**DATE:** August 1, 2015

**TO:** Mary C. Mayhew, Commissioner, DHHS

**THROUGH:** Phyllis Powell, Director, DLRS

**FROM:** Larry D. Carbonneau, Manager, Health Care Oversight, DLRS

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

**SUBJECT:** Acquisition of Control - Durgin Pines (A Nursing Home)

**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**

Sentry Commons, LLC (Sentry Commons) operates an 81-bed nursing facility leased from Kittery Commons, LLC (Kittery Commons) in Kittery, Maine, The facility is operated under the name of Durgin Pines.

Durgin Pines opened in May 2008. Kittery Commons purchased the licensed beds in 1999 and a Certificate of Need was approved in December 2005 to build the facility. Durgin Pines has operated in good standing since 2008.

**II. PROJECT DESCRIPTION**

Both Sentry Commons’ and Kittery Commons’ membership interests are owned 50% by Joseph Hogan and 50% by William Gillis. William Gillis wishes to retire. The proposed project involves Joseph Hogan purchasing William Gillis’ membership interests in each entity. Joseph Hogan would be the sole owner of both entities.

**III. HIGHLIGHTS**

Letter of Intent dated: April 30, 2015

Technical Assistance meeting held: May 11, 2015

CON application filed: May 29, 2015

CON certified as complete: May 29, 2015

Public Hearing held: None

Close of Public Record: June 29, 2015

Preliminary Analysis released: July 10, 2015

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

No public comments were received following the release of the preliminary analysis.

**V. CERTIFICATE OF NEED UNIT ANALYSIS**

1. **Fit, Willing and Able**

Durgin Pines is licensed for 81 SNF/NF beds. The facility is located at 9 Lewis Road in Kittery, Maine. The administrator is Nicholas P. Bridges. The license was issued on March 2, 2015 and is valid through March 31, 2016.

A review of Durgin Pines last completed survey data, available from Medicare.gov website revealed the following ratings:

|  |
| --- |
| **Durgin Pines** |
| **Nursing Home Compare Ratings** |
| **Category** | **Ratings** |
| Overall | Much Above Average |
| Health Inspections | Much Above Average |
| Staffing | Above Average |
| Quality Ratings | Much Above Average |

Durgin Pines scored “Much Above Average” in three categories rated by CMS, with an overall rating of “Much Above Average”.

The last recertification survey was conducted between April 13 and April 16, 2015. The result of the survey was the identification of three (3) deficiencies. All three deficiencies were Level 2 (minimal harm or potential for actual harm) or below. The average number of health deficiencies identified during a recertification survey in Maine is 3.9; the average number of health deficiencies in the United States is 6.8. The deficiencies were corrected by May 5, 2015.

On April 23, 2015 a complaint survey was conducted and inspectors determined that the nursing home failed to:

1. Ensure a care plan was developed in accordance with the interdisciplinary team’s decision to proceed with care planning in the areas of: Activities of Daily Living (ADLs); urinary incontinence; falls; pressure ulcer; psychotropic drug use; pain and community discharge planning for 1 out of 3 residents reviewed.

This deficiency was corrected by May 11, 2015.

**Deeming of Standard**

As provided for at 22 M.R.S.A. §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.

Durgin Pines has operated under the joint ownership of William Gillis and Joseph Hogan since May of 2008 and has been a provider of SNF/NF services since Durgin Pines opening. The services provided by the applicant are consistent with applicable licensing and certification standards.

1. **Economic Feasibility**

Kittery Commons, LLC owns the real estate of Durgin Pines and Sentry Commons, LLC is Durgin Pines operating company. This transaction is going to be an equity sale of membership interests. This transaction will have no impact on Durgin Pines cash flow, balance sheet or depreciable basis. This is reflected in the pro forma cost report submitted by the applicant and on file at CONU.

**Deeming of Standard**

As provided for at 22 M.R.S.A. §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 applicable licensing and certification standards.

The applicant has operated, and will continue to operate the Durgin Pines facility after the transaction.

1. **Public Need**

In order to determine public need, CONU reviewed the demographic and service use trends in Durgin Pines service area (York 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>.

York County is the southern-most county in Maine with a population of 200,710. Approximately 17.3% of the population is 65 and over. The 65 and over population is expected to experience a 77.7% increase by 2022. York County had 24 nursing home beds per 1,000 persons age 65 and above which is lower than the State average of 33 beds per 1,000.

Durgin Pines occupancy rates are consistent for the area. The occupancy data demonstrates that York County facilities average greater than 90% occupancy. The demographics of York County along with Durgin Pines occupancy data clearly demonstrate a need for SNF/NF services in the area.

Retaining needed SNF/NF services will have a positive impact on the health status indicators of the population to be served.

No services will be affected by this project and both skilled and long-term care services will be accessible to all residents in the area.

1. **Orderly and Economic Development**

Because of the nature of this transaction, there will be no impact on total health care expenditures.

MaineCare reimbursement rates for direct care and routine services will not change due to this transaction. No capital expenditures are required due to this transfer of ownership. There are no increases in state costs attributable to this transaction. It is highly unlikely that more effective, more accessible or less costly alternative technologies or methods of service delivery will become available.

1. **Outcomes and Community Impact**

There will be no change in either services or the number of licensed beds. Existing service providers will not be impacted negatively. The applicant has undertaken several initiatives to improve overall performance and quality including:

1) Implementation of the Abaqis program to enhance quality improvement.

2) New processes have been implemented to ensure compliance with medication orders.

3) Increased real-time communication between staff to share clinical updates.

4) Transitioning to the Point Click electronic medical records system.

The facility received a “Much Above Average” rating for quality on the medicare.gov website.

1. **Service Utilization**

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.

**VI. CONCLUSION**

For all the reasons set forth in the Preliminary Analysis and in the record, CONU concludes that the review standards have been satisfied. CONU recommends the approval of the CON.

**VII. RECOMMENDATION**

CONU recommends that this application be **Approved.**