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MEMORANDUM

TO: Commissioners

FROM: Kevin R. McDonald
Chief, Certificate of Need

DATE: February 20, 2014

SUBJECT: Lorien Harford, Inc.
Docket No. 13-12-2345

Enclosed is the staff report and recommendation for a Certificate of Need ("CON") application filed by Lorien Harford, Inc., doing business as Lorien – Bel Air, for the construction of a three-story addition to an existing comprehensive care facility located in Harford County. The addition will add 21 CCF beds and 20 assisted living units, increasing the size of the facility to 90 CCF beds and 76 assisted living units upon project completion.

The total cost of constructing the three-story addition is estimated at $6,548,938, $2,334,063 of which is the cost of the nursing home portion of the project. Lorien expects to finance this project with $1,828,938 in cash contributions from the owners, a $220,000 loan for furniture, fixtures, and equipment, and a mortgage loan of $4.5 million from a commercial institution.

Commission staff analyzed the proposed project's compliance with the applicable State Health Plan criteria and standards and the other applicable CON review criteria at COMAR 10.24.01.08 and recommends that the project be APPROVED with the following condition;

> *At the time of first use review, Lorien Bel Air shall provide the Commission with a modified Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2) for all of Lorien Bel Air's licensed CCF beds.*

IN THE MATTER OF	*	**BEFORE THE**
	*	
LORIEN HARFORD, INC.	*	**MARYLAND HEALTH**
	*	
DOCKET NO. 13-12-2345	*	**CARE COMMISSION**
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Staff Report and Recommendation

February 20, 2014

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	*	
LORIEN HARFORD, INC.	*	**MARYLAND HEALTH**
	*	
DOCKET NO. 13-12-2345	*	**CARE COMMISSION**
	*	

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STAFF REPORT AND RECOMMENDATION

I. INTRODUCTION

The Applicant and the Project

This Certificate of Need application is to add 21 comprehensive care facility (CCF) beds to an existing long term care facility in Harford County at a cost of $2,334,063. The applicant is Lorien Harford, Inc.

Lorien Harford, Inc., doing business as Lorien Bel Air ("Lorien"), is a long term care facility_currently consisting of 69 CCF beds (more commonly referred to as a nursing home beds) and 56 assisted living facility units located at 1909 Emmorton Road in Bel Air, Harford County.

Lorien Harford, Inc., is owned by the following 10 shareholders, each of whom holds a 10% interest in the corporation: Louis Mangione; John Mangione; Rosemary (Mangione) Juras; Linda (Mangione) Licata; Nicholas Mangione, Jr.; Joanne (Mangione) Hock; Peter Mangione; Frances (Mangione) O'Keefe; Samuel Mangione; and Michele Mangione. Maryland Health Enterprises, doing business as Lorien Health Systems, is a management company that provides services to Lorien Harford.

Lorien Health Systems, Inc. manages nine nursing and rehabilitation facilities, operating with a total of 830 CCF beds, located in Baltimore, Carroll, Harford, and Howard Counties. These nine CCFs[1] are:

Baltimore County

1. Lorien Mays Chapel – 93 CCF beds

Carroll County

2. Lorien Taneytown – 63 CCF beds
3. Lorien Mt. Airy – 62 CCF beds

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[1] Lorien Columbia operates Harmony Hall, an assisted living facility adjacent to the nursing home. Encore at Turf Valley, Lorien Taneytown, Lorien Mt. Airy, and Lorien Bel Air provide a continuum of care by offering assisted living units at these CCFs.

Harford County

4. Lorien Havre de Grace – 78 CCF beds
5. Lorien Riverside – 129 CCF beds
6. Lorien Bel Air – 69 CCF beds

Howard County

7. Lorien Elkridge – 64 CCF beds
8. Lorien Columbia – 209 CCF beds
9. Encore at Turf Valley – 63 CCF beds

The addition of the 21 CCF beds is part of a larger project that would increase the number of private nursing home beds from 7% (5 of the current 69 beds) to 24% (22 of the proposed 90 beds) and add 20 assisted living units. This would be accomplished by the construction of a three story, 29,100 gross square foot addition to the existing building. The 21 additional CCF beds would be located on the third floor of the new addition. The 9,733 sq. ft. third floor is designed to contain 18 semi-private rooms (36 beds) -- the 21 additional beds and 15 beds relocated from existing semi-private rooms. The project would also add 20 assisted living units, ten units to each of the first and second floors. The assisted living component of this project is not subject to Certificate of Need ("CON") review and approval. Upon project completion, Lorien Bel Air would have a total of 90 CCF beds operating on the third floor, and a total of 76 assisted living units on the first and second floors.

The total cost of constructing the three-story addition is estimated at $6,548,938. The nursing home portion of the project is projected at $2,334,063. Lorien expects to finance this project with $1,828,938 in cash contributions from the owners, a $220,000 loan for furniture, fixtures, and equipment, and a mortgage loan of $4.5 million from a commercial institution.

Staff Recommendation

Currently there are six nursing homes operating in Harford County, one of which opened in June 2013. Historically, these facilities have had a high utilization rate, with the five facilities operating at over 90% occupancy from FY 2008 through FY 2012 and the new facility reporting a recent occupancy rate of 82%. The county's population is expected to grow by over 9% between 2010 and 2020, with the 65 years and over segment expected to grow by over 40%, likely adding to future demand.

The addition of 21 CCF beds will allow residents needing services for both short term rehabilitative and chronic care services to remain in Harford County for care. The recent trends in high utilization of the County's nursing home beds and the growth in population, as well as the projected need for additional nursing home beds in this jurisdiction, supports the need for the additional 21 CCF beds. The 17 bed augmentation of the supply of private rooms is also beneficial.

Staff finds the proposed project to be in compliance with the applicable criteria and standards in COMAR 10.24.01.08, State Health Plan: Long Term Care Services, as well as the

criteria at COMAR 10.24.01.08G(3) and recommends **APPROVAL** with the following condition:

> *At the time of first use review, Lorien Bel Air shall provide the Commission with a modified Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2) for all of Lorien Bel Air's licensed CCF beds.*

II. PROCEDURAL HISTORY

Review of the Record

Please see Appendix 1, Record of the Review.

Local Government Review and Comment

Susan Kelly, Harford County Health Officer, submitted notification that her department chose not to submit comments on the Lorien Bel Air CON application. No comments on this project have been received from other local government entities.

A number of letters in support of the Lorien Bel Air project were filed by the applicant during the course of this review. These include letters from the following Maryland State representatives:

1. Senator Barry Glassman, 35th Legislative District, Harford County
2. Delegate Peter A. Hammen, 46th Legislative District, Baltimore City
3. Delegate Shane Pendergrass, 13th Legislative District, Howard County
4. Senator James N. Robey, 13th Legislative District, Howard County
5. James V. McMahan, Jr., Councilman, Harford County Council, District C
6. Lyle Sheldon, President, CEO, Upper Chesapeake Health
7. Benjamin Y. Lee, MD
8. Mary R. Speth, Ph.D.
9. Don Orlando, President, Right at Home
10. Martha Jo Parker, RN
11. Teresa Duffy, RN, ALM, Lorien Bel Air
12. Cheryl Bayne, Director of Nursing, Lorien Bel Air
13. Marlene Daley
14. Robert G. Parker, Jr.

As representatives of either Harford County or jurisdictions in central Maryland, Senators Glassman and Robey, Delegates Hammen and Pendergrass, and Councilman McMahan each support the request for 21 additional CCF beds submitted by Lorien Bel Air. They acknowledge that Lorien provides a continuum of care for both short term rehabilitation and Medicaid patients alike, and note the facility's "aging-in-place" model of care with the use of assisted living units in lending support for this project.

The remaining letters of support are from either health care professionals serving this jurisdiction or residents of Harford County. The letters discuss the growth in the senior population and the need for nursing home capacity to meet the needs of this population in Harford County. The Bel Air facility provides both nursing home and assisted living units in an "aging-in-place" model; they support Lorien's request to add 21 CCF beds at this facility.

Interested Parties

There are no interested parties in this review.

IV. PROJECT CONSISTENCY WITH REVIEW CRITERIA AND STANDARDS

A. STATE HEALTH PLAN

COMAR 10.24.01.08G(3)(a)State Health Plan. An application for a Certificate of Need shall be evaluated according to all relevant State Health Plan standards, policies, and criteria.

The applicable section of the State Health Plan for this review is COMAR 10.24.08, the State Health Plan for Facilities and Services: Nursing Home and Home Health Agency Services. The specific standards to be addressed include COMAR 10.24.08.05A and .05B, the Nursing Home General Standards and Standards for New Construction or Expansion of Beds or Services for nursing home projects.

COMAR 10.24.08

.05 Nursing Home Standards.

A. General Standards. The Commission will use the following standards for review of all nursing home projects.

(1) Bed Need. The bed need in effect when the Commission receives a letter of intent for the application will be the need projection applicable to the review.

MHCC published 2016 jurisdictional gross and net bed need projections for nursing home beds in Maryland in April, 2013. A net need for 42 additional CCF beds is projected for Harford County by 2016. This application will fill half of that projected need.

Harford County CCF Bed Need				
Total Bed Inventory	Gross Bed Need Projection	Unadjusted Net Bed Need	Community-based Services Adjustment	2016 Net Bed Need
785	871	86	44	42

Source: Supplement 2: Projected Need for Nursing Home Beds (2016)

The proposed addition of 21 CCF beds is consistent with the bed need projection currently in effect.

(2) Medical Assistance Participation.

(a) Except for short-stay hospital-based skilled nursing facilities required to meet .06B of this Chapter, the Commission may approve a Certificate of Need for a nursing home only for an applicant that participates, or proposes to participate, in the Medical Assistance Program, and only if the applicant documents a written Memorandum of Understanding with Medicaid to maintain the proportion of Medicaid patient days required by .05A 2(b) of this Chapter.

(b) Each applicant shall agree to serve a proportion of Medicaid patient days that is at least equal to the proportion of Medicaid patient days in all other nursing homes in the jurisdiction or region, whichever is lower, calculated as the weighted mean minus 15.5%, based on the most recent Maryland Long Term Care survey data and Medicaid Cost Reports available to the Commission, as shown in the *Supplement to COMAR 10.24.08: Statistical Data Tables*, or in subsequent updates published in the *Maryland Register*.

(c) An applicant shall agree to continue to admit Medicaid residents to maintain its required level of participation when attained, and have a written policy to this effect.

(d) Prior to licensure, an applicant shall execute a written Memorandum of Understanding with the Medicaid Assistance Program of the Department of Health and Mental Hygiene to:

(i) Achieve or maintain the level of participation required by .05A2(b) of this Chapter; and
(ii) Admit residents whose primary source of payment on admission is Medicaid.
(iii) An applicant may show evidence why this rule should not apply.

Lorien Bel Air currently has a written Memorandum of Understanding ("MOU") with Medicaid to maintain the proportion of Medicaid patient days required by .05A 2(b) of this Chapter for the existing 69 beds. That MOU requires Lorien to maintain a Medicaid participation rate of 46.82% of its total CCF patient days. As detailed in Table 9 later in this report (under the criterion *COMPLIANCE WITH CONDITIONS OF PREVIOUS CERTIFICATES OF NEED*), Lorien has exceeded the minimum required by its MOU since its effective date of December 14,

2007. Their participation rate, however, has been lower than the other facilities in the County as well as regional and statewide averages as shown in the table immediately below.

2012 Medicaid Participation Rates	
Facility	**Medicaid Days as % of Total**
Bel Air Health & Rehabilitation Center	57.52%
Citizens Care Center	68.78%
Forest Hill Health & Rehabilitation Center	62.69%
Lorien - Bel Air	**49.97%**
Lorien Nursing Center Riverside	70.20%
Harford County average	63.27%
Central Maryland Region average	63.24%
State average	61.77%

Applicant has stated a commitment "...to serving a proportion of Medicaid patient days that is at least equal to the proportion of Medicaid patient days of all other nursing homes in Harford County or the Central Maryland region, whichever is lower, as calculated by the Maryland Health Care Commission" and published as **Supplement 3 to COMAR 10.24.08, State Health Plan for Facilities and Services: Nursing Home, Home Health Agency and Hospice Services - Required Regional and Jurisdictional Medicaid Participation Rates.** (DI #15, Appendix 5)

Given this stated commitment and past performance, staff finds this application to be consistent with this standard, but recommends that approval of this application be conditioned on documentation that the modified MOU *(i.e., applying to all beds)* is in place when the project is complete and first use approval is requested. The proposed condition is as follows:

> *At the time of first use review, Lorien Bel Air shall provide the Commission with a modified Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2) for all of Lorien Bel Air's licensed CCF beds.*

(3) Community-Based Services. An applicant shall demonstrate commitment to providing community-based services and to minimizing the length of stay as appropriate for each resident by:

(a) Providing information to every prospective resident about the existence of alternative community-based services, including, but not limited to, Medicaid home and community-based waiver programs and other initiatives to promote care in the most appropriate settings.

Lorien Bel Air distributes information and materials to all prospective residents regarding the availability of alternative community-based services. Lorien provides material that informs patients of the availability of alternatives to nursing home care which includes a list with the phone numbers of States agencies, advocacy groups for alternative services available to seniors

in the community, and access to legal resources such as the Legal Aid Bureau and Maryland Disability Law Center. These materials are provided to each prospective resident.

(b) Initiating discharge planning on admission; and

The facility initiates discharge planning to residents upon admission as required and as part of efforts to ensure patients have access to the most appropriate level of care.

(c) Permitting access to the facility for all *"Olmstead"* efforts approved by the Department of Health and Mental Hygiene and the Department of Disabilities to provide education and outreach for residents and their families regarding home and community-based alternatives.

Lorien permits access, and encourages all Olmstead and any other efforts to provide education and outreach to all residents and their families concerning home-based and other community-based alternatives.

The applicant complies with this standard.

(4) Nonelderly Residents. An applicant shall address the needs of its nonelderly (<65 year old) residents by:

(a) Training in the psychosocial problems facing nonelderly disabled residents; and

Lorien has a policy that requires personnel to receive training commensurate with their job functions, addressing the psychosocial problems facing non-elderly, disabled residents. The **training addresses, but is not limited to, such issues as mental health stressors in newly diagnosed non-elderly disabled patients, helping residents cope with physical disability, recognizing depression, barriers to successful rehabilitation, assisting the resident in living with a new body** image, behavior management, socialization skills, referring residents for family counseling, and strategies for coping with sexual dysfunction. (DI #4, Appendix 2, p. 109).

(b) Initiating discharge planning immediately following admission with the goal of limiting each nonelderly resident's stay to 90 days or less, whenever feasible, and voluntary transfer to a more appropriate setting.

The applicant initiates discharge planning immediately following admission. Lorien's policy states that residents receive care in the least restrictive therapeutic setting which includes the community with appropriate support. If the non-elderly resident's stay in a nursing facility does exceed 90-days, staff will re-evaluate the discharge plan every 90-days thereafter to determine if the resident's status has changed and care in a lesser non-instructional setting would be appropriate. (DI #4, Appendix 2, p. 111)

Based on this response, the applicant complies with this standard.

(5) Appropriate Living Environment. An applicant shall provide to each resident an appropriate living environment, including, but not limited to:

(a) In a new construction project:

(i) Develop rooms with no more than two beds for each patient room;
(ii) Provide individual temperature controls for each patient room; and
(iii) Assure that no more than two residents share a toilet.

(b) In a renovation project:

(i) Reduce the number of patient rooms with more than two residents per room;
(ii) Provide individual temperature controls in renovated rooms; and
(iii) Reduce the number of patient rooms where more than two residents share a toilet.

As illustrated in Table 1 below, the 90 CCF beds will be located in 22 private and 34 semi-private rooms upon project completion. Private rooms will increase from only 5 of 37 total patient rooms (13.5%) before the project, to 22 of 56 patient rooms (39.3%) upon project completion.

Table 1: Lorien Bel Air Bed Configuration Before and After Project Completion

Current CCF Bed Configuration			
Nursing Unit	Semi Private Rooms	Private Rooms	Total # Beds
Unit/Station A	18	4	40
Unit/Station B	14	1	29
Total	32	5	69
Bed Configuration After Completion			
Nursing Unit	Semi Private Rooms	Private Rooms	Total # Beds
Unit/Station A	2	20	24
Unit/Station B	14	2	30
Unit/Station C	18	0	36
Total	34	22	90

Source: DI #15, Question #7, Appendix 7.

Each patient room will have individual temperature controls. No more than two residents will share a toilet in a patient room.

(c) An applicant may show evidence as to why this standard should not be applied to the applicant.

The design of Lorien Bel Air after project completion complies with this standard for appropriate living environment.

(6) Public Water. Unless otherwise approved by the Commission and the Office of Health Care Quality in accordance with COMAR 10.07.02.26, an applicant for a nursing home shall demonstrate that its facility is, or will be, served by a public water system.

The existing building is currently served and will continue to be served by public utilities that include public water, sewer, electricity and telephone utilities. This standard is met.

(7) Facility and Unit Design. An applicant must identify the special care needs of the resident population it serves or intends to serve and demonstrate that its proposed facility and unit design features will best meet the needs of that population. This includes, but is not limited to:

(a) Identification of the types of residents it proposes to serve and their diagnostic groups;

(b) Citation from the long term care literature, if available, on what types of design features have been shown to best serve those types of residents;

(c) An applicant may show evidence as to how its proposed model, which is not otherwise documented in the literature, will best serve the needs of the proposed resident population.

Lorien Bel Air serves both short- and long-stay residents, including those admitted for rehabilitation services. The commonly seen conditions/diagnoses of rehabilitation patients treated at this facility include individuals recovering from stroke, broken hip repairs, rehabilitation for total knee replacement, treatment of sepsis, post-acute treatment for chronic obstructive pulmonary disease (COPD), congestive heart failure, vascular accidents, post myocardial infarction, post coronary artery bypass grafts, and complex wounds and incisional infections.

Long term patients include low acuity patients requiring chronic medical management; physical and occupational rehabilitation patients; dementia patients who would benefit from the social aspects of a shared room; and Alzheimer patients. Higher acuity long term patients patients include those with chronic respiratory illness; Alzheimer's residents who have acute coexisting conditions; patients requiring aggressive infection control and management of

nosocomial infections; bariatric patients requiring size-appropriate equipment; patients requiring aggressive bedside physical and occupational therapy support; and patients who require extensive support through therapeutic recreation to manage their psychosocial needs.

The 90 CCF beds will be located on the third floor of the facility in three separate units. Unit A will have 24 CCF beds (20 private and 2 semi-private rooms) and serve the short term rehabilitation patients. Unit B will have 30 beds (2 private and 14 semi-private rooms) and serve as a "flex" unit that serves both short- and long-term patients. The new Unit C will operate with 36 beds (18 semi-private rooms) that serve long term patients who are less ambulatory and may benefit from sharing a room and interacting with a roommate and visitors.

The facility will not have a discrete unit that serves only Alzheimer patients, but will provide care to Alzheimer's Disease and Related Disorders (ADRD) patients throughout the facility. Lorien expects the design of the new third floor addition to cre ate a therapeutic environment to assist in stimulating and enhancing the cognitive status of patients. By utilizing nursing units with only 24, 30, and 36 beds, the facility will have centralized nursing stations that will be closer and better able to observe, interact, provide security, and intervene with patients.

The applicant has demonstrated compliance with this standard.

(8) Disclosure. An applicant shall disclose whether any of its principals have ever pled guilty to, or been convicted of, a criminal offense in an y way connected with the ownership, development, or management of a health care facility.

Lorien Bel Air states that none of the principals have ever pled guilty to or been convicted of a criminal offense in any way connected with the ownership, development, or management of a health care facility. The applicant is found to comply with this standard.

(9) Collaborative Relationships. An applicant shall demonstrate that it has established collaborative relationships with other types of long term care providers to assure that each resident has access to the entire long term care continuum.

Lorien has established relationships with other types of health care providers in this jurisdiction. The applicant provided examples of transfer or referral agreements for services in behavioral health, hospice care, home health care, other Lorien nursing and rehabilitation facilities, and with a hospital in Harford County.

The applicant has demonstrated compliance with this standard.

B. New Construction or Expansion of Beds or Services. The Commission will review proposals involving new construction or expansion of comprehensive care facility beds, including replacement of an existing facility or existing beds, if new outside walls are proposed, using the following standards in addition to .05A(1)-(9):

(1) Bed Need.

(a) An applicant for a facility involving new construction or expansion of beds or services, using beds currently in the Commission's inventory, must address in detail the need for the beds to be developed in the proposed project by submitting data including, but not limited to: demographic changes in the target population; utilization trends for the past five years; and demonstrated unmet needs of the target population.

Harford County Population Growth Patterns and Age Composition

Harford County is projected to grow by 9% to 267,350 people by the year 2020, with the 65 years and over population projected to grow at a significantly higher rate (48%). The 70 -74 cohort shows the largest growth – almost 65%, with the 75+ cohort growing at 44%. Growth in both of these cohorts is significantly higher for Harford County than for the state as a whole.

Table 2: Trends in Population by Age Group
Harford County and State of Maryland, CY 2010 - 2040

Harford County	2010	2020	2030	2040	2010-2020	2020-2030	2030-2040
0-14	49,333	48,508	54,362	54,426	-1.7%	12.1%	0.1%
15-44	93,505	100,654	106,433	108,119	7.6%	5.7%	1.6%
45-64	71,424	73,027	64,366	68,758	2.2%	-11.9%	6.8%
65-69	10,298	14,513	18,067	13,747	40.9%	24.5%	-23.9%
70-74	7,098	11,692	15,421	14,185	64.7%	31.9%	-8.0%
75+	13,168	18,956	28,303	39,265	44.0%	49.3%	38.7%
Total	244,826	267,350	286,952	298,500	9.2%	7.3%	4.0%
Maryland	**2010**	**2020**	**2030**	**2040**	**2010-2020**	**2020-2030**	**2030-2040**
0-14	1,110,385	1,122,020	1,189,656	1,198,753	1.0%	6.0%	0.8%
15-44	2,357,553	2,485,571	2,601,883	2,633,181	5.4%	4.7%	1.2%
45-64	1,597,972	1,630,540	1,527,263	1,630,876	2.0%	-6.3%	6.8%
65-69	226,596	323,437	384,936	319,008	42.7%	19.0%	-17.1%
70-74	159,761	256,235	328,997	316,125	60.4%	28.4%	-3.9%
75+	321,285	398,370	579,155	763,960	24.0%	45.4%	31.9%
Total	5,773,552	6,216,173	6,611,890	6,861,903	7.7%	6.4%	3.8%

Source: Maryland Department of Planning, 2013 Total Population Projections by Age (7/8/13)

Utilization Trends: Comprehensive Care Facility Beds in Harford County

Utilization for the five nursing homes in Harford County that operated between FY 2008 and FY 2012 has been high. As shown in Table 3 below, the average annual occupancy rate for these five comprehensive care facilities, operating with an aggregate of 707 beds, has been over 90%.

Table 3: Harford County Nursing Home Occupancy – FY 2008 – FY 2012

Facility	# Beds	2008	2009	2010	2011	2012
Bel Air Health and Rehabilitation Center	165	89.0%	89.3%	88.0%	88.0%	88.8%
Citizens Care Center*	184	89.5%	96.3%	94.7%	91.8%	93.6%
Forest Hill Health and Rehabilitation Center	160	91.3%	91.8%	90.9%	92.1%	93.5%
Lorien - Bel Air	69	93.6%	94.9%	93.2%	93.2%	94.2%
Lorien Nursing and Rehabilitation Center – Riverside	129	94.4%	92.7%	90.9%	93.5%	94.1%
Total	707	91.1%	91.6%	91.4%	91.4%	92.1%

Source: Maryland Long Term Care Surveys
* Citizens Care Center had 175 CCF beds in 2009
Note: Table does not include Lorien-Bulle Rock which opened in June of 2013

Conclusion

The total population of Harford County is projected to grow 9% between 2010 and 2020, with a 48% increase for the 65 and older population. Within that elderly group, the 70-74 and 75+ cohorts will grow at 65% and 44% respectively, both well above statewide projections. Meanwhile, utilization in Harford County has been over 90% for the last five years. Thus, the demographic trends, the relatively high utilization of nursing home beds in Harford County, and the projection of bed need all support the proposed addition of 21 CCF beds at Lorien Bel Air.

Staff finds that the project is consistent with this standard.

(b) For a relocation of existing comprehensive care facility beds, an applicant must demonstrate need for the beds at the new site, including, but not limited to: demonstrated unmet needs; utilization trends for the past five years; and how access to, and/or quality of, needed services will be improved.

The project does not include a change in location; the standard is not applicable.

(2) Facility Occupancy.

(a) The Commission may approve a nursing home for expansion only if all of its beds are licensed and available for use, and it has been operating at 90 percent or higher, average occupancy for the most recent consecutive 24 months.

(b) An applicant may show evidence why this rule should not apply.

As indicated in Table 4 below, Lorien Bel Air operated its 69 CCF beds above 90 percent occupancy with in FY 2011 and 2012, the most recent years for which data is available.

Table 4: Lorien Bel Air Occupancy
FY 2011 – FY 2012

Facility	# Beds	2011	2012
Lorien – Bel Air	69	93.2%	94.2%

Source: Maryland Long Term Care Survey

The project, therefore, complies with this standard.

(3) Jurisdictional Occupancy.

(a) The Commission may approve a CON application for a new nursing home only if the average jurisdictional occupancy for all nursing homes in that jurisdiction equals or exceeds a 90 percent occupancy level for at least the most recent 12 month period, as shown in the Medicaid Cost Reports for the latest fiscal year, or the latest Maryland Long Term Care Survey, if no Medicaid Cost Report is filed. Each December, the Commission will issue a report on nursing home occupancy.

(b) An applicant may show evidence why this rule should not apply.

Although this standard applies to new facilities and thus would not be applicable, it is worth noting that, as shown in **Table 3: Harford County Nursing Home Occupancy, FY 2008 – FY 2012** above, jurisdictional occupancy has consistently exceeded 90% in the last five years.

(4) Medical Assistance Program Participation.

(a) An applicant for a new nursing home must agree in writing to serve a proportion of Medicaid residents consistent with .05A 2(b) of this Chapter.

(b) An applicant for new comprehensive care facility beds has three years during which to achieve the applicable proportions of Medicaid participation from the time the facility is licensed, and must show a good faith effort and reasonable progress toward achieving this goal in years one and two of its operation.

Paragraphs (4)(a) and (b) do not apply as this is not a new nursing home.

(c) An application for nursing home expansion must demonstrate either that it has a current Memorandum of Understanding (MOU) with the Medical Assistance Program or that it will sign an MOU as a condition of its Certificate of Need.

(d) An applicant for nursing home expansion or replacement of an existing facility must modify its MOU upon expansion or replacement of its facility to encompass all of the nursing home beds in the expanded facility, and to include a Medicaid percentage that reflects the most recent Medicaid participation rate.

(e) An applicant may show evidence as to why this standard should not be applied to the applicant.

Lorien Bel Air currently has an MOU with the Medical Assistance Program and "states its intention to participate in the Medical Assistance Program and is committed to meeting all the requirements of this standard." (DI #4, p.72)

Since FY2008 Lorien has had a slightly-higher-than-required percent of Medicaid days (as reported in MHCC's Long Term Care Survey), running 2-6 percentage points above what is required by its MOU. That contrasts with its early history, when it took 4 years to reach its target. (See a complete treatment of this history later in this report, under *COMPLIANCE WITH CONDITIONS OF PREVIOUS CERTIFICATES OF NEED.*)

As stated earlier, staff finds the application to be consistent with this standard, we recommend that approval of this application be conditioned on documentation that a modified MOU (i.e., applying to all beds) is in place when the project is complete and first use approval is requested. The proposed condition is as follows:

- *At the time of first use review, Lorien Bel Air shall provide the Commission with a modified Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2) for all of Lorien Bel Air's licensed CCF beds.*

(5) Quality. An applicant for expansion of an existing facility must demonstrate that it has no outstanding Level G or higher deficiencies, and that it maintains a demonstrated program of quality assurance.

The Bel Air facility's Quality Assurance and Performance Improvement program complies with all Maryland and federal regulations. As reported on the Medicare.gov Nursing Home Compare website[2], Lorien Bel Air does not have an outstanding Level G, actual harm, or higher deficiency related to the last standard health inspection reported on November 15, 2013. To corroborate these findings, Wayne Brannock, Vice President of Clinical Affairs at Lorien Health Systems, submitted a letter on behalf of Lorien Bel Air stating that the facility does not have any outstanding deficiencies and in fact has never had a level G deficiency. (DI #4, Appendix 4)

Commission staff also used the Nursing Home Compare website to compare Lorien Bel Air's performance to other facilities in the State. The table below compares the deficiencies reported at Lorien Bel Air to the average for all Maryland nursing homes.

Table 5: Lorien Bel Air and Maryland State CMS Nursing Home Inspection Comparison Ratings

Deficiency Category	# Deficiencies By Reporting Period		
	1/1/2013 - 12/31/2013	1/1/2012 - 12/31/2012	1/1/2011 - 12/31/2011
Quality Care Deficiencies	2		2
Resident Assessment Deficiencies	3	2	4
Resident Rights	1	2	1
Pharmacy Service Deficiencies	1		3
Administration Deficiencies	1		1
Environmental Deficiencies		1	
Nutrition and Dietary Deficiencies			1
Total	**8**	**5**	**12**
State Average	**11.1**	**9.8**	**8.5**

Source: Nursing Home Compare website at Medicare.gov

The table above shows the total number of deficiencies cited at the Lorien Bel Air facility in the last two inspections to be better than the state average. The CMS Nursing Home Compare website gives Lorien Bel Air an overall rating of four stars out of five (above average) rating for the entire facility, and three stars out of five -- an average rating -- for health inspections.

Taking a broader look at the seven other nursing homes operated by the applicant which were surveyed within the last 12 months, they averaged 10 health deficiencies (state average was 11.1); had one level G deficiency ("designated as causing harm to few"); and had an aggregate of 23 stars (21 would have been average).

[2] Available at: http://www.medicare.gov/nursinghomecompare/previousInspections.html?ID=215341&Inspn=HEALTH&profTab=1&loc=21015&lat=39.566838&lng=-76.3058328

For reference, **Appendix 3** summarizes the features in the Medicare Nursing Home Compare website and the use of the Five Star Quality Rating System, including a brief description on the strengths and limitations of using this system.

The applicant complies with this standard.

(6) Location. An applicant for the relocation of a facility shall quantitatively demonstrate how the new site will allow the applicant to better serve residents than its present location.

Since the applicant does not seek to relocate the Lorien Bel Air facility, this standard is not applicable.

OTHER CERTIFICATE OF NEED REVIEW CRITERIA

The project's compliance with the five remaining general review criteria in the Regulations governing Certificate of Need is outlined below:

B. NEED

COMAR 10.24.01.08G(3)(b) Need. The Commission shall consider the applicable need analysis in the State Health Plan. If no State Health Plan need analysis is applicable, the Commission shall consider whether the applicant has demonstrated unmet needs of the population to be served, and established that the proposed project meets those needs.

The application comports with the bed need analysis of the State Health Plan. The 2016 bed need projection for nursing home beds indicates a need for 42 CCF beds in Harford County. Lorien Bel Air has submitted a proposal for the addition of 21 CCF beds to the existing 69 bed facility. Lorien Bel Air states that the facility will serve both short- and long-stay patients. These patients will include patients needing rehabilitation services as well as long term care services for patients with chronic medical conditions, dementia, and Alzheimer's Disease.

Recent bed use in the jurisdiction is relatively high. There are currently six nursing homes offering comprehensive care beds in Harford County. They are Bel Air Health and Rehabilitation Center, Citizens Care Center, Forest Hill Health and Rehabilitation Center, Lorien – Bel Air, Lorien - Bulle Rock, and Lorien Nursing and Rehabilitation Center – Riverside. Lorien – Bulle Rock with 78 CCF beds opened in June of 2013. The other five facilities, operating with 707 CCF beds, had a high average annual occupancy rate, exceeding 90% utilization from FY 2008 through FY 2012. In FY 2012, the utilization was at 92.1% occupancy.

Projections show an aging service area population. As previously mentioned in COMAR 10.24.08.05(B)(1), the total population as well as the population for the age group 65 years and over will increase significantly between 2010 and 2020. Total population in Harford County will increase by about 22,500 people, or 9.2%. The age cohorts 65 – 69, 70 – 74, and

75+ will all grow more than 40%,. Those 70-74 will grow by about 4,600 (65%) and those 75+ will grow by almost 5,800 (44%) by 2020.

In summation, given population growth and aging, and the high utilization of existing nursing homes in this jurisdiction, additional CCF beds are justified. The addition of 21 CCF beds will allow Lorien Bel Air to provide these services to residents who wish to remain in Harford County; the integration of assisted living units offered at Lorien Bel Air may also be attractive to residents seeking a continuum of care in one location.

The applicant has demonstrated that the proposed project will meet population needs in Harford County.

C. AVAILABILITY OF MORE COST-EFFECTIVE ALTERNATIVES

COMAR 10.24.01.08G(3)(c) Availability of More Cost-Effective Alternatives. The Commission shall compare the cost effectiveness of the proposed project with the cost effectiveness of providing the service through alternative existing facilities, or through an alternative facility that has submitted a competitive application as part of a comparative review.

Lorien Harford is the only applicant in this review, which seeks to add 21 CCF beds to the existing 69 bed comprehensive care facility. During completeness review, the applicant was asked whether it considered applying for the addition of all 42 CCF beds for Harford County as indicated in the 2016 State Health Plan bed need projection. Lorien stated that, after considering this option, it chose the more conservative approach of adding only 21 CCF beds and 20 assisted living units. The applicant states that the "aging-in-place" model will offer seniors access to a range of services as they age, which would allow them to remain in Harford County and not leave the area. For the immediate future, the more appropriate model for Lorien is to increase the Bel Air facility to 90 CCF beds and emphasize rehabilitative care and shorter stays.

Staff compared the applicant's estimated cost of constructing the nursing home addition to a benchmark cost based on the Marshall Valuation Service (MVS) guidelines for building construction. Estimated costs were $1.71/sq. ft., or 1.1%, above the MVS benchmark. Appendix 4 illustrates the MVS cost review analysis of Lorien Bel Air.

Staff is persuaded that the proposed addition of a three-story addition that includes 21 CCF beds and 20 assisted living units is the most cost-effective alternative for meeting the needs of the nursing home population in Harford County and is the most practical alternative for Lorien Harford.

D. VIABILITY OF THE PROPOSAL

COMAR 10.24.01.08G(3)(d) Viability of the Proposal. The Commission shall consider the availability of financial and nonfinancial resources, including community support, necessary to implement the project within the time frames set forth in the Commission's performance requirements, as well as the availability of resources necessary to sustain the project.

Availability of Resources Necessary to Implement the Project

The total estimated cost of constructing a three-story addition including the addition of 21 CCF beds is $6,548,938; the portion of the project subject to CON review is the estimated cost of constructing the third floor for 36 CCF beds ($2,334,063).

Lorien will finance the project with a combination of $1,828,938 in cash, a mortgage loan of $4.5 million, and a loan of $220,000 for furniture, fixtures, and equipment. Table 6 below outlines the projected costs and sources of funds for the project.

Table 6: Project Budget Estimate - Uses and Sources of Funds

A. Uses of Funds	Nursing Facility	Assisted Living	Total
Capital Costs			
New Construction			
Building	$1,400,000	$2,800,000	$4,200,000
Fixed Equipment	66,667	133,333	200,000
Site Preparation	100,000	200,000	300,000
Architect/Engineering Fees	100,000	200,000	300,000
Permits	66,667	133,333	200,000
Subtotal	1,733,334	3,466,666	5,200,000
Other Capital Costs			
Major Movable Equipment	66,667	133,333	200,000
Minor Movable Equipment	200,000	20,000	220,000
Contingencies	66,666	133,334	200,000
Subtotal	333,333	286,667	620,000
Total Current Capital Costs	2,066,667	3,753,333	5,820,000
Non Current Capital Costs			
Inflation	180,833	328,417	509,250
Interest	36,563	73,125	109,688
Total-Proposed Capital Costs	2,284,063	4,154,875	6,438,938
Financial and Other Cash Requirements			
Loan Placement Fee	25,000	50,000	75,000
Legal Fees (CON related)	10,000		10,000
Legal Fees (Other)	5,000	10,000	15,000
CON Application Assistance	10,000		10,000
Subtotal	50,000	60,000	110,000
Total Uses of Funds	***$2,334,063***	***$4,214,875***	***$6,548,938***
B Sources of Funds	**Nursing Facility**	**Assisted Living**	**Total**
Cash	$634,063	$1,194,875	$1,828,938
Mortgage	1,500,000	3,000,000	4,500,000
Other/F, F, & E Loan	200,000	20,000	220,000
Total Sources of Funds	***$2,334,063***	***$4,214,875***	***$6,548,938***

Source: CON application. (DI #4)

Lorien submitted a letter from Michael J. Snarski, a CPA who has worked for fifteen years both with Maryland Health Enterprises, Inc. and the related health care entities of the Mangione family (DI #4, Appendix 6). Based on his knowledge of the businesses, Mr. Snarski provided an opinion that the Mangione family has the financial resources and assets available to fulfill the $1.8 million in equity contribution and the $220,000 in equipment loan requirements. It is also worth noting that the facility generated net income of approximately $1.6 million in 2011 and $1.7 million in 2012 as detailed in Table 7.

The applicant also provided a letter from Elizabeth M. Phelan, Senior Vice President, Maryland Regional Commercial Bank with Wells Fargo (DI #4, Appendix 7), stating that her institution would be willing to consider recommending approval of a construction loan for the project following CON approval. The applicant expects that the mortgage loan will be for 18 months at an annual rate of 4.8750%. These two documents coupled with the facility's recent financial performance indicate that Lorien Harford has the resources to meet its expected cash contribution and has lined up a commercial bank to provide the source of funds for the construction of the three-story addition to Lorien Bel Air.

Availability of Resources Necessary to Sustain the Project

a) Finances

The historical and projected performance for Lorien Bel Air is provided in Table 7a and 7b below.

Table 7a: Revenue and Expense Statement, Lorien Bel Air, Entire Facility (in 000s)
Source: DI #15, Table 3

	Actual		Current	Projected		
	2011	2012	2013	2014	2015	2016
Inpatient Services	11,378	12,006	11,819	14,129	14,709	14,709
Allowance For Bad Debt	(63)	(178)	(157)	(188)	(197)	(197)
Contractual Allowances	-	-	-	-	-	-
Charity	-	-	-	-	-	-
Net Operating Revenues	**$11,315**	**$11,828**	**$11,662**	**$13,941**	**$14,512**	**$14,512**
Salaries, Wages, etc.	5,402	5,561	5,608	6,870	6,871	6,871
Contractual Services	1,370	1,457	1,308	1,454	1,498	1,498
Interest on Current Debt	106	136	141	99	85	71
Interest on Project Debt				160	157	154
Current Depreciation	337	331	320	320	320	320
Project Depreciation				179	179	179
Project Amortization				22	22	22
Supplies	1,120	1,179	1,184	1,402	1,464	1,464
Other Expenses	1,460	1,523	1,600	2,048	2,087	2,087
Total Operating Expenses	**$ 9,795**	**$10,187**	**$10,161**	**$12,554**	**$12,683**	**$12,666**
Income from Operations	**1,520**	**1,641**	**1,501**	**1,387**	**1,829**	**1,846**
Non-Operating Income	**58**	**53**	**69**	**55**	**87**	**87**
Net Income (loss)	**$ 1,578**	**$ 1,694**	**$ 1,570**	**$ 1,442**	**$ 1,916**	**$ 1,933**

Table 7b: Revenue and Expense Statement, Lorien Bel Air, CCF only (in 000s) Source: DI #15, Table 3.						
	Current		Actual	Projected		
	2011	2012	2013	2014	2015	2016
Licensed Beds	69	69	69	90	90	90
Admissions	471	512	520	610	640	640
Patient Days	23,485	23,716	24,090	29,744	30,843	30,843
Occupancy Percentage	93.25%	93.91%	95.65%	90.54%	93.89%	93.89%
Gross Revenue/Pt. Day	$484.48	$506.24	$490.62	$475.02	$476.90	$476.90
Net Revenue/Pt. Day	$481.80	$498.74	$484.10	$468.70	$470.51	$470.51
Expense/Pt. Day	$417.07	$429.54	$421.79	$422.07	$411.21	$410.66
Operating Margin/Pt. Day	$67.19	$71.43	$65.17	$48.48	$62.12	$62.67

The operation has shown healthy profitability in recent years, and is projected to continue to do so upon project completion.

b) Staffing

The applicant projects the addition of 18.7 FTEs to the nursing home staff and 12.6 FTEs to the assisted living staff as a result of the project. This is a 24% increase in total staff. They anticipate no difficulty in expanding staffing for the larger facility.

Lorien projects a direct care staffing schedule that will deliver an overall average ratio of 4.0 nursing hours per bed per day of care for all three nursing units during weekdays and 3.7 nursing hours per day of care during the weekends or holidays (Table 8 below). These staffing ratios are consistent with those required in COMAR 10.07.02.12, a minimum of two hours per bed per day.

Table 8: Nurse Staffing by Shift – Lorien Bel Air 90 CCF beds
Monday - Friday

Lorien Bel Air	Day	Evening	Night	Total FTE	# of Hours in Shift	Total Hours
R.N.	3	3	3	9	8	72
L.P.N.	2	1	1	4	8	32
Aides	9	8	6	23	8	184
Medicine Aides	3	3	0	6	8	48
Unit Secretary	3	0	0	3	8	24
Total				**45**		**360**

Weekend/Holiday

Lorien Bel Air	Day	Evening	Night	Total FTE	# of Hours in Shift	Total Hours
R.N.	3	3	3	9	8	72
L.P.N.	2	1	1	4	8	32
Aides	9	8	6	23	8	184
Medicine Aides	3	3	0	6	8	48
Unit Secretary	0	0	0	0	8	0
Total				**42**		**336**

Source: Response to Completeness questions. (DI #15, Appendix 10)

The applicant has reasonably demonstrated it can obtain the resources necessary for project development and its assumptions with respect to utilization, revenues, expenses, staffing and payor mix are within acceptable ranges. Staff recommends a finding that the project is viable.

E. COMPLIANCE WITH CONDITIONS OF PREVIOUS CERTIFICATES OF NEED

COMAR 10.24.01.08G(3)(e)Compliance with Conditions of Previous Certificates of Need. An applicant shall demonstrate compliance with all terms and conditions of each previous Certificate of Need granted to the applicant, and with all commitments made that earned preferences in obtaining each previous Certificate of Need, or provide the Commission with a written notice and explanation as to why the conditions or commitments were not met.

Lorien Harford, Inc. has received two CON approvals related to the establishment of Lorien Bel Air. The first CON was for the acquisition of 40 comprehensive care beds formerly owned and operated at Brevin Nursing Home and the relocation of those beds to a new facility (Docket No. 98-12-2048). The second CON approval was for the addition of 22 CCF beds to the previously approved comprehensive care facility (Docket No. 01-12-2085).

The two CON approvals included a number of conditions including what are now considered performance requirements, not conditions. While the development of Lorien Bel Air encountered delays with meeting the performance requirements for the two CON approvals, the facility was completed within the allowable time with permissible extensions. MHCC records demonstrate that Lorien Harford complied with all conditions of the first CON and most of the conditions of the second.

However, the facility had some difficulty complying with one condition of the second CON. Specifically, the fifth condition of the second CON required Lorien Harford, Inc. to execute a Memorandum of Understanding ("MOU") with the Maryland Medical Assistance Program to maintain the proportion of Medicaid patients required by standard .05A(3) of

COMAR 10.24.08, the State Health Plan chapter for Long Term Care Facilities and Services, effective April 15, 2002.

At that time the minimum required proportion of Medicaid patients was equal to the proportion of Medicaid patients in all other nursing home beds in the jurisdiction or the region (Harford County or Central Maryland in the case of Lorien Bel Air). Lorien Harford signed such an MOU on August 8, 2002 to serve a minimum Medicaid proportion of at least 66.54%. The facility opened in October 2002 with 62 CCF beds. The standard gave applicants for new CCF beds three years to achieve the applicable proportion, but required a good faith effort towards achieving the goal in years one and two of operation.

The Commission adopted a new State Health Plan chapter for long term care facilities and services effective March 12, 2007. This new chapter included a revision in the method of calculating the minimum proportion of Medicaid patients. The new calculation method set the minimum proportion at the weighted mean for the jurisdiction (county or Baltimore City) and region minus 15.5%. Lorien Harford sought a revised MOU based on the calculation method, which was approved retroactive to December 14, 2007 at a minimum participation rate of 46.82%. The following table displays a comparison of Lorien Bel Air's service to Medicaid patients to the minimum required by the MOU and the minimum percentages calculated by the Commission with the new formula for Harford County and Central Maryland.

Table 9: Medicaid Participation Rates for Lorien Bel Air, as Required by the Memorandum of Understanding and as Calculated for Harford County, and Central Maryland

	Percent Medicaid Days, Reported MHCC LTC Survey	Minimum Medicaid Participation Rate Required by the MOU	MHCC Calculated Medicaid Participation Rate by Jurisdiction & Planning Region	
	Lorien Bel Air	Lorien Bel Air	Harford County	Central Maryland
FY 2012	49.97%	46.82%	47.77%	47.74%
FY 2011	49.01%	46.82%	47.22%	47.74%
FY 2010	55.21%	46.82%	47.45%	48.81%
FY 2009	53.20%	46.82%	46.56%	48.99%
FY 2008	49.77%	46.82%	47.59%	48.98%
FY 2007	47.86%	66.54%	46.82%	49.55%
FY 2006	39.08%	66.54%		
FY 2005 *	36.97%	66.54%		
FY 2004	34.01%	66.54%		
FY 2003	17.00%	66.54%		

*Addition of 7 waiver beds, increasing bed inventory from 62 to 69, effective December 1, 2005

While Lorien Bel Air did not achieve the minimum Medicaid participation rate required by its original MOU by its third year of operation, it has achieved the minimum rate as calculated by the Commission according to the revised formula and required by the facility's modified MOU since 2007, its fourth year of operation. Given this compliance history, staff concludes that Lorien Bel Air has effectively complied with the condition of previous Certificates of Need and is compliance with this criterion

F. IMPACT ON EXISTING PROVIDERS AND THE HEALTH CARE DELIVERY SYSTEM

COMAR 10.24.01.08G(3)(f) Impact on Existing Providers and the Health Care Delivery System. An applicant shall provide information and analysis with respect to the impact of the proposed project on existing health care providers in the health planning region, including the impact on geographic and demographic access to services, on occupancy, on costs and charges of other providers, and on costs to the health care delivery system.

Lorien Bel Air states it is the only nursing home in Harford County that operates an "aging in place" model with 69 CCF beds and 56 assisted living units. Lorien believes this is an innovative approach to offering integrated care that contributes to a higher quality of life for the residents, and provides a benefit to the health care system for this jurisdiction. Indeed, at present 12 of 65 CCF residents (18%) transitioned there from the assisted living quarters. (DI#29) Since there is no other existing provider offering this integrated "aging in place" model, Lorien expects that this project will not have a negative impact on existing providers' resources.

The MHCC's 2016 Projected Bed Ned for Nursing Home Beds indicates that the total number of CCF beds[3] in inventory and operating in Harford County as of April 5, 2013 is 785. This includes the five nursing homes that were operating a total of 707 beds in Harford County at a cumulative occupancy in excess of 90 percent during FY 2011 and 2012, as well as Lorien – Bulle Rock which opened in June of 2013. That facility is rapidly filling up and has an occupancy rate of 82%,[4] with expectations that this facility will exceed 90% occupancy in a short period of time. (DI#27)

Staff believes the addition of 21 CCF beds to Lorien Bel Air will have a positive impact on residents seeking nursing home care in Harford County. Although the increase in supply will be modest, it has the advantage of increasing private rooms as well as expanding access to an aging-in-place model. Other providers are unlikely to be negatively impacted because: the proposed project claims just 21 of the 42 additional CCF beds needed by 2016; the 21 beds represent just a 2.7% increase in supply; and current utilization in the jurisdiction is healthy, with occupancy rates above 90% for the nursing homes in operation during 2011 and 2012.

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[3] These include licensed, waiver, and temporarily delicensed CCF beds.
[4] Email message from James Forsyth, dated Jan. 21, 2014.

For these reasons, staff believes the addition of these 21 nursing home beds will have a positive impact on the population in Harford County, and finds that the applicant complies with this standard.

III. SUMMARY AND STAFF RECOMMENDATION

Staff has analyzed the proposed project's compliance with the applicable State Health Plan criteria and standards in COMAR 10.24.01.08.05A and B, and with Certificate of Need review criteria, COMAR 10.24.01.08G(3)(a)-(f).

Based on these findings, Staff recommends that the project be **APPROVED,** with the following condition:

> *At the time of first use review, Lorien Bel Air shall provide the Commission with a modified Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2) for all of Lorien Bel Air's licensed CCF beds.*

IN THE MATTER OF	*	**BEFORE THE**
	*	
LORIEN HARFORD, INC.	*	**MARYLAND HEALTH**
	*	
DOCKET NO. 13-12-2345	*	**CARE COMMISSION**
	*	

* *

FINAL ORDER

Based on Commission Staff's analysis and findings, it is this 20th day of February, 2014, **ORDERED** that:

The application for Certificate of Need submitted by Lorien Harford, Inc., d/b/a Lorien Bel Air, to build a three-story addition with 21 comprehensive care facility to the facility operating at 1909 Emmorton Road in Bel Air, Docket No. 13-12-2345, at an estimated cost of $2,334,063, be **APPROVED,** subject to the following condition:

> *At the time of first use review, Lorien Bel Air shall provide the Commission with a modified Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2) for all of Lorien Bel Air's licensed CCF beds.*

MARYLAND HEALTH CARE COMMISSION

February 20, 2014

APPENDIX 1:

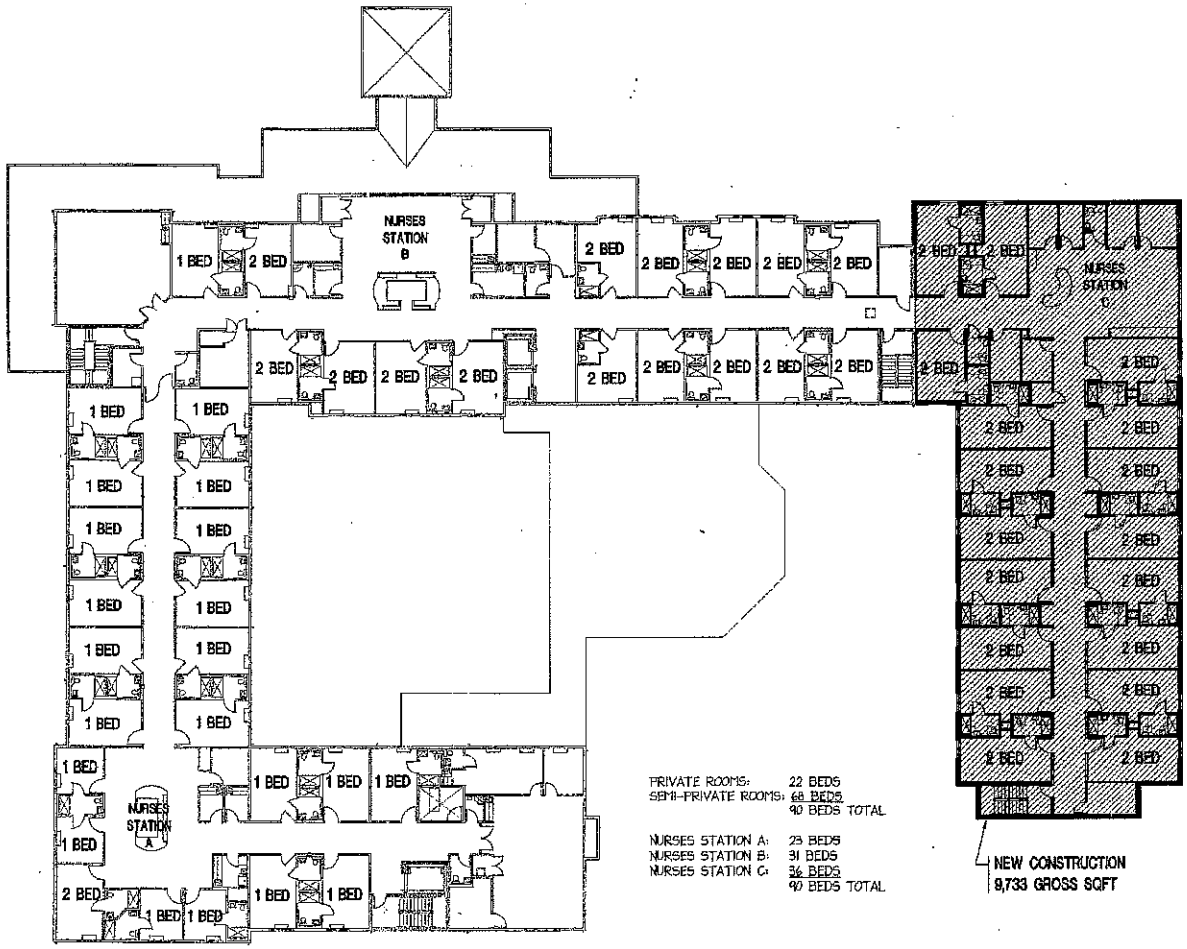
REVIEW OF THE RECORD

Docket Item #	Description	Date
1	James A. Forsyth, Esquire, files a letter of intent (LOI) on behalf of Lorien Harford, Inc., d/b/a Lorien Bel Air, for a 42-bed expansion to the existing 69-bed comprehensive care facility: MHCC staff acknowledges receipt of the LOI on July 9, 2013.	7/3/2013
2	Lorien submits a modification to the July 3rd LOI by reducing the request to the addition of 21 comprehensive care beds only: the project will also expand community-based services that include assisted living units.	7/19/2013
3	Lorien submits clarification to the July 19th modification to the LOI stating the expansion of community-based services will only include the addition of 20 assisted living units in total on two floors.	9/6/2013
4	Lorien submits a Certificate of Need (CON) application on behalf of the applicant seeking to expand an existing 69-bed comprehensive care facility with the addition of 21 comprehensive care beds (Matter No. 13-12-2345).	9/6/2013
5	MHCC acknowledges receipt of this application by letter.	9/9/2013
6 & 7	Staff requests that the *Baltimore Sun, Harford Democrat Record,* and *The Aegis* publish notice of receipt of the CON application for Harford County.	9/9/2013
8	Staff requests that the *Maryland Register* publish notice of receipt of the CON application.	9/9/2013
9	Lorien notifies MHCC that he sent an electronic copy via email and a copy of a DVD with the CON application via U.S. Mail to Susan C. Kelly, Harford County Health Officer.	9/12/2013
10	The *Baltimore Sun* sent confirmation that a Notice of Receipt of Application was published on September 13, 2013.	9/12/2013
11	*The Record* and *The Aegis* sent confirmation that a Notice of Receipt of Application was published in Harford County before September 21, 2013.	9/20/2013
12	Commission staff sent copy of draft completeness questions via email to James A. Forsyth, Esquire.	9/19/2013
13	Following completeness review, Commission staff requests additional information before a formal review of the CON application can begin.	9/20/2013
14	Commission grants approval to applicant's request on same date for an extension of 5 working day's time to submit responses to	9/20/2013

	completeness questions on October 11, 2013.	
15	Commission receives responses to the September 20, 2013 request for additional information.	10/4/2013
16	Commission acknowledges receipt of Lorien Harford's October 4, 2013 response and informed notification of docketing for the application in the *Maryland Register* on November 15, 2013.	11/1/2013
17 & 18	Commission requests publication of notification for the formal start of review in the *Baltimore Sun, Harford Democrat Record,* and *The Aegis*.	11/1/2013
19	Commission requests publication of notification for the formal start of review in the *Maryland Register*.	11/1/2013
20	Staff sends a copy of the CON application to the Harford County Health Department for review and comment.	11/1/2013
21	Delegates Peter A. Hammen and Shane Pendergrass, and Senator James N. Robey submit letters of support for Lorien Bel Air expansion.	10/23-24/2013
22	The *Baltimore Sun* sent confirmation that a Notice of Docketing was published on November 6, 2013.	11/7/2013
23 & 24	*The Record* and *The Aegis* sent confirmation that a Notice of Docketing was published before November 9, 2013.	11/8/2013
25	Susan Kelly, Harford County Health Officer, sent notification that she and her department will not comment on Lorien Bel Air's CON application.	11/13/2013
26	Lorien submits response to Commission's September 20th completeness question #20 regarding compliance in serving the Medicaid population that meets with the negotiated participation rate from the August 8, 2002 Memorandum of Understanding with Maryland Medical Assistance program.	12/4/2013
27	Lorien submits e-mail response regarding two questions, the first addressing the total number of assisted living units at Lorien-Bel Air after project completion and the second on the start of operations and current utilization at the Lorien-Bulle Rock facility located in Harford County.	1/21/2014
28	Lorien submits e-mail response regarding explanation of the CMS Nursing Home Compare findings for Lorien-Bel Air.	1/31/2014
29	Attorney James Forsyth, representing Lorien, emailed staff with information about the number of current CCF residents who transitioned to that status from assisted living at the same facility.	2/13/2014

APPENDIX 2:

FLOOR PLAN



1 THIRD FLOOR PLAN - SKILLED NURSING

LOPIEN BEL AIR EXPANSION
1900 SIMORTON ROAD
BEL AIR, MD 21015

THIRD FLOOR PLAN

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APPENDIX 3:

CMS FIVE STAR QUALITY RATING SYTEM

Five-Star Quality Rating System[5]

CMS created the Five-Star Quality Rating System to help consumers, their families, and caregivers compare nursing homes more easily and to help identify areas about which you may want to ask questions.

The Nursing Home Compare Web site now features a quality rating system that gives each nursing home a rating of between 1 and 5 stars. Nursing homes with 5 stars are considered to have much above average quality and nursing homes with 1 star are considered to have quality much below average. There is one Overall 5-star rating for each nursing home, and a separate rating for each of the following three sources of information:

- **Health Inspections** – The health inspection rating contains information from the last 3 years of onsite inspections, including both standard surveys and any complaint surveys. This information is gathered by individuals who go onsite to the nursing home and follow a specific process to determine the extent to which a nursing home has met Medicare's minimum quality requirements. The most recent survey findings are weighted more than the prior two years. More than 200,000 onsite reviews are used in the health inspection scoring nationally.
- **Staffing** – The staffing rating has information about the number of hours of care on average provided to each resident each day by nursing staff. This rating considers differences in the level of need of care of residents in different nursing homes. For example, a nursing home with residents who had more severe needs would be expected to have more nursing staff than a nursing home where the resident needs were not as high.
- **Quality Measures (QMs)** – The quality measure rating has information on 9 different physical and clinical measures for nursing home residents – for example, the prevalence of pressure sores or changes to resident's mobility. This information is collected by the nursing home for all residents. The QMs offer information about how well nursing homes are caring for their residents' physical and clinical needs. More than 12 million assessments of the conditions of nursing home residents are used in the Five-Star rating system.

Caution: No rating system can address all the important consideration that go into a decision about which nursing home may be best for a particular person. Examples include the extent to which specialty care is provided (such as specialized rehabilitation or dementia care) or how easy it will be for family members to visit the nursing home resident. As such visits can improve both the resident's quality of life and quality of care, it may often be better to select a nursing home that is very close, compared to a higher rated nursing home that would be far away. Consumers should therefore use the Web site only together with other sources of information for the nursing homes (including a visit to the nursing home) and State or local organizations (such as local advocacy groups and the State Ombudsman program).

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[5] Available on CMS website at: http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/FSQRS.html

Medicare.gov/Nursing Home Compare[6]

Strengths and limitations

The Five-Star rating system has strengths and limitations. Here are some things to consider as you compare nursing homes.

Health Inspection Results

Strengths:

Comprehensive: The nursing home health inspection process looks at all major aspects of care in a nursing home (about 180 different items).

Onsite Visits by Trained Inspectors: this is the only source of information that comes from a trained team of objective surveyors (inspectors) who visit each nursing home to check on the quality of care, inspect medical records, and talk with residents about their care.

Federal Quality Checks: Federal inspectors check on the state inspectors' work to make sure they are following the national process and that any differences between states stay within reasonable bounds.

Limitations:

Variation Among States: There are some differences in how different states carry out the inspection process, even though the standards are the same across the country.

Medicaid Program Differences: There are also differences in state licensing requirements that affect quality, and in state Medicaid programs that pay for much of the care in nursing homes.

Tip: The best comparisons are made by looking at nursing homes within the same state. You should be careful if you are trying to compare a nursing home in one state with a nursing home in another state.

Staffing

Strengths:

Overall Staffing: The quality ratings look at the overall number of staff compared to the number of residents and how many of the staff are trained nurses.

Adjusted for the Population: The ratings consider differences in how sick the nursing home residents are in each nursing home, since that will make a difference in how many staff are needed.

Limitations:

Self-Reported: The staffing data are self-reported by the nursing home, rather than collected and reported by an independent agency.

Snap-Shot in Time: Staffing data are reported just once a year and reflect staffing over a 2 week period of time.

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[6] Available on CMS website at: http://www.medicare.gov/NursingHomeCompare/About/Strengths-and-Limitations.html

Tip: Quality is generally better in nursing homes that have more staff who work directly with residents. It is important to ask nursing homes about their staff levels, the qualifications of their staff, and the rate at which staff leave and are replaced.

Quality Measures

Strengths:

In-Depth Look: The quality measures provide an important in-depth look at how well each nursing home performs on important aspects of care. For example, these measures show how well the nursing home helps people keep their ability to dress and eat, or how well the nursing home prevents and treats skin ulcers.

National Measures: The quality measures we use in the Five-Star rating are used in all nursing homes.

Limitations:

Self-Reported Data: The quality measures are self-reported by the nursing home, rather than collected and reported by an independent agency.

Just a Few Aspects of Care: The quality measures represent only a few of the many aspects of care that may be important to you.

Tip: Talk to the nursing home staff about these quality measures and ask what else they are doing to improve the care they give their residents. Think about the things that are most important to you and ask about them, especially if there are no quality measures that focus on your main concerns.

A technical manual containing additional information on the Five-Star Quality Rating System can be found on the CMS Web site.

APPENDIX 4:

MARSHALL VALUATION SERVICE REVIEW – LORIEN BEL AIR

Marshall Valuation Service Review

The following table summarizes an evaluation of the applicant's estimated costs of constructing a three-story addition, with establishment of a 36-bed CCF nursing home unit on the third story, using the MVS guidelines.

MVS Construction Cost Analysis
Proposed Cost for Lorien Bel Air

Marshall and Swift Analysis	
	New Construction
Class	D
Type	Good
Square Footage	9,733
Perimeter	458
Wall Height	8
Stories	1
Average Area Per Floor	9,733
Net Base Cost (15.26) November 2011	158.79
Elevator Add-on	0
Sprinkler Add-on (15.37)	3.81
Adjusted Base Cost	$ 162.6
Perimeter Multiplier (15.37)	0.96801558
Story Height Multiplier (15.38)	0.9
Multi-story Multiplier (15.26)	1
Multipliers	0.871214022
Refined Square Foot Cost	$ 141.66
Current Cost Modifier (99.3)September 2013	1.09
Local Multiplier (99.8) July 2013	1.02
CC & Local Multipliers	1.1118
MVS Building Cost Per Square Foot	$ 157.50

MVS Construction Cost Analysis
Proposed Cost for Lorien Bel Air

Cost of New Addition	
Building	1,400,000
Fixed Equipment	66,667
Normal Site Preparation	65,000
Architect/Engineering	100,000
Permits	66,667
Capitalized Construction Interest	36,563
Financing Fees	49,724
Total Project Costs	**$1,784,621**
Cost Adjustments	
Demolition	10,000
Storm Drains	50,000
Rough Grading	50,000
Utilities	10,000
Jurisdictional Hook-up Fees	50,000
Signs	25,000
Landscaping	40,000
Total Adjustments	$235,000
Project Costs for MVS Comparison	**$1,549,621**
Square Feet of Construction	9,733
Adjusted Project Cost per SF	$159.21
MVS Cost/SF	$157.50
Over(Under)	**$1.71**

Source: CON Application, DI #4, p. 80-82 and MHCC Staff Analysis

Lorien Bel Air's construction cost estimates for adding the 36 bed CCF unit on the third-story of the new addition is only $1.71 or about 1.1% over the costs projected by the Marshall Valuation Service formula.