

**PROPOSED AFFILIATION BETWEEN
RANNIE WEBSTER FOUNDATION
AND
SILVERSTONE BY HUNT**

REPORT OF THE DIRECTOR OF CHARITABLE TRUSTS

March 29, 2023

I. INTRODUCTION

On November 17, 2022, Rannie Webster Foundation (“RWF”) and Rannie Webster Holding Corporation (“RWHC”) submitted to the New Hampshire Department of Justice, Charitable Trusts Unit (“CTU”) a notice of a proposed change in control pursuant to RSA 7:19-b (“[Notice](#)”).¹ Under the proposal, RWF and RWHC will merge into a single entity, and SilverStone by Hunt d/b/a SilverStone Living (“SilverStone”) will become the sole corporate member of that merged entity. This report describes the proposed affiliation and the conclusions of the Attorney General, Director of Charitable Trusts (the “Director”)

A. The Parties²

1. Rannie Webster Foundation and Rannie Webster Holding Corporation

When Rannie Webster, a businesswoman who summered in Rye, New Hampshire, passed on in 1976, she left funding in her will to create a place of rest and recuperation. To achieve Ms. Webster’s charitable purpose, RWF’s founders incorporated as an RSA 292 voluntary corporation to provide a home for seniors who were “by reason of old age, accident, or bodily infirmity, or through lack of means...unable to properly and adequately provide for their own care, subsistence and needs.” 1976 Articles of Agreement, Article II, Paragraph (a)(1). RWF’s principal purposes are “to provide care for aged men, women and couples [and] to promote the general charitable purposes of Rannie Webster, as directed by her Will.” 2006 Amended and Restated Articles of Agreement, Article II, paragraph 1. RWF is a charitable organization within the meaning of RSA 7:21, II (b) and is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code.

RWF owns and operates Webster-at-Rye, a licensed nursing home and assisted living community located in Rye, New Hampshire. This facility currently has 61 skilled nursing beds, 54 assisted living beds, and 25 memory care beds. It employs 122 staff. RWF is governed by a board of trustees consisting of 5 to 15 trustees elected by the board.

¹ The Notice and accompanying documents, as well as the response to the Director’s request for additional information is available on the Department of Justice [website](#).

² Information about the parties is drawn from the [Notice](#), as well as the websites of [Webster-at-Rye](#) and [SilverStone Living](#).

The RWF Board established RWHC as an RSA 292 voluntary corporation in 2006.³ RWHC is the sole corporate member of RWF.⁴ RWHC is a charitable organization within the meaning of RSA 7:21, II (b) and is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code.⁵ The 5-member RWHC board is made up of the RWF executive committee (Chairman, Vice Chairman, Treasurer, and Secretary), as well as one other member of the RWF Board of trustees. The RWF Board created RWHC at a time when it envisioned developing a separate continuing care retirement community, but that project never materialized.

Both RWF and RWHC are registered and in good standing with the CTU.

2. SilverStone by Hunt

SilverStone is the parent company of the Hunt Community and the Huntington at Nashua, two CCRCs located in Nashua. SilverStone has served the Nashua community under various names since 1895. Philanthropist John M. Hunt provided the initial endowment that created the organization in the late 1800s.

SilverStone and its affiliated entities are RSA 292 voluntary corporations and are charitable organizations within the meaning of RSA 7:21, II(b). They are exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code and are registered and in good standing with the CTU.

a. The Hunt Community

Established in 1983, the Hunt Community provides independent residential care and living for the those aged 62 and up. In addition to residences, it provides social, recreational, educational, and cultural programs, as well as dining, fitness and wellness programs, and housekeeping. Assisted living and nursing care are also available.

The Hunt Community also offers the “At Home By Hunt” program, which provides services to adults who prefer to age in place. These services include personal wellness and care coordinators, home service providers, and emergency response.

³ The purpose of RWHC is “to obtain, manage and provide funding and services to Rannie Webster Foundation, Webster Continuing Care, and other subsidiary corporations...to provide a continuum of residential care for aged men, women and couples [and] to promote the general charitable purposes of Rannie Webster...” As discussed below, plans to establish Webster Continuing Care as a Continuing Care Retirement Community (“CCRC”) never came to fruition.

⁴ RWCH was formerly also the sole corporate member of Webster Continuing Care, an RSA 292 voluntary corporation established in an effort to create a continuing care retirement community (“CCRC”) close to Webster-at-Rye. The efforts to create this CCRC never came to fruition, and Webster Continuing Care dissolved in 2013.

⁵ The Articles of Agreement of RWF and RWHC are available on the New Hampshire Secretary of State’s [website](#).

b. The Huntington

The Huntington opened in 2000 to provide residential care to those aged 62 and up. It provides both independent and assisted living, and nursing care. It offers social, recreational, educational, and cultural programs, as well as dining, fitness, and wellness services.

B. The Proposed Affiliation

1. Background⁶

In recent years, RWF has experienced significant financial challenges. These challenges had multiple causes, including a decrease in its number of private pay residents, staffing difficulties, and large capital improvements. The COVID-19 pandemic has exacerbated these difficulties, especially with respect to staffing. Due to a large number of staff vacancies, RWF relied upon staffing agencies to fill roles, especially for nursing staff. This caused its nurse agency expenditures to rise dramatically from \$29,890 in FY 2019 to \$318,738 in FY 2022. Its nurse aide agency costs likewise rose significantly from \$70,885 in FY 2019 to \$1,319,502 in FY 2022.

The pandemic also impacted other aspects of RWF's finances, due to the added costs of testing and PPE, increased prices, delays of a planned expansion project, and declining resident numbers. The combined impact of these factors resulted in an FY 2020 net operating loss of approximately \$538,265, and an FY 2021 net operating loss of \$766,483. Staffing remained a challenge for RWF—with 30 open full-time positions in January 2022, it was forced to limit new admissions.

The RWF Board had, for many years, considered affiliation with other health care charitable trusts. In September 2020, the board received a solicitation to sell RWF, but did not pursue this option believing that a sale would only be consistent with the RWF mission if the organization was facing insolvency.

In March 2021, SilverStone approached RWF to discuss a potential affiliation. The organizations had a history of working together. When SilverStone created Hunt at Home in 2022, it had an agreement with RWF to provide skilled nursing services to Hunt at Home members in the seacoast area. Throughout 2021, executives and board members of RWF and SilverStone met on numerous occasions to discuss affiliation and tour each other's facilities.

At its April 28, 2022, meeting,⁷ the RWF Board determined that an affiliation was the organization's best means to complete its expansion project, tap the expertise of SilverStone's leadership, shore up the organization's finances, and further its charitable mission. At its May 26, 2022, meeting, the Board voted to move forward with affiliation discussions and set up a meeting with representatives of the

⁶ Descriptions of the background of the proposed transaction are drawn from the Notice, statements made at the September 29, 2022, Public Listening Session and February 8, 2023, Public Hearing, and conversations between the CTU and the RWF Board.

⁷ RWF provided [minutes of the Board's meetings](#), which have been posted to the CTU's website.

SilverStone Board. It established a due diligence committee to request and review information from SilverStone. The Board continued to discuss the affiliation at its June 16 and June 22, 2022, meetings, and executed a letter of intent on July 22, 2022. In December 2022, the parties executed an Interim Management Services Agreement through which SilverStone currently provides RWF with financial, technological, human resources, and other administrative and management support.

2. Summary of the Agreement and Affiliation Plan

In the first step of the affiliation, RWHC will merge into RWF, with RWF as the surviving entity.⁸ Once this merger is complete, RWF will amend its Articles of Agreement and Bylaws to make SilverStone the sole corporate member of RWF with certain enumerated reserved powers. RWF will continue to exist as an RSA 292 voluntary corporation, and its Board will retain its fiduciary duty to RWF and its charitable mission.

a. Board Membership

Upon closing, the RWF Board members will continue to serve their existing terms. Affiliation Agreement § 2.4.1. The President and CEO of SilverStone will serve on the RWF Board *ex officio* with no voting rights. Affiliation Agreement § 2.4.2. The SilverStone Governance Committee will nominate, and the SilverStone Board will elect, 3 additional members to the RWF Board within 30 days of closing. Affiliation Agreement § 2.4.3. As vacancies in the RWF Board arise, the SilverStone Governance Committee will nominate, and the SilverStone Board will elect, slates of members to fill those vacancies. Affiliation Agreement § 2.4.4. The RWF Board will have an opportunity to provide input on the SilverStone Governance Committee's nominations, which the SilverStone Governance Committee must consider in good faith. *Id.*

On or after closing, the RWF Board will be entitled to nominate 2 candidates to the SilverStone Board. The SilverStone Board will elect or reject the nominated candidates. If any nominated candidate is rejected RWF will nominate an alternative until its two allotted slots on the SilverStone Board are filled. The two RWF-nominated SilverStone Board members will also serve on the SilverStone Governance Committee. Affiliation Agreement § 2.5.⁹

b. Reserved Powers

As sole corporate member of RWF, SilverStone Board will have certain reserved powers. These include authority over:

⁸ This transaction is not a change-of-control transaction within the meaning of RSA 7:19-b because control of RWF will not change. RWHC is not a health care charitable trust as defined by RSA 7:19-b, I(d), because its purpose is to manage and provide funding and support services for RWF as a holding company, not to provide health care services. Even if RWHC did meet the definition of a health care charitable trust, its bylaws require that its Board be made up of the RWF Board's officers and trustees, so its merger into RWF will not meaningfully change control over RWHC's assets.

⁹ Counsel for RWF has confirmed that RWF's 2-member representation on the SilverStone Board will be equivalent to that of The Hunt Community and The Huntington.

- Appointment and removal of RWF Board members as outlined in 2.a. above.
- Approval of RWF contracts and expenditures exceeding 10% of the expenditures provided for in the RWF annual budget.
- Incurrence by RWF of indebtedness for borrowed money or approval to enter into any capital lease obligation where the annual amount of the obligation exceeds 10% of the expenditures provided for in the RWF annual budget.
- Sale or disposition of RWF's assets outside of the ordinary course of business, other than RWF's permanently restricted funds.
- Acquisition by RWF of any other entity or division thereof, outside of the ordinary course of business.
- Participation by RWF in any network, system, affiliation, joint venture, alliance, or similar arrangement with organizations other than SilverStone or one of its subsidiaries.
- Elimination by RWF of any line of business or any service or program with costs or revenues in excess of 1% of total budgeted revenue.
- Amendment of RWF's Articles of Agreement, Bylaws, or other governing documents.
- Selection of an auditor to examine RWF's financial records and present audit results at the annual meetings of the SilverStone and RWF Boards.

Affiliation Agreement § 2.3. In addition to the reserved powers of the SilverStone Board, the SilverStone CEO will have the authority to appoint, supervise, and evaluate the RWF Executive Director, determine the Executive Director's compensation, and terminate the Executive Director. Affiliation Agreement § 2.6.1. The RWF Board will provide the SilverStone CEO with input into these decisions. Affiliation Agreement § 2.6.1.4.

With the exception of these powers assigned to SilverStone by the Affiliation Agreement and summarized here, RWF will retain its independent existence and decision-making authority over its own affairs. This includes RWF's authority over its three donor-restricted funds, as well as any pre-Affiliation RWF Board-designated or benevolence funds and any post-Affiliation capital reserves. Affiliation Agreement § 2.7.4.

c. Support of RWF operations

SilverStone will provide administrative, financial, management, and operational support to RWF, for which RWF will pay a management fee pursuant to a Management Services Agreement. Affiliation Agreement § 2.7; § 2.6.2. For two years, SilverStone will also provide quarterly equity contributions to RWF in the amount of \$250,000 per quarter.¹⁰

¹⁰ Initially, the parties Agreement provided that SilverStone would extend a \$2,000,000 revolving line of credit to RWF. Affiliation Agreement § 2.7.1. Because RWF has an outstanding loan with HUD, HUD took

II. REVIEW BY THE DIRECTOR OF CHARITABLE TRUSTS

A. Overview

Under state law, RSA 7:19-b, the Director of Charitable Trusts of the Attorney General's office is charged with reviewing acquisition and change of control transactions involving healthcare charitable trusts and determining compliance with the statute's provisions. In making this determination, the Director is required to accept public comment and may conduct public hearings. RSA 7:19-b, IV.

The Director received RWF's Notice on November 18, 2022. After reviewing the Notice, the Director requested that RWF provide additional information and documentation, which RWF did on January 13, 2023. The Notice, associated documents, and supplemental information is available on the Charitable Trust Unit's website at <https://www.doj.nh.gov/charitable-trusts/rannie-webster.htm>.

On January 25, 2023, the Attorney General's Office issued a media release inviting public comment on the proposed transaction and announcing a public hearing on February 8, 2023, at the Rye Public Library. A link for remote participation in the hearing via videoconference was posted on the Charitable Trust Unit's website. Remote participants could watch and listen to the hearing and submit questions and comments to be answered live. The release also instructed members of the public how they could provide comments on the transaction to the Charitable Trusts Unit. The Director required that RWF and SilverStone shared the media release with their respective constituencies.

Approximately 10 people attended the hearing in person and 19 users watched via videoconference. A recording of the hearing is available on the Charitable Trust Unit's website at <https://www.doj.nh.gov/charitable-trusts/rannie-webster.htm>.

All comments at the public hearing were supportive of the transaction. One member of the public had questions about the impact of the transaction on local traffic patterns. The Charitable Trusts Unit did not receive any written public comments regarding the transaction.

On February 10, 2023, the Director of Charitable Trusts and Assistant Director of Charitable Trusts met via videoconference with four members of the RWF Board. These members demonstrated thorough understanding of the Affiliation Agreement and clearly articulated their reasoning for selecting SilverStone as an affiliation partner. They had been deeply engaged in the affiliation process and took seriously their duty as board members to be informed and attentive to the needs of RWF and the community it serves.

The board members explained that RWF had discussed potential affiliation with eight or nine other entities in recent memory. The board members wanted to partner

the position that RWF could not incur additional indebtedness through the planned revolving line of credit. The parties thus amended their Affiliation Agreement to provide for quarterly equity contributions in lieu of the revolving line of credit. Letter from Attorney Andrew B. Eills to Director of Charitable Trusts (January 13, 2023) at 5.

with another nonprofit entity, preferably one that was based in New Hampshire. They also wanted to structure an affiliation in a manner that would preserve some independence and local control by RWF, rather than a buyout. The board members were impressed by SilverStone's leadership and community and believed that there was close cultural alignment between RWF and SilverStone.

The board members explained that their affiliation process had been informed by their review of previous change-of-control transactions. Early in their affiliation process, members of the board requested copies of previous reports of the Director of Charitable Trusts on change-of-control transactions and sought guidance from the Director regarding their fiduciary duties. They considered these past reports, as well as the Director's [Report on the Governance of LRGHealthcare](#), in negotiating the terms of their agreement and communicating their decision to the RWF community.

The RWF Board also spoke extensively about their efforts to integrate with SilverStone following the submission of their notice to the Director of Charitable Trusts. The board was aware of at least five or six occasions in the previous month when SilverStone leadership had met with RWF staff and reported that all RWF attendees at these meetings were pleased by their experience with SilverStone. The board remained satisfied with its decision to pursue affiliation with SilverStone.

In conducting its review of the affiliation transaction under RSA 7:19-b, IV, the Charitable Trusts Unit reviewed the Notice and all documents appended thereto, the supplemental information provided by RWF in response to requests from the Charitable Trusts Unit, the information provided by RWF and SilverStone at the listening session and public hearing, comments from the public, and input from the Department of Health and Human Services and the Insurance Department.¹¹

After completing its review, the Charitable Trusts Unit has determined that the Notice complies with RSA 7:19-b and will take no action to oppose the proposed transaction between RWF and SilverStone, subject to the representations and conditions set forth in this report.

B. Application of the Review Standards under RSA 7:19-b

The proposed transaction constitutes a change of control under the change-of-control statute, RSA 7:19-b, because SilverStone will become the sole corporate member of RWF with substantial reserved rights, including the power to elect a majority or more of the membership of RWF's governing body. See RSA 7:19-b, I.

1. RSA 7:19-b, II(a): Permitted by Law

RSA 7:19-b, II(a) provides:

¹¹ As discussed in greater detail below, the Department of Health and Human Services expressed an interest in ensuring that RWF would not withdraw from participation in the NH Medicaid program as a result of the transaction. The Insurance Department sought assurances that the transaction would not bring RWF within the definition of a Continuing Care Retirement Community.

The proposed transaction is permitted by applicable law, including, but not limited to, RSA 7:19-32, RSA 292, and other applicable statutes and common law;

The proposed transaction does not implicate the doctrines of *cy pres* or deviation because SilverStone—the entity that will become RWF’s sole corporate member—is another charitable nonprofit organization with a substantially similar purpose. RWF holds donor-restricted funds, but pursuant to the Affiliation Agreement, RWF will retain sole control over those funds. Court approval under the doctrine of *cy pres* or deviation will not be required.

2. RSA 7:19-b, II(b): Due Diligence

RSA 7:19-b, II(b) provides:

Due diligence has been exercised in selecting the acquirer, in engaging and considering the advice of expert assistance, in negotiating the terms and conditions of the proposed transaction, and in determining that the transaction is in the best interest of the health care charitable trust and the community which it serves;

a. Selection of the Acquirer

RWF did not solicit its affiliation partner through a formal request for proposals or other similar method. However, as discussed above, RWF had, in recent memory, discussed potential affiliations with eight or nine other entities. In seeking an affiliation partner, the RWF Board had in mind that it wanted to partner with another nonprofit, rather than a for-profit, that it preferred to partner with a New Hampshire entity, and that it needed a partner with a compatible mission. The RWF Board’s meeting minutes show that these principles guided the Board’s selection process over the course of multiple years.

Once the RWF Board voted in May 2022 to pursue affiliation with SilverStone, the Board established a due diligence committee to request and review documents from SilverStone. The RWF Board’s 6-page list of documentation that it requested from SilverStone evidences a commitment to evaluate its potential partner in depth. This list, which is available on the [CTU’s website](#) as part of RWF’s response to the CTU’s request for information, includes documentation on SilverStone’s structure, property, operations, finances, and patient and employee satisfaction.

The RWF Board’s meeting minutes further show that even after identifying SilverStone as a potential partner, the trustees continued to consider the organizations’ cultural compatibility and SilverStone’s financial stability. At its May 26, 2022, meeting, the Board established a due diligence committee to request and review information from SilverStone. Members of the RWF Board also visited SilverStone facilities and discussed the affiliation with SilverStone management and Board members on multiple occasions throughout the affiliation process.

b. Use of Expert Assistance

The RWF Board sought the expert assistance of the following:

- Keith Robertson, Zeigler Investment Banking¹²
- Aaron Becker, Lument Consulting
- Andrew B. Eills, Sheehan Phinney Bass & Green, P.A.¹³

These experts provided the RWF Board with assistance on financing, legal and regulatory compliance.

In addition, representatives of RWF contacted the CTU several times throughout this process for guidance. The CTU impressed upon RWF representatives the importance of consulting legal counsel and provided RWF with reports of prior transactions. This guidance informed the RWF Board's due diligence in determining what information to solicit from SilverStone and what factors to consider in the proposed affiliation.

c. Negotiating the Terms and Conditions

Meeting minutes of the RWF Board show a particular focus on ensuring that RWF retain meaningful decision-making authority. According to the minutes, the RWF CEO and Attorney Eills were the primary negotiators with SilverStone. The RWF Board, however, was actively involved in discussing and reviewing agreement terms. As part of its review, the CTU questioned RWF Board members about numerous specific terms of the agreement. The Board members understood the impact of all terms discussed and articulated reasons why they believed those terms to be in the best interest of RWF.

d. Best Interests of the Health Care Charitable Trust and the Community it Serves

Pursuant to the Affiliation Agreement and Management Services Agreement, RWF will benefit from the leadership and expertise of SilverStone's management team. RWF employed a CEO (who retired in December 2022), an Executive Director/Human Resources Director, and a Director of Nursing. SilverStone's management team includes a CEO, a CFO, a Human Resources Director, and a VP of Sales and Marketing. Its business office employs 4 staff, its HR department employs 4 staff, and its sales office employs 5 staff. Letter from Andrew B. Eills to Director of Charitable Trusts (January 13, 2023) at 4. The RWF Board determined—and there is no evidence to the contrary—that RWF will benefit from the additional administrative capacity that the Affiliation will provide. RWF will also benefit from economies of scale, enabling it to

¹² Mr. Robertson's presentation to the Board of Directors is included in materials RWF provided in its response to the Director's request for information and is posted to the [CTU's website](#).

¹³ Minutes of the RWF Board's July 28, 2022, meeting include an outline of the presentation Mr. Eills gave to the Board on the affiliation process and the legal requirements of the Director's review.

manage its operations at lower cost than if it contracted individually for these management services. *Id.* at 4–5.

In addition, the RWF Board has expressed optimism that SilverStone will assist in addressing RWF’s severe staffing shortfalls. These shortfalls have compromised RWF’s efforts to increase its resident numbers and could pose a risk to RWF’s ability to provide quality care. It was appropriate for the RWF Board to conclude that leveraging SilverStone to address RWF’s staffing challenges would be in the best interests of RWF and the community it serves.

When asked to provide input on the proposed affiliation, the New Hampshire Department of Health and Human Services expressed an interest in ensuring that RWF would not withdraw from participation in the NH Medicaid program as a result of the transaction. In its Notice, RWF stated, “RWF traditionally has served individuals in the Seacoast area who rely upon Medicaid coverage, and the Affiliation will foster this by enhancing retention and recruitment of staff, thereby increasing revenue growth by which Webster-at-Rye can continue to serve the Medicaid population.” Notice at 16.

The New Hampshire Insurance Department sought assurances that the affiliation would not bring RWF within the definition of a Continuing Care Retirement Community. In its response to the Director’s request for information, counsel for RWF stated, “Webster-at-Rye is not a CCRC, nor will this affiliation bring RWF within the definition of a CCRC.” Letter from Attorney Andrew B. Eills to Director of Charitable Trusts (January 13, 2023) at 6.

Beyond the above, only two aspects of the Affiliation Agreement raise potential concerns for the CTU. First, although RWF will remain an independent entity, the SilverStone Governance Committee will nominate, and the SilverStone Board will elect, the RWF Board’s membership. In similar prior transactions reviewed by the CTU, the Boards of acquired entities tend to retain nomination authority over their membership, subject to the ultimate election of those members by the acquiring entity. Although the RWF Board may “provide input” on SilverStone’s nominations under section 2.4.4 of the Affiliation Agreement, the lack of nominating authority raises potential concerns about RWF’s ability to retain meaningful local control.

Second, the Affiliation Agreement provides for three circumstances under which the affiliation may be terminated post-closing: by mutual consent, due to material and uncured breach, and due to material change in law or regulation. Affiliation Agreement § 6.3. In addition to these bases for termination, the Affiliation Agreement further provides for review of the affiliation every five years, with the possibility that the affiliation could be terminated as a result.¹⁴ The RWF Board articulated its reasoning for including this term in the Affiliation Agreement. Because of the disruptive effect that disaffiliations have on health care charitable trusts and the communities they serve, it is preferable that they be avoided if possible.

¹⁴ Such a disaffiliation would result in a change of control of RWF and be subject to review by the Director pursuant to RSA 7:19-b. *See, e.g.,* [Report of the Attorney General, Charitable Trusts Unit on the Withdrawal of Littleton Hospital Association, Inc. from North Country Healthcare, Inc.](#)

Thus, although the CTU believes that the RWF Board exercised its best efforts to negotiate an agreement that is in the best interests of RWF and the community it serves, additional safeguards are required to ensure that the commitments made by the parties are enforceable. The requirement of RSA 7:19-b, II(b) is, therefore, satisfied only subject to the representations and conditions in this report.

3. RSA 7:19-b, II(c): Conflicts of Interest

RSA 7:19-b, II(c) provides:

Any conflict of interest, or any pecuniary benefit transaction as defined in this chapter, has been disclosed and has not affected the decision to engage in the transaction;

The members of the RWF and RWHC Boards confirmed in their October 27, 2022, certification to the Director that “[a]ny conflict of interest has been disclosed and has not affected the decision to enter into the Transaction, and the Transaction does not constitute or establish any pecuniary benefit transaction as defined by RSA Chapter 7.”¹⁵ There is no evidence or suggestion to contradict the certification provided by the board members with respect to conflicts of interest and pecuniary benefit transactions.

As outlined in a [February 13, 2017 opinion letter by the Director of Charitable Trusts](#), complex issues can arise when one charitable organization exercises control over another organization’s governance and operations as its sole corporate member. Although there is no evidence of current conflicts, RWF and SilverStone must have in place adequate procedures, and provide their Boards with adequate training to address these issues when they arise in the future. The requirement of RSA 7:19-b, II(c) will, therefore, be satisfied only subject to these conditions.

4. RSA 7:19-b, II(d): Fair Value Transaction

RSA 7:19-b, II(d) provides:

The proceeds to be received on account of the transaction constitute fair value therefor;

The proposed affiliation does not involve compensation or consideration, and RSA 7:19-b, II (d) therefore is inapplicable to the proposed affiliation.

5. RSA 7:19-b, II(e): Use of Charitable Assets

RSA 7:19-b, II(e) provides:

The assets of the health care charitable trust and any proceeds to be received on account of the transaction shall continue to be devoted to

¹⁵ This Certification was appended to the Notice and is posted to the [CTU's website](#).

charitable purposes consistent with the charitable objects of the health care charitable trust and the needs of the community which it serves;

The proposed transaction involves charitable organizations with substantially similar charitable missions. Under the terms of the Affiliation Agreement, RWF will retain its separate corporate identity with its own board of directors. Pursuant to Section 2.7.4 of the Affiliation Agreement, RWF's board will remain in control of all of its pre-Affiliation donor-restricted funds, as well as all pre-Affiliation Board-designated or benevolence funds, and any post-Affiliation capital reserves. Under the Affiliation Agreement, these funds will continue to be dedicated, available for use, and used exclusively for the support of the RWF communities as identified in each fund's applicable restriction.

In its response to the Director's request for supplemental information, RWF identified three donor-restricted funds. Two of these funds—the Fiscal Prudence Fund and the Residents' Assistance Fund—were created pursuant to a June 24, 1992, Consent Decree (Super. Ct. No. 88-E-219, the "Consent Decree").

The requirement of RSA 7:19-b, II(e) will, therefore, be satisfied provided that the parties honor their commitment in the Affiliation Agreement to keep RWF in control of these funds, and provided that RWF remain in compliance with the Consent Decree and any subsequent court orders regarding the Consent Decree.

6. RSA 7:19-b, II(f): Control of the Proceeds

RSA 7:19-b, II(f) provides:

If the acquirer is other than another New Hampshire health care charitable trust, control of the proceeds shall be independent of the acquirer;

The proposed affiliation does not involve a non-New Hampshire health care charitable trust, and RSA 7:19-b, II (f) therefore is inapplicable.

7. RSA 7:19-b, II(g): Notice and Hearing

RSA 7:19-b, II(g) provides:

Reasonable public notice of the proposed transaction and its terms has been provided to the community served by the health care charitable trust, along with reasonable and timely opportunity for such community, through public hearing or other similar methods, to inform the deliberations of the governing body of the health care charitable trust regarding the proposed transaction.

On September 26, 2022, the parties issued a joint press release announcing the proposed affiliation. They held a public listening session on September 29, 2022, from 6:00 pm to 7:20 pm. In addition to the news release the parties informed stakeholders of the proposed transaction via personally delivered letters and by contacting residents, donors, and community partners of RWF, The Hunt Community, and the Huntington at Nashua. Attendees participated in the event both in-person and via

videoconference. Approximately 65 people attended. Attendees were permitted to ask questions and share comments. In response to comments at the listening session, the parties amended their Affiliation Agreement to add Section 2.4.5, clarifying that RWF would continue to employ the “Webster-at-Rye” trade name. RWF satisfied the requirements set forth in RSA 7:19-b, II(g)

III. CONCLUSIONS AND DETERMINATION

After reviewing the evidence, the Charitable Trusts Unit concludes that RW’s decision to affiliate was informed and based on reasonable beliefs that the affiliation would further RWF’s charitable mission and would be in the best interests of the communities served by RWF.

Although the Charitable Trusts Unit has concluded that RWF has substantially complied with the minimum standards for changes of control set forth in RSA 7:19-b, II, the Charitable Trusts Unit’s decision to take no action to oppose the plan of reorganization is subject to the following representations and conditions:

A. Representations

1. Completeness of the Notice and Plan of Reorganization:

RWF and SilverStone represent that the statements and documents made or provided in the Notice and the documents thereafter submitted to the Director are true and correct and that the affiliation will be implemented in accordance with the Notice and documents submitted in response to the Director’s requests for information.

2. Conflicts of Interest:

There are no conflicts of interest or pecuniary benefit transactions involving directors or officers of RWF or SilverStone contemplated as part of the Affiliation Agreement.

3. Continuing Care Retirement Community Status

Consistent with RWF’s January 13, 2023, response to the CTU’s request for information, the transaction will not bring RWF within the definition of a Continuing Care Retirement Community (“CCRC”) under RSA Chapter 420-D and N.H. Admin. R. Ch. Ins 1800.

B. Conditions

1. Fiduciary Duties

As the sole corporate member of RWF, SilverStone shall serve as a fiduciary of RWF when exercising its rights pursuant to its reserved powers. See [February 13, 2017, Opinion Letter by the Director of Charitable Trusts](#).

2. Board Member Training

Within 3 months of initiating concurrent board service, those persons who serve concurrently on the boards of directors of RWF and SilverStone shall undergo training with respect to their fiduciary duties to each organization and with respect to identifying and resolving any potential conflicts of interest. This training shall, at minimum, address the issues identified in the [February 13, 2017, Opinion Letter by the Director of Charitable Trusts](#).

3. Conflict of Interest Policy

Within 3 months of closing, RWF and SilverStone will update their respective conflict of interest policies to address conflict of interest issues that may arise as a result of concurrent board service and will submit those policies to the Director.

4. Amendment of Governing Documents

The articles of agreement and bylaws of RWF and SilverStone shall be amended and restated as set forth in the Notice. For a period of 5 years, the RWF governing documents shall not be amended if the purpose or effect of the amendment would substantially change or frustrate any term agreed upon by the parties in their Affiliation Agreement.

5. Participation in NH Medicaid

Consistent with RWF's representations in its Notice, RWF will continue to participate in NH Medicaid and serve the Medicaid population.

6. RWF Board Nominations

No fewer than 66.6 percent of the Members of the RWF Board nominated by the SilverStone Board Governance Committee pursuant to paragraphs 2.4.3 and 2.4.4 of the Affiliation Agreement shall represent the community of Webster-at-Rye, the Town of Rye, or its surrounding local community. A member will satisfy this requirement if he or she (1) is a current or former resident of Webster-at-Rye; (2) has a close personal or familial relationship with a current or former resident of Webster-at-Rye; (3) is a former employee of Webster-at-Rye; (4) is a current or former volunteer of Webster-at-Rye; (5) lives or works in Dover, Greenland, Durham, Exeter, North Hampton, Hampton, New Castle, Portsmouth, Rye, and Stratham (collectively, the "Seacoast Communities"; or (6) has another equivalent connection with Webster-at-Rye or the Seacoast Communities.

7. Webster-at-Rye Served Community

RWF and SilverStone shall establish and maintain systems to regularly solicit and respond to the input and feedback of the community served by Webster-at-Rye through the RWF Resident Council or other means. It is understood that the served community includes individuals whose capacity to provide direct feedback and input may be limited. The parties should make best efforts to identify alternative appropriate

methods to ensure that the interests of any individuals with such limitations may be heard by the governing bodies of RWF and SilverStone.

8. Charity Care

Following the affiliation, no changes shall be made to the RWF charity care policy that would render it any less generous than the policy currently in place. The affiliation shall not alter RW's obligations to comply with the June 24, 1992, Consent Decree (Super. Ct. No. 88-E-219, the "Consent Decree") and any subsequent court orders regarding the Consent Decree.

9. Disputes

For a period of 5 years from the closing, RWF will notify the Director of Charitable Trusts should a dispute arise that requires resolution pursuant to Section 7 of the Affiliation Agreement.

10. Disaffiliation

Any disaffiliation under paragraph 6.3, 6.4, 8.11, or any other applicable provision of the Affiliation Agreement shall be considered a change-of-control transaction subject to review by the Director of Charitable Trusts under RSA 7:19-b.

11. Closing

RWF shall give notice to the Director of Charitable Trusts upon completion of the closing of the proposed transaction.

This no further action report concerns the review of the Director of Charitable Trusts pursuant to RSA 7:19-b and does not implicate the jurisdiction of any other bureau of the New Hampshire Department of Justice which may also have a role in reviewing this proposed transaction.