



Department of Health and Human Services
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May 27, 2014

Mr. James Donovan, President and Chief Executive Officer
Lincoln County Health Care & Lincoln Health
6 St. Andrews Lane
Boothbay Harbor, Maine 04538

RE: Acquisition and Control of Miles Memorial Hospital, St. Andrews Hospital and Cove's Edge (2008) and Subsequent Acquisition of Control of Miles Memorial Hospital and Cove's Edge (2013).

Dear Mr. Donovan:

This letter will serve as notification that, on this date, I have decided to **grant with conditions** a Certificate of Need (CON) that authorizes Lincoln County Health Care to acquire control of Miles Memorial Hospital, St. Andrews Hospital and Cove's Edge. In addition this Certificate of Need authorizes the subsequent acquisition of control of Miles Memorial Hospital and Coves Edge by LincolnHealth.

My approval is conditioned on the following:

1. The applicant (LincolnHealth) is to report on the status of final Critical Access approval for LincolnHealth every 90 days until final approval is received or denied beginning with the date the Certificate of Need was approved.
2. The applicant (LincolnHealth) is to report improvements in quality and outcome measures related to the community services instituted to reduce smoking related diseases, diabetes, substance abuse, mental health issues and other chronic disease in Lincoln County. This report will be required on an annual basis within 90 days of its fiscal year end beginning with the time when the Certificate of Need was approved until a full three years have elapsed since the date of the project completion.
3. The applicant will provide an urgent care service in the Boothbay community beginning within 3 months of approval of this application, this urgent care service must be staffed and available 24 hours daily, 7 days a week for a period of no less than:
 1. 3 years, or;
 2. 2 years, if the then certificate holder has demonstrated that utilization has been less than adequate to offset marginal operating costs less \$500,000 for the prior 12 months, or;
 3. 18 months, if the then certificate holder has demonstrated that utilization has been less than adequate to offset marginal operating costs less \$1,000,000 for the prior 12 months.Review of this consideration, if requested before three years will include public

notice and a reduced 5 day comment period. Approval of a change in operating hours would occur no less than 60 days after expiration of the time frames considered above.

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 because I have determined that the project meets the criteria set forth in the CON Act Sec. 335 (1) and the Departments regulations. The specific details of the project for which I have granted this CON are contained in the record.

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, are predicated on the application record as described in the Manual, Chapter 8, Subsection 5. Consequently, the proposal must be implemented consistent with the approval stated in this letter, as informed and clarified by the Department’s analysis and findings as summarized in the following Department staff reports:

FINAL REVIEW: Briefing memo to Mary C. Mayhew, Commissioner, DHHS, dated April 23, 2014.

Since I am approving this application, 22 M.R.S. §335 (4) requires the decision letter to address comments received and made part of the record that favor denial of the application. Due to the voluminous number of comments urging denial and the passionate requests from the public for scrutiny of the particulars of this application I specifically acknowledge the comments contained in the record taking specific note of the comments regarding the provision of urgent care in the area. I have determined that the ordinary economic development of health care for the Boothbay region would be adversely affected and this specific application would have to be denied if the applicant who provided acute emergency care was not required to maintain an appropriate urgent care presence. The commenters have made this need clear and I have approved including a condition requiring 24-7 urgent care services.

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 Certificate of Need.

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

The Certificate of Need statute 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 Health Care Oversight.

My staff will work with you as necessary.

Sincerely,


Mary C. Mayhew
Commissioner

MCM/klv

cc: Kenneth Albert, RN, Esq. Director, DLRS
Sarah Taylor, Assistant Director, DLRS
Larry Carbonneau, Manager Health Care Oversight, DLRS
Herb Downs, Director, Audit
Colin Linley, Rate Setting
Janine Raquet, AAG
File