

**Department of Health and Human Services
Division of Licensing and Regulatory Services
State House #11, Augusta, ME
Preliminary Analysis**

Date: September 11, 2013

Project Title: Change of Ownership – Hibbard’s Nursing Home

Proposal by: First Atlantic Corporation

Prepared by: Phyllis Powell, Assistant Director, Medical Facilities
Larry Carbonneau, Manager, Health Care Oversight
Richard S. Lawrence, Senior Health Care Financial Analyst

Directly Affected Party: None

Certificate of Need Unit Recommendation: Approval

	Proposed Per Applicant	Approved CON
Estimated Capital Expenditure	\$ 2,606,126	\$ 2,606,126
Maximum Contingency	\$ 0	\$ 0
Total Capital Expenditure with Contingency	\$ 2,606,126	\$ 2,606,126
Pro-Forma Marginal Operating Costs	\$ 476,126	\$ 476,126
MaineCare Neutrality Established		Yes

I. Abstract

From Applicant

“This application seeks change of asset ownership from Jane Hibbard-Merrill to a newly created LLC owned 50% by First Atlantic Corporation (FAC) and 50% by Rosscare of Bangor, Inc. (RC, Inc.). RC Inc. is a wholly owned subsidiary of Eastern Maine HealthCare. First Atlantic Healthcare will manage the property under agreement in the identical manner of the other joint venture facilities between Ross Care and FAC.”

“For more than 20 years, Rosscare and First Atlantic Corporation have been joint venture partners in nursing facilities, assisted living and specialty care service programs for the elderly in mostly rural settings in Eastern Maine. This change in ownership certificate of need application will be the seventh such request of the Department. “

“Hibbard's Nursing Home, Inc. consists of land, buildings and equipment situated on approximately six acres adjacent to Maine Street West in Dover-Foxcroft Maine. A family-owned business since its inception in 1955, Hibbard Nursing and Rehabilitation Center, Inc. has offered quality care to the elderly in Dover-Foxcroft, Maine and surrounding area communities for more nearly sixty years. The facility enjoys a very positive reputation and is well known for individualized care and specialized rehabilitation services. The healthcare campus offers two separately licensed levels of care in attached but separate buildings: (1) 93 NF beds providing 24-hour skilled care known as Hibbard's Nursing and Rehabilitation and, (2) fourteen independent living apartments at Maine Street West.”

“Two major expansions followed the 1972 opening, in the 1980's a new wing was added and in 2002 Maine Street West opened with fourteen apartments for independent living. Jane Hibbard-Merrill has been the Administrator and owner since the passing of her husband Gary in the 1970's.”

“Our purchase and sale agreement, attached Exhibit I calls for the following assets to be purchased along with their associated purchase price:”

(i) NF

Land	\$ 24,000.00
Improvements	92,839.00
Building	2,177,656.00
Major Moveable Equipment	303,631.00
FF&E / Vehicles	8,000.00
Inventory [Reserved]	

(ii) Apartments

Land	\$ 24,000.00
Building	1,582,431.00
Improvements	361.00
Major Moveable Equipment/ Furnishings	3,031.00

(iii) GOODWILL \$305,726.00

TOTAL: \$4,521,675.00

“Jane Hibbard-Merrill is selling the facility assets including land to retire after decades of owning and operating the Dover-Foxcroft facility. It is expected that the under First Atlantic HealthCare ownership that American Data will become the electronic medical record vendor but Hi-Tech accounting will remain.”

“Resident deposits will be reconciled at the time of the closing and turned over to the new owner to be administered in accordance with state regulation.”

“Modest depreciation recapture is likely to be triggered and the seller will provide timely calculation of that liability prior to the closing to allow review by the division of audit. All other amounts owed to the state, if any, will be reconciled and settled at time of closing.”

“Certain non-property assets are excluded from the sale and with the exception of the patient/tenant deposits, all assets will be transferred free and clear of all and any encumbrances.”

“Jane Hibbard-Merrill will not continue as the licensed Administrator and First Atlantic HealthCare will hire a replacement. If that has not happened by the time of closing Tammy Rolfe, VP Quality and Compliance will be the Administrator while a continued search is underway.”

“This application will demonstrate financial feasibility and budget neutrality.”

II. Fit, Willing and Able

A. From Applicant

History of Healthcare quality

“Facilities under the management of First Atlantic Healthcare have had isolated deficiencies that have been corrected in a timely manner. As of the submission date all facilities under our management are in compliance with State and Federal licensing standards.”

Ability to plan, permit, construct and operate the proposed project

“First Atlantic has significant experience with acquisition, design, construction and operation of nursing and residential care facilities. Pertinent to this application we point to the successful purchase of Katahdin Healthcare from Phil Cyr by the partners. Other projects consummated by FAHC include: Seal Rock Healthcare a 105 bed, dually licensed nursing facility and The Inn at Atlantic Heights, an 80 bed residential care and assisted living facility both located in Saco, Maine are examples of the applicant's ability to plan, design and complete projects of the scale and type proposed here. More recently, the Sylvia Ross Home, forty apartments and studio accommodations for assisted living was added to Ross Manor. Lastly, we successfully obtained department approval to replace Collier's Nursing and Rehabilitation Center in Ellsworth Maine. On May 1, 2013 we successfully completed our permitting process and expect to begin construction in September of this year.”

Profile of First Atlantic Corporation:

The following individuals comprise the senior executives at FAH:

Kenneth Bowden, CEO	22 years with FAH
Craig Coffin, COO	30 years with FAH
Tammy Rolfe, VP/Corporate Compliance Officer	2 years with FAH
Wanda Pelkey, CFO	16 years with FAH

The facilities managed by First Atlantic Healthcare are as follows:

Collier's Rehabilitation & Nursing Center Ellsworth, Maine	Colonial Healthcare Lincoln, Maine	Dexter Healthcare Dexter, Maine	Falmouth By the Sea Falmouth, Maine
Freeport Place Freeport, Maine	Hawthorne House Freeport, Maine	Katahdin Healthcare Millinocket, Maine	Marshall's Healthcare Machias, Maine
Montello Manor Lewiston, Maine	Montello Heights Lewiston, Maine	Portland Center for Assisted Living Portland, Maine	Ross Manor Bangor, Maine
Seal Rock Healthcare Saco, Maine	Seaside Healthcare Portland, Maine	Stillwater Healthcare Bangor, Maine	The Inn at Atlantic Heights Saco, Maine
Washington Place Calais, Maine	Woodlawn Rehabilitation and Nursing Center Skowhegan, Maine		

“The applicant refers the Bureau to the Division of Licensing and Certification for confirmation that the above named entities has had isolated deficiencies that have been corrected on a timely basis.”

“Neither First Atlantic nor Rosscare or any of the principals of either organization has been barred from participation in the Medicare or MaineCare programs at any time or found guilty of any infractions that would eliminate their participation in this project.”

“Principal profiles for First Atlantic Corporation are on file with CONU and included in the record.”

B. Certificate of Need Unit Discussion

i. 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.

ii. Certificate of Need Unit Analysis

First Atlantic Corporation and Rosscare, Inc. intend to jointly own Hibbard Nursing Home, Inc., under a newly created LLC named RC, Inc. Each partner will have a 50% ownership in the facility. First Atlantic Corporation and Rosscare, Inc. are joint venture partners in the following nursing homes:

Colonial Healthcare
Dexter Healthcare
Katahdin Nursing Home
Ross Manor
Stillwater Healthcare

In order to determine the applicant's ability to provide services at the proper standard of care the Certificate of Need Unit (CONU) looked at the most recent surveys for the five nursing homes listed above. A summary of survey results follows:

First Atlantic Corporation and Rosscare, Inc. Nursing Facilities	Date of Rating Data	Overall Rating	Health Inspection Rating	Staffing Rating	Quality Measure Rating
Colonial Healthcare	5/16/2013	AVG	BA	MAV	AA
Dexter Healthcare	9/28/2012	MAV	AA	MAV	AA
Katahdin Nursing Home	2/25/2013	MAV	AA	MAV	MAV
Ross Manor	12/19/2012	BA	MBA	MAV	AVG
Stillwater Healthcare	5/23/2013	MAV	AA	AA	MAV

MAV = Much Above Average, AA = Above Average, BA = Below Average,
MBA = Much Below Average, AVG = Average

Four of the five facilities were rated "average" or above in the overall rating. Three of five facilities were rated "average" or above in the health inspection rating. All five facilities were rated "average" or above in the staffing and quality measure ratings.

The following chart summarizes the levels of deficiencies found and the final date corrective action was taken to correct all the deficiencies:

First Atlantic Corporation and Rosscare, Inc. Nursing Facilities	Date of Rating Data	# of Deficiencies	Level of Harm 2 or below	Level of Harm 3 or above	Date of Correction
Colonial Healthcare	5/16/2013	3	3	0	6/14/2013
Dexter Healthcare	9/28/2012	3	3	0	11/12/2012
Katahdin Nursing Home	2/25/2013	0	0	0	N/A
Ross Manor	12/19/2012	4	4	0	2/20/2013
Stillwater Healthcare	5/23/2013	1	1	0	6/7/2013

All deficiencies were at level of harm 2 (minimal harm or potential for actual harm) or below. All deficiencies were corrected promptly. Descriptions of the deficiencies for the above facilities are 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

First Atlantic Corporation and Rosscare have provided SNF/NF level of care in the State of Maine for more than twenty years. The services provided by the applicant are consistent with applicable licensing and certification standards.

iii. Conclusion

Certificate of Need 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

A. From Applicant

“Our enclosed proforma financial statement (exhibit II) demonstrates feasibility of the proposed project now and in the near future. Historically, rates have kept pace with inflation and while in any given year or few years NF funding lags the rate of increasing costs, Maine’s legislature has shown a willingness to provide inflation adjustments and rebase NF rates periodically.¹”

“Historical annual financial statements reveal the facility’s ability to maintain a surplus of revenues over expenses each year. The facility purchase price does not exceed the original purchase price and therefore the full purchase price is eligible for reimbursement under the Principals of Reimbursement. Amounts paid for Main Street West (apartments) are not subject to CON review because it is private-pay facility.”

“Our cost report proforma (exhibit III) assumes that in 2014 dollars and today’s payment limits and thresholds the MaineCare NF rate will be \$179.32. These rates are comparable to other NF & RCF rates. We anticipate a commercially available interest rate of 5.7% based on 10 year fixed rate offerings. We feel despite the higher rate of a fixed rate mortgage that historically low fixed rates are in everyone’s interest. Choosing the higher rate increases interest cost in the short term compared to variable rates. The negative impact on budget neutrality is an unintended consequence of opting for a historically low fixed rate and we hope to discuss the “do the right thing penalty” with the Department. “

“The NF project is expected to cost approximately \$2,606,126 including land cost of \$24,000.”

“Based upon our proforma and integral assumptions we have shown feasibility and assert that our firm’s track record of compliance, ability to manage costs and maintain high occupancy in our facilities augers well for this project, now and in the foreseeable future.”

¹ The last rebasing occurred in 2008. This past session a small increase was budgeted to reflect the increase in the provider tax to Federal levels.

B. Certificate of Need Unit Discussion

i. CON Standard

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.

ii. Certificate of Need Unit Analysis

The applicant provided a pro-forma cost report representing the first year of operation after the change of ownership. The increased reimbursement rates resulting from the change of ownership as well as the analysis of need located in Section IV of this analysis supports the applicants' assertion that this project is financially feasible.

MaineCare Neutrality

This project by itself does not achieve MaineCare neutrality. The applicant has identified sources of MaineCare revenue. MaineCare neutrality is computed by comparing the current utilization of MaineCare resources at Hibbard's Nursing Home, Inc. and the proposed utilization after the transaction. The applicant anticipates retaining the current 93 bed licensed capacity. This proposed transaction is structured as an asset purchase (Asset Purchase Agreement on file at CONU). This results in a step up in cost basis for the Hibbard building:

Table #: Comparison of Historical costs to Purchase Price.

Category	Historical Cost	Net Book Value	Purchase Price	Step up in Basis
Land	\$24,000	\$24,000	\$24,000	\$0
Land Improvement	\$184,253	\$92,839	\$92,839	\$0
Building	\$2,177,656	\$442,979	\$2,177,656	\$1,734,677
Equipment	\$764,259	\$303,631	\$303,631	\$0
Vehicle	\$46,904	\$8,000	\$8,000	\$0
TOTAL	\$3,197,072	\$871,449	\$2,606,126	\$1,734,677

This will result in an annual increase in depreciation expense of \$57,823 (\$1,734,677 divided by 30 years). Per Principle 44.2.9 of the Principles of Reimbursement for Nursing Facilities this asset purchase is subject to depreciation recapture. These Principles can be accessed at <http://www.maine.gov/sos/cec/rules/10/ch101.htm>. Since Hibbard nursing home is subject to depreciation recapture of approximately \$250,000 the increase in depreciation expense due to the step up in basis will not impact MaineCare neutrality. The final amount of depreciation recapture will be determined by DHHS Division of Audit prior to closing. Additional increased expenses include interest on a \$2,606,126, 25 year loan with a fixed interest rate of 5.7%. This interest rate will be locked in for 10 years. Interest expense associated with the first year of this loan is \$147,295. In addition the providers pro forma cost report shows an increase in salary and benefit costs of \$116, 898. The direct care portion of the new rate will be subject to existing peer group caps and will not impact MaineCare neutrality. The applicant projects an increase of approximately \$154,110 attributable to an adjustment to the direct care add on component of the new per diem rate. CONU will include this increase in the applicants funding requirements but believes Rate Setting and Audit may interpret the direct care add on adjustment differently. In summary, additional funding of \$286,335 (\$301,405 adjusted to a 95% occupancy rate) is needed to achieve MaineCare neutrality.

Category	Total	Adjustment		95% occupancy
Salary and Benefit	\$116,898	-\$116,898	\$0	\$0
Direct Care Add-on	\$154,110	\$0	\$154,110	\$146,405
Depreciation	\$57,823	-\$57,823	\$0	\$0
Interest	\$147,295	\$0	\$147,295	\$139,930
TOTAL	\$476,126	-\$174,721	\$301,405	\$286,335

Fist Atlantic HealthCare has identified usable Maine care funding stream of \$286,335. This is more than adequate to maintain cost neutrality. The final determination of MaineCare neutrality will necessarily be delayed until the applicant is issued a rate letter by the Department's Rate Setting Unit.

This funding will come from the \$2,614,770 available from the Bucksport replacement facility project. Please see the Bucksport preliminary analysis dated March 7, 2012.

Changing Laws and Regulations

Certificate of Need Unit staff is not aware 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.

iii. Conclusion

CONU recommends that the Commissioner determine that First Atlantic HealthCare 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

“Hibbard’s has operated in its present location since 1972 and expanded its offering in 2002 with the addition of fourteen independent apartments. It has been noted that this area of the state experiences lower than state wide-occupancy percentages in general but Hibbard’s has eclipsed that average. Likely, the closure within the last eight years of C.A. Dean in Greenville improved the demand for services at Hibbard’s. As noted below the area is still seeing some growth in individuals aged 85 and over; the age cohort most likely to need nursing home services.”

“Services will be available to all residents in the planned service areas who qualify for nursing facility or residential care based upon their health and payor status. All facilities will have and will follow non-discrimination practices for admission and employment at the facilities.”

Maine’s Population Trends and Implications for Proposed Projects

“The 2010 U.S. Census report and a 2010 report by the Muskie School of Public Service titled Older Adults and Adults with Disabilities: Population and Service Use Trends in Maine 2010 are referenced in this section and each provides unique insight helpful in understanding the projects expected contribution to health problems as measured by health needs in the areas to be served.”

Pertinent Muskie Report Highlights

- Maine has one of the oldest populations in the country, ranked 4th in 2008 and is projected to rank 2nd by 2020
- Rural Maine has a higher proportion of older adults ~ approximately 80% of Maine’s towns are classified as rural by CMS
- The number of working age adults available to care for older adults is declining
- Older adults in Maine often live in poverty and with a disability, particularly in rural areas resulting in poor health status
- In 2007, Maine ranked 38th among states in the number of nursing facility beds per 1,000 persons age 65-and –above
- Nearly two-thirds of the 14 nursing facility closures or conversions in Maine between 2001 and 2008 were among the smaller facilities, those with fewer than 50 beds
- In 2008, nearly half of Maine’s nursing facilities were larger than 60 beds
- Nearly 3-out-of-10 Maine nursing facility beds are in buildings in need of replacement – 30%

Need - Population and Census Data Conclusions

Town	Census	% 65+	Total 65+
Dover Foxcroft	4,213	20.2%	851
Abbot	714	18.5%	132
Attkinson	326	18.1%	59
Beaver Cove	122	27.0%	33
Bradford	1,290	11.3%	146
Brownville	1,250	17.4%	218
Cambridge	462	17.5%	81
Greenville	1,640	24.2%	397
Guileford	1,521	20.8%	316
Medford	231	11.0%	25
Milo	2,340	19.6%	459
Monson	686	19.7%	135
Parkman	811	11.1%	90
Sangerville	1,343	20.3%	273
Sebec	630	19.4%	122
Shirley	233	20.2%	47
Wellington	258	17.4%	45
Willimatic	150	17.0%	26
	14,007		3,454
Beds			
Hibbards	94		
Dexter	<u>61</u>		
	155		
Beds per 1000 pop 65 +	44.87		

B. Certificate of Need Unit Discussion

i. CON Standard

Relevant standards for inclusion in this section are specific to the determination that 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. Certificate of Need Unit Analysis

In order to determine public need, CONU analyzed demographic and service use trends in Hibbard Nursing Home's service area (Piscataquis County, Maine). We 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>. Piscataquis County is one of Maine's largest counties encompassing over 3,960 square miles. It is classified as rural and has an estimated population of 17,518 or less than 1% of Maine's population. Although the overall population has declined slightly in the past two years the aged 65+ population is predicted to grow. Currently 21.8% of the Piscataquis County population is 65 or older. This is expected to grow by 8.7 percentage points by 2022. The statewide average of beds per 1,000 persons is 33 beds. In 2010 Piscataquis County had 34 beds per 1,000 persons over 65. In 2011 Charles A. Dean hospital stopped operating its' 24 NF beds and sold the bed rights to Ross Manor. This will bring Piscataquis County below the state wide average. Approximately 12.6% of the over 85 population resides in a nursing home which is higher than the state wide average of 11.5%. A review of Hibbard's licensed capacity reveals that the facility dropped from a licensed capacity of 102 to 97 on April 1, 2003, and further reduced its licensed capacity to 93 on October 1, 2012. This recent reduction improved their average occupancy rate from 88% to 91%. This is in line with the latest 90.84% statewide occupancy rate (dated 4/1/2013) calculated by The Muskie School of Public Service. The closure of Charles A. Deans NF beds should further stabilize Hibbard's occupancy rate.

The applicant identified that the area served by Hibbard Nursing Home lost access to several beds with the closure of the CA Dean nursing facility. Older adults in rural areas are more likely to live in poverty resulting in poorer health status. This transaction involves the acquisition of an existing facility that has served the Piscataquis County area since 1955. The demographics of Piscataquis County and Hibbard's occupancy data clearly demonstrate a need for SNF/NF services in the region.

Retaining needed SNF/NF services will have a positive impact on the health status indicators of the population to be served. The facility will continue to provide individualized care and specialized rehabilitation services.

The services affected by the project will be accessible to all residents in the area. The applicant states that this facility will continue to follow non-discrimination practices for admission and employment.

Under this proposal First Atlantic will operate Hibbard's Nursing Home. First Atlantic participates in several quality initiatives that will provide demonstrable improvements in quality and outcome measures. First Atlantic has adopted evidence based clinical best practices to reduce negative outcomes in the areas of dehydration, pressure sores, treatment of depression in the elderly and fall prevention. Results are continuously tracked against prescribed standard in order to improve processes leading to improvement and desired outcomes. First Atlantic has also implemented an electronic medical record at its facilities for care planning, MDS preparation and submission and for monitoring quality. First Atlantic utilizes its Regulatory Compliance committee and Quality of Care committee to facilitate peer reviews in all their facilities and share best practice information throughout the organization.

iii. Conclusion

The Certificate of Need 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

“Our project will incorporate and meet the budget neutrality standard (likely not applicable to change of ownership CONs) set for nursing facility projects and is more fully detailed in the Economic Feasibility section located above. However, it is worth noting that project costs while limited to currently available resources, are also further constrained by reimbursement regulations governing nursing facilities in Maine. This further consideration is taken into account in our cost report pro-forma filing. So while the project will conform to immediate limitations on costs it will continue to do so into the future. We propose to continue to operate the facility at the current licensed capacity of 93 beds. At this level the facility is one of the larger nursing facilities in Maine and enjoys reasonable economies of scale. Because we expect similar payer mix utilization as historically reported there will not be an increase in MaineCare costs related to volume.”

B. Certificate of Need Unit Discussion

i. 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 cost 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. Certificate of Need Unit Analysis

The applicant is assuming control of existing facilities. Area capacity is not great enough to suggest a benefit from eliminating these services or substantial opportunities to modify services to reduce total healthcare expenditures. This is particularly true due to the recent delicensing of 4 NF beds at Hibbards and the closure of Charles A. Deans NF beds.

This project is not MaineCare neutral without identifying additional resources. Additional State funding will be required. As discussed in section III, the applicant has identified sufficient resources.

Even with the increased costs associated with the change in ownership, it is highly unlikely that a more effective, more accessible or less costly alternative technology or method of service delivery will become available.

iii. Conclusion

The Certificate of Need 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

“The facility has a strong and consistent track record of high-quality outcomes and regulatory compliance. We plan no changes in program design that would disrupt the provision of high quality care or impact other existing service providers.”

“Furthermore facilities under the management of First Atlantic Healthcare have had isolated deficiencies that have been corrected in a timely manner. As of the submission date all facilities under our management are in compliance with State and Federal licensing standards.”

B. Certificate of Need Unit Discussion

i. 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.

ii. Certificate of Need Unit Analysis

The applicant is assuming control of an existing nursing facility. Hibbard will adopt practices currently in place at the applicants other 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 immediately changed and 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. As described on Page 6 of this preliminary analysis the First Atlantic Healthcare – Rosscare joint venture received a majority of much above average ratings for quality and overall performance.

iii. Conclusion

Certificate of Need Unit recommends that the Commissioner find that the applicant has 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

A. From Applicant

“The Maine Quality Forum is geared towards Hospital and Physician based healthcare and thus its evidence-based medicine principals are generally not applicable to this application. Yet the underlying theme of inappropriate admissions, services or testing is very pertinent in all healthcare delivery settings; nursing facility and residential care included.”

“There is a combination of ways inappropriate NF utilization is mitigated.”

“Consumers seeking NF admission and who will rely on MaineCare to pay for their care must have a physician’s order, meet the strident medical eligibility standards of DHHS and qualify based on an assessment of their income and assets. They must also receive a Goold (Goold is independent organization contracted with DHHS to perform assessments using DHHS criteria) assessment that documents NF level of care is needed based on DHHS medical eligibility standards. Generally speaking, MaineCare consumers who seek NF admission must have a three ADL loss or have cognition challenges which qualify them under Maine’s eligibility standards. The assessments continue on a set schedule to assure continuing need for NF level of services.”

“Medicare also establishes medical necessity standards for skilled care thus insuring only appropriate cases are served. Prior to the expansion of skilled care in nursing facilities most cases were treated in hospitals at significantly higher cost.”

“Lastly, First Atlantic Healthcare has written corporate compliance policies that require all employees to follow State and Federal laws governing the provision of nursing facility and residential care services. We offer employees a compliance hot line whereby they can anonymously contact Tammy Rolfe, our corporate compliance officer, who follows up on all reports. The hot line is a vital component for learning of and stopping inappropriate practices that do not comply with laws and regulations.”

B. Certificate of Need Unit Discussion

i. 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.

ii. Certificate of Need 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.

iii. Conclusion

Certificate of Need 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

Letter of Intent filed:	May 17, 2013
Subject to CON review letter issued:	July 1, 2013
Technical assistance meeting held:	Waived
CON application filed:	July 22, 2013
CON certified as complete:	July 22, 2013
Public Information Meeting Held:	Waived
Public Hearing held:	N/A
Comment Period Ended:	August 21, 2013

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. 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 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 demonstrated that the proposed services are consistent with the orderly and economic development of health facilities and health resources for the State as demonstrated by:
 - 1. The impact of the project on total health care expenditures after taking into account, to the extent practical, both the costs and benefits of the project and the competing demands in the local service area and statewide for available resources for health care;
 - 2. The availability of State funds to cover any increase in state costs associated with utilization of the project's services; and
 - 3. The likelihood that more effective, more accessible or less costly alternative technologies or methods of service delivery may become available was demonstrated by the applicant;
- E. The applicant has demonstrated that the project ensures high-quality outcomes and does not negatively affect the quality of care delivered by existing service providers;

IX. Findings and Recommendations

- F. 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
- 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, Certificate of Need Unit recommends that the Commissioner determine that this project should be **approved**.