

From: **Barry Ray** <[bmr@vna.onmicrosoft.com](mailto:bmr@vna.onmicrosoft.com)>

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Subject: MHCC State Health Plan For Facilities and Services: Home Health Agency Services Proposed Permanent Regulations COMAR 10.24.16

To: "Cathy Weiss ([cathy.weiss@maryland.gov](mailto:cathy.weiss@maryland.gov))" <[cathy.weiss@maryland.gov](mailto:cathy.weiss@maryland.gov)>

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Dear Ms. Weiss:

The Visiting Nurse Association of Maryland, LLC. d/b/a VNA of Maryland has the following comments related to the above noted Proposed Permanent Regulations.

Under Section .06 **Certificate of Need Application Acceptance Rules –Subsection C... item (2)** The VNA Maryland wishes to voice our support for the 10 year ban on issuing a CON to any entity that has been convicted of Medicare or Medicare fraud or abuse. Furthermore, we would recommend that item **(9)** be expanded to include a) an adjudication of guilt, either by a jury or judge, b) the entry of an Alford pleas, c) receipt of probation before judgment, d) the payment of substantial fines or penalties in excess of \$ 10,000,000 with or without the admission of guilt, or e) a determination of exclusion from participation in Medicare and State health care programs under 42 US Code 1320a-7, in any such case with respect to any criminal or civil charges of Medicare or Medicare fraud or abuse.

Additionally, it is our recommendation that these very same provisions be applied to anyone seeking to purchase an existing CON from an entity currently doing business in the State of Maryland under the CON program.

The VNA strongly urges the commission to adopt these changes in an effort to maintain the integrity of the program. I personally have been privileged to be able to operate as a Medicare Certified Home Health Agency since December 2003. We are committed not only to providing quality care to our patients, but we aspire do so while adhering to the highest ethical standards that the citizens of the State of Maryland are entitled to expect.

Medicare/Medicaid fraud is a very serious problem which affects all of us. When a Home health Agency defrauds the program, we all end up suffering, as resources that would otherwise be allocated to patient care are diverted to line the pockets of the dishonest. The result is a crippling strain on the entire program harming our patients and innocent agencies as well. Time and again when I lobby on behalf of our industry, Congressman and Senators alike point to the billions of dollars of fraud and abuse as the reason why funding for our services is consistently being reduced. Maryland has the moral authority and responsibility to set a higher standard, and we believe these provisions will help accomplish that goal.

We only ask that you make the provisions clearer, and close all loopholes for those who are guilty, regardless of the technicalities, and expand this to avert those same entities from purchasing an existing CON without meeting the same standards as applying for one.

Respectfully,

Barry M. Ray, CEO  
Visiting Nurse Association of Maryland, LLC d/b/a VNA of Maryland