

VIRGINIA DEPARTMENT OF HEALTH

Office of Licensure and Certification

Division of Certificate of Public Need

Staff Analysis

January 19, 2021

RE: COPN Request No. VA-8526

Annandale VA Opco, LLC d/b/a Leewood Healthcare Center

Annandale, Virginia

Relocate 25 Nursing Home Beds to Leewood Healthcare Center

Applicant

Annandale VA Opco, LLC is a recently formed limited liability company created by a private equity firm, the Portopiccolo Group, to acquire and operate Leewood Healthcare Center (“Leewood”). The two partners of the Portopiccolo Group, Naftal Zanziper and Simcha Hyman (“partners”), each own Leewood on a 50% each basis. The partners also own approximately 16 other nursing homes in Virginia, including Accordius Health at Roanoke (“Accordius”).

Leewood began operations nearly 70 years ago, and is comprised of 132 dually-certified Medicare and Medicaid skilled nursing beds. Eight of these beds are located in private rooms and 124 beds are located in semi-private rooms. Additionally, Leewood currently offers 40 assisted living beds, located in an adjacent assisted living facility, connected to the skilled nursing facility by a covered walkway. In addition to short-term rehabilitation and skilled nursing services, Leewood also offers more personally focused services such as vital stim, ultrasound, diathermy, and advanced wound care. Leewood is located in Annandale, Virginia in Health Planning Region (HPR) II and Planning District (PD) 8.

Background

PD 8 Background

In PD 8, there are 36 facilities authorized to house licensed skilled nursing beds, 12 of which operate as part of a continuing care retirement community (CCRC). Using 2018 VHI data, Division of Certificate of Public Need (DCOPN) records, and information found in the Health Systems Agency of Northern Virginia (HSANV) staff analysis report for this project, DCOPN calculated that for 2018, the then-existing 4,462 licensed nursing home beds (in 35 facilities) in PD 8 operated at a collective utilization of 83.1% (**Table 1**). Specifically, the 132 nursing home beds at Leewood operated at a collective utilization of 86.7% in 2018. DCOPN notes that as of the date of this report, there are 4,485 licensed skilled nursing beds in PD 8.

Table 1. PD 8 Nursing Home Facilities, Beds, and Occupancy: 2018

Facility	Beds	Occupancy Rate
Annandale Healthcare Center	222	88.4%
<i>Arleigh Burke Pavilion</i>	49	92.3%
<i>Ashby Ponds</i>	44	95.6%
<i>Belvoir Woods Health Care Center</i>	56	85.8%
Birmingham Green	180	94.9%
Burke Health & Rehabilitation Center	120	91.6%
Cherrydale Health & Rehabilitation Center	180	92.9%
Dulles Health & Rehab Center	166	91.7%
Envoy Health Care of Woodbridge	120	85.7%
Envoy Health of Alexandria	111	91.4%
Fairfax Nursing Center, Inc.	200	87.4%
<i>The Fountains at Washington House</i>	68	67.5%
Gainesville Health & Rehabilitation Center	120	91.5%
<i>Goodwin House—Alexandria</i>	80	92.4%
<i>Goodwin House—Baileys Crossroads</i>	73	90.2%
<i>Greenspring Village*</i>	136	96.5%
Heritage Hall—Leesburg	164	89.1%
<i>Hermitage Northern Virginia</i>	121	33.4%
Iliff Nursing & Rehabilitation Center	130	79.3%
<i>The Jefferson</i>	31	85.4%
<i>Johnson Center at Falcon's Landing</i>	60	86.2%
Lake Manassas Health and Rehab	120	81.1%
Leewood Healthcare Center	132	86.7%
Loudoun Nursing & Rehabilitation Center	100	96.4%
Manassas Health & Rehabilitation Center	120	92.3%
Manor Care of Alexandria VA, LLC	96	81.6%
Manor Care of Arlington VA, LLC	161	72.0%
Manor Care—Fair Oaks of Fairfax VA, LLC	155	69.6%
<i>The Mather</i>	42	--
Mount Vernon Nursing and Rehabilitation Center	130	79.5%
Potomac Falls Health and Rehab Center	150	95.3%
Powhatan Nursing Home**	160	30.4%
Regency Care of Arlington LLC	240	59.9%
<i>The Virginian</i>	81	45.8%
<i>Westminster at Lake Ridge***</i>	60	74.4%
Woodbine Nursing & Rehabilitation Center	307	83.9%
TOTAL/Average	4,485¹	83.1%

Source: VHI (2018), DCOPN records, HSANV Staff Analysis Report

Note: Beds at facilities in italics are operated as part of a CCRC.

* Failed to submit the necessary data as mandated by Virginia Code §32.1-276.5. DCOPN has included occupancy found in the HSANV staff analysis report, which was derived using patient days estimated based on 2017 VHI reporting.

¹ Though not included in the total calculations for occupancy, this number reflects additions to the PD 8 inventory made pursuant to COPN No. VA—4485, which authorized the addition of 30 nursing home beds at Heritage Hall—Leesburg. These beds are not yet operational.

** Failed to submit the necessary data as mandated by Virginia Code §32.1-276.5. DCOPN has included occupancy found in the HSANV staff analysis report, which was derived using patient days estimated based on 2017 VHI reporting.
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Collective utilization of the PD 8 skilled nursing bed inventory has decreased from 87.1% in 2008 to 83.1% in 2018 (**Table 2**). While the overall decrease in occupancy is not necessarily a large one, it has been generally consistent despite a sharp increase in the population of individuals aged 75 and older (**Table 3**).

Table 2. Historical PD 8 Utilization (2008-2018)

Year	Beds	Occupancy
2018	4,462	83.1%
2017	4,462	81.1%
2016	4,242	84.2%
2015	4,219	85.0%
2014	4,335	88.2%
2013	4,212	82.2%
2012	3,555	84.8%
2011	3,555	85.8%
2010	3,555	86.5%
2009	3,555	86.5%
2008	3,555	87.1%

Source: VHI (2008-2018) and DCOPN records

Table 3. PD 8 Projected Population

Year	PD 8 Total Population	Age 75+	Age 59 and Under
2030	2,937,128	180,365	2,387,543
2020	2,587,000	112,756	2,155,438
% Change: 2020-2030	14% increase	60% increase	11% increase
2010	2,230,623	77,757	1,928,894
% Change: 2010-2020	16% increase	45% increase	12% increase

Source: Weldon-Cooper Center Projections, August 2019

DCOPN notes that in its most recent Request for Applications (RFA), it calculated a PD 8 projected net bed deficit of 284 beds for the 2022 planning year. The applicant relies upon this calculation as the basis for submitting its application pursuant to § 32.1-102.3:7 of the Code of Virginia (“The Bed Transfer Statute”).

Leewood Background

As demonstrated in **Table 4** below, occupancy at Leewood has remained between 86.7% and 92.0% since 2014, demonstrating no consistent increase or decrease.

Table 4. Historical Leewood Utilization (2014-2019)

Year	Beds	Occupancy
2019	132	87.6%
2018	132	86.7%
2017	132	87.6%
2016	132	91.0%
2015	132	90.1%
2014	132	92.0%

Source: VHI (2014-2018), DCOPN Records, and COPN Request No. VA-8526

PD 5 Background

There are 21 facilities in PD 5 that house licensed skilled nursing beds, three of which operate as part of a CCRC. Using 2018 VHI data and DCOPN records, DCOPN calculated that for 2018, licensed nursing home beds in PD 5 operated at a collective utilization of 87.8% (**Table 5**). DCOPN notes that for 2018, Accordius failed to submit the necessary data as mandated by Virginia Code §32.1-276.5.² However, using patient days reported by the applicant for each month of 2019, DCOPN calculated that Accordius' 130 skilled nursing beds operated at only 50.6% occupancy for 2019³. DCOPN notes that it cannot quantifiably confirm this data.

² This information was requested from the applicant, but due to a recent change in ownership, the applicant states it was unable to be obtained.

³ DCOPN notes that while it cannot quantifiably confirm this data, the applicant is required to release such data to VHI, and therefore DCOPN has included it in the analysis for this project.

Table 5. PD 5 Nursing Home Facilities, Beds, and Occupancy: 2018

Facility	Beds	Occupancy Rate
Accordius Health at Roanoke*	130	--
Alleghany Health & Rehab	105	79.7%
Berkshire Health & Rehabilitation Center	180	94.0%
<i>Brandon Oaks Nursing and Rehabilitation Center</i>	62	86.2%
Brian Center Health & Rehab—Alleghany	89	92.7%
Brian Center Nursing Care—Fincastle	56	91.1%
Carrington Place at Botetourt Commons	90	91.8%
Friendship Health & Rehab Center—South	120	88.7%
Friendship Health & Rehab Center, Inc.	253	91.4%
<i>Hermitage in Roanoke</i>	24	59.2%
Our Lady of the Valley	70	93.6%
Pheasant Ridge Nursing & Rehab Center	101	88.4%
Raleigh Court Health & Rehabilitation Center	120	91.7%
Richfield Recovery and Care Center	280	75.4%
Salem Health & Rehab Center	240	88.7%
Snyder Nursing Home	45	96.7%
South Roanoke Nursing Home	98	86.8%
Springtree Health & Rehabilitation Center	120	93.8%
<i>The Glebe, Inc.</i>	32	94.8%
Virginia Veterans Care Center**	180	93.9%
Woodlands Health and Rehab	60	90.8%
TOTAL/Average	2,275	87.8%

Source: VHI (2018) and DCOPN records

Note: Beds at facilities in italics are operated as part of a CCRC.

* Failed to submit the necessary data as mandated by Virginia Code §32.1-276.5.

**Excluded from all calculations per regulation.

Collective utilization of the PD 5 nursing bed inventory has decreased from 90.9% in 2008 to 87.8% in 2018 (**Table 6**). While the overall decrease in occupancy is not necessarily a large one, it has been generally consistent despite a sharp increase in the population of individuals aged 75 and older (**Table 7**).

Table 6. Historical PD 5 Utilization (2008-2018)

Year	Beds	Occupancy
2018	2,275	87.8%
2017	2,448	87.2%
2016	2,455	88.1%
2015	2,455	88.6%
2014	2,465	89.4%
2013	2,463	87.4%
2012	2,347	89.6%
2011	2,347	89.9%
2010	2,347	90.3%
2009	2,347	89.9%
2008	2,347	90.9%

Source: VHI (2008-2018) and DCOPN records

Table 7. PD 5 Projected Population

Year	PD 5 Total Population	Age 75+	Age 59 and Under
2030	284,184	28,642	203,081
2020	280,088	22,198	204,603
% Change: 2020-2030	1.5% increase	29% increase	0.7% decrease
2010	274,759	21,463	211,747
% Change: 2010-2020	1.9% increase	3.4% increase	3.4% decrease

Source: Weldon-Cooper Center Projections, August 2019

DCOPN notes that in its most recent RFA, it calculated a PD 5 projected net bed surplus of 224 beds for the 2022 planning year. The applicant relies upon this calculation as the basis for submitting its application pursuant to § 32.1-102.3:7 of the Code of Virginia.

Proposed Project

The applicant proposes to relocate 25 licensed skilled nursing beds from Accordius, located in PD 5, and owned by the Leewood partners, to Leewood, located in PD 8. The proposed project entails the conversion and renovation of space in Leewood’s assisted living facility along with 2,775 square feet of new construction space to serve the 25 additional nursing home beds, all of which will remain dually-certified. The applicant states that the renovation and conversion of space at Leewood will increase operating capacity and improve efficiency by converting old, outdated, obsolete assisted living space to skilled nursing use. Upon completion of the proposed project, Leewood Healthcare will cease operation of the assisted living facility. Approval of the proposed project would more than triple the number of private room accommodations at Leewood, and increase the amount of total facility square footage by approximately 4%.

With regard to Accordius, the applicant states that the vacated space will be used to increase the number of private room beds. The space involved in the bed reduction will be refinished and remodeled to improve the facility’s ability to offer improved infection control environments and accommodations that are attractive to short-term and long-term residents.

The total projected capital cost of the proposed project is \$3,431,518 (**Table 8**), the entirety of which will be funded using the accumulated reserves of the applicant. Accordingly, there are no financing costs associated with this project.

Table 8. Leewood Projected Capital and Financing Costs

Direct Construction	\$2,770,083
Equipment Not Included in Construction Contract	\$375,000
Site Preparation Costs	\$94,557
Architectural and Engineering Fees	\$171,878
Taxes and Government Fees During Construction	\$20,000
TOTAL Capital Costs	\$3,431,518

Source: COPN Request No. VA-8526

The applicant projects that construction on the proposed project will begin within 16 months of COPN issuance and be complete within 36 months of COPN issuance, and that resident service will begin within 36 months of COPN issuance. If approved, schedule allowances may need to be made in order to accommodate the applicant’s response to the COVID-19 pandemic.

The proposed project would result in a net increase of 25 skilled nursing beds in PD 8, and a net reduction of 25 beds in PD 5. As already stated, DCOPN has calculated a net deficit of 284 beds in PD 8 for the 2022 planning year. However, DCOPN notes that due to the low occupancy of skilled nursing beds in the planning district, an RFA to add beds was not issued. DCOPN further notes that it calculated a net surplus of 224 in PD 5 for the same planning horizon and accordingly, an RFA to add beds was not issued.

Project Definition

Section 32.1-102.1:3 of the Code of Virginia defines a project, in part, as the “relocation of beds from an existing medical care facility described in subsection A to another existing medical care facility described in subsection A...” or “An increase in the total number of beds...in an existing medical care facility described in subsection A.” Medical care facilities are defined, in part, as “Any facility licensed as a nursing home, as defined in § 32.1-123.”

This project is further qualified by § 32.1-102.3:7 of the Code of Virginia.

Application for Transfer of Nursing Facility Beds--§ 32.1-102.3:7 of the Code of Virginia

A. Notwithstanding the provisions of § 32.1-102.3:2, the Commissioner shall accept and may approve applications for the transfer of nursing facility beds from one planning district to another planning district when no Request for Applications has been issued in cases in which the applicant can demonstrate:

(i) There is a shortage of nursing facility beds in the planning district to which beds are proposed to be transferred;

As previously discussed, DCOPN notes that in its most recently published RFA, it calculated a PD 8 projected net bed deficit of 284 beds for the 2022 planning year. DCOPN contends that the applicant has satisfied this standard.

(ii) The number of nursing facility beds in the planning district from which beds are proposed to be moved exceeds the need for such beds;

As previously discussed, DCOPN notes that in its most recently published RFA, it calculated a PD 5 projected net bed surplus of 224 beds for the 2022 planning year. DCOPN contends that the applicant has satisfied this standard.

(iii) The proposed transfer of nursing facility beds would not result in creation of a need for additional beds in the planning district from which the beds are proposed to be transferred; and

To reiterate, DCOPN has calculated a PD 5 projected net bed surplus of 224 beds for the 2022 planning year. Approval of the proposed project would result in a remaining surplus of 199 skilled nursing home beds in the planning district, while simultaneously partially addressing the calculated deficit of beds in PD 8. Furthermore, DCOPN again notes that utilization of skilled nursing home beds in PD 5 has steadily decreased in recent years, despite a sharp increase in population of individuals aged 75 and older. Accordingly, DCOPN does not anticipate that approval of the proposed project would result in a need for additional beds in PD 5, as sufficient capacity will remain to accommodate any unforeseen surge in utilization.

(iv) The nursing facility beds proposed to be transferred will be made available to individuals in need of nursing facility services in the planning district to which they are proposed to be transferred without regard to the source of payment for such services.

The applicant provided assurances that it currently offers, and will continue to offer, access to all of its dually-certified nursing facility beds according to the residents' health care needs and without regard to source of payment. DCOPN contends that the applicant has satisfied this standard.

B. Applications received pursuant to this section shall be subject to the provisions of this article governing review of applications for certificate of public need.

The following section of this staff analysis report includes a discussion of the provisions of Article 1.1, which govern the review of applications for a Certificate of Public Need.

Required Considerations -- § 32.1-102.3 of the Code of Virginia

In determining whether a public need exists for a proposed project, the following factors shall be taken into account when applicable.

- 1. The extent to which the proposed project will provide or increase access to health care services for people in the area to be served and the effects that the proposed project will have on access to health care services in areas having distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to health care;**

Leewood is centrally located in Fairfax County, making it readily accessible to residents of PD 8. The surrounding area is predominantly suburban in nature, with adjacent properties comprised of single-family residences, Renaissance of Annandale, an assisted living and memory care residence unaffiliated with Leewood, and Oakwood School. The facility has excellent connectivity to major transportation arteries that traverse PD 8, including Virginia State Routes 620 and 236 and Interstates 495 and 395. Additionally, Fairfax County provides bus services to Annandale area residents.

As will be discussed in more detail later in this staff analysis report, DCOPN concludes that at least 95% of the population of PD 8 is currently within 30 minutes' drive time, one way, under normal driving conditions of existing skilled nursing care services. Furthermore, the applicant is a current provider of this service. Accordingly, DCOPN concludes that the proposed project would not improve geographic access to this service in any meaningful way.

Regarding socioeconomic barriers to access to services, the applicant has provided assurances that it currently offers, and will continue to offer, access to all of its dually-certified nursing facility beds according to patients' health care needs and without regard to the source of payment.

Table 9 below indicates that in 2018, approximately 66% of skilled nursing home utilization was attributed to Medicaid services, with the percentage dropping marginally to approximately 63% in 2019. The applicant projects that by the second year of operation after completion of the proposed project, approximately 64% of skilled nursing home utilization will be attributed to Medicaid/financially underserved, long-term care services. Nonetheless, DCOPN notes that pursuant to the recent change to §32.1-102.4B of the Code of Virginia, DCOPN is now required to place a charity care condition on all applicants seeking a COPN. Accordingly, should the Commissioner approve the proposed project, DCOPN recommends a charity care condition requiring the applicant to maintain and continue the historical Medicaid utilization rate of 63% in addition to providing a benevolent assistance subsidy equivalent to at least the commercial value of one private bed per year. DCOPN also notes that its recommendation includes a provision allowing for the reassessment of the charity care condition when more reliable data becomes available regarding the full impact of Medicaid expansion in the Commonwealth.

Table 9. Leewood Projected Payer Source Utilization

Source of Payment	Actual Patient Days				Projected Patient Days			
	2018	%	2019	%	Year 1	%	Year 2	%
Medicare	5,317	12.7%	7,129	16.9%	8,500	17.8%	9,000	17.3%
Medicaid	27,434	65.6%	26,741	63.3%	30,000	62.8%	33,000	63.5%
Self-Pay	5,285	12.6%	5,858	13.9%	6,200	13.0%	6,500	12.5%
Other	3,755	9.0%	2,509	6.0%	3,100	6.5%	3,500	6.7%
TOTAL	41,791	--	42,237	--	47,800	--	52,000	--

Source: COPN Request No. VA-8526

As demonstrated above in **Table 3**, the most recent Weldon-Cooper data projects a total PD 8 population of 2,937,128 persons by 2030. This represents an approximate 31.7% increase in total population from 2010 to 2030. Comparatively, Weldon-Cooper projects the population of Virginia as a whole to increase by only 16.6% for the same period (**Table 10**). With regard to Fairfax County specifically, Weldon-Cooper projects a total population increase of only 15.0% from 2010-2030. With regard to the 65 and older age cohort, Weldon-Cooper projects a much more rapid increase (**Table 11**). Specifically, Weldon-Cooper projects an increase of approximately 114.6% among PD 8's collective 65 and older age cohort, while an increase of approximately 73.3% is expected among this cohort in Fairfax County. This is important, as this age group uses medical care resources, including skilled nursing beds, at a rate much higher than the rest of the population.

Table 10. Statewide and PD 8 Total Population Projections, 2010-2030

Locality	2010	2020	% Change	2030	% Change	2010-2030 % Change
Virginia	8,001,024	8,655,021	8.17%	9,331,666	7.8%	16.6%
Arlington	207,627	249,298	20.1%	274,339	10.0%	32.1%
Fairfax County	1,081,726	1,162,504	7.5%	1,244,025	7.0%	15.0%
Loudoun	312,311	430,584	37.9%	554,808	28.9%	77.7%
Prince William	402,002	478,134	18.9%	571,844	19.6%	42.3%
Alexandria City	139,966	166,261	18.8%	182,067	9.5%	30.1%
Fairfax City	22,565	25,047	11.0%	26,397	5.4%	17.0%
Falls Church City	12,332	12,332	0.00%	17,032	38.1%	38.1%
Manassas City	37,821	43,099	14.0%	46,332	7.5%	22.5%
Manassas Park City	14,273	17,086	19.7%	20,284	18.7%	42.1%
TOTAL PD 8	2,230,623	2,584,345	15.9%	2,937,128	13.7%	31.7%

Source: U.S. Census, Weldon Cooper Center Projections (August 2019) and DCOPN (interpolations)

Table 11. PD 8 Population Projections for 65+ Age Cohort, 2010-2030

Locality	2010	2020	% Change	2030	% Change	2010-2030 % Change
Arlington	18,054	22,515	24.7%	26,951	19.7%	49.3%
Fairfax County	106,290	151,585	42.6%	184,218	21.5%	73.3%
Loudoun	20,425	45,314	121.9%	84,522	86.5%	313.8%
Prince William	27,220	52,698	93.6%	80,830	53.4%	197.0%
Alexandria City	12,806	17,359	35.6%	22,175	27.7%	73.2%
Fairfax City	3,088	3,754	21.6%	4,611	22.8%	49.3%
Falls Church City	1,293	1,908	47.5%	2,317	21.5%	79.2%
Manassas City	2,607	3,930	50.8%	5,387	37.1%	106.7%
Manassas Park City	806	1,426	76.9%	2,258	58.4%	180.2%
TOTAL PD 8	192,589	300,491	56.0%	413,269	37.5%	114.6%

Source: U.S. Census, Weldon Cooper Center Projections (August 2019) and DCOPN (interpolations)

DCOPN did not identify any other unique geographic, socioeconomic, cultural, transportation, or other barriers to care in the planning district.

2. The extent to which the project will meet the needs of people in the area to be served, as demonstrated by each of the following:

(i) The level of community support for the proposed project demonstrated by people, businesses, and governmental leaders representing the area to be served;

The applicant provided numerous letters of support for the proposed project. Collectively, these letters addressed the following:

1. The added capacity will include more private rooms, which will help Leewood’s ability to more effectively serve patients with infectious disease, as well as provide improved patient privacy and comfort.
2. In the last several years, HPR II has become more populated with an increase in number of aging residents, thus requiring more healthcare services. Leewood has been constantly filled up to maximal capacity most of the time. Expansion will enhance Leewood’s ability to serve residents with infectious disease and pulmonary and memory issues.
3. Expansion of capacity and the addition of private rooms will allow for greater comfort of current residents, and expand the delivery of excellent care to prospective residents. If approved, this expansion would also facilitate quarantine, when needed.
4. The plans for expansion provide for a kitchenette, laundry and bathroom devoted solely to ADL (activities of daily living) training, which will more closely simulate a home environment. Additionally, a new rehabilitation gym with updated home-like features will allow residents to work on tasks that are vital to a safe return home.
5. Approval of the proposed project would also result in the addition of private room accommodations at the Accordius facility.

DCOPN is unaware of any opposition to the proposed project.

The Health Systems Agency of Northern Virginia (HSANV) conducted its board meeting via teleconference on January 7, 2021. There was no public comment on the proposal other than the statements submitted with the application. All of this comment, which was distributed to all parties before the meeting, endorsed or otherwise supported the project.

(ii) The availability of reasonable alternatives to the proposed project that would meet the needs of the people in the area to be served in a less costly, more efficient, or more effective manner;

As already discussed, VHI data demonstrates that in 2018, PD 8 skilled nursing beds operated well beneath maximum capacity (**Tables 1 and 2**), indicating that there is ample underutilized inventory, both within the planning district and within Leewood's existing bed complement, to provide adequate skilled nursing care to residents of PD 8 for the foreseeable future. However, DCOPN notes that currently, 124 of Leewood's 132 skilled nursing beds are semi-private, which is typical of older skilled nursing units. The applicant states that due to the lack of private rooms, the facility is currently at a competitive disadvantage to serve the growing market of younger, more active patients who seek short-term rehabilitation services with the intent to return home after completing their rehabilitation regimen. DCOPN contends that the proposed project incorporates elements of culture change design that have been sweeping the long-term care industry over the past decade and will result in added privacy for residents of both PD 8 and PD 5⁴. Furthermore, the addition of private rooms will enhance Leewood's ability to serve residents with infectious disease by adding additional space for quarantine, should such space be necessary. For these reasons, DCOPN contends that approval of the proposed project is more favorable than maintaining the status quo.

(iii) Any recommendation or report of the regional health planning agency regarding an application for a certificate that is required to be submitted to the Commissioner pursuant to subsection B of § 32.1-102.6;

The Health Systems Agency of Northern Virginia (HSANV) Board of Directors reviewed at its January 7, 2021 meeting the COPN application filed by Leewood (COPN Request No. VA-08526) that seeks authorization to add 25 nursing home beds. The Board voted on a motion to recommend denial of the application. The motion passed by a vote of eight in favor and two opposed, with one abstention.

The Board based the recommendation on its review of the application, on the HSANV staff report on the proposal, and on the testimony and evidence presented at the January 7, 2021 Board

⁴ Shield, Renée R., et al. "“Would You Do That in Your Home?” Making Nursing Homes Home-like in Culture Change Implementation." *Journal of Housing for the Elderly*, U.S. National Library of Medicine, 2 Dec. 2014, www.ncbi.nlm.nih.gov/pmc/articles/PMC5363857/.

of Directors meeting held on the application. The Board also based its recommendation on several basic findings and conclusions, including:

1. Northern Virginia (PD 8) has a large number of unused (surplus) nursing home beds. There is no demonstrated public need for additional nursing home capacity within the nominal planning horizon (next five years) or the next decade.
2. Additional nursing home capacity is not needed to ensure or improve access to care in any part of the planning district.
3. The Leewood argument that there is a demonstrated, quantified need for additional nursing home beds in PD 8 is based on the problematic “calculated need” projection contained in the 2020 nursing home request for applications. The calculation Leewood relies on is based on outdated data and flows from a flawed need determination methodology and thus is deficient, misleading, and subject to abuse.
4. The project would be of economic benefit to Leewood and the Portopiccolo Group, Leewood’s parent corporation, but would be of little, if any, public value or benefit.
5. 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.
6. The proposed capital expenditure of \$3.4 million, which would be defrayed largely from Virginia Medicaid and Medicare payments, is unnecessary and potentially wasteful.
7. The potential increase in private rooms, cited by the applicant as a critical element of the project, can be undertaken outside of the COPN process, without expanding licensed bed capacity unnecessarily. There is no planning or regulatory obstacle hindering the Portopiccolo Group from renovating and modernizing Leewood Healthcare Center and Accordius Health at Roanoke at a time of its choosing.
8. The ongoing COVID-19 pandemic has been catastrophic for nursing homes, in Virginia and elsewhere, with an inordinate number of fatalities at Leewood Healthcare Center. Nursing home demand and use have plummeted, and the ultimate implications for nursing home capacity needs are not known. It is neither prudent nor in the public interest to make capacity decisions under these conditions and circumstances. The application should be withdrawn until the effects of the pandemic can be documented and assessed. If not withdrawn, the application should be denied.
9. The proposal is not consistent with the applicable provisions of the Virginia State Medical Facilities Plan and other COPN program rules and regulations.

(iv) Any costs and benefits of the proposed project;

As illustrated in **Table 8**, the total projected capital cost of the proposed project is \$3,431,518, the entirety of which will be funded using the accumulated reserves of the applicant. Accordingly, there are no financing costs associated with the proposed project. DCOPN concludes that the costs for the proposed project are reasonable and consistent with previously approved projects similar in clinical scope.⁵

The applicant cited the following benefits of the proposed project:

1. According to the SMFP bed need projection formula for planning years 2021-2023, PD 8 has a shortage of beds.
2. According to the SMFP bed need projection formula for planning years 2021-2023, PD 5 has excess bed capacity.
3. The project proposes to transfer 25 beds from PD 5, and relocation of 25 beds will not create a need for more beds in PD 5.
4. The nursing facility beds proposed to be transferred will be made available to individuals in need of nursing facility services in PD 8 without regard to the source of payment for such services.
5. The proposed relocation would move beds out of a nursing home that has had low occupancy for many years and has no current or prospective need for those licensed beds.
6. The beds would be relocated from a fifty plus year old facility which is outdated and has quite limited floor space per bed, to a nursing facility which will offer more private rooms, increased floor space per bed and enable patients to have access to therapy and support spaces which better meet contemporary expectations for nursing home services.
7. The proposed new and converted space will increase space available for resident recreation and socialization, offer more privacy for nursing home residents and their visitors in resident bedrooms, and provide a better environment for infection control.
8. The proposed project will serve an area that has a large and rapidly growing population of age appropriate persons.
9. The projected capital costs and operating expenses are reasonable for a project of this type.

⁵ COPN No. VA-04626 authorized the establishment of a 42-bed nursing facility and had a capital cost of \$22,036,839; COPN No. VA-04080 authorized the transition of 10 skilled nursing beds from MC Arlington to Fair Oaks and had a capital cost of \$12,308,000; COPN No. VA-03854 authorized the addition of 88 skilled nursing beds and had a capital cost of \$9,302,163.

(v) The financial accessibility of the proposed project to people in the area to be served, including indigent people; and

To reiterate, the applicant has provided assurances that all skilled nursing beds at Leewood will continue to be dually-certified and that it will continue to offer access to all beds according to patients' health care needs and without regard to payment source. As previously discussed, should the Commissioner approve the proposed project, DCOPN recommends a charity care condition requiring the applicant to maintain and continue the historical Medicaid utilization rate of 63% in addition to providing a benevolent assistance subsidy equivalent to at least the commercial value of one private bed per year. DCOPN also notes that its recommendation includes a provision allowing for the reassessment of the charity care condition when more reliable data becomes available regarding the full impact of Medicaid expansion in the Commonwealth.

(vi) At the discretion of the Commissioner, any other factors as may be relevant to the determination of public need for a proposed project;

Leewood's Nursing Home Compare Ratings

The overall rating as well as ratings for three component-rating categories (health inspection, staffing, and quality measures) for Leewood can be found at Nursing Home Compare (medicare.gov) and are illustrated in **Table 12** below. The ratings are based on a five-star system, with an awarded five stars being the best rating possible.

Table 12. HH—Leewood Nursing Home Compare Rating

Overall Rating	Health Inspection	Staffing	Quality Measures
5 stars	3 stars	4 stars	5 stars

Source: Nursing Home Compare (medicare.gov)

Key: 1 star – much below average
2 stars –below average
3 stars –average
4 stars –above average
5 stars –much above average

The “Bed Transfer Statute” and Medicaid Budget Financial Implications

HB 2292, introduced by Delegate Robert D. Orrock, Sr. was passed during the 2013 Virginia General Assembly (Chapter 515 Acts of Assembly). The bill was passed unanimously by the House and Senate, and became law effective July 1, 2013. In the executive summary, the applicant provided an excerpt from the Department of Planning and Budget's 2013 Fiscal Impact Statement concerning the bill. That statement is as follows:

“The bill provides that the Commissioner of Health shall accept and may approve applications for (i) the transfer of nursing facility beds from one planning district to another planning district in the absence of a Request for Applications and (ii) for the extension of the open admissions period for nursing home beds of a continuing care retirement community.”

The fiscal implications of the bill were described as follows:

“The bill is not expected to have any fiscal impact on the state. The bill makes it easier to transfer nursing home beds from one planning district to another. The criteria for approval of the transfer would prevent creating any shortage of nursing home beds in a planning district, which could result in increasing the number of nursing home beds in the state and increasing Medicaid costs. However, since the bill has the appropriate provisions in place, there is no expected fiscal impact.”

However, DCOPN notes that, according to the Price-Based Reimbursement Rates published by the Department of Medical Assistance Services (DMAS), reimbursement rates for Accordius are lower than the rates of Leewood.⁶ For example, Accordius, which is assigned to the Urban4 peer group, has a capital rate of \$15.09 per resident per day, and a total reimbursement rate of \$220.58 per resident per day. In comparison, Leewood is assigned to the Urban3 peer group, has a capital rate of \$16.75 per resident per day, and a total reimbursement rate of \$238.21 per resident per day—approximately 8% higher than that of Accordius. If approved and all 25 of the new beds at Leewood were to be occupied by Medicaid recipients the State would incur an additional cost of \$160,783 per year. At Leewood’s historic occupancy of 86.7%, the additional cost the State would be \$139,398. DCOPN also notes that because the proposed project involves new construction, Leewood’s capital rate will likely increase further. Thus, DCOPN contends that the proposed project will have some negative impact on Virginia’s Medicaid budget because the beds to be relocated to PD 8 will be reimbursed at a higher rate, resulting in an economic benefit for the applicant.

Executive Order 52 and the COVID-19 Pandemic

On March 12, 2020, Governor Ralph Northam declared a state of emergency throughout Virginia in response to the coronavirus pandemic. Subsequent to this declared state of emergency, on March 20, 2020, Governor Northam signed Executive Order 52 (EO 52) providing that notwithstanding the provisions of Article 1.1 of Chapter 4 of Title 32.1 of the Code of Virginia, the State Health Commissioner, at his discretion, may authorize any general hospital or nursing home to increase licensed bed capacity as determined necessary by the Commissioner to respond to increased demand for beds resulting from COVID-19. Such beds authorized by the Commissioner under EO 52 would, notwithstanding Virginia Code § 32.1-132, constitute licensed beds that do not require further approval or the issuance of a new license. As of the date of this report, Leewood has not requested to temporarily add additional capacity pursuant to EO 52 to respond to the COVID-19 pandemic. However, the applicant provided information regarding the number of COVID-19 outbreaks, cases, hospitalizations and deaths at both Leewood and Accordius up to December 4, 2020 (**Table 13**). As already discussed, the applicant asserts, and DCOPN agrees, that the addition of private rooms within each facility will enable the applicant to better care for patients with infectious diseases in the future.

⁶<https://www.dmas.virginia.gov>. Became effective on July 1, 2020.

Table 13. Leewood and Accordius COVID-19 Data

	Leewood		Accordius
	Skilled Nursing	Assisted Living	Skilled Nursing
Outbreaks	1	1	3
Cases	75	1	52
Hospitalizations	18	1	6
Deaths	31	1*	2

Source: COPN Request No. VA-8526

*Same Person for all categories in assisted living

State Health Services Plan Task Force

Section 32.1-102:1 of the Code of Virginia calls for the State Health Services Plan Task Force to develop, by November 1, 2022, recommendations for a comprehensive State Health Services Plan (SHSP). In the interim, DCOPN will consider the consistency of the proposed project with the predecessor of the SHSP, the SMFP.

3. The extent to which the application is consistent with the State Medical Facilities Plan;

Part VII of the State Medical Facilities Plan (SMFP) provides the criteria and standards for nursing facilities. They are as follows:

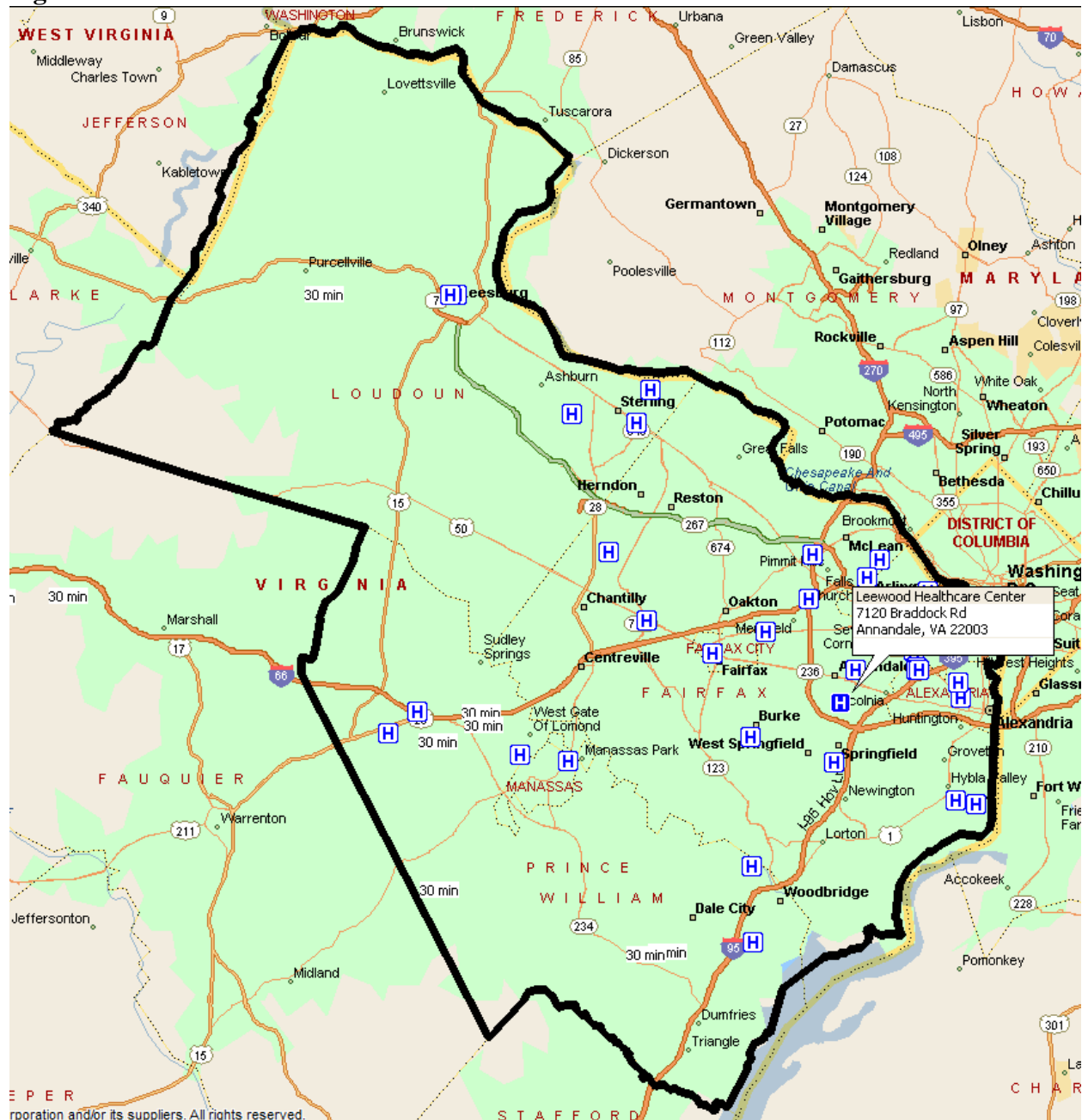
**Part VII
Nursing Facilities**

12VAC5-230-600. Travel Time.

- A. Nursing facility beds should be accessible within 30 minutes driving time one way under normal conditions of 95% of the population in a health planning district using mapping software as determined by the commissioner.**

The heavy black line in **Figure 1** identifies the boundary of PD 8. The solid blue “H” sign marks the location of the proposed project. The solid white “H” signs mark the locations of all other providers of skilled nursing care in PD 8. The green shaded area illustrates the area of PD 8 and the surrounding area that is currently within the 30-minute drive time of existing skilled nursing services in PD 8. Given the amount of shaded area, and its location, it is reasonable to conclude that the overwhelming majority of the PD 8 population is within 30-minutes drive time, one way, under normal driving conditions, of existing skilled nursing services. Furthermore, because the applicant currently provides this service, DCOPN concludes that the proposed project would not improve geographical access for residents of PD 8 in any meaningful way.

Figure 1.



B. Nursing facilities should be accessible by public transportation when such systems exist in an area.

As previously discussed, Leewood is currently served by public transportation services provided by Fairfax County.

C. Preference may be given to proposals that improve geographic access and reduce travel time to nursing facilities within a health planning district.

Not applicable. The proposed project is not competing with another project.

12VAC5-230-610. Need for New Service.

A. A health planning district should be considered to have a need for additional nursing facility beds when:

- 1. The bed need forecast exceeds the current inventory of beds for the health planning district; and**
- 2. The average annual occupancy of all existing and authorized Medicaid-certified nursing facility beds in the health planning district was at least 93%, excluding the bed inventory and utilization of the Virginia Veterans Care Centers.**

EXCEPTION: When there are facilities that have been in operation less than three years in the health planning district, their occupancy can be excluded from the calculation of average occupancy if the facilities had an annual occupancy of at least 93% in one of its first three years of operation.

B. 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.

C. The bed need forecast will be computed as follows:

$PDBN = (UR64 \times PP64) + (UR69 \times PP69) + (UR74 + PP74) + UR79 + PP79) + UR84 + PP84) + UR85 + PP85)$

Where:

- PDBN = Planning district bed need.**
- UR64 = The nursing home bed use rate of the population aged 0 to 64 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.**
- PP64 = The population aged 0 to 64 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.**
- UR69 = The nursing home bed use rate of the population aged 65 to 69 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.**
- PP69 = The population aged 65 to 69 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.**
- UR74 = The nursing home bed use rate of the population aged 70 to 74 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.**

- **PP74 = The population aged 70 to 74 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.**
- **UR79 = The nursing home bed use rate of the population aged 75 to 79 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.**
- **PP79 = The population aged 75 to 79 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.**
- **UR84 = The nursing home bed use rate of the population aged 80 to 84 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.**
- **PP84 = The population aged 80 to 84 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.**
- **UR85+ = The nursing home bed use rate of the population aged 85 and older in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.**
- **PP85+ = The population aged 85 and older projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.**

Health planning district bed need forecasts will be rounded as follows:

<u>Health Planning District Bed Need</u>	<u>Rounded Bed Need</u>
1-29	0
30-44	30
45-84	60
85-104	90
105-134	120
135-164	150
165-194	180
195-224	210
225+	240

EXCEPTION: When a health planning district has:

1. Two or more nursing facilities;
2. Had an average annual occupancy rate in excess of 93% for the most recent two years for which bed utilization has been reported to VHI; and
3. Has a forecasted bed need of 15 to 29 beds, then the bed need for this health planning district will be rounded to 30.

- D. No new freestanding nursing facilities of less than 90 beds should be authorized. However, consideration may be given to a new freestanding facility with fewer than 90 nursing facility beds when the applicant can demonstrate that such a facility is justified based on a locality's preference for such smaller facility and there is a documented poor distribution of nursing facility beds within the health planning district.**
- E. When evaluating the capital cost of a project, consideration may be given to projects that use the current methodology as determined by the Department of Medical Assistance Services.**
- F. Preference may be given to projects that replace outdated and functionally obsolete facilities with modern facilities that result in the more cost-efficient resident services in a more aesthetically pleasing and comfortable environment.**

In a letter dated August 16, 2018, the Commissioner of Health wrote the following:

"In reconsidering these [COPN Request Nos. VA-8336 and 8337] applications and the record as a whole, I have re-reviewed the Adjudication Officer's recommendation and do not adopt it. More specifically, any portion of the Adjudication Officer's recommended decision that holds the applicants to the standards of 12VAC5-230-610 of the State Medical Facilities Plan is rejected. Instead, the provisions of Virginia Code § 32.1-102.3:7 (The Bed Transfer Statute) are applicable."

Accordingly, this section is not applicable to the proposed project.

12VAC5-230-620. Expansion of Services.

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.

NOTE: Exceptions will be considered for facilities that have operated at less than 93% average annual occupancy in the most recent year for which bed utilization has been reported when the facility offers short stay services causing an average annual occupancy lower than 93% for the facility.

Although DCOPN is precluded from relying upon the 93% occupancy standard found in 12VAC5-230-610 (610), DCOPN contends that the 93% occupancy standard found within 12VAC5-230-620 may still be considered. Specifically, in the letter referenced above, the Commissioner *explicitly* referenced 12VAC5-230-610, but did not include 12VAC5-230-620 in his discussion. Additionally, DCOPN notes that the 93% occupancy standard found in 12VAC5-230-610 refers to the average annual occupancy of all existing and authorized Medicaid-certified nursing facility beds *in the health planning district*, while the 93% occupancy standard of 12VAC5-230-620 refers to the average annual occupancy *of the individual facility's* existing beds.

As previously discussed, 2018 VHI data indicates that Leewood's existing 132 skilled nursing beds operated at a collective utilization of 86.7%, slightly beneath the 93% expansion threshold found in

this standard (**Table 1**). Furthermore, DCOPN again notes that utilization at Leewood has steadily decreased from 92.0% in 2014 to 86.7% in 2018 (**Table 4**), despite a sharp increase in the population of PD 8 residents aged 75 and older (**Table 3**). Based on these utilization and population trends, DCOPN contends that the existing Leewood complement is capable of adequately serving its existing population, as well as accommodating any increase in PD 8 utilization, should an increase occur in the future.

Nonetheless, as already discussed, DCOPN maintains that the proposed project warrants approval despite the applicant's failure to satisfy this standard, as the proposed project is a better alternative than maintaining the status quo. To reiterate, despite the absence of an RFA for the addition of beds, DCOPN has calculated a net surplus of beds in PD 5 and a net deficit of beds in PD 8. Approval of the proposed project would result in additional private rooms at both Leewood and Accordius, which is more aligned with current industry standards and would allow the applicant to better facilitate future quarantines as well as care for patients with infectious diseases. Additionally, approval of the proposed project would result in 25 skilled nursing beds being moved out of a nearly fifty-year-old building into a more modern facility, resulting in more cost-efficient resident services in a more aesthetically pleasing and comfortable environment.

12VAC5-230-630. Continuing Care Retirement Communities.

Proposals for the development of new nursing facilities or the expansion of existing facilities by continuing care retirement communities (CCRC) will be considered when:

- 1. The facility is registered with the State Corporation Commission as a continuing care provider pursuant to Chapter 49 (§38.2-4900 et seq.) of Title 38.2 of the Code of Virginia;**
- 2. The number of nursing facility beds requested in the initial application does not exceed the lesser of 20% of the continuing care retirement community's total number of beds that are not nursing home beds or 60 beds;**
- 3. The number of new nursing facility beds requested in any subsequent application does not cause the continuing care retirement community's total number of nursing home beds to exceed 20% of its total number of beds that are not nursing facility beds; and**
- 4. The continuing care retirement community has established a qualified resident assistance policy.**

The applicant is not part of a CCRC and as such, this provision of the SMFP is not applicable to the proposed project.

12VAC5-230-640. Staffing.

Nursing facilities shall be under the direction or supervision of a licensed nursing home administrator and staffed by licensed and certified nursing personnel qualified as required by law.

The applicant has provided assurances that the facility is currently, and will continue to be, under the direction and supervision of a licensed Nursing Home Administrator, and will be staffed by licensed and certified nursing personnel as required by law.

Eight Required Considerations Continued

4. The extent to which the proposed project fosters institutional competition that benefits the area to be served while improving access to essential health care services for all people in the area to be served;

To reiterate, there are currently 36 COPN authorized nursing facilities operating a total of 4,485 beds in PD 8. Most of these facilities are operated by different owners and operators. DCOPN contends that the proposed project is not likely to significantly foster institutional competition benefiting PD 8, as ample competition already exists among current providers. However, the applicant argues that its current lack of private skilled nursing beds puts it at a competitive disadvantage, as a larger complement of private rooms has become the industry standard over the past decade. DCOPN does note, however, that the proposed project would increase the number of nursing facility beds in a planning district in which there is underutilized existing capacity, potentially harming the utilization, efficiency, and staffing needs of existing providers. DCOPN maintains that because the number of beds requested by the applicant is small, any negative impact on existing facilities is not likely to be destabilizing or even substantial. DCOPN additionally notes that no letters of opposition were received with regard to this project.

5. The relationship of the proposed project to the existing health care system of the area to be served, including the utilization and efficiency of existing services or facilities;

As demonstrated in **Table 2**, utilization rates of nursing facilities in PD 8 have been steadily declining for the past several years. DCOPN contends that the proposed project would further reduce the average occupancy of PD 8. Although DCOPN's bed need projections calculate a projected net deficit for the 2022 planning year, DCOPN contends that ample capacity exists within the PD 8 skilled nursing home bed inventory to provide care for PD 8 residents for the foreseeable future. Nonetheless, for reasons already discussed throughout this report, DCOPN maintains that approval of the proposed project is a better alternative than maintaining the status quo. DCOPN further reiterates that any potential negative impact approval of the proposed project may have on existing providers is not likely to be substantial.

6. The feasibility of the project, the financial benefits of the project to the applicant, the cost of construction, the availability of financial and human resources, and the cost of capital;

The Pro Forma Income Statement (**Table 14**) provided by the applicant anticipates a net profit of \$518,656 in year one and \$1,495,480 in year two, illustrating that the proposed 25 additional skilled nursing beds would be financially feasible in the immediate and the long-term, assuming the applicant is able to fill them. As already discussed, DCOPN contends that the projected capital costs for the proposed project are reasonable when compared to previously authorized projects similar in scope. The applicant will fund the project entirely using accumulated reserves. Accordingly, there are no financing costs associated with this project.

Table 14. Leewood Pro Forma Income Statement

	2024	2025
Total Gross Patient Care Services Revenue	\$19,054,589	\$20,637,622
Deductions from Revenue	(\$4,190,078)	(\$4,547,852)
Net Patient Care Services Revenue	\$14,864,511	\$16,089,770
Other (Non-Patient Care) Revenue	\$26,697	\$29,043
TOTAL-Net Revenue	\$14,891,208	\$16,118,813
Direct Patient Care Expenses	\$8,036,618	\$8,180,770
Indirect Patient Care Expenses	\$4,415,935	\$4,522,563
Capital-Related Expenses	\$1,920,000	\$1,920,000
Total Expenses	\$14,372,553	\$14,623,333
Per Diem Expenses	\$300.68	\$281.22
Net Income (before income taxes)	\$518,656	\$1,495,480

Source: COPN Request No. VA-8526

With regard to staffing, the applicant anticipates the need to hire 20 additional full-time employees in order to staff the proposed project. The applicant states that it successfully recruits locally to fill open staff positions and expects to be able to follow the same process with filling open positions with the additional capacity. DCOPN notes that the applicant is an established provider of skilled nursing services. Considering PD 8’s robust employee pool, DCOPN does not anticipate that the applicant will have difficulty filling the needed positions or that, due to the small number of employees needed, doing so will have a significantly negative impact on neighboring facilities.

DCOPN again notes that the proposed project, if approved, will negatively impact Virginia’s Medicaid budget because the beds to be relocated to PD 8 will be reimbursed at a higher rate, resulting in an economic benefit for the applicant.

7. The extent to which the proposed project provides improvements or innovations in the financing and delivery of health care services, as demonstrated by (i) the introduction of new technology that promotes quality, cost effectiveness, or both in the delivery of health care services; (ii) the potential for provision of health care services on an outpatient basis; (iii) any cooperative efforts to meet regional health care needs; and (iv) at the discretion of the Commissioner, any other factors as may be appropriate;

DCOPN again notes that the proposed project would increase the number of private rooms both at Leewood and at Accordius, implementing designs of culture change sweeping the long-term care industry in recent years. Additionally, while the applicant currently does not offer outpatient services, it anticipates providing outpatient services to discharged-to-home short-term rehabilitation patients in the future. The applicant does not provide, nor has it proposed to provide, improvements or innovations in the financing and delivery of health services as demonstrated by cooperative efforts to meet regional health care needs. DCOPN did not identify any other factors, not addressed elsewhere in this staff analysis report, to bring to the Commissioner’s attention regarding the determination of a public need for the proposed project.

- 8. In the case of a project proposed by or affecting a teaching hospital associated with a public institution of higher education or a medical school in the area to be served, (i) the unique research, training, and clinical mission of the teaching hospital or medical school and (ii) any contribution the teaching hospital or medical school may provide in the delivery, innovation, and improvement of health care services for citizens of the Commonwealth, including indigent or underserved populations.**

Not applicable. The applicant is not, nor is it affiliated with, a teaching hospital associated with a public institution of higher education or a medical school in the area to be served.

DCOPN Staff Findings and Conclusions

The applicant proposes to relocate 25 dually-certified skilled nursing beds from Accordius, located in PD 5 to Leewood, located in PD 8. Approval of the proposed project would result in the Leewood complement, as well as the total PD 8 inventory, increasing by 25 skilled nursing beds, with the PD 5 inventory decreasing by the same amount. The project involves the conversion and renovation of space in Leewood's assisted living facility, along with 2,775 square feet of new construction space. Upon completion of the proposed project, Leewood will cease operation of the assisted living facility. Approval of the proposed project would more than triple the number of private room accommodations at Leewood. With regard to Accordius, the vacated space will be refinished and remodeled in order to increase the number of private rooms at that facility.

The total projected capital cost of the proposed project is \$3,431,518, the entirety of which will be funded using the accumulated reserves of the applicant. Accordingly, there are no financing costs associated with the proposed project. DCOPN concludes that this cost is reasonable when compared to previously approved projects similar in scope. The applicant projects that construction on the proposed project will begin within 16 months of COPN issuance and be complete and accepting patients within 36 months of COPN issuance.

Based on the Pro Forma profit and loss statement provided by the applicant, the addition of the 25 skilled nursing beds would add to the facility's overall profitability. The applicant projects a net income of \$515,656 in the first year of operation and \$1,495,480 in year two. DCOPN concludes that the project appears to be financially feasible both in the immediate and the long-term. Should the Commissioner approve the proposed project, DCOPN recommends a charity care condition requiring the applicant to maintain and continue the historical Medicaid utilization rate of 63% in addition to providing a benevolent assistance subsidy equivalent to at least the commercial value of one private bed per year. DCOPN also notes that its recommendation includes a provision allowing for the reassessment of the charity care condition when more reliable data becomes available regarding the full impact of Medicaid expansion in the Commonwealth.

Should the proposed project be approved, the applicant anticipates the need to hire an additional 20 FTE personnel to staff the proposed expansion. DCOPN does not anticipate that the applicant will have difficulty securing the needed staff, or that doing so will have a significant negative impact on existing facilities.

With regard to Chapter 4, Article 1.1, Section 32.1-102.3:7 of the Code of Virginia, DCOPN notes that the applicant satisfies each standard. Specifically, DCOPN notes that there is a calculated surplus of beds in PD 5 and a calculated deficit of beds in PD 8. DCOPN contends that ample capacity exists both within the Leewood complement and the collective PD 8 inventory to provide adequate care for the residents of PD 8. However, even with 25 skilled nursing beds removed from the PD 5 inventory, a large surplus would remain. Furthermore, approval of the proposed project would result in more private rooms at each facility, a design that has become more common in recent years. Accordingly, DCOPN maintains that the proposed project presents a better option than maintaining the status quo.

DCOPN Staff Recommendation

The Division of Certificate of Public Need recommends **conditional approval** of this project for the following reasons:

1. The proposed project is generally consistent with the applicable criteria and standards of the State Medical Facilities Plan and the Eight Required Considerations of the Code of Virginia.
2. The proposed project is compliant with Chapter 4, Article 1.1, Section 32.1-102.3:7 of the Code of Virginia.
3. The proposed project is more favorable than maintaining the status quo.
4. The capital costs are reasonable.
5. The proposed project appears economically viable both in the immediate and in the long-term.
6. Approval of the proposed project is not likely to have a significant negative impact on the staffing and utilization of existing PD 8 facilities.

DCOPN's recommendation is contingent upon Annandale VA Opco, LLC d/b/a Leewood Healthcare Center's agreement to the following:

Annandale VA Opco, LLC, doing business as Leewood Healthcare Center, will provide skilled nursing services to all persons in need of this service, regardless of their ability to pay, and will maintain and continue a Medicaid utilization rate of at least 63%. Additionally, Annandale VA Opco, LLC, doing business as Leewood Healthcare Center, will provide a benevolent assistance subsidy equivalent to at least the commercial value of one private bed per year. Compliance with this condition will be documented to the Division of Certificate of Public Need annually by providing audited or otherwise appropriately certified financial statements documenting compliance with the preceding requirement.