



UPDATED January 2024

## **COMPREHENSIVE CARE FACILITY (NURSING HOME)**

### **APPLICATION FOR CERTIFICATE OF NEED**

ALL APPLICATIONS MUST FOLLOW THE FORMATTING REQUIREMENTS DESCRIBED IMMEDIATELY BELOW. NOT FOLLOWING THESE FORMATTING INSTRUCTIONS WILL RESULT IN THE APPLICATION BEING RETURNED.

#### Required Format:

Table of Contents. The application must include a Table of Contents referencing the location of application materials. Each section in the hard copy submission should be separated with tabbed dividers. Any exhibits, attachments, etc. should be similarly tabbed, and pages within each should be numbered independently and consecutively. The Table of Contents must include:

- Responses to PARTS I, II, III, and IV of the COMPREHENSIVE CARE FACILITY (NURSING HOME) application form

Responses to PART IV must include responses to the Review Criteria listed at COMAR 10.24.01.08G. The first Review Criteria requires the Applicant to respond to all applicable standards in the State Health Plan chapter, COMAR 10.24.20, for the type of nursing home project proposed.

- Identification of each Attachment, Exhibit, or Supplement

Application pages must be consecutively numbered at the bottom of each page. Exhibits attached to subsequent correspondence during the completeness review process shall use a consecutive numbering scheme, continuing the sequencing from the original application. For example, if the last exhibit in the application is Exhibit 5, any exhibits used in subsequent responses should begin with Exhibit 6. However, a replacement exhibit that merely replaces an exhibit to the application should have the same number as the exhibit it is replacing, noted as a replacement.

#### SUBMISSION FORMATS:

We require submission of application materials and the applicant's responses to completeness questions in three forms: hard copy; searchable PDF; and Microsoft Word.

- Hard copy: Applicants must submit four (4) hard copies of the application to:  
Health Facilities Coordinator  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, Maryland 21215
- PDF: Applicants must also submit searchable PDF files of the application, supplements,

attachments, and exhibits.<sup>1</sup> All subsequent correspondence should also be submitted both by paper copy and as searchable PDFs.

- Microsoft Word: Responses to the questions in the application and the applicant's responses to completeness questions should also be electronically submitted in Word.

Applicants are strongly encouraged to submit any spreadsheets or other files used to create the original tables in their native format. This will expedite the review process.

Electronic files should be submitted to [mhcc.confilings@maryland.gov](mailto:mhcc.confilings@maryland.gov)

Note that there are certain actions that may be taken without CON review and approval. Most such instances are found in the Commission's procedural regulations at COMAR 10.24.01.03, .04, and .05. Instances listed in those regulations require the submission of specified information to the Commission and may require approval by the full Commission. Contact CON staff at (410) 764-3276 for more information.

A pre-application conference will be scheduled by Commission Staff to cover this and other topics. Applicants are encouraged to contact Staff with any questions regarding an application.

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<sup>1</sup> PDFs may be created by saving the original document directly to PDF on a computer or by using advanced scanning technology



PART I - PROJECT IDENTIFICATION AND GENERAL INFORMATION

1. FACILITY

Name of Facility: \_\_\_\_\_

Address:

Street	City	Zip	County
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2. Name of Owner

If Owner is a Corporation, Partnership, or Limited Liability Company, attach a description of the ownership structure identifying all individuals that have or will have at least a 5% ownership share in the facility owner and any related parent entities. Attach a chart that completely delineates this ownership structure.

3. APPLICANT. If the application has a co-applicant, provide the following information in an attachment.

Legal Name of Project Applicant (Licensee or Proposed Licensee): \_\_\_\_\_

Address:

Street	City	Zip	State	County
Telephone:				

4. NAME OF LICENSEE OR PROPOSED LICENSEE, if different from applicant:

\_\_\_\_\_



5. LEGAL STRUCTURE OF APPLICANT (and LICENSEE, if different from applicant).

Check  or fill in applicable information below and attach an organizational chart showing the owners of applicant (and licensee, if different).

- A. Governmental
- B. Corporation
  - (1) Non-profit
  - (2) For-profit
  - (3) Close  State & date of incorporation
- C. Partnership
  - General
  - Limited
  - Limited liability partnership
  - Limited liability limited partnership
  - Other (Specify): \_\_\_\_\_
- D. Limited Liability Company  \_\_\_\_\_
- E. Other (Specify): \_\_\_\_\_

6. PERSON(S) TO WHOM QUESTIONS REGARDING THIS APPLICATION SHOULD BE DIRECTED

A. Lead or primary contact:

Name and Title:

Company Name \_\_\_\_\_

Mailing Address:

Street \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_ State \_\_\_\_\_

Telephone:

E-mail Address (required):

Fax:

If company name is different than



applicant briefly  
describe the  
relationship

B. Additional or alternate contact:

Name and Title: \_\_\_\_\_

Company Name \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_  
Street City Zip State

Telephone:

E-mail Address (required):

7. NAME OF THE OWNER OF THE REAL PROPERTY and Improvements (if different from the licensee or proposed licensee)

Legal Name of the Owner of the Real Property

\_\_\_\_\_

Address:

\_\_\_\_\_  
Street City Zip State County

Telephone: \_\_\_\_\_

8. NAME OF THE OWNER OF THE BED RIGHTS (i.e., the person/entity that could sell the beds included in this application to a 3<sup>rd</sup> party):

Legal Name of the Owner of the Rights to Sell the CCF Beds

\_\_\_\_\_

If the legal entity that has or will have the right to sell the CCF beds is other than the licensee or the owner of the real property identified above provide the following information.

Address:

\_\_\_\_\_  
Street City Zip State County

Telephone: \_\_\_\_\_



9. If a management company or companies is or will be involved in the clinical or financial management of the facility or will provide oversight of any construction or renovations proposed as part of this APPLICATION, identify each company or individual that will provide the services and describe the services that will be provided. Identify any ownership relationship between the management company and the owner of the facility, bed rights, and/or the real property or any related entity.

Name of Management Company \_\_\_\_\_

Address:

Street City Zip State County

Telephone: \_\_\_\_\_

**\*Please provide a chart showing the breakdown of ownership that includes the owners of the real property, bed rights and operations. Please include the management company if applicable.**



## 10. TYPE OF PROJECT

The following list includes all project categories that require a CON pursuant to COMAR 10.24.01.02(A). Please mark all that apply in the list below.

If approved, this CON would result in (check as many as apply):

1. A new health care facility built, developed, or established
2. An existing health care facility moved to another site
3. A change in the bed capacity of a health care facility
4. A change in the type or scope of any health care service offered by a health care facility

## 11. PROJECT DESCRIPTION

A. Executive Summary of the Project: The purpose of this BRIEF executive summary is to convey to the reader a holistic understanding of the proposed project: what it is, why you need to do it, and what it will cost. A one-page response will suffice. Please include:

- (1) Brief Description of the project – what the applicant proposes
- (2) Rationale for the project – the need and/or business case for the proposed project
- (3) Cost – the total cost of implementing the proposed project

B. Comprehensive Project Description: The description should include details regarding:

- (1) Construction, renovation, and demolition plans
- (2) Changes in square footage of departments and units
- (3) Physical plant or location changes
- (4) Changes to affected services following completion of the project

12. Complete Table A of the CON Table Package for Nursing Home (CCF) Applications

13. Identify any community-based services that are or will be offered at the facility and explain how each one will be affected by the project.

## 14. REQUIRED APPROVALS AND SITE CONTROL

- A. Site size: \_\_\_\_\_ acres
- B. Have all necessary State and local land use and environmental approvals, including zoning and site plan, for the project as proposed been obtained? YES \_\_\_\_\_ NO \_\_\_\_\_  
(If NO, describe below the current status and timetable for receiving each of the necessary approvals.)



C. Form of Site Control (Respond to the one that applies. If more than one, explain.):

- (1) Owned by: \_\_\_\_\_
- (2) Options to purchase held by: \_\_\_\_\_  
Please provide a copy of the purchase option as an attachment.
- (3) Land Lease held by: \_\_\_\_\_  
Please provide a copy of the land lease as an attachment.
- (4) Option to lease held by: \_\_\_\_\_  
Please provide a copy of the option to lease as an attachment.
- (5) Other: \_\_\_\_\_  
Explain and provide legal documents as an attachment.

15. PROJECT IMPLEMENTATION SCHEDULE (COMAR 10.24.01.12A)

In completing this section, please note applicable obligation deadlines set forth in Commission regulations, COMAR 10.24.01.12. Ensure that the information presented reflects information presented in Application Item 11 (Project Description).

Project Implementation Schedule

An application for a CON or other Commission approval shall propose a schedule for implementation of the project in accordance with COMAR 10.24.01.12A(1) that specifies the estimated time for, at a minimum, the following project implementation steps: Obligation of Capital Expenditure, Beginning Construction, Complete Construction and Full Operation.

In developing the schedule, please note that COMAR 10.24.01.12C requires a holder to obligate at least 51 percent of the approved capital expenditure for a project involving building construction, renovation, or both, as documented by a binding construction contract or equipment purchase order, within the following specified time periods:

- (a) An approved new hospital has up to 36 months
- (b) A project involving an approved new non-hospital health care facility or involving a building addition or replacement of building space of a health care facility has up to 24 months
- (c) A project limited to renovation of existing building space of a health care facility has up to 18 months
- (d) A project that does not involve construction or renovation shall document that the approved project is complete and operational within 18 months.

In a multiphase plan of construction with more than one construction contract approved for an existing health care facility, a holder has:

- (a) Up to 12 months after approval to obligate 51 percent of the capital expenditure for the first phase of construction
- (b) Up to 12 months after completion of the immediately preceding phase of construction to obligate 51 percent of the capital expenditure for any subsequent approved phase





## 16. PROJECT DRAWINGS

Projects involving new construction and/or renovations should include scalable schematic drawings of the facility at least a 1/16" scale. Drawings should be completely legible and include dates.

These drawings should include the following before (existing) and after (proposed), as applicable:

- A. Floor plans for each floor affected with all rooms labeled by purpose or function, number of beds, location of bath rooms, nursing stations, and any proposed space for future expansion to be constructed, but not finished at the completion of the project, labeled as shell space.
- B. For projects involving new construction and/or site work a Plot Plan, showing the footprint and location of the facility before and after the project.
- C. Specify dimensions and square footage of patient rooms.

## 17. FEATURES OF PROJECT CONSTRUCTION

- A. If the project involves new construction or renovation, complete the Construction and Renovation Square Footage worksheet in the CON Table Package (Table B)
- B. Discuss the availability and adequacy of utilities (water, electricity, sewage, natural gas, etc.) for the proposed project and identify the provider of each utility. Specify the steps that will be necessary to obtain utilities.



## PART II - PROJECT BUDGET

Complete the Project Budget worksheet in the CON Table Package (Table C).

Note: Applicant should include a list of all assumptions and specify what is included in each budget line, as well the source of cost estimates and the manner in which all cost estimates are derived. Explain how the budgeted amount for contingencies was determined and why the amount budgeted is adequate for the project given the nature of the project and the current stage of design (i.e., schematic, working drawings, etc.)

## PART III - APPLICANT HISTORY, STATEMENT OF RESPONSIBILITY, AUTHORIZATION AND RELEASE OF INFORMATION, AND SIGNATURE

1. List names and addresses of all owners and individuals responsible for the proposed project and its implementation.  

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2. Are all persons listed in response to Part 1, questions 2, 3, 4, 7, 8, and 9 above now involved, or have they ever been involved, in the ownership, development, or management of another health care facility? If yes, provide a listing of these facilities, including facility name, address, and dates of involvement.  

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3. Has the Maryland license or certification of the applicant facility, or any of the facilities listed in response to Question 2, above, been suspended or revoked, or been subject to any disciplinary action (such as a ban on admissions) in the last 5 years? If yes, provide a written explanation of the circumstances, including the date(s) of the actions and the disposition. If the applicant, owners, or individuals responsible for implementation of the Project were not involved with the facility at the time a suspension, revocation, or disciplinary action took place, indicate in the explanation.  

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4. Other than the licensure or certification actions described in the response to Question 3, above, has any facility with which any applicant is involved, or has any facility with which any applicant has in the past been involved (listed in response to Question 2, above) received inquiries in last from 10 years from any federal or state authority, the Joint Commission, or other regulatory body regarding possible non-compliance with any state, federal, or Joint Commission requirements for the provision of, the quality of, or the payment for health care services that have resulted in actions leading to the possibility of penalties, admission bans, probationary status, or other sanctions at the applicant facility or at any facility listed in response to Question 2? If yes, provide, for each such instance, copies of any settlement reached, proposed findings or final findings of non-compliance and related documentation including reports of non-compliance, responses of the facility, and any final disposition or conclusions reached by the applicable authority.  

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5. Have the applicant, owners or responsible individuals listed in response to Part 1, questions 2, 3, 4, 7, 8, and 9, above, ever pled guilty to or been convicted of a criminal offense in any way connected with the ownership, development, or management of the applicant facility or any of



the health care facilities listed in response to Question 2, above? If yes, provide a written explanation of the circumstances, including as applicable to the court, the date(s) of conviction(s), diversionary disposition(s) of any type, or guilty plea(s).

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One or more persons shall be officially authorized in writing by the applicant to sign for and act for the applicant for the project which is the subject of this application. Copies of this authorization shall be attached to the application. The undersigned is the owner(s), or Board-designated official of the proposed or existing facility.

I hereby declare and affirm under the penalties of perjury that the facts stated in this application and its attachments are true and correct to the best of my knowledge, information, and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Owner or Board-designated Official

\_\_\_\_\_  
Position/Title

\_\_\_\_\_  
Printed Name



PART IV - CONSISTENCY WITH GENERAL REVIEW CRITERIA AT COMAR 10.24.01.08G(3):

INSTRUCTION: Each applicant must respond to all criteria included in COMAR 10.24.01.08G(3), listed below.

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

If a particular standard or criteria is covered in the response to a previous standard or criteria, the applicant may cite the specific location of those discussions in order to avoid duplication. When doing so, the applicant should ensure that the previous material directly pertains to the requirement and the directions included in this application form. Incomplete responses to any requirement will result in an information request from Commission Staff to ensure adequacy of the response, which will prolong the application's review period.

10.24.01.08G(3)(a). The State Health Plan.

Every Comprehensive Care Facility (CCF -- more commonly known as a nursing home) applicant must address each applicable standard from COMAR 10.24.20: State Health Plan for Facilities and Services -- Comprehensive Care Facility Services.<sup>2</sup>

Please provide a direct, concise response explaining the project's consistency with each standard. In cases where demonstrating compliance with a standard requires the provision of specific documentation, please include the documentation as a part of the application.

10.24.20.01 Section .04 Procedural Rules

A. CCF Docketing Rules

(1) The Commission shall not docket an application involving an increase in comprehensive care facility bed capacity unless:

- (a) The jurisdiction in which the facility is, or will be located, has an identified need for additional comprehensive care facility beds on the date that the letter of intent for the project is filed and the proposed increase in beds does not exceed the identified need for additional beds<sup>3</sup>; or
- (b) One of the exceptions at COMAR 10.24.20.01 Section .04B applies.

(2) The Commission shall not docket an application involving establishment of a comprehensive care facility or changes to an existing comprehensive care facility unless the applicant provides an affirmation, under penalties of perjury, that, within the last ten years:

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<sup>2</sup> [1] Copies of all applicable State Health Plan chapters are available from the Commission and are available on the Commission's web site at <https://mhcc.maryland.gov/>

<sup>3</sup> In accordance with COMAR 10.24.20.01 Section .04E, a CON application to relocate a comprehensive care facility or a portion of a facility that includes never licensed, CON-approved beds will be reviewed for continuing need in accordance with the published bed need projections in effect when the Commission receives the letter of intent for the application.



(a) No current or former owner or senior manager of the facility, of the operator, of the management organization, if any, or of any related or affiliated entity:

- (i) Has been convicted of a felony or pleaded guilty, nolo contendere, entered a best interest plea of guilty, or received a diversionary disposition regarding a felony; or
- (ii) Has received a determination of exclusion from participation in Medicare or State health care programs, with respect to a criminal conviction or civil finding of Medicare or Medicaid fraud or abuse; and

(b) Neither the facility, the operator, the management organization, if any, nor a current or former related or affiliated entity:

- (i) Has been convicted of a felony or pleaded guilty, nolo contendere, entered a best interest plea of guilty, or received a diversionary disposition regarding a felony;
- (ii) Has received a determination of exclusion from participation in Medicare or State health care programs, with respect to a criminal conviction or civil finding of Medicare or Medicaid fraud or abuse; or
- (iii) Has paid fines or penalties in excess of \$10,000,000 with or without an admission or finding of guilt with respect to any criminal or civil charges relating to Medicare or Medicaid fraud or abuse.

(c) The applicant may show evidence as to why this rule should not be applied if all of the individuals involved in the fraud or abuse are no longer associated with the entity (or any of the related or affiliated entities) and each entity has fully complied with each applicable plan of correction and, if applicable, with each condition of the imposition of a civil penalty or agreed disposition.

#### 10.24.20.01 Section .05 Comprehensive Care Facility Standards.

##### A. General Standards.

The Commission will use the following standards for CON review of all CCF projects.

##### (1) Bed Need and Average Annual Occupancy.

(a) For the 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.

##### (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 COMAR 10.24.20.01 Section .05A(2)(b).
- (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 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 COMAR 10.24.20.01 Section .05A(2)(b); and
  - (ii) Admit residents whose primary source of payment on admission is Medicaid.
- (g) An applicant may show evidence why this rule should not apply.
- (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;
  - (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;
  - (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



- (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.
- (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 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.
  - (b) In a renovation or expansion project:
    - (i) Reduce the number of resident rooms with more than two residents per room;
    - (ii) Provide individual temperature controls in each newly renovated or constructed room;
    - (iii) Reduce the number of resident rooms where more than two residents share a toilet; and
    - (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.
  - (c) The applicant shall demonstrate compliance with COMAR 10.24.20.01 Section .05A(4) 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.
- (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;
  - (b) If developing a unit to serve respiratory patients, demonstrate the ability to meet Office of Health Care Quality standards in COMAR 10.07.02.24;
  - (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.



- (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.
- (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;
  - (b) Provide a physical plant design consistent with the FGI Guidelines; and
  - (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.
- (7) Public Water. Unless otherwise approved by the Commission and the Office of Health Care Quality in accordance with COMAR 10.07.02.43, 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.
- (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<sup>4</sup> 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.
  - (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<sup>5</sup> 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.
  - (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.
  - (d) An applicant that has never owned or operated a comprehensive care facility shall demonstrate its ability:

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<sup>4</sup> To calculate an average, the applicant may use the mean or the median.

<sup>5</sup> To calculate an average, the applicant may use the mean or the median.





- (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.

(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.

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

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

Other Criteria:

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 a need for the proposed project.

**INSTRUCTIONS:** Fully address the way in which the proposed project is consistent with any specific applicable need standard or need projection methodology in the State Health Plan.

If the current bed need projection published by the MHCC based on the need formula in the State Health Plan does not project a need for all of the beds proposed, the applicant should identify the need that will be addressed by the proposed project by quantifying the need for all facility and service capacity proposed for development, relocation, or renovation in the project.

If the project involves modernization of an existing facility through renovation and/or expansion, provide a detailed explanation of why such modernization is needed by the service area population of the nursing home. Identify and discuss relevant building or life safety code issues, age of physical plant issues, or standard of care issues that support the need for the proposed modernization.



Please assure that all sources of information used in the need analysis are identified and identify all the assumptions made in the need analysis with respect to demand for services, the projected utilization rate(s), and the relevant population considered in the analysis with information that supports the validity of these assumptions. The existing and/or intended service area population of the applicant should be clearly defined.

Complete the Statistical Projection (Tables D and E, as applicable) worksheets in the CON Table Package, as required. Instructions are provided in the cover sheet of the CON package. Table D must be completed if the applicant is an existing facility. Table E must be completed if the application is for a new facility or service or if it is requested by MHCC staff.

10.24.01.08G(3)(c). Alternatives to the Project. The Commission shall consider the alternative approaches to meeting the need identified for the project that were considered by the applicant in planning the project and the basis for the applicant's choice of the project among considered alternatives. In a comparative review of applications within the same review cycle, the Commission shall compare the costs and the likely effectiveness of alternative projects in meeting identified needs, improving the availability and accessibility of care, and improving the quality of care.

**INSTRUCTIONS:** Please describe the planning process that was used to develop the proposed project. This should include a full explanation of the primary goals or objectives of the project, or the problem(s) being addressed by the project. It should also identify the alternative approaches to achieving those goals or objectives or solving those problem(s) that were considered during the project planning process, including the alternative of the services being provided by existing facilities.

For all alternative approaches, provide information on the level of effectiveness in goal or objective achievement or problem resolution that each alternative would be likely to achieve and the costs of each alternative. The cost analysis should go beyond development cost to consider life cycle costs of project alternatives. This narrative should clearly convey the analytical findings and reasoning that supported the project choices made. It should demonstrate why the proposed project provides the most effective goal and objective achievement or the most effective solution to the identified problem(s) for the level of cost required to implement the project, when compared to the effectiveness and cost of alternatives including the alternative 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.

10.24.01.08G(3)(d). Project Financial Feasibility and Facility or Program Viability. The Commission shall consider the availability of resources necessary to implement the project and the availability of revenue sources and demand for the proposed services adequate to ensure ongoing viability and sustainability of the facility to be established or modified or the service to be introduced or expanded.

**INSTRUCTIONS:** Please provide a complete description of the funding plan for the project, documenting the availability of equity, grant(s), or philanthropic sources of funds and demonstrating, to the extent possible, the ability of the applicant to obtain the debt financing proposed. Describe the alternative financing mechanisms considered in project planning and provide an explanation of why the proposed mix of funding sources was chosen.

- Complete applicable Revenue & Expense Tables and the Workforce and Bedside Care Staffing worksheets in the CON Table Package, as required (Tables H and I for all applicants). Attach additional pages as necessary detailing assumptions with respect to each revenue and



expense line item. Instructions are provided in the cover sheet of the CON package and on each worksheet. Explain how these tables demonstrate that the proposed project is sustainable and provide a description of the sources and methods for recruitment of needed staff resources for the proposed project, if applicable. If the projections are based on Medicare percentages above the median for the jurisdiction in which the nursing home exists or is proposed, explain why the projected Medicare percentages are reasonable.

- Audited financial statements for the past two years should be provided by all applicant entities and parent companies to demonstrate the financial condition of the entities involved and the availability of the equity contribution. If audited financial statements are not available for the entity or individuals that will provide the equity contribution, submit documentation of the financial condition of the entities and/or individuals providing the funds and the availability of such funds. Acceptable documentation is a letter signed by an independent Certified Public Accountant. Such a letter shall detail the financial information considered by the CPA in reaching the conclusion that adequate funds are available.
- If debt financing is required and/or grants or fund raising is proposed, detail the experience of the entities and/or individuals involved in obtaining such financing and grants and in raising funds for similar projects. If grant funding is proposed, identify the grant that has been or will be pursued and document the eligibility of the proposed project for the grant.
- Describe and document relevant community support for the proposed project.
- Explain how the applicant will be able to implement the project in compliance with its implementation schedule (Part 1 question 15). Explain the process for completing the project design, obtaining State and local land use, environmental, and design approvals, contracting and obligating the funds within the estimated time frame. Describe the construction process or refer to a description elsewhere in the application that demonstrates that the project can be completed within the applicable time frame(s).

10.24.01.08G(3)(e). Compliance with Terms and Conditions of Previous Certificates of Need. An applicant shall demonstrate compliance with all terms and conditions of each previous CON granted to the applicant.

**INSTRUCTIONS:** List all of the Maryland Certificates of Need that have been issued to the project applicant, its parent, or its affiliates or subsidiaries over the prior 15 years, including their terms and conditions, and any changes to approved Certificates that needed to be obtained. Document that these projects were or are being implemented in compliance with all of their terms and conditions or explain why this was not the case.

10.24.01.08G(3)(f). Project Impact. The Commission shall consider the impact of the proposed project on the costs and charges of existing providers of the facilities and services included in the project and on access to those facilities and services in the service area of the project.

**INSTRUCTIONS:** Please provide an analysis of the impact of the proposed project. Please assure that all sources of information used in the impact analysis are identified and identify all the assumptions made in the impact analysis with respect to demand for services, payer mix, access to service, with information that supports the validity of these assumptions. Provide an analysis of the following impacts:



- a) On the volume of service provided by all other existing health care providers that are likely to experience some impact as a result of this project;
- b) On the payer mix of all other existing health care providers that are likely to experience some impact on payer mix as a result of this project. If an applicant for a new nursing home claims no impact on payer mix, the applicant must identify the likely source of any expected increase in patients by payer.
- c) On access to health care services for the service area population that will be served by the project. (State and support the assumptions used in this analysis of the impact on access);

If the applicant is an existing nursing home, provide a summary description of the impact of the proposed project on costs and charges of the applicant nursing home, consistent with the information provided in the Project Budget, the projections of revenues and expenses, and the work force information.

10.24.01.08G(3)(g) Health Equity. The Commission shall consider how a proposed project will address health care disparities in availability, accessibility, and quality of care among different populations within the service area. The Commission shall consider how social determinants of health within the service area of the proposed project create disparities in the delivery of health care.

**INSTRUCTIONS:** In evaluating proposed projects for health equity, the Commission will scrutinize the project's impact on health care disparities and social determinants within the service area. Health equity involves the fair distribution of resources and opportunities, ensuring individuals, regardless of background, have the chance to achieve their highest level of health. It further encompasses addressing disparities and systemic barriers that affect different populations.

With health equity in mind, the applicant shall identify the specific medically underserved area(s)/group(s)<sup>6</sup> within the designated service area and outline how the proposed project will address the unique health needs and quality of care for each identified group.

Applicants are expected to furnish a detailed overview of their organization's expertise and experience in health care access and service delivery. Emphasis should be placed on highlighting any relevant background that underscores the organization's commitment to equitable health care. This encompasses efforts to integrate implicit bias and cultural competency training within the health facility and among current staff members.

Please provide a comprehensive account of how the applicant planned with the community during the preparations for this project and how it will continue to engage with the community. Include a description of any specific initiatives and programs aimed at improving community well-being that are relevant to the proposed project. If applicable, the applicant should acknowledge any unintended barriers caused

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<sup>6</sup> According to HRSA, medically underserved populations and areas are identified as those which lack access to primary care services. These groups may face economic, cultural, or language barriers to health care. Some examples include: People experiencing homelessness, people who are low-income, people who are eligible for Medicaid, Native Americans and other historically disadvantaged populations of color, migrant farm workers, etc.  
(<https://bhw.hrsa.gov/workforce-shortage-areas/shortage-designation#mups>)



by the project that may have been identified through community discourse and propose proactive solutions to mitigate and rectify potential issues.

10.24.01.08G(3)(h) Character and Competence.

**INSTRUCTIONS:** In evaluating proposed projects for Character/Competence, the Commission will review the information provided in response to Part III of the application and look for a detailed narrative response highlighting any past issues and how any issues have now been corrected or addressed. If there have not been any past issues please include in your narrative any history that has been a positive reflection of character/competence. The response should include, at minimum:

- names/addresses of all owners and individuals responsible for the proposed project and its implementation. This includes any person with 5% or more ownership interest in the real property, bed rights or operations of the facility
- for each individual identified disclose any involvement in the ownership, development, or management of another health care facility
- for each individual and facility identified disclose if any license has been suspended or revoked, or been subject to any disciplinary action (such as a ban on admissions) in the last 5 years
- for each individual and facility identified disclose inquiries in the last from 10 years from any federal (CMS) or state authority (OHCQ), or other regulatory body regarding possible non-compliance with any state, or federal requirements for the provision of, the quality of, or the payment for health care services that have resulted in actions leading to the possibility of penalties, admission bans, probationary status, or other sanctions
- disclose if any owners and individuals responsible for the project have identified above have ever pled guilty to or been convicted of a criminal offense in any way connected with the ownership, development, or management of the applicant facility or any of the health care facilities

**REMEMBER TO SUBMIT THE COMPANION TABLE SET FEATURING THE PROJECT BUDGET, STATISTICAL PROJECTIONS, REVENUE AND EXPENSE PROJECTIONS, AND WORKFORCE INFORMATION**

