



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

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

This form is for applicants seeking a Certificate of Need (CON) for a comprehensive care facility or nursing home.<sup>1</sup> A nursing home is an *extended care facility that offers non-acute inpatient care to patients*:

- (a) Suffering from a disease, chronic illness, condition, disability of advanced age, or terminal disease requiring maximal nursing care without continuous hospital services; and*
- (b) Who require medical services and nursing services rendered by or under the supervision of a licensed nurse together with convalescent, restorative, or rehabilitative services.*

Establishment or relocation of a nursing home or expansion of bed capacity or scope of services of a nursing home require review and approval by the Maryland Health Care Commission (MHCC or the Commission). Approved projects are awarded a CON, authorizing the applicant to implement the proposed project.<sup>2</sup>

**ALL APPLICATIONS MUST FOLLOW THE FORMATTING REQUIREMENTS DESCRIBED 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. The Table of Contents must include:

Responses to PARTS I, II, III, and IV of this application form. Responses to PART IV must include responses to the Criteria for Review of Application as listed at COMAR 10.24.01.08G. The first criterion 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.

- 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.
- Identification of each Attachment, Exhibit, or Supplement.

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<sup>1</sup> This application will refer to comprehensive care facilities as “nursing homes”, consistent with the terminology used by the industry and the Center for Medicaid and Medicare Services.

<sup>2</sup> Note: There are certain actions that may be taken without CON review and approval. Most such instances are found in COMAR 10.24.01.03, .04, and .21. Instances listed in those regulations require the submission of specified information to the Commission and may require approval by the full Commission.

- **Pagination.** 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 Format

We require submission of application materials and the applicant's responses to completeness questions in three forms: hard copy; Microsoft Word (and Excel, as needed); and a searchable PDF.

- **Hard copy:** Submit four (4) paper copies of the complete application to:  
Health Facilities Coordinator  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, MD 21215
- **Microsoft Word and Excel (electronic):** Submit responses to the application questions and responses to any completeness questions electronically, in Word. Tables should be submitted in Excel spreadsheet. Submit these files to [mhcc.confilings@maryland.gov](mailto:mhcc.confilings@maryland.gov).

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 copy:** Provide a PDF copy of the complete application to [mhcc.confilings@maryland.gov](mailto:mhcc.confilings@maryland.gov).

All subsequent correspondence should be submitted both by hard paper copy and by electronic copy in Microsoft Word and as a searchable PDF.

Applicants may request a pre-application conference to cover these instructions and other topics. Applicants are encouraged to contact Staff with any questions regarding an application.



**PART I - PROJECT IDENTIFICATION AND GENERAL INFORMATION**

**1. FACILITY**

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

Address 1: \_\_\_\_\_

Address 2 \_\_\_\_\_

\_\_\_\_\_

City

\_\_\_\_\_

Zip

\_\_\_\_\_

County

**2. OWNERSHIP**

Provide complete ownership information that includes owners of the real property and improvements, bed rights, and operations. Include and identify the management company or companies, if applicable.\* Identify the relationship between these entities. **Provide a chart showing the breakdown of ownership among all the entities.**

\*If the 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 percent ownership share in the facility ownership 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: \_\_\_\_\_

Address 1: \_\_\_\_\_

Address 2 \_\_\_\_\_

\_\_\_\_\_

City

\_\_\_\_\_

Zip

\_\_\_\_\_

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 \_\_\_\_\_

Address 1: \_\_\_\_\_ Address 2: \_\_\_\_\_

City \_\_\_\_\_ Zip \_\_\_\_\_ County \_\_\_\_\_

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

E-mail Address (required): \_\_\_\_\_ Fax: \_\_\_\_\_

If the company name is different than the applicant, briefly describe the relationship. \_\_\_\_\_

B. Additional or Alternate Contact

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

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

Address 1: \_\_\_\_\_ Address 2: \_\_\_\_\_

City \_\_\_\_\_ Zip \_\_\_\_\_ County \_\_\_\_\_

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:

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 third party):

Legal Name of the Owner of the Rights to Sell the Nursing Home Beds

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

Address:

City

Zip

State

County

Telephone:

- 9. If a MANAGEMENT COMPANY or COMPANIES** 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:

City

Zip

State

County

Telephone:



**10. TYPE OF PROJECT**

The following list includes all project categories that require a CON pursuant to COMAR 10.24.01.02(A). 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. Include the following:

- (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 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: \_\_\_\_\_  
Provide a copy of the purchase option as an attachment.
- (3) Land Lease held by: \_\_\_\_\_  
Provide a copy of the land lease as an attachment.
- (4) Option to lease held by: \_\_\_\_\_  
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)**

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 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).

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 bathrooms, 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 now involved or have ever been involved in the ownership, development, or management of another health care facility? If yes, provide a list 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 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

\_\_\_\_\_  
Date

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

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

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

\_\_\_\_\_  
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 the adequacy of the response, which will prolong the application's review period.

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

Every nursing home applicant must address each applicable standard from COMAR 10.24.20: State Health Plan for Facilities and Services -- Comprehensive Care Facility (Nursing Home) Services.<sup>3</sup>

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, include the documentation as a part of the application.

**10.24.20.04A Procedural Rules: Nursing Homes**

**Docketing Rules**

- (1) The Commission shall not docket an application or accept a request for an exemption involving establishment of a nursing home or changes to an existing nursing home unless the applicant provides an affirmation, under penalties of perjury, that, within the last ten years:
  - (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; 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; or

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<sup>3</sup> 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/>



- (iii) Has paid fines or penalties greater than one million dollars 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, unless the applicant is able to document changes in policies and procedures to address the reasons for the penalties.
- (2) 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.

#### **10.24.20.05 Nursing Home Standards.**

##### **General Standards.**

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

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

- (a) For a relocation of existing nursing home beds currently in the inventory, an applicant shall demonstrate the 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 demographic, high utilization of nursing home 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 nursing home services.
- (b) An applicant proposing a project that will not add nursing home beds to a jurisdiction but will add beds to an existing facility by relocation of existing licensed or temporarily delicensed nursing home beds within a jurisdiction, shall demonstrate that the facility being expanded operated all of its licensed beds at an occupancy rate of 80 percent or higher during the last two fiscal years.<sup>4</sup>
- (c) An applicant shall only propose a project in a jurisdiction that has an identified need for additional nursing home beds and the proposed increase in beds does not exceed the identified need for additional beds unless:
  - (i) More than fifty percent of the nursing homes in the jurisdiction had an average<sup>5</sup> overall Centers for Medicare & Medicaid Services (CMS) star rating of less than three stars in CMS's most recent five quarterly refreshes for which CMS data is reported; and
  - (ii) The applicant meets the quality requirement at COMAR 10.24.20.01A(1)(d).
- (d) An applicant shall only propose a project under §(1)(c) of this regulation if:
  - (i) The applicant is an existing nursing home in the jurisdiction that is proposing expansion of its bed capacity and had an average overall CMS star rating of at least three stars in the most recent five quarterly refreshes for which CMS data are reported; or

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<sup>4</sup> KFF, accessed April 29, 2024, "Certified Nursing Facility Occupancy"  
<https://www.kff.org/other/stateindicator/nursing-facility-occupancyrates/?currentTimeframe=0&sortModel=%7B%22collId%22:%22Location%22,%22sort%22:%22asc%22%7D>

<sup>5</sup> An applicant may interpret average to be mean or median.



- (ii) The applicant proposing a new nursing home in the jurisdiction can document that all of the nursing homes it or any related entity operates had an average overall CMS star rating of at least three stars in the most recent five quarterly refreshes for which CMS data is reported.
- (e) The Commission may consider an application by an existing freestanding nursing home with fewer than 100 beds that proposes a replacement facility with an appropriate expansion of bed capacity in a jurisdiction without identified need for additional beds if the applicant demonstrates that:
  - (i) Replacement of its physical plant is warranted, given the facility's age and condition; and
  - (ii) The additional bed capacity proposed is needed to make the replacement facility financially feasible and viable.

**(2) Medicaid Participation.**

- (a) The Commission may approve a Certificate of Need for a nursing home only for an applicant that participates or proposes to participate in the Medicaid program.
- (b) Each applicant shall agree to serve and maintain a proportion of Medicaid days that is at least equal to the proportion of Medicaid days in all other nursing homes in the jurisdiction or region, whichever is lower, calculated as the weighted mean minus the 25<sup>th</sup> 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*.<sup>6</sup> Additional information is available on the MHCC website.<sup>7</sup> This requirement shall be a condition on any CON issued by the Commission.
- (c) An applicant for new nursing home 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 the first two years of its operation.
- (d) 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.
- (e) Prior to licensure, an applicant shall provide an attestation of its intent to participate in the Medicaid program of the Maryland Department of Health to:
  - (i) Achieve and maintain the level of Medicaid participation required by

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<sup>6</sup> 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.

<sup>7</sup> See the following link regarding the calculation:  
[https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs\\_ltc/documents/chcf\\_ltc\\_nh\\_required\\_md\\_medical\\_assistance\\_participation\\_fy2020.pdf](https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_ltc/documents/chcf_ltc_nh_required_md_medical_assistance_participation_fy2020.pdf)



- (ii) COMAR 10.24.20.05A(2)(b); and
- (iii) Admit residents whose primary source of payment on admission is Medicaid.

(f) An applicant may show evidence of 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 nursing home 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, the Maryland Department of Aging 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.**

- (a) An applicant shall provide each resident an appropriate living environment that demonstrates compliance with the most recent Facility Guidelines Institute's Guidelines for Design and Construction of Residential Health, Care, and Support Facilities (FGI Guidelines).
- (b) If an applicant is proposing a project that involves new construction, the applicant shall:
  - (i) Develop rooms with no more than two beds for each resident room<sup>8</sup>;
  - (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 nursing home that provides a cluster/neighborhood design or a connected household design, rather than an institutional design, consistent with the most recent FGI Guidelines.

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<sup>8</sup> FGI Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2022 Edition, Appendix A3.1-2.2.2.1



- (c) If an applicant is proposing a project that involves renovation or expansion, the applicant shall:
  - (i) Reduce the number of resident rooms with more than two residents per room, with single resident rooms preferred;
  - (ii) Provide individual temperature controls in each newly renovated or constructed room;
  - (iii) Reduce the number of resident rooms in which 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.
- (d) The applicant shall demonstrate compliance with COMAR 10.24.20.05A (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 residents, demonstrate the ability to meet Office of Health Care Quality (OHCQ) standards in COMAR 10.07.02.24;
- (c) If developing a unit to serve dementia residents, demonstrate the ability to meet OHCQ standards and the most current FGI Guidelines; and
- (d) Demonstrate that the design of the nursing home 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 nursing home 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 nursing home 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 OHCQ and the Office of the Maryland State Fire Marshal.

**(7) Public Water.**

Unless otherwise approved by the Commission and the OHCQ in accordance with COMAR 10.07.02.43, an applicant 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.**

The applicant shall demonstrate that it will provide high quality of care, as determined by an assessment of the following information requested in subsection (8)(a)-(g).

- (a) An applicant shall report on its overall CMS Five Star Rating for all the nursing homes owned or operated by the applicant or a related or affiliated entity for three years or more, for the five quarterly refreshes for which CMS data is reported preceding the date of the applicant's letter of intent submission, or submission date for other Commission approval.
  - (i) If the applicant or a related or affiliated entity owns or operates one or more nursing homes 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 nursing homes in Maryland, the applicant shall select the state or states in which it owns the most facilities and the CMS star ratings for such facilities shall be used.
- (b) If any facilities identified under paragraph (a) has an average star rating below 3 stars, the applicant shall provide a detailed quality rating analysis demonstrating good cause for not meeting the CMS star rating threshold and that the applicant is likely to provide adequate quality of care in the nursing home subject to the request.
- (c) The applicant shall address whether any nursing home currently or previously owned by the applicant or a related or affiliated entity, within or outside the State, for the period of 3 years immediately preceding the submission of the letter of intent or request for other Commission approval was the subject of an enforcement action, a special focus facility designation, or a deficiency involving serious or immediate threat, actual harm, or immediate jeopardy to a resident. The applicant shall describe what measurable efforts it has taken to address the deficiencies.
- (d) The applicant shall address whether any nursing home currently or previously owned by the applicant or a related or affiliated entity, within or outside the State, for the period of 3 years immediately preceding the submission of the letter of intent or request for other Commission approval was the subject of a lawsuit judgment or an arbitration finding, following a complaint filed by a resident, resident representative, or a government agency. The applicant shall provide an explanation of the circumstances surrounding the judgment or finding and subsequent actions taken.
- (e) An applicant shall demonstrate appropriate infection prevention and control by providing the percent of residents receiving COVID, flu and pneumonia vaccinations, and the percent of staff receiving COVID, flu and pneumonia vaccinations:
  - (i) At the nursing home that is the subject of the request, for a CON or exemption request;  
or



- (ii) At the nursing homes identified under §(8)(a), for a request for acquisition approval.
- (f) If the applicant or a related affiliated entity owns or operates or previously owned Maryland nursing homes, it shall report its rating of overall care and percent satisfied for the most recent three years on the MHCC Family Experience of Care Survey, reporting on any trends in the results. If the facility's average rating of overall care is below 7.0, the applicant shall document efforts to improve the facility's rating. If the facility's average percent satisfied overall rating is below 70 percent, the applicant shall document efforts to improve the facility's rating.
- (g) Quality Assurance.
  - (i) An applicant shall demonstrate that it has an effective quality assurance program in each nursing home facility that is owned or operated by the applicant or a related or affiliated entity for the period of 3 years immediately preceding the submission of the letter of intent or request for other Commission approval by providing the Commission with a schedule of its quarterly Quality Assurance meetings.
  - (ii) An applicant that has never owned or operated a nursing home shall provide documentation that demonstrates a thorough understanding of assessing quality assurance in a long term care facility or related facility/program. Include any documentation of a prior assessment that reviewed quality metrics, a review of operations, and regulatory compliance and include any subsequent follow up in the form of actions taken, results, or improvement plans.

**(9) Collaborative Relationships.**

- (a) An applicant shall document its relationships with hospitals, hospice programs, home health agencies, assisted living providers, Assessments Evaluation and Review Services<sup>9</sup>, adult day care programs, and other community providers in the long-term care continuum. This may include contracts, letters or other relevant documentation.
- (b) 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.
- (c) 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 nursing home 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

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<sup>9</sup> In January of 2025, there was a renaming of the Adult Evaluation and Review Services to Assessments Evaluation & Review Services, reflective of the broader population assessed. The acronym (AERS) remains the same.



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

Criteria for Review Continued:

**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:** 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:** 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 (CPA). 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:** 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>10</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.

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 by the project that may have been identified through community discourse and 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 IIII 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 percent 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 five years
- for each individual and facility identified disclose inquiries in the last from 10 years from any federal (e.g., CMS) or state authority (e.g., 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.**

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<sup>10</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://bhwa.hrsa.gov/workforce-shortage-areas/shortage-designation#mups>)

