

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: September 18, 2019

Findings Date: September 18, 2019

Project Analyst: Julie M. Faenza

Team Leader: Fatimah Wilson

Project ID #: R-11726-19

Facility: Elizabeth City Health and Rehabilitation

FID #: 030353

County: Pasquotank

Applicant: Elizabeth City Healthcare Properties, LLC

Project: Cost overrun for Project I.D. #R-8766-11 (add 24 nursing facility beds pursuant to the 2011 SMFP need determination for a total of 170 nursing facility beds)

### REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

N.C. Gen. Stat. § 131E-183(a) The Agency 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

Elizabeth City Healthcare Properties, LLC (referred to as ECHP or “the applicant”) proposes a cost overrun for Project I.D. #R-8766-11 (develop 24 nursing facility beds pursuant to the 2011 need determination for a total of 170 nursing facility beds).

A certificate of need was issued on March 30, 2012 for Project I.D. #R-8766-11 and authorized a capital cost of \$1,000,000. The current application is for a cost overrun of \$1,000,000 which results in a total combined capital cost of \$2,000,000. The cost overrun application is necessary due to delays in development and a corresponding increase in construction costs. In Exhibit C.1, the applicant provides a letter from the company assisting with design and construction describing the reasons for the increase in cost. There is no material change in scope from the originally approved project in this application.

### Need Determination

Project I.D. #R-8766-11 was found to be conforming to the need determination in Pasquotank County for additional nursing facility (NF) beds in the 2011 State Medical Facilities Plan (SMFP). The applicant proposes no changes in the current application which would affect that determination. The applicant does not propose to increase the number of licensed beds in any category, add any new health services, or acquire equipment for which there is a need determination in the 2019 SMFP. Therefore, there are no need determinations applicable to this review.

### Policies

Project I.D. #R-8766-11 was found to be consistent with Policy NH-8 and Policy GEN-3 as published in the 2011 SMFP. The applicant proposes no changes in the current application which would affect that determination. There are no policies in the 2019 SMFP that are applicable to this review.

### Conclusion

Project I.D. #R-8766-11 was previously approved to develop 24 additional NF beds pursuant to the 2011 NF bed need determination in Pasquotank County for a total of 170 NF beds upon project completion. In the original review, the application was conforming to this criterion. The applicant proposes no changes in the current application which would affect that determination. Therefore, the application is conforming to 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.

### C

The applicant proposes a cost overrun for Project I.D. #R-8766-11 (develop 24 nursing facility beds pursuant to the 2011 need determination for a total of 170 nursing facility beds).

A certificate of need was issued on March 30, 2012 for Project I.D. #R-8766-11 and authorized a capital cost of \$1,000,000. The current application is for a cost overrun of \$1,000,000 for a total combined capital cost of \$2,000,000. The cost overrun application is necessary due to delays in development and a corresponding increase in construction costs. There is no material change in scope from the originally approved project in this application.

In Project I.D. #R-8766-11, the applicant, Carolina Adventist Retirement Systems, Inc., operated W.R. Winslow Memorial Home (with 146 NF beds) and Carolina House, a separate building with 24 independent living units on the same campus as W.R. Winslow Memorial

Home. The applicant was not a Continuing Care Retirement Community. The applicant proposed to convert the 24 independent living units in Carolina House to private NF beds, pursuant to a need determination in the 2011 SMFP for new NF beds in Pasquotank County. Development of the proposed project was delayed after the issuance of the certificate of need on March 30, 2012. On November 20, 2015, the Agency responded to prior written notice of the acquisition of W.R. Winslow Memorial Home by ECHP, confirming that the acquisition was exempt from certificate of need review. ECHP also changed the name of the facility to Elizabeth City Health and Rehabilitation (Elizabeth City H&R). In Section C, page 22, the applicant states the change in ownership has resulted in further delays in development, and those delays in development and the corresponding increases in costs for construction labor and materials are the reason for the cost overrun application.

Patient Origin

On page 189, the 2019 SMFP defines the service area for NF beds as “...the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing bed care planning area.” Thus, the service area for this facility consists of Pasquotank County. Facilities may also serve residents of counties not included in their service area.

The application for Project I.D. #R-8766-11 adequately identified the current and projected patient origin for the facility at the time of the application. No changes are proposed in this application which would affect that determination.

Analysis of Need

The following table compares the previously approved capital cost and the proposed capital cost, as reported on Form F.1b in Section Q.

<b>Elizabeth City H&amp;R – Previously Approved and Proposed Capital Cost</b>			
	<b>Previously Approved Cost (R-8766-11)</b>	<b>Additional Costs Projected (R-11726-19)</b>	<b>Total</b>
Site Preparation	\$52,000	\$11,000	\$63,000
Construction/Renovation Contract(s)	\$582,000	\$959,000	\$1,541,000
Landscaping	\$8,000	\$0	\$8,000
Architect/Engineering Fees	\$64,000	\$0	\$64,000
Non-Medical Equipment	\$35,000	\$0	\$35,000
Furniture	\$93,000	\$0	\$93,000
Consultant Fees	\$48,000	\$10,000	\$58,000
Financing Costs	\$25,000	\$0	\$25,000
Interest During Construction	\$35,000	\$20,000	\$55,000
Other	\$58,000	\$0	\$58,000
<b>Total Capital Costs</b>	<b>\$1,000,000</b>	<b>\$1,000,000</b>	<b>\$2,000,000</b>

In Section C, page 22, the applicant states the increase in capital expenditure is due to changes in prices for materials and labor between the time of the original application and the current application. The applicant states the delay in time between the original application and the current application is due in part to a change of ownership.

In Exhibit C.1, the applicant provides a letter from the president of the company assisting the applicant with design and development, describing the reasons for the increase in cost, as summarized below:

- Typical cost of living increases and economic inflation have increased overall costs.
- The original application was submitted during a recovery period for the construction industry following a recession, and prices for construction projects were at historical lows. The continued economic upturn since that time results in an increase in labor costs.
- Major weather events in the last year, particularly in eastern North Carolina, have put severe strain on both the availability of skilled laborers as well as raw building materials, resulting in increased prices.
- Costs for raw building materials have been increasing well above the rate of inflation even without the local increases in demand, and new tariffs on imported materials are also causing increases in costs.

The applicant's representations regarding the need for an additional capital expenditure to develop the proposed facility are reasonable and adequately supported for the following reasons:

- The applicant demonstrates the cost of supplies, material, and labor have increased since the original application was approved.
- The applicant demonstrates the impact on cost due to major weather events and new tariffs.
- The applicant adequately explains the necessity of the increased capital expenditure to develop the project as approved in Project I.D. #R-8766-11.
- The applicant does not propose to change the scope of services offered or to change the patients projected to be served by the proposed project.

#### Projected Utilization

The application for Project I.D. #R-8766-11 adequately demonstrated projected utilization was based on reasonable and adequately supported assumptions regarding continued growth in the patient population that utilized the services proposed in the application. The applicant proposes no changes in the current application which would affect that determination.

#### Access

The application for Project I.D. #R-8766-11 adequately demonstrated the extent to which all residents of the area, including underserved groups, were likely to have access to the proposed services. The applicant proposes no changes in the current application which would affect that determination. In Section L, page 45, the applicant provides the projected payor mix for

patients at Elizabeth City R&H during the third full fiscal year of operation, as illustrated in the following table.

<b>Elizabeth City H&amp;R Projected Payor Mix – CY 2022</b>		
<b>Payor Source</b>	<b>Patient Days</b>	<b>% of Patient Days</b>
Private Pay	4,716	8%
Insurance*	1,179	2%
Medicare*	12,969	22%
Medicaid*	38,316	65%
Other (Hospice)	1,768	3%
<b>TOTAL</b>	<b>58,948</b>	<b>100%</b>

\*Including any managed care plans.

The projected payor mix is reasonable and adequately supported.

### Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The application for Project I.D. #R-8766-11 adequately identified the population to be served, and there are no changes proposed in this application which would affect that determination.
- The applicant adequately explains why the increased capital expenditure is necessary to provide the population to be served with the services proposed in this application.
- Projected utilization was deemed reasonable and adequately supported in Project I.D. #R-8766-11 and there are no changes proposed in this application which would affect that determination.
- The application for Project I.D. #R-8766-11 adequately identified the extent to which all residents, including underserved groups, would have access to the proposed services (payor mix), and there are no changes proposed in this application which would affect that determination.

- (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

In Project I.D. #R-8766-11, this criterion was not applicable to the review because the application did not propose to reduce, eliminate, or relocate a facility or service. The applicant does not propose changes in this application which would affect that determination. Therefore, Criterion (3a) is not applicable to this review.

- (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.

CA

The applicant proposes a cost overrun for Project I.D. #R-8766-11 (develop 24 nursing facility beds pursuant to the 2011 need determination for a total of 170 nursing facility beds).

In Section E, page 26, the applicant describes the alternatives it considered and explains why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need. The alternatives considered were:

- Maintain the Status Quo: The applicant states choosing not to develop the 24 NF beds would be a disservice to the residents of Pasquotank County, especially since the existing NF beds have historically high utilization and there is currently a waiting list for admission; therefore, this was not an effective alternative.
- Develop the NF Beds in a Newly Constructed Addition: The applicant states constructing an addition to the larger building or a new building typically costs in excess of \$125,000 per bed, and there are less costly alternatives available; therefore, this was not an effective alternative.

On page 26, the applicant states converting the empty 24-unit independent living building into a 24-bed NF facility is easier and less costly than developing the NF beds in new construction and developing the NF beds will help to alleviate the historically high census and the current waiting list for admission.

The applicant adequately demonstrates that the alternative proposed in this application is the most effective alternative to meet the need for the following reasons:

- The applicant proposes to develop the project as approved in Project I.D. #R-8766-11.
- The application is conforming to all statutory and regulatory review criteria.
- The applicant provides credible information to explain why it believes the proposed project is the most effective alternative.

## Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above. Therefore, the application is approved subject to the following conditions:

- 1. Elizabeth City Healthcare Properties, LLC shall materially comply with the representations in this application and representations in Project I.D. #R-8766-11. Where representations conflict, Elizabeth City Healthcare Properties, LLC shall materially comply with the last made representation.**
- 2. Pursuant to the need determination in the 2011 SMFP, Elizabeth City Healthcare Properties, LLC shall develop no more than 24 additional nursing facility beds at Elizabeth City Health and Rehabilitation.**
- 3. The total combined capital expenditure for both projects is \$2,000,000, an increase of \$1,000,000 over the capital expenditure of \$1,000,000 previously approved in Project I.D. #R-8766-11.**
- 4. Upon completion of the proposed project, Elizabeth City Health and Rehabilitation shall be licensed for no more than 170 nursing facility beds.**
- 5. The Medicaid per diem rates for the new nursing facility beds shall be equal to the rates for the facility's existing beds as of the date on which the additional beds are certified.**
- 6. Elizabeth City Healthcare Properties, LLC shall file the proposed budget for the facility with the Division of Medical Assistance no later than thirty days prior to the prospective certification date of the new beds.**
- 7. The 24 additional nursing facility beds shall not be certified for participation in the Medicaid program prior to July 1, 2020 unless the Division of Medical Assistance determines that state funds are available in the current Medicaid budget to pay for the care and authorizes an earlier certification date.**
- 8. For the first two years of operation following completion of the project, Elizabeth City Healthcare Properties, LLC shall not increase private pay charges by more than five percent of the projected private pay charges provided in Section Q of the application without first obtaining a determination from the Healthcare Planning and Certificate**

**of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.**

**9. No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, Elizabeth City Healthcare Properties, LLC shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:**

- a. Payor mix for the services authorized in this certificate of need.**
- b. Utilization of the services authorized in this certificate of need.**
- c. Revenues and operating costs for the services authorized in this certificate of need.**
- d. Average gross revenue per unit of service.**
- e. Average net revenue per unit of service.**
- f. Average operating cost per unit of service.**

**10. Elizabeth City Healthcare Properties, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency 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

The applicant proposes a cost overrun for Project I.D. #R-8766-11 (develop 24 nursing facility beds pursuant to the 2011 need determination for a total of 170 nursing facility beds).

#### Capital and Working Capital Costs

The applicant projects the total capital cost to develop the 24 NF beds approved in Project I.D. #R-8766-11 will be \$2,000,000, an increase of \$1,000,000 over the previously approved capital expenditure, which exceeds the 115 percent statutory limit for capital expenditures. The applicant states the increase in capital costs is due to increases in construction costs. The following table compares the previously approved capital cost and the proposed capital cost, as reported on Form F.1b in Section Q.



<b>Elizabeth City H&amp;R – Previously Approved and Proposed Capital Cost</b>			
	<b>Previously Approved Cost (R-8766-11)</b>	<b>Additional Costs Projected (R-11726-19)</b>	<b>Total</b>
Site Preparation	\$52,000	\$11,000	\$63,000
Construction/Renovation Contract(s)	\$582,000	\$959,000	\$1,541,000
Landscaping	\$8,000	\$0	\$8,000
Architect/Engineering Fees	\$64,000	\$0	\$64,000
Non-Medical Equipment	\$35,000	\$0	\$35,000
Furniture	\$93,000	\$0	\$93,000
Consultant Fees	\$48,000	\$10,000	\$58,000
Financing Costs	\$25,000	\$0	\$25,000
Interest During Construction	\$35,000	\$20,000	\$55,000
Other	\$58,000	\$0	\$58,000
<b>Total Capital Costs</b>	<b>\$1,000,000</b>	<b>\$1,000,000</b>	<b>\$2,000,000</b>

In Exhibit C.1, the applicant provides information to explain the need for the projected increase in capital expenditures.

In Project I.D. #R-8766-11, no start-up expenses or initial operating expenses were projected since the application proposed an expansion to an existing and operational facility. In Section F, page 32, the applicant does not propose any start-up expenses or initial operating expenses.

Availability of Funds

In Section F, page 32, the applicant states it will fund the entire capital expenditure to develop the 24 NF beds with a loan. In Exhibit F.1, the applicant provides a letter from a Senior Vice President of Pinnacle Financial Partners, which states it will consider a loan of up to \$2,000,000 to the applicant for development of the proposed project. Exhibit F.1 also contains a proposed amortization table for the loan. The applicant adequately demonstrates that sufficient funds will be available for the capital needs of the project.

Financial Feasibility

The applicant provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. On Form F.5 in Section Q, the applicant projects that revenues will exceed operating expenses in the first three full fiscal years of operation following project completion, as shown in the table below.

<b>Elizabeth City H&amp;R Projected Revenues/Expenses – FYs 1-3 (CYs 2020-2022)</b>			
	<b>FY 1 – 2020</b>	<b>FY 2 – 2021</b>	<b>FY 3 – 2022</b>
Patient Days	58,456	58,948	58,948
Total Gross Revenues (Charges)	\$16,555,012	\$16,688,225	\$16,688,225
Total Net Revenues	\$16,555,012	\$16,688,225	\$16,688,225
Average Net Revenue per Patient Day	\$283	\$283	\$283
Total Operating Expenses (Costs)	\$15,565,579	\$15,627,545	\$15,627,545
Average Operating Expense per Patient Day	\$266	\$265	\$265
Net Income/(Expense)	<b>\$989,433</b>	<b>\$1,060,680</b>	<b>\$1,060,680</b>

The assumptions used by the applicant 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.

### Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicant adequately demonstrates the increased capital costs are based on reasonable and adequately supported assumptions.
  - The applicant adequately demonstrates availability of sufficient funds for the increased capital needs of the proposal.
  - The applicant projects no changes to the assumptions and methodology in Project I.D. #R-8766-11 which demonstrated projected capital costs were reasonable and adequately supported.
  - The applicant adequately demonstrates 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.
- (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 proposes a cost overrun for Project I.D. #R-8766-11 (develop 24 nursing facility beds pursuant to the 2011 need determination for a total of 170 nursing facility beds).

On page 189, the 2019 SMFP defines the service area for NF beds as “...*the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing bed care planning area.*” Thus, the service area for this facility consists of Pasquotank County. Facilities may also serve residents of counties not included in their service area.

Project I.D. #R-8766-11 adequately demonstrated that the project would not result in unnecessary duplication of existing or approved services in the service area and no changes are proposed in this application which would affect that determination.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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

On Form H in Section Q, the applicant provides current and projected full-time equivalent (FTE) staffing for the proposed services, as illustrated in the following table.

<b>Elizabeth City H&amp;R Current (6/1/2019) and Projected (FYs 1-3) Staffing in FTEs</b>		
<b>Position</b>	<b>Current</b>	<b>Projected</b>
	<b>As of 6/1/2019</b>	<b>FYs 1-3 (CYs 2020-2022)</b>
Registered Nurses	4.97	5.50
Licensed Practical Nurses	23.27	23.50
Aides	50.58	56.00
Director of Nursing	1.07	1.00
Assistant Director of Nursing	0.51	0.50
MDS Nurse	3.08	3.50
Staff Development Coordinator	0.00	1.00
Clerical	0.85	1.00
Medical Records	1.77	2.50
Dietary	12.77	17.50
Social Services	2.09	2.00
Activities	2.82	2.75
Laundry & Linen	3.16	3.25
Housekeeping	9.21	10.00
Plant Operation & Maintenance	2.34	2.50
Administration	7.95	8.00
<b>Total</b>	<b>126.44</b>	<b>140.50</b>

The assumptions and methodology used to project staffing are provided in Sections H and Q. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in Form F.4, which is found in Section Q.

Project I.D. #R-8766-11 was found conforming to this criterion and no changes are proposed in this application which affect that determination.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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 I, page 38, the applicant states it will continue to provide all ancillary and support services it currently provides at Elizabeth City R&H.

The application for Project I.D. #R-8766-11 was found conforming to this criterion, and the applicant proposes no changes in the current application which would affect that determination.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that 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

The applicant does not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicant does not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the

North Carolina county in which the services will be offered. Therefore, Criterion (9) is not applicable to this review.

- (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

The applicant is not an HMO. Therefore, Criterion (10) is not applicable to this review.

- (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

Project I.D. #R-8766-11 proposed to renovate 17,266 square feet of existing space in a building to convert independent living units into private NF rooms and to construct a 2,350 square foot breezeway to connect the newly renovated building with 24 NF beds to the larger existing building with 146 NF beds. Project I.D. #R-8766-11 was found conforming to this criterion, and the applicant proposes no changes in the current application which would affect that determination.

### Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion.

- (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;

C

In Section L, page 44, the applicant provides the historical payor mix for patients at Elizabeth City R&H during CY 2018, as illustrated in the following table.

<b>Elizabeth City H&amp;R Historical Payor Mix – CY 2018</b>		
<b>Payor Source</b>	<b>Patient Days</b>	<b>% of Patient Days</b>
Private Pay	3,979	8%
Insurance*	1,461	3%
Medicare*	10,978	22%
Medicaid*	32,481	65%
Other (Hospice)	1,329	3%
<b>TOTAL</b>	<b>50,228</b>	<b>100%</b>

**Source:** Elizabeth City H&R Internal Data; see Exhibit L.2.

\*Including any managed care plans.

In Section L, page 43, the applicant provides the following comparison.

	<b>Percentage of Total Patients Served by Elizabeth City R&amp;H during the Last Full FY</b>	<b>Percentage of the Population of Pasquotank County</b>
Female	52.1%	51.2%
Male	47.9%	48.8%
Unknown	0.0%	0.0%
64 and Younger	3.5%	83.5%
65 and Older	96.5%	16.5%
American Indian	0.0%	0.6%
Asian	0.5%	1.6%
Black or African-American	40.4%	36.6%
Native Hawaiian or Pacific Islander	0.0%	0.1%
White or Caucasian	55.8%	54.7%
Other Race	0.0%	6.4%
Declined / Unavailable	3.3%	0.0%

**Sources:** Elizabeth City H&R Internal Data, US Census Bureau; see Exhibits L.1 and L.2.

### Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicant adequately documents 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. 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;

### C

Regarding any obligation to provide uncompensated care, community service, or access by minorities and persons with disabilities, in Section L, page 44, the applicant states it has no such obligation.

In Section L, page 44, the applicant states that during the last five years no patient civil rights access complaints have been filed against the facility or any similar facilities owned by the applicant or a related entity and located in North Carolina.

### Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

- (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

C

In Section L, page 45, the applicant provides the projected payor mix for patients at Elizabeth City R&H during the third full fiscal year of operation, as illustrated in the following table.

<b>Elizabeth City H&amp;R Projected Payor Mix – CY 2022</b>		
<b>Payor Source</b>	<b>Patient Days</b>	<b>% of Patient Days</b>
Private Pay	4,716	8%
Insurance*	1,179	2%
Medicare*	12,969	22%
Medicaid*	38,316	65%
Other (Hospice)	1,768	3%
<b>TOTAL</b>	<b>58,948</b>	<b>100%</b>

\*Including any managed care plans.

As shown in the table above, during the third full fiscal year of operation, the applicant projects that eight percent of total services will be provided to private pay patients, 22 percent to Medicare patients, and 65 percent to Medicaid patients. On page 46, the applicant explains how it handles charity care cases.

On page 45, the applicant provides the assumptions and methodology used to project payor mix during the third full fiscal of operation following completion of the project. The projected payor mix is reasonable and adequately supported because it is based on the applicant's historical payor mix.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is 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 L, page 46, the applicant adequately describes the range of means by which patients will have access to the proposed services.



Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

- (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

Project I.D. #R-8766-11 was conforming to this criterion and the applicant proposes no changes in the current application which would affect that determination.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes 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.

C

The applicant proposes a cost overrun for Project I.D. #R-8766-11 (develop 24 nursing facility beds pursuant to the 2011 need determination for a total of 170 nursing facility beds).

On page 189, the 2019 SMFP defines the service area for NF beds as “...*the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing bed care planning area.*” Thus, the service area for this facility consists of Pasquotank County. Facilities may also serve residents of counties not included in their service area.

The applicant proposes a cost overrun for Project I.D. #R-8766-11. That application adequately demonstrated the expected effects of the proposed services on competition and how any enhanced competition would have a positive impact on cost-effectiveness, quality, and access to the services proposed. The applicant proposes no changes in this application which would affect that determination.

### Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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

On Form A.7(a) in Section Q, the applicant identifies the nursing facilities located in North Carolina owned, operated, or managed by the applicant or a related entity. The applicant identifies a total of 14 nursing facilities located in North Carolina.

In Section O, pages 50-51, the applicant states there were no incidents related to quality of care in any of the facilities identified on Form A.7(a) during the 18 months immediately preceding the submittal of the application. According to the files in the Nursing Home Licensure and Certification Section, DHRS, during the 18 months immediately preceding submission of the application through the date of this decision, incidents related to quality of care occurred in two of these facilities. An incident related to quality of care occurred in a third facility prior to the 18-month lookback period, but the facility was not back in compliance until after the 18-month lookback period began. After reviewing and considering information provided by the applicant and by the Nursing Home Licensure and Certification Section and considering the quality of care provided at all 14 facilities, the applicant provided sufficient evidence the 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

Project I.D. #R-8766-11 was found conforming to all applicable Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1100, and the applicant proposes no changes in the current application which would affect that determination. Consequently, the application is conforming to the performance standards in this rule.