



COMMONWEALTH of VIRGINIA

Karen Shelton, MD
State Health Commissioner

Department of Health
P O BOX 2448
RICHMOND, VA 23218

TTY 7-1-1 OR
1-800-828-1120

February 16, 2024

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

RE: COPN No. VA-04869
Our Lady of Perpetual Help Health Center, Inc.
Add 34 nursing home beds through relocation

Dear Mr. Peck:

In accordance with Chapter 4, Article 1.1 of Title 32.1 of the Code of Virginia of 1950 (the Code), as amended, I reviewed the application and all supporting documents submitted by Our Lady of Perpetual Help Health Center, Inc. to add 34 nursing home beds through relocation to Our Lady of Perpetual Help in Virginia Beach, Virginia from within PD 20.

As required by Section 32.1-102.3B of the Code, I have considered all factors that must be taken into account in a determination of public need, and I have concluded that **approval** of the request is warranted based on the following findings:

1. The proposal improves access to a highly utilized nursing facility, including access for people with all payor sources and the indigent population.
2. The proposed project is generally consistent with the State Medical Facilities Plan and relevant sections of the Code of Virginia.
3. The proposal is inventory neutral and improves a maldistribution of nursing home beds in PD 20, adding bed capacity in an area where the 65 and older population is growing rapidly.
4. The proposal is preferable to the status quo.
5. The proposed project adds 38 private rooms to the inventory.

Mr. Frank Peck
Our Lady of Perpetual Help Health Center, Inc.
February 16, 2024
Page 2

6. The proposal is fully feasible.
7. There is no documented opposition to the proposed project.

This certificate is valid for the period February 16, 2024 through February 15, 2025. The total authorized capital cost of the project is \$11,393,385.

Please file two copies of the application for a certificate extension with the Department no later than 30 days before the expiration date of the certificate. Part VIII of the Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations identifies the filing requirements and review procedure for certificate extension requests.

Sincerely,



Karen Shelton, MD
State Health Commissioner

Enclosure

cc: Allyson Tysinger, Senior Assistant Attorney General, Commonwealth of Virginia
Erik Bodin, Director, Division of Certificate of Public Need
Deborah K. Waite, Chief Operating Officer, Virginia Health Information
Caitlin S. Pedati, MD, MPH, FAAP, District Director, Virginia Beach Health District

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH
MEDICAL CARE FACILITIES CERTIFICATE OF PUBLIC NEED

THIS CERTIFIES THAT Our Lady of Perpetual Help Health Center, Inc. is authorized to initiate the proposal as described below.

NAME OF FACILITY: Our Lady of Perpetual Help

LOCATION: 4560 Princess Anne Road, Virginia Beach, Virginia 23462

OWNERSHIP AND CONTROL: Our Lady of Perpetual Help Health Center, Inc.

SCOPE OF PROJECT: Expand authorized capacity by 34 nursing home beds, for a total of 64 nursing home beds, by relocating nursing facility beds from another facility in PD 26. Capital costs authorized for this project total \$11,393,385. The project is expected to be completed by March 30, 2027.



Pursuant to Chapter 4, Article 1:1 of Title 32.1, Sections 32.1-102.1 through 32.1-102.12 of the Code of Virginia (1950), as amended and the policies and procedures promulgated thereunder, this Medical Care Facilities Certificate of Public Need is issued contingent upon substantial and continuing progress towards implementation of the proposal within twelve (12) months from the date of issuance. A progress report shall be submitted to the State Health Commissioner within twelve (12) months from the date of issuance along with adequate assurance of completion within a reasonable time period. The Commissioner reserves the right not to renew this Certificate in the event the applicant fails to fulfill these conditions. This Certificate is non-transferable and is limited to the location, ownership, control and scope of the project shown herein.

Certificate Number: VA-04869

Date of Issuance: February 16, 2024

Expiration Date: February 15, 2025

A handwritten signature in cursive script, appearing to read "Karen Shelton".

Karen Shelton, MD, State Health Commissioner

VIRGINIA DEPARTMENT OF HEALTH

Office of Licensure and Certification

Division of Certificate of Public Need

Staff Analysis

January 19, 2024

COPN Request No. VA-8715

Our Lady of Perpetual Help Health Center, Inc.

Expand Authorized Capacity by 34 Nursing Home Beds

Virginia Beach, Virginia, Planning District (PD) 20

Applicant

Our Lady of Perpetual Help Health Center, Inc. (OLPH) is a non-profit corporation located at 4560 Princess Anne Road, Virginia Beach, Virginia 23462, and is owned by the Catholic Diocese of Richmond (The Diocese). The Diocese owns the following four facilities: OLPH, Our Lady of Peace, Inc. (Charlottesville), Our Lady of Hope Health Center, Inc. (Richmond) and Our Lady of the Valley (Roanoke). OLPH is located in PD 20, positioned within Health Planning Region (HPR) V.

Background

According to VHI data for 2021, the latest year for which such data are available, there were 37 nursing facilities in PD 20 with 4,319 beds (**Table 1**). Three of these facilities are Continuing Care Retirement Communities and two are long term care units in acute care hospitals. DCOPN notes that the beds at Bon Secours Southampton Memorial Hospital (BSSMH) proposed to be relocated to OLPH are not licensed as nursing home beds, rather licensed by VDH as acute care hospital beds that are certified to provide long term care. The Code of Virginia § 32.1-102.3:7 authorizes the relocation of nursing facility beds, and nursing facility beds include acute care hospital beds that are certified to provide long term care. There is precedent for transferring such acute care hospital beds to nursing homes (COPN Nos. VA-04159, VA-04602, VA-04837 and VA-04106, for example).

Utilization of nursing home facility beds across PD 20 was 73.3%. There have been no new nursing home facilities or closings since 2021, but two facilities in PD 20 have closed a total of 13 beds to fulfill forbearance agreements. PD 20 now has 37 nursing facilities with 4,306 beds (**Table 1**).

Table 1. PD 20 Nursing Facility Inventory and Utilization (2021)

Facility Name	Days in the Reporting Period	Licensed Nursing Beds	Patient Days	Available Days	Occupancy Rate
Accordius Health at Bay Pointe LLC	365	112	27,136	40,880	66.38%
Accordius Health at Nansemond Pointe LLC	365	148	37,591	54,020	69.59%
Accordius Health at River Pointe LLC	365	138	29,902	50,370	59.36%
Autumn Care of Chesapeake	365	117	36,450	42,705	85.35%
Autumn Care of Norfolk	365	120	34,144	43,800	77.95%
Autumn Care of Portsmouth ¹	365	108	33,086	39,420	83.93%
Autumn Care of Suffolk ²	365	120	30,300	43,800	69.18%
Bayside Health & Rehabilitation Center	147	60	6,168	8,820	69.93%
Beth Sholom Home of Eastern Virginia	365	120	36,265	43,800	82.80%
Bon Secours Maryview Nursing Care Center	334	120	25,088	40,080	62.59%
Bon Secours Southampton Memorial Hospital - LTCU ³	365	129	28,151	47,085	59.79%
Chesapeake Health & Rehabilitation Center	147	180	20,071	26,460	75.85%
Colonial Health & Rehab Center	365	90	21,677	32,850	65.99%
Consulate Health Care of Norfolk	365	222	69,283	81,030	85.50%
Consulate Healthcare of Windsor	365	114	37,967	41,610	91.24%
Courtland VA Opco LLC	365	90	27,155	32,850	82.66%
Greenbrier Regional Medical Center	365	120	32,660	43,800	74.57%
Harbors Edge Norfolk (C0074)-CCRC	365	33	8,898	12,045	73.87%
Harbour Pointe Healthcare and Rehabilitation Center	365	169	52,175	61,685	84.58%
Kempsville Health & Rehab Center	365	90	27,345	32,850	83.24%
Lake Prince Woods (C0065)-CCRC	365	40	7,842	14,600	53.71%
Lake Taylor Hospital - LTCU ⁴	365	192	53,420	70,080	76.23%
Norfolk Health & Rehabilitation Center	147	180	19,072	26,460	72.08%
Oak Grove Health & Rehab Center	365	120	35,061	43,800	80.05%
Our Lady of Perpetual Help Health Center	365	30	10,950	10,950	100.00%
Pelican Health Norfolk LLC	365	60	16,295	21,900	74.41%
Portside Health and Rehab Center	365	132	36,235	48,180	75.21%
Portsmouth Health and Rehab	365	120	27,564	43,800	62.93%
Princess Anne Health and Rehab	147	120	12,935	17,640	73.33%
Riverside Convalescent Center - Smithfield	365	34	10,289	12,410	82.91%
Rosemont Health & Rehab Center	365	116	30,273	42,340	71.50%
Seaside Health Center	365	50	11,048	18,250	60.54%
The Citadel Virginia Beach LLC	365	150	31,560	54,750	57.64%
Virginia Beach Healthcare & Rehabilitation Center	147	180	22,417	26,460	84.72%
Virginia Beach VA Opco LLC	365	90	25,389	32,850	77.29%
Waterside Health and Rehab Center	365	197	36,807	71,905	51.19%
Westminster-Canterbury on Chesapeake Bay (C0038)-CCRC	365	108	29,202	39,420	74.08%
PD 20		4,319⁵	1,037,871	1,415,755	73.3%

Source: VHI

¹ COPN No. VA-04676, completed 9/1/2022 authorized the transfer of 3 beds from Autumn Care Portsmouth (leaving 105 beds) to Stafford Health and Rehab (PD 16).

² COPN No. VA-04676, completed 9/1/2022 also authorized the transfer of 10 beds from Autumn Care Suffolk (leaving 110 beds) to Stafford Health and Rehab (PD 16).

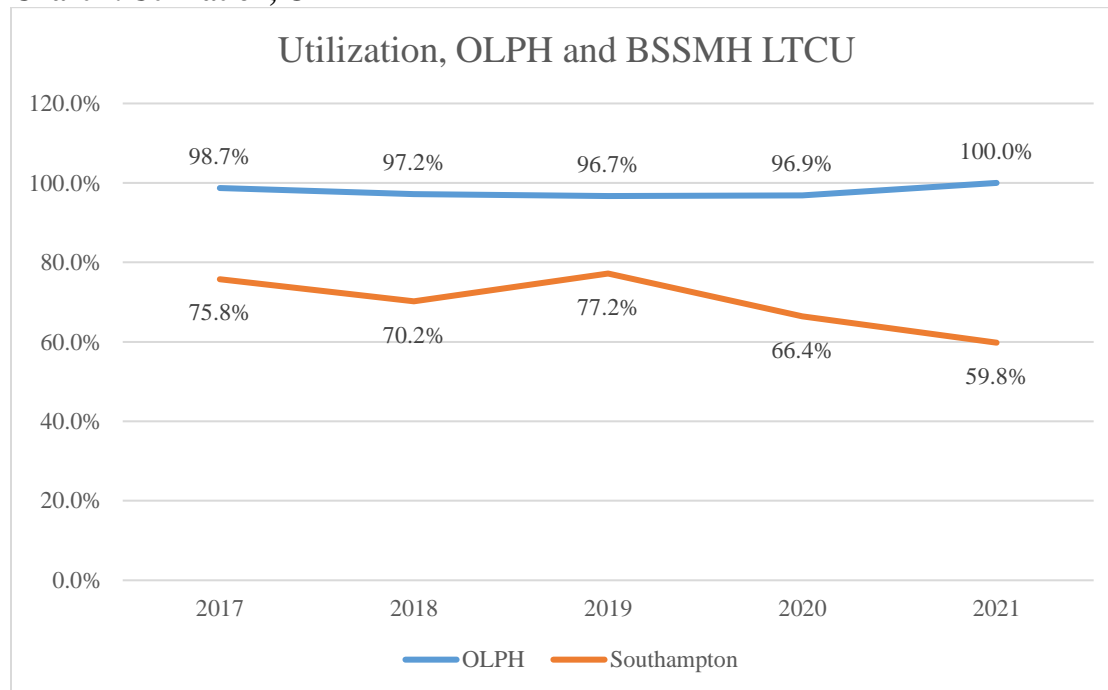
³ Licensed Hospital beds.

⁴ Licensed Hospital beds.

⁵ With the bed transfers noted, there are currently 4,306 beds in PD 20.

Chart 1 shows that the applicant's utilization has been above 96% for at least the past five years and was 100% occupied in 2021. The proposed project includes the relocation of 34 nursing facility beds from BSSMH's long term care unit (also in PD 20) to OLPH. BSSMH's utilization has been below 78% and declining over the past five years and was 59.8% occupied in 2021.

Chart 1. Utilization, OLPH



Source: VHI

Proposed Project

The proposed project relocates 34 nursing home beds to OLPH from another nursing care facility in PD 20, BSSMH's long term care unit. BSSMH has agreed to forbear the 34 beds from use so that the proposed project is inventory neutral within PD 20. The proposal entails the conversion of existing assisted living space at OLPH (closing 30 of its 90 assisted living beds) into nursing home space, minor remodeling and renovation, and newly constructed space attached to the existing facility. The applicant states that residents in assisted living will not be displaced. The new construction will house a bistro, rehab center, an enclosed outdoor courtyard and provide 11 thousand square feet for 18 of the 34 relocated nursing home rooms (the remaining 16 nursing home beds to be placed in the vacated and renovated assisted living space).

Currently, OLPH has 90 assisted living beds and 30 nursing home beds (6 private and 24 semiprivate). At completion of the proposed project, OLPH will have 60 assisted living beds and 64 nursing home beds (44 private and 20 semiprivate). OLPH currently has Medicaid certification only, for long-term nursing home patients. All 64 of the beds in the new facility will be dually certified for Medicare as well as Medicaid, enabling short-term stays for post-acute services as well as skilled nursing care in conjunction with the new rehabilitation facility.

Table 2. Estimated Capital Costs, Our Lady of Perpetual Help

Value of Existing Space to be Converted	\$ 888,385
Direct Construction Costs	\$ 6,023,500
Equipment Not included in Construction Contract	\$ 570,000
Site Preparation Costs	\$ 1,200,000
Off-Site Costs	\$ 1,017,500
Architectural and Engineering Fees	\$ 366,500
Other Consulting Fees	\$ 385,000
Taxes & Government Fees During Construction	\$ 248,000
Conventional Mortgage Loan Financing	\$ 694,500
Capital and Financing Costs	\$ 11,393,385

Source: COPN Request No. VA-8715

Estimated capital and financing costs of the proposed project are \$11,393,385, of which about 8% is the depreciated value of existing space to be converted and 6% is financing costs (**Table 2**). Should the proposal be approved, the applicant projects patient service will begin within three years of receiving a COPN, approximately March 2027.

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

- 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;**

As depicted in **Table 3**, PD 20’s population is projected to grow by 3.3% between 2020 and 2030, more slowly than Virginia’s projected growth of 5.8%. Overall, the planning district is projected to add an estimated 40,276 people in the 10-year period ending in 2030 – an average increase of 4,028 people annually. Virginia Beach, where the OLPH is located, is projected to add nearly 15 thousand people during the decade ending in 2030, while Franklin City, where BSSMH is located, will decrease by about 500 and Southampton County which surrounds Franklin City will decrease by approximately 800.

Regarding the 65+ age group, most germane to nursing home bed analysis, Weldon-Cooper projects that the PD 20 population will grow by more than one third between 2020 and 2030, an even higher

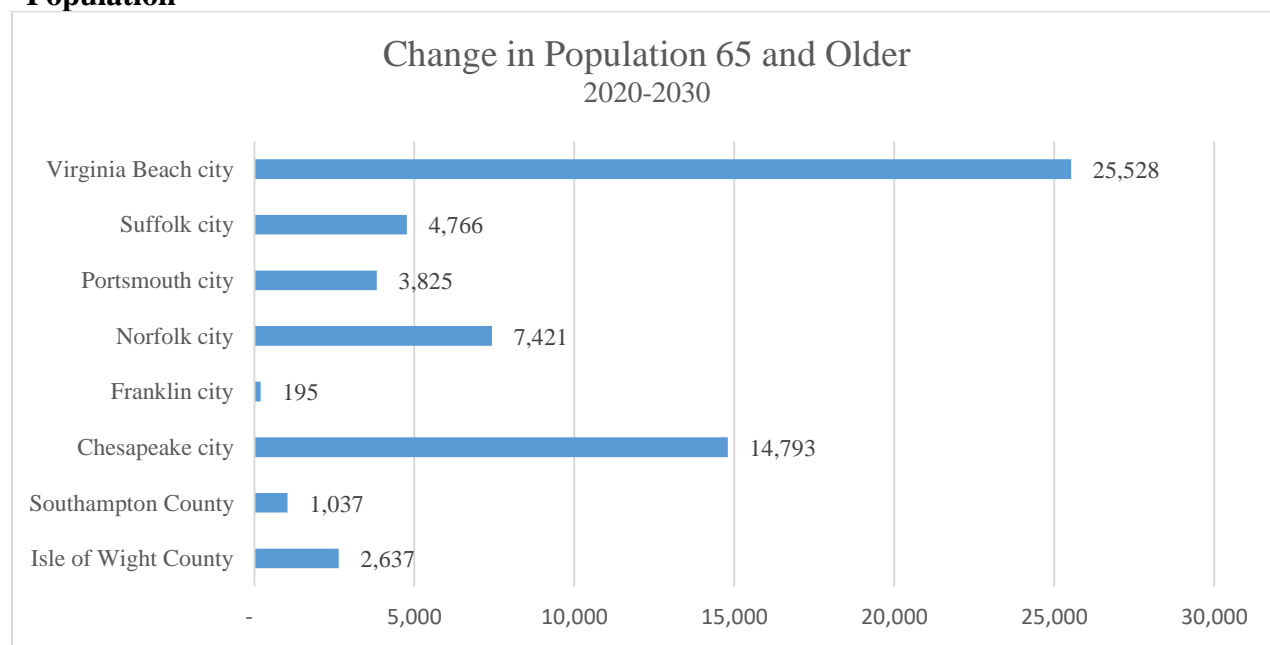
percentage than that of Virginia, 26.3% during the same decade (**Table 3**). Between in-migration and the aging of the population, Virginia Beach is projected to have 25,528 more residents aged 65 and over in 2030 than it did in 2020, more growth than any other locality in PD 20; Franklin City and Southampton County are projected to have 1,232 more residents older than 65 in 2030 as compared to 2020 (**Table 3/Chart 2**).

Table 3. Population Projections, PD 20

Locality	2020	Projected 2030	Population Change	Population Growth Rate	2020 65+	Projected 2030 65+	65+ Population Change	65+ Population Growth Rate
Isle of Wight County	38,606	41,341	2,735	7.1%	7,751	10,388	2,637	34.0%
Southampton County	17,996	17,172	(824)	-4.6%	3,719	4,756	1,037	27.9%
Chesapeake City	249,422	272,670	23,248	9.3%	36,045	50,838	14,793	41.0%
Franklin City	8,180	7,667	(513)	-6.3%	1,787	1,982	195	10.9%
Norfolk City	238,005	229,864	(8,141)	-3.4%	29,215	36,636	7,421	25.4%
Portsmouth City	97,915	98,857	942	1.0%	15,496	19,321	3,825	24.7%
Suffolk City	94,324	102,571	8,247	8.7%	14,708	19,474	4,766	32.4%
Virginia Beach City	459,470	474,052	14,582	3.2%	69,375	94,903	25,528	36.8%
PD 20	1,203,918	1,244,194	40,276	3.3%	178,096	238,297	60,201	33.8%
Virginia	8,631,393	9,129,002	497,609	5.8%	1,395,291	1,762,641	367,350	26.3%

Source: Weldon Cooper, data update August 2023

Chart 2. Change in Population Projected for 65 + Population

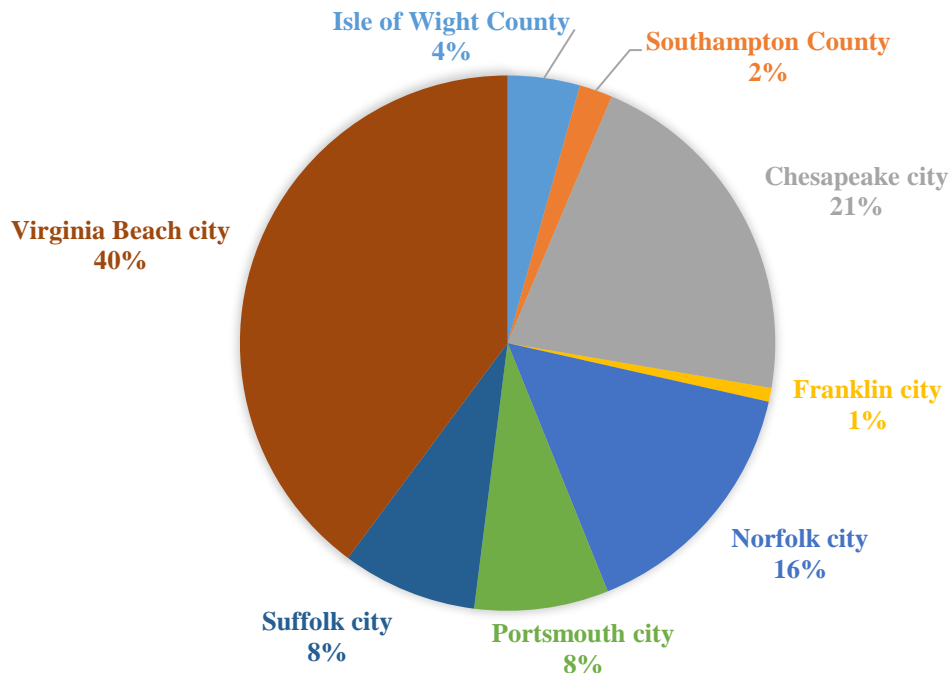


Source: Weldon Cooper, data update August 2023

By 2030, 40% of the residents of PD 20 over age 65 will live in Virginia Beach About 3% will live in Franklin City and Southampton County (**Chart 3**).

Chart 3. PD 20 Population Over Age 65 by Locality

PD 20 POPULATION OVER 65 BY LOCALITY
2030 PROJECTED



Source: Weldon Cooper, data update August 2023

OLPH is accessible to I-264 and I-64 enabling private transportation from Virginia Beach residents as well as Chesapeake and Norfolk populations. Public transportation is available from Hampton Roads Transit, local cab companies, paid shuttle services, non-emergency transport and OLPH has a van that families and clients can schedule to assist residents to appointments and special events.

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 nine letters of support for the proposed project from the Alzheimer's Association, family members of residents, OLPH's Board of Directors President and another Board member, as well as OLPH's medical director, director of nursing and the director of Powerback Rehab that provides physical therapy services at OLPH. In aggregate, they expressed the following:

- OLPH provides excellent care.

- Its staff takes much pride in the well-kept facility.
- Because of its excellence and reputation, OLPH maintains occupancy close to 100%.
- The proposed project will give other Virginia Beach residents the opportunity for care at OLPH.
- OLPH is deeply charitable and committed to meeting the needs of residents.
- The proposed expansion will allow for many more private rooms.
- The additional beds will provide space for short-term skilled care as well as the long-term care currently provided.
- Offering short-term and post-acute care will allow OLPH to care for populations recovering from surgeries, accidents and acute illnesses.
- It will allow OLPH the ability to cater to the therapy needs of short- and long-term patients and improve the well-being and independence of seniors.
- Long-term residents with skilled nursing needs will not be outplaced to other facilities for this care.
- Residents being moved to unfamiliar skilled facilities from OLPH where residents, especially dementia patients, feel safe is disruptive to their routines, impacts their quality of life and can cause or worsen depression.
- Being able to recover “at home” is more comforting and can allow for better outcomes.

Public Hearing

§32.1-102.6B of the Code of Virginia directs DCOPN to hold one public hearing on each application 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-8715 is not competing with another project and DCOPN did not receive a request to conduct a public hearing for the proposed project. Thus, no public hearing was held.

DCOPN provided notice to the public regarding this project inviting public comment on November 9, 2023. The public comment period closed on December 26, 2023. Other than the letters of support referenced above, no members of the public commented. There is no known opposition to the project.

(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 status quo is an alternative that avoids the costs incurred for the proposed project in a PD with excess bed capacity. Maintaining the status quo, however, is not preferable to the proposed project. OLPH is a small facility with a consistently high occupancy in a well-populated community. The 65 and older population in Virginia Beach City is projected to grow by 20 times the number that will increase in Franklin City and Southampton County by the end of the decade. The addition of capacity will allow space for shorter stay, post-acute patients and decrease the displacement of OLPH residents that need therapy service.

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

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

The applicant estimates capital costs at \$11,393,385 with \$9,812,500, exclusive of financing costs and value of depreciated space to be converted to nursing home beds (**Table 2**). Costs for nursing facility projects are variable, but these estimated costs are higher per square foot than recently approved, similar projects, at \$573 per square foot. COPN No. VA-04837 was approved at about \$273 per square foot; COPN No. VA-04818 authorized a new 48,900 square foot facility at \$304 per square foot. In addition to these, the proposed project incurs a financing cost just under \$700 thousand.

There are a number of benefits to the proposed project. It offers improved access to a well-utilized nursing facility with an above average star rating from CMS. The applicant asserts that a 64-bed facility can operate more efficiently than OLPH's current 30-bed capacity, and Virginia has discussed implementing minimum bed size for nursing homes for this reason. The proposal improves a maldistribution of nursing home beds across the PD, as the area surrounding BSSMH is far less populated with the population 65+ growing more slowly than PD 20 overall. BSSMH's utilization has declined from 75.8% to 59.8% over the past five years (**Chart 1**) and closing 34 beds at BSSMH would leave the facility with 95 beds and a utilization of 81.2% (at patient days as reported in fiscal year 2021).

Though there is current nursing home capacity in PD 20, the proposal is inventory neutral, OLPH has had utilization between 96.7% and 100% in its 30-bed nursing facility over the past five years (**Chart 1**) and demographics indicate a steep increase in the Virginia Beach population over 65 for the remainder of the decade. The proposed project would also increase the number of private rooms at OLPH from six to 44 and, with the additional capacity, Medicare certification would allow for short-term, post-acute skilled care as well as long-term care.

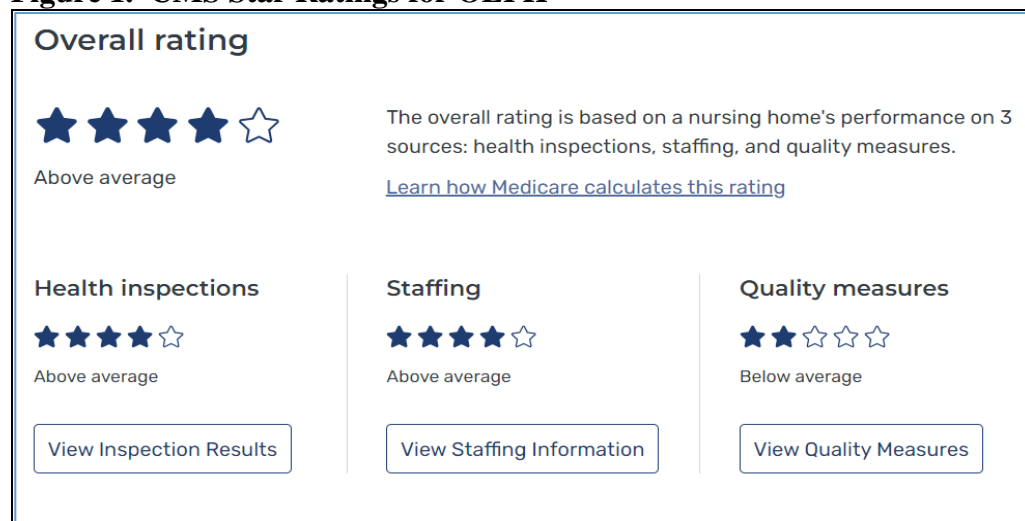
(v) the financial accessibility of the proposed project to the people in the area to be served, including indigent people; and

The applicant states that all 64 licensed nursing home beds that would be operational should the proposed project be approved would be dually certified by Medicare and Medicaid. In addition, OLPH states that no resident in its 30+ year history has ever been transferred or evicted for exhaustion of funds. It claims a strong track record of providing indigent and charitable care for those in need as a part of OLPH's core mission.

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

At the request of the Commissioner, CMS Star ratings for the facility requesting to add nursing home beds are provided. For 2023 OLPH achieved an overall rating of four out of five stars, above average. It also achieved four out of five in the component areas of Health Inspections and Staffing, but two out of five (below average) on Quality Measures (**Figure 1**). Data were not available from OLPH for most of the short-stay measures because it had too few short-stay patients to report. Of the 16 longer stay measures, OLPH performed better than Virginia and national averages on seven, worse on seven and about the same on two.

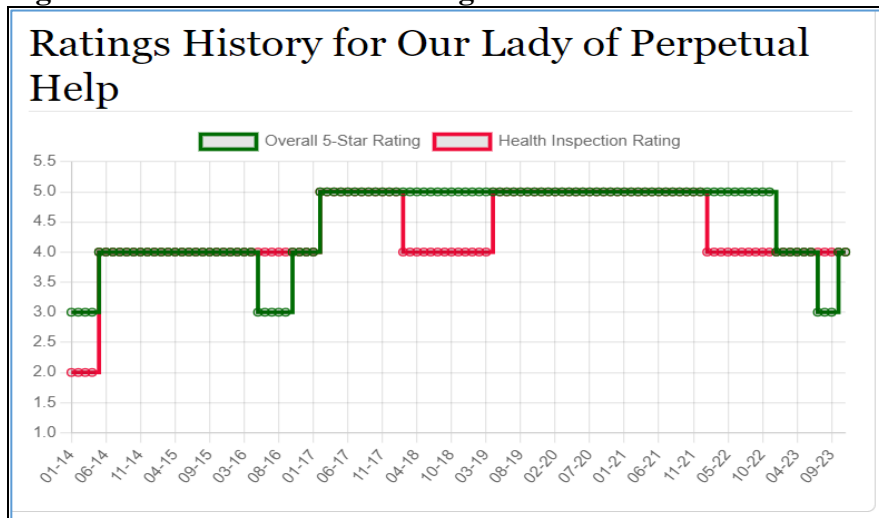
Figure 1. CMS Star Ratings for OLPH



Source: <https://www.medicare.gov/care-compare/details/nursing-home/49E256/view-all?city=Virginia%20Beach&state=VA&zipcode=>

OLPH maintained five of five stars from 2017 through October 2022, dropped to an average 3 stars briefly, and is trending upward again at 4 stars most recently (**Figure 2**).

Figure 2. OLPH CMS Star Ratings Over Time



Source: <https://www.nursinghomedatabase.com/home/VA/VIRGINIA+BEACH/23462/our-lady-of-perpetual-help/2023-03-01>

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:

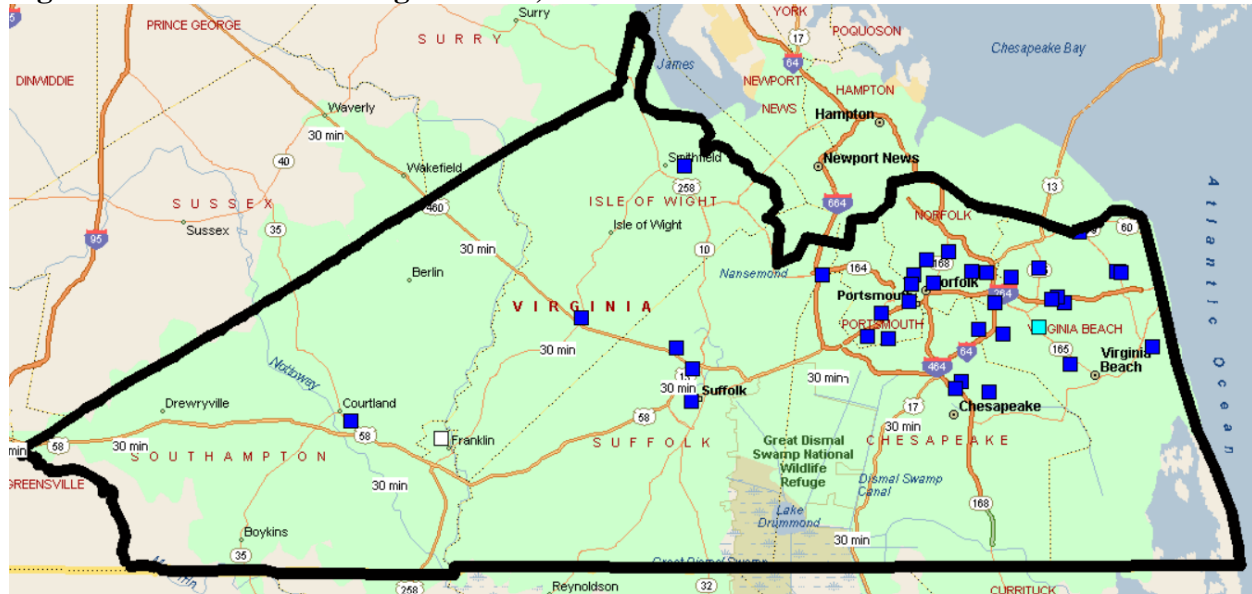
Part VII. Nursing Facilities

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 3** identifies the boundary of PD 20. The darker blue squares indicate the location of the nursing home facilities in the planning district, with the light blue one marking OLPH and the white one BSSMH. The shaded green area is within the 30-minute drive time of existing nursing facilities in PD 20. All of PD 20 is within a 30-minute drive time of a nursing facility, with the exception of a national wildlife refuge, a body of water and a small corner of PD 20's most rural county where no towns are identified. Nursing facilities are already accessible to over 95% of the population. The proposed project will not impact geographic accessibility.

Figure 3. Authorized Nursing Facilities, PD 20



Source: DCOPN Mapping Software and Records

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

Public transportation is available from Hampton Roads Transit, local cab companies, paid shuttle services, non-emergency transport and OLPH has a van that families and clients can schedule to assist residents to appointments and special events.

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.

OLPH operated above 96% from 2017 to 2021 with 100% occupancy reported in 2021 (**Chart 1**). The applicant asserts that its utilization 2021 to 2023 averaged 95.2% occupancy, though these utilization numbers have not yet been published by VHI.

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

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

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

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

12VAC5-230-640. Staffing.

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

The applicant asserts that the facility is and will 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;

OLPH is the only nursing facility in PD 20 operated by The Diocese of Richmond, and there are multiple owners of the nursing facilities across PD 20 such that no unhealthy market concentration exists. The proposed project would not foster beneficial competition in the area.

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;

Based on 2021 VHI data, there were over 1,100 vacant nursing home beds in PD 20 on any given day, none at OLPH. The proposed project is inventory neutral so it does not add to the excess capacity of beds. It appears to redistribute beds more consistently with the demographic dynamics of the PD and to a small, fully utilized facility. The Diocese owns and operates four nursing

facilities across Virginia, but only one is in PD 20. No efficiencies are documented across The Diocese sites.

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 proposed project appears to be feasible. Though capital costs are higher than recently approved similar projects, the proforma provided by the applicant (**Table 4**) projects an excess of revenue over expenses the first two years of operation. With the closing of 30 assisted living beds and the addition of 34 nursing home beds, the applicant projects the need for 6.2 additional nursing staff members and states that it has a successful recruitment and retention program that has produced low staff turnover and will enable the additional recruitment of needed staff.

Table 4. Proforma, Our Lady of Perpetual Help

	Year 1	Year 2
Total Net Revenue	\$ 7,804,117	\$ 7,974,901
Total Expenses	\$ 7,340,641	\$ 7,426,364
Excess Revenue over Expenses	\$ 463,476	\$ 548,537

Source: COPN Request No. VA-8715

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

DCOPN Staff Findings and Conclusions

The proposed project will relocate 34 beds from Bon Secours Southampton Memorial Hospital's long term care unit within the same PD, PD 20, to OLPH. BSSMH will forbear use of 34 of its 129 beds so that OLPH can add 34 beds, but none will be added to the inventory of beds in PD 20. OLPH will utilize space currently housing assisted living beds, as well as new construction, for the new nursing home beds. The new construction will also house new dining and rehabilitation facilities.

The utilization in PD 20 is 73.3%, so nursing home beds are available in the PD, but the 65 and older population is rapidly growing, especially in Virginia Beach. The proposal does not increase geographical access within 30-minute drive time but would improve access to a fully utilized facility in the area of PD 20 that will add the most (25,000+) 65 and older persons 2020 to 2030. The facility has a history of financial accessibility to the indigent population. It has demonstrated community support and no known opposition.

The proposed project is preferable to the status quo. Although estimated costs are somewhat higher than recently approved similar projects, it eases a maldistribution of nursing home beds in PD 20, adds 38 private rooms to the inventory, creates operational efficiencies and enables short-term stays for post-acute patients, alleviating the displacement of OLPH residents when skilled services are needed.

The proposal is generally consistent with the SMFP and relevant sections of the Code of Virginia. OLPH's occupancy has surpassed the threshold set forth in the SMFP that allows expansion. It appears to be feasible in the short- and long-term.

DCOPN Staff Recommendations

The Division of Certificate of Public Need recommends **approval** of Our Lady of Perpetual Help Health Center's COPN Request to relocate 34 nursing home beds from within PD 20 for the following reasons:

1. The proposal improves access to a highly utilized nursing facility, including access for people with all payor sources and the indigent population.
2. The proposed project is generally consistent with the SMFP and relevant sections of the Code of Virginia.
3. The proposal is inventory neutral and improves a maldistribution of nursing home beds in PD 20, adding bed capacity in an area where the 65 and older population is growing rapidly.
4. The proposal is preferable to the status quo.
5. The proposed project adds 38 private rooms to the inventory.

6. The proposal is fully feasible.
7. There is no documented opposition to the proposed project.