

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

DATE: February 19, 2014
PROJECT ANALYST: Celia C. Inman
TEAM LEADER: Lisa Pittman

PROJECT I.D. NUMBER: H-10225-13 / Episcopal Home for the Ageing d/b/a Penick Village / Develop 13 adult care home beds at a CCRC pursuant to Policy LTC-1 in the SMFP / Moore County

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

G.S. 131E-183(a) The Department shall review all applications utilizing the criteria outlined in this subsection and shall determine that an application is either consistent with or not in conflict with these criteria before a certificate of need for the proposed project shall be issued.

- (1) The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

C

Episcopal Home for the Ageing in the Diocese of North Carolina, Inc., d/b/a Penick Village is licensed by the Department of Insurance as a Continuing Care Retirement Community (CCRC). It is located at 500 East Rhode Island Avenue, Southern Pines, Moore County. In Section I, page 5, the applicant states:

“Penick Village (hereinafter referred to as Applicant) proposes to convert 11 independent living units located in an existing combined nursing/adult care home/independent living building into 11 assisted living units with 13 adult care home (ACH) beds, which will be available exclusively to persons with a continuing care contract with Applicant, under State Medical Plan Policy LTC-1, for a total of 42 ACH beds.”

Penick Village was established in 1964, when it was licensed as a home for the ageing. Penick Village was licensed by the State of North Carolina as a nursing facility in 1970 and currently has 50 nursing facility (NF) beds and 29 adult care home (ACH) beds. The facility has been licensed as a CCRC since 1990 and

currently has 170 independent living units. Supplemental data requested by the Project Analyst during the expedited review of this application and received from the applicant on February 5, 2014 provides clarification on the existing number of independent living units and the buildings in which the units are located, as follows.

Building	Total # Units	Existing # SNF Beds	Existing # Independent Units	Existing # ACH Units/Beds	# Independent Units/Beds to Convert	# ACH Units/Beds after Conversion	# Independent Living Units after Conversion
North	81	50	12	19/19	11/13	30/32	1
Woodlands	69	0	69	0	0	0	69
Garden Cottage	10	0	0	10/10	0	10/10	0
South Cottages	34	0	34	0	0	0	34
Total	249	50	170	29/29	11/13	40/42	159

The table below summarizes the current and proposed number of units and beds after the proposed conversion of independent living units to adult care home beds.

	Nursing Facility Beds	Adult Care Home Units/Beds	Independent Living Units
Current	50	29 / 29	170
Proposed Conversion		+11 / 13	-11
Total	50	40 / 42	159

There are no need determinations in the 2013 State Medical Facilities Plan (SMFP) applicable to the review of this proposal. However, Because Penick Village is a CCRC and is applying to convert independent living beds to ACH beds; Policy LTC-1 is applicable to this review and is discussed below.

“Policy LTC-1 Plan Exemption for Continuing Care Retirement Communities - Adult Care Home Beds:

Qualified continuing care retirement communities may include from the outset, or add or convert bed capacity for adult care without regard to the adult care home bed need shown in Chapter 11: Adult Care Homes. To qualify for such exemption, applications for certificates of need shall show that the proposed adult care home bed capacity:

- (1) *Will only be developed concurrently with, or subsequent to construction on the same site, of independent living accommodations (apartments and homes) for people who are*

able to carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats, houses, cottages, and rooms;

- (2) *Will provide for the provision of nursing services, medical services, or other health related services as required for licensure by the N.C. Department of Insurance.*
- (3) *Will be used exclusively to meet the needs of people with whom the facility has continuing care contracts (in compliance with the North Carolina Department of Insurance statutes and rules) who have lived in a non-nursing unit or adult care unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the adult care home unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.*
- (4) *Reflects the number of adult care home beds required to meet the current or projected needs of residents with whom the facility has an agreement to provide continuing care, after making use of all feasible alternatives to institutional adult care home care.*
- (5) *Will not be certified for participation in the Medicaid program or serve State-County Special Assistance recipients.”*

With respect to conformance with the above requirements, on page 23, the applicant states:

“The proposed project is consistent with Policy LTC-1 as follows:

- The proposed ACH beds will be developed subsequent to construction on the same site of independent living accommodations for residents able to carry out normal activities of daily living without assistance. As described in Section 1.12.(b), Applicant currently operates over 150 independent living units as a licensed continuing care retirement community on the same site as the proposed ACH beds.*
- The proposed project will provide for the provision of nursing services, medical services, or other health related services as required by licensure by the North Carolina Department of Insurance. Applicant provides nursing, medical and other health*

related services to current residents. Such services will be continued in accordance with the requirements of NC General Statute Chapter 58, Article 64.

- *The proposed ACH beds will be available exclusively to residents who have lived in an independent living unit on Applicant's continuing care retirement community for a period of at least 30 days, except as otherwise provided under Policy LTC-1.*
- *The proposed ACH beds are needed to meet the current and projected needs of residents with continuing care retirement contracts with Applicant. Please see III.1.(a) above.*
- *Applicant's current and future ACH beds do not and will not participate in the Medicaid program or serve State-County Special Assistance recipients. All ACH beds will be private pay."*

The applicant adequately demonstrates conformance of its proposed project with Policy LTC-1. Therefore, the applicant is conforming with the applicable policies in the 2013 SMFP and thus is conforming with this Criterion.

- (2) Repealed effective July 1, 1987.
- (3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.

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Penick Village is licensed by the Department of Insurance as a Continuing Care Retirement Community. It is located in Southern Pines, Moore County. The applicant proposes to convert 11 of its existing independent living units into 11 assisted living units with 13 ACH beds, for a total of 42 ACH beds at project completion. In Section I, page 5, the applicant states that the 13 ACH beds will be available exclusively to persons with a continuing care contract with Penick Village, under State Medical Plan Policy LTC-1.

Population to Be Served

In Section III, page 25, the applicant provides a table showing that all of the proposed Penick Village residents will be residents of Moore County. The applicant states:

"Because the proposed ACH beds will be reserved exclusively for persons with continuing care contracts with Applicant, and because

Applicant is located in Moore County, the county of origin for all residents will be Moore County.”

The applicant further states:

“One hundred percent of the anticipated residents of the proposed ACH beds will live within 45 minutes driving time of the ACH.”

The applicant’s 2013 License Renewal Application (LRA) provides data showing 100% of its FY2012 adult care home bed residents are from Moore County. The applicant adequately identified the population to be served.

Need for Proposed Services

The applicant states on page 20:

“The need for the proposed beds is established by the existence of a persistent waiting list for ACH beds starting when the 17 ACH beds from the South Building were moved to the North Building which project is described in detail at Section II.12.(d).”

2012 Move of 17 ACH Beds to the North Building

In Section II.12, pages 8-9, which is clarified in the February 5, 2014 supplemental data, the applicant describes the current composition of units at Penick Village:

- The Woodlands is a 69-unit independent living apartment building.
- The South Building is a 34-unit independent living apartment building and the first building constructed on the site.
- The Cottages consist of 55 detached and multi-unit patio homes for independent living.
- Blanch Robertson Garden Cottage contains 10 ACH beds (private rooms) in a small house model of care.
- The North Building is a multiple level of care facility consisting of common areas, dining services, 12 independent living units, 19 ACH beds and 50 skilled nursing beds. The applicant states that all ACH and nursing beds are currently private. All 50 skilled nursing beds are certified for participation in the Medicare program and 24 skilled nursing beds are certified for participation in the Medicaid program. On pages 11-13 of the application, the applicant describes a non-certificate of need (CON) move of 17 ACH beds to the North Building in 2012, stating that the Division of Health Service Regulation (DHSR) Construction and Nursing Home Licensure and Certification Sections were involved throughout the planning and renovation process. Prior to that move, the North Building housed 29 independent living beds, 50 skilled nursing beds and 2 ACH beds.

The applicant is now proposing to convert 11 independent living units in the North Building to 11 ACH units with 13 ACH beds. Exhibit D contains a letter from Gregory Scott, AIA, with RLPS Architects, stating that the converted independent units will conform to all requirements as stated in 10A NCAC 13F .0300 Physical Plant for assisted living beds. On pages 13-14, the applicant states that based on the 2012 inspections by Construction Section, DHSR and other required engineering modifications, to bring the entire North Building into conformance with 10A NCAC 13D, 10A NCAC 13F and all other applicable construction and facility codes for ACH beds, the only non-cosmetic modification that will have to be made to convert the independent living units to ACH units will be to disable or lock any existing electric cooktops in the units with kitchenettes. The applicant states that no other structural or regulatory-related modifications are foreseen.

Proposed Conversion of Independent Living Units to ACH Beds

In Section III, page 20, the applicant further discusses Penick Village's waiting list for ACH beds, stating:

“Since November, 2012, there has been a monthly average of approximately 9 names on the waiting list. Names are placed on the list by request of a person or family member, or are recommended for assisted living by the Applicant's Level of Care Committee, which meets quarterly to review the status of independent living residents who may require a higher level of care.”

The applicant further states that one individual has been on the waiting list for a full year, others have been on the list for several months, only three individuals have moved off the waiting list into an available ACH bed and at least four individuals were removed from the list because they found an ACH bed at another facility.

The applicant anticipates that its recent increase in the number of independent living residents will further strain its already high occupancy of ACH beds. On page 20, the applicant states:

“The number of independent living units operated by Applicant increased by 55% on July, 2011 when the 69 unit Woodlands independent living apartments opened. Prior to that date, Applicant had only 124 independent living units. As of August, 2013, all Woodlands units have been occupied and/or reserved. Overall occupancy of Applicant's independent living units is 85% as of August, 2013, for a total of 200 independent living residents.”

The applicant further states its belief that the current number of ACH beds will be insufficient to meet the future needs of the increasing number of independent living residents, saying:

“That is confirmed by the fact that 29 beds are insufficient to meet current needs. It also should be noted that the 29 current ACH beds are open admission beds. Current residents have priority for vacant ACH and skilled nursing beds, but based on present demand, Applicant believes that it will be unable to meet future demand of residents for ACH beds without conversion of the proposed beds.

Moreover, the proposed conversion will allow for two two bedroom apartments to be available for married couples. Currently, Applicant is unable to accommodate married couples who wish to remain together at an assisted living level of care. The conversion would enable Applicant to better serve the needs and accommodate the wishes of its married residents.”

In Section III, page 21, the applicant states that the justification of the need for the proposed beds is based upon:

- Information from Penick Village’s Admissions Coordinator, who manages the assisted living waiting list and is familiar with the changes in and movement off the list. See waiting list discussion above.
- Information on future needs of independent living residents documented in the minutes of the Level of Care Committee. See Exhibit K.
- Internal records and data regarding the number of independent living units and residents, and current occupancy rates. See Exhibit L and table below.

September 19, 2013 Census for ACH beds

ACH Beds	Available Beds	Current Census	Percent Occupancy
Residential Assisted Living	17	14	82.3%
Garden Cottage	10	10	100.0%
North Building	2	2	100.0%
Total	29	26	89.7%

Table IV.2, page 26, provides Penick Village’s historical utilization of its 29 ACH beds for the nine months immediately preceding the submittal of the application, as shown below.

Historical Utilization
February 1, 2013 to October 31, 2013

	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Total
Patient Days	708	837	796	873	833	864	842	795	786	7,334
Occupancy Rate	87%	93%	91%	97%	96%	96%	94%	91%	90%	93%

Note: The Project Analyst calculates an occupancy rate of 87% for the month of October. However, the Nine-Month occupancy rate remains 93%.

The 2013 SMFP shows a surplus of 21 ACH beds in Moore County. The applicant provides the following information on page 21 of its application showing occupancy as of 8/1/2012 for the existing ACH facilities in Moore County. The data is from the respective 2013 LRAs.

ACH Facility	Occupancy 8/1/2012
Carolina House of Pinehurst	75%
Seven Lakes Assisted Living	38%
Elmcroft of Southern Pines	83%
Fox Hollow Senior Living Community	80%
The Coventry	86%
Magnolia Gardens	81%
Tara Plantation of Carthage	95%
Southern Pines Manor*	0%

*Note: the 10 ACH beds located at Southern Pines Manor were transferred to The Coventry.

As the table above illustrates, all of the adult care facilities are operating at 75% occupancy or higher with the exception of Seven Lakes Assisted Living. The county average ACH occupancy, exclusive of Seven Lakes is 83%. The NC DHSR Adult Care Licensure Section website which provides information on adult care homes within the State shows Seven Lakes Assisted Living with only a one-star rating; all other listed adult care facilities have a three- or four-star rating.

The Project Analyst obtained the following occupancy data for combination facilities in Moore County that provide ACH beds.

Nursing Facility with ACH Beds	Occupancy 8/1/2012
KingsWood Nursing Center	60%
Peak Resources - Pinelake	98%
Penick Village	93%

Source: 2013 License Renewal Applications

The above table shows that KingsWood Nursing Center has a lower occupancy rate as of August 1, 2012 than the other two nursing facilities in Moore County that provide adult care home beds. The star rating system is not used for adult care beds located in combination facilities.

Regardless of the occupancy of existing facilities providing ACH beds in Moore County, the applicant bases the need for the conversion of its independent living beds to assisted living beds on its internal need for additional ACH beds to serve its current and future CCRC residents. In supplemental data received on February 11, 2014, the applicant states:

“Additional ACH bed availability for Penick Village would enhance the quality of life for residents who now need personal care and other assistance services, but want to remain close to spouses, familiar surroundings and friends. There is a strong desire and perceived need for ACH beds among residents and staff. Currently, the only option for Penick Village residents who have the greatest need for assisted living is to be moved to another facility. However, that places an undue burden on the family members and the resident, who must, once again, be moved from a familiar and beloved home to strange surroundings.”

Projected Utilization

In Section IV.2(c), page 26, the applicant states its expectation that “fill up” will occur over 4 months. The applicant assumes seven of the proposed beds will remain occupied with current independent living residents who want to convert to the assisted living level of care. The remaining beds are projected to fill at the rate of one per month, excluding the two 2-bedroom suites, which are in demand by married couples and expected to fill quickly.

Projected ACH Utilization

	First Partial FY 7/1/14-9/30/14	First Full FY 10/1/14-9/30/15	Second Full FY 10/1/15-9/30/16	Third Full FY 10/1/16-9/30/17
ACH Beds	42	42	42	42
Patient Days	3,555	14,256	14,256	14,256
Occupancy Rate	92%	93%	93%	93%

As shown in the table above, the applicant projects an occupancy rate of 93% for ACH beds at Penick Village during the first three full federal fiscal years following completion of the project. These projected occupancy levels exceed the performance standard in 10A NCAC 14C .1102 *Criteria and Standards for Nursing Facility Services or Adult Care Home Services*.

The applicant provides sufficient documentation to demonstrate the reasonableness of the utilization projections, as stated on pages 26-29 and above. Thus, the applicant documents the need for the proposed ACH beds to meet the internal long-term care needs of existing and prospective Penick Village residents based on Policy LTC-1.

Access

As described in Criterion (1) above and in conformance with Policy LTC-1, the applicant, a CCRC, is proposing to convert independent living units to ACH beds. On page 23, the applicant states:

“The proposed project is consistent with Policy LTC-1 as follows:

- *The proposed ACH beds will be developed subsequent to construction on the same site of independent living accommodations for residents able to carry out normal activities of daily living without assistance. As described in Section 1.12.(b), Applicant currently operates over 150 independent living units as a licensed continuing care retirement community on the same site as the proposed ACH beds.*
- *The proposed project will provide for the provision of nursing services, medical services, or other health related services as required by licensure by the North Carolina Department of Insurance. Applicant provides nursing, medical and other health related services to current residents. Such services will be continued in accordance with the requirements of NC General Statute Chapter 58, Article 64.*

- *The proposed ACH beds will be available exclusively to residents who have lived in an independent living unit on Applicant's continuing care retirement community for a period of at least 30 days, except as otherwise provided under Policy LTC-1.*
- *The proposed ACH beds are needed to meet the current and projected needs of residents with continuing care retirement contracts with Applicant. Please see III.1.(a) above.*
- *Applicant's current and future ACH beds do not and will not participate in the Medicaid program or serve State-County Special Assistance recipients. All ACH beds will be private pay."*

The applicant adequately demonstrates it will provide access to its services in conformance with Policy LTC-1.

In summary, the applicant adequately identifies the population to be served, adequately demonstrates the need the population to be served has for the proposed project and demonstrates the proposed population will have adequate access to the services. Therefore, the application is conforming with this criterion.

- (3a) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the applicant shall demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care.

NA

- (4) Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

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In Section III.2, page 22, the applicant discusses the alternatives considered prior to submission of this application, which include:

- 1) Maintain the status quo – the applicant states it found this option unacceptable because failure to provide adequate ACH facilities for CCRC contracted residents could impair Penick Village's operations and marketability as a CCRC.
- 2) Eliminate the assisted living level of care and meet resident needs by providing increasing levels of home care - the applicant states this is a costly alternative and would be unaffordable for many residents of Penick Village.

- 3) Construction of a new “small house” facility - the applicant states the capital costs involved in this option would be many times higher than the cost of the conversion proposal.
- 4) Convert existing independent living units to ACH units - the proposed project.

The applicant states it chose the proposed option because it is fiscally prudent, as the costs of conversion will be nominal in comparison to new construction and it makes better use of existing facilities. The applicant further states that the proposed option yields more efficient utilization of staff in a consolidated ACH and nursing facility. Thus, the applicant adequately demonstrates that the proposed alternative is the most effective or least costly alternative.

Furthermore, the application is conforming to all other statutory and regulatory review criteria, and thus, is approvable. A project that cannot be approved cannot be an effective alternative.

In summary, the applicant adequately demonstrates that its proposal is the least costly or most effective alternative to meet the need. Therefore, the application is conforming to this criterion and approved subject to the following conditions.

- 1. Episcopal Home for the Ageing in the Diocese of North Carolina, Inc., d/b/a Penick Village shall materially comply with all representations made in its certificate of need application and the supplemental information received February 5, 2014. In those instances where representations conflict, Episcopal Home for the Ageing in the Diocese of North Carolina, Inc., d/b/a Penick Village shall materially comply with the last made representation.**
- 2. Episcopal Home for the Ageing in the Diocese of North Carolina, Inc., d/b/a Penick Village shall develop no more than 13 additional adult care home beds for a total of 42 ACH beds upon completion of the project.**
- 3. The 13 new ACH beds shall not be certified for participation in the Medicaid program or participate in the state or county special assistance programs.**
- 4. The 13 new ACH beds shall be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and regulations) who have lived in a non-nursing unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or**

sibling moves into a non-nursing unit, or when the medical condition requiring nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract.

5. The 13 new ACH beds shall be developed on the same site with the independent living units.

6. Episcopal Home for the Ageing in the Diocese of North Carolina, Inc., d/b/a Penick Village shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section in writing prior to issuance of the certificate of need.

(5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

In Section VIII.1, page 45, the applicant projects that the total capital cost of the project will be \$55,000 as shown in the table below.

Project Capital Costs

Equipment/Furniture*	\$45,500
Consultant Fees	\$10,000
Total Capital Cost	\$55,000

*Estimated cost of repainting and replacing flooring in converted rooms.

Exhibit D contains a letter from the architect which documents the independent living units converted to ACH units will conform to all requirements as stated in 10A NCAC 13F .0300 Physical Plant. Per the application, the converted units will also conform to all requirements in 10A NCAC 13D .3100 Design and Construction (adult care home portion of a combination facility). In Section I, page 11, the applicant states:

“The North Building independent living areas were designed and constructed under the applicable codes and guidelines so that, if necessary, any rooms could be easily converted to ACH or skilled nursing beds. That included sprinklered rooms, which provided a safer environment for the relocated assisted living residents.”

In Section IX.1-4, pages 49-51, the applicant states there will be no start-up and initial operating expenses required for the project.

Exhibit Q contains a letter dated November 14, 2013 from the President and CFO of Penick Village which states:

“Episcopal Home for the Ageing in the Diocese of North Carolina, Inc., doing business as Penick Village, will commit and obligate \$55,000.00 from cash or cash equivalents for the sole purpose of funding the costs related to the project to convert existing independent living beds into adult care homes [sic] beds described in the above-referenced Certificate of Need application.”

Exhibit R contains the financial statements for Episcopal Home for the Ageing in the Diocese of North Carolina, Inc., doing business as Penick Village for the years ending December 31, 2012, 2011 and 2010. As of December 31, 2012, the applicant had cash in the amount of \$3,353,434, total current assets of \$12,807,923 and total net assets of \$4,092,217 (total assets – total liabilities).

In the supplemental data received February 5, 2014, the applicant provides revised pro forma financial statements. The revisions involve changes in staffing allocations and the use of uninflated charges for future projections. The applicant projects revenues will exceed operating expenses in each of the first three operating years of the project, as illustrated in the table below.

ACH Beds	Project Year 1	Project Year 2	Project Year 3
Projected # of Patient Days	14,256	14,256	14,256
Projected Average Charge (Gross Patient Revenue / Projected # of Patient Days)	\$ 169	\$ 169	\$ 169
Gross Patient Revenue	\$ 2,410,716	\$ 2,410,716	\$ 2,410,716
Deductions from Gross Patient Revenue	0	0	0
Net Patient Revenue	\$ 2,410,716	\$ 2,410,716	\$ 2,410,716
Total Expenses	\$ 2,203,553	\$ 2,152,040	\$ 2,216,604
Net Income	\$ 207,163	\$ 258,676	\$ 194,112

Though the supplemental data submitted by the applicant does not inflate future charges, salary expense is inflated by 3% in Project Years 2 and 3. Net income calculated without inflated charges and operating costs would be \$324,153 in Project Years 2 and 3.

In Section X, page 54, Penick Village proposes private-pay charges of \$138-310 for each year. The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See Section X, pages 52-54, Exhibit S and the supplemental data received on February 5, 2014 for the assumptions regarding costs and charges. See Criterion (3) for discussion regarding projected utilization which is incorporated hereby as if fully set forth herein. The applicant adequately demonstrates that the financial feasibility of the proposal is based upon reasonable projections of costs and charges, and therefore, the application is conforming to this criterion.

- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

C

The applicant is proposing to convert 11 independent living units to 11 adult care home units with 13 ACH beds. The proposed beds will serve only the residents of Penick Village, a continuing care retirement community. The applicant adequately demonstrates the proposal is consistent with Policy LTC-1 in the 2013 SMFP. Further, the applicant adequately demonstrates the need the population to be served has for 13 additional ACH beds. See Criteria (1) and (3) for discussion of the need for the proposed 13 beds. Consequently, the applicant adequately demonstrates that the proposed project will not unnecessarily duplicate existing or approved health service capabilities or facilities. Therefore, the applicant is conforming with this criterion.

- (7) The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.

C

Per the supplemental data received on February 5, 2014 and additional data requested and received on February 11, 2014, the applicant projects direct patient care staff hours per patient day, as shown in the table below. The applicant projects the same number of patient days for years one through three.

Direct Care Hours Per Patient Day PY2

ACH Beds (excluding special care unit)	Direct Care
FTEs (12.5 Med Tech, 0.35 RN, 0.35 LPN)	13.2*
Direct care hours per year per FTE	2,080
Direct care hours per year	27,456
Patient days per year	14,256
Direct care hours per patient day	1.93
Special Care Unit	
FTEs	0
Nursing hours per year per FTE	0
Direct care hours per year	0
Patient days per year	0
Direct care hours per patient day	0
Total Direct Care Hours per Patient Day	1.93

*The applicant’s facility assigns direct care duties to med techs. The 13.2 FTEs above also includes 0.35 RN and 0.35 LPN with duties in ACH. An additional 1.0 Med Tech is assigned to housekeeping/laundry.

The applicant projects the direct patient care staff by shift for the ACH facility, as shown in the following table.

Direct Care Staff per Shift

Day Shift	FTEs
ACH Unit	3.0
Special Care Unit	0.0
Total Day Shift	3.0
Evening Shift	
ACH Unit	3.0
Special Care Unit	0.0
Total Evening Shift	3.0
Night Shift	
ACH Unit	2.0
Special Care Unit	0.0
Total Night Shift	2.0
Total	
ACH Unit	8.0
Special Care Unit	0.0
Total	8.0

The applicant states that the projected staffing by shift as shown above is the minimum required; actual staffing patterns are expected to exceed the minimum for all shifts, utilizing the full 13.2 FTEs and 27,495 direct care hours available per year.

Adequate costs for the health manpower and management positions proposed by the applicant in Sections II.2, Table VII.3, and the supplemental data are budgeted in the pro forma financial statements. Thus, the applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed services, including a medical director. Therefore, the application is conforming with this criterion.

- (8) The applicant shall demonstrate that the provider of the proposed services will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services. The applicant shall also demonstrate that the proposed service will be coordinated with the existing health care system.

C

Exhibit E contains an agreement for the provision of durable medical equipment, respiratory equipment, enteral formula and related supplies and services for Penick residents. Agreements for the provision of hospice, therapy, behavioral health, pharmacy and podiatry services are in Exhibits F, G, H, I and J, respectively.

The applicant adequately demonstrates that it will provide or make arrangements for the necessary ancillary and support services and that the proposed services will be coordinated with the existing health care system. Therefore, the application is conforming with this criterion.

- (9) An applicant proposing to provide a substantial portion of the project's services to individuals not residing in the health service area in which the project is located, or in adjacent health service areas, shall document the special needs and circumstances that warrant service to these individuals.

NA

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates:

- (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and

NA

- (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner, which is consistent with the basic method of operation of the HMO. In assessing the availability of these

health services from these providers, the applicant shall consider only whether the services from these providers:

- (i) would be available under a contract of at least 5 years duration;
- (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
- (iii) would cost no more than if the services were provided by the HMO; and
- (iv) would be available in a manner, which is administratively feasible to the HMO.

NA

(11) Repealed effective July 1, 1987.

(12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

NA

The proposed project does not involve construction.

(13) The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:

- (a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area, which is medically underserved;

NA

Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds requires the applicant to exclusively meet the needs of people with whom the facility has continuing care contracts and whom have

lived at Penick Village for at least 30 days. The Policy also prohibits participation in the Medicaid program and serving State-County Special Assistance recipients.

- (b) Its past performance in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

NA

Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds requires the applicant to exclusively meet the needs of people with whom the facility has continuing care contracts and whom have lived at Penick Village for at least 30 days. The Policy also prohibits participation in the Medicaid program and serving State-County Special Assistance recipients.

- (c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

NA

Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds requires the applicant to exclusively meet the needs of people with whom the facility has continuing care contracts and whom have lived at Penick Village for at least 30 days. The Policy also prohibits participation in the Medicaid program and serving State-County Special Assistance recipients.

- (d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

NA

Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds requires the applicant to exclusively meet the needs of people with whom the facility has continuing care contracts and whom have lived at Penick Village for at least 30 days.

- (14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

C

Exhibits N and O contain agreements between Penick Village and Sandhills Community College for Penick Village to serve as a clinical training site for the college's nursing and nursing assistant programs. The applicant demonstrates that the proposed health services will accommodate the clinical needs of health professional training programs in the area. Therefore, the application is conforming with this criterion.

- (15) Repealed effective July 1, 1987.
 (16) Repealed effective July 1, 1987.
 (17) Repealed effective July 1, 1987.
 (18) Repealed effective July 1, 1987.
- (18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

NA

Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds requires the applicant to exclusively meet the needs of people with whom the facility has continuing care contracts and whom have lived at Penick Village for at least 30 days.

- (19) Repealed effective July 1, 1987.
- (20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

C

In Section II.6, page 18, the applicant lists a Type A Violation, along with a monetary penalty of \$14,000. The Nursing Home Licensure and Certification Section, DHSR confirmed it issued Penick Village A Type A1 violation that was immediate jeopardy on August 22, 2012 and that corrections were completed by August 25, 2012. According to the Nursing Home Licensure and Certification Section, DHSR, within the 18 months immediately preceding the date of this decision, there were no other incidents for which

suspension of admissions, provisional license, or certification deficiencies that would constitute substandard quality of care were imposed on Penick Village. After reviewing and considering the information provided by the applicant and by the Nursing Home Licensure and Certification Section, the applicant has provided evidence that quality care has been provided in the past and demonstrated that there is no pattern of substandard quality of care. Therefore, the application is conforming with this criterion

(21) Repealed effective July 1, 1987.

- (b) The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

C

The proposal is conforming with all applicable Criteria and Standards for Nursing Facility or Adult Care Home Services in 10A NCAC 14C Section .1100, as indicated below.

SECTION .1100 - CRITERIA AND STANDARDS FOR NURSING FACILITY SERVICES or ADULT CARE HOME SERVICES

.1101 INFORMATION REQUIRED OF APPLICANT

- (a) *An applicant proposing to establish new nursing facility or adult care home beds shall project an occupancy level for the entire facility for each of the first eight calendar quarters following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.*
- C- Penick Village provides the assumptions and projects the first thirteen quarters of occupancy levels in Section IV.2, pages 26-30.
- (b) *An applicant proposing to establish new nursing facility or adult care home beds shall project patient origin by percentage by county of residence. All assumptions, including the specific methodology by which patient origin is projected, shall be stated.*

- C- The applicant projects patient origin by county of residence and provides the assumptions and methodologies used to make the projections in Sections III. 6 and 7 of the application.
- (c) *An applicant proposing to establish new nursing facility or adult care home beds shall show that at least 85 percent of the anticipated patient population in the entire facility lives within a 45 mile radius of the facility, with the exception that this standard shall be waived for applicants proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, facilities that are fraternal or religious facilities, or facilities that are part of licensed continuing care facilities which make services available to large or geographically diverse populations.*
- C- On pages 24-25, the applicant states that, as a CCRC, all of the patients will be residents of Penick Village in Moore County, and live within a 45 miles radius of the proposed facility.
- (d) *An applicant proposing to establish a new nursing facility or adult care home shall specify the site on which the facility will be located. If the proposed site is not owned by or under the control of the applicant, the applicant shall specify at least one alternate site on which the services could be operated should acquisition efforts relative to the proposed site ultimately fail, and shall demonstrate that the proposed and alternate sites are available for acquisition.*
- NA- The applicant does not propose to establish a new nursing facility.
- (e) *An applicant proposing to establish a new nursing facility or adult care home shall document that the proposed site and alternate sites are suitable for development of the facility with regard to water, sewage disposal, site development and zoning including the required procedures for obtaining zoning changes and a special use permit after a certificate of need is obtained.*
- NA- The applicant does not propose to establish a new nursing facility.
- (f) *An applicant proposing to establish new nursing facility or adult care home beds shall provide documentation to demonstrate that the physical plant will conform with all requirements as stated in 10A NCAC 13D or 10A NCAC 13F, whichever is applicable.*
- C- The applicant states in Section I, page 13 (confirmed by letter from architect in Exhibit D) that the proposed facility will conform with all requirements as stated in 10A NCAC 13F.

.1102 PERFORMANCE STANDARDS

- (a) *An applicant proposing to add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed nursing facility beds within the facility in which the new beds are to be operated was at least 90 percent.*
- NA- The applicant is not proposing to add nursing facility beds.
- (b) *An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.*
- NA- The applicant is not proposing to add nursing facility beds.
- (c) *An applicant proposing to add adult care home beds to an existing facility shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed adult care home beds within the facility in which the new beds are to be operated was at least 85 percent.*
- C- In Section VI.1, page 26, the applicant states that the average occupancy during the past nine months was 93%.
- (d) *An applicant proposing to establish a new adult care home facility or add adult care home beds to an existing facility shall not be approved unless occupancy is projected to be at least 85 percent for the total number of adult care home beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.*
- C- In Section VI, pages 27-29, the applicant projects the occupancy rate to be 93% during the first three full years of operation, and provides the assumptions and methodology for these projections.