



John E. Baldacci, Governor

Brenda M. Harvey, Commissioner

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January 6, 2009

Joseph Hogan  
Bill Gillis  
Kittery Commons  
477 Minot Avenue  
Auburn, ME 04210

RE: Subsequent Review of December 1, 2005 CON Issued to Kittery Commons.

Dear Mr. Hogan and Mr. Gillis:

This letter will serve as notification that, on this date, I have decided to **grant with conditions** a Certificate of Need (CON) authorizing Kittery Commons to modify its operating structure and ownership interests and to finalize expenditures and operating costs for construction of a new nursing facility named Durgin Pines, located in Kittery, Maine. My decision is based on a subsequent review and briefing memo prepared by the CONU, dated January 5, 2009.

My approval is based on the following conditions:

- 1) Review of actual costs of the project, and a copy of the signed lease agreement to conform to the CON as amended; and
- 2) Receipt of financial statements and tax returns of Sentry Commons, LLC and Kittery Commons, LLC for a period of three years from project implementation.

In order for this CON to remain valid, the project must be commenced within one year from the date of this approval letter, by completing implementation activities specified for this type of project in Section 71.05 (O)(5) of the Bureau of Elder and Adult Services Policy Manual. Limited extensions may be available, if requested in a timely manner and for good cause, as explained in Section 71.05 (5)(a) of the Bureau of Elder and Adult Services Policy Manual.

Failure to commence a project within this 12-month period will result in expiration of the amended CON, unless an extension is obtained, as cited above.

I am granting this CON because I have determined that a public need for the proposal has been demonstrated; the applicant is fit, willing and able to provide the proposed services at the proper standard of care; the project is financially and economically feasible, and it is consistent with the orderly and economic development of health facilities and resources for the State and the State's Health Plan.

The specific details of the project for which I have granted this CON are contained in an application found to be subject to review in accordance with the provisions of the Maine Certificate of Need Act of 2002. Please be aware that, in accordance with Section 71.05 (0) (1) of the Bureau of Elder and Adult Services Policy Manual, this Certificate is valid only for the defined scope, premises and facility or person named in the above referenced application and is not transferable or assignable.

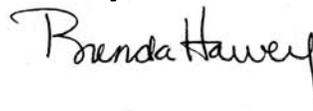
Furthermore, it should be clearly understood that our analysis and findings regarding the need for the proposed project, as well as its financial and economic feasibility, has been predicated on the description of the proposed project as presented in your application. This includes, but is not limited to; financial statements, other information contained in your application and the supplemental information you have presented to us during the course of our deliberations. No significant changes in the project; no variations from the projected operating costs, patient charges, Medicaid rates and patient mix; no modifications of the terms of financing the project, and no increase in the capital expenditure are permitted without the prior written approval of the Department. Any such variances may result in either the disallowance of related expenses, financial penalties or the immediate revocation of the amended CON.

Please work closely with my staff in the CONU to assure this project is implemented in accordance with the provisions of this Certificate and applicable rules and regulations.

The law requires that a holder of a CON make a written report at the end of each six-month period following its issuance. Any questions relative to this reporting requirement should be directed to the CONU.

My staff will work with you as necessary.

Sincerely,



Brenda M. Harvey  
Commissioner

PP/dp

cc: Catherine Cobb, Director, DLRS  
Phyllis Powell, CONU Manager  
Larry Carbonneau, HCFA  
File