

Loudoun VA PropCo
Expand Loudoun RHC, Add Four Beds
COPN Request VA-8773

HSANV Evaluation and Recommendation

Informal Fact-Finding Conference

September 30, 2024



Recommendation

COPN Request VA-8773 – Denial

- Loudoun VA PropCo (Loudoun) seeks COPN authorization to add four (4) nursing home beds.
- The application was accepted for review under the 2013 amendment to the Virginia COPN statute (HB 2292) permitting consideration of qualified COPN applications outside the nursing home RFA process.
- HSANV Board of Directors reviewed the application on September 9, 2024.
- HSANV recommends denial of the application, based on several findings and conclusions:
 - Northern Virginia (PD 8) has hundreds of unused nursing home beds, the largest nursing home bed surplus in Virginia. There is no public need, or justification, for a capital expense to develop new nursing home beds.
 - The Loudoun argument that there is a quantified need for hundreds of additional nursing home beds in PD 8 is based on the flawed “calculated need” projection contained in the 2020 nursing home request for applications (RFA). That does not comport with reality, with common sense, or with the public interest.
 - The calculation Loudoun relies on is based on outdated data (2014 use rates) and flows from a public need determination methodology that is deficient, misleading as used, and subject to abuse. Contrary to the applicant’s assertion, adding nursing home beds at Loudoun, or elsewhere in the planning region, is not needed to improve access to care. The applicant’s contention that there is a shortage of nursing home beds in PD 8 is wrong.
 - The project would be of economic benefit to Loudoun and its private equity owners, but would be of little, if any, public value or benefit.

Recommendation

COPN Request VA-8773– Denial

- The potential service improvements cited by the applicant as benefits of the project are coincidental, not derivative of or dependent on the bed expansion proposed. They can be undertaken outside the COPN process, without expanding licensed bed capacity unnecessarily.
- The proposal is not consistent with the applicable provisions of the Virginia State Medical Facilities Plan governing the expansion of nursing homes. Specifically, it conflicts with Section 12VAC5-230-620 of the plan.
- Recent and projected demand for nursing home services in Virginia Planning District 5 (PD 5) and Virginia Planning District 8 (PD 8) indicate that the beds proposed for transfer from PD 5 to PD 8, should remain in Planning District 5. Compare historic and use rates, capacity, occupancy, and trends
- The PD 8 use rate and facility occupancy are much lower than PD 5. These are enduring secular trends--30 years plus..

Flawed Bed Need Calculation

(see HSANV 9/3/2024 Staff Report, pp. 8-10)

- The RFA bed need calculation performed by DCOPN in accordance with the request for applications (RFA) planning methodology is not dispositive and is not represented to be by DCOPN, the Commissioner of Health, or the Virginia Board of Health. As several of the more recent RFA notices show the nursing home bed need calculation is unreliable and, consequently subject to misunderstanding, misuse and abuse by those who would benefit economically.
- Over the last 14 years (2008 to 2022), the RFA calculations have projected a net need for more than 3,000 additional nursing home beds in Northern Virginia. None were needed. PD 8 use rates and average occupancy have decreased steadily throughout the period.
 - The RFA for 2008 projected a need for 868 beds in PD 8. No call statewide or in NV (low occupancy)
 - The RFA notice for 2015 found a need for 1,059 beds in PD 8. No call statewide or in NV (low occupancy)
 - The RFA notice for 2017 found a need for 976 beds in Northern Virginia. No call for NV (low occupancy)
 - (Note: an RFA was issued for 30 beds in PD 18.)
 - The RFA notice for 2019 found a surplus of 259 beds in Northern Virginia. No RFA issued statewide.
 - The RFA notice for 2020 found a surplus of 41 beds in Northern Virginia. Northern Virginia average Medicaid occupancy was 86.5%. No RFA issued statewide.
 - The RFA notice for 2021 projected a need for 362 beds in Northern Virginia. Northern Virginia average Medicaid occupancy was 86.0%. No RFA issued statewide. Heritage Hall-Leesburg permitted to add 30 beds
 - The RFA Notice for 2022, the most recent, projects a need for 284 beds in Northern Virginia.
- These arithmetic gyrations, and wildly conflicting bed need projections, result from calculations using the Virginia State Medical Facilities Plan (SMFP) bed need formula. They reflect data limitations, particularly reliance on dated age-specific nursing home use rates, and a need determination methodology that is not compatible with a rapidly changing market characterized by sustained age-specific use rate decreases. Because a static use rate, rather than a dynamic trended rate, is used, the prescribed calculation necessarily overstates likely demand. The overstatement is greater in areas, such as northern Virginia, where use rate decreases are more substantial and sustained.

Misplaced Reliance on Problematic Nursing Home Bed Need Methodology

- Loudoun cites the bed need calculations contained in the nursing home request for applications (RFA) published in May of 2020. Taken at face value, the current (2020) RFA can be read to suggest that there is a need for several hundred (284) additional nursing home beds in PD 8 in 2022, increasing to more than 600 beds in the next three years.
- Unfortunately, the bed need formulation and associated calculations, which are the weaker elements of the public need methodology, are unreliable, misleading, and subject to abuse.
- Among other deficiencies, the data used in the calculation is outdated (2014 age group specific nursing home use rates), is static (ignores pronounced negative use rates trends statewide), and is not related to other planning considerations, market dynamics and PD specific variation.
- Over the last decade and a half (2004 - 2018), the Northern Virginia nursing home patient day use rate decreased from 753 to 626 days per 1,000 population (16.9%), compared with a decrease from 3,726 to 3,493 days per 1,000 (6.3%) in PD 5. The use rate decrease in PD 8 has been nearly three times that of PD 5.
- These patterns and trends are not attenuating; over the last four years the rate of decrease was 17.7% in PD 8 compared with 7.3% in PD 5. The compound annual growth rate in PD 8 was -3.5% compared with -1.1% in PD 5.
- Given this underlying reality, it is illogical, and ultimately counterproductive to shift capacity from PD 5 (an area of relative stability) to PD 8 (an area of eroding demand).
- Since 2014 nursing home use rate in PD 5 has been relatively stable, whereas the comparable rate in PD 8 has continued to decrease steadily

Access - Physical

- Nursing home capacity is well distributed in PD 8, generally consistent with population distribution, use rates, and medical trade patterns. There is no underserved region in the planning district
- Northern Virginia is a net importer of nursing home patients; prospective patients are not forced to travel outside their communities for care.
- Loudoun can convert existing beds to private rooms, and otherwise enhance services, outside of COPN review at any time it pleases.
- No need for additional capacity to improve access.

Cost Considerations

- Nearly \$ 2.0 million in unnecessary, potentially wasteful capital and financing costs.
- The large majority (at least three-fourths) would be paid by Medicare & Medicaid
- By almost any measure, it is likely that this project, if authorized, would prove to be a corporate economic windfall with no discernible public benefit. Chart differential about \$45 per patient day (Medicaid).

COMMONWEALTH of VIRGINIA
 Department of Medical Assistance Services
 Rates are Final

Facility	CCC Plus Region	Assigned Direct Rate Peer Group	Assigned Indirect Rate Peer Group	FY25 Total Case Mix		FY25 Total Indirect Rate (B)	Capital Rate (C)	NATCEP PFY21 Rate Inflated to FY24 (D)	CRC PFY21 Rate Uninflated (E)	Total Reimb Rate
				Neutral Rate July 1, 2024 - June 30, 2025** (A)	Direct Rate July 1, 2024 - June 30, 2025 (E)					w/Case Mix Neutral Direct Rate July 1, 2024 - June 30, 2025 (A+B+C+D+E)
Friendship Manor - North	Roanoke and Alleghany	Urban4	Urban4	\$160.18	\$106.03	\$23.53	\$0.01	\$0.04	\$289.79	
Loudoun Rehabilitation and Nursing Center	Northern and Winchester	Urban3	Urban3	\$169.25	\$121.95	\$43.31	\$0.02	\$0.01	\$334.54	

Nursing Home Use Rates, PD 8 & PD 5 Facility Based Rates, 2013 - 2022

Virginia Nursing Home Residents 2013 - 2022											
Nursing Home Residents per 1,000 Population (Total): PD 8, PD 5, Virginia Statewide											
<i>Planning District (PD)</i>	<u>Year</u>										<i>CAGR*</i>
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	<i>2013-2022</i>
Northern Virginia (PD 8)	1.50	1.53	1.45	1.45	1.32	1.27	1.37	1.16	1.12	1.21	-2.36%
Roanoke Valley-Alleghany (PD 5)	7.76	7.93	7.82	7.79	7.83	7.41	7.55	7.28	5.43	7.07	-1.03%
Virginia	3.43	3.46	3.41	3.37	3.27	3.15	3.18	2.91	2.54	2.88	-1.9%

Source: VHI Annual Licensure Survey Data, 2013-2022; US Census Population Estimates, 2013-2022; HSANV Staff Tabulations & Calculations, 2024.

*CAGR = Compound Annual Growth Rate

Note: Facility Based Data

Nursing Home Use Rates, PD 8 & PD 5 Facility Based Rates, 2013 - 2022

Virginia Nursing Home Resident Days 2013 - 2022											
Nursing Home Resident Days per 1,000 Population (Total): PD 8, PD 5, Virginia Statewide											
<i>Planning District (PD)</i>	<u>Year</u>										<i>CAGR*</i> 2013-2022
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	
Northern Virginia (PD 8)	546.5	557.5	529.5	530.7	480.4	462.3	498.8	425.5	408.3	440.8	-2.36%
Roanoke Valley-Alleghany (PD 5)	2,831.0	2,893.9	2,854.7	2,850.1	2,858.3	2,703.6	2,756.4	2,663.3	1,982.7	2,580.3	-0.91%
Virginia	1,253.1	1,263.5	1,243.0	1,232.4	1,194.4	1,148.7	1,160.1	1,065.9	926.9	1,049.8	-1.95%

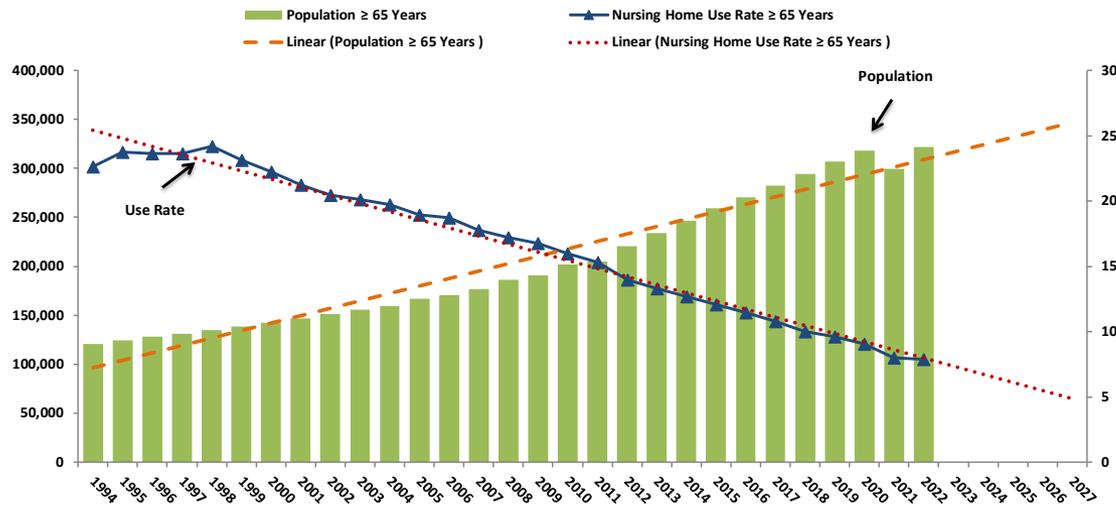
Source: VHI Annual Licensure Survey Data, 2013-2022; U.S. Census Population Estimates, 2013-2022; HSANV Staff Tabulations & Calculations, 2024.

*CAGR = Compound Annual Growth Rate

Note: Facility Based Data

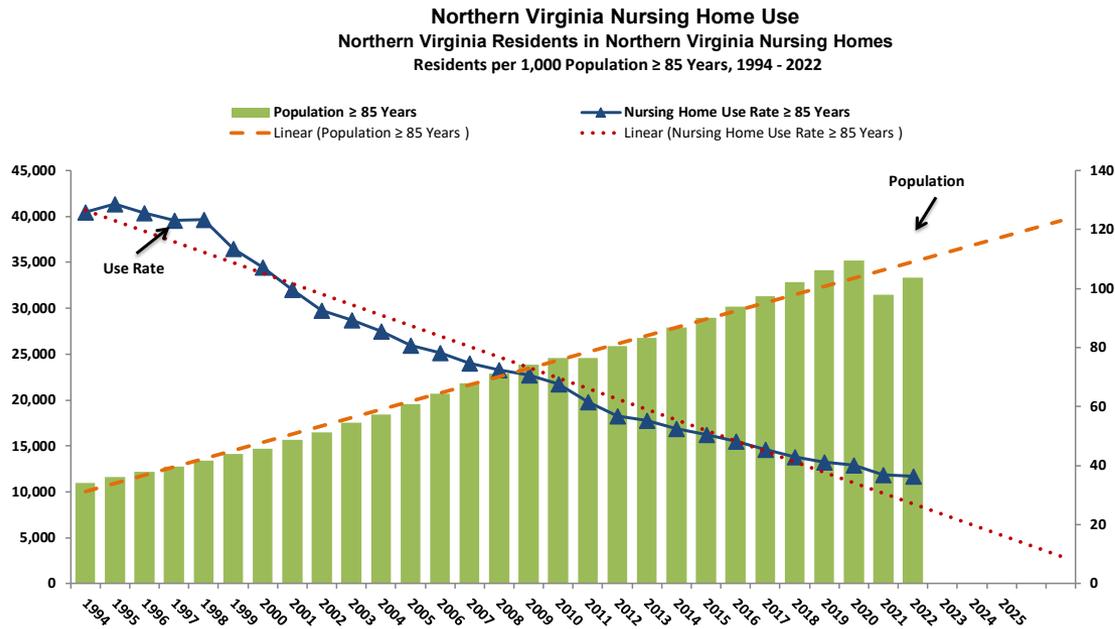
Population Growth & Nursing Home Use Northern Virginia (PD 8), 1994 -2022

Northern Virginia Nursing Home Use
Northern Virginia Residents in Northern Virginia Nursing Homes
Residents per 1,000 Population ≥ 65 Years, 1994 - 2022



Source: Virginia Nursing Home Patient Origin Surveys 1994, 1998, 2002, 2006 and 2014; VDH License Surveys 1995-1999, Virginia Health Information Licensure Surveys 2001 - 2022; U.S. Census 1990 -2023 Population July 1st Estimates; Calculations & Tabulations HSA NV, 2024.

Population Growth & Nursing Home Use Northern Virginia (PD 8), 1994 -2022



Source: Virginia Nursing Home Patient Origin Surveys 1994, 1998, 2002, 2006 and 2014; VDH License Surveys 1995-1999. Virginia Health Information Licensure Surveys 2001 - 2022; U.S. Census 1990 -2023 Population July 1st Estimates; Calculations & Tabulations HSAHV, 2024.

Loudoun Fails to Demonstrate Public Need

- **Though required to do so, Loudoun performs no analysis, provides no data, and offers no credible argument of a genuine need, current or future, for additional nursing home beds in PD 8.**
 - **In response to questions about public need for additional nursing home beds, Loudoun repeatedly cites the problematic DCOPN bed need projection for PD 8 in nursing home request for applications published in May of 2020.**
 - **The calculations purport to show a need for 284 beds in PD 8 now and, according to Loudoun increasing to more than 600 beds within three years. Loudoun, and all parties to this question, are familiar with the fundamental flaws that underlie, and are reflect in, those calculations.**
 - **Rather than fulfill the minimum requirements of all COPN applicants to demonstrate public need, Loudoun choses to exploit these deficiencies rather than help cure them.**
 - **Resorting to tortured locutions such as “a calculated need” and “numerical need” are as revealing of the nature and quality of the proposal as they are embarrassing to read.**

Conclusions

- **There is no need for additional nursing home capacity (beds) in northern Virginia. There is substantial unused capacity throughout the region. Use rates, demand and average occupancy are decreasing. These patterns reflect sustained trends (30+ years) and are unlikely to change soon.**
- **Application filed (and accepted) on the fiction that there is an evident need, real or concocted, for additional nursing home beds in PD 8.**
- **The combination of the flawed nursing home RFA bed need methodology and the evolving, and now reigning, interpretation of HB 2292 makes rational and equitable planning for nursing home capacity impossible. Results in favoring corporate interest and benefit over the public interest.**
- **Loudoun appears to assume that filing under provisions of HB 2292 is tantamount to approval; not necessary to address need question.**
- **Loudoun fails to show a public need for additional capacity; relies solely on an idiosyncratic and self-serving interpretation of planning rules and regulations.**
- **Loudoun application is not consistent with Section 12VAC5-230-620, which reads**
 - “Proposals to increase existing nursing facility bed capacity should not be approved unless the facility has operated for at least two years and the average annual occupancy of the facility's existing beds was at least 93% in the relevant reporting period as reported to VHI.”
- **Section 12VAC5-230-620 has not been set aside or otherwise invalidated. Moreover, HB 2292 is specific to planning district metrics, not facility specific metrics. Unless it can be shown that adding beds at Loudoun HRC does not constitute an expansion project, 12VAC5-230-620 applies as the metric for assessing the proposal.**

HB 2292 (2013)

§ 32.1-102.3:7 of the Code of Virginia

- **The phrase “bed transfer statute” does not appear in HB 2292 (2013); it appears to be a product of RFA exemption advocate(s) rhetoric**
- **HB 2292 contains three amendments to the Virginia COPN program statute; two concern continuing care retirement communities (CCRCs), one with inter PD bed transfers**
- **Response to troublesome legislative proposals for PD-to-PD beds transfers does not explain, or relate to the rationale for the bill (one in previous five years – HB 1321 MFA Warsaw)**
- **Most nursing home bills related to CCRC ability to admit patients directly from the community**
- **Rationale of “rebalancing” supply and demand statewide does not apply. Planning, regulating is on a planning district basis, not statewide basis. Nothing to “rebalance”.**
- **HB 2292 problematic legislation, as it is being interpreted and applied:**
 - **Favors existing service providers**
 - **Biased against new service providers, service offerings**
 - **Favors multi facility systems: MFA, American HealthCare, Smith/Packet; now private equity pools**