

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

**Date:** March 24, 2014

**Project:** Acquisition of Operations of Kindred - Westgate Manor Nursing Home

**Proposal by:** Westgate Center for Health and Rehabilitation, LLC

**Prepared by:** Larry Carbonneau, Manager Health Care Oversight Program  
Richard Lawrence, Senior Health Care Financial Analyst

**Directly Affected Party:** None

**Certificate of Need Unit Recommendation:** Approval with Conditions

	<b>Proposed Per Applicant</b>	<b>Approved CON</b>
Estimated Capital Expenditure	\$ 709,000	\$ 709,000
Maximum Contingency	\$ 0	\$ 0
Total Capital Expenditure with Contingency	\$ 709,000	\$ 709,000
Pro-Forma Marginal Operating Costs	\$ 185,813	\$ 185,813
MaineCare Neutrality Established		Yes

## **I. Abstract**

### **A. From Applicant**

“Westgate Center for Health and Rehabilitation, LLC (“Westgate”) 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. Westgate will lease and operate Kindred Westgate Manor, a skilled nursing facility that Kindred Nursing Centers West, LLC (“Kindred”) now operates and leases from Ventas Realty, Limited Partnership (“Ventas”) in Bangor, ME.”

“The facility transitioning to Westgate Center for Health and Rehabilitation, LLC is Kindred Westgate Manor, in Bangor, ME.”

“Westgate will undertake operations in place of Kindred in Bangor upon receipt of the CON and other approvals authorizing the change.”

“NHCA, which was founded in 1984 and has grown into a network of 38 affiliated Skilled Nursing and Rehabilitation centers located throughout the Northeast, including Connecticut, New Jersey, New York, New Hampshire, Maine, Massachusetts and Vermont, will provide needed support to Westgate. These centers provide care to thousands of residents in these geographic areas and employ more than 7,000 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 an Operations Transfer Agreement, and Ventas will enter into a Lease Agreement, with Westgate through which Westgate will become the new tenant operator and licensee of the Facility. Ventas will continue to own the land and building used to operate the Facility. Westgate will accept the current MaineCare limits in effect consistent with its most recently issued rate letter.”

“There will be no change in the type or location of licensed beds at the Facility, and Westgate will continue to provide the high standard of programs and services that the Facility’s residents and their families have come to expect. Westgate intends to continue to employ the Facility administrator, director of nursing, and medical director, along with other staff who met NHCA screening standards and wish to continue as employees of Westgate. In-depth training will be provided where necessary to assist employees in meeting Westgate’s 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 5381 bed skilled nursing facility ("SNF") network providing services in 38 centers in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, New York, and New Jersey. 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, Newburyport, MA and Wethersfield, CT."

"Westgate's organizational culture will be consistent with the culture at other NHCA managed facilities, reflecting 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."

"Westgate is 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 Westgate are as follows:"

##### **1. National Health Care Associates, Inc.**

- a. Marvin Ostreicher, President**
- b. Barry Bokow, Vice President – and CFO**
- c. Patricia Thomas, Esq., Vice President of Organizational**
- d. Kelly Ann McCallister, Vice President of Marketing and Business Development**
- e. Maureen McCarthy, RN, BS, RAC-CT, CPRA, Vice President of Clinical Reimbursement**
- f. Donna Megrey, RN, Vice President of Clinical Operations**
- g. Kevin Prisco, Director of Regional Operations for New England (Maine, New Hampshire, Massachusetts, Vermont and Connecticut).**

(See Exhibit I, NHCA Senior Team Bios)

### Ownership Structure and Organizational Charts

“The members of Westgate Center for Health and Rehabilitation, LLC, their addresses and their percentage interests are:”

<i>Member</i>	<i>Address</i>	<i>Percentage Interest</i>
MSO Associates, LLC <sup>1</sup>	184 Wildacre Avenue, Lawrence, NY 11559	60%
Barry Bokow	722 Almont Road, Far Rockaway, NY 11691	10%
Geffner, Ira	253 Woodward Avenue, Staten Island, NY 10314	10%
Ostreicher, David	184 Wildacre Avenue, Lawrence, NY 11559	5%
Ostreicher, Marc E.	175 Harborview North Lawrence, NY 11559	5%
Steg, Yitzchok	236 Juniper Circle East, Lawrence, NY 11559	5%
Lopiansky, Rebecca	15 Rolling Hill Lane, Lawrence, NY 11559	5%
Total		100.00%

“We have also attached an organizational chart 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 other Maine Facilities within the NHCA network that are reporting to him. (See Exhibit II, Organizational Chart).”

“Marvin Ostreicher, the President of NHCA, is the sole manager of Westgate.”<sup>1</sup> MSO Associates, LLC is owned by the Marvin Ostreicher 2012 Family Trust and Susan Ostreicher 2012 Family Trust.

### 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. Westgate will apply these principles and this approach to taking over the operations at Kindred Westgate Manor.”

“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 may cause uncertainty and anxiety for employees, residents, patients and their families, as well as the surrounding health care community pertinent to *Westgate Center for Alzheimer’s Care*, Westgate 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.”

“Following the approach taken with the seven VK Maine Facilities within the NHCA network, we will form the Transition Team, which will be comprised of senior NHCA staff, prior to the change of ownership of Westgate. 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 Westgate. 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, and following the approach we took for the seven VK Maine Facilities within 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 this facility. 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.”

“Thirty-two new centers have joined the NHCA network within the last five 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 Director, Administrator and Other Key Employees**

“NHCA, on behalf of Westgate, has coordinated with Kindred to reach out to the Medical Director and key employees at the Facility, and has learned from Kindred that these individuals intend to continue to work at the Facility following the closing. The chart below provides the key employee information obtained from Kindred. This continuity will contribute strongly to maintaining quality services and oversight.”

**“Current Kindred Facility Medical Director, Facility Administrator, and Director of Nursing Services”**

<b>Medical Director</b>	<b>Administrator</b>	<b>Director of Nursing Services</b>
Cindy Avery	Kirby Whitney Date of Hire and Start: 10/03/2005	Tamera Leland Date of Hire and Start: 07/13/1987

“The continuing service of the Administrator, the Director of Nursing Services and the Medical Director will be important to build upon. Their continued service will facilitate 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 2013, fourteen facilities in Maine, Massachusetts and New Hampshire joined the NHCA network over a period of 3 months. All of the facilities, including seven in Maine were leased from Ventas and were previously operated by Kindred. The integration of these 14 facilities was a seamless process and included coordinated efforts with facility staff and administration, residents and families, and local vendors and supply chain resources. From a clinical and service based perspective, NHCA was able to transition policies and protocols effectively so as to maintain or improve the previous levels of service and quality. A new management structure was established and implemented prior to the transition and the operations team was able to effectively provide support and direction to the leadership at each of the centers from the day of transition forward. The employee payrolls and benefit programs transitioned without any interruptions to the staff and management teams.”

“In 2008, eight skilled nursing centers joined the NHCA- 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 facility’s 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.”

“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.”

“Given the number of facilities that NHCA now operates in Maine, we believe the support structure on a micro and macro level are in place for a very smooth transition. Our goal is for the operation of the facility to transition to Westgate’s control by May, 2014.”

### **Clinical Structure**

“Our clinical operations consist of the Vice President of Clinical Operations and three Directors of Clinical Operations, one covering the Maine/New Hampshire/Massachusetts, one covering 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 has 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 Northern 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, NHCA Organizational Chart*).”

## **Medicare Compare Ratings under 5 Star systems**

### **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 2014. Sixteen of the 24 centers that were part of the NHCA network before last year’s additions (or 67%) 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 three years. The average number of deficiencies for NHCA-supported Connecticut centers is 6.3, compared to the State and national average of 8. The average for New York/New Jersey is 5.7 deficiencies 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. (*See*



*Exhibit III, National Health Care Associates, Inc. List of Facilities with Star Ratings*). Please note that the newest facilities acquired in 2013 were not included in these results.”

**Kindred Facility Rating**

“NHCA has reviewed the 5-Star ratings for the Kindred Westgate Facility, both overall score and subcategories. The overall score is as follows:

**Kindred Nursing and Rehabilitation - Westgate Rating**

Date of Inspection	12/2013	01/2013	08/2012	01/2012	08/2011	01/2011	08/2010	02/2010
Overall Rating	5	5	5	5	5	5	5	5
Health Inspection	3	4	4	5	5	5	5	5
Staffing	4	4	4	4	4	5	5	3
RN Staffing	4	4	4	5	4	4	4	3
Quality Measures	5	5	5	4	4	4	5	5

“A review of these 5 Star ratings show that over the past few years, Westgate scores have been generally high and relatively stable (with the occasional exception of staffing and recent exception of health inspections).”

“For the most part the ratings oscillate between 4 and 5, leaving very little room for improvement.”

“With respect to the Health Inspection scores, the ratings have recently dropped in the past two years, after having been at a 5 level for 2010 and 2011 indicating some room for improvement. Westgate is intent on providing vigilant attention to this important area. See further discussion below.”

**NHCA Approach to Improving Ratings**

“As aforementioned, there is not much room for improvement of most of these 5 Star ratings. Following NHCA’s approach in the past, we strive to improve CMS lower rated facilities. This procedure is a multi-faceted process that encompasses public health survey improvement, staffing adjustments and quality indicator management. For NHCA facilities with three stars, regional clinical directors (“CSCs”) provide auditing, training, and consulting at least routinely and at least during survey windows and more often if necessary. Performance improvement action plans are developed and designed based on quality indicators below the 70<sup>th</sup> 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.”

“In order to address the decrease in scores for health inspections at Westgate Manor, NHCA will pay particular attention to appropriate staff training and maintenance of the building. 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 carefully monitors staffing for facilities with three star ratings and below 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.”

### **State Facility Licensure Surveys**

“Over the past few years, based on NHCA’s review of available DHHS records, Westgate Manor appears to have experienced a few hiccups as a result of complaints lodged against it, voluntary reports and state licensing survey results. In each case in which a complaint was lodged against the facility, however, the complaint was found to be not substantiated. In other instances involving voluntary reporting and survey inspections, the facility has had initial negative results. Yet, the facility has always made plans of correction and has brought itself back into compliance with each affected measure. As of December 2013, the facility appears to be in complete compliance once again.”

### **Regulatory Sources for NHCA Track Record**

The applicant included contact information for regulators nursing facilities of certain states that it operates in. [Included in record]

## **B. Certificate of Need Unit Discussion**

### **i. CON Standards**

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. CON Unit Analysis**

As stated above National Health Care Associates, Inc. (NHCA) currently provides support services to 38 nursing centers in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, New York, and New Jersey. Westgate Center for Health and Rehabilitation, LLC was formed for the purpose of leasing and operating Kindred Westgate Manor a skilled nursing facility with 65 licensed SNF/NF beds and 39 Level IV PNMI beds located in Bangor, Maine. This facility is currently leased and operated by Kindred Nursing Centers West, LLC who leases from Ventas Realty, Limited Partnership. Marvin Ostreicher, President of NHCA will act as sole manager of the newly formed corporation. This applicant is currently licensed in the State of Maine. Due to

the recent acquisition of seven facilities in Maine and seven facilities elsewhere survey data for these new facilities is not available. CONU looked at the most recent surveys available at Medicare.gov for NHCA run facilities in Connecticut, New Jersey, New York and Vermont in order to assess the applicant's ability to provide services at the proper standard of care. A summary of survey results follows:

<b>National Health Care Associates, Inc. Current Facilities</b>	<b>Date of Rating Data</b>	<b>Overall Rating</b>	<b>Health Inspection Rating</b>	<b>Staffing Rating</b>	<b>Quality Measure Rating</b>
<b>CONNECTICUT</b>					
Bloomfield Center for Nursing and Rehab	2/12/2014	BA	MBA	AVG	MAV
Cambridge Health and Rehabilitation Center	2/12/2014	AA	BA	AA	MAV
Ludlowe Center for Health and Rehabilitation	2/12/2014	BA	MBA	AA	AA
Maple View Health and Rehabilitation Center	2/12/2014	AA	AVG	AVG	MAV
Marlborough Health and Rehabilitation Center	2/12/2014	AA	AA	AVG	AA
Milford Health and Rehabilitation Center	2/12/2014	MAV	AA	AVG	MAV
Regency House Nursing and Rehabilitation Center	2/12/2014	AVG	BA	AA	AA
Riverside Health and Rehabilitation Center	2/12/2014	AVG	AVG	AVG	AA
The Pines at Bristol Center for Health and Rehabilitation	2/12/2014	MAV	AA	AVG	MAV
Village Crest Center for Health and Rehabilitation	2/12/2014	AA	BA	AA	MAV
Water's Edge Center for Health and Rehabilitation	2/12/2014	BA	BA	BA	AA
<b>NEW JERSEY</b>					
Maywood Center for Health and Rehabilitation	2/12/2014	MBA	MBA	AVG	AA
<b>NEW YORK</b>					
Belair Nursing and Rehabilitation Center	2/12/2014	MAV	MAV	AVG	MAV
Cold Spring Hills Center for Nursing and Rehabilitation	2/12/2014	AVG	BA	AVG	MAV
Hudson Pointe at Riverdale Center for Nursing and Rehabilitation	2/12/2014	MAV	MAV	BA	MAV
Huntington Hills Center for Health and Rehabilitation	2/12/2014	AA	BA	AA	MAV
Ross Center for Health and Rehabilitation	2/12/2014	BA	BA	MBA	MAV
Sands Point Center for Health and Rehabilitation	2/12/2014	MAV	MAV	AA	MAV
The Pines at Catskill Center for Nursing and Rehabilitation	2/12/2014	MBA	MBA	BA	AA
The Pines at Glens Falls Center for Nursing and Rehabilitation	2/12/2014	BA	MBA	BA	MAV
The Pines at Poughkeepsie Center for Nursing and Rehabilitation	2/12/2014	AVG	AVG	MBA	MAV
The Pines at Utica Center for Nursing and Rehabilitation	2/12/2014	MBA	MBA	MBA	AVG
<b>VERMONT</b>					
Pine Heights at Brattleboro Center for Nursing and Rehabilitation	2/12/2014	BA	MBA	AA	AVG
The Pines at Rutland Center for Nursing and Rehabilitation	2/12/2014	MAV	AA	AA	MAV

**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.

Rating	Overall	
	Occurrence	%
Much Below Average	3	12.50%
Below Average	6	25.00%
Average	4	16.67%
Above Average	5	20.83%
Much Above Average	6	25.00%
<b>TOTAL</b>	<b>24</b>	<b>100.00%</b>

9 Facilities or 37.5% are rated at below average or much below average for an overall rating.

Rating	Health Inspection	
	Occurrence	%
Much Below Average	7	29.17%
Below Average	7	29.17%
Average	3	12.50%
Above Average	4	16.67%
Much Above Average	3	12.50%
<b>TOTAL</b>	<b>24</b>	<b>100.00%</b>

14 Facilities or 58.34% are rated at below average or much below average for a health inspection rating.

Rating	Staffing	
	Occurrence	%
Much Below Average	3	12.50%
Below Average	4	16.67%
Average	9	37.50%
Above Average	8	33.33%
Much Above Average	0	0.00%
<b>TOTAL</b>	<b>24</b>	<b>100.00%</b>

7 facilities or 29.17% of the facilities received a rating of below average or much below average for staffing.

Rating	Quality	
	Occurrence	%
Much Below Average	0	0.00%
Below Average	0	0.00%
Average	2	8.33%
Above Average	7	29.17%
Much Above Average	15	62.50%
<b>TOTAL</b>	<b>24</b>	<b>100.00%</b>

No facilities received a rating of below average or much below average for a quality rating.

Our review determined that only 5 facilities or 20.83% of the facilities had rating of below average or much below average that occurred in 3 or more categories:

- Water's Edge Center for Health and Rehabilitation
- Ross Center for Health and Rehabilitation
- The Pines at Catskill Center for Nursing and Rehabilitation
- The Pines at Glens Falls Center for Nursing and Rehabilitation
- The Pines at Utica Center for Nursing and Rehabilitation

The applicant has provided an overall description of NHCA's approach to improving CMS ratings.

It should be noted in the prior preliminary analysis 3 of these facilities received a much below average or below average rating in 3 or more categories (Village Crest Center for Health and Rehabilitation, The Pines at Catskill Center for Nursing and Rehabilitation, and Pine Heights at Brattleboro Center). Only one facility, The Pines at Catskill Center for Nursing and Rehabilitation remains on this list. CONU has requested that the applicant submit a specific action plan for each of the five facilities sited above with particular emphasis on The Pines at Catskill Center for Nursing and Rehabilitation since that has remained on the list.

Mr. Kevin Prisco, Director of Operations, NE Region and Ms. Donna Megrey, Vice President of Clinical Operations responded to our request through a February 14, 2014 letter. Her responses are below:

"One of the new systems that we have put into place to assist in monitoring and improving the overall quality in our centers is the Abaqis program. We introduced this program in the fourth quarter of 2013 and we expect to see results over the next 6 months. Abaqis has four main elements to assist in improving the overall quality of each nursing facility. Abaqis helps to identify the root cause of issues, It helps prepares the facility for surveys, it provides a solid foundation for QAPI and it tracks and trends resident and family interviews. In addition, Abaqis will track the hospital re-hospitalization rates at each center. Not only will the program provide the tools needed for each center to improve their overall quality but the program allows for multiple users, which will allow Regional staff to view the data and assist in the development of appropriate interventions when needed. This tool will have a positive impact on the star rating of the health inspections and the quality measures which will in turn will drive the overall star rating for these facilities. While it will benefit each of the centers, it will yield particular benefits to those centers In need of Improvement, as we detail below."

**"Water's Edge Center for Health and Rehabilitation - Middletown, CT - Overall 2 star Health inspections are a 2 star as the facility received deficiencies with actual harm during its 2013 annual survey. These deficiencies were self-reported incidents to the department of health. Immediate actions were taken by the facility to correct the issues when the incidents were discovered and reported. Past surveys were above average for the facility. Overall staffing at the facility is a 2. The facility is currently recruiting for additional RN coverage which we anticipate will increase its staffing component to at least a 3."**

**“Ross Center for Health and Rehabilitation - Brentwood, NY** - Overall 2 star The facility had 14 deficiencies with no harm in 2013 which was above the state average of 7. The addition of the Abaqis program here will help those better Identify quality issues and put a plan in place which will result in a better survey outcome moving forward. Staff is a 1 star currently. There is a new Administrator in place who has adjusted some of the staffing ratios which should bring their staffing star rating up. In addition the facility is also trying to recruit more RN's.”

**“The Pines at Catskill for Nursing and Rehabilitation - Catskill-** Overall 1 star The health inspection star rating is a 1 which relates to poor survey outcomes in 2012. In 2013 the facility received only one no harm deficiency. The facility currently is closely monitoring its quality and outcomes and is working diligently to improve this rating over time. The staffing ratio for this facility is currently a 2 Star rating. We have increased our recruiting efforts in this rural area in order to attract additional staff especially RN's We have recently hired a new Administrator who is known to the area and is assisting in the recruitment efforts. Progress has been made at this center which we anticipate will translate into a higher star rating in the near future.”

**“The Pines at Glens Falls for Nursing and Rehabilitation - Glens Falls, NY** - Overall 2 star The health inspection rating is currently a 1. This past month the decision was made to replace the Director of Nursing. Currently we have a Regional Clinical Services director there as the Director of Nursing. She will remain at the facility until she feels comfortable that all systems are in place to address identified deficiencies, and the quality is at a more acceptable level. The Abaqis system will assist her in the identification process of where potential issues exist. Staffing at this center is at a 2 star rating which is also related to the challenge of attracting RN's to the area. With the CSC in the DNS position and working to address these several issues, we anticipate that the overall star rating will improve.”

**“The Pines at Utica for Nursing and Rehabilitation - Utica, NY**· Overall 1 star The health inspection rating is a 1 star rating, which is related to an immediate jeopardy citation in 2011. Since that time the facility has shown improvement year over year in its survey results. For the past 2 years it has had 5 deficiencies each year with no harm which is below the state average of 7 such deficiencies. With a good survey this year the facility's health inspection rating and overall rating will increase significantly. Currently the facility is at a 5 star rating for its quality measure. Staffing is at a 1 star currently. This is due to the recruitment issue of RN's in this very rural area. We are continuing to intensify our recruitment efforts for RN's for this facility.”

We appreciate this opportunity to set forth the several measures we are taking to improve the CMS Medicare Compare Star ratings at each of these facilities. Should the DLRS/CON staff have further questions or seek additional detail, we would be pleased to provide.

The applicant has demonstrated their ability to maintain services at the proper standard of care in other states. However, due to the applicant's limited history operating health care facilities in the State of Maine CONU recommends the following condition.

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

- 1) Westgate's most recent standing under the CMS Medicare Compare 5 Star Quality Rating and steps Westgate has taken or will take to maintain positive indicators and improve average or below average indicators.
- 2) A summary of the results of periodic surveys of Westgate carried out by DLRS over the past year, and a description of the remedial measures taken to address the identified deficiencies
- 3) An analysis prepared by the Clinical Operations Department of NHCA of key Abaqis trends at Westgate relating to quality measures, along with a review of the quality improvement steps being undertaken as a result of the monthly clinical reports from the Westgate Director of Nursing Services.

### **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 Westgate

“The following provides a summary of the financial projections for the first three full years of operations. Detailed projections, assumptions and occupancy projections are included in *Exhibit IV-A*.”

“The following is a summary of the results of the projections:”

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Net resident service revenue	\$ 7,707,900	\$ 8,109,548	\$ 8,502,018
Operating expenses	<u>7,259,003</u>	<u>7,444,816</u>	<u>7,619,195</u>
Net income	<u>\$ 448,897</u>	<u>\$ 664,732</u>	<u>\$ 882,823</u>

“Years 2 and 3 demonstrate revenue growth of 5.2% and 4.8%, respectively, due to a shift in the payor mix from MaineCare and private to Medicare and managed care individuals. The resulting increase in Medicare residents will align Westgate’s projected utilization with the regional average and NHCA’s experience.”

“Operating costs are projected to be lower in the aggregate than historically incurred due to reductions in lease costs and management fees, which are projected to be partially offset by an increase in health insurance costs as the facility’s employee’s transition to NHCA’s health insurance plan.”

“Lease costs will decrease approximately \$154,000 compared to the historical cost incurred by the facility. 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 report included in *Exhibit IV-B*.”

“NHCA Shared Services management fee is anticipated to be 5% of net resident service revenue and approximately \$57,000 less in total than the historical management fee charged to the facility by Kindred.”

“Operating expenses are projected to increase approximately 2% in Years 2 and 3. This nominal increase is projected due to a 1% inflationary increase in most cost components, an increase in provider taxes due to fluctuations in payor mix and growth in ancillary services to match the projected growth in ancillary revenue as presented in *Exhibit IV-A*.”

“In summary, the projected net income in Years 1, 2 and 3 adequately demonstrates the overall ability of the facility to support operations and cash flows needs.”

#### **2013 Financial Results of Maine VK Health Facilities, LLC**

“VK Health Facilities, LLC entered into a lease and began operations in seven Maine facilities effective July 1, 2013. During the past six months, NHCA has been transitioning these seven former Kindred facilities into the NHCA family. To date, facility staff have been educated on NHCA policies, procedures and systems and have been assimilated into the culture of the NHCA family.”



“*Exhibit IV-C* includes a summary of the operating results of the VK Health Facilities, LLC Maine operations for the seven Maine VK Facilities for the period July 1, 2013 to November 30, 2013. For the five months ending November 30, 2013, on a combined basis the Maine facilities realized operating income before shared costs, rent, depreciation and amortization of \$502,241 and an overall net loss of \$1,795,065. These results include a one-time charge of approximately \$627,000 in start-up costs expensed that will not reoccur. Additionally, overall occupancy rates were lower than anticipated at the transition date from Kindred to the seven Maine facilities of VK Health Facilities, LLC.”

“NHCA has targeted specific areas to provide additional support and education which will benefit the clinical and fiscal success of the facilities which include operational oversight, census development and clinical service capabilities and opportunities. In order to more closely monitor the performance of the seven existing Maine VK Facilities, NHCA Director of Operations Alain Bernard is focusing his efforts on these facilities in coordination with the Regional Director of Operations of the New England, Kevin Prisco. Ongoing attention is being given to opportunities for improvement, and budgetary control. In addition, focus has been placed on recruitment to reduce overtime pay and to enable the development of enhanced clinical programs such as a pulmonary program at VK Kennebunk, LLC and a palliative care program at VK Bangor, LLC.”

“NHCA has developed a budget for 2014 that takes into account the positive financial impacts these initiatives are expected to have on operating results. The 2014 combined budget for the Maine facilities projects a conservative overall occupancy of 90% and net income of \$1,336,931 which is consistent with, and positive in comparison to, initial projections for the first full year of operations as presented in the Certificate of Need for the transition of the seven facilities filed March 15, 2013, respectively, and supports the viability of the Maine facilities.”

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

“The financial projections included in *Exhibit IV-A* were prepared utilizing revenue rates in effect subsequent to Medicare sequestration implemented April 1, 2013, the proforma cost report rates for MaineCare, and existing rates for commercial payors and private payors. Inflation of 1.5% for private payors was assumed for Years 2 and 3 of the projections. No inflation was assumed for the other payors due to sequestration and/or flat funding. In each of the three years of financial projections prepared, Westgate is presenting net income.”

“The financial projections include an assumption of a 74% growth in Medicare census during the first three years of operations, which aligns the payor mix of Westgate with the 2012 region 3 average and other NHCA centers. The projections include a market basket update to Medicare rates that was effective October 1, 2013. We believe the projected net income of \$448,897 in Year 1, \$664,732 in Year 2, and \$882,823 in Year 3 are adequate to sustain operations.”

“Total facility MaineCare census is projected to be 70-72% during Years 1 through 3. Given the current economic environment and State of Maine budget challenges, we have factored in no increases in MaineCare rates during the first three years of operations. Therefore, the financial projections included in *Exhibit IV-A* include no inflationary increases in MaineCare rates during the first three years of operations.”

“Westgate Manor operates a 39-bed PNMI Appendix C residential care unit. Although the proposed new model DHHS has set forth for this program includes significant administrative and payment changes for the program, we do not anticipate the changes will have a significant financial impact on the financial operations of the facility. We have not included any assumptions relative to the current proposed changes to this program within the financial projections.”

### **Marketing & Admission Practices to Maintain and Enhance Occupancy and Revenues**

“Our filing in Section IV below provides the historic occupancy data for Westgate under Kindred’s operations. These show occupancy levels that support financial and economic feasibility. We believe Westgate 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.”

“Westgate, in conjunction with NHCA’s corporate Marketing Team, will develop a quarterly strategic marketing plan that will continuously evolve to enhance the center’s census.”

“All members of the center’s marketing team attend NHCA’s sales training and will 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 three Directors of Business Development, including one dedicated to the New England region, 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 supported 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 Standards**

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. CON Unit Analysis**

Westgate Center for Health and Rehabilitation, LLC (Westgate) is a newly formed Delaware limited liability company formed by Mr. Marvin Ostreicher, President of National Health Care Associates, Inc. (NHCA). As stated previously in this application Mr. Ostreicher and NHCA recently received approval to operate 7 Maine nursing homes through VK Health Facilities, LLC. Since these facilities only recently began operating in the State of Maine CONU utilized five years of historical financial data (2008 through 2012) to assess the applicants past financial performance. NHCA operated twenty four nursing homes located in Connecticut, New Jersey, New York and Vermont during this time frame. 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 NHCA's ability to meet its current short term obligations. NHCA has sufficient financial resources to assist the applicant in the event that financial projections are not met.

The applicant provided operating results for July through November of 2013. Due to a one-time charge of \$627,000 and a lower occupancy level, net income is running below projections. The applicant will utilize an extensive marketing program to enhance occupancy. The facility will also strive to shift their payor mix and attract more Medicare patients to align with regional averages. Additional efforts at staff recruitment will be taken to reduce overtime pay. Even using conservative occupancy projections (90%) the applicant believes that they can achieve net income of \$1,336,931.

The applicant submitted 3 year financial projections for the operation of Westgate Center for Health and Rehabilitation, LLC. Net income is expected to rise from \$448,897 in year 1 to \$882,823 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 IV-A of the CON application) and believe they are reasonable. These assumptions include no inflationary increases in either Medicare or MaineCare reimbursement and a small 1.5% increase in private pay rates. As stated earlier a shift in payor mix toward more Medicare patients is anticipated. Wage and benefit expenses are anticipated to rise by 1% annually with the exception of health insurance costs which is anticipated to increase by \$85,000. Facility related costs are estimated to rise by 1-2%.

### **MaineCare Neutrality**

The applicant included a pro forma cost report for the first year of operation for Westgate Center for Health and Rehabilitation, LLC. Based upon our review this cost report was prepared in accordance with the Principles of Reimbursement for Nursing facilities and is based on the most recent rate letter. The applicant is assuming control of an existing facility. 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.

Due to the applicant's limited history operating health care facilities in the State of Maine and recent operating results which failed to meet financial projections CONU recommends the following condition:

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

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

**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

### A. From Applicant

“This Application involves a transfer of operations of Westgate Center for Health and Rehabilitation, LLC, which has been providing needed services for many years as evidenced below.”

#### Occupancy Rates

“The following table provides a history of Westgate Manor’s payor mix and occupancy percentages compared to respective averages for Region 3 for 2010 through 2012:”

	2010		2011		2012	
	Westgate Manor	Region 3	Westgate Manor	Region 3	Westgate Manor	Region 3
<b>Nursing Facility Unit Payor Mix</b>						
MaineCare	59%	66%	58%	67%	61%	68%
Medicare	11	17	12	18	11	16
Other	30	17	30	15	28	16
<b>Nursing Facility Unit Occupancy Percentage</b>	98%	91%	98%	89%	98%	88%
<b>Residential Care Unit Payor Mix</b>						
MaineCare	73%	78%	82%	82%	80%	81%
Other	27	22	18	18	20	19
<b>Residential Care Unit Occupancy Percentage</b>	98%	88%	99%	80%	98%	83%
<b>Total Facility Occupancy</b>	<b>98%</b>	<b>91%</b>	<b>98%</b>	<b>87%</b>	<b>98%</b>	<b>87%</b>

Sources: 2010, 2011 and 2012 as filed cost reports were utilized for Westgate Manor’s occupancy and payor mix percentages. BerryDunn’s database, which is a compilation of all non-hospital-based as filed cost reports, was utilized for Region 3 averages.

#### Occupancy Tables

“As evidenced in the table above, Westgate Manor has historically operated with overall occupancy percentages of 98%. For 2010 through 2012, the facility experienced overall occupancy percentages above regional averages as well as above average occupancy in both the nursing facility and residential care units. Additionally, MaineCare utilization within the facility’s nursing facility unit was less than its peers within Region 3, while its MaineCare utilization in its residential care unit has been consistent with the regional average. This is a result of Westgate Manor having higher than average private pay census, reflecting the market attractiveness of the facility and the services being provided. These historical occupancy trends demonstrate that Westgate Manor is continuing to meet a demonstrated need in the communities and the region it serves, and it expects occupancy to remain consistent with historical levels.”

“Westgate 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 sources.”

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

“Two universal examples of mechanisms put in place at each of the NHCA-supported centers will be implemented at Westgate in order to enhance census growth and stability – (1) **our Passport Rehabilitation Program** (See Exhibit V, *Passport Program Brochure*) and (2) **putting in place 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 of the other Maine Facilities, NHCA has put in place a Regional Marketing & Census Development Director who is 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 Westgate, as follows:”

“Based on our review of the key services provided at Westgate’s principal referring hospitals (*Eastern Maine Medical Center, St. Joseph Hospital, Mayo Regional Hospital, and Waldo County General Hospital*), 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:”

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

### **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 Westgate as we take over operations.”

“After we have operated Westgate 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 Westgate:”



### **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](http://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 V, 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 VI & VII 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 18%.”

**“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 Report to 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.”

### **NHCA Specialized Services at Particular Centers**

“Other more specialized programs that have been implemented at particular centers within the NHCA network include the following (we understand that some of these programs would require prior regulatory review or approval prior to implementation, such as a Secure Dementia Unit. We list them below as examples of the types of programs we have put in place and would consider for the Maine Facilities, subject to area need and first securing all necessary prior regulatory approvals. We have also listed above certain enhanced programs we have in mind at Westgate, as it is a facility designated as providing services to individuals with Alzheimer’s disease and related dementias:

#### **Cardiac Programming**

- Congestive Heart Failure Clinical Pathway
- Tele-Monitoring
- Zoe Fluid Monitoring
- AED (automatic external defibrillator)
- Life Vest
- IV Lasix

#### **Pulmonary Programming**

- Pneumonia and COPD Pathways
- Ventilator Management
- On-Site Respiratory Therapists
- Tracheostomy/Tracheotomy
- BiPAP/C-PAP Introduction and Management
- I.V. Solumedrol

#### **Diabetes and Hyperglycemia Management**

- Working with a highly respected Endocrinologist in developing a clinical pathway for our residents with Diabetes.
- Currently being launched in several NHCA-supported CT centers.
- APRN specialist who provides education and training on managing diabetes to our nursing staff.
- Developing an educational packet to be reviewed with the resident in order to promote a safe and successful discharge to home.
- Insulin Pumps

#### **Dysphasia Therapy utilizing VitalStim©**

#### **Accelerated Care Plus© Modalities and OmniVR©**

#### **Traumatic Brain Injury**

#### **Amputee Rehabilitation**

#### **Infusion Therapy (IV)**

- PICC/Central Line Care
- Patient Controlled Anesthesia (PCA)
- Total Parental Nutrition (TPN)

#### **Peritoneal Dialysis**

#### **Bariatric Care**

#### **Transition of Care Management**

**Ancillary Medical Services, including:**

- Podiatry
- Dental
- Audiology
- Optometry
- Psychiatry/Psychology

**Alzheimer's Disease and Related Dementia Services w/Secure Units**

- Specialized Education Components
- Dedicated Program Directors
- Individualized Behavioral Care
- End of Life/Holistic Approach
- GDS Emulation

**Palliative Care**

**Home Health Care**

**Pharmacy Services**

**Adult Day Care**

**Respite Care**

**Assisted Living Program**

**Hispanic Culture Diversity Program**

**B. Certificate of Need Unit Discussion**

**i. CON Standards**

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. CON Analysis**

This transaction involves the applicant assuming operational control of an existing nursing facility which has provided services for many years. The applicant analyzed historical occupancy patterns for 2010 through 2012 based on "as filed" cost reports submitted to the DHHS Office of Audit. These trends show that this facility has an overall occupancy of 98%. 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 plans to increase Medicare utilization at this facility. This reflects the market attractiveness of skilled rehabilitation services. Skilled services decrease healing times and allow 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 this facility 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 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 implementing 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.

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

### **iii. Conclusion**

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

## V. Orderly and Economic Development

### A. From Applicant

“In overview, the transfer of ownership of the Facility from Kindred to the Westgate Center for Health and Rehabilitation, LLC 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.”

“This facility has served its community effectively from many years. Westgate is committed to building on this long record of service with updated programs and proven systems.”

#### **Fulfillment MaineCare Neutrality Criterion**

“Several factors demonstrate that Westgate satisfies the key requirement of MaineCare neutrality.”

“Westgate has no plans for significant capital expenditures during the first three years of operations. The facility will take possession of Kindred’s leasehold improvements and depreciate the remaining net book value on a straight line basis over its remaining useful life. A depreciation schedule calculating allowable depreciation, as historically filed in Kindred’s cost reports, has been utilized as the basis for allowable depreciation in the proforma cost report included with this filing.”

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

“We have provided and attached a proforma cost report included in *Exhibit IV-B, Westgate Proforma Cost Report*, for the first full year of operations following the transfer of ownership for the facility. The report has been prepared consistent with the Principles of Reimbursement and is based on the rate letters currently in effect.”

“The total staffing complement for Westgate will be consistent with the facility’s historical operations, and employee benefits currently in place will continue. Therefore, we have assumed no significant changes to wages and benefits other than a projected increase in health insurance costs of approximately \$85,000 in Year 1 as the facility’s employees transition to NHCA’s health insurance plan and an inflationary increase of 1% in Years 2 and 3. Schedules L and N of the proforma cost report included in *Exhibit IV-B* provide projected full time equivalents, worked payroll and fringe benefits and total payroll costs for the facility. Allocations between the nursing facility and residential care unit as presented on Schedule R of the proforma cost report are projected to reflect anticipated operations of the facility and resident acuity needs.”

“Finally, the facility accepts the current MaineCare direct and routine limits as reflected in the nursing facility rate letter effective July 1, 2013 and the routine and personal care services rates reflected in the residential care rate letter effective January 1, 2014. In the aggregate, fixed costs per day are projected to decrease approximately 6% or \$2.36 per day from the as filed cost report for the year ended December 31, 2012. The assumption of current rates and no additional capital costs or changes to bed licenses sufficiently demonstrates MaineCare neutrality.”

## **B. Certificate of Need Unit Discussion**

### **i. CON Standards**

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. CON Analysis**

The applicant is assuming control of an existing facility. 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.

### **iii. Conclusion**

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

## **VI. Outcomes and Community Impact**

### **A. From Applicant**

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

“As noted above, NHCA’s demonstrated track record of achievement will enhance and improve services at this Facility 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, Westgate will be affiliated with a network of skilled nursing facilities located throughout Connecticut, Maine, Massachusetts, New Hampshire, New York, New Jersey and Vermont. This facility 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. Westgate 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.”



## VI. Outcomes and Community Impact

“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. Westgate 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**

“Westgate understands 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 Facility, 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. Pharmerica will assist us in carrying out each of the several responsibilities in Chapter 17, including crafting 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 and now our Maine, New Hampshire and Massachusetts 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 Maine 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 regional clinical nurses then review the recommendations and follow-up 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 Maine, Connecticut and elsewhere will pave the way for full compliance with the Maine regulations, and provide high quality services to our Maine residents in this important area.”

### **Measuring Quantified Quality Improvements**

“At our February 7, 2013 Technical Assistance Meeting for our previously approved seven facilities CON, CONU staff encouraged us to articulate specific quantified goals for outcome improvements, in a manner that would be measurable and against which future performance would be measured. The following were included in our prior application and we expect to implement these at Westgate as well.”

**Performance Improvement Programs (PIP) / Quality Assurance:**

“NHCA collects and tracks numerous data sources related to clinical care and outcomes, which are related to the annual strategic plan for NHCA-supported facilities. This information allows facilities in the NHCA network to compare and share performance and outcome measures.”

“The fabric of NHCA is an ongoing team approach to Performance Improvement (“PI”). Each facility and team member has a mission and a goal that contributes to a global strategic plan that conforms to the philosophy of our organization. NHCA’s Administrators have been designated as the facility Compliance Officers. NHCA support staff, located throughout the organization, contributes to the improvement process via participation in the Performance Improvement Program (“PIP”). Participants are tasked to develop and maintain a strategic plan that demonstrates goals and objectives to all stakeholders and is consistent with NHCA’s mission and philosophy.”

**Performance Improvement Committee**

**Composition**

“The Facility will formulate a performance improvement committee (“PIC”) that consists of the following individuals/representatives.”

**Administrator**

- DNS
- Social Services
- Recreation
- Rehab
- Environmental Services
- Nursing – Licensed/C.N.A.
- Medical Director/physician (quarterly)
- Nutritional services

**Functions and Responsibilities**

“The PIC will meet on a monthly basis and the Administrator has the overall responsibility for the performance improvement program.”

“The PIC is responsible for the following functions:

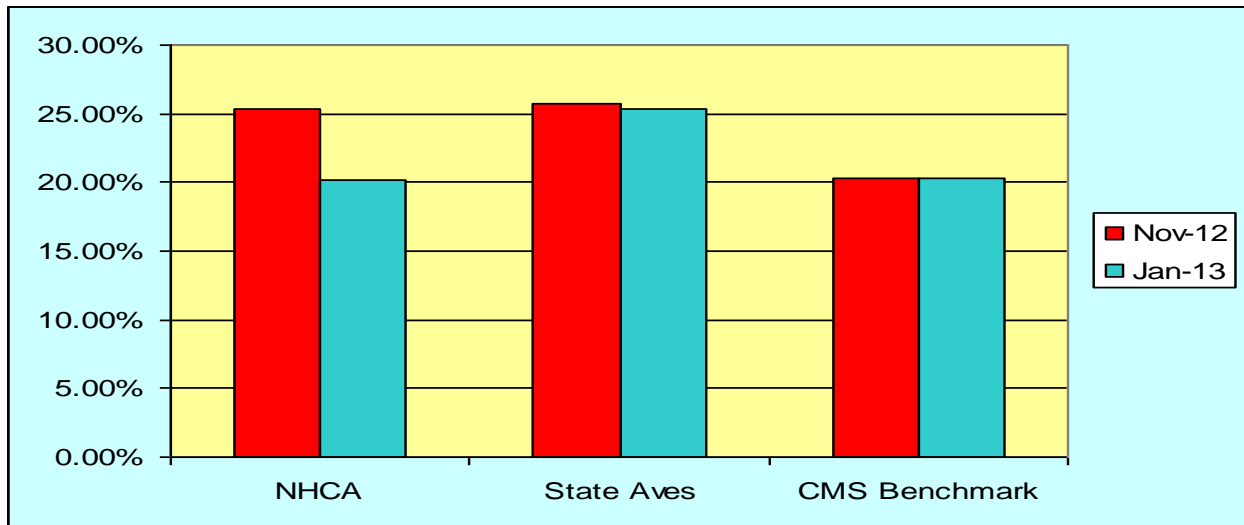
1. Develop and implement a yearly performance improvement calendar that addresses monthly standing topics for improvement along with identified areas of opportunity as they occur;
2. Develop a monthly agenda based on the annual calendar and other identified opportunities, as they occur;
3. For any PI process identified, assign a specific person or develop a subcommittee that will address the specific performance deficiencies and develop the plan of action. If a subcommittee is formed they will meet between the regular PIC meetings and report their findings back at the monthly PIC meeting;
4. Evaluate the overall effectiveness of the PI plans developed and revise or discontinue a plan as appropriate; and
5. Keep meeting minutes, which are kept for all meetings and performance improvement plans and are reviewed by the Regional Team monthly.”

### Quality Enhancement from Performance Improvement

“PI that emphasizes innovation and teamwork is an essential element of NHCA’s organizational culture. Effective data collection and utilization through a PI process has resulted in lower restraint usage; improved rates of nosocomial infections; reduced in-house pressure ulcers; reduced readmissions to hospitals within 30 days of admission; and improved customer and employee satisfaction scores at NHCA-supported facilities. Administrators and nursing directors collect and submit data to NHCA for benchmarking purposes. NHCA-supported facilities collect additional comparison data from the American Health Care Association’s (“AHCA”) Trend Tracker and Advancing Excellence Programs.”

“NHCA’s senior clinical and operational teams work together with facility administrators and nursing directors to establish priorities for PI projects. Regional specialists conduct routine and targeted site visits, mock surveys and strategic planning reviews. Facility PICs use internally collected and benchmark comparative data to implement action plans. Facility action teams develop or utilize existing data collection tools to measure the effectiveness of systems improvements. Corporate oversight and facility PICs utilize outcome data to modify action plans and data collection tools.”

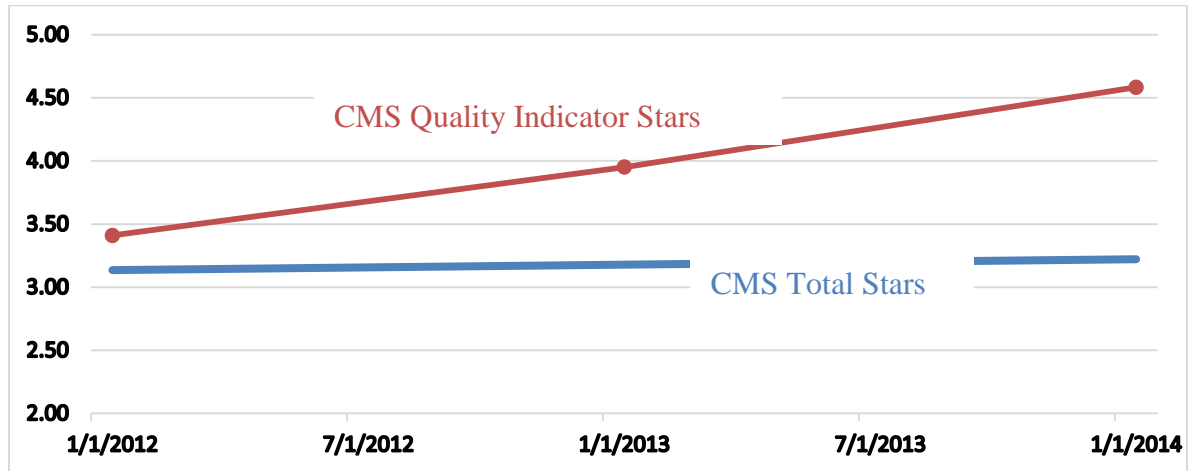
“An example of PI in action is NHCA’s approach to anti-psychotic medication reduction. In November of 2012, NHCA established a focus on anti-psychotic drug reduction in all facilities that are part of the NHCA network. Data on all utilization were collected and shared with the administrators and nursing directors at each facility. Meetings were set with pharmacy consultants to review all residents for gradual dose reduction. Education and training was provided on the management of behavioral symptoms related to reductions or eliminations of anti-psychotic medications.”



“By January of 2013, the centers within the NHCA network were able to reduce the utilization of anti-psychotic medications by 25.75% (from over 25% of residents to 20% of residents), including reducing overall usage within 0.19% of the CMS national target and 3.61% below the regional benchmarks. Further reductions in utilization will be accomplished through continued monitoring of the program and on-going training on management of resident behaviors.”

“Another example of PI is NHCA’s focus on improvement of CMS Five Star scores per facility and as an organization. In order to increase overall five star ratings as an organization, NHCA identified an opportunity by improving our clinical indicators by at least one star. Starting with the ratings based in January 2012, quality measure reports were pulled for all facilities for data collected for the previous 6 months. Each facility PIC reviewed all clinical categories scoring below the 70<sup>th</sup> percentile. PI action plans were implemented to intervene in each case with corrective actions. Oversight of the process was provided by NHCA regional nurses through education and training, and monitoring of the PI program.”

### NHCA 5 Star Ratings



## **B. Certificate of Need Unit Discussion**

### **i. CON Standards**

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. CON Unit Analysis**

The applicant is assuming control of an **existing** nursing facility. Westgate Center for Health and Rehabilitation will adopt practices currently in place at NHCA run facilities in other states. 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

“Responding more broadly to this criterion, there are many aspects of operations at our existing NHCA-supported centers that serve to assure appropriate utilization and a proper scope of services. Many of these have been detailed in our submissions to Sections II, IV, and VI above, and are cross-referenced as being equally applicable here. We will highlight in this Section NHCA’s track record working with hospitals and other acute care centers in providing coordinated and cost-effective care.”

#### **Relationships with Acute Care Centers and ACA-ACO Initiatives**

“NHCA-supported centers collaborate with local hospitals and members of their medical staff, which we recognize as an important initiative and focus of the Affordable Care Act (“ACA”) in reducing overall health care cost and increasing quality of care.”

“NHCA has been very involved in forming strategic partnerships and agreements with acute care providers in all States where it provides network support to facilities. Similarly, Westgate will strive for physician alignment in its health care community to enhance our services based on the needs of the local acute care center, the community and available physician services.”

“NHCA-supported facilities have been asked to participate in a number of Accountable Care Organizations (“ACO’s”), and we anticipate becoming part of these important initiatives that are key elements of the ACA. Though many of these initiatives are still not finalized NHCA leaders are meeting with key players in the acute care arena in all states. Dartmouth-Hitchcock in New Hampshire and Fletcher Allen Hospital in Vermont are two hospitals that NHCA is currently working with on ACO initiatives. Also, in Connecticut an NHCA-supported facility has been asked to participate in an ACO with Saint Francis Hospital (615 beds) for which NHCA, on behalf of the facility, is having ongoing discussions.”

“Brewer Center for Health and Rehabilitation is currently involved with the Eastern Maine Health System’s Beacon ACO. Westgate would welcome the opportunity to work with ACOs and their physician members in meeting the needs of their patients and the communities served.”

“As other examples of NHCA’s work with hospitals, NHCA has been invited to participate in a number of hospital collaboratives to reduce readmission rates and improve the overall quality of care at both acute care and post-acute settings. In CT alone, NHCA-supported nursing centers participate in over 15 hospital collaborative committees with local area hospitals. In addition, some specific examples include:”

- *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.

#### **A. Certificate of Need Unit Discussion**

##### **i. CON Standards**

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. CON Unit Analysis**

The Maine Quality Forum has not adopted any principles of evidence-based medicine directly applicable to the application; therefore this application meets the standard for this determination. The applicant has previously described aspects of NHCA supported facilities that ensure appropriate utilization and a proper scope of service. No additional beds and no new services are proposed in this application.

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

## **VIII. Timely Notice**

Letter of Intent filed:	December 30, 2013
Subject to CON review letter issued:	January 27, 2014
Technical assistance meeting held:	Waived per LOI
CON application filed:	January 31, 2014
CON certified as complete:	January 31, 2014
Public Information Meeting Held:	Waived
Public Hearing held:	February 19, 2014
Comment Period Ended:	March 21, 2014

## **IX. Findings and Recommendations**

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

- A.** That the applicant is fit, willing and able to provide the proposed services at the proper standard of care as demonstrated by, among other factors, whether the quality of any health care provided in the past by the applicant or a related party under the applicant's control meets industry standards.
  
- B.** The economic feasibility of the proposed services is demonstrated in terms of the:
  - 1.** Capacity of the applicant to support the project financially over its useful life, in light of the rates the applicant expects to be able to charge for the services to be provided by the project; and
  - 2.** The applicant's ability to establish and operate the project in accordance with existing and reasonably anticipated future changes in federal, state and local licensure and other applicable or potentially applicable rules;
  
- C.** The applicant has demonstrated that there is a public need for the proposed services as demonstrated by certain factors, including, but not limited to:
  - 1.** The extent to which the project will substantially address specific health problems as measured by health needs in the area to be served by the project;
  - 2.** The project has demonstrated that it will have a positive impact on the health status indicators of the population to be served;
  - 3.** The project will be accessible to all residents of the area proposed to be served; and
  - 4.** The project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project;
  
- D.** The applicant has demonstrated that the proposed services are consistent with the orderly and economic development of health facilities and health resources for the State as demonstrated by:
  - 1.** The impact of the project on total health care expenditures after taking into account, to the extent practical, both the costs and benefits of the project and the competing demands in the local service area and statewide for available resources for health care;
  - 2.** The availability of State funds to cover any increase in state costs associated with utilization of the project's services; and



IX. Findings and Recommendations

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 with the following conditions:**

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

1. Westgate's most recent standing under the CMS Medicare Compare 5 Star Quality Rating and steps Westgate has taken or will take to maintain positive indicators and improve average or below average indicators.
2. A summary of the results of periodic surveys of Westgate carried out by DLRS over the past year, and a description of the remedial measures taken to address the identified deficiencies
3. An analysis prepared by the Clinical Operations Department of NHCA of key Abaqis trends at Westgate relating to quality measures, along with a review of the quality improvement steps being undertaken as a result of the monthly clinical reports from the Westgate Director of Nursing Services.

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

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