

BRIEFING MEMO

APPLICANT PROJECT DESCRIPTION

DATE: June 11, 2012

TO: Mary C. Mayhew, Commissioner, DHHS

THROUGH: Ken Albert, Director, Division of Licensing and Regulatory Services

FROM: Phyllis Powell, Assistant Director, Medical Facilities
Larry Carbonneau, Sr. Health Care Financial Analyst

SUBJECT: Emergency Certificate of Need for Marshall Healthcare & Rehab

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 § 334-A 2-B. Emergencies and necessary nursing facility projects. If the department determines that an emergency exists, it may approve a necessary nursing facility certificate of need application on an expedited basis when the applicant proposes capital expenditures for renovations and improvements that are necessary:

- A. To achieve compliance with code and related regulatory requirements;
- B. To comply with the federal Health Insurance Portability and Accountability Act of 1996 and related patient privacy standards;
- C. To address other patient safety requirements and standards; or
- D. To address other necessary and time-sensitive patient safety or compliance issues.

Certificate of need projects described in this subsection are not subject to or limited by the nursing facility MaineCare funding pool.

II. PROJECT DESCRIPTION:

The operators of Atlantic Rehab & Nursing announced the closure of their facility in Calais Maine on June 6, 2012 effective July 6, 2012. These same operators, First Atlantic Healthcare, operate Marshall Healthcare & Rehab in Machias, Maine. These two facilities are approximately 45 miles away from each other. Marshall Healthcare & Rehab began the CON process to change their bed complement on **May 31, 2012** with a Letter of Intent. This process would involve the un-reserving of the 10 reserved beds at Marshall Healthcare & Rehab. A Technical Assistance Meeting was held _____. This process is expected to take no less than 30 days from receiving the completed application.

First Atlantic Healthcare has determined that there may be a small number (less than 10) of residents of Atlantic Rehab that may not be able to find a new nursing facility within a reasonable distance from Calais.

On June 8, 2012, First Atlantic Healthcare asked for an Emergency Certificate of Need to add nursing facility beds at the Machias facility to ensure that all current residents of Atlantic Rehab has appropriately licensed beds meeting all patient safety requirements and standards.

Marshall Healthcare & Nursing will be subject to all standard compliance requirements including nursing staff ratios. The number of beds subject to this Emergency Certificate of Need will not exceed 10. Currently Marshall is licensed for 50 nursing facility beds. This Emergency CON would allow for the license to increase to 60 nursing facility beds for a period not to exceed 6 months or 12/31/2012.

III. HIGHLIGHTS:

Letter of Intent filed: 06/08/2012 Verbal

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 change to the bed complement of Marshall Healthcare & Rehab 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 12/31/2012.
2. Complete and File a regular Certificate of Need Application for the conversion of all Residential Care Beds into Nursing Facility Beds by activating their reserved beds within 6 months of the approval of this Emergency Certificate of Need.
3. Any increase nursing facility beds that are for residents of Atlantic Rehab and Nursing. As determined by the census dated 06/10/2012 who have indicated their willingness to transfer in writing to Marshall Healthcare & Rehab from Atlantic Rehab & Nursing.