VIRGINIA DEPARTMENT OF HEALTH

Office of Licensure and Certification

Division of Certificate of Public Need

Staff Analysis

March 21, 2022

COPN Request No. VA-8609
Shenandoah Operations Holdings, LLC
Hanover County, Virginia
Add 52 Nursing Home Beds

Applicant

The applicant, Shenandoah Operations Holdings, LLC (SOH), is a single purpose entity affiliated through common ownership with Hill Valley Healthcare, LLC (Hill Valley), a new health care company which specializes in providing short and long-term nursing care services, skilled nursing and rehabilitation services, home health services, and dialysis services. LCC is located in Warren County, Virginia in Planning District (PD) 7, within Health Planning Region (HPR) I.

Background

PD 7 Background
Hill Valley purchased Lynn Care Center (LCC), a licensed 120 bed nursing facility connected to, and formerly an integral part of, Warren Memorial Hospital, along with the recently vacated former Warren Memorial Hospital real estate, in February of 2022. Upon execution of the sale, Shenandoah Reality Holdings, LLC became the new real estate owner, and SOH, the applicant, became the new operator. SOH will hold a long-term operating lease agreement with Shenandoah Realty Holdings, LLC. As will be discussed in more detail throughout this staff analysis report, SOH proposes to transfer 52 licensed nursing home beds currently located at Richfield Recovery and Care Center (Richfield) in PD 5 to LCC in PD 7 under the provisions of § 32.1-102.3:7 of the Code of Virginia (the Bed Transfer Statute). To achieve that end, Hill Valley and Richfield entered into a Forbearance Agreement for the transfer of 52 beds from Richfield to LCC, executed on December 31, 2021. According to Division of Certificate of Public Need (DCOPN) records and 2020 Virginia Health Information (VHI) data, the most recent year for which such data is available, in 2020, there were a total of 1,003 licensed and operational nursing beds in PD 7 (**Table 1**). Collectively, these beds operated at 83.6% occupancy. More specifically, the 120 beds located at LCC operated at 91.2% occupancy for the same period. Subsequent to 2020, COPN No. VA-04468 authorized the establishment of Cedar Creek Living Center, a 90-bed nursing home projected to be operational by June 30, 2023. To facilitate that project, 90 beds will be relocated from Evergreen Health and Rehab of Winchester, ultimately having a neutral impact on the collective PD 7 inventory. Accordingly, at present, there are 1,003 nursing beds authorized for operation at 12 different facilities across PD 7: nine nursing homes, two continuing care retirement communities (CCRCs), and one hospital.

Table 1. PD 7 Nursing Home Facilities, Beds, and Occupancy: 2020

Facility	Beds	Occupancy Rate
Cedar Creek Living Center*	90	--
Consulate Health Care of Woodstock	88	78.3%
Envoy of Winchester	60	89.6%
Evergreen Health and Rehab of Winchester**	86	71.9%
Heritage Hall—Front Royal	60	84.6%
Life Care Center of New Market	118	76.8%
Rose Hill Health and Rehab	120	90.5%
Shenandoah Valley Westminster-Canterbury	51	88.6%
Skyline Terrace	70	97.2%
Skyview Springs Rehab & Nursing Center	120	85.4%
Village at Orchard Ridge	20	73.5%
WARREN MEMORIAL HOSPITAL LYNN CARE CENTER	120	91.2%
Total/Average	**1,003**	**83.6%**[1]

Source: VHI (2020) and DCOPN records.
Note: Italics denotes facility operates as part of a Continuing Care Retirement Community (CCRC)
Note: ALL CAPS denotes a [former] hospital with licensed long-term care nursing beds.
*COPN No. VA-04468 authorized the establishment of Cedar Creek Living Center, a 90-bed nursing home. Project expected complete on June 30, 2023. Accordingly, VHI occupancy data is not yet available.
**Pursuant to COPN No. VA-04468, 90 beds will transfer from Evergreen Health and Rehab of Winchester to establish Cedar Creek Living Center. Projected expected to be complete on June 30, 2023.

Collective utilization of the PD 7 nursing bed inventory has decreased from 90.7% in 2015 to 83.6% in 2020, representing an approximate 7.8% decrease over the six-year period (**Table 2**). While the overall decrease in occupancy is not necessarily a large one, DCOPN notes that the decrease can primarily be attributed to 2020, a year in which occupancy was likely impacted by the COVID-19 pandemic. Aside from that year, DCOPN notes that occupancy has been generally consistent, despite an increase in the total PD 7 population, as well as in the population of individuals aged 65 and older (**Table 3**). DCOPN additionally notes that in its most recently published Projected Notice of No Need, it calculated a PD 7 projected net bed deficit of 21 beds for the 2022 planning horizon, however due to the existing occupancy rate, no RFA (Request for Applications) was issued. 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.

Table 2. Historical PD 7 Utilization (2015-2020)

Year	Beds	Occupancy
2020	1,003	83.6%
2019	1,003	90.5%
2018	1,003	88.6%
2017	1,003	88.3%
2016	982	88.6%
2015	982	90.7%

Source: VHI (2015-2020)

[1] Occupancy computed using 2020 Virginia Health Information data.

Table 3. Statewide and PD 7 Population Projections, 2010-2030

Locality	2010	2020	% Change	2030	% Change	2010-2030 % Change
Virginia	8,001,024	865,5021	8.2%	9,331,666	7.8%	16.6%
Clarke	14,034	14,509	3.4%	15,279	5.3%	8.9%
Frederick	78,305	90,115	15.4%	104,608	16.1%	33.6%
Page	24,042	23,838	(0.8%)	23,888	0.2%	(0.6%)
Shenandoah	41,993	43,233	3.0%	46,984	8.7%	11.9%
Warren	37,575	40,164	6.9%	44,052	9.7%	17.2%
Winchester City	26,203	28,804	9.9%	31,005	7.6%	18.3%
Total PD 7	**222,152**	**240,663**	**8.3%**	**265,814**	**10.5%**	**19.7%**
PD 7 65+	32,713	45,093	37.8%	57,841	28.3%	76.8%
Virginia 65+	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)

With regard to the LCC inventory specifically, utilization has decreased from 97.2% in 2015 to 91.2% in 2020, representing an approximate 6.6% decrease in utilization over the six-year period (**Table 4**). However, as is the case in PD 7 as a whole, DCOPN notes that the decreased utilization in 2020 was likely a result of the COVID-19 pandemic and that absent one year of operation, occupancy at LCC has not fallen beneath 96% in recent years. Furthermore, the applicant projects that if the proposed project is approved, the resulting 172 beds will operate at approximately 82.3% occupancy by the year 2024 and at 90.1% occupancy by 2025. While DCOPN cannot quantifiably confirm this data, it notes that because the applicant is required to report utilization data to VHI each year, it has relied upon the data provided for purposes of analyzing this COPN request. Furthermore, as will be discussed in more detail throughout this staff analysis report, DCOPN finds the applicant's projections to be reasonable.

Table 4. LCC Historical and Projected Utilization (2015-2025)

Year	Beds	Occupancy
2025 (Projected)	172	90.1%
2024 (Projected)	172	82.3%
2020	120	91.2%
2019	120	96.0%
2018	120	96.2%
2017	120	96.9%
2016	120	97.3%
2015	120	97.2%

Source: VHI (2015-2020) and COPN Request No. VA-8609

PD 5 Background

For this staff analysis report, DCOPN has excluded all data pertaining to the Virginia Veterans Care Center in Salem, Virginia as regulation of this facility is outside the scope of COPN activities.

According to DCOPN records and 2020 VHI data, the most recent year for which such data is available, in 2020, there were a total of 2,275 licensed and operational nursing beds in PD 5 (**Table 5**). Collectively, these beds operated at 81.3% occupancy. More specifically, the 280 beds operational at Richfield in 2020 operated at 64.9% occupancy for the same period. DCOPN notes

that subsequent to 2020, COPN No. VA-04692 authorized the establishment of Richfield Living through the relocation of 116 beds from Richfield, thereby decreasing the Richfield complement to 164 while ultimately having a neutral impact on the total PD 5 inventory. Richfield Living became operational in January of 2022. Accordingly, at present, there are 2,275 nursing beds authorized for operation at 21 different facilities across PD 5: 18 nursing homes and three CCRCs.

Table 5. PD 5 Nursing Home Facilities, Beds, and Occupancy: 2020

Facility	Beds	Occupancy Rate
Accordius Health at Roanoke	130	54.1%
Allegheny Health and Rehabilitation	105	86.2%
The Berkshire Healthcare Center	180	88.2%
Brandon Oakes Nursing and Rehabilitation Center	62	69.4%
The Brian Center at Low Moor	89	89.7%
Brian Center Nursing Care/Fincastle	56	88.2%
Carrington Place at Botetourt Commons	90	85.5%
Friendship Health and Rehab Center—North	253	89.4%
Friendship Health and Rehab Center—South	120	92.0%
The Glebe	32	84.7%
Hermitage Roanoke	24	47.2%
Our Lady of the Valley	70	85.8%
Pheasant Ridge Nursing and Rehab Center	101	88.6%
Raleigh Court Health and Rehab Center	120	82.7%
Richfield Living*	116	--
Richfield Recovery and Care Center**	164	64.9%
Salem Health and Rehabilitation Center	240	86.5%
Snyder Nursing Home	45	90.4%
South Roanoke Nursing Home	98	78.8%
Springtree Health and Rehabilitation Center	120	85.5%
Woodlands Health and Rehab Center	60	80.9%
Total/Average	**2,275**	**81.3%[2]**

Source: VHI (2020) and DCOPN records.
Note: Italics denotes facility operates as part of a Continuing Care Retirement Community (CCRC)
*COPN No. VA-04692 authorized the establishment of Richfield Living, a 116-bed nursing facility, through the transfer of beds from Richfield Recovery and Care Center. Project became operational in January of 2022.
** COPN No. VA-04692 authorized the establishment of Richfield Living, a 116-bed nursing facility, through the transfer of beds from Richfield Recovery and Care Center. Project became operational in January of 2022.

Collective utilization of the PD 5 nursing bed inventory has decreased from 88.3% in 2015 to 81.3% in 2020, representing an approximate 12.9% decrease over the six-year period (**Table 6**). While the overall decrease in occupancy is not necessarily a large one, DCOPN notes that the decrease can primarily be attributed to 2020, a year in which occupancy was likely impacted by the COVID-19 pandemic. Aside from that year, DCOPN notes that occupancy has been generally consistent

[2] Occupancy computed using 2020 Virginia Health Information data.

despite an increase in the total PD 5 population, as well as in the population of individuals aged 65 and older (**Table 7**). DCOPN notes that in its most recently published Projected Notice of No Need, it calculated a PD 5 projected net bed surplus of 224 beds for the 2022 planning horizon. 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.

Table 6. Historical PD 5 Utilization (2015-2020)

Year	Beds	Occupancy
2020	2,275	81.3%
2019	2,275	86.7%
2018	2,135	88.4%
2017	2,308	88.6%
2016	2,275	87.6%
2015	2,275	88.3%

Source: VHI (2015-2020)

Table 7. Statewide and PD 5 Population Projections, 2010-2030

Locality	2010	2020	% Change	2030	% Change	2010-2030 % Change
Virginia	8,001,024	865,5021	8.2%	9,331,666	7.8%	16.6%
Alleghany	16,250	14,950	(8.0%)	13,620	(8.9%)	(16.2%)
Botetourt	33,148	33,387	0.7%	34,484	3.3%	4.0%
Craig	10,380	5,084	(51.0%)	5,020	(1.3%)	(51.6%)
Roanoke County	92,376	94,145	1.9%	94,249	3.3%	5.3%
Covington City	5,961	5,677	(4.8%)	5,281	(7.0%)	(11.4%)
Roanoke City	97,032	100,891	4.0%	102,388	1.5%	5.5%
Salem City	24,802	25,953	4.6%	26,141	0.7%	5.4%
Total PD 5	**279,949**	**280,088**	**0.0%**	**284,184**	**1.5%**	**1.5%**
PD 5 65+	44,720	55,442	24.0%	63,434	14.4%	41.8%
Virginia 65+	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)

With regard to the Richfield Recovery and Care Center inventory specifically, utilization has decreased from 78.8% in 2015 to 64.9% in 2020, representing an approximate 13.9% decrease in utilization over the six-year period (**Table 8**). However, DCOPN notes that decrease in occupancy from 2019 to 2020 is much steeper than in previous years, most likely a result of the COVID-19 pandemic. Aside from 2020, DCOPN notes that occupancy at Richfield, and across PD 5 as a whole, has remained generally consistent.

Table 8. Richfield Historical Utilization (2015-2020)

Year	Beds	Occupancy
2020	280	64.9%
2019	280	77.0%
2018	305	76.2%
2017	315	78.5%
2016	315	77.6%
2015	315	78.8%

Source: VHI (2015-2020)

Proposed Project

Under the provisions of the Bed Transfer Statute, SOH proposes to transfer 52 beds from Richfield in PD 5 to LCC in PD 7. The transferred 52 nursing home beds will be located in renovated space within the former Warren Memorial Hospital, and physically connected to LCC. LCC's current nursing home design, bed configuration, and space, contains only 16 private room beds along with 104 semi-private room beds. Sufficient support space for long-term care residents is built into the former hospital wing, thus enabling a conversion of space into 38 private room beds and 14 semi-private beds. Upon completion, LCC will have 52 private rooms and 120 semi-private beds for a total of 172 beds. The applicant states that approval of the proposed project will enable LCC to admit patients without being impeded by gender issues presented by semi-private rooms, expand its ability to meet the growing demand of short-term rehabilitation patients, improve the infection control capability of the facility, and gain operational and financial efficiencies via additional occupied capacity over which to spread costs.

Richfield has recently completed extensive realignment of its nursing home beds and the applicant states that the 52-bed reduction in licensed capacity will enable the facility to transition from a large and outdated institutional environment, having predominately semi-private beds, to one which offers predominately private room environments available to all payer sources. Upon completion of the proposed project, PD 5's excess capacity will be reduced by approximately 23% and 90 private nursing home beds will have been created in the Commonwealth (52 at Richfield and 38 at LCC), without increasing the Commonwealth's licensed bed capacity. All beds relocated to LCC will be dually certified for Medicare and Medicaid.

Construction for the proposed project is projected to begin within 18 months of Certificate of Public Need (COPN) issuance and to be complete within 35 months of COPN issuance. The applicant anticipates patient service to begin within 36 months of COPN issuance.

The projected capital cost of the proposed project totals $11,849,384 (**Table 9**), the entirety of which will be funded using a 5-year mini-perm bridge loan. Total projected capital and financing costs total $13,740,384.

Table 9. SOH Projected Capital and Financing Costs

Direct Construction Costs	$4,438,884
Equipment Not Included in Construction Contract	$700,000
Site Acquisition Costs	$3,000,000
Architectural and Engineering Fees	$300,000

Bed Transfer Fee	$2,600,000
Taxes and Government Fees During Construction	$50,000
Conventional Mortgage Loan Financing	$760,500
TOTAL Capital Costs	**$11,849,384**
Conventional Mortgage Loan Financing	$1,891,000
TOTAL Capital and Financing Costs	**$13,740,384**

Source: COPN Request No. VA-8609

Project Definition

Section 32.1-102.1:3 of the Code of Virginia defines a project, in part, as "An increase in the total number of beds…in a medical care facility described in subsection A." A medical care facility includes "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 Proposed Notice of No Need, it calculated a PD 7 projected net bed deficit of 21 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 Proposed Notice of No Need, 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 net bed surplus of 224 beds in PD 5 for the 2022 planning year. Approval of the proposed project would reduce this surplus to 172, leaving ample capacity to continue to provide adequate care for residents of PD 5. As will be discussed in more detail later in this staff analysis report, DCOPN also notes that population growth among both the total PD 5 population as well as the 65+ age cohort has increased, and is projected to continue increasing, at a

rate well beneath the statewide average. For these reasons, DCOPN concludes that approval of the proposed project would not result in the creation of a need for additional beds in PD 5.

(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 in accordance to patient health care needs and without regard to source of payment. DCOPN additionally notes that all of the nursing beds at LCC, including those to be transfer, are dually certified.

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 governs 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;

Geographically, the facility is easily accessible via Interstate 64. Front Royal is centrally located in Warren County, with Warren County being centrally located within PD 7 and the only county which is contiguous to all other counties in PD 7. The facility is not served by regularly scheduled bus service, but is served by Front Royal Area Transit Bus (otherwise known as FRAT). As will be discussed in more detail later in this staff analysis report, at least 95% of the population of PD 7 appears to be within a 30 minute drive time, one way, under normal driving conditions of existing nursing services.

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, including those to be transferred, according to patients' health care needs and without regard to source of payment. The applicant anticipates primary service utilization to be Medicaid, with secondary pay sources being Medicare and private pay. The expected utilization by payer source is expected to be "within the current average range experienced by other facilities serving PD 7."[3] In accordance with subsection 32.1-102.A.7 of the Code of Virginia,

[3] COPN Request No. VA-8609, at page 23.

imposition of a charity condition pursuant to subsection B of § 32.1-102.4 would not be appropriate for the proposed project.

Also with regard to socioeconomic barriers to access to services, DCOPN notes that, according to the most recent U.S. Census data, four of six PD 7 localities had poverty rates higher than the 9.2% statewide average (**Table 10**). More specifically, Warren County, the locality in which the proposed project is located, had a poverty rate of 10.1%, approximately 1% higher than the statewide average.

Table 10. Statewide and PD 7 Poverty Rates

Locality	Poverty Rate
Virginia	9.2%
Clarke	6.2%
Frederick	7.4%
Page	11.3%
Shenandoah	10.1%
Warren	10.1%
Winchester City	16.3%

Source: U.S. Census Data (census.gov).

As demonstrated in **Table 3** above, the most recent Weldon-Cooper data projects a total PD 7 population of 265,814 by 2030. This represents an approximate 19.7% increase in total population from 2010-2030. Comparatively, Weldon-Cooper projects the total population of Virginia as a whole to increase by only 16.6% for the same period. With regard to Warren County specifically, Weldon-Cooper projects a total population growth increase of 17.2% from 2010 to 2030, an increase rate marginally higher than that of Virginia as a whole.

Regarding the 65 and older age cohort, Weldon-Cooper projects a much more rapid increase in population growth. With regard to PD 7 collectively, a 76.8% increase is projected, while an increase of 76.4% is expected statewide. This is significant, as this population group typically uses health care resources, including inpatient medical rehabilitation services, at a rate much higher than those individuals under the age of 65. DCOPN again notes that with regard to PD 5, the planning district from which the requested beds will be transferred, total population and the population of those aged 65 and older have increased at a rate much slower than that of PD 7 and the Commonwealth as a whole.

DCOPN did not identify any other unique geographic, socioeconomic, cultural, transportation, or other barriers to care in the planning district which are not discussed elsewhere in this staff analysis report.

2. The extent to which the proposed project will meet the needs of the 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 from current staff for the proposed project. Collectively, these letters addressed the following:

- The growing elderly population of Warren County and surrounding areas have a need for increased access to skilled rehabilitation and long-term care service. Addition additional bed capacity at LCC, as is being proposed, will serve the public good. Additionally, approval of the proposed project will enable the former hospital space to be renovated and continue its long-standing use as a health care facility.

- Hill Valley has the skills and experience to address the healthcare needs of the growing PD 7 senior population. With a record of accomplishment in improving quality metrics, the culture and values of Hill Valley indicate they will be an actively engaged community partner. Additionally, Hill Valley has demonstrated expertise in working with numerous health systems within and outside of Virginia to assume the operation of their long term care, skilled nursing, and rehabilitation facilities and grow more expansive services.

- To ensure uninterrupted care for residents, Hill Valley is retaining LCC leaders and employees.

DCOPN is unaware of any opposition to the proposed project. Additionally, DCOPN did not receive any request by an elected local government representative, a member of the General Assembly, the Commissioner, the applicant, or a member of the public to hold a public hearing on the proposed project. Thus, one was not 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;

As already discussed, VHI data demonstrates that in 2020, PD 7 skilled nursing beds operated at a collective occupancy of 83.6%, well beneath maximum capacity, indicating that there is ample underutilized inventory within the planning district to provide adequate skilled nursing care to residents of PD 7 for the foreseeable future. However, DCOPN again notes that aside from the year 2020, a year in which utilization was likely impacted by the COVID-19 pandemic, occupancy within PD 7 has remained generally consistent (between 88.3% and 90.7%) (**Table 2**). DCOPN again notes that in its most recently published Projected Notice of No Need for Target Year 2022, it calculated a projected net bed deficit of 21 beds in PD 7. Furthermore, as previously discussed, both the general population, as well as the population of those aged 65 and older, are projected to increase within PD 5 at a rate marginally higher than the statewide average.

With regard to LCC specifically, with the exception of 2020, occupancy has remained generally consistent (between 96.0% and 97.3%) (**Table 4**). Accordingly, DCOPN concludes that maintaining the status quo is not a reasonable alternative to the proposed project, as the existing inventory has consistently operated at near maximum capacity. The addition of the requested 52 beds would help to decompress the LCC complement, while simultaneously improving utilization at Richfield in PD 5, a facility that operated at only 64.9% in 2020, and has maintained low occupancy in recent years (**Table 1**). Next, DCOPN reiterates that this project will address a calculated deficit in PD 5 and a calculated surplus in PD 7, while ultimately having a neutral impact on the overall statewide inventory. Furthermore, DCOPN contends that by increasing the number of available private rooms both at LCC and at Richfield, the 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 PDs 5 and 7.[4] Finally, the addition of private rooms will enhance LCC's ability, as well as that of Richfield, to serve residents with infectious disease by adding additional space for quarantine, should such space become necessary.

(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 5. Therefore, this consideration is not applicable to the review of the proposed project.

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

As demonstrated by **Table 9** above, the projected capital cost of the proposed project totals $11,849,384, the entirety of which will be funded using a 5-year mini-perm loan. DCOPN concludes that projected costs are reasonable and consistent with previously approved PD 7 projects similar in clinical scope (COPN No. VA-04464, issued in 2015, authorized the establishment of a 90-bed nursing home and had a capital cost of $17,062,877; COPN No. VA-04426, issued in 2014, authorized the addition of 12 nursing home beds and had a capital cost of $6,662,200; COPN No. VA-04285, issued in 2011, authorized the establishment of a 60-bed CCRC with nursing home and had a capital cost of $8,379,064).

The applicant cited the following benefits of the proposed project:

1. The proposed relocation would move beds out of a large, functionally outdated, institutionally designed nursing home that has had low occupancy for many years, to a new location coupled with an existing nursing home having consistently high occupancy.

2. The 52 transferred beds were typically utilized as semi-private rooms, while at LCC the beds will be predominately used in private rooms (38 private beds and 14 semi-private beds).

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[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/.

3. The proposed project will serve an area having comparatively high occupancy in PD 7, and which has a growing age appropriate population.

4. The projected capital costs and operating expenses are reasonable for a project of this type.

5. The proposed project serves, and proposes to continue to serve, a high utilization of Medicaid patients.
6. The 75+ population of Warren County will need better access to more private room beds in order to satisfy projected demand.

7. Approval of the proposed project will increase the licensed bed capacity of a perennial high quality, high occupancy facility.

(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 LCC, as well as the 52 beds to be transferred from Richfield, 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, a charity care condition would not be appropriate.

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

LCC's Nursing Home Compare Ratings
The current overall rating as well as ratings for three component-rating categories (health inspection, staffing, and quality measures) for LCC can be found at Nursing Home Compare (medicare.gov) and are illustrated in **Table 11** below. The ratings are based on a five-star system, with an awarded five stars being the best rating possible.

Table 11. LCC Nursing Home Compare Ratings

Overall Rating	Health Inspection	Staffing	Quality Measures
3 Stars	3 Stars	2 Stars	4 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

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 COVID-19 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. DCOPN notes that LCC did not request to temporarily add additional capacity pursuant to EO 52 in order to respond to the COVID-19 pandemic. However, as already briefly discussed, the applicant asserts, and DCOPN agrees, that the addition of private rooms at LCC and Richfield would enable each facility to better care for patients with infectious diseases in the future.

State Health Services Plan Task Force
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 projects with the predecessor of the SHSP, the State Medical Facilities Plan (SMFP).

DCOPN did not identify any other discretionary factors, not discussed elsewhere in this staff analysis report, to bring to the attention of the Commissioner as may be relevant in determining a public need for the proposed project.

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

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

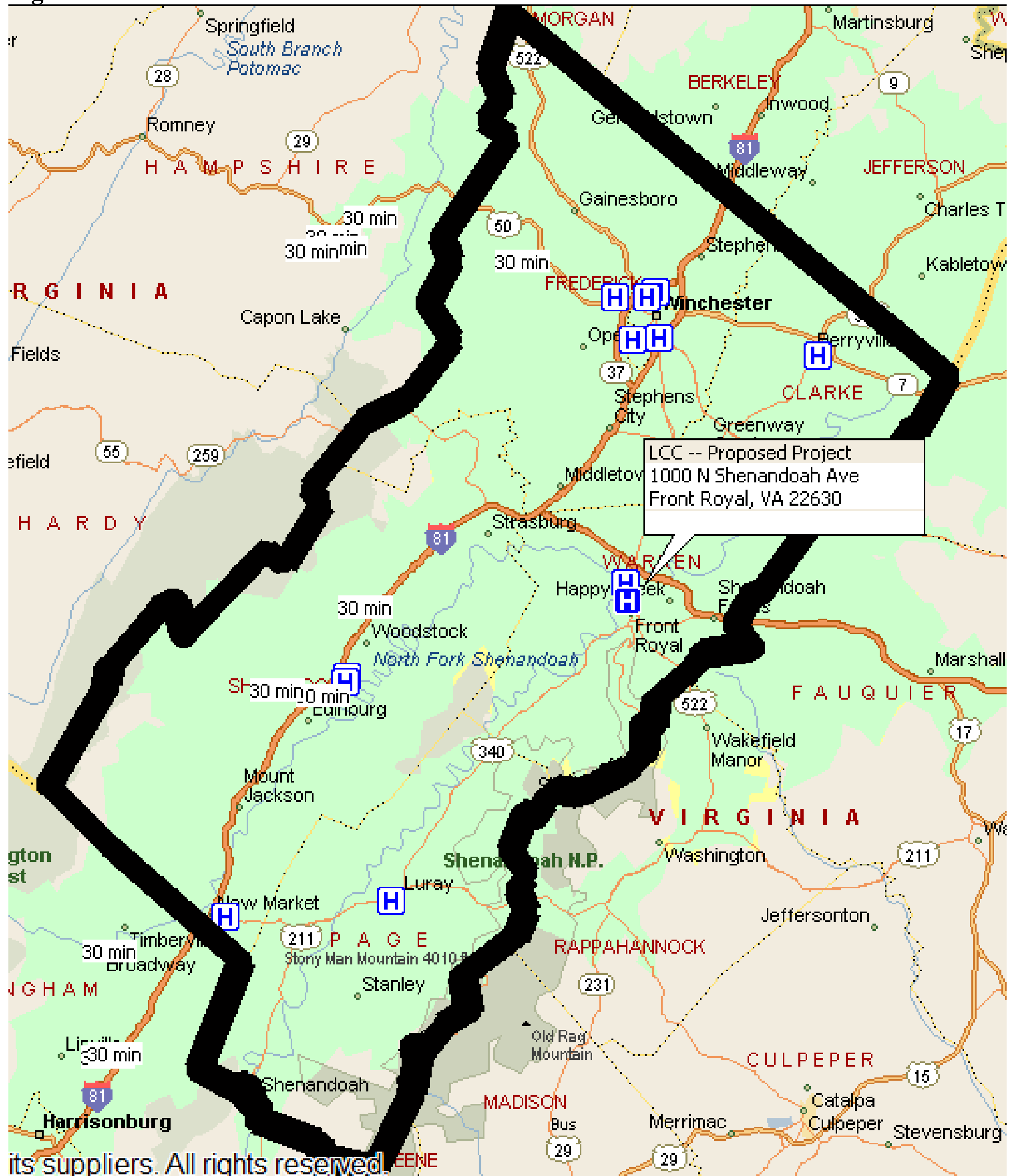
Part VII
Nursing Facilities

12VAC5-230-600. Travel time.

A. Nursing facility beds should be accessible within 30 minutes driving time one way under normal conditions to 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 7. The solid blue “H” sign marks the location of the proposed project. The solid white “H” signs mark the locations of all other existing providers of skilled nursing care in PD 7. The green shaded area illustrates the area of PD 7 and the surrounding area that is currently within a 30-monute drive of existing skilled nursing care services. Given the amount and location of shaded area, it is reasonable to conclude that at least 95% of the PD 7 population is within a 30-minute drive, one-way, under normal driving conditions, of existing skilled nursing services. Furthermore, because the applicant currently provides this service, DCOPN concludes that approval of the proposed project would not improve geographic access to services in any meaningful way.

Figure 1.



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

As previously discussed, the facility is not served by regularly scheduled bus service, but is served by Front Royal Area Transit Bus.

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

The proposed project is not competing with another project. Accordingly, this standard is not applicable.

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 existing and authorized beds for the health planning district; and**
2. **The median annual occupancy of all existing and authorized Medicaid-certified nursing facility beds in the health planning district was at least 93%, and the average annual occupancy of all existing and authorized Medicaid-certified nursing facility beds in the health planning district was at least 90%, excluding the bed inventory and utilization of the Virginia Veterans Care Centers.**

Exception: When there are facilities that have been in operation less than one year in the health planning district, their occupancy can be excluded from the calculation of average occupancy.

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 x PP64) + (UR69 x PP69) + (UR74 x PP74) + (UR79 x PP79) + (UR84 x PP84) + (UR85 x 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.

PP74 = 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 75 to 79 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.

PP84 = 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.

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 forecast 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 a median annual occupancy rate of 93% of all existing and authorized Medicaid-certified nursing facility beds and an annual average occupancy rate of at least 90% of all existing and authorized Medicaid-certified nursing facility beds for each of 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.

The applicant does not wish to establish a new service, but rather, to expand an existing service through the transfer of licensed skilled nursing home beds from Richfield in PD 5. Furthermore, 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 § 32.0-102.3:7 are applicable."*

For the preceding reasons, DCOPN concludes that this provision is not applicable to the proposed project. However, in the interest of completeness, DCOPN will nonetheless address this standard.

To reiterate, in its most recently published Notice of No Need, DCOPN calculated a net deficit of 21 nursing beds in PD 7 and a net surplus of 224 beds in PD 5 for the 2022 planning horizon. As discussed, when recent population growth and occupancy trends are considered, DCOPN concludes that the transfer of 52 beds from PD 5 to PD 7 would not lead to a need for additional beds in PD 5, thereby satisfying the requirements of the Bed Transfer Statue. The project would ultimately have a neutral impact on the collective statewide inventory, while addressing a

calculated surplus and deficit in PDs 5 and 7, respectively. Next, approval of the proposed project would assist in the decompression of LCC's over utilized complement, while simultaneously improving utilization at Richfield, a facility that has consistently operated at low capacity in recent years. Finally, approval of the proposed project would result in additional private rooms at both LCC and Richfield, contributing to improved patient privacy as well as improved methods for infectious disease control should the need arise in the future.

12VAC5-230-620. Expansion of services.
Proposals to increase an existing nursing facility's 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 90% in the relevant reporting period as reported to VHI.

Note: Exceptions will be considered for facilities that operated at less than 90% 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 90% for the facility.

As previously discussed, VHI data indicates that LCC's existing 120 beds operated at a collective utilization of 91.2% in 2020, surpassing the 90% expansion threshold found in this provision of the SMFP. Additionally, DCOPN notes that historical VHI data demonstrates that LCC's existing complement has consistently operated above 90% occupancy since at least 2015, with occupancy percentages ranging from 91.2% to 97.3% between years 2015 to 2020 (**Table 4**). Accordingly, DCOPN concludes that the applicant has satisfied this standard.

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 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 12 COPN authorized skilled nursing care facilities, operating 1,003 beds, in PD 7. Most of these facilities are operated by different owners and operators. DCOPN contends that the proposed project is not likely to foster additional institutional competition benefiting PD 7, as ample competition already exists among existing providers. Additionally, DCOPN again notes that the proposed project is not intended to foster institutional competition, but rather is intended to decompress the over utilized complement at LCC, while simultaneously providing for the addition of private rooms at both Richfield and LCC. DCOPN concludes that because the proposed transfer is intended to decompress LCC's existing complement, any negative impact the project may have on other PD 7 providers of skilled nursing care is not likely to be significant or destabilizing. DCOPN additionally notes that it is unaware of any opposition to the proposed 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 above in **Tables 2 and 6**, with the exception of the year 2020, utilization rates of nursing facilities in PDs 5 and 7 have remained generally consistent, with occupancy rates ranging from approximately 86% to 90% over the most recent six-year period. Furthermore, DCOPN has calculated a large surplus of skilled nursing beds in PD 5 for the 2022 planning horizon, while a net deficit of 21 beds was calculated for PD 7. Because PD 5 population growth rates among both the general population as well as those aged 65 and older have increased, and are projected to continue to increase, at a rate much slower than PD 7 and the Commonwealth as a whole, DCOPN concludes that even after the transfer of 52 beds out of the existing complement, ample capacity will remain to care for the residents of PD 5 well into the future. DCOPN again notes that the existing LCC inventory operates near capacity, and that approval of the proposed project would aid with the decompression of the existing beds at LCC while simultaneously improving utilization at Richfield in PD 5. DCOPN again notes that because the project is intended to decompress LCC's existing inventory, the project is not likely to have a significant negative impact on existing providers of skilled nursing services; however, the project would ultimately serve the patients of both PDs 5 and 7 by creating additional private room accommodations and improved opportunities for infectious disease control.

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;

The Pro Forma Income Statement (**Table 12**) provided by the applicant anticipates a net profit of $730,155 in the first full year of operation and $2,025,368 by year two, illustrating that the proposed project would be financially feasible both in the immediate and the long-term. As already discussed, DCOPN contends that the capital costs for the proposed project are reasonable and consistent with previously approved PD 7 projects similar in clinical scope.

Table 12. SOH Pro Forma Income Statement

	Year 1 (2024)	**Year 2 (2025)**
Gross Patient Revenue	$19,623,231	$21,461,548
Deductions from Revenue	($1,586,434)	($1,746,426)
Other (Non-Patient Care) Revenue	$4,000	$4,000
TOTAL Net Revenue	**$18,040,797**	**$19,719,122**
Direct Patient Care Expenses	$9,107,727	$9,270,379
Indirect Patient Care Expenses	$5,352,903	$5,573,375
Capital Related Expenses	$2,850,000	$2,850,000
Per Diem Expenses	$333.95	$312.75
TOTAL Expenses	**$17,310,630**	**$17,693,754**
Net income	**$730,155**	**$2,025,368**

Source: COPN Request No. VA-8609

With regard to staffing, the applicant anticipates the need to hire a 48.5 additional full-time employees in order to staff the proposed project. DCOPN notes that the applicant is an established provider of skilled nursing services with a robust employee recruitment and retention plan. DCOPN acknowledges that staffing shortages are a common issue for nursing homes throughout the country, however, the applicant has demonstrated the ability to meet staffing needs while also not negatively impacting neighboring facilities.

With regard to this standard, the applicant provided the following:

> *"Pre-Covid, LCC successfully recruited locally to fill open staff positions and expects to be able to follow the same process with filling any future open positions as they arise. Currently, the vaccination mandate has created staff shortages, which are viewed as temporary, not long-term."*

Additionally, the applicant provided the following:

> *"Staff availability to serve the demand brought on by the new beds is good within the local market, and Lynn Care Center anticipates being at full staff based on occupancy, at all times."*

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 both at LCC in PD 7 and at Richfield in PD 5, implementing designs of culture change that have swept the long-term care industry in recent years. Furthermore, the addition of private rooms at both LCC and at Richfield will aid each facility in appropriately responding to any future instances of infection control or quarantine, should the need so arise. 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, however, DCOPN notes that rehabilitation therapy services at LCC are and will remain available on an outpatient basis. Furthermore, because approval of the proposed project would aid in the decompression of the existing LCC complement, DCOPN concludes that approval of the proposed project would result in timelier patient treatment for those patients who have chosen LCC as their care provider. 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.**

The applicant is not a teaching hospital associated with a public institution of higher education or a medical school in the area to be served. Accordingly, this standard is not applicable to the proposed project.

DCOPN Staff Findings and Conclusions

The applicant proposes to relocate 52 dually certified skilled nursing beds from Richfield in PD 5 to LCC in PD 7. Approval of the proposed project would have a neutral impact on the Commonwealth's total skilled nursing bed inventory, while simultaneously addressing the calculated deficit and shortage of such beds in PDs 7 and 5, respectively. The project involves the conversion and renovation of space in the recently vacated Warren Memorial Hospital, a facility that is physically connected to the existing LCC. The applicant anticipates patient service to begin within 36 months of COPN issuance.

The total projected capital cost of the proposed project is $11,849,384, the entirety of which will be funded using a 5-year mini-perm bridge loan. DCOPN concludes that the total capital costs are reasonable and consistent with previously approved projects similar in clinical scope.

Additionally, the Pro Forma Income Statement provided by the applicant indicates that the proposed project would contribute to the overall profitability of LCC's skilled nursing program both in the immediate and in the long-term. Furthermore, as discussed, should the Commissioner approve the proposed project, DCOPN concludes that a charity care condition would not be appropriate.

As mentioned, approval of the proposed project would address a calculated surplus and deficit in PDs 5 and 7, respectively, while ultimately having a neutral impact on the total statewide inventory of skilled nursing beds. Furthermore, approval of the proposed project would alleviate the over utilized inventory at LCC while simultaneously improving utilization of the Richfield complement. Finally, the project would result in an additional 90 private nursing home beds across the Commonwealth—52 at Richfield and 38 at LCC—allowing each facility to better facilitate infection control and future quarantine scenarios, should the need so arise in the future. Accordingly, DCOPN maintains that approval of the proposed project is far more advantageous than maintaining the status quo.

DCOPN Staff Recommendation

The Division of Certificate of Public Need recommends **approval** of Shenandoah Operations Holdings, LLC's request to transfer 52 skilled nursing beds from Richfield Recovery and Care Center in PD 5 to Lynn Care Center in PD 7 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 complies with § 32.1-102.3:7 of the Code of Virginia.

3. The capital costs are reasonable.

4. The proposed project appears economically viable both in the immediate and in the long-term.

5. The proposed project is more advantageous than maintaining the status quo.

6. There is no known opposition to the proposed project.

7. Approval of the proposed project is not likely to have a significant negative impact on the staffing or utilization of existing PD 7 providers of skilled nursing services