January 4, 2019

Ms. Linda Cole
Chief, Long Term Care Policy & Planning
Centers for Health Care Facilities and Services
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215-2299

Re: Proposed Regulations: Comprehensive Care Facility Services: COMAR 10.24.20

On behalf of Fundamental Administrative Services (FAS) and Fundamental Clinical and Operational Services (FCOS), please accept the following comments on the proposed Comprehensive Care Facility (CCF) Services Chapter to the State Health Plan, to be enacted at COMAR 10.24.20, published in the December 7, 2018 Maryland Register.

FAS and FCOS provide administrative, clinical and operational consulting services in Maryland to 12 skilled nursing centers with nearly 1500 beds throughout the state.

For the first time ever, the Maryland Health Care Commission (MHCC) is recommending that applications to build new skilled nursing centers may be submitted absent any demographic need. The proposal by the MHCC is ill-conceived public policy attempting to solve a problem that does not exist.

There are a number of issues with the proposed "Docketing Rule Exceptions" set forth in COMAR 10.24.20.04B. Specifically, Section .04(B)(1) would permit the docketing of additional bed capacity (including a new facility into a jurisdiction even when there is no bed need) based on the Five-Star rankings of more than 50% of the existing CCFs. This change will damage improvement efforts of existing facilities by introducing competing bed capacity for which there is no need. Section .04(B)(3) would also permit the docketing of additional bed capacity based on the applicant's agreement with one or more hospitals that achieves goals of the Total Cost of Care (TCOC) model. This provision does not account for existing facility efforts and investments to adhere to the TCOC model nor the willingness of existing facilities to enter into hospital agreements— thereby putting essential admissions and revenues from hospital discharges to CCFs at risk.

Furthermore, Section .05(A)(8) requires that an existing facility applying for a CON must have a certain average Five Star Ranking. We oppose this requirement because this ranking can be affected by the performance of a prior owner or operator and because a CON application may be part of an overall effort to improve quality.

Finally, we agree with the Health Facilities Association of Maryland's (HFAM) comments regarding Section .05A(2)(b), MHCC did not address in its proposal. Specifically, HFAM suggests that the Medicaid Memorandum of Understanding (MOU) requirement be removed entirely or that the specific percentage be removed since there is no documented problem with Medicaid beneficiary access to a CCF.

Despite declines in post-acute and long-term care patient census there is no shortage of skilled nursing and rehabilitation care for the frail and elderly population in Maryland. While some individuals are often strong enough to go straight home after a hospital stay, others have complex medical conditions and need to go to a skilled nursing and rehab center to get stronger after a hospital stay.

Today, Medicare beneficiaries that enter skilled nursing centers after a hospital stay go home stronger and safer in an average of 28 days. Those in Maryland who face multiple complex medical challenges receive quality long-term care in skilled nursing and rehabilitation centers rather than in hospitals where the cost is much higher. Average occupancy in our skilled nursing centers is 84-85%, patients are not being turned away, and there is no need to build new skilled nursing centers in Maryland.

Thank you for the opportunity to provide these comments. Should you have any questions, please do not hesitate to reach out to me directly.

Sincerely,

Michael Jacobs
Government Affairs

Cc: Joe DeMattos, HFAM