

BRIEFING MEMO

Maine Medical Center

Acquisition of Control of St. Joseph's Manor (d/b/a Saint Joseph's Rehab and Residence)

DATE: June 12, 2017

TO: Ricker Hamilton, Acting Commissioner, DHHS

THROUGH: Sarah Taylor, Director, Division of Licensing and Certification

FROM: Larry Carbonneau, Manager, Health Care Oversight

SUBJECT: Emergency Certificate of Need for St. Joseph's Manor

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. §325 et seq., as amended.

REGISTERED AFFECTED PARTIES: None

I. BACKGROUND:

M.R.S.A. 22 § 335 (9) Emergency certificate of need. Upon the written or oral request of an applicant asserting that an emergency situation exists, the department shall immediately determine whether an emergency situation exists and upon finding that an emergency situation does exist shall issue a certificate of need for a project necessary on account of the emergency situation. The scope of the certificate of need may not exceed that which is necessary to remedy or otherwise effectively address the emergency situation. The certificate of need may be subject to conditions consistent with the purpose of this Act that does not interfere with the applicant's ability to respond effectively to the emergency. The commissioner shall find an emergency situation exists whenever the commissioner finds that an applicant has demonstrated:

- A. The necessity for immediate or temporary relief due to a natural disaster, a fire, an unforeseen safety consideration, a major accident, equipment failure, foreclosure, receivership or an action of the department or other circumstances determined appropriate by the department;
- B. The serious adverse effect of delay on the applicant and the community that would be occasioned by compliance with the regular requirements of this chapter and the rules adopted by the department; and
- C. The lack of substantial change in the facility or services that existed before the emergency situation.

II. PROJECT DESCRIPTION:

St. Joseph's Manor began in the mid-1970s, serving as a traditional nursing home under the sponsorship of the Bishop of the Roman Catholic Diocese of Portland. It currently offers skilled nursing care, rehabilitation, long term care, respite care, and Alzheimer's care. St. Joseph's Manor is licensed for 121 nursing care beds. The facility is located at 1133 Washington Avenue in Portland, Maine. Peggy Farrington is the current Administrator. During the past decade, St. Joseph's Manor has employed Catholic Health East, and then more recently Covenant Health System, to manage operations at the facility. St. Joseph's Manor is a non-profit charitable corporation under the control of Diocesan Services, Inc. Diocesan Services, Inc. is directly and indirectly under the control of the Roman Catholic Bishop of Portland, a corporation sole. The Bishop and governing Board of Diocesan Services, Inc. (DSI) have provided the overall vision and guidance for St. Joseph's Manor over the years, while St. Joseph's Manor's Board of Directors has overseen day to day operations.

Maine Medical Center (MMC), a voluntary non-profit 501 (c)(3) organization, is a subsidiary of MaineHealth, a nonprofit organization located in Portland, Maine. MMC is licensed for 637 beds and 30 newborn bassinets. MMC is a State-licensed, Federally-certified, Joint Commission accredited hospital with its main campus located at 22 Bramhall Street, Portland, Maine. MMC's primary service area encompasses Cumberland and York counties.

Diocesan Services, Inc. approached MaineHealth, corporate parent of MMC, to consider a transaction by which MMC or MaineHealth would be substituted as the sole corporate member of St. Joseph's Manor, and thereby control the facility. Financial exigency was the driving motivation for the discussion. On an operating basis, St. Joseph's Manor has been losing money, and the Diocese was required to make additional cash infusions into St. Joseph's Manor to allow the company to pay its creditors and others debts as they became due. The Diocese recognized that MaineHealth and MMC, unlike the Diocese, was in the business of health care for the long term, and would be in a better position to determine whether and how the St. Joseph's Manor facility could sustain operations over the long term.

This proposal would result in MMC being substituted for Diocesan Services, Inc. as the corporate member of St. Joseph's Manor, and St. Joseph's Manor would continue as a corporation under its corporate membership control. Over the short term, MMC will provide St. Joseph's Manor with resources to remain in operation, while MMC evaluates options for the facility over the medium and longer term.

Based on the facts outlined in the Maine Medical Center Emergency CON Application :

A. There is a necessity for immediate relief due to the current financial insolvency of St. Joseph's Manor. There is no prospect for a financial turnaround for St. Joseph's Manor if the status quo continues.

B. There will be a serious adverse effect of delay on the applicant and the community that would be occasioned by compliance with the regular CON requirements. St. Joseph's Manor will lack the ability to pay its staff and vendors in the near future. A rapid shutdown of the

facility may result in a transfer of residents and creditors filing a petition to place St. Joseph's Manor in involuntary bankruptcy.

C. There will be no immediate substantial change in the facility or services that existed before the emergency. This is because of the financial condition of Maine Medical Center. Maine Medical Center has the demonstrated financial capacity to operate this facility and as a current provider of nursing services would meet the standards related to the financial conditions for approval of an acquisition of this facility. Since the CON is only good for one year, no transfers or changes in the operational capacity of the facility will be allowed prior to the filing of normally reviewed and vetted Certificate of Need Application.

III. HIGHLIGHTS:

Maine Medical Center Emergency CON Application received June 12, 2017.

IV. CONCLUSION:

For all the reasons stated above the Certificate of Need Unit recommends that the Commissioner determine that an Emergency exists and that the proposed acquisition of control of St. Joseph's Manor by Maine Medical Center be approved subject to the conditions described below.

V. RECOMMENDATION:

The CONU recommends this proposal be **Approved** subject to the following conditions:

1. This Emergency CON will expire no later than June 30, 2018.
2. Complete and file a regular Certificate of Need Application for acquisition of control of St. Joseph's Manor by June 30, 2018 if MMC plans to permanently acquire control of the facility and/or there are changes in the facilities operations.