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In Senior Care and Services*

June 22, 2018

Ruby Potter
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

RE: Comments on Modernization of the Maryland Certificate of Need Program,
Volume I: Interim Report

Dear Ms. Potter:

Thank you for the opportunity to comment on the above-referenced report. These comments focus solely on the certificate of need (“CON”) process as it relates to comprehensive care facilities. The Interim Report appears to adequately state the issues brought to the Modernization Workgroup. During Phase II, LifeSpan looks forward to having a more robust discussion on the issues raised, especially as it relates to the use of the 5-Star Rating system and the continued use of the current Memorandum of Understanding requirements.

The more immediate issue is the fact that, unlike other industries subject to CON and discussed within this report, the Maryland Health Care Commission (“MHCC”) is also simultaneously conducting a review of the State Health Plan for Comprehensive Care Facilities. Comments are due on the State Health Plan by July 9th. While we understand that the review of the State Health Plan is being conducted based on the five-year schedule, it is frustrating that there are parallel tracks examining virtually the same issues but with different stakeholders/participants. LifeSpan expressed this same concern in our January 9th letter to the MHCC on the dual tracks being undertaken.

For example, the Interim Report of the Modernization Workgroup contains a lengthy discussion on the issues with the State Health Plan (page 9/10) without referencing the work being done by the separate Nursing Home Workgroup. More importantly, both workgroups have had lengthy discussions on the use of the federal 5-Star Rating System as well as the continued use of a Memorandum of Understanding (“MOU”) with Medicaid. But, neither group has made recommendations on either instrument or acquiesced to either instrument.

However, despite these initial discussions and raised concerns within the Modernization Workgroup during the “issue identification portion of Phase I”, the draft revisions to the State Health Plan heavily emphasize the use of the 5-star rating system and the continued use of the MOU. It is unclear the role the Modernization Workgroup is to play if the MHCC is going to continue to move forward on revisions to the State Health Plan on issues still under consideration by the Modernization Workgroup. Consequently, LifeSpan would recommend that the revisions to the State Health Plan be suspended until the Modernization Workgroup completes its recommendations. This is especially important given the MHCC’s assertion in the Interim Report (page 18) that the first step for phase two of the Modernization Workgroup should be “to develop a set of guiding principles that articulates a broad theory of the values that MHCC believes regulation of health care facilities should embody and that MHCC can use in weighing the merits and potential negative consequences of changes proposed to address the identified problems with the current CON program.” These guiding principles should also form the basis for the State Health Plan.

Thank you again for the opportunity to submit these comments, and we welcome the opportunity to continue to work on these critical issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Heffner", followed by a horizontal line and a period.

Kevin D. Heffner, MAGS
President

cc: Danna Kauffman