



Department of Health
and Human Services

*Maïre People Living
Safe, Healthy and Productive Lives*

Paul R. LePage, Governor

Mary C. Mayhew, Commissioner

Department of Health and Human Services
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IN THE MATTER OF

Reconsideration of Condition #3 of Certificate of Need	}	
Approval of Lincoln County Health Care's Acquisition	}	
of Control of Miles Memorial Hospital, St. Andrews	}	FINAL DECISION
Hospital and Cove's Edge and Subsequent Acquisition	}	
of Control of Miles Memorial Hospital and Cove's Edge	}	
by LincolnHealth	}	

This is the Department of Health and Human Services Final Decision.

I have reviewed the record created as a result of the reconsideration hearing held on August 11, 2014 at Boothbay Harbor, Maine, including the post-hearing written closing arguments submitted on behalf of Lincoln County Healthcare and Boothbay Region Health and Wellness Foundation ("the Foundation"). I have also reviewed the record that was the basis for my decision, in a letter dated May 27, 2014, granting a Certificate of Need (CON) with conditions that authorizes Lincoln County Healthcare to acquire control of Miles Memorial Hospital, St. Andrews Hospital and Cove's Edge and the subsequent acquisition of control of Miles Memorial Hospital and Cove's Edge by LincolnHealth. I have also reviewed the post-hearing recommendation of the Department's Division of Licensing and Regulatory Services that was submitted to me in a memo, dated September 5, 2014, from Larry Carbonneau.

For the reasons set forth below, I have decided to RESCIND Condition #3 (which required the applicant to provide an urgent care service in the Boothbay community) of my aforesaid decision to grant a CON with conditions.

REASON FOR DECISION

Condition #3 was based on the finding that the orderly economic development of health care in the Boothbay region would be adversely affected if the applicant was not required to maintain appropriate urgent care services. At the reconsideration hearing, the applicant presented new information that demonstrated that requiring the operation of an Urgent Care Center (UCC) would not lower costs or improve access or efficiency for the system of health care in the region and, therefore, would not contribute to the orderly economic development of health care in the region.

The applicant presented credible evidence that operation of a UCC would likely result in annual incremental operating losses in excess of \$600,000 and a cost per patient in excess of \$1,000. While The Foundation pointed out that the applicant could choose a different staffing pattern, the applicant demonstrated that utilizing mid-level providers and fewer staff would likely have little positive financial impact and that any minor savings would not offset the lesser scope and quality of care of such an alternative staffing model. Moreover, the applicant is correct when they point out that the CON cannot dictate how an applicant staffs a service beyond requiring that it meet the minimum standards for licensure and certification.

The applicant presented credible evidence that, in a best case scenario, the operation of a UCC would only improve accessibility for an estimated 800 patients. And the record contains evidence that the existing

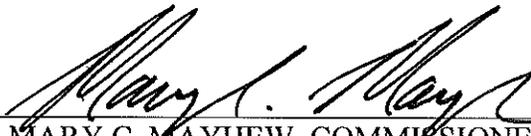
Emergency Department (ED) in Damariscotta has capacity to serve these patients and that there is not a need for two EDs in the region.

As previously noted, it is not within the purview of the CON to dictate how a medical facility will be staffed beyond meeting the minimum standards for licensure and certification. Criteria for a UCC are specified by the Urgent Care Association of America, and The American Academy of Urgent Care Medicine to include:

- Must accept walk-in patients during business hours
- Treat a broad spectrum of illnesses and injuries, as well as perform minor medical procedures
- Be open 7 days a week
- Have on-site diagnostic equipment, including phlebotomy and x-ray
- Contain multiple exam rooms

The applicant's staffing plan would meet these criteria. The Foundation presented evidence of different staffing plans for the UCC and further suggested that Condition #3 be part of an experiment to ascertain needs. But, regardless of how the UCC is staffed, the applicant presented credible evidence that, because of the low number of patients, there would be adverse quality of care issues because of the difficulty of attracting quality staff (particularly if it were known that the UCC was a trial experiment) and because of the risk of delay of appropriate emergency service resulting from patients choosing to present at the UCC instead of calling 911.

Therefore I, hereby, RESCIND Condition #3, which required the applicant to provide an urgent care service in the Boothbay community, and I otherwise AFFIRM the decision, stated in my letter dated May 27, 2014, to grant a Certificate of Need that authorizes Lincoln County Healthcare to acquire control of Miles Memorial Hospital, St. Andrews Hospital and Cove's Edge and the subsequent acquisition of control of Miles Memorial Hospital and Cove's Edge by LincolnHealth.

DATED: 6/26/14 SIGNED: 
MARY C. MAYHEW, COMMISSIONER
DEPARTMENT OF HEALTH AND HUMAN SERVICES

YOU HAVE THE RIGHT TO JUDICIAL REVIEW UNDER THE MAINE RULES OF CIVIL PROCEDURE, RULE 80C. TO TAKE ADVANTAGE OF THIS RIGHT, A PETITION FOR REVIEW MUST BE FILED WITH THE APPROPRIATE SUPERIOR COURT WITHIN 30 DAYS OF THE RECEIPT OF THIS DECISION.

WITH SOME EXCEPTIONS, THE PARTY FILING AN APPEAL (80B OR 80C) OF A DECISION SHALL BE REQUIRED TO PAY THE COSTS TO THE DIVISION OF ADMINISTRATIVE HEARINGS FOR PROVIDING THE COURT WITH A CERTIFIED HEARING RECORD. THIS INCLUDES COSTS RELATED TO THE PROVISION OF A TRANSCRIPT OF THE HEARING RECORDING.

cc: Robert Frank, Esq.
Gerald Petrucelli, Esq.
Linda Yarmouth, Esq.
Janine Raquet, AAG
Kenneth Albert, Director, DLRS