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MEMORANDUM

TO: Commissioners

FROM: Kevin R. McDonald
Chief, Certificate of Need 

DATE: September 19, 2017

SUBJECT: Futurecare Homewood Properties, LLC.
Docket No. 17-24-2396

Enclosed is the staff report and recommendation for a Certificate of Need (“CON”) application filed by Futurecare Homewood Properties, LLC (“Futurecare Homewood”).

Futurecare Homewood is an existing 148-bed comprehensive care facility (“CCF”) located at 2700 North Charles Street, in Baltimore City. This project proposes to add 30 comprehensive care facility beds and renovate the existing comprehensive care facility, including renovation of the second floor.

The total project cost is estimated to be \$6,799,182, will be funded with a mortgage loan.

Staff recommends APPROVAL of the project based on its conclusion that the proposed project complies with the applicable standards in COMAR 10.24.08, the State Health Plan for Facilities and Services: Nursing Home Services, and the other applicable CON review criteria at COMAR 10.24.01.08.

IN THE MATTER OF

**FUTURECARE - HOMEWOOD
PROPERTIES, LLC**

DOCKET NO. 17-24-2396

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BEFORE THE

MARYLAND HEALTH

CARE COMMISSION

Staff Report and Recommendation

September 19, 2017

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I. INTRODUCTION

A. The Applicant

FutureCare - Homewood Properties, LLC and Charles Street Health Care, LLC do business as FutureCare Homewood, an existing 148-bed comprehensive care facility (“CCF”) located at 2700 North Charles Street, in Baltimore City.

Formed in October 1995, Charles Street Health Care, LLC is owned by Gary L. Attman (25%), Alvin M. Powers (5%), Mark A. Powers Irrevocable Family Trust (10%), Jeffrey B. Powers Irrevocable Family Trust (10%) and the Leonard J. Attman 1995 Trust (50%). The real estate and bed rights are owned by FutureCare Homewood Properties, LLC, which is owned by The Leonard J. Attman 1995 Trust (50%), Gary L. Attman (25%), and Alvin M. Powers Family, LLC (25%). The owners of FutureCare Homewood Properties, LLC also have ownership interest in 14 other nursing facilities in Anne Arundel County, Baltimore City, Baltimore County, and Prince George’s County. The associated facilities are listed in Table I-1.

Table I-1: FutureCare Nursing Home and Rehabilitation Facilities

Facility	Location	County	Licensed Beds
FutureCare Canton Harbor	Baltimore	Baltimore City	160
FutureCare Cherrywood	Reisterstown	Baltimore	167
FutureCare Chesapeake	Arnold	Anne Arundel	152
FutureCare Charles Village	Baltimore	Baltimore City	109
FutureCare Courtland	Baltimore	Baltimore	151
FutureCare Coldspring	Baltimore	Baltimore City	137
FutureCare at Good Samaritan*	Baltimore	Baltimore City	146
FutureCare Homewood	Baltimore	Baltimore City	148
FutureCare Irvington	Baltimore	Baltimore City	200
FutureCare Lochearn	Baltimore	Baltimore City	200
FutureCare Northpoint	Baltimore	Baltimore	155
FutureCare Old Court	Randallstown	Baltimore	141
FutureCare Pineview	Clinton	Prince George's	180
FutureCare Sandtown/Winchester	Baltimore	Baltimore City	148

Sources: DI# 2, p. 6; MHCC, 2015 Long Term Care Survey, 2015 Nursing Home Bed Inventory Records; Maryland Medical Assistance Program, unaudited 2015 cost reports

*FutureCare acquired ownership of Good Samaritan Nursing homes in July 2016

FutureCare Homewood’s quality record is somewhat average, meeting or exceeding the State’s average in nursing home performance on nine key quality measures, and ranking lower on five.

B. The Project

FutureCare Homewood’s building was built in three phases, dating back to the 1890’s. The original building was a hospital, and has undergone several renovations and expansions over the years. The current building consists of an original five-story 19th-century wood-frame townhouse, a two-story concrete-block and steel-joist structure added in the 1960’s, and a six-story concrete-

frame expansion (plus basement) built in the 1980's. The building was acquired by the current owner in the mid-1990's and has operated as a comprehensive care facility since then. (DI#2, p. 13-15).

The building currently houses a ventilator unit on the first floor (31 beds) for patients with severe respiratory conditions; commercial tenants on the second floor; rehabilitation space on the third floor; and 39 CCF beds on each of the fourth, fifth, and sixth floors.

FutureCare Homewood seeks to renovate much of the facility and expand its capacity to establish a short-stay rehabilitation unit for cardiac and orthopedic patients by purchasing 30 temporarily delicensed CCF beds from MedStar Good Samaritan Hospital and renovating 21,591 square feet ("SF") of what is currently commercial space on the second floor of the facility. The proposed project will increase physical bed capacity at the facility from 148 to 178.

The proposed project would renovate 18,308 SF on the fourth, fifth, and sixth floors to modernize hallways and patient rooms and 10,044 SF on the first floor to create a separate entrance and pathway for the remaining second-floor office tenants. The second floor would be renovated into the proposed new 30-bed rehabilitation unit for short-stay cardiac and orthopedic patients, with private rooms and baths. The renovation and addition of 30 beds on the second floor for cardiac and orthopedic patients will enable the fifth floor, which currently houses short term patients with a broad spectrum of skilled care needs, to provide more optimal care for patients with other skilled short term care needs, including wound care, infection, enteral support, and other skilled services that are not necessarily rehabilitative.

Finally, the project will make additional improvements to the infrastructure of the current facility, replacing six elevators and upgrading the air handling control and fire alarm systems. (DI# 2, pp. 13-15 & Exhibit 2; Table J; DI# 11, p. 2)

The estimated project cost is \$6,799,182, which includes an estimated \$5,462,310 for renovations, \$879,917 for other capital costs, an inflation allowance of \$206,255, and financing and other cash requirements of \$250,700. The applicant expects to fund this project with a mortgage loan. (DI# 2, Exhibit 2, Table C).

C. Pertinent Background for this Review

Bed Surplus and Occupancy

This review involves an application by an existing nursing home that seeks to expand by relocating 30 temporarily de-licensed beds in a jurisdiction that has a large bed surplus and a relatively high jurisdictional occupancy.

Implications for Policy

Under Maryland Health Care Commission ("MHCC") procedural regulations, at COMAR 10.24.01.03C(l)(c), when nursing homes temporarily de-license beds they have twelve months to notify MHCC of their "intention either to bring the bed capacity back onto the facility's license ...

or to notify the Commission that it intends to take another of the actions permitted under this subsection." In this case, MedStar Good Samaritan notified MHCC of its intention to sell temporarily de-licensed beds, and FutureCare Homewood is a prospective buyer.

Historical MHCC practice has been to permit existing facilities with 90% or higher occupancy that meet other standards and criteria to relocate beds in the inventory by purchasing beds from other facilities in the same jurisdiction. This approach has allowed the market to relocate beds within the jurisdiction from a facility that does not have demand for beds to one that does. Despite these occasional reallocations, the provisions of COMAR 10.24.01.03C allowing facilities to temporarily de-license beds has succeeded in fostering a gradual shrinking of the supply of nursing home beds in jurisdictions that have surpluses.

D. Summary of Recommendation

Staff recommends that the Commission find that the proposed project complies with the applicable standards in COMAR 10.24.08, State Health Plan for Facilities and Services: Nursing Home Services, as well as the review criteria at COMAR 10.24.01.08G(3) and recommends **APPROVAL** of the applicant's request for a CON with the following conditions:

1. At the time of first use review, FutureCare Homewood Properties, LLC shall provide the Commission with a Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain at least the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2)(b).
2. FutureCare Homewood Properties, LLC shall meet and maintain the minimum proportion of Medicaid patient days required by its Memorandum of Understanding with the Maryland Medical Assistance Program and by Nursing Home Standard COMAR 10.24.08.05A(2).

This recommendation is based on the applicant's proposal and staff analysis: A summary of the basis for this recommendation is as follows:

Standard/Criteria	Conclusions
Quality	Based on surveys conducted by CMS and OHCQ, results of which are listed in MHCC's Consumer Guide to Long Term Care, the applicant has a history of providing quality care on the majority of metrics reviewed by Staff.
Need and Capacity	<p>The proposal does not seek to increase the total number of CCF beds in MHCC's inventory for Baltimore City. Instead, it relocates them from MedStar Good Samaritan Hospital to FutureCare Homewood.</p> <p>The applicant has maintained a high occupancy. The applicant purchased the beds from MedStar Good Samaritan Hospital, which also maintained a high occupancy and has agreed to coordinate to refer patients to FutureCare Homewood.</p>

	The project also includes necessary modernization of rooms and hallways at the existing facility, as well as upgrades to elevators and systems, to improve the quality of life for the population to be served.
Cost Effectiveness	<p>The applicant demonstrated detailed consideration of alternatives, including a renovation-only project that did not add 30 beds, and renovating and adding 30 beds at another FutureCare facility.</p> <p>The proposed project will best meet the applicant's goals. Other alternatives were either deemed more costly than the proposed alternative or were deficient in creating a revenue source that helps address the need to also renovate and modernize other aspects of the FutureCare Homewood facility. The proposed project – renovating space on the existing second floor and creating a new 30-bed unit with private rooms – best addresses the need to provide 30 additional beds for short-term cardiac and orthopedic patients in a separate area, while providing a revenue source for other necessary upgrades to the facility.</p>
Financial Feasibility and Viability	FutureCare is an experienced nursing home operator. It has demonstrated that a mortgage loan to cover the costs of this project is feasible. Its utilization projections and revenue and expense assumptions are reasonable with respect to facility viability.
Impact	The proposed project uses existing beds already in the MHCC inventory. While Baltimore City has a projected surplus of beds, the applicant has provided information to show that this project should not have an undue negative impact on existing providers or on services for patients.

II. PROCEDURAL HISTORY

A. Record of the Review

Please see Appendix 1, Record of the Review.

B. Local Government Review and Comment

No comments were received from the Baltimore City Health Department.

C. Community Support

The Maryland Health Care Commission received four letters of support for this nursing home expansion project. The letters of support from MedStar Health, Mercy Medical Center and MedStar Union Memorial Hospital all stated that FutureCare Homewood will be able to better benefit its patients with the addition of 30 private patient rooms. (DI#2, Exh 9). A letter of support was also received from Doctors Martin Binstock and Stuart Bell, on behalf of MedStar Good Samaritan, which expressed their “confidence in the outcomes and care coordination” of FutureCare Homewood with the implementation of this project for their patients. (DI#10).

D. Interested Parties

There are no interested parties in this review.

III. PROJECT CONSISTENCY WITH REVIEW CRITERIA AND STANDARDS

A. The State Health Plan

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

The applicable chapter of the State Health Plan for this review is COMAR 10.24.08, the State Health Plan for Facilities and Services: Nursing Home Services (“Nursing Home Chapter”). The specific standards to be addressed include: COMAR 10.24.08.05A and .05B, the nursing home general standards and standards that apply to new construction for nursing home projects; and .05C, the nursing home standards for renovations of facilities.

COMAR 10.24.08.05 Nursing Home Standards

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

(1) Bed Need

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

The applicant submitted its letter of intent on February 6, 2017 to submit a CON application for a 30-bed addition to its existing facility. The most recent bed need projections were published in the *Maryland Register* on April 29, 2016, and projected no need for additional CCF beds in Baltimore City, as shown below.

Table III-1: CCF Bed Need Projection for Baltimore City

Licensed Beds	Bed Inventory as of January 31, 2016				Projected Need in 2016			
	Temporarily Delicensed Beds	CON Approved Beds	Waiver Beds	Total Bed Inventory	Gross Bed Need Projection	Unadjusted Bed Need	Community-Based Services Adjustment	2016 Net Bed Need
3,756	80	0	42	3,878	4,048	170	380	0

Source: MHCC Gross and Net 2016 Updated Bed Need Projections for Nursing Home Beds in Maryland. Maryland Register (Issued: April 29, 2016)

There is no need for additional CCF beds in Baltimore City. However, this application would not add beds to the MHCC inventory, but seeks to relocate 30 temporarily de-licensed beds purchased from MedStar Good Samaritan Hospital. Thus, the proposed project would not change the total number of CCF beds that are licensed or available for licensure in Baltimore City.

(2) Medical Assistance Participation

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

FutureCare Homewood stated that it currently participates in the Medical Assistance Program (“Medicaid”) that requires the facility to provide a specified proportion of Medicaid days of nursing facility care. The applicant stated that it will sign an MOU with DHMH prior to licensure of the additional beds. (DI# 2, p. 25)

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

The required Medical Assistance Participation Rate for nursing homes in Baltimore City is 57.5% and for the Central Maryland region is 46.9%, according to the “Required Maryland Medical Assistance Participation Rates for Nursing Homes by Region and Jurisdiction,” published in the *Maryland Register* on March 31, 2017. Information from MHCC’s 2015 Long Term Care Survey showed FutureCare Homewood with 71.5% of its patient-days provided to Medicaid recipients, and it reported that its percentage of Medicaid patient days for FY 2016 was 68.8%.

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

FutureCare Homewood has agreed to continue admitting Medicaid residents to maintain the required level of participation and sign an MOU with DHMH. (DI# 2, p. 25). The applicant projected that Medicaid would account for 69.1% of total patient days in FY 2017, and that the percentage of its Medicaid patient days will remain at 69.1% through FY 2019, then decline to 67.4% in FY 2020 and 62.6% in FY 2021. (DI# 2, p. 25; Exhibit 2, Table F)

- (d) Prior to licensure, an applicant shall execute a written Memorandum of Understanding with the Medicaid Assistance Program of the Department of Health and Mental Hygiene to:***
- (i) Achieve or maintain the level of participation required by .05A2(b) of this Chapter; and***
 - (ii) Admit residents whose primary source of payment on admission is Medicaid.***
 - (iii) An applicant may show evidence why this rule should not apply.***

The applicant stated that it will execute an MOU with the Medicaid program prior to licensure of the additional beds. (DI# 2, p. 25).

In order to ensure the applicant fully complies with this standard, Staff recommends that the CON for this project, if approved, contain the following conditions:

1. At the time of first use review, FutureCare Homewood Properties, LLC shall provide the Commission with a Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain at least the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2)(b).
2. FutureCare Homewood Properties, LLC shall meet and maintain the minimum proportion of Medicaid patient days required by its Memorandum of Understanding with the Maryland Medical Assistance Program and by Nursing Home Standard COMAR 10.24.08.05A(2).

Standards 10.24.08.05A(3) Community-Based Services, .05A(4) Nonelderly Residents, .05A(5) Appropriate Living Environment, and .05A(6) Public Water

Among the remaining applicable standards are several that prescribe policies, facility features, and staffing and/or service requirements that an applicant must meet, or agree to meet prior to first use. Staff has reviewed the CON application and confirmed that the applicant provided sufficient information and affirmations that demonstrate full compliance with the following standards:

- .05A(3) Community-Based Services
- .05A(4) Nonelderly Residents
- .05A(5) Appropriate Living Environment
- .05A(6) Public Water

Staff has concluded that the proposed project meets the requirements of these standards. The applicant:

- Is in compliance with the community-based services requirement and provided a copy of the alternative community-based services information provided to prospective residents and its discharge planning policy;
- Provides in-service education for staff on problems faced by nonelderly residents and utilizes local hospitals and social service agencies on a consulting basis to develop its in-service programs relating to nonelderly residents. The applicant also stated that it develops specialized programs for social activities for nonelderly residents as part of its overall activities and recreational programs. Also stated within the application, that discharge planning includes the goal of limiting each nonelderly resident's stay to 90 days or less, whenever feasible, and voluntary transfer to a more appropriate setting;

- States that it will not have any rooms with more than two beds, that each room will have individual temperature controls and no more than two residents will share a toilet; and
- Is already served by a public water system.

The text of these standards and the locations within the application where compliance is documented, can be found in Appendix 2.

(7) Facility and Unit Design

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

- (a) Identification of the types of residents it proposes to serve and their diagnostic groups;*
- (b) Citation from the long term care literature, if available, on what types of design features have been shown to best serve those types of residents.*

This project will serve orthopedic and cardiac patients in *Vitalstrong*, *WalkStrong* and *HeartStrong* programs.¹ The WalkStrong group will consist of patients who have undergone an orthopedic procedure for joint replacement, fracture, shoulder, neck or spine surgery. (DI#2, p.14). The HeartStrong group will consist of patients who have been diagnosed with cardiac illnesses such as coronary artery disease, congestive heart failure, or myocardial infarction or heart attack in addition to patients requiring short term rehabilitation and therapy due to percutaneous coronary intervention, pacemaker or defibrillator implantation, life vest monitoring, heart valve replacements, complications from cardiac catheterization or cardiac surgery. (DI#2, p.14).

FutureCare Homewood noted that the design of the project was tailored to meet the care needs of short-term rehabilitation patients and that it complies with current building and life-safety codes, the Americans with Disabilities Act (ADA) Accessibility Guidelines, COMAR 10.07.02 (Comprehensive Care Facilities), and life safety codes required by the Centers for Medicare and Medicaid Service Requirements of Participation for long term care facilities under 42 CR, Part 483. The project also incorporates “green” building strategies to comply with the International Green Construction Code as required by Baltimore City, according to the applicant. (DI# 2, p. 28)

The applicant stated that patients prefer, and seek facilities that offer, private rooms. Likewise, physicians prefer to partner with facilities that provide higher quality of life. Private rooms offer greater autonomy, dignity, and privacy, also according to the applicant. (DI# 2, p. 31) A letter from MedStar Good Samaritan Hospital also supported the assertion that the ideal care setting for many of the hospital’s referrals would be a private room. (DI #11, Exhibit 14) Specifically, the applicant stated that private rooms foster better sleep for patients, and thus improved recovery. Additionally, it prevents the possibility of mismatching patients in shared

¹ *Vitalstrong*, *WalkStrong* and *HeartStrong* are trademarked programs developed by FutureCare for specific populations. Information on each can be found at <https://futurecare.com/vitalstrong/>

rooms, which can lead to situations that may be potentially detrimental to treatment or recovery. FutureCare Homewood also noted that it has had to convert semi-private rooms to private rooms when needed, thus restricting admissions. (DI# 2, p. 31-32).

The applicant lists the following specific features in response to this standard. (DI# 2, pp. 28-29).

- Resident rooms are single-occupancy, have full bathrooms with showers, and are fully-accessible in keeping with ADA guidelines;
- Nursing stations have a separate charting area so staff is distributed throughout the unit, the unit includes two clean utility rooms, two soiled utility rooms, two janitor's closets, and two nourishment centers to ensure convenience for staff, and the unit includes a spa with space to accommodate a shower gurney;
- Treatment spaces include a physician's office with private exam room on the unit; a renovated rehab center on the third floor with a speech therapy room, treatment room, training kitchen and laundry, training bathroom, and state-of-the-art rehab equipment; and a dialysis center with priority status for FutureCare Homewood residents;
- Activity spaces with a dining/activity room, a full-service café staffed by food service professionals, a library/media room, and a family room for smaller family gatherings and staff meetings.
- Plans for the new unit include telemedicine devices and close associations with MedStar and University of Maryland Medical System. (DI#2, p.12)

Other facility upgrades included in the project are: replacement of six elevators which are coming to the end of their life cycle; replacement of the existing climate control system which will improve efficiency of the cooling and heating of the building; replacement of the fire alarm system which will enhance the safety monitoring of the building; improvement of hallways including wall protection, handrails, floor and ceiling upgrades, security, signage, and nursing stations; and improvement to existing rooms including new furnishings, paint, and wall protection. (DI# 2, pp. 29-31)

The applicant listed a number of design features that take the needs of the population to be served into account. The applicant has met this standard.

(8) Disclosure

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

FutureCare Homewood affirms that none of its principals has ever pled guilty to or been convicted of a criminal offense in any way connected with the ownership, development, or management of a health care facility. (DI# 2, p. 32)

Staff concludes that the applicant has complied with the disclosure requirements of this standard.

(9) Collaborative Relationships

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

FutureCare Homewood is an existing provider that collaborates with other providers along the long term continuum. The applicant notes collaboration with: hospitals (specifically, transfer agreements with MedStar Union Memorial and University of Maryland Medical Center Midtown,, hospital telemedicine (with the emergency room of University of Maryland Medical Center to avoid re-hospitalization), re-location planning with other CCFs, various insurance carriers, hospice care (Seasons Hospice and Stella Maris Hospice), dialysis care, ventilator care, home health (HomeCare Maryland, VNA, and Amedisys), licensed assisted living homes, adult day care, adult protective services, network referrals (Alcoholics Anonymous, narcotic addiction recovery centers, and methadone clinics), and pharmacy delivery (Walgreens). (DI# 2, p. 33)

Staff concludes that the applicant has met this standard.

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

(1) Bed Need

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

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

Applicant's Response

In responding to this standard, the applicant notes that it is not seeking to add new nursing home capacity in Baltimore City, but to relocate beds that are "already in inventory...needed for existing short-term rehabilitation patients in collaboration with hospitals...{in}...a separate

unit...{where}...equipment, care and services can be better delineated to create optimal private space for these patients to rehab and recover.” The applicant also pointed out that creating this floor would also enable the fifth floor to “better deal with those other types of skilled short term care admissions” and help to fund the additional needed renovations to the facility. (DI#2, p.37).

The applicant pointed out that over the past five years these now temporarily delicensed beds at Good Samaritan served an average of 45 patients per month, with a cumulative occupancy of 90.8% over that time. (DI# 2, p. 45). The applicant stated that opening these beds at FutureCare Homewood would increase Good Samaritan’s ability to discharge residents at the earliest appropriate opportunity to Homewood; Good Samaritan’s letter of support stated: “Due to the ability of FutureCare Homewood to handle a very clinically complex patient population, referrals to this center of patients who would previously be cared for at our TCU are appropriate.” (DI# 10, exhibit 14).

To further bolster its case, the applicant also pointed out that the bed need projections published by MHCC have not been updated since April 2016, and performed its own calculations, using the MHCC methodology with updated population and bed inventory information. Table III-1 shows the 2016 MHCC bed need projection, and FutureCare’s alternate calculation. FutureCare acknowledged that its updated calculation still does not show net need, it shows a significantly reduced surplus.

**Table III-1: CCF Bed Need Projection for Baltimore City
published by MHCC on April 29, 2016**

	CCF Bed Inventory	Gross Bed Need Projection	Unadjusted Bed Need	Community-Based Services Adjustment	Projected Net Bed Need
As per MHCC Bed Need Projection published on April 29, 2016	3,878	4,048	170	380	...for 2016 0 (Surplus of 210)
As per FutureCare Updated projection	3,882 (as of 3/13/17)	4,215	333	396	...for 2020 0 (Surplus of 63)

Staff analysis

According to the 2015 MHCC Long Term Care Survey, Baltimore City’s occupancy rate was 91.2% in FY 2014 and 90.5% in 2015, compared to the statewide occupancy rate of 89.0%. Staff reviewed occupancy rates at licensed nursing homes in the jurisdiction and found that more than half had occupancy rates of 90% or higher in FY 2015 (note that facilities may have different end of fiscal year dates). Nearly all licensed nursing homes in Baltimore City (27 out of 30) had rates higher than 85%, while three had rates slightly lower than 80%.

This proposed project does not seek to add new CCF beds to MHCC’s inventory, but would instead relocate them, from a facility that had high occupancy to another facility with a high occupancy. Historical MHCC practice has been to allow facilities with 90% or higher occupancy that meet other standards and criteria to relocate beds in the inventory by purchasing temporarily de-licensed beds in the jurisdiction. This approach has allowed the market to relocate beds within

the jurisdiction from a facility that does not have demand for beds to one that does. Despite these occasional relocations, the provisions of COMAR 10.24.01.03C allowing facilities to temporarily de-license beds has succeeded in fostering a gradual shrinking of the supply of nursing home beds in jurisdictions that have surpluses.

Staff concludes that this standard has been met.

(2) Facility Occupancy

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

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

FutureCare Homewood, itself, had an occupancy rate of 88.7% in 2015, according to MHCC data. Similarly, the applicant states that its occupancy rate was 88.6% in 2015 and 89.7% in 2016. (DI# 2, p. 39) To account for a lower-than-90% occupancy rate, FutureCare Homewood explained that the facility closed five semi-private rooms (10 beds) for three months for renovations in 2015 (amounting to 900 potential patient days). In 2016, it also closed beds on a rotating schedule to accommodate other renovations (amounting to 420 potential patient days). According to the applicant, if the potential patient-days lost are factored into the occupancy rate calculation, FutureCare Homewood's adjusted occupancy rate was 90.1% in 2015 and 90.3% in 2016. (DI# 2, p. 39). This calculation was confirmed by staff.

Staff concludes that the applicant has met this standard.

(3) Jurisdictional Occupancy

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

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

The proposed project is not an application for a new nursing home. This standard is not applicable. However, Baltimore City's jurisdictional occupancy rate was 90.5% in FY 2015, the most recent year's data published in the *Maryland Register* on March 31, 2017.

(4) Medical Assistance Program Participation

Subsections (a) and (b) of this standard are not applicable to this CON application, as the proposed project is not a new nursing home and it does not deploy new CCF beds.

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

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

This standard duplicates some requirements of COMAR 10.24.08.05A(2), the General Standard regarding Medical Assistance Participation. Referring to the previous standard, the applicant states that currently participates in the Medical Assistance Program and it anticipates signing an MOU with DHMH to comply with these standards. (DI# 2, p. 40). To ensure compliance, Staff recommends that, if approved, the CON include the conditions listed in this Staff recommendation at COMAR 10.24.08.05A(2).

(5) Quality

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

FutureCare Homewood reports that it has no outstanding Level G or higher deficiencies and that it maintains a demonstrated program of quality assurance. The applicant included its Quality Assurance Policy in the application. (DI# 2, Exhibit 6)

Staff reviews quality beyond the narrow specific requirements of this standard by summarizing an applicant's performance on select quality measures that MHCC staff considers to be among the most important, extracted from surveys conducted by CMS and OHCQ that are listed in MHCC's Consumer Guide to Long Term Care. Table III-4 below provides a summary of FutureCare Homewood's performance on these selected quality measures. Although the facility rated lower than the statewide average on pressure sores and resident vaccinations, it was better than the Maryland average on 8 of 14 (and the same on one).

Table III-4: Summary of FutureCare Homewood's Nursing Homes Quality Measures

Quality Measure	MD Avg	Homewood
Falls		
Long-stay residents that did not fall and sustain a major injury (1)	97%	100%
Pain		
Long-stay residents who do not report moderate to severe pain. (3)	93%	98%
Short stay residents who did not have moderate to severe pain. (15)	86%	96%
Pressure ulcers		
High risk long stay residents without pressure sores. (4)	93%	89%

Short stay residents that did not develop new pressure ulcers or with pressure ulcers that stayed the same or got better. (16)	99%	97%
Vaccinations		
Long stay residents assessed and given influenza vaccination during the flu season. (10)	95%	85%
Short stay residents assessed and given influenza vaccination during the flu season. (17)	83%	30%
Nursing home staff receiving influenza vaccination during flu season (2015-2016).	87.6%	98.0%
Restraints		
Percent of long-stay residents who were not physically restrained. (7)	99%	100%
Deficiencies		
Number of Health deficiencies cited in the most recent annual OHCQ health inspection (2015-2016).	10.5	9
Resident/Family Satisfaction Survey Results (2015 Long Stay and Short Stay Surveys)		
The rating of overall care provided in the nursing home – long term residents. (2015) (1 being worst care and 10 the best care.)	8.1	8
The rating of overall care received from the nursing home staff, overall – short stay residents. (1 being worst care and 10 the best care.)	7.5	9.1
Percentage of long term residents/family who responded "Yes" to "Would you recommend the Nursing Home?"	86%	86%
Percentage of short stay residents/family who responded "Yes" to "Would you recommend the Nursing Home to others?"	79%	100% -

Source: CMS Nursing Home Compare, data collected 04/01/2015 – 12/31/2015. Downloaded 08/01/2016. Updated 09/30/2016

Staff also reviewed the performance of all of the facilities under the management of FutureCare Homewood Properties, LLC and Charles Street Health Care, LLC., and found that most of them performed better than the Maryland average on a majority of the selected measures.

The current overall star rating for FutureCare Homewood is five stars out of a possible five stars on the CMS Nursing Home Compare web site (processing date: August 1, 2017).

Staff recommends that the Commission find that the applicant meets this standard.

(6) Location

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

The proposed project is not a relocation of a facility. This standard is not applicable.

C. Renovation of Facility. The Commission will review projects involving renovation of comprehensive care facilities using the following standards in addition to .05A(1)-(9):

Two standards regarding renovations of a facility duplicate standards for new construction or expansion of beds or services and are addressed in the preceding section of the report. These are:

- .05A(1), Bed Status; and**
- .05A(2), Medical Assistance Program Participation**

Analysis of these standards will not be repeated here. The one remaining standard in this section is addressed below.

(3) Physical Plant

An applicant must demonstrate how the renovation of the facility will improve the quality of care for residents in the renovated facility, and, if applicable will eliminate or reduce life safety code waivers from the Office of Health Care Quality and the State Fire Marshall's Office.

The proposed project includes renovating existing space on the second floor for the addition of a 30-bed rehabilitation and recovery unit for cardiac and orthopedic patients. All rooms will be single occupancy with full bathrooms and showers, a Spa to accommodate a shower gurney and separate nursing and charting stations to more evenly distribute care staff to patients. Dual support spaces (i.e. two utility closets, two nourishment centers, etc.) will also be located near both staffing areas. The unit will also house a physician's office with private exam room, and dedicated dining, library/media and family rooms. Renovations to this space also include creating a new entrance and pathway to remaining non-patient areas, on the second floor, so that outside parties are not traversing the patient care areas.

This project will provide additional space to treat patients with other types of short-term skilled nursing needs like wound care, infection, and enteral support on the fifth floor; modernization of six elevators, installation of new air handling systems, and upgrades to the fire alarm system; and hallway and room improvements, including: additional nursing stations, upgrades to room furnishings, wall protections and handrails, and ceilings and floors. (DI# 2, pp. 42-43, 44, DI#11, p.2)

As described above, the renovation elements of the proposed project will improve the quality of care for its residents and enhance the facility's safety features. Staff concludes that this project is consistent with this standard.

OTHER CERTIFICATE OF NEED REVIEW CRITERIA

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

B. COMAR 10.24.01.08G(3)(b) Need

The Commission shall consider the applicable need analysis in the State Health Plan. If no State Health Plan need analysis is applicable, the Commission shall consider whether the

applicant has demonstrated unmet needs of the population to be served, and established that the proposed project meets those needs.

Applicable Bed Need Analysis

The applicable bed need analysis was published in the *Maryland Register* on April 29, 2016 (Appendix 2) and shows no projected need for additional CCF beds in Baltimore City. According to this projection, there is a surplus of 210 CCF beds. However, since FutureCare Homewood does not propose to add any new beds to the inventory and only seeks to relocate 30 existing CCF beds from MedStar Good Samaritan Hospital, the total number of CCF beds in this jurisdiction will remain the same.

Occupancy Rates and Utilization Projections

As previously shown under Staff's review of COMAR 10.24.08.05B(1) Bed Need, nursing homes in Baltimore City had an overall occupancy rate of 90.5% in FY 2015. FutureCare Homewood provided sufficient data to suggest that it would have attained 90% occupancy if it had not closed beds for renovation in the previous two years. The applicant also provided a letter from MedStar regarding its commitment to transfer patients to FutureCare Homewood in order to better ensure the utilization of the 30 additional beds at FutureCare Homewood. (DI# 11, Exhibit 14)

Need to Modernize

This project also proposes to modernize the building's safety features and systems, as well as update nursing and patient spaces to improve patient care.

Summary of Compliance with Need Criterion

As pointed out earlier, MHCC practice has been to allow facilities with 90% or higher occupancy that meet other standards and criteria to "replace/relocate" beds in the inventory by purchasing temporarily de-licensed beds in the jurisdiction.

In this case the facility relocating the beds has had an occupancy of at least 90% -- as has the facility which temporarily delicensed the 30 beds, and is a likely referral source. In addition, the jurisdictional occupancy exceeds 90% and is higher than the state average.

Staff concludes that the need for this project has been validated, and the additional modernization will provide a benefit for the population to be served.

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

The Commission shall compare the cost effectiveness of the proposed project with the cost effectiveness of providing the service through alternative existing facilities, or through an alternative facility that has submitted a competitive application as part of a comparative review.

An applicant must describe the planning process it used to develop the proposed project, including a full explanation of the primary goals or objectives of the project or the problem(s) being addressed by the project, and to identify and compare the alternative approaches to achieving those goals or objectives or solving those problem(s).

The primary goal of the project was to create 30 private beds for cardiac and orthopedic patients. FutureCare considered meeting this goal at two different facilities, Future Irvington or Future Homewood. The applicant describes both nursing homes as facilities that were constructed incrementally over a period of decades.(DI# 2, p. 47). FutureCare presented the considerations it took into account in deciding among these alternatives, summarized below.

Table III-5: Comparison of Alternatives Considered by FutureCare

	Option 1: Add 30 beds at FutureCare Irvington	Option 2: Add 30 beds at FutureCare Homewood	Option 3: Renovate FutureCare Homewood to create 30 private beds, without adding beds
Description	200 total beds, with 48 private rooms to service residents.	148 total beds, currently with 4 private rooms on different floors.	148 total beds, currently with 4 private rooms on different floors.
Benefits	Adding beds could be accomplished.	<ul style="list-style-type: none"> • Closer proximity to MedStar Good Samaritan Hospital. • Physical space currently allows for addition of 30 private rooms. • Creation of new private bed unit allows for separation of short term patients with different clinical needs. • Additional beds provide additional finances for proposed upgrades and renovation. 	<ul style="list-style-type: none"> • Closer proximity to MedStar Good Samaritan Hospital.
Deficiencies	<ul style="list-style-type: none"> • Beds would be in a wing remote from core and support services areas. • 30 private rooms unlikely to fit onto one floor of the building space. • Greater cost compared to Option 2 due to need for new electrical, plumbing, HVAC, structural, and other upgrades in a new wing. 		<ul style="list-style-type: none"> • Would not allow facility to accommodate as many referrals. • Would not separate short stay patients into clinical or rehab units. • Financially, would not support additional upgrades and renovations needed by FutureCare Homewood.

As shown in Table III-5 above: Option One, to construct a 30-bed wing at FutureCare Irvington, was rejected due to project costs and service space configuration issues. Option Three, to renovate the second floor at FutureCare Homewood to private rooms without adding beds was rejected due to implications associated with limiting bed capacity and an inability to modernize

the existing facility. The applicant found **Option two**, the proposed project, to be the most cost effective alternative because it will add 30 private beds to support two diagnostic groups with growing volume, which will provide additional revenues to support the proposed upgrades and renovations to improve the quality of life at the facility. (DI# 2, pp. 47-48)

There is no competing application to address the same need that is presented by the applicant. Thus, Staff concludes that the proposed project is a cost effective alternative for meeting the objective of creating 30 private beds for short term rehabilitation patients, by way of renovating the existing building and relocating existing delicensed beds from MedStar Good Samaritan Hospital.

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

Availability of Resources Necessary to Implement the Project

The total cost of the renovation project is \$6,799,182, which includes an estimated \$5,462,310 for renovations, \$879,917 for other capital costs, an inflation allowance of \$206,255, and financing and other cash requirements of \$250,700. The applicant expects to fund this project with a mortgage loan. (DI# 2, Exhibit 2, Table C)

Table III-6 below outlines that costs and sources of funds for the proposed project.

**Table III-6: FutureCare Homewood Proposed Project Budget Estimate:
Uses and Sources of Funds**

A. Uses of Funds	
Renovations	
Building	\$5,076,735
Architect/Engineering Fees	335,575
Permits	50,000
Subtotal – Renovations	\$5,462,310
Other Capital Costs	
Movable Equipment	\$225,000
Contingencies	183,632
Gross interest during construction period	151,285
Construction Manager	35,000
Cost of Purchasing Beds	285,000
Subtotal - Other Capital Costs	\$879,917
Inflation	206,255
TOTAL CAPITAL COSTS	\$6,548,482
Financing and Other Cash Requirements	
Loan Fees	\$200,700
Legal Fees	25,000
Consultant Fees	25,000

Subtotal – Non Current Capital Costs	\$250,700
TOTAL USES OF FUNDS	\$6,799,182
B. Sources of Funds	
Mortgage	\$6,799,182

Sources: DI# 2, Exhibit 2, Table C; DI# 11, p. 2

The applicant stated that it expects its current lender, PNC, to finance the project and provided a letter from PNC expressing interest in working with FutureCare Homewood to provide project financing. (DI# 2, Exhibit 8).

Availability of Resources Necessary to Sustain the Project

(a) Finances

Table III-7 summarizes FutureCare Homewood's performance projections for the entire facility. The applicant provided evidence of a 7% growth in admissions from 2015 to 2016 (at a time during the previously cited renovations to the 5th floor when it closed 10 beds in 2015 and rotated closures in 2016), and projected an increase of 12.4% in 2017 from 2016. Admissions were projected to remain steady until 2019, then increase as a result of adding 30 beds. Occupancy rates were projected to be between approximately 91% and 92% for the projected period.

Table III-7: Selected Utilization and Operating Statistics for FutureCare Homewood

	Entire Facility						
	Most Recent Years			Current Projected Year	Projected Years		
	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Licensed Beds	148	148	148	148	148	156	178
Admissions	401	429	482	503	526	608	866
Patient Days	47,888	48,595	49,640	49,640	49,640	51,508	59,495
Occupancy Rate	88.6%	89.7%	91.9%	91.9%	91.9%	90.2%	91.6%
Gross Patient Services Revenue (Current \$)	21,203,993	21,541,035	22,148,468	22,148,468	22,148,468	23,060,620	26,737,333
Net Revenue (Current \$)	20,992,452	21,239,992	21,827,476	21,827,476	21,827,476	22,724,525	26,341,013
Operating Expenses (Current \$)	18,524,936	19,790,576	20,322,034	20,377,162	20,550,322	21,545,703	24,602,666
Net Income (Loss) from Operation (Current \$)	2,467,516	1,449,417	1,505,442	1,450,314	1,277,154	1,178,822	1,738,347
Payor Mix (% of Revenue)							
Medicare	26.4%	30.3%	32.1%	32.1%	32.1%	33.8%	38.7%
Medicaid	64.2%	61.1%	60.9%	60.9%	60.9%	59.0%	53.7%
Payor Mix (% of Patient Days)							
Medicare	19.3%	21.8%	23.5%	23.5%	23.5%	25.1%	29.4%
Medicaid	71.4%	68.8%	69.1%	69.1%	69.1%	67.4%	62.6%
Commercial Insurance	6.2%	6.3%	5.1%	5.1%	5.1%	5.4%	6.1%
Self-Pay	1.9%	1.4%	0.7%	0.7%	0.7%	0.7%	0.6%
Other	1.3%	1.6%	1.5%	1.5%	1.5%	1.4%	1.2%
Revenues, Expenses, and Profits							
Gross Revenue per Patient Day	\$442.78	\$443.28	\$446.18	\$446.18	\$446.18	\$447.71	\$449.40
Net Revenue per Patient Day	\$438.37	\$437.08	\$439.72	\$439.72	\$439.72	\$441.18	\$442.74
Expense per Patient Day	\$386.84	\$407.26	\$409.39	\$410.50	\$413.99	\$418.30	\$413.52
Income per Patient Day	\$51.53	\$29.83	\$30.33	\$29.22	\$25.73	\$22.89	\$29.22

Source: FutureCare CON Application DI# 2, Exhibit 2

Projections for the entire facility indicate that net income will remain positive throughout the projected period, but is projected to decline due to additional expenses such as increases in salaries and wages, interest and depreciation, as well as expenses for pharmacy, and facility and equipment rental. For the newly constructed short term rehabilitation unit, the applicant projects a 67.7% occupancy rate for 3 months in 2020 and a 90% occupancy rate in 2021. Projected net income for the proposed project only, is negative in 2020 since it will be utilized for only three months of that year, but will be positive in 2021 at full utilization. (DI# 17)

(b) Staffing

Table III-8 below shows the total number of salaried and contractual employees projected to staff the 178-bed CCF. FutureCare Homewood expects to need approximately 34 additional full time-equivalent (“FTE”) staff as a result of the project, at an additional annual cost of \$1,741,915 in salaries and \$405,741 in benefits, as well as an additional \$756,248 for contractual services. (DI# 2, Exhibit 2, Table H)

Table III-8: FutureCare Homewood Staffing Projections

Position	Current – Entire Facility		Projected – Entire Facility 2025	
	Number of FTEs	Salary Expense	Number of FTEs	Projected Salary Expense
Administration	11.2	\$583,942	11.5	\$596,343
Direct Care	117.8	\$6,493,253	144.0	\$7,942,310
Support	35.7	\$1,391,998	43.0	\$1,672,455
Contractual	--	\$2,205,416	--	\$2,961,664
Total FTEs	164.7		198.5	
Employee Benefits*		\$2,201,248		\$2,606,989
Total Salaries & Benefits		\$12,875,857		\$15,779,761

Source: DI# 2, Exhibit 2, Table H

Table III-9 below indicates that the applicant will have a direct care staffing schedule that will deliver an overall average ratio of 4.10 nursing hours per bed per day on weekdays and 3.64 nursing hours per day of care on weekend days or holidays. These staffing ratios are well above the minimum of two hours per-bed-per-day required by COMAR 10.07.02.12.

**Table III-9: Nurse Staffing by Shift
FutureCare Homewood – 178 CCF Beds**

Staff Category	Weekday			Weekend/Holiday		
	Day	Evening	Night	Day	Evening	Night
RN	91.2	80.0	56.0	75.2	80.0	56.0
LPN	36.8	32.0	16.0	36.8	32.0	16.0
CNAs	202.5	120.0	82.5	150.0	120.0	82.5
Ward Clerks (50% of time included)	12.0					
Total Hours by Shift*	330.5	232.0	154.5	262.0	232.0	154.5
Total Hours			729.0			648.5

Total Number of Beds		178		178
Hours Per Bed Per Day		4.10		3.64

Source: DI# 2, Exhibit 2, Table I

Summary of Compliance with Viability Criterion

FutureCare Homewood has demonstrated that it can obtain the financial resources necessary for the proposed project. The projections of positive operating margins for the facility throughout the projected years are based on reasonable utilization, revenue, expense, and payer mix assumptions. Staff recommends that the project be found to be financially viable.

E. COMPLIANCE WITH CONDITIONS OF PREVIOUS CERTIFICATES OF NEED

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

FutureCare Health and Management Corporation has received CON approval to build two nursing homes over the last ten years: 1) Point Lookout Nursing Center (Docket No. 07-18-2201) in St. Mary's County; and 2) Prince George's Post Acute, LLC (Docket No. 13-16-2347) in Prince George's County. Both applications were approved with conditions to: (1) provide the Commission with a copy of the Medicaid MOU and (2) provide a copy of the facility's transfer and referral agreements.

The 124-bed Point Lookout Nursing Center ("Point Lookout") was approved in September 2008 and was initially delayed by an appeal of the MHCC decision by Lexington Park, LLC, d/b/a Chesapeake Shores and St. Mary's Nursing Center. Although FutureCare was successful in defending its CON approval all the way to the Court of Special Appeals, it ultimately decided to pull out of the project because of changing conditions, including the dramatic slowdown in the general economy during the great recession. Another factor was the fact that FutureCare's acquisition of a number of CCFs in the Baltimore area; administratively, the distance of the proposed CCF in St. Mary's County from other FutureCare operations in the Baltimore Metropolitan area made it a less attractive venture. As a result of these factors, Futurecare submitted a letter to the Commission relinquishing this CON on September 5, 2012.

The 150-bed Prince George's Post Acute ("PGPA"), was approved on April 17, 2014, but has since required modifications and extension of performance requirements as it has been implemented. The applicant submitted a modification to: change the design of the facility; increase project cost; update revenue and expense projections; and change the financing plan. This proposal was approved by the Commission on February 18, 2016. This project has also been provided one extension for each of its three performance requirements:

- On August 14, 2015, the Commission granted PGPA a six-month extension for the first performance requirement, which extended the date for signing a binding construction contract obligation not less than 51% from October 17, 2016 to April 17, 2016. PGPA met this first performance requirement by signing a binding construction contract on April 17, 2016.
- On July 7, 2016, PGPA requested and MHCC granted a six month extension for the second performance requirement, extending the date for initiating construction to no later than February 17, 2017. The CON quarterly progress report for the period, January 18, 2017 through April 17, 2017 (Report number 12) indicates that initiation of construction started on January 12, 2017.
- On August 31, 2017, the Commission approved a six-month extension of the third performance requirement, which requires PGPA to complete the project up to 18 months from the effective date the binding contract was signed, which is October 17, 2017.

The Commission has no record of FutureCare obtaining a Certificate of Need relating to any of its existing nursing facilities. MHCC's records indicate that FutureCare acquired its facilities, and in accordance with Commission regulations at COMAR 10.24.01.03, Non-Coverage by Certificate of Need Review Requirements, complied with all regulatory requirements applicable to these acquisitions.

Staff concludes that the applicant has complied with the terms and conditions of previous CONs, and recommends that the Commission find it in compliance with this criterion.

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

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

The applicant stated that the project should not have any impact on other facilities. The 30 beds replace the transitional care unit at MedStar Good Samaritan Hospital, which operated at 91% occupancy in 2014. The applicant noted its Medicaid percentage is projected to decline with the addition of 30 beds in its inventory because the percentage of Medicare will increase, but that the number of Medicaid admissions and patient days is not expected to decline. (DI# 2, p. 51)

The 30 beds proposed to be relocated from MedStar Good Samaritan Hospital currently exist in the jurisdictional inventory and account for less than 1% of the 3,878 licensed beds operating in this jurisdiction. The project will also improve other facilities at FutureCare Homewood, a positive impact for current and future residents seeking nursing home care. Staff recommends that the project be found to be consistent with this criterion.

IV. SUMMARY AND STAFF RECOMMENDATION

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

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

1. At the time of first use review, FutureCare Homewood Properties, LLC shall provide the Commission with a Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain at least the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2)(b).
2. FutureCare Homewood Properties, LLC shall meet and maintain the minimum proportion of Medicaid patient days required by its Memorandum of Understanding with the Maryland Medical Assistance Program and by Nursing Home Standard COMAR 10.24.08.05A(2).

IN THE MATTER OF

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BEFORE THE

FUTURECARE - HOMEWOOD
PROPERTIES, LLC

MARYLAND HEALTH

DOCKET NO. 17-24-2396

CARE COMMISSION

FINAL ORDER

Based on the analysis and findings contained in the Staff Report and Recommendation, it is, this 19th day of September, 2017, by a majority of the Maryland Health Care Commission, **ORDERED:**

The application for Certificate of Need submitted by FutureCare Homewood Properties, LLC to add 30 comprehensive care facility beds and renovate the existing comprehensive care facility, including renovation of the second floor with 30 relocated beds at 2700 North Charles Street, in Baltimore City, Docket No. 17-24-2396, at an estimated cost of \$6,799,182, be **APPROVED**, subject to the following conditions:

1. At the time of first use review, FutureCare Homewood Properties, LLC shall provide the Commission with a Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain at least the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2)(b).
2. FutureCare Homewood Properties, LLC shall meet and maintain the minimum proportion of Medicaid patient days required by its Memorandum of Understanding with the Maryland Medical Assistance Program and by Nursing Home Standard COMAR 10.24.08.05A(2).

APPENDIX 1

REVIEW OF THE RECORD

Record of the Review

Item #	Correspondence File	Date
1	Commission staff acknowledged receipt of Letter of Intent	2/6/17
2	The applicant filed the Certificate of Need application	4/7/17
3	Commission staff acknowledged receipt of application for completeness review	4/11/17
4	Commission staff requested that <i>The Baltimore Sun</i> publish notice of receipt of application	4/11/17
5	Commission staff requested that the <i>Maryland Register</i> publish notice of receipt of application	4/11/17
6	Notice of receipt of application as published in <i>The Baltimore Sun</i>	4/19/17
7	Commission Staff found the application incomplete and requested completeness information	4/27/17
8	Commission staff received request for two week extension to respond to completeness questions	5/9/17
9	Commission staff provided a written summary of verbal conversation regarding staff's request for completeness information	5/17/17
10	Commission staff received a Letter of Support from Good Samaritan Hospital	5/19/17
11	Commission staff received response to completeness information	5/25/17
12	Following receipt of completeness responses, Commission staff requested a clarification on revised revenue and expense projections	6/14/17
13	Commission staff notified the applicant of formal start of review of application effective 7/7/2017	6/23/17
14	Commission staff requested that <i>The Baltimore Sun</i> publish notice of formal start of review	6/23/17
15	Commission staff requested that the <i>Maryland Register</i> publish notice of formal start of review	6/23/17
16	Request made for comments from the Local Health Planning Department on the CON application	6/23/17
17	Commission staff received revised revenue and expense projections	6/26/17

APPENDIX 2

EXCERPTED CON STANDARDS FOR NURSING HOMES

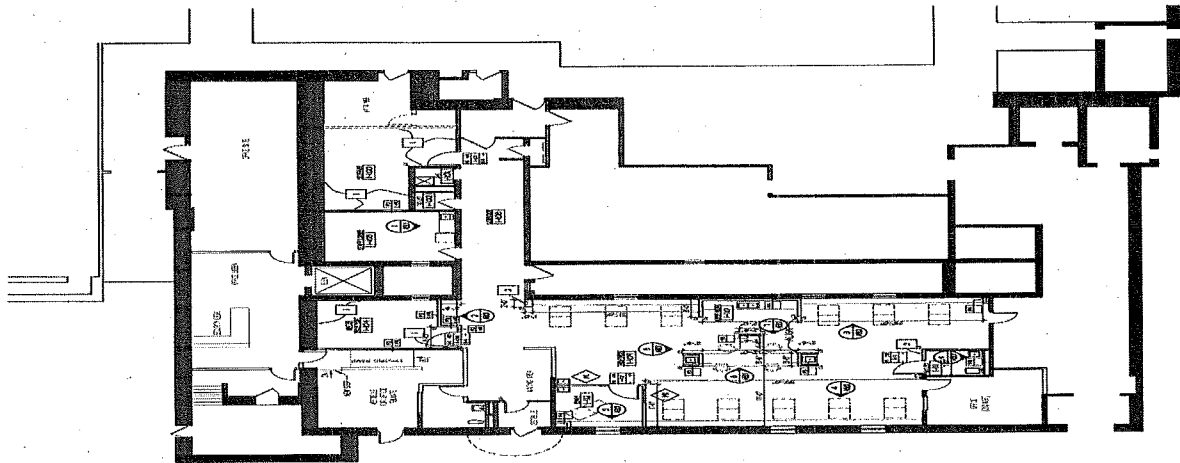
**Excerpted CON standards for Nursing
From State Health Plan Chapter 10.24.08**

Each of these standards prescribes policies, services, staffing, or facility features necessary for CON approval that MHCC staff have determined the applicant has met. Bolding added for emphasis. Also included are references to where in the application or completeness correspondence the documentation can be found.

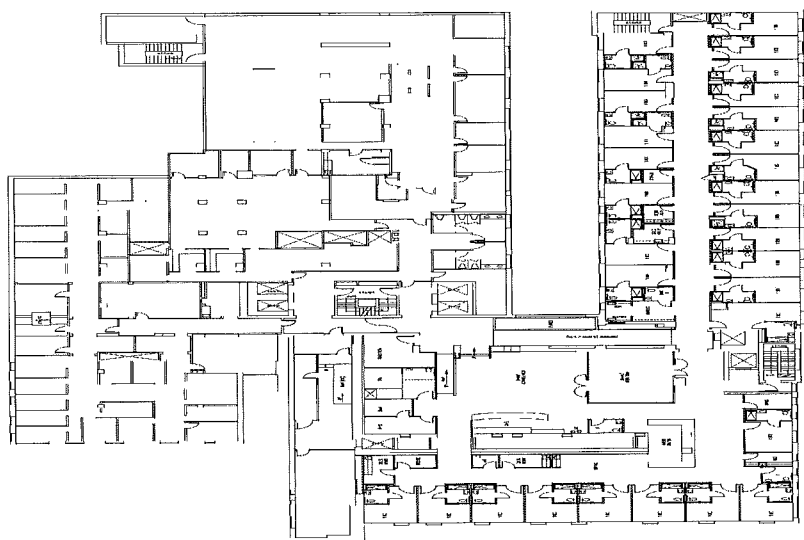
<u>STANDARD</u>	<u>APPLICATION REFERENCE (Docket Item #)</u>
<p><u>.05(3) Community-Based Services</u> An applicant shall demonstrate commitment to providing community-based appropriate for each resident by:</p> <ul style="list-style-type: none"> (a) Providing information to every prospective resident about the existence of alternative community-based services, including, but not limited to, Medicaid home and community-based waiver programs and other initiatives to promote care in the most appropriate settings. (b) Initiating discharge planning on admission; and (c) Permitting access to the facility for all "Olmstead" efforts approved by the Department of Health and Mental Hygiene and the Department of Disabilities to provide education and outreach for residents and their families regarding home and community-based alternatives. 	<p>DI# 2, p. 26 DI# 2, Exhibit 4 DI# 2, Exhibit 5</p>
<p><u>.05(4) Nonelderly Residents</u> An applicant shall address the needs of its nonelderly (<65 year old) residents by:</p> <ul style="list-style-type: none"> (a) Training in the psychosocial problems facing nonelderly disabled residents; and (b) Initiating discharge planning immediately following admission with the goal of limiting each nonelderly resident's stay to 90 days or less, whenever feasible, and voluntary transfer to a more appropriate setting. 	<p>DI# 2, p. 26 DI# 11, p. Exhibit 8</p>
<p><u>.05(5) Appropriate Living Environment</u> An applicant shall provide to each resident an appropriate living environment, including, but not limited to:</p> <ul style="list-style-type: none"> (b) In a renovation project: <ul style="list-style-type: none"> (i) Reduce the number of patient rooms with more than two residents per room; (ii) Provide individual temperature controls in renovated rooms; and (iii) Reduce the number of patient rooms where more than two residents share a toilet. 	<p>DI# 2, p. 27</p>
<p><u>.05(6) Public Water</u> Unless otherwise approved by the Commission and the Office of Health Care Quality in accordance with COMAR 10.07.02.26, an applicant for a nursing home shall demonstrate that its facility is, or will be, served by a public water system.</p>	<p>DI# 2, p. 27</p>

APPENDIX 3

FLOOR PLANS



0 5 10 20 30
SCALE: 1/8" = 1'-0"



Scale: 1/4" = 1'-0"