

VIRGINIA DEPARTMENT OF HEALTH

Office of Licensure and Certification

Division of Certificate of Public Need

Staff Analysis

January 19, 2023

COPN Request No. VA-8674

Burke SNF LLC

Planning District (PD) 8

Add 68 relocated nursing home beds at Burke Health and Rehabilitation Center

Applicant

Burke SNF, LLC is a single-purpose entity wholly owned by Burke Holdings I LLC a Delaware Limited Liability Company. The applicant is not a subsidiary of any other organization. Burke SNF, LLC is the business owner and operator of the existing skilled nursing facility and the proposed project, Burke Health and Rehabilitation Center (Burke HRC) and doesn't own or operate any other health care facilities in Virginia. Burke HRC is a 120-bed facility in operation since 1991. The facility provides short-term sub-acute care rehabilitation services as well as long term care services.

Background

Division of Certificate of Public Need (DCOPN) records show that there are currently 36 nursing home facilities with 4,540 authorized licensed nursing home beds in PD 8. Virginia Health Information (VHI) reported 4,391 licensed beds in 2021, the last year for which such data are available (Table 1). This total excludes beds not yet in service, and several facilities that reported a different number of beds than the number for which they were licensed. VHI indicates collective utilization of 72.6% of reported beds in PD 8 that year (**Table 1**). This is down slightly from a utilization of 73.2% in 2020.

Specifically, occupancy at Burke HRC in 2021 was 72.94%, slightly above the overall occupancy for the PD. In perspective, a 72.94% occupancy means that on any given day, of the 120 licensed beds, 32 were unoccupied. The Fountains at Washington House, from which 68 beds are proposed to relocate, had a utilization of 37.5% in 2021.

On August 31, 2022, the licensee of The Fountains at Washington House notified the Office of Licensure and Certification (OLC) of its intent to close the 68-bed facility on November 1, 2022 but withdrew its notice of closure in October 2022. This withdrawal of intent to close allows time for the review of the proposed project; however, The Fountains at Washington House does intend to close permanently.

Table 1. PD 8 Nursing Home Bed Inventory and 2021 Nursing Home Bed Utilization

Facility Name	Facility Type	Licensed Nursing Beds	Patient Days	Available Days	Occupancy Rate
Annandale Healthcare Center	NF	222	55,762	81,030	68.82%
Annandale VA Opco LLC	NF	132	26,304	48,180	54.60%
Ashby Ponds (C0084)	NF-CCRC	44	13,669	16,060	85.11%
Birmingham Green	NF	180	47,839	65,700	72.81%
Burke Health & Rehabilitation Center ¹	NF	120	12,867	17,640	72.94%
Cherrydale Health & Rehabilitation Center	NF	180	21,491	26,460	81.22%
Dulles Health and Rehab Center	NF	166	55,607	60,590	91.78%
Dunn Loring VA Opco LLC	NF	130	32,186	47,450	67.83%
Envoy Health Care of Woodbridge	NF	120	33,777	43,800	77.12%
Envoy Health of Alexandria	NF	111	34,852	40,515	86.02%
Fairfax Nursing Center, Inc	NF	200	15,448	18,800	82.17%
Falcon's Landing (C0004)	NF-CCRC	60	12,675	21,900	57.88%
Fountains at Washington House ²	NF	77	10,539	28,105	37.50%
Gainesville Health & Rehabilitation Center	NF	120	34,880	43,800	79.63%
Goodwin House - Alexandria (C0008)	NF-CCRC	80	26,043	29,200	89.19%
Goodwin House - Baileys Crossroads (C0010)	NF-CCRC	73	21,644	26,645	81.23%
Greenspring Village, Inc (C0069) ³	NF-CCRC	76	18,429	27,740	66.43%
Heritage Hall - Leesburg	NF	164	50,023	59,860	83.57%
Hermitage in Northern Virginia (C0032)	NF-CCRC	120	7,100	43,800	16.21%
Jefferson, The	NF	31	8,086	11,315	71.46%
Lake Manassas Health and Rehab	NF	120	15,398	17,640	87.29%
Loudoun Nursing & Rehabilitation Center	NF	100	30,715	36,500	84.15%
Manassas Health and Rehabilitation Center	NF	120	37,782	43,800	86.26%
Manor Care of Alexandria VA, LLC	NF	96	26,903	35,040	76.78%
Manor Care of Arlington VA, LLC	NF	161	49,572	58,765	84.36%
Manor Care-Fair Oaks of Fairfax VA, LLC	NF	155	48,009	56,575	84.86%
Mount Vernon Nursing & Rehabilitation Center	NF	130	35,302	47,450	74.40%
Potomac Falls Health & Rehab Center	NF	150	48,485	54,750	88.56%
Powhatan Nursing Home	NF	160	6,843	58,400	11.72%
Regency Care of Arlington LLC	NF	240	51,042	87,600	58.27%
The Fairfax (C0094)	NF-CCRC	56	12,157	20,440	59.48%
The Mather		0	42 Authorized, Opening 2023		
The Virginian	NF-CCRC	81	Not Reported		
Vinson Hall (C0026 Navy-Marine-Coast Guard Residence)	NF-CCRC	49	15,429	17,885	86.27%
Westminster at Lake Ridge (C0041)	NF-CCRC	60	21,900	21,900	100.00%
Woodbine Nursing & Rehabilitation Center	NF	307	97,570	112,055	87.07%
Total PD 8		4391	1,036,328	1,427,390	72.60%

¹Burke Reported 120 instead of 121

²The Fountains reported 77 instead of 68

³Greenspring reported 76 beds instead of 136 beds
Source: OLC and VHI Data

Proposed Project

Burke HRC proposes to add 68 licensed nursing home beds to its facility in PD 8 in Burke, Virginia in Fairfax County through the relocation of 68 beds from The Fountains at Washington House. Should the proposed project be approved, The Fountains at Washington House would “forbear” all of its licensed nursing home beds (68) and close the facility. The nursing home beds at Fountains at Washington House are in a Continuing Care Retirement Community (CCRC), in Alexandria, Virginia, also in PD 8. Burke HRC is currently dually-licensed by Medicaid and Medicare for 120 beds and would have 188 dually-licensed nursing home beds should the proposed project be approved.

The proposed facility would be a two-story structure of approximately 21,052 square feet, attached to the original two-story facility and would offer short-term subacute care as well as long-term care. Eight of the beds would be private and the remaining sixty would be in semi-private rooms. Given that most new nursing home construction and nursing home bed additions are increasing the availability of private resident rooms this breakdown of private to semi-private is not ideal. The trend toward private rooms improves opportunities for more effective infection control, as demonstrated during the recent COVID-19 pandemic, improves bed utilization opportunity by removing the need to cohort residents by gender and temperament, and satisfies a growing expectation from residents for private rooms. The applicant states that the proposed project would include accommodations for post-acute, short stay and rehabilitation services, meeting a growing demand for that service.

The total capital costs of the proposed project are \$12,914,000 (**Table 2**) and these costs would be self-funded by the owner so no financing costs would be needed. The applicant projects that construction on the proposed project will begin within 22 months of COPN issuance and will be complete and that new beds will be serving patients within 36 months of COPN issuance.

Table 2. Capital and Financing Costs

Direct Construction Costs	\$7,660,000
Equipment Not Included in Construction Contract	\$930,000
Site Preparation Costs	\$950,000
Architectural and Engineering Fees	\$425,000
Other Consulting Fees	\$2,924,000
Taxes and Government Fees During Construction	\$25,000
Total Capital Costs	\$12,914,000

Source: COPN Request No. 8674

Project Definitions

Section 32.1-102.1:3 of the Code of Virginia (the Code) defines a project, in part, as “[a]n increase in the total number of beds or operating rooms in an existing medical care facility described in subsection A;” and “[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 current inventory of nursing home beds in PD 8 is more than sufficient to meet the current demand for services, as demonstrated by a PD-wide nursing home occupancy rate of 72.6% (Table 1), despite a projected nursing home bed shortage of 284 beds in the Nursing Home Bed Need Forecast for the 2022 Planning Year. Relocating beds 12 to 13 miles would do little to change geographic access. At the reported occupancy rate for PD 8, a total of 1,203 of the 4,391 licensed PD 8 nursing home beds that reported to VHI for 2021, were unoccupied on any given day.

The applicant notes that it seeks to be a high-quality provider of short-term subacute as well as long-term services for indigent seniors who are unable to live at home. This would potentially create improved access for this group with socioeconomic barriers; however, with 1,203 beds available on any given day, the proposed project would merely maintain the surplus.

- 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 three letters of support from Burke HRC's leadership with messages of high quality and the ability to expand service to the growing aging population in PD 8.

DCOPN is not aware of any opposition to the proposed project.

Public Hearing

A public hearing was held by video conference on January 9, 2023 7:30 p.m. Two people presented the proposed project. A summary of discussion points follows: Presenters asserted a calculated need for additional nursing home beds in PD 8 per the State mandated policy; ownership and control of Burke Health & Rehabilitation Center changed hands earlier in 2022, but beyond the corporate name, representatives would not identify the new owner/investors or discuss their experience; though the \$2,924,000 bed license forbearance agreement references in the application is nearly a quarter of the capital cost, the agreement is proprietary and not available to HSANV or DCOPN; there is no common ownership between the recently sold nursing homes that were owned and operated by Medical Facilities of America (MFA); building restrictions limit the size of the structure and, therefore, the number of private rooms that can be built, to eight; the low occupancy at Burke is a function of its short-stay

patients and more frequent bed turnover; the projected low Medicaid patient service levels is a function of Burke's focus on short stay rehabilitation patients rather than longer-stay nursing care patients and is not a reflection of an intention to serve fewer Medicaid patients.

There was no public comment other than the letters of support submitted with the application.

(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 Fountains at Washington House intends to close whether the proposed project is approved or denied. Though the forbearance agreement is not provided due to "confidential proprietary information," the forbearance fee of \$2,924,000 is in exchange for closure of the 68 beds at Fountains at Washington House, which closure is intended with or without the fee. The status quo will result in the imminent closure of The Fountains and a reduction of 68 nursing home beds in PD 8. Approval of the proposed project is analogous to adding 68 beds to the PD without a request for application by the Commonwealth of Virginia. Given the occupancy in PD 8 and specifically at Burke HRC, capacity is available for long-term and short-term patients. A reasonable alternative to the proposed project is surrendering the 68 beds and closing the Fountains, reducing the number of nursing home beds in PD 8 by 68. This alternative eliminates the expense of relocation, construction and forbearance fees, and reduces the overall surplus of nursing home beds in the planning district.

(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;

At its January 9, 2023, the Health Systems Agency of Northern Virginia (HSANV), the organization in HPR II designated by the Virginia Department of Health to serve as the Health Planning Agency for PD 8, voted five in favor, one opposed with two abstentions to recommend denial of Burke HRC's COPN Request number VA-8674 to add 68 nursing home beds by relocating them from within PD 8. The HSANV based its recommendation on the HSANV staff report, their review of the request and several basic findings and conclusions, including:

1. Northern Virginia (PD 8) has a large number of unused nursing home beds, the largest nursing home bed surplus in the state. There is no public need for a capital expenditure to develop new nursing home beds to serve the region, now or within the next five years.
2. The Burke argument that there is a quantified need for hundreds of additional nursing home beds in PD 8 is based on the flawed "calculated need" projection contained in the 2020 nursing home request for applications. That does not comport with reality, with common sense, or with the public interest.
3. Contrary to the applicant's related assertion, adding nursing home beds at Burke, or elsewhere in the planning region, would not improve access to care. The applicant's contention that there is a shortage of nursing home beds in planning district 8 is wrong.
4. The project would be of economic benefit to the applicant but of no discernible public value or benefit.

5. The project is designed and intended to serve a disproportionately small share of the local nursing home population enrolled in the Virginia Medicaid program.
6. The project would not increase, or otherwise enhance access to nursing home care, locally or elsewhere.
7. The potential service improvements cited by the applicant as benefits of the project are coincidental, not derivative of or dependent on the capital expenditure proposed. They can be undertaken outside the COPN process, without expanding licensed bed capacity unnecessarily.
8. The proposal is not consistent with the applicable provisions of the Virginia State Medical Facilities Plan governing the expansion of nursing homes. Specifically, it conflicts with Section 12VAC5-230-620 of the plan.

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

The total capital cost of the proposed project is \$12,914,000 (**Table 2**), to be self-funded by the owner so no financing costs would be needed. Though this cost is substantial, is consistent with other similar projects recently approved, for example, COPN No. VA-04822 authorized the transfer of 97 nursing home beds to Woodbine Rehabilitation and Healthcare Center in May 2022 at a total capital cost of \$26,518,851, and COPN No. VA-04675 authorized the transfer of 30 nursing home beds to Heritage Hall Leesburg at a total capital cost of \$10,260,103. The proposed project includes \$7,660,000 in direct costs (59.3%), and the “forbearance fees” so that The Fountains closes its 68 beds is \$2,924, 000 (22.6%).

The proposed project appears to have commercial benefit to the owner and increases The Fountain’s assets by nearly \$3 million prior to its closure, but has no discernable value to the PD.

(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 the resulting 188 licensed nursing home beds proposed at Burke HRC would be dually-certified by Medicare and Medicaid.

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

It is of note that the proposed project relocates nursing home beds from a CCRC to a commercial facility that is not a CCRC. Given the statutory preferential treatment of beds that support CCRCs, relocating beds from CCRCs that likely would not have been approved in a commercial facility is a utilization of the beds that is different from their intended use of supporting a specific CCRC population.

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 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:

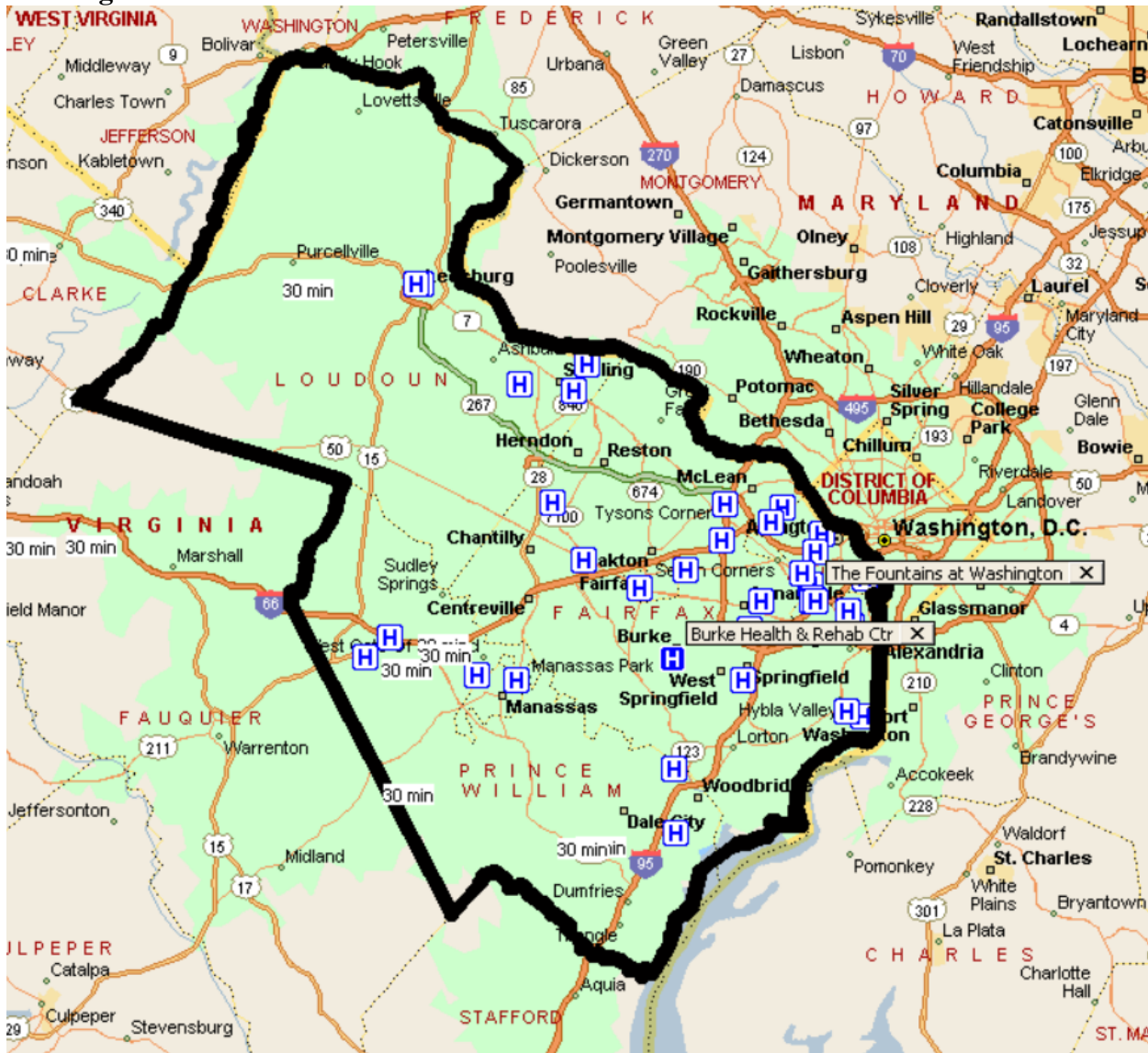
Part VII. Nursing Facilities

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 8. The H symbols with white backgrounds indicate the locations of the nursing home facilities in the planning district, while the H with the blue background marks Burke HRC. The shaded green area is within the 30-minute drive time of existing nursing facilities in PD 8. With the entirety of PD 8 within a 30 minute drive time, of a nursing facility, excepting a small area of Loudoun County, nursing facilities are already accessible to 95% of the population. The proposed project will not impact geographic accessibility.

Figure 1



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

The metropolitan areas of PD 8 have a robust public transportation system.

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 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 not proposing to establish a new nursing home service.

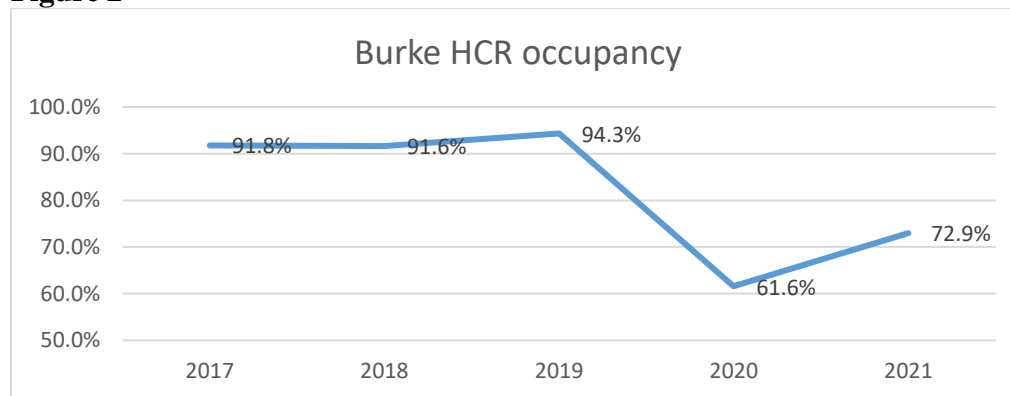
12VAC5-230-620. Expansion of Services.

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.

The occupancy of Burke HRC was well below 90% during 2021, the latest year reported to VHI (Table 1). Occupancy at Burke HRC was above 90% prior to the COVID pandemic in 2020. During that year, occupancy dropped to 61.6% and increased slightly in 2021 to 72.9% (Figure 2). In the context of a long-term decline in occupancy across PD 8, it is too early to tell if Burke HRC's utilization will rebound to over 90% in the future. The applicant does provide short-term rehab services as well as long-term care but offering these services does not appear to be the cause of Burke HRC's low occupancy.

Figure 2



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

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

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

- 4. The continuing care retirement community has established a qualified resident assistance policy.**

This provision is not applicable to the proposed project.

12VAC5-230-640. Staffing.

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

The applicant asserts that the facility is and will be staffed appropriately to comply with all regulatory requirements.

Required Considerations Continued

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

The proposed project is inventory-neutral in that it retains 68 nursing home beds that would otherwise close anyway. No significant change in institutional competition would result. As an adequate number of nursing home beds are already within a 30-minute drive of 95% of the population of PD 8, approval of the request would not increase access to nursing home services. Given the low occupancy in PD 8, status quo would not decrease access.

- 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;**

Given the number of unoccupied nursing home beds in PD 8 indicated by the low occupancy rates (less than 90%) shown for all but two of the 36 existing PD 8 nursing homes (Table 1), and the addition of nursing home beds authorized but not yet operational (30 per COPN No. VA-04675; 25 per VA-0746 and 42 in a CCRC per VA-0426), the proposed project would contribute to reducing the occupancy rate still further in comparison to closing the 68 beds at The Fountains.

- 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 project appears financially feasible, based upon the applicant's projections, but may be optimistic given existing occupancy across the planning district. It is projected to realize a positive net income by year two of operation, but at an overall cost to potentially all existing nursing home providers in PD 8. Occupancy rate is a factor in establishing nursing home care reimbursement, with payment reductions for lower occupancy facilities.

The proposed project would add 89 FTEs to the existing facility. Though some of these might relocate with the beds when The Fountains closes, in general, recruiting professional health care staff is difficult.

- 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 is not proposing to introduce new technology that promotes quality, cost effectiveness, or both in the delivery of health care services. Nor is the applicant proposing the potential for provision of health care services on an outpatient basis.

- 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 associated with a public institution of higher education or a medical school in the area to be served.

DCOPN Staff Findings and Conclusions

According to the Nursing Home Bed Need Forecast there is a calculated bed need in PD8; however, the utilization of the existing nursing home beds in PD 8 is very low, having shown a steady decline over at least the previous three years. Because of the low average occupancy, PD 8 has not qualified for the addition of nursing home beds under the Request for Applications process. In addition, PD 8 has 97 nursing home beds authorized but not yet in service (42 in a CCRC). Buke HRC had an occupancy of 72.9% in 2021. Though the proposed project is inventory-neutral, should it be denied The Fountains intends to close anyway which would improve utilization across PD 8.

Short-term post-acute bed access is advantageous, but the same dually-certified vacant beds could be used as skilled beds as well as nursing home beds. No need exists in PD 8 for additional nursing home beds.

CCRCs are excepted from the RFA process. Relocating 68 beds, which were permitted due to the preferential treatment of CCRCs, to a commercial facility rather than closing them, utilizes the beds in a way not intended.

Additionally, the trend in nursing homes is to increase private rooms. Not only do prospective residents prefer private rooms, but they enable room placement without consideration of matching roommates for gender or temperament and are more effective for infection control. The proposed project would add only eight private beds at Burke HRC.

DCOPN Staff Recommendations

The Division of Certificate of Public Need recommends **denial** of Burke SNF, LLC's COPN Request to relocate 68 nursing home beds within PD 8 for the following:

1. Northern Virginia (PD 8) has a large number of unused nursing home beds, the largest nursing home bed surplus in the state. There is no public need for additional nursing home beds, now or within the next five years.
2. The proposal is not consistent with the applicable provisions of the Virginia State Medical Facilities Plan governing the expansion of nursing homes. Specifically, it conflicts with Section 12VAC5-230-620 of the plan.
3. HSANV recommended denial of the proposed project.
4. The proposal is intended to serve a relatively low percentage (about 28%) of less profitable Medicaid patients and a disproportionately high percentage (about 78%) of more profitable Medicare and commercially insured patients.
5. The project would be of economic benefit to Burke HRC, and the new private equity owner of the facility, but of no discernible public value or benefit.
6. A reasonable alternative to the proposed project is the status quo and subsequent closure of the 68 beds at The Fountains at Washington House, decreasing the surplus of nursing home beds in PD 8 and eliminating costs of construction and relocating beds.