



Atrium Health

**Comments on
The Presbyterian Hospital's and
Novant Health, Inc.'s Acute Care Bed
Certificate of Need Application,
Project ID # F-12457-23**

December 1, 2023

**Competitive Comments on Mecklenburg County
Acute Care Bed Applications**

submitted by

The Charlotte-Mecklenburg Hospital Authority

In accordance with N.C. GEN. STAT. § 131E-185(a1)(1), The Charlotte-Mecklenburg Hospital Authority¹ (CMHA) hereby submits the following comments related to the application filed by The Presbyterian Hospital and Novant Health, Inc. (collectively referred to herein as Novant Health) to add 54 new acute care beds to The Presbyterian Hospital d/b/a Novant Health Presbyterian Medical Center (NH Presbyterian) in response to the need identified in the *2023 State Medical Facilities Plan (SMFP)* for 164 additional acute care beds in Mecklenburg County. CMHA's 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).² In order to facilitate the Agency's ease in reviewing these comments, CMHA has organized its discussion by issue, specifically noting the general Certificate of Need (CON) statutory review criteria and regulations creating the non-conformity of each issue, as they relate to Novant Health's NH Presbyterian application, Project ID # F-12457-23. CMHA's comments include issue-specific comments on the NH Presbyterian application as well as a comparative analysis related to its applications:

- Atrium Health Pineville, Add 42 acute care beds, Project ID # F-012446-23
- Carolinas Medical Center (CMC), Add 112 acute care beds, Project ID # F-012439-23
- Atrium Health University City, Add 10 acute care beds, Project ID # F-012444-23

As detailed above, given the number of proposed additional acute care beds, all of the applications cannot be approved as proposed. The comments below include substantial issues that CMHA believes render Novant Health's NH Presbyterian application non-conforming with applicable statutory criteria and regulatory review criteria. However, as presented at the end of these comments, even if the NH Presbyterian application was conforming, the concurrent and complementary applications filed by CMHA are comparatively superior to the application filed by Novant Health and represent the most effective alternatives for expanding access to acute care services in Mecklenburg County.







¹ Advocate Aurora Health, Inc. ("AAH") and Atrium Health, Inc. ("Atrium Health") formed Advocate Health, Inc. ("Advocate Health"), a nonprofit corporation, to manage and oversee AAH, Atrium Health, and their respective subsidiaries and affiliates. As part of Atrium Health, The Charlotte-Mecklenburg Hospital Authority and Wake Forest University Baptist Medical Center are now part of the Advocate Health enterprise and are managed and overseen by Advocate Health.

² CMHA is providing comments consistent with this statute; as such, none of the comments should be interpreted as an amendment to its applications filed on October 16, 2023 (Project ID #s F-012446-23, F-012439-23, and F-012444-23).

GENERAL COMMENTS

As detailed in the issue-specific comments in the following section, Novant Health’s application does not conform to all of the Certificate of Need (CON) statutory review criteria and regulations. Most notably, there is a significant error in the methodology where Novant Health claims to shift acute care days from some of its existing facilities to NH Ballantyne but, in reality, does not. As a result, the methodology as described in Novant Health’s submitted application is not fully carried out in CY 2027 and CY 2028 and double counts a subset of patient days. When acute care days are properly shifted to NH Ballantyne, the Novant Health system in Mecklenburg County does not meet the performance standards defined in 10A NCAC 14C .3803, as demonstrated in the issue-specific section below. As a result, Novant Health’s application is not approvable. In contrast, CMHA’s three concurrent and complementary applications sufficiently demonstrate utilization while also being based on assumptions that are conservative and founded in reliable historical evidence. Therefore, CMHA’s applications are the best alternative to meet the need in Mecklenburg County and should be approved.

Even if Novant Health’s application were found conforming to all CON statutory review criteria and regulations, the existing CMHA facilities in Mecklenburg County demonstrate a significantly greater need for acute care beds than NH Presbyterian. The chart below compares the need at CMHA and Novant Health based on FFY 2022 data from the *Proposed 2024 SMFP*, the most recent data available.

CMHA		Novant Health
244	Projected Bed Deficit	10
93.5%	Occupancy Rate	75.1%
	Above Target Occupancy Rate	
15.5%	Above Target Occupancy Rate of Licensed Beds by:	(2.9%)
208 patients	Above Target ADC by:	(23 patients)
8.4%	Growth from FFY 2021 to FFY 2022	(6.3%)
	Highest Occupancy Rate in the State	
	Temporary Licensed Beds Approval	

CMHA has documented in its applications the direct impact the lack of sufficient acute care beds has had on its ability to compete for inpatient services. Competition is not enhanced, but rather is *stifled* in a service area where one provider has available capacity to grow and accommodate new patient demand while the other provider operates at maximum capacity and has limited-to-no ability to compete for growing patient demand. Such was the circumstance in Mecklenburg County for a number of years before the COVID-19 bed waiver gave CMHA hospitals the opportunity to operate as many beds as

physical space and staff would allow. CMHA’s staggering system-wide growth over the last couple of years suggests that growth at CMHA hospitals has historically been constrained by insufficient acute care bed capacity. In contrast, the Novant Health system has had underutilized beds and adequate capacity to grow for years. (Despite this, overall acute care days at Novant Health actually declined from FFY 2021 to FFY 2022, as demonstrated in the previous table.) Thus, the COVID-19 bed waiver temporarily improved competition for inpatient services in Mecklenburg County – especially for the medically underserved – by increasing acute care bed capacity at CMHA facilities. With the expiration of the COVID-19 bed waiver earlier this year, CMHA has returned to its operational limits with temporary expansion limited to just 10 percent of licensed bed capacity under temporary bed overflow status. As discussed in its applications, this is not enough additional capacity to serve all of the patients who would like to choose CMHA facilities and growth is likely to become restricted once again over the next several years. CMHA urges the Agency to consider more than just the number and percentage of assets awarded but rather the need of each system expressed as a function of available resources and capacity. Competition is enhanced when organizations are allowed capacity to the maximum extent that is both demanded by patients and effectively utilized. As demonstrated in the applications submitted, more capacity is clearly needed and justified at CMHA facilities. In order to equalize competition in Mecklenburg County, the Agency must grant equal **available** capacity. Further, as mentioned previously and further explained below, the Novant Health system in Mecklenburg County fails to meet the performance standards specified in 10A NCAC 14C .3803 and, therefore, has not submitted an approvable application. An application that cannot meet the performance standards cannot effectively enhance competition.

ISSUE-SPECIFIC COMMENTS

1. The Novant Health application fails to demonstrate the reasonableness of its projected utilization.

Novant Health fails to demonstrate the reasonableness of its projected utilization as it uses unsupported growth rates and overstated average length of stay (ALOS) assumptions.

In its “Form C.1a and C.1b Utilization – Assumptions and Methodology,” Novant Health “projects ‘baseline’ acute care days at NH Presbyterian will grow at its 2018-2023 historical CAGR of four percent,” as shown in the excerpt below.

**Novant Health Presbyterian Medical Center
Acute Care Utilization Excluding NICU**

Year	Discharges	Days of Care	ALOS
FFY2018	25,732	106,989	4.2
FFY2019	27,037	120,319	4.5
FFY2020	27,201	127,710	4.7
FFY2021	26,891	139,964	5.2
FFY2022	27,087	133,264	4.9
FFY2023*	26,853	130,227	4.8
Compound Annual Growth Rate		Days of Care	
18-23	5-YR CAGR	4.0%	

*Annualized based on 11 months data (Oct-Aug)

Source: FFY2018-FFY2022 HIDT, FFY2023 YTD utilization based on Novant Health internal data

Source: Project ID # F-12457-23, p. 121 of electronic copy.

However, the majority of the growth over this six-year period can be attributed to a 12.5 percent increase from FFY 2018 to FFY 2019. The growth rate following this one-year period is much more conservative. In fact, as shown in the table below, days of care over the last two years have declined by roughly 7.0 percent, suggesting that growth has stalled and 4.0 percent may not be the best assumption for future growth. As shown in the table below, when FFY 2018 data is excluded, the historical compound annual growth rate of acute care days at NH Presbyterian is just two percent – or half of the FFY18-FFY23 CAGR.

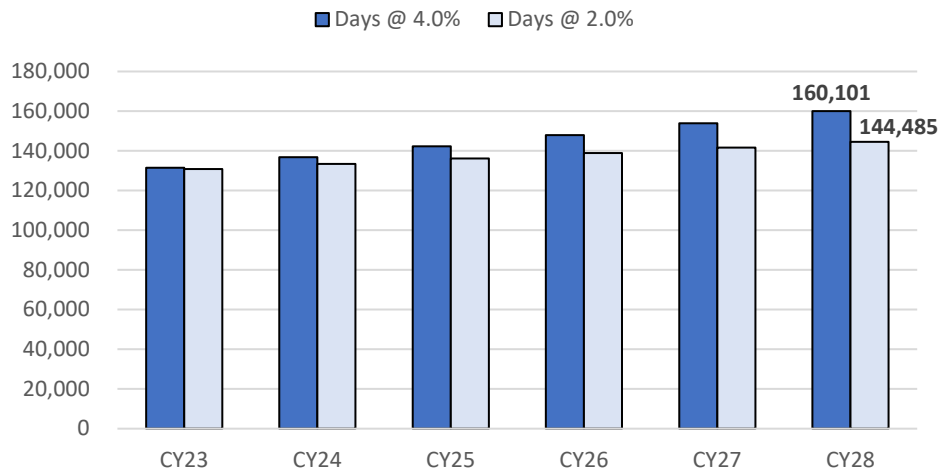
NH Presbyterian Historical Year Over Year Growth 2018-2023

	FFY18	FFY19	FFY20	FFY21	FFY22	FFY23	'18-'23 CAGR	'19-'23 CAGR
Days	106,989	120,319	127,710	139,964	133,264	130,227	4.0%	2.0%
Year Over Year Growth		12.5%	6.1%	9.6%	-4.8%	-2.3%		

Source: Project ID # F-12457-23

Novant Health explains that it believes “FY2021 and FY2022 days of care were elevated by intermittent surges in COVID-19 hospitalizations and the rebounding of inpatient volumes from elective procedures delayed during FY2020.” Novant Health then goes on to say that “FFY 2023 acute care utilization has stabilized...” However, Novant Health does not explain the significant growth from FFY 2018 to FFY 2019 or why the growth from FFY 2018 to FFY 2023 is a better representation of future growth. This is significant because NH Presbyterian would not meet the performance standards defined in 10A NCAC 14C .3803 if FFY 2018 were excluded when calculating the historical compound annual growth rate. The chart below demonstrates that there is a significant difference in projected acute care days at NH Presbyterian in Project Year 3 (CY 2028) depending on which compound annual growth rate is used.

NH Presbyterian Projected Baseline Acute Care Days



Under the performance standards in the Criteria and Standards for Acute Care Beds, the target occupancy rate for NH Presbyterian is 75.2 percent based on an ADC that is greater than 200 but less than 400 patients. The target occupancy rate for the Novant Health system as a whole is 78.0 percent based on an ADC that is greater than 400 patients. As shown in the table below, when FFY 2018 data is excluded and the FFY 2019 to FFY 2023 historical CAGR is applied instead, NH Presbyterian and the Novant Health system in Mecklenburg County are projected to operate at 73.8 and 74.7 percent respectively in Project Year 3, or 1.4 and 3.3 percentage points below target occupancy.

Revised Utilization in Project Year 3 (CY 2028)

	<i>NHPMC Total Days</i>	<i>Novant Health Total Days</i>
Final Days as Submitted	158,339	273,884
Reduction	(15,616)	(15,616)
Revised Final Days	142,723	258,268
Acute Care Beds	530	947
Occupancy Rate	73.8%	74.7%
Target Occupancy Rate	75.2%	78.0%

Novant Health also states that its projected acute care discharges for NH Presbyterian, NH Huntersville, and NH Matthews are “based on the facility specific ALOS during FY 2023 annualized,” as shown in the excerpt below.

Step 5: Project Acute Care Discharges (excluding NICU) at NHPMC, NHHMC, and NHMMC

Novant Health projects acute care discharges based on the facility specific ALOS during FY2023 annualized.

Novant Health Inpatient Days of Care & Discharges (excluding NICU)

	CY2023	CY2024	CY2025	CY2026	CY2027	CY2028
NH Presbyterian Days of Care	130,540	134,571	139,361	143,813	152,508	158,339
NH Presbyterian ALOS	4.9	4.9	4.9	4.9	4.9	4.9
NH Presbyterian Discharges	26,533	27,353	28,326	29,231	30,999	32,184

	CY2023	CY2024	CY2025	CY2026	CY2027	CY2028
NH Huntersville Days of Care	32,184	33,628	35,136	36,677	38,355	40,076
NH Huntersville ALOS	4.0	4.0	4.0	4.0	4.0	4.0
NH Huntersville Discharges	8,060	8,422	8,799	9,185	9,605	10,036

	CY2023	CY2024	CY2025	CY2026	CY2027	CY2028
NH Matthews Days of Care	8,939	8,940	9,091	9,274	10,158	10,432
NH Matthews ALOS	4.5	4.5	4.5	4.5	4.5	4.5
NH Matthews Discharges	40,435	40,442	41,127	41,952	45,954	47,192

Source: Project ID # F-12457-23, p. 125 of electronic copy.

However, Novant Health actually projects discharges using each facility's respective FFY 2022 ALOS, as shown in the excerpts below.

**Novant Health Presbyterian Medical Center
Acute Care Utilization Excluding NICU**

Year	Discharges	Days of Care	ALOS
FFY2018	25,732	106,989	4.2
FFY2019	27,037	120,319	4.5
FFY2020	27,201	127,710	4.7
FFY2021	26,891	139,964	5.2
FFY2022	27,087	133,264	4.9
FFY2023*	26,853	130,227	4.8
Compound Annual Growth Rate		Days of Care	
18-23	5-YR CAGR	4.0%	

*Annualized based on 11 months data (Oct-Aug)
Source: FFY2018-FFY2022 HIDI, FFY2023 YTD utilization based on Novant Health internal data

**Novant Health Huntersville Medical Center
Acute Care Utilization Excluding NICU**

Year	Discharges	Days of Care	ALOS
FFY2018	7,176	23,753	3.3
FFY2019	7,346	25,222	3.4
FFY2020	7,337	26,342	3.6
FFY2021	7,468	31,139	4.2
FFY2022	8,007	31,973	4.0
FFY2023*	8,470	31,834	3.8
Compound Annual Growth Rate		Days of Care	
18-23	5-YR CAGR	6.0%	

*Annualized based on 11 months data (Oct-Aug)
Source: FFY2018-FFY2022 HIDI, FFY2023 YTD utilization based on Novant Health internal data

**Novant Health Matthews Medical Center
Acute Care Utilization Excluding NICU**

Year	Discharges	Days of Care	ALOS
FFY2018	10,062	35,833	3.6
FFY2019	10,184	39,257	3.9
FFY2020	9,941	37,900	3.8
FFY2021	10,061	44,097	4.4
FFY2022	9,998	45,228	4.5
FFY2023*	9,566	41,057	4.3
Compound Annual Growth Rate		Days of Care	
18-23	5-YR CAGR	2.8%	

*Annualized based on 11 months data (Oct-Aug)
Source: FFY2018-FFY2022 HIDI, FFY2023 YTD utilization based on Novant Health internal data

Source: Project ID # F-12457-23, pp. 121-122 of electronic copy.

This is significant because the ALOS at each facility was higher in FFY 2022 than in FFY 2023 annualized, and Novant Health does not explain why the ALOS in FFY 2022 is a better representation of each

facility’s future ALOS. Without an explanation regarding the use of the FFY 2022 ALOS, utilization – and therefore need – cannot be reasonably and adequately supported.

By overstating both acute care days and ALOS, Novant Health creates the perception that it will meet performance standards when in fact it does not.

Thus, Novant Health’s application is non-conforming with Criteria 3, 4, 5, 6, and 18a, as well as the performance standards specified in 10A NCAC 14C .3803.

2. The methodology utilized by Novant Health contains significant errors that render its application non-conforming.

In its “Form C.1a and C.1b Utilization – Assumptions and Methodology,” Novant Health fails to properly shift acute care days to NH Ballantyne. As shown in the tables below, Novant Health projects baseline acute care days for NH Presbyterian, NH Huntersville, and NH Matthews at a 4.0, 4.5, and 2.8 percent growth rate, respectively.

Baseline Inpatient Days of Care (excluding NICU)

NH Facility	Growth Rate	FFY2024	FFY2025	FFY2026	FFY2027	FFY2028	FFY2029
NH Presbyterian	4.0%	135,449	140,879	146,528	152,403	158,513	164,868
NH Huntersville	4.5%	33,274	34,779	36,352	37,997	39,715	41,512
NH Matthews	2.8%	42,190	43,355	44,551	45,780	47,044	48,342

Baseline Inpatient Days of Care Adjusted to Calendar Year (excluding NICU)

NH Facility	CY2023	CY2024	CY2025	CY2026	CY2027	CY2028
NH Presbyterian	131,533	136,806	142,291	147,996	153,930	160,102
NH Huntersville	32,194	33,650	35,172	36,763	38,426	40,164
NH Matthews	41,341	42,481	43,654	44,858	46,096	47,368

$$CY = (FY \times 75\%) + [(FY + 1) \times 25\%]$$

Source: Project ID # F-12457-23, p. 123 of electronic copy.

After projecting baseline acute care days, Novant Health attempts to project utilization at each of the three facilities following shifts to NH Ballantyne and NH Steele Creek, as shown in the tables below.

**Novant Health Inpatient Days of Care (excluding NICU) After Shifts to
Novant Health Steele Creek and Novant Health Ballantyne**

	CY2023	CY2024	CY2025	CY2026	CY2027	CY2028
Novant Health Presbyterian Days of Care	131,533	136,806	142,291	147,996	153,930	160,102
<i>Shift to Ballantyne</i>	993	2,236	2,751	3,064	0	0
<i>Shift to Steele Creek</i>			179	1,119	1,422	1,762
Novant Health Presbyterian Days of Care	130,540	134,571	139,361	143,813	152,508	158,339

	CY2023	CY2024	CY2025	CY2026	CY2027	CY2028
Novant Health Huntersville Days of Care	32,194	33,650	35,172	36,763	38,426	40,164
<i>Shift to Ballantyne</i>	10	22	27	30	0	0
<i>Shift to Steele Creek</i>			9	56	71	88
Novant Health Huntersville Days of Care	32,184	33,628	35,136	36,677	38,355	40,076

	CY2023	CY2024	CY2025	CY2026	CY2027	CY2028
Novant Health Matthews Days of Care	41,341	42,481	43,654	44,858	46,096	47,368
<i>Shift to Ballantyne</i>	906	2,039	2,509	2,795	0	0
<i>Shift to Steele Creek</i>			18	112	142	176
Novant Health Matthews Days of Care	40,435	40,442	41,127	41,952	45,954	47,192

Source: Project ID # F-12457-23, p. 124 of electronic copy.

To account for the shift to NH Ballantyne, the baseline number of acute care days at each facility should have been reset following the shift (in CY 2027). Instead, Novant Health continues to use the previously projected acute care days at each facility as the baseline for the continued shifts to Steele Creek without accounting for the acute care days that previously shifted to NH Ballantyne, thereby double counting a subset of acute care days and overinflating total inpatient days of care. For example, the red box above shows that the projected number of acute care days at NH Presbyterian in CY 2027 and CY 2028 are simply the baseline number of acute care days projected previously minus the shift to Steele Creek; the shift to NH Ballantyne is unaccounted for. As a result, the projected growth rates are significantly higher than what is stated as reasonable in Novant Health’s methodology. For example, the table below demonstrates that the projected Year over Year (YoY) growth at NH Presbyterian from CY 2026 to CY 2027 (6.2 percent) is higher than the projected compound annual growth rate set forth by Novant Health (4.0 percent) which was already shown to be unsupported under issue-specific comment #1.

NH Presbyterian Projected Acute Care Days After Shift to NH Ballantyne*

	CY23	CY24	CY25	CY26	CY27	CY28
Acute Care Days Before Shift	131,532	136,806	142,291	147,996	153,930	160,101
Shift to Ballantyne	993	2,236	2,751	3,064		
Acute Care Days After Shift	130,539	134,570	139,540	144,932	153,930	160,101
YoY Increase		4,031	4,970	5,392	8,998	6,172
YoY Growth		4.0%	4.0%	4.0%	6.2%	4.0%

*Excludes shift to NH Steele Creek for clarity. The shift to NH Steele Creek was properly accounted for in Project ID # F-12457-23.

If Novant Health had appropriately accounted for the proposed shift to NH Ballantyne from NH Presbyterian – as it proposed to do in its application – by resetting the baseline number of acute care days in CY 2027, then the projected Year over Year (YoY) growth would have remained a steady 4.0 percent. The table below demonstrates projected acute care days at NH Presbyterian after properly accounting for the proposed shift to NH Ballantyne but before any shifts to NH Steele Creek.

NH Presbyterian Projected Acute Care Days After Shift to NH Ballantyne (Revised)*

	CY23	CY24	CY25	CY26	CY27	CY28
Acute Care Days Before Shift	131,532	136,806	142,291	147,996		
Shift to Ballantyne	993	2,236	2,751	3,064		
Acute Care Days After Shift	130,539	134,570	139,540	144,932	150,743	156,787
YoY Increase		4,031	4,970	5,392	5,811	6,044
YoY Growth		4.0%	4.0%	4.0%	4.0%	4.0%

*Excludes shift to NH Steele Creek for clarity. The shift to NH Steele Creek was properly accounted for in Project ID # F-12457-23.

The revised projections above are in line with Novant Health’s “Form C.1a and C.1b Utilization – Assumptions and Methodology” which states:

“Novant Health projects “Baseline” acute care days of care at NHPMC using its facility-specific FFY18-FFY23 annualized inpatient days of care (excluding NICU) CAGR (4.0%) and then adjusts for the shift of acute care days of care to Novant Health’s new community hospitals described in Steps 1 and 2 above. Novant Health believes this growth rate is reasonable and supported by the historical utilization at NHPMC and the information contained in Section C.4” (see p. 121).

The revised projections show 3,187 fewer acute care days at NH Presbyterian in CY 2027 and 3,385 fewer acute care days at NH Presbyterian in CY 2028 compared to the miscalculated projections as presented in Project ID # F-12457-23.

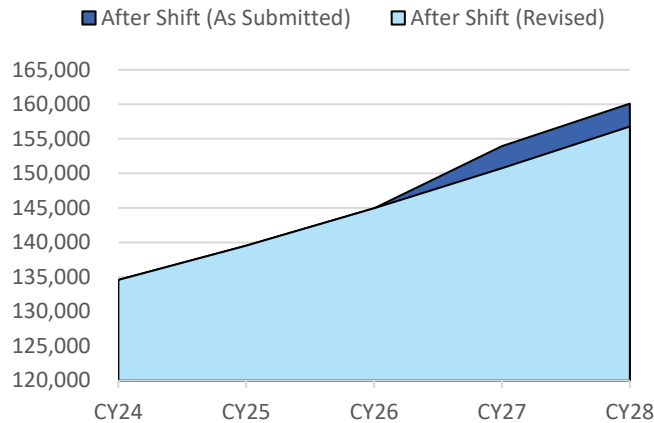
Difference in Acute Care Days at NH Presbyterian After Shift to NH Ballantyne*

	CY23	CY24	CY25	CY26	CY27	CY28
Acute Care Days After Shift (Per Project ID # F-12457-23)	130,539	134,570	139,540	144,932	153,930	160,101
Acute Care Days After Shift (Revised)	130,539	134,570	139,540	144,932	150,743	156,787
Difference in Acute Care Days	0	0	0	0	(3,187)	(3,315)

*Before any shifts to NH Steele Creek.

The chart below shows the difference in the number of projected acute care days at NH Presbyterian as presented in Project ID # F-12457-23 (dark blue) versus the revised projections above (light blue).

**NH Presbyterian Projected
Acute Care Days**



When acute care days are properly shifted to NH Ballantyne as stated in the methodology, the Novant Health system in Mecklenburg County does not meet the performance standards defined in 10A NCAC 14C .3803. Under the performance standards in the Criteria and Standards for Acute Care Beds, the target occupancy rate for Novant Health is 78.0 percent based on an ADC that is greater than 400 patients. As shown in the table below, the revised occupancy rate in Project Year 3 (CY 2028) for the Novant Health system in Mecklenburg County is 77.4 percent, or 0.6 percentage points below target occupancy. Please note that the table below shows Project Year 3 utilization for NH Presbyterian, NH Huntersville, and NH Matthews **after** properly shifting volume to NH Ballantyne and NH Steele Creek.

**Revised Projected Acute Care Days
in Project Year 3 (CY 2028)**

	CY 2028
NH Presbyterian	155,025
NH Huntersville	40,044
NH Matthews	44,240
NH Ballantyne	10,137
NH Steele Creek	8,812
NH Mint Hill	9,330
NH Total Acute Care Days	
	267,587
NH Total Acute Care Beds	
	947
NH Total Occupancy Rate	
	77.4%

Thus, Novant Health’s application is non-conforming with the performance standards specified in 10A NCAC 14C .3803 and cannot be approved.

3. Novant Health fails to include neonatal days when demonstrating that its methodology meets the performance standards set forth in 10A NCAC 14C .3803.

In response to a petition for an adjustment to the need methodology filed in 2022, the State Health Coordinating Council (SHCC) removed Level II, III and IV neonatal beds and days of care from the acute care bed need methodology beginning with the 2023 SMFP. However, the performance standards set forth in 10A NCAC 14C .3803 have not been modified and require projected utilization for all acute care beds and days of care, including neonatal.

As shown in the excerpt below, Novant Health does not include utilization for all of its acute care beds and thus fails to demonstrate that its methodology – as written – meets the performance standards.

Novant Health Mecklenburg County Facility Acute Care Days, CY2028

Novant Health System - Mecklenburg County	CY2028
Novant Health Presbyterian	158,339
Novant Health Matthews	47,192
Novant Health Huntersville	40,076
Novant Health Mint Hill	9,327
Novant Health Ballantyne	10,137
Novant Health Steele Creek	8,812
Novant Health System - Mecklenburg County	273,884
Licensed Beds (excluding NICU)	947
Novant Health System - Mecklenburg County Occupancy	79.2%

Source: Project ID # F-12457-23, p. 60 of electronic copy.

Thus, Novant Health’s application cannot be accurately assessed for meeting the performance standards specified in 10A NCAC 14C .3803 and should not be approved.

4. Novant Health fails to provide sufficient detail regarding the proposed construction and renovation for its proposed services

It is unclear from Novant Health’s application what the proposed renovation entails, making it difficult to determine if the proposed project is financially feasible. For example, Novant Health claims that the proposed project does not involve renovations but that it also “anticipates minor renovations to ensure the identified spaces comply with licensure standards for acute care beds” (see p. 88). In response to K.3, Novant Health states:

“...The incremental beds will be developed in existing spaces currently used for observation beds. Novant Health design staff developed the project budget for any limited renovations that may be necessary when the beds are put in service. Novant Health design staff have allocated \$993,816 in total project costs for this project. This amount includes funds for minor improvements such as new paint and repairs, window treatments, signage, furniture, and accessories. This amount also provides funding for any additional changes that may be required as part of the proposed 2022 updates to the FGI guidelines” (See pgs. 88-89).

Novant Health fails to describe what updates may be needed to bring existing observation rooms up to current FGI guidelines or how minor improvements add up to over \$600,000 dollars of renovation costs (see Form F.1a, p. 129). Without adequate detail regarding the proposed costs associated with the proposal, it is not possible to determine if the capital costs associated with proposal are accurate. This, combined with the inaccuracies identified in the methodology and projections described above, brings into question the project’s overall financial feasibility. Finally, as noted previously, the volume projections on which Novant Health’s financials are based are overstated, rendering the financial projections unreasonable and unsupported.

Thus, Novant Health’s application is non-conforming with Criterion 5 and 12 should not be approved.

In summary, based on the issues detailed above, the NH Presbyterian application is non-conforming with the review criteria established under N.C. GEN. STAT. § 131E-183, specifically Criteria 3, 4, 5, 6, 12, and 18a. The NH Presbyterian application should not be approved.

COMPARATIVE ANALYSIS

The NH Presbyterian application (Project ID # F-12457-23), the Atrium Health Pineville application (Project ID # F-012446-23), the CMC application (Project ID # F-012439-23), and the Atrium Health University City application (Project ID # F-012444-23) each propose to develop acute care beds in response to the 2023 SMFP need determination for Mecklenburg County. Given that multiple applicants propose to meet all or part of the need for the 164 additional acute care beds in Mecklenburg County, not all can be approved as proposed. To determine the comparative factors that are applicable in this review, CMHA examined recent Agency findings for competitive acute care bed reviews. Based on that examination and the facts and circumstances of the competing applications in this review, CMHA considered the following comparative factors:

- Conformity with Review Criteria
- Scope of Services
- Geographic Accessibility
- Meeting the Need for Additional Acute Care Bed Capacity
- Competition
- Geographic Reach
- Access by Underserved Groups
 - Projected Medicare and Medicaid
 - Projected Charity Care
- Average Revenue per Patient Day
- Average Operating Expense per Patient Day
- Provider Support

CMHA believes that the factors presented above and discussed in turn below should be used by the Agency in reviewing the competing applications.

Conformity with Applicable Statutory and Regulatory Review Criteria

The Atrium Health Pineville application, the CMC application, and the Atrium Health University City application adequately demonstrate that their acute care bed proposals are conforming to all applicable statutory and regulatory review criteria. In contrast, the NH Presbyterian application does not adequately demonstrate that its proposal is conforming to all applicable statutory review criteria as discussed previously. Specifically, the NH Presbyterian application is non-conforming with Criteria 3, 4, 5, 6, 12, and 18a and fails to meet the performance standards specified in 10A NCAC 14C .3803. An application that is not conforming to all applicable statutory and regulatory review criteria cannot be approved. Therefore, with regard to conformity, the Atrium Health Pineville application, the CMC application, and the Atrium Health University City application are equally effective alternatives and more effective than the NH Presbyterian application.

Scope of Services

Atrium Health Pineville, CMC, Atrium Health University City, and NH Presbyterian are all existing acute care hospitals that provide a broad spectrum of acute care services. Of these existing facilities, only one

– CMC – is a Level I trauma center and a quaternary care academic medical center.³ Therefore, based on the Agency’s past position on this comparative factor – that the application proposing to provide the greatest scope of services is the more effective alternative – the CMC application is the most effective with regard to scope of services.

Geographic Accessibility

All four applications submitted in response to the need identified in the 2023 SMFP for 164 additional acute care beds in Mecklenburg County propose to add acute care beds to an existing facility. Given that all four applications propose to locate additional acute care beds at existing hospitals, the applications are comparable with regard to geographic accessibility.

Meeting the Need for Additional Acute Care Bed Capacity

The table below shows acute care bed utilization for existing facilities based on acute care days as reported in Table 5A of the 2023 SMFP. As shown in the 2023 SMFP, CMHA facilities demonstrate a combined deficit of 159 acute care beds based on projected deficits of 32 beds at Atrium Health Pineville, 44 beds at Atrium Health University City, and 114 beds at CMC/Atrium Health Mercy. By comparison, the Novant Health system has a total deficit of 70 acute care beds.

Mecklenburg County Facilities’ Acute Care Bed Need/Surplus

	2025 Projected ADC	2025 Beds Adjusted for Target Occupancy	Current Bed Inventory	Projected 2025 Deficit/ (Surplus)
Atrium Health Lake Norman*	0	0	30	(30)
Atrium Health Pineville	244	325	293	32
Atrium Health University City	98	147	103	44
CMC/Atrium Health Mercy	973	1,246	1,132	114
CMHA Total	1,315	1,717	1,558	159
NHBMC*	0	0	36	(36)
NHHMC	97	145	147	(2)
NHMMC	140	196	166	30
NHMHMC	35	52	36	16
NHPMC	443	568	474	94
NHSCMC*	0	0	32	(32)
Novant Health Total	715	961	891	70

Source: 2023 SMFP.

*Approved, but not yet operational.

As shown above, CMC/Atrium Health Mercy alone generated a deficit over **one and a half times greater** than the entire Mecklenburg County Novant Health system. Further, every existing CMHA facility in

³ As designated by the Healthcare Planning and Certificate of Need Section and as listed in Appendix F of the 2023 SMFP. See page 416 of the 2023 SMFP.

Mecklenburg County shows a deficit of beds. These deficits, when combined, add up to **the largest bed deficit of any health system in the state.**

Based on FFY 2021 data included in the *2023 SMFP* (which excludes neonatal days/beds), CMHA facilities in Mecklenburg County operated at an overall occupancy rate of 89.9 percent of licensed beds – 11.9 percentage points above the target occupancy of 78.0 percent – and with an average daily census of 153 patients above target occupancy. Conversely, Novant Health facilities in Mecklenburg County operated at an overall occupancy rate of 78.9 percent – 0.9 percentage points above the target occupancy of 78.0 percent – and with an average daily census of only 8 above target occupancy. When placeholders are allocated according to CON approvals from the 2022 Acute Care Bed Need Determination, the CMHA system still exceeds the target occupancy rate of 78.0 percent while the Novant Health system does not (86.5 percent vs. Novant Health’s 77.5 percent).

As such, with regard to meeting the need for additional acute care bed capacity, the CMC application is the most effective alternative and the Atrium Health Pineville and Atrium Health University City applications are more effective alternatives than the NH Presbyterian application.

Historically, the Agency has conducted such a comparative analysis of need. For example, in the 2013 Mecklenburg County Acute Care Bed Review, the Agency’s comparative analysis included “Meeting the Need for Additional Acute Care Beds” as a comparative factor. This factor compared the projected bed deficit and surplus of each applicant as shown in the *2013 SMFP* and found the applicant with the greatest deficit to be more effective. CMHA believes that applicants with existing facilities should be evaluated based on need in comparison to existing utilization and those with deficits of capacity or higher utilization rates found to be superior to those with surpluses or lower utilization rates. In the 2020 Mecklenburg County Acute Care Beds and Operating Rooms Review, the Agency’s comparative analysis included “Historical Utilization” as a comparative factor similar to “Meeting the Need for Additional Acute Care Beds.” However, application of the factor in that review compared the historical occupancy rates of each facility as shown in the *2020 SMFP* and found the individual facility with the highest occupancy rate to be more effective. In a service area such as Mecklenburg County with two, established, multi-hospital systems, CMHA does not believe that the Agency should compare acute care bed deficits and surpluses – or occupancy rates – among individual facilities but rather should make these comparisons at the system-level. A core principle of the *SMFP* acute care bed need methodology is an analysis of need by system in Mecklenburg County; it is the system-based deficits/surpluses that determine whether or not additional beds are needed. Moreover, both existing systems in Mecklenburg County have been approved for projects – still under development – that proposed to shift both resources and patients between facilities, which is further evidence that a system-to-system comparison under these circumstances is more appropriate and that a facility-specific analysis would create artificial results. An analysis of historical bed need in the *SMFP*, as shown in CMHA’s applications, demonstrates that the need for additional acute care bed capacity in Mecklenburg County has been overwhelmingly at CMHA facilities compared to Novant Health facilities. Therefore, with regard to meeting the need for additional acute care bed capacity, the CMC application, the Atrium Health Pineville application, and the Atrium Health University City application are the more effective alternatives.

Competition

In some prior reviews, the Agency has used other comparative factors, such as “Competition,” to compare applicants’ total bed complement without considering whether the applicants’ existing capacity demonstrates a deficit or surplus of beds or such factors as occupancy rate, which found any

applicant with fewer beds more effective than applicants with a greater number of beds. As an example of the Agency's rationale under this application of the "Competition" comparative factor, an existing provider with a hundred acute care beds that only served twenty patients would be found to be a more effective alternative than another provider with two hundred beds that served hundreds of patients and demonstrated a deficit of capacity. CMHA believes that the "Competition" comparative factor applied in this way is contrary to the purpose of the CON statute and should not be applied in such a narrowly defined manner.

The concept of competition is complex, particularly in relation to healthcare and, therefore, cannot be singularly defined as a simple comparison of existing assets. While the Agency has the explicit authority to evaluate competition in CON reviews per N.C. GEN. STAT. § 131E-183(18a), it is not charged with protecting a specific facility's market share. Specifically, the Basic Principles found in Chapter 5 of the 2023 SMFP, which address acute care hospital beds, indicate that *"it is not the policy of the state to guarantee the survival and continued operation of all the state's hospitals, or even any one of them."* See page 31 of the 2023 SMFP. Given that it is not the State's responsibility to guarantee the operation of any single hospital, it follows that it is likewise not the State's responsibility to manage competition by counting resources between hospitals, particularly without any regard for need.

CMHA and Novant Health are two existing, mature, and well-established acute care service providers in Mecklenburg County. As such, neither CMHA nor Novant Health would qualify as a "new or alternative provider" under the Agency's historical reasoning of the "Competition (Patient Access to a New or Alternative Provider)" comparative factor in competitive reviews over the last decade. Specifically, the Agency has stated in numerous competitive reviews over the last several years that an applicant proposing to increase access to a "new provider" is a more effective alternative with regard to "Competition/Patient Access to a New or Alternative Provider." In the 2022 MRI review for the Pitt, Greene, Hyde and Tyrrell multicounty service area, the Agency declared the two well-established applicants – OrthoEast (with one existing mobile MRI scanner) and Greenville MRI (with two existing fixed MRI scanners) – as equally effective in regard to this comparative factor. The Agency specifically noted that both applicants are equally effective despite the fact that OrthoEast does not yet own a fixed MRI scanner:

"Generally, the application proposing to increase competition in the service area is the more effective alternative with regard to this comparative factor. The introduction of a new provider in the service area would be the most effective alternative based on the assumption that increased patient choice would encourage all providers in the service area to improve quality or lower costs in order to compete for patients. Although OrthoEast does not own a fixed MRI scanner, both applicants are existing providers of MRI services in the service area of Pitt, Green[sic], Hyde and Tyrrell Counties; therefore, neither of the applicants would qualify as a new or alternative provider in the service area. Thus, with regard to this comparative factor, the proposals are equally effective." See Findings, p. 61

Likewise, both CMHA and Novant Health provide acute care services in the Mecklenburg County service area. Neither system qualifies as a new or alternative provider of acute care services in Mecklenburg County. However, CMHA has documented in its applications the direct impact the lack of sufficient acute care beds has had on its ability to compete for inpatient services. Competition is not enhanced, but rather is **stifled** in a service area where one provider has available capacity to grow and

accommodate new patient demand while the other provider operates at maximum capacity and has limited-to-no ability to compete for growing patient demand. Such was the circumstance in Mecklenburg County for a number of years before the COVID-19 bed waiver gave CMHA hospitals the opportunity to operate as many beds as physical space and staff would allow. CMHA's staggering system-wide growth over the last couple of years suggests that growth at CMHA hospitals has historically been constrained by insufficient acute care bed capacity. In contrast, the Novant Health system has had underutilized beds and adequate capacity to grow for years. Thus, the COVID-19 bed waiver temporarily improved competition for inpatient services in Mecklenburg County – especially for the medically underserved – by increasing acute care bed capacity at CMHA facilities. With the expiration of the COVID-19 bed waiver earlier this year, CMHA has returned to its operational limits with temporary expansion limited to just 10 percent of licensed bed capacity under temporary bed overflow status. As discussed in its applications, this is not enough additional capacity to serve all of the patients who would like to choose CMHA facilities and growth is likely to become restricted once again over the next several years. CMHA urges the Agency to consider more than just the number and percentage of assets awarded but rather the need of each system expressed as a function of available resources and capacity. Competition is enhanced when organizations are allowed capacity to the maximum extent that is both demanded by patients and effectively utilized. As described in the three applications submitted by CMHA, more capacity is clearly needed at CMHA facilities, not Novant Health facilities, to enhance competition for acute care inpatients.

Geographic Reach

According to patient origin data compiled by NC DHSR, less than 60 percent of patients served by Mecklenburg County acute care bed providers originate from within the county. As shown in the table below, South Carolina patients comprise roughly 14 percent of total acute care bed admissions provided by Mecklenburg County acute care providers followed by neighboring North Carolina counties.

**Total Patient Origin for
Mecklenburg County Acute Care Bed Providers**

NC County/State of Origin	2022 Percent of Total
Mecklenburg	57.7%
South Carolina	14.4%
Union	6.9%
Gaston	4.3%
Cabarrus	3.1%
Iredell	2.1%
Lincoln	1.9%
Cleveland	1.7%
Rowan	1.1%
Stanly	1.0%
Other States*	0.9%
Catawba	0.9%
All Others**	3.9%
Total	100.0%

Source: 2022 Patient Origin Reports as compiled by NC DHSR.

*Other States includes all other states.

**All Others includes all other North Carolina counties.

As noted in CMHA’s applications, without the demand for acute care services originating from outside of Mecklenburg County, there would not be a need for additional acute care bed capacity to be located in Mecklenburg County. As CMHA demonstrates in its applications, Mecklenburg County would have a surplus of 1,185 acute care beds, or almost half of its existing capacity, if not for the demand for acute care bed services originating from outside of the county. Under these circumstances, CMHA believes the Agency should recognize that the need for additional acute care capacity in Mecklenburg County is driven by residents across the region and evaluate an applicant’s geographic reach in assessing the need for additional beds in Mecklenburg County.

Please note that previous Agency reviews have included an “Access by/Service to Service Area Residents” comparative factor. As detailed below, CMHA believes that this comparative factor would be inappropriate for a review of the proposed project. In the Agency Findings for the 2019 Mecklenburg County Acute Care Bed and Operating Room Review, the Agency’s comparative analyses included a comparative factor, “Access by Service Area Residents,” but did not draw any conclusions about the factor. Pages 236 and 237 of the Agency Findings for the 2019 Mecklenburg County Acute Care Bed and Operating Room Review state, *“Atrium is correct that the Acute Care Bed Need Determination in the 2019 SMFP is based on the total number of acute care days at each hospital and not based on anything related to Mecklenburg County-specific acute care days. Further, Mecklenburg County is a large urban county with over one million residents, two large health systems plus other smaller healthcare groups, and is on the border of North Carolina and South Carolina... the Agency believes that in this specific instance attempting to compare the applicants based on the projected acute care bed access of Mecklenburg County residents has little value [emphasis added].”* Subsequently, the Agency maintained this position in its Findings for the 2020 Mecklenburg County Acute Care Bed and Operating Room

Review in which it did not evaluate this comparative factor and again in its Findings for the 2021 and 2022 Mecklenburg County Acute Care Bed review in which it found this factor to be inconclusive.

CMHA agrees with the Agency’s findings regarding this factor in recent reviews and maintains its belief that this comparative factor, if applied, would be inappropriate or inconclusive for a review of the proposed project. The need for additional acute care bed capacity in Mecklenburg County, and specifically, the need determination in the *2023 SMFP*, is a result of the utilization of all patients that utilize acute care beds located in Mecklenburg County. Mecklenburg County residents comprise less than 60 percent of that utilization and there would be a large surplus of capacity if not for the demand for acute care bed services originating from outside the county. Under these circumstances, it would not be appropriate to determine the comparative effectiveness of an applicant based on service to Mecklenburg County residents when the need as identified for the proposed additional acute care bed capacity is not based solely on Mecklenburg County patients. (Other methodologies in the *SMFP*, such as nursing facility beds, are based only on the population residing in the county; a factor for “Access by/Service to Service Area Residents” may be more appropriate in such a review, but that is not the case with acute care beds.) Rather, if anything, CMHA believes the Agency should recognize that the need for additional acute care bed capacity in Mecklenburg County is driven by residents across the region and evaluate an applicant’s geographic reach in assessing the need for additional acute care bed capacity located in Mecklenburg County.

Access by Underserved Groups

Projected Medicare and Medicaid

The following table illustrates each applicant’s percentage of acute care utilization to be provided to Medicare and Medicaid patients as stated in Section L.3 of the respective applications.

	<i>% of Medicare</i>	<i>% of Medicaid</i>
CMC	38.4%	27.3%
Atrium Health Pineville	62.5%	9.4%
Atrium Health University City	49.0%	17.9%
NH Presbyterian	29.3%	19.1%

Source: Section L.3.

As shown in the table above, Atrium Health Pineville projects to serve the highest percentage of Medicare patients and CMC projects to serve the highest percentage of Medicaid patients, making these applications the most effective alternatives.

Further, and as noted previously in the CMHA applications, Atrium Health facilities serve a disproportionately high share of the medically underserved compared to Novant Health. Based on CMHA’s demonstrated experience serving the underserved, the approval of the proposed CMHA projects will serve to enhance access for the medically underserved that are served disproportionately by CMHA.

Projected Charity Care

The following table illustrates each applicant’s projected charity care as a percentage of net and gross revenue in the third full fiscal year of operation.

	Charity Care	Net Revenue	Charity Care as a % of Net Revenue	Gross Revenue	Charity Care as a % of Gross Revenue
CMC	\$72,323,569	\$421,372,146	17.2%	\$1,587,162,446	4.6%
Atrium Health Pineville	\$19,920,604	\$116,774,197	17.1%	\$491,972,873	4.0%
Atrium Health University City	\$12,915,191	\$48,590,887	26.6%	\$182,275,119	7.1%
NH Presbyterian	\$67,049,892	\$625,211,520	10.7%	\$2,107,621,370	3.2%

Source: Form F.2.

As shown in the table above, Atrium Health University City projects to provide the highest percentage of charity care while CMC and Atrium Health Pineville propose to serve the second and third highest percentage of charity care, respectively. NH Presbyterian projects to serve the lowest percentage of charity care. Therefore, the Atrium Health University City application is the most effective alternative with regard to charity care while the CMC and Atrium Health Pineville applications are more effective alternatives than the NH Presbyterian application with regard to charity care.

Average Net Revenue per Day

The following table shows average net revenue per patient day and per patient in the third full fiscal year of operation.

	Net Revenue	# of Days	Net Revenue per Day	# of Patients	Net Revenue per Patient
CMC	\$421,372,146	327,653	\$1,286	49,964	\$8,434
Atrium Health Pineville	\$116,774,197	110,642	\$1,055	22,851	\$5,110
Atrium Health University City	\$48,590,887	41,493	\$1,171	8,790	\$5,528
NH Presbyterian	\$625,211,520	158,339	\$3,949	32,184	\$19,426

Source: Form F.2.

Novant Health’s application includes all services a patient receives during an inpatient stay, including inpatient surgery, emergency department services provided to an admitted patient, imaging provided during an inpatient stay, and applicable ancillary services. The CMHA applications include acute care bed discharges only and do not include ancillary services such as lab, radiology, or surgery that generate additional revenue for acute care inpatients. As shown in the table above, Atrium Health Pineville projects the lowest net revenue per patient day and per patient while NH Presbyterian projects the highest.

Average Expense per Day

The following table shows average operating expense per patient day and per patient in the third full fiscal year of operation.

	<i>Operating Expense</i>	<i># of Days</i>	<i>Expense per Day</i>	<i># of Patients</i>	<i>Expense per Patient</i>
CMC	\$412,806,853	327,653	\$1,260	49,964	\$8,262
Atrium Health Pineville	\$117,711,556	110,642	\$1,064	22,851	\$5,151
Atrium Health University City	\$45,212,207	41,493	\$1,090	8,790	\$5,144
NH Presbyterian	\$603,655,769	158,339	\$3,812	32,184	\$18,756

Source: Form F.2.

Novant Health’s application includes all services a patient receives during an inpatient stay, including inpatient surgery, emergency department services provided to an admitted patient, imaging provided during an inpatient stay, and applicable ancillary services. The CMHA applications include acute care bed discharges only and do not include ancillary services such as lab, radiology, or surgery that generate additional revenue for acute care inpatients. As shown in the table above, Atrium Health Pineville projects the lowest operating expense per patient day and Atrium Health University City projects the lowest operating expense per patient. NH Presbyterian projects the highest expense for both.

Provider Support⁴

Given the substantial projected acute care bed deficit for CMHA, as well as the significant difference between the level of provider support for CMHA’s projects compared to Novant Health’s, CMHA believes the use of the provider support comparative factor could be of particular importance to the Agency in this review.

The following table illustrates the number of letters of support included with each application from physicians and community members/patients⁵.

	<i>Physicians/Providers</i>	<i>Community/Patients</i>
CMC	27	27
Atrium Health Pineville	95	14
Atrium Health University City	32	23
NH Presbyterian	22	2

Source: Support letter exhibits.

⁴ While not used in every competitive review, there have been numerous reviews recently in which provider support has been used as comparative factor, including the 2019 Orange County Operating Room Review and, in 2018, the Orange County Operating Room Review, the Mecklenburg County Operating Room Review, the Durham County Operating Room Review, the Wake County Operating Room Review, the Buncombe County Operating Room Review, and the Forsyth County Operating Room Review.

⁵ While the table notes the differences in community support, the Agency has rarely, if ever, used community support as a comparative factor.

As shown above, the Atrium Health Pineville application included the most letters of support from physicians/providers and the CMC application included the most letters of support from community members/patients. The NH Presbyterian application provided the fewest letters of support from physicians, the fewest letters of support from community members/patients, and the fewest letters combined. Therefore, with regard to provider support, the CMC application, the Atrium Health Pineville application, and the Atrium Health University City application are the more effective alternatives.

Summary of Comparative Analysis

The following table summarizes the comparative analysis for acute care beds.

Comparative Factor	Atrium Health Pineville	Atrium Health University City	CMC	NH Presbyterian
Conformity with Review Criteria	Yes	Yes	Yes	No
Scope of Services	Less Effective	Less Effective	Most Effective	Less Effective
Geographic Accessibility	Equally Effective	Equally Effective	Equally Effective	Equally Effective, But Not Approvable
Meeting the Need for Additional Acute Care Bed Capacity	More Effective	More Effective	More Effective	Less Effective
Competition	More Effective	More Effective	More Effective	Less Effective
Geographic Reach	Equally Effective	Equally Effective	Equally Effective	Equally Effective, But Not Approvable
Projected Medicare	Most Effective	More Effective	More Effective	Less Effective
Projected Medicaid	Less Effective	Less Effective	Most Effective	Less Effective
Projected Charity Care	More Effective	Most Effective	More Effective	Least Effective
Average Revenue per Day	Inconclusive	Inconclusive	Inconclusive	Inconclusive
Average Expense per Day	Inconclusive	Inconclusive	Inconclusive	Inconclusive
Provider Support	More Effective	More Effective	More Effective	Less Effective

SUMMARY

In summary, Novant Health fails to demonstrate that it will meet the performance standards in Project Year 3 and thus its application is not approvable. Even if Novant Health’s application were approvable, CMHA believes that its three complementary applications are the most effective alternatives for the 164 acute care beds needed in Mecklenburg County. They are fully conforming to all applicable statutory and regulatory review criteria and comparatively superior on the relevant factors in this review. As such, the three proposals by CMHA should be approved.

Please note that in no way does CMHA intend for these comments to change or amend its concurrent and complementary applications as filed on October 16, 2023. If the Agency considers any statements to be amending CMHA’s applications, those comments should not be considered.