

**Department of Health and Human Services
Division of Licensing and Regulatory Services
State House Station #11, Augusta, Maine
Preliminary Analysis**

Date: October 21, 2016

Project: Sedgewood Commons Bed Complement Change

Proposal by: Genesis HealthCare Falmouth Operations, LLC

**Prepared by: Larry Carbonneau, Manager Health Care Oversight Program, DLRS
Richard Lawrence, Senior Health Care Financial Analyst, DLRS**

Directly Affected Party: None

Certificate of Need Unit Recommendation: Approval

	Proposed Per Applicant	Approved CON
Estimated Capital Expenditure	\$ 220,000	\$ 220,000
Maximum Contingency	\$ 0	\$ 0
Total Capital Expenditure with Contingency	\$ 220,000	\$ 220,000
Pro-Forma Marginal Operating Costs	\$ 587,495	\$ 587,495
MaineCare Neutrality Established		Yes

I. Abstract

A. From Applicant

“Sedgewood Commons, located at 22 Northbrook Drive in Falmouth, has 65 dually licensed nursing beds (NF/SNF) and 30 licensed residential care beds. The facility specializes in memory care services.”

“Sedgewood Common’s operating company is Falmouth 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, Sedgewood Commons. A new license for Sedgewood Commons was issued to Falmouth 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 Falmouth Operations, LLC.”

“This proposal requests changing Sedgewood Common’s licensed bed capacity from 65 NF/SNF beds to 91 NF/SNF beds and eliminating the 30 RC beds.”

“Genesis ME and Sedgewood Commons are making a business decision to eliminate the residential care beds at Sedgewood Commons and add additional nursing facility beds in order to focus on the core business of delivering nursing care level services.”

“Sedgewood Common’s existing residential care unit (Hawthorne House) was constructed to nursing facility standards and the conversion of the 30 RC beds to 26 NF beds in this unit 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 update some of the finishes on the unit at an estimate of \$220,000.”

“Recognizing the need to remain MaineCare neutral, the resources for this change will come from the existing 30 RC beds at Sedgewood Commons as well as MaineCare income stream acquired from Winthrop Manor in Winthrop, Maine.”

“The addition and fill-up of the 26 nursing facility beds will commence once the 30 residential care beds have been vacated in accordance with notice and transfer requirements. There may be a brief period of overlap allowing both RC and NF patients in the unit for difficult to place RC patients. Sedgewood Commons will work closely with other residential care facilities in the service area to relocate the existing residential care residents at Sedgewood Commons. 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.”

“Attached as Exhibit I-B is a floor plan of the facility showing the location of the 30 RC bed unit to be converted to a 26 NF/SNF bed unit. This proposed change does not involve new construction or major renovations, and there is a decrease in the total bed capacity. Thus, there is no requirement for approval by the Town of Falmouth to make this change.”

CONU Comment #1:

According to 22 M.R.S.A §334-A a certificate of need is required for:

Projects that expand current bed capacity. Nursing facility projects that propose to add new nursing facility beds to the inventory of nursing facility beds within the State.

CONU Comment #2:

CONU expressed concern about wording contained in the applicants abstract section (the wording in question is bolded and underlined):

“The addition and fill-up of the 26 nursing facility beds will commence once the 30 residential care beds have been vacated in accordance with notice and transfer requirements. **There may be a brief period of overlap allowing both RC and NF patients in the unit for difficult to place RC patients.** Sedgewood Commons will work closely with other residential care facilities in the service area to relocate the existing residential care residents at Sedgewood Commons. 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.”

Any overlap between residential care (state services) and nursing home (federally certified services) is in violation of federal regulations. In response to CONU’s concerns this paragraph was amended as follows:

“The addition and fill-up of the 26 nursing facility beds will commence once the 30 residential care beds have been vacated in accordance with notice and transfer requirements. **NF patients would not be admitted to the vacated residential care unit until all of the RC patients have been transferred from the unit.** Sedgewood Commons will work closely with other residential care facilities in the service area to relocate the existing residential care residents at Sedgewood Commons. It is anticipated that these residents will have no problem being transferred and absorbed into one of the 29 residential care facilities in the service area that total approximately 1,023 residential care beds.”

CONU Comment #3:

Pursuant to MRS Title 22, Chapter 103-A, §328 (22) E, Mr. Michael A. Duddy of Kelly, Rimmel & Zimmerman requested status as a directly affected party per his letter dated September 2, 2016. Mr. Duddy stated in this letter that he represents “several residential care residents of Sedgewood Commons, each of which will be adversely affected by the proposed closure”. In previous correspondence dated August 25, 2016 Mr. Duddy outlined several concerns regarding the closure of the 30 residential care beds located at Sedgewood Commons. Although all of Mr. Duddy’s concerns do not fall within the parameters of a CON review we have addressed the relevant concerns under the Public Need section of this analysis. Mr. Duddy’s correspondence as well as the applicant’s response to Mr. Duddy are on file at CONU.

II. Fit, Willing and Able

A. From Applicant

“Sedgewood Commons has been operated by Genesis Healthcare Corporation and Falmouth Operations, LLC since January 1, 2007.”

“Prior to the transfer of operations and Falmouth Operations, LLC becoming the operator, Sedgewood Commons 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 Falmouth Operations, LLC to operate Sedgewood Common. As part of the CON review process, extensive information was provided regarding the extent of Genesis HealthCare Corporation’s overall operations. Genesis HealthCare Corporation, now Genesis HealthCare LLC, has subsidiaries which own, lease and manage over 500 healthcare facilities in twenty-eight states, including 11 skilled nursing centers in Maine.”

“Sedgewood Commons has an excellent reputation providing nursing and memory care services in Maine. Sedgewood Commons offers individualized care for those living with Alzheimer’s disease or other forms of dementia. Each member of Sedgewood’s dedicated team has specialized education and training. The facility promotes consistent relationships with staff and residents to provide an ongoing routine, which is very important to those with dementia. Each resident’s family is an integral part of the care team. By providing education and keeping family members informed, Sedgewood Common’s goal is to enhance interactions and support these meaningful connections to promote an optimal quality of life for residents.”

“Sedgewood Commons has a long history of high quality performance and recognition. Awards and recognition include:”

- AHCA Bronze Quality Award
- MHCA Celebrating Excellence: Innovative Programming Award 2013 & 2015
- National Quality Silver Award 2011
- Deficiency Free Survey in Quality & Life Safety Code 2013
- Maine Health Care Association “Carrying the Torch of Excellence” Quality Improvement Award 2009
- AHCA Step I National Quality Award 2009
- Certificate of Excellence: Beacon Hospice, End of Life Care 2009
- 2011 & 2012 MHCA Caregiving Employee Award
- Excellence in Action: My Innerview Customer Satisfaction, 2010-2011 & 2011- 12
- August 2005 to July 2008 N.E. Care Quality Foundation, Medicare QIO, 8th Scope of Work

“These awards and recognition is a testament to the exceptional service and care that each and every staff member at Sedgewood Commons provides to residents every day.”

“Sedgewood Commons was also recognized by the AHCA and NCAL for increasing customer satisfaction and safely reducing the off-label use of antipsychotic medications. Sedgewood was honored at the Quality Symposium in February 2015.”

“Sedgewood Common also has a 5-star rating compared to a Maine average of 3.50 and a National Average of 3.04. In fact, Sedgewood has the highest 5 star rating the region and has had a 5 star rating for 25 consecutive months. Sedgewood’s star ratings compare as follows:”

1. **Overall Rating:** 5 stars compared to a ME average of 3.50 and a National average of 3.04.
2. **Health Inspection Rating:** 4 stars compared to a ME average of 2.83 and a National average of 2.81.
3. **Nurses Rating:** 5 stars compared to a ME average of 4.16 and a National average of 3.00.
4. **Quality Measures Rating:** 5 stars compared to a ME average of 3.31 and a National average of 3.16.
5. **RN Only Rating:** 5 stars compared to a ME average of and a National average of 2.96.

“Averaging the available ratings gives an aggregate star rating of 4.8 for Sedgewood Commons versus the Maine average of 2.76 and a national average of 2.99.”

“Clearly, the quality of care provided by Sedgewood Common’s is excellent and the applicant is certainly fit, willing and able to continue providing the proposed services at the proper standard of care”.

“Please refer to Exhibit II-A for the resume and license of the facility Administrator.”

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

B. Certificate of Need Unit Discussion

i. CON Standards

Relevant standards 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 Unit Analysis

Sedgewood Commons is licensed for 65 SNF/NF beds and 30 Level IV Residential Care beds. The facility is located at 22 Northbrook Drive in Falmouth, Maine. The administrator is Joel Rogers. The license was issued on December 21, 2015 and is valid from January 1, 2016 through December 31, 2016.

A review of Sedgewood Commons' last completed survey data available from Medicare.gov website revealed the following ratings:

Sedgewood Commons	
Nursing Home Compare Ratings	
Category	Ratings
Overall	Above Average
Health Inspections	Above Average
Staffing	Above Average
Quality Ratings	Average

Sedgewood Commons scored "Above Average" in three out of four categories rated by CMS with an overall rating of "Above Average". The last recertification survey was conducted on 9/24/2015. The result of the survey was the identification of three health deficiencies. All three deficiencies were Level 2 (minimal harm or potential for actual harm) or below. The average number of health deficiencies identified during a recertification survey in Maine is 3.4 and the average number of health deficiencies in the United States is 7.

Inspectors determined that the nursing home failed to:

- 1) Develop a complete care plan that meets all of a resident's needs, with timetables and sections that can be measured.
- 2) Make sure that the nursing home area is free from accident hazards and risks and provides supervision to prevent avoidable accidents.
- 3) Keep the rate of medication errors (wrong drug, wrong dose, wrong time) to less than 5%.

All deficiencies were corrected by October 19, 2015.

Survey data for this facility can be accessed at Medicare.gov and is on file at CONU.

The Commissioner can rely on data available to the department regarding the quality of health care provided by the applicant as allowed at M.R.S. 22 §337 (3).

Deeming of Standard

As provided for at 22 M.R.S. § 335 (7)(A), if the applicant is a provider of health care services that are substantially similar to those services being reviewed and is licensed in the State, the requirements of this paragraph are deemed to have been met if the services previously provided in the State by the applicant are consistent with applicable licensing and certification standards.

Sedgewood Commons operating company is Falmouth Operations, LLC which is a subsidiary of Genesis Health Care of Maine, Inc. which became licensed to operate Sedgewood Commons on January 1, 2007. The facility has been a provider of both SNF/NF beds and Level IV Residential Care beds for over nine years. The services provided by the applicant are consistent with applicable licensing and certification standards.

iii. Conclusion

The Certificate of Need Unit recommends that the Commissioner find 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.

III. Economic Feasibility

A. From Applicant

“Sedgewood Commons is seeking CON approval for the conversion of a 30 bed RC unit to a 26 bed SNF/NF unit. As a result of this change, Sedgewood Commons would go from 65 NF/SNF beds to 91 NF/SNF.”

“Recognizing the need to remain MaineCare neutral, the resources for this change will come from the existing 30 RC beds at Sedgewood Commons as well MaineCare Income Stream that has been acquired from Winthrop Manor Long Term Care & Rehab, Inc., who operated Winthrop Manor in Winthrop, Maine. It is understood that DHHS will determine the actual number of beds, and the accompanying MaineCare resources, that will need to be acquired to remain Medicaid neutral. Attached as Exhibit III-A is the Sources and Uses of available MaineCare Income Stream and Exhibit III-B, Purchase and Sale Agreement with Winthrop Manor Long Term Care & Rehab, Inc.”

“Sedgewood Commons’ existing residential care unit was constructed to nursing facility standards and the conversion of the 30 RC beds to 26 NF beds 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 \$220,000. The room and common areas will receive new finishes and furniture. These anticipated improvements are well below the current capital expenditure CON threshold.”

“Attached as Exhibit III-C is Sedgewood Commons’ Operating Statement for the past 12 months. Sedgewood Commons had a Net Operating Income (EBITDA) of \$910,118 for the most recent 12 month period.”

“Attached as Exhibit III-D is a Pro Forma Operating Statement and a table with the proposed changes in census, bed type and utilization (including “Quality Mix” percent). The Pro Forma Income Statement and related supplemental data show that proposed changes to Sedgewood Commons will result in a Net Operating Income (EBITDA) of \$1,123,694. Both Revenues and Expenses will increase as a result of converting 30 RC beds to 26 additional NF/SNF beds.”

“Attached as Exhibit III-E is a pro forma MaineCare cost report. Attached as Exhibit III-F is the Historical Balance Sheet for Sedgewood Commons and Balance Sheet projections.”

“Attached as Exhibit III-G is the most recent completed MaineCare cost report for Sedgewood Commons.”

B. Certificate of Need Unit Discussion

i. CON Standards

Relevant standards 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
- 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 Unit Analysis

Financial Feasibility and Staffing

The applicant provided a pro-forma cost report that represents the change in the provided service level. The applicant is proposing to convert the current 30 bed residential care beds to 26 SNF/NF beds. As stated by the applicant, this conversion is taking place so that Sedgewood can focus on its core business of delivering nursing care level services. Minimal capital costs are involved with this project because Sedgewood's residential care unit (Hawthorne House) was built to nursing facility standards. . The applicant provided pro forma cost reports and financial projections to CONU. CONU reviewed the underlying assumptions regarding capital costs, MaineCare utilization and pending inflation adjustments and found them reasonable. Increased staffing will be required to perform the services required by the occupants of the additional SNF/NF beds. Increases in RN, LPN, CNA and Med. Tech positions will be partially offset by decreases in Nursing Residential positions. The net increase in payroll and fringe benefits is projected to be \$128,911. The change in bed complement to add SNF/NF beds as well as the analysis of need located in Section IV of this analysis supports the applicants' assertion that this project is financially feasible and will maintain the financial stability of this facility. Final reimbursement rates associated with this transaction will be computed by DHHS Rate Setting and DHHS Office of Audit.

MaineCare Neutrality

This project is subject to MaineCare neutrality. MaineCare neutrality is computed by comparing the utilization of MaineCare resources between Sedgewoods 65 SNF/NF beds and 30 bed RCF bed capacity and the proposed 91 bed NF/SNF bed capacity. The current calculated MaineCare utilization for NF/SNF and RCF is \$6,300,482. The proposed calculated MaineCare utilization is \$6,887,977. This increase in MaineCare utilization is \$587,495 which is based on 95% occupancy.

The resources available for the project are listed in Table 1: Sources and Uses of MaineCare Funding. The applicant identified two sources of revenue for offsetting the project’s annual expenses.

Table 1: Sources and Uses of MaineCare Funding:

Source	Facility	# of Beds	\$ Value	Allocated Beds	\$ Value
	Sedgewood RCF	30	\$1,391,542	30	\$1,391,542
	Winthrop Manor Bed Rights		\$622,378		\$622,378
	Total	30	\$2,013,920	30	\$2,013,920
Use					
	Sedgewood additional SNF/NF	26	\$1,967,993	26	\$1,967,993
Excess Resources			\$45,927		\$45,927

The chart indicates that the revenue stream from the 30 Sedgewood RCF beds combined with the acquired bed rights from Winthrop Manor would offset the potential costs of the 26 new SNF/NF beds. The value of the revenue stream is \$2,013,920. The expected costs to the MaineCare program are calculated to be \$1,967,993. The excess, \$45,927, in resources from the transaction would be placed in the MaineCare Nursing Facility Funding Pool.

Changing Laws and Regulations

Certificate of Need Unit staff is not aware of any imminent or proposed changes in laws and regulations that would impact the project, except for federal health care reform as part of the Affordable Care Act (ACA). The impact of health reform as part of the ACA has not been determined.

Deeming of Standard

As provided for at 22 M.R.S. § 335 (7)(B), if the applicant is a provider of health care services that are substantially similar to those services being reviewed and is licensed in the State, the applicant is deemed to have fulfilled the requirements of this standard if the services provided in the State by the applicant during the most recent 3-year period are of similar size and scope and are consistent with the applicable licensing and certification standards.

The applicant has operated a mixed-level of care facility with a total of 95 beds (65 SNF/NF and 30 RCF). If this application were to be approved the applicant would be operating a 91 bed SNF/NF nursing home. The operations are of a similar size and scope. Schedule L of the

applicant's pro forma cost report demonstrates the need for additional nursing staff to handle the increase in the SNF/NF census.

iii. Conclusion

Certificate of Need Unit staff recommend that the Commissioner determine that the applicant 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 30 residential care beds at Sedgewood Commons and transferring residents to existing residential care facilities in the service areas, and adding back 26 licensed nursing care beds in the unit that held the 30 residential care beds.”

“The decrease in 30 residential care beds in the service area only represents approximately 3% of the total existing residential care beds. Cumberland County has approximately 1,023 licensed residential care beds.”

“An increase of only 26 nursing facility beds is around 1.7% of the total 1,527 nursing facility beds in Cumberland County. The increase in NF beds will not significantly add NF beds to the overall service area.”

“It is the intention of Sedgewood Commons to build upon its strong position in the service area as an NF and skilled care provider to residents with Alzheimer’s disease and other dementias.”

Sedgewood Commons Occupancy History and Payer Mix

“Sedgewood Commons opened in 1993 as a multi-level facility specializing in memory care. In recent years, several new assisted living memory care facilities have opened in the service area to include Avita of Stroudwater in Westbrook, Cape Memory Care in Cape Elizabeth and Legacy Memory Care in Falmouth. As a result, the occupancy in the residential care unit at Sedgewood Commons has decreased to approximately 84% over the past 2-3 years. At the same time, the occupancy in the NF units at Sedgewood Commons has remained strong at approximately 96% over that same period. (Refer to Exhibit IV-A Sedgewood Commons’ Average Daily Census and Payer Mix for 2014, 2015 and YTD 2016).”

“To address this change in the market area, Sedgewood Commons is proposing to eliminate the residential care unit and focus the facility on its overall core business of providing nursing level services.”

“In referencing a report by the Muskie School of Public Service titled *Older Adults and Adults with Disabilities: Population and Service Use Trends in Maine -2012 Edition*, the number of persons age 65 and older in Cumberland County is projected to increase from 43,258 in 2012 to 65,701 by 2022. Clearly, as the State of Maine and Cumberland County continues to significantly age, there will be increasing demand for additional NF/Skilled beds including a need for the proposed 26 additional NF/Skilled beds at Sedgewood Commons. And while almost no new NF beds have been added in Cumberland County in recent years to meet the growing demand for NF level services, there continues to be an increase in new assisted living/residential care beds in new facilities that have recently opened in Greater Portland.”

“Again, Sedgewood Commons was designed with three “units” that were built to nursing care standards. Converting the residential care unit will require no change to the building and easily accommodate an increase in NF beds from 65 to 91.”

Directly Affected Party

As noted in CONU Comment #3, located in the Abstract section of this analysis, a directly affected party believes that the closure of the residential care beds at Sedgewood Commons and the subsequent relocation of its residents mean that this application fails to meet the Public Need standards. Excerpts from the directly affected parties August 25, 2016 letter to CONU state the following:

“According to Section 71.05(N)(1)(c) of the Nursing Facility CON regulations, a certificate of need can only be granted as demonstrated by 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, and whether the project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project. Based upon our preliminary understanding of the relevant facts, we believe the Genesis CON Application cannot satisfy these principles. Moreover, in arriving at a conclusion, the Department must consider certain criteria, such as whether the project will have a “positive impact” on the health status indicators of the affected population. See Section 71.05(N)(3)(a)-(d). We think upon consideration of the pertinent facts, the Genesis CON Application will fail to satisfy the required criteria.”

CONU believes it has addressed the directly affected parties concerns in the following analysis.

B. Certificate of Need Unit Discussion

i. CON Standards

Relevant standards for inclusion in this section are specific to the determination that 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. CON Unit Analysis

The applicant is proposing to add 26 additional SNF/NF beds to Sedgewood Commons. In order to determine public need, CONU analyzed demographic and service use trends in Sedgewood Commons' service area (Cumberland County, Maine). CONU utilized the Older Adults with

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Physical Disabilities: Population and Service Use Trends in Maine, 2012 Edition, prepared by the Muskie School of Public Service and the U.S. Census Bureau's website located at <http://quickfacts.census.gov>.

Cumberland County Maine is the most populous county in Maine with an estimated population of 289,977 as of July 1, 2015 with approximately 17% of the population age 65 or older. This population is the primary consumer of nursing and residential care services. Maine's 65 and above age group continues to grow at a rate faster than New England and the USA as a whole. The forecasted growth in Cumberland County's older population between 2012 and 2022 is an increase of 15,497 people (66%) between the ages of 65-74, an increase of 6,039 people (46%) between the ages of 75-84 and an increase of 907 people (13%) over 85. With the projected increase in the 65+ population it is likely that additional SNF/NF beds will be required over the next ten years. Adding additional SNF/NF beds would substantially address specific health problems associated with an aging population which is increasingly requiring more intensive care. CONU examined the latest occupancy data available for nursing services in Cumberland County:

Town	Nursing Facility	Total Capacity	Total Occupancy	% Occupancy
Portland	Barron Center	219	212	96.80%
Yarmouth	Brentwood Rehab & Nursing Center	78	64	82.05%
Bridgton	Bridgton Health Care Center	43	37	86.05%
Portland	Cedars Nursing Care Center	102	72	70.59%
Yarmouth	Coastal Manor	39	36	92.31%
Falmouth	Falmouth By The Sea	65	52	80.00%
Freeport	Freeport Nursing & Rehab Center	61	54	88.52%
Gorham	Gorham House	69	66	95.65%
Freeport	Hawthorne House	81	70	86.42%
Brunswick	Horizons Living And Rehab Center	65	61	93.85%
Windham	Ledgewood Manor	60	51	85.00%
Scarborough	Maine Veterans Home - Scarborough	120	112	93.33%
Brunswick	Mid Coast Senior Health Center	42	38	90.48%
Scarborough	Pine Point Center	61	58	95.08%
Scarborough	Piper Shores	40	38	95.00%
Portland	Seaside Rehab & Health Care	137	121	88.32%
Falmouth	Sedgewood Commons	65	61	93.85%
So Portland	South Portland Nursing Home	73	65	89.04%
Westbrook	Springbrook Center	123	117	95.12%
Portland	St Joseph's Rehabilitation And Residence	121	109	90.08%
Total		1664	1494	89.78%

In 2010 Cumberland County had 41 beds per 1,000 persons age 65 and above as compared to the State average of 33 beds per 1,000 persons age 65 and above. Although the available beds in

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Cumberland County exceeds the State average the most recent available occupancy statistics (May 2016) above show an average occupancy of 89.78% clearly demonstrating a need for SNF/NF services in the area. It should be further noted that Brentwood, Cedars Nursing Care Center and Falmouth By The Sea, which currently have occupancy levels below 85%, all achieved occupancy levels in excess of 85% at times during previous months.

CONU also reviewed Residential Care Facility occupancy in Cumberland County and determined that residential care occupancy also exceeded 89%. Although clearly there is a need for RCF services, a review of the Sedgewood's census shows average occupancy of 82.8% in 2014, 83.8% in 2015 and 85.4% occupancy while during this same time period occupancy for SNF/NF services exceeded 95% each year. The applicant correctly states that more residential care beds have come online recently and alternative services such as assisted living services have also increased while the supply of SNF/NF beds has remained fairly stable in the face of rising demand.

The procedures for the closure of Residential Care beds do not fall under the umbrella of CON regulations. However, in order to address the concerns of the directly affected party, CONU reviewed the Regulations Governing the Licensing and Functioning of Assisted Housing Programs. Based on our review and consultation with licensing staff, CONU believes that Sedgewood Commons' only requirement for closure of its residential care beds is to arrange for the orderly transfer of its residents at least thirty calendar days prior to closure. Based on the documentation submitted by Sedgewood Commons, residents were notified on June 21st that the facility was closing. In addition, a meeting was held for the residential care residents and family on the evening of June 21st to discuss the closure plan and answer questions. The facility has also worked with the Maine Long-Term Care Ombudsman to provide services to residents and affected parties. As of October 12, 2016 23 of the original 30 residents have been placed at another facility while 3 more have found placement and are in the process of relocating. Sedgewood Commons is continuing to work with the 4 remaining residents to find acceptable placements. Correspondence from the directly affected party and the applicant are on file at CONU.

The applicant will offer the services affected by the project to all residents of the area proposed to be served and therefore will ensure accessibility of the service.

The project will provide demonstrable improvements in the outcome measures for patients that require skilled services and residents with Alzheimer's disease and other dementias.

iii. Conclusion

The Certificate of Need Unit recommends that the Commissioner find that the applicant has met their burden to show that there is a public need for the proposed project.

V. Orderly and Economic Development

A. From Applicant

“This proposal involves taking out of service 30 residential care beds at Sedgewood Commons and adding back 26 licensed nursing care beds in the unit that occupied the 30 residential care beds. Alternatives considered include: 1) continuing the existing configuration of nursing facility and residential care beds as is or, 2) close down the 30 beds residential care unit and add 26 nursing facility beds.”

“The residential care unit was originally constructed to nursing facility standards and offers an excellent environment for Sedgewood Commons to expand its nursing care business with a primary focus on NF level memory care. This proposal will also improve the operating efficiencies of Sedgewood Common’s nursing care business with more focus on nursing care services.”

“Given that the availability of the Mainecare income stream is being used to offset any increase in costs from adding 26 NF beds at Sedgewood Common, 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.”

B. Certificate of Need Unit Discussion

i. CON Standards

Relevant standards 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 Unit Analysis

The decision to increase Sedgewood Commons licensed nursing care beds from 65 to 91 beds and eliminate 30 residential care beds addresses a demonstrated need for additional SNF/NF level beds in Cumberland County. The increase in SNF/NF beds will improve patient's access to needed services in the area. The change in service will improve patients' access to choice and limit restrictions of service caused by the lack of available SNF/NF beds in the area.

The increased allowable operating costs of \$587,495 will be offset by a source of MaineCare revenue which will make the project MaineCare neutral (See Economic Feasibility section of this preliminary analysis). This project will result in no increased costs to the Maine health care system. Since total health care expenditures are zero thanks to the MaineCare neutrality provisions, this project will not impact the availability of State funding for other providers in the area.

This project will not increase total healthcare costs and therefore additional State funding is not required.

The 26 new SNF/NF beds will be used primarily to expand Sedgewood's NF level memory care program. Sedgewood will be able to focus on its core nursing care business which will lead to operating efficiencies.

As stated previously the space currently used to provide residential care services at Sedgewood was originally constructed to meet nursing home standards. This means minimal capital expenditures are required to convert the space to SNF/NF level of services. It is unlikely that a more effective, more accessible or less costly alternative for providing needed SNF/NF services is available.

iii. Conclusion

The Certificate of Need Unit recommends that the Commissioner find that the applicant has met its 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. Outcomes and Community Impact

A. From Applicant

“These 26 new NF beds will be used to expand Sedgewood Common’s NF level memory care services and rehabilitation program which focuses on providing services to persons who have had an acute event and with appropriate rehabilitation services can return back home or have a need for long term care due to the progression of Alzheimer’s disease or other memory loss issues. Without the strong programs of facilities such as Sedgewood Common, there would undoubtedly be increased usage of NF MaineCare beds and a decrease in positive outcomes for Maine’s elderly. Sedgewood Commons has an excellent reputation as a leader in memory care services in Maine as well as strong reputation as a rehabilitation provider and hospital discharge option in the service area.”

“The addition of 26 NF beds at Sedgewood Commons would not have a negative impact on quality and outcome of their services, but rather would have several positive attributes.”

Quality and Outcome Measures

“Sedgewood Commons continuously evaluates the effectiveness of its programs and establishes measurable target goals. As previously mentioned, Sedgewood Commons has a long history of high quality performance and recognition to include a 5-star rating for 25 consecutive months.”

“Genesis also 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.”

“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 and a portion of the nursing staff complete this 2-day skills training. 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

VI. Outcomes and Community Impact

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 Sedgewood Common, participate in Advancing Excellence. The Quality Department supports all qualifying Centers to pursue the AHCA Quality Award application process."

"Genesis' resources will continue to be focused on strengthening Sedgewood Common's commitment to outstanding clinical and rehabilitation services and culture change."

B. Certificate of Need Unit Discussion

i. CON Standards

Ensures high-quality outcomes and does not negatively affect the quality of care delivered by existing service providers.

ii. CON Unit Analysis

The addition of 26 SNF/NF beds, focusing on memory care and rehabilitative services, in the Cumberland County area will have a positive effect on the quality of care delivered and will not have a negative effect on the quality of care delivered by existing service providers. Seniors needing SNF/NF care will have a greater likelihood of finding the services offered in the area they reside. Increased Memory Care services will aid patients suffering from the progression of Alzheimer's or other memory loss issues. Rehabilitative services increase the likelihood that patients completing appropriate sub-acute rehab will end up returning home and/or to community-based services rather than placed in a costly long-term care setting. This reintroduction of a patient into the at-large community is consistent with the goals of the department and national trends of extending home-based services.

iii. Conclusion

Certificate of Need Unit recommends that the Commissioner find that the applicant 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.

VII. Service Utilization

A. From Applicant

“Sedgewood Commons would like to convert a 30 bed RC unit to a 26 bed NF unit. Increasing the number of nursing facility beds will complement the nursing care services already offered at the facility. Sedgewood Commons will continue its ongoing programs and continue to be part of the strong tradition of 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, Sedgewood Commons is dedicated to providing excellent care to its long term memory care residents as well as short stay, rehabilitation patients. Sedgewood Commons 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.”

“Sedgewood Commons 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 Sedgewood Commons 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 Service Trac, 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 Sedgewood Common.”

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

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 Sedgewood Common’s core business of providing high quality skilled rehabilitative and nursing care services.”

B. Certificate of Need Unit Discussion

i. CON Standards

Relevant standards 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 as established in Title 24-A, section 6951, when the principles adopted by the Maine Quality Forum are directly applicable to the application.

In the case of a nursing facility project that proposes to add new nursing facility beds to the inventory of nursing facility beds within the State, is consistent with the nursing facility MaineCare funding pool and other applicable provisions of sections 333-A and 334-A.

ii. CON Unit Analysis

The Maine Quality Forum has not adopted any principles of evidence-based medicine directly applicable to the application; therefore this application meets the standard for this determination.

No funding is utilized from the MaineCare funding pool.

This application is for an increase of 26 SNF/NF beds in the Cumberland County service area, which is less than a 2% increase in available SNF/NF beds. This will not drastically change the services offered in the area. This transaction will not result in inappropriate increases in utilization.

iii. Conclusion

Certificate of Need Unit recommends that the Commissioner find that the applicant 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.

VIII. Consistency with MaineCare Funding Pool

A. From Applicant

N/A

B. Certificate of Need Unit Discussion

i. CON Standards

In the case of a nursing facility project that proposes to add new nursing facility beds to the inventory of nursing facility beds within the State, is consistent with the nursing facility MaineCare funding pool and other applicable provisions of sections 333-A and 334-A.

ii. CON Unit Analysis

The applicant has identified resources available for the project as outlined in the Economic Feasibility section of this application.

No funding is utilized from the MaineCare funding pool.

iii. Conclusion

Certificate of Need Unit recommends that the Commissioner find that the applicant has met their burden to demonstrate that the project is consistent with the nursing facility MaineCare funding pool and other applicable provisions of sections 333-A and 334-A.

IX. Timely Notice

A. From Applicant

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

B. Certificate of Need Unit Discussion

Letter of Intent filed:	June 14, 2016
Technical assistance meeting held:	June 16, 2016
CON application filed:	July 20, 2016
CON certified as complete:	July 20, 2016
Public Information Meeting held:	Waived
Public Hearing held:	N/A
Comment Period ended:	August 26, 2016

X. Findings and Recommendations

Based on the preceding analysis, including information contained in the record, the Certificate of Need Unit recommends that the Commissioner make the following findings:

- A.** 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. 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.** 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 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 demonstrated by the applicant;

- E. The project ensures high-quality outcomes and does not negatively affect the quality of care delivered by existing service providers:
- F. 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. The project is consistent with the nursing facility MaineCare funding pool and other applicable provisions of sections 333-A and 334-A..

For all the reasons contained in this preliminary analysis and based upon information contained in the record, Certificate of Need Unit recommends that the Commissioner determine that this project should be **approved**.