#### Date: July 10, 2015

**Project**: **Acquisition of Control of Durgin Pines**

**Proposal by: Continuum Health Services for Durgin Pines**

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

**Richard Lawrence, Senior Health Care Financial Analyst**

**Directly Affected Party: None**

**Certificate of Need Unit Recommendation: Approval**

**Proposed Approved**

**Per Applicant** **CON**

Estimated Capital Expenditure $2,995,000 $2,995,000

Maximum Contingency $0 $0

Total Capital Expenditure with Contingency $2,995,000 $2,995,000

Pro-Forma Marginal Operating Costs $ 0 $0

MaineCare Neutrality Established N/A

# I. Abstract

**A.** **From Applicant**

“Sentry Commons, LLC (Sentry Commons) operates an 81-bed nursing facility leased from Kittery Commons, LLC (Kittery Commons) in Kittery, Maine, and operates under the d/b/a Durgin Pines.”

“Durgin Pines opened in May 2008 as a replacement facility for Harbor Home and Homestead. Harbor Home and Homestead were antiquated facilities owned and operated by David Sowerby. Kittery Commons purchased the licensed beds in 1999 and a Certificate of Need was approved in December 2005 to build the replacement facility. Durgin Pines has operated in good standing since 2008. There have been no quality of life and no quality of care issues cited.”

“Both Sentry Commons’ and Kittery Commons’ membership interests are currently 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 upon which he would be the sole owner of both entities.”

“The following table summarizes ownership of the membership interests of both Kittery Commons and Sentry Commons before and after the proposed transaction:

|  |  |  |
| --- | --- | --- |
| **Sentry Commons** | Current Ownership | Proposed Ownership |
| Joseph Hogan | 50% | 100% |
| William Gillis | 50 | - |
| Total membership interests | 100% | 100% |

|  |  |  |
| --- | --- | --- |
| **Kittery Commons** | Current Ownership | Proposed Ownership |
| Joseph Hogan | 50% | 100% |
| William Gillis | 50 | - |
| Total membership interests | 100% | 100% |

“The transfers of ownership will occur as soon as reasonably feasible upon approval of the proposed project by the Division of Licensing and Regulatory Services (DLRS). This project does not propose any changes to the licensed beds at Durgin Pines, or significant changes to occupancy, payor mix or the allowable rate therefore having no anticipated impact on MaineCare funding requirements.”

# II. Fit, Willing and Able

1. **From Applicant**

“Both Sentry Commons, LLC’s and Kittery Commons, LLC’s membership interests are currently owned 50% by Joseph Hogan and 50% by William Gillis. The proposed project involves Joseph Hogan purchasing William Gillis’ membership interests in each entity upon which he would be the sole owner of both entities.”

“The current management team is as follows:

Joseph Hogan owns and operates Continuum Health Services in Lewiston, Clover Manor in Auburn; Gorham House and Gorham Manor in Gorham; Sentry Hill in York; and Durgin Pines in Kittery. Mr. Hogan has been a licensed nursing home administrator in good standing since 1985. He was also involved in the development of Dirigo Pines Retirement Community in Orono. See Exhibit A for further information.”

“Venise Minkowsky, CEO, has been a licensed nursing home administrator in good standing since 1990. Ms. Minkowsky is an MSW. She joined Mr. Hogan in 1995 as the administrator of Gorham House and then assisted in the development of Sentry Hill in 1998 and the development of Durgin Pines in 2007. Ms. Minkowsky serves as a board member of the Maine Health Care Association. See Exhibit A.1 for further information.”

“Nick Bridges is the administrator of Durgin Pines. He received his administrator’s license in 2013. Mr. Bridges has an M.S. in Occupational Therapy and he worked at Harbor Home as a licensed therapist and as the therapy program director until becoming the administrator of Durgin Pines in 2013. In 2014, he was selected as an American Health Care Association Future Leader in LTC (1 of 35 selected nationally). In 2014 and 2015, Mr. Bridges was an American College of Health Care Administrators (ACHCA) Eli Pick Award Winner. He also has been invited to present numerous times throughout the country at both state and national conferences on quality improvement projects and results. See Exhibit A.2 for further information.”

“In 1999, Continuum Health Services was formed. Continuum provides management services to Mr. Hogan’s affiliated entities:

* Clover Manor, 440 Minot Avenue, Auburn, ME
* Gorham House, 50 New Portland Road, Gorham, ME
* Gorham Manor, 30 New Portland Road, Gorham, ME
* Sentry Hill, 2 Victoria Court, York, ME
* Durgin Pines, 9 Lewis Road, Kittery, ME”

“Continuum has twelve employees and offers accounting and budgeting management, financial analysis, capital budgets, regulatory compliance audits, human resources management, and operational review.”

“All of the Continuum affiliated facilities have received good annual state surveys with no fines or significant deficiencies. Included as Exhibit B are the last three Statements of Deficiencies from annual state surveys specifically for Durgin Pines.”

“The proposed change of ownership will have no impact on the management and operations of Durgin Pines. Nick Bridges will continue as the administrator. Mr. Hogan and Ms. Minkowsky will continue in their current roles at Continuum Health Services.”

**B. Certificate of Need Unit Discussion**

1. **CON Standard**

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

1. **CON Unit Analysis**

Durgin Pines is licensed for 26 SNF and 55 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.

Inspectors determined that the nursing home failed to:

**1)** Ensure that care plan approaches for completing a base-line Abnormal Involuntary Movement Scale (AIMS) Test, and “see orders for adaptive equipment” following Speech language Pathologist recommendations were implemented for 1 out of the 5 residents reviewed.

**2)** Complete a base-line Abnormal Involuntary Movement Scale (AIMS) test in accordance with the approaches outlined in a care plan, and current guidelines for the use of antipsychotic medications for 1 out of the 5 residents reviewed.

**3)** Ensure that the Consultant Pharmacist identified and reported to the Attending Physician and the Director of Nursing, that an anti-psychotic medication was being administered without a base-line Abnormal Involuntary Movement Scale (AIMS) test having been completed for 1 out of 5 residents reviewed.

All 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.

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

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

**Deeming of Standard**

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

Durgin Pines has operated under the 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. **Conclusion**

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

# III. Economic Feasibility

1. **From Applicant**

“As discussed during the Technical Assistance Meeting and outlined in the Letter of Intent, the proposed change in ownership will have no impact on Durgin Pines’ operations or financial results. Enclosed as Exhibits C and C.1 are the projected 2016 MaineCare cost report and related assumptions which represents Durgin Pines’ anticipated operating expenses for 2016, the first full year subsequent to the proposed change in ownership.”

“Upon the purchase of William Gillis’ membership interests, Joseph Hogan plans to refinance the debt currently outstanding on Kittery Commons, LLC and Sentry Commons, LLC with Department of Housing and Urban Development (HUD)-insured financing through Lancaster Pollard.”

“The specific and final terms related to the anticipated refinancing of existing debt with HUD-insured financing are not yet available. Although management is in the early stages of the application process, current HUD rates approximate 3.25% as compared to the rates on the current outstanding debt of 5.25% and 5.5% for Kittery Commons, LLC and Sentry Commons, LLC, respectively. Management is in the process of obtaining prior approval for the refinance from the Department of Health and Human Services (DHHS) as required by the Principles of Reimbursement for Nursing Facilities (the Principles). Because of the early stages of the application process and obtaining DHHS prior approval, the pro forma 2016 cost report included at Exhibit C.1 includes total and allowable interest expense utilizing historical amortization schedules. The refinance is not anticipated to negatively impact MaineCare neutrality requirements.”

“The following provides a summary of Sentry Commons, LLC and Kittery Commons, LLC (d/b/a Durgin Pines) combined income statements which were excerpted from the respective audited financial statements. The 2013 and 2014 financial statements were audited by BerryDunn and their reports dated April 8, 2014 and April 27, 2015, respectively were unmodified. The audited financial statements as of and for the years ended December 31, 2014 and 2013 are included as Exhibit D.”

2013 2014

Net resident service revenue $8,925,863 $9,364,022

Other revenue 70,713 82,094

Total expenses 8,553,432 8,763,961

Net income $ 443,144 $ 682,155

“Management understands the proposed State budget currently includes provisions for a cost of living adjustment and funds to fully implement the rebasing effective July 1, 2015; however, the budget has not been passed by the legislature at the time of this filing. In addition, although the amendments to the Principles effective July 1, 2014 require bi-annual rebasing, any related increase in rates would be subject to funding availability. Therefore, due to these factors as well as the current economic and regulatory environment, management anticipates no changes in payment rates other than a 3% annual increase in private pay rates.”

“With strong historical occupancy rates and census mix as outlined in Section **IV Public Need**, Durgin Pines has realized respectable margins which management anticipates continuing and allows for appropriate investment in facilities, quality initiatives and future programming. In addition, the combined financial statements reflect current ratios of 4.04 and 3.38, respectively, which clearly demonstrate the financial health of the combined balance sheet and Durgin Pines’ ability to operate the project in accordance with existing and reasonable future changes in federal, state and local licensure and other applicable or potentially applicable regulations.”

**B. Certificate of Need Unit Discussion**

1. **CON Standard**

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

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

1. **CON Unit Analysis**

As stated in the abstract section of the CON application, the ownership of the membership interests of Kittery Commons, LLC and Sentry Commons, LLC are currently owned by Mr. William Gillis (50% ownership) and Mr. Joseph Hogan (50% ownership). This transaction involves the transfer of Mr. William Gillis’ 50% membership interest to Mr. Joseph Hogan who will then own 100% of Sentry Commons, LLC and Kittery Commons, LLC.

Mr. Joseph Hogan has extensive experience in the nursing home industry. He currently owns and operates several facilities in the State of Maine. He has been a licensed nursing home administrator in good standing since 1985.

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. The purchase price is expected to be between two and three million dollars depending upon the results of an appraisal. This transaction is expected to be completed within 90 days. The applicant will forward the total purchase price to CONU in conjunction with the implementation report filing. 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.

**Changing Laws and Regulations**

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

**Deeming of Standard**

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

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

1. **Conclusion**

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

# IV. Public Need

**A. From Applicant**

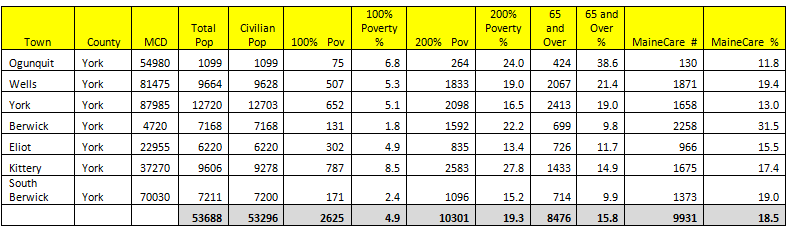
“The following table provides a history of Durgin Pines’ payor mix and occupancy percentages for 2011 to 2014 compared to averages for Region 1 for 2011 to 2013:

|  | 2011 | | 2012 | | 2013 | |  | 2014 |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Durgin  Pines | Region 1 | Durgin  Pines | Region 1 | Durgin Pines | Region 1 | Durgin Pines | Region 1 |
| NF - MCD | 60% | 64% | 59% | 66% | 55% | 65% | 50% | N/A |
| NF - MCR | 22 | 16 | 21 | 14 | 22 | 15 | 22 | N/A |
| NF - Other | 18 | 20 | 20 | 20 | 23 | 20 | 28 | N/A |
|  |  |  |  |  |  |  |  |  |
| Total | 100% | 100% | 100% | 100% | 100% | 100% | 100% | N/A |
|  |  |  |  |  |  |  |  |  |
| Occupancy | 92% | 92% | 94% | 93% | 93% | 91% | 93% | N/A |
|  |  |  |  |  |  |  |  |  |

Sources: 2011, 2012, 2013 and 2014 as filed cost reports were utilized for occupancy and payor mix percentages. BerryDunn’s database which is a compilation of all non-hospital-based as filed cost reports was utilized for Region 2 averages.”

“As evidenced in the table above, Durgin Pines is meeting a need in the community as well as in the region it services. Occupancy rates for 2011 through 2013 were comparable to, or better than, regional averages and MaineCare utilization has historically been lower than the region due to the community Durgin Pines serves. In addition, 2014 occupancy continued to remain strong as does the 2015 occupancy. On May 1, 2015, Muskie School of Public Service released report “MDM-NF13: Occupancy and Distribution of Assessments by Sources of Payment” for roster date February 15, 2015 in which Durgin Pines’ occupancy was 92.59% compared to the statewide average of 92.75%.”

“Management expects both occupancy and payor mix to remain consistent with historical results as the population in the surrounding communities continues to age. In addition, the following population chart provided by the State demonstrates the need for long-term care providers currently providing services in Kittery and surrounding communities to continue services as 15.8% of the population of Kittery and surrounding communities is 65 years and older, 4.9% of individuals are within 100% of federal poverty limits and 19.3% are within 200% of federal poverty limits.”



“Durgin Pines operates a total of 81 licensed beds with 26 assigned for short-term rehabilitation that are dually certified (skilled) and 55 beds assigned for long-term care which are not dually certified. The proposed plan will not impact licensed beds.”

“Management is considering building an addition which will house a larger rehabilitation gym space as well as office space. With this expansion, there may be an opportunity to provide outpatient services that are not currently offered to non-residents of the home. The target population to be served will remain unchanged and includes the communities primarily within a 20-mile radius and almost exclusively the geriatric population.”

“The aim is to provide short-term rehabilitative services as needed as well as meet long-term care needs of the communities Durgin Pines serves. As Durgin Pines is able to accept individuals with Medicare, Medicaid, multiple managed care products, and private payor sources, there is substantial access available to its services. There are no geographic barriers to services other than proximity to the New Hampshire state border and the ocean. In regards to the short-term rehabilitative needs in the community, historically the diagnoses primarily treated on the skilled unit have been: orthopedic aftercare (i.e., status post total hip replacement, total knee replacement, hip fracture); post cardiac surgery; pulmonary (i.e., COPD exacerbation, pneumonia); and failure to thrive. Durgin Pines’ skilled unit has the slogan of “Getting Better, Going Home” and has achieved this goal at a rate of approximately 85-90% of residents served returning to their prior living arrangement since opening in 2008.”

“Durgin Pines has demonstrated significant quality benchmarks and recognition for this work. In July of 2012, starting at a level of 25% antipsychotic medication usage, an initiative to reduce the use of antipsychotics in treating dementia-related behaviors was started. Within one year, a 0% usage rate was achieved and a usage rate of less than 5% has been maintained since that time. This has been acknowledged as a quality improvement/indicator on both a state and national level. The hospital readmission data per the QA reports for the previous four full quarters reviewed indicates a total readmission rate average of 5.59% overall and a 0.29% rate for currently penalized diagnoses. The in- house acquired infection rates for the last four quarters reviewed per the QA reports averages 3.82 per 1,000 with a national average benchmark of 2 - 7 per 1,000. The QIS Survey for 2014 resulted in a deficiency free perfect survey.”

“Durgin Pines has been recognized in the industry as a leader in programming and quality and has been awarded and recognized for the following over the past 2 years: 2013 Maine Health Care Association Quality Award; 2013 Maine Health Care Association Innovative Programming Award; 2014 Maine Health Care Association Innovative Programming Award; 2013 American Health Care Association Tier III Award Winner; 2014 American Health Care Association Tier IV Award Winner (1 of 3 homes in Maine); 2014 Deficiency Free Perfect Survey; 2014 QAPI Accreditation; 2014 Providing Quality Award Winner (only home in US & Canada to achieve award in all 3 areas); Multiple caregivers have received state recognition through “Excellence in Caregiving” awards; Nursing Home Compare “5 Star” Facility during all of 2014 and into 2015; Administrator, Nick Bridges was selected as a 2014 American Health Care Association Future Leader in LTC (1 of 35 selected nationally) as well as a 2014 and 2015 American College of Health Care Administrators (ACHCA) Eli Pick Award Winner.”

**B. Certificate of Need Unit Discussion**

1. **CON Standard**

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

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

1. **CON Unit Analysis**

In order to determine public need, CONU 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. This coincides with the State of Maine as a whole where the 65 and above population continues to grow at a rate faster than New England and the United States as a whole. Statewide nursing home utilization declined between 2000 and 2008 but leveled off in 2010.

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. CONU prepared a summary of occupancy data for Durgin Pines and other York County nursing facilities using the latest data available (3/15/2015):

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  | **Total** | **Total** | **Occupancy** |
| **Nursing Facilities: York County** | **City/Town** | **Beds** | **Occupancy** | **%** |
| Seal Rock Health Care | Saco | 105 | 100 | 95.24% |
| **Durgin Pines** | **Kittery** | **81** | **73** | **90.12%** |
| St Andre Health Care Facility | Biddeford | 96 | 86 | 89.58% |
| Kennebunk Center For Health & Rehabilitation | Kennebunk | 78 | 81 | 103.85% |
| Greenwood Center | Sanford | 86 | 70 | 81.40% |
| The Newton Ctr For Rehab & Nur | Sanford | 74 | 62 | 83.78% |
| Varney Crossing NCC | North Berwick | 64 | 57 | 89.06% |
| River Ridge Center | Kennebunk | 62 | 58 | 93.55% |
| Evergreen Manor | Saco | 42 | 37 | 88.10% |
| Southridge Rehab & Living Ctr | Biddeford | 65 | 56 | 86.15% |

Durgin Pines occupancy rates compare favorably with other providers at 90.12%. Data submitted by the applicant shows an occupancy rate of over 90% since 2011. This transaction involves the change of ownership of Durgin Pines which has served the York County area since 2008. The demographics of York County along with Durgin Pines occupancy data clearly demonstrate a need for SNF/NF services in the area. (Note: Both Greenwood Center and The Newton Center exceed an 85% occupancy during the majority of the past six months). The occupancy data included above demonstrates that the York County facilities average greater than a 90% occupancy.

Retaining needed SNF/NF services will have a positive impact on the health status indicators of the population to be served. The skilled unit enables residents to remain close to home and family while receiving services. Approximately 85-90% of residents served returned to their prior living arrangement after treatment.

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.

As stated by the applicant this facility strives to provide quality services in the York County area. The facility has achieved several quality benchmarks and has received recognition from numerous organizations in regards to quality and the array of services the facility offers.

1. **Conclusion**

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

# V. Orderly and Economic Development

**A. From Applicant**

“There are no anticipated changes to the MaineCare direct and routine rates paid to Durgin Pines as a result of the proposed change of ownership. The assumption of current rates, no changes to bed licenses, no anticipated increases in total or MaineCare occupancy and no planned capital expenditures significantly impacting MaineCare reimbursement or above Certificate of Need review limitations as a result of this change of ownership demonstrates MaineCare neutrality. In addition, the anticipated refinancing is not expected to negatively impact MaineCare neutrality requirements.”

“Management is currently evaluating an expansion to Durgin Pines primarily for a rehabilitation gym with office space on the second level. The impetus for this expansion is a response to the need for a larger treatment space given the volume of rehabilitative services provided at Durgin Pines. The current gym space is not meeting the need of the resident population or fostering the ability to improve the quality and scope of rehabilitation offerings. The current rehabilitation gym will be repurposed into a multipurpose room, primarily for patient activities and staff education/meetings. This project is in the preliminary scoping phase. Management plans to obtain final estimates relative to this project and begin construction in 2016. Although the current rehabilitation space will become allowable under the MaineCare Principles of Reimbursement because of its repurposed use, the majority of the expanded square footage will be non-reimburseable for MaineCare purposes. In addition, overall project costs are anticipated to be well below the Certificate of Need review threshold. Due to these factors in addition to the very preliminary phase of the project, costs related to this expansion are not included in the pro forma cost report or related assumptions included in Exhibits C and C.1. Funds for this project may be available from the HUD-insured refinancing; however, the details have not yet been determined.”

“There is no practicable alternative to the change of ownership other than the death of one of the partners or the purchase of Durgin Pines by a separate investor. The proposed change in ownership discussed in section **I. Abstract** is the most seamless to the quality of care initiatives and outcomes at Durgin Pines.”

**B. Certificate of Need Unit Discussion**

1. **CON Standard**

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

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

1. **CON Unit Analysis**

This transaction involves changing ownership of an existing facility. No major changes to services or to bed licenses are anticipated. No additional capital expenditures or borrowings will result due to this ownership change. 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. Since there are no increases in state costs, the question of the availability of state funds to meet increases in state costs is not applicable to this transaction.

Durgin Pines is an existing nursing facility providing necessary services in the York County area. It is highly unlikely that more effective, more accessible or less costly alternative technologies or methods of service delivery will become available.

1. **Conclusion**

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

# VI. Outcomes and Community Impact

**A. From Applicant**

“Section **IV. Public Need** discusses the clinical quality benchmark information regarding Durgin Pines. For ongoing quality improvement work, Durgin Pines has implemented the use of the Abaqis program in order to conduct an ongoing QIS Survey process internally. This program allows multiple staff members to take part in the internal review process and to identify areas for increased attention or need for quality improvement. Past performance improvement projects that have come about as a result of this process have included a wheelchair maintenance program as well as improved pain management particularly for skilled rehabilitation patients.”

“There have been systems implemented with weekly audits put in place to ensure compliance with C2 medication orders and the timing of these orders. Additionally, in order to reduce the potential for medication errors, the triple check process for medication orders has been adjusted to include more built-in mechanisms for tracking and accountability. This audit process now includes increased use of initialing and dating of all pages reviewed in order to ensure the appropriate paperwork is being reviewed as part of the triple check process. This has helped in reducing potentially missed medications and/or human error transcription issues.”

“More recently, mid shift nursing staff huddles have been initiated to ensure increased capability to share important clinical updates in real time and amongst all direct care staff. This information will remain on the huddle report for 7 consecutive days and reported on all shifts to ensure that no nursing staff is missed and that the information is heard and retained. This also serves as a quick reference for clinical updates to any per diem staff that has not been working for greater than one week, as they can review historical updates dating back to the last date of work.”

“In the coming months Durgin Pines will begin transitioning to Point Click Care in order to establish a true electronic medical record. This program will allow for increased communication amongst staff as well as allow for built-in system checks/audits for completion of necessary tasks/assessments.”

**B. Certificate of Need Unit Discussion**

1. **CON Standard**

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

1. **CON Unit Analysis**

The applicant is assuming control of an existing nursing facility. This transaction is occurring between two individuals who currently own the facilities. Continuing necessary services in the current geographic areas will have a positive impact on the quality of care. The existing scope of services will not be changed. Any future addition of services will be aligned with the needs of the community. Since there will be no change in either services or the number of licensed beds, existing service providers will not be negatively impacted. The applicant has undertaken several initiatives to improve overall performance and quality:

1) Possible expansion for additional rehabilitation space.

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

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

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

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

As noted in the Fit, Willing and Able section of this analysis the facility received an “Much Above Average” rating for quality on the medicare.gov website. Any deficiencies noted on the latest accreditation and complaint surveys were addressed in a timely manner.

1. **Conclusion**

CON Unit recommends that the Commissioner find that the applicant 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.

# VII. Service Utilization

1. **From Applicant**

“There will be no changes in the services offered by Durgin Pines as a result of this change of ownership. Historical census data was provided in Section **IV. Public Need**. Management anticipates census and utilization to remain consistent with current market conditions.”

**B. Certificate of Need Unit Discussion**

1. **CON Standard**

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

1. **CON Unit Analysis**

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

This application is for a change of ownership and does not increase the number of nursing home beds or a change in the services offered. This transaction will not result in inappropriate increases in utilization.

1. **Conclusion**

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

# VIII. 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. Certificate of Need Unit Discussion**

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Letter of Intent filed: April 30, 2015

Technical Assistance meeting held: May 11, 2015

CON application filed: May 29, 2015

CON certified as complete: May 29, 2015

Public Information Meeting held: Waived

Public Hearing: None requested

Close of Record: June 29, 2015

# IX. Findings and Recommendations

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

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

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

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

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

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

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

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

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

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

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

**G.** The project does not need funding from within the Nursing Facility MaineCare Funding Pool.

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