COMMONWEALTH of VIRGINIA

Department of Health

Office of Licensure and Certification

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State Health Commissioner

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November 19, 2021

Mr. Frank Peck
President
Premier Consulting Services, Inc.
Post Office Box 21133
Roanoke, Virginia 24018

RE: **COPN Request No. VA-8568**
Autumn Corporation d/b/a Shenandoah Nursing & Rehab, Augusta County, Virginia
Add 24 Nursing Home Beds Through Transfer

Dear Mr. Peck:

For your consideration, I enclose the Division of Certificate of Public Need (DCOPN) report and recommendation on the above referenced project. DCOPN is recommending **approval** of this application for the reasons listed in the attached staff report.

DCOPN does not believe reconsideration of its recommendations through the convening of an informal fact-finding conference (IFFC) is necessary. However, persons wishing to participate in an IFFC have four days from the date of this letter to submit written notification with the State Health Commissioner, the applicant, and DCOPN stating grounds and providing a factual basis for good cause and standing.

Should DCOPN receive a petition for good cause standing, pursuant to Title 2.2 of the Code of Virginia, an IFFC will be convened. This IFFC has been scheduled for Thursday, December 9, 2021 beginning at 10:00 a.m. in Training Room 1 of the Perimeter Center located at 9960 Mayland Drive in Henrico, Virginia. A copy of the procedures for conduct at IFFCs may be found at http://www.vdh.virginia.gov/OLC/copn/

Absent a petition for good cause standing, DCOPN will notify you of cancellation of the scheduled IFFC and forward this report and recommendation to the State Health Commissioner. DCOPN would anticipate action by the State Health Commissioner within a few weeks of transmission. Should you have questions or need further clarification of this report and/or its recommendations, please feel free to call me at (804) 367-1889 or email me at Erik.Bodin@VDH.Virginia.Gov.

Sincerely,

Erik Bodin, Director
Division of Certificate of Public Need

Enclosure

cc: Douglas R. Harris, J.D., Office of Adjudication, Virginia Department of Health

VIRGINIA DEPARTMENT OF HEALTH

Office of Licensure and Certification

Division of Certificate of Public Need

Staff Analysis

November 19, 2021

COPN Request No. VA-8568
Autumn Corporation d/b/a Shenandoah Nursing & Rehab
Augusta County, Virginia
Add 24 Nursing Home Beds Through Transfer

Applicant

Autumn Corporation d/b/a Shenandoah Nursing & Rehab (SNR) is a North Carolina domiciled stock corporation. SNR is 100% owned by SHG Autumn, LLC. SNR is located in Augusta County in Health Planning Region (HPR) I, Planning District (PD) 6.

Background

PD 12 Background
In PD 12, there are 13 facilities authorized to house licensed skilled nursing beds. Division of Certificate of Public Need ("DCOPN") records show that there are currently 1,929 licensed nursing home beds located in these 13 facilities (**Table 1**). Virginia Health Information (VHI) data for 2019, the last year for which DCOPN received data from VHI, showed that collectively these facilities operated at a collective utilization of 86.3% (**Table 4**). Specifically, the 180 licensed nursing home beds at Rocky Mount Health & Rehab Center, LLC d/b/a Rocky Mount Rehab and Healthcare Center (RMRH), the facility from which the applicant proposes to transfer the 24 nursing beds, operated at 60.3%.

The most recent Weldon-Cooper data projects a total PD 12 population of 231,137 residents by 2030 (**Table 2**). This represents an approximate 7.2% decrease in total population from 2010 to 2030. Comparatively, Weldon-Cooper projects the total population of Virginia to increase by approximately 16.6% for the same period. With regard to Franklin County specifically, Weldon-Cooper projects a total population increase of 4,195, or approximately 7.3% from 2010 to 2030. With regard to the 65 and older age cohort, Weldon-Cooper projects a sizeable increase in both Franklin County and PD 12. Specifically, Weldon-Cooper projects an increase of approximately 37.8%, or 17,479 individuals, in residents age 65 and over in PD 12 as a whole from 2010 to 2030 and an increase of 75.3%, or 7,436 individuals, is projected among the same age cohort for Franklin County (**Table 3**). Franklin County's growth in this age cohort during this period is consistent with the overall growth of this age cohort in Virginia. DCOPN notes that the majority of the growth during this period, for both Franklin County and PD 12, occurred between 2010 and 2020. Between

2020 and 2030, the 65+ age cohort is projected to increase 13%, or 7,357 individuals, in PD 12 and 19.1%, or 2,777 individuals, in Franklin County.

DCOPN notes that in its most recent Request for Applications (RFA), it calculated a PD 12 projected net bed surplus of 48 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").

Table 1. PD 12 Nursing Bed Inventory

Facility	Licensed Beds
Blue Ridge Therapy Connection (Stuart)	190
Chatham Health and Rehabilitation Center	85
Franklin Healthcare Center	120
Gretna Health & Rehab Center	90
King's Grant Retirement Community	32
Martinsville Health and Rehab	140
Mulberry Creek Nursing & Rehab Center	300
Piney Forest Health & Rehabilitation Center	120
Riverside Health and Rehabilitation Center	180
Rocky Mount Rehabilitation and Healthcare Center, LLC	180
Roman Eagle Rehabilitation & Health Care Center, Inc.	312
Stanleytown Healthcare Center	120
Stratford Health Center	60
TOTAL/Average	**1,929**

Source: VHI and DCOPN Records

Table 2. PD 12 and Statewide Total Population Projections, 2010-2030

Locality	2010	2020	% Change	2030	% Change	2010-2030 % Change
Franklin County	56,159	56,237	0.1%	60,354	7.3%	7.5%
Henry	54,151	50,986	-5.8%	46,764	-8.3%	-13.6%
Patrick	18,490	17,682	-4.4%	16,565	-6.3%	-10.4%
Pittsylvania	63,506	61,379	-3.3%	60,523	-1.4%	-4.7%
Danville City	43,055	40,169	-6.7%	35,358	-12.0%	-17.9%
Martinsville City	13,821	13,002	-5.9%	11,573	-11.0%	-16.3%
Total PD 12	**249,182**	**239,454**	**-3.9%**	**231,137**	**-3.5%**	**-7.2%**
Virginia	8,001,024	8,655,021	8.2%	9,331,666	7.8%	16.6%

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

Table 3. PD 12 Population Projections for 65+ Age Cohort, 2010-2030

Locality	2010	2020	% Change	2030	% Change	2010-2030 % Change
Franklin County	9,877	14,536	47.2%	17,313	19.1%	75.3%
Henry	10,656	12,026	12.9%	13,248	10.2%	24.3%
Patrick	3,974	4,738	19.2%	5,359	13.1%	34.8%
Pittsylvania	10,916	14,120	29.4%	16,364	15.9%	49.9%
Danville City	8,215	8,381	2.0%	8,621	2.9%	4.9%
Martinsville City	2,649	2,608	-1.5%	2,861	9.7%	8.0%
Total PD 12	**46,287**	**56,409**	**21.9%**	**63,766**	**13.0%**	**37.8%**
Virginia	976,937	1,352,448	38.4%	1,723,382	27.4%	76.4%

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

RMRH Background

RMRH is a Virginia domiciled limited liability company. RMRH is also 100% owned by SHG Autumn, LLC. RMRH is located in Franklin County in HPR III, PD 12. As demonstrated in **Table 5** below, occupancy at RMRH has decreased significantly over the past five years. From 2015 to 2019, the number of patient days at RMRH decreased by 13,307 days, or approximately 74 days per bed.

Table 4. PD 12 Nursing Bed Utilization: 2019

Facility	Licensed Nursing Beds	Available Days	Patient Days	Occupancy Rate
Blue Ridge Nursing Therapy Connection	190	34,390	29,464	85.7%
Chatham Health and Rehab Center	85	31,025	28,432	91.6%
Danville Healthcare Group Inc.	60	21,900	19,353	88.4%
Franklin Health & Rehab Center	120	43,800	41,283	94.3%
Gretna Health & Rehab Center	90	32,850	31,324	95.4%
King's Grant (C0022)	32	11,680	9,938	85.1%
Martinsville Health and Rehab	140	51,100	42,524	83.2%
Piney Forest Health & Rehab Center	120	43,800	40,898	93.4%
Riverside Health & Rehab Center	180	65,700	60,308	91.8%
Rocky Mount Rehab and Healthcare Center, LLC	180	65,700	39,632	60.3%
Roman Eagle Rehab and Health Care Center, Inc.	312	113,880	100,208	88.0%
Stanleytown Health & Rehab Center	120	43,800	39,410	90.0%
Total Beds/Average Occupancy	**1,629**	**559,625**	**482,774**	**86.3%**

Source: VHI and DCOPN records

Table 5. RMRH Nursing Bed Utilization: 2015-2019

Year	Licensed Nursing Beds	Available Days	Patient Days	Occupancy Rate
2015	180	65,700	52,939	80.6%
2016	180	65,880	52,460	79.6%
2017	180	65,700	52,460	79.8%
2018	180	60,120	14,351	23.9%
2019	180	65,700	39,632	60.3%

Source: VHI and DCOPN records

PD 6 Background

In PD 6, there are 16 facilities authorized to house licensed skilled nursing beds. Division of Certificate of Public Need ("DCOPN") records show that there are currently 1,504 licensed nursing home beds located in these 16 facilities (**Table 6**). VHI data for 2019, the last year for which DCOPN received data from VHI, showed that collectively these facilities operated at a collective utilization of 91.2% (**Table 9**). Specifically, the 60 licensed nursing home beds at SNR, the facility to which the applicant proposes to transfer the 24 nursing beds, operated at 92.4%

The most recent Weldon-Cooper data projects a total PD 6 population of 324,834 residents by 2030 (**Table 7**). This represents an approximate 13.3% increase in total population from 2010 to 2030. Comparatively, Weldon-Cooper projects the total population of Virginia to increase by approximately 16.6% for the same period. With regard to Augusta County specifically, Weldon-Cooper projects a total population increase of 6,285, or approximately 8.5%, from 2010 to 2030.

With regard to the 65 and older age cohort, Weldon-Cooper projects a significant increase across PD 6 as a whole and the Augusta County. Specifically, Weldon-Cooper projects an increase of approximately 56.9% in residents age 65 and over for PD 6 as a whole from 2010 to 2030 and 72.2% is projected among the same age cohort for the City of Williamsburg (**Table 8**). Augusta County's growth in this age cohort during this period is consistent with the overall growth of this age cohort in Virginia. DCOPN notes that, while the growth in this age cohort is consistent in PD 6 as a whole, a much larger portion of the growth in Augusta County during this period occurred between 2010 and 2020. Between 2020 and 2030, the 65+ age cohort is projected to increase 22.2%, or 3,701 individuals.

DCOPN notes that in its most recent RFA, it calculated a PD 6 projected net bed deficit of 84 beds for the 2022 planning year. The applicant relies upon this calculation as the basis for submitting its application pursuant to the Bed Transfer Statute.

Table 6. PD 6 Nursing Bed Inventory

Facility	Licensed Beds
Accordius Health at Harrisonburg LLC	117
Accordius Health at Waynesboro LLC	109
Augusta Health	17
Augusta Nursing and Rehabilitation Center	112
Bridgewater Home	127
Envoy of Staunton	170
Harrisonburg Health & Rehab Center	180
Heritage Hall - Lexington	60
Kendal at Lexington	60
King's Daughters' Comm Health & Rehab Center	117
Shenandoah Nursing Home	60
Shenandoah Valley Health and Rehab	93
The Springs Nursing Center	60
Summit Square Retirement Community	18
Sunnyside Presbyterian Community	84
VRMC, Complete Living Care	120
TOTAL/Average	**1,504**

Source: VHI and DCOPN Records

Table 7. PD 6 and Statewide Total Population Projections, 2010-2030

Locality	2010	2020	% Change	2030	% Change	2010-2030 % Change
Augusta County	73,750	75,734	2.7%	80,035	5.7%	8.5%
Bath County	4,731	4,377	-7.5%	3,980	-9.1%	-15.9%
Highland County	2,321	2,258	-2.7%	2,080	-7.9%	-10.4%
Rockbridge County	22,307	22,636	1.5%	23,290	2.9%	4.4%
Rockingham County	76,314	82,720	8.4%	89,156	7.8%	16.8%
Buena Vista City	6,650	6,302	-5.2%	6,222	-1.3%	-6.4%
Harrisonburg City	48,914	56,012	14.5%	63,037	12.5%	28.9%
Lexington City	7,042	7,447	5.8%	7,622	2.3%	8.2%
Staunton City	23,746	25,293	6.5%	25,577	1.1%	7.7%
Waynesboro City	21,006	22,613	7.7%	23,835	5.4%	13.5%
Total PD 6	**286,781**	**305,392**	**6.5%**	**324,834**	**6.4%**	**13.3%**
Virginia	8,001,024	8,655,021	8.2%	9,331,666	7.8%	16.6%

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

Table 8. PD 6 Population Projections for 65+ Age Cohort, 2010-2030

Locality	2010	2020	% Change	2030	% Change	2010-2030 % Change
Augusta County	11,839	16,687	40.9%	20,388	22.2%	72.2%
Bath County	1,052	1,166	10.9%	1,255	7.6%	19.3%
Highland County	579	690	19.2%	798	15.6%	37.9%
Rockbridge County	4,620	6,364	37.7%	7,688	20.8%	66.4%
Rockingham County	11,964	16,179	35.2%	20,685	27.8%	72.9%
Buena Vista City	1,068	1,204	12.7%	1,164	-3.3%	9.0%
Harrisonburg City	4,033	4,918	21.9%	5,944	20.9%	47.4%
Lexington City	1,077	1,089	1.1%	1,040	-4.4%	-3.4%
Staunton City	4,690	5,525	17.8%	6,311	14.2%	34.6%
Waynesboro City	3,567	3,955	10.9%	4,542	14.8%	27.3%
Total PD 6	**44,489**	**57,777**	**29.9%**	**69,815**	**20.8%**	**56.9%**
Virginia	976,937	1,352,448	38.4%	1,723,382	27.4%	76.4%

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

SNR Background

As demonstrated in **Table 10** below, occupancy at SNR has remained consistently high. For three of the past five years, SNR has exceeded the SMFP threshold to expand nursing services.

Table 9. PD 12 Nursing Bed Utilization: 2019

Facility	Licensed Nursing Beds	Available Days	Patient Days	Occupancy Rate
Accordius Health at Harrisonburg	117	21,528	19,332	89.8%
Accordius Health at Waynesboro LLC	109	20,056	20,018	99.8%
Augusta Health - LTCU	17	6,205	5,005	80.7%
Augusta Nursing and Rehab Center	112	40,880	37,228	91.1%
Bridgewater Home, Inc.	127	46,355	43,971	94.9%
Envoy Health Care of Staunton	170	62,050	57,682	93.0%
Harrisonburg Health & Rehab Center	180	65,700	62,176	94.6%
Heritage Hall - Lexington	60	21,900	20,178	92.1%
Kendal at Lexington	60	21,900	16,565	75.6%
Kings Daughters Health & Rehab	117	42,705	40,389	94.6%
Shenandoah Nursing and Rehab Center	60	21,900	20,245	92.4%
Shenandoah Valley Health and Rehab	93	33,945	28,711	84.6%
Springs Nursing Center	60	21,900	18,136	82.8%
Summit Square Retirement Community	18	6,570	6,262	95.3%
Sunnyside Presbyterian Retirement Community	84	30,660	27,769	90.6%
VMRC, Complete Living Care	120	43,800	39,889	91.1%
Total Beds/Average Occupancy	**1,504**	**508,054**	**463,556**	**91.2%**

Source: VHI and DCOPN records

Table 10. SNR Nursing Bed Utilization: 2015-2019

Year	Licensed Nursing Beds	Available Days	Patient Days	Occupancy Rate
2015	60	21,960	20,829	94.8%
2016	60	21,960	20,246	92.2%
2017	60	21,900	20,401	93.2%
2018	60	21,900	20,591	94.0%
2019	60	21,900	20,245	92.4%

Source: VHI and DCOPN records

Proposed Project

The applicant proposes to relocate 24 nursing home beds from RMRH to SNR. Should the proposed relocation receive approval, SNR would convert its 24 bed private room assisted living beds to 24 private room nursing home beds. The applicant states that the residents currently residing in the assisting living beds will become medically qualified for nursing home services, so it is unlikely that any current assisted living residents will need or desire to be relocated. The 24 semi-private rooms at RMRH would be converted into 24 private rooms. The applicant asserts that the proposed project is in compliance with the provisions of the Bed Transfer Statute. The total capital and financing cost of the proposed project is $608,422 (**Table 11**). The applicant states that the proposed would be financed using its accumulated reserves.

Table 11. Capital and Financing Costs

Value of Existing Space to be Converted	$104,422
Direct Construction Costs	$96,000
Equipment Not Included in Construction Contract	$48,000
Other Consultant Fees	$360,000
TOTAL Capital Costs	**$608,422**

Source: COPN Request No. VA-8568

Project Definitions

Section 32.1-102.1:3 of the Code of Virginia (the Code) defines a project, in part, as "[r]elocation of beds from an existing medical care facility described in subsection A to another existing medical care facility described in subsection A." Section 32.1-102.1:3 of the Code defines a medical care facility, in part, as "[a]ny facility licensed as a nursing home, as defined in § 32.1-123."

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 6 projected net bed deficit of 84 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 12 projected net bed surplus of 48 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 12 projected net bed surplus of 48 beds for the 2022 planning year. Approval of the proposed project would result in a remaining surplus of 24 nursing home beds in the planning district, while simultaneously partially addressing the calculated deficit of beds in PD 6. Furthermore, DCOPN reiterates that utilization of nursing home beds at RMRH has significantly decreased in recent years and that growth of residents in the 65+ age cohort is predicted to slow between 2020 and 2030. Accordingly, DCOPN does not anticipate that approval of the proposed project would result in a need for

additional beds in PD 12, as significant growth is not anticipated and sufficient capacity would 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 asserts that SNR currently offers dual certification of all 60 nursing beds. The applicant additionally states that, should the proposed receive approval, they would offer access to all 84 licensed and dual certified nursing beds without regard to the sources of payment for such services.

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;

The applicant proposes to transfer 24 nursing home beds from RMRH to SNR. The applicant states the proposed project complies with the Bed Transfer Statute. As discussed above, DCOPN concurs with this assertion. Moreover, the proposed project would add 24 private rooms to SNR, which currently has no private rooms, and convert 24 semi-private rooms at RMRH to private rooms. As discussed below, these 24 new private rooms at each location, totaling 48 new private rooms, would be more competitive and consistent with shifting preferences in nursing homes over the past decade. Moreover, the addition of private rooms would enhance both RMRH and SNR's ability to serve residents with infectious diseases by adding additional space for quarantine, should such space be necessary.

Geographically, SNR is located approximately half a mile from US-250 and is accessible by I-64 via an onramp approximately 5 miles from the facility. No bus service is available at this location. The applicant asserts that the location is served by the Brite Bus, which offers fixed-route paratransit transportation, and Priority Patient service. The applicant did not address any benefits or drawbacks to the location with regards to public parking.

DCOPN did not identify any additional geographic, socioeconomic, cultural, transportation, and other barriers to access to care.

2. The extent to which the proposed 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;

DCOPN received four letters of support from individuals associated with SNR. Collectively, these letters articulated the benefits of private rooms, which are discussed in detail elsewhere in this report

Public Hearing

DCOPN provided notice to the public regarding this project on September 10, 2021. The public comment period closed on October 25, 2021. Section 32.1-102.6 of the Virginia Code mandates that "in the case of competing applications or in response to a written request by an elected local government representative, a member of the General Assembly, the State Health Commissioner (Commissioner), the applicant, or a member of the public, [DCOPN shall] hold one hearing on each application in a location in the county or city in which the project is proposed or a contiguous county or city." The proposed project is not competing, and no public hearing was requested by the applicant, the Commissioner, an interested party, or member of the public. As such, no public hearing was held.

(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;

The proposed project is more preferable than the alternative of the status quo. DCOPN notes that all of SNR's 60 nursing beds are semi-private. 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 notes that the addition of 24 private rooms at each location incorporates elements of culture change design that have been sweeping the long-term care industry over the past decade, and would result in added privacy for residents of both PD 12 and PD 6[1]. Furthermore, the addition of private rooms would enhance both RMRH and SNR's ability to serve residents with infectious diseases by adding additional space for quarantine, should such space be necessary. Moreover, the proposed project would reduce a projected surplus of beds in PD 12 while addressing a projected deficit of beds in PD 6.

[1] 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/.

For these reasons, DCOPN contends that approval of the proposed project is more favorable than the alternative of 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;

Currently there is no organization in HPR I designated by the Virginia Department of Health to serve as the Health Planning Agency for PD 6. Therefore, this consideration is not applicable to the review of either proposed project.

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

The total capital and financing cost for the project is $608,422 (**Table 11**), which would be funded using the applicant's accumulated reserves. The proposed project is reasonable and consistent with other projects seeking to expand nursing services through the transfer of nursing beds from one facility to another. For example, COPN No. VA-03467 issued to Patriots Colony, Inc. to transfer 30 beds to Patriot's Colony from Riverside Convalescent Center, which cost approximately $616,448. As discussed throughout this report, the proposed project would address a projected need in PD 6 while reducing a projected surplus in PD 12. Moreover, the proposed project would increase the number of private rooms in both planning districts. These private rooms have grown in preference over the past decade and would additionally enhance both locations' ability to serve residents with infectious diseases by adding additional space for quarantine, should such space be necessary.

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

To reiterate, the applicant has provided assurances that all nursing beds at SNR would continue to be dually-certified and that it would continue to offer access to all beds according to patients' health care needs and without regard to payment source. In accordance with section 32.1-102.2.A.7 of the Code of Virginia, imposition of a charity condition pursuant to subsection B of § 32.1-102.4 would not be appropriate for the proposed project.

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

The overall rating as well as ratings for three component-rating categories (health inspection, staffing, and quality of resident care) for SNR 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. SNR Nursing Home Compare Rating

Overall Rating	Health Inspection	Staffing	Quality of Resident Care
5 stars	4 stars	3 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

3. The extent to which the proposed project is consistent with the State Health Services Plan;

Section 32.1-102.2:1 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 State Medical Facilities Plan (SMFP).

The State Medical Facilities Plan (SMFP) contains the criteria and standards for the addition of nursing beds. 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 12. The heavy black line in **Figure 2** identifies the boundary of PD 6. The solid white "H" signs mark the location of the nursing facilities affected by this project. The solid blue "H" signs mark the location of all licensed nursing facilities in each planning district. The grey shaded area in each figure illustrates the area of the planning district that is within a 30 minutes driving time one way under normal conditions of all nursing facilities in planning district. Given the amount of shading and the location of the unshaded areas in **Figure 1**, it is reasonable to conclude that 95% of the population of PD 12 is within 30-minutes drive time of existing skilled nursing services. Given the amount of shading and the location of the unshaded areas in **Figure 2**, it is reasonable to conclude that 95% of the population of PD 6 is not within 30-minutes drive time of existing skilled nursing services. As both locations are existing providers of nursing services, approval of the project will not affect access to nursing facilities in PD 6 and PD 12 for those residents not currently within 30 minutes driving time one way under normal conditions of nursing services.

Figure 1

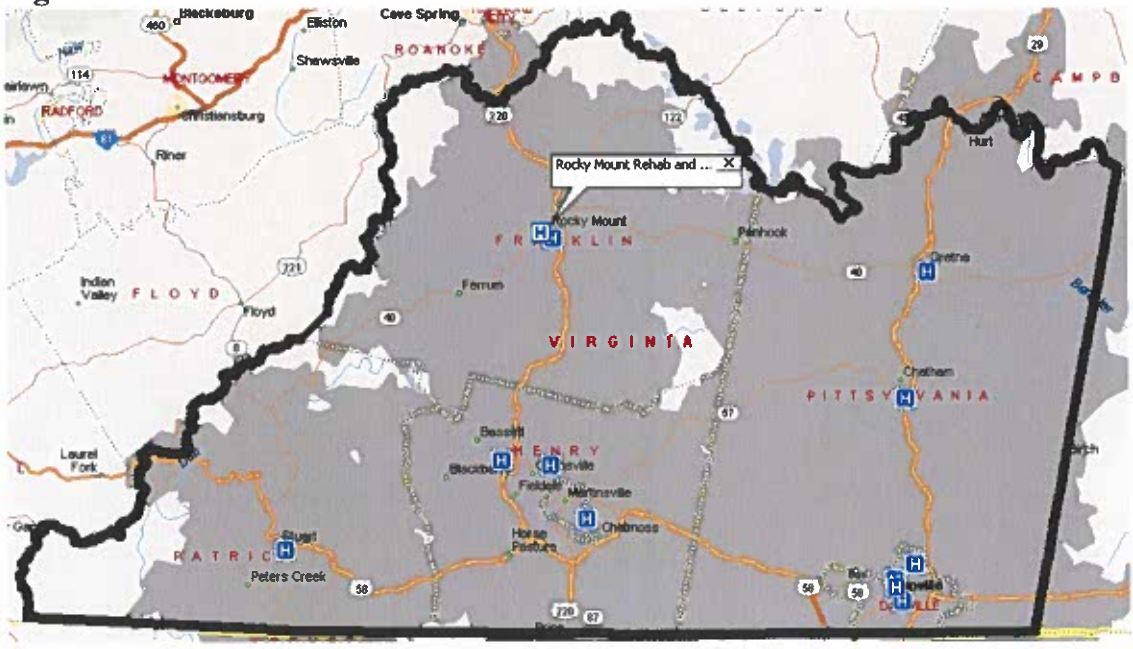
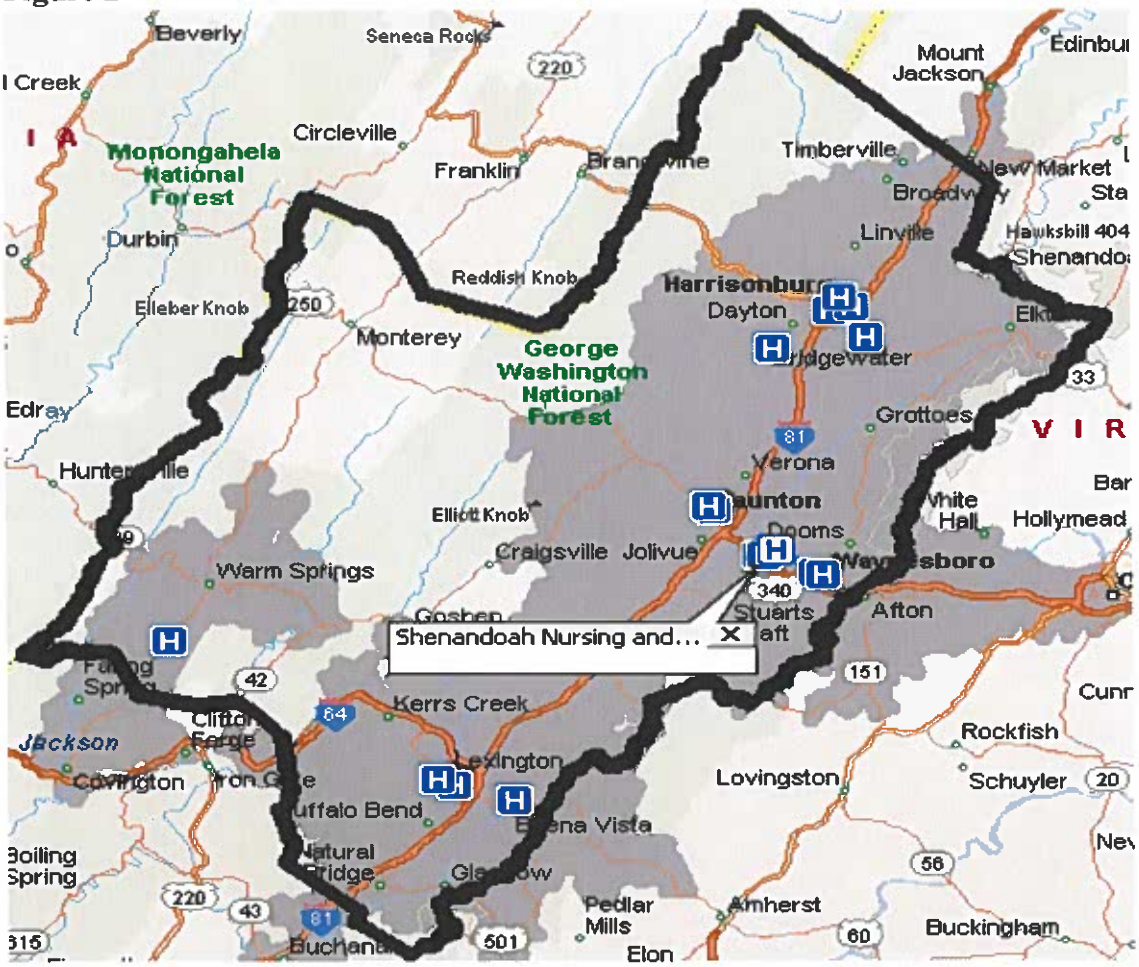


Figure 2



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

As discussed above, the applicant asserts that the location is not served by public transportation. Transportation is available, however, via local paratransit transportation and Priority Patient Transport. DCOPN did not identify any public transportation methods available in the area.

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.

C. 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.

D. 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.

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

PDBN = (UR64 x PP64) + (UR69 x 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:

Health Planning District Bed Need	Rounded Bed Need
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.**

F. 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.

G. 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.

H. 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 Virginia Health Commissioner 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, 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, 2019 VHI data indicates that SNR's existing 60 nursing beds operated at a collective utilization of 92.4%, marginally beneath the 93% expansion threshold found in this standard (**Table 9**). While this is below the threshold, DCOPN notes that SNR has exceeded this threshold in three of the past five years for which data is available (**Table 10**). Of the remaining two years, SNR was within less than one percentage point of the mandated utilization threshold. Furthermore, DCOPN again notes that utilization at RMRH has decreased significantly over the past

five years. From 2015 to 2019, the number of patient days at RMRH decreased by 13,307 days, or approximately 74 days per bed (**Table 4**). Based on these utilization and population trends, DCOPN contends that the existing RMRH complement is capable of adequately serving its existing population, as well as accommodating any increase in PD 12 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 12 and a net deficit of beds in PD 6. Approval of the proposed project would result in additional private rooms at both SNR and RMRH, 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.

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.**

This provision is not applicable to the proposed project, as the applicant is not a continuing care retirement community.

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 asserts that the facility is and will continue to be staffed by sufficient professional and non-professional staff to comply with all regulatory requirements.

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 16 licensed nursing facilities operating a total of 1,504 beds in PD 6. 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 6, as ample competition already exists among current providers. DCOPN notes, 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. Nonetheless, 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 discussed above, the utilization rates at SNR have been at close to, or exceeding, the threshold necessary to expand services for the past five years (**Table 10**). Moreover, the overall utilization of the PD 6 was very close to the 93% threshold as well (**Table 9**). As such, DCOPN contends that the proposed project would be likely to significantly reduce the utilization of other existing providers in PD 6. Moreover, the reduction in the number of beds at RMRH, which has been steadily decreasing in utilization over the past five years (**Table 5**), would benefit the utilization and efficiency of services at that location and in PD 12. Using 2019 VHI data, the last year for which DCOPN has data from VHI, approval of the proposed project would result in an occupancy rate of 69.9% at RMRH and 87.6% in PD 12. Finally, the relocation of beds from RMRH to SNR would reduce the projected net surplus in PD 12 while helping to address the projected net deficit in PD 6. As such, DCOPN concludes that the proposed project would have a beneficial effect on the utilization and efficiency of existing services in PD 6 and PD 12.

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

As already discussed, the total capital costs for the proposed project are $608,422 (**Table 11**). These costs would be paid for using the applicant's accumulated reserves. Accordingly, there are no financing costs associated with this project. The applicant's submitted financial statements show that this approach is financially viable. As such, DCOPN concludes that the proposed project is financially feasible.

With regard to staffing, SNR anticipates the need to hire an additional 17.39 FTEs of nursing positions. 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. Given the relatively small population of the planning district, DCOPN finds the idea that local recruitment could be effectuated without adversely effecting other providers somewhat dubious. However, as none of the existing providers in PD 6 have voiced any concern or opposition to the project, DCOPN must ultimately conclude that the existing providers in PD 6 do not project that such recruitment would adversely affect their staffing.

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; and**

DCOPN again notes that the proposed project would increase the number of private rooms at RMRH and SNR, 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.
(ii) Any contribution the teaching hospital or medical school may provide in the delivery, innovation, and improvement of health care for citizens of the Commonwealth, including indigent or underserved populations.

Not applicable. The applicant is not a teaching hospital and is not affiliated with a medical school.

DCOPN Staff Findings and Conclusions

DCOPN finds that the proposed project to transfer 24 nursing home beds from RMRH to SNR is generally consistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia. The applicant has successfully met the necessary criteria to necessitate approval of the proposed project under Section 32.1-102.3:7 of the Code of Virginia. Moreover, DCOPN notes that, while the applicant does not meet the threshold to necessitate expansion under 12VAC5-230-620 using 2019 VHI data, the applicant is incredibly close and has met this threshold in three out of the past five years for which data is available.

Moreover, DCOPN finds that the proposed project is more favorable than the alternative of the status quo. The proposed project would reduce a projected surplus of beds in PD 12 while addressing a projected deficit of beds in PD 6. Moreover, the proposed project would increase the number of private use rooms in PD 6 and PD 12. The addition of these private use rooms would allow the applicant to compete better for the business of patients who seek short-term rehabilitation services and enhance both RMRH and SNR's ability to serve residents with infectious diseases by adding additional space for quarantine, should such space be necessary.

Finally, DCOPN finds that the total capital costs of $608,422 (**Table 11**) for the proposed project, which would be paid through the use of the accumulated reserves, are reasonable and consistent with other projects seeking to expand nursing services through the transfer of nursing beds from one facility to another. For example, COPN No. VA-03467 issued to Patriots Colony, Inc. to transfer 30 beds to Patriot's Colony from Riverside Convalescent Center, which cost approximately $616,448.

DCOPN Staff Recommendations

The Division of Certificate of Public Need recommends the **approval** of Autumn Corporation's COPN Request No. VA-8568 to transfer 24 nursing home beds from Rocky Mount Health & Rehab Center to Shenandoah Nursing & Rehab. DCOPN's recommendation is based on the following findings:

1. The project is consistent with the applicable criteria and standards of Section 32.1-102.3:7 of the Code of Virginia.

2. The 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.

3. The project is more favorable than the alternative of the status quo.

4. The cost of the project is reasonable and consistent with other projects of this type.