

<b>IN THE MATTER OF</b>	*	<b>BEFORE THE</b>
<b>HOSPICE OF QUEEN ANNE’S, INC.</b>	*	<b>MARYLAND</b>
<b>and CHESTER RIVER HOME</b>	*	<b>HEALTH CARE</b>
<b>HOME CARE AND HOSPICE, LLC</b>	*	<b>COMMISSION</b>

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**STAFF REPORT AND RECOMMENDATION  
PROPOSED EXEMPTION FROM CERTIFICATE OF NEED REVIEW**

**I. INTRODUCTION**

This matter involves a request by University of Maryland Shore Regional Health, Inc. (“Shore”) and Hospice of Queen Anne’s, Inc. (“HQA”) for an exemption from Certificate of Need (“CON”) review involving a proposed Asset Purchase Agreement between HQA and Chester River Home Care and Hospice, LLC (“CRHCH”), a subsidiary of Shore. HQA proposes to purchase the hospice assets of CRHCH. This corporation houses two health care facilities; a general hospice and a home health agency. The CRHCH general hospice is authorized to serve Kent and Queen Anne’s Counties. HQA is a general hospice authorized to serve Queen Anne’s County alone.

In October, 2013, an exemption was issued by the Maryland Health Care Commission effectively allowing the consolidation of two Shore entities licensed as general hospices, CRHCH and Shore Home Care and Hospice, forming a single general hospice serving four jurisdictions, to be called Five Rivers Hospice. Subsequent to that approval, further discussions concerning merger of hospice operations on the Eastern Shore involving HQA, Talbot Hospice Foundation, and Caroline Hospice Foundation, led to a decision not to move forward with that consolidation plan.

While the currently proposed transaction is identified as a sale of CRHCH’s hospice assets to HQA, the objective of this transaction is to establish a single general hospice program serving both Queen Anne’s and Kent Counties and the only general hospice planned to survive the transaction will be HQA. Therefore, satisfaction of this objective requires considering this transaction as a merger of two health care facilities, given that HQA has never been authorized to serve Kent County. Expanding the number of jurisdictions served by a general hospice requires Commission approval, either through a CON or, in this case, through an exemption from CON. COMAR 10.24.01.04 provides that, “subject to the procedural requirements of this regulation, the Commission may exempt from the requirement of Certificate of Need review and approval” certain “actions proposed by a health care facility or merged asset system comprised of two or more health care facilities.” Among those actions eligible for exemption from Certificate of Need (“CON”) requirements is the “merger or consolidation of two or more hospitals or other health care facilities, if the facilities or an organization that operates the facilities give the

Commission 45 days written notice of their intent to merge or consolidate. This timeliness requirement has been met in this case.

The regulations direct the Commission to issue a determination of exemption from CON review to the health care facilities, if the facilities have provided the required information and the Commission finds that the proposed action:

- (a) is in the public interest;
- (b) is not inconsistent with the State Health Plan; and
- (c) will result in more efficient and effective delivery of health services.

## **II. Does the Proposed Consolidation Meet the Legal Qualification for an Exemption of Certificate of Need Review**

The regulations require that facilities or organizations requesting such an exemption give the Commission 45 days written notice. Written notice was provided on May 30, 2014. Additional information was submitted on June 26, 2014. The name and location of each affected facility was identified. HQA will be the sole provider of hospice services and CRHCH will only provide home health agency services following the transaction. CRHCH will surrender its general hospice license. The transaction is anticipated to close after completion of MHCC's review. There are no outstanding public body obligations associated with these facilities.

## **III. Notice by the Commission to the Public**

On June 5, 2014 staff requested publication of notices of receipt of the request for the exemption in the Record Observer and the Kent County News. The notice was published in the the Kent County News on June 12, 2014. (Unfortunately, due to an address change, the notice was not published in the Record Observer.) The notice was also published in the Maryland Register on June 27, 2014 as required. No comments or information were received in reponse to these notices.

## **IV. Public Information Hearing**

A public information hearing is required under certain circumstances when a hospital requests an exemption from CON review for the closure or partial closure of a hospital or for the conversion of to a limited service hospital. Since the current request involves the consolidation of hospice services and not hospital services, a public information hearing is not required.

## **V. Determination of Exemption from Certificate of Need Review**

The regulations direct the Commission to issue a determination of exemption from CON review, if the merged asset system has provided the required information and the Commission finds that the proposed action:

- (a) is in the public interest;

- (b) is not inconsistent with the State Health Plan; and
- (c) will result in more efficient and effective delivery of health services.

**A. Is in the Public Interest**

The consolidation of hospice services for the two county area will replace the single general hospice program currently authorized to serve Kent County, CRHCH, with another hospice program, HQA. Residents of Kent County will continue to have one choice of hospice care provider. HQA has regularly requested and received permission to serve Kent County residents on a case by case basis in recent years, for a variety of reasons, with the acquiescence of CRHCH.

The consolidation will reduce the potential choice of hospice care provider for residents of Queen Anne's County, in that both CRHCH and HQA are authorized to serve this jurisdiction. However, CRHCH has not reported any significant level of service to Queen Anne's County residents in recent years. Thus, based on current practice, the consolidation could not be viewed as substantively altering the pattern of hospice service delivery or use in this jurisdiction.

In responding to this criteria, HQA emphasized its 25 year history, the range of services it has developed, which include residential "Hospice House" and general inpatient care facilities, in addition to home-based care, and its "wholehearted" level of community support, both "financially" and "emotionally." It notes that HQA and CRHCH have a history of close working collaboration.

Commission staff believes there is a basis for finding that the proposed consolidation is in the public interest because it creates a hospice program with a larger service area base. HQA, as the sole hospice serving Kent and Queen Anne's Counties, will have a service area population of approximately 68,500, compared to the 48,500 residents of Queen Anne's County it is currently authorized to serve. HQA projects that its current average daily census of patients served will increase from approximately 30 patients to 40-45 patients, as the sole hospice serving both jurisdictions. CRHCH, a very small hospice program, that has chosen to limit itself to serving the 20,000 residents of Kent County, will terminate its hospice operations following the transaction.

This larger scale of operation for HQA provides an opportunity for greater financial stability, enhancement of services, and improved service coordination. The consolidation will not have the practical effect of limiting competition because the two hospice agencies involved do not compete in the one jurisdiction where they could compete, Queen Anne's County.

**B. Is not inconsistent with the State Health Plan or the institution-specific plan developed by the Commission**

Commission Staff has reviewed this request for exemption from CON review and finds it is not inconsistent with the State Health Plan ("SHP") standards at COMAR 10.24.13. HQA affirmed that it currently provides and will continue to provide the specific service capabilities required by the SHP. It documented that its current charity care and sliding fee scale, which it

will continue to use, comply with SHP requirements. It also adequately reviewed compliance with the SHP standards for quality assurance and public education.

The Appendix to this report reviews and comments on all of the SHP's project review standards for hospice services with respect to this proposed consolidation. It is not inconsistent with the SHP or any institution-specific plan developed by the Commission.

**C. Will result in the delivery of more efficient and effective health care services**

The proposed consolidation will reduce the management and administrative overhead required to operate two separate hospice operations. HQA projects the need for maintaining only one office, its existing office space in Queen Anne's County, after the transaction.

**VI. CONCLUSION AND STAFF RECOMMENDATION**

For the reasons set forth in this report, Staff recommends that the Commission **APPROVE** the proposed consolidation of the hospice services currently provided by HQA and CRHCH. The merged Hospice is authorized to serve the residents of Kent and Queen Anne's Counties. Staff recommends that the Commission find this action to be **EXEMPT FROM CERTIFICATE OF NEED REVIEW**.

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**HOSPICE OF QUEEN ANNE’S, INC.** \* **MARYLAND**  
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**HOME CARE AND HOSPICE, LLC** \* **COMMISSION**

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**ORDER**

The Maryland Health Care Commission, having reviewed and considered the information and analysis contained in the Staff Report and Recommendation, this 17th day of June, 2014 hereby **ORDERS** that the request for exemption from Certificate of Need review filed by Chester River Home Care and Hospice, LLC and Hospice of Queen Anne’s, Inc. for the consolidation of the two hospices is hereby **GRANTED**.

**APPENDIX: CONSISTENCY WITH THE STATE HEALTH PLAN**  
**Proposed Consolidation of Hospice of Queen Anne's, Inc. and Chester River Home and Hospice, LLC**

The following review of the SHP standards from COMAR 10.24.13 includes comments on the standards at

**COMAR 10.24.13.05 Hospice Standards.** The Commission shall use the following standards, as applicable, to review an application for a Certificate of Need to establish a new general hospice program, expand an existing hospice program to one or more additional jurisdictions, or to change the inpatient bed capacity operated by a general hospice.

- A. Service Area.** An applicant shall designate the jurisdiction in which it proposes to provide services.

HQA proposes to add Kent County as an authorized jurisdiction. CRHCH will surrender its general hospice license. HQA and CRHCH are currently authorized to serve Queen Anne's County but, for the most part, only HQA operates in this jurisdiction. Kent County has only one general hospice currently approved to serve its residents, CRHCH. Its residents will continue to have a single approved hospice provider after the consolidation, HQA.

- B. Admission Criteria.** An applicant shall identify:

- (1) Its admission criteria; and
- (2) Proposed limits by age, disease, or caregiver.

HQA's policy states that it provides in-home hospice services to residents of Queen Anne's County. HQA will admit a patient only on the recommendation of the hospice Medical Director in consultation with the patient's attending physician (if there is one). The hospice does not limit access to services based on age, disease process, caregiver support or living environment. The admissions policy states that HQA will periodically evaluate the eligibility requirements and limitations with the goal to increase access to hospice care in the community.

The admission policy for the general inpatient program considers all applicants regardless of age, race, creed, gender, religion, sexual orientation, diagnosis or ability to pay. An interdisciplinary team consisting of HQA's Director of Clinical Services, Supervisor of Support Services, Clinical Liaison, and Medical Director work together in consultation with the patient's attending physician in arriving at admission decisions. HQA's financial department determines the fees based on the financial information provided by the patient.

- C. Minimum Services.**

- (1) An applicant shall provide the following services directly:
  - (a) Skilled nursing care;
  - (b) Medical social services;
  - (c) Counseling (including bereavement and nutrition counseling);
- (2) An applicant shall provide the following services, either directly or through contractual arrangements:
  - (a) Physician services and medical direction;
  - (b) Hospice aide and homemaker services;

- (c) Spiritual services;
- (d) On-call nursing response
- (e) Short-term inpatient care (including both respite care and procedures necessary for pain control and acute and chronic symptom management);
- (f) Personal care;
- (g) Volunteer services;
- (h) Bereavement services;
- (i) Pharmacy services; COMAR 10.24.13
- (j) Laboratory, radiology, and chemotherapy services as needed for palliative care;
- (k) Medical supplies and equipment; and
- (l) Special therapies, such as physical therapy, occupational therapy, speech therapy, and dietary services.

(3) An applicant shall provide bereavement services to the family for a period of at least one year following the death of the patient.

HQA affirmed, in information it filed with MHCC on June 25, 2014, that it directly provides the services at (C)(1) of this standard and directly or indirectly provides, through vendors, all of the services at (C)(2). It will continue to provide these services post-consolidation.

**D. Setting.** An applicant shall specify where hospice services will be delivered: in a private home; a residential unit; an inpatient unit; or a combination of settings.

HQA provides and will continue to provide all three levels of service specified in this standard. It operates a "hospice house" residential center which is designed, equipped, and approved to provide general inpatient care as well.

**E. Volunteers.** An applicant shall have available sufficient trained caregiving volunteers to meet the needs of patients and families in the hospice program.

This service is identified as directly provided by HQA. It reports that it will have 320 active volunteers with the completion of the merger.

**F. Caregivers.** An applicant shall provide, in a patient's residence, appropriate instruction to, and support for, persons who are primary caretakers for a hospice patient.

HQA is a licensed, Medicare-certified, and Joint Commission-accredited general hospice program that has operated in Queen Anne's County for nearly 30 years.

**G. Impact.** An applicant shall address the impact of its proposed hospice program, or change in inpatient bed capacity, on each existing general hospice authorized to serve each jurisdiction affected by the project. This shall include projections of the project's impact on future demand for the hospice services provided by the existing general hospices authorized to serve each jurisdiction affected by the proposed project.

The impact of this consolidation, with respect to reconfiguring the way in which hospice services are provided in Kent and Queen Anne's Counties is described in the comment on Standard A above. The consolidation can have no impact on hospices other than HQA and CRHCH because no other hospices are authorized to serve residents of Kent or Queen Anne's Counties and these two hospices are not authorized to serve any other jurisdictions.

**H. Financial Accessibility.** An applicant shall be or agree to become licensed and Medicare-certified, and agree to accept patients whose expected primary source of payment is Medicare or Medicaid.

HQA is and will continue to be licensed, Medicare-certified, and agreeable to accepting patients whose expected primary source of payment is Medicare or Medicaid.

**I. Information to Providers and the General Public.**

(1) **General Information.** An applicant shall document its process for informing the following entities about the program's services, service area, reimbursement policy, office location, and telephone number:

- (a) Each hospital, nursing home, home health agency, local health department, and assisted living provider within its proposed service area;
- (b) At least five physicians who practice in its proposed service area;
- (c) The Senior Information and Assistance Offices located in its proposed service area; and
- (d) The general public in its proposed service area. COMAR 10.24.13

(2) **Fees.** An applicant shall make its fees known to prospective patients and their families before services are begun.

HQA's website at [www.hospiceofqueenannes.com](http://www.hospiceofqueenannes.com) provides a source of information on the hospice program, including the fees charged for both the routine hospice residential beds and the general inpatient hospice bed. In addition, HQA utilizes printed materials such as information cards, annual reports, and newsletters, and presentations by staff before the community to inform the jurisdiction regarding its services.

**J. Charity Care and Sliding Fee Scale.** Each applicant shall have a written policy for the provision of charity care for indigent and uninsured patients to ensure access to hospice services regardless of an individual's ability to pay and shall provide hospice services on a charitable basis to qualified indigent persons consistent with this policy. The policy shall include provisions for, at a minimum, the following:

(1) **Determination of Eligibility for Charity Care.** Within two business days following a patient's request for charity care services, application for medical assistance, or both, the hospice shall make a determination of probable eligibility.

(2) **Notice of Charity Care Policy.** Public notice and information regarding the hospice's charity care policy shall be disseminated, on an annual basis, through methods designed to best reach the population in the hospice's service area, and in a format understandable by the service area population. Notices regarding the hospice's charity care policy shall be posted in the business office of the hospice and on the hospice's website, if such a site is maintained. Prior to the provision of hospice services, a hospice shall address any financial concerns of patients and patient families, and provide individual notice regarding the hospice's charity care policy to the patient and family.

(3) Discounted Care Based on a Sliding Fee Scale and Time Payment Plan Policy. Each hospice's charity care policy shall include provisions for a sliding fee scale and time payment plans for low-income patients who do not qualify for full charity care, but are unable to bear the full cost of services.

(4) Policy Provisions. An applicant proposing to establish a general hospice, expand hospice services to a previously unauthorized jurisdiction, or change or establish inpatient bed capacity in a previously authorized jurisdiction shall make a commitment to provide charity care in its hospice to indigent patients. The applicant shall demonstrate that:

(a) Its track record in the provision of charity care services, if any, supports the credibility of its commitment; and

(b) It has a specific plan for achieving the level of charity care to which it is committed.

HQA's policy addresses payment for reimbursed and unreimbursed services, and it will continue to use this policy post-consolidation. The hospice shall accept appropriate patients and their families regardless of their ability to pay for services. The policy states that HQA's financial team will make a determination of eligibility within two business days following a patient's request for charity care services and/or an application for medical assistance. A sliding scale and/or charity care option, based on the State of Maryland Poverty Scale, is available to patients with no insurance or insurance without a hospice benefit. A copy of this policy is posted in the business office and on the HQA website, located at [www.hospiceofqueenannes.com](http://www.hospiceofqueenannes.com). In addition, the hospice provides a copy of this policy with the admissions packets given to the patients.

In the 2012 MHCC Hospice Survey, HQA reported that 0.6% of its patient days were provided without compensation. CRHCH did not report provision of any charity care. Statewide in 2012, 0.94% of total hospice patient days were reported by hospices as uncompensated days, a broader category than charity care. Data for 2013 has not yet been aggregated. The survey was revised to provide a clearer picture of charity care provision.

#### **K. Quality.**

(1) An applicant that is an existing Maryland licensed general hospice provider shall document compliance with all federal and State quality of care standards. COMAR 10.24.13

(2) An applicant that is not an existing Maryland licensed general hospice provider shall document compliance with federal and applicable state standards in all states in which it, or its subsidiaries or related entities, is licensed to provide hospice services or other applicable licensed health care services.

(3) An applicant that is not a current licensed hospice provider in any state shall demonstrate how it will comply with all federal and State quality of care standards.

(4) An applicant shall document the availability of a quality assurance and improvement program consistent with the requirements of COMAR 10.07.21.09.

(5) An applicant shall demonstrate how it will comply with federal and State hospice quality measures that have been published and adopted by the Commission.

In addressing this standard, HQA notes its status as a licensed and accredited general hospital of long-standing, its good compliance with state survey standards, and its active membership and staff participation in the state and national hospice associations. It also reports the active oversight of quality by its Board of Directors and HQA's active engagement in using the measurement and evaluation methods of Quality Assurance and Performance Improvement, as defined by CMS, and the national benchmarking program utilizing the Family Evaluation of Hospice Care Survey, led by a partnership of Deyta, LLC and the National Hospice and Palliative Care Organization. It reports that 46% of its clinical staff members are certified in hospice and palliative care and notes that it has a nurse educator planning its in-service training chairing an Education Committee. It uses a Steering Committee of administrative and medical directors for quality, performance, and family satisfaction review, and has a consulting pharmacist nationally recognized as a leader in pain and symptom management.

HQA provided a copy of its Quality Assessment Performance Improvement Plan for 2014, and an evaluation of the hospice's performance in addressing improvement priorities for FY 2013. The stated purpose of the plan is ongoing and continuous measurement, assessment, and improvement of organizational performance and patient outcomes. The performance plan: defines the scope of the hospice program; delineates authority and responsibility; establishes the program structure; outlines the goals and objectives of the plan; prioritizes improvement initiatives; and describes the mechanism to assess performance, report findings, and initiate improvement activities. For FY 2013, HQA's Steering Committee evaluated the organization's performance and recommended improvement priorities to the Board of Directors, which then established the organization's performance improvement priorities for FY 2014.

**L. Linkages with Other Service Providers.**

(1) An applicant shall identify how inpatient hospice care will be provided to patients, either directly, or through a contract with an inpatient provider that ensures continuity of patient care.

(2) An applicant shall agree to document, before licensure, that it has established links with hospitals, nursing homes, home health agencies, assisted living providers, Adult Evaluation and Review Services (AERS), Senior Information and Assistance Programs, adult day care programs, the local Department of Social Services, and home delivered meal programs located within its proposed service area.

As noted above, HQA directly provides inpatient care. It operates a "hospice house" residential center which is designed, equipped, and approved to provide general inpatient care as well. It has long been licensed as a general hospice and has effectively functioned as the only hospice in Queen Anne's County. It has long-established links with the categories of health care, senior services, and social services identified in this standard. Queen Anne's County does not have a general hospital operating within its borders.

**M. Respite Care.** An applicant shall document its system for providing respite care for the family and other caregivers of patients.

As noted above, HQA operates a "hospice house" residential center which is designed, equipped, and approved to provide general inpatient care as well. The Hospice House provides a system for providing respite care, subject to bed availability.

**N. Public Education Programs.** An applicant shall document its plan to provide public education programs designed to increase awareness and consciousness of the needs of dying individuals and their caregivers, to increase the provision of hospice services to minorities and the underserved, and to reduce the disparities in hospice utilization. Such a plan shall detail the appropriate methods it will use to reach and educate diverse racial, religious, and ethnic groups that have used hospice services at a lower rate than the overall population in the proposed hospice's service area.

HQA reports providing public education through educational "offerings," education programs for health care providers, civic organizations, publication of a bi-annual newsletter, use of social media, its website, and print media. It plans to work with CRHCH to make the transition to its planned role as the only general hospice provider for Kent County residents, initiating educational efforts for that jurisdiction's residents that it will undertake jointly with CRHCH. It cites outreach to all ethnic groups and the underserved as a priority for HQA.

**O. Patients' Rights.** An applicant shall document its ability to comply with the patients' rights requirements as defined in COMAR 10.07.21.21.

The hospice provides to the patient both verbally and in writing a copy of the patient's rights and responsibilities at HQA. These rights are delineated both in a policy as well as in a document provided to the patient. Included in these rights is a process for the patient and family members to voice any complaints or problems regarding the service to members of the HQA team. This process includes who to contact at HQA, and at the Department of Health and Mental Hygiene and the Joint Commission. It is consistent with COMAR 10.07.21.21.

**P. Inpatient Unit:** In addition to the applicable standards in .05A through O above, the Commission will use the following standards to review an application by a licensed general hospice to establish inpatient hospice capacity or to increase the applicant's inpatient bed capacity.

(1) Need. An applicant shall quantitatively demonstrate the specific unmet need for inpatient hospice care that it proposes to meet in its service area, including but not limited to:

- (a) The number of patients to be served and where they currently reside;
- (b) The source of inpatient hospice care currently used by the patients identified in subsection (1) (a); and
- (c) The projected average length of stay for the hospice inpatients identified in subsection (1) (a).

(2) Impact. An applicant shall quantitatively demonstrate the impact of the establishment or expansion of the inpatient hospice capacity on existing general hospices in each jurisdiction affected by the project, that provide either home-based or inpatient hospice care, and, in doing so, shall project the impact of its inpatient unit on future demand for hospice services provided by these existing general hospices.

(3) Cost Effectiveness. An applicant shall demonstrate that:

- (a) It has evaluated other options for the provision of inpatient hospice care, including home-based hospice care, as well as contracts with existing hospices that operate inpatient facilities and other licensed facilities, including hospitals and comprehensive care facilities; and
- (b) Based on the costs or the effectiveness of the available options, the applicant's proposal to establish or increase inpatient bed capacity is the most cost-effective alternative for providing care to hospice patients. COMAR 10.24.13

This standard is not applicable to this exemption review. No new or expanded inpatient facilities are proposed as part of this consolidation of two hospices.