in the Marshwood service area, and (2) replacement of the 16 bed Alzheimer’s RC unit with 16 NF beds will have no significant impact on the residential care services in the Marshwood service area. We recommend that these concerns be addressed during the CON review.”

iii. CON Analysis

The following comments relate to the following chart. The census data is presented as of the May 15, 2009 census data. It shows a total of 545 available beds in Androscoggin County. All the facilities are located in the Lewiston-Auburn area and are roughly comparable as to size and facility condition. The data shows that the facilities are above the 85-90% capacity threshold (as applicable). Five of the six facilities serve different levels of care with skilled services being available and utilizing 10-25% of the available nursing beds. Marshwood offers skilled services and reported utilization in May 2009 of 68.89% MaineCare patients in May 2009. The percentage of occupied beds paid for by MaineCare range from 61% to 92% with Marshwood Center reporting 68.89%.

IV. Public Need

Androscoggin County Point in Time Occupancy 5/15/09 (Muskie Survey):

Occupancy Pct	MaineCare Pct	Medicare Pct	Other Pct	Total Beds	Facility
89.09%	67.35%	12.24%	20.41%	110	Clover Manor
87.72	82	10	8	57	Montello
98.00	61.22	24.49	14.29	50	Russell Park
88.10	80.54	13.51	5.95	210	St. Mary's
100.00	92.31	0.00	7.69	26	Odd Fellows Home of Maine
90%	76%	13%	10%	453	Other Facility Average
97.83%	68.89%	23.33%	7.78%	92	Marshwood Center

The applicant has entered into several transfer agreements. The affected areas include Presque Isle, Fryeburg, and Freeport. The applicant did not demonstrate any effect of eliminating those beds from those prospective areas. The applicant proposes to add 16 NF beds to an area that exceeds 100,000 individuals. The proposed increase is approximately 0.15 beds per 1,000 individuals. The applicant also discusses its “strong Medicare rehabilitation program.” Marshwood’s Medicare utilization has been approximately 20% for the past twelve months. The average Medicare utilization for the other facilities in the area was 13%. There are more than 200 skilled nursing care beds in the area.

The applicant did not substantially address specific health problems. The applicant did not present adequate demographical information on the relevant population of their service area. The applicant also did not present an analysis of demographics and the present, current, and future trends as they pertain to this project to demonstrate a need for the proposed increase in NF beds.

The applicant states that based on the current assessment, there is little impact on the number of available nursing beds in the area. CONU agrees; however, CONU shares the concern of the Office of Elder Services about the impact on the number of Residential Care beds, specifically the reduction of Alzheimers’ care beds.

Due to the substantial decrease in residential Alzheimer care beds, the project may have a negative impact on the health status indicators on the population to be served. The Alzheimer services affected will not be accessible to all residents of the area because they will cease to exist.

Lastly, the applicant did not provide any evidence that the project would demonstrate improvements in quality and outcome measures. The applicant indicated this is a business decision that will increase the profitability of the business.

IV. Public Need

iii. Conclusion

CONU recommends that the Commissioner find that Genesis HealthCare of Maine has not met their burden to show that there is a public need for the proposed project as demonstrated by certain factors, including, but not limited to: (1) 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; (2) Whether the project will have a positive impact on the health status indicators of the population to be served; (3) Whether the services affected by the project will be accessible to all residents of the area proposed to be served; and (4) Whether the project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project.

V. Orderly and Economic Development

V. Orderly and Economic Development

A. From Applicant

“Marshwood Center has made a business decision that it no longer would like to offer residential care services. Marshwood Center is proposing to delicense the 16 residential care beds and add an equal number of nursing facility beds. Alternatives considered include: 1) continuing the existing configuration of nursing facility and residential care beds as is; 2) closing down the residential care unit and no longer offer residential care services, but keep the number of nursing facility beds at 92; or 3) close down the residential care unit and add 16 nursing facility beds by acquiring 32 appropriately reserved nursing facility beds and converting 16 of the reserved beds back to licensed beds, but permanently retiring the remaining 16 reserved beds in order to ensure a sufficient Medicaid income stream.”

“This plan allows Marshwood Center the opportunity to acquire reserved nursing facility beds and increase the number of nursing facility beds from 92 to 108. The increase in 16 nursing facility beds will be located in the existing 16 bed residential care unit at Marshwood Center.”

“This unit was originally constructed to nursing facility standards and offers an excellent environment for Marshwood Center to expand its nursing care business. This proposal will also improve the operating efficiencies of Marshwood Center’s nursing care business with a 100% focus on nursing care services. It is also an efficient way to bring reserved nursing facility beds back into the system as the need for nursing facility beds continues to increase, while not significantly impacting residential care in the service area.”

“This proposal will be Medicaid neutral and add no additional cost to the State’s Medicaid program.”

V. Orderly and Economic Development

B. CONU Discussion

i. CON Criteria

Relevant criteria 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.

ii. CON Analysis

As discussed above, the Office of Elder Services concluded as follows, “we are concerned that the CON application has not adequately supported the applicant’s assurances that (1) the need for NF beds continues to increase in the Marshwood service area, and (2) replacement of the 16 bed Alzheimer’s RC unit with 16 NF beds will have no significant impact on the residential care services in the Marshwood service area. We recommend that these concerns be addressed during the CON review.”

CONU shares this concern because the applicant’s proposal may cause a probable need for additional Residential Care Alzheimers beds in the area. Since the applicant did not assess the cost to the MaineCare system to develop additional beds to meet this need, the applicant did not determine the impact on total healthcare expenses. In addition, the applicant has not adequately demonstrated the benefits of the project so as to overcome any impact of the project on health care facilities, resources and expenditures for the state. Therefore, CONU concludes that the proposed services are not consistent with the orderly and economic development of economic resources.

iii. Conclusion

CONU recommends that the Commissioner find that Genesis HealthCare of Maine has not met their 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. State Health Plan

VI. State Health Plan

i. Criteria

Relevant criterion for inclusion in this section are specific to the determination that the project is consistent with the State Health Plan.

ii. Discussion

Note: The Maine Center for Disease Control (Maine CDC) is not required to comment on Nursing Facility Applications.

PRIORITY: The applicant is redirecting resources and focus toward population-based health and prevention.

a. Applicant's Discussion on Priority

“N/A”

b. CONU Discussion

This priority was not addressed.

PRIORITY: The applicant has a plan to reduce non-emergent ER use.

a. Applicant's Discussion on Priority

“N/A”

b. CONU Discussion

This priority does not apply.

PRIORITY: The applicant demonstrates a culture of patient safety, that it has a quality improvement plan, uses evidence-based protocols, and/or has a public and/or patient safety improvement strategy for the project under construction and for other services throughout the hospital.

VI. State Health Plan

a. **Applicant's Discussion on Priority**

“N/A”

b. **CONU Discussion**

This priority does not apply.

PRIORITY: The project leads to lower costs of care/increased efficiency through such approaches as collaboration, consolidation, and/or other means.

a. **Applicant's Discussion on Priority**

“The increase in licensed nursing facility beds from 92 to 108 will allow for improved operating efficiencies. Genesis HealthCare Corporation’s core business is operating skilled nursing facilities, and Marshwood Center would like to focus on such core business of delivering nursing care services and expanding its Medicare skilled rehabilitative component.”

b. **CONU Discussion**

For the development of these beds, there would be a reduction in the marginal costs of care. By providing only one level of care, there would be gains in operational efficiencies. This is demonstrated in the financial forecast. Space originally developed for nursing care services but currently utilized for residential care services may be more properly utilized by this conversion. This project does not meet the priority; however, because the reduction of residential care beds may cause additional costs of care for those patients at a different/new facility.

PRIORITY: The project improves access to necessary services for the population.

a. **Applicant's Discussion on Priority**

“The increase in 16 nursing facility beds by utilizing the “Medicaid Income Stream” of 32 appropriately reserved nursing facility beds increases access to nursing facility services in a service area projected by the Maine Long Term Care Projection Model to have a need by 2010.”

b. **CONU Discussion**

As noted above, the project adds 2% of the available beds at a time when use of those beds exceeds 95%; however, at the same time it eliminates a unit with a 97.5% overall occupancy. This would be a 20% reduction of RCF-Alzheimer beds and therefore this project does not meet the criteria for the priority.

VI. State Health Plan

PRIORITY: The applicant has regularly met Dirigo voluntary cost control targets.

a. **Applicant's Discussion on Priority**

"N/A"

b. **CONU Discussion**

This priority does not apply.

PRIORITY: The impact of the project on regional and statewide health insurance premiums, as determined by BOI, given the benefits of the project, as determined by CONU.

a. **Applicant's Discussion on Priority**

"N/A"

b. **CONU Discussion**

This priority does not apply.

PRIORITY: Applicants (other than those already participating in the HealthInfoNet Pilot) who have employed or have concrete plans to employ electronic health information systems to enhance care quality and patient safety.

a. **Applicant's Discussion on Priority**

"N/A"

b. **CONU Discussion**

This priority does not apply.

PRIORITY: Projects done in consultation with a LEEDS certified-architect that incorporate "green" best practices in building construction, renovation and operation to minimize environmental impact both internally and externally.

a. **Applicant's Discussion on Priority**

"There is no new construction as a result of this proposal."

VI. State Health Plan

b. CONU Discussion

This priority does not apply.

iii. Conclusion

CONU recommends that the Commissioner find that the project is not consistent with the State Health Plan priorities. This project would not achieve any priorities of the State Health Plan.

VII. Outcomes and Community Impact

VII. Outcomes and Community Impact

A. From Applicant

“This proposal for CON approval will have minimal community impact. Marshwood Center will transfer the existing 16 residents of the residential care unit to other facilities in the service area. The decrease in 16 residential care beds in the service area only represents 2.9% of the total existing residential care beds.”

“Marshwood Center proposes to acquire the Medicaid income stream of reserved nursing facility beds such that it will allow the existing space of the residential care unit to be used for the 16 nursing facility beds. An increase of only 16 nursing facility beds is also around 2.9% of the total nursing facility beds in the service area. According to the “Assessment of Maine’s Long Term Care Needs- dated December 20, 2007, the statewide average of nursing facility beds per thousand persons ages 65+ and over is 37, and the Lewiston/Auburn service area is at 36 beds per thousand.”

“Marshwood Center will change its licensed capacity from 16 licensed residential care beds and 92 licensed nursing facility beds to 108 licensed nursing facility beds. This change will not significantly add nursing facility beds to the service area or change the overall licensed capacity at Marshwood Center.”

B. CONU Discussion

i. CON Criteria

Relevant criteria 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 Analysis

For the purposes of health care needs covered by the CON process this proposal does not negatively affect the quality of care by existing service providers because the proposed increase is not a material change to the number of available beds. When the need for residential care services is included, other providers of this service may find that the level of services available is insufficient to provide quality care to all those who need it. The applicant has not provided information regarding the quality and outcome of their services that would be affected if this proposal was approved.

VII. Outcomes and Community Impact

iii. Conclusion

CONU recommends that the Commissioner find that Genesis HealthCare of Maine has not 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.

VIII. Service Utilization

VIII. Service Utilization

A. From Applicant

“Marshwood Center would like to discontinue providing residential care services and is seeking CON approval to increase the number of nursing facility beds to complement the nursing care services already offered at the facility. This CON application does not involve a physical change to the existing facility or a change in the overall bed capacity. It is simply adding 16 nursing facility beds (equal to the number of residential care beds that will be retired) to a facility that focuses on providing nursing care services and no longer would like to be in the residential care business.”

“Thus, the applicant will continue its ongoing nursing care operations of Marshwood Center and continue to be part of the strong tradition of the Genesis HealthCare, which is very proud of its quality care record and ranks among the top providers for overall customer satisfaction and quality medical care according to national independent research.”

“Genesis HealthCare has some of the best staff retention rates in the long-term care industry. As part of the Genesis HealthCare system, Marshwood Center is dedicated to providing excellent care to its rehabilitation and long term care residents. Marshwood Center provides opportunities for professional development and advanced clinical training in order to ensure that its clinical practice aligns with the changing needs of the patient population.”

“Marshwood Center tracks and measures 19 Quality Measures as well as its own internal clinical benchmarks as part of a commitment to “Advancing Excellence,” a voluntary initiative focused on continuous quality improvement practices and consistent measurement in order to support better quality care.”

“Genesis HealthCare and Marshwood Center maintain a dynamic customer satisfaction focus, putting the patient/resident at the center of the care process. In order to continuously understand the changing needs of its customers, Genesis HealthCare routinely measures patients/resident and family satisfaction and participates in a survey process provided by My InnerView, an independent research organization that benchmarks satisfaction data in the long-term care industry.”

“Genesis HealthCare offers each of its patients/residents outstanding clinical care, delivered by highly skilled practitioners in a warm and comfortable setting. The organization is focused on becoming the recognized leader in clinical quality and customer satisfaction in every market it serves, including at Marshwood Center. Marshwood Center also continues to be a leader in rehabilitative skilled services.”

VIII. Service Utilization

“Below are the Mission Statement, Vision Statement, and Core Values of Genesis HealthCare and Marshwood Center”:

Our Mission

“We improve the lives we touch through the delivery of high-quality health care and everyday compassion.”

“Our employees are the vital link between Genesis HealthCare and our patients/residents. They are the service we provide and the product we deliver – they are our most valuable resource. Achievement of our vision comes only through the talents and extraordinary dedication our employees bring to their jobs each and every day.”

Vision

“Genesis HealthCare will set the standard in nursing and rehabilitative care through clinical excellence and responsiveness to the unique needs of every patient/resident we care for. We will be the recognized leader in clinical quality and customer satisfaction in every market we serve.”

Core Values

- “Care & Compassion for every life we touch.
- Respect & Appreciation for each other.
- Teamwork & Enjoyment in working together.
- Focus & Discipline on improving quality of care.
- Creativity & Innovation to develop effective solutions.
- Honesty & Integrity in all dealings.”

“The change proposed in this CON will only serve to strengthen Marshwood Center’s core business of providing high quality skilled rehabilitative and nursing care services in the Lewiston/Auburn area.”

B. CONU Discussion

i. CON Criteria

Relevant criterion 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.

ii. Maine Quality Forum Analysis

The Maine Quality Forum is not required to comment on Nursing Facility applications.

VIII. Service Utilization

iii. CON Analysis

This project would not significantly increase the number of available beds in the area and therefore would not represent an inappropriate increase in service utilization. The applicant did not provide specific information on their benchmarks.

iv. Conclusion

CONU recommends that the Commissioner find that Genesis HealthCare of Maine 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.

IX. Funding in MaineCare Nursing Facility Fund

IX. Funding in MaineCare Nursing Facility Fund

A. From Applicant

“N/A”

B. CONU Discussion

i. CON Criteria

Relevant criteria for inclusion in this section are related to the needed determination that the project can be funded within the MaineCare Nursing Facility Fund.

ii. CON Analysis

This project utilizes no resources from the MaineCare Nursing Facility Fund. The applicant has identified resources through transfer agreements that if approved, the project would not need to be funded within the Mainecare Nursing Facility Fund.

iii. Conclusion

CONU has determined that there are no incremental operating costs to the healthcare system and there will be no MaineCare Nursing Facility Fund dollars needed to implement this project.

X. Timely Notice

X. Timely Notice

A. From Applicant

“The applicant fully intends to follow the appropriate procedures outlined in the CON Procedures Manual to include all requirements for public meetings.”

B. CONU Discussion

Letter of Intent filed:	October 2, 2008
Technical Assistance meeting held:	February 6, 2009
CON application filed:	June 16, 2009
CON certified as complete:	June 16, 2009
Public Information Meeting Held:	July 8, 2009
Public Hearing held:	N/A
Public comment period ended:	August 18, 2009

XI. Findings and Recommendations

XI. Findings and Recommendations

Based on the preceding analysis, including information contained in the record, the CONU recommends that the Commissioner make the following findings and recommendations:

- A. 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.
- 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. 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;
- D. 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;

XI. Findings and Recommendations

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;

In making a determination under this subsection, the commissioner shall use data available in the state health plan under Title 2, section 103, data from the Maine Health Data Organization established in chapter 1683 and other information available to the commissioner. Particular weight must be given to information that indicates that the proposed health services are innovations in high quality health care delivery, that the proposed health services are not reasonably available in the proposed area and that the facility proposing the new health services is designed to provide excellent quality health care.

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

F. 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;

G. The applicant has demonstrated 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; and

H. That the project need not be funded within the Nursing Facility MaineCare Funding Pool.

For all the reasons contained in the preliminary analysis and in the record, CONU recommends that the Commissioner determine that this project should be **DISAPPROVED**.