

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: June 4, 2020

Findings Date: June 4, 2020

Project Analyst: Gregory F. Yakaboski

Team Leader: Gloria C. Hale

Project ID #: L-11876-20

Facility: BMA East Rocky Mount

FID #: 970528

County: Edgecombe

Applicant: Bio-Medical Applications of North Carolina, LLC.

Project: Add no more than 9 dialysis stations pursuant to facility need for a total of no more than 30 dialysis stations upon completion of this project, Project ID# L-11839-20 (relocate 4 stations), Project ID# L-11838-20 (relocate 1 station), Project ID# L-11483-18 (add 4 stations), Project ID# L-11580-18 (add 2 stations), Project ID# L-11374-17 (relocate 10 stations)

### 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

The applicant, Bio-Medical Applications of North Carolina, Inc. (BMA), proposes to add no more than 9 dialysis stations BMA East Rocky Mount pursuant to facility need for a total of no more than 30 dialysis stations upon completion of this project, Project ID# L-11839-20 (relocate 4 stations), Project ID# L-11838-20 (relocate 1 station), Project ID# L-11483-18 (add 4 stations), Project ID# L-11580-18 (add 2 stations), Project ID# L-11374-17 (relocate 10 stations). Bio-Medical Applications of North Carolina, Inc. is a wholly owned subsidiary of Fresenius Medical Care Holdings, Inc. (FMC or Fresenius).

BMA East Rocky Mount provides in-center (IC) dialysis but does not currently offer either a peritoneal dialysis (PD) program or a home hemodialysis (HHD) program.

The net effect of all the projects involving BMA East Rocky Mount is illustrated in the table below.

CON Project ID #	Project Scope	Project Status	# of Stations
Starting # of Stations	Current Status	na	30
L-11374-17	Relocate 10 Stations	Under Construction	20
L-11483-18	Add 4 Stations	Contingent on L-11374-17	24
L-11580-18	Add 2 Stations	Contingent on L-11374-17	26
L-11838-20*	Relocate 1 Station	Under Review	25
L-11839-20*	Relocate 4 Stations	Under Review	21
This Project (L-11876-20)**	Add 9 Stations	Under Review	30

\*Project I.D. #L-11838-20 and Project I.D. #L-11839-20 were submitted for the February 2020 application review. Project I.D. #L-11838-20 was conditionally approved on April 24, 2020. Project I.D. #L-11839-20 was conditionally approved on April 3, 2020.

\*\*This project, Project I.D. #L-11876-20, was submitted for the April 2020 application review.

**Need Determination**

Chapter 9 of the 2020 State Medical Facilities Plan (SMFP) provides a county need methodology and a facility need methodology for determining the need for new dialysis stations. The applicant has submitted an application to add nine dialysis stations pursuant to the facility need methodology.

An applicant is eligible to apply for additional dialysis stations in an existing facility pursuant to Condition 2 of the facility need methodology in the 2020 SMFP, if the utilization rate for the dialysis center, as reported in Table 9B of the 2020 SMFP, is at least 75% or 3.0 patients per station per week, as stated in Condition 2.a.

The utilization rate reported for BMA East Rocky Mount in Table 9B on page 155 of the 2020 SMFP, is 90.83% or 3.63 patients per station per week, based on 109 in-center dialysis patients and 30 certified dialysis stations [109/ 30 = 3.63; 3.63 / 4 = 0.9083 or 90.83%]. Therefore, the applicant exceeds the minimum utilization required in Condition 2.a. and is eligible to apply for additional stations based on the facility need methodology in Condition 2.b.

As shown in Table 9E, page 171 of the 2020 SMFP, based on the facility need methodology for dialysis stations, the potential number of stations needed at BMA East Rocky Mount is eleven additional stations; the applicant has not applied for any additional dialysis stations for BMA East Rocky Mount to date this year. Therefore, the applicant is eligible to apply to add up to eleven stations pursuant to the facility need methodology.

The applicant proposes to add no more than nine new dialysis stations pursuant to facility need, which is consistent with the 2020 SMFP calculated facility need determination for eleven dialysis stations; therefore, the application is consistent with the facility need determination for dialysis stations.

## **Policies**

There is one policy in the 2020 SMFP that is applicable to this review, Policy GEN-3: *Basic Principles*.

Policy GEN-3, pages 30-31 of the 2020 SMFP, states:

*“A certificate of need applicant applying to develop or offer a new institutional health service for which there is a need determination in the North Carolina State Medical Facilities Plan shall demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value for resources expended. A certificate of need applicant shall document its plans for providing access to services for patients with limited financial resources and demonstrate the availability of capacity to provide these services. A certificate of need applicant shall also document how its projected volumes incorporate these concepts in meeting the need identified in the State Medical Facilities Plan as well as addressing the needs of all residents in the proposed service area.”*

Promote Safety and Quality – The applicant describes how it believes the proposed project would promote safety and quality in Section B.5, pages 14-15; Section N, pages 52-54, Section O, pages 55-58; and referenced exhibits. The information provided by the applicant is reasonable and adequately supports the determination that the applicant’s proposal would promote safety and quality.

Promote Equitable Access – The applicant describes how it believes the proposed project would promote equitable access in Section B.5(b), pages 15-16; Section L, pages 47-50; Section N, pages 52-54, and referenced exhibits. The information provided by the applicant is reasonable and adequately supports the determination that the applicant’s proposal would promote equitable access.

Maximize Healthcare Value – The applicant describes how it believes the proposed project would maximize healthcare value in Section B.5(c), pages 16-17; and Section N, pages 52-54. The information provided by the applicant is reasonable and adequately supports the determination that the applicant’s proposal would maximize healthcare value.

The applicant adequately demonstrates how its projected volumes incorporate the concepts of safety and quality, equitable access and maximum healthcare value for resources expended in meeting the facility need as identified by the applicant. The application is consistent with Policy GEN-3.

## **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 based on the following reasons:

- The applicant does not propose to develop more dialysis stations than are determined to be needed in the service area.
- The applicant adequately demonstrates that the proposal is consistent with Policy GEN-3 because the applicant adequately demonstrates how BMA East Rocky Mount's projected volumes incorporate the concepts of safety and quality, equitable access and maximum healthcare value for resources expended in meeting the facility need.

(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 to add no more than 9 dialysis stations BMA East Rocky Mount pursuant to facility need for a total of no more than 30 dialysis stations upon completion of this project, Project ID# L-11839-20 (relocate 4 stations), Project ID# L-11838-20 (relocate 1 station), Project ID# L-11483-18 (add 4 stations), Project ID# L-11580-18 (add 2 stations), Project ID# L-11374-17 (relocate 10).

### **Patient Origin**

On page 113, the 2020 SMFP defines the service area for the county need methodology for dialysis stations as "*the service area is the county in which the dialysis station is located. Each county comprises a service area except for two multicounty service area: Cherokee-Clay-Graham counties and Avery-Mitchell-Yancey counties.*" BMA East Rocky Mount is in Edgecombe County. Thus, the service area for this application is Edgecombe County. Facilities may serve residents of counties not included in their service area.

The following table illustrates current and projected patient origin.

County	Current (1/1/2019 to 12/31/2019)		Second Full FY of Operation following Project Completion (1/1/2022 to 12/31/2022)	
	Patients	% of Total	Patients	% of Total
Edgecombe	78.00	68.42%	55.60	61.33%
Nash	31.00	27.19%	31.03	35.35%
Halifax	3.00	2.63%	3.00	3.31%
Durham	1.00	0.88%	0.00	0.00%
Warren	1.00	0.88%	0.00	0.00%
Total	114.00	100.00%	89.90	100.00%

Source: Section C, pages 20-21.

In Section C, pages 20-22, the applicant provides the assumptions and methodology used to project its patient origin. The applicant’s assumptions are reasonable and adequately supported.

**Analysis of Need**

In Section C, pages 20-23, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services.

The applicant explains the typical three day per week schedule for in-center patients to receive dialysis and states the failure to receive dialysis services will lead to patient death. On pages 22-23, the applicant states:

*“The NC SMFP recognizes that this patient population requires frequent and regular treatment. ... The need that this population has for the proposed services is a function of the individual patient need for dialysis care and treatment. BMA has identified the population to be served as 87.48 in-center dialysis patients dialyzing with the facility as of the end of the first Operating Year of the project. This equates to a utilization rate of 72.90%, or 2.92 patients per station.”*

The information is reasonable and adequately supported based on the following:

- Table 9B of the 2020 SMFP, page 155, indicates that BMA East Rocky Mount has a facility need for 11 dialysis stations. This application is for nine dialysis stations.
- The applicant projects a utilization rate of 2.92 in-center patients per station per week dialyzing at BMA East Rocky Mount as of the end of the first 12 months of operation following certification of the additional stations which exceeds the performance standard of 2.8 in-center patients per station per week as of the end of the first 12 months of operation following certification of the additional stations as set forth in the Performance Standards in Rule 10A NCAC 14C .2203.

*Projected Utilization*

In Section Q, the applicant provides projected utilization, as illustrated in the following table.

<b>BMA East Rocky Mount In-Center Projections</b>		
	Edgecombe	Nash
BMA begins with the Edgecombe County and Nash County patient populations as of December 31, 2019	78	31
Based on the 5-year AACR of 5.3% for Edgecombe County and 1.1% for Nash County, project the Edgecombe and Nash County patient populations forward one year to December 31, 2020.	$1.053 \times 78 = 82.13$	$1.011 \times 31 = 31.34$
Subtract the 32 Edgecombe County patients projected to transfer to the new FKC Boice-Williams facility.	$82.13 - 32 = 50.13$	31.34
Based on the 5-year AACR of 5.3% for Edgecombe County and 1.1% for Nash County, project the Edgecombe and Nash County patient populations forward one year to December 31, 2021.	$1.053 \times 50.13 = 52.78$	$1.011 \times 31.34 = 31.69$
Total the Edgecombe County and Nash County patients plus the patients residing in Halifax County. <b>This is the projected ending patient census for Operating Year 1.</b>	$52.79 + 31.69 + 3 = \mathbf{87.48}$	
Based on the 5-year AACR of 5.3% for Edgecombe County and 1.1% for Nash County, project the Edgecombe and Nash County patient populations forward one year to December 31, 2022.	$1.053 \times 52.79 = 55.59$	$1.011 \times 31.69 = 32.03$
Total the Edgecombe County and Nash County patients plus the patients residing in Halifax County. <b>This is the projected ending patient census for Operating Year 2.</b>	$55.59 + 32.03 + 3 = \mathbf{90.62}$	

In both Section C, pages 21-22, and Section Q, pages 68-69, the applicant provides the assumptions and methodology used to project utilization, which is summarized below.

- Operating Year 1 is January 1, 2021 to December 31, 2021 (CY2021).
- Operating Year 2 is January 1, 2022 to December 31, 2022 (CY2022).
- The applicant begins its utilization projections by using the BMA East Rocky Mount patient census for the Edgecombe and Nash county patients as of December 31, 2019: 78 Edgecombe County patients and 31 Nash County patients.
- The applicant will not carry forward the Durham and Warren county patients as both are presumed to be transient patients and there are dialysis facilities closer to their county of residence.
- The Halifax County patients will be carried forward into projections of future patient census however, the applicant does not project any growth of the Halifax County patients.

- The applicant projects the facility patients who reside in Edgecombe County will grow at the Five Year Average Annual Change Rate (AACR) for Edgecombe County, 5.3%, as stated in Table 9C: ESRD Dialysis Station Need Determinations by Planning Area, page 167, of the 2020 SMFP.
- The applicant projects the facility patients who reside in Nash County will grow at the Five Year Average Annual Change Rate (AACR) for Nash County, 1.1%, as stated in Table 9C: ESRD Dialysis Station Need Determinations by Planning Area, page 168, of the 2020 SMFP.
- BMA subtracts 32 Edgecombe County patients from the BMA East Rocky Mount patient census as of December 31, 2020 as BMA has projected these patients would transfer dialyzing from BMA East Rocky Mount to the FKC Boice-Williams facility upon completion of that project.

Projected patients for OY1 and OY2 are rounded down to the nearest whole number. Therefore, at the end of OY1 (CY2021) the facility is projected to serve 87 in-center patients and at the end of OY2 (CY2022) the facility is projected to serve 90 in-center patients.

The projected utilization rates for the first two operating years are as follows:

- OY1: 2.9 patients per station per week or 72.5% ( $87 \text{ patients} / 30 \text{ stations} = 2.9/4 = 0.725$  or 72.5%)
- OY2: 3.0 patients per station per week or 75.0% ( $90 \text{ patients} / 30 \text{ stations} = 3.0/4 = 0.75$  or 75.0%)

The projected utilization of 2.9 patients per station per week at the end of OY1 exceeds the minimum standard of 2.8 in-center patients per station per week required by 10A NCAC 14C .2203(b).

Projected utilization is reasonable and adequately supported based on the following reasons:

- The applicant projects future utilization based on the most recent historical patient census.
- The applicant utilized a projected annual growth rate of 5.3 percent for Edgecombe County patients and 1.1 percent for Nash County patients, which reflect the Edgecombe County and Nash County Five-Year AACRs as published in Table 9C of the 2020 SMFP.
- The applicant conservatively does not project growth for its patients who reside in Halifax County.
- The applicant demonstrated that the existing and approved stations are inadequate to serve the current and projected patient population.
- Projected utilization at the end of OY1 exceeds the minimum of 2.8 patients per station per week required by 10A NCAC 14C .2203(b).

**Access**

In Section C.7, page 24, the applicant states,

*“Fresenius operates more than 100 dialysis facilities across North Carolina. Each of our facilities has a patient population which includes low-income persons, racial and ethnic minorities, women, handicapped persons, elderly, or other traditionally underserved persons.*

*It is corporate policy to provide all services to all patients regardless of income, racial/ethnic origin, gender, physical or mental conditions, age, ability to pay or any other factor that would classify a patient as underserved.*

*Fresenius related facilities in North Carolina have historically provided substantial care and services to all persons in need of dialysis services, regardless of income, racial or ethnic background, gender, handicap, age or any other grouping/category or basis for being an underserved person.”*

In Section L, page 49, the applicant projects the following payor mix during the second full fiscal year of operation following completion of the project, as illustrated in the following table.

**BMA East Rocky Mount  
Projected Payor Mix Second Full Operating Year (CY2022)**

Payment Source	In-Center Dialysis	
	# of Patients	% of Total
Self-pay	0.7	0.78%
Insurance*	3.3	3.65%
Medicare*	66.7	73.64%
Medicaid*	8.9	9.83%
Medicare/Commercial	8.2	9.02%
Miscellaneous (Incl. VA)	2.8	3.09%
<b>Total</b>	<b>90.6</b>	<b>100.00%</b>

Source: Table on page 49 of the application.

Totals may not sum due to rounding

\*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 applicant adequately identifies the population to be served.
- The applicant adequately explains why the population to be served needs the services proposed in this application.
- Projected utilization is reasonable and adequately supported.
- The applicant projects the extent to which all residents, including underserved groups, will have access to the proposed services (payor mix) and adequately supports its assumptions.

- (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

The applicant does not propose a reduction, elimination or relocation of a facility or service; 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 to add no more than 9 dialysis stations BMA East Rocky Mount pursuant to facility need for a total of no more than 30 dialysis stations upon completion of this project, Project ID# L-11839-20 (relocate 4 stations), Project ID# L-11838-20 (relocate 1 station), Project ID# L-11483-18 (add 4 stations), Project ID# L-11580-18 (add 2 stations), Project ID# L-11374-17 (relocate 10).

In Section E, page 30, 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 that this alternative fails to address the growth experienced by the facility.
- Apply for fewer than nine stations- The applicant states that this alternative did not adequately address the patient census growth and therefore was less effective.

On page 30, the applicant states that its proposal is the most effective alternative because it best addresses the growth in the patient census at BMA East Rocky Mount.

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

- 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

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. Bio-Medical Applications of North Carolina, Inc. shall materially comply with all representations made in the certificate of need application.**
  - 2. Pursuant to the facility need determination in the 2020 SMFP, Bio-Medical Applications of North Carolina, Inc. shall develop no more than 9 additional in-center dialysis stations for a total of no more than 30 in-center stations at BMA East Rocky Mount upon completion of this project and Project ID# L-11839-20 (relocate 4 stations), Project ID# L-11838-20 (relocate 1 station), Project ID# L-11483-18 (add 4 stations), Project ID# L-11580-18 (add 2 stations), Project ID# L-11374-17 (relocate 10 stations).**
  - 3. Bio-Medical Applications of North Carolina, Inc. 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.

The applicant proposes to add no more than 9 dialysis stations BMA East Rocky Mount pursuant to facility need for a total of no more than 30 dialysis stations upon completion of this project, Project ID# L-11839-20 (relocate 4 stations), Project ID# L-11838-20 (relocate 1 station), Project ID# L-11483-18 (add 4 stations), Project ID# L-11580-18 (add 2 stations), Project ID# L-11374-17 (relocate 10).

### **Capital and Working Capital Costs**

In Section F.1, page 31, the applicant states that there are no capital costs associated with the proposed project. Section Q Form F.1a Capital Cost, page 73, shows no capital cost is projected for this project.

In Section F.3, pages 32-33, the applicant states there will be no start-up or initial operating expenses associated with the proposed project since this is an existing facility that is already operational.

### **Financial Feasibility**

The applicant provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Section Q, Form F.2, page 74, the applicant projects that revenues will exceed operating expenses in the first two operating years of the project, as shown in the table below.

	<b>1<sup>st</sup> Full Fiscal Year</b>	<b>2<sup>nd</sup> Full Fiscal Year</b>
Total Treatments	12,724.4	13,179.4
Total Gross Revenues (Charges)	\$80,049,434	\$82,911,688
Total Net Revenue	\$3,853,408	\$3,991,190
Average Net Revenue per Treatment	\$303	\$303
Total Operating Expenses (Costs)	\$3,706,983	\$3,802,090
Average Operating Expense per Treatment	\$291	\$288
Net Income	\$146,425	\$189,100

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, and
- exhibits to the application.

Based on that review, the Agency concludes that the application is conforming to this criterion because 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 to add no more than 9 dialysis stations BMA East Rocky Mount pursuant to facility need for a total of no more than 30 dialysis stations upon completion of this project, Project ID# L-11839-20 (relocate 4 stations), Project ID# L-11838-20 (relocate 1 station), Project ID# L-11483-18 (add 4 stations), Project ID# L-11580-18 (add 2 stations), Project ID# L-11374-17 (relocate 10).

On page 113, the 2020 SMFP defines the service area for the county need methodology for dialysis stations as “*the service area is the county in which the dialysis station is located. Each county comprises a service area except for two multicounty service area: Cherokee-Clay-Graham counties and Avery-Mitchell-Yancey counties.*” BMA East Rocky Mount is in Edgecombe County. Thus, the service area for this application is Edgecombe County. Facilities may serve residents of counties not included in their service area.

Currently, there are three existing and approved dialysis facilities in Edgecombe County, three of which are owned by BMA, as shown in the following table:

<b>Edgecombe County Dialysis Facilities Certified Stations and Utilization as of December 31, 2018</b>				
<b>Dialysis Facility</b>	<b>Owner</b>	<b>Location</b>	<b># of Certified Stations</b>	<b>Utilization</b>
BMA East Rocky Mount	BMA	Rocky Mount	30	90.83%
Fresenius Medical Clinic Tarboro^^	BMA	Tarboro	10	65.00%
Fresenius Kidney Care Boice-Willis*	BMA	Rocky Mount	0	0.00%
Dialysis Care of Edgecombe County	DaVita	Tarboro	35	51.43%

Source: 2020 SMFP, Table 9B, page 155

^^ Designated as a small facility per Condition 1.a. in the facility need determination methodology

Note: On April 3, 2020, Fresenius Medical Clinic Tarboro (FMC Tarboro) received conditional approval to relocate no more than 4 dialysis stations from BMA East Rocky Mount to FMC Tarboro for a total of no more than 14 stations at FMC Tarboro upon project completion. See Project I.D.#L-11839-20.

\*On November 28, 2017 this project received a Certificate of Need to develop a new 10-station dialysis facility by relocating 10 stations from BMA East Rocky Mount. The project is still being developed.

In Section G, page 36, the applicant explains why it believes the proposal would not result in the unnecessary duplication of existing or approved dialysis services in Edgecombe County. The applicant states it is not projecting to serve patients currently served in another facility but rather the stations are needed to serve the rapidly growing patient census at the facility.

The applicant adequately demonstrates that the proposal will not result in an unnecessary duplication of existing or approved services in the service area for the following reasons:

- There is a facility need determination in the 2020 SMFP for the eleven dialysis stations and the applicant proposes to develop nine stations.
- The applicant adequately demonstrates that the proposed dialysis stations are needed in addition to the existing or approved dialysis stations.

**Conclusion**

The Agency reviewed the:

- application,
- exhibits to the application, and
- 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.

- (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 Q, Form H, page 82, the applicant provides projected full-time equivalent (FTE) staffing for the proposed services, as illustrated in the following table.

Position	Current FTE Staff	Projected FTE Staff	
	As of 3/16/2020	1 <sup>st</sup> Full Fiscal Year (1/1/2021 to 12/31/2021)	2 <sup>nd</sup> Full Fiscal Year (1/1/2022 to 12/31/2022)
Administrator	1.00	1.00	1.00
RNs	5.00	5.00	5.00
LPNs	1.00	1.00	1.00
Technicians (PCT)	9.00	9.00	9.00
Dietician	1.00	1.00	1.00
Social Worker	1.00	1.00	1.00
Maintenance	1.00	1.00	1.00
Admin/Business Office	1.75	1.75	1.75
Other: FMC Dir. Operations	0.15	0.15	0.15
Other: In-Service	0.15	0.15	0.15
Other: Chief Tech	0.15	0.15	0.15
<b>TOTAL</b>	<b>21.20</b>	<b>21.20</b>	<b>21.20</b>

The assumptions and methodology used to project staffing are provided in Section 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. In Section H.2 and H.3, page 38, the applicant describes the methods to be used to recruit or fill new positions and its proposed training and continuing education programs. In Section H, page 39, the applicant identifies

the medical director. In Exhibit H-4, the applicant provides a letter from the medical director indicating an interest in continuing to serve as medical director for the proposed services.

The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide 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 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 40, the applicant states that the following ancillary and support services are necessary for the proposed services:

ANCILLARY AND SUPPORT SERVICES	
SERVICES	PROVIDER
Self-care training	Referral to FMC South Rocky Mount home therapies department.
Home training HH PD Accessible follow-up program	Referral to FMC South Rocky Mount home therapies department.
Psychological counseling	Referral to Eastpoint Mental Health
Isolation – hepatitis	On-Site
Nutritional counseling	On-Site
Social Work services	On-Site
Acute dialysis in an acute care setting	Referral to Nash General Hospital or Vidant Edgecombe
Emergency care	Nash General
Blood bank services	Referral to Nash General Hospital or Vidant Edgecombe
Diagnostic and evaluation services	Referral to Nash General Hospital or Vidant Edgecombe, or Boice-Willis Clinic
X-ray services	Referral to Nash General Hospital or Vidant Edgecombe, or Boice-Willis Clinic
Laboratory services	On-Site
Pediatric nephrology	Referral to UNC or Vidant Health
Vascular surgery	Referral to Dr. Harrison, Dr. Hastings, Dr. Seamen or Dr. Haisch
Transplantation services	Referral to ECU Transplant, UNC Hospital or Duke UMC
Vocational rehabilitation & counseling	Referral to NC State Rehabilitation Council
Transportation	Tar River Transit Services

Source: Table in Section I, page 40

On page 40, the applicant adequately explains how each ancillary and support service is or will be made available.

In Section I, page 41, the applicant describes its existing and proposed relationships with other local health care and social service providers.

The applicant adequately demonstrates that the proposed services will be coordinated with the existing health care system.

**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.

- (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.

NA

The applicant does not propose any construction or renovation with this project. Therefore, Criterion (12) is not applicable to this review.



- (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 48, the applicant provides the historical payor mix for BMA East Rocky Mount patients during CY2019 for the proposed services, as shown in the table below.

**BMA East Rocky Mount  
Historical Payor Mix CY2019**

Payment Source	In-Center Dialysis	
	# of Patients	% of Total
Self-pay	0.89	0.78%
Insurance*	4.16	3.65%
Medicare*	83.95	73.64%
Medicaid*	11.20	9.83%
Medicare/Commercial	10.28	9.02%
Miscellaneous (Incl. VA)	3.53	3.09%
<b>Total</b>	<b>114.00</b>	<b>100.00%</b>

Source: Table on page 48 of the application.

Totals may not sum due to rounding

\*Including any managed care plans

In Section L, page 47, the applicant provides the following comparison.

	Percentage of Total Patients Served by the Facility or Campus during the Last Full FY	Percentage of the Population of the Service Area
Female	53.0%	53.8%
Male	47.0%	46.2%
Unknown		
64 and Younger	54.7%	80.3%
65 and Older	45.3%	19.7%
American Indian	0.0%	0.8%
Asian	0.0%	0.3%
Black or African-American	97.4%	57.8%
Native Hawaiian or Pacific Islander	0.0%	0.1%
White or Caucasian	1.7%	36.3%
Other Race	0.0%	4.7%
Declined / Unavailable	0.0%	

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 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, the applicant states in Section L, pages 48-49, that it has no obligation in any of its facilities to provide uncompensated care, community service, or access by minorities and handicapped persons.

In Section L, page 49, 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 49, the applicant projects the following payor mix for the proposed services during the second full fiscal year of operation following completion of the project, as shown in the table below.

**BMA East Rocky Mount  
Projected Payor Mix Second Full Operating Year (CY2022)**

Payment Source	In-Center Dialysis	
	# of Patients	% of Total
Self-pay	0.7	0.78%
Insurance*	3.3	3.65%
Medicare*	66.7	73.64%
Medicaid*	8.9	9.83%
Medicare/Commercial	8.2	9.02%
Miscellaneous (Incl. VA)	2.8	3.09%
<b>Total</b>	<b>90.6</b>	<b>100.00%</b>

Source: Table on page 49 of the application.

Totals may not sum due to rounding

\*Including any managed care plans

As shown in the table above, during the second full fiscal year of operation, the applicant projects that 0.78% of total services will be provided to self-pay patients, 82.66% to Medicare patients and 9.83% to Medicaid patients.

On page 49, the applicant provides the assumptions and methodology used to project payor mix during the second full fiscal year of operation following completion of the project.

The projected payor mix is reasonable and adequately supported because the projected payor mix is based on the historical payor mix and treatment volumes of BMA East Rocky Mount.

The Agency reviewed the:

- Application
- Exhibits to the application

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

- (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 50, 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

In Section M, page 51, the applicant describes the extent to which health professional training programs in the area will have access to the facility for training purposes and provides supporting documentation in Exhibit M-2.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicant adequately demonstrates that the proposed services will accommodate the clinical needs of area health professional training programs, and therefore, 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 to add no more than 9 dialysis stations BMA East Rocky Mount pursuant to facility need for a total of no more than 30 dialysis stations upon completion of this project, Project ID# L-11839-20 (relocate 4 stations), Project ID# L-11838-20 (relocate 1 station), Project ID# L-11483-18 (add 4 stations), Project ID# L-11580-18 (add 2 stations), Project ID# L-11374-17 (relocate 10).

On page 113, the 2020 SMFP defines the service area for the county need methodology for dialysis stations as “*the service area is the county in which the dialysis station is located. Each county comprises a service area except for two multicounty service area: Cherokee-Clay-Graham counties and Avery-Mitchell-Yancey counties.*” BMA East Rocky Mount is in Edgecombe County. Thus, the service area for this application is Edgecombe County. Facilities may serve residents of counties not included in their service area.

Currently, there are three existing and approved dialysis facilities in Edgecombe County, three of which are owned by BMA, as shown in the following table:

<b>Edgecombe County Dialysis Facilities</b>				
<b>Certified Stations and Utilization as of December 31, 2018</b>				
<b>Dialysis Facility</b>	<b>Owner</b>	<b>Location</b>	<b># of Certified Stations</b>	<b>Utilization</b>
BMA East Rocky Mount	BMA	Rocky Mount	30	90.83%
Fresenius Medical Clinic Tarboro^^	BMA	Tarboro	10	65.00%
Fresenius Kidney Care Boice-Willis*	BMA	Rocky Mount	0	0.00%
Dialysis Care of Edgecombe County	DaVita	Tarboro	35	51.43%

Source: 2020 SMFP, Table 9B, page 155

^^ Designated as a small facility per Condition 1.a. in the facility need determination methodology

Note: On April 3, 2020, Fresenius Medical Clinic Tarboro (FMC Tarboro) received conditional approval to relocate no more than 4 dialysis stations from BMA East Rocky Mount to FMC Tarboro for a total of no more than 14 stations at FMC Tarboro upon project completion. See Project I.D.#L-11839-20.

\*On November 28, 2017 this project received a Certificate of Need to develop a new 10-station dialysis facility by relocating 10 stations from BMA East Rocky Mount. The project is still being developed.

Regarding the expected effects of the proposal on competition in the service area, in Section N, page 52, the applicant states:

*“The applicant does not expect this proposal to have any effect on the competitive climate in Edgecombe County. The applicant does not project to serve dialysis patients currently being served by another provider.”*

Regarding the impact of the proposal on cost effectiveness, in Section N, page 53, the applicant states:

*“Approval of this application will allow the BMA East Rocky Mount facility to continue serving patients who reside in the area. Consequently, these patients will have a shorter commute to and from dialysis treatment. This is an immediate and significantly positive impact to the patients of the area.”*

Regarding the impact of the proposal on quality, in Section N, page 53, the applicant states:

*“Quality of care is not negotiable. ... Our organizational mission statement captures this sentiment very well:*

*“We deliver superior care that improves that quality of life of every patient, every day, setting the standard by which others in the healthcare industry are judged.”*

Regarding the impact of the proposal on access by medically underserved groups, in Section N, page 53, the applicant states:

*“It is corporate policy to provide all services to all patients regardless of income, racial/ethnic origin, gender, physical or mental conditions, age, ability to pay or any other factor that would classify a patient as underserved.*

*Fresenius related facilities in North Carolina have historically provided substantial care and services to all persons in need of dialysis services, regardless of income, racial or ethnic background, gender, handicap, age or any other grouping/category or basis for being an underserved person.”*

Considering all the information in the application, the applicant adequately describes the expected effects of the proposed services on competition in the service area and adequately demonstrates the proposal would have a positive impact on:

- Cost-effectiveness (see Sections B, C, F, N and Q of the application and any exhibits)
- Quality (see Sections B, N and O of the application and any exhibits)
- Access to medically underserved groups (see Sections B, C, L and N of the application and any exhibits)

## **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 based on 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

In Section Q, Form A Facilities, the applicant identifies the kidney disease treatment centers located in North Carolina owned, operated, or managed by the applicant or a related entity. The applicant identifies 126 dialysis facilities owned, operated, or managed by the applicant or a related entity located in North Carolina.

In Section O.2, page 58, the applicant states that, during the 18 months immediately preceding the submittal of the application, no incidents related to quality of care that resulted in a finding of “*Immediate Jeopardy*” occurred in any of these facilities. After reviewing and considering information provided by the applicant and publicly available data and considering the quality of care provided at all Fresenius related facilities, the applicant provides 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 Criteria and Standards for End Stage Renal Disease Services promulgated in 10A NCAC 14C .2203 are applicable to this review. The application is conforming to all applicable criteria, as discussed below.

**10A NCAC 14C .2203 PERFORMANCE STANDARDS**

(a) An applicant proposing to establish a new kidney disease treatment center or dialysis facility shall document the need for at least 10 dialysis stations based on utilization of 2.8 in-center patients per station per week as of the end of the first 12 months of operation following *certification* of the facility. An applicant may document the need for less than 10 stations if the application is submitted in response to an adjusted need determination in the State Medical Facilities Plan for less than 10 stations.

-NA- BMA East Rocky Mount is an existing facility.

(b) An applicant proposing to increase the number of dialysis stations in:

(1) an existing dialysis facility; or

(2) a dialysis facility that is not operational as of the date the certificate of need application is submitted but has been issued a certificate of need;  
shall document the need for the total number of dialysis stations in the facility based on 2.8 in-center patients per station per week as of the end of the first 12 months of operation following certification of the additional stations.

-C- BMA East Rocky Mount is an existing facility. In Section Q Form C, page 69, the applicant projects that the BMA East Rocky Mount facility will serve 87.48 in-center patients on 30 stations, or a rate of 2.92 patients per station per week or 72.5% ( $87 \text{ patients} / 30 \text{ stations} = 2.9/4 = 0.725$  or 72.5%), as of the end of the first operating year (CY2021) following project completion. This exceeds the minimum performance standard of 2.8 patients per station per week.

(c) An applicant shall provide all assumptions, including the methodology by which patient utilization is projected.

-C- In Section Q, pages 67-69, the applicant provides the assumptions and methodology it used to project utilization of the facility.