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TO: Commissioners

FROM: Wynee Hawk
Chief, Certificate of Need

DATE: July 15, 2021

SUBJECT: MH Adelphi Operating, LLC dba Hillhaven Nursing and Rehabilitation Center - Docket No. 21-16-2447

Enclosed is the staff report and recommendation for a Certificate of Need (CON) application filed by MH Adelphi Operating, LLC, dba Hillhaven Nursing and Rehabilitation Center (Hillhaven), located in Prince George's County, Maryland. Prince George's County has a higher prevalence of chronic diseases when compared to Maryland as a whole such as hypertension, heart disease, and diabetes. These same chronic diseases are prevalent in the top diagnosis codes used in nursing home admissions.

The applicant is currently licensed to operate 66 beds and proposes an expansion to add an additional 16. The project will add a new 16,477 square foot wing, which will contain 26 private rooms, and convert 10 semi-private to private rooms. The applicant notes that the primary drivers of the project are the County's need for more CCF beds,[1] and the facility's need for more private beds to accommodate community demand. The estimated cost of the project is $9,446,890. It will be funded with cash.

Commission staff analyzed the proposed project's compliance with the applicable State Health Plan criteria and standards and the other applicable CON review criteria at COMAR 10.24.01.08. Staff's review of the application revealed that the facility has fallen short of the required Medicaid participation rate agreed to in its Memorandum of Understanding with Maryland Medicaid. Staff notes that, in its application, Hillhaven committed to meeting the current required level of participation and included that assumption in its budget projections. Responding to MHCC staff's concerns, the applicant submitted a plan to correct this shortfall, including procedures that would alert management in real time if and when the facility is falling

[1] The Commission's bed need projections show a net need for 32 beds by 2022.

below its assigned rate so that appropriate action can be taken. Staff also notes that the facility has consistently maintained five-star ratings with high levels of resident and family satisfaction. Based on the totality of these circumstances, staff believes that the Commission should find that Hillhaven has met the Medicaid participation requirement and, with a stringent condition, approve this CON application that will result in additional private beds in Prince George's County that should benefit the County's residents.

Based on this analysis detailed in the Staff Report, staff recommends that the Commission APPROVE the Certificate of Need application of MH Adelphi Operating, LLC, dba Hillhaven Nursing and Rehabilitation Center (Hillhaven) with the following conditions:

1. Hillhaven shall demonstrate progress in increasing the number of Medicaid patient days as a proportion of total patient days in reports it shall file at least quarterly with the Commission that identify the number and percentage of Medicaid patient days and total patient days at Hillhaven for the previous period, also providing this information for other payor sources during that time period;

2. Prior to seeking first use approval, Hillhaven shall document that the percentage of Medicaid patient days as a proportion of total patient days meets or exceeds the requirement in its most recently signed Memorandum of Understanding[2] with the Maryland Medical Assistance Program; and

3. Hillhaven shall continue to maintain the minimum proportion of Medicaid patient days required in Prince George's County in its Memorandum of Understanding with the Maryland Medical Assistance Program.

[2] Hillhaven has requested that its Medicaid MOU (currently 46.7%) be modified to reflect the current required percentage (42.3%) for Prince George's County.

IN THE MATTER OF	*	**BEFORE THE**
	*	
MH ADELPHI OPERATING, LLC d/b/a	*	
HILLHAVEN NURSING AND	*	**MARYLAND HEALTH**
REHABILITATION CENTER	*	**CARE COMMISSION**
	*	
Docket No. 21-16-2447	*	

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STAFF REPORT AND RECOMENDATION
July 15, 2021

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I. INTRODUCTION

A. The Applicant

The applicant, MH Adelphi Operating, LLC, d/b/a Hillhaven Nursing and Rehabilitation Center (Hillhaven) is a 66-bed proprietary comprehensive care facility (CCF or nursing home) located in Adelphi (Prince George's County). The CCF is part of a larger long-term care campus that was founded in 1966 and has assisted living facilities (62 beds), in addition to the CCF beds. (DI #10, p.2). The CCF provides skilled nursing services, long-term care, and rehabilitation services. Hillhaven is a licensed provider of care to both Medicare and Medicaid patients.[1]

The real property of Hillhaven Nursing and Rehabilitation Center is owned by MH Adelphi Holdings, LLC (49.15 percent), MH Adelphi TIC II Owner, LLC (17.83 percent), and MH Adelphi TIC III Owner, LLC (33.02 percent). All three entities are Delaware companies that are registered to do business in Maryland. (DI #5, Exh.1; DI #10, p.2). The real property owners lease the property to MH Adelphi Operating, LLC. (DI #5, Exh. 20). Hillhaven is the only nursing home in Maryland managed by MH Adelphi Operating, LLC. Meridian Senior Living, LLC (Meridian), which was formed in 2015, provides management services for Hillhaven. Management services include finance, human resources, contracts, policies, compliance, dietary, housekeeping and facilities management. (DI #20, p.1). Meridian also provides management services to a facility in California and two in Rhode Island. (DI #5, Exh. #3).

B. The Project

The applicant proposes to add 16 CCF beds to its existing 66-bed facility by constructing a new 16,477 square foot (SF) wing, which will contain 26 private rooms. (DI #10, table B). The applicant will also convert 10 semi-private rooms to private rooms as part of the proposed project, yielding the net addition of 16 beds.

The applicant states that the main goal of the proposed project is to increase CCF access to residents of Prince George's County, which the applicant characterizes as having a rapidly growing elderly population. The applicant states that the jurisdiction's 75 and older population will grow 37 percent between 2020 and 2026.[2]

The secondary stated goal of the proposed project is to provide more private CCF rooms. The applicant states that it often takes a bed "offline," using a semi-private room for private occupancy, which the applicant claims can cause waiting lists for care. (DI #5, pp.6-7). With the completion of the project, Hillhaven will operate 82 total beds, 46 in private rooms and 36 in semi-

[1] https://www.meridiansenior.com/senior-living/md/adelphi/hillhaven/

[2]The applicant cited Table 1.7 of *The MHCC Comprehensive Care Report* (found at https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_ltc/documents/Routine%20Reports%20All%20Tables%207_6_2020.pdf) (July 6, 2020) as the source of this data and used a population forecast using CAGR (2019-2023) for each age group. (DI #5, p.30).

private rooms. The facility's current and proposed future room and bed inventory are shown in the following table.

Table I-1: Hillhaven Nursing and Rehabilitation Center CCF Rooms and Bed Count Pre- and Proposed Post-Project

	Currently			After Project	
	Rooms	Beds		Rooms	Beds
Semi-private	28	56		18	36
Private	10	10		46	46
Total	38	66		64	82

Source: DI #5, p.7.

Although there will not be a specialty unit in the new addition, the applicant states that the larger spaces provided by converting the semi-private rooms to private rooms will assist with the care of residents who require respiratory therapy, tracheostomy care, in-room dialysis, pain management and safety isolation associated with COVID-19.

The project will also include a new reception area that will allow direct access to the beds in the rehabilitation unit without requiring vendors or other outside visitors to travel through other resident areas. Because the new wing will be elevated, it will allow for more parking to be created beneath the building. (DI #5, p.6, and DI #10, p.6).

The total estimated cost of the project is $9,446,890. The applicant identified the source of project funding as cash. (DI #5, p.8).

C. Characteristics of the Service Area Population: Prince George's County

The percent of Prince George's County beneficiaries (18%) discharged from a hospital to a nursing home is lower compared to other large counties with a mix of both urban and suburban areas including Montgomery County (23.8%), Baltimore County (21.2%), Frederick County (20.9%), Baltimore City (19.9%), Anne Arundel County (19.7%), and Howard County (19.4%). Prince George's County also has a lower percentage of beneficiaries discharged to a nursing home than the State as a whole (20.2%), as seen in the chart below.

Table I-2: Percent of Medicare Beneficiaries Discharged from a Hospital to a Nursing Home or SNF

Jurisdiction	Total Medicare Beneficiaries Discharges	Medicare Discharges Transferred to Nursing Home or SNF*	Percent
Montgomery	22108	5272	23.8%
Baltimore	36059	7653	21.2%
Frederick	7175	1503	20.9%
Baltimore City	29770	5936	19.9%
Anne Arundel	18301	3599	19.7%
Howard	7337	1427	19.4%
Prince George's	20555	3690	18.0%
Maryland Residents Total	179331	36269	20.2%

*Transferred to NH or SNF defined as patient disposition 03, 04, and 64.

Source: MHCC staff's analysis of the HSCRC Hospital Discharge data for Calendar Year 2020.

The lower use of long-term care services in Prince George's County, shown above, is not consistent with recent research that suggests that Medicare beneficiaries who reside in communities with greater unmet social needs have higher health care needs and greater costs. In 2020, CMS researchers found that among Maryland Medicare beneficiaries, those living in neighborhoods with the greatest disadvantage, when compared to those living in the least disadvantaged neighborhoods, incur significantly greater costs in the subsequent year.[3] Using the area deprivation index (ADI),[4] the study found that beneficiaries residing in higher cost areas (ADI Quintile 5 is $12,439 versus Quintile 1 which is $8920[5]) also had greater unmet social needs. Clinical risk exacerbates this disparity. Living in disadvantaged neighborhoods has the most profound effect on future Medicare spending among the least healthy beneficiaries. More limited access to nursing home and SNF care is not consistent with that finding. The authors argue that living in disadvantaged neighborhoods has the most profound effect on future Medicare spending, particularly among the least healthy beneficiaries.

Health Disparities and Health Outcomes: Prince George's County

Prince George's County residents also have a higher prevalence of chronic disease and fare worse than the average Maryland resident in some chronic health indicators. Among these indicators are:

Death rate due to heart disease (176.8 in Prince George's County, compared to 169.9 in Maryland);

[3] Sapra KJ, Yang W, Walczak NB, Cha SS. Identifying High-Cost Medicare Beneficiaries: Impact of Neighborhood Socioeconomic Disadvantage. Popul Health Manag. 2020 Feb;23(1):12-19. doi: 10.1089/pop.2019.0016. Epub 2019 Jun 17. PMID: 31207198.

[4] Kind AJH, Buckingham WR. Making neighborhood-disadvantage metrics accessible—the Neighborhood Atlas. N Engl J Med 2018; 378:2456–2458. Crossref, Medline, Google Scholar

[5] ibid

Hospitalization rate due to hypertension (6.3 in Prince George's County, compared to 5.2 in Maryland);
Diabetes (12.5% in Prince George's County, compared to 10.4% in Maryland);
Obesity (30.7% in Prince George's County, compared to 28.9% in Maryland);
and
Mortality rates from cancer diagnosis (168.8 in Prince George's County, compared to 161.8 in Maryland).[6]

There is a link between health disparities and admitting diagnoses to nursing homes. The article, *50 Most Common ICD-10 Codes for Skilled Nursing Facilities by Total Payments*, documents the overlap of healthcare disparities such as prevalence of heart failure, hypertension, and diabetes that are more prevalent among Prince George's County residents and are common CCF-admitting diagnoses, as shown in the chart below:

Table I- 3: Common CCF Admitting Diagnosis in the United States

Diagnosis	Rank	Annual Claims	Cost Per Day	Payment
Heart failure	12	52,297	$5651	$285,180,830
Hypertension	16	45,538	$5651	$257,316,574
Diabetes	49	16,522	$5009	$82,751,919

Source: https://www.definitivehc.com/resources/healthcare-insights/top-snf-diagnoses

One example shown in the chart above is diabetes. In Prince George's County there is a higher prevalence of diabetes when compared to the rest of Maryland (12.5% in Prince George's County to 10.4% in Maryland). From a national perspective, in a study titled *Medical Conditions of Nursing Home Admissions*, the researchers found that, in the United States from 1993 to 2005, diabetes grew as a CCF admitting diagnosis almost three-fold from 4.3 percent to 11.4 percent especially when coinciding with related amputations and blindness. In addition, the study found that related symptoms such as dizziness, impaired vision, and frailty are also relevant as indicators of admission to a CCF.[7]

D. Summary of Staff Recommendation

Staff recommends that the Commission approve the Certificate of Need application for this proposed project based on staff's recommendation that the Commission find that the project complies with the applicable standards in COMAR 10.24.20, the State Health Plan for Facilities and Services: Comprehensive Care Facility Services (Nursing Home Chapter), as well as with the review criteria at COMAR 10.24.01.08G(3). Staff recommends that, if approved, any Certificate of Need include the following conditions:

[6] http://www.regionalprimarycare.org/wp-content/uploads/2018/07/The-Healthcare-Landscape-in-Prince-Georges-County.pdf

[7] https://bmcgeriatr.biomedcentral.com/articles/10.1186/1471-2318-10-46

1. MH Adelphi Operating, LLC d/b/a Hillhaven Nursing and Rehabilitation Center (Hillhaven) shall demonstrate progress in increasing the number of Medicaid patient days as a proportion of total patient days in reports it shall file at least quarterly with the Commission that identify the number and percentage of Medicaid patient days and total patient days at Hillhaven for the previous period, also providing this information for other payor sources during that time period;

2. Prior to seeking first use approval, Hillhaven shall document that the percentage of Medicaid patient days as a proportion of total patient days meets or exceeds the requirement in its most recently signed Memorandum of Understanding[8] with the Maryland Medical Assistance Program; and

3. Hillhaven shall continue to maintain the minimum proportion of Medicaid patient days required in Prince George's County in its Memorandum of Understanding with the Maryland Medical Assistance Program.

II. PROCEDURAL HISTORY

The proposed project is responsive to the Maryland Health Care Commission's (MHCC or Commission) published bed need projection that shows a need for 32 additional comprehensive care beds in Prince George's County by 2022.[9] Two applicants, both existing CCFs, submitted letters of intent in response to this bed need projection. Each stated an intent to add 32 CCF beds. Each amended its letter of intent to propose 16-bed additions, eliminating the need for a competitive review. The other applicant withdrew its application after Commission staff informed it that, based on current information available from CMS Nursing Home Compare, it did not meet the requirement that it "document, at the time of letter of intent submission, that it had an average overall star rating of three or more stars in CMS's most recent five quarterly refreshes for which CMS data is reported, unless the facility has been owned or operated by the applicant for fewer than three years." This is a requirement of the CCF quality standard, COMAR 10.24.20.08

A. Record of the Review

Please see Appendix 1, Record of the Review.

B. Local Government Review and Comment

No comments were received.

C. Community Support

[8] Hillhaven has requested that its Medicaid MOU be modified to reflect the current required percentage (42.3%) for Prince George's County.

[9] https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_ltc/documents/chfc_ccf_bedneed_projections_target2022_20190927.pdf

The Commission received two letters of support for this nursing home expansion project from community business partners of the applicant. The first was from Stephen Handelman, P.D., Senior Vice President of Remedi Senior Care. The second was from Andrew Diamond, CEO of Diamond Medical Laboratories. (DI #5, Exh.15). These letters state that Hillhaven is an important provider of long-term care and short stay rehabilitation services in Prince George's County.

D. Interested Party

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 State Health Plan standards applicable in this review are found in COMAR 10.24.20, the Nursing Home Chapter.

COMAR 10.24.20.05 Comprehensive Care Facility Standards

(1) Bed Need and Average Annual Occupancy.

(a) For a relocation of existing comprehensive care facility beds currently in the inventory, an applicant shall demonstrate need for the beds at the new site in the same jurisdiction. This demonstration may include, but is not limited to, a demonstration of unmet needs by a particular patient population, high utilization of comprehensive care facility beds in the jurisdiction during the past five years, and the ways in which the relocation will improve access to needed services or improve the quality of comprehensive care facility services.

(b) An applicant proposing a project that will not add comprehensive care facility beds to a jurisdiction but will add beds to an existing facility by relocation of existing licensed or temporarily delicensed comprehensive care facility beds within a jurisdiction, shall demonstrate that the facility being expanded operated all of its licensed beds at an occupancy rate of 90 percent or higher during the last two fiscal years for which the annual Maryland Long Term Care Survey data is available.

This standard is not applicable because the applicant is neither relocating its facility nor relocating beds within the county.

(2) Medical Assistance Participation.

(a) The Commission may approve a Certificate of Need for a comprehensive care facility only for an applicant that participates, or proposes to participate, in the Medicaid program, and only if the applicant submits documentation or agrees to submit documentation of a written Memorandum of Understanding (MOU) with Medicaid to maintain the proportion of Medicaid patient days required by .05A(2)(b) of this Chapter.

(b) Each applicant shall agree to serve and maintain a proportion of Medicaid patient days that is at least equal to the proportion of Medicaid patient days in all other comprehensive care facilities in the jurisdiction or region, whichever is lower, calculated as the weighted mean minus the 25th percentile value across all jurisdictions for each year[10] based on the most recent Maryland Long Term Care Survey data and Medicaid Cost Reports available to the Commission, as published in the *Maryland Register*.

(c) An applicant for new comprehensive care facility beds has three years during which to achieve the applicable proportion of Medicaid participation from the time the facility is licensed and shall show a good faith effort and reasonable progress toward achieving this goal in years one and two of its operation.

(d) An applicant that seeks to expand or replace an existing comprehensive care facility shall modify its MOU upon expansion or replacement of its facility to encompass all of the comprehensive care facility beds in the expanded or replaced facility and to include a Medicaid percentage that reflects the most recent Medicaid participation rate, unless the facility's existing MOU encompasses all beds at a percentage that is equal to or greater than the most recent Medicaid participation rate.

(e) 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.

(f) Prior to licensure, an applicant shall execute a written Memorandum of Understanding with the Medical Assistance Program of the Maryland Department of Health to:

(i) Achieve and maintain the level of Medicaid participation required by .05A(2)(b) of this Chapter; and

[10] Staff notes that the CCF Chapter provides that the required level of Medicaid participation is calculated as follows. For the most recent three years: (1) calculate the weighted mean of the proportion of Medicaid participation (defined as Medicaid patient days divided by total patient days) for each jurisdiction and region; (2) calculate the 25th percentile value for Medicaid participation in each jurisdiction; (3) subtract the 25th percentile value from the weighted mean value of Medicaid participation for each jurisdiction; (4) calculate the average difference for step 3 across all jurisdictions for each year; (5) calculate the average across all three years. The resulting proportion is subtracted from the weighted mean for each jurisdiction. (DI #5, Exh.5).

(ii) Admit residents whose primary source of payment on admission is Medicaid.

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

Existence of a Memorandum of Understanding

The applicant states that it has a Medicaid MOU and that it currently participates in the Maryland Medicaid program and plans to continue to do so; however, it was unable to produce a copy of its MOU. After discussions with MHCC staff, on June 3, 2021, the applicant asked staff to authorize Hillhaven to seek a revision of its MOU with the Maryland Medical Assistance Program that reflects the CCF Chapter's current minimum (42.3%) requirement. It commits to meeting that rate going forward. (DI #5, p.18). The applicant currently projects that, after project completion, 44 percent of its patient days will be paid for by the Medicaid program. (DI #23, Table Revenues & Expenses Entire Facility Uninflated).

Policy re: Admitting Medicaid Patients and Maintaining Required Participation Level

On May 25, 2021,in response to MHCC staff's questions, Hillhaven submitted a revised policy governing its admission of Medicaid residents and maintaining its required level of participation (Hillhaven Medicaid Occupancy Management Policy), the purpose of which is defined as "to meet or exceed the Required Minimum Maryland Medical Assistance Participation Rates for Prince George's County as published in the *Maryland Register* and included in the Hillhaven Medicaid Memorandum of Understanding." Among other procedures, the policy includes daily management meetings at which "the management team will meet to discuss occupancy, bed management, and Medicaid percentage/case mix of the total SNF population … [so that] Medicaid case mix percentage will be reviewed and compared with the current MOU goals." In addition, the policy charges the Quality Assurance team to "review each month our compliance and progress toward MOU targets each period [and if necessary] create an action plan to attain MOU targets will be implemented to assure non-compliance will be addressed and corrected ASAP." (DI #22, p.1).

Paragraph (c) of the standard is not applicable, as this is an existing facility.

Staff Analysis and Recommendation

On December 26, 2017, the applicant requested that Commission staff issue a determination that its proposed acquisition of Hillhaven did not require CON review. In its completed "Notice of Acquisition" form, Robert Sweet, VP of the acquiring entity/applicant, affirmed that the facility had an existing MOU and agreed that, after acquisition, it would be bound by the existing MOU. On February 26, 2018, Commission staff issued a determination that CON review was not required for the acquisition. The applicant began operating Hillhaven in April of 2018. MHCC records show that Hillhaven's existing MOU requires a participation rate of 46.7 percent. The current required Medicaid Participation Rate for Prince George's County is 42.3 percent.

According to in the Commission's Long-Term Care Survey and Medicaid Cost Reports, the facility has failed to meet its MOU requirement of 46.7 percent for at least the last seven years for which data is available. The applicant accounts for just three of those years, having acquired the CCF in 2018. According to the applicant and the Medicaid Cost Report, its Medicaid participation rate in 2020 was 33 percent, extending the pattern of falling short of the MOU participation rate to at least eight years.

Table III-1: Hillhaven Medicaid Participation Rate* 2013 - 2020

	Medicaid Participation Rate (%)	
Year	As reported in MHCC Long-Term Care Surveys and/or Medicaid Cost Reports	As reported by applicant in CON application, Table G
2013	37	
2014	37	
2015	32	
2016	29	
2017	30	
2018	41.61	41
2019	35.11	39
2020**	33	33

Source: MHCC Long term Care Surveys and Medicaid Cost Reports.
* Participation Rate = Medicaid patient days as a percentage of total patient days.
** Preliminary data

Hillhaven comes before the Commission with an application to add beds to a Prince George's County nursing home that has fallen short of the Medicaid participation levels required under its MOU with Medicaid. The applicant offers an explanation that it suffered from a communications failure such that its MOU obligations were not conveyed by the applicant's upper management to the management of the facility. It also states that in the calendar year in which it assumed control of the nursing home, the Medicaid participation level was raised significantly, from about 30 percent to 41 percent,[11] before recording lower participation levels in the two most recent years.

The applicant appears committed to correcting this problem. Staff observes that it has submitted a plan to correct this shortfall, describing a level of daily and monthly on-going monitoring of its payment source pattern designed to alert management when the census of Medicaid patients is falling below what is required under its MOU so that appropriate action can be taken.

Staff believes that the particular circumstances of this review warrant some leniency by the Commission, accompanied by a stringent condition that assures that Hillhaven must meet the requirements of its Medicaid MOU prior to use of additional nursing home beds approved by the Commission. First there is a need for additional nursing home beds in Prince George's County and this project would meet part of that need. Second, and important to staff's recommendation, are

[11] The applicant acquired Hillhaven in April of 2018. It is unknown whether or to what extent, if any, the seller increased the percent of Medicaid patient days in the first three months of the year.

the characteristics of the service area population in Prince George's County,[12] Data supplied by staff in its discussion of the health landscape in Prince George's County indicate residents' need for additional access to high quality nursing home care. The data presented indicate that there is a need in Prince George's County for residents to have greater access to long-term care services that are appropriate for the most clinically complex populations. Staff concludes that this is particularly true for nursing home services such as those provided at Hillhaven that are consistently rated by CMS Nursing Home Compare as having a five-star quality rating.

Based on the totality of the circumstances present in the review, staff recommends that the Commission find that the applicant has met the Medical Assistance participation standard. Relevant circumstances include: an applicant, Hillhaven, that has had a CMS five-star quality rating for multiple consecutive quarterly refreshes; the MHCC-documented need in Prince George's County for additional nursing home beds; and the health care disparities among Prince George's County residents that may be lessened by greater access for its residents to such care. Staff recommends that finding and any CON issued for the project accompanied by the following conditions:

1. MH Adelphi Operating, LLC d/b/a Hillhaven Nursing and Rehabilitation Center (Hillhaven) shall demonstrate progress in increasing the number of Medicaid patient days as a proportion of total patient days in reports it shall file at least quarterly with the Commission that identify the number and percentage of Medicaid patient days and total patient days at Hillhaven for the previous period, also providing this information for other payor sources during that time period;

2. Prior to seeking first use approval, Hillhaven shall document that the percentage of Medicaid patient days as a proportion of total patient days meets or exceeds the requirement in its most recently signed Memorandum of Understanding[13] with the Maryland Medical Assistance Program; and

3. Hillhaven shall continue to maintain the minimum proportion of Medicaid patient days required in Prince George's County in its Memorandum of Understanding with the Maryland Medical Assistance Program.

(3) Community-Based Services. An applicant shall demonstrate in writing its commitment to alternative community-based services and to minimizing the comprehensive care facility length of stay as appropriate for each resident and agree to:

(a) Provide information to every prospective resident about the existence of alternative community-based services, including Medicaid home and community-based waiver programs, Money Follows the Person Program, and other initiatives to promote care in the most appropriate settings;

[12] See discussion at pages 2-4, *supra.*

[13] Hillhaven has requested that its Medicaid MOU be modified to reflect the current required percentage (42.3%) for Prince George's County.

The applicant provided samples of Maryland Department of Health flyers with information on the availability of community-based services, the community-based waiver program, and the facility policy on the "Money Follows the Person Program" that it gives to newly admitted residents (DI #5, Exh. 6). In addition, Hillhaven states that its staff assists residents in attaining approvals for community-based services to promote care in the appropriate setting. (DI #5, p.20).

Staff concludes that the applicant has met Paragraph (a) of this standard.

(b) Use Section Q of Minimum Data Set (MDS) 3.0 to assess the individual's interest in and willingness to pursue community-based alternatives;

Hillhaven states that it uses section Q of the MDS to assess a resident's interest and willingness for community-based alternatives to nursing home care. (DI #5, p.20). The applicant documented this by providing a sample completed section Q of the MDS with the protected health information removed. (DI #10, Exh.24).

Staff concludes that the applicant has met this sub-part of the standard.

(c) Develop a discharge plan on admission with resident reassessment and plan validation at six-month intervals for the first 24 months. This plan is to be provided to the resident and/or designated representative; and

Hillhaven states that it starts discharge planning upon admission. Its discharge planning policy charges staff to update and evaluate the resident's goals, needs, and the resources available to the resident to assess each resident's ability to return to community living on at least a quarterly basis. (DI #10, p.3; Exh. 25).

Staff concludes that the applicant has met this sub-part of the standard.

(d) Provide access to the facility for all long-term care home and community-based services education and outreach efforts approved by the Maryland Department of Health and the Maryland Department of Disabilities to provide education and outreach for residents and their families regarding home and community-based alternatives.

The applicant states that it provides access to agencies that provide education and outreach concerning community-based alternatives and provided evidence of this in the form of correspondence from Jessie Williams-Jordan, the facility Ombudsman, documenting an ongoing working partnership. (DI #5, p.20). In addition, the applicant provided copies of visitor sign-in sheets showing that providers of community-based services had accessed the facility. (DI #10, p.4; Exh.25).

Staff concludes that the applicant has met this sub-part of the standard.

(4) Appropriate Living Environment. An applicant shall provide to each resident an appropriate living environment that demonstrates compliance with the most recent FGI Guidelines. In addition, an applicant shall meet the following standards:

(a) In a new construction project:

(i) Develop rooms with no more than two beds for each resident room;

(ii) Provide individual temperature controls for each room;

(iii)Assure that no more than two residents share a toilet; and

(iv)Identify in detail, by means of architectural plans or line drawings, plans to develop a comprehensive care facility that provides a cluster/neighborhood design or a connected household design, rather than an institutional design, consistent with the most recent FGI Guidelines.

The new construction proposed by Hillhaven will include new private patient rooms with individual temperature controls for each room, and a toilet for each single resident of the private rooms. Subparagraph (a)(iv) of this standard is not applicable because the project does not involve "develop[ment of] a comprehensive care facility." Rather, it is a project limited to incremental expansion of an existing CCF.

(b) In a renovation or expansion project:

(i) Reduce the number of resident rooms with more than two residents per room;

This standard does not apply because Hillhaven does not contain patient rooms with more than two beds. The applicant is adding 26 private rooms and converting some semi-private rooms to private rooms. The proposed project will increase the facility's private room count from 10 to 46.

(ii) Provide individual temperature controls in each newly renovated or constructed room;

The applicant states that each newly constructed private room in the expansion will have individual temperature controls. (DI #5, p.21).

Staff concludes that the applicant has met this sub-part of the standard.

(iii)Reduce the number of resident rooms where more than two residents share a toilet; and

The applicant states that the facility currently has 22 rooms which, if filled, involve sharing of a toilet among four residents (two semi-private rooms with a shared toilet in between). The proposed project will reduce the number of such rooms by four. (DI #5, p.21 and Exh.2).

Staff concludes that the applicant has met this sub-part of the standard.

(iv) Document that the applicant considered development of a cluster/neighborhood design or a connected household design, and, if the project includes an institutional model, document why the alternative models were not feasible.

Hillhaven included a letter from the architect describing the project as a "modified neighborhood design," and explained that it opted for this approach – which it characterizes as being similar to the cluster/neighborhood or connected household design – to maximize the number of private rooms it could create, since that was one of the main goals of the project. To emphasize the need for private rooms, the applicant states that most rehabilitation residents want private rooms, and that it currently has to turn away potential rehabilitation admissions who insist upon a private room. (DI #5, p.22).

Staff concludes that the applicant has met this sub-part of the standard.

(c) The applicant shall demonstrate compliance with Subsection .05A(4) of this Regulation by submitting an affirmation from a design architect for the project that:

(i) The project complies with applicable FGI Guidelines; and

(ii) Each design element of the project that deviates from the FGI Guidelines is justified by specific stated reasons.

The applicant provided a letter from the architect affirming that the project complies with all applicable FGI guidelines. (DI #5, Exh.7).

Staff concludes that the applicant has met the standard by incorporating an appropriate living environment design that is in line with current FGI guidelines into its proposed project.

(5) Specialized Unit Design. An applicant shall administer a defined model of resident-centered care for all residents and, if serving a specialized target population (such as, Alzheimer's, respiratory, post-acute rehabilitation) demonstrate that its proposed facility and unit design features will best meet the needs of that population. The applicant shall:

(a) Identify the types of residents it proposes to serve, their diagnostic groups, and their care needs;

Hillhaven states that it serves and will continue to serve residents with diagnoses including chronic obstructive pulmonary disease, congestive heart failure, diabetes, hypertension, muscle weakness, and dementia. (DI #5, p.23).

Staff concludes that the applicant has met this sub-part of the standard.

(b) If developing a unit to serve respiratory patients, demonstrate the ability to meet Office of Health Care Quality standards in COMAR 10.07.02.14-1;

Paragraph (b) of the standard is not applicable. While the applicant will care for residents with respiratory therapy needs, the facility will not have a specialized unit.

(c) If developing a unit to serve dementia patients, demonstrate the ability to meet Office of Health Care Quality standards and the most current FGI Guidelines.

This paragraph of the standard is not applicable. While the applicant will care for residents with dementia it will not have a specialized unit.

(d) Demonstrate that the design of the comprehensive care facility is consistent with current FGI Guidelines and serves to maximize opportunities for ambulation and self-care, socialization, and independence. An applicant shall also demonstrate that the design of the comprehensive care facility promotes a safe and functional environment and minimizes the negative aspects of an institutional environment.

As described above in the Appropriate Living Environment standard, *supra*, p. 11, the applicant states that the design of the expansion is consistent with current FGI Guidelines and will maximize opportunities for self-care, ambulation, socialization, and independence, promoting the delivery of high-quality care to the residents. Hillhaven states that the private rooms will offer privacy for self-care and that the living areas and facility activity program will offer opportunities for socialization and engagement. (DI #5, pp.21-24).

In addition, the applicant states that its dining program promotes and will continue to promote resident choice by offering 24-hour dining options. (DI #10, Exh.27). The rehabilitation gym offers daily exercise and wellness programs that promote independence, and the location of the new wing next to that gym will encourage ambulation and exercise. The applicant states that in addition to these design features, resident choices and preferences are incorporated into their individualized care plans.

Staff concludes that the applicant has demonstrated that its design meets Paragraph (d) of the standard.

(6) Renovation or Replacement of Physical Plant. An applicant shall demonstrate how the renovation or replacement of its comprehensive care facility will:

(a) Improve the quality of care for residents in the renovated or replaced facility;

Hillhaven states that there will be minimal renovation in the existing facility to provide connections to the new wing. The response to the standard in Paragraph (5)(d), above, discusses how the design of the expansion will enhance the quality of care, i.e., more private rooms,

enhanced living areas for socialization, a resident choice dining program, and easy access to the rehabilitation gym.

Staff concludes that the applicant has met this sub-part of the standard.

(b) Provide a physical plant design consistent with the FGI Guidelines; and

The applicant's response regarding consistency with the FGI Guidelines is detailed above in standard (5)(d).

Staff concludes that the applicant has met this sub-part of the standard.

(c) If applicable, eliminate or reduce life safety code waivers from the Office of Health Care Quality and the Office of the Maryland State Fire Marshal.

Paragraph (c) is not applicable as there are no life safety code violations that will be addressed by the project.

Staff concludes that the applicant has met the entirety of the Renovation/Replacement of Physical Plant standard by demonstrating that the very minor renovations and the plans for the new wing are safe, resident-centered, and FGI Guidelines-compliant.

(7) Public Water. 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 comprehensive care facility shall demonstrate that its facility is, or will be, served by a public water system that meets the Safe Drinking Water Act standards of the Maryland Department of the Environment.

The applicant states that the facility is currently served by the Prince George's County public water system, which meets the referenced Safe Water Drinking Act standards, and that the new expansion will access the same water source. (DI #5, p. 24).

Staff concludes this standard has been met.

(8) Quality Rating.

(a) An applicant shall demonstrate, at the time of letter of intent submission, that at least 70 percent of all the comprehensive care facilities owned or operated by the applicant or a related or affiliated entity for three years or more had an average overall CMS star rating of three or more stars in CMS's most recent five quarterly refreshes for which CMS data is reported.

(i) If the applicant or a related or affiliated entity owns or operates one or more comprehensive care facilities in Maryland, the CMS star ratings for Maryland facilities shall be used.

(ii) If the applicant or a related or affiliated entity does not own or operate comprehensive care facilities in Maryland, CMS star ratings for such facilities in the states in which it operates shall be used.

Paragraph (a) of the standard is not applicable as Hillhaven is the only CCF operated by the applicant or related or affiliated entities. (DI #5, p.25).

(b) An applicant that is an existing Maryland comprehensive care facility shall document, at the time of letter of intent submission, that it had an average overall star rating of three or more stars in CMS's most recent five quarterly refreshes for which CMS data is reported, unless the facility has been owned or operated by the applicant for fewer than three years.

The applicant states that Hillhaven is the only CCF facility owned/operated in Maryland by the applicant and that it has maintained a five-star rating (the highest available) for the sixteen months prior to the letter of intent submission. (DI #5, p.25). Staff reviewed the relevant Medicare Provider Information data and confirmed that the applicant achieved not just the average quality rating of three or more stars from the time of its letter of intent submission (last quarter of 2019) – but a consistent five-star rating in the five most recent quarterly CMS data refreshes.

Table III-2 Hillhaven Nursing and Rehabilitation Center Quality Scores

Quarterly Refresh Date	October 2019	January 2020	April 2020	July 2020	October 2020
Overall Star Rating	Five stars	Five stars	Five stars	Five stars	Five stars

Source: Medicare Provider Information Download October 2019 to October 2020.

Staff concludes that the applicant has not only met this paragraph of the standard but has achieved the highest quality rating possible during the last five quarterly refreshes from the date of its letter of intent.

(c) An applicant shall demonstrate that it has an effective program of quality assurance functioning in each comprehensive care facility owned or operated by the applicant or a related or affiliated entity.

The applicant provided its Quality Improvement and Performance Improvement policy. (DI #5, Exh. 10).

Staff concludes that the applicant has met this sub-part of the standard.

(d) An applicant that has never owned or operated a comprehensive care facility shall demonstrate its ability:

(i) To develop and implement a quality assessment and performance improvement plan, consistent with requirements of the Maryland Office of Health Care Quality; and

(ii) To produce high-level performance on CMS quality measures.

Paragraph (d) is not applicable as Hillhaven is an existing CCF owner/operator that has produced high-level performance as evidenced by the applicant's consistently high CMS five-star ranking.

Staff concludes that the applicant has met each part of the standard on Quality Rating.

(9) Collaborative Relationships. An applicant shall document, by means of letters, for new applicants, and contracts, for existing facilities, its links with hospitals, hospice programs, home health agencies, assisted living providers, Adult Evaluation and Review Services, adult day care programs, and other community providers in the long-term care continuum.

The applicant stated that it has established collaborative relationships with other service providers including hospice, radiology, laboratory, respiratory therapy, pharmacy, and speech therapy, to ensure its ability to meet residents' needs. These linkages were documented by provision of copies of the agreements or letters verifying the collaborative relationship. (DI# 5, Exh.11, DI #10, Exh.11, and DI #15, Exh.2).

Staff concludes that the applicant has met this sub-part of the standard.

(a) An applicant shall demonstrate its commitment to effective collaboration with hospitals by documenting its successful efforts in reducing inappropriate readmissions to hospitals, improving the overall quality of care, and providing care in the most appropriate and cost-effective setting. The demonstration shall include:

(i) Data showing a reduction in inappropriate hospital readmissions;

The applicant states that it has multiple collaborative relationships with other service providers (including hospitals) and shared its CMS Medicare Nursing Home Compare report to show its hospital re-admission rates. (DI #5, p.27). This report includes the most recent Medicare quality data available at the time the application was submitted. It identifies Hillhaven's rate of rehospitalization (short stay residents) at 17.6 percent, lower than the State and national averages of 19.4 percent and 20.8 percent, respectively. (DI #5, Exh.8).

Staff concludes that the applicant has met this sub-part of the standard.

(ii) Data showing improvements in the quality of care and provision of care in the most appropriate setting.

To demonstrate its commitment to quality of care and the provision of care in the most appropriate setting, the applicant shared data from its CMS Medicare Nursing Home Compare report showing that long term care residents at the facility had a hospitalization rate of 0.72 per 1,000 patient days as compared to 1.23 for the State rate and 1.70 nationally. (DI #5, Exh.8).

Staff concludes that the applicant has met this sub-part of the standard.

(b) An applicant shall demonstrate its commitment to providing an effective continuum of care by documenting its collaborative efforts with Medicare-certified home health agencies and hospices to facilitate home-based care following comprehensive care facility discharge and shall facilitate delivery of hospice services for terminally ill residents. The demonstration shall document that the applicant has:

(i) Planned for the provision of home health agency services to residents who are being discharged; and

Hillhaven states that it starts discharge planning on the day of admission to the CCF which includes the use of home health services upon discharge if needed to transition back to the community. The applicant utilizes Holy Cross as a home health agency contractor. (DI #10, Exh.11). The applicant also states it works with other home health agency providers in the community and provided a list in its completeness responses. (DI #10, Exh. 30).

Staff concludes that the applicant has met this sub-part of the standard.

(ii) Arranged for hospice and palliative care services, when appropriate, for residents who are being discharged.

The applicant states that, when appropriate, it arranges hospice or palliative care for residents. It identified contracts with Holy Cross Hospice, Montgomery Hospice, Amedisys Hospice and Paul Newman, M.D., a palliative care specialist. (DI #5, p.28 and DI #10, Exh.11).

Staff concludes that the applicant has shown collaboration with other community providers and has met each part of the standard.

GENERAL CERTIFICATE OF NEED REVIEW CRITERIA (COMAR 10.24.01.08G3)

Staff's review of the project with respect to the five remaining general review criteria in the regulations governing Certificate of Need is outlined below.

B. NEED

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.

Hillhaven responded to the Need criterion by demonstration Prince George's County's bed need in the jurisdiction, growth in the older adult population, high occupancy rates in the county, outmigration, and lack of private rooms.

MHCC Projects Need for Nursing Home Beds in Prince George's County

The applicant points out that the State Health Plan (SHP) Bed Need Projection (*Maryland Register*, Volume 46, Issue 20, September 27, 2019) indicates that Prince George's County needs 32 additional nursing home beds. The proposed project proposes to meet half of this projected bed need.

Large Growth in the 75 and Older Population

Hillhaven also cited the rapid growth of the county's population aged 75 and over to support its need analysis. Using population data posted on the MHCC website in 2020 (Table 1.7 of the Nursing Home Resident Profile tables), the applicant notes that the 75-and-over population cohort is projected to increase by almost 18,000 (36.5 percent) between 2020 and 2026. The growth in this cohort represents 71 percent of the population growth projected for Prince George's County over that time period.[14] The applicant states that as this 75 and older demographic continues to increase, need for CCF services in Prince George's County will also increase. (DI #5, p.30).

Staff notes that the Commission's need projection takes the aging of the population into account.

Occupancy Rates of Prince George's County Nursing Homes are High

Hillhaven cited occupancy data from the MHCC's *Average Annual Bed Occupancy Rate and Average Number of Licensed Nursing Home beds by Jurisdiction and Region, Fiscal years 2016 to 2018.*[15] It shows that Prince George's County nursing homes had an average occupancy rate of 88.9 percent in the latest year reported (2018), the fifth highest in the State (behind St. Mary's, Charles, and Cecil Counties, and Baltimore City). The applicant opines that a high bed occupancy rate coupled with rapid growth in the elderly population most likely to utilize nursing homes (75+) will lead to bed shortages. (DI #5, p.31).

The applicant also notes high bed occupancy rates in some counties contiguous to or nearby Prince George's. See the following table. Hillhaven believes that high bed occupancy of CCF beds in neighboring counties will render facilities in those counties unable to accommodate the growing need for CCF beds originating in Prince George's County. (DI #5, p.31).

[14]https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_ltc/documents/Routine%20Reports%20All%20Tables%207_6_2020.

[15]https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_ltc/documents/chfc_ccf_bedneed_projections_target2022_20190927.pdf
https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_ltc/documents/chcf_ltc_occupancy_2016-2018.pdf

Table III-3: Average Annual CCF Bed Occupancy Rates, Prince George's and Surrounding Counties. FY 2018

County	Average Annual Occupancy (%)
St. Mary's	94.6
Charles	91.5
Prince George's	88.9
Howard	87.9
Anne Arundel	87.0
Montgomery	84.6
Calvert	79.3

Source: *MHCC Average Annual Bed Occupancy Rate and Average Annual Number of Licensed Nursing Home Beds by jurisdiction and Region: Maryland, Fiscal Years 2016-2018* (DI #5, p.31).

Outmigration Pattern Demonstrates Need

The applicant cited "outmigration" data as indicative of need for CCF beds in Prince George's County. The applicant presented data for the years 2017 through 2019 showing that 35 percent of Prince George's County residents who were admitted to a CCF were admitted outside of Prince George's County during that period. See Table below.

Table III-4: Prince George's County Resident CCF Migration Patterns, Admissions, 2017-2019

Year	Total Prince George's Resident CCF Admissions	Admitted to Prince George's County CCFs	Admitted to CCFs Outside of Prince George's County	Percent of Out-migrating Admissions
2017	10,105	6,401	3,704	36.7%
2018	10,098	6,580	3,518	34.8%
2019	10,401	6,867	3,534	34.0%
3-Yr Average	10,201	6,616	3,585	35.1%

Source: Data obtained through special request to MHCC, received 12.11.20.
(DI #5, p.33).

The applicant asserts that the out-migration pattern itself provides additional evidence of the need for more CCF beds in the jurisdiction. (DI #5, p.32).

County Lacks Private Rooms

Hillhaven points out that just 27 percent of the nursing home beds in Prince George's County are in private rooms and that Hillhaven currently operates with just ten private rooms. The proposed project will increase its private room count to 46 (56 percent of its beds, post-project). The applicant states that more private rooms are needed to accommodate equipment needs for residents receiving respiratory therapy or in-room dialysis. Further, private rooms are superior for infection control, and will allow Hillhaven to increase safety protocols, the importance of which have been highlighted during the COVID 19 pandemic, such as quarantining new admissions in private rooms and allowing additional space to meet social distancing guidelines. (DI #5, p.34). In conclusion, the applicant notes that, in addition to enhancing clinical outcomes, private rooms promote the privacy, dignity, well-being and independence of residents. (DI #5, p.30).

Staff concludes that Hillhaven has demonstrated the need for the proposed project. It is consistent with MHCC's bed need projection and responsive to a jurisdictional occupancy rate that was higher than all but four others in the latest year for which we have data. The proposal is also supported by the applicant's provision of data showing disproportionate growth of the 75-and-over population and the jurisdiction's out-migration for nursing home care, *supra* pp.18-20. The applicant has also documented its need for more private beds and illustrated how more private beds will not only aid in positive clinical outcomes but will also lead to increased resident satisfaction.

C. AVAILABILITY OF MORE COST-EFFECTIVE ALTERNATIVES

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.

In responding to this criterion, an applicant is instructed to 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) that were considered. Hillhaven states that the facility owners, its management company, and a team of architects made up the planning team. Its primary goals were to expand the facility and increase the number of private rooms in order to meet demands originating in Prince George's County. (DI #5, p. 36).

The applicant immediately eliminated the alternative of building a replacement facility with more beds because the existing Hillhaven plant is in good condition and has many more years of useful life. Hillhaven reasoned that building a limited number of new beds is far more cost effective than constructing a full replacement facility. (DI #5, p. 37).

Another alternative it presented was to grow the facility's capacity incrementally over a number of years by requesting periodic increases via the "waiver bed" provision. Under this provision, outlined at COMAR 10.24.20.04C, a nursing home can increase its capacity by the lesser of 10 beds or 10 percent of the total licensed CCF beds without a CON as long as the facility documents that it has the licensable, physical space to accommodate the additional beds requested consistent with the requirements of COMAR 10.24.20.05A(4) and if no changes in licensed bed capacity have occurred during the preceding two years.

The applicant described a series of small construction projects over a ten-year period, each adding the number of beds allowed under the waiver bed provision until 82 beds was reached. Of this "alternative" the applicant stated:

> The staging cost for new construction is significant. Building in increments of seven beds means that each new construction project would have higher than necessary construction cost per square foot. It would take more than ten years, including

> statute required wait times and construction, to achieve a 16-bed addition. Each bed increment would involve new staging costs, and the approach would result in extra years of disruptive construction on this small site.

Hillhaven concluded that "[t]he 'waiver' bed construction option is far less cost effective than the proposed project." (DI #5, p.39).

Staff does not believe that this project and its objectives present a rich or complex set of alternative approaches for which cost effectiveness analysis is useful. Staff finds that the proposed addition of a 26-room wing is a cost-effective approach for achieving the project's objectives and, from the perspective of Hillhaven's institutional goals cannot be achieved by another CCF in the area.

D. VIABILITY OF THE PROPOSAL

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 estimated cost of the proposed project is $9,446,890. The applicant expects to fund the project with cash. (DI #10, Table C). Table III-5 below outlines the project budget and sources of funds for the proposed project.

Table III-5 Hillhaven Project Budget Estimate – Uses and Sources of Funds

A. Uses of Funds	
New Construction	
Land Purchase	-
Building	$4,877,029
Fixed Equipment*	-
Site Preparation and Infrastructure	$431,000
Architect/Engineering Fees	$750,000
Permits	$75,000
Subtotal – New Construction	**$6,133,029**
Other Capital Costs	
Movable Equipment	$560,000
Contingencies	$2,500,000
Inflation Allowance	$133,861
Subtotal - Other Capital Costs	**$3,193,861**
TOTAL CAPITAL COSTS	**$9,326,890**
Financing and Other Cash Requirements	
Legal Fees	$15,000
Other Application Assistance	$105,000
Subtotal – Non-Current Capital Costs	**$120,000**
Total Uses of Funds	**$9,446,890**
B. Sources of Funds	
Cash	$9,446,890
Total Sources of Funds	**$9,446,890**

Source**:** (DI #10, Table C and DI #13, Table C).
*Fixed equipment included in building cost

In lieu of providing audited financial statements, the applicant provided a letter from Aaron Bloom, CPA, for Gorfine, Schiller, & Gardyn, Certified Public Accountants and Consultants attesting to the intent and ability of the owners of the real estate "to fund…the construction…and necessary operating costs of the proposed project." (DI #5, p.41; Exh.14).

Availability of Resources Necessary to Sustain the Project

Table III-6 below summarizes selected actual and projected utilization and financial metrics for the CCF before and after the project's completion, which is expected to be at the end of 2023. 2024 is expected to be the first full year of operation.

Table III-6: Selected CCF Utilization and Operating Statistics
Hillhaven Nursing and Rehabilitation Center – Uninflated

	Actual		Current Year Projected	Projected			
	2019	2020	2021	2022	2023	2024*	2025
Licensed Beds	66	66	66	66	71	82	82
Utilization							
Admissions	333	315	335	335	360	415	415
Patient Days	21,642	16,949	21,508	21,900	22,417	27,176	27,375
Bed Occupancy	90%	70%	89%	91%	86%	91%	91%
Payor Mix							
Medicare	36%	39%	37%	36%	36%	35%	35%
Medicaid	39%	33%	43%	44%	44%	44%	44%
Commercial Insurance	4%	4%	3%	2%	2%	2%	2%
Self-Pay	22%	24%	17%	18%	18%	19%	19%
Revenues, Expenses, and Profit/Loss							
Net operating revenue	$8,593,714	$7,367,973	$8,577,070	$8,685,070	$8,888,816	$10,749,060	$10,826,160
Total operating expenses	$8,421,622	$8,082,215	$8,102,913	$8,185,981	$8,425,962	$9,164,127	$9,177,086
Net income/(loss)-CCF	$172,092	($714,242)	$474,157	$499,089	$462,854	$1,584,933	$1,649,075
Net income/(loss)-CCF/AL	($99,281)	($494,351)	$83,697	$115,930	$22,901	$1,270,707	$1,334,855

*First full year of operation at full capacity
Note: The relative profitability of the CCF and Assisted Living components is obscured by the applicant's use of a "simple allocation {methodology, i.e.,] percent of beds, to allocate all non-direct labor costs. The method does not reflect the lower cost of providing the ALF care."
Source: (DI # 23 Tables D, G, and Revenues & Expensed Entire Facility Uninflated).

Although the CCF component of Hillhaven appears to show a positive bottom line (except for 2020, when the applicant explains that a combination of the COVID-19 restrictions and the facility's lack of private rooms led to significantly reduced occupancy),[16] staff notes that the applicant's presentation of financial information seems to suggest that, in most years, the assisted living component of the facility is a drag on Hillhaven's financial performance. (DI # 5, p. 35 and DI #24, revised tables). The applicant projects that the incremental revenue associated with the expansion will significantly exceed the incremental costs, and that the total cost per patient day will decline as the existing overhead will be spread over additional volume. (DI #18a, p.2).

As previously noted, letters from Remedi Senior Care and Diamond Medical Laboratories both express support of the proposed project and speak to its view of Hillhaven's importance in the community. (DI #5, Exh.15).

Staff concludes that the applicant has demonstrated that it has the resources necessary to implement the proposed 16-bed expansion. Further, the economies of scale that will be realized by adding these beds without a need to add to support spaces should improve the facility's financial performance over the long term. Staff recommends that the Commission find that this project is financially feasible and that the expanded CCF is viable, over the long-term.

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

[16] The applicant projects that its occupancy rate will rebound and approach 90 percent.

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.

This criterion is not applicable. Hillhaven has not previously applied for a Certificate of Need.

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 states that this project will not have any significant impact on the viability of other CCFs in Prince George's County because the State Health Plan shows a need for 32 additional CCF beds in Prince George's County, a jurisdiction with almost three thousand existing CCF beds. The 16-bed addition proposed represents an increase in the jurisdiction's CCF bed inventory of 0.5 percent. (DI #5, p.43).

The applicant contends that the relatively high bed occupancy rate of the jurisdiction, its elderly population growth, and the level of outmigration of jurisdictional residents for CCF services indicate that access to care may become more difficult in Prince George's County without an increase in CCF bed capacity. (DI #5, p.43).

Addressing the project's impact on costs and charges, the applicant states that the proposed project's increase in private patient rooms (26 additional rooms), the effective bed capacity of Hillhaven will get a significant boost. It also claims that the project will only have a negligible impact on the cost of producing a patient day. The applicant projects that "[b]ecause the project will increase effective capacity by more than the 16 new beds, it will actually have a zero impact on operating cost per patient day." The applicant's rationale for that assumption is that the facility will get an "effective capacity" boost of 26 beds while incurring the cost of just the 16 additional beds it would be constructing and staffing. Its analysis is shown in the following Table III-7 below. (DI #5, p.46 and DI# 15, tables F and G).[17]

[17] The applicant explains that its "effective capacity" has been constrained by its lack of private rooms, which has resulted in both having to turn down patients seeking private rooms or use semi-private rooms as privates. Thus, it asserts that its effective capacity will be increased by more than just 16 beds. Hillhaven claims that this will result in a negligible impact on the facility's cost per patient day. (DI# 15, Tables F and G).

Table III-7: Operating Cost per Patient-Day Before and After Project (Uninflated)

	Before Project Completion						After Project Completion		
	2018	2019	2020	2021	2022	2023	2024	2025	2026
Total Operating Expenses	$6.181M	$8.442M	$8.082M	$8.103M	$8.186M	$8.426M	$9.164M	$9.177M	$9.177M
Resident Days	18,601	21,642	16,949	21,508	21,900	22,417	27,176	27,375	27,375
Per Diem Operating Cost (Uninflated)	$332	$389	$477	$377	$373	$376	$337	$335	$335

(DI #23, Tables D and Revenues & Expenses, Uninflated-Entire Facility).

Finally, the applicant states that the increase of 10.55 FTEs resulting from this project and its projected use (at an operating cost increment of $495,780) will not negatively impact other providers because it already has a waiting list of interested candidates for positions. Thus, the project should not have a substantive impact on staffing for other CCFs in Prince George's County. (DI #5, p. 46; DI #13, table H).

Staff concurs with the applicant that the addition of these 16 nursing home beds will not have a significant negative impact on other providers in Prince George's County and it will have a positive impact for Hillhaven's patients and staff and a positive impact on health care delivery in Prince George's County.

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 states that this project will not have any significant impact on the viability of other CCFs in Prince George's County because the State Health Plan shows a need for 32 additional CCF beds in Prince George's County, a jurisdiction with almost three thousand existing CCF beds. The 16-bed addition proposed represents an increase in the jurisdiction's CCF bed inventory of 0.5 percent. (DI #5, p.43).

The applicant contends that the relatively high bed occupancy rate of the jurisdiction, its elderly population growth, and the level of outmigration of jurisdictional residents for CCF services indicate that access to care may become more difficult in Prince George's County without an increase in CCF bed capacity. (DI #5, p.43).

Addressing the project's impact on costs and charges, the applicant states that the proposed project's increase in private patient rooms (26 additional rooms), the effective bed capacity of

Hillhaven will get a significant boost. It also claims that the project will only have a negligible impact on the cost of producing a patient day. The applicant projects that "[b]ecause the project will increase effective capacity by more than the 16 new beds, it will actually have a zero impact on operating cost per patient day." The applicant's rationale for that assumption is that the facility will get an "effective capacity" boost of 26 beds while incurring the cost of just the 16 additional beds it would be constructing and staffing. Its analysis is shown in the following Table III-7 below. (DI #5, p.46 and DI# 15, tables F and G).[18]

Table III-7: Operating Cost per Patient-Day Before and After Project (Uninflated)

	Before Project Completion						After Project Completion		
	2018	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**
Total Operating Expenses	**$6.181M**	**$8.442M**	**$8.082M**	**$8.103M**	**$8.186M**	**$8.426M**	**$9.164M**	**$9.177M**	**$9.177M**
Resident Days	**18,601**	**21,642**	**16,949**	**21,508**	**21,900**	**22,417**	**27,176**	**27,375**	**27,375**
Per Diem Operating Cost (Uninflated)	**$332**	**$389**	**$477**	**$377**	**$373**	**$376**	**$337**	**$335**	**$335**

(DI #23, Tables D and Revenues & Expenses, Uninflated-Entire Facility).

Finally, the applicant states that the increase of 10.55 FTEs resulting from this project and its projected use (at an operating cost increment of $495,780) will not negatively impact other providers because it already has a waiting list of interested candidates for positions. Thus, the project should not have a substantive impact on staffing for other CCFs in Prince George's County. (DI #5, p. 46; DI #13, table H).

Staff concurs with the applicant that the addition of these 16 nursing home beds will not have a significant negative impact on other providers in Prince George's County and it will have a positive impact for Hillhaven's patients and staff and a positive impact on health care delivery in Prince George's County.

IV. SUMMARY AND STAFF RECOMMENDATION

This proposed project by Hillhaven would create additional access to CCF beds for residents of Prince George's County as well as increased access to private rooms. Commission staff recommends that the Commission find that the proposed project meets the applicable standards in COMAR 10.24.20 and the other criteria in COMAR 10.24.01.08G(3). Staff concludes that the proposed project is needed, cost-effective, viable, and that it is likely to have a positive impact on patient care.

For the reasons detailed in this Staff Report, staff recommends that the Commission **APPROV**E Hillhaven's application for Certificate of Need, with the following conditions:

[18] The applicant explains that its "effective capacity" has been constrained by its lack of private rooms, which has resulted in both having to turn down patients seeking private rooms or use semi-private rooms as privates. Thus, it asserts that its effective capacity will be increased by more than just 16 beds. Hillhaven claims that this will result in a negligible impact on the facility's cost per patient day. (DI# 15, Tables F and G).

1. MH Adelphi Operating, LLC d/b/a Hillhaven Nursing and Rehabilitation Center (Hillhaven) shall demonstrate progress in increasing the number of Medicaid patient days as a proportion of total patient days in reports it shall file at least quarterly with the Commission that identify the number and percentage of Medicaid patient days and total patient days at Hillhaven for the previous period, also providing this information for other payor sources during that time period;

2. Prior to seeking first use approval, Hillhaven shall document that the percentage of Medicaid patient days as a proportion of total patient days meets or exceeds the requirement in its most recently signed Memorandum of Understanding[19] with the Maryland Medical Assistance Program; and

3. Hillhaven shall continue to maintain the minimum proportion of Medicaid patient days required in Prince George's County in its Memorandum of Understanding with the Maryland Medical Assistance Program.

[19] Hillhaven has requested that its Medicaid MOU be modified to reflect the current required percentage (42.3%) for Prince George's County.

IN THE MATTER OF	*	**BEFORE THE**
	*	
MH ADELPHI OPERATING, LLC d/b/a	*	
HILLHAVEN NURSING AND	*	**MARYLAND HEALTH**
REHABILITATION CENTER	*	**CARE COMMISSION**
	*	
Docket No. 21-16-2447	*	

*** ***

FINAL ORDER

Based on Commission Staff's analysis in its Report and Recommendation, it is this 15th day of July 2021, **ORDERED**:

That the application for Certificate of Need submitted by MH Adelphi Operating, LLC, d/b/a Hillhaven Nursing and Rehabilitation Center (Hillhaven) to add 16 comprehensive care facility beds through construction of a new wing to its facility located in Adelphi, Prince George's County, at a cost of $9,446,890 is hereby **APPROVED,** subject to the following conditions:

1. MH Adelphi Operating, LLC d/b/a Hillhaven Nursing and Rehabilitation Center (Hillhaven) shall demonstrate progress in increasing the number of Medicaid patient days as a proportion of total patient days in reports it shall file at least quarterly with the Commission that identify the number and percentage of Medicaid patient days and total patient days at Hillhaven for the previous period, also providing this information for other payor sources during that time period;

2. Prior to seeking first use approval, Hillhaven shall document that the percentage of Medicaid patient days as a proportion of total patient days meets or exceeds the requirement in its most recently signed Memorandum of Understanding[20] with the Maryland Medical Assistance Program; and

3. Hillhaven shall continue to maintain the minimum proportion of Medicaid patient days required in Prince George's County in its Memorandum of Understanding with the Maryland Medical Assistance Program.

[20] Hillhaven has requested that its Medicaid MOU be modified to reflect the current required percentage (42.3%) for Prince George's County.

MARYLAND HEALTH CARE COMMISSION
APPENDIX 1

RECORD OF THE REVIEW

Docket No. **21-16-2447**

Item #	Description	Date
1	Commission staff acknowledged receipt of Letter of Intent	3/9/20 original and 10/30/20 revised
2	Extension of filing CON applications due to COVID pandemic	4/28/20
3	Applicant proceeds with filing although still under a state of emergency	9/3020
4	Commission staff will accept application for review 1/4/21	10/26/20
5	CON Application received	1/4/21
6	Commission staff requested that the Baltimore Sun publish notice of receipt of application	1/7/21
7	Commission staff requested that the Maryland Register publish notice of receipt of application	1/7/21
8	Commission staff acknowledges receipt of application for completeness review	1/13/21
9	Commission staff sent first set of completeness questions	1/21/21
10	Response to first completeness was received	2//3/21
11	Commission staff sent second set of completeness questions	2/25/21
12	Applicant request extension to 3/23/21 and granted	3/16/21
13	Applicant requests extension to 3/26/21 and granted	3/22/21
14	Crescent Cities Withdrawals from Review	3/24/21
15	Response to second completeness was received	3/26/21
16	Commission staff requested publishing of notice of formal start of review	4/8/21
17	Request made for comments from the Local Health Planning Department on the CON application	4/8/21
18	CON Application docketed	4/23/21
18a.	Gawel to Lane email and reply, two additional completeness questions	4/23/21

19	Applicant submits a final set of tables	5/19/21
20	Applicant submits a definition of management services	5/25/21
21	Applicant submits additional information for the Medical Assistance Participation standard	5/25/21
22	Applicant submits additional information on its Medicaid Required Level of Participation policy	5/25/21
23	Applicant submits an additional table package	6/1/21
24	Applicant submits additional information and tables	6/10/21