**DATE:** October 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 of Victorian Villa

**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**

Victorian Villa, located in Canton, Maine, is licensed with 47 nursing care beds, 67 residential care beds, and operates an adult day care program to serve 12 clients per day. The facility serves a large rural area in Western Maine. It is the only licensed nursing home within a 15 mile radius and historically and currently operates with a strong occupancy. The current ownership, Reddings Home Inc.(the operating company), and Reddings Realty LLC. (real estate company), is comprised of several family members who desire selling the facility and operating business.

**II. PROJECT DESCRIPTION**

Pinnacle Group of Hudson Valley, LLC, headquartered in Monsey, New York, proposes to acquire from Redding Homes, Inc. substantially all of Redding Homes’ property and assets. Pinnacle Group will be the operating entity. Pleasant St. Realty, LLC will acquire from Redding Realty, LLC the Real Property and be the real estate entity. Pinnacle Group is a consulting and operating company owned by Israel Nachfolger. As CEO of Pinnacle Group, Mr. Nachfolger brings a unique mix of clinical and operating expertise to the continued operations of Victorian Villa.

**III. HIGHLIGHTS**

Letter of Intent dated: March 31, 2015

Technical Assistance meeting held: April 14, 2015

CON application filed: June 30, 2015

CON certified as complete: June 30, 2015

Public Information Meeting Held N/A

Public Hearing held: N/A

Preliminary Analysis released: September 8, 2015

Close of Public Record September 29, 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**

Victorian Villa, located in Canton, Maine is currently licensed for 47 SNF/NF beds and 67 residential care beds. In addition they provide an adult day care program for 12 clients per day. Currently Victorian Villa is operated by Redding Home, Inc. and the real estate is owned by Redding Realty, LLC. CONU looked at the latest nursing home ratings available at Medicare.gov and Victorian Villas results are as follows:



Victorian Villa Scored average or above in all categories rated by CMS, with an overall rating of “Much Above Average”. A survey was completed on March 19, 2015 at Victorian Villa. 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 3.8; the average number of health deficiencies in the United States is 6.8.

Inspectors determined that the nursing home failed to:

**1)** Develop a complete care plan that meets all of a resident’s needs, with timetables and actions that can be measured.

**2)** Store, cook, and serve food in a safe and clean way.

**3)** Maintain drug records and properly mark/label drugs and other similar products according to accepted professional standards.

All deficiencies were corrected by June 2, 2015.

This applicant is not currently licensed in the State of Maine therefore CONU recommends the following condition:

**Condition:** The applicant is to report improvements in quality outcome measures for services affected by the project on an annual basis within 90 days of its fiscal year end beginning with the time period when the Certificate of Need was approved until a full three years have elapsed since the date of project completion. This report would include, among other elements:

1) Victorian Villa’s most recent standing under the CMS Medicare Compare 5 Star Quality Rating and steps Victorian Villa has taken or will take to maintain positive indicators and improve average or below average indicators.

2) A summary of the results of periodic surveys of Victorian Villa carried out by DLRS over the past year, and a description of the remedial measures taken to address the identified deficiencies

3) An analysis showing key trends at Victorian Villa relating to quality measures, along with a review of the quality improvement steps being undertaken.

1. **Economic Feasibility**

The sale of Victorian Villa will be structured as an asset purchase (The Asset Purchase Agreement is on file at CONU). Pinnacle Group will be the operator and will hold the license and provider agreements. Pinnacle Group will lease the real property from the new real estate LLC (Pleasant Street Realty, LLC) for $240,000 annually. The total purchase price for this transaction is $1,800,000. The applicant will be borrowing approximately $1,440,000 at a projected interest rate of 4.5%. The current book value of Victorian Villas assets are $497,135. Since this transaction is structured as an asset sale there will be a step-up in cost basis when this sale is consummated. The new book values of the acquired assets are projected at $995,000 (excluding Goodwill and other non-reimbursable intangible assets). According to Principle 44.2.9 of the Principles of Reimbursement for Nursing Facilities this asset purchase will be subject to depreciation recapture. These Principles can be accessed at http://www.maine.gov/sos/cec/rules/10/ch101.htm. The final amount of any depreciation recapture will be determined by DHHS Division of Audit prior to closing.

As stated by the applicant MaineCare neutrality will not be achieved due to various cost increases. Please see below:

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| --- |
| **Victorian Villa projected cost increases** |
|  |  |
| Current NF Reimbursement Rate | 158.16 |
| Projected NF Reimbursement Rate | 160.53 |
| Per Diem Cost Savings (Increase | 2.37 |
| Projected Occupancy (95%) | 16297 |
| Cost Increase | 38623.89 |
|  |  |
| Current RCF Reimbursement Rate | 86.15 |
| Projected RCF Reimbursement Rate | 86.44 |
| Per Diem Cost Savings (Increase) | 0.29 |
| Projected Occupancy (95%) | 23232 |
| Cost Increase | 6737.28 |
|  |  |
| **Total Cost Increases** | 45361.17 |

In order to achieve MaineCare neutrality the applicant proposes to delicense one RCF bed. In order to achieve neutrality two RCF beds at a value of $59,745.03 will need to be delicensed. Final rates will be determined by the DHHS Rate Setting unit.

**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.

Due to the applicant’s limited history operating health care facilities in the State of Maine CONU recommends the following condition:

**Condition:** The applicant is to report financial results of the project on an annual basis to coincide with the filing of its MaineCare cost report beginning with the time period when the Certificate of Need was approved until a full three years have elapsed since the date of project completion. This report would include, among other elements:

1. A summary income statement and a narrative comparison with the projections set forth in the application.
2. A summary of management’s plan to sustain or improve operating results in the next twelve months. The summary would include specific measures recently implemented or those planned to be implemented to assure the ongoing economic viability of the facility.
3. **Public Need**

In order to determine public need, CONU reviewed the demographic and service use trends in Victorian Villas service area (Oxford 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. Oxford County is located in western Maine. According to the 2010 census it has a population of 57,833. Approximately 18.8% of the population is 65 and over. The 65 and over population is expected to experience a 56% increase by 2022.

Victorian Villas occupancy rates for both Nursing and Residential care services compare favorably with other providers at 95.74% occupancy for Nursing and 94.03% occupancy for Residential care services. Data submitted by the applicant shows an occupancy rate exceeding 90% for both Nursing and Residential care services for the past three years at Victorian Villa. The Oxford County average occupancy is 94.72% for Nursing and 95.09% for Residential care. The demographics and occupancy data from Oxford County clearly demonstrate a need for Nursing and Residential care services in this service area.

Retaining needed SNF/NF and Residential Care 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 Nursing and Residential services will be accessible to all residents in the area.

This facility has consistently achieved high rankings in the CMS nursing home compare ratings. Although there will be a change in ownership current management will remain in place.

1. **Orderly and Economic Development**

This transaction involves changing ownership of an existing facility. No major changes to services or to bed licenses are anticipated. There will be a step up in cost basis of the facilities assets resulting in depreciation recapture. Increased borrowing will result in increased fixed costs. MaineCare neutrality will be achieved through a reduction in licensed Residential Care beds.

MaineCare reimbursement rates for fixed costs will increase. Direct care and routine costs are subject to existing peer group cost caps for reimbursement.

Victorian Villa is an existing facility providing necessary services in the Oxford County area. It is unlikely that a more effective, more accessible or less costly alternative technologies or methods of service delivery will become available.

1. **Outcomes and Community Impact**

The applicant is assuming control of an existing facility. Continuing necessary services in the current geographic area will have a positive impact on the quality of care. The existing scope of services will not be changed. Continuation of current programs and quality improvement initiatives will ensure high-quality outcomes. Since there will be no change in services and a minimal change in the number of licensed Residential Care beds, existing service providers will not be negatively impacted.

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.

This project does not involve an increase in either Nursing or Residential Care beds and does not propose to implement new programs or services. Therefore there will be no inappropriate increase in service utilization.

**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 with Conditions.**