

**Department of Health and Human Services  
Division of Licensing and Regulatory Services  
State House Station #11  
Augusta, ME 04333-0011**

**Date:** August 26, 2011

**Project:** Adding 23 nursing facility beds at Springbrook Center.

**Proposal by:** Genesis HealthCare of Maine

**Prepared by:** Phyllis Powell, Assistant Director, Planning, Development and Quality  
Richard F. April, Healthcare Financial Analyst  
Larry D. Carbonneau, Healthcare Financial Analyst

**Directly Affected Party:** None

**Recommendation:** **APPROVE**

	<b>Proposed Per Applicant</b>	<b>Approved CON</b>
Estimated Capital Expenditure	\$829,136	\$807,541
Maximum Contingency	\$0	\$13,057
Total Capital Expenditure with Contingency	\$829,136	\$820,598
Pro-Forma Marginal Operating Costs	\$0	\$1,008,352
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MaineCare Funding Pool Usage (Savings):	\$0\$	(12,657)
NF Allocated Costs Portion	\$0	\$1,008,352
RCF Allocated Costs Portion	\$0	\$-253,530
Other Program Costs	\$0	\$0
Non-Reimbursable Costs	<u>\$0</u>	<u>\$0</u>
Total Program Costs	\$0	\$754,822
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Estimated Costs to NF MaineCare System	\$0	\$1,008,352
Estimated New Costs to MaineCare System	\$0	\$0
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## I. Abstract

### A. From Applicant

“Springbrook Center is a 123 bed facility located in Westbrook and consisting of 100 licensed nursing facility beds and 23 licensed residential care beds. Springbrook Center’s operating company is Westbrook Operations, LLC, which is a subsidiary of Genesis HealthCare of Maine, Inc. (“Genesis ME”). On December 5, 2006, Genesis ME was granted a Certificate of Need (“CON”) to lease and operate, among other facilities, Springbrook Center. A new license for Springbrook Center was issued to Westbrook Operations, LLC on December 29, 2006, effective January 1, 2007. Please refer to Exhibit I-A for an Organization Chart related to Genesis ME and Westbrook Operations, LLC.”

“Springbrook Center is seeking CON approval to add 23 nursing facility beds to its total nursing facility bed inventory. This will be facilitated by de-licensing its 23 residential care beds and acquiring appropriately reserved nursing facility beds (36 from North Country Associates, Inc. (See Exhibit I-B) and 10 collectively from Fryeburg Health Care Center and Freeport Nursing and Rehabilitation Center (See Exhibit I-C). Springbrook Center will use part of the Maine Care income stream associated with the 46 acquired reserved beds to add 23 nursing facility beds; thus remaining Medicaid neutral.”

“If there is Maine Care income stream left over after the neutrality calculation has been finalized, of at least equal to 1 bed’s worth of income stream, Springbrook may choose to retain the rights to any extra reserved beds to potentially be used on another project or sold. The total cost to acquire the 46 reserved beds required to provide a sufficient Medicaid income stream is \$568,000.”

“The addition and fill-up of the 23 nursing facility beds will commence once the 23 residential care beds have been vacated. Springbrook Center will work closely with other residential care facilities in the service area to relocate the existing residential care residents at Springbrook Center. In our experience with a similar approved proposal for Marshwood Center in Lewiston, it is anticipated that these residents will have no problem being transferred and absorbed into one of the other 29 residential care facilities in the service area that total approximately 1,023 residential care beds.”

“Please also note that a new “state of the art” 50 unit (70 Resident) Memory Care Assisted Living Facility is being developed by Stroudwater Landing LLC (of which some of the principals of the Sandy River nursing home holdings are members). This Memory Care Center would be located adjacent to Springbrook as part of a retirement community known as Stroudwater Landing which is to be developed in phases to include 110 unit independent living facility and 45 “for sale” retirement cottages. The Memory Care Center will be known as Avita Stroudwater.”

“While the timing of this development may not coincide with the timing of the proposed closing of Springbrook’s 23 residential care beds, it is the intent of Westbrook Operations LLC that the income stream for the MaineCare RC beds be sold to Stroudwater Landing to

provide for MaineCare RC beds in this new facility. It is expected that construction for Avita Stroudwater will begin sometime in the 4th Quarter of 2011 and open in 2012.”

“Springbrook Center’s existing 23 bed residential care unit (Wayside Unit) was constructed to nursing facility standards and requires no additional capital costs as a result of this proposed project. However, GHC has decided to use the opportunity of converting the unit to make refurbishments with a budget of \$113,885. In addition, new furniture and equipment will be purchased in the amount of \$147,251. The total project cost including the acquisition of beds is \$829,136.”

“Genesis ME and Springbrook Center are making a business decision to eliminate the residential care beds at Springbrook Center and add additional nursing facility beds in order to focus on the core business of delivering nursing care level services and expanding the Medicare skilled rehabilitative component of the facility. The 23 NF beds will be utilized as part of a transitional care “TCU” unit.”

“Attached as Exhibit I-D is a floor plan of the facility showing the location of the proposed 23 nursing facility beds (Wayside Unit on the first floor). This proposed change does not involve an increase in the total bed capacity. Thus, there is no requirement for approval by the City of Westbrook to make this change.”

## **II. Fit, Willing and Able**

### **A. From Applicant**

“Springbrook Center is an existing nursing home that has been operated by Westbrook Operations, LLC since January 1, 2007. Springbrook Center is located at 300 Spring Street, Westbrook, Maine.”

“Prior to the transfer of operations and Westbrook Operations, LLC becoming the operator, Springbrook Center was operated by the Sandy River Health System (“Sandy River”). In order to accomplish the transfer of operations, a CON was obtained on December 5, 2006 by Genesis ME, a subsidiary of Genesis HealthCare Corporation. The CON determined that Genesis ME was “fit, willing and able to provide the proposed services at the proper standard of care” – i.e., appropriate to operate the 11 Sandy River nursing and long term care facilities. Genesis ME formed 11 separate limited liability companies (“LLCs”) to operate the 11 facilities, including forming Westbrook Operations, LLC to operate Springbrook Center. As part of the CON review process, extensive information was provided regarding the extent of Genesis HealthCare Corporation’s overall operations. This corporation has subsidiaries that lease or manage 236 healthcare facilities in thirteen states, including 208 skilled nursing, 25 assisted living, and 3 transitional care units, which total approximately 28,736 beds.”

“Springbrook Center intends to discontinue providing residential care services and hereby requests that it be permitted to utilize the residential care unit to add 23 new nursing facility beds, thus increasing the number of nursing facility beds at the facility to 123. This CON does not involve any significant physical change to the existing facility other than some cosmetic upgrades to the unit. It involves de-licensing the residential care beds and adding 23 nursing facility beds in a facility that is primarily focused on providing nursing care services.”

“Thus, Genesis ME and Springbrook Center will ensure the continuation of ongoing nursing care operations at Springbrook Center. In addition, Genesis ME and Springbrook Center will continue to implement all necessary measures to remain in good standing with the Maine Department of Health and Human Services.”

“Please refer to Exhibit II-A for resumes of the facility Administrator and the Regional Vice President of Operations for Genesis ME.”

“Please refer to Exhibit II-B for a copy of the license to operate Springbrook Center.”

### **B. CONU Discussion**

#### **i. CON Criteria**

Relevant criteria 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 Analysis**

Springbrook Center is located in Westbrook, Maine. The facility is operated by Genesis Healthcare. Genesis acquired control of Springbrook via a Certificate of Need (CON) in December of 2006. This was part of the Genesis Healthcare CON to acquire operating rights to Sandy River Health Systems facilities in Maine. Although Genesis is new to Maine, many of the managers of Sandy River Health System stayed on in some capacity with Genesis of Maine. The 2006 CON has been reviewed subsequently on three occasions for various changes involving corporate structure, including the sale of Genesis Healthcare to Formation Capital.

Springbrook's most recent license was issued on March 15, 2011. The license is valid from April 1, 2011 through March 31, 2012. The Springbrook facility was surveyed by the Division of Licensing and Regulatory Services on May 13, 2010 for quality indicators. A number of deficiencies were noted in the survey including:

- failure to ensure that the minimum temperature of the dishwasher wash cycle was reached, and that dishes were not stored wet-stacked on top of each other (SS-E);
- failure to store resident care equipment, food service equipment and office supplies in a safe and sanitary manner (SS-C);
- failure to assure nursing staffing data was posted in a prominent place, readily accessible to residents (SS-B); and,
- failure to ensure documentation in the clinical record was complete and accurate for 2 of 21 sampled residents in relation to consumption of dietary supplements and wound care (SS-B).

The most severe of these violations had a Scope and Severity (SS) of E which indicates there was no actual harm but there was a potential for more than minimum harm. It also indicates there was a pattern of noncompliance which could impact a more than limited number of patients.

Springbrook was surveyed again on July 9, 2010 as part of a follow-up survey for quality indicators. At the time of the follow-up survey, the facility was found to be in compliance with long term care facility requirements.

In order to accomplish the transfer of operations, a CON was obtained on December 5, 2006 by Genesis ME, a subsidiary of Genesis HealthCare Corporation. The CON determined that Genesis ME was "fit, willing and able to provide the proposed services at the proper standard of care" – i.e., able to operate the 11 Sandy River nursing and long term care facilities.

CON is not aware of any significant changes that adversely affect Genesis HealthCare Corporation.

**iii. Conclusion**

CONU recommends that the Commissioner find that Genesis HealthCare of Maine 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**

“Springbrook Center is seeking CON approval to add 23 nursing facility beds. Springbrook Center will facilitate this by de-licensing its 23 residential care beds and acquiring the Medicaid income stream of 46 appropriately reserved nursing facility beds from North Country Associates Inc. and Fryeburg Health Care Center. Springbrook Center will utilize the reserved nursing facility beds to provide a sufficient Medicaid income stream that allows Springbrook Center to add the 23 nursing facility beds. Please note that the Fryeburg beds are the remaining beds from the agreement relating to the Marshwood CON approved in 2010.”

“The total cost to acquire the 46 reserved nursing facility beds required to provide a sufficient Medicaid income stream to add 23 nursing facility beds, is \$568,000. It is our understanding that DHHS will determine the actual number of beds that will need to be acquired to remain Medicaid neutral.”

“Springbrook Center’s existing 23 bed residential care unit was converted from nursing care facility beds in 1997. This unit was constructed to nursing facility standards and while it requires no additional capital costs to convert the residential care unit to nursing care, Genesis ME will use the opportunity to make some refurbishments and purchase new furniture for the converted unit. The total project cost with the acquisition of beds is \$829,136.”

“Genesis ME and Springbrook Center are making a business decision to eliminate the residential care beds at Springbrook Center and add additional nursing facility beds in order to focus on the core business of delivering nursing care level services and expanding the Medicare skilled rehabilitative component of the facility.”

“Attached as Exhibit III-A is Springbrook Center’s Operating Statement for the past 12 months.”

“Springbrook Center continues to be a very strong performing facility with Net Income in 2010 (after capital costs) at \$303,067. Attached as Exhibit III-B is a Pro Forma Operating Statement and a table with the proposed changes in census, bed type and utilization (including “Quality Mix” percent). Attached as Exhibit III-C is a pro forma MaineCare cost report. Attached as Exhibit III-D is the Historical Balance Sheet for Springbrook Center and Balance Sheet projections through 2011.”

“The Pro Forma Income Statement and related supplemental data show that the proposed change of Springbrook Center offering only nursing care services will improve the overall operating results by approximately \$474,332 annually. Operating expenses are projected to increase by approximately \$754,822, with the largest increases being in nursing staffing and rehabilitative services. The forecasts include an additional 4.8 nursing positions and 2.5

nursing support position to meet the increased clinical needs of the residents. Revenue, however, is anticipated to increase by approximately \$1,229,153 as a result of the additional nursing care services that are being proposed. The increase in Medicare revenue will be the largest component of the increase.”

“Attached as Exhibit III-E is the most recent completed MaineCare cost report for Springbrook Center.”

“Attached as Exhibit III-F is the proposed CON Capital Budget.”

## **B. CONU Discussion**

### **i. CON Criteria**

Relevant criteria 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 Analysis**

#### **MaineCare Neutrality**

The applicant has entered into written agreements with several other nursing facility providers to delicense beds in their facilities in order to transfer the MaineCare cash flow from those facilities to Springbrook. The applicant has obtained agreements for 46 beds. The applicant expects that resources from those 46 beds will be sufficient for MaineCare neutrality. The applicant suggests that it will retain the remaining assets for Springbrook. Current CON law does not allow for the transfer of reserved bed rights except in the case where an applicant for a CON and a holder of bed rights agrees to delicense those rights. Transfer of the rights is therefore not direct but rather the consequence of the “relinquishing party” delicensing and giving up its rights to the reserved beds and the “bed adding party” subsequent to an approved CON using the income stream from those particular beds to fund new beds at their own facility.

Since the nature of the project is adding beds to the State of Maine current bed capacity, it is limited to the 100 bed annual limit. 22 M.R.S.A §334-A(1). There have been no other requests in this year to add Nursing Care beds against that limit. Therefore, the system would be able to accommodate 77 more nursing facility bed additions in 2011 after this project.

The project is subject to MaineCare neutrality. The MaineCare neutrality question will be determined by comparing the value of the beds voluntarily given up with the marginal expected first-year costs generated by eliminating the residential care beds and adding the nursing facility beds. The cost of the transaction where the parties gained the right to use the cash flow is not reimbursable by MaineCare.

The applicant presents a one-year pro-forma financial statement indicating the first year results for the facility. The applicant estimates an occupancy rate of 94.31%. The applicant also presents an increase in MaineCare NF days of 4,380 days. The MaineCare days represents 12 additional patients daily. Patient mix between funding sources remains relatively stable.

The applicant projects \$4,822,241 in MaineCare nursing facility reimbursement for Year 1 once the 23 beds are added. The last filed cost report for Springbrook shows MaineCare nursing facility reimbursement of \$3,875,716 for the 100 nursing care beds. This is a difference of \$946,525.

CON calculated that the total increased allowable cost for the facility with 123 nursing facility beds would be \$8,468,513 as compared to a total cost from the last filed cost report of \$7,460,161. This is a difference of \$1,008,352.

Comparing the two different approaches indicates a difference of only \$61,827. The difference is due to CON assuming an occupancy rate of 95% instead of the applicants 94.1%.

When considering the calculated values as compared to the pro-forma values it is reasonable to expect a \$1,008,352 increase in reimbursement.

The resources available for the project are listed in Table 1: Sources and Uses of MaineCare Funding. These resources were identified when the MaineCare NF funding Pool was established in July 2007. The value of the resources was determined on July 1, 2011 and have been verified. The applicant identified multiple sources of revenue for offsetting the project's annual expenses. These beds have a total valuation of \$1,042,604.

**Table 1: Sources and Uses of MaineCare Funding:**

Source	Facility	#Beds	Value	Allocated	Value
	Borderview	6	\$129,570	6	\$129,570
	Borderview 2005	1	\$21,595	0	\$0
	Courtland	6	\$128,934	6	\$128,934
	Freeport	4	\$78,874	4	\$78,874
	Fryeburg	6	\$138,939	6	\$138,939
	Sanfield	12	\$286,057	12	\$286,057
	Southridge	9	\$211,611	9	\$211,611
	Southridge	2	\$47,024	2	\$47,024
	<b>Total</b>	<b>46</b>	<b>\$1,042,604</b>	<b>45</b>	<b>\$1,021,009</b>
<b>Uses</b>	Springbrook	23	\$1,008,352	23	\$1,008,352
<b>Excess Resources</b>			\$34,252	22	\$12,657

The above chart indicates that using the 45 beds in the Allocated column would provide resources of \$1,021,009. The expected expenditures for MaineCare would be \$1,008,352. The excess of \$12,657 in resources from the transaction would be placed in the MaineCare Funding Pool for future use. The resources identified with the 1 remaining bed would be retained by their current facility, subject to any outstanding agreements.

**Financial Ratio Analysis**

The pertinent financial ratios, as well as financial projections are on file with CONU. The following discussion relies on the information as presented by the applicant. 2011 Balance sheet projections were done using estimates developed by CONU.

There are four areas of financial ratio analysis related to the ability of the project to be successful. These ratios are profitability, liquidity, capital structure, and activity ratios.

*Profitability:* These ratios show how well the nursing facility does in achieving an excess of revenues over expenses or providing a return. Generating revenue in excess of expenses is important to secure the resources necessary to update plant and equipment, implement strategic plans, or respond to emergent opportunities for investment. Losses, on the other hand, threaten liquidity, drain other investments, and may threaten the long-term viability of the organization.

***Financial Performance Indicators***

<b>Profitability</b>	<b>Proforma 2011</b>
Return on Total Assets	76.7%

Because the applicant leases the facility this ratio is considerable higher than industry averages. At a reasonable estimate of replacement value of the facility at \$14,000,000 the return on total assets would be an industry acceptable 2.0%.

A review of financial indicators is important because they can present a fair and equitable representation of the financial health of an organization and assist in presenting appropriate comparisons. This provides a sound basis for determining whether the facility has the ability to commit the financial resources to develop and sustain the project. Facilities need to perform at financially sustainable levels in order to carry out their public-interest missions. The applicant shows significant earnings.

***Financial Performance Indicators***

<b>Profitability</b>	<b>Proforma 2011</b>
Operating Surplus	\$1,866,554

Expected surplus is reasonable given the assumptions described by the applicant. Assuming the projections will materialize, this level of surplus would allow the facility enough cash flow to maintain operations.

*Liquidity:* The Current ratio is an indicator of the ability of a facility to meet its short-term obligations. This liquidity alleviates the need for decision making to be focused on short-term goals and allows for more efficient planning and operations of a nursing facility. The current ratio assumes that inventory and accounts receivable can be liquidated sufficiently to meet short-term obligations. This ratio can provide a cursory indication of cash management performance.

***Financial Performance Indicators***

<b>Liquidity</b>	<b>Proforma 2011</b>
Current Ratio	2.27%

The current ratio as presented above shows a strong ability to make timely payments.

*Activity and Capital Structure:* Activity ratios indicate the efficiency with which an organization uses its resources, typically in an attempt to generate revenue. Activity ratios

can present a complicated picture because they are influenced both by revenues and the value of assets owned by the organization.

***Financial Performance Indicators***

<b>Solvency</b>	<b>Proforma 2011</b>
Equity Financing	-48.12%
Fixed Asset Financing	203.54%

With a large decrease in equity financing, operations will be less expensive than with a more leveraged operation.

In review, the financial indicators should be indicative of a well-run organization where expenses are kept to allowable minimums and revenues should allow for a reasonable return given the expected continuation of the payment mix of revenues. It should be noted that equity financing is negative due to negative retained earnings. This indicates that in prior years, Springbrook has accumulated net losses. It should be noted the proforma balance sheet projects that retained earnings will be positive by December of 2013 due largely to the increased earnings resulting from this project. In addition, fixed asset financing appears high due to an intercompany adjustment of (\$3,912,439) appearing on the proforma FY 2011 balance sheet which reduces the value of total assets.

**Staffing**

As part of the proforma provided, the applicant disclosed direct care staffing as follows:

<b>DIRECT CARE</b>	<b># FTE's Before</b>	<b># FTE's After</b>	<b>Change</b>
Registered Nurses	16.7	20.8	4.2
Licensed Practical Nurses	5.6	5.6	0
CNA	44.8	48.3	3.5
Med. Tech.	8.4	5.6	-2.8
Ward Clerks	2.4	2.4	0
Nursing Administration	4.0	4.0	0
<b>Total</b>	<b>81.9</b>	<b>86.7</b>	<b>4.8</b>

### **Changing Laws and Regulations**

CONU staff is not aware of any imminent or proposed changes in laws and regulations that would impact the project. Genesis of Maine and the Springbrook staff have the organizational strength to adjust to reasonable changes in laws and regulations.

### **iii. Conclusion**

CONU recommends that the Commissioner determine that Genesis HealthCare of Maine 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 proposal involves taking out of service 23 residential care beds at Springbrook Center and transferring residents to existing residential care facilities in the service area. The decrease of 23 residential care beds in the service area only represents approximately 2% of the total existing residential care beds. Cumberland County has approximately 1,023 licensed residential care beds.”

“Springbrook Center proposes to acquire the Medicaid income stream of appropriately reserved nursing facility beds and utilize the income stream to add back 23 licensed nursing care beds in the unit that occupied the 23 residential care beds. The 23 residential care bed unit was originally operated as 23 nursing care beds.”

“An increase of only 23 nursing facility beds is approximately 1.4% of the total nursing facility beds in Cumberland County. This will not significantly increase NF beds to the overall service area.”

“Furthermore, it is the intention of Springbrook Center to build upon its strong position in the service area as a Medicare skilled rehabilitation provider. The 23 nursing facility beds will be located in an enhanced Medicare skilled rehabilitation unit that occupies the first floor of the facility. Springbrook Center has a strong relationship with both Maine Medical Center and Mercy Hospital as a leading rehabilitation provider and hospital discharge option in Greater Portland.”

“The two largest referral sources for Springbrook Center, as expected, are Maine Maine Medical Center and Mercy Hospital. Most admissions for the facility come directly from a hospital for rehabilitative services following an acute event, which is typical for a nursing facility with a strong Medicare skilled program. Springbrook Center admitted and discharged over 400 residents in 2010.”

“In 2006, the Office of Elder Services requested the assistance of the Muskie School to develop an assessment of long term care service use in Maine (“Assessment of Maine’s Long Term Care Needs”). The Muskie School worked with the Lewin Group to develop a model for estimating future need of long term care services.”

“(While we are not certain as to the current level of importance placed on the Lewin Model, we did cite this work in our Certificate of Need Application to convert beds at Marshwood Center in Lewiston, and will again reference it here.)”

“Attached as Exhibit IV-A is a supplemental report entitled “Overview of the Model for Projecting Nursing Facility Bed Need in Maine”. This analysis is based on nursing facility use rates expressed as a percentage of the general population in each age group who resided in a nursing home. The number of persons residing in a nursing home was based on actual

bed counts by county from 2000 to 2006, and then to 2008. According to the report, the actual bed count decreased from 1,646 in 2000 to 1,560 in 2008.”

“The supplemental report then provides estimates of the number of NF beds needed based on three different scenarios and sets of assumptions.”

“Scenario 1: The decline in nursing facility use rates observed will continue until 2010 and 2015. Under this scenario, there is a projected decrease in NF bed need from 1,560 beds in 2008 to 1,369 beds in 2015.”

“Scenario 2: The decline in nursing facility use rates will slow to half of the rate of the decline observed from 2000 to 2006. Under this scenario, there is a projected increase in NF bed need from 1,560 beds in 2008 to 1,590 beds in 2015 (a 30 bed increase).”

“Scenario 3: The decline will end, and the use of nursing facilities observed will remain the same as it was in 2006. Under this scenario, there is a projected increase in NF bed need from 1,560 beds in 2008 to 1,848 beds in 2015 (a 288 bed increase).”

“The report goes on to state that “these estimates do not represent policy positions by DHHS and are provided to guide planning and ongoing discussions of the need for and mix of long term care services in Maine”.

“The “Assessment of Maine’s Long Term Care Needs” also states that “by 2030, Maine will have the second highest percentage of population 65+ of any state in the United States. Furthermore, the percentage of people 65+ will increase by 27% by 2030.”

“An increase of only 23 nursing facility beds will not significantly add beds to the service area. Furthermore, this increase is within the projected increased need in Scenario 2 & 3.”

“Furthermore, the Lewin Report is largely predicated on the trending of the number of licensed nursing care beds over time in a service area. Since 2001 there has been a decrease in NF bed count by a net 50 beds in the defined market area. However, also during this time, Viking Nursing Home closed which took 60 NF beds out of service. This closure was not a function of market area demand, but rather a function of business and operational issues.”

“It is important to note that Springbrook Center has operated in the Greater Portland market area since 1993 and during that time has responded to a number of policy shifts and market changes that affect the optimal bed mix. Springbrook was initially part of a competitive CON process whereby DHHS determined there was a need for 123 NF beds in Westbrook. Westbrook was the largest community at the time without a nursing home. As was the case for many nursing homes in Maine, as a result of the so-called MED94 era, Springbrook converted 23 NF beds to 23 residential care beds. In fact, Springbrook was one of the first nursing homes in the market area to react to this change by converting these beds in 1997. Changes in eligibility requirements for both NF and residential care services have caused nursing homes to continuously evaluate the best mix of bed type within the facility, while factoring in a number of considerations such as the physical plant layout, referral activity and

relationships with area hospitals, the strength of its rehab program, and its overall position within the market area. Thus, there is often movement between the two bed types with many providers taking NF beds offline, adding residential care beds, shifting the focus from long term care to short term skilled rehab services with high patient discharge rates, and sometimes moving back to the original starting point based on current market area demand and the optimal payor mix.”

“As the 2000’s progressed, Springbrook evolved into a leading Medicare skilled rehabilitation provider in Greater Portland. Springbrook’s percentage of Medicare days increased from 9% in 2001 to close to 23% today. And while the Lewin report appropriately points out that a higher Medicare utilization can result in lower occupancy rates, Springbrook’s overall occupancy has remained at 95% or higher with a 2010 occupancy of 95%. (Refer to Exhibit IV-B Springbrook’s Average Daily Census and Payer Mix for 2009, 2010, and YTD 2011) Given the high patient discharge rates at Springbrook, at these levels, the facility is virtually full and constantly trying to accommodate a high demand for its nursing care and rehabilitation services as evidenced by its referral activity.”

“Springbrook Center is proposing to focus entirely on its core business of nursing care services, with a primary focus on short term stay rehabilitation services. In order to more effectively meet the demand for such services at Springbrook, it is proposing to change the 23 residential care beds to 23 NF beds. As further support, Springbrook has had over 1,350 referrals and has only been able to admit 462, or 34.2% of referrals. (Please see Exhibit IV-C, Springbrook’s Referral and Admission Activity Reports).”

“Attached as Exhibit IV-D is Springbrook’s Referral Non-Admit Report that tracked the status of over 900 of its referrals for 2010. While there are a number of reasons why a referral may not be admitted, a large number of non-admits are a result of Springbrook either being essentially full and not having appropriate beds within the facility. As a major rehabilitation provider in the defined market area, Springbrook has the need for additional NF beds that can be focused on Medicare skilled rehab. The existing 23 residential care beds does not appropriately provide the optimal type of beds for the primary service that Springbrook offers to the market area. And as evidenced by Springbrook’s historical occupancy rates and referral activity, there is a need and high demand for additional NF level services at Springbrook.”

“Again, adding 23 NF beds to the market area is less than 2% of the total NF beds and will not dramatically alter the mix of NF beds in the overall service area. However, adding 23 NF beds to Springbrook will allow the facility to focus on its core business and more effectively meet the demand for its services.”

#### Affect of Transferring Beds from Presque Isle, Fryeburg and Freeport

“There will be no impact to the communities where the banked beds are being transferred from.”

“The banked beds in Freeport were taken offline as a result of reducing four (4), three (3) bed rooms to semi-private rooms. It is very challenging to market three bed rooms and the residents’ quality of life was enhanced with their removal. Without a major remodeling project at Freeport Nursing Home, the owners do not believe they would ever be able to bring them back into service and have no intention of doing so.”

“The banked beds in Fryeburg were a result of closing the Hicks Assisted Living Center (20 beds) and moving their residential care beds into Fryeburg Nursing Care Center (FHCC). FHCC had NF occupancy problems so the owners converted a twenty-two (22) bed NF wing into Residential Care. The owners feel that unless the demand for NF beds in the Fryeburg area changes in the immediate future, it is very unlikely that they would ever consider bringing more NF beds on line beyond current capacity. Therefore, rather than lose the beds at either Freeport or Fryeburg, Hicks Family Services, Inc. would rather see them used in an area or facility that has the demand for them.”

“The North Country beds come from four different facilities: 11 beds from Borderview, 6 beds from Courtland, 12 from Sanfield and 7 from Southridge. North Country has indicated that they have no intention of bringing these beds back on line in these service areas.”

#### Proposed Programs as a Result of Change

“Genesis primary focus throughout its overall system of facilities is to provide both NF long term stay programs, and a variety of specialized short term stay programs. Short term stay programs might include a cardiac program that provides short-term interdisciplinary rehabilitation following cardiac surgery, event, or exacerbation who have functional limitations and a need for skilled care; an orthopedic program which provides short-term rehab following TJR, reconstruction surgeries, traumatic injuries and/or multiple fractures; and a pulmonary program which provides short-term rehab following pulmonary exacerbation, event or surgery and a need for skilled care. (Please see Exhibit IV-D that provides an outline of the clinical steps and rigorous standards to develop these programs.)”

“The Springbrook Transitional Care Unit will provide a comprehensive in-patient program designed for the individual who has sub-acute rehabilitation and medical needs related to an acute illness, injury, or exacerbation of a disease process. The Transitional Care Unit will be located in a dedicated space that provides the short term patient the appropriate milieu to meet his/her physical, functional, and psychosocial needs. This includes an environment of like patients with similar goals and clinical needs with equipment and services available on site or through contract to meet the immediate and evolving needs of the population. A patient-centered, outcome-focused interdisciplinary approach is used by a professional clinical team with expertise in assessing the patient’s clinical course and treatment plan until the patient is stabilized and can return to his/her prior living conditions. (Please see Exhibit IV-E which provides an outline of the proposed Transitional Care Unit)”

“Please also note that Springbrook is continuously working collaboratively with Maine Medical Center to explore additional sub-acute programming. Most recently, Springbrook implemented a program to provide respiratory services 7 days a week with a goal of

decreasing rehospitalization. In fact, Springbrook is partnering with Maine Medical Center as a member of its Rehospitalization Committee which establishes goals for decreasing rehospitalization. Additionally, Springbrook has begun accepting tracheotomy patients further adding to its clinical capabilities. It is also important to note that Springbrook now has Medical Director on staff 5 days a week (Dr. Bernard Perlman)—which is unusual for Maine nursing homes and further demonstrates Springbrook’s significant commitment to subacute care in Maine.”

“To summarize, Genesis business model is to expand such programs of specialized sub-acute care and so-called transitional care units. Springbrook Center operates at approximately 28% Medicare (high acuity sub-acute care) utilization. To better provide this service, Springbrook is proposing to convert the 23 bed RC unit to a Transitional Care Unit (short stay unit). This unit was originally designed to be a skilled care unit, but was later changed to be a RC unit in response to MED-94 and prior to the development of high level sub-acute and rehabilitation programs in nursing homes. In today’s nursing homes that are highly focused on sub-acute care such as Springbrook Center, the existing RC unit within the nursing home is not the highest and best use of this unit.”

“Attached as Exhibit IV-F is a cover story feature article in July, 2010 Provider magazine on the growth of short term stay programs in nursing homes. Genesis was interviewed for this article.”

#### Affect on Quality and Outcome Measures

“Regarding improvements in quality and outcome measures, this proposal allows the facility to focus all of its resources on the core business of providing skilled nursing care services. Eliminating the RC unit and developing a Transitional Care Unit will allow the facility to best utilize its ongoing training and staff resources that are directed toward sub-acute care and rehabilitation. As indicated above, Springbrook Center was able to provide rehabilitation services to and discharge home over 400 patients in 2010.”

“Genesis has been, and continues to be, a leader in Culture Change nationally and in states where it operates. In the Northeast, select Genesis HealthCare administrators and regional staff serve on state Culture Change coalitions, offer Center tours for organizations pursuing culture change, and present on culture change topics to hospitals. Genesis leaders have served on the RI DPH pilot to use the survey process to impact culture change, the CARF standards for Person-Centered Long-Term Care Communities, and the Hartford Foundation’s study on nurses in culture change. Genesis Centers have been featured in the CMS DVD series on Culture Change.”

“The Northeast Area VP of Quality Management, Mary Tess Crotty, serves on the Pioneer Network Education Committee, chairs the Mass. Culture Change Regional Forums, and is a Master Examiner for the American Health Care Association’s Quality Award Program. She is a regular presenter at the AHCA’s Quality Symposium, at the Pioneer Network Convention, and the AHCA Convention. She is also a trainer for PHI’s Coaching Supervision curriculum.”

“Genesis Centers participate in monthly Culture Change conference calls targeted to teams working on making change in the Centers. Topics rotate each month and calls consist of research or other descriptive material on the practice and examples of success from Genesis Centers. The calls are transcribed and posted, with their attachments, to an electronic site where any Genesis employee can read and download. Past topics have been consistent assignments, building community, creating neighborhoods, bathing approaches, eliminating noise in the environment, staff self-scheduling, reducing unnecessary medications and streamlining the med pass, customizing daily routines.”

“Genesis believes culture change must be supported by the relationship between supervisors and direct care workers. To strengthen that key relationship, Genesis contracts with PHI for Coaching Supervision and has trained 80 leaders to be trainers for the 2-day program. All Department Heads complete this 2-day skills training and some Centers also send all their nurses. Genesis Northeast has trained nearly 2000 supervisors over the last three years – the Maine Centers have access to training every other month in either the Portland or Augusta area.”

“Genesis uses the Learning Collaborative model to advance culture change and provides conferences, on-site learning sessions and written resources to support Center-level change. Genesis still uses the RI QIO’s holistic framework of People, Care, and Environment as its guiding model and continues to support learning through the RI QIO’s materials. Genesis centers pursue change at their own pace, but are expected to use consistent assignments, offer choice in meals and dining, minimize environmental noise, offer choice for waking and sleeping, and provide respectful options for bathing. Genesis offers training to Centers who wish to convert to a neighborhood model for their long-term care communities and supports use of this model for long-term care.”

“The same elements apply for our short stay patients, with additional emphasis on a stimulating and responsive environment for regaining function to return home successfully.”

“All Genesis Centers, including Springbrook, participated in Advancing Excellence 1 and will select at least these three indicators for Advancing Excellence 2: pain, resident satisfaction and employee satisfaction. The Quality Department supports all qualifying Centers to pursue the AHCA Quality Award application process. Seventy-five percent of all Centers have attained the minimum level – including 3 Centers from Maine. Two days of training for Administrators are provided to pursue the advanced levels: Silver and Gold. The Northeast Area has six Silver levels and one Gold winner. Two Administrators serve as Senior Examiners for the AHCA Quality Award program.”

“As a result of this proposal, all of Springbrook’s resources can now be focused on strengthening Springbrook’s commitment to outstanding clinical services and culture change by creating an exceptionally strong Transitional Care Unit in the existing residential care unit.”

#### RC Bed Need and Discharge Options

“As a well respected and conscientious provider in the market area, Springbrook Center will ensure that residents are transferred to appropriate settings in other residential care or assisted living facilities in the market area.”

“As was the case for Marshwood Center’s conversion from RC beds to NF beds, Springbrook Center expects the transition of closing the residential care program, and adding 23 NF beds will incrementally take place over a several month period with a great deal of thought and care for residents and families involved in this transition and change. Given the size of the Portland market area, and with such facilities as the new Memory Care Center in Cape Elizabeth with high vacancy levels, finding appropriate discharge options should not be a problem.”

“Again, please note that a new 70 resident Memory Care Center Assisted Living facility is being planned as part of a retirement community adjacent to Springbrook. While the timing of the Springbrook conversion will not coincide with the opening of this new facility, the MaineCare residential care income stream from the 23 RC beds at Springbrook will be used to also make some number of beds in this new facility available to MaineCare eligible residents in Greater Portland.”

## **B. CONU Discussion**

### **i. CON Criteria**

Relevant criteria 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. Office of Elder Services Analysis (OES)**

- The OES does not oppose the proposed project to convert the facility’s 23-bed ALZ residential care unit to a 23-bed Medicare skilled nursing unit for sub-acute care and rehabilitation services.

- The applicant states that any agreement to sell the MaineCare cash flow that funds the ALZ residential care unit will include a condition that the cash flow sale will not occur until all of the MaineCare residents of the unit relocate to MaineCare eligible beds in other MaineCare funded ALZ residential care facilities. The OES requests that the applicant keep the OES advised during the relocation process. If a MaineCare resident of the ALZ residential care unit relocates to a MaineCare funded ALZ residential care facility that has a mix of MaineCare and private pay beds, but all MaineCare beds in that facility are occupied, the resident must take sufficient MaineCare cash flow with him to fund a MaineCare bed in that facility.
- The applicant states that it intends to sell the ALZ residential care unit's available MaineCare cash flow to Stroudwater Landing, LLC to fund MaineCare eligible beds in a proposed 50-unit (70-bed) memory care assisted living facility that Stroudwater will develop near the Springbrook Center NF. Since the sale of the ALZ residential care unit's MaineCare cash flow is subject to DHHS approval, the OES will contact the applicant directly about that issue.

### **iii. CON Analysis**

Cumberland County has approximately 1,023 licensed residential care beds. According to the applicant, the decrease of 23 residential care beds in the service area represents approximately 2% of the total existing residential care beds. An increase of 23 nursing facility beds represents approximately 1.4% of the total licensed nursing facility beds in Cumberland County. CON does not believe this represents a significant shift in available residential care or nursing facility beds.

The applicant also noted the increase in nursing facility beds is within the projected increased need in Scenarios 2 and 3 of the 2006 Lewin Model which estimates future need for long term care services throughout the state of Maine. The project would not satisfy the public need requirement in Scenario 1 of the study because this scenario projects a continuing decrease in demand for nursing facility beds. As of this time, CON is unable to determine whether Scenario 1, 2, or 3 represents the most likely trend for the Springbrook service area.

The applicant stated that Springbrook Center has maintained an occupancy rate of 95% or higher meaning the facility is virtually full. Springbrook had over 1,350 referrals in 2010 and was able to admit 462, or 34.2% of these referrals. This indicates there is a public need for nursing facility services that is not currently being satisfied. According to the applicant, a large number of non-admits are the result of the facility being essentially full or not having the right type of beds.

According to the applicant, there will be no impact to the communities where the banked beds are being transferred from. The 46 beds all appear to be banked and are not currently being utilized in their respective communities.

The applicant is proposing to convert the space utilized currently by 23 residential care beds into into a transitional care or short stay unit of nursing facility beds. The applicant listed specific programs the transitional care unit will address to better satisfy public health need:

- cardiac program;
- orthopedic program;
- pulmonary program; and
- sub-acute care and rehabilitation.

Springbrook staff are working collaboratively with Maine Medical Center to explore additional sub-acute programming. Springbrook implemented a program to provide respiratory services 7 days a week with a goal of decreasing rehospitalization. Springbrook staff are participating in Maine Medical Center's Rehospitalization Committee which has established goals for decreasing rehospitalization. Springbrook has begun accepting tracheotomy patients further adding to its clinical capabilities. Springbrook now has its Medical Director on staff 5 days a week further demonstrating Springbrook's significant commitment to subacute care in Maine and the need for such care.

### **iii. Conclusion**

CONU recommends that the Commissioner find that Genesis HealthCare of Maine has met their burden to show that there is a public need for the proposed project as demonstrated by certain factors, including, but not limited to: (1) 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; (2) Whether the project will have a positive impact on the health status indicators of the population to be served; (3) Whether the services affected by the project will be accessible to all residents of the area proposed to be served; and (4) Whether the project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project.

## V. Orderly and Economic Development

### A. From Applicant

“Springbrook Center has made a business decision that it no longer would like to offer residential care services. Springbrook Center is proposing to de-license the 23 residential care beds and add an equal number of nursing facility beds. Alternatives considered include: 1) continuing the existing configuration of nursing facility and residential care beds as is; 2) closing down the residential care unit and no longer offer residential care services, but keep the number of nursing facility beds at 100; or 3) close down the residential care unit and add 23 nursing facility beds by acquiring appropriately reserved nursing facility beds and converting 23 of the reserved beds back to licensed NF beds.”

“This plan allows Springbrook Center the opportunity to acquire reserved nursing facility beds and increase the number of nursing facility beds from 100 to 123. The increase in 23 nursing facility beds will be located in the existing 23 bed residential care unit at Springbrook Center.”

“This unit was originally constructed to nursing facility standards and offers an excellent environment for Springbrook Center to expand its nursing care business with a primary focus on Medicare skilled rehab services. This proposal will also improve the operating efficiencies of Springbrook Center’s nursing care business with a 100% focus on nursing care services. It is also an efficient way to bring reserved nursing facility beds back into the system as the need for nursing facility beds continues to increase, while not significantly impacting residential care in the service area.”

“Given that the availability of the MaineCare income stream is being used to offset any increase in costs from adding 23 NF beds at Springbrook, there will be no overall increase in costs to the Maine healthcare system and health care expenses. This proposal will be Medicaid neutral and add no additional cost to the State’s Medicaid program.”

“The closing of the RC unit at Springbrook will not have a negative impact on other area RC providers. These providers will have one less competitor in the market area and also benefit from the 23 residents that would be available to fill vacant RC beds in the service area.”

“Regarding the increase of 23 NF beds, these 23 beds are being brought online from the acquisition of the MaineCare income stream of NF banked beds. The current owners of these beds have no intention of bringing the NF banked beds back online at their facilities.”

“Furthermore, these 23 NF beds are being used to expand Springbrook’s skilled rehab program which focuses on providing services to persons who have had an acute event and with appropriate rehabilitation services, can return back home. Without the strong rehab programs of facilities such as Springbrook, there would be increased usage of NF MaineCare beds and increased financial pressure on Maine’s health care expenses. Patients with high acuity care needs would either remain in the acute care sector longer, or be admitted

inappropriately to a traditional long term care setting within a nursing home. Allowing Springbrook to focus its resources on the core business of providing rehabilitation services benefits Maine and its overall NF program and resources, and is a positive use of the income stream from the banked beds. Springbrook's focus on a strong transitional care unit and program actually saves the State resources by transitioning acute care residents through specialized rehab programs and returning them back home. Again, of the 400+ residents admitted in 2010, 95% have been able to return home. Without such programs, the percentage of seniors with an acute episode/event who would end up in long term care within a nursing home could be much higher.”

“Finally, for the development of these (NF ) beds, there would be a reduction in the marginal costs of care. By providing only one level of care, there would be gains in operational efficiencies. This is demonstrated in the financial forecast. Space originally developed for nursing care services but currently utilized for residential care services will be more properly utilized by this conversion.”

## **B. CONU Discussion**

### **i. CON Criteria**

Relevant criteria 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**

According to the applicant, “given that the availability of the MaineCare income stream is being used to offset any increase in costs from adding 23 NF beds at Springbrook, there will be no overall increase in costs to the Maine healthcare system and health care expenses. This proposal will be Medicaid neutral and add no additional cost to the State’s Medicaid program.” The acquisition of 46 banked nursing facility beds from other facilities maintains MaineCare neutrality.

Cumberland County is Maine’s largest county and as such has the greatest need for long term care beds. The source of the resources being used are reserved beds that do not serve any

patients. Because the project is MaineCare neutral, the impact of the project on total health care expenditures and competing demands in the local service area and statewide for available resources for health care are mitigated.

This project will increase bed availability by 23 beds. There have been no other requests in this year to add Nursing Care beds, therefore the availability of state funds to cover any increase in state costs associated with utilization of the project's services is recognized by not exceeding the annual limit of 100 beds included in 22 M.R.S.A §334-A(1)..

This project meets MaineCare neutrality guidelines and therefore indicates that there is not the likelihood that more effective, more accessible or less costly alternative technologies or methods of service delivery may become available.

**iii. Conclusion**

CONU recommends that the Commissioner find that Genesis HealthCare of Maine has met their 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. State Health Plan

### i. Criteria

Relevant criterion for inclusion in this section are specific to the determination that the project is consistent with the State Health Plan.

### ii. Discussion

**PRIORITY: The applicant is redirecting resources and focus towards population-based health and prevention.**

#### A. Applicant's Discussion on Priority

“Springbrook Center is redirecting resources with a focus toward improved health and rehabilitation with patients returning home following an acute event.”

“In our review of the Maine State Health Plan, and noting the section "Setting Priorities for Certificate of Need", page 77 of the Plan, we believe that Springbrook Center's focus on sub-acute rehabilitation services addresses a needed component of an integrated approach to the treatment of diseases affecting elderly in the overall service area. Springbrook's admission's staff work very closely with hospital discharge planners and area home and community-based service providers in an effort to transition elderly from the acute setting, following an episode in some of the most challenging health issues facing Maine such as cardiovascular disease, to a less costly rehabilitation program setting.”

“Hospitals have a need to discharge patients as soon as possible and into less costly nursing home based sub-acute care programs where the patient can receive rehabilitation treatment and return home as soon as possible, often under the continued care of home health agencies. It is noted that the Maine State Health Plan does not acknowledge or provide more information on the role nursing homes are now playing in the transition of Maine's elderly from hospitals back to home. This proposal will expand Springbrook Center's role in the service area in providing sub-acute services to Maine's elderly population.”

“Genesis HealthCare and Springbrook work continuously with hospitals such as Maine Medical Center and Mercy Hospital in exploring opportunities to further develop specialized sub-acute programs and coordinating its services.”

#### B. CONU Discussion

The applicant is redirecting resources and focus to providing sub-acute services to Maine's elderly population. The applicant states “we believe that Springbrook Center's focus on sub-acute rehabilitation services addresses a needed component of an integrated approach to the treatment of diseases affecting elderly in the overall service area. Springbrook's admission's staff work very closely with hospital discharge planners and area home and community-

based service providers in an effort to transition elderly from the acute setting, following an episode in some of the most challenging health issues facing Maine such as cardiovascular disease, to a less costly rehabilitation program setting.”

**PRIORITY:** The applicant has a plan to reduce non-emergent ER use.

**A. Applicant’s Discussion on Priority**

“N/A”

**B. CONU Discussion**

This priority does not apply.

**PRIORITY:** The applicant demonstrates a culture of patient safety, that it has a quality improvement plan, uses evidence-based protocols, and/or has a public and/or patient safety improvement strategy for the project under construction and for other services throughout the hospital.

**A. Applicant’s Discussion on Priority**

“N/A”

**B. CONU Discussion**

This priority does not apply.

**PRIORITY:** The project leads to lower costs of care/increased efficiency through such approaches as collaboration, consolidation, and/or other means.

**A. Applicant’s Discussion on Priority**

“The increase in licensed nursing facility beds from 100 to 123 will allow for improved operating efficiencies. Genesis core business is operating skilled nursing facilities, and Springbrook Center would like to focus on such core business of delivering nursing care services and expanding its Medicare skilled rehabilitative component.”

“Providing only one level of care, there would be gains in operational efficiencies and a reduction in the marginal costs of care. This is demonstrated in the financial forecast. Space originally developed for nursing care services but currently utilized for residential care services may be more properly utilized by this conversion. And again, as stated above, Genesis and Springbrook Center specifically collaborate closely with area hospitals in exploring ways to provide specialized sub-acute services, to reduce acute care stays, and avoid events of re-hospitalization.”

“Regarding the reduction of residential care beds, the applicant agrees not to enter into any agreement to sell the cash flow of the MaineCare income stream from the RC beds without including a condition that the sale not proceed until all of the MaineCare residents of the Springbrook RC unit have been relocated to MaineCare eligible beds in appropriate RC facilities.”

“There would be no additional increase to total healthcare expenses. Therefore, the applicant meets this priority of the State Health Plan.”

“Please also refer to the response under the Public Need section above.”

## **B. CONU Discussion**

In general, when a healthcare organization opens a service up to more patients, operating costs per patient decrease as a result of increased synergies. As the applicant notes, “the increase in licensed nursing facility beds from 100 to 123 will allow for improved operating efficiencies.” This project will allow the applicant to focus on its core business of providing skilled nursing care services. As the applicant states, there would be no additional increase to total healthcare expenses.

**PRIORITY:** The project improves access to necessary services for the population.

## **A. Applicant’s Discussion on Priority**

“The increase in 23 nursing facility beds by utilizing the “Medicaid Income Stream” of 46 appropriately reserved nursing facility beds increases access to nursing facility services.”

“Springbrook Center expects the transition of closing the residential care program, and adding 23 NF beds, will take place over a several month period with a great deal of thought and care for residents and families involved in this transition and change. The applicant will not close its RC unit until all residents have been appropriately placed.”

“The applicant is also proposing to add a Transitional Care Unit and expand and improve access to high level sub-acute care services for the population being served. Thus, this project does improve access to necessary services for the population being served. Please refer to the response in the Public Need section above.”

## **B. CONU Discussion**

The project will improve access to nursing facility services for the population, as it will add 23 nursing facility beds. In addition, the beds will focus on transitional care which will improve patient access to high level sub-acute care services.

**PRIORITY:** The applicant has regularly met Dirigo voluntary cost control targets.

**A. Applicant's Discussion on Priority**

“N/A”

**B. CONU Discussion**

This priority does not apply.

**PRIORITY:** The impact of the project on regional and statewide health insurance premiums, as determined by BOI, given the benefits of the project, as determined by CONU.

**A. Applicant's Discussion on Priority**

“N/A”

**B. CONU Discussion**

This priority does not apply.

**PRIORITY:** Applicants (other than those already participating in the HealthInfoNet Pilot) who have employed or have concrete plans to employ electronic health information systems to enhance care quality and patient safety.

**A. Applicant's Discussion on Priority**

“N/A”

**B. CONU Discussion**

This priority does not apply.

**PRIORITY:** Projects done in consultation with a LEEDS certified-architect that incorporate ‘green’ best practices in building construction, renovation and operation to minimize environmental impact both internally and externally.

**A. Applicant's Discussion on Priority**

“There is no new construction as a result of this proposal.”

**B. CONU Discussion**

This priority does not apply.

***SUMMARY:***

**A. Applicant's Discussion**

“The applicant has carefully reviewed the Maine State Health Plan and, in particular, noted the section "Finding the Right Place for the Elderly and Disabled in Need of Assistance" beginning on Page 59 of the Plan. We appreciate that Maine has strived to be a leader by rebalancing its long term care system by diverting people from nursing facilities to home and community-based services. We also appreciate (as stated in the Plan) the development of the Lewin Group model as one approach to project the types of services needed by Maine's elderly.”

“As mentioned above, it is unfortunate that the State Health Plan does not elaborate more on the role nursing homes play as the link between hospitals and home and community-based services that elderly often need following an acute event and rehabilitation. Nursing homes are no longer simply a long term care facility. Almost 30% of Springbrook's current occupancy is dedicated to short term stays (sub-acute care) and programs that have been developed in collaboration with hospitals as a way to effectively treat patients and return elderly back to home. This proposal expands and improves this needed service.”

“We believe this proposal is consistent with the State Health Plan priorities as discussed above and further develops and strengthens a sub-acute transitional care program within a nursing home that has grown to become an integral component of the State's overall healthcare system.”

**iii. Conclusion**

CONU recommends that the Commissioner find that the project is consistent with the State Health Plan priorities. This project would achieve priorities of the State Health Plan.

## VII. Outcomes and Community Impact

### A. From Applicant

“This proposal for CON approval will have minimal community impact. Springbrook Center will transfer the existing 23 residents of the residential care unit to other facilities in the service area.”

“Springbrook Center proposes to acquire the Medicaid income stream of reserved nursing facility beds such that it will allow the existing space of the residential care unit to be used for the 23 nursing facility beds. An increase of only 23 nursing facility beds is also around 1.4% of the total nursing facility beds in the service area.”

“Springbrook Center will change its licensed capacity from 23 licensed residential care beds and 100 licensed nursing facility beds to 123 licensed nursing facility beds. This change will not significantly add nursing facility beds to the service area or change the overall licensed capacity at Springbrook Center.”

“The proposed increase in NF beds does not represent a material change to the number of available NF beds. Furthermore, these 23 NF beds are being used to expand Springbrook’s skilled rehab program which focuses on providing services to persons who have had an acute event and with appropriate rehabilitation services, can return back home. Without the strong rehab programs of facilities such as Springbrook, there would undoubtedly be increased usage of NF MaineCare beds and a decrease in positive outcomes for Maine’s seniors who benefit from being able to return home following an acute event.”

“Springbrook Center has a strong reputation as a leading rehabilitation provider and hospital discharge option in the service area. Most admissions for the facility come directly from a hospital for rehabilitative services following an acute event, which is typical for a nursing facility with such a strong Medicare skilled program. Springbrook Center admitted over 400 patients in 2010 and, following successful rehab, discharged almost all of these patients. The best measure of outcome is that patients complete appropriate sub-acute rehab and end up returning home, sometimes with the support of home and community-based services, rather than placed as residents in long term care beds in nursing homes.”

“Please also refer to the response in the Public Need section above.”

“As mentioned in the Public Need section, the elimination of the RC beds at Springbrook would only serve to strengthen the census and payer mix at other facilities and not have a negative impact on quality and outcome of their services.”

### B. CONU Discussion

#### i. CON Criteria

Relevant criteria 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 Analysis**

For the purposes of health care needs covered by the CON process this proposal does not negatively affect the quality of care by existing service providers because the proposed increase does not appear to be a material change to the number of available beds. When the need for residential care services is included, other providers of this service may find that the level of services available is insufficient to provide quality care to all those who need it. However, the applicant plans to transition the 23 residential care patients over several months to minimize patient hardship. The applicant does not anticipate any problems with finding alternative facilities for these patients.

**iii. Conclusion**

CONU recommends that the Commissioner find that Genesis HealthCare of Maine 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.

## **VIII. Service Utilization**

### **A. From Applicant**

“Springbrook Center would like to discontinue providing residential care services and is seeking CON approval to increase the number of nursing facility beds to complement the nursing care services already offered at the facility. This CON application does not involve a physical change to the existing facility or a change in the overall bed capacity. It is simply adding 23 nursing facility beds to a facility that focuses on providing nursing care services and no longer would like to be in the residential care business.”

“Thus, the applicant will continue its ongoing nursing care operations of Springbrook Center and continue to be part of the strong tradition of the Genesis HealthCare, which is very proud of its quality care record and ranks among the top providers for overall customer satisfaction and quality medical care according to national independent research.”

“Genesis has some of the best staff retention rates in the long-term care industry. As part of the Genesis HealthCare system, Springbrook Center is dedicated to providing excellent care to its rehabilitation and long term care residents. Springbrook Center provides opportunities for professional development and advanced clinical training in order to ensure that its clinical practice aligns with the changing needs of the patient population.”

“Springbrook Center tracks and measures 19 Quality Measures as well as its own internal clinical benchmarks as part of a commitment to “Advancing Excellence,” a voluntary initiative focused on continuous quality improvement practices and consistent measurement in order to support better quality care.”

“Genesis and Springbrook Center maintain a dynamic customer satisfaction focus, putting the patient/resident at the center of the care process. In order to continuously understand the changing needs of its customers, Genesis HealthCare routinely measures patients/resident and family satisfaction and participates in a survey process provided by My InnerView, an independent research organization that benchmarks satisfaction data in the long-term care industry.”

“Genesis offers each of its patients/residents outstanding clinical care, delivered by highly skilled practitioners in a warm and comfortable setting. The organization is focused on becoming the recognized leader in clinical quality and customer satisfaction in every market it serves, including at Springbrook Center. Springbrook Center also continues to be a leader in rehabilitative skilled services.”

“Below are the Mission Statement, Vision Statement, and Core Values of Genesis HealthCare and Springbrook Center:”

**“Our Mission**

We improve the lives we touch  
through the delivery of high-quality health care  
and everyday compassion.”

“Our employees are the vital link between Genesis HealthCare and our patients/residents. They are the service we provide and the product we deliver – they are our most valuable resource. Achievement of our vision comes only through the talents and extraordinary dedication our employees bring to their jobs each and every day.”

**“Vision**

Genesis HealthCare will set the standard in nursing and rehabilitative care through clinical excellence and responsiveness to the unique needs of every patient/resident we care for. We will be the recognized leader in clinical quality and customer satisfaction in every market we serve.”

**“Core Values**

- Care & Compassion for every life we touch.
- Respect & Appreciation for each other.
- Teamwork & Enjoyment in working together.
- Focus & Discipline on improving quality of care.
- Creativity & Innovation to develop effective solutions.
- Honesty & Integrity in all dealings.”

“The change proposed in this CON will only serve to strengthen Springbrook Center’s core business of providing high quality skilled rehabilitative and nursing care services in the Lewiston/Auburn area.”

**B. CONU Discussion**

**i. CON Criteria**

Relevant criterion 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.

**ii. Maine Quality Forum Analysis**

The Maine Quality Forum is not required to comment on Nursing Facility applications.

**iii. CON Analysis**

This project would not significantly increase the number of available beds in the service area and therefore would not represent an inappropriate increase in service utilization. The applicant did not provide specific information on their benchmarks.

**iv. Conclusion**

CONU recommends that the Commissioner find that Genesis HealthCare of Maine 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.

## **IX. Funding in MaineCare Nursing Facility Fund**

### **A. From Applicant**

“N/A”

### **B. CONU Discussion**

#### **i. CON Criteria**

Relevant criteria for inclusion in this section are related to the needed determination that the project can be funded within the MaineCare Nursing Facility Fund.

#### **ii. CON Analysis**

This project utilizes no resources from the MaineCare Nursing Facility Fund. The applicant has identified resources through transfer agreements that if approved, the project would not need to be funded within the MaineCare Nursing Facility Fund.

#### **iii. Conclusion**

CONU has determined that there are no incremental operating costs to the healthcare system and there will be no MaineCare Nursing Facility Fund dollars needed to implement this project.

## **X. Timely Notice**

### **A. From Applicant**

“The applicant fully intends to follow the appropriate procedures outlined in the CON Procedures Manual to include all requirements for public meetings.”

### **B. CONU Discussion**

Letter of Intent filed:	June 17, 2010
Technical Assistance meeting held:	June 30, 2010
CON Application filed:	July 5, 2010
CON Certified as complete:	July 5, 2011
Public Informational Meeting held:	July 13, 2011
Public Hearing held:	N/A
Public comment period ended:	August 12, 2011

## **XI. Findings and Recommendations**

Based on the preceding analysis, including information contained in the record, the CONU recommends that the Commissioner make the following findings and recommendations:

**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

3. The likelihood that more effective, more accessible or less costly alternative technologies or methods of service delivery may become available was not demonstrated by the applicant;

In making a determination under this subsection, the commissioner shall use data available in the state health plan under Title 2, section 103, data from the Maine Health Data Organization established in chapter 1683 and other information available to the commissioner. Particular weight must be given to information that indicates that the proposed health services are innovations in high quality health care delivery, that the proposed health services are not reasonably available in the proposed area and that the facility proposing the new health services is designed to provide excellent quality health care.

- 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.** That the project need not be funded within the Nursing Facility MaineCare Funding Pool.

For all the reasons contained in the preliminary analysis and in the record, CONU recommends that the Commissioner determine that this project should be **APPROVED**.