

Competitive Comments on Chatham County Nursing Facility Applications

submitted by

University of North Carolina Hospitals at Chapel Hill

In accordance with N.C. GEN. STAT. § 131E-185(a1)(1), the University of North Carolina Hospitals at Chapel Hill (UNC Hospitals) submits the following comments related to competing applications to develop additional nursing facility beds in Chatham County to meet a need identified in the 2013 *State Medical Facilities Plan (SMFP)*. UNC Hospitals' comments include "*discussion and argument regarding whether, in light of the material contained in the application and other relevant factual material, the application complies with the relevant review criteria, plans and standards.*" See N.C. GEN. STAT. § 131E-185(a1)(1)(c). In order to facilitate the Agency's ease in reviewing the comments, UNC Hospitals has organized its discussion by issue, specifically noting the general CON statutory review criteria and specific regulatory criteria and standards creating the non-conformity relative to each issue, as they relate to the following applications:

- **Kensington Rehab and Nursing Center, (Kensington), Project ID # J-10167-13**
- **Chatham County Rehabilitation Center, (Liberty), Project ID # J-10168-13**
- **Chatham Health and Rehabilitation Center, (Chatham Health), Project ID # J-10169-13**
- **PruittHealth - Chatham, LLC (PruittHealth), Project ID # J-10171-13**
- **UNC Hospitals Nursing Care and Rehabilitation Center (UNC Hospitals), Project ID # J-10170-13**

KENSINGTON

Kensington's application should not be approved as proposed. In summary, Kensington's application failed to conform with statutory review criterion 8.

UNC Hospitals identified the following specific issue, which contributes to Kensington's non-conformity:

- (1) Failure to adequately demonstrate the provision of or arrangement for necessary ancillary and support services.

Failure to Adequately Demonstrate the Provision of or Arrangement for Necessary Ancillary and Support Services

In Section II, page 21 of its application, Kensington states that "The facility will also contract with a number of other local medical providers to meet resident care needs, including a dentist to provide routine and emergency dental services for residents, a podiatrist to provide foot care services, and a mental health service provider." However, Kensington failed to provide a letter of interest for any of these services which it identified as being contracted. Therefore, Kensington failed to adequately demonstrate that it will provide or make arrangements for the necessary ancillary and support services. Please note that this finding is consistent with prior Agency Findings. In particular, in the 2008 Union County Nursing Facility Review Findings, the Analyst made the following findings relative to Criterion 8:

- Liberty – the Analyst found the applicant non-conforming to Criterion 8, noting that the applicant did not provide a letter of interest for services it identified as being contracted for, including dental, ophthalmology, optometry, occupational therapy, or radiology services. Please see pages 39 and 40 of the 2008 Union County Nursing Facility Review Findings.

Given prior Agency Findings, **Kensington's application should be found non-conforming with Criterion 8, as it has failed to demonstrate the availability of necessary ancillary and support services.**

LIBERTY

Liberty's application should not be approved as proposed. In summary, Liberty's application failed to conform with statutory review criteria 8 and 20, as well as 10A NCAC 14C .1101(f).

UNC Hospitals identified the following specific issues, each of which contributes to Liberty's non-conformity:

- (1) Failure to adequately demonstrate the provision of or arrangement for necessary ancillary and support services as well as coordination with the existing healthcare system;
- (2) Failure to provide evidence that the applicant has provided quality care in the past; and
- (3) Failure to adequately demonstrate that the proposed physical plant will conform with all requirements as stated in 10A NCAC 13D or 10A NCAC 13F

Each of the issues listed above are discussed in turn below. Please note that relative to each issue, UNC Hospitals has identified the statutory review criteria and specific regulatory criteria and standards creating the non-conformity.

Failure to Adequately Demonstrate the Provision of or Arrangement for Necessary Ancillary and Support Services as Well as Coordination with the Existing Healthcare System

In Section II, page 42 of its application, Liberty states that pharmacy services will be provided under contract agreement with McNeill's LTC Pharmacy. While Liberty states that the relationship is already in place for pharmacy services on page 43 of its application (and provides a copy of an existing contract with a nearby Liberty facility in Exhibit 8), Liberty fails to provide a letter from McNeill's LTC Pharmacy expressing an interest in providing pharmacy services to the proposed facility. Therefore, Liberty failed to adequately demonstrate that it will provide or make arrangements for the necessary ancillary and support services. Please note that this finding is consistent with prior Agency Findings. In particular, in the 2008 Union County Nursing Facility Review Findings, the Analyst made the following findings relative to Criterion 8:

- Liberty – the Analyst found the applicant non-conforming to Criterion 8, noting that although Liberty states that a relationship is already in place for lab services, Liberty failed to provide interest on the part of Spectrum Lab. Please see pages 39 and 40 of the 2008 Union County Nursing Facility Review Findings.

Given prior Agency Findings, Liberty's application should be found non-conforming with Criterion 8, as it has failed to demonstrate the availability of necessary ancillary and support services.

In addition, Liberty's application contains only three letters of support from physicians in Exhibit 26. Given the lack of support, Liberty has failed to adequately demonstrate coordination with the existing healthcare system.

Liberty's application should be found non-conforming with Criterion 8, as it has failed not only to demonstrate the availability of necessary ancillary and support services, but also coordination with the existing healthcare system.

Failure to Provide Evidence that the Applicant has Provided Quality Care in the Past

In Section I.12.(a), Liberty provides a list of nursing facilities that they own or operate in North Carolina, including Springwood Care Center in Winston Salem. According to information provided by Liberty in response to Section II.6, one of Liberty's existing skilled nursing facilities, Springwood Care Center, has experienced numerous substandard quality events as detailed in Exhibit 10 of Liberty's application. Of note, the certification deficiencies constituted substandard quality of care, including immediate jeopardy to resident health or safety. Therefore, Liberty failed to demonstrate that it has provided quality care in the past. Please note that this finding is consistent with prior Agency Findings. In particular, in the 2011 Wake County Nursing Facility Review Findings, the Analyst made the following findings relative to Criterion 20:

- Liberty-Garner—the Analyst found the applicants non-conforming to Criterion 20, noting that within the 18 months immediately preceding the date of the decision, Capital Nursing and Rehabilitation Center had certification deficiencies constituting substandard quality of care, including immediate jeopardy to resident health or safety. Please see pages 115 and 116 of the 2011 Wake County Nursing Facility Review Findings.
- Liberty-Morrisville—the Analyst found the applicants non-conforming to Criterion 20, noting that within the 18 months immediately preceding the date of the decision, Capital Nursing and Rehabilitation Center had certification deficiencies constituting substandard quality of care, including immediate jeopardy to resident health or safety. Please see page 116 of the 2011 Wake County Nursing Facility Review Findings.
- Liberty-North Raleigh—the Analyst found the applicants non-conforming to Criterion 20, noting that within the 18 months immediately preceding

the date of the decision, Capital Nursing and Rehabilitation Center had certification deficiencies constituting substandard quality of care, including immediate jeopardy to resident health or safety. Please see page 116 of the 2011 Wake County Nursing Facility Review Findings.

Therefore, the Agency has previously found Liberty non-conforming relative to Criterion 20 where certification deficiencies constituting substandard quality of care, including immediate jeopardy to resident health or safety have occurred within 18 months prior to the decision. Given prior Agency Findings, **Liberty's application should be found non-conforming with Criterion 20, as it has failed to demonstrate evidence that it has provided quality care in the past.**

Failure to Adequately Demonstrate that the Proposed Physical Plant Will Conform with All Requirements as Stated in 10A NCAC 13D or 10A NCAC 13F

As noted in its application, Liberty proposes to develop a 20 bed Alzheimer's unit. However, the line drawings provided in Exhibit 37 do not show a separate medication preparation area, clean utility room, soiled utility room, nurses' toilet and locker space, soiled linen storage room, clean linen storage room, nourishment station and nurses' station for the Alzheimer's unit. Further, the line drawings do not show a dining room space for the Alzheimer's unit. This space is required by 10A NCAC 13D .3200 for each nursing unit. **Liberty's application should be found non-conforming with 10A NCAC 14C .1101(f), as it has failed to adequately demonstrate that the physical plant would conform to all requirements as stated in 10A NCAC 13D.**

CHATHAM HEALTH

Chatham Health's application should not be approved as proposed. In summary, Chatham Health's application failed to conform with statutory review criteria 7 and 8.

UNC Hospitals identified the following specific issues, each of which contributes to Chatham Health's non-conformity:

- (1) Failure to adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services; and,
- (2) Failure to adequately demonstrate the provision of or arrangement for necessary ancillary and support services as well as coordination with the existing healthcare system.

Each of the issues listed above are discussed in turn below. Please note that relative to each issue, UNC Hospitals has identified the statutory review criteria and specific regulatory criteria and standards creating the non-conformity.

Failure to Adequately Demonstrate the Availability of Sufficient Health Manpower and Management Personnel to Provide the Proposed Services

Chatham Health failed to identify a physician willing to serve as medical director of the proposed facility. Therefore, Chatham Health failed to adequately demonstrate the availability of sufficient health manpower to provide the proposed services. Please note that this finding is consistent with prior Agency Findings. In particular, in the 1999 Randolph County Nursing Facility Review Findings, the Analyst made the following findings relative to Criterion 7:

- Best Senior – the Analyst found the applicant non-conforming to Criterion 7, noting that the applicant did not identify a physician who was willing to serve as medical director of the proposed facility. Although Best Senior noted in its application that they contacted physicians but “they were unwilling to respond because the local hospital, Randolph Hospital, is in competition for the nursing beds,” the Analyst nevertheless determined that Best Senior failed to adequately demonstrate the availability of health manpower to provide the proposed services. Please see page 48 of the 1999 Randolph County Nursing Facility Review Findings.

Similar to Best Senior, Chatham Health indicates on page 46 of its application that “Thus far, local physicians have not yet visibly responded to Chatham Health Investors, LLC's efforts to secure their interest in being involved with the

proposed facility. The reasoning, as expressed by one leading physician who is interested in being Medical Director (and already is the Medical Director at one facility in Chatham County), if the project is approved, is their awareness of a probable CON Application being put forth by UNC Hospital in Chapel Hill.” While Chatham Health goes on to note that it has secured the interest of Extended Care Physicians, it bears mention that the letter included in Exhibit 12 is not signed and does not identify a physician who would serve as medical director of the proposed facility. Chatham Health also mentions that it has secured the interest of ACT Medical Group, PA to provide medical directorship to its proposed facility; however, in the absence of any documentation, such a claim cannot be substantiated. Given prior Agency Findings, **Chatham Health’s application should be found non-conforming with Criterion 7, as it has failed to demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services.**

Failure to Adequately Demonstrate the Provision of or Arrangement for Necessary Ancillary and Support Services as Well as Coordination with the Existing Healthcare System

In Section II, page 17 of its application, Chatham Health states that “Pharmacy services will be provided under contract agreement for residents. Laboratory and radiology services, as needed by residents of the facility, will be provided under contract.” However, Chatham Health failed to provide a letter of interest for any of these services which it identified as being contracted. Therefore, Chatham Health failed to adequately demonstrate that it will provide or make arrangements for the necessary ancillary and support services. Please note that this finding is consistent with prior Agency Findings. In particular, in the 2008 Union County Nursing Facility Review Findings, the Analyst made the following findings relative to Criterion 8:

- Liberty – the Analyst found the applicant non-conforming to Criterion 8, noting that the applicant did not provide a letter of interest for services it identified as being contracted for, including dental, ophthalmology, optometry, occupational therapy, or radiology services. Please see pages 39 and 40 of the 2008 Union County Nursing Facility Review Findings.

Although Chatham Health indicates on page 23 of its application that Exhibit 9 contains documentation of providers’ ability or interest to provide consultant or contract services, Exhibit 9 only includes information regarding Energy Star Conservation Program. Given prior Agency Findings, Chatham Health’s application should be found non-conforming with Criterion 8, as it has failed to demonstrate the availability of necessary ancillary and support services.

In addition, Chatham Health's application contains only three letters of support, none of which are from physicians, in Exhibit 25 of its application. Given the lack of support, Chatham Health has failed to demonstrate coordination with the existing healthcare system.

Chatham Health's application should be found non-conforming with Criterion 8, as it has failed not only to demonstrate the availability of necessary ancillary and support services, but also coordination with the existing healthcare system.

PRUITT HEALTH

PruittHealth's application should not be approved as proposed. In summary, PruittHealth failed to conform with statutory review criteria 5, 7, 8, 12, 13(c), and 20.

UNC Hospitals identified the following specific issues, each of which contributes to PruittHealth's non-conformity:

- (1) Failure to adequately demonstrate the availability of funding for all working capital costs;
- (2) Failure to adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services;
- (3) Failure to adequately demonstrate the provision of or arrangement for necessary ancillary and support services as well as coordination with the existing healthcare system;
- (4) Failure to demonstrate that its proposed design represents the most reasonable alternative;
- (5) Failure to demonstrate that medically underserved groups will have adequate access to its proposed services; and,
- (6) Failure to provide evidence that the applicant has provided quality care in the past.

Each of the issues listed above are discussed in turn below. Please note that relative to each issue, UNC Hospitals has identified the statutory review criteria and specific regulatory criteria and standards creating the non-conformity.

Failure to Adequately Demonstrate the Availability of Funding for All Working Capital Costs

PruittHealth failed to adequately document the availability of funds for the total working capital needs for the project. PruittHealth states that the total working capital costs will be funded by the loan from GE through United Health Services, Inc. However, PruittHealth provides inconsistent information regarding the total working capital for its proposed project. While Section IX identifies the total working capital as \$1,470,217, the funding letter provided in Exhibit 8 as well as the applicant's response provided in Exhibit 66, page 1595 of its application, identifies the total working capital as \$1,470,194. Given inconsistent information provided by PruittHealth regarding the total working capital cost, it is unclear whether the amount that United Health Services-Pruitt committed to the project in its funding letter in Exhibit 8 relative to working capital, \$1,470,194, is adequate to fund the total working capital costs associated with the project, which PruittHealth identifies as \$1,470,217 in Section IX of its application.

Consequently, PruittHealth did not adequately demonstrate that funds would be available for the working capital needs of the project.

PruittHealth’s application should be found non-conforming with Criterion 5, as it has failed to demonstrate the availability of funds for capital and operating needs.

Failure to Adequately Demonstrate the Availability of Sufficient Health Manpower and Management Personnel to Provide the Proposed Services

As noted on page 190 of PruittHealth’s application, it “staffed each neighborhood individually.” Given inconsistent statements regarding the number of neighborhoods, it is unclear whether PruittHealth has provided adequate staffing for its proposed nursing facility. Of note, PruittHealth provides the following inconsistent descriptions regarding the number of neighborhoods in its proposed facility:

- Pages 38 and 39: “Seventy-four rooms will be organized into **seven neighborhoods** for 90 residents...There will be three separate dining areas and four separate lounge areas to serve the **five neighborhoods.**” (emphasis added)
- Page 77: “There are five separate dining and activities areas, as well as two separate living rooms, to serve the **seven neighborhoods.**” (emphasis added)
- Page 78: “The facility features **seven neighborhoods**, with five dining and two living spaces.” (emphasis added)
- Page 242: “**Four neighborhood dining areas**, as well as a private dining room” (emphasis added)

It is unclear whether PruittHealth’s staffing is sufficient to provide the proposed services given the applicant’s own inconsistent statements throughout its application regarding the number of neighborhoods (the applicant’s stated basis for its staffing). **PruittHealth’s application should be found non-conforming with Criterion 7, as it has failed to demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services.**

Failure to Adequately Demonstrate the Provision of or Arrangement for Necessary Ancillary and Support Services as Well as Coordination with the Existing Healthcare System

In Section II, page 81 of its application, PruittHealth states that “All Facility Staff and Mental Health Consultant” will provide Alzheimer’s/dementia related

services. However, PruittHealth failed to identify the mental health consultant or consulting firm and did not provide documentation from any mental health consultant or consulting firm demonstrating interest in providing mental health consultant services at the proposed facility. Therefore, PruittHealth failed to adequately demonstrate that it will provide or make arrangements for the necessary ancillary and support services.

PruittHealth contacted physicians for support of its proposed project. Exhibit 46 includes copies of letters that PruittHealth sent to physicians. No responses were included in the application. In fact, the application contains only one letter of support in Exhibit 73. Moreover, PruittHealth provides no letters of support from Chatham County physicians; the letter of support included in Exhibit 73 is from a physician practicing in Alamance County. Given the lack of support, PruittHealth has failed to demonstrate coordination with the existing healthcare system.

PruittHealth’s application should be found non-conforming with Criterion 8, as it has failed not only to demonstrate the availability of necessary ancillary and support services, but also coordination with the existing healthcare system.

Failure to Demonstrate that the Proposed Design Represents the Most Reasonable Alternative

Given PruittHealth’s inconsistent descriptions regarding the design of its proposed facility, it is unclear whether PruittHealth has demonstrated that the cost, design and means of construction proposed represent the most reasonable alternative. In particular, PruittHealth provides the following inconsistent descriptions regarding dining rooms, number of neighborhoods, and living room areas:

- Pages 38 and 39: “Seventy-four rooms will be organized into **seven neighborhoods** for 90 residents...There will be **three separate dining areas** and four separate lounge areas to serve the **five neighborhoods**.” (emphasis added)
- Page 62: “The dining experience is enhanced through neighborhood dining rooms. The proposed floor plan includes **four dining rooms**. Each dining room will have a theme such as: country club, bistro, casual dining, Irish pub, 50’s Diner, etc. Each dining room will offer a different menu.” (emphasis added)
- Page 76: “**Several separate dining areas** will allow staff to easily monitor the residents in one dining area.” (emphasis added)

- Page 77: “There are **five separate dining and activities areas**, as well as **two separate living rooms**, to serve the **seven neighborhoods**.” (emphasis added)
- Page 78: “The facility features **seven neighborhoods**, with **five dining and two living spaces**.” (emphasis added)
- Page 137: “There is a separate living room and two dining areas for each wing of the proposed facility.”
- Page 242: “**Four neighborhood dining areas**, as well as a private dining room...**Two living rooms**” (emphasis added)

Not only are PruittHealth’s descriptions inconsistent, but they also fail to match the project line drawings provided in Exhibit 61 of PruittHealth’s application. As illustrated in Exhibit 61, the line drawings identify: two dining rooms (and one private dining room) and five living rooms. **PruittHealth’s application should be found non-conforming with Criterion 12, as it has failed to demonstrate that its cost, design and means of construction proposed represent the most reasonable alternative.**

Failure to Demonstrate that Medically Underserved Groups Will Have Adequate Access

In Section VI.3, PruittHealth provides the following payor mix for the proposed nursing facility beds during the second full federal fiscal year of operation following completion of the project.

<i>Payor Category</i>	<i>Projected Patient Days by Payor as % of Total Patient Days</i>
Private Pay	2.3%
Commercial Insurance	4.7%
Medicare	22.1%
Medicaid	69.8%
VA/CHAMPUS	1.2%
Total	100.0%

Source: Section VI.3 of Pruitt Health’s application (page 178).

As shown in the table above, PruittHealth projected nursing patient days of care for Medicaid recipients (69.8 percent) that is 7.3 percentage points (77.1 percent – 69.8 percent = 7.4 percentage points) and 9.6 percent (7.4 percent/77.1 = 9.6 percent) below the county average of 77.1 percent (as calculated using the most recent DMA data available, excluding CCRCs). Therefore, PruittHealth failed to demonstrate that medically underserved groups will have adequate access to its proposed services. Please note that this finding is consistent with prior Agency

Findings. In particular, in the 2011 Wake County Nursing Facility Review Findings, the Analyst made the following findings relative to Criterion 13(c):

- Universal-North Raleigh—the Analyst found the applicants non-conforming to Criterion 13(c), noting in part that the applicants projected nursing patient days of care for Medicaid recipients (55.12 percent) that is 6.68 percentage points (61.8 percent - 55.12 percent = 6.68 percentage points) and 11 percent (6.68 percent/61.8 percent = 11 percent) below the county average of 61.8 percent. Please see page 102 of the 2011 Wake County Nursing Facility Review Findings.
- Brookdale-North Raleigh—the Analyst found the applicant non-conforming to Criterion 13(c), noting in part that the applicant projected nursing patient days of care for Medicaid recipients (55.4 percent) that is 6.4 percentage points (61.8 percent - 55.4 percent = 6.4 percentage points) and 10 percent (6.4 percent/61.8 percent = 10 percent) below the county average of 61.8 percent. Please see page 103 of the 2011 Wake County Nursing Facility Review Findings.

Therefore, the Agency has previously found applicants non-conforming relative to Criterion 13(c) where their projected nursing patient days of care for Medicaid recipients were approximately six percentage points below the county average (see discussion above). Of note, PruittHealth's projected nursing patient days of care for Medicaid recipients is more than six percentage points below the county average (as noted previously, PruittHealth's projected nursing patient days of care for Medicaid recipients is 7.3 percentage points below the county average. Given prior Agency Findings, **PruittHealth's application should be found non-conforming with Criterion 13(c), as it has failed to demonstrate that medically underserved groups will have adequate access to its proposed services.**

Failure to Provide Evidence that the Applicant has Provided Quality Care in the Past

In response to Section I.12.(a), PruittHealth references an exhibit, Exhibit 14, containing a list of nursing facilities owned/managed by entities related to the applicants. Under Section II.6, applicants are required to provide quality information relative to the facilities it identifies in response to Section I.12.(a). According to information provided by PruittHealth in Exhibit 34 in supplemental response to Section II.6, a number of existing skilled nursing facilities owned/managed by its parent UHS-Pruitt, have experienced numerous substandard quality events as detailed in Exhibit 34 of PruittHealth's application. Of note, a number of the certification deficiencies constituted substandard quality of care. Therefore, PruittHealth failed to demonstrate that it has provided quality care in the past. Please note that this finding is consistent with prior

Agency Findings. In particular, in the 2011 Wake County Nursing Facility Review Findings, the Analyst made the following findings relative to Criterion 20:

- Liberty-Garner—the Analyst found the applicants non-conforming to Criterion 20, noting that within the 18 months immediately preceding the date of the decision, Capital Nursing and Rehabilitation Center had certification deficiencies constituting substandard quality of care, including immediate jeopardy to resident health or safety. Please see pages 115 and 116 of the 2011 Wake County Nursing Facility Review Findings.
- Liberty-Morrisville—the Analyst found the applicants non-conforming to Criterion 20, noting that within the 18 months immediately preceding the date of the decision, Capital Nursing and Rehabilitation Center had certification deficiencies constituting substandard quality of care, including immediate jeopardy to resident health or safety. Please see page 116 of the 2011 Wake County Nursing Facility Review Findings.
- Liberty-North Raleigh—the Analyst found the applicants non-conforming to Criterion 20, noting that within the 18 months immediately preceding the date of the decision, Capital Nursing and Rehabilitation Center had certification deficiencies constituting substandard quality of care, including immediate jeopardy to resident health or safety. Please see page 116 of the 2011 Wake County Nursing Facility Review Findings.

Given prior Agency Findings, **PruittHealth’s application should be found non-conforming with Criterion 20, as it has failed to demonstrate evidence that it has provided quality care in the past.**

GENERAL COMPARATIVE COMMENTS

The Kensington, Liberty, Chatham Health, PruittHealth, and UNC Hospitals applications each propose to develop nursing facility beds in response to the 2013 SMFP need determination for Chatham County. UNC Hospitals acknowledges that each review is different and therefore, that the comparative review factors employed by the Project Analyst in any given review may be different depending upon the relevant factors at issue. Given the nature of the review, the Analyst must decide which comparative factors are most appropriate in assessing the applications.

In order to determine the most effective alternative to meet the identified need for 90 additional nursing facility beds in Chatham County, UNC Hospitals reviewed and compared the following factors in each application:

- Access¹
- Private Rooms
- Private Pay Charges
- Operating Costs
- Staffing
- Conformity with Review Criteria
- Scope of Services/Availability of Services for Ventilator-Dependent Patients

UNC Hospitals believes that the factors presented above and discussed in turn below should be used by the Analyst in reviewing the competing applications. The factors are appropriate and/or have been used in previous competitive nursing facility bed review findings.²

¹ Access includes geographic access and access to the underserved.

² Please note that in developing comparative review factors, UNC looked to a number of nursing facility bed reviews for guidance, such as: the 2012 Brunswick County Nursing Facility Beds Review and the 2011 Wake County Nursing Facility Beds Review. Where appropriate, UNC included relevant comparative factors used in those reviews. See, e.g., the 2012 Brunswick County Nursing Facility Beds Review (using the following comparative factors: geographic distribution of beds [private rooms], access by underserved groups, private pay charges, operating costs, staffing [salaries, taxes and benefits, nursing hours per patient day, staff turnover/stability], quality of care, and conformity with review criteria); the 2011 Wake County Nursing Facility Beds Review (using the following comparative factors: geographic distribution of beds, private rooms, access by underserved groups, private pay charges, operating costs, staffing [salaries, taxes and benefits, nursing hours per patient day], and conformity with review criteria).

Access

Under N.C. GEN. STAT. § 131E-175(3), the General Assembly of North Carolina found “[t]hat, if left to the market place to allocate health service facilities and health care services, geographical maldistribution of these facilities and services would occur and, further, less than equal access to all population groups, especially those that have traditionally been underserved, would result.” This Finding of Fact captures the notion that geographic access to healthcare services is an important factor in health planning. Therefore, geographic access and specifically, access to the medically underserved, were deemed appropriate comparative review factors and included in this analysis.

Geographic Access

The 2013 SMFP identifies a need for 90 additional nursing facility beds in Chatham County. The following table identifies the location of the existing and approved nursing facility beds located in Chatham County.

<i>Facility</i>	<i>Facility Address</i>	<i>Location within Chatham County</i>	<i>Licensed Nursing Facility Beds</i>
Carolina Meadows Health Center*	500 Carolina Meadows Chapel Hill, NC 27514		90
Siler City Care & Rehabilitation Center	900 West Dolphin Street Siler City, NC 27344	Matthews Township	150
The Arbor*	300 Clynelish Close Pittsboro, NC 27312		40
The Laurels of Chatham	72 Chatham Business Park Pittsboro, NC 27312	Center Township	140

*CCRCs do not provide public access; CCRCs are communities that provide a continuum of care to older adults under a contract for the life of an individual or for a period longer than one year.

^Source: 2013 License Renewal Applications

In this review, all five of the applications propose to develop a new 90-bed nursing facility in Chatham County. The table below details the locations proposed by the five applications discussed in these comments.

<i>Applicant</i>	<i>Proposed Site</i>	
	<i>Address</i>	<i>City/Location within Chatham County</i>
Kensington	Lowes Drive Pittsboro, NC 27312	Pittsboro/Center Township
Liberty	US 15-501N and Sunny Acres Road Pittsboro, NC 27312	Pittsboro/Williams/Baldwin Township

Chatham Health	460 Henley Road Chapel Hill, NC 27517	Chapel Hill/Williams Township
PruittHealth	1157 Hillsboro Street Pittsboro, NC 27312	Pittsboro/Center Township
UNC Hospitals	Block F8 in the Chatham Park Development Pittsboro, NC 27312	Pittsboro/Center Township

Relative to geographic accessibility, all of the applicants will expand geographic access as they all propose to develop nursing facility beds in new facilities. The proposals submitted by Kensington, PruittHealth, and UNC Hospitals are equally effective alternatives with regard to geographic accessibility as all three of the applicants propose to develop a new nursing facility in a location that is centrally located and readily accessible to residents. The proposals submitted by Liberty and Chatham Health are less effective given their proposed location. While both Liberty and Chatham Health propose to develop a new nursing facility in the Williams Township, which currently does not have any existing nursing facility beds, the proposed location is not as centrally located within Chatham County and thus not as easily accessible for all residents. Moreover, notwithstanding the fact that Kensington, Liberty, Chatham Health, and PruittHealth are expanding geographic access, they do not represent the most effective alternatives since their applications are nonconforming with a number of review criteria as discussed in detail above. Therefore, of the approvable applicants, UNC Hospitals is the most effective with regard to geographic access.

Further, as noted in UNC Hospitals' application, its proposed site—Chatham Park—is an effective location because of the ability to co-locate with other healthcare services in the development. Of note, diagnostic services will be available in the Chatham Park development in a medical office building located in close proximity to the proposed nursing facility. In cases where diagnostic services are needed, being located in close proximity to such services will benefit residents of the proposed nursing facility by providing them access only a short distance away. Moreover, UNC Hospitals submitted a concurrent application to develop an inpatient hospice facility in the Chatham Park development. Having a hospice facility available in the same development would be of immense benefit to these patients, as they would not be subjected to significant disruption from moving and would remain in the Chatham Park development if admission to an inpatient hospice facility became warranted.

Access to Underserved

The Department of Health and Human Resources has recognized the need to ensure access to healthcare in as equitable a manner as possible. *See, e.g.*, N.C. GEN. STAT. §§ 131E-175(3), (3a) and 131E-183(a)(3), (13). The following table illustrates each applicant's projected percentage of total nursing patient days to be provided to Medicaid recipients in the second year of operation following completion of the project, as well as the FY 2012 Chatham County average. Generally, the application proposing the higher Medicaid percentage is the more effective alternative. As such, the applicants are listed in the table below in decreasing order of effectiveness.

<i>Applicant</i>	<i>Medicaid Patient Days as % of Total Patient Days</i>
Chatham Health	78.31%
UNC Hospitals	77.1%
Liberty	76.19%
Kensington	74.0%
PruittHealth	69.8%
FY 2012 Chatham County Average (Excluding CCRCs)	77.06%

Sources: Section VI.3 of the respective applications and 2011 DMA data

As shown in the table above, Chatham Health projects the highest percentage of total patient days to be provided to Medicaid recipients, greater than the Chatham County average. UNC Hospitals projects the second highest percentage of total patient days to be provided to Medicaid recipients, and a percentage that is consistent with the county average. Liberty, Kensington, and PruittHealth all project Medicaid access that is below the Chatham County average, with PruittHealth projecting the lowest percentage of all applicants. As such, Chatham Health and UNC Hospitals represent equally effective alternatives with regard to access to the underserved. However, as discussed in these comments, Chatham Health's application is not approvable standing alone. Therefore, of the approvable applications, UNC Hospitals proposes to provide the greatest access to Medicaid recipients.

Private Rooms

The following table illustrates the number of nursing care beds in private and semiprivate rooms proposed by the applicants as reported in Section XI.8 of the applications. Generally, the application proposing the highest number of private beds as a percentage of total beds is the more effective alternative with regard to

this comparative factor. The applications are listed in the table below in decreasing order of effectiveness.

<i>Applicant</i>	<i>Proposed Private Rooms</i>	<i>Proposed Semiprivate Rooms</i>	<i>Total</i>	<i># of Beds in Private Rooms as % of Total</i>
PruittHealth	58	32	90	64.4%
UNC Hospitals	46	44	90	51.1%
Kensington	46	44	90	51.1%
Liberty	46	44	90	51.1%
Chatham Health	34	56	90	37.8%

Of the applicants, PruittHealth proposes to develop the largest number of private rooms. However, as discussed in these comments, PruittHealth’s application is not approvable standing alone. UNC Hospitals, Kensington, and Liberty each proposed to develop the next largest number of private rooms (46 rooms each). However, as discussed in these comments, neither Kensington nor Liberty is approvable standing alone. Therefore, of the approvable applications, UNC Hospitals proposes to develop the largest number of private rooms.

Private Pay Charges

The following table compares the applicants’ projected private pay charges in the second full year of operation. Generally, the application proposing the lower private pay charges is the more effective alternative. The applicants are listed in the table below in decreasing order of effectiveness (private room).

<i>Applicant</i>	<i>Private Room</i>	<i>Semiprivate Room</i>
PruittHealth	\$173.69	\$168.69
Kensington	\$205.00	\$195.00
Liberty*	\$213.50	\$196.00
UNC Hospitals**	\$219.91	\$201.88
Chatham Health	\$220.00	\$195.00

*The charges noted above are for Liberty’s nursing unit (excluding special care units). Please note that the charges for Liberty’s Alzheimer’s/Dementia Unit are as follows in the second full year of operation: \$335.00 (private room) and \$275.00 semiprivate room). See page 115 of Liberty’s application.

**The charges noted above are for UNC Hospitals’ nursing unit (excluding special care units). Please note that the charges for UNC Hospitals’ Ventilation Unit are as follows in the second full year of operation: \$475.98 (private room) and \$436.97 (semiprivate room). See page 149 of UNC Hospitals’ application.

As shown in the table above, of the applicants, PruittHealth proposes the lowest private pay charge for a private room and the lowest private pay charge for a

semiprivate room. However, as discussed in these comments, PruittHealth, Kensington, and Liberty are all non-conforming with statutory review criteria and therefore are not approvable standing alone. Therefore, of the approvable applications, UNC Hospitals represents the most effective alternative with regard to private pay charges.

Operating Costs

The following table compares the applicants' projected operating costs per patient day in the second year of operation. Generally, the application proposing the lowest average operating cost per patient day is the most effective alternative. The applicants are listed in the table below in decreasing order of effectiveness (total direct cost less ancillary).

<i>Applicant</i>	<i>Total Direct Cost (less Ancillary) per Patient Day</i>	<i>Total Direct Cost (less Ancillary) Plus Indirect Cost per Patient Day</i>
Chatham Health	\$99.57	\$198.86
UNC Hospitals*	\$112.13	\$209.88
Liberty*	\$126.63	\$185.63
Kensington	\$129.40	\$190.21
PruittHealth	\$133.01	\$212.52

*Excludes special care units

As illustrated in the table above, Chatham Health projects the lowest total direct cost (less ancillary) per patient day, and Liberty projects the lowest total direct cost (less ancillary) plus indirect cost per patient day. Additionally, both Chatham Health and Kensington project lower direct cost (less ancillary) plus indirect cost than does UNC Hospitals. However, as discussed in these comments, Chatham Health, Kensington, and Liberty are all non-conforming with statutory review criteria and therefore are not approvable standing alone. Therefore, of the approvable applications, UNC Hospitals represents the most effective alternative with regard to operating costs.

Staffing

Salaries

The following tables show the applicants' projected direct care nursing salaries for registered nurses (RNs), licensed practical nurses (LPNs), and nurse aides (NAs) during the second year of operation. Generally, the applicant proposing the highest annual salary for direct care staff is the most effective alternative.

<i>Applicant</i>	<i>Projected RN Annual Salary</i>
PruittHealth	\$69,411
Chatham Health	\$65,503
Liberty	\$62,358
Kensington	\$60,000
UNC Hospitals*	\$53,922

*The annual salary noted above is for UNC Hospitals' RNs (including nursing facility RNs, RNs on the ventilation special care unit, and wound care RNs).

As shown in the table above, UNC Hospitals' projects the lowest RN annual salary. However, as discussed in these comments, Chatham Health, Kensington, Liberty, and PruittHealth are all non-conforming with statutory review criteria and therefore are not approvable standing alone. Therefore, of the approvable applications, UNC Hospitals represents the most effective alternative with regard to RN salaries.

<i>Applicant</i>	<i>Projected LPN Annual Salary</i>
PruittHealth	\$55,167
Liberty	\$53,102
Kensington	\$50,000
UNC Hospitals*	\$47,059
Chatham Health	\$46,327

*The annual salary noted above is for UNC Hospitals' nursing facility LPNs (excluding LPNs on the ventilation special care unit). Please note that the annual salary for UNC Hospitals' Ventilation Unit LPNs is as follows in the second full year of operation: \$57,451. See page 123 of UNC Hospitals' application.

As shown in the table above, UNC Hospitals' projects the second lowest LPN annual salary. However, as discussed in these comments, Kensington, Liberty, and PruittHealth are all non-conforming with statutory review criteria and therefore are not approvable standing alone. Therefore, of the approvable

applications, UNC Hospitals represents the most effective alternative with regard to RN salaries.

<i>Applicant</i>	<i>Projected NA Annual Salary</i>	<i>Projected NA Hourly Rate</i>
PruittHealth	\$27,198	\$13.08 [^]
Liberty	\$27,027	\$13.86 ^{^^}
Chatham Health	\$26,291	\$13.48 ^{^^}
Kensington	\$25,500	\$12.26 [^]
UNC Hospitals*	\$24,471	\$12.55 [^]

*The annual salary noted above is for UNC Hospitals’ nursing facility NAs (excluding NAs on the ventilation special care unit). Please note that the annual salary for UNC Hospitals’ Ventilation Unit NAs is as follows in the second full year of operation: \$26,412. See page 123 of UNC Hospitals’ application.

[^]Based on 2,080 hours per NA

^{^^}Based on 1,950 hours per NA

As shown in the table above, UNC Hospitals’ projects the lowest NA annual salary. However, as discussed in these comments, Chatham Health, Kensington, Liberty, and PruittHealth are all non-conforming with statutory review criteria and therefore are not approvable standing alone. Therefore, of the approvable applications, UNC Hospitals represents the most effective alternative with regard to NA salaries.

The following tables compares the applicants’ projected salaries for the director of nursing (DON) and assistant director of nursing (ADON) during the second year of operation. Generally, the applicant with the highest annual salary for nursing management positions is the most effective alternative. The applicants are listed in the following tables in decreasing order of effectiveness.

<i>Applicant</i>	<i>Projected DON Annual Salary</i>
PruittHealth	\$96,527
Liberty	\$90,247
Chatham Health	\$90,181
Kensington	\$87,000
UNC Hospitals	\$75,000

As shown in the table above, UNC Hospitals’ projects the lowest NA annual salary. However, as discussed in these comments, Chatham Health, Kensington, Liberty, and PruittHealth are all non-conforming with statutory review criteria and therefore are not approvable standing alone. Therefore, of the approvable applications, UNC Hospitals represents the most effective alternative with regard to DON salaries.

<i>Applicant</i>	<i>Projected ADON Annual Salary</i>
PruittHealth	\$76,143
Kensington	\$70,000
UNC Hospitals	\$61,988
Chatham Health	\$59,598
Liberty	NA

As illustrated in the table above, both PruittHealth and Kensington project ADON salaries greater than UNC Hospitals. However, as discussed in these comments, neither PruittHealth’s nor Kensington’s applications are approvable standing alone. Therefore, of the approvable applications, UNC Hospitals represents the most effective alternative with regard to ADON salaries.

Taxes and Benefits

The following table compares the applicants’ projected percentage of salaries to be paid for employee taxes and benefits in the second year of operation. Generally, the applicant proposing the highest percentage is the most effective alternative. The applicants are listed in the following table in decreasing order of effectiveness.

<i>Applicant</i>	<i>Taxes and Benefits as a % of Salaries</i>
UNC Hospitals*	29.0%
PruittHealth	23.4%
Liberty*	22.2%
Kensington	18.0%
Chatham Health	17.6%

As illustrated in the table above, UNC Hospitals projects the highest percentage of salaries to be paid for employee taxes and benefits, and therefore represents the most effective alternative with regard to taxes and benefits.

Nursing Hours per Patient Day

The following table compares the applicants’ projected nursing hours per patient day (NHPPD) to be provided by total direct care staff (RNs, LPNs, and NAs) in the second project year (for routine services, excluding special care units). Generally, the applicant projecting the highest NHPPD to be provided by total direct care staff is the most effective alternative. The applicants are listed in the table below in decreasing order of effectiveness.

<i>Applicant</i>	<i>Total Direct Care NHPPD*</i>
Kensington	4.06
Liberty	4.06
PruittHealth	3.97
Chatham Health	3.40
UNC Hospitals	3.12

*Based on 1,950 hours per NA position

As shown in the table above, UNC Hospitals projects the lowest total direct care NHPPD. However, as discussed in these comments, Chatham Health, Kensington, Liberty, and PruittHealth are all non-conforming with statutory review criteria and therefore are not approvable standing alone. Therefore, of the approvable applications, UNC Hospitals represents the most effective alternative with regard to total direct care NHPPD.

The following table compares the applicants' projected nursing hours per patient day (NHPPD) to be provided by licensed direct care routine services staff (RNs and LPNs) in the second project year. Generally, the applicant projecting the highest NHPPD to be provided by total direct care staff is the most effective alternative. The applicants are listed in the table below in decreasing order of effectiveness.

<i>Applicant</i>	<i>Licensed (RNs & LPNs) Direct Care NHPPD</i>
PruittHealth	1.71
UNC Hospitals	1.46
Kensington	1.44
Liberty	1.41
Chatham Health	1.06

As shown in the table above, UNC Hospitals projects the second highest licensed direct care NHPPD. However, as discussed in these comments, PruittHealth's application is not approvable standing alone. Therefore, of the approvable applications, UNC Hospitals represents the most effective alternative with regard to licensed direct care NHPPD.

Conformity with Review Criteria

The application submitted by UNC Hospitals is conforming or conditionally conforming to all applicable statutory and regulatory review criteria. As discussed above by issue, however, the applications submitted by Kensington, Liberty, Chatham Health, and PruittHealth are not conforming to all applicable statutory review criteria. Therefore, with regard to conformity with review criteria, UNC Hospitals is the most effective applicant.

Scope of Services/Availability of Services for Ventilator-Dependent Patients

Of the applicants, UNC Hospitals is the only one to propose services for ventilator-dependent patients. Given the need for ventilation services, as discussed in Section III.1 of UNC Hospitals' application, UNC Hospitals is the most effective alternative with regard to scope of services, in particular availability of services for ventilator-dependent patients. As noted in UNC Hospitals' application, none of the four existing nursing facilities in Chatham County provide ventilation services. In fact, at present, there are only five skilled nursing facilities that provide ventilation services in North Carolina, two of which are hospital-based. In total, there are only 108 ventilator beds available throughout the state. These 108 ventilator beds represent only 0.2 percent of total nursing facility beds in North Carolina ($108/46,393 = 0.2$ percent). Not only are all existing ventilator beds at an average of 92.9 percent occupancy and 93.7 percent occupancy excluding hospital-based facilities (see UNC Hospitals application for additional detail), but also it is important to note that the facility closest to UNC Hospitals proposed facility in Chatham County, Kindred East, is at 99.9 percent occupancy of its ventilator beds. Moreover, the second closest facility is at 95.9 percent occupancy of its ventilator beds. With the two closest facilities so fully occupied, it is difficult, if not impossible to transfer ventilator-dependent patients to either of these facilities given the lack of availability. Of note, the limited options currently available for ventilator-dependent patients have been reduced even further as Blue Ridge Health Care Center no longer offers ventilation services. UNC Hospitals' proposal is the only one that seeks to address the need for ventilation services. By providing local access to ventilation services, UNC Hospitals' proposed project obviates the need to hold patients requiring ventilation services in hospitals for extended periods or to transfer the patients outside of the county or even the state in order to receive ventilation services. Moreover, as noted in UNC Hospitals' application, it has the experience necessary to provide the specialized services given that its proposed manager, SanStone, is one of the five providers of these specialty services in North Carolina.

SUMMARY

As noted previously, UNC Hospitals maintains that the Kensington, Liberty, Chatham Health, and PruittHealth applications cannot be approved as proposed. As such, UNC Hospitals maintains that it has the only approvable application based on its comments.

In summary, based on both its comparative analysis and the comments on the competing applications, as well as the analysis presented in its application, UNC Hospitals believes that its application represents the most effective alternative for meeting the need identified in the *2013 SMFP* for 90 additional nursing facility beds in Chatham County.