

VIRGINIA DEPARTMENT OF HEALTH

Office of Licensure and Certification

Division of Certificate of Public Need

Staff Analysis

July 19, 2022

COPN Request No. VA-8631

Eastern Healthcare Group, LLC

Newport News, Virginia

Add 15 nursing home beds at Old Dominion Nursing and Rehabilitation Center through transfer of beds from Williamsburg Landing

Applicant

Eastern Healthcare Group, LLC (Eastern) is a Delaware Limited Liability Company. Eastern's holding company, VA SNF Operations Holdings, LLC, operates Old Dominion Nursing and Rehabilitation Center (Old Dominion) through Newport News VA Opco, LLC. Old Dominion is located in Newport News in Health Planning Region (HPR) V, Planning District (PD) 21.

Background

On December 1, 2021, Eastern's holding company, VA SNF Operations Holdings, LLC, became the operator of Old Dominion through Newport News VA Opco, LLC. Prior to this, Old Dominion was one of two hospital-based nursing homes operated by Mercy Bon Secours. The real estate is owned by Newport News VA Propco, LLC. Division of Certificate of Public Need (DCOPN) records show that there are currently 1,733 licensed nursing home beds located in 18 facilities in PD 21 (**Table 1**). Virginia Health Information (VHI) data for 2020, the last year for which DCOPN received data from VHI, showed that collectively these facilities operated at a collective utilization of 80.8% (**Table 2**). DCOPN notes this utilization is predicated on the utilization of WindsorMeade of Williamsburg, which is impossible. A far more likely occurrence would be that the initial entry in the patient dates is a typographical error, yielding a more reasonable 78.2% utilization for that location. This would yield a collective utilization of 79.2% for the facilities in PD 21. This adjusted number is represented in **Table 1**.

Table 1. PD 21 Nursing Bed Inventory

Facility	Licensed Nursing Beds	Patient Days	Available Days	Occupancy Rate
Bayside of Poquoson Health and Rehab	60	19,458	21,960	88.6%
Coliseum Convalescent & Rehabilitation Center	180	46,571	65,880	70.7%
Consulate Health Care of Williamsburg	90	30,453	32,940	92.4%
Envoy of Williamsburg	130	36,888	47,580	77.5%
James River Convalescent Center	154	48,683	56,364	86.4%
Newport News Nursing & Rehab Center	102	31,623	37,332	84.7%
Northampton Convalescent & Rehab Center	70	22,537	25,620	88.0%
Old Dominion Nursing and Rehabilitation Center	115	29,088	42,090	69.1%
Regency Health & Rehabilitation Center	60	18,078	21,960	82.3%
Riverside Rehab Center Hampton	130	37,991	47,580	79.8%
Sentara Nursing Center - Hampton	86	18,261	31,476	58.0%
The Chesapeake	52	16,387	19,032	86.1%
The Convalescent Center at Patriot's Colony	60	15,212	21,960	69.3%
The Gardens at Warwick Forest	209	67,264	76,494	87.9%
The Newport	60	13,410	21,960	61.1%
Williamsburg Landing	73	18,778	26,718	70.3%
WindsorMeade of Williamsburg	22	6,295	8,052	78.2%
York Convalescent Center	80	25,204	29,280	86.1%
Total Beds/Average Occupancy	1,733	502,181	634,278	79.2%

Source: VHI & DCOPN interpolations

Table 2. PD 21 Nursing Bed Inventory (VHI)

Facility	Licensed Nursing Beds	Patient Days	Available Days	Occupancy Rate
Bayside of Poquoson Health and Rehab	60	19,458	21,960	88.6%
Coliseum Convalescent & Rehabilitation Center	180	46,571	65,880	70.7%
Consulate Health Care of Williamsburg	90	30,453	32,940	92.4%
Envoy of Williamsburg	130	36,888	47,580	77.5%
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The Gardens at Warwick Forest	209	67,264	76,494	87.9%
The Newport	60	13,410	21,960	61.1%
Williamsburg Landing	73	18,778	26,718	70.3%
WindsorMeade of Williamsburg	22	16,295	8,052	202.4%
York Convalescent Center	80	25,204	29,280	86.1%
Total Beds/Average Occupancy	1,733	512,181	634,278	80.8%

Source: VHI

Table 3. Old Dominion Occupancy: 2016-2020

Year	Licensed Nursing Beds	Patient Days	Available Days	Occupancy Rate	Change From Prior Year
2016	115	35,293	42,090	83.9%	N/A
2017	115	32,872	41,975	78.3%	-6.9%
2018	115	34,279	41,975	81.7%	4.3%
2019	115	32,674	41,975	77.8%	-4.7%
2020	115	29,088	42,090	69.1%	-11.0%

Source: VHI & DCOPN interpolations

Table 4. Williamsburg Landing Occupancy: 2016-2020

Year	Licensed Nursing Beds	Patient Days	Available Days	Occupancy Rate	Change From Prior Year
2016	58	17,899	21,228	84.3%	N/A
2017	58	3,051	21,170	14.4%	-83.0%
2018	73	17,385	26,645	65.2%	469.8%
2019	73	19,055	26,645	71.5%	9.6%
2020	73	18,778	26,718	70.3%	-1.5%

Source: VHI & DCOPN interpolations

Proposed Project

The applicant proposes to expand its nursing home bed inventory by 15 beds through the relocation of nursing home beds from Williamsburg Landing, Inc. (Williamsburg Landing) to Old Dominion. Williamsburg Landing has entered into a forbearance agreement with the applicant that it would forebear its rights for the 15 nursing home beds if the proposed project receives approval. The proposed project would add a new wing to Old Dominion’s nursing facility and increase its complement of single occupancy bedrooms from the 23 they have now to 52, or 40% of the resulting 130 nursing home beds will be in single occupancy rooms. In addition to the 15 relocated beds, the applicant would create the remaining 14 single occupancy rooms through the conversion of existing double occupancy rooms to single occupancy rooms. The total capital and financing cost of the proposed project is \$5,109,505 (Table 5). The costs of the proposed project would be incurred by the property owner, which would be passed through as a 12% rent increase with an annual 2% increase in subsequent years.

Table 5. Capital and Financing Costs

Direct Construction Costs	\$4,169,880
Equipment Not Included in Construction Contract	\$89,625
Site Preparation Costs	\$300,000
Off-Site Costs	\$300,000
Architectural and Engineering Fees	\$250,000
Total Capital Costs	\$5,109,505

Source: COPN Request No. VA-8631

Project Definitions

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

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

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

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

The applicant proposes to transfer 15 nursing home beds from Williamsburg Landing to Old Dominion. The proposed project would add a new wing to Old Dominion's nursing facility and increase its complement of single occupancy bedrooms from 23 to 52. In addition to the 15 relocated beds, the applicant would create the remaining 14 single occupancy rooms through the conversion of existing double occupancy rooms to single occupancy rooms. These new private rooms at Old Dominion would be more competitive and consistent with shifting preferences in nursing home care over the past decade. Moreover, the addition of private rooms would enhance Old Dominion's ability to serve residents with infectious diseases by adding additional space for quarantine, should such space be necessary. However, as discussed below, this same benefit can be effectuated, without the transfer of beds, through the building of the new wing and the creation of private rooms through the conversion of existing semiprivate rooms at Old Dominion to private rooms. This would result in a greater number of private rooms at this location. Moreover, given historic utilization of both locations (**Tables 3 and 4**), it does not make sense, from a health planning perspective, to relocate beds that have been in service for four years from a more highly utilized facility to a lower utilized facility. Additionally, as discussed in 12VAC5-230-620 below, this relocation is likely to result in an institutional need at Williamsburg Landing within the next couple of years. While DCOPN recognizes the benefit of private rooms at Old Dominion, the proposed project does not offer any benefits that would not be better, or at least equally, effectuated without the relocation of beds from Williamsburg Landing to Old Dominion.

Geographically, Old Dominion is located approximately 2.8 miles from I-64. The applicant asserts that bus service is available to the nursing home. Following additional research, DCOPN found that there is a bus stop located approximately 0.6 miles from Old Dominion. The applicant did not address any benefits or drawbacks to the location with regards to public parking.

Weldon-Cooper data projects a total PD 21 population of 504,939 residents by 2030 (**Table 6**), which represents an approximate 5.9% increase in total population from 2010 to 2030. This is a significantly lower percentage increase than the total for Virginia, which will increase by approximately 16.6% for the same period. With regard to the City of Newport News specifically, Weldon-Cooper projects a total population decrease of 967, or a decrease of approximately 0.5%, from 2010 to 2030. This total population increase and percentage increase is fifth among the six areas listed in **Table 6**.

With regard to the 65 and older age cohort, Weldon-Cooper projects a total PD 21 population of 107,401 by 2030 (**Table 7**), which represents an approximate 74.2% increase in this population

cohort from 2010 to 2030. This is a roughly consistent with the total for Virginia, which will increase by approximately 76.4%. With regard to the City of Newport News specifically, Weldon-Cooper projects a population increase in this cohort of 9,209 or approximately 47.9%, from 2010 to 2030. This total population increase is second among the six areas listed in **Table 7**, and last in percentage increase among the six areas listed.

Table 6. PD 21 and Statewide Total Population Projections, 2010-2030

Locality	2010	2020	% Change	2030	% Change	2010-2030 % Change
Hampton City	137,436	135,530	-1.4%	127,842	-5.7%	-7.0%
James City	67,009	78,016	16.4%	92,210	18.2%	37.6%
Newport News City	180,719	181,581	0.5%	179,752	-1.0%	-0.5%
Poquoson City	12,150	12,382	1.9%	12,635	2.0%	4.0%
Williamsburg City	14,068	15,463	9.9%	17,008	10.0%	20.9%
York	65,464	69,582	6.3%	75,492	8.5%	15.3%
Total PD 21	476,846	492,554	3.3%	504,939	2.5%	5.9%
Virginia	8,001,024	8,655,021	8.2%	9,331,666	7.8%	16.6%

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

Table 7. PD 21 Population Projections for 65+ Age Cohort, 2010-2030

Locality	2010	2020	% Change	2030	% Change	2010-2030 % Change
Hampton City	16,856	20,430	21.2%	25,467	24.7%	51.1%
James City	13,870	23,287	67.9%	31,875	36.9%	129.8%
Newport News City	19,219	22,973	19.5%	28,428	23.7%	47.9%
Poquoson City	1,891	2,451	29.6%	2,919	19.1%	54.3%
Williamsburg City	1,879	2,616	39.2%	3,005	14.8%	59.9%
York	7,934	11,723	47.8%	15,707	34.0%	98.0%
Total PD 21	61,649	83,480	35.4%	107,401	28.7%	74.2%
Virginia	976,937	1,352,448	38.4%	1,723,382	27.4%	76.4%

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

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

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

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

DCOPN received no letters in support or opposition to the proposed project.

Public Hearing

DCOPN provided notice to the public regarding this project on May 10, 2022. The public comment period closed on June 24, 2022. Section 32.1-102.6 of the Virginia Code mandates that “in the case of competing applications or in response to a written request by an elected local government representative, a member of the General Assembly, the Commissioner, the applicant, or a member of the public, [DCOPN shall] hold one hearing on each application in

a location in the county or city in which the project is proposed or a contiguous county or city.” The proposed project is not competing, and no public hearing was requested by the applicant, the Commissioner, an interested party, or member of the public. As such, no public hearing was held.

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

The expansion of Old Dominion without the addition of the new beds from Williamsburg Landing is a preferable alternative to the proposed project. As discussed in 12VAC5-230-620 below, the applicant does not meet the threshold necessary to expand its compliment of beds. Moreover, DCOPN notes that the occupancy rate at Williamsburg Landing is currently, and has historically been, higher than that of Old Dominion (**Table 4**). Finally, the relocation of the 15 beds at Williamsburg Landing would result, at its current occupancy, in an 88.5% occupancy rate for this location, which would likely cause difficulties placing new patients at this location. While the creation of more private rooms at this location is a significant benefit, given both market trends¹ and COVID-19 and other infection control concerns, this can be effectuated without the transfer of beds from Williamsburg Landing to Old Dominion. The applicant states that the proposed project would increase the compliment of private rooms from 20% to 40% of the nursing home beds at this location. The relocation of beds from semi-private rooms to the new wing would allow the applicant to create an even greater number of private rooms at this location without transferring beds from a more highly utilized facility and risk creating an institutional need at that facility as a result.

(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 either proposed project.

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

The total capital and financing cost for the project is \$5,109,505 (**Table 5**), which would be incurred by the property owner, which would be passed through as a 12% rent increase with an annual 2% increase in subsequent years. The proposed project is reasonable and consistent with other projects seeking to relocate 15 nursing beds from one facility to another. For example, COPN No. VA-04553 issued to Our Lady of Hope Health Center, Inc. to transfer 15 beds from Beth Sholom of Richmond, which cost approximately \$5,227,255. As discussed throughout this report, while DCOPN recognizes the benefits of the conversion of

¹ Shield, Renée R., et al. ““Would You Do That in Your Home?” Making Nursing Homes Home-like in Culture Change Implementation.” *Journal of Housing for the Elderly*, U.S. National Library of Medicine, 2 Dec. 2014, www.ncbi.nlm.nih.gov/pmc/articles/PMC5363857/.

semiprivate rooms to private rooms, this is better effectuated without the relocation of beds from Williamsburg Landing to Old Dominion.

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

The applicant states that nursing beds at Old Dominion have always been dually-certified for Medicaid and Medicare. The applicant additionally states that the proposed 15 beds would also be dually certified. Finally, the applicant states that all persons needing services at Old Dominion will have access to such services regardless of payment source. In accordance with section 32.1-102.2.A.7 of the Code of Virginia, imposition of a charity condition pursuant to subsection B of § 32.1-102.4 would not be appropriate for the proposed project.

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

DCOPN did not identify any other discretionary factors, not discussed elsewhere in this staff analysis report, to bring to the attention of the Virginia State Health Commissioner (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;

Section 32.1-102.2:1 of the Code of Virginia calls for the State Health Services Plan Task Force to develop, by November 1, 2022, recommendations for a comprehensive State Health Services Plan (SHSP). In the interim, DCOPN will consider the consistency of the proposed project with the predecessor of the SHSP, the State Medical Facilities Plan (SMFP).

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

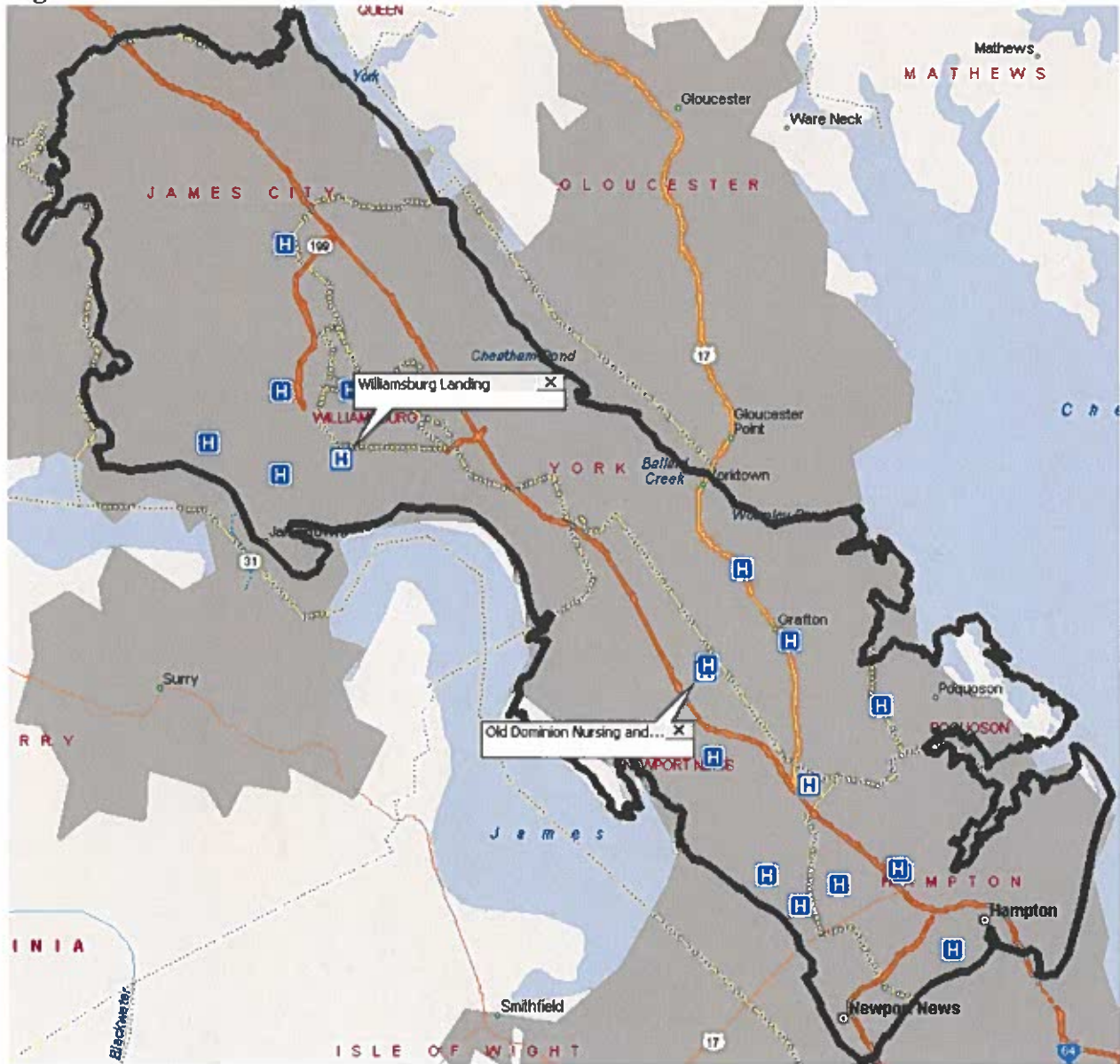
Part VII. Nursing Facilities

12VAC5-230-600. Travel Time.

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

The heavy black line in **Figure 1** identifies the boundary of PD 21. The solid white “H” signs mark the location of the nursing facilities affected by this project. The solid blue “H” signs mark the location of all licensed nursing facilities in the planning district. The grey shaded area in **Figure 1** illustrates the area of the planning district that is within a 30 minutes driving time one way under normal conditions of all nursing facilities in planning district. Based on this shading, it is reasonable to conclude that 95% of the population of PD 21 is within 30-minutes driving time one way of existing skilled nursing services.

Figure 1



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

As discussed above, the applicant asserts that the location is served by bus service. DCOPN did not identify any additional public transportation methods.

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

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

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

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

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

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

B. No health planning district should be considered in need of additional beds if there are unconstructed beds designated as Medicaid certified. This presumption of 'no need' for additional beds extends for three years from the issuance date of the certificate.

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

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

Where:

- PDBN = Planning district bed need.**
- UR64 = The nursing home bed use rate of the population aged 0 to 64 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.**
- PP64 = The population aged 0 to 64 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.**
- UR69 = The nursing home bed use rate of the population aged 65 to 69 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.**
- PP69 = The population aged 65 to 69 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.**
- UR74 = The nursing home bed use rate of the population aged 70 to 74 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.**
- PP74 = The population aged 70 to 74 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.**
- UR79 = The nursing home bed use rate of the population aged 75 to 79 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.**
- PP79 = The population aged 75 to 79 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.**

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

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

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

EXCEPTION: When a health planning district has:

1. **Two or more nursing facilities;**
 2. **Had an average annual occupancy rate in excess of 93% for the most recent two years for which bed utilization has been reported to VHI; and**
 3. **Has a forecasted bed need of 15 to 29 beds, then the bed need for this health planning district will be rounded to 30.**
- D. No new freestanding nursing facilities of less than 90 beds should be authorized. However, consideration may be given to a new freestanding facility with fewer than 90 nursing facility beds when the applicant can demonstrate that such a facility is justified based on a locality's preference for such smaller facility and there is a documented poor distribution of nursing facility beds within the health planning district.**
- E. When evaluating the capital cost of a project, consideration may be given to projects that use the current methodology as determined by the Department of Medical Assistance Services.**
- F. Preference may be given to projects that replace outdated and functionally obsolete facilities with modern facilities that result in the more cost-efficient resident services in a more aesthetically pleasing and comfortable environment.**

Not applicable. The applicant is seeking to expand its existing compliment of nursing home beds.

12VAC5-230-620. Expansion of Services.

Proposals to increase existing nursing facility bed capacity should not be approved unless the facility has operated for at least two years and the average annual occupancy of the facility's existing beds was at least 93% in the relevant reporting period as reported to VHI.

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

The applicant states that this provision is not applicable as it is not increasing the nursing bed capacity of the planning district. This interpretation of this section of the SMFP is incorrect. The language of this section states: "Proposals to increase existing nursing facility bed capacity should not be approved unless *the facility* has operated for at least two years and the average annual occupancy of the facility's existing beds was at least 93% in the relevant reporting period as reported to VHI" (emphasis added). Clearly, the focus of this section is on increasing the bed capacity at nursing facility rather than within the planning district, as it would be in 12VAC5-230-610 above. As such DCOPN concludes that this section of the SMFP is applicable to the proposed project.

In 2020, the last year for which DCOPN has data available from VHI, the applicant operated at 69.1% occupancy rate (Table 1). This is well below the 93% occupancy rate mandated by this section. DCOPN additionally notes that the location from which the applicant would be transferring beds was operating at a higher occupancy rate than Old Dominion during 2020 (Table 1). Additionally, the 15 beds that would be relocated have only been in service since 2018². Moreover, Williamsburg landing has shown an increase in utilization at this location in both 2018 and 2019 and a smaller decrease than Old Dominion in 2020 (Table 4). As such, the proposed project would relocate beds from a higher utilized facility to one where, based on current data, they would be less utilized. Finally, the relocation of the 15 beds at Williamsburg Landing would result, at its current occupancy, in an 88.5% occupancy rate for this location, which would likely cause difficulties placing new patients at this location. As the applicant has not met this threshold nor have they identified any mitigating circumstances by which DCOPN should recommend approval of the proposed project despite the lower occupancy rate, DCOPN concludes that the applicant does not meet 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;**

² COPN No. VA-04526

3. **The number of new nursing facility beds requested in any subsequent application does not cause the continuing care retirement community's total number of nursing home beds to exceed 20% of its total number of beds that are not nursing facility beds; and**
4. **The continuing care retirement community has established a qualified resident assistance policy.**

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

12VAC5-230-640. Staffing.

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

The applicant asserts that Old Dominion's staff includes a licensed nursing home administrator and licensed and certified nursing professionals. The applicant further asserts that Old Dominion would continue to be staffed by sufficient professional and non-professional staff to meet the needs of its residents and meeting all regulatory requirements.

Required Considerations Continued

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

The applicant states that this is not applicable to the proposed project. As this is one of the Eight Considerations required to determine need under §32.1-102.3 of the Virginia Code, DCOPN disagrees with this assertion. The applicant does not identify any facets of the project that would foster 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. Additionally, DCOPN did not identify any facets that affected this criteria. As such, DCOPN concludes that the proposed project would not foster 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.

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

As discussed above, the occupancy rates at Williamsburg Landing, both historically and in the most recent data that is available from VHI, are higher than Old Dominion (**Tables 3 and 4**). Moreover, DCOPN notes that these beds were added in 2018 to address high occupancy at that location. Based on this information, DCOPN concludes that approval of the project would relocate beds recently put into service to address high occupancy from a higher occupancy location to a lower occupancy location. As such, approval of the proposed project is likely to result in lessened utilization of the relocated beds, and the likely creation of an institutional need at Williamsburg Landing within the next couple of years.

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 8) provided by the applicant projects a net profit of \$848,895 by the end of the first year of operation and a net profit of \$1,119,939 by the end of year two for the proposed project. The total capital and financing cost of the proposed project is \$5,109,505 (Table 5). 81.6% of the total costs for the proposed project are attributed to equipment costs and 1.8% are attributed to equipment not included in construction contract. The rest of the costs are roughly split between site preparation costs, off-site costs, and architectural and engineering fees. The applicant states that the costs would be incurred by the property owner, which would be passed through as a 12% rent increase with an annual 2% increase in subsequent years. Accordingly, there are no financing costs associated with the proposed project. Analysis of the applicant’s financing plans and projected revenues show that this method of funding for the proposed project is viable. As such, DCOPN concludes that the proposed project is feasible with regard to financial costs.

With regard to staffing, the applicant anticipates the need to hire 130.2 FTEs of positions, including 94.2 FTEs of nursing personnel. The applicant states that Eastern operates nine nursing homes and maintains a robust hiring program. The applicant additionally states that Old Dominion has a long track record of successfully recruiting and retaining highly qualified professional employees. This is at odds with its provided staffing list, which shows no FTEs at the current facility. The applicant acknowledges the challenges in hiring professional staff in the current environment, but believe they will be able to hire professional staff for this project nonetheless. The applicant states they will recruit through customary channels including active recruitment from in-house job postings of open positions, active involvement in open houses, college recruitment, and job fairs, and advertisements of all open positions in appropriate newspapers, websites, professional journals, and social media. Given the high demand for staffing positions, as well as the very large number of nursing positions, coupled with a relatively small and simplistic set of recruitment methods, DCOPN is highly concerned that staffing for this project will prove incredibly difficult. Even should staffing be possible, it is extremely unlikely that it could be effectuated without detrimentally effecting existing providers. As such, DCOPN must ultimately conclude that the proposed project is not feasible with regards to staffing.

Table 8. Pro Forma Income Statement

	Year 1	Year 2
Gross Revenue	\$17,347,274	\$17,749,591
Deductions from Revenue	\$881,333	\$901,207
Net Patient Services Revenue	\$16,465,941	\$16,848,384
Non-Patient Care Revenue	\$5,418	\$5,428
Total Net Revenue	\$16,471,359	\$16,853,812
Total Operating Expenses	\$15,622,464	\$15,733,873
Excess Revenue Over Expenses	\$848,895	\$1,119,939

Source: COPN Request No. VA-8631 & DCOPN interpolations

- 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 applicant once more states that this consideration is not applicable. As stated above, as this is one of the Eight Considerations required to determine need under §32.1-102.3 of the Virginia Code, DCOPN disagrees with this assertion. The applicant did not identify any factors that meet the criteria listed above nor did DCOPN identify any of these factors as part of its review. As such, DCOPN concludes that the proposed project would not provide improvements or innovations in the financing and delivery of health care services, as demonstrated by the introduction of new technology that promotes quality, cost effectiveness, or both in the delivery of health care services. Additionally, the proposed project would not provide improvements or innovations in the financing and delivery of health care services, as demonstrated by the potential for provision of health care services on an outpatient basis or any cooperative efforts to meet regional health care needs. DCOPN did not identify any other factors, not addressed elsewhere in this staff analysis report, to bring to the Commissioner's attention regarding the determination of a public need for the proposed project.

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

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

DCOPN Staff Findings and Conclusions

DCOPN finds that the proposed project to transfer 15 nursing home beds from Williamsburg Landing to Old Dominion is not consistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia. The applicant does not meet the standard laid out under 12VAC5-230-620 of the SMFP. Moreover, the proposed project would relocate beds from a facility with a higher occupancy rate, both historically, and using the latest data available from VHI, to one with a lower occupancy rate. Additionally, the relocation of these beds, which have only been in service since 2018, are likely to create an institutional need at Williamsburg Landing within the next couple of years.

Moreover, DCOPN finds that the alternative of building the proposed wing and creating private rooms through the conversion of semiprivate to private rooms at Old Dominion is preferable to the proposed project. While the creation of more private rooms at this location is a significant benefit,

given both market trends and COVID-19 concerns, this can be effectuated without the transfer of beds from Williamsburg Landing to Old Dominion. While the proposed project would increase the compliment of private rooms from 20% to 40% of the nursing home beds at this location, the relocation of beds from semi-private rooms to the new wing would allow the applicant to create an even greater number of private rooms at this location without transferring beds from a more highly utilized facility and risk creating an institutional need at that facility as a result.

Finally, DCOPN finds that the total capital costs of \$5,109,505 (**Table 5**) for the proposed project, which would be incurred by the property owner, which would be passed through as a 12% rent increase with an annual 2% increase in subsequent years. The proposed project is reasonable and consistent with other projects seeking to relocate 15 nursing beds from one facility to another. For example, COPN No. VA-04553 issued to Our Lady of Hope Health Center, Inc. to transfer 15 beds from Beth Sholom of Richmond, which cost approximately \$5,227,255.

DCOPN Staff Recommendations

The Division of Certificate of Public Need recommends the **denial** of Eastern Healthcare Group, LLC's COPN Request No. VA-8631 to transfer 15 nursing home beds from Williamsburg Landing, Inc. to Old Dominion Nursing and Rehabilitation Center. DCOPN's recommendation is based on the following findings:

1. The project is not consistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia.
2. The building the proposed wing and creation of private rooms through the conversion of semiprivate to private rooms at Old Dominion is a preferable alternative to the proposed project.
3. The cost of the project is reasonable and consistent with other projects of this type.