

**BRIEFING MEMO**  
**St. Joseph Nursing Home**  
**Change of Ownership**

**DATE:** June 22, 2016

**TO:** Mary C. Mayhew, Commissioner, DHHS

**THROUGH:** Phyllis Powell, Director, DLRS

**FROM:** Larry D. Carbonneau, Manager, Health Care Oversight, DLRS  
Richard S. Lawrence, Senior Health Care Financial Analyst, DLRS

**SUBJECT:** Change of Ownership of Mount St. Joseph Nursing Home

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**ISSUE ACTIVATED BY:** The referenced proposal requires Certificate of Need (CON) approval as defined in “The Maine Certificate of Need Act of 2002,” 22 M.R.S.A. §326 et seq., as amended.

**REGISTERED AFFECTED PARTIES:** None

**I. BACKGROUND**

Mount St. Joseph is a Maine nonprofit Section 501 (c)(3) tax exempt corporation located in Waterville Maine. Mount St. Joseph operates Mount St. Joseph Nursing Home (MSJ) a 111-bed nursing home licensed for 30 skilled beds and 81 nursing beds. In addition they are licensed for 27 Level IV residential care beds. MSJ also operates 9 independent living beds. MSJ is located at 7 Highwood Street, Waterville, Maine.

Mercy Community Health, Inc. (“Mercy”), is a Connecticut non-stock (i.e., nonprofit) corporation with its principal offices located in West Hartford, Connecticut. Mercy is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The sole corporate member of Mercy is Trinity Continuing Care Services (d/b/a Trinity Senior Living Communities) (“TSLC”). Mercy operates the Mercy Community located on 43 acres in West Hartford, CT. The Mercy Community consists of St. Mary Home, a 256-bed nursing facility and The McAuley, a 228-unit continuing care retirement community.

**II. PROJECT DESCRIPTION**

Upon execution of a Member Transfer Agreement and receiving a CON and other necessary approvals, MSJ’s entire corporate membership – which is currently held by certain members of the Congregation of the Sisters of Saint Joseph of Lyons – will be replaced with Mercy, which will then be the sole corporate member of MSJ. The Congregation will also be transferring ownership of the nursing facility land and building to Mercy. Following the transfer of real estate and upon becoming the sole corporate member of MSJ, Mercy will acquire direct or indirect control over substantially all of the assets and operations of MSJ. After the transaction

the parties do not intend to substantially change the scope of services or increase or reduce the number of beds at MSJ.

### III. HIGHLIGHTS

Letter of Intent dated:	October 8, 2015
Technical Assistance meeting held:	October 14, 2015
CON application filed:	January 25, 2016
CON certified as complete:	January 25, 2016
Public Information Meeting Held	N/A
Public Hearing held:	N/A
Preliminary Analysis released:	June 2, 2016
Close of Public Record	June 22, 2016

### IV. PUBLIC COMMENTS RECEIVED IN RESPONSE TO THE PRELIMINARY ANALYSIS

No public comments were received following the release of the preliminary analysis.

### V. CERTIFICATE OF NEED UNIT ANALYSIS

#### a) Fit, Willing and Able

CONU looked at the latest nursing home ratings for Mount St. Josephs Nursing Home, available at Medicare.gov and MSJ's results are as follows:

<b>Mount St. Joseph Nursing Home</b>	
<b>Nursing Home Compare Ratings</b>	
<b>Category</b>	<b>Ratings</b>
Overall	Above Average
Health Inspections	Average
Staffing	Above Average
Quality Ratings	Above Average

MSJ scored average or above in all categories rated by CMS, with an overall rating of "Above Average". A survey was completed on November 5, 2015 at MSJ. The result of the survey was the identification of one (1) deficiency. This deficiency was a Level 2 deficiency (minimal harm or potential for actual harm). The average number of health deficiencies during a survey in Maine is 3.2 and the average number of health deficiencies during a survey in the United States as a whole is 6.9.

Inspectors determined that the nursing home failed to:

- 1) Store, cook, and serve food in a safe and clean way.

This deficiency was corrected by November 27, 2015.

Post-closing Mercy Community Health (the applicant), a subsidiary of Trinity Continuing Care Services (TSLC) which owns or manages 54 nursing, assisted living and independent living communities, will become the sole member of MSJ.. TSLC is a subsidiary of Trinity Health which is one of the largest non-profit health care systems in the United States. The applicant provided a pre-closing and post-closing organizational chart illustrating the membership change occurring as a result of this transaction. This applicant is not currently licensed in Maine. CONU verified the CMS ratings and survey data of Mercy's current nursing facility, St. Mary Home, a 256 bed nursing home located in West Hartford, CT. The latest nursing home ratings available at Medicare.gov and St. Mary's results are as follows:

St. Mary Home	
Nursing Home Compare Ratings	
Category	Ratings
Overall	Much Above Average
Health Inspections	Average
Staffing	Above Average
Quality Ratings	Much Above Average

St. Mary Home scored average or above in all categories rated by CMS, with an overall rating of "Much Above Average". A survey was completed on April 23, 2015 at St. Mary Home. The result of the survey was an identification of four (4) deficiencies. All four deficiencies were Level 2 (minimal harm or potential for actual harm) or below. The average number of health deficiencies identified during a survey in Connecticut is 7.8; the average number of health deficiencies in the United States as a whole is 6.9.

Inspectors determined that the nursing home failed to:

- 1) Provide necessary care and services to maintain the highest well-being of each resident.
- 2) Make sure that residents receive treatment/services to not only continue, but improve the ability to care for themselves.
- 3) Keep the rate of medication errors (wrong drug, wrong dose, wrong time) to less than 5%.
- 4) Store, cook, and serve food in a safe and clean way.

All deficiencies were corrected by May 10, 2015.

The applicant has demonstrated their ability to maintain services at the proper standard of care in other states. In addition, MSJ has a record of providing quality care and an experienced staff that is likely to remain in place. However, due to the applicant's lack of history operating health care facilities in the State of Maine CONU recommends the following condition.

**Condition:** The applicant is to report improvements in quality outcome measures for services affected by the project on an annual basis within 90 days of its fiscal year end beginning with the

time period when the Certificate of Need was approved until a full three years have elapsed since the date of project completion. This report would include, among other elements:

- 1) MSJ's most recent standing under the CMS Medicare Compare 5 Star Quality Rating and steps MSJ has taken or will take to maintain positive indicators and improve average or below average indicators.
- 2) A summary of the results of periodic surveys of MSJ carried out by DLRS over the past year, and a description of the remedial measures taken to address the identified deficiencies.
- 3) An analysis showing key trends at MSJ relating to quality measures, along with a review of the quality improvement steps being undertaken.

**b) Economic Feasibility**

The applicant addressed this section by providing post-transaction five year financial projections for MSJ (2016 through 2020). These projections show positive net income for all five years. The underlying assumptions supporting these projections were prepared by the TSLC's accounting and consulting firm, Plante Moran, and are on file at CONU. CONU reviewed these underlying assumptions and believes they are both reasonable and conservative.

Post-transaction MSJ will be a member of the Trinity Health system, the second largest nonprofit health care system in the United States. Trinity Health system has significant financial resources. Based on the 2014 Audit report, Trinity has over \$4 billion dollars in cash and investments, total assets of 20.4 billion, and unrestricted revenues of \$13.5 billion. The applicant has the capacity to support MSJ financially in the event that financial projections do not meet expectations.

The applicant states that this project will not involve the addition of beds, capital expenditures or significant long-term borrowing during the first three years of operations post-transaction. The staffing at MSJ is not expected to either increase or decrease but benefits are likely to be moved to TSLC's standard benefits package. CONU requested that the applicant provide a pro-forma cost report that represents the changes occurring as a result of this transaction in order to demonstrate MaineCare neutrality. CONU reviewed the underlying assumptions used in the preparation of this cost report and found them reasonable. Certain administrative costs are projected to increase, however, this will have no immediate effect on reimbursement as they are subject to a cost cap. As of July 1, 2016 all nursing facilities in the State of Maine will go through a rebasing per the Principles of Reimbursement for Nursing Facilities. The effect of this reimbursement on Mt. St. Joseph and other Maine nursing homes is unknown at this time. Future reimbursement will ultimately be determined by DHHS Rate Setting and DHHS Audit. The increase in SNF/NF care as well as 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.

Due to the applicant's limited history operating health care facilities in the State of Maine CONU recommends the following condition:

**Condition:** The applicant is to report financial results of the project on an annual basis to coincide with the filing of its MaineCare cost report beginning with the time period when the Certificate of Need was approved until a full three years have elapsed since the date of project completion. This report would include, among other elements:

- 1) A summary income statement and a narrative comparison with the projections set forth in the application.
  - 2) A summary of management's plan to sustain or improve operating results in the next twelve months. The summary would include specific measures recently implemented or those planned to be implemented to assure the ongoing economic viability of the facility.
- c) **Public Need**

In order to determine public need, CONU reviewed the demographic and service use trends in MSJ's service area (Kennebec County, Maine). CONU utilized the Older Adults with 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://www.quickfacts.census.gov>.

Kennebec County is located in central Maine. According to the 2015 census it has a population of 121,112. Approximately 17.7% of the population is 65 and over. The 65 and over population is expected to experience a 54.4% growth rate between 2010 and 2022. This coincides with the State of Maine as a whole where the 65 and above population continues to grow at a rate faster than New England and the United States as a whole. Statewide nursing home utilization declined between 2000 and 2008 but leveled off in 2010. The average monthly number of people in case mix residential care facilities grew 30% during this same time period. CONU prepared a

summary of occupancy data for MSJ and other Kennebec County nursing and residential care facilities using the latest data available.

MSJ's occupancy rates for both nursing and residential care services compare favorably with other providers at 88.29% for nursing and 100% for residential care services. Data submitted by the applicant shows average occupancy of 92.3% for nursing and 93.6% residential care services between 2013 and 2015. The latest average occupancy for Kennebec County is 89.07% for nursing and 94.8% for residential care services. The demographics and occupancy data from Kennebec County clearly demonstrate a need for nursing and residential care services in this area.

What differentiates this applicant from other nursing homes is that MSJ is one of only three providers in the State of Maine who offer gero-psychiatric beds and the only one operating in the Kennebec County service area. The applicant provided a copy of a legislative study committee report entitled Commission to Study Difficult-to-Place Patients stating that there is a shortage of this gero-psychiatric capacity in the State.

Retaining needed SNF/NF, residential care and gero-psychiatric services will have a positive impact on the health status indicators of the population to be served.

No services will be affected by this project and nursing, residential and gero-psychiatric services will be accessible to all residents in the area.

MSJ has consistently achieved high rankings in the CMS nursing home compare ratings. Although there will be a change in ownership, current staffing will be essentially unchanged.

**d) Orderly and Economic Development**

This project does not involve capital expenditures, new or increased service levels or the addition of licensed beds. As stated by the applicant this transaction will not require any significant changes in staffing levels or significant changes in employee benefits or wages. The current reimbursement rates are not expected to change until nursing facility rebasing occurs after July 1. This transaction will not require additional state funding. Continuing needed services in the community, in particular gero-psychiatric services will result in orderly and economic development. Given the facilities occupancy rate and specialized services it is unlikely that more effective, more accessible or less costly alternative technologies or services will become available.

**e) Outcomes and Community Impact**

The applicant is assuming control of an existing facility. Continuing necessary services in the current geographic area will have a positive impact on the quality of care. The existing scope of services will not be changed. Continuation of current programs and quality improvement initiatives will ensure high-quality outcomes. Since there will be no change in services and a no

change in the number of licensed beds, existing service providers will not be negatively impacted.

**f) Service Utilization**

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. This project does not involve an increase in either Nursing or Residential Care beds and does not propose to implement new programs or services. Therefore there will be no inappropriate increase in service utilization.

**VI. CONCLUSION**

For all the reasons set forth in the Preliminary Analysis and in the record, CONU concludes that the review standards have been satisfied. CONU recommends the approval of the CON.

**VII. RECOMMENDATION**

CONU recommends that this application be **Approved with Conditions.**