Health Systems Agency of Northern Virginia

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**September 3, 2024**

**TO: Board of Directors, Health Systems Agency of Northern Virginia**

**Project Review Committee, HSANV**

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**FROM: Dean Montgomery**

**SUBJECT: Certificate of Public Need Application**

Loudoun VA PropCo, LLC

(d/b/a Loudoun Rehabilitation and Nursing Center)

Add Four Beds, COPN Request VA-8773

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**I. Proposal Summary**

Loudoun Rehabilitation and Nursing Center (Loudoun RNC), a 100-bed nursing home in Loudoun County, Virginia seeks certificate of public need (COPN) authorization to expand by adding four licensed long term nursing care beds. If authorized the project would result in Loudoun RNC operating 104 beds. The projected capital cost is $1,870,000.

The project entails the transfer of licensed capacity from a nursing home in Roanoke, Virginia, Friendship Health and Rehabilitation Center North (Friendship HRC North to Loudoun RNC.[[1]](#footnote-1) Friendship Health and Rehabilitation Center North is licensed to operate 253 nursing home beds.

The locations of Loudoun RNC and Friendship HRC North are shown on Map 1. Current capacity and recent use of nursing homes in Northern Virginia is summarized in Table 1.

Loudoun Rehabilitation and Nursing Center justifies the project on the grounds that

* The proposal qualifies for submission, consideration, and approval outside the standard request for applications (RFA) planning process in accordance with a 2013 amendment to the Virginia COPN statute (HB 2292, enacted in 2013).
* The project is similar to about a dozen bed capacity transfer projects, several in northern Virginia, that have obtained COPN authorization recently to move nursing home beds from one planning district to another outside the standard RFA planning process.
* The proposal, which entails the “transfer” of four nursing home beds from southwest Virginia (PD 5) to northern Virginia (PD 8), would not result in a net increase in the number of licensed nursing home beds statewide.
* The Virginia Department of Health, Division of Certificate of Public Need (DCOPN) has determined there are substantial numbers of unneeded (surplus) nursing home beds in Southwest Virginia, specifically in Planning District 5 (PD 5) where Friendship RNC North is located. A four-bed reduction in licensed capacity there would not affect access to nursing home services among residents of Planning District 5.
* The Virginia Department of Health, Division of Certificate of Public Need (DCOPN) has determined there is currently a need for several hundred additional nursing home beds in northern Virginia (PD 8), specifically 284 beds in 2022 “projected to grow to 469 beds in 2023 and to 662 beds by 2024”.
* Relocating unneeded capacity in PD 5 to PD 8 would respond to the local bed shortage and improve access to needed nursing care services in northern Virginia.
* All beds transferred would be certified for Medicare and Medicaid participation.

Because only minor physical changes at Loudoun HRC would be necessary, the additional beds should be in service in about a year if the project is approved on schedule, by late 2025.

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## II. Discussion

1. **Nursing Home Services in Northern Virginia**

Northern Virginia has 36 authorized long-term care nursing care facilities, commonly referred to as nursing homes. These facilities are authorized to operate 4,529 beds, 4,483 of which were in service in 2020, the most recent year for which region wide operational data is available (Table 1).[[2]](#footnote-2) About two-thirds (24 of 36 facilities) are commercial nursing homes. They contain about 80% of the region’s authorized beds. The other facilities, 12 of the 36 with 20% of the region’s licensed capacity, are nursing care units located in continuing care retirement communities (CCRCs). All the authorized commercial nursing facilities are operational. Eleven of the twelve facilities in continuing care retirement communities are operational. The most recently authorized CCRC nursing care facility, a 42-bed service that will be in The Mather (Tysons area), is scheduled to open in 2023.

In 2020, the most recent year for which capacity and service volume data are available, the 35 facilities in service operated 4,483 beds.[[3]](#footnote-3) Average occupancy of the thirty-three facilities reporting service volumes was 73.2%, down sharply from and already low 83.3% in 2019.[[4]](#footnote-4) In 2020 the region had on average about 1,200 unoccupied licensed nursing home beds daily.

Occupancy of CCRC nursing home beds is lower than that of commercial nursing homes. Average use of nursing home beds located in CCRCs was about 65% in 2020, down from 78% in 2019 (Table 1). Even with direct admissions from the community at many CCRC nursing facilities, there were, on average, more than 200 unoccupied nursing home beds daily in CCRCs in 2020.

Beyond the ravages of COVID-19 and the disproportionately high mortality among nursing home and assisted living residents, low and decreasing nursing home occupancy reflects the sustained decrease in local nursing home use rates over the last three decades. During this period declining age-specific nursing home use rates have more than offset demand generated by population growth and aging among the adult population at greatest risk of needing nursing home care, those 65 years of age and older (Chart 1). Though long running use rate decreases are inherently asymptotic, there is no indication that this trend is attenuating significantly or is likely to change soon. The factors and circumstances that contribute to low and decreasing use rates remain in place, e.g., favorable demography, an array of alternatives to nursing home care, a relatively healthy elderly population, and population growth largely from migration to the region.[[5]](#footnote-5)

These data show there is no public need for additional nursing homes or additional nursing home beds in Northern Virginia. The enduring trend of decreasing age specific nursing home use rates is likely to continue (Chart 1). Demand (measured as total number of nursing patient days of care provided) is likely to remain relatively stable year to year, with modest decreases in average regional occupancy as incidental capacity is added and operational efficiencies improve.

As has occurred over the last two decades, several local facilities are likely to seek authorization to relocate capacity within the planning region as they modernize and revitalize aging services. These projects usually have substantial merit, improving quality of and access to care, a stark contrast to interregional transfers of capacity that simply reallocate surplus capacity from one over built planning district to another over built district.



1. **Nursing Facility Development in Virginia, Northern Virginia**

Most long-term care nursing facilities (nursing homes) in Virginia date from the late 1970s and the 1980s. Service development and growth was stimulated and has been sustained by the initiation and maturation of the Virginia Medicaid program, which is now the principal source of payment for nursing home care.[[6]](#footnote-6) As was the case in most states, a reliable source of payment and entrepreneurial zeal, coupled with less

than effective planning and regulation, resulted in the creation of substantial excess nursing home capacity. By the late 1980s it became evident that the bed surplus could not be absorbed easily or quickly. The Virginia General Assembly imposed a moratorium on nursing home development in 1988.

The moratorium remained in place for eight years. It was replaced in 1996 with a prospective planning process that limits nursing home development to those areas where a specific need is identified and quantified in a published “request for applications” (RFA). Under this process, applications for nursing care facilities and beds may not be filed (i.e., will not be accepted) unless the Commissioner of Health has determined that beds are needed in a planning region—in one of Virginia’s 22 planning districts.[[7]](#footnote-7) Northern Virginia (PD 8) is one of these districts.

There are exceptions to the RFA process. The principal exception permits qualified continuing care retirement communities (CCRCs) to submit COPN proposals to develop, outside the RFA planning process, a number of nursing care beds equal to 20% of the number of residential units in the retirement community.[[8]](#footnote-8) This favorable treatment is based on the belief that encouraging development of CCRCs is sound public policy, that onsite access to long-term nursing care is supportive of, if not essential for, efficient and effective CCRC operations, and that the nursing home beds developed are, at least in principle, dedicated to serving residents of the retirement community.[[9]](#footnote-9) As a result of this preferential treatment, the majority of new nursing home beds authorized statewide over the last two decades have been those developed by CCRCs outside the RFA planning process. Except for three problematic inter planning district relocation projects, all the net additional capacity developed in northern Virginia over the last 25 years has been CCRC affiliated beds.

Since the RFA process was instituted, four new Northern Virginia CCRCs have received approval to develop nursing home beds: the Johnson Center at Falcon’s Landing (Sterling, VA), Greenspring Village (Springfield, VA), Ashby Ponds (Ashburn, VA), and The Mather (Tysons). Another CCRC, Goodwin House, recently obtained COPN authorization to replace its dated nursing facility. The Mather, the most recently authorized CCRC nursing care facility, is expected to open soon.

Exceptions to the RFA planning process that apply to commercial nursing homes include the relocation of a nursing facility within the planning district, the relocation of licensed beds from one facility to another within the planning district, the onsite modernization and/or replacement of dated facilities, and the replacement and relocation of facilities that are to be taken out of service. Five facilities (Annaburg Manor, Birmingham Green, Inova Cameron Glen, Inova Commonwealth, and Manor Care-Fair Oaks) have received approval to replace beds in new locations in PD 8. These changes have responded to evolving demographic patterns within the planning district.

**C. Planning Guidance**

The Virginia State Medical Facilities Plan (SMFP) does not address directly the question of replacement and relocation of nursing home beds. The most recent RFA, which contains nonsensical nursing home bed need projections for 2022, was issued as a notice of no public need for additional

nursing care capacity, locally and statewide. It states, in part, “there is no need for additional nursing home beds . . . no planning district is identified by the standards of the SMFP as having a forecasted need for nursing home beds by 2022.”[[10]](#footnote-10)

**D. Access Considerations**

Expanding Loudoun Rehabilitation and Nursing Center is not necessary to maintain or improve access to nursing care services. Long term nursing care services, and nursing home beds, are now plentiful and well distributed. There is substantial surplus (unused) nursing home capacity in both commercial and CCRC based nursing care facilities. There are substantially more surplus nursing home beds in northern Virginia (PD 8) than in the Roanoke area (PD 5).

Increasing Loudoun RNC’s licensed bed capacity and decreasing the licensed capacity of Friendship RNC North by an equivalent amount will not alter, in a measurable or other meaningful way, access to care in either community. The result in a reallocation of superfluous capacity, an unnecessary and wasteful capital expenditure.

The proposed transfer of licensed capacity is similar to three other inter planning district “transfers” that have been foisted on northern Virginia recently: the reallocation of 30 beds from PD 2 to Heritage Hall-Leesburg, 25 beds from PD 5 to Leewood Healthcare Center, and 30 beds from PD 5 to Cherrydale HRC. All under the fallacious assertion that additional nursing home beds are needed in PD 8. None of these “transfers” have anything to do with enhancing or otherwise improve access to care.

**E. Cost Considerations**

The stated capital cost of the project is given as $1,870,000. Only a fraction of that would be attributable to converting space to accommodate four beds. The application indicates that the “proposed project will also result in the expansion of the existing therapy gym, dining room, nurses station and renovation of common areas for the benefit of all residents.” In other words, most of the project, are of the elements mentioned, can be undertaken at any time outside the COPN review process.

The projected cost includes a mysterious $400,000 fee characterized as a “Release and Settlement Agreement” between Friendship and Loudoun HRC under which Friendship Foundation “enumerated” its agreement “to transfer four nursing home beds from one or more of its facilities to Loudoun Nursing.” The applicant refuses to provide a copy of the agreement or to explain how the agreement was negotiated or otherwise arranged. The logic and rationale for this “transaction” are not addressed, much less explained.

The proposal is economically opaque. The logic of a four-bed project in a shrinking market is not evident or otherwise explained. The applicant does not provide sufficient economic data to permit meaningful detailed analysis of the project.

Projected capital costs are modest, but wasteful because the project is not needed. Paying a $100,000 premium per bed for unneeded surplus capacity is economic folly, except of course for parties likely to benefit economically.

**F. Health System Considerations**

Loudoun RNC proposes to increase its licensed bed complement from 100 to 104 beds. The project entails the relocation of licensing authority for four beds from Friendship HRC North in Roanoke, Virginia to Loudoun RNC in Leesburg, VA.

The project would reduce licensed nursing home capacity in southwest Virginia (Roanoke, PD 5) by four beds and increase capacity in northern Virginia (Leesburg, PD 8) by an equivalent number. These changes may appear small, perhaps inconsequential. They are not. This proposal, like similar projects that preceded it and those in train, is problematic in several important respects:

* The rationale for the project, and for the associated capital outlay, is that Virginia’s Division of Public Need (DCOPN) has determined that there is a public need for several hundred additional nursing home beds in northern Virginia (PD 8), specifically that an additional 284 beds are needed, and that hundreds more (662 in 2024) will be needed annually for years to come.

There is no reliable data, or other indication, that this is true. The Request for Applications (RFA) used for planning and regulating nursing home development published for 2022, was issued as a notice of no public need. The relevant language reads:

“*The RFA for nursing home beds issued in 2019 is hereby issued as a notice that there is no need for additional nursing home beds. As shown in the preceding table, no planning district is identified by the standards of the SMFP as having a forecasted need for nursing home beds by 2022. No planning district in the Commonwealth currently meets the four-part test for qualification by:*

*1) Having a positive formula-generated need projection, and;*

*2) Having a median annual occupancy percentage of Medicaid-certified nursing homes for the most recent reporting year of 93% or higher, and;*

*3) Having an average annual occupancy percentage of Medicaid-certified nursing homes for the most recent reporting year of 90% or higher*

*4) Having no uncompleted nursing home beds authorized within the last three years that will be Medicaid-certified*.” [Italics added]

**Source: Notice of No Need for Certificate of Public Need Applications for Development of Additional Nursing Home Beds, The Virginia State Board of Health and the Virginia Department of Medical Assistance Services, 2020, pp. 2-3. (Enclosed)**

The Loudoun Rehabilitation and Nursing Center proposal is grounded in the “formula-generated need projection” element of the four-pronged test for determining a need for additional beds. Application of the formula by DCOPN results in a “calculated" need for 284 additional beds in PD 8 (Northern Virginia) in 2022.

* The RFA bed need calculation performed by DCOPN in accordance with the request for applications (RFA) planning methodology is fatally flawed. It is not dispositive and is not represented to be by DCOPN, the Commissioner of Health, or the Virginia Board of Health. All parties to the COPN nursing home planning and regulation process, including the applicant and its representatives, know this.

As several of the more recent RFA notices show, the nursing home bed need calculation is unreliable, generates absurd results, and consequently is subject to misunderstanding and misuse by the unscrupulous. For example:

* + The RFA notice for 2015 found a *“calculated” need for 1,059 beds* in PD 8. No call for applications was issued because the region’s average occupancy was 89.2%, well below the 93% planning standard. No RFA issued statewide. No potential applicant tried to take advantage of the purported need for more than 1,000 beds in PD 8.
  + The RFA notice for 2017 found a *“calculated” need for 976 beds* in northern Virginia. No call for applications was issued because the region’s average occupancy was 87.8%, substantially below the 93% planning standard. (Note: an RFA was issued for 30 beds in PD 18.) No potential applicant tried to take advantage of the purported need for nearly 1,000 beds in PD 8.
  + The RFA notice for 2019 found a *“calculated” surplus of 259 beds* in northern Virginia. Northern Virginia had an average Medicaid occupancy was 88%. No RFA issued statewide.
  + The RFA notice for 2020 found a *“calculated” surplus of 41 beds* in northern Virginia. Northern Virginia had an average Medicaid occupancy was 86.5%. No RFA issued statewide. No potential applicant tried to take advantage of the purported need for additional beds in PD 8.
  + The RFA notice for 2021, found a *“calculated” need for 362 beds* in Northern Virginia. Northern Virginia had an average Medicaid occupancy was 86.0%. No RFA issued statewide. Heritage Hall-Leesburg took advantage of this situation and, though opposed by HSANV, obtained COPN approval to add 30 beds, “transferred” from a facility in southwest Virginia (PD 5).
  + The RFA notice for 2022, the most recent, purportedly finds a *“calculated” need for 284 beds* in Northern Virginia. The region’s average Medicaid occupancy was 84.5%. No RFA issued statewide. Leewood took advantage of this situation and obtained COPN approval to add 25 beds, transferred from a facility southwest Virginia (PD 2). Cherrydale HRC also took advantage of this situation and obtained COPN approval to add 30 beds, transferred from a facility southwest Virginia (PD 5).

These arithmetic gyrations, and conflicting bed need projections, result from calculations using the Virginia State Medical Facilities Plan (SMFP) bed need formula. Unfortunately, the formula being used incorporates outdated (2014) age-specific nursing home use rates, inconsistent population projections, and a methodology that is not compatible with a rapidly changing market characterized by sustained *use rate decreases*. Because a dated static use rate, rather than a trended rate, is used the calculation necessarily overstates projected future need and demand. The

overstatement is greater in areas, such as northern Virginia, where use rate decreases are more substantial and where population growth is high. Again, all parties to these projections, their use, and the applications filed know this.

There has never been an RFA calling for additional nursing home beds in northern Virginia. As decreasing use rates and falling average occupancy levels indicate there has been no need for additional capacity. That remains the case. RFA notices showing a formula generated need for additional beds in PD 8 are evidence of a flawed methodology not a need for additional services or capacity. Scrupulous

It is evident that, contrary to the applicant’s assertion and purported belief, there was no need for additional nursing home capacity in northern Virginia in 2022. There is no need now. There is no expectation, or reason to believe, that there will be a need for additional facilities or beds within the planning horizon, within the next five years.

* There is excess capacity (surplus beds) in both PD 5 and PD 8. Aggregate and age-specific nursing home use rates are decreasing in both regions.

Use rates have long been much lower in northern Virginia than in PD 5 and statewide. They also continue to decrease far more rapidly in PD 8 than in PD 5. This is shown graphically in Chart 2.

These longstanding and ongoing demand and service delivery trends do not support moving capacity from PD 5 to PD 8. They indicate that the Friendship RNC North beds should remain in PD 5, not migrate to PD 8.



There is no evident public need or justification for relocating beds from PD 5 to PD 8. The public would be better served by keeping the beds in PD 5, where they are more likely to be used efficiently, than reallocating to northern Virginia. Moreover, reducing the licensed capacity of Friendship RNC North does nothing to improve its ability to attract patients in PD 5 which has much higher use rates and bed occupancy than PD 8. Given low and decreasing use rates and occupancy levels in PD 8, adding beds to the region, whether by relocation from outside the region or from direct new construction, is not warranted. Market realities are such that adding unneeded capacity, and filling the new beds developed, will necessarily come at the expense of existing service providers.

**III. Conclusions and Alternatives for Agency Action**

1. **Findings and Conclusions**

Loudoun Rehabilitation and Nursing Center proposes to add four beds by means of a “transfer” of licensed capacity from a PD 5 nursing home, Friendship HRC North. This is permissible under existing law and regulation under specific circumstances and conditions. The request for applications (RFA) issued for 2022 contains a flawed nursing home bed need calculation that purports to show that hundreds of additional beds are needed in PD 8 (northern Virginia).

Problematic calculations and findings notwithstanding, the RFA does not establish an actual public need for additional nursing home beds in any planning region. The principal reason for the negative finding statewide is that the RFA planning process examines four measures to determine whether there is a public need for additional capacity. In addition to the bed need calculation, average and median annual occupancy of existing Medicaid certified beds should exceed 90% and 93% respectively, and COPN authorized Medicaid certified beds not yet operational must be taken into account.

Low and decreasing use rates have resulted in lower occupancy levels statewide. Consequently, though the current RFA shows a “*calculated*” potential need for additional beds in nine planning districts, with the greatest need in Northern Virginia, there is no call for applications in any district. As in Northern Virginia, none of the districts with a “*calculated*” need meet the other requirements. Other than the flawed “*calculated bed need*” criterion, northern Virginia does not meet any of the other three measures used to assess public need for nursing home beds. Average occupancy of all licensed beds, and of Medicaid certified beds are far below planning standards and continue to decrease. In addition, the 85 Medicaid beds authorized recently at Heritage Hall-Leesburg, Leewood, and Cherrydale are still being developed.

The problematic nature of the RFA bed need calculation is well known and understood by those familiar with the industry and with Virginia regulatory and licensing programs. It is unreliable and subject to misuse. The age-specific nursing facility use rates relied upon are dated and static. They become more problematic each year as actual use rates decrease, locally and statewide. In markets with secular negative use rate trends the calculation substantially overstates demand. This is especially true of northern Virginia which is amid a three decade decrease in aggregate and age specific rates. The older the base use rate applied, and the more distant the projection, the greater the error inherent in the bed need calculation.

Beyond these considerations, the proposal is deficient in several respects:

* Recent, current and projected nursing home service volumes and trends indicate that the capacity that would be relocated is more likely to be needed in PD 5 than in PD 8. Repositioning the four beds will not improve or enhance access in any meaningful way in either planning district.
* Because there are substantial numbers of unused (surplus) beds in both regions, the shift in licensed capacity will decrease marginally average occupancy in PD 8 and increase marginally average occupancy in PD 5. There is no discernible public benefit in this paper exercise.
* Though the project may be of considerable potential economic value to the private equity investors, it offers no discernible value or benefit to the communities in which the nursing homes are located, or to the public generally.
* In a market with substantial and growing surplus capacity, the proposed capital expenditure is unnecessary and from a public payment perspective wasteful. Most of the unnecessary capital expense would be defrayed with Medicare and Medicaid payments.
* The problematic nature and deficiencies of the RFA bed need calculation are widely discussed. They are well known and understood by the applicant.
* The policy and practice underling the reigning interpretation of the language in HB 2292 that pertains to the potential transfer for nursing home capacity across planning district boundaries is anticompetitive, favoring multi-facility Virginia operators, including private equity ventures,

**B. Alternatives for Agency Action**

1. The Health Systems Agency of Northern Virginia may recommend to the Commissioner of Health that a Certificate of Public Need authorizing the project be granted.

A favorable recommendation may be based on concluding that:

* The project appears to be consistent with the provisions of House Bill, 2292, as interpreted and applied recently in several similar projects, which makes filing of the application permissible and subsequent approval of the project essentially mandatory.
* The capital outlay, $1,870,000 for four beds, is modest.
* Potential negative effects on neighboring nursing homes from a four-bed transaction are modest and acceptable.

2. The Health Systems Agency of Northern Virginia may recommend to the Commissioner of Health that a Certificate of Public Need authorizing the project not be granted.

A recommendation of denial of the project may be based on concluding that:

* There is no public need for additional nursing home capacity in northern Virginia. Consequently, the capital expenditure that would be incurred is unnecessary and wasteful.
* Nursing home use rates and occupancy trends in PD 5 and PD 8 support keeping the beds that would be relocated in PD 5 where they are more likely to be needed and used more efficiently.
* The project would be of substantial economic benefit to private investors but of little, if any, public benefit or value.
* The project is not consistent with applicable provisions of the Virginia State Medical Facilities Plan.

**IV. Checklist of Mandatory Review Criteria**

* + 1. **Maintain or Improve Access to Care**

The Loudoun Rehabilitation and Nursing Center project is not necessary to maintain or improve access to nursing care services. Long term nursing care services, and nursing home beds, are well distributed region wide. There is surplus (unused) nursing home capacity in both commercial and CCRC based nursing care services in PD 8. Expanding an existing service is not necessary to assure access.

Moving beds from southwest Virginia to northern Virginia, from PD 5 to PD 8, would not improve or otherwise affect demand for or access to nursing care services. Both regions have more capacity than will be used efficiently over the next decade, including ample numbers of Medicare and Medicaid certified beds.

To the extent access to care would be affected by the change, moving beds from a planning district with a much higher indigenous use rate and higher bed occupancy rate to a district with a much lower, and decreasing, use rate and occupancy level would have only negative effects.

1. **Meet Needs of Residents**

There is no demonstrated public need for additional nursing home capacity in the region. The long-term nursing care needs of the region are being met. In addition to more than 4,500 licensed nursing home beds, the region has an even larger number of assisted living beds, and an array of home health, rehabilitation, and related health and social support services

Loudoun RNC relies solely on the spurious bed need projection published in the nursing home RFA issued for 2022 in asserting there is a public need, and therefore justification, for the project. The nature and value of this approach is suggested by the applicant’s repeated failure to provide its own estimate or projection of future demand, and the number of beds actually needed.

1. **Consistency with Virginia State Medical Facilities Plan**

The proposal is not consistent with applicable provisions of COPN program regulations, including the State Medical Facilities Plan. Nor is it consistent with sound regional health planning policies and practices in northern and southwest Virginia.

Specifically, the proposal conflicts with the plain, unambiguous requirements of Section 12VAC5-230-620 of the SMFP which addresses directly the expansion of nursing homes. It reads in its entirety:

“Proposals to increase existing nursing facility bed capacity should not be approved unless the facility has operated for at least two years and the facility’s average annual occupancy of the facility’s existing beds was at least 93% in the relevant reporting period as reported to VHI.” **Virginia SMFP, p. 32.**

The project also conflicts with the substance and planning principles of **Section 12VAC5-230-610B** of the plan which specifies that:

“No health planning district should be considered in need of additional beds if there are unconstructed beds designated as Medicaid-certified. This presumption of ‘no need' for additional beds extends for three years from the issuance date of the certificate,” **Virginia SMFP, p. 30.**

The project is not responsive to, or consistent with, any provision or element of the SMFP that warrants or supports approval of the project.

1. **Beneficial Institutional Competition while Improving Access to Essential Care**

The project was filed shortly after Loudoun Rehabilitation and Nursing Center was acquired by private equity investors. It appears to be entrepreneurial in nature.

To the extent the project would have competitive effects they are likely to be anticompetitive and negative. With decreasing use rates and declining average occupancy levels, adding unneeded capacity in PD 8 means that should the applicant attain its service volume projections, the increased caseloads would come at the expense of nearby nursing care facilities. The project would have no discernible general effect on access to nursing home care in PD 5 or PD 8, both of which have large numbers of unused nursing home beds.

1. **Relationship to Existing Health Care System**

The proposal is submitted as an exception to the regular nursing care facility planning process. The project is modest in that it calls for a four-bed expansion of Loudoun RNC in response to a purported regional need for more than 600 beds.

1. **Economic, Financial Feasibility**

The capital outlay proposed $1,870,000) is unnecessary and from a taxpayer and public interest perspective wasteful. Nevertheless, as a private equity venture, shifting capacity to a market with a much larger private pay market is economically rational and likely to generate high annual rates of return over the life of the project. The proposal is financially feasible and should be profitable.

**7. Financial, Technological Innovations**

The project does not entail innovative technologies, practices or economic elements distinct from those now widely seen in the region.

**8. Research, Training Contributions and Innovations**

The project does not have a significant research or training component that warrants special consideration.

1. Information on Loudoun RNC is available at <https://loudounrehab.com/>

   Information on Friendship HRC North is available at <https://www.friendship.us/> [↑](#footnote-ref-1)
2. The 2020 nursing home service volumes reported by Virginia Health Information (VHI) are the most recent that are sufficiently complete and reliable for COPN planning and regulation. The 2022 VHI nursing home licensure data are, not reliable or usable. [↑](#footnote-ref-2)
3. This count excludes the 30-bed increase authorized at Heritage Hall-Leesburg (HH-L) in 2019, the 25-bed increase authorized at Leewood in 2021, and the 30-bed increase authorized for Cherrydale Health & Rehabilitation Center in 2023. Though not needed, these expansions (85 beds to date) were permitted under a provision of the Virginia COPN statute (*§ 32.1-102.3:7. Application for transfer of nursing facility beds)* that permits inter planning district transfers of surplus nursing home beds as an exception to the standard request for applications (RFA) planning process. HSANV recommended denial of all of these applications. [↑](#footnote-ref-3)
4. The sharp region wide reduction in nursing home service volumes and occupancy in 2020 results from the large number of COVID-19 deaths among nursing home residents and related disruptions to nursing home admissions and service delivery patterns. [↑](#footnote-ref-4)
5. Those moving to the region typically are younger than those at high risk of needing nursing home care. [↑](#footnote-ref-5)
6. Legislation authorizing the Medicaid program was enacted in 1965. Federal funds became available in 1966. The Virginia program was established in 1969, the 41st state to join the national program. [↑](#footnote-ref-6)
7. The northern Virginia health planning region (Health Planning Region II) is coterminous with Virginia Planning District 8. The terms northern Virginia and PD 8 are used interchangeably here. [↑](#footnote-ref-7)
8. The number of beds that may be authorized is limited to 60 if 20% of the residential units exceeds 60. [↑](#footnote-ref-8)
9. Some also argue that the availability and use of CCRCs results in lower overall Medicaid program expenditures for nursing home care, provided retirement communities do not serve Medicaid patients. There is little empirical evidence to support this belief or assumption. [↑](#footnote-ref-9)
10. *Notice of No Need for Certificate of Public Need Applications for Development of Additional Nursing Home Beds, The Virginia State Board of Health and the Virginia Department of Medical Assistance Services, 2020*, p. 2. [↑](#footnote-ref-10)