

Law Offices of JAMES A. FORSYTH

11604 Garrison Forest Road, Owings Mills, Maryland 21117
Tel: (443) 928-7936 e-mail: jaforsyth@comcast.net

June 2, 2022

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

BY HAND & Email

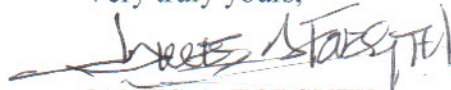
Re: Matter No. 22-06-2457 - Lorien Mt. Airy HHA Completeness Review Responses

Dear Ms. Potter:

I enclose for filing the original and requested copies of Lorien Mt. Airy's Responses to Completeness Questions dated May 19, 2022 in connection with its Application for a Certificate of Need in the Carroll County Home Health Review. Earlier today I also submitted via email the required electronic versions of the Application in both WORD and PDF formats.

Please do not hesitate to contact me if you have any questions or require additional information.

Very truly yours,



JAMES A. FORSYTH
Attorney for Lorien Mt. Airy, Applicant, and
Lorien Health Services

JAF/met

cc: Wynne Hawk, Chief, CON, MHCC
Eric N. Baker, Program Manager, MHCC
Cathy Weiss, Program Manager, MHCC
Linda Cole, Chief, Long Term Care Planning
Louis Grimmel, CEO, Lorien Health Services and Lorien Project Team
Sue Doyle, RN, Acting Carroll County Health Officer
Howard L. Sollins, Esq.

LORIEN MT. AIRY HOME HEALTH AGENCY COMPLETENESS REVIEW
(Matter No. 22-06-2457)

Populations and Services

Question 1 – *“Please provide the source for Tables 1 on page 14 within your CON application.”*

Response - Sourcing for Table 1 at p. 14 of Lorien Mt Airy’s (Lorien) CON Application was inadvertently omitted as a result of an editing error. A new replacement p. 14, with the Source citation is attached.

As new replacement p. 14 shows, Table 1 was prepared from data available at the Maryland Dept. of Planning website at https://planning.maryland.gov/MSDC/Pages/s3_projection.aspx

The omitted citation is:

Source: Maryland Department of Planning, 2020 Total Population Projections for Non-Hispanic White, Non-Hispanic Black, Non-Hispanic Other and Hispanic by Age and Gender, (12/03/2020) <https://planning.maryland.gov/MSDC/Documents/popproj/HHPop-Race-Age-Gender.xlsx>, Accessed 3/14/22

* * * * *

Question 2 – *“Please provide the source for Tables 2 on page 15 within your CON application.”*

Response - The applicable percentages of declines or increases by age cohorts set forth on Table 2 were simply calculated from the Maryland Department of Planning data presented in Table 1. For example, Table 2 shows a decline in the 0 – 19 age cohort of -10.9% for the period 2010 – 2015. This correlates with Table 1 which shows that the 0 – 19 age cohort declined by 3,607 from 33,064 in 2010 to 29,457 in 2015 which is -10.9%, as entered on Table 2. $(33,064 - 29,457 = 3607; 3607 / 33,064 = 0.109)$

* * * * *

Charity Care and Sliding Fee Scale

Question 3 – *“Your charity care estimate (0.5%) is significantly greater than the current amount provided by existing home health agencies. The application does not indicate how that it will be able to meet the estimate projected. What steps does Lorien Mt. Airy have planned to achieve the estimated level of charity care?”*

Response – Lorien’s plans for achieving its projected level of charity care are discussed further

below. But, as a preliminary matter, Lorien Mt. Airy emphasizes the context of its charity care projection by noting the following points.

As shown by Table 4 at p. 60 of the Application, the projected Charity Care allocation is not a financial feasibility issue since it accounts for a “revenue loss” of only \$4,432 on projected \$660,326 of Net Operating Revenues. Thus, the projected charity care level does not have a material impact on the proposed project’s financial feasibility. In fact, if Lorien provided less charity care, Net Operating Revenues would be expected to increase.

Next, it should also be noted that even though Lorien has projected a “significantly greater” amount of charity care than that provided by the existing home health agencies in Carroll County, *the actual number of projected charity care visits is still very low in real terms*. In this regard, Table 2B at p. 59 of Lorien Mt. Airy’s Application shows that Lorien’s projection amounts to only 21 charity care visits in Year 2. This struck Lorien as being a reasonably achievable projection since it is only one half of one percent, i.e. **21 charity care visits out of 4,224 total projected visits**.

Further, if Lorien had projected an even lower level of charity care, say 0.1% of total visits or 4 visits, instead of the projected 21 visits, that would only amount to a difference of 17 charity care visits. While Charity Care is certainly a valid public policy objective, experience shows that the level of charity care being provided is indeed very low. In fact, MHCC’s most recently available public use data, shows that existing home health agencies serving Carroll County provided charity care to only 2 clients in FY 2019 and that it included only 4 visits (*See ‘HHA2019_Table 25, Charity Care Clients and Charity Care Visits by Jurisdiction of Residence and Agency, Maryland Fiscal Year 2019’* at:

https://mhcc.maryland.gov/public_use_files/homehealth/homehealth2019utilization_excel.zip

As a result, Lorien believes that there may be a need for more charity care for the population in need and that its outreach efforts will produce the projected higher volume of charity care as compared to the amount being provided by existing HHAs serving Carroll County residents.

In direct response to Staff’s question, Lorien Mt. Airy’s outreach efforts will include adoption of its Payment Policies including Charity Care (*See* Application, Exhibit 1) which include provisions for prompt eligibility determinations within 48 hours of submission of an application, posting of notices in Lorien’s offices, annual publication of the policy in area newspapers, including the Carroll County Times, and posting a notice of its policy on its website (*See* Application, Exhibit 1, p. 1). In addition, Lorien Mt. Airy has decided to increase publication of its charity care policy from once to twice a year as stated in the revised p. 1 of its Payment Policy (*See ‘Policy’, 3rd full paragraph, lines 2 – 3 of the attached replacement p. 1 of Exhibit 1*).

Further, Lorien Mt. Airy will include notice of its Charity Care policy to all service providers with which it establishes linkages including Carroll Hospital Center, other nursing homes, continuing care retirement communities, hospice programs, other assisted living providers and adult day care providers. In addition, Lorien Mt. Airy HHA will promote its Charity Care policy by giving notice to Carroll County’s Adult Evaluation and Review Services and the Carroll County Department of Social Services, as well as the county’s Meals on Wheels provider.

In conclusion, Lorien Mt. Airy believes that the above outreach activities will enable it to attain the projected volume of charity care.

* * * * *

Financial Solvency

Question 4 - *Page 22 of the application states Lorien Mt. Airy does produce audited financial statements. Pages (sic) 31 states that Lorien Mt. Airy does not produce audited financial statements. Please:*

- a. Submit the statements if available, and correct pages 31; or*
- b. Confirm that audited financial statements are not produced, that your statement from Mr. Snarski is intended to verify that sufficient financial resource exist. In this case, please send a corrected page 22.*

Response – The first line of the cited response on page 22 contains a typo and should read “Lorien Mt. Airy does not produce audited financial statements.” Page 31 is correct in stating that Lorien Mt. Airy does not produce audited financial statements.

Further, as Staff has requested, this is to confirm that CPA Michael Snarski’s letter at Exhibit 2 documents that Lorien Mt. Airy has the required financial resources necessary to sustain the project and to comply with the capital reserve and other solvency requirements specified by CMS for a Medicare - certified home health agency as required by the terms of 10.24.16.08H. Finally, a new replacement page 22 is attached.

* * * * *

Availability of More Cost-Effective Alternatives

Question 5 - *Describe the quality measures and /or performance benchmarks Lorient (sic) Mt. Airy will use to demonstrate the results that a closer collaboration between a nursing facility and home health care staff may result in fewer readmissions, better quality of care and improved client outcomes.*

Response – First, it should be noted that the Applicant is an existing Nursing Home seeking CON approval to establish a facility – based home health care agency as a ‘department’ of the existing nursing facility. As such, staff of the nursing and assisted living programs are under common administration. Accordingly, the staff is already internally coordinated via facility administration and operational practice including case conferencing which monitors the health status and therapeutic needs of Lorien Mt. Airy’s residents. This setting contrasts with the practice of referring Lorien’s discharged residents to third party, freestanding home health agencies which utilize staff who are unknown to our discharged residents. By the very nature of its physical presence as a department within the Nursing Home, Lorien HHA will be operated in close collaboration with current nursing and assisted living functions thereby improving continuity of care.

Regarding quality measures and performance benchmarks, Lorien Mt. Airy has stated its ability and commitment to comply with all applicable federal and State data collection and reporting requirements including MHCC’s Home Health Agency Annual Survey, CMS’ Outcome and Assessment Information Set (OASIS), and CMS’ Home Health Consumer Assessment of Healthcare Providers (HCAHPS) (*See Application at p. 23*). Lorien Mt. Airy will utilize the process, outcome, and experience of care quality measures presented on Home Health Compare as well as OASIS information to measure quality measures and client outcomes.

Quality Measures and benchmarks of specific focus will concern the following:

- Initiation of prompt Start of Home Health Care after discharge or referral – within 24 hours (or 48 hours on client’s request).
- Medication Reconciliation at Start of Care.
- Primary Care Physician follow - up visitation.
- Development of baseline data on Client Progress Metrics (nutrition; weight gain / loss; mobility; range of motion; mental health; pain management, falls at home, skin injury). Compare year to year.

- Development of Medical Complications.
- Tracking and Study of ER / ED visits at 30, 60 and 90 days post discharge.
- Tracking and Study of Hospital Readmission Rates at 30, 60 and 90 days.
- Improvement / Decline in Medicare Self Care Measures (Section GG)
- Ongoing data collection on Client / Client Family Satisfaction EOC Surveys. Study Lorien HHA Client Satisfaction measures and compare to those using other HHAs.
- Tracking CMS' Home Health Compare ratings.

- - - END OF COMPLETENESS RESPONSES - - -

ATTACHMENTS

<u>Item</u>	<u>See Attached Page</u>
COMAR 10.24.16.08B – CON Application Replacement P. 14	6
Lorien HH Agency Payment Policies – Application Exhibit 1, Replacement P. 1	7
10.24.16.08H. Financial Solvency – CON Application Replacement P. 22	8
Affirmations	9 -11
• Affirmation of J. Wayne Brannock, COO, Lorien Health Services	9
• Affirmation of Michael J. Snarski, CPA	10
• Affirmation of Andrew L. Solberg, A.L.S Healthcare	11
Certificate of Service	12

10.24.16.08B. Populations and Services.

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

RESPONSE: (1) Population to be served: Lorien Mt. Airy intends to provide home health services to the former residents of its Carroll County nursing facilities who need home health services after their discharge from the Lorien Mt. Airy and Lorien Taneytown nursing facilities to their home / community settings. In addition, home health services will be provided to residents of Lorien’s Assisted Living Facilities in Mt. Airy and Taneytown who are in need of home health services. It also is anticipated that services will also be provided to residents of the general community. (2) Specific Services to be Provided: As stated at Item 8 of the CON Formset, the following services will be provided - Skilled Nursing, Home Health Aide, Occupational Therapy, Speech, Language Therapy, Physical Therapy, and Medical Social Services.

As Tables 1 and 2 below show, while the total population of Carroll County has only increased by less than 1% between 2010 and 2020, the population age 65+ has increased by 46.9%. It is projected to grow by another 52.7% by 2030.

**Table 1
Population by Age Cohort
Carroll County
2010-2030**

	0-19	20-64	65+	Total
2010	33,064	112,261	21,809	167,134
2015	29,457	110,735	27,359	167,551
2020	27,667	108,482	32,036	168,185
2025	27,227	103,478	40,991	171,696
2030	28,520	96,698	48,934	174,152

Source: Maryland Department of Planning, 2020 Total Population Projections for Non-Hispanic White, Non-Hispanic Black, Non-Hispanic Other and Hispanic by Age and Gender, (12/03/2020) <https://planning.maryland.gov/MSDC/Documents/popproj/HHPop-Race-Age-Gender.xlsx>, Accessed 3/14/22

LORIEN HOME HEALTH AGENCY PAYMENT POLICIES

Charity Care Assessment, Time Payments, Sliding Fee Scale, Medical Assistance Determinations, and Applicable Forms

PURPOSE

To establish policies regarding the process for accepting patients who do not have medical insurance or the ability to pay, including policies for charity care, time payments, and a sliding fee scale.

POLICY

It is the intention of Lorien Home Health (LHH) to make available to all clients (or their guarantors) regardless of race, creed, gender, age, sexual orientation, national origin or financial status who are uninsured, underinsured, have experienced a catastrophic event and lack adequate resources to pay for services have the highest quality of medical care possible within the resources available. If there is no medical insurance for reimbursement, the client (or the client's guarantor) is responsible for payment. **However, cases arise whereby the client or guarantor does not have the ability to pay LHH for services rendered and may apply for charity care, a sliding fee scale or time payments.**

LHH will make a determination of probable eligibility for medical assistance, charity care, and reduced fees and time payment options and will communicate that determination to the client within two business days of the submission of an application for these services or an application for medical assistance or both.

Printed public notification regarding the LHH charity care, time payment and sliding fee scale policies will be posted in the LHH business offices and website and made twice a year in newspapers in LHH service areas, including the *Carroll County Times*, as follows:

"Lorien Home Health ("LHH") will make home health care available to all adult residents of Carroll County, regardless of race, creed, gender, age, sexual orientation, national origin, or financial status who are uninsured, underinsured, or have experienced a catastrophic event and lack adequate resources to pay for services. If medical insurance is not available for reimbursement, the patient (or patient's guarantor, if any) is responsible for payments. However, if the patient or guarantor does not have the ability to pay LHH for services, they may apply for charity care, based on a sliding fee scale, or attain a time payment plan. Probable eligibility will be decided within two business days of the initial request for these services or an application for Medical Assistance, or both. The amount of assistance will be based on Federal Income Poverty Guidelines. More information and/or an application are available by calling Lorien Mt. Airy Home Health Agency at (301) 829-6050."

Payment and Time Payment Plan

Clients who are not eligible for insurance, Medicaid, or Charity are expected to pay for LHH services. Clients owing any financial balance to LHH are sent an invoice over three months

Application, Exhibit 1, Replacement P. 1

10.24.16.08H. Financial Solvency.

An applicant shall document the availability of financial resources necessary to sustain the project. Documentation shall demonstrate an applicant's ability to comply with the capital reserve and other solvency requirements specified by CMS for a Medicare-certified home health agency.

RESPONSE: Lorien Mt. Airy does not produce audited financial statements. Instead, as allowed, a letter from Michael Snarski, CPA attached as Exhibit 2, documents the availability of financial resources necessary to implement and sustain the project, and to comply with the capital reserve and other solvency requirements specified by CMS for a Medicare - certified home health agency.

* * * * *

10.24.16.08I. Linkages with Other Service Providers.

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

- (1) *A new home health agency shall provide this documentation when it requests first use approval.*

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

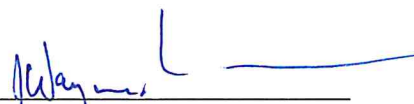
RESPONSE: Lorien' proposed Home Health Agency will provide documentation of its required linkages with other programs and providers when it requests first use approval in accordance with the provisions of (1), above.

* * * * *

AFFIRMATION

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

Date: Effective June 1, 2022



Name: J. Wayne Brannock
Title: Chief Operating Officer

AFFIRMATION

I hereby declare and affirm under the penalties of perjury that the facts concerning Charity Care and Financial Solvency contained in Lorien Mt. Airy's June 2, 2022 Completeness Review Responses for its Application for Certificate of Need and Attachments dated May 9, 2022 are true and correct to the best of my knowledge, information and belief.

Date: Effective June 1, 2022



Michael J. Snarski, CPA

Name: Michael J. Snarski, CPA

Title: Member

Snarski Consulting, LLC

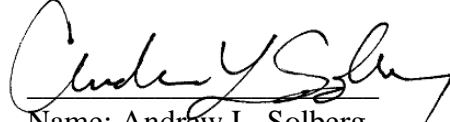
5608 Saint Albans Way

Baltimore, Maryland 21212

AFFIRMATION

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

Date: Effective June 1, 2022

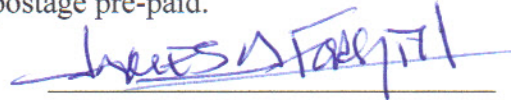
A handwritten signature in black ink, appearing to read "Andrew L. Solberg". The signature is written in a cursive style with a large initial "A" and "S".

Name: Andrew L. Solberg

Title: Principal, A.L.S. Healthcare
Consultant Services

CERTIFICATE OF SERVICE

I CERTIFY that on this the 2nd day of June, 2022, I mailed copies of the attached document entitled 'Lorien Mt. Airy Home Health Agency Completeness Review' to Howard L. Sollins, Esq., Baker Donelson, 100 Light Street, Baltimore, MD 21202; and to Sue Doyle, RN, Acting Health Officer, Carroll County Department of Health, 290 S. Center Street, Westminster, MD 21157 both by U.S. Mail, 1st Class, postage pre-paid.



JAMES A. FORSYTH
Attorney for Lorien Mt. Airy