

STATE OF MARYLAND

Robert E. Moffit, PhD  
CHAIR



Ben Steffen  
EXECUTIVE DIRECTOR

**MARYLAND HEALTH CARE COMMISSION**  
4160 PATTERSON AVENUE – BALTIMORE, MARYLAND 21215  
TELEPHONE: 410-764-3460 FAX: 410-358-1236

**MEMORANDUM**

**TO:** Commissioners

**FROM:** Kevin R. McDonald  
Chief, Certificate of Need

**DATE:** July 19, 2018

**SUBJECT:** Staff Report and Recommendation  
Visiting Nurse Association of Maryland, LLC  
Docket No. 17-R4-2407

---

Enclosed is the Staff Report and Recommendation on a Certificate of Need application filed by Visiting Nurse Association of Maryland, LLC d/b/a VNA of Maryland.

Visiting Nurse Association of Maryland, LLC is a licensed home health agency currently operating in 18 jurisdictions within Maryland, which include Baltimore City and Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Cecil, Charles, Frederick, Harford, Howard, Kent, Montgomery, Prince George's, Queen Anne's, St. Mary's, Talbot, and Washington Counties. VNA has submitted a proposal which seeks to expand its service area by providing home health agency services to the residents of Dorchester County.

The total cost of launching the expansion is estimated to be \$47,000, and the applicant expects to begin operations almost immediately with the approval of its CON application.

Staff recommends **APPROVAL** of the application, based on its conclusion that the proposed project complies with the applicable standards in COMAR 10.24.16, the State Health Plan regulations for home health agency services ("HHA Chapter"), and the other review criteria enumerated in COMAR 10.24.01.08. Approval is recommended with the following conditions:

1. VNA shall maintain compliance with the provisions of COMAR 10.24.16.08E(1)-(4) regarding charity care, sliding fee scale, and reduced fee services;
2. VNA shall provide an amount of charity care equivalent to the average amount of charity care provided by home health agencies in the multi-jurisdictional region it proposes to serve; and
3. VNA shall provide documentation regarding its links with hospitals, nursing homes, continuing care retirement communities, hospice programs, assisted living providers, Adult Evaluation and Review Services, adult day care programs, the local Department of Social Services, and home delivered meal programs located within its proposed service area when it requests first use approval.

**IN THE MATTER OF  
VISITING NURSE ASSOCIATION  
OF MARYLAND, LLC  
Docket No. 17-R4-2407**

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

**BEFORE THE  
MARYLAND HEALTH  
CARE COMMISSION**

\*\*\*\*\*

**Staff Report and Recommendation**

**July 19, 2018**

**Table of Contents**

**I. INTRODUCTION .....1**  
A. Applicant Description.....1  
B. The Project.....1  
C. Staff Recommendation .....2

**II. PROCEDURAL HISTORY .....2**

**III. BACKGROUND .....2**

**IV. STAFF REVIEW AND ANALYSIS.....4**  
**A. COMAR 10.24.01.08G(3)(a) THE STATE HEALTH PLAN .....4**  
**COMAR 10.24.16.08 Home Health Standards.....4**  
A. Service Area.....4  
B. Population and Services.....5  
C. Financial Accessibility.....5  
D. Fee and Time Payment Plan.....5  
E. Charity Care and Sliding Fee Scale .....6  
F. Financial Feasibility .....8  
G. Impact .....10  
H. Financial Solvency .....5  
I. Linkages with Other Service Providers .....12  
J. Discharge Planning.....5  
K. Data Collection and Submission .....5

**B. COMAR 10.24.01.08G(3)(b) NEED.....13**

**C. COMAR 10.24.01.08G(3)(c) AVAILABILITY OF MORE  
COST-EFFECTIVE ALTERNATIVES. ....13**

**D. COMAR 10.24.01.08G(3)(d) VIABILITY OF THE PROPOSAL.....14**

**E. COMAR 10.24.01.08G(3)(e) COMPLIANCE WITH  
CONDITIONS OF PREVIOUS CERTIFICATES OF NEED .....15**

**F. COMAR 10.24.01.08G(3)(f) IMPACT ON EXISTING PROVIDERS  
AND THE HEALTH CARE DELIVERY SYSTEM.....15**

**V. SUMMARY AND RECOMMENDATION .....16**

**FINAL ORDER**

**APPENDIX 1: Record of the Review**

**APPENDIX 2: Excerpted CON Standards for Home Health Services from the State Health Plan Chapter 10.24.16**

**APPENDIX 3: Project Budget**

## **I. INTRODUCTION**

### **A. The Applicant**

The applicant is Visiting Nurse Association of Maryland, LLC, d/b/a/ VNA of Maryland (“VNA”), a licensed home health agency<sup>1</sup> headquartered at 7008 Security Boulevard, Suite 300, in Windsor Mill (Baltimore County). It has no branch offices. (DI #17, p.3). VNA currently operates in Baltimore City and the counties of Anne Arundel, Baltimore, Calvert, Carroll, Cecil, Charles, Frederick, Harford, Howard, Montgomery, Prince George’s, St. Mary’s, and Washington as well as in the Upper Eastern Shore counties of Caroline, Kent, Queen Anne’s, and Talbot. VNA received a Certificate of Need (“CON”) to serve those Upper Shore counties in July 2017 and was fully operational in those counties as of January 2018.

VNA provides skilled nursing services, home health aide services, occupational therapy, speech/language therapy, physical therapy, and medical social services. It is the largest home health agency (“HHA”) in the state. In 2014 (latest complete data available) VNA had the most admissions and total visits,<sup>2</sup> with each of these metrics at least 21% higher than any other Maryland agency. In calendar year (CY) 2016, VNA Home Health of Maryland, LLC made over 200,000 visits in 13 counties.<sup>3</sup> At the time of the applicant’s September 2017 filing, it was projecting over 218,000 visits for that year.

### **B. The Project**

VNA originally proposed to expand its current Eastern Shore service area (Cecil, Caroline, Kent, Queen Anne’s and Talbot Counties) into Dorchester, Somerset, Wicomico and Worcester Counties, which would give it a presence across the entire Eastern Shore. However, it modified that application on April 25, 2018, downsizing its plans so as to expand only into Dorchester County after Peninsula Home Care (“PHC”) filed comments requesting status as an interested party in the review. PHC is authorized to provide services in the region’s three southernmost counties: Wicomico, Worcester, and Somerset and does not serve Dorchester County.

PHC claimed that if VNA entered the market “PHC will inevitably lose referrals and, more importantly, valuable staff to, and will suffer financial harm as a result of, this project. PHC (and the other existing home health agencies on the Lower Eastern Shore) will clearly suffer ‘detrimental impact.’ ” (DI# 31, p 4). VNA offered a vigorous response to PHC’s comments, pointing out that PHC had seen significant growth over a three-year period, and stating that its decisions regarding entering new market areas were based on: (1) how best to serve the patient population; (2) how best to serve referral sources; and (3) how best to meet the needs of its employees. (DI# 32, p. 2). Nevertheless, VNA chose to modify its application rather than engage further in a contested review. After VNA amended its application to limit its proposed expansion only to Dorchester County, PHC withdrew its comments and request for interested party status.

---

<sup>1</sup> Maryland license No. HH7008 and Medicare provider No. 21-7008.

<sup>2</sup> MHCC’s public use data file: [http://mhcc.maryland.gov/public\\_use\\_files/homehealthdownload.html](http://mhcc.maryland.gov/public_use_files/homehealthdownload.html).

<sup>3</sup> In 2014, VNA provided 88,300 skilled nursing visits, 14,442 home health aide visits, 77,393 physical therapy visits, 14,704 occupational therapy visits, 2,568 speech therapy visits, and 2,864 medical social services visits.

VNA projects that it will serve 85 total clients and make 794 visits in its first year of service to Dorchester County, growing to 270 clients and 3,450 visits by its third year of operation. The start-up cost of this project is estimated to be \$47,000, covering minor moveable equipment, contingencies, legal fees, printing, and CON consulting fees (\$25,000 was estimated for legal and consulting costs associated with obtaining the CON). The applicant plans to fund the cost of this project with cash.

VNA projects that it will be operational in Dorchester County within 90 days of receiving a CON.

### **C. Staff Recommendation**

Staff concludes that this project is in compliance with the applicable standards of COMAR 10.24.16, the State Health Plan chapter for Home Health Agency Services (“HHA Chapter”), that the need for additional home health agency services has been identified, and that VNA’s expansion into Dorchester County is a viable and cost-effective approach to meeting a portion of the need identified for the lower Eastern Shore region. Staff concludes that the CON criteria outlined in COMAR 10.24.01.08G(3) have been met, and thus recommends **APPROVAL** of the project with the following conditions:

- 1.VNA shall maintain compliance with the provisions of COMAR 10.24.16.08E(1)-(4) regarding charity care, sliding fee scale, and reduced fee services;
2. VNA shall provide an amount of charity care equivalent to the average amount of charity care provided by home health agencies in the multi-jurisdictional region it proposes to serve; and
3. VNA shall provide documentation regarding its links with hospitals, nursing homes, continuing care retirement communities, hospice programs, assisted living providers, Adult Evaluation and Review Services, adult day care programs, the local Department of Social Services, and home delivered meal programs located within its proposed service area when it requests first use approval.

## **II. PROCEDURAL HISTORY**

### **A. Record of the Review**

For the procedural history, please see the Record of the Review in Appendix 1.

### **B. Interested Parties in the Review**

There are no interested parties in this review.

### **C. Local Government Review and Comment**

No comments from local governments or letters of support for this project were submitted.

### **D. Community Support**

No letters of support were received. Peninsula Regional Medical Center (“PRMC”) submitted comments recommending denial of the VNA application “to expand its authorized service jurisdictions to include the Lower Eastern Shore region.” (DI #28, pp. 1-2) PRMC indicates that VNA’s application is almost devoid of any familiarity with the health care needs of the Lower Eastern Shore residents, and the application “fails to indicate any interest in learning about the problems this population faces.” While these comments were submitted in January 2018 shortly after the VNA project was docketed, PRMC did not submit a response to VNA’s modification to its CON application in April.

## **III. BACKGROUND**

COMAR 10.24.16 (“HHA Chapter”), the chapter of the State Health Plan for Facilities and Services that regulates the development and expansion of home health agency (“HHA”) services in Maryland, contains the policy position of the Maryland Health Care Commission (“Commission”) that consumers need a choice of high quality HHA providers. The HHA Chapter provides that a jurisdiction shall be identified as having a need for additional home health agency services if it is determined that the jurisdiction has: (1) insufficient consumer choice of HHAs; (2) a highly concentrated HHA service market; or (3) insufficient choice of HHAs with high quality performance.<sup>4</sup> COMAR 10.24.16.04.

The four counties of the Lower Eastern Shore (Dorchester, Somerset, Wicomico, and Worcester) each have at least three providers serving more than ten clients, and a sufficient choice of quality HHA performers. However, each of the four counties also showed a highly concentrated market with a Herfindahl-Hirschman Index (HHI)<sup>5</sup> ranging from a high of 0.444 in Somerset to a low of 0.359 in Dorchester -- all well above the 0.25 HHI threshold used as an indicator of a highly

---

<sup>4</sup> Specifically, insufficient consumer choice is considered to exist: (1) in any jurisdiction in which consumers have two or fewer Medicare-certified HHAs that served 10 or more clients each year during the most recent three-year period for which data is available; (2) in a jurisdiction considered to have a highly concentrated HHA market, defined as a jurisdiction with a Herfindahl-Hirschman Index (HHI) of 0.25 or higher; and (3) in a jurisdiction considered to have an insufficient choice of quality performing HHAs, defined as a jurisdiction in which HHAs serving 60 percent or more of the clients did not meet the applicable quality performance requirements designated by the Commission in the most recent year for which data is available.

<sup>5</sup> The Herfindahl-Hirschman Index is a measure of the competitiveness, or the lack of competitiveness, exhibited in a market served by competing firms. It is usually characterized as a measure of the level of concentration of market power within the market. In the HHA Chapter, the HHI is defined as the sum of the squares of the market shares of all the HHAs authorized and actually serving a jurisdiction. In theory, results can range from 0 to 1.0. An HHI of 1.0 indicates a monopoly in which one firm has total market power. Conversely, a competition index close to 0.0 indicates a condition of highly dispersed market power in which no one firm or small group of firms is dominant. The HHA Chapter uses U.S. Department of Justice and Federal Trade Commission Horizontal Merger Guidelines established in 2010, to establish an HHI threshold of 0.25 or greater as defining a highly concentrated jurisdictional market for HHA services.

concentrated market. It is that market concentration that prompted the Commission to open the four counties of the Lower Eastern Shore for further development of home health agency service capacity.

To submit an application that can be accepted for review, a potential applicant must: (1) provide documentation that the applicant is currently in conformance with the provisions, conditions and characteristics specified at COMAR 10.24.16.06C; and (2) meet the performance-related qualifications specified in COMAR 10.24.16.06.D and 10.24.16.07.

VNA. is one of 18 Maryland Medicare-certified HHAs that met the required performance levels in the July 2016 CMS Home Health Compare dataset, and thus qualified to apply for a CON to expand the agency's current authorization for the 2017 CON review cycle for the Lower Eastern Shore.

#### **IV. STAFF REVIEW AND ANALYSIS**

The Commission reviews CON applications using six criteria found in COMAR 10.24.01.08G(3). The first of these considerations is the relevant State Health Plan standards and policies.

#### **COMAR 10.24.01.08G(3)(a) THE STATE HEALTH PLAN**

*An application for a Certificate of Need shall be evaluated according to all relevant State Health Plan standards, policies, and criteria.*

In this review, the relevant chapter of the State Health Plan for Facilities and Services is the HHA Chapter, COMAR 10.24.16.

#### **COMAR 10.24.16.08 STANDARDS**

**A. GENERAL STANDARDS.** *The following general standards encompass Commission expectations for the delivery of home health services by all existing home health providers in Maryland, as defined in Health General §19-120(j)(3)(ii). Each applicant that seeks a Certificate of Need for a project covered by this Chapter shall address and document its compliance with each of the following general standards as part of its application.*

#### **A. Service Area**

*An applicant shall:*

- (1) Designate the jurisdiction or jurisdictions in which it proposes to provide home health agency services; and*
- (2) Provide an overall description of the configuration of the parent home health agency and its interrelationships, including the designation and location of its main office, each subunit, and each branch, as defined in this Chapter, or other major administrative offices recognized by Medicare.*



VNA of Maryland states in its modified CON application that it seeks to expand its home health agency into Dorchester County. (DI #36, p. 2) VNA currently does not operate, nor is it proposing the establishment of, any branch or satellite office. All business matters are handled out of its main office located on Security Boulevard in Windsor Mill, Baltimore County. (DI #17, p.3).

Staff concludes that the applicant complies with this standard.

**B. Populations and Services.**

*An applicant shall describe the population to be served and the specific services it will provide.*

VNA states that it will provide skilled nursing services, occupational, physical and speech language therapy, medical social work service, and home health aide services. It will serve adults only, typically following a hospitalization or a stay in a skilled nursing home. (DI #6, p.12).

Staff concludes that this standard has been met.

**Standard .08C (“Financial Accessibility”), .08D (“Fees and Time Payment Plan”), .08H (“Financial Solvency”), .08I (“Linkages with Other Service Providers”), .08J (“Discharge Planning”), and .08K (“Data Collection and Submission”).**

Among the remaining applicable standards are several that prescribe policies, staffing and/or service requirements that an applicant must meet, or agree to meet prior to commencement of operations and some that require documentation or proof of compliance. Staff has reviewed VNA’s CON application and confirmed that the applicant provided information and affirmations that demonstrate full compliance with the following standards:

- .08C Financial Accessibility,
- .08D Fees and Time Payment Plan,
- .08H Financial Solvency,
- .08J Discharge Planning, and
- .08K Data Collection and Submission.

Staff has reviewed VNA’s responses and has concluded that the proposed project meets the requirements of these standards. VNA of Maryland: is currently Medicare and Medicaid certified, agrees to maintain those certifications, and to continue to accept clients whose primary source of payment is either of those programs. VNA has a Fee and Time Payment policy which makes fees known at the time of patient assessment. It has documented that it has the financial resources necessary to implement the proposed expansion. It has an appropriate discharge planning process and is in compliance with all federal and state data collection and reporting requirements.

The text of these standards and the locations within the application file where compliance is documented are attached as Appendix 2.

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

*Each applicant for home health agency services shall have a written policy for the provision of charity care for indigent and uninsured patients to ensure access to home health agency services regardless of an individual's ability to pay and shall provide home health agency services on a charitable basis to qualified indigent and low income persons consistent with this policy. The policy shall include provisions for, at a minimum, the following:*

VNA submitted a copy of its charity care policy, which describes its procedure for providing services to uninsured, underinsured, and indigent patients who may qualify for charity care or reduced fees. (DI #6, Att. D; and at <https://www.vnamd.com/charity-care/>.)

***(1) Determination of Eligibility for Charity Care and Reduced Fees. Within two business days following a client's initial request for charity care services, application for medical assistance, or both, the home health agency shall make a determination of probable eligibility for medical assistance, charity care, and reduced fees, and communicate this probable eligibility determination to the client.***

VNA's Charity Care and Sliding Fee Scale policy states that "VNA of Maryland will make a determination of probable eligibility for charity care or reduced fees within two business days of the person's request for charity care, application for Medical Assistance, or both, or request for reduced fees based on initial information provided." (DI #6, Att. D)

***(2) Notice of Charity Care and Sliding Fee Scale Policies. Public notice and information regarding the home health agency's charity care and sliding fee scale policies shall be disseminated, on an annual basis, through methods designed to best reach the population in the HHA's service area, and in a format understandable by the service area population. Notices regarding the HHA's charity care and sliding fee scale policies shall be posted in the business office of the HHA and on the HHA's website, if such a site is maintained. Prior to the provision of HHA services, a HHA shall address clients' or clients' families concerns with payment for HHA services, and provide individual notice regarding the HHA's charity care and sliding fee scale policies to the client and family.***

The applicant states that the Charity Care policy is displayed in a conspicuous location within the business office and posted on VNA's website (at: <https://www.vnamd.com/charity-care/>). Staff has confirmed this.

***(3) Discounted Care Based on a Sliding Fee Scale and Time Payment Plan Policy. Each HHA's charity care policy shall include provisions for a sliding fee scale and time payment plans for low-income clients who do not qualify for full charity care, but are unable to bear the full cost of services.***

VNA's policy includes a sliding fee schedule and time payment plan options, available for low-income clients "who are not able to pay their entire account balance within 30 days." (DI #17, Att. Q, p. 24).

**(4) Policy Provisions. An applicant proposing to establish a home health agency or expand home health agency services to a previously unauthorized jurisdiction shall make a commitment to, at a minimum, provide an amount of charity care equivalent to the average amount of charity care provided by home health agencies in the jurisdiction or multi-jurisdictional region it proposes to serve during the most recent year for which data is available. The applicant shall demonstrate that:**

**(a) Its track record in the provision of charity care services, if any, supports the credibility of its commitment; and**

VNA stated that it has a proven track record of providing charity care services, characterizing it as an ongoing commitment to the communities it serves across the State. Citing the level of charity care provided in Dorchester County, VNA committed to “provide [the] proportionate number of charity visits...equal to the average...provided by other home health agencies” in the jurisdiction.<sup>5</sup> (DI #6, p.16). Staff analysis, shown in Table IV-1 below, shows that in FY 2014 VNA of Maryland provided charity care at a rate that was 166% of the statewide average (Table IV-1).

**Table IV-1: Charity Care Provided for FY 2014, VNA and Statewide**

	Visits	Charity Visits	Charity Visits as % of Total Visits
<b>VNA</b>	180,862	460	.25%
<b>State of Maryland</b>	1,813,878	2,816	.15%

Source: HHA Annual Survey 2014, Agency Data

**(b) It has a specific plan for achieving the level of charity care to which it is committed.**

VNA states that it has “historically provided charity care to patients discharged by referral sources” across the 14 jurisdictions it is authorized to serve based on long-standing relationships with those referral sources. (DI #6, p. 16; DI #41). The applicant reports that, under those arrangements, a referral source would request that VNA consider accepting patients who are “deemed to have met the established criteria of charity care.” (DI #41). These referral sources presently include the University of Maryland Medical Center, University of Maryland St. Joseph Medical Center, and the University of Maryland Baltimore Washington Medical Center. Upon establishment of home health services in Dorchester County, the VNA would enter into an arrangement to provide charity care based on referrals from University of Maryland Shore Medical Center at Easton, University of Maryland Shore Medical Center at Dorchester, and with Choptank Community Health System – Medical Clinic in Cambridge.

---

<sup>5</sup> The 2014 MHCC HHA Annual Survey reports for FY 2014 that the three home health agencies operating in Dorchester County (HomeCall, Amedisys, and Shore Home Health) provided a total of 19,832 client visits. HomeCall did not report providing any charity care for the year. The remaining two HHAs provided a total of 18 charity care visits, with Amedisys reporting only one charity visit and Shore Home Health the remaining 17 charity visits. Combined, the percentage of charity care visits in Dorchester County was about 0.1%, whereas the statewide level of charity care was approximately 0.16% of total visits.

Given VNA’s past performance and its agreement to continue to conform with this standard, staff concludes that it satisfies this standard, and recommends that any approval of this project be issued with the following conditions:

1. VNA shall maintain compliance with the provisions of COMAR 10.24.16.08E(1)-(4) regarding charity care, sliding scale, and reduced fee services, and
2. VNA shall provide an amount of charity care equivalent to the average amount of charity care provided by home health agencies in the multi-jurisdictional region it proposes to serve.

**F. Financial Feasibility.**

*An applicant shall submit financial projections for its proposed project that must be accompanied by a statement containing the assumptions used to develop projections for its operating revenues and costs. Each applicant must document that:*

- (1) *Utilization projections are consistent with observed historic trends of HHAs in each jurisdiction for which the applicant seeks authority to provide home health agency services;*

VNA projects that the agency will serve a total of 270 clients and deliver around 3,600 visits by CY 2020, the year it projects reaching full utilization in Dorchester County. Table IV-2 below shows the volume of HHA visits over the last five years of complete data (ending in 2014). The growth trend in visits over the five years (average annual growth of 14.8%) shown in the table suggests that visit volume in 2020 could be considerably higher than the average visit total of 19,440 visits reported for 2012 to 2014.<sup>6</sup> If so, the 3,600 visits projected by VNA appears fairly reasonable. Additionally, it is worth noting that Amedisys is serving Dorchester County because it acquired Home Health Corporation of America, which was first authorized to serve this jurisdiction in June 2008. Thus, in 2010, Amedisys was still a relative newcomer to the Dorchester County home health market, providing its second full calendar year of service, but reported almost 3,000 visits in that year. This experience supports the view that VNA may be able to achieve its utilization projections.

**Table IV-2: Home Health Agency Visits to Dorchester County Residents, FY 2010 - FY 2014**

Fiscal Year	2010	2011	2012	2013	2014
<b>Amedisys</b>	2,968	3,208	7,825	9,113	9,507
<b>HomeCall</b>	3,964	3,477	4,250	4,144	4,782
<b>Shore Home Care</b>	5,619	4,803	6,103	7,043	5,543
<b>Total</b>	12,551	11,488	18,178	20,300	19,832

Source: FY 2010 – FY 2014 HHA Annual Surveys, Table 16

<sup>6</sup> Data that is not yet audited and verified extracted from the 2015 and 2016 HHA Annual Surveys shows total HHA visits increased to 24,416 in 2015 and 24,679 in 2016; that is an increase of 24% over the two years.

VNA projects that the largest portion of its home health visits in Dorchester County will be for skilled nursing visits, followed by physical therapy, and home health aide visits. Its projections are roughly similar to the current visit distribution provided by existing HHAs, and closely mirrors the statewide distribution, as shown in Table IV-3, below. VNA stated that it based its projections on its own experience and on the observation that the population in Dorchester County is aging in place with the 65 and older segment becoming a greater portion of the total population of the Lower Eastern Shore. (DI# 6, p. 16).

**Table IV-3: Percentage of Home Health Visits by Discipline for all Maryland HHAs and Dorchester County HHAs in FY 2014  
Projected Visit Mix for VNA in Dorchester County, CY 2020**

Discipline	Reported for FY 2014				CY 2020 Projection
	All Maryland HHAs	Amedisys	HomeCall	Shore Home Care	VNA
Skilled Nursing	44.0%	48.5%	38.9%	56.8%	42.3%
Home Health Aide	6.0%	3.7%	6.0%	7.6%	9.8%
Occupational Therapy	9.5%	10.7%	6.8%	5.2%	7.6%
Physical Therapy	37.9%	33.2%	45.5%	29.4%	37.3%
Speech Therapy	1.8%	2.6%	0.8%	0.0%	1.3%
Medical Social Work	0.8%	1.2%	2.0%	0.9%	1.7%
<b>% Total Client Visits</b>	100.0%	100.0%	100.0%	100.0%	100.0%

Source: FY 2014 HHA Annual Survey, Table #9 and DI #38, Table 2B

*(2) Projected revenue estimates are consistent with current or anticipated charge levels, rates of reimbursement, contractual adjustments and discounts, bad debt, and charity care provision, as experienced by the applicant if an existing HHA or, if a proposed new HHA, consistent with the recent experience of other Maryland HHAs serving each proposed jurisdiction; and*

VNA based its financial projections on its experience in providing HHA services to residents of Cecil County in the Upper Eastern Shore, and stated that its current and historical experience is an accurate basis for projecting its revenues and expenses for the Lower Eastern Shore. (DI #6, p. 17).

*(3) Staffing and overall expense projections are consistent with utilization projections and are based on current expenditure levels and reasonably anticipated future staffing levels as experienced by the applicant if an existing HHA or, if a proposed new HHA, consistent with the recent experience of other Maryland HHAs serving the each proposed jurisdiction.*

VNA’s projections anticipate employment of 1.5 full-time equivalent staff (“FTEs”) in CY 2018, 3.65 FTEs in CY 2019, and 5.5 FTEs in Dorchester County in CY 2020. The calculations performed to construct Table IV-4, below, show that VNA’s projected staffing levels are prudent,

i.e., those projections assume a productivity level that is lower than the average productivity of the three existing HHAs and the statewide average.

**Table IV-4: Annual Number of Home Health Visits per FTE by Discipline, Maryland and Dorchester County (FY 2014), and VNA of Maryland (Projected CY 2020)**

Type of Visit	All Maryland HHAs FY 2014	Dorchester County	
		3 HHAs* FY 2014	VNA Projection CY 2020
Skilled Nursing	966.1	1,115.6	842.0
Home Health Aide	916.8	924.3	877.5
Occupational Therapy	1,231.3	1,321.5	808.8
Physical Therapy	1,375.3	1,333.9	843.4
Speech Therapy	964.5	846.7	171.4
Medical Social Work	447.6	544.4	762.5
<b>All Visits</b>	<b>1,098.1</b>	<b>1,165.6</b>	<b>800.0</b>

\* Includes Amedisys, HomeCall, and Shore Home Care.

Source: FY 2014 HHA Annual Survey, Table #9 for Total Client Visits and Table 11 for FTEs. DI #38, Table 2B and Table 5, p. 43.

Staff concludes that VNA’s financial projections are based on reasonable utilization, revenue, expense, and staffing assumptions and that the applicant has met this standard.

**G. Impact.**

*An applicant shall address the impact of its proposed home health agency service on each existing home health agency authorized to serve each jurisdiction or regional service area affected by the proposed project. This shall include impact on existing HHAs’ caseloads, staffing and payor mix.*

Impact on Caseloads

VNA states that it anticipates no impact on existing HHA caseloads, staffing, or payor mix in Dorchester County because of the organic growth in the level of services needed. The applicant cited Maryland Department of Planning projections showing the 65-and-over population to be increasing (approximately 47% between 2015 and 2030), which will increase the need for home and community-based services as the population ages. VNA also referred to the growth between 2010 and 2014, as previously shown in Table IV-2, above, and cited research findings by the American Association of Retired Persons that “more residents are choosing to age at home as opposed to an institutional setting.”<sup>7</sup> Therefore, VNA expects the need for additional home health services to grow to the extent that the establishment of a fourth HHA will not have an adverse impact on the three existing programs serving Dorchester County. (DI #6, p. 18).

<sup>7</sup> <https://assets.aarp.org/rgcenter/general/home-community-services-10.pdf>

## Impact on Staffing

As previously noted, VNA based its staffing projections on its current operations in Cecil County. VNA expects to have 1.5 FTEs in the first year, increasing to 5.5 FTEs by the third year of operation, as detailed immediately below. The applicant does not expect that the addition of 5.5 FTEs in CY 2020 will have an adverse impact on the ability of existing HHAs to either recruit or maintain adequate staffing.

**Table IV-5: Manpower Requirements Projected for VNA of Maryland (Total Operation)**

<b>Position Title</b>	<b>Current FTE's</b>	<b>Additional FTEs 2018</b>	<b>Additional FTEs 2019</b>	<b>Additional FTEs 2020</b>
Administrative	107	0.50	0.75	1.00
Registered Nurse	86	0.40	1.17	1.81
Physical Therapist	62	0.35	1.02	1.59
Occupational Therapist	14	0.08	0.22	0.34
Speech Therapist	3	0.06	0.18	0.28
Home Health Aide	11	0.09	0.26	0.40
Medical Social Worker	5	0.02	0.05	0.08
<b>Total</b>	<b>288</b>	<b>1.50</b>	<b>3.65</b>	<b>5.50</b>

Source: DI #17, Table 5, p. 14 and DI #38, Table 5.

Further, VNA states that it does not intend to recruit from other agencies, “but to recruit from within the agency as it grows and develops its own talent.” (DI #6, p. 6). VNA notes that it recruits medical professionals dedicated to the provision of quality care who are respectful of and treat clients with dignity, and has a 95% employee retention rate. VNA’s “retention strategy includes working diligently with human resources on staffing strategies that... optimize opportunities for existing personnel in the bordering areas of the Lower Eastern Shore and accommodating personnel that would like to reside within the...area.” (DI #17, p. 6).

## Impact on Payor Mix

VNA explains this differential, stating that it accepts a significant number of private insurers that other home health agencies do not. (DI #17, p. 10). When compared with the payor mix of the three HHAs currently operating in Dorchester County, VNA’s home health service expects to serve a higher percentage of patients with private insurance<sup>8</sup>, and conversely, a lower percentage of Medicare patients (see Table IV-6, on the following page). However, its payor mix projections are in line with its Cecil County experience.

Staff recommends that the Commission find that the applicant complies with this standard. While the growth potential of the existing providers will be blunted by the addition of a new provider, this is an unavoidable consequence of the SHP regulations that gave rise to this review. The desired impact of this project is to alter the market share positions of HHAs operating in the Lower Eastern Shore so that the market is more competitive. It appears that there is likely to be sufficient growth in the market such that no negative impact on any existing HHAs will approach major levels, especially because all the incumbent agencies serve multiple jurisdictions and their growth potential will only be affected in Dorchester County, a relatively small jurisdiction. Again,

---

<sup>8</sup> Includes Blue Cross and other commercial insurance.

the addition of VNA as a home health provider in Dorchester County will meet the objectives of the HHA Chapter to provide more consumer choice and create the potential for more competitive balance in the region and, in this case, that can be achieved with relatively minor levels of impact on existing providers.

**Table IV-6: Reported Payor Mix for All Maryland HHAs and HHAs Operating D Dorchester County, FY 2014 and**

Payor	All Maryland HHAs FY 2014	Dorchester County			
		Amedisys FY 2014	Homecall FY 2014	Shore Home Health FY 2014	VNA CY 2020
Medicare	85.5%	93.8%	92.9%	86.2%	62.7%
Medicaid	2.0%	0.3%	0.6%	2.8%	2.1%
Private Insurers	10.7%	6.0%	6.6%	9.6%	35.2%
HMO	1.2%	0.0%	0.0%	1.3%	0.0%
Other Government	0.2%	0.0%	0.0%	0.1%	0.0%
Self Pay	0.2%	0.0%	0.0%	0.0%	0.0%
Other	0.2%	0.0%	0.0%	0.0%	0.0%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

Source: FY 2014 HHA Annual Survey, Table #10, and DI #38, Table 4

### **I. Linkages with Other Service Providers.**

*An applicant shall document its links with hospitals, nursing homes, continuing care retirement communities, hospice programs, assisted living providers, Adult Evaluation and Review Services, adult day care programs, the local Department of Social Services, and home delivered meal programs located within its proposed service area.*

- (1) A new home health agency shall provide this documentation when it requests first use approval.*
- (2) A Maryland home health agency already licensed and operating shall provide documentation of these linkages in its existing service area and document its work in forming such linkages before beginning operation in each new jurisdiction it is authorized to serve.*

As an existing home health agency in Maryland, VNA states it has linkage relationships in the 14 jurisdictions that it currently serves. The applicant states that “VNA of Maryland’s model is to create linkages after being awarded a CON for the designated area.” (DI #17, p. 6) VNA notes it has in place in existing service areas “certain Preferred Provider agreements to ensure same day home care services where the patient is discharged directly home after surgery from hospitals and surgical centers.” (DI #6, p. 19). Staff concludes that the applicant meets this standard, but recommends adding the following condition should the Commission approve the project:

VNA shall provide documentation regarding its links with hospitals, nursing homes, continuing care retirement communities, hospice programs, assisted living providers, Adult Evaluation and Review Services, adult day care programs, the local Department of Social Services, and home delivered meal programs located within its proposed service area when it requests first use approval.



## **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.***

In accordance with the HHA Chapter, at COMAR 10.24.16.04, the four counties in the Lower Eastern Shore region – Dorchester, Somerset, Wicomico, and Worcester – were identified as qualifying for consideration of new home health agency service providers as a result of meeting the definition of highly concentrated markets, which is evidenced by a calculated Herfindahl-Hirschman Index exceeding 0.25 for each of these four counties.

To further support this *de facto* case for need, VNA pointed out that the 65 and older population in the proposed service area is projected to grow by about 46.5% between 2015 and 2030, which would create a greater need for home health service providers in the jurisdiction.

Staff recommends that the Commission find that VNA’s expansion proposal meets the HHA Chapter’s need analysis.

## **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.***

With respect to alternative facilities with competing applications, during the period when MHCC accepted letters of intent for the Lower Eastern Shore HHA review cycle, National Home Care Holdings, LLC (“National Home”) also submitted an LOI. (DI #1). As an existing Medicare-certified home health agency operating in a state other than Maryland, to comply with the regulations under COMAR 10.24.16.06D and COMAR 10.24.16.07, the Commission requested that National Home “complete and provide attestation that demonstrates compliance in attaining the required quality measures and performance levels in order to qualify as an eligible applicant... for the Lower Eastern Shore of Maryland.” (DI #2). Upon reviewing National Home’s responses, MHCC staff concluded that it failed to meet all of the quality measures and performance thresholds in the HHA Chapter. For this reason, staff informed National Home that any application it submitted could not be docketed. (DI #5).

VNA did not identify any alternatives to this expansion project, but noted that “home care is the most cost effective delivery of Skilled Care.” VNA also provided documentation of its excellent quality and satisfaction scores. (DI #6, p.23, and Att. G) and also noted the minimal expense involved, given its status as a large HHA already operating in the Upper Shore, in expanding into Dorchester County. While existing HHAs in Dorchester County may be able to expand to serve more patients, the HHA Chapter favors the consideration of a new entrant into Dorchester County based upon its highly concentrated HHA service market. COMAR 10.24.16.04.

Staff concludes that the proposed project is a cost-effective approach to providing more choices and a higher level of competition in the region.

**D. Viability of the Proposal**

*The Commission shall consider the availability of financial and nonfinancial resources, including community support, necessary to implement the project within the time frames set forth in the Commission's performance requirements, as well as the availability of resources necessary to sustain the project.*

Availability of Resources Necessary to Implement the Project

The total estimated cost of this project is \$47,000 which will be funded with cash. The total project budget is shown in Appendix 3. The applicant has sufficient funds available to fund the project and provided evidence that it has the financial resources to expand its operational capability to this jurisdiction. (DI #6, Att. L).

Availability of Resources Necessary to Sustain the Project

VNA’s historic and projected revenue and expense schedule, shown in Table IV-7, below, shows that the applicant is profitable and projects continued profitability. There is no basis for doubting that VNA can undertake start-up of services to Dorchester County and sustain this operation to a point at which the revenue generated from this new service area covers or exceeds the expenditure made to provide the services.

**TABLE IV- 7: VNA of Maryland Historic and Projected Revenue and Expense Statement, CY 2016 thru CY 2020**

	Two Most Recent Years -- Actual		Current Year Projected	Projected Years (ending with first full year at full utilization)	
	CY 2016	CY 2017	CY 2018	CY 2019	CY 2020
<b>1. Revenue</b>					
Net Operating Revenue	\$33,798,224	\$36,158,552	\$38,256,271	\$40,756,271	\$43,581,271
<b>2. Expenses</b>					
Total Operating Expenses	\$32,332,403	\$35,758,383	\$37,016,092	\$39,276,092	\$41,886,092
<b>3. Income</b>					
Income from Operation	\$1,641,978	\$400,169	\$1,240,179	\$1,480,179	\$1,695,179
Non-Operating Income	(\$202,084)	(\$10,452)	\$25,000	\$25,000	\$25,000
<b>Net Income (Loss)</b>	<b>\$1,439,894</b>	<b>\$389,717</b>	<b>\$1,265,179</b>	<b>\$1,505,179</b>	<b>\$1,720,179</b>

Source: DI #38, Table 3

The expansion into Dorchester County will only require VNA to add a projected 5.5 FTEs.

Staff concludes that VNA of Maryland has the resources necessary to implement and sustain this project and recommends a finding that the project is financially viable.

**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.*

VNA received eight CONs in the 1990s, as described in the following table. VNA complied with the terms of the CONs, which did not contain conditions.

Project Name	Year of Docketing
Expansion – Anne Arundel	1993
Expansion – Carroll	1995
Expansion – Prince George’s - VNA Hospice of Maryland (Hospice operations acquired by Seasons in 2003)	1996
Expansion – St. Mary’s	1996
Expansion – Prince George’s	1996
Expansion – Charles	1996
Expansion – Calvert	1996
Expansion – Montgomery - VNA Hospice of Maryland (Hospice operations acquired by Seasons in 2003)	1996

On July 20, 2017, VNA received CON approval to expand its service area through the entire Upper Eastern Shore region, providing home health services in Caroline, Kent, Queen Anne’s, and Talbot Counties, at a cost of \$34,000, subject to the following conditions:

1. VNA shall maintain compliance with the provisions of COMAR 10.24.16.08E(1)-(4) regarding charity care, sliding scale, and reduced fee services, and
2. VNA shall provide an amount of charity care equivalent to the average amount of charity care provided by home health agencies in the multi-jurisdictional region it proposes to serve.

VNA of Maryland began serving patients in these four Upper Eastern Shore counties in October 2017, and notified MHCC that it was fully operational and serving patients in Caroline, Kent, Queen Anne’s, and Talbot County in January 2018. The applicant is compliant and met all of the terms of this CON to establish home health agency services in the Upper Eastern Shore.

**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.***

As discussed earlier under the Impact standard, page pp. 10-12, *supra*, VNA states that it does not anticipate a negative impact on existing agencies because it expects that increased demand for HHA services in the coming years in Dorchester County will at least approximate its pickup of business in the service area. Strong growth in the elderly population supports its projection of increased demand for HHA services.

To reiterate staff's conclusions under the Impact standard, this project will blunt the growth potential of the existing HHA service providers in Dorchester County as an unavoidable consequence of the HHA Chapter's regulations that gave rise to this review. The desired impact of this project is to alter the market share positions of HHAs operating in the Lower Eastern Shore so that the market is more competitive. It is likely that there will be sufficient growth in the market such that no serious negative impact on any existing HHAs will necessarily be a consequence of authorizing this project. All of the existing HHAs serving the jurisdiction serve multiple jurisdictions and their growth potential will only be affected in Dorchester County, a relatively small jurisdiction.

Given that the Commission has adopted an HHA Chapter that supports the need for additional choice of quality providers in this region, staff recommends that the Commission find that the impact of this application is positive.

## **V. SUMMARY AND STAFF RECOMMENDATION**

Based on its review of the proposed project's compliance with the Certificate of Need review criteria in COMAR 10.24.01.08G(3) and the applicable standards in COMAR 10.24.16, the Home Health Agency Services Chapter of the State Health Plan, Commission staff recommends that the Commission approve the project. It complies with the applicable State Health Plan standards, is needed, is a cost-effective approach to meeting the project and MHCC's objectives, is viable, and will have a positive impact on VNA's ability to provide home health services without adversely affecting costs and charges or costs to the health care system.

Staff recommends that the Commission **APPROVE** the application of Visiting Nursing Association of Maryland, LLC for a Certificate of Need authorizing the expansion of VNA's home health agency services to Dorchester County with the following conditions:

1. VNA shall maintain compliance with the provisions of COMAR 10.24.16.08E(1)-(4) regarding charity care, sliding scale, and reduced fee services, and
2. VNA shall provide an amount of charity care equivalent to the average amount of charity care provided by home health agencies in the multi-jurisdictional region it proposes to serve; and
3. VNA shall provide documentation regarding its links with hospitals, nursing homes, continuing care retirement communities, hospice programs, assisted

living providers, Adult Evaluation and Review Services, adult day care programs, the local Department of Social Services, and home delivered meal programs located within its proposed service area when it requests first use approval.

IN THE MATTER OF

VISITING NURSE ASSOCIATION

OF MARYLAND, LLC

Docket No. 17-R4-2407

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

BEFORE THE

MARYLAND HEALTH

CARE COMMISSION

\*\*\*\*\*

**FINAL ORDER**

Based on the analysis and recommendations in the Staff Report and Recommendation, it is this 19<sup>th</sup> day of July, 2018, by a majority of the Maryland Health Care Commission, **ORDERED:**

That the application of Visiting Nurse Association of Maryland, LLC for a Certificate of Need to expand its service area to include Dorchester County, at a cost of \$47,000, is **APPROVED**, subject to the following conditions:

1. VNA shall maintain compliance with the provisions of COMAR 10.24.16.08E(1)-(4) regarding charity care, sliding scale, and reduced fee services;
2. VNA shall provide an amount of charity care equivalent to the average amount of charity care provided by home health agencies in the multi-jurisdictional region it proposes to serve; and
3. VNA shall provide documentation regarding its links with hospitals, nursing homes, continuing care retirement communities, hospice programs, assisted living providers, Adult Evaluation and Review Services, adult day care programs, the local Department of Social Services, and home delivered meal programs located within its proposed service area when it requests first use approval.

**MARYLAND HEALTH CARE COMMISSION**

## **APPENDIX 1:**

### **Record of the Review**



## Record of the Review

### VNA of Maryland, LLC

Item #	Description	Date
1	Anthony P. Angelo, submits on July 7, 2017 on behalf of National Home Care Holdings, LLC which is the owner of Millenium Home Care, LLC, and Bruce H. Jurist, Esq., submits on June 29, 2017 on behalf of Visiting Nurse Association of Maryland, LLC d/b/a VNA of Maryland, LLC, letters of intent to establish a home health agency ("HHA") service in the Lower Eastern Shore of Maryland serving Dorchester, Somerset, Wicomico, and Worcester Counties.  Commission staff acknowledges receipt of the two letters of intent.	7/12/2017
2	Commission staff sends letter with an attached form to National Home Care Holdings, LLC that requests the applicant as a Medicare-certified home health agency operating in a state other than Maryland complete and provide attestation that demonstrates compliance in attaining the required quality measures and performance levels in order to qualify as an eligible applicant for the 2017 HHA Certificate of Need review for the Lower Eastern Shore of Maryland. MHCC requests that the applicant complete this form before submission of its CON application.	7/14/2017
3	Elizabeth E. Hogue, Esq., on behalf of National Home Care Holdings, LLC, submits the responses to MHCC's July 14 <sup>th</sup> request for documentation of applicant's qualifications to establish a home health agency in Maryland.	8/11/2017
4	Commission staff sends via e-mail excerpts of MHCC's decision not to accept a CON application from National Home Care Holdings, LLC.	8/18/2017
5	Commission staff sends notification that MHCC will not accept the letter of intent to establish HHA service in the Lower Eastern Shore of Maryland submitted by National Home Care Holdings, LLC, the owner of Millenium Home Care, LLC.	8/21/2017
6	Barry M. Ray submits a Certificate of Need ("CON") application on behalf of VNA of Maryland, LLC, to expand its existing general home health agency into the Lower Eastern Shore region serving Dorchester, Somerset, Wicomico, and Worcester Counties.	9/8/2017
7	Commission staff acknowledges receipt of the CON application.	9/14/2017
8	Commission staff requested the <i>Crisfield Times</i> publish legal notice of receipt of CON application.	9/14/2017
9	Commission staff requested the <i>Dorchester Star</i> publish legal notice of receipt of CON application.	9/14/2017
10	Commission staff requested the <i>Maryland Coast Press</i> publish legal notice of receipt of CON application.	9/14/2017
11	Commission staff requested the <i>Daily Times</i> publish legal notice of receipt of CON application.	9/14/2017
12	Commission staff requested the <i>Maryland Register</i> publish legal notice of receipt of CON application.	9/14/2017
13	<i>The Daily Times</i> sent affidavit of publication regarding receipt of application.	9/20/2017
14	<i>The Dorchester Star</i> sent affidavit of publication regarding receipt of application.	9/22/2017
15	Following completeness review, Commission staff requested additional information.	9/22/2017
16	Exchange of e-mails between Barry M. Ray and Commission requesting extension to file response to completeness questions to October 31, 2017.	9/29/2017
17	Barry M. Ray submits response to September 9 <sup>th</sup> request for additional information.	10/31/2017

18	Commission staff sent notice of the docketing of VNA of Maryland's CON application, with formal start of review on December 8, 2017..	11/20/2017
19	Commission staff requested the <i>Record Observer</i> publish legal notice of formal start of review for CON application.	11/20/2017
20	Commission staff requested the <i>Maryland Coast Press</i> publish legal notice of formal start of review for CON application.	11/20/2017
21	Commission staff requested the <i>Crisfield Times</i> publish legal notice of formal start of review for CON application.	11/20/2017
22	Commission staff requested the <i>Dorchester Star</i> publish legal notice of formal start of review for CON application.	11/20/2017
23	Commission staff requested the <i>Maryland Register</i> publish legal notice of formal start of review for CON application.	11/20/2017
24	Commission staff sent request to the Dorchester, Somerset, Wicomico, and Worcester County Health Departments for review and comment.	11/28/2017
25	<i>The Record Observer</i> sent affidavit of publication regarding receipt of application.	12/1/2017
26	Lori Brewster, Health Officer, sent response that the Wicomico County Health Department chooses not to comment.	12/11/2017
27	Peter P. Parvis, Esq., Miles & Stockbridge, P.C., on behalf of Peninsula Home Care, submits on October 24, 2017 request to be copied on all correspondence with regard to VNA of Maryland's CON application.  Peter P. Parvis, Esq., requests extension of one week from January 8, 2018 to January 16, 2018 to submit interested party comments.	12/15/2017
28	Christopher C. Hall, on behalf of Peninsula Regional Medical Center, submitted a letter with comments and concerns regarding VNA of Maryland's CON application and urges MHCC to deny the VNA application to expand home health services to the Lower Eastern Shore region.	1/5/2018
29	Peter P. Parvis, Esq., and Molly E. G. Ferraioli, Esq., on behalf of Peninsula Home Care, LLC, requests an evidentiary hearing and make an oral argument in support of this request for an evidentiary hearing.	1/8/2018
30	Peter P. Parvis, Esq., and Molly E.G. Ferraioli, Esq., request to present oral argument before the reviewer prepares a decision on the CON application.	1/8/2018
31	Peter P. Parvis, Esq., and Molly E.G. Ferraioli, Esq., submit interested party written comments on behalf of Peninsula Home Care, LLC.	1/8/2018
32	Bruce H. Jurist, Esq., submits VNA of Maryland's response to interested party comments.	2/6/2018
33	Peter p. Parvis, Esq., and Molly E.G. Ferraioli, Esq., file a motion to disregard VNA of Maryland's response to interested party comments.	2/14/2018
34	Bruce H. Jurist, Esq., files a reply to Peninsula Home Care's motion to disregard VNA's response to interested party comments.	2/27/2018
35	Peter P. Parvis, Esq., and Molly E.G. Ferraioli, Esq., files a reply to VNA's response to PHC's motion to disregard VNA's response to interested party comments.	3/7/2018
36	Bruce H. Jurist, Esq., files a modification to its CON application now seeking to expand home health agency services into Dorchester County and no longer applying for expansion into Somerset, Wicomico, and Worcester Counties. .	4/25/2018
37	Exchange of e-mails from Bruce H. Jurist, Esq. to Commission with notification of copy of April 25 <sup>th</sup> modification to VNA's CON application sent to interested party.	4/25/2018
38	Exchange of e-mail from Barry M. Ray to Commission with revised Project Budget, and Tables 2A & 2B, 3, 4, and 5.	5/2/2018
39	Notification on MHCC website of modification of VNA of Maryland's CON application.	5/3/2018

40	Peter P. Parvis, Esq., and Molly E.G. Ferraioli, Esq., submit written copy of withdrawal as interested party in VNA of Maryland's CON application.	6/12/2018
41	Barry M. Ray submits clarification on VNA of Maryland's referral plan used in association with providing charity care.	7/11/2018

## **APPENDIX 2**

**Excerpted CON Standards for Home Health Services  
From the State Health Plan Chapter 10.24.16**

**Excerpted CON standards for Home Health Services  
From State Health Plan Chapter 10.24.16**

Each of these standards prescribes policies, staffing, services, or documentation 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.

<b><u>STANDARD</u></b>	<b><u>Docket Item #</u></b>
<p><b><u>.08C. Financial Accessibility.</u></b> An applicant shall be or agree to become licensed and Medicare- and Medicaid-certified, and agree to maintain Medicare and Medicaid certification and to accept clients whose expected primary source of payment is either or both of these programs.</p>	<p>DI#6, pp.12-13 DI#17, Attachment P</p>
<p><b><u>.08D. Fees and Time Payment Plan.</u></b> An applicant shall make its fees known to prospective clients and their families at time of patient assessment before services are provided and shall:</p> <p style="padding-left: 40px;">(1) Describe its special time payment plans for an individual who is unable to make full payment at the time services are rendered; and (2) Submit to the Commission and to each client a written copy of its policy detailing time payment options and mechanisms for clients to arrange for time payment.</p>	<p>DI#6, p.13 DI# 17, p. 4 DI# 17, Attachment Q</p>
<p><b><u>.08H. Financial Solvency.</u></b> An applicant shall document the availability of financial resources necessary to sustain the project. Documentation shall demonstrate an applicant's ability to comply with the capital reserve and other solvency requirements specified by CMS for a Medicare-certified home health agency.</p>	<p>DI #6, p.18 DI# 6, Attachment E</p>
<p><b><u>.08J. Discharge Planning.</u></b> An applicant shall document that it has a formal discharge planning process including the ability to provide appropriate referrals to maintain continuity of care. It will identify all the valid reasons upon which it may discharge clients or transfer clients to another health care facility or program.</p>	<p>DI# 6, p.19 DI# 6, Attachment F</p>
<p><b><u>.08K. Data Collection and Submission.</u></b> An applicant shall demonstrate ongoing compliance or ability to comply with all applicable federal and State data collection and reporting requirements including, but not limited to, the Commission's Home Health Agency Annual Survey, CMS' Outcome and Assessment Information Set (OASIS), and CMS' Home Health Consumer Assessment of Healthcare Providers (HCAHPS).</p>	<p>DI #6, P. 19 DI#6, Attachment G, pp.59-64</p>

## **APPENDIX 3**

### **Project Budget**

**Project Budget Estimate – Uses and Sources of Funds**

<b>A. USE OF FUNDS</b>	
<b>Other Capital Costs</b>	
• Minor Movable Equipment	\$15,000
• Contingencies	\$5,000
<b>Subtotal – Other Capital Costs</b>	<b>\$20,000</b>
<b>TOTAL PROPOSED CAPITAL COSTS</b>	<b>\$20,000</b>
<b>Financing and Other Cash Requirements</b>	
Legal Fees (Other)	\$20,000
Printing	\$2,000
Consultant Fees CON Application Assistance	\$5,000
<b>Subtotal – Financing and Other Cash Requirements</b>	<b>\$27,000</b>
<b>TOTAL USES OF FUNDS</b>	<b>\$47,000</b>
<b>B. SOURCES OF FUNDS FOR PROJECT</b>	
Cash	\$47,000
<b>TOTAL SOURCES OF FUNDS</b>	<b>\$47,000</b>

Source: DI#4, Table 1, pp.32-33