

# VIRGINIA DEPARTMENT OF HEALTH

## Office of Licensure and Certification

### Division of Certificate of Public Need

#### Staff Analysis

June 21, 2022

#### **COPN Request No. VA-8623**

The Pavilion at Williamsburg Place, Inc.  
Williamsburg, Virginia  
Add 32 inpatient psychiatric beds

#### **Applicant**

The Pavilion at Williamsburg Place, Inc. (The Pavilion), previously known as Diamond Healthcare of Williamsburg, is a Virginia stock corporation formed in 1987. The Pavilion has been wholly owned by Summit Behavioral Healthcare, a Delaware limited liability company, since January 2021. Upon acquisition of the entity, Summit Behavioral Healthcare changed the entity's name from Diamond Healthcare of Williamsburg, Inc. to The Pavilion at Williamsburg Place, Inc. The Pavilion is located in Williamsburg, Virginia, in Health Planning Region (HPR) V, Planning District (PD) 21.

#### **Background**

According to the 2020 Virginia Health Information (VHI) data, the most recent year for which such data is available, and Division of Certificate of Public Need (DCOPN) records, there are currently three providers of psychiatric services in PD 21 with 324 licensed beds (**Table 1**). In 2020, of the 324 licensed beds, 260 (80%) were staffed (**Table 1**). Furthermore, in 2020, the most recent year for which the DCOPN has data available from VHI, PD 21's inpatient psychiatric beds operated at a 64.6% occupancy rate for licensed beds, and The Pavilion's 66 licensed inpatient psychiatric beds operated at an 84.1% occupancy rate (**Table 2**).

On July 24, 2020, the Commissioner issued COPN No. VA-04710 to Pyramid Healthcare, Inc., authorizing the establishment of a 40-bed psychiatric hospital in Newport News, Virginia (PD 21) that was due to open in late 2021. DCOPN notes that the totals for the beds authorized pursuant to COPN No. VA-04710 are not included in **Table 1**, as these beds are not yet operational.

**Table 1. Licensed and Staffed Inpatient Psychiatric Beds in PD 21**

Facility Name	Bed Classification	Licensed Beds	Staffed Beds	% of Licensed
Newport News Behavioral Health Center	Psychiatric Child	132	132	100%
<b>Newport News Behavioral Health Center</b>	<b>Total</b>	<b>132</b>	<b>132</b>	<b>100%</b>
Riverside Regional Medical Center	Psychiatric Adult	58	34	59%
Riverside Regional Medical Center	Psychiatric Child	68	28	41%
<b>Riverside Regional Medical Center</b>	<b>Total</b>	<b>126</b>	<b>62</b>	<b>49%</b>
The Pavilion at Williamsburg Place	Psychiatric Adult	66	66	100%
<b>The Pavilion at Williamsburg Place</b>	<b>Total</b>	<b>66</b>	<b>66</b>	<b>100%</b>
<b>Total</b>	<b>PD 21 Psychiatric Adult</b>	<b>124</b>	<b>100</b>	<b>81%</b>
<b>Total</b>	<b>PD 21 Psychiatric Child</b>	<b>200</b>	<b>160</b>	<b>80%</b>
<b>Grand Total</b>	<b>PD 21 Total</b>	<b>324<sup>1</sup></b>	<b>260</b>	<b>80%</b>

Source: VHI Data (2020) & DCOPN Records

**Table 2. PD 21 Psychiatric Bed Utilization in 2020**

Facility Name	Licensed Beds	Staffed Beds	Licensed Bed Available Days	Patient Days	Licensed Bed Occupancy Rate
Newport News Behavioral Health Center	132	132	48,180	33,974	70.5%
Riverside Regional Medical Center <sup>2</sup>	126	62	46,116	22,194	48.1%
The Pavilion at Williamsburg Place	66	66	24,090	20,262	84.1%
<b>Total / Average</b>	<b>324</b>	<b>260</b>	<b>118386</b>	<b>76430</b>	<b>64.6%</b>

Source: VHI Data (2020)

### Proposed Project

The Pavilion is a 66-bed adult psychiatric hospital located just outside of Williamsburg in James City County, Virginia. It is co-located on one integrated behavioral health campus with The Farley Center, a substance abuse residential treatment center, and The Villages at Williamsburg Place, which offers semi-private living accommodations to individuals in recovery. The Pavilion proposes to expand its existing 66-bed, 35,605 square foot, inpatient psychiatric hospital by adding 32 psychiatric beds. The proposed 32 psychiatric beds will be located in a newly constructed space connected to the existing hospital facility.

The projected capital costs of the proposed project total \$13,272,000, approximately 79% of which represent direct construction costs (**Table 3**). The entirety of the capital costs will be funded using the accumulated reserves of the applicant's parent company, Summit Behavioral Healthcare. Accordingly, there are no financing costs associated with this project.

<sup>1</sup> DCOPN notes that **Table 1** does not include information regarding the beds in the state-run psychiatric hospitals, as that information is not reported to VHI.

<sup>2</sup> Riverside Regional Medical Center reports patient days for its psychiatric adult and psychiatric child beds separately. For purposes of Table 2, DCOPN combined these figures.

**Table 3. Capital and Financing Costs**

Direct Construction Costs	\$10,518,000
Equipment Not Included in Construction Contract	\$975,000
Site Preparation Costs	\$658,000
Architectural & Engineering Fees	\$580,000
Other Consultant Fees	\$541,000
<b>Total Capital Costs</b>	<b>\$13,272,000</b>

Source: COPN Request No. VA-8623

Construction for the proposed project is expected to begin by April 2023 and to be completed by December 2024. The applicant anticipates an opening date in January 2025.

### **Project Definition**

§32.1-102.1:3 of the Code of Virginia defines a project, in part as, “An increase in the total number of beds or operating rooms in an existing medical care facility described in subsection A...” Medical care facilities are further defined, in part, as “Any hospital licensed as a provider by the Department of Behavioral Health and Developmental Services in accordance with Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2....”

### **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;**

A November 19, 2019 article in The Virginian Pilot<sup>3</sup> quotes the former Virginia Secretary of Health and Human Resources, Dr. Daniel Carey, as saying that the Virginia state psychiatric hospital system is in crisis, and that they are currently operating at 127% capacity. The article additionally states that the intake of patients under temporary detention orders (TDOs) at Eastern State Hospital, which is located approximately three miles from the applicant, have ballooned from 39 in 2013, to 541 in 2018, and quotes Dr. Daniel Herr, the Deputy Commissioner of the Department of Behavioral Health and Developmental Services (DBHDS) at the time the article was written, as stating that this number was still climbing. Furthermore, as reported by the Virginia Mercury on July 9, 2021<sup>4</sup>, more than half of Virginia’s state-run psychiatric hospitals (including Eastern State Hospital) were closed to new admissions because of “a workforce crisis that’s resulted in a ‘dangerous environment where staff and patients are at increasing risk for

<sup>3</sup> Dave Ress, *Virginia’s state psychiatric hospitals say they’re in “crisis,” with beds filled and not enough money*, Virginian Pilot (November 19, 2019).

<sup>4</sup> Kate Master, *More than half of Virginia’s state-run mental hospitals are closing to new admissions*, Virginia Mercury (July 9, 2021).

physical harm,' as described by former DBHDS Commissioner Alison Land in a letter to providers across the state.

Geographically, The Pavilion is located at 5483 Mooretown Road, Williamsburg, Virginia. The campus is easily accessible from both Interstate 64 and U.S. Route 60. There is public transportation available to the facility through the Williamsburg Area Transit Authority system with the nearest bus stop less than one mile from the facility. Additionally, the applicant reports that in 2021, 36% of The Pavilion's admission were a result of involuntary patient admissions, or patients admitted for care pursuant to a TDO. These patients are transported to The Pavilion by public safety officials. The Pavilion's level of TDO admissions is particularly important considering the strain on the Commonwealth's state psychiatric hospitals as discussed above. Finally, patients admitted voluntarily to The Pavilion typically arrive by private vehicle.

Regarding socioeconomic barriers to access to the applicant's services, according to regional and statewide data regularly collected by VHI, for 2020, the most recent year for which such data is available, the average amount of charity care provided by HPR V facilities was 2.5% of all reported total gross patient revenues (**Table 4**). Pursuant to Section 32.1 – 102.4 of the Code of Virginia, should the Commissioner approve the proposed project, The Pavilion should be subject to a charity care condition no less than the 2.5% HPR V average, in addition to any new requirements as found in the revised § 32.1-102.4B of the Code of Virginia.

**Table 4: HPR V 2020 Charity Care Contributions**

<b>2020 Charity Care Contributions at or below 200% of Federal Poverty Level</b>			
<b>Hospital</b>	<b>Gross Patient Revenues</b>	<b>Adjusted Charity Care Contribution</b>	<b>Percent of Gross Patient Revenue:</b>
Riverside Tappahannock Hospital	\$165,747,566	\$8,843,478	5.34%
Riverside Shore Memorial Hospital	\$247,007,286	\$10,695,992	4.33%
Riverside Doctors' Hospital Williamsburg	\$149,491,510	\$6,064,567	4.06%
Riverside Walter Reed Hospital	\$252,482,633	\$9,401,927	3.72%
Bon Secours DePaul Medical Center	\$363,165,760	\$12,756,832	3.51%
Sentara Careplex Hospital	\$909,090,883	\$31,651,344	3.48%
Sentara Obici Hospital	\$914,294,131	\$26,301,718	2.88%
Sentara Virginia Beach General Hospital	\$1,265,310,067	\$36,146,887	2.86%
Sentara Norfolk General Hospital	\$3,753,299,758	\$106,756,170	2.84%
Sentara Leigh Hospital	\$1,330,835,003	\$34,335,012	2.58%
Riverside Regional Medical Center	\$2,191,107,102	\$53,859,556	2.46%
Chesapeake Regional Medical Center	\$986,713,280	\$21,292,946	2.16%
Hampton Roads Specialty Hospital	\$46,913,449	\$1,010,073	2.15%
Sentara Princess Anne Hospital	\$1,032,703,976	\$21,443,232	2.08%
Bon Secours Maryview Medical Center	\$1,148,940,309	\$22,068,850	1.92%
Bon Secours Mary Immaculate Hospital	\$620,268,395	\$11,887,663	1.92%
Sentara Williamsburg Regional Medical Center	\$655,360,428	\$11,516,832	1.76%
Bon Secours Rappahannock General Hospital	\$70,546,600	\$1,148,522	1.63%
Children's Hospital of the King's Daughters	\$1,120,616,182	\$4,135,241	0.37%
Bon Secours Southampton Memorial Hospital	\$211,414,625	\$460,731	0.22%
Lake Taylor Transitional Care Hospital	\$44,295,918	\$0	0.00%

2020 Charity Care Contributions at or below 200% of Federal Poverty Level			
Hospital	Gross Patient Revenues	Adjusted Charity Care Contribution	Percent of Gross Patient Revenue:
Hospital For Extended Recovery	\$30,370,572	\$0	0.00%
Total Facilities Reporting			22
Median			2.35%
<b>Total \$ &amp; Mean %</b>	<b>\$17,509,975,433</b>	<b>\$431,777,573</b>	<b>2.5%</b>

Source: VHI Data (2020)

**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 13 letters of support for the proposed project from members of the Williamsburg medical, behavioral health and public health communities, and Virginia House of Delegates Member M. Keith Hodges. Collectively, these letters articulate several benefits of the project, including:

- The substance abuse and mental health epidemic continues to negatively impact both Hampton Roads and the entire state of Virginia.
- Both beds and quality of treatment for the mental health and substance abuse epidemic are scarce throughout Virginia, and The Pavilion can meet this need.
- The proposed new location will bring needed resources for families, individuals and the community.

Public Hearing

Section 32.1-102.6 B of the Code of Virginia directs DCOPN to hold one public hearing on each application in a location in the county or city in which the project is proposed or a contiguous county or city 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 Commissioner, the applicant, or a member of the public. COPN Request No. VA-8623 is not competing with another project in this batch cycle and DCOPN did not receive a request to conduct a public hearing for the proposed project. Thus, 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;**

As will be discussed in greater detail later in this staff analysis report, The Pavilion has expressed an institutional need to expand its inpatient psychiatric services. For 2020, the most recent year for which VHI data is available, The Pavilion’s 66 inpatient psychiatric beds

operated at a utilization rate of 84.1%, exceeding the SMFP's 75% utilization standard (**Table 2**). Furthermore, the applicant reports that in 2021, it had to turn away more than 1,600 individuals for hospital admission, either because the hospital was full and there were no available beds, or because the only beds available were incompatible with the patient's needs.

Finally, as discussed above, the state psychiatric hospitals were highly utilized or closed to new admissions, and the number of patients under TDO for Eastern State Hospital, which is located approximately three miles from the proposed location, are expected to continue to increase. Given that the applicant has, and will continue to, routinely accept TDO admissions, approval of the project is likely to lessen the burden on Eastern State Hospital and other state psychiatric hospitals. As such, DCOPN concludes that the proposed project is more advantageous than the alternative of the status quo because approval of the proposed project will meet a demonstrated institutional need, and increase access to acute psychiatric care while lessening the burden on the state hospital system.

**(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 V designated by the Virginia Department of Health to serve as the Health Planning Agency for PD 21. 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 3**, the projected capital costs of the proposed project total \$13,272,000, approximately 79% of which represent direct construction costs. The entirety of the capital costs will be funded using the accumulated reserves of the applicant's parent company, Summit Behavioral Healthcare. Accordingly, there are no financing costs associated with this project. DCOPN concludes that when compared to similar projects, these costs are reasonable. For example, COPN No. VA-04724 issued to Virginia Hospital Center to add 42 beds is anticipated to cost approximately \$18,554,791.

The applicant identified numerous benefits of the proposed project, including:

- The bed expansion is proposed to address The Pavilion's institution-specific need for additional bed capacity.
- The Pavilion's current complement of 66 beds is no longer sufficient to meet existing or future projected demand for inpatient psychiatric services. In 2020, the average occupancy of The Pavilion's 66 beds was 84.1%.
- The Pavilion had to turn away more than 1,600 individuals for hospital admission in 2021, either because the hospital was full and did not have an available bed or because the only beds available were incompatible with the patient's needs.

- While The Pavilion's high levels of utilization, coupled with the number of patients it has had to turn away for admission, demonstrate the hospital's need for additional bed capacity, the nature and the urgency of the need is even more compelling when viewed in the context of the percentage of patient's admitted under a TDO. Due to inpatient psychiatric bed scarcity, particularly at state inpatient psychiatric facilities, The Pavilion serves as an essential source of inpatient psychiatric care for patients admitted under a TDO. Approximately 36% of the Pavilion's patients were admitted under a TDO in 2021.

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

According to the applicant, The Pavilion has contractual agreements in place with a number of community services boards (CBSs), with varying rates, for established payment under the state Local Inpatient Purchase of Services (LIPOS). Under LIPOS, the state disperses funds to CSBs for the purpose of securing inpatient psychiatric services for uninsured individuals when no state inpatient facility is available. DCOPN notes that several of these CSBs provided letters of support for the proposed projects. Also according to the applicant, The Pavilion provides inpatient psychiatric care to Medicaid and Medicare beneficiaries.

As previously discussed, according to regional and statewide data regularly collected by VHI, for 2020, the most recent year for which such data is available, the average amount of charity care provided by HPR V facilities was 2.5% of all reported total gross patient revenues (**Table 4**). Pursuant to Section 32.1 – 102.4 of the Code of Virginia, should the Commissioner approve the proposed project, The Pavilion should be subject to a charity care condition no less than the 2.5% HPR V average, in addition to any new requirements as found in the revised § 32.1-102.4B of the Code of Virginia.

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

DCOPN reached out to DBHDS for their input regarding the proposed project, and has not received a response. DCOPN did not identify any other factors, not discussed elsewhere in this staff analysis report, to bring to the Commissioner's attention regarding the determination of a public need for the proposed project.

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

The State Medical Facilities Plan (SMFP) contains the following relevant standards and criteria for the addition of psychiatric beds. They are as follows:

## Part XII. Mental Health Services

### Article 1. Acute Psychiatric and Acute Substance Abuse Disorder Treatment Services

#### 12VAC5-230-840. Travel Time.

**Acute psychiatric and acute substance abuse disorder treatment services should be available within 60 minutes driving time one way under normal conditions of 95% of the population using mapping software as determined by the commissioner.**

The heavy dark line in **Figure 1** is the boundary of PD 21. The blue “H” symbol marks the location of the proposed project. The white “H” symbols mark the locations of all other existing inpatient psychiatric services within PD 21. The yellow shaded area is the area within 60 minutes driving-time one-way under normal traffic conditions of inpatient psychiatric services in PD 21. Given the amount and location of shaded area, it is evident that inpatient psychiatric services currently exist within a 60-minute drive for at least 95% of the population of PD 21. Accordingly, DCOPN concludes that approval of the proposed projects would not improve geographical access to inpatient psychiatric services for persons of PD 21 in any meaningful way.



Figure 1



**12VAC5-230-850. Continuity; Integration.**

**A. Existing and proposed acute psychiatric and acute substance abuse disorder treatment providers shall have established plans for the provision of services to indigent patients that include:**

- 1. The minimum number of unreimbursed patient days to be provided to indigent patients who are not Medicaid recipients;**
- 2. The minimum number of Medicaid-reimbursed patient days to be provided, unless the existing or proposed facility is ineligible for Medicaid participation;**
- 3. The minimum number of unreimbursed patient days to be provided to local community services boards; and**

**4. A description of the methods to be utilized in implementing the indigent patient service plan and assuring the provision of the projected levels of unreimbursed and Medicaid-reimbursed patient days.**

While there are no minimum days specified by the applicant, The Pavilion states that in 2021, more than 35% of its patients were Medicaid patients. As noted above, should the Commissioner approve the proposed project, The Pavilion should be subject to a charity care condition no less than the 2.5% HPR V average, in addition to any new requirements as found in the revised § 32.1-102.4B of the Code of Virginia. For uninsured patients, who do not qualify for charity care, The Pavilion offers discounted rates and flexible payment plans.

As previously discussed, The Pavilion has contractual agreements in place with a number of community services boards, with varying rates, for established payment under the state LIPOS. Under LIPOS, the state disperses funds to CSBs for the purpose of securing inpatient psychiatric services for uninsured individuals when no state inpatient facility is available.

DCOPN notes that few existing psychiatric facilities meet the criteria and standards set forth in 12VAC5-230-850. While some facilities may allocate a specific number of beds for CSB patients, the identification of the number of unreimbursed patient days to be provided to indigent patients who are not Medicaid recipients, the minimum number of Medicaid-reimbursed days, the minimum number of unreimbursed patient days to be provided to local CSBs, and a description of the methods to be utilized in implementing the indigent patient service plan, have not been addressed by DCOPN in recent reviews.

**B. Proposed acute psychiatric and acute substance abuse disorder treatment providers shall have formal agreements with the appropriate local community services boards or behavioral health authority that:**

- 1. Specify the number of patient days that will be provided to the community service board;**
- 2. Describe the mechanisms to monitor compliance with charity care provisions;**
- 3. Provide for effective discharge planning for all patients, including return to the patient's place of origin or home state if not Virginia; and**
- 4. Consider admission priorities based on relative medical necessity.**

Not applicable. The Pavilion is an existing inpatient psychiatric hospital and has agreements in place with a number of CSBs.

**C. Providers of acute psychiatric and acute substance abuse disorder treatment serving large geographic areas should establish satellite outpatient facilities to improve patient access where appropriate and feasible.**

The applicant is not proposing to establish a satellite outpatient facility to improve patient access.

**12VAC5-230-860. Need for New Service.**

**A. The combined number of acute psychiatric and acute substance abuse disorder treatment beds needed in a health planning district with existing acute psychiatric or acute substance abuse disorder treatment beds or both will be determined as follows:**

$$((UR \times PROPOP)/365)/.75$$

**Where:**

**UR = the use rate of the health planning district expressed as the average acute psychiatric and acute substance abuse disorder treatment patient days per population reported for the most recent five-year period; and**

**PROPOP = the projected population of the health planning district five years from the current year as reported in the most recent published projections by a demographic entity as determined by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services.**

**For purposes of this methodology, no beds shall be included in the inventory of psychiatric or substance abuse disorder beds when these beds (i) are in facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services; (ii) have been converted to other uses; (iii) have been vacant for six months or more; or (iv) are not currently staffed and cannot be staffed for acute psychiatric or substance abuse disorder patient admissions within 24 hours.**

The applicant is not proposing to establish a new inpatient psychiatric bed service, but rather to expand an existing service. Accordingly, this standard is not applicable to the review at hand. However, in the interest of completeness, DCOPN will address this standard.

UR = Patient Days from 2016-2020 / Population from 2016-2020

UR = 424,588 (Table 5) / 2,438,674 (Table 6)

UR = 0.17411

PROPOP = 498,263

Projected Psychiatric Bed Need =  $\frac{((UR \times ProPop) / 365)}{0.75}$

Projected Psychiatric Bed Need =  $\frac{((0.17411 \times 498,263) / 365)}{0.75}$

Projected Psychiatric Bed Need = 316.9 (317)

**Table 5. PD 21 Inpatient Psychiatric Patient Days (2016– 2020)**

Year	Licensed Beds	Staffed Beds	Licensed Bed Available Days	Patient Days	Occupancy Rate per Licensed Bed
2016	208	153	76,071	48,068	63.2%
2017	325	275	118,625	87,195	73.5%
2018 <sup>5</sup>	533	428	194,696	135,263	96.1% <sup>6</sup>
2019	324	263	118,260	77,632	65.6%
2020	324	260	118,386	76,430	64.6%
<b>Total</b>	<b>1,714</b>	<b>1,379</b>	<b>626,038</b>	<b>424,588</b>	<b>67.8%</b>

Source: VHI Data (2016-2020)

**Table 6. PD 21 Population (All Ages)**

	2016	2017	2018	2019	2020	TOTAL 2016-2020	2026 (Projected)
<b>Population</b>	483,863	485,626	487,560	489,670	491,955	2,438,674	498,263

Source: Weldon Cooper Center Data

Based on the formula above, DCOPN calculates a need for 317 beds by 2026. There are currently 324 licensed beds in the planning district (**Table 1**). Based on the above calculations, there is an anticipated surplus of seven beds in the planning district by 2026.

This calculation, however, is marred by incomplete data for 2018. As noted in the footnote to **Table 5**, the 2018 data for The Pavilion was not reported to VHI and is not available to the Pavilion under its new ownership. For purposes of **Table 5**, DCOPN used 2017 VHI data for The Pavilion’s 2018 patient days. Moreover, the occupancy reported at Newport News Behavioral Center for 2018 exceeds what is possible based solely on licensed bed occupancy. As such, DCOPN concludes that the incomplete data for the planning district represents a flaw in the need calculation. However, as discussed below, the applicant has established an institutional need to expand. Furthermore, the growth of utilization of psychiatric services in the area, statements from governmental experts, and the current utilization of psychiatric services in the planning district all indicate that a growing need for additional psychiatric beds exists in the planning district.

**B. Subject to the provisions of 12VAC5-230-70, no additional acute psychiatric or acute substance abuse disorder treatment beds should be authorized for a health planning district with existing acute psychiatric or acute substance abuse disorder treatment beds or both if the existing inventory of such beds is greater than the need identified using the above methodology.**

**Preference may also be given to the addition of acute psychiatric or acute substance abuse beds dedicated for the treatment of geriatric patients in health planning districts with an**

<sup>5</sup> The Pavilion did not report to VHI in 2018. Additionally, The Pavilion was acquired by Summit Behavioral Healthcare from Diamond Healthcare in 2021. The Pavilion, under its new ownership, does not have access to the 2018 patient days data. For purposes of Table 5, DCOPN used 2017 VHI data for The Pavilion’s 2018 patient days.

<sup>6</sup> In 2018, Newport News Behavioral Healthcare reports to VHI, 70,821 patients days, or 147% utilization, which is not possible. As such, DCOPN questions the accuracy of the 2018 occupancy rate for PD 21 inpatient psychiatric beds.

**excess supply of beds when such additions are justified on the basis of the specialized treatment needs of geriatric patients.**

As stated above, DCOPN calculates a total need for 317 beds by 2026. There are currently 324 licensed beds in the planning district (**Table 1**). Based on this information, DCOPN concludes that there is a surplus of seven beds within the planning district. However, DCOPN notes that psychiatric care is often treated as a regional services, and as such the surplus of psychiatric beds in PD 21 may be used to treat patients from other planning districts, particularly those placed under a TDO. Nevertheless, as discussed below, the applicant has established an institutional need to expand.

The applicant is not proposing to dedicate the new beds to geriatric patients. However, DCOPN notes that The Pavilion maintains a longstanding geriatric program specifically designed to care for patients 55 years of age and older. The applicant reports that in 2021, 457 (22%) of its 2,106 patients received geriatric program services.

**C. No existing acute psychiatric or acute substance disorder abuse treatment beds should be relocated unless it can be reasonably projected that the relocation will not have a negative impact on the ability of existing acute psychiatric or substance abuse disorder treatment providers or both to continue to provide historic levels of service to Medicaid or other indigent patients.**

Not applicable. The applicant is not proposing to relocate existing acute psychiatric or acute substance disorder abuse treatment beds.

**D. The combined number of acute psychiatric and acute substance abuse disorder treatment beds needed in a health planning district without existing acute psychiatric or acute substance abuse disorder treatment beds will be determined as follows:**

$$((UR \times PROPOP)/365)/.75$$

Where:

**UR = the use rate of the health planning region in which the health planning district is located expressed as the average acute psychiatric and acute substance abuse disorder treatment patient days per population reported for the most recent five-year period;**

**PROPOP = the projected population of the health planning district five years from the current year as reported in the most recent published projections by a demographic entity as determined by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services.**

Not applicable. Inpatient psychiatric services currently exist in PD 21.

**E. Preference may be given to the development of needed acute psychiatric beds through the conversion of unused general hospital beds. Preference will also be given to proposals**

**for acute psychiatric and substance abuse beds demonstrating a willingness to accept persons under temporary detention orders (TDO) and that have contractual agreements to serve populations served by community services boards, whether through conversion of underutilized general hospital beds or development of new beds.**

As discussed above, in 2021, 36% of The Pavilion's admission were a result of involuntary patient admissions, or patients admitted for care pursuant to a TDO. This is particularly important considering the strain on the Commonwealth's state psychiatric hospitals as discussed above. Additionally, The Pavilion has contractual agreements in place with a number of community services boards, with varying rates, for established payment under the state LIPOS. Under LIPOS, the state disperses funds to CSBs for the purpose of securing inpatient psychiatric services for uninsured individuals when no state inpatient facility is available. DCOPN notes that several of these CSBs provided letters of support for the proposed projects.

The SMFP also contains criteria/standards for when institutional expansion is needed. They are as follows:

**12VAC5-230-80. When Institutional Expansion is Needed.**

- 1. Notwithstanding any other provisions of this chapter, the commissioner may grant approval for the expansion of services at an existing medical facility in a health planning district with an excess supply of such services when the proposed expansion can be justified on the basis of a facility's need having exceeded its current service capacity to provide such service or on the geographic remoteness of the facility.**
- 2. If a facility with an institutional need to expand is part of a health system, the underutilized services at other facilities within the health system should be reallocated, when appropriate, to the facility with the institutional need to expand before additional services are approved for the applicant. However, underutilized services located at a health system's geographically remote facility may be disregarded when determining institutional need for the proposed project.**
- 3. This section is not applicable to nursing facilities pursuant to §32.1-102.3:2 of the Code of Virginia.**
- 4. Applicants shall not use this section to justify a need to establish new services.**

As previously discussed, for 2020, the most recent year for which VHI data is available, The Pavilion's 66 inpatient psychiatric beds operated at a utilization rate of 84.1%, exceeding the SMFP's 75% utilization standard (**Table 2**). Additionally, the applicant reports:

The COVID-19 pandemic did not impact The Pavilion's utilization until 2021, when staffing shortages due to COVID-19 reduced The Pavilion's staffing capabilities from 66 beds to between 36 and 48 beds in the months of July through September. These temporary reductions in bed staffing due to COVID-19 staffing shortages were resolved by October 2021, but reduced the total number of patient days for the year to 18,472, placing 2021 occupancy at 76.7% of The Pavilion's licensed bed capacity – still in excess of the SMFP standard. Between October and December 2021, The Pavilion averaged 82% occupancy of its 66 beds.

Furthermore, the applicant reports that in 2021, it had to turn away more than 1,600 individuals for hospital admission, either because the hospital was full and there were no available beds or because the only beds available were incompatible with the patient's needs.

Consequently, it can be inferred that approval of the proposed project can be justified based on the facility's need having exceeded its current service capacity.

### **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;**

As previously discussed, the applicant is a current provider of inpatient psychiatric services, and the proposed project is based on The Pavilion's institutional need to expand these services. As such, the proposed project is unlikely to foster institutional competition that benefits the area to be served.

**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 throughout this report, the proposed project would lessen the burden on the highly utilized state hospital system by routinely accepting TDO admissions. As such, the proposed project will likely have a beneficial effect on the utilization at the state psychiatric hospitals. Moreover, DCOPN has shown that the current staffed beds within the Planning District are well utilized. As such, DCOPN concludes that it is highly unlikely that approval of the project would have a negative effect on the utilization of existing providers within the planning district.

**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 projected capital costs of the proposed project total \$13,272,000, approximately 79% of which represent direct construction costs (**Table 3**). The entirety of the capital costs will be funded using the accumulated reserves of the applicant's parent company, Summit Behavioral Healthcare. Accordingly, there are no financing costs associated with this project. DCOPN concludes that when compared to similar projects, these costs are reasonable. For example, COPN No. VA-04724 issued to Virginia Hospital Center to add 42 beds is anticipated to cost approximately \$18,554,791. The Pro Forma Income Statement provided by the applicant projects an excess of revenue over expenses of \$568,985 from in the first year of operation, and \$758,982 in the second year of operation.

**Table 6. The Pavilion Pro Forma Income Statement**

	Year 1	Year 2
<b>Total Gross Patient Revenue</b>	<b>\$52,622,237</b>	<b>\$55,285,676</b>
Contractual Allowances	(\$32,736,124)	(\$34,393,041)
Charity Care	(\$1,841,778)	(\$1,934,999)
Bad Debt	(\$789,334)	(\$829,285)
<b>Net Operating Revenue</b>	<b>\$17,279,169</b>	<b>\$18,153,743</b>
Total Operating Expenses	(\$16,710,185)	(\$17,394,760)
<b>Excess of Revenue Over Expenses</b>	<b>\$568,985</b>	<b>\$758,982</b>

Source: COPN Request No. VA-8623

With regard to staffing, the applicant anticipates the need to hire 20 additional full time equivalent employees to staff the proposed project, including:

- 6 registered nurses;
- 2 licensed practical nurses;
- 1 nurse’s aide/orderly;
- 1 recreational therapist;
- 1 psychiatric social worker;
- 8 mental health technicians; and
- 1 other personnel.

The applicant explains that The Pavilion uses a number of approaches to recruit and retain staff, including:

- Customary recruitment tools, including digital and social media channels, newspaper and trade advertising;
- Local on-line job boards;
- Targeted recruitment of military and service members as they transition to the civilian workforce;
- Job fairs;
- Employees at other Summit Behavioral Healthcare facilities offered the opportunity to transfer;
- A dedicated recruitment and retention coordinator; and
- Active and comprehensive employee retention program

Because of the low number of required staff, DCOPN does not anticipate that the applicant will have difficulty staffing the proposed project or that doing so will have a significant negative impact on other PD 21 providers.

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**



The proposed project will not introduce new technology that would promote quality or cost effectiveness in the delivery of inpatient health services, or increase the potential for the provision of health care services on an outpatient basis. As previously discussed, the applicant has agreements in place with a number of CSBs and the proposed project received support from several local CSBs. Additionally, as discussed above, the applicant regularly accepts patients pursuant to TDOs. DCOPN did not identify any other factors, not discussed 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 for citizens of the Commonwealth, including indigent or underserved populations.**

Not applicable. 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.

### **DCOPN Staff Findings and Conclusions**

DCOPN finds that the proposed project to expand inpatient psychiatric services at The Pavilion by adding 32 inpatient psychiatric beds is generally consistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia. While the SMFP shows an excess of beds in the planning district, DCOPN concludes that the need for TDO admissions in the area and The Pavilion's established institutional need supersede this surplus.

Moreover, DCOPN finds that the proposed project is more advantageous than the alternative of the status quo. As discussed above, approval of the project will meet a demonstrated institutional need and is likely to lessen the burden on a highly utilized state hospital located approximately three miles from the proposed location that expects to continue to see an increase in demand.

Furthermore, the project is supported by several local CSBs. Additionally, there is no known opposition from other providers, health care professionals or community representatives. Finally, DCOPN finds that the total capital and financing cost for the project of \$13,272,000 (**Table 3**) are reasonable and consistent with previously approved projects to add inpatient beds. For example, COPN No. VA-04724 issued to Virginia Hospital Center to add 42 beds is anticipated to cost approximately \$18,554,791.

### **Staff Recommendation**

DCOPN recommends **conditional approval** of The Pavilion at Williamsburg Place, Inc.'s request to expand psychiatric services by adding 32 inpatient psychiatric beds for the following reasons:

1. The proposed project is 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 will lessen the burden on highly utilized state hospitals.
3. The proposed project is more advantageous than the status quo.
4. The capital costs of the proposed project are reasonable.
5. DCOPN did not receive any opposition to the proposed project.
6. The applicant has establish an institutional need to expand.
7. The applicant has committed to accepting patients presenting under temporary detention orders.
8. The proposed project is supported by local community service boards.

DCOPN's recommendation is contingent upon The Pavilion at Williamsburg Place, Inc.'s agreement to the following charity care condition:

The Pavilion at Williamsburg Place, Inc. will provide inpatient psychiatric services to all persons in need of these services, regardless of their ability to pay, and will provide as charity care to all indigent persons free services or rate reductions in services and will facilitate the development and operation of primary medical care services to medically underserved persons in PD 21 in an aggregate amount equal to at least 2.5% of The Pavilion at Williamsburg Place, Inc.'s gross patient revenue derived from inpatient psychiatric services. Compliance with this condition will be documented to the Division of Certificate of Public Need annually by providing audited or otherwise appropriately certified financial statements documenting compliance with the preceding requirement. The Pavilion at Williamsburg Place, Inc. will accept a revised percentage based on the regional average after such time regional charity care data valued under the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. is available from Virginia Health Information. The value of charity care provided individuals pursuant to this condition shall be based on the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.

The Pavilion at Williamsburg Place, Inc. will provide inpatient psychiatric care to individuals who are eligible for benefits under Title XVIII of the Social Security Act (42 U.S.C. § 1395 et seq.), Title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.), and 10 U.S.C. § 1071 et seq. The Pavilion at Williamsburg Place, Inc. will facilitate the development and operation of primary and specialty medical care services in designated medically underserved areas of the applicant's service area.