

REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: September 24, 2020

Findings Date: September 24, 2020

Project Analyst: Tanya M. Saporito

Assistant Chief: Lisa Pittman

Project ID #: H-11893-20

Facility: The Landings of Pinehurst

FID #: 200281

County: Moore

Applicants: Moore Opco, LLC

Moore Propco, LLC

Project: Relocate and combine unlicensed beds to develop a new 64-bed ACH facility (11 beds from Rich Square Villa in Northampton County, 33 beds from Hampton Manor in Northampton County, and 20 beds from Seven Lakes Assisted Living in Moore County), which is a change of scope for the following projects: L-11280-16; L-11281-16; and H-11694-19

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.

NC

The applicants for the proposed project, Moore Opco, LLC and Moore Propco, LLC are limited liability companies whose manager is Charles E Trefzger, Jr. Mr. Trefzger is also the manager/operator of approximately 89 adult care homes (ACH) in North Carolina, including Seven Lakes Assisted Living (Seven Lakes), a 60-bed ACH facility located in Moore County, Rich Square Villa and Hampton Manor, two existing ACH facilities located in Northampton County, and The Oaks at Pleasant Hills, a closed ACH facility located in Northampton County. Mr. Trefzger is also manager of ALG Senior, LLC (“ALG”), formerly known as Affinity Living Group, LLC,

In this application, pursuant to Policy LTC-2 the applicants propose to relocate 44 previously approved but undeveloped ACH beds from the Northampton County facilities and relocate 20 previously approved but undeveloped ACH beds from the Moore County facility to develop a new 64-bed ACH facility in Moore County. The undeveloped projects are summarized as follows:

- Project ID #L-11280-16: relocate 33 ACH beds from The Oaks at Pleasant Hills (a closed facility) to Hampton Manor (Northampton County)
- Project ID #L-11281-16: relocate 11 ACH beds from The Oaks at Pleasant Hills (a closed facility) to Rich Square Villa (Northampton County)
- Project ID #H-11694-19: relocate 20 ACH beds from County Time Inn to Seven Lakes Assisted Living (Moore County)

Need Determination

The proposed project does not involve the addition of any new health service facility beds, services, or equipment for which there is a need determination in the 2020 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations applicable to this review.

Policies

There are two policies in the 2020 SMFP which are applicable to this review: *Policy LTC-2: Relocation of Adult Care Home Beds* and *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*.

Policy LTC-2: Relocation of Adult Care Home Beds, on page 23 of the 2020 SMFP, states:

“Relocations of existing licensed adult care home beds are allowed to another service area. Certificate of need applicants proposing to relocate licensed adult care home beds to another service area shall:

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

In Section B, pages 14 – 20, the applicants explain why they believe the application is conforming to Policy LTC-2. Rich Square Villa and Hampton Manor are located in

Northampton County. Seven Lakes is located in Moore County, and the proposed facility is to be developed in Moore County. According to the 2020 SMFP, Moore County has a projected deficit of 44 ACH beds and Northampton County has a projected surplus of 51 ACH beds. Relocating 44 ACH beds from Northampton County will not create a deficit or increase an existing deficit of ACH beds in the county losing ACH beds. Likewise, relocating 44 ACH beds to Moore County will not create a surplus or increase an existing surplus in the county gaining ACH beds. However, the 11 ACH beds proposed to be relocated from Rich Square Villa are undeveloped ACH beds and are thus not existing and not licensed. Likewise, the 33 beds the applicants propose to relocate from Hampton Manor are undeveloped ACH beds and are thus not existing and not licensed as required in Policy LTC-2. Therefore, the application is not conforming to Policy LTC-2.

Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities, on page 31 of the 2020 SMFP, states:

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

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

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

The proposed capital expenditure for this project is greater than \$2 million and less than \$5 million; therefore, Policy GEN-4 is applicable to this review. In Section B, page 22, the applicants explain why they believe the application is conforming to Policy GEN-4. The applicant states the facility will be constructed “...to utilize the latest technologies to assure maximum energy efficiency. ...for fulfillment of the 2020 SMFP’s Policy GEN-4....”

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 not conforming to this criterion based on the following:

- The applicant does not adequately demonstrate that the proposal is consistent with Policy LTC-2 based on the following:
 - The 11 ACH beds proposed to be relocated from Rich Square Villa are undeveloped ACH beds and thus are not existing or licensed.
 - The 33 ACH beds proposed to be relocated from Hampton Manor are undeveloped ACH beds and thus are not existing or licensed.
- (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.

NC

The applicants propose to relocate 44 previously approved but undeveloped ACH beds from Northampton County and relocate 20 previously approved but undeveloped ACH beds within Moore County to develop a new 64-bed ACH facility in Moore County. The undeveloped projects are summarized as follows:

- Project ID #L-11280-16: relocate 33 ACH beds from The Oaks at Pleasant Hills (a closed facility) to Hampton Manor (Northampton County)
- Project ID #L-11281-16: relocate 11 ACH beds from The Oaks at Pleasant Hills (a closed facility) to Rich Square Villa (Northampton County)
- Project ID #H-11694-19: relocate 20 ACH beds from County Time Inn to Seven Lakes Assisted Living (Moore County)

Patient Origin

On page 205, the 2020 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” The Landings at Pinehurst is proposed to be located in Moore County, thus, the service area for this project is Moore County. Facilities may also serve residents of counties not included in their service area.

The applicants state in Section A.7, page 9 that neither applicant owns or operates adult care homes in North Carolina. Additionally, The Landings at Pinehurst is a proposed facility and therefore has no historical patient origin to report. The following table from page 26

illustrates projected patient origin for the facility for the third full federal fiscal (FFY) year of operation:

The Landings at Pinehurst ACH Beds Projected Patient Origin

| COUNTY | THIRD FULL FFY (10/01/2026 – 09/30/2027) | |
|----------------------------------------|---------------------------------------------|----------------|
| | # PTS. | % OF TOTAL |
| Moore | 59 | 96.72% |
| Hoke, Montgomery, Richmond or Scotland | 2 | 3.28% |
| Total | 61 | 100.00% |

In Section C, pages 26-33, the applicants provide the assumptions and methodology used to project patient origin. The applicant’s assumptions are reasonable and adequately supported based on the following:

- The applicants analyzed existing patient origin data from the DHHS 2019 adult care home Patient Origin Report in preparing their assumptions.
- The applicants analyzed patient origin data from existing ACH facilities in Moore County in preparing their assumptions.

Analysis of Need

In Section C, pages 35-41, the applicants explain why they believe the population projected to utilize the proposed services needs the proposed services, summarized below:

- ACH bed demand – the applicants state there is an increasing demand for ACH beds in Moore County. Relying on data published by the North Carolina Office of State Budget and Management (NC OSBM), the applicants state the Moore County population is increasing overall, with the greatest increase projected in the population group age 75 and above. This is the population group most likely to need adult care home services. (See pages 34-35).
- Need for Medicaid/Special Assistance ACH services – the applicants state there is a need for additional Special Assistance/Medicaid ACH beds in Moore County. The applicants state that placement options for seniors who rely on Medicaid or Special Assistance are limited. The applicants compared utilization data submitted by Moore County ACH facilities on license renewal applications and determined there is an unmet need in the county for ACH services for those patients who rely on Medicaid / Special Assistance. The applicants also state the North Carolina Medicaid Annual Report for FY 2019 shows that nearly 19% of Moore County residents qualify for Medicaid. The applicants’ proposal to relocate ACH beds and devote 12 of those beds to Medicaid / Special Assistance will increase the availability of needed ACH Medicaid beds. (See pages 35-39).
- Local Support – the applicants state there is local support from Moore County residents, clinicians and physicians for the proposed 64-bed ACH facility and provides letters of support in Exhibit C.4. (See pages 39-41.)

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

- The 2020 SMFP projects a 51-bed surplus in ACH beds for Northampton County and a 44-bed deficit for Moore County in 2023. Relocating ACH beds from Northampton County into Moore County will reduce the Northampton County surplus and the Moore County deficit.
- The North Carolina Office of State Budget and Management (OSBM) projects that Moore County residents over the age of 75 will increase by 57.37% between 2019 and 2039. This growth combined with the projected bed deficit in the county indicate a need for additional ACH beds.
- 2019 License Renewal Applications (LRAs) for adult care homes in Moore County show that approximately 26% of the total available bed days were utilized by residents who rely on Medicaid or Special Assistance. Given the existing shortage of assisted living placement options for seniors in Moore County who rely on Medicaid / Special Assistance, the proposed bed relocation will provide more placement options for seniors relying on Medicaid and Special Assistance.
- The applicant provides documentation of broad community support for the proposed project.

Projected Utilization

In Section Q, Form C the applicants provide projected utilization for the first three fiscal years (FY) of operation for the proposed facility, as shown in the table below:

The Landings of Pinehurst Projected Utilization

| | PROJECTED | | |
|--------------------|------------------------------|------------------------------|------------------------------|
| | FY 2025 (10/1/24-9/30/25) | FY 2026 (10/1/25-9/30/26) | FY 2027 (10/1/26-9/30/27) |
| # General ACH Beds | 64 | 64 | 64 |
| Days of Care | 13,414 | 22,174 | 22,265 |
| Occupancy Rate | 57.4% | 94.9% | 95.3% |

The applicants do not provide the assumptions or methodology they used to project utilization as shown in the table above. The applicants provide, in Exhibit C.7, a “Fill Rate Letter” signed by the Chief Revenue Officer of Affinity Living Group, LLC, the management company for the proposed facility. The letter provides a description of the company’s experience in “opening ACHs of similar size (approximately 60 to 70 ACH beds) in markets similar to Moore County throughout North Carolina.” The letter also provides marketing strategies the company will undertake to encourage utilization at the proposed facility. Attached to Exhibit C.7 in support of the letter is a table that illustrates projected utilization by quarter for each of the three project years. However, the applicants have not explained how they project to increase utilization in the proposed facility from 57.4% in the first FY to 94.9%, an increase of 65.33%, by the second FY.

The Project Analyst reviewed the LRAs for Seven Lakes Assisted Living, an existing 60-bed ACH facility in Moore County that is operated/managed by Affinity Living Group, LLC

(now ALG). The following table, prepared by the Project Analyst, illustrates utilization as reported in the 2018, 2019 and 2020 LRAs (representing FYs 2017, 2018 and 2019, respectively):

Historical Utilization, Seven Lakes Assisted Living (60 ACH Beds)

| LRA | # PT. DAYS | % UTILIZATION | % CHANGE |
|-----------------------|------------|---------------|---------------|
| 2018 | 13,495 | 61.62% | |
| 2019 | 16,615 | 75.87% | 23.13% |
| 2020 | 17,495 | 79.89% | 5.3% |
| Overall Change | | | 29.65% |

The overall increase in utilization of the existing Moore County ACH facility operated by the same management company as the facility proposed in this application was 29.65% over three years. In this application, the applicants project to increase utilization of the proposed 64 ACH beds at The Landings of Pinehurst by 65.33% from FY 1 to FY 2, and by 66.03% from FY 1 to FY 3, with no assumptions or methodology to explain how that utilization would be achieved.

Projected utilization is not reasonable and adequately supported because the applicants do not provide any assumptions or methodology to support projected utilization, particularly given the experience of the same management group with similar services in the same county as shown in the table above.

Access

In Section C, page 43, the applicant states it will serve all persons without regard to race, color, creed, age, national origin, handicap, sex or payment source. On page 43 and in the table on page 80, the applicants project to serve approximately 20% of services to recipients of Medicaid / County Assistance, as shown below:

Projected Payor Mix, Third Full FFY (10/1/2026 – 9/30/2027)

| PAYOR SOURCE | # PATIENTS | % OF TOTAL |
|-------------------|---------------|----------------|
| Private Pay | 17,885 | 80.33% |
| County Assistance | 4,380 | 19.67% |
| Total | 22,265 | 100.00% |

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 not conforming to this criterion for the following reasons:

- Projected utilization is not reasonable because the applicants do not explain how the facility utilization will increase by 66.03% from the first year of operation to the third year of operation following project completion.
- Projected utilization is not adequately supported because the applicants do not provide assumptions or methodology to support the utilization projections.

(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 applicants propose to relocate 44 previously approved but undeveloped ACH beds from Northampton County and relocate 20 previously approved but undeveloped ACH beds within Moore County to develop a new 64-bed ACH facility in Moore County summarized as follows:

- Project ID #L-11280-16: relocate 33 ACH beds from The Oaks at Pleasant Hills (a closed facility) to Hampton Manor (Northampton County)
- Project ID #L-11281-16: relocate 11 ACH beds from The Oaks at Pleasant Hills (a closed facility) to Rich Square Villa (Northampton County)
- Project ID #H-11694-19: relocate 20 ACH beds from County Time Inn to Seven Lakes Assisted Living (Moore County)

None of the projects listed above has been developed; therefore, the 64 total ACH beds that are the subject of those projects are undeveloped, unlicensed ACH beds which are not serving residents and have not been available for the public to utilize. The applicant does not propose to reduce a service, eliminate a service or relocate a facility or service in either Northampton County or Moore County. 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.

NC

The applicants propose to relocate 44 previously approved but undeveloped ACH beds from Northampton County and relocate 20 previously approved but undeveloped ACH beds within Moore County to develop a new 64-bed ACH facility in Moore County as summarized below:

- Project ID #L-11280-16: relocate 33 ACH beds from The Oaks at Pleasant Hills (a closed facility) to Hampton Manor (Northampton County).

- Project ID #L-11281-16: relocate 11 ACH beds from The Oaks at Pleasant Hills (a closed facility) to Rich Square Villa (Northampton County).
- Project ID #H-11694-19: relocate 20 ACH beds from County Time Inn to Seven Lakes Assisted Living (Moore County).

The applicant proposes to relocate the 64 ACH beds to a new ACH facility in Moore County.

In Section E, pages 52-56, the applicants describe the alternatives they considered and explain 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:

- Develop the ACH beds as previously approved in Project ID #L-11280-16 – the applicants state topographical and geographical issues prevented development of the project as proposed. Therefore, developing the 33 ACH beds previously approved to be relocated is no longer a viable or cost-effective alternative.
- Develop the ACH beds as previously approved in Project ID #L-11281-16 – the applicants state the unavailability of sufficient land to develop an addition the existing facility to accommodate the 11 additional ACH beds prevented development of the project as proposed. Therefore, developing the 11 ACH beds previously approved to be relocated is no longer a viable or cost-effective alternative.
- Develop the ACH beds as previously approved in Project ID #H-11694-19 – the applicants state unanticipated development costs prevented development of the project as proposed, and thus developing the 20 ACH beds previously approved to be relocated is no longer a viable or cost-effective alternative.

On page 56, the applicants state that this proposal is the most effective alternative because it would:

- Avoid creating an ACH facility that is too large to provide a home-like environment,
- Avoid requiring substantial changes to existing facilities' operation,
- Avoid requiring older facilities to be brought into compliance with current codes, thus incurring high costs, and
- Avoid negatively impacting current residents during construction or renovation.

However, the applicant does not adequately demonstrate that the alternative proposed in this application is the most effective alternative to meet the need because the application is not conforming to all statutory and regulatory review criteria. An application that cannot be approved cannot be the most effective alternative.

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is not conforming to this criterion for the reasons stated above. Therefore, the application is denied.

- (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.

NC

The applicants propose to relocate 44 previously approved but undeveloped ACH beds from Northampton County and relocate 20 previously approved but undeveloped ACH beds within Moore County to develop a new 64-bed ACH facility in Moore County.

Capital and Working Capital Costs

In Section Q, page 91, the applicant projects the total capital cost of the project as shown in the table below.

| | |
|---------------------|--------------------|
| Site Costs* | \$1,375,000 |
| Construction Costs | \$1,760,000 |
| Miscellaneous Costs | \$1,375,000 |
| Total | \$4,510,000 |

Site Costs as indicated in the table include purchase price of land, closing costs and site preparation.

In Section Q, page 91 the applicants provide a pro forma Form F.1a that itemizes the capital costs for the project. In Section F, page 57, the applicants state the assumptions used to project capital cost are in Exhibit Q.1, and the worksheets are in Exhibit Q.2. Exhibit Q.1 contains several tables, none of which shows assumptions used by the applicants to project the capital cost of the project. In Exhibit Q.1, page 179 the applicants provide a table with the heading: “*general assumptions*” that shows monthly and annual amounts of money apparently designated to individual departments. The total annual amount shown in the table is \$318,720. There is no explanation of how this table, or the costs itemized in the table relate to the projected \$4,510,000 capital cost of the project. The remaining tables in Exhibit Q.1 are “*staff assumptions*” and “*labor calculators*”. Exhibit Q.2 provides spreadsheets that appear to be pro forma calculations.

The applicants do not adequately demonstrate that the projected capital cost is reasonable and adequately supported based on the following:

- The applicants do not provide assumptions used to project the capital cost of the project.
- The applicants do not provide the methodology used to project the capital cost of the project.

In Section F.3(b), page 58, the applicants project \$1,354,613 in start-up and initial operating expenses. On page 59, the applicants project the total working capital will be \$493,363.22.

In Exhibit F.23, page 155, the applicants provide an April 1, 2020 letter from the managing director of Integrated Asset Advisors (IAA) which states IAA will consider providing financing in the amount of \$496,363.22 for the working capital needs of the project. However, the applicants do not adequately demonstrate that the projected working capital is reasonable and adequately supported based on the following:

- The applicants do not explain how the \$1,354,613 in initial operating expenses is to be funded.
- The applicants do not address the inconsistency in the dollar amounts provided for initial operating expenses and total working capital.
- The applicants do not provide the assumptions and methodology used to project the working capital needs of the project.

Availability of Funds

In Section F, page 57, the applicants state the project capital cost will be funded as shown in the table below:

| SOURCES OF CAPITAL COST FINANCING | | | |
|-----------------------------------|-----------------|--------------------|--------------------|
| TYPE | MOORE OPCO, LLC | MOORE PROPCO, LLC | TOTAL |
| Loans | \$ | \$4,510,000 | \$4,510,000 |
| Accumulated reserves or OE* | \$ | \$ | \$ |
| Bonds | \$ | \$ | \$ |
| Other (Specify) | \$ | \$ | \$ |
| Total Financing ** | \$ | \$4,510,000 | \$4,510,000 |

*OE = Owner's Equity

In Section F, page 59, the applicants state the working capital needs of the project will be funded as shown in the table below:

| SOURCES OF WORKING CAPITAL FINANCING | | | |
|--------------------------------------|-----------------|---------------------|---------------------|
| TYPE | MOORE OPCO, LLC | MOORE PROPCO, LLC | TOTAL |
| Loans | \$ | \$493,363.22 | \$493,363.22 |
| Accumulated reserves or OE* | \$ | \$ | \$ |
| Bonds | \$ | \$ | \$ |
| Other (Specify) | \$ | \$ | \$ |
| Total Financing ** | \$ | \$493,363.22 | \$493,363.22 |

*OE = Owner's Equity

However, the applicants do not adequately demonstrate the availability of sufficient funds for the capital and working capital needs of the project based on the following:

- The applicants do not explain the inconsistency in the dollar amounts provided for initial operating expenses and total working capital.
- The applicants do not explain how the \$1,354,613 in initial operating expenses as stated is to be funded. The letter provided in Exhibit F.3 only documents funding for

\$493,363.22, which leaves a total of \$861,249.80 in initial operating expenses unaccounted for.

Financial Feasibility

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

| | 1 st Full Fiscal Year | 2 nd Full Fiscal Year | 3 rd Full Fiscal Year |
|-------------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Total Patient Days | 13,414 | 22,174 | 22,265 |
| Total Gross Revenues (Charges) | \$1,334,370 | \$2,220,420 | \$2,229,120 |
| Total Net Revenue | \$1,321,026 | \$2,198,216 | \$2,206,829 |
| Average Net Revenue per Patient Day | \$98 | \$99 | \$99 |
| Total Operating Expenses (Costs) | \$1,650,704 | \$1,927,494 | \$1,941,037 |
| Average Operating Expense per Patient Day | \$123 | \$87 | \$87 |
| Net Income/(Loss) | (\$329,678) | \$270,722 | \$265,792 |

However, the assumptions used by the applicant in preparation of the pro forma financial statements are not reasonable and adequately supported based on the following:

- In Exhibit Q.1, page 180, the applicants provide a table with a heading “*Staff assumptions*” in which staff positions and numbers of full time equivalent (FTE) positions are projected for the facility. The table includes salary information and projected annual salary totals. The total amounts budgeted in Form F.4, *Operating Costs* for salaries do not match the salary totals the applicants provided in the Staff Assumptions worksheet provided in Exhibit Q.1. See the following table, prepared by the Project Analyst, that illustrates the discrepancy:

| SOURCE OF TOTAL SALARIES | FIRST OY | SECOND OY | THIRD OY |
|--------------------------|--------------|--------------|--------------|
| Worksheet Exhibit Q.1 | \$666,820.60 | \$795,488.60 | \$806,224.60 |
| Form F.4 | \$459,341.00 | \$572,229.00 | \$582,965.00 |
| Difference | \$207,479.60 | \$223,259.60 | \$223,259.60 |

- Thus, in each of the three project years, there is over \$200,000 for salaries that has not been accounted for as operating costs.
- Without an accurate accounting for operating costs, the income projections in Form F.5, Income Statement, are not reliable and thus are not reasonable.

Conclusion

The Agency reviewed the:

- application, and

- exhibits to the application.

Based on that review, the Agency concludes that the application is not conforming to this criterion for the following reasons:

- The applicants do not adequately demonstrate that the capital and working capital costs are based on reasonable and adequately supported assumptions.
 - The applicant does not adequately demonstrate sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.
- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

C

The applicants propose to relocate 44 previously approved but undeveloped ACH beds from Northampton County and relocate 20 previously approved but undeveloped ACH beds within Moore County to develop a new 64-bed ACH facility in Moore County.

On page 205, the 2020 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” Thus, the service area for this project is Moore County. Facilities may also serve residents of counties not included in their service area.

Table 11A on pages 224-225 of the 2020 SMFP lists six ACH facilities and two nursing facilities with ACH beds, for a total of 535 ACH beds in Moore County. See the following table prepared by the Project Analyst:

| FACILITY | # OF ACH BEDS | OCCUPANCY RATE |
|------------------------------------|----------------------|-----------------------|
| Brookdale Pinehurst | 76 | |
| Elmcroft of Southern Pines | 94 | |
| Fox Hollow Senior Living Community | 85 | |
| KingsWood Nursing Center | 10 | |
| Magnolia Gardens | 110 | |
| Peak Resources - Pinelake | 20 | |
| Seven Lakes Assisted Living | 60 | |
| Tara Plantation of Carthage | 80 | |
| Total | 535 | |

Source: Tables 11A and 11C, pages 224-225 and 240, respectively of the 2020 SMFP

In Section G, page 63, the applicants explain why they believe their proposal would not result in the unnecessary duplication of existing or approved ACH bed services in Moore County. The applicants state that Moore County has a deficit of 44 ACH beds. The applicants state relocating 24 of the 44 beds from Northampton County to Moore County and relocating 20 ACH beds within Moore County will not create a surplus of ACH beds in Moore County;

therefore, the project will not result in unnecessary duplication of existing or approved ACH beds.

The applicants adequately demonstrate that the proposal would not result in an unnecessary duplication of existing or approved services in the service area for the following reasons:

- The proposal would not result in a surplus of ACH beds in Moore County.
- The applicants adequately demonstrate the need for the 44 relocated beds in addition to the existing ACH beds in Moore County.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- 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

In Exhibit Q.1, page 180, the applicants provide projected staffing for the proposed services in full-time equivalent (FTE) positions, as illustrated in the following table.

| POSITION | 1ST FFY FTEs | 2ND FFY FTEs | 3RD FFY FTEs |
|---------------------------------|-----------------|-----------------|-----------------|
| RNs | 0.5 | 0.5 | 0.5 |
| Aides | 11.7 | 16.4 | 16.8 |
| Alzheimer's Coordinator | 1.0 | 1.0 | 1.0 |
| Staff Development Coordinator | 1.0 | 1.0 | 1.0 |
| Clerical | 1.3 | 1.4 | 1.4 |
| Dietary | 4.9 | 5.1 | 5.1 |
| Activities | 0.8 | 1.0 | 1.0 |
| Transportation | 0.7 | 0.9 | 0.9 |
| Laundry and Linen | 0.6 | 0.6 | 0.6 |
| Housekeeping | 1.6 | 1.8 | 1.8 |
| Plant Operation and Maintenance | 0.8 | 0.9 | 0.9 |
| Administration | 1.0 | 1.0 | 1.0 |
| TOTAL | 26.0 | 31.5 | 32.0 |

The assumptions and methodology, including worksheets, used to project staffing are provided in Exhibits Q.1 and Q.2. In Section H, page 64, the applicants describe the methods used to recruit or fill new positions and their existing training and continuing education programs. On pages 64-65, the applicants discuss the physicians who will admit residents and provide medical services, as well as the facility administrators. The applicants provide supporting information in Exhibit H.4.

Therefore, the applicants adequately demonstrate 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.1, page 66, the applicants state that rehabilitative care will be provided through existing relationships. The applicants provide letters of support from providers of other support services in Exhibits C.1 and C.4. Exhibit C.1 documents support from providers of food services and pharmacy services. Exhibit C.4 documents support from providers of the following ancillary and support services are necessary for the proposed services:

- Primary and Urgent Care,
- Rehabilitation, and
- Home Care.

In Section I, pages 66-67, the applicants describe their existing relationships with other local health care and social service providers.

The applicants adequately demonstrate that the proposed services will be coordinated with the existing health care system.

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.

- (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 applicants do 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 applicants do 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 applicants are not HMOs. 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

The applicants propose to relocate 44 previously approved but not developed ACH beds from Northampton County and relocate 20 previously approved but not developed ACH beds within Moore County to develop a new 64-bed ACH facility in Moore County.

In Section K, page 71, the applicants state that the project involves constructing 31,761 square feet of new space. Line drawings are provided in Exhibit K.1.

On pages 71-72, the applicants adequately explain how the cost, design and means of construction represent the most reasonable alternative for the proposal and provides supporting documentation in Exhibit K.3.

On pages 72-73, the applicants adequately explain why the proposal will not unduly increase the costs to the applicants of providing the proposed services or the costs and charges to the public for the proposed services.

On page 73, the applicants identify any applicable energy saving features that will be incorporated into the construction plans and provide supporting documentation in Exhibit K.3.

On pages 73-74, the applicants identify the proposed site and provide information about the current owner, zoning and special use permits for the site, and the availability of water, sewer and waste disposal and power at the site. The applicants provide supporting documentation in Exhibit K.4.

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.

- (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

The applicants propose to relocate 44 previously approved but undeveloped ACH beds from Northampton County and relocate 20 previously approved but undeveloped ACH beds within Moore County to develop a new 64-bed ACH facility in Moore County. In Section L, page 79, the applicants state that 12.48% of the Moore County facility, Seven Lakes' total days were private pay and 87.52% of total days were covered by County Assistance during the last full fiscal year prior to submission of this application. See the following table, from page 79:

Seven Lakes AL Payor Source 8/1/18 – 9/30/19

| PAYOR SOURCE | # PT. DAYS | % OF TOTAL |
|-------------------|---------------|----------------|
| Private Pay | 2,183 | 12.48% |
| County Assistance | 15,312 | 87.52% |
| Total | 17,495 | 100.00% |

In Section L, page 78, the applicants provide the following payor mix for Rich Square Villa in Northampton County:

Rich Square Villa Payor Source 8/1/18 – 9/30/19

| PAYOR SOURCE | # PT. DAYS | % OF TOTAL |
|-------------------|---------------|----------------|
| Private Pay | 1,364 | 12.81% |
| County Assistance | 9,282 | 87.19% |
| Total | 10,646 | 100.00% |

In Section L, page 79, the applicants provide the following payor mix for Hampton Manor in Northampton County:

Hampton Manor Payor Source 8/1/18 – 9/30/19

| PAYOR SOURCE | # PT. DAYS | % OF TOTAL |
|-------------------|---------------|----------------|
| Private Pay | 5,524 | 19.99% |
| County Assistance | 22,107 | 80.01% |
| Total | 27,631 | 100.00% |

In Section L, page 78, the applicants provide the following comparison for the Moore County facility, Seven Lakes Assisted Living:

| | Percentage of Total Patients Served by the Seven Lakes Facility during the Last Full FY | Percentage of the Population of the Service Area |
|-------------------------------------|-----------------------------------------------------------------------------------------|--------------------------------------------------|
| Female | 49.02% | 51.8% |
| Male | 50.98% | 48.2% |
| Unknown | 0.0% | 0.0% |
| 64 and Younger | 31.37% | 76.1% |
| 65 and Older | 68.63% | 23.9% |
| American Indian | -- | 0.9% |
| Asian | -- | 1.6% |
| Black or African-American | 27.42% | 12.2% |
| Native Hawaiian or Pacific Islander | -- | 0.2% |
| White or Caucasian | 56.45% | 83.1% |
| Other Race | -- | 2.1% |
| Declined / Unavailable | 16.13% | 0.0% |

Conclusion

The Agency reviewed the:

- application, and
- exhibits to the application.

Based on that review, the Agency concludes that the application documents the extent to which medically underserved populations currently use the applicants’ existing services in comparison to the percentage of the population in the applicants’ 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 79, the applicants state that they are not obligated to provide uncompensated care, community service, or access by minorities and persons with disabilities.

In Section L, page 79, the applicants state that during the last five years, there have been no patient civil rights access complaints filed against any of the facilities that are the subject of this application, or any similar facilities owned by the applicants or a related entity and located in North Carolina.

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.

- (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 80, the applicant projects the following payor mix for the proposed services during the third full fiscal year of operation following completion of the project, as shown in the table below:

The Landings of Pinehurst Payor Source 10/1/26-9/30/27

| PAYOR SOURCE | # PT. DAYS | % OF TOTAL |
|---------------------|-------------------|-------------------|
| Private Pay | 17,885 | 80.33% |
| County Assistance | 4,380 | 19.67% |
| Total | 22,265 | 100.00% |

As shown in the table above, during the third full fiscal year of operation, the applicants project that 80.33% of total services will be provided to private patients, and 19.67% to County Assistance patients.

In Exhibit Q.1, the applicants provide the assumptions and methodology used to project payor mix during the first three full fiscal years of operation following completion of the project. The projected payor mix is reasonable and adequately supported based on the following:

- The projected payor mix is based on the historical payor mix adjusted for future expectations.
- The applicants incorporate the experience of its management group, Affinity Living Group in its projections.

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.

- (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 80, the applicants do not answer the application question that asks for the range of means by which a person will have access to the proposed services. However, in Section H, page 64, the applicants provide the name of a physician, Dr. Samuel Bowen, who is expected to admit patients to the facility. In Exhibit C.4, the applicants provide a letter of support from Bowen Primary and Urgent Care, which appears to be the same practice as that associated with Dr. Samuel Bowen.

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.

- (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 81, the applicants describe the extent to which area health professional training programs will have access to the facility for training purposes.

Conclusion

The Agency reviewed the:

- application, and
- exhibits to the application.

Based on that review, the Agency concludes that the applicants adequately demonstrate 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 applicants propose to relocate 44 previously approved but undeveloped ACH beds from Northampton County and relocate 20 previously approved but undeveloped ACH beds within Moore County to develop a new 64-bed ACH facility in Moore County.

On page 205, the 2020 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” Thus, the service area for this project is Moore County. Facilities may also serve residents of counties not included in their service area.

Table 11A on pages 224-225 of the 2020 SMFP lists six ACH facilities and two nursing facilities with ACH beds, for a total of 535 ACH beds in Moore County. See the following table prepared by the Project Analyst:

| MOORE COUNTY 2020 SMFP ACH BED INVENTORY | | |
|------------------------------------------|------------|----------------|
| FACILITY | # ACH BEDS | OCCUPANCY RATE |
| Brookdale Pinehurst | 76 | |
| Elmcroft of Southern Pines | 94 | |
| Fox Hollow Senior Living Community | 85 | |
| KingsWood Nursing Center | 10 | |
| Magnolia Gardens | 110 | |
| Peak Resources - Pinelake | 20 | |
| Seven Lakes Assisted Living | 60 | |
| Tara Plantation of Carthage | 80 | |
| Total | 535 | 77.94% |

Source: Tables 11A and 11C, pages 224-225 and 240, respectively of the 2020 SMFP

Regarding the expected effects of the proposal on competition in the service area, in Section N, page 82, the applicant state:

“The proposed project will have a positive effect on competition in the area, as the demand for these 64 ACH Beds may encourage other facilities with poor utilization in Moore County to improve their current situations in order to compete with the

proposed Project [sic], thereby encouraging greater efficiencies and better quality. It will also allow for additional ACH placement options within Moore County....”

Regarding the impact of the proposal on cost effectiveness, in Section N, page 82, the applicants state:

“The proposed Project [sic] anticipates offering rates that are competitive to those surrounding facilities, while still being within a reasonable range for private pay residents, allowing the facility to maintain excellent utilization. [The proposed project] has been designed to minimize construction costs, in an effort to keep rates low while still offering premium services.”

Regarding the impact of the proposal on quality, in Section N, pages 82-83, the applicant states:

“The [a]pplicants propose to build the proposed project to the highest standards. ...the proposed project will be established with the intent to provide a home-like setting in a community of care.”

Regarding the impact of the proposal on access by medically underserved groups, in Section N, page 83, the applicant states:

“...all persons will be admitted to the facility without regard to their race, color, creed, age, national origin, handicap, sex, or source of payment. The [a]pplicants propose to provide Medicaid/Special Assistance to approximately 12 of the 64 ACH beds proposed in the project....”

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

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

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and

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 Exhibit O.3 the applicants identify the adult care homes and nursing facilities located in North Carolina owned, operated or managed by the applicant or a related entity. The applicants identify a total of 89 facilities located in North Carolina

In Exhibit O.3, the applicants state that, during the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred in 13 of these facilities. In Section L, page 86, the applicants state that all of the problems have been corrected. According to the files in the Adult Care Licensure Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, incidents related to quality of care occurred in 13 of these facilities. After reviewing and considering information provided by the applicant and by the Adult Care Licensure and Nursing Home Licensure and Certification Sections and considering the quality of care provided at all of the applicants' facilities, the applicants provided 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.

NC

The Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1100 are applicable to this review. The specific criteria are discussed below.

SECTION .1100 – CRITERIA AND STANDARDS FOR NURSING FACILITY OR ADULT CARE HOME SERVICES

10A NCAC 14C .1102 PERFORMANCE STANDARDS

- (a) *An applicant proposing to add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless the*

average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed nursing facility beds within the facility in which the new beds are to be operated was at least 90 percent.

- NA- The applicants do not propose to add nursing facility beds to an existing facility.
- (b) *An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.*
- NA- The applicants do not propose to establish a new nursing facility or add nursing facility beds to an existing facility.
- (c) *An applicant proposing to add adult care home beds to an existing facility shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed adult care home beds within the facility in which the new beds are to be operated was at least 85 percent.*
- NA- The applicants do not propose to add adult care home beds to an existing facility.
- (d) *An applicant proposing to establish a new adult care home facility or add adult care home beds to an existing facility shall not be approved unless occupancy is projected to be at least 85 percent for the total number of adult care home beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.*
- NC- In Section Q, on Form C, the applicants project that the proposed facility will have an occupancy rate of at least 85% by the end of the second operating year following project completion. However, the applicants do not provide the assumptions or methodology used to project utilization. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.