

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: April 11, 2017

Findings Date: April 11, 2017

Project Analyst: Gloria C. Hale

Team Leader: Fatimah Wilson

Assistant Chief: Martha J. Frisone

Project ID #: O-11279-16

Facility: New Hanover Senior Living

FID #: 160565

County: New Hanover

Applicants: Wilmington Propco, LLC and New Hanover House, LLC

Project: Relocate 40 ACH beds from Sherwood Manor to the existing 61-bed New Hanover House for a total of 101 ACH beds and rename the facility to New Hanover Senior Living

### REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

N.C. Gen. Stat. § 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

The applicants, Wilmington Propco Holdings, LLC and New Hanover House, LLC propose to acquire and relocate 40 existing adult care home (ACH) beds from Sherwood Manor Rest Home (Sherwood Manor), an ACH located in Wilmington and licensed for 40 ACH beds, to New Hanover House, an existing 61-bed ACH facility, pursuant to Policy LTC-2 in the 2016 State Medical Facilities Plan (SMFP). New Hanover House is located in Wilmington and is licensed for 61 ACH beds, including a 32-bed Special Care

Unit (SCU). The applicants propose to build an addition to New Hanover House to house the 40 ACH beds that will be relocated. Both Sherwood Manor and New Hanover House are located in New Hanover County. New Hanover House will be renamed New Hanover Senior Living. At the completion of the project, New Hanover Senior Living will have a total of 101 ACH beds, including a 32-bed SCU.

### **Need Determination**

The proposed project does not involve the addition of any new health service facility beds, services or equipment for which there is a need determination in the 2016 SMFP. Therefore, there are no need determinations applicable to this review.

### **Policies**

There are two policies in the 2016 SMFP that are applicable to this review: *Policy LTC-2: Relocation of Adult Care Home Beds* and *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*.

*Policy LTC-2*, on page 32 of the 2016 SMFP, states:

*“Relocations of existing licensed adult care home beds are allowed only within the host county and to contiguous counties. Certificate of need applicants proposing to relocate licensed adult care home beds to a contiguous county shall:*

- 1. Demonstrate that the facility losing beds or moving to a contiguous county is currently serving residents of that contiguous county; and*
- 2. Demonstrate that the proposal shall not result in a deficit, or increase an existing deficit in the number of licensed adult care home beds in the county that would be losing adult care home beds as a result of the proposed project, as reflected in the State Medical Facilities Plan in effect at the time the certificate of need review begins; and*
- 3. Demonstrate that the proposal shall not result in a surplus, or increase an existing surplus of licensed adult care home beds in the county that would gain adult care home beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins.”*

Both facilities are located in New Hanover County; therefore the number of licensed adult care home beds in New Hanover County will not change with the proposed relocation of the beds. The application is consistent with *Policy LTC-2*.

Policy GEN-4, on pages 39-40 of the 2016 SMFP, states:

*“Any person proposing a capital expenditure greater than \$2 million to develop, replace, renovate or add to a health service facility pursuant to G.S. 131E-178 shall include in its certificate of need application a written statement describing the project’s plan to assure improved energy efficiency and water conservation.*

*In improving a certificate of need proposing an expenditure greater than \$5 million to develop, replace, renovate or add to a health service facility pursuant to G.S. 131E-178, Certificate of Need shall impose a condition requiring the applicant to develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy GEN-4.*

*Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. 131E-184 are required to submit a plan for energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy GEN-4. The plan shall not adversely affect patient or resident health, safety or infection control.”*

The proposed project is greater than \$2 million but less than \$5 million. In Section X.9, page 40, and in a letter provided by an architect in Exhibit W, the applicants describe how they will assure improved energy efficiency and water conservation, including the use of dual pane windows, modern HVAC units, a tankless water heater, and efficient plumbing systems. Therefore, the application is consistent with *Policy GEN-4*.

### **Conclusion**

In summary, the applicants adequately demonstrate that their proposal is consistent with *Policy LTC-2* and *Policy GEN-4*. Therefore, the application is conforming to this criterion.

- (2) Repealed effective July 1, 1987.
- (3) The applicants 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.

NC

The applicants proposes to acquire and relocate 40 existing ACH beds from Sherwood Manor to New Hanover House pursuant to Policy LTC-2 in the 2016 SMFP. New Hanover House is an existing 61-bed ACH facility with 29 regular ACH beds and 32 SCU beds. At the completion of the project, New Hanover House will be renamed New Hanover Senior Living and will have a total of 101 ACH beds, including a 32-bed SCU. New Hanover Senior Living is located at 3915 Stedwick Court, Wilmington, in New Hanover County, and is less than four miles south of Sherwood Manor. The applicants state, in Section I, page 7, that New Hanover Senior Living will be managed by Affinity Living Group. Exhibit D contains a copy of an asset purchase agreement with the owner of Sherwood Manor.

**Patient Origin**

On page 223, the 2016 SMFP defines the service area for adult care home beds as *“the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area.”* Thus, the service area for this project consists of New Hanover County. Facilities may also serve residents of counties not included in their service area.

In Section III.7, pages 15-16, the applicants provide current and projected patient origin for New Hanover Senior Living, illustrated as follows:

**New Hanover Senior Living  
Current and Projected Patient Origin**

<b>County</b>	<b>Current % of Total ACH Admissions</b>	<b>Projected % of Total ACH Admissions, Project Year One 8/1/2019 – 7/31/2020</b>
New Hanover	100.0%	100.0%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>

In Section III.7, page 16, the applicants state that the projected patient origin is not expected to change from the current patient origin.

The applicants adequately identify the population to be served.

### **Analysis of Need**

In Section III.1, page 13, and in supplemental information, the applicants describe the need to relocate the 40 existing ACH beds at Sherwood Manor to New Hanover House. In supplemental information, the applicants state,

*“Sherwood Manor Assisted Living is making plans to cease operations. The proposed relocation of the 40-assisted living beds from Sherwood Manor to that of New Hanover House is crucial in the continued provision of assisted care services.”*

In Exhibit D, the applicants provide a copy of a signed asset purchase agreement with the owner of Sherwood Manor which states that the ownership of Sherwood Manor and the operation of its 40 ACH beds will be transferred to the applicants after the Certificate of Need (CON) has been issued. In supplemental information, the applicants state that the 40 ACH beds will be an addition to an existing ACH facility that is less than five years old.

The applicants state, in supplemental information, and based on data provided in Exhibit E, that from 2016 through 2021 the number of persons in New Hanover County that are 50 years of age and older will increase by 10,158 for an annual growth rate of 2.45%. Of the 10,158 persons age 50 and over, 3,759 of them, or 37%, are projected to need assistance with one or more activities of daily living.

The applicants state, in Section III.1, page 13, that the replacement facility [addition] *“will improve quality of care and patient environment”* and will *“incorporate modern design, configuration and construction features.”*

### **Projected Utilization**

In supplemental information, the applicants provide historical utilization for New Hanover House, summarized as follows:

**New Hanover House Historical Utilization  
 February 1, 2016 through October 31, 2016**

	Feb	Mar	Apr	May	Jun	July	Aug	Sept	Oct	Total
<b>ACH Beds</b>										
Patient Days	663	748	755	772	702	789	876	855	900	7,060
# of Beds	29	29	29	29	29	29	29	29	29	29
Occupancy Rate	78.8%	83.2%	86.8%	85.9%	80.7%	87.8%	97.4%	98.3%	100.0%	88.9%
<b>SCU Beds</b>										
Patient Days	811	820	779	817	801	812	817	842	890	7,389
# of Beds	32	32	32	32	32	32	32	32	32	32
Occupancy Rate	87.4%	82.7%	81.2%	82.4%	83.4%	81.9%	82.4%	87.7%	89.7%	84.3%
<b>Total ACH</b>										
Patient Days	1,474	1,568	1,534	1,589	1,503	1,601	1,693	1,697	1,790	14,449
# of Beds	61	61	61	61	61	61	61	61	61	61
Occupancy Rate	83.3%	82.9%	83.8%	84.0%	82.1%	84.7%	89.5%	92.7%	94.7%	86.5%

As the table above shows, New Hanover House operated at an average of 86.5% of capacity from February 2016 through October 2016.

In Section IV.1, page 18, the applicants provide projected utilization for the second operating year (OY2), October 1, 2020 through September 30, 2021, summarized as follows:

**New Hanover Senior Living  
 Projected Utilization  
 OY2, October 1, 2020 through September 30, 2021**

	<b>1<sup>st</sup> Quarter 10/1/2020 – 12/31/2020</b>	<b>2<sup>nd</sup> Quarter 1/1/2021 – 3/31/2021</b>	<b>3<sup>rd</sup> Quarter 4/1/2021 – 6/30/2021</b>	<b>4<sup>th</sup> Quarter 7/1/2021 – 9/30/2021</b>	<b>Total</b>
<b>ACH Beds</b>					
Patient Days	4,784	5,220	5,764	5,888	21,656
# of Beds	69	69	69	69	69
Occupancy Rate*	75.4% [76.0%]	84.1% [82.9%]	91.8% [91.6%]	92.8% [93.5%]	86.0%
<b>SCU Beds</b>					
Patient Days	2,576	2,520	2,548	2,576	10,220
# of Beds	32	32	32	32	32
Occupancy Rate*	87.5% [88.2%]	87.5% [86.3%]	87.5% [87.3%]	87.5% [88.2%]	87.5%
<b>Total ACH Facility</b>					
Patient Days	7,360	7,740	8,312	8,464	31,876
# of Beds	101	101	101	101	101
Occupancy Rate*	79.2% [79.9%]	85.1% [84.0%]	90.4% [90.2%]	91.1% [91.8%]	86.5%

\*Project Analyst's corrections are in brackets.

As shown above, for OY2, following completion of the proposed project, the applicants project that New Hanover Senior Living will operate at 91.1% [91.8%] of capacity by the fourth quarter of the second operating year of the project (8,464 patient days/91.25 days per quarter/101 beds = 0.918 or 91.8%).

The applicants provide their assumptions and methodology in Exhibit L, stating that the facility will have 54 beds “reserved” at the beginning of OY1, October 1, 2019, and that the facility will fill at a rate of two residents per month until the facility has filled. The applicants state, in supplemental information, that New Hanover House had a total of 61 ACH beds with an average occupancy rate of 86.5%. According to the 2017 License Renewal Application (LRA) for New Hanover House, the facility had 52 residents as of July 31, 2016. Therefore, the applicants’ statement that the facility will begin OY1 with 54 of its 101 ACH beds filled is reasonable. Consequently, the applicants’ projected utilization is based on reasonable and adequately supported assumptions.

**Access**

The applicants state, in Section VI.3, page 23, that admissions to New Hanover Senior Living will occur only on the written order of a physician and that:

*“...all persons will be admitted to the facility without regard to their race, color, creed, age, national origin, handicap, sex, or source of payment...”*

In addition, the applicants state, on page 23, that all routine and specialized services will be made available to all persons without regard to their race, color, creed, age, national origin, handicap, sex, or source of payment. The applicants provide the facility’s admissions policies in Exhibit M. In Section VI.2, page 23, the applicants state that 34.4% of New Hanover Senior Living’s patient days for the second operating year will be paid by Special Assistance – Basic Medicaid.

However, the 2017 LRA for Sherwood Manor indicates that 92.1% of the facility’s patient days were reimbursed by Special Assistance – Basic Medicaid from August 1, 2015 through July 31, 2016. Therefore, Sherwood Manor’s patients are largely Medicaid recipients. In supplemental information, the applicants state that all of the proposed 40 beds to be relocated to New Hanover Senior Living will be private pay. In addition, the applicants state, in supplemental information and in Section VI.2, page 23, that the percentage of patient days paid by Special Assistance – Basic Medicaid at New Hanover Senior Living will decrease from 63.1% to 34.4% at the completion of the project. The applicants do not adequately explain the reasons for the decrease or how the Special Assistance – Basic Medicaid population currently using the beds at Sherwood Manor would have access to the proposed services. Moreover, the proposed decrease in the percentage of patient days to be paid by Special Assistance-Basic Medicaid, from 92.1% to 34.4%, decreases access to ACH beds for the medically underserved population in the county as a whole.

Therefore, the applicants do not adequately demonstrate the extent to which all residents of the area, including underserved groups, are likely to have access to the services.

### **Conclusion**

In summary, the applicants adequately identify the population to be served and adequately demonstrate the need the population to be served has for the proposed services. However, they do not adequately demonstrate the extent to which all residents of the area, including underserved groups, are likely to have access to the services. Therefore, the application is not conforming to 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.



NC

The applicants propose to acquire and relocate 40 existing ACH beds from Sherwood Manor to New Hanover House pursuant to *Policy LTC-2* in the 2016 SMFP. New Hanover House will be renamed New Hanover Senior Living. At the completion of the project, New Hanover Senior Living will have a total of 101 ACH beds, including a 32-bed SCU.

The applicants state, in supplemental information, that the closing of Sherwood Manor “*will be planned and executed according to licensure protocols...*” and that the facility will provide assistance to residents and their families with placement at new facilities. In Section III.6(c), page 15, the applicants state that the proposed facility “*is less than four miles from the former facility and will enhance the ability of the residents of the county to receive care services in a purpose built, efficient building.*” In addition, in Section III.3, page 14, the applicants state that the proposed facility is the most effective alternative because of its proximity to the former facility.

However, the 2017 LRA for Sherwood Manor indicates that 92.1% of the facility’s patient days were reimbursed by Special Assistance – Basic Medicaid from August 1, 2015 through July 31, 2016. Therefore, Sherwood Manor’s patients are largely Medicaid recipients. In supplemental information, the applicants state that all of the proposed 40 beds to be relocated to New Hanover Senior Living will be private pay. In addition, the applicants state, in supplemental information and in Section VI.2, page 23, that the percentage of patient days paid by Special Assistance – Basic Medicaid at New Hanover Senior Living will decrease from 63.1% to 34.4% at the completion of the project. The applicants do not adequately explain the reasons for the decrease or how the Special Assistance – Basic Medicaid population currently using the beds at Sherwood Manor would have access to the proposed services. Moreover, the proposed decrease in the percentage of patient days to be paid by Special Assistance-Basic Medicaid, from 92.1% to 34.4%, decreases access to ACH beds for the medically underserved population in the county as a whole.

Therefore, the applicants do not adequately demonstrate that the needs of the population presently served will be adequately met and that the proposal will not adversely affect the ability of medically underserved groups to obtain needed health care. Therefore, the application is not conforming to this criterion.

- (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.

NC

In supplemental information, the applicants state that an alternative was for the current owner of Sherwood Manor to provide assistance to its current residents in securing placement into new facilities because the facility's size and physical plant were making it financially difficult to operate. The applicants further state that the chosen alternative, to acquire and relocate the beds to New Hanover Senior Living, allows the current owner to be compensated for the 40 beds, allows the beds to remain in the ACH bed inventory, and enables the new facility to be located in a desirable location with "*services to the underserved citizens of New Hanover County.*" The applicants propose that all 40 beds will be private pay at New Hanover Senior Living. At Sherwood Manor, 91.1% of the residents of those 40 beds are receiving Special Assistance – Basic Medicaid. Moreover, the current percentage of patient days reimbursed by Special Assistance – Basic Medicaid at New Hanover is 63.1%. Once the beds are relocated, the percentage of patient days reimbursed by Special Assistance - Basic Medicaid decreases to 34.4%. The 40 beds remain in the ACH bed inventory, but they will not be as accessible to the underserved. The discussion regarding access found in Criteria (3), (3a) and (13c) is incorporated herein by reference. The applicants do not adequately explain the proposed reduction in access. Therefore, the applicants do not adequately demonstrate that the proposal is an effective alternative.

Furthermore, the application is not conforming to all other applicable statutory and regulatory review criteria, and thus, is not approvable. See Criteria (3), (3a), (13c), and (18a). An application that cannot be approved cannot be an effective alternative.

In summary, the applicants do not adequately demonstrate that the proposed alternative is the most effective or least costly alternative to meet the need identified. The application is not conforming to this criterion.

- (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

The applicants propose to acquire and relocate 40 existing ACH beds from Sherwood Manor to New Hanover House pursuant to Policy LTC-2. Upon project completion, New Hanover House, which will be renamed New Hanover Senior Living, will have a total of 101 ACH beds, consisting of 69 ACH beds and 32 SCU beds.

**Capital and Working Capital Costs**

In Section VIII.1, page 32, the applicants project the total capital cost of the proposed project will be \$2,497,070, including:

**New Hanover Senior Living  
Projected Capital Costs**

<b>Costs</b>	<b>Total Costs</b>
Site	\$ 278,350
Construction	\$ 1,413,720
Building purchase	\$ 300,000
Equipment and furniture	\$ 230,000
Architect & Engineering Fees	\$ 75,000
Commercial loan	\$ 80,000
Interest during construction	\$ 85,000
Other (contingency)	\$ 35,000
<b>Total Capital Costs</b>	<b>\$ 2,497,070</b>

In Exhibit P, the applicants state that it will have \$135,500 in start-up costs and \$152,345 in initial operating costs, for a total of \$287,845 in working capital costs.

**Availability of Funds**

In Section VIII.2, page 33, the applicants document that they intend to fund the project through a commercial loan.

In Exhibit N, the applicants provide a letter dated November 11, 2016 from the Managing Director of Locust Point Capital stating that it will consider lending \$2,497,070 for the proposed project.

The applicants provide a letter in Exhibit P from Locust Point Capital stating its interest in financing the project's working capital costs in the amount of \$287,845.

The applicants adequately demonstrate the availability of sufficient funds for the capital and working capital needs of the project.

**Financial Feasibility**

In Section IX.3, page 36, the applicants project that the private pay charge for a private room for an ACH bed at New Hanover Senior Living in operating year one will be \$127.02 per day. All 40 ACH beds to be relocated to New Hanover House will be regular ACH beds. However, New Hanover House currently has both regular ACH and SCU beds. The private pay charge for a semi-private room for SCU beds at New Hanover House in operating year one will be \$143.33 per day.

The applicants provide pro forma financial statements for the first three operating years of the project following completion of the project. In the pro forma financial statements (Form B), the applicants project that operating costs will exceed revenues in the first operating year of the project, and that revenues will exceed operating costs in the second and third operating years of the project, as shown in the table below.

**New Hanover Senior Living**

<b>ACH Beds</b>	<b>Year 1 FFY2020</b>	<b>Year 2 FFY2021</b>	<b>Year 3 FFY2022</b>
Projected # of Patient Days	13,540	21,656	23,360
Projected Average Charge (Gross Patient Revenue / Projected # of Patient Days)	\$103.13	\$111.64	\$112.63
Gross Patient Revenue	\$1,396,318	\$2,417,577	\$2,630,975
Deductions from Gross Patient Revenue	0	0	0
Total Net Revenue	\$1,396,318	\$2,417,577	\$2,630,975
Total Expenses	\$1,451,828	\$2,071,147	\$2,149,803
Net Income	\$(55,511)	\$346,430	\$481,171
<b>SCU Beds</b>			
Projected # of Patient Days	10,248	10,220	10,220
Projected Average Charge (Gross Patient Revenue / Projected # of Patient Days)	\$114.12	\$114.43	\$114.43
Gross Patient Revenue	\$1,169,482	\$1,169,482	\$1,169,482
Deductions from Gross Patient Revenue	0	0	0
Total Net Revenue	\$1,169,482	\$1,169,482	\$1,169,482
Total Expenses	\$1,262,700	\$1,209,787	\$1,186,483
Net Income	\$(93,218)	\$(40,305)	\$(17,001)
<b>Total Licensed ACH Beds (ACH and SCU)</b>			
Projected # of Patient Days	23,788	31,876	33,580
Gross Patient Revenue	\$2,565,799	\$3,587,059	\$3,800,456
Deductions from Gross Patient Revenue	0	0	0
Total Net Revenue	\$2,565,799	\$3,587,059	\$3,800,456
Total Expenses	\$2,714,528	\$3,280,934	\$3,336,286
Net Income	\$(148,729)	\$306,125	\$464,170

The assumptions used by the applicants in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See Section Q of the application for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. The applicants adequately demonstrate sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

## **Conclusion**

In summary, the applicants adequately demonstrate the availability of sufficient funds for the operating needs, capital needs and working capital needs of the project. Furthermore, the applicants adequately demonstrate that the financial feasibility of the proposal is based upon reasonable projections of costs and charges. 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 applicants propose to acquire and relocate 40 existing ACH beds from Sherwood Manor to New Hanover House pursuant to Policy LTC-2. Upon project completion, New Hanover House, which will be renamed New Hanover Senior Living, will have a total of 101 ACH beds, consisting of 69 ACH beds and 32 SCU beds.

On page 223, the 2016 SMFP defines the service area for adult care home beds as “*the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area*”. Thus, the service area for this project consists of New Hanover County. Facilities may also serve residents of counties not included in their service area.

Sherwood Manor’s 40 ACH beds are listed in the inventory of ACH beds for New Hanover County in the 2016 SMFP. The proposed project will relocate Sherwood Manor’s 40 ACH beds to New Hanover House, another ACH facility in New Hanover County. Therefore, the proposed project would not increase the inventory of ACH beds in New Hanover County. New Hanover House is located at 3915 Stedwick Court in Wilmington and is less than four miles from Sherwood Manor<sup>1</sup>. Sherwood Manor is also located in Wilmington.

The 2016 SMFP documents that there are a total of 20 facilities with existing, licensed ACH beds in New Hanover County. Seventeen are freestanding ACH facilities and three are nursing facilities with ACH beds. One additional ACH facility has received CON approval, but is pending licensure. As reported in the 2016 SMFP, the total number of licensed ACH beds in New Hanover County is 1,103. The table below provides a summary of the facilities with licensed ACH beds in New Hanover County.

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<sup>1</sup> Mapquest <https://www.mapquest.com>

**New Hanover County Facilities with Licensed ACH Beds**

<b>Facility Name</b>	<b>Facility Type</b>	<b>Location</b>	<b>Total # of ACH Beds</b>
Autumn Care of Myrtle Grove	NH	Wilmington	20
Liberty Commons Rehabilitation Center	NH	Wilmington	40
Wilmington Health and Rehabilitation Center	NH	Wilmington	16
Brookdale Wilmington	ACH	Wilmington	38
Castle Creek Memory Care	ACH	Castle Hayne	84
Cedar Cove Assisted Living	ACH	Wilmington	64
Champions Assisted Living	ACH	Wilmington	148
Fannie Norwood Memorial Home	ACH	Wilmington	16
New Hanover House	ACH	Wilmington	61
Pacifica Senior Living Wilmington	ACH	Wilmington	101
Port South Village/Carmen D. Villa	ACH	Wilmington	12
Port South Village/Catherine S. Villa	ACH	Wilmington	12
Port South Village/Crystal L. Villa	ACH	Wilmington	12
Port South Village/Lorraine B. Villa	ACH	Wilmington	12
Port South Village/Tara L. Villa	ACH	Wilmington	12
Port South Village/Teresa C. Villa	ACH	Wilmington	12
Sherwood Manor	ACH	Wilmington	40
Spring Arbor of Wilmington	ACH	Wilmington	66
The Commons at Brightmore	ACH	Wilmington	201
The Kempton at Brightmore	ACH	Wilmington	136
<b>Total</b>			<b>1,103</b>

Source: 2016 SMFP

As the table above shows, there are 20 facilities that have licensed ACH beds in New Hanover County: three are combination nursing home and ACH facilities, and 17 are freestanding ACH facilities. The applicants are proposing to relocate the 40 ACH beds at Sherwood Manor in Wilmington to New Hanover Senior Living in Wilmington. All 40 ACH beds will be regular ACH beds and not SCU beds. The applicants are proposing to relocate 40 existing, licensed ACH beds, therefore there will be no change in the number of licensed beds in New Hanover County. The discussion regarding the need for the proposed beds found in Criterion (3) is incorporated herein by reference. Consequently, the applicants adequately demonstrate that the proposed project will not result in unnecessary duplication of existing or approved ACH beds in New Hanover County. Therefore, the application is conforming to 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

In Section VII, page 29, the applicants project the number of full-time equivalent (FTE) positions in the second operating year for New Hanover Senior Living, as follows:

**New Hanover Senior Living  
Projected Staff  
OY2, October 1, 2020 – September 30, 2021**

<b>Staff Positions</b>	<b>FTEs</b>
<b>Routine Services</b>	
Supervisor (half direct care)	6.0
Personal Care Aide	12.0
Medical Technician	6.0
Care Coordinator	2.0
<b>Dietary</b>	4.0
<b>Activity Services</b>	1.5
<b>Patient Transportation</b>	1.0
<b>Housekeeping/Laundry</b>	3.0
<b>Maintenance</b>	1.0
<b>Administration/General</b>	2.0
<b>Totals</b>	<b>38.5</b>

As shown in the table above, the applicants propose to staff New Hanover Senior Living's 101 ACH beds with 38.5 FTEs. Half of the Supervisor FTEs and all of the Personal Care Aides, Medical Technicians, and Care Coordinators will provide direct care for a total of 23 direct care staff positions. Salaries per FTE for the health manpower and management positions proposed by the applicants are provided in Section VII, page 29. The staffing costs in the applicants' pro forma financial statements Form C for direct care, dietary, and housekeeping staff positions are greater than the costs calculated by the Project Analyst using staffing FTEs and costs provided by the applicants in Section VII, page 29. Thus, adequate costs for health manpower and management positions are budgeted in the pro forma financial statements provided in Section XII.

The applicants adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services. Therefore, the application is conforming to 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

In Section II.1, pages 8-10, the applicants describe the ancillary and support services that will be provided by the facility or made available through agreements with other providers including dietary, pharmacy and nurse consultation services. Exhibit X contains copies of letters from a dietary provider, a pharmacy provider, and a nurse, each stating their willingness to provide their respective services to New Hanover Senior Living. In addition, in Exhibit I, the applicants provide copies of letters to local social services providers inviting their collaboration and in Exhibit J, the applicants provide a copy of a letter to New Hanover Regional Medical Center regarding the development of a transfer agreement. Moreover, in Exhibit K, two letters to community physicians are provided.

The applicants adequately demonstrate that the necessary ancillary and support services will be available and that the proposed services will be coordinated with the existing health care system. Therefore, the application is conforming to 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 (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.

C

The applicants propose to acquire and relocate 40 existing ACH beds from Sherwood Manor to New Hanover House pursuant to Policy LTC-2. Upon project completion, New Hanover House, which will be renamed New Hanover Senior Living, will have a total of 101 ACH beds, consisting of 69 ACH beds and 32 SCU beds. All 40 relocated ACH beds will be housed in an addition that will be constructed onto New Hanover House. In Section X.3, page 39, the applicants state that the addition to be constructed will be 15,120 square feet. In Section VIII.1, page 31, the applicants state that the capital cost of the proposed project will be \$2,497,070.

Exhibit W contains a letter from an architect which estimates that the construction costs will be \$92.50 per square foot. The Project Analyst calculates the total construction cost to be \$1,398,600 which is less than the line item construction costs provided by the applicants in Section VIII.1, page 32, of \$1,413,720. Line drawings of the entire facility, including the proposed 40-bed ACH addition, are provided in Exhibit V. In Section X.9, page 40, the applicants describe the methods that will be used by the facility to maintain efficient energy operations. In addition, a letter provided by an architect, in Exhibit W, further describes planned energy-efficient features of the project. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference. The applicants adequately demonstrate that the cost, design and means of construction represent the most reasonable alternative, and that the construction cost will not unduly increase costs and charges for health services. Therefore, the application is conforming to this criterion.

- (13) The applicants 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 applicants 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;

C

In supplemental information, the applicants provide the payor mix for New Hanover House from February 1, 2016 through October 31, 2016, as illustrated in the following table:

**New Hanover House  
 Patient Days by Payor Category\*  
 February 1, 2016 – October 31, 2016**

Payor Category	# of Patient Days	Percent of Patient Days
Private Pay	5,332	36.9%
Special Assistance – Basic Medicaid	9,117	63.1%
<b>Total</b>	<b>14,449</b>	<b>100.0%</b>

\*Includes ACH and SCU beds

The United States Census Bureau provides demographic data for North Carolina and all counties in North Carolina. The following table contains relevant demographic statistics for the applicants’ service area.

<b>Percent of Population</b>						
County	% 65+	% Female	% Racial and Ethnic Minority*	% Persons in Poverty**	% < Age 65 with a Disability	% < Age 65 without Health Insurance**
	2014 Estimate	2014 Estimate	2014 Estimate	2010-2014	2010-2014	2014 Estimate
New Hanover	16%	52%	23%	18%	9%	19%
Statewide	15%	51%	36%	17%	10%	15%

<http://www.census.gov/quickfacts/table> Latest Data as of 12/22/15

\*Excludes "White alone" who are "not Hispanic or Latino"

\*\*\*"This geographic level of poverty and health estimates are not comparable to other geographic levels of these estimates. Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable...The vintage year (e.g., V2015) refers to the final year of the series (2010 thru 2015). Different vintage years of estimates are not comparable."

However, a direct comparison to the applicants’ current payor mix would be of little value. The population data by age, race or gender does not include information on the number of elderly, minorities, women or handicapped persons utilizing health services.

The applicants adequately demonstrate that its the facility provides access to medically underserved populations. Therefore, the application is conforming to this criterion.

- (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

The applicants will be the new owners of the 40 ACH beds proposed to be relocated in this project, therefore there is no information on the applicants' past performance in regard to meeting any obligations to provide uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including any civil rights access complaints.

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

NC

In Section VI.2, page 23, the applicants project the payor mix for New Hanover Senior Living's second operating year, as follows:

**New Hanover Senior Living Projected Payor Mix\*  
OY2 (October 1, 2020 – September 30, 2021)**

<b>Payor Category</b>	<b># of Patient Days</b>	<b>Percent of Patient Days**</b>
Private Pay	20,926	65.7%
Special Assistance – Basic Medicaid	10,950	34.4%
<b>Total</b>	<b>31,876</b>	<b>100.0%</b>

\*Includes both ACH and SCU beds

\*\*Percentages may not foot due to rounding.

As shown in the table above, the applicants project that 34.4% of New Hanover Senior Living's ACH patient days will be covered by Special Assistance-Basic Medicaid. The Project Analyst notes that the applicants' projected percentage of patient days to be paid by Special Assistance – Basic Medicaid, decreases from the historical rate of 63.1% to 34.4%. In supplemental information, the applicants state, "All additional beds (40) are private pay/private room payor category." The percentage of patient days currently paid by Special Assistance-Basic Medicaid at Sherwood Manor is 92.1%. The applicants do not adequately explain the reasons for the decrease or how the Special Assistance – Basic Medicaid population currently using the beds at Sherwood Manor would have access to the proposed services. Moreover, the proposed decrease in the percentage of patient days to be paid by Special Assistance-Basic Medicaid, from 92.1% to 34.4%

decreases access to ACH beds for the medically underserved population in the county as a whole.

Therefore, the applicants do not adequately demonstrate that medically underserved populations would have access to the proposed ACH services. Consequently, the application is not conforming to this criterion.

- (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.

C

In Section V.4, page 20, the applicants state that referrals will come from hospitals, social services, churches and other community organizations. In Section VI.3, page 23, the applicants state that residents will be admitted to the facility on the written order of a physician. In Exhibit K, the applicants include copies of letters to area physicians and in Exhibit I, the applicants include copies of letters to social services and aging services agencies to initiate working relationships.

The applicants adequately demonstrate that the facility will offer a range of means by which patients will have access to the proposed services. Therefore, the application is conforming to this criterion.

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

C

In Exhibit K, the applicants provide a copy of a letter to Cape Fear Community College offering New Hanover Senior Living as a clinical training site for the college's students.

The information provided is reasonable and adequately supports a determination that the application is conforming to 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.

NC

The applicants propose to acquire and relocate 40 existing ACH beds from Sherwood Manor to New Hanover House pursuant to Policy LTC-2. Both Sherwood Manor and New Hanover House are located in New Hanover County. Upon project completion, New Hanover House, which will be renamed New Hanover Senior Living, will have a total of 101 ACH beds, consisting of 69 ACH beds and 32 SCU beds.

On page 223, the 2016 SMFP defines the service area for adult care home beds as *“the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area.”* Thus, the service area for this project consists of New Hanover County. Facilities may also serve residents of counties not included in their service area.

The 2016 SMFP documents that there are currently a total of 20 facilities in New Hanover County with licensed ACH beds; three combination facilities with nursing home beds and ACH beds, and 17 freestanding ACH facilities. The table below provides a summary of the 20 facilities with licensed ACH beds in New Hanover County.

**New Hanover County Facilities with Licensed ACH Beds**

<b>Facility Name</b>	<b>Facility Type</b>	<b>Location</b>	<b>Total # of ACH Beds</b>
Autumn Care of Myrtle Grove	NH	Wilmington	20
Liberty Commons Rehabilitation Center	NH	Wilmington	40
Wilmington Health and Rehabilitation Center	NH	Wilmington	16
Brookdale Wilmington	ACH	Wilmington	38
Castle Creek Memory Care	ACH	Castle Hayne	84
Cedar Cove Assisted Living	ACH	Wilmington	64
Champions Assisted Living	ACH	Wilmington	148
Fannie Norwood Memorial Home	ACH	Wilmington	16
New Hanover House	ACH	Wilmington	61
Pacifica Senior Living Wilmington	ACH	Wilmington	101
Port South Village/Carmen D. Villa	ACH	Wilmington	12
Port South Village/Catherine S. Villa	ACH	Wilmington	12
Port South Village/Crystal L. Villa	ACH	Wilmington	12
Port South Village/Lorraine B. Villa	ACH	Wilmington	12
Port South Village/Tara L. Villa	ACH	Wilmington	12
Port South Village/Teresa C. Villa	ACH	Wilmington	12
Sherwood Manor	ACH	Wilmington	40
Spring Arbor of Wilmington	ACH	Wilmington	66
The Commons at Brightmore	ACH	Wilmington	201
The Kempton at Brightmore	ACH	Wilmington	136
<b>Total</b>			<b>1,103</b>

As the table above shows, there are 20 facilities with licensed ACH beds in New Hanover County and all but one are located in Wilmington. The applicants propose to acquire and relocate the 40 ACH beds at Sherwood Manor in Wilmington to New Hanover House, an existing, freestanding ACH facility that is also located in Wilmington, New Hanover County. Therefore, the proposed relocation of licensed ACH beds from Sherwood Manor to New Hanover House will not change the inventory of ACH beds in New Hanover County.

In Section VI.5, page 24, the applicants state that the new addition will be energy efficient, *“provide safety, quality healthcare, promote equitable access and give the best value in healthcare to its residents...”*

See also Sections II, III, VI, and X where the applicants discuss the impact of the project on cost-effectiveness, quality and access to the proposed services.

However, the information provided by the applicants is not reasonable and does not adequately demonstrate that any enhanced competition in the service area includes a positive impact on access to the proposed services and on cost-effectiveness. This determination is based on the information in the application and the following analysis:

- The applicants do not adequately demonstrate that they will provide access to medically underserved populations. The discussions regarding access found in Criteria (3), (3a), and (13c) are incorporated herein by reference.
- The applicants do not adequately demonstrate that the proposed project is a cost-effective alternative. The discussion regarding alternatives found in Criterion (4) is incorporated herein by reference.

Consequently, the application is not conforming to this criterion.

- (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.3, page 12, the applicants state that it is a single purpose entity established for operating New Hanover Senior Living. However, Affinity Living Group, LLC, the management company that will operate New Hanover Senior Living, manages 73 ACH facilities in North Carolina. According to the files in the Adult Care Licensure Section, DHSR, 19 incidents occurred at 17 of the affiliated facilities within the 18 months immediately preceding the submission of the application through the date of this decision related to quality of care. As of the date of this decision, the problems had been corrected. After reviewing and considering information provided by the applicants and by the Adult Care Licensure Section, and considering the quality of care provided at all affiliated facilities, the applicants provide sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to 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 application is conforming with all applicable Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1100. The specific criteria are discussed below.

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

**10A NCAC 14C .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 applicants are 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 applicants 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 supplemental information, the applicants provide historical utilization for New Hanover House for February 2016 through October 2016. The average occupancy rate for February 2016 through October 2016 was 86.5%. Therefore, the applicants are conforming to this criterion.
  
- (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 IV.2, page 18, the applicants project an occupancy rate for the entire facility of 86.5% for operating year two. The assumptions and methodology for the projections are provided in Exhibit L. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.