

BAYADA HOSPICE  
CERTIFICATE OF NEED APPLICATION  
General Hospice Care Program in Baltimore City

December 9, 2016

**Our Service Promise to You**



The **BAYADA** Way®

*We believe our clients deserve home health care services  
delivered with compassion, excellence, and reliability.*



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## PART I - PROJECT IDENTIFICATION AND GENERAL INFORMATION

### 1. FACILITY

Name of Hospice Provider: **BAYADA Home Health Care, Inc. d/b/a/ BAYADA Hospice**

Address:

290 Chester Avenue	Moorestown	08057	NJ	Burlington
Street	City	Zip	State	County

Name of Owner (if differs from applicant):  
J. Mark Baiada

### 2. OWNER

Name of owner: J. Mark Baiada

### 3. APPLICANT. *If the application has a co-applicant, provide the detail in section 3 and 4 as an attachment.*

Legal Name of Project Applicant (Licensee or Proposed Licensee):  
BAYADA Home Health Care, Inc. d/b/a/ BAYADA Hospice

Address:

290 Chester Avenue	Moorestown	08057	NJ	Burlington
Street	City	Zip	State	County

Telephone: 856-231-2000

Name of Owner/Chief Executive : J. Mark Baiada

Is this applicant one of the following? (Circle or highlight description that applies.)

Licensed and Medicare certified general hospice in Maryland

**Licensed and Medicare certified hospice in another state**

Licensed hospital in Maryland/ other state

Licensed nursing home in Maryland/other state

**Licensed and Medicare certified home health agency in Maryland/other state**

Limited license hospice in Maryland

IF NONE OF THE ABOVE, NOT ELIGIBLE TO APPLY (See COMAR 10.24.13.04A.)



DO NOT COMPLETE REMAINDER OF APPLICATION

### LEGAL STRUCTURE OF LICENSEE

Check ☒ or fill in one category below.

- A. Governmental ☐  
B. Corporation ☐  
    (1) Non-profit ☐  
    (2) For-profit ☒  
C. Partnership ☐  
    General ☐  
    Limited ☐  
    Other (Specify): \_\_\_\_\_  
D. Limited Liability Company ☐  
E. Other (Specify): \_\_\_\_\_

### 5. PERSON(S) TO WHOM QUESTIONS REGARDING THIS APPLICATION SHOULD BE DIRECTED

A. Lead or primary contact:

Name and Title: Randy Brown  
Mailing Address:  

110 N. Tallahassee Avenue	Atlantic City	08401	NJ
Street	City	Zip	State

  
Telephone: 215-669-5769  
E-mail Address (required): rbrown2@BAYADA.com  
Fax: \_\_\_\_\_

B. Additional or alternate contact: Jonathan Montgomery

Mailing Address:			
233 East Redwood Street	Baltimore	21202	MD
Street	City	Zip	State
Telephone:	410-576-4088		
E-mail Address (required):	jmontgomery@gfrlaw.com		
Fax:	410-576-4032		

**6. Brief Project Description (for identification only; see also item #13):**

BAYADA Home Health Care, Inc. d/b/a/ BAYADA Hospice desires to open a newly licensed, CHAP accredited home-based hospice program serving the end-of-life population within Baltimore City, MD.

**7. Project Services (check applicable description):**

Service	(check if description applies)
Establish a general hospice	✓
Establish a General Inpatient Unit (GIP)	
Add beds to a GIP	

**8. Current Capacity and Proposed Changes:**

A) List the jurisdictions in which the applicant is currently authorized to provide general hospice services. (If services provided in other state(s), list them.)

Chart 1: BAYADA Hospice Jurisdictions

BAYADA Hospice: County Coverage by Office		
Vermont Offices (CCN:471510)	# Counties Served	Counties Served
Vermont Hospice (also serves New Hampshire)	16	14 Counties VT Statewide; NH Grafton and Sullivan Counties
Vermont Burlington Hospice	14	14 VT Counties Statewide
Vermont Brattleboro Hospice (also serves New Hampshire)	14	14 VT Counties Statewide; NH Cheshire county
Vermont Rutland Hospice	14	14 VT Counties Statewide
SE Pennsylvania Offices (CCN:391741)	# Counties Served	Counties Served
Pennsylvania Media Hospice	3	Delaware, Chester and Philadelphia Counties
Pennsylvania Boyertown Hospice	4	Berks, Lehigh, Montgomery and Northampton Counties
Pennsylvania Warminster Hospice	1	Bucks County
Southern New Jersey Office (CCN: 311576)	# Counties Served	Counties Served
Gloucester Hospice BAYADA at Inspira	4	Gloucester, Camden, Salem and Cumberland Counties
Northern New Jersey Office (CCN: 311580)	# Counties Served	Counties Served
New Jersey Hudson Hospice	2	Hudson and Essex Counties
As-of: September 21, 2016		
Parent Office		
Multilocation Site		

B) Jurisdiction applicant is applying to be authorized in:

Baltimore City, Maryland

**9. Project Location and Site Control** (Applies only to applications proposing establishment or expansion of a GIP unit):

*Not Applicable*

A. Site Size \_\_\_\_\_ acres

B. Have all necessary State and Local land use approvals, including zoning, for the project as proposed been obtained? YES \_\_\_\_\_ NO \_\_\_\_\_ (If NO, describe below the current status and timetable for receiving necessary approvals.)

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C. Site Control and utilities:

(1) Title held by: \_\_\_\_\_

(2) Options to purchase held by: \_\_\_\_\_

(i) Expiration Date of Option \_\_\_\_\_

(ii) Is Option Renewable? \_\_\_\_\_ If yes, Please explain

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(iii) Cost of Option \_\_\_\_\_

(3) Land Lease held by: \_\_\_\_\_

(i) Expiration Date of Lease \_\_\_\_\_

(ii) Is Lease Renewable? \_\_\_\_\_ If yes, please explain

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(iii) Cost of Lease \_\_\_\_\_

(4) Option to lease held by: \_\_\_\_\_

(i) Expiration date of Option \_\_\_\_\_



(ii) Is Option Renewable? \_\_\_\_\_ If yes, please explain

\_\_\_\_\_  
\_\_\_\_\_

(iii) Cost of Option \_\_\_\_\_

(5) If site is not controlled by ownership, lease, or option, please explain how site control will be obtained.

\_\_\_\_\_  
\_\_\_\_\_

(6) Please discuss the availability of utilities (water, electricity, sewage, etc.) for the proposed project, and the steps that will be necessary to obtain utilities.

\_\_\_\_\_  
\_\_\_\_\_

**(INSTRUCTION: IN COMPLETING THE APPLICABLE OF ITEMS 10, 11 or 12, PLEASE CONSULT THE PERFORMANCE REQUIREMENT TARGET DATES SET FORTH IN COMMISSION REGULATIONS, COMAR 10.24.01.12)**

**10. For new construction or renovation projects.**

*Not Applicable*

Project Implementation Target Dates

- A. Obligation of Capital Expenditure \_\_\_\_\_ months from approval date.
- B. Beginning Construction \_\_\_\_\_ months from capital obligation.
- C. Pre-Licensure/First Use \_\_\_\_\_ months from capital obligation.
- D. Full Utilization \_\_\_\_\_ months from first use.

**11. For projects not involving construction or renovations.**

Project Implementation Target Dates

*Not Applicable*

- A. Obligation or expenditure of 51% of Capital Expenditure \_\_\_\_\_ months from CON approval date.
- B. Pre-Licensure/First Use \_\_\_\_\_ months from capital obligation.
- C. Full Utilization \_\_\_\_\_ months from first use.

**12. For projects not involving capital expenditures.**

Project Implementation Target Dates

- A. Obligation or expenditure of 51% of Capital Expenditure 2 months from CON approval date.
- B. Pre-Licensure/First Use 4 months from capital obligation.
- C. Full Utilization 42 months from first use.

**13. PROJECT DESCRIPTION**

**Executive Summary of the Project:** The purpose of this BRIEF executive summary is to convey to the reader a holistic understanding of the proposed project: what it is, why you need to do it, and what it will cost. A one-page response will suffice. Please include:

- (1) Brief Description of the project – what the applicant proposes to do
- (2) Rationale for the project – the need and/or business case for the proposed project
- (3) Cost – the total cost of implementing the proposed project

(1) Brief Description

BAYADA Home Health Care, Inc. d/b/a BAYADA Hospice (“BAYADA Hospice”) seeks a certificate of need to become a licensed general hospice care program in Baltimore City, Maryland.

(2) Rationale

The rationale for the project is simple: hospice programs, which care for terminally ill individuals certified as having six months or less to live and who have agreed to forgo aggressive or curative treatment, decrease overall spending on end-of-care life and provide better quality of care for patients and their families. Despite these benefits, hospice services are underutilized in Baltimore City, Maryland – a jurisdiction with close to 25% of the population living in poverty and with the second highest African-American population in the State.

As the largest private home health and hospice organization in the country, with extensive experience providing high quality hospice services in New Hampshire, Vermont, New Jersey, and Pennsylvania, and with existing home health and home care operations in Maryland, BAYADA Hospice is uniquely qualified to help Baltimore City meet this unmet need. BAYADA Hospice is guided daily by its unique mission, vision, values, and beliefs as expressed in The BAYADA Way<sup>1</sup>. The BAYADA Way reminds all of our employees, clients, and referral sources that we strive to bring compassion, excellence, and reliability to every client and every community interaction companywide.

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<sup>1</sup> Exhibit 3.



### *The cost benefits of hospice*

Today's health care costs are concentrated on patients in the advanced stages of illness, where treatments, medications and/or procedures can do little to alter disease trajectory. Hospice services reduce the costs of care by coordinating care and reducing unnecessary hospital admissions and readmissions, aligning with The Triple Aim goals and the mandate under Maryland's Medicare Waiver to reduce Medicare's inpatient hospital expenditures in Maryland.<sup>2</sup>

Evidence shows that "continuous hospice use reduces the use of hospital based-services – including emergency department visits and intensive care unit stays – and the likelihood of death in the hospital."<sup>3</sup> More generally, a 2007 Dartmouth Atlas study found that total average Medicare spending at end of life was \$3,212 in the hospice setting compared to \$26,511 in the inpatient setting and \$9,335 in the skilled nursing facility setting.<sup>4</sup> Similarly, the National Hospice and Palliative Care Organization estimates that hospice savings range from \$2,300 to \$10,800 per beneficiary when compared with traditional end-of-life care.<sup>5</sup> Hospices are incentivized to efficiently and effectively deploy resources (e.g. skilled clinicians, medications, Durable Medical Equipment, etc.) as hospices are reimbursed on a per diem basis and are responsible for all care related to the terminal prognosis of the individual.

BAYADA Hospice will help Maryland and Baltimore City realize this lower cost, higher quality care in accordance with its "daily mission of helping people to live with comfort, independence, and dignity in their homes by providing them with compassionate, excellent and reliable care."<sup>6</sup> BAYADA's size and experience would also bring efficiencies to its proposed hospice program in Baltimore City. For example, BAYADA has a highly scalable, best-in-class company-wide management and operating platform.<sup>7</sup>

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<sup>2</sup> The Medicare Waiver permits Maryland to continue to set Maryland hospital rates for all payers (including Medicare) from 2014 through at least 2018, but only so long as Maryland passes two tests of cost savings: the "**All-Payer Test**" and the "**Medicare Expenditure Test**." Under the All-Payer Test, the growth in regulated Maryland hospital revenues per Maryland resident may not exceed 3.58% per year. The 3.58% limit represents the compound annual growth rate of Maryland's per capita gross state product, measured over the previous ten years for which data is available (initially, between 2002-2012, but Maryland may request an update as gross state product data becomes available).

<sup>3</sup> Kelley, Amy S., et al. "Hospice enrollment saves money for Medicare and improves care quality across a number of different lengths-of-stay." *Health Affairs* 32.3 (2013): 552-561 at p. 552 (attached as Exhibit 4).

<sup>4</sup> See Dartmouth Atlas of Health Care. "Care of Chronically Ill Patients during the Last Two Years of Life" Available at: <http://www.dartmouthatlas.org/tools/downloads.aspx?tab=40>.

<sup>5</sup> National Hospice and Palliative Care Organization, "Issue Brief," October 2011, p. 20. Available at: [http://www.nhpco.org/sites/default/files/public/regulatory/Medicaid\\_Issue\\_Brief.pdf](http://www.nhpco.org/sites/default/files/public/regulatory/Medicaid_Issue_Brief.pdf)

<sup>6</sup> See Exhibit 5 – The BAYADA Mission.

<sup>7</sup> See Chart 3 in the Part III – Quality section of this Application.



### *The care benefits of hospice*

Hospice services also increase care effectiveness. Traditional settings typically provide care that is “highly fragmented and of poor quality, particularly among those who are dually eligible for Medicare and Medicaid” as these settings fail to help patients “in identifying individualized goals of care and developing comprehensive treatment plans to achieve these goals.”<sup>8</sup> Fragmented care in traditional settings leads to dissatisfying outcomes for patients; one study has found that although only 8.4% of patients prefer to spend their final days in a hospital rather than at home, 28.1% of deaths occur in a hospital setting.<sup>9</sup>

Hospice provides an effective, high quality approach to care. “Studies have consistently demonstrated that hospice is associated with reductions in symptom distress, improved outcomes for caregivers, and high patient and family satisfaction.”<sup>10</sup>

BAYADA will provide this high quality care. BAYADA’s hospice programs have been surveyed and accredited by Community Health Accreditation Program (CHAP), with BAYADA having completed its most recent corporate re-accreditation in 2014. Moreover, since 2009, BAYADA has also held corporate accreditation from the Commission on Accreditation of Rehabilitation Facilities (CARF) in the area of habilitation. BAYADA’s Division Director for Policy and Accreditation Support, has been a member of the CHAP Board of Directors since 2010.

### *Special Challenges and Opportunities in Baltimore City*

Several key factors illuminate the need for the entry of a high quality hospice care provider such as BAYADA Hospice into Baltimore City:

#### Underutilization

Despite the many positive benefits that hospice provides to patients and families, hospice remains underutilized in Baltimore City. Maryland is in the bottom third of states in terms of hospice utilization. In 2014, Maryland ranked 36 out of 50 states in hospice utilization.<sup>11</sup>

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<sup>8</sup> Kelley, Amy S., et al. "Hospice enrollment saves money for Medicare and improves care quality across a number of different lengths-of-stay." *Health Affairs* 32.3 (2013): 552-561 at p. 558 (attached as Exhibit 4).

<sup>9</sup> See Fisher et al. “Are Regional Variations in End-of-Life Care Intensity Explained by Patient Preferences?: A Study of the U.S. Medicare Population.” *Medical Care*. 45:5 (May 2007): 386-393. (attached as Exhibit 6).

<sup>10</sup> Kelley, Amy S., et al. "Hospice enrollment saves money for Medicare and improves care quality across a number of different lengths-of-stay." *Health Affairs* 32.3 (2013): 552-561 at p. 552 (citing studies).

<sup>11</sup> See Dartmouth Atlas of Health Care. “Care of Chronically Ill Patients during the Last Two Years of Life” Available at: <http://www.dartmouthatlas.org/tools/downloads.aspx?tab=40>.

Among the various jurisdictions within Maryland, Baltimore City ranked 16 out of 26.<sup>12</sup> There is not enough being done to ensure access to hospice the community.

BAYADA Hospice has a proven track record of improving access to hospice care in underserved communities.<sup>13</sup> Take BAYADA Hospice's experience in Vermont. In 2010, Vermont had an above average use of the Medicare home health benefit in the last 6 months of life, but hospice days and enrollment were among the lowest nationally.<sup>14</sup> Vermont's hospice utilization rate was 36%, second only to Alaska in lowest utilization.<sup>15</sup>

BAYADA Hospice improved this low utilization trend in Vermont. By 2014, hospice utilization increased to 48% in the state.<sup>16</sup> This represents a 33% increase over four years. The only factor that differed between 2010 and 2014 was BAYADA Hospice's market entry and targeted outreach and education efforts. BAYADA Hospice is now the largest provider of hospice in Vermont – and the only provider that services the entire state – with an average daily census of over 170.<sup>17</sup>

BAYADA Hospice can leverage its Vermont experience, and it already has experience operating in Maryland:

Chart 2: BAYADA Hospice's Maryland Presence

Services Provided	Counties Served
Home Health	Anne Arundel
Adult Nursing Assistive Care	Anne Arundel, Baltimore, Baltimore City, Carroll, Harford, Howard
Home Health	Baltimore City
Home Health	Baltimore
Home Health	Carroll, Frederick, Howard
Home Health	Harford
Home Health	Montgomery

#### Underserved Minority Communities

Baltimore City is characterized by a strong minority community. Census Bureau data shows that, in 2015, the African American population in Baltimore City was 62.9%, more than double that of Maryland's 30.5%.<sup>18</sup> However, African-Americans in Baltimore City access hospice care

<sup>12</sup> *Id.*

<sup>13</sup> A more detailed description of BAYADA Hospice's Vermont experience is detailed in Part III of the Application – Viability.

<sup>14</sup> See Dartmouth Atlas of Health Care. "Care of Chronically Ill Patients during the Last Two Years of Life" Available at: <http://www.dartmouthatlas.org/tools/downloads.aspx?tab=40>.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> United States Census Bureau, "QuickFacts." Available at: <http://www.census.gov/quickfacts/table/PST045215/00>.



services at a below-average rate. In 2014, only 44% of Baltimore City hospice patients were African American compared to 50% across the state of Maryland.<sup>19</sup>

BAYADA Hospice can address these disparities. As described in more detail in the response to the Public Education standard in Part III of this Application, BAYADA Hospice has developed a multi-faceted outreach and education program to teach the public about the benefits of hospice care.

#### Medicaid Utilization

Baltimore City has the largest Medicaid beneficiary population in Maryland.<sup>20</sup> Relative to fiscal year 2017 Medicare reimbursement rates for hospice services (FY2017), Medicaid hospice reimbursement is about 2.5% less in Baltimore City. Clearly, any provider wishing to service the needs of the Baltimore City population must be able to absorb lower reimbursement rates and charity care.

BAYADA Hospice is well situated to absorb lower reimbursement rates. Based on its most recent data, the payer mix for BAYADA hospice services in other states is approximately 82% Medicare, 10% Medicaid, and 8% commercial/private pay (including charity care). And the financial projections enclosed in this Application anticipate – and can accommodate – an elevated proportion of Medicaid beneficiaries in BAYADA Hospice’s patient demographics.

BAYADA Hospice itself is transitioning toward a non-profit model. Earlier this year, BAYADA’s Founder, President and CEO announced that BAYADA would restructure its ownership and governance through an initiative known as the “Lasting Legacy Plan.” According to this plan, over the next three to five years, J. Mark Baiada and his family will gift the company to a newly-created non-profit foundation.<sup>21</sup>

#### *Conclusion*

The Maryland Health Care Commission should grant BAYADA Home Health, Inc. a certificate of need to operate a licensed general hospice care program in Baltimore City, and by doing so extend access to cost-effective, high quality hospice care in the County.

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<sup>19</sup> Maryland State Hospice Profile (attached as Exhibit 8).

<sup>20</sup> See Exhibit 47 – Medicaid Utilization by County.

<sup>21</sup> See J. Mark Baiada’s letter, which is attached as Exhibit 9. “The dream of helping millions of people is far more important to me than money,” Baiada wrote in an open letter. “BAYADA, owned by a foundation solely dedicated to The BAYADA Way, has the best chance of achieving our 100-year vision and at the same time fulfilling our daily mission of helping people to live with comfort, independence, and dignity in their homes by providing them with compassionate, excellent and reliable care.”



(3) Cost

BAYADA Hospice's proposed licensed general hospice care program in Baltimore City will be viable and sustainable. BAYADA Hospice has substantial financial resources to fund the project, as documented in Table 1 of Part III of this Application. Moreover, BAYADA Hospice's projected volume indicates that the program will become self-sustaining by the second year of operation, as discussed in the response to the Viability standard in Part III of this Application. Finally, as explained in the response to the Cost-Effective Alternatives standard in Part III of this Application, BAYADA Hospice will reduce the overall cost of care for patients at the end-of-life.

**14. PROJECT DRAWINGS**

*Not Applicable*

Projects involving new construction and/or renovations should include scalable schematic drawings of the facility at least a 1/16" scale. Drawings should be completely legible and include dates.

These drawings should include the following before (existing) and after (proposed), as applicable:

- A. Floor plans for each floor affected with all rooms labeled by purpose or function, room sizes, number of beds, location of bath rooms, nursing stations, and any proposed space for future expansion to be constructed, but not finished at the completion of the project, labeled as "shell space".
- B. For projects involving new construction and/or site work a Plot Plan, showing the "footprint" and location of the facility before and after the project.
- B. For projects involving site work schematic drawings showing entrances, roads, parking, sidewalks and other significant site structures before and after the proposed project.
- D. Exterior elevation drawings and stacking diagrams that show the location and relationship of functions for each floor affected.

**15. FEATURES OF PROJECT CONSTRUCTION:**

*Not Applicable*

- A. Please Complete **"CHART 1. PROJECT CONSTRUCTION CHARACTERISTICS and COSTS"** (next page) describing the applicable characteristics of the project, if the project involves new construction.
- B. Explain any plans for bed expansion subsequent to approval which are

incorporated in the project's construction plan.

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- C. Please discuss the availability of utilities (water, electricity, sewage, etc.) for the proposed project, and the steps that will be necessary to obtain utilities. \_\_\_\_\_

## **PART II – PROJECT BUDGET: COMPLETE TABLE 1 – PROJECT BUDGET**

See Tables attached as Exhibit 1. Assumptions underlying the Tables are attached as Exhibit 2.



**PART III - CONSISTENCY WITH REVIEW CRITERIA AT COMAR 10.24.01.08G(3):**

**(INSTRUCTION: Each applicant must respond to all applicable criteria included in COMAR 10.24.01.08G. Each criterion is listed below.)**

**10.24.01.08G(3)(a). The State Health Plan.**

Applicant must address each standard from the applicable chapter of the State Health Plan (10.24.13 .05); these standards are excerpted below. (All applicants must address standards A. through O. Applicants proposing a General Inpatient facility must also address P.)

Please provide a direct and concise response explaining the project's consistency with each standard. Some standards require specific documentation (e.g., policies, certifications) which should be included within the application. Copies of the State Health Plan are available on the Commission's web site <http://mhcc.dhmdh.maryland.gov/shp/Pages/default.aspx>

**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.**

BAYADA Hospice states that the service area for the proposed licensed general hospice care program is Baltimore City.

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

**(1) Its admission criteria; and**

BAYADA Hospice's admission policy is attached hereto as Exhibit 10 (the "Admission Policy"). BAYADA Hospice's admission policy contains criteria in conformance with the following:

1. Medicare – the Center for Medicare and Medicaid Services (CMS) criteria for admission to hospice care as set forth in both the Medicare conditions of participation for hospice programs (42 C.F.R. § 418.1 *et seq.*).
2. Maryland Licensure – The Department of Health and Mental Hygiene regulations for hospice care programs (COMAR 10.07.21.00 *et seq.*)
3. Accreditation Bodies – The accreditation standards for hospice articulated by Community Health Accreditation Program, Inc.

For certified terminally ill patients who elect palliative treatment, BAYADA Hospice accepts such patients based on the reasonable expectation that their physical, social, psychological, and spiritual needs can adequately be met throughout the continuum of hospice services. Patients who meet the criteria in the Admission Policy are admitted regardless of race, color, national origin, sexual preference, age, handicap, sex, communicable disease or religion.

**(2) Proposed limits by age, disease, or caregiver.**

*Age*

The proposed program will not accept pediatric patients, other than in exceptional circumstances. Pursuant to COMAR 10.24.13.04(D) BAYADA Hospice will coordinate with licensed general hospices in contiguous jurisdictions to arrange care for these patients, as appropriate.

*Disease*

The proposed program will not accept patients suffering from an infectious disease not manageable by an infection control program meeting the requirements of 42 C.F.R. § 418.60.

*Caregiver*

BAYADA Hospice will accept patients with a capable primary caregiver living in the home. If there is no such caregiver, BAYADA Hospice will cooperate with the patient to develop a plan of care to meet the patient's ongoing needs.



## C. Minimum Services

### *General*

BAYADA Hospice's staff will provide the following services directly to patients: skilled nursing care; medical social services; and counseling services, including bereavement and nutritional counseling. BAYADA Hospice follows the staffing and caseload guidelines propounded by the National Hospice and Palliative Organization.

0-4547 PROVISION OF HOSPICE SERVICES

0-4575 MEDICAL SOCIAL WORKER - HOSPICE SERVICES

0-4577 REGISTERED NURSE – HOSPICE SERVICES

0-4577 SPIRITUAL CARE COUNSELOR - HOSPICE SERVICES

0-4556 CARE PLANNING

0-4566 PHYSICIAN SERVICES

0-4559 DURABLE MEDICAL EQUIPMENT AND SUPPLIES - HOSPICE SERVICES

0-4542 BEREAVEMENT CARE PLANNING AND SERVICES

Minimum Services	RE: Table 5 Position Title	Employed	Contracted	Vendor
Skilled Nursing	Nursing	x		
Medical Social Services	Social Work/Services	x		
Counseling: Bereavement & Dietary	Bereavement Staff & Other support	x		
Physician services/Medical Direction	Physician Paid	x		
Hospice Aide and Homemaker	Hospice Aides	x	x	
Spiritual Services	Chaplains	x		
On Call Nursing	Nursing	x		
Short Term Inpatient care	N/A		x	To be determined
Personal Care	Nursing and/or Hospice Aides	x		
Volunteer Services	Social Work/Services	x		Volunteer Coordinator hired
Bereavement Services	Bereavement Staff	x		
Pharmacy Services	N/A		x	Enclara Pharmacia
Laboratory/Radiology/Chemotherapy	N/A	x	x	To be determined
Medical Supplies/Equipment	N/A	x	x	McKesson/HospiceLink
Special Therapies: PT/OT/ST and Dietary	Other clinical & Other support	x	x	To be determined

### *Interdisciplinary Coordination*

BAYADA Hospice designates an Interdisciplinary Group (IDG) composed of qualified

individuals who assess, plan, coordinate, provide and evaluate the care and services provided to each hospice client/caregiver. The IDG includes employees who are qualified to practice in the following professional roles: doctor of medicine or osteopathy; registered nurse; social work; pastoral or other counselor; bereavement coordinator/specialist. Additional members of the IDG may include the following types of professionals: physical therapist; occupational therapist; speech language therapist/audiologist; dietician; pharmacist; licensed practical nurse; home health aide/homemaker; volunteer; and representative from a contracted facility. Please see BAYADA Hospice's Interdisciplinary Group Policy attached as Exhibit 27.

**(1) An Applicant shall provide the following services, either directly or through contractual arrangements:**

**(a) Skilled Nursing Care**

A registered nurse (RN) member of the IDG is designated to manage care for each client/caregiver. Working under physician orders and in coordination with all members of the IDG, the RN is responsible for coordinating the care and services and implementing the interdisciplinary plan of care for the patient. Table 5 (attached as Exhibit 1) of the Application quantifies BAYADA Hospice's expected staffing for employed nurses.

**(b) Medical Social Services**

BAYADA Hospice provides psycho-social services by qualified social workers (MSWs and BSWs). These services include the following: assessing the patient's and caregiver's emotional reaction to the terminal illness; counseling patients and caregivers about dying and grief; assisting the physician and other IDG members in recognizing and treating the mental health components of dealing with terminal illness; providing patients and caregivers with information about financial and community resources available to assist with all aspects of terminal illness. Table 5 (attached as Exhibit 1) of the Application quantifies BAYADA Hospice's expected staffing for social workers.

**(c) Counseling**

Bereavement – Bereavement services are offered to the families and caregivers of hospice patients both before and after a patient's death. Trained and experienced staff members, working under the supervision of a qualified Bereavement Coordinator, will provide bereavement services for up to one (1) year following the death of a patient. Table 5 (attached as Exhibit 1) of the Application quantifies BAYADA Hospice's expected staffing for bereavement staff and chaplaincy.

Dietary – Dietary counseling, when identified in a patient's plan of care, will be performed by a registered dietician contracted by BAYADA Hospice. The dietician will provide consultation, in-service training, and patient/family care to assist in providing effective ways of managing the nutritional needs of hospice patients.



**(2) An applicant shall provide the following services, either directly or through contractual arrangements:**

**(a) Physician services and medical direction;**

BAYADA Hospice's Medical Director, physician employees, and physicians under contract with BAYADA Hospice will work in conjunction with the client's attending physician to provide palliation and management of the client's terminal illness. BAYADA Hospice will contract with a physician to serve as the program's Medical Director. Please see BAYADA Hospice's Physician Services Policy attached as Exhibit 11.

**(b) Hospice aide and homemaker services;**

BAYADA Hospice will provide its patients with the services of hospice aides for routine care on an intermittent basis when personal care is needed. Hospice aide services are provided under the supervision of a registered nurse by aides who meet the training requirements and who have successfully completed a competency evaluation program. Please see BAYADA Hospice's Home Health Aide Services job description attached as Exhibit 12.

BAYADA Hospice will provide its patients with homemaker services for routine care on an intermittent basis when the patient is in need of help around the house that does not include direct client ("hands-on") care. Homemaker services are provided by qualified individuals under the supervision of a member of the IDG in accordance with written instructions. Please see BAYADA Hospice's Homemaker/Chore Services job description attached as Exhibit 12.

**(c) Spiritual services;**

BAYADA Hospice will provide spiritual care counseling that is in keeping with the patient's and caregiver's belief system and practice in accordance with the patient's plan of care. Please see BAYADA Hospice's Spiritual Care Counselor job description attached as Exhibit 13.

**(d) On-call nursing response;**

To ensure that patients have access to hospice services 24 hours a day, 7 days a week, BAYADA Hospice will make evening and weekend services available. Clinical personnel are expected to perform visits on an as-needed basis, including weekends. The on-call staff will be available after office hours, Monday- Friday, and 24 hours a day on weekends. Please see BAYADA Hospice's On Call Availability and Access to Services Policy attached as Exhibit 14.

**(e) Short-term inpatient care (including both respite care and procedures necessary for pain control and acute and chronic symptom management);**

BAYADA Hospice will have written agreements with other service providers for inpatient hospice care needs. Please see response to COMAR 10.24.13.05L, *Linkages with other service providers*, for further discussion on the applicants plan to assure the availability of inpatient care.



BAYADA Hospice will provide inpatient respite care to hospice patients at times when the patient and/or family has need for a short period of relief. The hospice will offer respite care through contractual relationships. Provision of care will be in accordance with the patient's plan of care established by the IDG, with a copy of the plan of care provided to the contracted skilled facility. BAYADA Hospice will coordinate the patients' transfer into and out of the respite care facility. Please see BAYADA Hospice's Levels of Hospice Care Policy attached as Exhibit 15.

BAYADA Hospice will provide patients and family/caregivers with information regarding the safe and effective use of medications and will provide education on pain management as an integral part of hospice care. This education includes information about the correct administration of medications and the safe storage and disposal of medications. Please see BAYADA Hospice's Pain Assessment and Management Policy attached as Exhibit 16.

**(f) Personal care;**

BAYADA Hospice will use hospice aides and registered or licensed nurses to assist patients and caregivers/families in personal care.

**(g) Volunteer services;**

BAYADA Hospice will provide volunteer services directly to patients. Please see response to COMAR 10.24.13.05E, *Volunteers*, for further description of provision of volunteer services.

**(h) Bereavement services;**

BAYADA Hospice has an organized program of bereavement services available to the hospice client's family members, caregivers, significant others, and to the community at large. BAYADA Hospice will offer bereavement services to families and caregivers of hospice patients both before a patient's death and for up to one year after the patient's death. If, after a year, grieving is still perceived as acute, the Bereavement Coordinator will determine what additional professional services may be necessary and will facilitate appropriate referrals. Bereavement services will be coordinated with the individual's clergy and /or other community resources determined be useful to the family/ caregiver. Please see BAYADA Hospice's Bereavement Care Planning and Services Policy attached as Exhibit 17.

**(i) Pharmacy services;**

BAYADA Hospice has contracted with Enclara Pharmacia, a comprehensive hospice pharmacy services program, that provides the following benefits: flexibility of mail order or local pharmacy delivery; 24/7 pharmacist consults and access for medication as needed by hospice patients; formulary management tools; full compliance documentation; support for palliative care/advanced illness management; and compounded medication when indicated.

**(j) Laboratory, radiology, and chemotherapy services as needed for palliative care;**

BAYADA Hospice will contract with existing providers for laboratory, radiology and chemotherapy services.

**(k) Medical supplies and equipment; and**

BAYADA Hospice will make medical supplies and durable medical equipment available through vendor contracts with McKesson medical supplies and Hospicelink, respectively. The hospice program will maintain an adequate inventory of necessary supplies for the care of terminally ill patients.

BAYADA Hospice has a contract in place with Hospicelink, a cost effective, cloud-based DME management system. Hospicelink will provide access to local vendors of DME to ensure timely delivery of durable medical equipment directly to the patient's residence. Please see BAYADA Hospice's Durable Medical Equipment and Supplies – Hospice Services Policy attached as Exhibit 18.

**(l) Special therapies, such as physical therapy, occupational therapy, speech therapy, and dietary services.**

BAYADA Hospice will contract for these services, except that BAYADA Hospice will provide dietary services directly.

In summary, BAYADA Hospice has documented that it will provide the Minimum Services listed in subparagraphs (a) through (I) and is consistent with this standard.

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

BAYADA Hospice will provide bereavement services for at least one year following the death of the patient, which is in compliance with this standard.

**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.**

BAYADA Hospice seeks to become a licensed general hospice care program delivering home-based hospice services to residents in Baltimore City. BAYADA Hospice will provide services: (1) in private homes, (2) in residential facilities, such as assisted living facilities and retirement homes, and (3) in inpatient facilities, such as skilled nursing facilities and hospitals.



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

BAYADA Hospice meaningfully incorporates the skills and efforts of volunteers in effectively operating its hospice care program. BAYADA Hospice's existing programs currently work with over 220 volunteers pursuant to its volunteer policy attached as Exhibit 19 (the "Volunteer Policy").

*Volunteer Selection and Supervision*

The Volunteer Policy details BAYADA Hospice's rigorous process for identifying volunteer needs and roles related to its hospice programs. It also explains how BAYADA Hospice determines the qualifications of prospective volunteers' qualifications, checks prospective volunteers' references, interviews and gives exams to prospective volunteers, generally ensures that BAYADA Hospice volunteers support BAYADA Hospice's mission to provide high quality care to its patients.

The Volunteer Policy also identifies BAYADA Hospice's initial orientation and ongoing training for volunteers. Volunteers are inculcated into the BAYADA WAY and given training in key hospice concepts, such as communication with patients, boundaries between volunteers and patients, when to involve hospice clinicians, grievance protocols, etc.

BAYADA Hospice's hospice programs also employ volunteer coordinators to carry out BAYADA Hospice's selection, training, and supervision of volunteers, and track BAYADA Hospice's compliance with regulations governing the use of volunteers, as promulgated in the Medicare conditions of participation and elsewhere.

*Volunteer Roles*

BAYADA Hospice volunteers are involved in all aspects of delivering high quality hospice care, filling both administrative and direct patient care roles. For example, BAYADA Hospice volunteers:

- Support patients, families, and caregivers when death is imminent;
- Perform bereavement tasks in coordination with BAYADA Hospice's personnel assigned to bereavement;
- Provide complimentary therapies such as reiki, pet therapy, art therapy, and music therapy
- Assist BAYADA Hospice's administrative team in the operating of the hospice care program as a whole.

BAYADA Hospice is committed to making volunteers a meaningful element of its hospice

programs. As stated in the Volunteer Policy, BAYADA Hospice aims to maintain a volunteer staff sufficient to provide administrative or direct client care in an amount that, at a minimum, equals 5% of the total client care hours of all paid hospice employees and contract staff.

## **F. Caregivers**

As documented in the enclosed Client and Caregiver Education Policy<sup>22</sup>, BAYADA Hospice provides extensive instruction and support for caregivers. BAYADA Hospice's education program:

- assesses caregiver needs, abilities, and knowledge;
- instructs caregivers through licensed clinicians, generates teaching materials and learning resources through BAYADA Hospice's robust education department; and
- provides support groups through which caregivers engage in peer learning.

BAYADA Hospice's education program addresses a comprehensive set of topics relevant to caregivers. This set of topics is detailed in the enclosed policy, and includes, for example:

- basic home safety;
- pain management and/or symptom management needs;
- how to respond to medical emergencies; and
- counseling on nutrition and diet, as well as drug/food interaction, etc.

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<sup>22</sup> Attached as Exhibit 20.



## **G. Impact**

BAYADA Hospice would not adversely impact other hospice care programs in Baltimore City for the simple reason that, in the context of anticipated increased hospice utilization in Baltimore City, hospice care programs can expect their volumes to increase even as BAYADA Hospice enters the market.

### Current Utilization Growth Trend

Current hospice utilization trends demonstrate that Baltimore City can accommodate a new hospice program with minimal impact on other providers. The need for hospice care in Baltimore City is growing at a compound annual growth rate of 1% per year even in the absence of a new hospice provider.<sup>23</sup> Even assuming that BAYADA Hospice's entry into the market does not cause any additional growth in hospice utilization, the impact on Baltimore City's incumbent hospice providers would be minimal, ranging anywhere from 4-17 fewer deaths per hospice (BAYADA Hospice is projected to service 128 deaths in 2019).<sup>24</sup>

### Effect of BAYADA Hospice on Utilization.

As shown in Exhibit 22, if BAYADA Hospice can realize a modest gain in hospice utilization – and it will – BAYADA Hospice projects that its entry into the Baltimore City market will not decrease volume for incumbent hospices vis-à-vis the base year of the Commission's volume projections (2014).<sup>25</sup>

BAYADA Hospice expects to improve utilization in Baltimore City, building on BAYADA Hospice's experience in Vermont, where BAYADA similarly addressed abnormally low hospice utilization. Additionally, as described elsewhere in this Application, BAYADA Hospice's commitment to education and outreach – such as by hiring a dedicated community liaison – will connect more eligible patients with hospice care, and will raise awareness of the benefits of hospice in the relevant community.

Therefore, BAYADA Hospice has conservatively estimated that its entry into the Baltimore City market will cause hospice utilization to increase from 26.10% to 28.31% of deaths – an 8.46% increase.<sup>26</sup>

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<sup>23</sup> See Exhibit 21 – MHCC Hospice Need Projections.

<sup>24</sup> See Exhibit 22 – Impact Table.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

**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.

BAYADA Hospice agrees to become licensed and Medicare-certified, and agrees to accept patients whose expected primary source of payment is Medicare or Medicaid.

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

### **(1) General Information**

BAYADA Hospice will provide information about its services, service area, reimbursement policy, office location, and telephone number to (a) each hospital, nursing home, home health agency, local health department, and assisted living provider in Baltimore City, (b) at least 5 physicians who practice in Baltimore City, (c) the Senior Information and Assistance Offices located in Baltimore City, and (d) the general public in Baltimore City.

BAYADA Hospice will disseminate this information by publishing the information on its website and sending letters to hospitals, agencies, and providers in Baltimore City. BAYADA Hospice will also engage in the outreach activities described in this Application's response to the Public Education and Outreach standard of the State Health Plan, including (i) employing a community liaison to transmit the information, and (ii) engaging in collaboration and outreach to referral sources through BAYADA Hospice's medical director.

### **(2) Fees**

BAYADA Hospice will disclose its fees to prospective patients and their families before services are begun. Those fees will be based on the then current Medicare published reimbursement rates.



## **J. Charity Care and Sliding Fee Scale**

BAYADA Hospice is adopting 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. BAYADA Hospice is modifying its existing policies to meet the requirements of the State Health Plan and Maryland regulations – a copy of the current written policy is attached as Exhibit 23.

### **(1) Determination of Eligibility for Charity Care**

Please see the BAYADA Hospice Charity Care Policy attached as Exhibit 23.

### **(2) Notice of Charity Care Policy**

Please see the BAYADA Hospice Charity Care Policy attached as Exhibit 23.

### **(3) Discounted Care Based on a Sliding Fee Scale and Time Payment Plan**

Please see the BAYADA Hospice Charity Care Policy attached as Exhibit 23.

### **(4) Policy Provisions**

BAYADA Hospice is committed to providing hospice services on a charitable basis to qualified indigent persons consistent with its written policy. As illustrated in Table 4 of this Application, BAYADA Hospice has committed 1% of its revenue to charity care.

BAYADA Hospice has an established track record of providing charity care services. Based on our most recent data, the payer mix for BAYADA Hospice services in other states is approximately 82% Medicare, 10% Medicaid, and 8% commercial/private pay (including charity care). Between 2011 and 2016, BAYADA Hospice provided \$167,443 in charity care services across its multi-state service area.

In addition to providing charity care, BAYADA Hospice also operates a non-profit Foundation known as The BAYADA Foundation. Founded in 2010, the BAYADA Foundation makes donations and grants to help hospice patients and their families pay for funeral and burial services, memorial services, bereavement activities, wish fulfillment activities, and caregiver transitions. A copy of the BAYADA Foundation handbook is attached as Exhibit 24.

## 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.**

This standard is not applicable.

**(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.**

BAYADA Hospice's existing programs have been surveyed and accredited by Community Health Accreditation Program (CHAP), with BAYADA Hospice completing its most recent corporate re-accreditation in 2014.<sup>27</sup> Moreover, since 2009, BAYADA has also held corporate accreditation from the Commission on Accreditation of Rehabilitation Facilities (CARF) in the area of habilitation.<sup>28</sup>

BAYADA's excellence is demonstrated in its three renewal surveys since 2015 – BAYADA experienced a 100% non-citation recertification rate on all three reviews.<sup>29</sup> The following BAYADA Hospices offices have received full deemed status for all Hospice providers:

Chart 3: BAYADA Hospice's Existing Hospice Programs

Organization	City	State	Accreditation Dates	Service
BAYADA Home Health Inc. dba BAYADA Hospice	Essex Junction	VT	10/10/2014 - 10/10/2017	Core Hospice
BAYADA Home Health Care, Inc. dba BAYADA Hospice	Norwich	VT	10/10/2014 - 10/10/2017	Core Hospice
BAYADA Home Health Care, Inc. dba BAYADA Hospice	Rutland	VT	10/10/2014 - 10/10/2017	Core Hospice
Tri-County Home and Hospice Care, LLC dba BAYADA Hospice at Inspira	Woodbury	NJ	10/10/2014 - 10/10/2017	Core Hospice
BAYADA Home Health Care,	Media	PA	10/10/2014 -	Core

<sup>27</sup> BAYADA's licensure and certification letters are enclosed as Exhibit 25.

<sup>28</sup> *Id.*

<sup>29</sup> In addition, BAYADA Hospice has had three renewal surveys since the 2015 and have experienced a 100% non-citation recertification rate on all three reviews. BAYADA's home health program in Maryland similarly received a non-citation renewal in September 2014 following a survey.



Inc. dba BAYADA Hospice			10/10/2017	Hospice
BAYADA Home Health Care, Inc dba BAYADA Hospice	Brattleboro	VT	10/10/2014 - 10/10/2017	Core Hospice
BAYADA Home Health Care, Inc. dba BAYADA Hospice	Jersey City	NJ	10/10/2014 - 10/10/2017	Core Hospice
BAYADA Home Health Care, Inc.	Boyertown	PA	10/10/2014 - 10/10/2017	Core Hospice

**(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.**

This standard is not applicable.

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

BAYADA Hospice maintains a robust Quality Assessment and Improvement Program consists of a variety of components, including client care, employee competency, and measures to comply with state licensure requirements as well as Medicare Conditions of Participation. Client satisfaction, employee satisfaction, infection control, incidents, sentinel events, and complaints are all included in our quality focus.

BAYADA also adopted extensive quality assurance policies to ensure that its hospice programs are in full compliance with all federal and applicable state standards, including:

- Quality Assurance and Performance Improvement Plan. BAYADA Hospice has developed an extensive program of quality and performance improvement activities that are designed to maintain and improve the quality of care and management while meeting licensing and regulatory requirements, e.g. state hospice licensure regulations, OSHA regulations and Medicare Conditions of Participation. This policy complies with COMAR 10.07.21.09.<sup>30</sup>
- Care and Coordination - An interdisciplinary care plan for coordination of the full spectrum of hospice care services for each patient, including a description of the Interdisciplinary Group (IDG) used to assess, plan, coordinate, and evaluate the care and services provided to hospice clients and caregivers.<sup>31</sup>
- Documentation: Documentation policy for tracking patient care and care coordination.<sup>32</sup>

<sup>30</sup> See Exhibit 26 – Quality Assurance and Performance Improvement Plan.

<sup>31</sup> The IDG policy is labeled Policy 0-4538 and attached as Exhibit 27.

<sup>32</sup> These charting policies are labeled Policy 0-5450 and Policy 0-4816 and are attached as Exhibits 28 and 29.



- Management: A management policy for coordinating hospice activities between BAYADA's local hospice programs and BAYADA's headquarters or parent offices.<sup>33</sup>
- Reporting: A policy for compliance with the federal Hospice Quality Reporting Program (HQRP).<sup>34</sup>

**(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**

BAYADA Hospice will ensure that its hospice programs are in full compliance with all federal and applicable state standards as follows.

*First*, each BAYADA office has an interdisciplinary quality team focused on quality indicator audits and planning, as described in the care and care coordination policy described above.

*Second*, BAYADA Hospice's centralized Clinical Standards & Quality unit (CSQ) performs quarterly internal audits for each local program. CSQ performs unannounced, comprehensive surveys that include medical record review and supervised home visits.

*Third*, BAYADA has incorporated its quality improvement and quality assurance programs into a highly scalable, best-in-class company-wide management and operating platform. This platform streamlines administrative activities and enables BAYADA management to instill and monitor program quality.

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<sup>33</sup> This management policy is labeled Policy 0-5625 and is attached as Exhibit 30.

<sup>34</sup> The HQRP policy is labeled Policy 0-7035 and is attached as Exhibit 31.

Chart 4: BAYADA's Management and Operating Platform

Management and Operating Platform			
Quality & Compliance	Finance & Contracting	Marketing & Communications	Information Technology
<ul style="list-style-type: none"> <li>❖ 100% clinical assessment review</li> <li>❖ Quarterly on-site QA audit</li> <li>❖ Robust training platform</li> <li>❖ Clinical program development</li> <li>❖ Regulatory affairs</li> </ul>	<ul style="list-style-type: none"> <li>❖ Centralized billing, AR, payroll, benefits</li> <li>❖ Financial reporting: weekly branch-level income statements</li> <li>❖ Enterprise-wide contract negotiation</li> <li>❖ Denial/appeal follow up</li> </ul>	<ul style="list-style-type: none"> <li>❖ Public relations and media</li> <li>❖ Collateral development</li> <li>❖ Professional relationship management</li> </ul>	<ul style="list-style-type: none"> <li>❖ Integrated IT platform support</li> <li>❖ 24/7 help desk</li> <li>❖ Best-in-class clinical/CRM application development</li> <li>❖ Industry leading business intelligence platform</li> </ul>

*Finally*, BAYADA conducts a Hospice Operations and Support Review (HOS Review) on a quarterly basis for each local program. This is an unannounced quality assurance survey focused on the non-clinical aspects of care that span our policies and procedures, CHAP standards, state and federal regulations and operational best practices.

BAYADA Hospice will comply with all applicable federal and state hospice standards.

## **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.**

BAYADA will provide inpatient hospice care to patients through contracts with inpatient providers that ensure continuity of patient care.

### *BAYADA's Existing Relationships*

As a national home health organization, BAYADA has extensive experience collaborating with inpatient facilities to provide coordinated, high quality care to patients. BAYADA has established key regional and national partnerships with Skilled Nursing Facilities (SNF) and Assisted Living (AL) communities across the United States.

Chart 5: BAYADA's Key SNF and AL Relationships

National/ Regional SNF Relationships	Genesis HealthCare Golden Living Centers HCR Manor Care Universal Health Care Nationwide Health Care
National/ Regional Assisted Living Relationships	Brightview Sunrise Watermark Pennrose Communities

In particular, Genesis HealthCare has designated BAYADA as a preferred provider for care in the home through a nationally recognized relationship. Likewise, BAYADA has designated Genesis as a preferred quality partner. Through a shared commitment to quality, BAYADA and Genesis have worked together to develop collaborative post-acute care services throughout the country that promote positive outcomes for the patients they serve, including decreased acute care hospitalization.

These partnerships are based on quality and incorporate the tenets of accountability and collaboration across the health care continuum. With a goal of preventing avoidable hospitalization and promoting quality of life, we work closely with our partners to ensure the patient receives the right care, in the right setting, at the right time. In that regard, BAYADA employs community liaisons on-staff to coordinate care between BAYADA and other health care providers, as well as with the general community.<sup>35</sup>

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<sup>35</sup> A job description for BAYADA's community liaisons is enclosed as Exhibit 32.



*Coordinating Inpatient Care for Baltimore City Patients*

BAYADA anticipates leveraging its relationship with Genesis Healthcare to execute agreements for both general inpatient and respite care at the following Genesis locations:

1. Hammond Lane Center – 613 Hammond Lane, Brooklyn Park, MD 21225.
2. Homewood Center – 6000 Bellona Ave, Baltimore, MD 21212
3. Caton Manor – 3330 Wilkens Ave, Baltimore, MD 21229
4. Catonsville Commons – 16 Fusting Ave, Catonsville, MD, 21228

*BAYADA Standards for High Quality Inpatient Care*

BAYADA Hospice's agreements with inpatient providers, such as Genesis, include a number of provisions aimed at a high quality of inpatient care. These agreements will:

- (i) mandate that employees of the inpatient care provider receive training in hospice philosophy, care and post-mortem care;
- (ii) nursing care to hospice patients on a twenty-four hour basis; and
- (iii) set standards for the physical environment, including but not limited to private care settings, visitation without restrictions on the ages of visitors or the hours of visiting, privacy for family after a patient's death, and a home-like environment that supports patient dignity.

Moreover, BAYADA Hospice will retain responsibility for evaluating services, maintaining professional management responsibility, and ensuring continuity of care in all settings through its performance improvement program and corporate compliance program. A patient case manager will provide the inpatient staff with the patient's plan of care, which will address the inpatient services provided. The inpatient clinical record will include documentation of all services provided. Finally, BAYADA Hospice will maintain responsibility for the coordination of the patients transfer in and out of the inpatient setting.

**(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.**

BAYADA Hospice agrees 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

Baltimore City.<sup>36</sup>

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<sup>36</sup> Please note that BAYADA Hospice has an excellent track record developing relationships with other health care providers in new areas. BAYADA Hospice anticipates leveraging the existing relationships that BAYADA Home Health Care with John Hopkins, Greater Baltimore Medical Center, and the University of Maryland Medical Center as well as private payer groups Carefirst and Kaiser.

## **M. Respite Care**

Pursuant to the enclosed Respite Care Policy<sup>37</sup>, BAYADA Hospice will offer respite care to hospice patients at times when the patient and /or family need a short period of relief. BAYADA Hospice will do so by contracting with one or more of the Medicare and/or Medicaid-certified inpatients facilities in Baltimore City.<sup>38</sup> Respite care will be offered on an as needed basis up to five days per respite admission, and in accordance with the patient's plan of care as established by the hospice's interdisciplinary group. BAYADA Hospice will be responsible for the coordination the patients transfer into and out of the respite care facility.

BAYADA Hospice has a well-established respite care process. BAYADA Hospice staff routinely assess respite needs for patients and caregivers, and do so throughout the course of the patient's care. BAYADA Hospice provided 0.41% of total care hours as respite level of care in 2015 which is slightly higher than the national hospice average of 0.40%.

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<sup>37</sup> See Exhibit 33 – Respite Care Policy.

<sup>38</sup> BAYADA Hospice's relationship to other inpatient providers – such as Genesis – is described in this Application's response to the Linkages standard.



## **N. Public Education Programs**

### *Background*

BAYADA Hospice is a family owned, mission driven, community-based home health company. BAYADA Hospice views our company as a team of individual small family home health care providers who have *deep connections in their communities*. This model of care keeps operations manageable and focused on the exact needs of those communities we service.

### *Plan*

BAYADA Hospice's plan for education and outreach in Baltimore City has the following components.

*First*, BAYADA Hospice will hire a community liaison. BAYADA Hospice employs community liaisons on-staff to coordinate care between BAYADA Hospice and other health care providers, as well as with the general community.<sup>39</sup> The community liaison will make presentations to providers, patients, caregivers, religious leaders, and community leaders to increase awareness and consciousness of the needs of dying individuals and their caregivers. The community liaison will rely on an extensive area of presentation materials, pamphlets, etc. developed and compiled by BAYADA Hospice, per BAYADA Hospice's Community Outreach Library Policy.<sup>40</sup>

*Second*, BAYADA Hospice's local hospice director will connect with health care institutions and other stakeholders to increase awareness within the health care community the County regarding the need for hospice and BAYADA Hospice's availability to provide crucial end-of-life care.

*Third*, BAYADA Hospice's medical director will collaborate with physicians and other referrals sources to inform them about BAYADA Hospice's hospice program. Our primary initial focus will be working directly with physicians and their teams who care for patients with cancer, congestive heart failure, chronic obstructive pulmonary disease, or HIV/AIDS.

*Fourth*, BAYADA Hospice's social work staff will provide education programs for community and religious leaders to help community members understand the nature and importance of hospice care, as well as considerations for electing hospice and identifying need for hospice services in families and communities.

*Fifth*, BAYADA Hospice will continue to make cultural competence a core component of staff training. BAYADA Hospice has developed a comprehensive learning program for increasing staff awareness and sensitivity relating to barriers to care (such as local transportation issues) as

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<sup>39</sup> A job description for BAYADA Hospice's community liaisons is enclosed as Exhibit 32.

<sup>40</sup> This Community Outreach Library Policy is enclosed as Exhibit 34.

well as cultural difference (such as verbal and non-verbal communication/expression, social organization, and time orientation).<sup>41</sup>

*Sixth*, BAYADA Hospice will enact the *Caring Connections* model for outreach to the African-American community.<sup>42</sup> BAYADA Hospice will enact a similar model for outreach to the Latino community.<sup>43</sup> *Caring Connections* contains National Hospice and Palliative Care Organization (NHPCO) guidelines for culturally sensitive outreach to those underserved communities. BAYADA Hospice plans to use the methods detailed in these guidelines to reach and educate these communities. BAYADA Hospice already engages in outreach to these communities in its existing hospice service areas outside Maryland.

*Finally*, BAYADA Hospice will, upon CON approval, continue to develop educational materials and other outreach resources, and to tailor those resources to the specific needs and communities of Baltimore City.

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<sup>41</sup> A description of the cultural competency program is enclosed as Exhibit 35.

<sup>42</sup> The *Caring Connections* African American Outreach Guide is enclosed as Exhibit 36.

<sup>43</sup> The *Caring Connections* Latino Outreach Guide is enclosed as Exhibit 37.

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

BAYADA Hospice will comply with this standard. Please see BAYADA Hospice's Client Rights Supplement – Maryland and the Addendum to Client Rights Supplement, Exhibit 38 and Exhibit 39, respectively.



### 10.24.01.08G(3)(b). Need.

*For purposes of evaluating an application under this subsection, 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.*

Please discuss the need of the population served or to be served by the Project.

Responses should include a quantitative analysis that, at a minimum, describes the Project's expected service area, population size, characteristics, and projected growth. For applications proposing to address the need of special population groups identified in this criterion, please specifically identify those populations that are underserved and describe how this Project will address their needs.

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#### Applicant's Response

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The State Health Plan has indicated additional need for Baltimore City as published in the Maryland Register, Volume 43, Issue 11, Friday, May 27, 2016. The methodology used to determine such need is identified in COMAR 10.24.13.6. Currently the baseline use rate as published in the Maryland Register is .25 for 2014 with a targeted baseline use rate of .473 in 2019 that the current providers cannot meet, which is the basis for the projections presented below and more fully described in Table-2B, which is attached as Exhibit 1.

Chart 6: BAYADA Hospice Volume Projections

	Projected years – ending with first year at full utilization			
CY or FY (circle)	2018	2019	2020	2021
Admissions	39	167	238	278
Deaths	24	128	186	223
Non-death discharges	5	27	41	49
Patients served	39	177	250	290
Patient days	1,755	8,346	13,099	16,692
Average length of stay	45	50	55	60
Average daily hospice census	10	23	36	46

There are several factors supporting the need for increased access to hospice services within the county: (1) Increased hospice utilization, the basis of the State Health Plan's Need Methodology; (2) the demographic characteristics of the 65+ population within the jurisdiction which require targeted outreach and (3) the socioeconomic profile of the 65+ population within the jurisdiction which requires a financially stable provider that can support a large Medicaid population. BAYADA Hospice has a credible history of operating mission-driven, quality hospice operations in several other states and delivering services to all, regardless of ability to pay. (Please also see Section 13: Project Description). For this reason, BAYADA Hospice believes it is well-suited to meet the needs of this jurisdiction.

Despite the many positive benefits that hospice provides to patients and families, there is still a need to increase access and utilization nationwide and Maryland is no exception. Maryland is in the bottom third of states in terms of hospice utilization in the country. In 2014, they ranked at 36 out of 50 states in hospice utilization. Compared to other jurisdictions within Maryland, Baltimore City ranked 16/26<sup>44</sup>. Clearly, even with the incumbent hospice providers within the jurisdiction, there is not enough being done to further penetrate and meet the needs of the community.

Baltimore City is characterized by a growing 65+ population and strong minority community. Data from the U.S. Census Bureau shows that between 2010 and 2015, the 65+ population in Baltimore City grew by approximately 7%.<sup>45</sup> Additionally, Census Bureau data showed that in 2015 the African American population in Baltimore City was 62.9%, nearly double that of Maryland's 30.5%<sup>46</sup>. In fact, 56% of hospice patients served nationally in 2014 were African American, compared to 50% within Maryland and 44% in Baltimore City. From this data, it is evident that any hospice provider wishing to service residents within this jurisdiction must possess the ability to service this population and their unique needs. BAYADA Hospice is well-positioned to do this based on the experience, connections and resources we possess.

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<sup>44</sup> See Exhibit 40 – Hospice Penetration by County.

<sup>45</sup> United States Census Bureau, "QuickFacts." Available at: <http://www.census.gov/quickfacts/table/PST045215/00>.

<sup>46</sup> See Dartmouth Atlas of Health Care. "Care of Chronically Ill Patients during the Last Two Years of Life" Available at: <http://www.dartmouthatlas.org/tools/downloads.aspx?tab=40>.



Chart 7: Baltimore City Demographics

Baltimore City - Population Elements <sup>47</sup>			
	2015	2010	Change
General Population	621849	621143	.11%
>65	12.5%	11.7%	6.95%
White, Alone	31.7%	29.6%	7.2%
<b>Black or African American alone</b>	62.9%	63.7%	-1.14%
America/Alaska Native alone	.4%	.4%	.11%
Asian alone	2.8%	2.3%	21.8%
Native Hawaiian/Other Pacific Islander	.1%	.1%	0%
Two or More Races	2.1%	2.1%	.11%
Hispanic or Latino	4.8%	4.2%	14.4%

Baltimore City has the largest Medicaid beneficiary population in Maryland. Relative to fiscal year 2017 Medicare reimbursement rates for hospice services (FY2017), Medicaid hospice reimbursement is about 2.5% less in Baltimore City.

Clearly, any provider wishing to service the needs of the Baltimore City end-of-life population must be able to absorb lower reimbursement rates. BAYADA Hospice provides services to individuals regardless of their ability to pay. Based on our most recent data, the payer mix for BAYADA Hospice services is approximately 82% Medicare, 10% Medicaid, and 8% commercial/private pay (including charity care).

To summarize, the basis for hospice need has been determined by the State Health Plan. BAYADA Hospice has experience providing hospice services in three states and is currently a home health provider within the State of Maryland. Racial minorities constitute 22% of our home health patients in Maryland. The projections on Table 2B are drawn from our experience as a new provider in many markets. In order to arrive at our average daily census projections for 2Q18 (first use)-2021 (full utilization), we analyzed blended historical weekly admission trends in several markets that have shared characteristics with Baltimore City, Maryland. The first market was the Philadelphia Metro area, which is demographically similar to Baltimore City. The second market was the Upper Valley of Vermont. In Vermont, BAYADA Hospice was a new hospice provider and faced similar challenges: extremely low utilization and long standing incumbent providers. Although much more rural than Baltimore City, the education and outreach effort required to increase utilization was intense and extensive, but led to great success as BAYADA Hospice was able to increase utilization in the state by 33% over four years.

<sup>47</sup> United States Census Bureau, "QuickFacts." Available at: <http://www.census.gov/quickfacts/table/PST045215/00>.



**10.24.01.08G(3)(c). Availability of More Cost-Effective Alternatives.**

*For purposes of evaluating an application under this subsection, the Commission shall compare the cost-effectiveness of providing the proposed service through the proposed project with the cost-effectiveness of providing the service at alternative existing facilities, or alternative facilities which have submitted a competitive application as part of a comparative review.*

Please explain the characteristics of the Project which demonstrate why it is a less costly or a more effective alternative for meeting the needs identified.

For applications proposing to demonstrate superior patient care effectiveness, please describe the characteristics of the Project that will assure the quality of care to be provided. These may include, but are not limited to: meeting accreditation standards, personnel qualifications of caregivers, special relationships with public agencies for patient care services affected by the Project, the development of community-based services or other characteristics the Commission should take into account.

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**Applicant's Response**

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BAYADA Hospice will help Baltimore City realize the higher quality of care and lower cost of care that characterizes well-performing hospices, in accordance with its "daily mission of helping people to live with comfort, independence, and dignity in their homes by providing them with compassionate, excellent and reliable care."<sup>48</sup>

BAYADA Hospice has the necessary experience. It has initiated and operated home-based health care for over forty years, and today is the largest private home-based healthcare organization in the country, with hospice operations in Vermont, New Hampshire, Pennsylvania, and New Jersey. BAYADA Hospice also operates as well as home health and related programs throughout the United States, including within a number of Maryland jurisdictions.<sup>49</sup>

BAYADA Hospice's size and experience would bring efficiencies to its proposed hospice program in Baltimore City. BAYADA Hospice has a highly scalable, best-in-class company-wide management and operating platform.<sup>50</sup> This platform streamlines administrative activities, enabling BAYADA Hospice to spend more time focusing on patients and their families. Moreover, its company-wide electronic records and claims systems (as well as its relationships

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<sup>48</sup> See Exhibit 5 – The BAYADA Mission.

<sup>49</sup> See Chart 3 at p. 32 of this Application.

<sup>50</sup> See Chart 4 at p. 34 of this Application.

with the two major payers in hospice – Medicare and Medicaid) allow it to interface with other providers (such as skilled nursing facilities) to facilitate hospice admissions and improve care coordination.

BAYADA has also received recognition for the quality of care it provides. BAYADA's hospice programs have been surveyed and accredited by Community Health Accreditation Program (CHAP), with completing its most recent corporate re-accreditation in 2014. Moreover, since 2009, BAYADA has also held corporate accreditation from the Commission on Accreditation of Rehabilitation Facilities (CARF) in the area of habilitation. BAYADA's Division Director for Policy and Accreditation Support, has been a member of the CHAP Board of Directors since 2010. BAYADA's excellence is demonstrated in its three renewal surveys since 2015 – BAYADA experienced a 100% non-citation recertification rate on all three reviews.<sup>51</sup>

As presented in the section on Impact on Existing Providers, BAYADA's proposed general hospice care program in Baltimore City would decrease the cost of the health care delivery system and improve access to quality care in the County. There are no other cost effective alternatives.

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<sup>51</sup> See Exhibit 41 – Quality of Care.



### **10.24.01.08G(3)(d). Viability of the Proposal.**

*For purposes of evaluating an application under this subsection, the Commission shall consider the availability of financial and non-financial resources, including community support, necessary to implement the project within the time frame set forth in the Commission's performance requirements, as well as the availability of resources necessary to sustain the project.*

Please include in your response:

a. Audited Financial Statements for the past two years. In the absence of audited financial statements, provide documentation of the adequacy of financial resources to fund this project signed by a Certified Public Accountant who is not directly employed by the applicant. The availability of each source of funds listed in Part II, B. Sources of Funds for Project, must be documented.

b. Existing facilities shall provide an analysis of the probable impact of the Project on the costs and charges for services at your facility.

c. A discussion of the probable impact of the Project on the cost and charges for similar services at other facilities in the area.

d. All applicants shall provide a detailed list of proposed patient charges for affected services.

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### **Applicant's Response**

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BAYADA Hospice's proposed licensed general hospice care program in Baltimore City will be viable and sustainable. BAYADA Hospice is the largest home health and hospice provider in the country, and is working to establish community support.<sup>52</sup> BAYADA Hospice also has substantial financial resources and a history of adequate financial performance.<sup>53</sup> Even if BAYADA did not possess these substantial resources and reserves, BAYADA Hospice's proposed program would achieve break-even by its second year through operating revenue generated by a sustained, reasonable pace of volume growth, as reflected in Table 2B of this Application.<sup>54</sup> The rationale for BAYADA Hospice's volume projections is below.

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<sup>52</sup> Please see the letters of support enclosed as Exhibit 42.

<sup>53</sup> Documentation of BAYADA Hospice's financial viability is enclosed as Exhibit 43.

<sup>54</sup> In the context of the certificate of need approval process, BAYADA Hospice anticipates a final decision on this Application by the end of 2017, such that first use should begin by approximately the second quarter of 2018.



### *Volume Projections - In General*

BAYADA Hospice's volume projections rest on its experience in the Philadelphia Metro market which is similar to Baltimore City and in which BAYADA Hospice has already established hospice care programs.

### *Volume Projections - 2018*

Per BAYADA Hospice's experience in other markets, average weekly admissions within the first year of a start-up tend to be about 1 per week. BAYADA Hospice increased its projections to 1.5/week since it has an established home health office in Baltimore City with significant relationships with existing referral sources. Given that BAYADA Hospice anticipates operating for only two quarters in 2018, it estimates about 1.5 admissions a week using an average length of stay of 45 days per patient. This translates to an average daily census of 10 in 2018 and 39 total admissions in 2018.

### *Volume Projections - 2019*

For 2019, BAYADA Hospice estimated the growth in admissions relative to its historical performance in similar markets. This generated 3.21 weekly admissions for the year, totaling 167 admissions in 2019.

This estimate is also reasonable in the context of BAYADA Hospice's intent to increase access to hospice in Baltimore City. If BAYADA Hospice can increase projected 2019 utilization from 26.1%<sup>55</sup> to 28.31%, then BAYADA Hospice could realize its estimated 2019 volume without slowing the growth rate of incumbent providers. But, as described in the Impact section of this Application, even on the improbable assumption that BAYADA Hospice's outreach and education efforts will not affect utilization rates whatsoever, BAYADA Hospice would still not cause incumbent providers to lose significant volume relative to their 2014 baselines.

Using total admissions of 167, an Average Length of Stay of 50 days, and a factor of 82% discharges due to death, we estimated that we would end up with 8,346 total hospice patient days, an average daily census of 23 and 128 deaths on hospice services in 2019.

Our projections in 2019 reflect that BAYADA Hospice's entry into the market will increase Baltimore City's 2019 hospice patient deaths to 1650 (use rate of 28.31%), instead of the 1522 (26.1% use rate) hospice deaths projected for Baltimore City in 2019 without this entry into the market. BAYADA Hospice will account for the 128 hospice deaths in 2019.

### *Volume Projections - 2020*

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<sup>55</sup> This figure is derived from the Maryland Health Care Commission's 2016 hospice need projection, which implies a 2019 utilization rate in the City of 26.1%, based on a baseline utilization rate of 25% in 2014 and a 1% compound annual growth rate.

For 2020, BAYADA Hospice continued using its Pennsylvania experience to estimate volume. In 2020, we estimated that we would average about 4.58 admissions per week based on our experience in similar markets. Based on this projection and a gradual increase on average length of stay to 55 days, we ended up with a total of 13,099 hospice patient days, 238 admissions, 186 deaths and an average daily census of 36 for its third year of operation in Baltimore City.

#### *Volume Projections - 2021*

For 2021, BAYADA Hospice continued using its Pennsylvania experience to estimate volume. BAYADA Hospice estimates it would average about 5.35 admissions per week. In Pennsylvania, BAYADA Hospice achieved about 5 admissions per week in year 4 of operations. BAYADA Hospice expects a slightly higher admission rate in Baltimore City because of BAYADA Hospice's established relationships with existing referral sources (through BAYADA's home health program) as well as continued refinement of its education and outreach program. Based on this projection and an increased average length of stay of 60 days, we ended up with a total of 16,692 hospice patient days, 278 admissions, 223 deaths and an average daily census of 46 for its fourth year of operation.

#### *(a) Financial Statements*

BAYADA Hospice's experience in a similar market in Pennsylvania in the last two calendar years – presented as Exhibit 44 – confirm the ability of BAYADA Hospice to successfully operate a financially viable hospice. BAYADA Hospice will apply this experience and financial performance to the new hospice operation in Baltimore City.

Attached as Exhibit 43 is documentation of the adequacy of financial resources to fund this project signed by a Certified Public Accountant who is not directly employed by BAYADA.

#### *(b) Existing Facilities*

This standard is not applicable.

#### *(c) Impact on costs and charges for similar facilities*

As demonstrated in the response to the Impact section of this Application, in the context of anticipated increased hospice utilization in Baltimore City, hospice care programs can expect their volumes to increase even as BAYADA enters the market. In addition, BAYADA Hospice anticipates increasing hospice utilization in Baltimore City, as described above.

#### *(d) Patient Charges*

BAYADA Hospice's fee schedule is congruent with the Medicare Fee Schedule for hospice care services, which is enclosed as Exhibit 45.

**10.24.01.08G(3)(e). Compliance with Conditions of  
Previous Certificates of Need.**

*To meet this subsection, an applicant shall demonstrate compliance with all conditions applied to previous Certificates of Need granted to the applicant.*

List all prior Certificates of Need that have been issued to the project applicant by the Commission since 1995, and their status.

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**Applicant's Response**

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BAYADA Hospice has not received a prior Certificate of Need from the State of Maryland.



### **10.24.01.08G(3)(f). Impact on Existing Providers.**

*For evaluation under this subsection, an applicant shall provide information and analysis with respect to the impact of the proposed project on existing health care providers in the service area, including the impact on geographic and demographic access to services, on occupancy when there is a risk that this will increase costs to the health care delivery system, and on costs and charges of other providers.*

Indicate the positive impact on the health care system of the Project, and why the Project does not duplicate existing health care resources. Describe any special attributes of the project that will demonstrate why the project will have a positive impact on the existing health care system.

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#### **Applicant's Response**

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##### **Impact on the Health Care Delivery System**

BAYADA's proposed general hospice care program in Baltimore City would decrease the cost of the health care delivery system and improve access to quality care in the County.

##### *Cost*

First, hospice services decrease overall spending on end-of-life care, creating savings for the health care delivery system. According to 2012 data, "5 percent of the most seriously ill Americans accounted for more than 50 percent of health care spending, with most costs incurred in the last year of life as a result of hospital-based treatment."<sup>56</sup>

Hospice reduces these costs by coordinating care and reducing unnecessary hospital admissions and readmissions, aligning with the Triple Aim goals and the mandate under Maryland's Medicare Waiver to reduce Medicare's inpatient hospital expenditures in Maryland.<sup>57</sup> Evidence shows that "continuous hospice use reduces the use of hospital based-services – including emergency department visits and intensive care unit stays – and the likelihood of death in the hospital."<sup>58</sup> More generally, a 2007 Dartmouth Atlas study found that total average Medicare

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<sup>56</sup> Kelley, Amy S., et al. "Hospice enrollment saves money for Medicare and improves care quality across a number of different lengths-of-stay." *Health Affairs* 32.3 (2013): 552-561 at p. 552 (attached as Exhibit 4).

<sup>57</sup> The Medicare Waiver permits Maryland to continue to set Maryland hospital rates for all payers (including Medicare) from 2014 through at least 2018, but only so long as Maryland passes two tests of cost savings: the "All-Payer Test" and the "Medicare Expenditure Test." Under the All-Payer Test, the growth in regulated Maryland hospital revenues per Maryland resident may not exceed 3.58% per year. The 3.58% limit represents the compound annual growth rate of Maryland's per capita gross state product, measured over the previous ten years for which data is available (initially, between 2002-2012, but Maryland may request an update as gross state product data becomes available).

<sup>58</sup> Kelley, Amy S., et al. "Hospice enrollment saves money for Medicare and improves care quality across a number of different lengths-of-stay." *Health Affairs* 32.3 (2013): 552-561 at p. 552 (attached as Exhibit 4).



spending at end of life was \$3,212 in the hospice setting vs. \$26,511 in the inpatient setting and \$9,335 in the skilled nursing facility setting.<sup>59</sup> Similarly, the National Hospice and Palliative Care Organization estimates that hospice savings range from \$2,300 - \$10,800 per beneficiary when compared with traditional end-of-life care.<sup>60</sup>

### *Care Effectiveness*

Second, hospice services increase care effectiveness. Traditional settings typically provide care that is “highly fragmented and of poor quality, particularly among those who are dually eligible for Medicare and Medicaid” as these settings fail to help patients “in identifying individualized goals of care and developing comprehensive treatment plans to achieve these goals.”<sup>61</sup> Fragmented care in traditional settings lead to dissatisfying outcomes for patients; one study has found that although only 8.4% of patients prefer to spend their final days in a hospital rather than at home, 28.1% of deaths occur in a hospital setting.<sup>62</sup>

Baltimore City is no exception. Johns Hopkins Hospital’s June 2016 Community Health Needs Assessment (“CHNA”) noted that Baltimore City residents lack trust in existing health care organizations and have limited awareness of health care options.<sup>63</sup> “Overall, the cost of care, insurance, and **lack of community awareness** are barriers to receiving health care” for City residents.<sup>64</sup>

Hospice provides an effective, high quality approach to care. “Studies have consistently demonstrated that hospice is associated with reductions in symptom distress, improved outcomes for caregivers, and high patient and family satisfaction.”<sup>65</sup>

BAYADA Hospice would be well-positioned as a hospice to realize these improvements to the health care delivery system, especially by increasing access to hospice services in Baltimore City, both as a whole and with respect to underserved demographics in the jurisdiction.<sup>66</sup>

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<sup>59</sup> See Dartmouth Atlas of Health Care. “Care of Chronically Ill Patients during the Last Two Years of Life” Available at: <http://www.dartmouthatlas.org/tools/downloads.aspx?tab=40>.

<sup>60</sup> National Hospice and Palliative Care Organization, “Issue Brief,” October 2011, p. 20. Available at: [http://www.nhpco.org/sites/default/files/public/regulatory/Medicaid\\_Issue\\_Brief.pdf](http://www.nhpco.org/sites/default/files/public/regulatory/Medicaid_Issue_Brief.pdf)

<sup>61</sup> Kelley, Amy S., et al. “Hospice enrollment saves money for Medicare and improves care quality across a number of different lengths-of-stay.” *Health Affairs* 32.3 (2013): 552-561 at p. 552 (attached as Exhibit 4).

<sup>62</sup> Fisher et al. “Are Regional Variations in End-of-Life Care Intensity Explained by Patient Preferences?: A Study of the U.S. Medicare Population.” *Medical Care*. 45:5 (May 2007): 386-393. (attached as Exhibit 6).

<sup>63</sup> An excerpt of the CHNA is attached hereto as Exhibit 7.

<sup>64</sup> CHNA at p. 44 (emphasis added).

<sup>65</sup> Kelley, Amy S., et al. “Hospice enrollment saves money for Medicare and improves care quality across a number of different lengths-of-stay.” *Health Affairs* 32.3 (2013): 552-561 at p. 552 (attached as Exhibit 4).

<sup>66</sup> See BAYADA Hospice’s education and outreach plans for Baltimore City, as discussed in the response to the Public Education Standard in this Application.

## Impact on Existing Providers' Volume

### *Volume/Charges*

BAYADA would not adversely impact other hospice care programs in Baltimore City for the simple reason that, in the context of anticipated increased hospice utilization in Baltimore City, hospice care programs can expect their volumes to increase even as BAYADA enters the market. The need for hospice care in Baltimore City is growing at a compound annual growth rate of 1% per year even in the absence of a new hospice provider.<sup>67</sup> Even assuming that BAYADA's entry into the market does not cause any additional growth in hospice utilization – an extremely conservative assumption given BAYADA's commitment to education and outreach, and the success of its Vermont program in addressing abnormally low hospice utilization – Baltimore City's incumbent hospice providers will not lose a significant volume relative to their 2014 baselines.<sup>68</sup>

Since BAYADA's proposed program would not cause real volume declines for incumbent hospice providers in Baltimore City, the proposed program will not adversely affect the costs and charges of other health care providers in the jurisdiction.

### *Sources of Personnel – Recruitment and Retention*

BAYADA Hospice anticipates recruiting high quality staff to operate in Baltimore City; it will do so in a manner that minimizes the impact of such recruitment on incumbent providers.

*First*, BAYADA Hospice will recruit internally. BAYADA Hospice has existing, high quality patient care teams providing home health care in ten Maryland counties: Anne Arundel, Baltimore, Baltimore City, Carroll, Frederick, Harford, Howard, and Montgomery. As demonstrated in the enclosed 2015 recruitment statistics for BAYADA, approximately 20% of BAYADA staff were recruited from other BAYADA offices or hired out of school.

*Second*, in 2016, BAYADA Hospice introduced an internal retention/promotion program "Aspire" directed at supporting growth and promotional opportunities for BAYADA Hospice registered nurses while ensuring that supported clinicians remain on the front lines in providing patient care.<sup>69</sup>

*Third*, BAYADA Hospice plans to improve its connections with local community colleges and other schools in Maryland to help develop a pipeline for high quality, local health care staff in Baltimore City and the wider region.

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<sup>67</sup> See Exhibit 21 – MHCC Hospice Need Projections.

<sup>68</sup> See Exhibit 22 – Impact Table.

<sup>69</sup> A brief description of the "Aspire" program is enclosed as Exhibit 46.



**PART IV - APPLICANT HISTORY, STATEMENT OF RESPONSIBILITY, AUTHORIZATION AND SIGNATURE**

1. List the name and address of each owner or other person responsible for the proposed project and its implementation. If the applicant is not a natural person, provide the date the entity was formed, the business address of the entity, the identity and percentage of ownership of all persons having an ownership interest in the entity, and the identification of all entities owned or controlled by each such person.

***Joseph Mark Baiada, President/CEO***

2. Is the applicant, or any person listed above now involved, or ever been involved, in the ownership, development, or management of another health care facility? If yes, provide a listing of each facility, including facility name, address, and dates of involvement.

***See attached for complete list. Please note, BAYADA Home Health Care, Inc. is the majority owner of Tri-County Home and Hospice Care, LLC***

3. Has the Maryland license or certification of the applicant facility, or any of the facilities listed in response to Questions 1 and 2, above, ever been suspended or revoked, or been subject to any disciplinary action (such as a ban on admissions) in the last 5 years? If yes, provide a written explanation of the circumstances, including the date(s) of the actions and the disposition. If the applicant, owner or other person responsible for implementation of the Project was not involved with the facility at the time a suspension, revocation, or disciplinary action took place, indicate in the explanation.

***NO***

4. Is any facility with which the applicant is involved, or has any facility with which the applicant or other person or entity listed in Questions 1 & 2, above, ever been found out of compliance with Maryland or Federal legal requirements for the provision of, payment for, or quality of health care services (other than the licensure or certification actions described in the response to Question 3, above) which have led to an action to suspend, revoke or limit the licensure or certification at any facility. If yes, provide copies of the findings of non-compliance including, if applicable, reports of non-compliance, responses of the facility, and any final disposition reached by the applicable governmental authority.

***NO***

5. Has the applicant, or other person listed in response to Question 1, above, ever pled guilty to or been convicted of a criminal offense connected in any way with the ownership, development or management of the applicant facility or any health care facility listed in response to Question 1 & 2, above? If yes, provide a written explanation of the circumstances, including the date(s) of conviction(s) or guilty plea(s).

***NO***

One or more persons shall be officially authorized in writing by the applicant to sign for and act for the applicant for the project which is the subject of this application. Copies of this authorization shall be attached to the application. The undersigned is the owner(s), or authorized agent of the applicant for the proposed or existing facility.

I hereby declare and affirm under the penalties of perjury that the facts stated in this application and its attachments are true and correct to the best of my knowledge, information and belief.

  
Signature of Owner or Authorized Agent of the Applicant

Joseph Mark Baiada, President/CEO  
Print name and title

Date: 11/14/16