

John E. Baldacci, Governor

Brenda M. Harvey, Commissioner

Department of Health and Human Services
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October 13, 2010

Paul D. Gray, Vice President for System Planning
MaineHealth
465 Congress St
Portland, ME 04101

Roy Hitchings, Jr., President/CEO
Pen Bay Healthcare
6 Glen Cove Drive
Rockport, ME 04856

RE: Pen Bay Healthcare to become a subsidiary of MaineHealth

Dear Gentlemen:

This letter will serve as notification that, on this date, I have decided to **grant with conditions** a Certificate of Need (CON) that authorizes Pen Bay Healthcare to become a subsidiary of MaineHealth. The total approved capital expenditure associated with this project is \$94,226,246. Any costs exceeding \$94,226,246 will require a subsequent review.

My approval is conditioned on the following being implemented:

1. The Applicants shall provide to the Department any letter from the Department of United States of Justice or Federal Trade Commission indicating any of the following: 1) that the Department of Justice or Federal Trade Commission has granted a request for early termination of 30-day waiting period requirement of the Hart-Scott-Rodino Antitrust Improvement Act for closing on the MaineHealth/Pen Bay Healthcare transaction; or 2) that the Department of Justice or Federal Trade Commission has issued a second request for information under 15 U.S.C. § 18a(e)(2) concerning the MaineHealth/Pen Bay Healthcare transaction. Otherwise, the Applicant shall inform the Department if the 30 day waiting period contemplated by 15 U.S.C. § 18a(b)(1) has expired without early termination, or the issuance of a second request, by the Department of Justice or Federal Trade Commission.
2. Carry out the conditions set forth in the Certificate of Public Advantage (COPA).
3. Report cost savings attributable to this merger for a period of three years from merger date.
4. Report improvements in quality outcomes as outlined in its application and as a result of this merger for a period of three years from the merger date.

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In order for this CON to remain valid, the project must be “commenced” within one year from the date of the original approval noted above. You must complete implementation reports on your activities as specified for this type of project (CON Procedures Manual, Chapter 11, Sec. 3). Limited extensions may be available, if requested in a timely manner and for good cause, as explained in the Manual, Chapter 9, Sec. 3. Failure to commence the project within this 12-month period will result in expiration of the CON, unless an extension is obtained, as cited above.

I am granting this CON with conditions because I have determined that the project meets the criteria set forth in the CON Act Sec. 335(1) and the Department’s regulations. 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, and was certified complete by the applicant on May 11, 2010.

Please be aware that in accordance with Section 346 of the Maine Certificate of Need Act this Certificate, as modified herein, is valid only for the stated scope, premises and facility 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 have been predicated on the application record as described in the Manual, Chapter 8, Subsection 5. Consequently, the proposal must be implemented consistent with the approval and conditions stated in this letter, as informed and clarified by the Department’s analysis and findings as summarized in the following Department staff reports:

1. PRELIMINARY STAFF REPORT: Report from Steven Keaten, Health Care Financial Analyst, CONU; Larry Carbonneau, Health Care Financial Analyst, CONU and Richard April, Health Care Financial Analyst, CONU to Phyllis Powell, Assistant Director, Licensing and Regulatory Services, dated September 16, 2010.
2. FINAL REVIEW: Briefing memo to Brenda M. Harvey, Commissioner, DHHS, dated October 13, 2010.

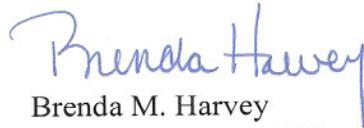
No significant changes to the project, no variations from the projected operating costs, no modifications of the terms of financing the project, and no increase in the capital expenditures to be made are permitted without the prior written approval of the Department. Any such variances may result in either the disallowance of related expenses, financial penalties or the immediate revocation of the 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. As part of this requirement, you are reminded that, prior to construction, the appropriate licensing and certification and State Fire Marshal officials must approve all working drawings and construction specifications.

The law requires that a holder of a CON make a written report at the end of each six-month period following its issuance. Details regarding this and related requirements will be made the subject of a separate letter from the CONU.

My staff will work with you as necessary.

Sincerely,



Brenda M. Harvey
Commissioner, DHHS

cc: Bill Caron
Frank McGinty
Robert Frank, Esq.
Richard Linehan
Janet Mills, Office of the Attorney General
Trish Riley, Governor's Office of Health Policy and Finance
Catherine Cobb, Director
Phyllis Powell, Assistant Director
Anne Flanagan, Assistant Director
Herb Downs, Audit
Janine Raquet, AAG
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