Date: April 16, 2013

**Project**: **Transfer of Operational Control of Seven Kindred Nursing Facilities to VK Health Facilities, LLC**

**Proposal by: VK Health Facilities, LLC**

**Prepared by: Phyllis Powell, Assistant Director, Medical Facilities**

**Larry Carbonneau, Manager Health Care Oversight Program**

**Richard Lawrence, Senior Healthcare Financial Analyst**

**Directly Affected Party: None**

**Certificate of Need Unit Recommendation: Approval**

**Proposed Approved**

**Per Applicant** **CON**

Estimated Capital Expenditure $ 4,999,674 $ 4,499,674

Maximum Contingency $ 0 $ 0

Total Capital Expenditure with Contingency $ 4,999,674 $ 4,999,674

Pro-Forma Marginal Operating Costs $ 3,627,729 $ 3,627,729

MaineCare Neutrality Established Yes

# I. Abstract

**A. From Applicant**

“VK Health Facilities, LLC (“VK”) is a Delaware limited liability company (“LLC”) formed by Marvin Ostreicher, President of National Health Care Associates, Inc. (“NHCA”), as its manager. NHCA has offices in Lynbrook, New York and Wethersfield, Connecticut. VK is the sole member (parent) of seven recently formed LLCs that will lease and operate seven skilled nursing facilities that Kindred Nursing Centers West, LLC (“Kindred”) now operates and leases from Ventas Realty, Limited Partnership (“Ventas”) in each of seven locations: VK Augusta, LLC; VK Bangor, LLC; VK Bath, LLC; VK Brewer, LLC; VK Kennebunk, LLC; VK Norway, LLC; and VK Yarmouth (collectively the “VK LLCs”).”

“The seven Kindred facilities being transitioned to the VK LLCs are as follows: Kindred Transitional Care and Rehab-Augusta; Brentwood Rehab & Nursing Center; Kindred Transitional Care and Rehab-Brewer; Eastside Rehab & Living Center; Kindred Transitional Care and Rehab-Kennebunk; Norway Rehab & Living Center; and Winship Green Nursing Center (collectively the “Facilities”).”

“The VK LLCs will undertake operations in place of Kindred at these seven Maine locations upon receipt of the CON and other approvals authorizing the change. The lease agreements now in place with Ventas are currently set to expire in April 2013. Kindred’s operation of these facilities may be extended briefly, if needed, to complete required approval processes. Other VK related entities will also be taking over Kindred skilled nursing facilities – one in New Hampshire and six in Massachusetts – after necessary regulatory approvals are secured from these states.”

“NHCA, which was founded in 1984 and has grown into a network of 24 affiliated Skilled Nursing and Rehabilitation centers located throughout the Northeast, including Connecticut, New Jersey, New York and Vermont, will provide needed support to the VK LLCs. These centers provide care to thousands of residents in these geographic areas and employ more than 5,500 professional caregivers and related staff. NHCA’s specialty service areas include gerontology, internal medicine, family practice, psychiatry, pulmonology, orthopedics, rehabilitative medicine, neurology, podiatry and surgery.”

“To implement the transition, Kindred will enter into Operations Transfer Agreements, and Ventas will enter into Lease Agreements, with the VK LLCs through which the VK LLCs will become the new tenant operators and licensees of the Facilities. Ventas will continue to own the land and buildings used to operate the Facilities. The VK LLCs are not seeking MaineCare recognition of any additional costs in connection with the transaction. There will be no change in the type or location of licensed beds at any Facility, and the VK LLCs will continue to provide the high standard of programs and services that Facilities’ residents and their families have come to expect. The VK LLCs intend to continue to employ all Facility administrators, directors of nursing, and medical directors, along with other staff who met NHCA screening standards and wish to continue as employees of the VK LLCs. In-depth training will be provided where necessary to assist employees in meeting the VK LLCs’ review standards.”

# II. Fit, Willing and Able

**A. From Applicant**

***NHCA’s Mission***

*“It is our mission to provide our residents and their families with superior care delivered by staff dedicated to the principles of kindness, compassion, service, and excellence in an environment where individuality, dignity, and value of those who are served, as well as those who serve, is nurtured and appreciated. We believe that life, at all stages and with all of its challenges, is a precious gift to be shared and celebrated. It is our privilege to participate in the lives of our residents, their friends and families by offering them not only physical but emotional care, comfort, and support.”*

“Founded in 1984, NHCA now provides shared support services to a 4,037 bed skilled nursing facility (“SNF”) network providing services in 24 centers in New York, Connecticut, New Jersey, and Vermont. Programs and services offered at these centers include traditional long term care, post-acute and short-term rehabilitative care and specialized care for individuals with memory impairment disorders, such as Alzheimer’s disease. NHCA also specializes in offering extensive programs for short-term rehabilitation and post-hospital care in areas including orthopedic, cardiovascular, neurological, and post-surgical recovery and rehabilitation. NHCA’s headquarters are located in Lynbrook, NY, with regional offices in Albany, NY and Wethersfield, CT.”

“The VK LLCs’ organizational culture will be distinctive due to our deeply compassionate, culturally varied and clinically competent staff dedicated to each other and a diverse resident and family population. Key relationships have been developed through the longevity and dedication of the staff and as a result of nearly 30 years of caring service by centers that have been provided supportive services through the NHCA network.”

“The VK LLCs are committed to developing a resident-centered approach to our clinical programs and our standards of practice. Clinical systems and programs will shape our commitment to maintaining high standards of care with successful outcomes for our residents throughout our regions/states.”

**PROFILES OF LEADERS OF NHCA SENIOR TEAM**

“The key leaders of the NHCA Team who will support the VK LLCs are as follows:

1. **National Health Care Associates, Inc.**
   1. **Marvin Ostreicher, President**
   2. **Barry Bokow, Vice President – and CFO for each of the VK LLCs**
   3. **Patricia Thomas, Esq., Vice President of Organizational**
   4. **Kelly Ann McCallister, Vice President of Marketing and Business Development**
   5. **Maureen McCarthy, RN, BS, RAC-CT, CPRA, Vice President of Clinical Reimbursement**
   6. **Donna Megrey, RN, Vice President of Clinical Operations**
   7. **Kevin Prisco, Director of Regional Operations for New England (Maine, New Hampshire, Massachusetts, Vermont and Connecticut).”**

(*See Exhibit II – A, NHCA Senior Team Bios*)

OWNERSHIP STRUCTURE AND ORGANIZATIONAL CHARTS

**The members of VK Health Facilities, LLC, their addresses and their percentage interests are:**

| *Member* | *Address* | *Percentage Interest* |
| --- | --- | --- |
| MSO Associates, LLC[[1]](#footnote-1) | 184 Wildacre Avenue, Lawrence, NY 11559 | 36.000% |
| BPB Equity Holdings, LLC[[2]](#footnote-2) | 722 Almont Road, Far Rockaway, NY 11691 | 2.000% |
| Geffner, Ira | 253 Woodward Avenue, Staten Island, NY 10314 | 2.000% |
| Gluck, Robert | 6037 North Monticello, Chicago, Ill 60659 | 6.667% |
| Lobel, Jonah Jay | 365 West End Avenue, Apartment 10A, New York, NY 10024 | 6.667% |
| Lowinger, Ben | 22 Causeway, Lawrence, NY 11559 | 3.333% |
| Lowinger, Joseph | 62 Causeway, Lawrence, NY 11559 | 3.333% |
| Ostreicher, David | 184 Wildacre Avenue, Lawrence, NY 11559 | 2.333% |
| Ostreicher, Marc E. | 175 Harborview North Lawrence, NY 11559 | 4.834% |
| Meridian Capital Foundation[[3]](#footnote-3) | c/o Meridian Capital Group, One Battery Park Plaza, 26th Floor, New York, New York 10004 | 6.665% |
| Schoor, Kalman | c/o American Package Company, 226 Franklin Street, Brooklyn, NY 11222 | 6.667% |
| Steg, Yitzchok | 236 Juniper Circle East, Lawrence, NY 11559 | 4.834% |
| Ventas NHV Fund[[4]](#footnote-4) | 25 West 36th Street, New York, NY 10018 | 8.000% |
| Weinstock, Abraham | 5 Herrick Drive, Lawrence, NY 11559 | 6.667% |
| Total |  | 100.00% |

“We have also attached two organizational charts – one showing the parent/member relationship of VK and the seven VK LLCs, and the other showing the organizational structure of NHCA. The latter sets forth a Director of Regional Operations for New England, Mr. Prisco, with the administrators for each of the Maine Facilities reporting to him. (*See Exhibit II – B, Organizational Charts*).”

“Marvin Ostreicher, the President of NHCA, is the sole manager of VK Health Facilities, LLC.”

**ACQUISITIONS AND TRANSITION TEAM APPROACH**

“NHCA has a proven track record of successfully bringing additional skilled nursing centers into its network, and maintaining its high standards in all of these facilities. Over the years, NHCA has increased the size of its network through a slow and steady approach to growth and has never acquired a center and then sold it. The VK LLCs will apply these principles and this approach to taking over the operations at the seven Kindred facilities.”

“The senior NHCA team supports the team at each of the centers in the NHCA network. The NHCA support team is involved in all facets of the day-to-day operations of SNFs, each with a breadth and depth of experience that would be difficult to find in any other organization. The NHCA team stays on top of the ever-changing health care field, from its clinical expertise to technology to nutrition and customer service.”

“Because the transfer of ownership and operations will cause uncertainty and anxiety for employees, residents, patients and their families, as well as the surrounding health care community pertinent to each Facility, the VK LLCs will implement a “Transition Team” to assist them. With any type of change comes some degree of fear of the unknown. Employees worry about their careers. Families worry about the care their loved ones will receive. The Transition Team will meet immediately with administration and department leaders, as well as direct care staff and families to discuss who we are and what we hope for the future.”

“We will form the Transition Team, which will be comprised of senior NHCA staff, prior to the change of ownership of the Maine Facilities. The purpose of the Transition Team will be to collaborate with all departments and services at the center to receive recommendations regarding maintaining, supporting and/or improving services in each department. We will then categorize the information gathered into short or long term priorities to develop a strategic plan not only for the transition but for post-acquisition as well. Additionally, NHCA will develop a Center Transition Task List to pinpoint Critical Tasks that have to be addressed by projected dates. Several examples of Critical Tasks include Nursing and Clinical Services, Human Resources, Hardware and Communication, Contract Management, Engineering/Physical Plant and Business Development. We will review updates regularly to determine whether goals and target dates are being met.”

“As we develop priorities and tasks, we will meet with employees in small focus groups so that they can share their ideas about issues they see facing their center. From these groups, we identify additional priorities. Our experience has shown that many of these additional priorities require simple solutions, which we have dealt with in the past and have required limited resources. Where necessary, we will move swiftly to dedicate the necessary resources to implement changes needed, and will not change anything that already works well.”

“Our Transition Team also meets with families and residents generally in small group settings. This gives families and residents the opportunity to share their perspective of the center; and what we can do to improve on existing services and programs and identify areas where there is room for growth. We also make NHCA staff available to discuss any concerns the families and residents may have regarding their ability to stay in the center/program. During this period, we make certain to contact resident families, local physicians and the media to inform them of the change in ownership.”

“During this transition phase, we gain a great deal of knowledge of the inner workings of each center and its services. We learn about the center and staff, their strengths and weaknesses, and what we can do differently to help the center build upon its core foundation. Often the first thing we tell staff is that we need to learn from them and that there will be no immediate changes. This approach gives us an opportunity to find out what they perceive are the major issues and how we can use our strengths and experience to affect positive change. Our goal, which we have achieved with previous acquisitions, is to enhance the existing center/services by utilizing proven NHCA systems and programs.”

**TRANSITION AND CURRENT EMPLOYEES**

“Upon bringing any new center into the NHCA network, it is our goal to ensure as smooth a transition as possible for both residents and employees because it is our experience that workforce disruption will negatively influence resident and patient satisfaction and care. Therefore, we endeavor to adopt a very conservative approach to making any unnecessary salary, benefit or staffing changes within the first twelve to twenty-four months of ownership.”

“Consequently, it has been our practice (except in instances of financial or clinical urgency) to honor the centers’ current salary and benefit structure whenever possible, and we intend to continue this practice with respect to these Facilities. We are cognizant of the fact that whenever there is a change in ownership, employees are very concerned about any potential restructuring or changes in staffing levels. For this reason, we believe that stable center leadership along with open and transparent communication is essential to reassure employees that changes will only be made when due diligence indicates that the change is absolutely necessary for the well-being of our residents and patients or the financial viability of the institution.”

“Eight new centers have joined the NHCA network within the last four years and, in every case, employee salaries and benefits have either remained the same or been improved subsequent to our acquisition. We have also made it a practice to honor employees’ original dates of hire, which allows them to maintain their seniority. For this reason, salary and benefits levels vary from center to center. Using pre-acquisition benefit and salary levels as a starting point, we make adjustments where necessary depending on community standards, recruitment needs, employee feedback, existing labor agreements and financial impact. Available benefits in our other supported centers include group health and dental insurance, short and long term disability, group life insurance, nursing scholarship programs and an array of voluntary benefits.”

**Transition and Current Kindred Medical Directors, Administrators and Other Key Employees**

“NHCA, on behalf of the VK LLCs, has coordinated with the Kindred to reach out to each of the Medical Directors and key employees at the seven Maine Facilities, and has learned from Kindred that these individuals intend to continue to work at these Facilities following the closing. The charts below provide the key employee information obtained from Kindred. This continuity will contribute strongly to maintaining quality services and oversight.”

**Current Kindred Facility Medical Directors**

|  |  |
| --- | --- |
| **Facility** | **Medical Director** |
| Augusta | David Hill (Short Tern Rehab)  Philip Groce (Long Term Care) |
| Brentwood | Daniel Pierce |
| Brewer | Lawrence Smith MD, Penobscot Community Health Care |
| Eastside | Kelli Mayfield, MD |
| Kennebunk | Lisa Keiski, MatureCare |
| Norway | Adam Kazimierczak |
| Winship | David Hill |

**Current Kindred Facility Administrators and Directors of Nursing Services**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Facility** | **ED** | **ED Kindred Date of Hire** | **ED Date started at current facility** | **DNS** | **DNS Kindred Date of Hire** | **DNS Date started at current facility** |
| Augusta | Cathleen O'Connor | 6/7/2010 | 4/27/2012 | Kelly Cowing | 11/7/1994 | 11/6/2002 |
| Brentwood | Malcolm Dean | 3/13/2006 | 11/1/2011 | Dottie Chubbuck | 9/24/2001 | 9/24/2001 |
| Brewer | Janet Hope | 4/18/2006 | 2/9/2009 | Heidi Shawley | Prior to 2000 | Prior to 2000 DNS since 6/15/2007 |
| Eastside | Ryan Kelley | 6/7/2010 | 3/11/2011 | Melissa Mitchell | 1/10/2002 | 1/10/2002 |
| Kennebunk | Steve Alaimo | 8/1/2011 | 9/26/2012 | Dawn Guptill | 1/21/2005 | 10/1/2010 |
| Norway | Lynne Roy | 6/2/2008 | 9/4/2009 | Patricia Tisdale | 8/13/2002 | 8/13/2002 |
| Winship | June Pickering | 10/16/2006 | 6/25/2007 | Patricia Kay | 8/8/2005 | 4/29/2011 |

“Each of these administrators and directors of nursing services are likewise willing to stay on to work at the Facilities, which will rely on their experience and rapport with current employees and residents in order to maintain continuity of care and service necessary for a successful transition.”

**FACILITY TRANSITION AND CUSTOMER SERVICE - “GREAT EXPECTATIONS”:**

“During the first several months of the transition, we begin our mandatory employee education series. This training includes:

* Network-wide customer service training.
* Intensive initial two-day training on exceeding customer’s expectations.
* Scheduled “Tune-Ups” held to update and re-energize employees.
* Posters placed throughout the center to address employee and resident/family concerns.
* Toll-free number publicized to families and residents for the purpose of addressing unresolved issues they may have at the center.
* Utilization of a national, independent polling group to conduct regularly scheduled customer satisfaction phone surveys with families and discharged residents and patients.
* Information regarding access to a compliance hot line that we post in all of our centers so that families, and or residents can contact us confidentially about any concerns. Local staff forward these concerns to the appropriate Regional staff for prompt follow up.

**RECENT FACILITIES JOINING NHCA NETWORK**

“In 2006, Ludlowe Center for Health and Rehabilitation in Fairfield, CT and Hudson Pointe Center for Nursing in Riverdale, NY both became part of the NHCA-supported network. NHCA transitioned both centers into the network with no difficulty. Further, these centers have realized significant improvements in census and physical plant infrastructure. Prior to assuming operations at the Ludlowe Center, the facility was in receivership. Connecticut’s Department of Public Health publicly recommended that the receiver choose the NHCA-supported applicant as its new owner.”

“In 2008, eight skilled nursing centers joined the NHC-supported network from a three state network, Eden Park Management. The transition occurred in stages with two Connecticut SNFs joining first, followed by four in New York State and several months later, the final two in Vermont. This staggered approach worked well not only for the expanding the NHCA management team, but for the centers involved. As is customary with networks, word travels fast of any changes taking place. This worked to the facilities’ benefit, as employees in the network and department leaders spoke of the positive changes taking place in their respective centers, further easing transition concerns in centers yet to join the NHCA network. We plan a similar staggered approach with the Facilities that are part of this transaction. Our goal is for the operation of the facilities located in Massachusetts and New Hampshire to transition to the VK LLCs’ control first, followed by the facilities in Maine.”

**CLINICAL STRUCTURE**

“Our clinical operations consist of the Vice President of Clinical Operations and two Directors of Clinical Operations, one covering the Connecticut/Southern Vermont region and one covering our New York, New Jersey and Northern Vermont centers. In addition, NHCA employs regional clinical nurses who provide direct oversight of and support to four to seven centers each.”

“The Vice President of Clinical Operations is responsible for the overall clinical operations of NHCA, including providing direct leadership, setting clinical benchmarks and goals for NHCA, oversight of nursing budgets to ensure adequate staffing to the centers, and the development of clinical programs and accompanying policies and procedures for the centers’ clinical team. The Vice President of Clinical Services also works with NHCA’s Purchasing Department to establish best practices for equipment and supply purchases.”

“The Directors of Clinical Operations’ responsibilities include direct oversight of the regional nurses and assisting them with prioritizing center visits, providing orientation to newly hired Directors of Nurses (“DONs”), clinical overview for orientation for newly hired Administrators, and education, mentoring and clinical resources for the centers in their region. The Directors conduct a two-day educational training/orientation for new Unit Managers/Supervisors as well as the Nursing Administrative staff. In addition, the Directors of Clinical Operations are the point persons for advancing new policies, programs and company initiatives to the regional nurses and the centers. They hold monthly meetings with the DONs and the regional staff to review all clinical indicators, Quality Measure reports, Five Star ratings, re-hospitalizations, and recent survey updates. At these meetings, the team also reviews open clinical positions throughout the region, and evaluates obstacles it is facing and discusses resolutions through a team approach.”

“In order to provide a consistent, cohesive continuum of care for our residents from their time of admission to the center to their discharge home, the Directors of Clinical Operations also work with the Regional Director of Operations and the Director of Marketing Development to establish collaborative relationships with:

* Area hospitals,
* Physicians,
* Advanced Practice Registered Nurses (APRN), and
* Home Care services.”

“Such collaboration has contributed to decreasing the overall rate of re-hospitalizations at NHCA-supported facilities. Each Director also schedules mock surveys, reviewing all deficiency reports and assisting with developing plans of correction.”

“The Regional Nurse visits each center for two consecutive days (at a minimum) on a monthly basis. The regional nurses provide education and training, as well as systems review and clinical support to their assigned centers. Maine will have its own Regional Nurse who will report to the Director of Clinical Operations who will in turn report to the Director of Regional Operations for New England.”

“Additional clinical team members include the VP of Clinical Reimbursement and a Medicare specialist for each of the three regions that are responsible for Medicare and Case Mix compliance. These team members monitor regulatory compliance, provide educational programming to Minimum Data Set (“MDS”) staff and monitor action plans identified for improvement. Medicare specialists visit each center no less than twice monthly. *(See Exhibit II – B, National Health Care Associates, Inc. Organizational Chart)”.*

**MEDICARE COMPARE RATINGS UNDER 5 STAR SYSTEM**

**NHCA Network Facility Ratings**

“Due to our extensive programs and services, training and education, coupled with our hands-on support services and in-depth relationships with NHCA-supported centers, we are proud of the reputation and end results of these centers. The results speak for themselves: Six of the centers have received a **5 Star** rating as of January 2013. Seventeen of the 24 centers (or 71%) currently have a 3 Star rating or above compared to the U.S. average of 66%. Furthermore, NHCA-supported centers remain below the state and national level for deficiencies, receiving six deficiency-free surveys in the past two years. The average number of deficiencies for NHCA-supported Connecticut centers is 6.2, compared to the State and national average of 8. The average for New York/New Jersey is 5.7deficiencies compared to both States’ average of 6 and the national average of 8. The average for Vermont is 7 against the State’s and nation’s average of 8. Each of the 24 centers achieved compliance on their first follow up visit, post survey, when required. *(See Exhibit II – C, National Health Care Associates, Inc. List of Facilities with Star Ratings)*.”

**Kindred Facility Ratings**

“NHCA has reviewed the 5-Star ratings for each of the Kindred facilities, both overall scores and subcategories. The overall scores are as follows:

**Kindred Overall Ratings**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | | **AUG 2012** | **SEP 2012** | **OCT 2012** | **NOV 2012** | **DEC 2012** | **JAN 2013** |
| **Last Std Survey Date** | **Facility Name** | **Overall Score** | **Overall Score** | **Overall Score** | **Overall Score** | **Overall Score** | **Overall Score** |
| 5/18/2012 | Kindred Transitional Care and Rehabilitation-Augusta | **4** | 4 | 4 | 4 | 4 | 4 |
| 5/24/2012 | Eastside Rehabilitation and Living Center | 2 | 2 | 2 | 2 | 2 | 2 |
| 5/10/2012 | Winship Green Nursing Center | 2 | 2 | 2 | 2 | 2 | 2 |
| 8/2/2012 | Kindred Transitional Care and Rehabilitation-Brewer | 4 | 4 | 4 | 4 | 4 | 4 |
| 6/21/2012 | Kindred Transitional Care and Rehabilitation-Kennebunk | 2 | 2 | 2 | **3** | **4** | 4 |
| 7/12/2012 | Norway Rehabilitation and Living Center | 5 | 5 | 5 | 5 | 5 | 5 |
| 3/22/2012 | Brentwood Rehabilitation and Nursing Center | 1 | 1 | 1 | 1 | 1 | 1 |

These most recent 5-Star ratings for the overall picture of the Kindred facilities range from high (4 facilities with 4 or higher) to low (3 facilities with 2 or lower). These ratings demonstrate there is room for improvement at three of these facilities.”

“For health inspection ratings, the facilities were polarized as well, with three facilities achieving high scores, one receiving a mid-range score (score of three), and three facilities receiving low scores.”

“With regard to staffing scores, Kindred scored very well. There were five facilities scoring four or better and two facilities receiving a score of three.”

“For nursing (RN) staff scores, Kindred received all high scores with five facilities scoring fives and two facilities receiving scores of four.”

“Kindred received rather high scores with respect to quality ratings at their facilities. They received five scores of four and two scores of three, showing some need for improvement.”

“Because NHCA-supported facilities have a proven track record of achieving high ratings, and because of NHCA’s history of successful transitions, we are confident that NHCA can bring the lower and mid-range ratings up to higher levels consistent with the track record of the 24 facilities that are now part of its network.”

(*See Exhibit II-D, Kindred 5-Star Ratings* for more detailed information on inspections, staffing and quality ratings).

“NHCA’s approach to improving CMS one and two star rated facilities is a multi-faceted process that encompasses public health survey improvement, staffing adjustments and quality indicator management. For NHCA facilities with one or two stars, regional clinical directors (“CSCs”) provide auditing, training, and consulting at least weekly on a routine basis and at least twice weekly during survey windows and more often if necessary. Performance improvement action plans are developed and designed based on quality indicators below the 70th percentile of state-based statistics. Facilities collect customer satisfaction data on quality of care and quality of life monthly and scores falling below the company averages are included in the action planning process.”

“All nursing management and licensed staff are required to participate in clinical improvement action plans and NHCA bases job evaluation scores partially on active participation in action plans. Audits and quality assurance worksheets are distributed and staff at all levels help to determine practice improvement areas through data collection. NHCA provides training and education delivered by facility and community experts to improve knowledge and skills. Facilities meriting particular focus and attention collect data and review outcomes on a weekly basis in continuity of care and performance improvement meetings.”

“NHCA monitors staffing for one and two star facilities carefully to assure that per patient day levels and licensing categories are sufficient to meet the changing needs of each facilities acuity levels. In facilities that are under clinical scrutiny, staffing levels are modified daily to reflect the needs of the residents, their families and our communities. Additionally, AHCA’s Trend Tracker software provides a tool to advise the facility on the staffing levels required to achieve four and five stars. Focus facilities measure these figures against existing star levels.”

**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**

National Health Care Associates, Inc. (NHCA) currently provides support services to 24 nursing homes in New York, Connecticut, New Jersey and Vermont. VK Health Facilities, LLC was formed for the purpose of leasing and operating seven nursing homes in Maine which are currently operated by Kindred (Kindred Transitional Care and Rehab-Augusta; Brentwood Rehab & Nursing Center; Kindred Transitional Care and Rehab-Brewer; Eastside Rehab & Living Center; Kindred Transitional Care and Rehab-Kennebunk; Norway Rehab & Living Center; and Winship Green Nursing Center). Marvin Ostreicher, President of NHCA will act as sole manager of the newly formed corporation. This applicant is not currently licensed in the State of Maine therefore CONU looked at the most recent surveys available at Medicare.gov for NHCA in order to assess the applicant’s ability to provide services at the proper standard of care. A summary of survey results follows:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **National Health Care Associates, Inc.** | **Date of** |  | **Health** |  | **Quality** |
| **Current Facilities** | **Rating** | **Overall** | **Inspection** | **Staffing** | **Measure** |
|  | **Data** | **Rating** | **Rating** | **Rating** | **Rating** |
| **CONNECTICUT** |  |  |  |  |  |
| Bloomfield Center for Nursing and Rehab | 2/21/2013 | BA | MBA | AVG | MAV |
| Cambridge Health and Rehabilitation Center | 2/21/2013 | AA | AA | AA | AA |
| Ludlowe Center for Health and Rehabilitation | 2/21/2013 | BA | MBA | AA | AA |
| Maple View health and Rehabilitation Center | 2/21/2013 | AVG | AVG | AVG | AA |
| Marlborough Health and Rehabilitation Center | 2/21/2013 | AVG | AVG | AVG | AA |
| Milford Health and Rehabilitation Center | 2/21/2013 | AA | AA | AVG | AA |
| Regency House Nursing and Rehabilitation Center | 2/21/2013 | AVG | BA | AVG | MAV |
| Riverside Health and Rehabilitation Center | 2/21/2013 | AVG | AVG | AVG | AA |
| The Pines at Bristol Center for Health and Rehabilitation | 2/21/2013 | AVG | AVG | AVG | AVG |
| Village Crest Center for Health and Rehabilitation | 2/21/2013 | BA | BA | BA | AA |
| Water's Edge Center for Health and Rehabilitation | 2/21/2013 | AVG | AVG | AVG | AVG |
| **NEW JERSEY** |  |  |  |  |  |
| Maywood Center for Health and Rehabilitation | 2/21/2013 | AA | AA | AVG | AA |
| **NEW YORK** |  |  |  |  |  |
| Belair Nursing and Rehabilitation Center | 2/21/2013 | MAV | AA | BA | MAV |
| Cold Spring Hills Center for Nursing and Rehabilitation | 2/21/2013 | AA | BA | AA | MAV |
| Hudson Pointe at Riverdale Center for Nursing and Rehabilitation | 2/21/2013 | MAV | AA | BA | MAV |
| Huntington Hills Center for Health and Rehabilitation | 2/21/2013 | MAV | AVG | AA | MAV |
| Ross Center for Health and Rehabilitation | 2/21/2013 | BA | AVG | MBA | AA |
| Sands Point Center for Health and Rehabilitation | 2/21/2013 | MAV | MAV | AVG | MAV |
| The Pines at Catskill Center for Nursing and Rehabilitation | 2/21/2013 | MBA | MBA | MBA | BA |
| The Pines at Glens Falls Center for Nursing and Rehabilitation | 2/21/2013 | BA | BA | AVG | AVG |
| The Pines at Poughkeepsie Center for Nursing and Rehabilitation | 2/21/2013 | BA | AVG | MBA | AA |
| The Pines at Utica Center for Nursing and Rehabilitation | 2/21/2013 | MBA | MBA | AVG | AVG |
| **VERMONT** |  |  |  |  |  |
| Pine Heights at Brattleboro Center for Nursing and Rehabilitation | 2/21/2013 | BA | MBA | AA | BA |
| The Pines at Rutland Center for Nursing and Rehabilitation | 2/21/2013 | MAV | MAV | AA | AA |
|  |  |  |  |  |  |
| **MAV = Much Above Average, AA = Above Average, BA = Below Average,** | | | |  |  |
| **MBA = Much Below Average, AVG = Average** | |  |  |  |  |

CONU has summarized the number of facilities at each of the different ratings measures for overall, health inspection, staffing and quality categories.

|  |  |  |
| --- | --- | --- |
|  | **Overall** | |
| **Rating** | **Occurrence** | **%** |
| Much Below Average | 2 | 8.33% |
| Below Average | 7 | 29.17% |
| Average | 6 | 25.00% |
| Above Average | 4 | 16.67% |
| Much Above Average | 5 | 20.83% |
| TOTAL | 24 | 100.00% |
| 9 Facilities or 37.5% are rated at below average or much below average for an overall rating |  |  |
|  | **Health Inspection** | |
| **Rating** | **Occurrence** | **%** |
| Much Below Average | 5 | 20.83% |
| Below Average | 4 | 16.67% |
| Average | 8 | 33.33% |
| Above Average | 5 | 20.83% |
| Much Above Average | 2 | 8.33% |
| TOTAL | 24 | 100.00% |

9 Facilities or 37.5% are rated at below average or much below average for a health inspection rating.

|  |  |  |
| --- | --- | --- |
|  |  |  |
|  | **Staffing** | |
| **Rating** | **Occurrence** | **%** |
| Much Below Average | 3 | 12.50% |
| Below Average | 3 | 12.50% |
| Average | 12 | 50.00% |
| Above Average | 6 | 25.00% |
| Much Above Average | 0 | 0.00% |
| TOTAL | 24 | 100.00% |

6 facilities or 25% of the facilities received a rating of below average or much below average for staffing.

|  |  |  |
| --- | --- | --- |
|  |  |  |
|  | **Quality** | |
| **Rating** | **Occurrence** | **%** |
| Much Below Average | 0 | 0.00% |
| Below Average | 2 | 8.33% |
| Average | 4 | 16.67% |
| Above Average | 11 | 45.83% |
| Much Above Average | 7 | 29.17% |
| TOTAL | 24 | 100.00% |

2 Facilities or 8.33% of the facilities received a rating of below average or much below average for a quality rating.

Our review determined that only 3 facilities or 12.5% of the facilities had rating of below average or much below average that occurred in 3 or more categories:

1). Village Crest Center for Health and Rehabilitation

2). The Pines at Catskill Center for Nursing and Rehabilitation

3). Pine Heights at Brattleboro Center for Nursing and Rehabilitation

These facilities were acquired by National Health Care Associates, Inc. (NHCA) in the latter part of 2008. The applicant has provided an overall description of NHCA’s approach to improving CMS ratings. CONU has requested that the applicant submit specific action plan for each of the three facilities sited above. Ms. Donna Megrey, Vice President of Clinical Operations responded to our request through an April 11, 2013 letter. Her responses are below:

**Village Crest Center for Health and Rehabilitation**

“The facility’s Quality Assurance Performance Improvement (QAPI) committee reviews the facility ratings from Medicare.gov on a monthly basis. As part of the committee’s ongoing focused efforts at Village Crest they expect their 2 rankings in health inspection to improve with the latest survey. The facility received 3D and 1E tags during a standard inspection on 2/19/13. The facility is awaiting a revisit. Following acceptance of its plan of correction the facility will have a total of 6 tags including 1 G drop off. In an effort to address the BA in staffing, the facility has reviewed resident needs versus the staffing model. The facility has added an Advanced Practice Registered Nurse (APRN) who assists with assessment, intervention and evaluation of the resident needs. The facility’s wound nurse and infection control nurse have also received advanced training in their areas of responsibility. Through performance improvement the committee continues to focus on survey management and proactive approaches for day to day operations and clinical capabilities.”

**The Pines at Catskill Center for Nursing and Rehabilitation**

“The facility QAPI committee reviews the facility ratings from Medicare.gov on a monthly basis. As a part of performance improvement the committee reviewed the ratio of RN to resident care needs and added approximately 160 hours of RN managements and supervision through realignment of LPN duties and through the hiring process. The facility is expecting the staffing MBA to improve with this change. During an abbreviated survey carried out on 12/19/12 the facility received F309 related to availability of medications for new admissions and F490 at immediate jeopardy. The removal of IJ occurred on 12/20/12 and all deficiencies were corrected as of 1/21/13. The QAPI committee continues the plan of correction by conducting internal audits of medication availability and medication reconciliation. The regional nurse (CSC) visits weekly and as needed to validate the sustainability of the plan and ensure the facility remains in compliance. In the effort to improve their quality, they have instituted rehab rounds with a member of nursing, rehab and restorative using the most current quality measures, ADL records to identify/validate declines and improvements. These residents are reviewed at the weekly standard of care meeting with the interdisciplinary team for any further follow up. The facility through these process improvements and the sustainability of these plans expect their rankings to improve in the next 30 to 90 days. The facility has received one abbreviated survey since 12/19/12 and did not receive any deficiencies.”

**Pine Heights at Brattleboro Center**

“The facility’s QAPI committee has had an overall improvements from a one star in 2012 to two star as of January 2013. Quality improvement has also improved from a 2 star to a 3 star by focusing on the assessment process, inspecting what is expected by facility managers and the regional (CSC) nurse who visits two days a week bi-weekly and as needed. The facility management team was reviewed by the director of operations and clinical and changes or reeducation to duties was provided. The facility added a nursing supervision position and reeducated the facility management on the completion of the 671. The QAPI committee reviewed the quality measure and the facility rating monthly. Their current focus and performance improvement plans have been developed to improve assessment process and reduction of psychotropic medications. All facility timelines have been closed since October 2012. The facility has not had a substantiated abbreviated survey since April of 2012.”

**Measuring Customer Service**

National Healthcare Associates receives information from resident and family interviews from an independent company. This company reviews 14 areas related to customer service. This includes nursing, dining, food, cleanliness, individual needs, laundry, communication, response/problems, dignity, recommend facility, activities, therapy, admissions and safety.

The overall satisfaction performance scores for the last 12 month period ending in February 2013 are as follows:

Pine Heights at Brattleboro: 84.5%

The Pines of Catskill: 87.5%

Village Crest: 90.8%

The applicant has demonstrated their ability to maintain services at the proper standard of care in other states.

**iii. Conclusion**

The 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**

**Financial Projections for the Seven VK LLCs**

“As requested at the Technical Assistance Meeting, we are providing a financial projection for the first three full years of operations for each facility and in total along with detailed assumptions and occupancy projections. These analyses are included at *Exhibit III-A*.”

A summary of the results of the projections in total is as follows:

Year 1 Year 2 Year 3

Net Resident Service Revenue $45,645,603 $48,105,111 $50,766,015

Operating Expenses 45,134,971 46,946,054 48,762,700

Net Income $ 510,632 $ 1,159,057 $ 2,003,315

“Years 2 and 3 demonstrate revenue growth of 5.4% and 5.5%, respectively due to the anticipated results or our admissions practices in restoring occupancy at these facilities to historical levels, as well as realizing the results of working with area hospitals to develop specific programs to serve their discharged patient’s needs.”

“Operating costs are projected to be significantly low1er in the aggregate than historically incurred due to reductions in lease costs and management fees.”

“Lease costs will decrease by approximately $1,900,000 in the aggregate compared to the historical costs incurred by these facilities. Three of the seven facilities project a decrease in lease expense of over $300,000 annually and one facility projects a decrease of over $600,000 compared to historical costs. Please note the state reimbursement related to lease costs has been presented, consistent with Section 44.4.3 of the Principles of Reimbursement for Nursing Facilities, in the proforma cost reports included at *Exhibit III-A-1*.”

“NHCA Shared Services management fee is anticipated to be 4% of net patient service revenue and approximately $734,000 less in total than the historical management fee charged to these facilities by Kindred.”

“Operating expenses are projected to increase 4.1% and 3.9% in Years 2 and 3, respectively. These nominal increases are projected due to a 1% inflationary increase in most cost components, a growth in ancillary expenses due to anticipated growth in ancillary services, and an increase in provider taxes as a result of improved occupancy and fluctuations in payor mix as presented in *Exhibit III-A*.”

“Of particular note are the projected financial improvements for VK Kennebunk, LLC and VK Yarmouth, LLC. Although both project losses in 2014, by 2016 we are projecting VK Kennebunk, LLC will realize a profit of $247,472. VK Yarmouth, LLC is anticipated to improve its net loss by $153,705. Elsewhere in this application, we review several steps that will be taken to enhance occupancy, improve quality and range of services, and otherwise improve the performance of each of these facilities.”

“In summary, the projected net income in years 2014 through 2016 adequately demonstrates the overall ability of the facilities to support operations. Additionally, projected profits of over $225,000 for 6 of the 7 facilities in 2014 are adequate to support the cash flow needs of VK Yarmouth, LLC.”

**Five Year Financial History of NHCA-Supported Centers in Other States**

*“Exhibits III-B and III-C* include the combined balance sheets and individual and combined income statement for the centers that have been part of NHCA network over a five year timeframe – from 2008 through 2012. This information was also requested at the Technical Assistance Meeting. In addition to demonstrating a strong aggregate equity position, these centers have also demonstrated an overall increase in overall operating margin from .87% in 2008 to 3.23% in 2012, as is set forth in the graph below.”

*“Exhibit III-D* includes draft September 30, 2012 and 2011 reviewed financial statements for two Connecticut facilities performed by Blum Shapiro of West Hartford, CT. Both draft review reports contain no exceptions noted by Blum Shapiro. These reports are close to being issued in final and we will forward final reviewed financial statements as soon as they are issued.”

“Also included in *Exhibit III-D* are four audited financial statements as of and for the year ended December 31, 2011 related to three facilities located in New York. These audits were prepared by Martin Friedman, CPA of Brooklyn, NY. Two financial statements present the real estate and operations on a combined basis and the other two audited financial statements are for the realty and operations of one facility. All four audits have unqualified opinions and no matters of emphasis were included in any of the reports.”



**Marketing & Admission Practices to maintain and Enhance Occupancy and Revenues**

“Our filing in Section IV below, pages 18 and 19, provides the historic occupancy data for the seven Facilities under Kindred’s operations. These show occupancy levels that support financial and economic feasibility. The VK LLCs believe they will be able to maintain, and over time enhance these levels of occupancy. NHCA’s past track record, marketing efforts and admissions practices will support these initiatives.”

“Each center, in conjunction with NHCA’s corporate Marketing Team, develops a quarterly strategic marketing plan that continuously evolves to enhance the center’s census.”

“All members of the centers’ marketing teams attend NHCA’s sales training and receive on-going coaching. We automate our inquiry tracking, referral data and admission packet process with reports to capture trends and assist us in evaluating our efforts and re-directing the team as needed.”

“NHCA’s corporate team also employs two Directors of Business Development who are devoted to aligning NHCA and its centers with key hospital managers, developing collaborative programs with home care and hospitals, and recruiting specialty physicians.”

“NHCA utilizes traditional advertising venues including print, radio and in some markets, television. All collateral has corporate oversight utilizing our style and brand guidelines to ensure the integrity and consistency of the message. We also incorporate digital media, including NHCA, Passport and center-specific web pages, FaceBook pages, YouTube sites and Twitter accounts.”

“NHCA prides itself on an effective marketing model that easily adapts to our varying markets.”

“NHCA centers carry out these activities in a manner that complies with all applicable state and federal guidelines, regulations and laws concerning admissions. The Marketing & Census Development Department maintains a presence in each of its regions. The Regional Marketing & Census Development Director is responsible for consulting with the center on admissions laws, regulations and day-to-day operational issues, as well as proactive training on new laws and regulations. This director also performs scheduled audits on a quarterly basis to ensure that the department follows all regulations and addresses areas for improvement to further ensure the department is running as efficiently as possible.”

“The regional directors are also devoted to developing new programs, marketing the centers within their region and communicating effectively with a team of Clinical Evaluators. Each Clinical Evaluator will be assigned to one or more local/regional hospitals to educate the local hospitals about the various clinical programs NHCA offers at its facilities that contribute to increasing the quality of care and improving health outcomes. These Clinical Evaluators are also available to speak with families and potential long term care residents and/or short-term patients to help them determine which center will best meet their needs.”

**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**

VK Health Facilities, LLC (the applicant) is a newly formed Delaware limited liability company and does not currently operate nursing homes in the State of Maine. In order to assess the applicants past financial performance, CONU obtained five years (2008 through 2012) of financial data for National Health Care Associates, Inc. (NHCA). NHCA operates twenty four nursing homes located in Connecticut, New Jersey, New York and Vermont and will provide support to the applicant. Mr. Marvin Ostreicher is President of National Health Care Associates, Inc. has a significant ownership interest in the newly formed VK Health Facilities, LLC and will act as manager. A review of the NHCA Combined Statement of Operations and Combined Balance Sheets verifies the applicant’s assertion that NHCA’s operating margins have increased from .87% in 2008 to 3.23% in 2012. This financial ratio is important because it shows NHCA’s ability to expand and bring new facilities under management. The applicant also states that NHCA has built a strong aggregate equity position. Shareholders/Members equity has increased from $31,275,420 in 2008 to $37,506,096 in 2012 an increase of approximately 20%. The average return on equity for this time period was 34.3%. The current ratio (Current Assets/Current Liabilities) has improved from .893 in 2008 to 1.02 in 2012 which demonstrates NHCS’s ability to meet its current short term obligations.

The applicant submitted 3 year financial projections for the operation of each of the seven VK LLC’s. Combined net income is expected to rise from $510,632 in year 1 to $2,003,315 in the third year of operation which is sufficient to support the operation of the facilities. CONU examined the underlying assumptions used to prepare these projections (Exhibit III-A of the CON application) and believe they are reasonable.

**MaineCare Neutrality**

The applicant included pro forma cost reports for the first year of operation for each VK facility. Based upon our review these cost reports were prepared in accordance with the Principles of Reimbursement for Nursing facilities and are based on the most recent rate letters. The applicant is assuming control of 7 existing facilities. There are no plans for significant capital expenditures or the need to borrow additional funds. Fixed costs are expected to decline due to a decrease in lease costs and management fees. The current staffing patterns and benefit packages will remain consistent with the facilities historical operations. The current MaineCare direct and routine rates paid to the facilities will remain the same. MaineCare neutrality has been achieved.

**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**

Certificate of Need Unit staff recommend 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

1. **From Applicant**

“This Application involves a transfer of operations of the seven existing Kindred nursing Facilities, some having provided needed services going back as 1958. As a result, these Facilities have met the needs of residents and families within their respective service areas for over half a century.

**OCCUPANCY RATES:**

“Below is the occupancy data from each of the Facilities. Each chart sets forth, for the last two completed fiscal years 2010 and 2011, the overall percentage occupancy and bed count, with breakdowns for Medicare, MaineCare, and Other.”

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **VK Health Facilities, LLC**  **Occupancy Comparisons** | | | | | | | | | | |
| **2011** | | | | | | | | | | | |
| **Facility** | | | | **Bed Count** | | **Occupancy Percentage** | | **MaineCare** | **Medicare** | **Other** | |
| **Region 1** | | | |  | |  | |  |  |  | |
| Brentwood Rehab & Living Center | | | | 78 | | 84.05% | | 76.71% | 13.65% | 9.64% | |
| Kindred Transitional Care and Rehab-Kennebunk | | | | 78 | | 85.39% | | 55.42% | 23.26% | 21.32% | |
| Winship Green Nursing Center | | | | 72 | | 89.50% | | 61.23% | 17.23% | 21.54% | |
| Region 1 Nursing Facility Average | | | |  | | 87.89% | | 63.54% | 16.13% | 20.33% | |
|  | | | |  | |  | |  |  |  | |
| **Region 2** | | | |  | |  | |  |  |  | |
| Kindred Transitional Care and Rehab-Augusta | | | | 72 | | 94.75% | | 56.07% | 21.88% | 22.05% | |
| Norway Rehab & Living Center - NF Unit | | | | 42 | | 90.22% | | 58.39% | 24.82% | 16.79% | |
| Region 2 Nursing Facility Average | | | |  | | 92.83% | | 69.74% | 13.18% | 17.08% | |
|  | | | |  | |  | |  |  |  | |
| **Region 3** | | | |  | |  | |  |  |  | |
| Kindred Transitional Care and Rehab-Brewer - NF Unit | | | | 99 | | 97.13% | | 56.10% | 30.10% | 13.79% | |
| Eastside Rehab & Living Center | | | | 69 | | 87.84% | | 74.39% | 14.57% | 11.03% | |
| Region 3 Nursing Facility Average | | | |  | | 87.28% | | 66.85% | 17.72% | 15.43% | |
|  | | | |  | |  | |  |  |  | |
| State Nursing Facility Average | | | |  | | 89.77% | | 67.48% | 14.98% | 17.54% | |
|  | | | |  | |  | |  |  |  | |
| Norway Rehab & Living Center - RCF Unit | | | | 28 | | 92.02% | | 80.25% | N/A | 19.75% | |
| State Residential Care Average | | | |  | | 93.31% | | 82.08% | N/A | 17.92% | |
| **Sources:** 2011 as filed cost reports were utilized for facility specific occupancy and payor mix percentages. BerryDunn database which is a compilation of all non-hospital based as filed cost reports was utilized for regional and state averages. | | | | | | | | | |
|  | | | | | | | | | |
| **2010** | | | | | | | | | | |
| **Facility** | | **Bed Count** | | **Occupancy Percentage** | | **MaineCare** | | **Medicare** | **Other** | |
| **Region 1** | |  | |  | |  | |  |  | |
| Brentwood Rehab & Living Center | | 78 | | 89.38% | | 70.72% | | 19.13% | 10.15% | |
| Kindred Transitional Care and Rehab-Kennebunk | | 78 | | 91.27% | | 51.86% | | 26.32% | 21.82% | |
| Winship Green Nursing Center | | 72 | | 92.63% | | 55.10% | | 18.17% | 26.73% | |
| Region 1 Nursing Facility Average | |  | | 89.37% | | 63.06% | | 16.61% | 20.33% | |
|  | |  | |  | |  | |  |  | |
| **Region 2** | |  | |  | |  | |  |  | |
| Kindred Transitional Care and Rehab-Augusta | | 72 | | 93.15% | | 53.15% | | 24.33% | 22.53% | |
| Norway Rehab & Living Center - NF Unit | | 42 | | 95.09% | | 59.26% | | 26.00% | 14.74% | |
| Region 2 Nursing Facility Average | |  | | 93.46% | | 69.52% | | 13.41% | 17.07% | |
|  | |  | |  | |  | |  |  | |
| **Region 3** | |  | |  | |  | |  |  | |
| Kindred Transitional Care and Rehab-Brewer - NF Unit | | 99 | | 98.74% | | 54.42% | | 32.56% | 13.02% | |
| Eastside Rehab & Living Center | | 69 | | 87.76% | | 71.79% | | 12.07% | 16.14% | |
| Region 3 Nursing Facility Average | |  | | 90.12% | | 65.88% | | 17.39% | 16.73% | |
|  | |  | |  | |  | |  |  | |
| State Nursing Facility Average | |  | | 91.24% | | 67.07% | | 15.19% | 17.74% | |
|  | |  | |  | |  | |  |  | |
| Norway Rehab & Living Center - RCF Unit | | 28 | | 92.43% | | 65.99% | | N/A | 34.01% | |
| State Residential Care Average | |  | | 94.34% | | 80.42% | | N/A | 19.58% | |
| **Sources:** 2010 as filed cost reports were utilized for facility specific occupancy and payor mix percentages. BerryDunn database which is a compilation of all non-hospital based as filed cost reports was utilized for regional and state averages. | | | | | | | | | |

**Occupancy Tables**

“The tables set forth above were prepared utilizing 2011 and 2010 “as filed” MaineCare cost reports for the seven facilities operated by Kindred as well as a statewide database maintained by BerryDunn. BerryDunn’s database includes all “as filed” cost reports for non-hospital based nursing facilities. As demonstrated in the table, most of the seven Facilities have historically operated with overall occupancy percentages in excess of 85%. In 2011, four of the seven Facilities experienced overall occupancy percentages above regional averages, and in 2010 five Facilities experienced occupancy percentages above their respective regional averages. In addition, Kindred Transitional Care and Rehab-Brewer operates one of only two traumatic brain injury units in Maine.”

“These historical occupancy trends show that the facilities are continuing to meet a demonstrated need in the communities and in the regions they serve.”

“Additionally, in both 2011 and 2010, each of the seven Facilities had significant MaineCare utilization. At five of the seven Facilities, MaineCare utilization was less than their peers within their respective regions and below state-wide averages, but this was a function of these facilities having higher Medicare percentages, reflecting the market attractiveness of the skilled rehabilitation services they provide.”

“The seven VK LLCs will maintain this accessibility and have admissions policies that are consistent with state regulations and standards, accepting residents who are medically qualified for these services and who have made satisfactory payment arrangements through Medicare, MaineCare and Private Pay.”

**Improving Occupancy and Financial Feasibility through Enhanced Marketing & Business Development Initiatives**

“We note that the above Occupancy Tables show four Kindred Facilities with recent occupancy levels below the 90% benchmark set forth at Section 44.10 of the Principles of Reimbursement, and therefore were subject to the Occupancy Adjustment to their fixed cost components as set forth in these Principles. The three Facilities in Region I were not alone, with the Region I average also being below this standard. These occupancy levels are of concern to NHCA, and we will implement several initiatives we believe will lead to higher occupancy levels that are more aligned to the services needed by these communities and the other health care providers within these communities who interface with these Facilities.”

“Two universal examples of mechanisms put in place at each of the NHCA-supported centers will be implemented at each of the Maine Facilities and will assist them with their existing census challenges – (1) **our Passport Rehabilitation Program** (*see Exhibit IV-A*) and (2) **hiring a dedicated Director of Admissions and Marketing, as well as a Clinical Evaluator**. Both are part of NHCA’s immediate support plan for transition.”

“As noted elsewhere in this Application, each NHCA-supported center houses the signature *Passport Rehabilitation Program*, a specialized short-term rehabilitation program designed to treat and rehabilitate those recovering from a hospital stay or an acute medical episode. Hailed as “*Your Passport to Home*,” staff work with the short-term rehabilitation patient, their family and/or other caregivers to provide a recovery which will allow for a smooth, safe transition back to the patient’s home. Patient and family education, clinical excellence and superior results are the hallmarks of the *Passport Rehabilitation Program*. The program provides physical, occupational and speech therapies to a wide-range of residents and patients, customized to meet their specific needs, for the best possible outcomes.”

“Our marketing and business development model requires that each center employ a Director of Admissions and Marketing, who will be dedicated to implementing a quarterly marketing plan to enhance the center’s occupancy. This position would be filled post-acquisition, as will the position of a Clinical Evaluator, who reviews potential short-term patients to ensure that clinical needs can be met and expedite the admission process. The Clinical Evaluator also works with various local health care providers to further identify service and program needs of the community.”

“As part of the transition, NHCA will also put in place a Regional Marketing & Census Development Director who will be responsible for consulting and directing the centers in their charge for opportunities for business growth. These opportunities range from increasing or improving existing referral sources, to expansion of marketing reach, to new program development and service delivery.”

“Each center, in conjunction with NHCA’s corporate Marketing Team, will develop a quarterly strategic marketing plan that is a continuously evolving pathway to enhancing the center’s census that will rely on each of the preceding steps.”

**Meeting the Needs of Patients from Referring Hospitals**

“Each NHCA-supported center is continually reviewed to ensure that our clinical programs and services align us with our referring hospitals. In addition, we reach out to hospitals and various health networks (physician group practices, VNA, homecare, etc.) to explore opportunities that allow us to fill an existing void for care or clinical programs. We will do so in the context of preceding the occupancy initiatives, marketing plans and other steps at each of the seven Maine Facilities. We will pay particular attention to the needs of the referring hospitals at the four Facilities that have shown recent occupancy levels below 90%, as follows:

***Brentwood in Yarmouth***

Based on our review of the key services provided at Brentwood’s principal referring hospitals (*Mercy Hospital, Mid Coast Hospital, and Maine Medical Center),* we believe the following programs in place at other NHCA-supported centers will help promote occupancy and better meet the needs of patients in this service area: programs in Cardiac Recovery, Pulmonary and Orthopedic Rehabilitation programs. During the transition we will determine how best to further develop and enhance these programs at this facility.”

***Eastside in Bangor:***

“Similarly, based on hospital specialties for Eastside Center’s top referring hospitals (*Eastern Maine Medical Center, St Joseph Hospital and Waldo County General Hospital),* NHCA anticipates working with Eastside staff to develop programs in Infusion Therapy Program (IV Therapies), Cardiac Recovery, Pulmonary and Orthopedic Rehabilitation.”

***Norway:***

“Based on hospital specialties for *Stephens Memorial Hospital, Bridgton Hospital, Central Maine Medical Center, and Maine Medical Center,* NHCA would work with staff at the Norway Center to further develop Cardiac Recovery, Pulmonary and Orthopedic Rehabilitation programs. We also see further service development opportunities exist Norway. We envision coordinating with Bridgton Hospital and its parent Central Maine Healthcare on service alignment with Bridgton’s “swing” beds. This coordination could allow Norway to either admit those patients who are not appropriate for admission to the Bridgton Hospital or as a step down in service to discharge to home or a lesser care environment. The overall marketing plan will incorporate the community marketing of the 28 residential care beds at Norway.”

***Kennebunk:***

“Based on hospital specialties for *Mercy Hospital, Southern Maine Medical Center, York Hospital, and Maine Medical Center,* NHCA would work with staff at Kennebunk Center to develop a Diabetes Management Program as well as a Cardiac Recovery program.”

“As further steps to be applied at these Maine Facilities, NHCA will also identify the need for more traditional longer-term residents to stabilize the census in some centers. Through incorporating strategies that focus on a population requiring a longer length of stay due to co-morbidities, disease state or service/treatment needs, we find this provides for a more consistent average daily census for each center.”

**COMMUNITY AND CHARITABLE INVOLVEMENT:**

“Throughout the NHCA network, supported centers become involved with their local communities, from Alzheimer’s Memory Walks, to support groups held in our centers for various health-related issues, to opening the doors to other groups to host their events in our open spaces. These centers have garnered state and regional recognition for hosting many events to raise funds and awareness for various local charities and specific individuals facing hardships in their lives. In addition, these centers have also conducted fundraisers for national and international relief efforts over the years, including fundraising for the American Lung Association, the American Red Cross, the Haiti Relief fund and the Alzheimer’s Association.”

“NHCA-supported centers also pride themselves on working with area referring hospitals to learn more about their specialties and needs, how NHCA-supported centers can help these hospitals meet their needs in these areas and what types of programs NHCA can develop or enhance can assist them in meeting the needs of the local community. In the past NHCA has partnered with hospitals to provide specific post-hospital programs and services to meet their treatment protocols, such as post-surgical care, cardiac recovery, stroke rehabilitation and pulmonary rehabilitation services, to name a few.”

**PROGRAMS & SERVICES:**

“NHCA is a progressive organization, working with each of its centers to meet the needs of residents and their families with a specialized, signature rehabilitation program in addition to other specific programs for short-term rehabilitation and post-hospital care in areas including orthopedic, cardiovascular, neurological, and post-surgical recovery and rehabilitation, as well as traditional skilled nursing care for the long term resident. The common goal for all short term residents is to get them back to their optimal level of functioning and return them home. As noted elsewhere in our application, we will not immediately change the scope of services currently provided at the seven Kindred facilities as we take over operations.”

“After we have operated these Facilities for a reasonable period of time, we will consider possible enhancements to these services, based on the needs of the community, and the state. By way of example, The Pines at Rutland Center for Nursing and Rehabilitation in Rutland, VT has the only licensed Ventilator Unit in the state. Another Ventilator Unit in the NHCA network, a 30-bed floor at the Cold Spring Hills center, in Woodbury, NY operates at near capacity on a regular basis. We understand this particular need exists in the State of Maine, and down the road we would be willing to consider providing such services, subject to any requirements for prior approvals.”

“The following is a brief overview of several programs, services, and systems that are consistent throughout all NHCA-supported centers and will be implemented at the seven Maine Facilities:

**NHCA PROGRAMS AT EACH OF ITS CENTERS**

**Passport Rehabilitation Program:**  While each NHCA-supported center is unique to the communities it serves, ranging from inner city to rural settings, all NHCA-supported centers offer a comprehensive array of physical, occupational and speech therapies that can be provided seven days per week. All of these centers host the signature *Passport Rehabilitation Program*(www.PassportRehab.com), which offers a specialized and unique rehabilitation “journey” back to home. NHCA develops programs to enhance the lives of residents during their stay at these centers. These programs reflect Resident Centered Care, Culture Change and a continued goal for Clinical Excellence. *(See Exhibit IV – A, Passport Program Brochure)”.*

**Skin Protocol/Wound Care Program:** “NHCA provides all centers with a very high quality of pressure redistribution mattresses and chair surfaces, as well as a standardized wound care protocol and formulary for treatments. These are the hallmarks of NHCA’s Skin Protocol/Wound Care Program. The centers have specialized wound physicians and/or APRNs that round weekly with our nursing team. These medical specialists provide education and training to the licensed staff for preventative measures, as well as assessment and appropriate treatments of wounds. By providing this service, patients receive professional treatment and debridement in the center, as needed, without being sent out to a wound clinic. At least one regional nurse in each region is Wound Certified and is a resource to NHCA-supported centers. The facilities within the NHCA network consistently average 2% or less for center acquired pressure ulcers, a figure that is well below national averages.”

“The national average for facility-acquired pressure ulcers has been decreasing over the last few years. However, for Long Term Care Facilities, the national average in 2011 was 6.4%; for Long Term Acute Care facilities the average was 8.4%; and for Rehabilitation Facilities, the average was 3.7%. It is very clear that NHCA’s extremely low average in comparison to these national norms shows the significant value of their skin protocol/wound care program to decreasing the prevalence of pressure ulcers.”

*(See Exhibits IV-B & C Surveys on Pressure Ulcer Comparisons)*

**Falls:** “NHCA has been very successful in reducing the number of falls throughout its network with continued training and monitoring by the clinical team. Through the network, NHCA has reduced the reliance on alarms and restraints to prevent falls. Furthermore, NHCA-supported centers have implemented frequent checks and appropriate interventions with careful review by the clinical team. Falls are also discussed monthly at the Directors of Nurses meeting to collectively develop interventions that have been successful at these centers. Although NHCA-supported facilities strive for perfection, we are pleased that the fall rate at these centers is less than 13%, well below the U.S. average of 44%.”

**Computerized Permanent Assignments:** “NHCA centers utilize a permanent assignment system that is updated with daily changes and revised weekly to remain current with a resident’s plan of care. We feel this not only benefits the resident, but is also helpful for centers to maintain a low turnover in staff, through providing consistency, comfort and trust between the staff and the residents and their families.”

**24-Hour Report: “**NHCA-supported centers all use a standard 24-Hour Reportto ensure proper communication and continuity of care for our patients and residents. In addition to this report, centers also conduct a Clinical Wrap-Up Report that is held at the end of the first shift (7:00 a.m. – 3:00 p.m.) and includes the evening supervisor. During the “AM” report, the clinical team discusses all issues that require further follow-up and/or a chart review. The Wrap-up meeting ensures that all concerns have been discussed and addressed appropriately. Together, these two reports complete the circle of communication and promote a resident-centered approach.”

**SBAR/Interact Program: “**The SBAR (Situation Background Assessment Recommendation) is a tool that provides standardized means of increasing the effectiveness of communication between the licensed staff and the physician during the time that the resident exhibits a change in condition. The Interact Program is collection of data that pertains to every diagnosis and gives recommendations to treat exhibiting symptoms. All NHCA-supported facilities have been trained in and have fully implemented the SBAR/Interact Programs. By using these programs, these centers have had an overall reduction in re-hospitalizations showing an average of 14-18% compared to 20-31% before these programs were initiated.”

**Rehabilitation Rounds:** “Rehabilitation rounds are conducted weekly for long term care residents with a representative from the Rehab department, a nurse and a Certified Nurses’ Aide. The discussion is based on the aide’s assignment to observe and assess the residents for any subtle changes that may require Rehab services in order to benefit the resident’s overall condition.”

**Reportable Events: “**The regional nurse and the Director of Clinical Services thoroughly review all reportable events that occur at each center. The Director of Clinical Services reviews these findings with the Regional Director of Operations and the V.P. of Clinical Operations.”

**I.V. Certification:** “All 24 NHCA-supported centers are I.V. certified. NHCA has sponsored and continues to sponsor I.V. training to licensed staff including certification for I.V. starts. NHCA-supported staff have been educated and trained in administering I.V. Lasix push and I.V. Solumedrol push, which has been successful for treating the residents at the center and preventing re-hospitalizations.”

**The Ambassador Program**: “A department head is assigned to all new admissions and maintains frequent contact with the resident and their family to ensure a smooth transition to the center and assists with resolving any concerns that may arise throughout their stay.”

**The Team Based Assessment (“TBA”):** “TBA is held within 72 hours of the resident’s admission to review the goals of the resident and the interdisciplinary care team during the resident’s rehab stay, ensuring a successful discharge. A representative from each department meets collectively in the resident’s room for a brief introductory meeting in order to give an overview of their responsibilities. This professional interdisciplinary team will review short term Medicare and Managed care residents at least weekly to ensure appropriate utilization and monitor the continued course of treatment. Long term residents are evaluated by the interdisciplinary team at least quarterly or more frequently if needed, to review the MDS and resident Care Plan for each resident. Resident Care Plans are updated regularly to reflect any change in condition or treatment.”

**Standard of Care Meetings**: “These clinical meetings are held weekly and are attended by the center’s nursing management team as well as Social Service, Dietary and Rehab. During these meetings new admissions and changes in condition related to pain, weight loss, falls, restraints, antipsychotics and wounds are reviewed and addressed.”

**Mock Survey:** “The Mock Survey is scheduled two to three months in advance of the last annual survey of the center. We will follow the standard CMS process which is currently utilized in New York and Vermont. The QIS survey is the process used in the state of Connecticut for all surveys. All of the regional corporate disciplines participate as well as sister-center staff, including an Administrator, Director of Nurses, MDS, Dietician, Environmental Services, Operations and Rehab staff. Mock Surveys have been successful in identifying potential concerns for the center so that they may be addressed and corrected. Mock Surveys have reflected isolated deficiencies versus patterns and/or widespread issues.”

“Other more specialized programs have been implemented at particular centers within the NHCA network.”

**B. Certificate of Need Unit Discussion**

**i. 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.

**ii. Certificate of Need Analysis**

This transaction involves the applicant assuming operational control of seven existing facilities which have provided services from the past 36 to 55 years. The applicant analyzed historical occupancy patterns for 2010 and 2011 based on “as filed” cost reports submitted to the DHHS Office of Audit. These trends show that most of the seven facilities have an overall occupancy in excess of 85% and many have occupancy percentages above regional averages. Kindred Transitional Care and Rehab-Brewer operates one of only two traumatic brain injury units in Maine. This demonstrates a continuing health need in the areas served by these facilities and demonstrates that these facilities will continue to address specific health problems in the areas served.

The applicant noted that at many facilities MaineCare utilization was less than their peers due to higher Medicare percentages. This reflects the market attractiveness of skilled rehabilitation services. Skilled services decrease healing times and allowing patients to return home faster which has a positive impact on health status indicators of the population served.

The services affected by the project will be accessible to all residents of the areas proposed to be served. The applicant states that the seven facilities will maintain accessibility and have admissions policies that are consistent with state regulations and standards and will accept residents who are medically qualified for these services.

The above occupancy tables also point out an area of concern for the applicant. Four Kindred facilities have recent occupancy levels below the 90% threshold established in the Principles of Reimbursement for Nursing Facilities. This results in an occupancy adjustment to their fixed cost component resulting in decreased reimbursement. As a result the applicant intends to implement several initiatives to align services with the needs of the community and other health care providers to improve occupancy. These initiatives include implement a Passport Rehabilitation Program which provides physical, occupational and speech therapies to a wide-range of residents and patients, customized to meet their specific needs, for the best possible outcomes. Each center will employ a Director of Admissions and Marketing, who will be dedicated to implementing a quarterly marketing plan to enhance the center’s occupancy. A Regional Marketing & Census Development Director will be responsible for consulting and directing the centers to searches for new business opportunities. Each facility will be monitored to ensure that they are meeting the needs of patients from referring hospitals. The applicant provided a detailed plan for each of the four facilities experiencing occupancy problems. (Brentwood, Eastside, Norway, and Kennebunk).

CONU believes that these initiatives will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project.

**v. 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**

“In overview, the transfer of ownership of each of the seven Facilities from Kindred to the VK LLCs is consistent with the orderly and economic development of health facilities and health resources for the State because it will continue needed services that have been provided in each of these Facilities over the past several decades. The project likewise fulfills the MaineCare Neutrality requirement.”

“These seven facilities have served their communities for timeframes ranging from 36 to 55 years. The VK LLCs are committed to building on this long record of service with updated programs and proven systems.”

**Fulfillment MaineCare Neutrality Criterion**

“Several factors demonstrate that the seven VK LLCs satisfy the key requirement of MaineCare neutrality.”

“The VK LLCs have no plans for significant capital expenditures during the first three years of operations. Each of these Facilities will take possession of Kindred’s leasehold improvements and depreciate the remaining net book value on a straight line basis over their remaining respective useful lives. Depreciation schedules calculating allowable depreciation as historically filed in Kindred’s cost reports have been utilized as the basis for allowable depreciation in the proforma cost reports included with this filing.”

“There will be no long-term borrowings incurred as a result of this lease transaction and the Facilities have no plans for significant long-term borrowings during the first three years of operations. There are no interest costs included in the enclosed projections or in the proforma cost reports.”

“We have provided and attached proforma cost reports for the first full year of operations following the transfer of ownership for each of the seven Facilities. These have been prepared consistent with the Principles of Reimbursement and are based on the rate letters that were in effect through 2012. See Exhibit III-A-1.”

“The staffing patterns for each of the seven VK LLCs will be consistent with the Facilities’ historical operations and employee benefits currently in place will continue. We have therefore assumed no significant changes to wages and benefits other than an inflationary increase of 1%. Schedules L and N of the proforma cost reports included in Section III-A-1 are included and provide projected full time equivalents, worked payroll and fringe benefits and total payroll costs for each facility.”

“Finally, each of the VK Facilities accept the current MaineCare direct and routine rates paid to the facilities. In the aggregate, fixed costs per day are projected to decrease approximately 2.28% or $5.38 per day compared to the audited cost reports for the year ended December 31, 2011. The assumption of current rates and no additional capital costs or addition to bed licenses sufficiently demonstrates MaineCare neutrality.”

**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 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.

**ii. Certificate of Need 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 project is MaineCare neutral because there will be no increase in MaineCare reimbursement associated with this project. No additional State funding is required.

Due to these factors it is unlikely that a more effective, more accessible or less costly alternative technology or method of service delivery will become available.

**v. 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

1. From Applicant

“Approval of this Project will not negatively affect the quality of care delivered by existing service providers. Approval will permit seven clearly needed and high quality skilled nursing facilities to continue to provide these services on an ongoing basis to the residents and families in their surrounding service areas. Moreover, approval will have a positive impact on the quality of care delivered by hospital and physician providers in the relevant service areas as they will be able to continue to refer residents needing such services to facilities that provide high quality care.”

“As noted above, NHCA’s demonstrated track record of achievement will enhance and improve services at these Facilities over time. *See* extensive detail in Sections II and IV above, particularly the portions describing Transition steps and methodologies. *See also* Section VII below describing our work with hospitals and other acute care centers.”

**IMPROVING HEALTH OUTCOMES**

“As set forth in other portions of this Application, VK Health Facilities, LLC and each of the seven VK LLCs will be affiliated with a network of skilled nursing facilities located throughout Connecticut, Massachusetts, New York, New Jersey and Vermont. Each facility of this group has an excellent track record of providing high quality services to its residents. Through its division of professional services, NHCA provides program enhancement, policy development, care audits and inspection, regional clinical service nurses, and compliance monitoring with Federal and State regulations. These services along with on-site professional staff training have aided in the development of policies and procedures that lead to positive health outcomes. These program enhancements and procedures are shared with the other facilities allowing for continuous feedback and education of the staff. This enables each facility to develop new knowledge bases and put new treatment strategies into practice for improving health outcomes. Each of the seven VK Facilities will participate in and benefit from these services and professional exchange.”

**HIGH QUALITY CARE**

“As detailed further in other sections, NHCA has consistently fostered a culture that promotes high quality care in a safe environment. Its mission is to provide residents and their families with superior care delivered by staff dedicated to the principals of kindness, compassion, service and excellence in an environment where individuality, dignity and value of those who are served, as well as those who serve, is nurtured and appreciated. As part of the NHCA network and in concert with its mission, employees will be sufficiently trained through educational programs for continued implementation of these goals and values.”

“Examples of resident-centered initiatives to be reviewed for implementation include permanent staff assignments, strong orientation for caregivers, enhanced dining atmosphere, Ambassador Program to help residents and families adjust through an admission, and resident/family activity inventorying on admission to monitor likes and dislikes. A Resident-centered culture is also promoted through professional interdisciplinary assessments with the resident and family.”

“Our quality of care initiative has been enhanced to include standards of care meetings at each facility for residents at high risk for nutrition, falls, wounds and hydration. Decision support is accomplished via regional clinical nurse oversight, who visits each facility several times a month to monitor quality of care and systems. Clinical systems are benchmarked between all network facilities as well as nationally and statistical data is reviewed monthly with the Medical Director and QI committee. In addition, specialized training programs have been specially developed for specific clinical areas. These include an eight (8) hour Dementia training program and a two (2) hour Pain management program to further enhance the care necessary for these services.”

“It is anticipated that professional community resources will be called upon to provide educational information to caregivers and the community at large as well as provide free screening for certain tests. The VK LLCs also anticipates recruiting community organizations, schools, and volunteers, to participate in providing a home-like atmosphere. The Applicant intends to develop strong community relationships via community liaisons and staff.”

**Pharmaceutical Regime Services under Maine Regulations and Track Record of NHCA-Supported Facilities**

“The VK LLCs understand the importance of managing and monitoring each resident’s medication regime as is required under Maine’s Skilled Nursing Facility Licensing Regulations, Chapter 17, which govern Pharmaceutical Services. These provisions call for specific policies and procedures related to dispensing, administering, storing and disposing of drugs and biologicals, with advice from a staff pharmacist or consultant pharmacist who is a State licensed pharmacist.”

“At the seven VK Facilities, we will rely on the services of PharMerica, a national pharmacy services company licensed to provide long term care pharmacy services in Maine, with an office at 97 McAlister Road Farm in Portland, to assist us in carrying out each of the several responsibilities in Chapter 17, including crafting of appropriate policies, review of records, the review of each resident’s drug regimen monthly and as needed, participating in resident care conferences when appropriate, and participating in the Professional Policy Committee and Quality Assurance Committee of each facility with respect to these pharmaceutical services.”

“NHCA has a long standing relationship with PharMerica in connection with Connecticut Centers that are part of its network. Periodic reviews are conducted with PharMerica and the regional clinical staff at NHCA to evaluate and review the Pharmacological program in each of the facilities. During the meeting the team looks to identify opportunities, trends and issues with the goal being that each resident’s medication regime be managed to ensure the highest practical well-being while receiving only those medications clinically indicated for their condition.”

“Consistent with the requirements in the Maine regulations, a PharMerica pharmacy consultant working with the Connecticut facilities does a monthly medication regime review on every resident. This information is shared with facility personnel with recommendations forwarded to the Medical Director. The recommendations and follow up are then reviewed by the regional clinical nurses during their monthly visits. Pharmacy consultants also do medication pass observations during the mock survey process and any other time throughout the year when necessary. We believe this positive experience with PharMerica in Connecticut will pave the way for full compliance with the Maine regulations, and provide high quality services to our Maine residents in this important area.”

**B. Certificate of Need Unit Discussion**

**i. 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 seven **existing** nursing facilities. The seven VK facilities will adopt practices currently in place at the CT, NJ, NY, and VT NHCA run facilities. These practices provide program enhancement, policy development, care audits and inspection, regional clinical service nurses, compliance monitoring with Federal and State regulations along with on-site professional staff training. This leads to the development of policies and procedures which will ensure high quality outcomes. Continuing necessary services in the current geographic areas will have a positive impact on the quality care. The existing scope of services will not be immediately changed and any future addition of services will be carefully aligned with the needs of the community. Existing service providers will not be negatively impacted.

**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**

*“Saint Vincent Hospital Bridgeport, CT* and *Hartford Hospital, CT*. NHCA has also developed programs with home care agencies where specific care transition models ensure a smooth transition from the center to the resident’s home. This includes both providers following the same protocols and education materials to the patient throughout the entire continuum of care. In this model prior to discharge CHF residents become familiarized with Telemonitor equipment during their stay in the nursing center. By the time they are discharged home, the residents are familiar and comfortable with the equipment which has made the transition smooth and has reduced re-hospitalizations within the first few days of residents being discharged home.

* Greater New York Hospital Foundations collaborative to reduce avoidable Hospitalizations.
* *Gaylord Hospital* (LTAC) – NHCA entered into a partnership with this Hospital to provide intensive wound care services including flaps and spinal cord rehabilitation at our skilled nursing centers.
* Member of Stony Brook University’s Hospital Transition of Care Committee.

Affiliation with *North Shore Long Island Jewish Hospital* including involvement in their heart failure program.”

**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*

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| --- | --- |
| Letter of Intent filed: | January 25, 2013 |
| Subject to CON review letter issued: | January 28, 2013 |
| Technical assistance meeting held: | February 7, 2013 |
| CON application filed: | March 15, 2013 |
| CON certified as complete: | March 15, 2013 |
| Public Information Meeting Held: | Waived |
| Public Hearing held: | April 4, 2013 |
| Comment Period Ended: | May 4, 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:

1. 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;

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.**

1. MSO Associates, LLC is owned by the Marvin Ostreicher 2012 Family Trust and Susan Ostreicher 2012 Family Trust. [↑](#footnote-ref-1)
2. BPB Equity Holdings, LLC is owned by the Barry Bokow 2012 Family Trust and the Paula Bokow 2012 Family Trust. [↑](#footnote-ref-2)
3. The Trustees of Meridian Capital Foundation are Jay Lobell and Ralph Hertzka. [↑](#footnote-ref-3)
4. Ventas NHV Fund is owned by Albert David (41.67%), Moshe Mograby (41.67%) and Miriam David 16.66%. Ventas NHV Fund is unrelated to Ventas Realty, Limited Partnership, the landlord of the Facilities. [↑](#footnote-ref-4)