REQUIRED STATE AGENCY FINDINGS

FINDINGS
C = Conforming
CA = Conforming as Conditioned
NC = Nonconforming
NA = Not Applicable

Decision Date: December 7, 2021
Findings Date: December 7, 2021

Project Analyst: Mike McKillip
Co-Signer: Gloria C. Hale

Project ID #: J-12125-21
Facility: Wake County Rehabilitation Hospital
FID #: 070730
County: Wake
Applicants: Wake County Rehabilitation Hospital, LLC
Duke University Health System, Inc.
Kindred Healthcare, LLC
Project: Develop a 52-bed inpatient rehabilitation hospital

REVIEW CRITERIA

G.S. §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

Wake County Rehabilitation Hospital, LLC (WCRH), Duke University Health System, Inc. and Kindred Healthcare, LLC, hereinafter collectively referred to as "WCRH" or "the applicant," proposes to develop a 52-bed inpatient rehabilitation hospital. WCRH is a joint venture company comprised of WakeMed, Duke Affiliations Network, Inc. (a controlled affiliate of Duke University Health System, Inc.), and KND IRF Development 55, LLC (a subsidiary of Kindred Healthcare, LLC). The applicant proposes to develop the new inpatient rehabilitation hospital, Wake County Rehabilitation Hospital, by relocating 7 existing inpatient rehabilitation beds from Duke Regional Hospital and 25 existing inpatient rehabilitation beds from WakeMed. Also, the applicant proposes to relocate 12 previously approved but not yet developed inpatient rehabilitation beds from Duke Raleigh Hospital

(Project I.D. # J-10021-12) and to relocate 8 previously approved but not yet developed inpatient rehabilitation beds from WakeMed (Project I.D. # J-10018-12).

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 2021 State Medical Facilities Plan (SMFP). Therefore, no need determinations are applicable to this review.

Policies

There is one policy in the 2021 SMFP applicable to this review: Policy GEN-4: *Energy Efficiency and Sustainability for Health Service Facilities*.

Policy GEN-4: *Energy Efficiency and Sustainability for Health Service Facilities*, on page 29 of the 2021 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 is required to submit a plan for energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant's representation in the written statement as described in paragraph one of Policy GEN-4. The plan shall not adversely affect patient or resident health, safety or infection control."*

The proposed capital expenditure for this project is greater than $2 million but less than $5 million. In Section B, pages 30-31, the applicant provides a written statement describing the project's plan to assure improved energy efficiency and water conservation. The applicant states,

> *"WCRH will ensure that the proposed facility will be developed with the goal of maximizing energy efficiency and water conservation and in physical spaces that are designed to be in compliance with all applicable federal, state, and local*

building codes, and to meet or exceed requirements for energy efficiency and water conservation, including 2021 SMFP Policy GEN-4. The facility will be built by a developer with the process managed by Kindred based on its extensive experience in developing new IRF facilities and will follow Kindred's existing well-tested prototypical design and specifications adapted to the proposed location and needs of the triventure affiliates. ... The building codes apply to systems and equipment for electrical power, lighting, heating, ventilating, air conditioning service, energy management, water heating and water conservation. Water conservation design standards include the use of low-flow toilets throughout the facility. The new physical spaces will be constructed to ensure energy efficiency and cost-effective utilities, including water conservation. WCRH will closely monitor its utility usage and costs (including water utilization) in order to maintain efficient and environmentally responsible energy operations."

The applicant adequately demonstrates that the application includes a written statement describing the project's plan to assure improved energy efficiency and water conservation. The application is consistent with Policy GEN-4.

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 based on the following:

- The applicant does not propose to develop any beds, services or equipment for which there is a need determination in the 2021 SMFP.
- The applicant adequately demonstrates the proposal is consistent with Policy GEN-4 based on its representations that the project includes a plan for energy efficiency and water conservation.

(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, … persons [with disabilities], the elderly, and other underserved groups are likely to have access to the services proposed.

C

The applicant proposes to develop a 52-bed inpatient rehabilitation hospital. WCRH is a joint venture company comprised of WakeMed, Duke Affiliations Network, Inc. (a

controlled affiliate of Duke University Health System, Inc.), and KND IRF Development 55, LLC (a subsidiary of Kindred Healthcare, LLC). The applicant proposes to develop the new inpatient rehabilitation hospital, Wake County Rehabilitation Hospital, by relocating 7 existing inpatient rehabilitation beds from Duke Regional Hospital and 25 existing inpatient rehabilitation beds from WakeMed. Also, the applicant proposes to relocate 12 previously approved but not yet developed inpatient rehabilitation beds from Duke Raleigh Hospital (Project I.D. # J-10021-12) and to relocate 8 previously approved but not yet developed inpatient rehabilitation beds from WakeMed (Project I.D. # J-10018-12). In Section C.1, page 36, the applicant states that WCRH will develop the inpatient rehabilitation facility in Apex (Wake County) on a site owned by WakeMed. WakeMed will lease the land through the developer to WCRH, and the construction cost of the facility will be incurred by the developer. In Section C.1, pages 34-35, the applicant describes the project as follows:

> *"As will be discussed in detail in response to Section C, Question 4, the capacity and facility constraints at WakeMed create operational inefficiencies and challenges the facility's ability to optimally operate all existing licensed IRF beds and effectively implement the 8 CON-approved beds (CON#J-10018-12). To remedy these constraints and more effectively distribute IRF beds in HSA IV, WakeMed will contribute 25 licensed and 8 approved rehabilitation beds (33 total) from its planning inventory (see Figure 1) and will lease the land for the new IRF through the developer to the Applicant. WakeMed Rehab will operate 73 licensed beds after project completion and will offer all private rooms and private bathrooms. ... In addition, DUHS has 12 approved inpatient rehabilitation beds pending implementation at (CON #J-10021- 12). As will be discussed in detail in response to Section C, Question 4, the capacity and facility constraints at both Duke Regional and Duke Raleigh challenge the facilities' ability to effectively utilize all licensed beds and implement the 12 CON-approved beds at Duke Raleigh. In an attempt to address these constraints and to effectively distribute IRF beds in HSA IV, DUHS will be contributing a combination of approved and operational beds from Duke Regional and Duke Raleigh. Specifically, DUHS will contribute 7 beds from Duke Regional, leaving 23 beds remaining on Duke Regional's license; and 12 approved beds from Duke Raleigh, leaving 0 beds to be developed at Duke Raleigh; for a total of 19 beds being contributed to the new IRF."*

Summary of Proposed Bed Relocations

	Existing	***Approved***	***Current Total***	***Proposed Change***	***Proposed Total***
Duke Regional	*30*	*0*	*30*	*-7*	*23*
Duke Raleigh	*---*	*12*	*12*	*-12*	*0*
WakeMed	*98*	*8*	*106*	*-33*	*73*
Proposed New Facility	*0*	*0*	*0*	*52*	*52*
Total JV Affiliates	***128***	***20***	***148***	***0***	***148***

Source: Table on page 35 of the application.

In Section C.1, page 36, the applicant describes the proposed inpatient rehabilitation facility as follows:

WCRH proposes to establish a 52-bed freestanding inpatient rehabilitation facility to be located in Apex, Wake County, North Carolina on a site owned by WakeMed. See Section K for specific information on the site. WakeMed will lease the land through the developer to WCRH. The construction cost of the facility will be covered by a developer; costs for the facility and supporting documentation for the development agreement are provided in Exhibit F-2.4, pages 8-14 (Tab 5). The facility is expected to have an opening date of 1/1/2024. The new facility will include:

- *52 all-private rooms and bathrooms, which includes specialty care patient rooms and isolation rooms;*
- *Designated wings on the second floor for stroke patients;*
- *Main therapy suite, which will include a therapy gym, rooms for multiple therapy protocols, private therapy rooms, a cooking therapy room, an Activities of Daily Living (ADL) therapy suite/apartment; and,*
- *State-of-the-art rehabilitation equipment such as the Bionik InMotion® Arm for Neurological Rehabilitation for robotic assisted shoulder and elbow therapy (see Exhibit F-1.2, pages 7-8 (Tab 4) for the equipment quote), and a Smart car.*

Importantly, WCRH will create an exceptional healing environment for rehabilitation patients. The new two-story facility will feature all private rooms and private bathrooms, designed to optimally meet the needs of each patient and enhance their quality of care, with sufficient space for treatment and equipment in addition to space for the patient's family."

Patient Origin

The 2021 SMFP defines the service area for inpatient rehabilitation beds as the Health Service Area (HSA) in which the beds are located. Appendix A of the 2021 SMFP contains a map showing the six HSAs in the state. Thus, the service area for this application is HSA IV, which includes Chatham, Durham, Franklin, Granville, Johnston, Lee, Orange, Person, Vance, Wake and Warren counties. Facilities may also serve residents of counties not included in their service area.

WCRH is not an existing hospital and has no historical patient origin for inpatient rehabilitation services. The following tables show the historical patient origin for the inpatient rehabilitation services at WakeMed and Duke Regional Hospital, from which existing inpatient rehabilitation beds will be relocated.

WakeMed Rehabilitation Hospital Patient Origin – FFY2020		
County	**Patients**	**% of Total**
Wake	976	60.3%
Johnston	175	10.8%
Harnett	63	3.9%
Durham	27	1.7%
Lee	5	0.3%
Chatham	4	0.2%
All Other Counties*	341	21.1%
Out of State*	28	1.7%
Total	**1,619**	**100.0%**

Source: Table on page 39 of the application

*Applicant provides a list of the counties and other states included in the *"All Other Counties"* and *"Out of State"* categories under the table on page 39 of the application.

Duke Regional Hospital Rehabilitation Patient Origin – SFY2020		
County	**Patients**	**% of Total**
Durham	226	36.7%
Wake	48	7.8%
Harnett	6	1.0%
Chatham	3	0.5%
Lee	3	0.5%
Johnston	1	0.2%
All Other Counties*	269	43.7%
Out of State*	59	9.6%
Total	**615**	**100.0%**

Source: Table on page 40 of the application

*Applicant provides a list of the counties and other states included in the *"All Other Counties"* and *"Out of State"* categories under the table on page 40 of the application.

The following tables show the applicant's projected patient origin for inpatient rehabilitation services at the proposed facility in the first three full fiscal years following project completion.

WCRH Projected Inpatient Rehabilitation Services Patient Origin						
ZIP Code or County	OY 1 (CY2024)		OY 2 (CY2025)		OY 3 (CY2026)	
	# Patients	% of Total	# Patients	% of Total	# Patients	% of Total
27501	16	2.2%	20	2.1%	25	2.1%
27502	34	4.6%	42	4.4%	52	4.3%
27519	33	4.4%	41	4.2%	50	4.2%
27523	16	2.2%	20	2.1%	25	2.1%
27526	49	6.5%	60	6.3%	74	6.2%
27539	16	2.1%	20	2.1%	25	2.0%
27540	45	5.9%	55	5.7%	68	5.6%
27562	2	0.3%	3	0.3%	3	0.3%
27592	23	3.0%	28	2.9%	35	2.9%
27713	29	3.8%	34	3.6%	41	3.4%
Tier 1 PSA Total	**263**	**35.0%**	**324**	**33.7%**	**398**	**33.0%**
27511	38	5.1%	48	5.0%	61	5.0%
27513	35	4.6%	45	4.7%	59	4.9%
27518	21	2.8%	26	2.7%	33	2.7%
27529	46	6.1%	58	6.1%	73	6.1%
27560	25	3.3%	33	3.4%	44	3.6%
27603	43	5.7%	54	5.6%	68	5.6%
27606	24	3.1%	30	3.1%	38	3.1%
27607	2	0.2%	2	0.2%	3	0.2%
Tier 2 SSA Total	**232**	**30.9%**	**297**	**30.9%**	**377**	**31.3%**
Other Chatham	9	1.2%	11	1.1%	13	1.1%
Other Durham	24	3.1%	37	3.9%	47	3.9%
Other Harnett	39	5.2%	47	4.8%	56	4.6%
Other Johnston	16	2.1%	22	2.3%	28	2.3%
Lee	16	2.2%	20	2.0%	23	1.9%
Other Wake	40	5.3%	61	6.3%	81	6.7%
Tier 3 SSA Total	143	19.1%	197	20.5%	249	20.6%
In-Migration*	113	15.0%	144	15.0%	181	15.0%
Total	**751**	**100.0%**	**962**	**100.0%**	**1,205**	**100.0%**

Source: Table on page 42 of the application.
*The applicant provides a list of the counties and other states included in the In-Migration category on page 42 of the application.

In Section C.4, pages 61-64, and Section Q, pages 150-161, (Steps 1-5 of the applicant's utilization projection methodology), the applicant provides the assumptions and methodology used to project patient origin. The applicant's assumptions are reasonable and adequately supported because they are based on the historical utilization of acute care and inpatient rehabilitation services at existing DUHS and WakeMed facilities by patients that originated from the proposed service area that would be appropriately treated at WCRH, as described in the methodology in Section Q of the application.

Analysis of Need

In Section C.4, pages 43-76, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services, as summarized below:

- The significant and continued population growth in the service area, especially for the 65 and older population.
- Pressing campus and capacity constraints in other service-lines within both WakeMed and DUHS systems.
- Limiting factors related to the current structure of Duke Regional and WakeMed Rehab's rehabilitation units, including semi-private rooms, impacting available capacity.
- The significant untapped demand for inpatient rehabilitation facility (IRF) services within the acute care patient populations served within the WakeMed and DUHS systems.
- The need for greater geographic access to IRF services for western and southern Wake County and surrounding area.

The information is reasonable and adequately supported for the following reasons:

- The applicant uses publicly available data to demonstrate the projected population growth and aging and economic development in the identified service area.
- The applicant provides maps and data to support its statements about the location of the proposed facility and its proximity to the primary and secondary service areas.
- The applicant relies on DUHS and WakeMed's historical inpatient rehabilitation utilization by patients residing in the proposed service area for WCRH.

Projected Utilization

In Section Q, Form C, the applicant provides projected utilization for the proposed inpatient rehabilitation facility through the first three full fiscal years of operation, as shown in the following table.

WCRH Projected IRF Utilization			
	OY 1 (CY2024)	OY 2 (CY2025)	OY 3 (CY2026)
# of Beds	52	52	52
# Discharges	751	962	1,205
# of Patient Days	9,762	12,503	15,660
Average Length of Stay	13	13	13
Occupancy Rate	51.4%	65.9%	82.5%

In Section Q, the applicant provides the assumptions and methodology used to project utilization, which are summarized below.

Projected Inpatient Rehabilitation Bed Utilization

Step 1: Analyze Historical Discharge Volume by Service Area Tier from WakeMed and DUHS for FYs 2018- 2020: The applicant identified the inpatient rehabilitation discharges for WakeMed and DUHS's existing inpatient rehabilitation beds for the identified service

area and calculated the compound annual growth rate. See the table on page 153 of the application.

Step 2A-2E: Calculate Unmet IRF ADC: WCRH reviewed MedPar 2019 discharge data from these facilities. DUHS and WakeMed discharged a total of 125,804 patients from their affiliated acute care hospitals in 2019. This information was analyzed to identify the number of potential patients appropriate for IRF from within the DUHS and WakeMed systems. WCRH examined the patient-level ICD-10 codes to categorize patients into the Rehabilitation Impairment Codes (RICs) that CMS specifies as IRF-appropriate conditions. Matching patients by ICD-10 codes to RICs allowed WCRH to identify the primary condition for which the patient may be admitted to inpatient rehabilitation and specifically analyze only the potential demand for IRF care from patients who would qualify for this level of care. In determining the need for IRF beds across the two systems, WCRH evaluated the acute care-to-IRF conversion rates per RIC for mature markets with Kindred affiliated IRFs across the country in 2019. In reviewing these various ALOS, WCRH aligned the projected ALOS most closely with Medicare patient data for 2019, considering the largest patient population to be served will be patients covered by Medicare. In order to determine the unmet need, WCRH calculated the ADCs that WakeMed and DUHS currently serve with their existing and operational rehabilitation beds. Using 2021 LRA and internal data, WCRH determined that Duke Regional's ADC was 24.5 in its FY 2020 (July-June), and WakeMed experienced a 76.6 ADC in its FFY 2020 (October-September), for a combined ADC of 101.1. Given the difference between current and potential IRF discharges, this analysis indicated that there is unmet IRF need of 53.6 ADC. This represents that there are approximately 35% of current WakeMed and Duke patients who could benefit from inpatient rehabilitation services who are not receiving such services at WakeMed or DUHS.

Kindred's IRF Model: Identified Untapped Rehab Potential		
A	DUHS & WakeMed 2019 Acute Cases	**125,804**
B	RIC Match Cases	63,366
C	IRF-Appropriate Patients (Acute to IRF Conversion by RIC)	4,343
D	Duke Regional & WakeMed Rehab Total ADC of IRF Demand [C*13/365]	154.7
E	Less: IRF ADCs at Duke Regional & WakeMed Rehab Units	101.1
F	Duke Regional & WakeMed Rehab Unmet IRF Patient ADC [D-E]	53.6
G	**% Shortfall of IRF Demand [F/D]**	**34.6**

Source: Table on page 155 of the application

Step 3: Project Total Base IRF Volume Based on Historical Growth Rates & Increased Penetration Rate from New Facility: To project the total base IRF volume for the service area (WakeMed + DUHS + unmet need), WCRH began with actual service area rehabilitation discharge volume for each facility through March 2021, annualized to estimate CY2021 volume. For the interim FFY years 2022, 2023, and partial FFY year October 2023 thru December 2023, volume was grown using the historical growth rate of each facility within each tier. For Project Years 1, 2, and 3, WCRH continued using the historical growth rate of each facility by service area tier combined with additional growth to capture unmet need in the defined service area. Specifically, WCRH added an additional 10 percent annual growth, in addition to the applied historical growth rates, across both

facilities' patient base and within each service area tier to represent increased capture of unmet need upon IRF opening. The applicant states this growth is not just a redirection of existing utilization from other providers in the service area, but represents the conversion of a greater percentage of IRF appropriate patients to IRF admissions based on Kindred's experience and the greater availability of IRF beds in the new facility (reflecting implementation of approved beds, the conversion of semi-private to private rooms, and increased geographic access). See the table on page 157 of the application.

Step 4: Determine Volume Shift to the New Facility from Each Existing Facility (WakeMed and DUHS): After calculating overall IRF patient volume projected to be generated by the two systems, WCRH projected volume shift by facility and service area tier to the proposed new IRF. WCRH projected a significant volume shift from Tier 1 ZIP codes for both WakeMed and DUHS based on geographic proximity, estimating that 85 percent of the projected volume for this region will shift to the new facility by Project Year 3. The proposed IRF will be located in this tier, making it the most geographically accessible location for most residents in this area, whether patients are choosing DUHS or WakeMed for their acute care services. WCRH projects that between 70 and 75 percent of patients in this tier will shift to the new IRF by Project Year 3. This was determined by reviewing both geographic access increases and patient preference to move out of the congested city of Raleigh. WCRH projected shifts in Tier 3 on a facility-by-facility and county-by-county basis in order to accurately quantify anticipated volume redirection in the tier as a whole.

Step 5: Apply Shifts to Total Projected Volume by Tier: WCRH then applied the projected shifts by tier and year (Step 4 above) to the total projected volume (Step 3 above) to determine projected volumes for the proposed IRF based on shift from WakeMed and DUHS volume.

Projected Rehabilitation Discharge Volume for the IRF			
	Project Year 1	**Project Year 2**	**Project Year 3**
Tier 1 - Primary Service Area ZIP Codes			
WakeMed	226	280	346
DUHS	37	44	52
Total	263	324	398
Tier 2 - Secondary Service Area ZIP Codes			
WakeMed	198	248	309
DUHS	35	49	68
Total	232	297	377
Tier 3 – All Other Service Area Counties			
WakeMed	100	134	172
DUHS	43	63	77
Total	143	197	249
Total Service Area	**638**	**818**	**1,024**

Source: Table on page 161 of the application.

Step 6: Summarize Projected Rehabilitation Discharges for the Proposed Hospital: In addition to the shifted volumes projected in Step 5 above, WCRH assumed an in-migration

rate of 15 percent from all other counties in the HSA (Orange, Person, Granville, Vance, Warren, Franklin), as well as outside the HSA. The applicant states,

> *"In FFY 2020, WakeMed Rehab Hospital served inpatient rehabilitation patients from 75 counties in North Carolina, with 643 (or 39.7 percent) of those patients originating from outside Wake County (where WakeMed Rehab is located). … In its FY 2020, Duke Regional served inpatient rehabilitation patients from 77 North Carolina counties, with 330 (59.4 percent) of those patients residing outside Durham County. … As such, an assumed in-migration factor of 15 percent for a new, state-of-the-art facility that will solely provide rehabilitation services is very reasonable and conservative."*

Projected Utilization of the IRF			
	Project Year 1	**Project Year 2**	**Project Year 3**
Projected Discharges from Proposed Service Area	638	818	1,024
In-migration (15%)	113	144	181
Total Discharges	751	962	1,205
Projected ALOS	13.0	13.0	13.0
Days of Care	9,762	12,503	15,660
ADC	27	34	43
Beds	52	52	52
Projected Occupancy	**51.4%**	**65.9%**	**82.5%**

Source: Table on page 162 of the application.

Projected utilization for the proposed inpatient rehabilitation beds is reasonable and adequately supported for the following reasons:

- The applicant's projections of patient admissions and patient days at the proposed WCRH facility are based on historical utilization of inpatient services by patients at DUHS and WakeMed facilities for residents of the identified service area who could be appropriately treated at the proposed IRF.
- The applicant's projections are based on and supported by its historical experience with regard to the number of patient admissions originating from acute care services at hospitals and the historical average length of stay for those patients.
- The applicant's projections are supported by the projected population growth and aging in the proposed primary service area.
- Exhibit C.4 contains copies of letters from physicians expressing support for the proposed project and their intention to refer patients to the proposed facility.

Access

In Section C.6, page 81, the applicant states, *"All individuals, including low-income persons, racial and ethnic minorities, women, persons with disabilities, persons 65 and older, Medicare beneficiaries, Medicaid recipients, and other underserved groups, will have access to WCRH as clinically appropriate."* On page 81, the applicant provides the

estimated percentage for the following medically underserved groups at the proposed hospital, as shown in the following table.

Medically Underserved Groups	Estimated Percentage of Total Services in the 3rd Full Year
Low income persons*	3.2%
Racial and ethnic minorities	36.9%
Women	45.2%
Persons with disabilities**	NA
Persons 65 and over	51.7%
Medicare	74.0%
Medicaid	5.5%

*The applicant states, *"Low-income persons is a general category that often includes Medicaid recipients, which is broken out into a separate category in the table above. The information presented in the "Low-income persons" category includes averages of charity care and self-pay patients served across the WakeMed and DUHS systems. Provision of care to Medicaid recipients is also indicative of accessibility to low-income persons."*

**The applicant states, *"As it relates to inpatient rehabilitation services, the triventure affiliates in this application do not track persons with disabilities as a category in any dataset. Accordingly, this information is not available. However, all members and related entities in this proposal serve all patients regardless of disability, gender, race, or ability to pay."*

The applicant adequately describes the extent to which all residents of the service area, including underserved groups, are likely to 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 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 describes the extent to which all residents, including underserved groups, are likely to have access to the proposed services.

(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, … persons [with disabilities], and other underserved groups and the elderly to obtain needed health care.

C

The applicant proposes to develop a 52-bed inpatient rehabilitation hospital. WCRH is a joint venture company comprised of WakeMed, Duke Affiliations Network, Inc. (a controlled affiliate of Duke University Health System, Inc.), and KND IRF Development 55, LLC (a subsidiary of Kindred Healthcare, LLC). The applicant proposes to develop the new inpatient rehabilitation hospital by relocating 7 existing inpatient rehabilitation beds from Duke Regional Hospital and 25 existing inpatient rehabilitation beds from WakeMed. Also, the applicant proposes to relocate 12 previously approved but not yet developed inpatient rehabilitation beds from Duke Raleigh Hospital (Project I.D. # J-10021-12) and to relocate 8 previously approved but not yet developed inpatient rehabilitation beds from WakeMed (Project I.D. # J-10018-12).

In Section D.2, page 88, the applicant explains why it believes the needs of the population presently utilizing the services to be reduced, eliminated, or relocated will be adequately met following completion of the project. The applicant states:

> *"To address these issues and improve access to rehabilitation care in HSA IV, WCRH proposes to relocate both existing and approved rehabilitation beds to the proposed IRF. In this regard, WCRH will seek to:*
>
> *1. Ensure that WakeMed and DUHS can accommodate the rising demand for acute care services on their acute care facility campuses without continuing to delay the implementation of the CON-approved rehabilitative beds;*
> *2. Address the campus constraints at both WakeMed and DUHS allowing for private room configuration of existing rehabilitative beds;*
> *3. Improve geographic access to inpatient rehabilitation care by developing an IRF at a location with rapidly growing and aging population within HSA IV.*
>
> *The reduction of inpatient rehabilitation beds at WakeMed, Duke Regional, and Duke Raleigh will not have adverse effects to existing patients of either system. Rather, the proposal in this application will improve the delivery and quality of rehabilitation care in HSA IV, by expanding geographic access through the redistribution of existing beds and implementing all approved beds that have been delayed in implementation."*

In Section Q, Form D.1, the applicant provides the projected utilization of the inpatient rehabilitation beds at Duke Regional Hospital and WakeMed, which is summarized below:

Duke Regional Hospital Inpatient Rehabilitation Bed Utilization

	Interim FY SFY2021	Interim FY SFY2022	Interim FY SFY2023	Interim Partial FY 7/1-12/31/23	Partial First FY 1/1-6/30/24	First Full FY SFY2025
# of Beds	30	30	30	30	23	23
# Discharges	524	531	539	273	229	458
# of Patient Days	7,613	7,719	7,828	3,969	3,323	6,655
Average Length of Stay	14.5	14.5	14.5	14.5	14.5	14.5
Occupancy Rate	69.5%	70.5%	71.5%	73.5%	80.3%	80.4%

WakeMed Inpatient Rehabilitation Bed Utilization

	Interim FY SFY2021	Interim FY SFY2022	Interim FY SFY2023	Interim Partial FY 10/1-12/31/23	Partial First FY 1/1-9/30/24	First Full FY SFY2025
# of Beds	106	106	106	106	73	73
# Discharges	1,638	1,656	1,673	423	965	1,282
# of Patient Days	28,305	28,609	28,916	7,306	16,682	22,161
Average Length of Stay	17.3	17.3	17.3	17.3	17.3	17.3
Occupancy Rate	73.2%	73.9%	74.7%	75.7%	83.7%	83.2%

The applicant describes its projections for the inpatient rehabilitation beds at Duke Regional Hospital and WakeMed in Section Q, *"Form D Utilization,"* pages 166-172 of the application, which are summarized below:

Step 1: Project Total Volume into the Third Project Year Considering Historical Growth Rates & Increased Penetration Rate from New Facility: To project the volume to remain within the WakeMed and DUHS systems following development of the proposed facility, the applicant begins at Step 3 of the Form C Utilization Assumptions which projects the total inpatient rehabilitation discharges for DUHS and WakeMed for the proposed service area through the first three years of the proposed project. See the table on page 167 of the application.

Step 2: Apply Inverse of Volume Shift to the New Facility to Determine Remaining Volume at Acute Care Facilities: In developing the projections shown in Form C for WCRH, various percentages of shifted volume from WakeMed and DUHS were applied to the service area. To project the utilization of the beds remaining at WakeMed and DUHS, WCRH then applied the inverse of the proposed volume shift (1 - % shift) to the total IRF patient volume to estimate the patients who would remain within the existing WakeMed and DUHS IRFs. See the table on page 168 of the application.

Step 3: Apply Shifts to Total Projected Volume by Tier: WCRH then applied the projected shifts by tier and year (Step 2 above) to the total projected volume (Step 1 above) to determine projected remaining volume in the WakeMed and DUHS systems. See the table on page 169 of the application.

Step 4: Calculate Projected Volume from Areas Outside of WCRH Service Area: WCRH then calculated "in-migration" of patients from other counties outside of the proposed IRF's

service area to determine total volume projections for the remaining WakeMed and DUHS beds. See the table on page 170 of the application.

Step 5: Summarize Projected Rehabilitation Discharges for the Acute Care Hospitals: The projected total patients to be served at WakeMed Rehab Hospital and Duke Regional Hospital during Project Years 1 through 3 is summarized in the tables on page 171 of the application. On page 170, the applicant states,

> *"The historical ALOS for each facility was applied to these projections to estimate patient days and ADC of each program. By Year 3, WakeMed Rehab is projected to operate at 82 percent occupancy, and Duke Regional Hospital is projected to operate at 81.5 percent occupancy. Because no new rehabilitation beds will be added to the HSA IV planning inventory as a result of this project, neither facility is required to respond to or meet the 80 percent occupancy requirement in the Performance Standards for Rehabilitation Services found in 10A NCAC 14C.2803. Each existing facility is projected to exceed 80 percent occupancy by Project Year 3."*

Projected utilization for inpatient rehabilitation beds at Duke Regional Hospital and WakeMed is reasonable and adequately supported for the following reasons:

- The applicant's projections of inpatient rehabilitation patient days at Duke Regional Hospital and WakeMed are based on and supported by historical utilization of those services by patients of the proposed service area.
- The applicant's projections are supported by the projected population growth and aging in the proposed service area.
- Exhibit C.4 contains copies of letters from physicians expressing support for the proposed project.

The applicant adequately demonstrates Duke Regional Hospital and WakeMed will continue to have adequate inpatient rehabilitation bed capacity following completion of the proposed project. See the discussion regarding projected utilization in Criterion (3) which is incorporated herein by reference.

Access to Medically Underserved Groups

In Section D.3, pages 88-89, the applicant states:

> *"The reduction and relocation of beds from WakeMed Rehab, Duke Regional, and Duke Raleigh, will not negatively impact patients within these systems or the service area as a whole. Instead, it will serve to reallocate existing resources to expand geographic access and overall available capacity of the existing beds to treat more patients in need of IRF services and, for many of those patients, in a more convenient location. As discussed in detail in response to Section C, Question 5, all individuals including low-income persons, racial and ethnic minorities, women, persons with disabilities, persons 65 and older, Medicare beneficiaries, Medicaid recipients, and*

other underserved groups will have access to WCRH as clinically appropriate. Like all triventure members of the Applicant, WCRH will not discriminate based on race, ethnicity, age gender, or disability."

The applicant adequately demonstrates that the needs of medically underserved groups that will continue to use the inpatient rehabilitation beds at Duke Regional Hospital and WakeMed will be adequately met following completion of the project.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicant adequately demonstrates that:

- The needs of the population currently using the services to be reduced, eliminated, or relocated will be adequately met following project completion.
- The project will not adversely impact the ability of underserved groups to access these services following project completion.

(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 develop a 52-bed inpatient rehabilitation hospital.

In Section E.2, pages 92-93, the applicant describes the alternatives 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 maintaining the status quo is less effective because the inefficient and incomplete use of WakeMed and DUHS' existing and approved beds has led to a lower admission rate of IRF-appropriate patients than there is need for within the patient base served by the two systems. As such, patients in need of an inpatient level of rehabilitation care are either going without it or are being discharged to inappropriate levels of care.

Develop the CON-approved beds at WakeMed; The applicant states that developing the CON-approved beds at WakeMed is less effective because campus constraints at WakeMed Rehab prohibit WakeMed Rehab from easily expanding its footprint to reconfigure existing beds to private room configurations. Private rooms would allow for better patient flow and operational efficiencies and eliminate operational challenges, including the logistical issues that are often encountered to ensure that appropriate patients are placed together.

Develop the CON-approved beds at Duke Raleigh Hospital; The applicant states that developing the CON-approved beds at Duke Raleigh Hospital is less effective due to the hospital's campus constraints and the need to place acute care facility needs before the IRF bed implementation. Increasing acute care demands and the ongoing COVID-19 pandemic have placed priority on acute care services at Duke Raleigh Hospital.

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

- The applicant provides credible information to explain why it believes the proposed project is the most effective alternative.
- The application is conforming to all statutory and regulatory review criteria.

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. **Wake County Rehabilitation Hospital, LLC, Duke University Health System, Inc. and Kindred Healthcare, LLC (hereinafter certificate holder) shall materially comply with all representations made in the certificate of need application.**

2. **The certificate holder shall develop a new 52-bed inpatient rehabilitation facility, Wake County Rehabilitation Hospital, by relocating no more than 7 existing inpatient rehabilitation beds from Duke Regional Hospital and 25 existing inpatient rehabilitation beds from WakeMed. Also, the applicant shall relocate 12 previously approved but not yet developed inpatient rehabilitation beds from Duke Raleigh Hospital (Project I.D. # J-10021-12) and relocate 8 previously approved but not yet developed inpatient rehabilitation beds from WakeMed (Project I.D. # J-10018-12).**

3. **Duke Regional Hospital shall be licensed for no more than 23 inpatient rehabilitation beds and WakeMed shall be licensed for no more than 73 inpatient rehabilitation beds upon completion of this project. Duke Raleigh Hospital shall not be licensed for any inpatient rehabilitation beds upon completion of this project.**

4. **Progress Reports:**
    a. **Pursuant to G.S. 131E-189(a), the certificate holder shall submit periodic reports on the progress being made to develop the project consistent with the timetable and representations made in the application on the Progress**

Report form provided by the Healthcare Planning and Certificate of Need Section. The form is available online at: https://info.ncdhhs.gov/dhsr/coneed/progressreport.html.

b. The certificate holder shall complete all sections of the Progress Report form.

c. The certificate holder shall describe in detail all steps taken to develop the project since the last progress report and should include documentation to substantiate each step taken as available.

d. Progress reports shall be due on the first day of every fourth month. The first progress report shall be due on May 1, 2022. The second progress report shall be due on September 1, 2022 and so forth.

5. The certificate holder shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Section Q of the application and that would otherwise require a certificate of need.

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

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

7. The certificate holder shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.

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

C

The applicant, WCRH, proposes to develop a 52-bed inpatient rehabilitation hospital. WCRH is a joint venture company comprised of WakeMed, Duke Affiliations Network, Inc. (a controlled affiliate of Duke University Health System, Inc.), and KND IRF Development 55, LLC (a subsidiary of Kindred Healthcare, LLC). In Section C.1, page 36, the applicant states that WCRH will develop the inpatient rehabilitation facility in Apex (Wake County) on a site owned by WakeMed. WakeMed will lease the land through the

developer to WCRH, and the construction cost of the facility will be incurred by the developer.

Capital and Working Capital Costs

On Form F.1a in Section Q, the applicant projects the total capital cost of the project as shown in the table below.

Medical Equipment	$1,854,620
Non-Medical Equipment	$742,800
Furniture	$602,580
Consultant Fees	$75,000
Total	**$3,275,000**

The applicant provides its assumptions and methodology for projecting capital cost in Section Q, pages 173-174, and Exhibit F-1. The applicant adequately demonstrates that the projected capital cost is based on reasonable and adequately supported assumptions based the information provided in Section Q and referenced exhibits.

In Section F.3, the applicant projects $1,285,351 in start-up costs and $1,302,438 in initial operating costs, for a total required working capital of $2,587,789 for the proposed project. The applicant adequately demonstrates that the projected capital cost is based on reasonable and adequately supported assumptions based the information provided in Section F.3, pages 97-98.

Availability of Funds

In Section F.2, page 95, the applicant states the capital cost will be funded with accumulated reserves from WCRH. In Section F.3, page 98, the applicant states the working capital cost will be funded with accumulated reserves from WCRH. WCRH is a joint venture company comprised of WakeMed, Duke Affiliations Network, Inc. (a controlled affiliate of Duke University Health System, Inc.), and KND IRF Development 55, LLC (a subsidiary of Kindred Healthcare, LLC).

In Exhibit F-2, the applicant provides a letter dated September 9, 2021 from the Executive Vice President and Chief Financial Officer for DUHS stating its commitment of $2.1 million in accumulated reserves to fund the capital and working capital cost of the proposed project. In Exhibit F-2, the applicant provides a letter dated September 8, 2021 from the Chief Development Office for Kindred Healthcare stating its commitment of $5.1 million in accumulated reserves to fund the capital and working capital cost of the proposed project.

Exhibit F-2 also contains a copy of the audited financial statements for Kindred Healthcare for the year ended December 31, 2020 and the audited financial statements for DUHS for the year ended June 30, 2020. According to the financial reports, DUHS and Kindred Healthcare have adequate accumulated reserves to fund the projected capital and working capital requirements of the proposed project. The applicant adequately demonstrates the

availability of sufficient funds for the capital needs of the project based the information provided in Section F and Exhibit F-2 of the application.

Financial Feasibility

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

	1st Full FY CY2025	2nd Full FY CY2026	3rd Full FY CY2027
Total Patient Days	9,762	12,503	15,660
Total Gross Revenues (Charges)	$40,010,259	$54,301,293	$69,371,991
Total Net Revenue	$14,567,972	$20,193,187	$25,797,575
Average Net Revenue per Patient Day	$1,492	$1,615	$1,647
Total Operating Expenses (Costs)	$14,621,144	$15,886,306	$18,596,812
Average Operating Expense per Patient Day	$1,498	$1,271	$1,188
Net Income	($53,172)	$4,306,881	$7,200,763

The assumptions used by the applicant in preparation of the pro forma financial statements are provided in Q. The applicant adequately demonstrates that the financial feasibility of the proposal is reasonable and adequately supported based on the following:

- Projected charges and revenues are reasonable and adequately supported.
- Projected operating expenses are reasonable and adequately supported.
- Projected utilization is based on reasonable and adequately supported assumptions. See the discussion regarding projected utilization in Criterion (3) which is incorporated herein by reference.

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 following reasons:

- The applicant adequately demonstrates that the capital and working capital costs are based on reasonable and adequately supported assumptions.
- The applicant adequately demonstrates availability of sufficient funds for the capital and working capital needs of the proposal.

- 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 develop a 52-bed inpatient rehabilitation hospital by relocating 7 existing inpatient rehabilitation beds from Duke Regional Hospital and 25 existing inpatient rehabilitation beds from WakeMed. Also, the applicant proposes to relocate 12 previously approved but not yet developed inpatient rehabilitation beds from Duke Raleigh Hospital (Project I.D. # J-10021-12) and to relocate 8 previously approved but not yet developed inpatient rehabilitation beds from WakeMed (Project I.D. # J-10018-12).

The 2021 SMFP defines the service area for inpatient rehabilitation beds as the Health Service Area (HSA) in which the beds are located. Appendix A of the 2021 SMFP contains a map showing the six HSAs in the state. Thus, the service area for this application is HSA IV, which includes Chatham, Durham, Franklin, Granville, Johnston, Lee, Orange, Person, Vance, Wake and Warren counties. Facilities may also serve residents of counties not included in their service area.

The *Proposed 2022 State Medical Facilities Plan* identifies the existing and approved inpatient rehabilitation beds in HSA IV, as summarized in the following table.

Existing and Approved Inpatient Rehabilitation Beds in HSA IV

Facility	Licensed Beds	CON Issued/ Pending Development	2020 Occupancy Rates
Duke Raleigh Hospital	0	12	0.0%
Duke Regional Hospital	30	0	81.5%
Maria Parham Hospital	11	0	53.1%
University of North Carolina Hospitals	30	0	91.6%
WakeMed	98	8	72.3%
Totals	**169**	**20**	**71.1%**

Source: Table 8A: Inventory and Utilization of Inpatient Rehabilitation Beds, Proposed 2022 SMFP

In Section G.2, page 105, the applicant explains why it believes its proposal would not result in the unnecessary duplication of existing or approved inpatient rehabilitation beds in HSA IV. The applicant states:

> *"The proposal in this application will not result in unnecessary duplication of the existing or approved facilities that provide the same services and are located in the proposed service area. WCRH, as explained in detail in response to Section C, Question 4, is proposing to develop an IRF through use of existing and approved beds contributed from WakeMed Rehab, Duke Regional, and Duke Raleigh. No net*

new beds will be added in HSA IV as a result of this project. It simply represents a restructuring of the existing beds across the WakeMed and DUHS systems in order to better meet the growing needs of each system's patient base through the development of a new, state-of-the-art, freestanding IRF."

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

- The applicant is not proposing to increase the inventory of inpatient rehabilitation beds in HSA IV.
- The applicant adequately demonstrates that the proposed inpatient rehabilitation facility is needed in the proposed location in addition to the existing or approved inpatient rehabilitation facilities in the service area.

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 above stated reasons.

(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

The applicant proposes to develop a 52-bed inpatient rehabilitation hospital.

In Section Q, Form H, the applicant provides the projected full-time equivalent (FTE) staffing for the proposed services, which is summarized below:

WCRH Projected Staffing (FTE) Positions

STAFF POSITION	OY 1	OY 2	OY 3
Registered Nurses	23.2	23.2	28.6
Licensed Practical Nurses	9.9	9.9	12.3
Certified Nursing Aides	22.1	22.1	27.2
Director of Nursing	1.0	1.0	1.0
Director of CQPI	1.0	1.0	1.0
Nurse Manager	1.0	1.0	1.0
Nurse Coordinator	1.0	1.0	1.0

Director of Therapy	1.0	1.0	1.0
Central Supply/Purchasing	1.0	1.0	1.0
Case Managers/Social Workers	2.0	2.0	3.0
Physical Therapists	3.8	3.8	4.4
Physical Therapist Assistant	3.0	3.0	4.0
Physical Therapist Tech	2.0	2.0	3.0
Occupational Therapist	3.8	3.8	4.0
Occupational Therapist Assistant	3.0	3.0	4.0
Occupational Therapist Tech	2.0	2.0	3.0
Pharmacist	1.4	1.4	1.4
Pharmacy Technician	1.0	1.0	1.5
Speech Therapist	2.0	2.0	2.0
Respiratory Therapist	1.1	1.1	1.1
Dietary Supervisor	1.0	1.0	1.0
Registered Dietitian	1.5	1.5	1.5
Cooks	3.0	3.0	3.0
Dietary Aides	3.0	3.0	3.0
Dietary Clerks	1.0	1.0	1.0
Maintenance Supervisor	1.0	1.0	1.0
Housekeepers	4.0	4.0	5.0
Housekeeping Supervisor	1.0	1.0	1.0
Switchboard Operators	2.1	2.1	2.1
Accounts Payable Clerks	0.5	0.5	0.5
Payroll Clerks	0.5	0.5	0.5
Business Office Coordinator	1.0	1.0	1.0
Admissions Coordinator	1.0	1.0	1.5
Medical Records Director	1.0	1.0	1.0
Medical Records Coders	1.0	1.0	1.0
Unit Secretary	2.8	2.8	4.2
Administrator/CEO	1.0	1.0	1.0
Controller	1.0	1.0	1.0
HR Director	1.0	1.0	1.0
Admin Secretary	1.0	1.0	1.0
Director of Business Development	1.0	1.0	1.0
Liaisons	4.0	4.0	5.0
Total	121.0	121.0	144.0

Source: Form H in Section Q of the application

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.3b, which is found in Section Q. In Section H, pages 107-113, the applicant describes the methods to be used to recruit or fill new positions and its proposed training and continuing education programs.

The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed services based on the information provided in Section H, pages 107-113, and in Section Q, Form H, as described above.

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

The applicant proposes to develop a 52-bed inpatient rehabilitation hospital.

Ancillary and Support Services

In Section I.1, the applicant identifies the necessary ancillary and support services for the proposed services. On page 114, the applicant explains how each ancillary and support service will be made available. The applicant states,

> *"WCRH will provide each of the above-mentioned services directly or through a management services agreement with Kindred and purchased services agreements with WakeMed and DUHS or jointly selected third parties. As the major providers of acute care and inpatient rehabilitation services in HSA IV, both WakeMed and DUHS have existing ancillary and support components in place to support the proposal in this application. Kindred also has a long history of providing management and support services to inpatient rehabilitation facilities. As the member providing management services to WCRH, Kindred will implement any necessary purchased services agreements."*

The applicant adequately demonstrates that the necessary ancillary and support services will be made available based on the information provided in Section I.1, pages 114-115, as described above.

Coordination

In Section I.2, page 115, the applicant describes its existing and proposed relationships with other local health care and social service providers and provides supporting documentation in Exhibit I-2. The applicant states,

> *"While WCRH is a new facility, its affiliates WakeMed and DUHS each operate an extensive continuum of services in the region including tertiary acute care hospitals. WCRH will have both formal and information systems to coordinate with WakeMed and DUHS. As hospital systems with community-focused missions, WakeMed and DUHS have strong, well-established relationships with many local health care and social service providers. There will be opportunities for WCRH to expand on these relationships to work with other health care providers in the region."*

The applicant adequately demonstrates that the proposed services will be coordinated with the existing health care system based on the information provided in Section I.2, pages 115-116, and Exhibit I-2, as described above.

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 all the reasons described above.

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

NA

The applicant does not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicant does not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered. Therefore, Criterion (9) is not applicable to this review.

(10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates: (a) The needs of enrolled members and reasonably anticipated new

members of the HMO for the health service to be provided by the organization; and (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:

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

NA

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

(11) Repealed effective July 1, 1987.

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

C

The applicant proposes to develop a 52-bed inpatient rehabilitation hospital.

In Section K.1, page 119, the applicant states that the project involves construction of a two-story, 62,500 square foot facility. Line drawings are provided in Exhibit K-1. In Section K.4, page 121, the applicant identifies the site as 5301 Apex Peakway in Apex, and the owner of the site as WakeMed. Exhibit F-2 contains documentation of WakeMed's intention to lease the land to the developer of the facility. In Section K.4, pages 121-122, and Exhibit K-4, the applicant provides documentation that the site is zoned appropriately, and that water, sewer and power are available to the site.

In Section K.3, the applicant adequately explains how the cost, design and means of construction represent the most reasonable alternative for the proposal. On page 120, the applicant states,

> *"The all-private room facility configuration will allow space for patient privacy, comfort, and treatment needs. The room design will provide nurses and therapists sufficient space for treatment and equipment while also providing space for the patient's family to be present. Rooms are designed to optimally meet the needs of each patient and enhance overall quality of care. This facility design has been implemented at several Kindred Rehabilitation Hospitals throughout the country with significant success in enhancing patient outcomes while improving their quality*

of life and opportunity to return home or to a lower level of care after treatment. While the final facility design will be modified to the proposed site and the needs of the triventure affiliates, this general design concept has been a proven success from both a development and operational perspective."

In Section K.3, the applicant adequately explains why the proposal will not unduly increase the costs to the applicant of providing the proposed services or the costs and charges to the public for the proposed services. On page 120, the applicant states,

"Establishment of a new IRF in Wake County will provide additional inpatient rehabilitation resources in a service area where access to care has been limited due to capacity/configuration constraints at two major healthcare providers in the area – Duke Regional/Duke Raleigh and WakeMed. Further, WCRH will build upon the clinical and operational strengths of each party to collaborate rather than to duplicate services in a state-of-the-art rehabilitation hospital. The result will be an enhanced continuum of patient care by reducing acute hospital length of stay and discharging appropriate patients more quickly to the rehabilitation environment. This will free acute care beds for other patients and at the same time reduce costs to the healthcare system by placing appropriate patients in a lower cost rehabilitation care setting. Moreover, as discussed in response to Section B, Question 21 and Section K, Question 3.a above, the facility will be developed through the most cost-efficient manner with an architectural design devised for optimal patient and operational flow based on Kindred's extensive experience in managing the development and operation of multiple similar freestanding IRFs."

In Section B, pages 30-31, the applicant identifies any applicable energy saving features that will be incorporated into the construction plans.

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 all the reasons described above.

(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 … persons [with disabilities], 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

WCRH is not an existing facility so no historical patient origin information is available. In Section L.1, page 124, the applicant provides the historical payor mix for the existing inpatient rehabilitation beds at Duke Regional Hospital and WakeMed, as shown in the tables below.

SFY2020 Payor Mix-Duke Regional Hospital Inpatient Rehabilitation Beds	
Payor Category	**Percentage of Total Patients Served**
Self-Pay^	3.4%
Medicare*	57.4%
Medicaid*	13.5%
Insurance*	21.3%
Workers Compensation	1.0%
TRICARE	0.8%
Other (Duke Select)	2.6%
Total	**100.0%**

^Includes charity care.

FFY2020 Payor Mix-WakeMed Rehabilitation Hospital	
Payor Category	**Percentage of Total Patients Served**
Self-Pay	0.1%
Charity Care	2.8%
Medicare*	62.8%
Medicaid*	8.3%
Insurance*	24.3%
Workers Compensation	1.4%
TRICARE	0.2%
Total	**100.0%**

*Including any managed care plans.

In Section L, pages 125-126, the applicant provides the following comparison.

	Percentage of Total Patients Served by the WakeMed Rehabilitation Hospital (WRH) during the Last Full FY	Percentage of Total Patients Served by Duke Regional Hospital (DRH) during the Last Full FY	Percentage of the Population of the Service Area for WRH and DRH
Female	46.4%	44.1%	51.4%
Male	53.6%	55.9%	48.6%
Unknown	0.0%	0.0%	0.0%
64 and Younger	44.4%	52.2%	86.6%
65 and Older	55.6%	47.8%	13.4%
American Indian	0.4%	0.7%	0.6%
Asian	1.4%	0.8%	5.6%
Black or African-American	28.7%	35.3%	22.2%
Native Hawaiian or Pacific Islander	0.0%	0.0%	0.1%
White or Caucasian	67.1%	57.9%	62.3%
Other Race	2.5%	4.1%	9.2%
Declined / Unavailable	0.0%	1.3%	0.0%

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicant adequately documents the extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved. Therefore, the application is conforming to this criterion.

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

C

In Section L.2, page 126, the applicant states it is not obligated under any applicable federal regulations to provide uncompensated care, community service, or access by minorities and persons with disabilities.

In Section L.2, page 127, the applicant states that during the 18 months immediately preceding the application deadline, no civil rights access complaints have been filed against WakeMed or Kindred Healthcare. The applicant states DUHS received a letter from US DHHS Office for Civil Rights (OCR) dated July 6, 2021, that notified DUHS that OCR was investigating a complaint received February 7, 2021, alleging

that DUHS had engaged in unlawful discrimination based on race in connection with the provision of clinical services at Duke Regional Hospital. DUHS has responded, denying the allegations, and providing information about the encounter at issue. DUHS has received no further requests for information.

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.3, page 128, the applicant projects the payor mix during the third full fiscal year of operation (CY2026) following completion of the project, as illustrated in the following table.

WCRH Projected Payor Mix – CY2026	
Payor Category	**Entire Facility as Percent of Total**
Self-Pay	1.5%
Medicare*	74.0%
Medicaid*	5.5%
Insurance*	19.0%
Total	**100.0%**

*Including any managed care plans.

As shown in the table above, during the third full fiscal year of operation following completion of the project, the applicant projects that 1.5 percent of total services will be provided to self-pay patients, 74 percent to Medicare patients, and 5.5 percent to Medicaid patients.

On page 127, the applicant provides the assumptions and methodology used to project payor mix during the first three years of operation following completion of the project. The projected payor mix is reasonable and adequately supported because the applicant's proposed patient payor mix is based on the historical payor mix from WakeMed Rehab and Duke Regional Hospital's existing inpatient rehabilitation beds, as well as Kindred's national experience and the CMS regulations on IRFs for Medicare provision.

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.5, page 129, 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

The applicant proposes to develop a 52-bed inpatient rehabilitation hospital.

In Section M.1, pages 130-131, the applicant describes the extent to which health professional training programs in the area will have access to the facility for training purposes. On page 130, the applicant states,

> *"WakeMed and DUHS are deeply embedded in the healthcare tapestry of HSA IV and have long been leaders in advancing the clinical education of health professionals within the community. … WCRH will work collaboratively with DUHS and WakeMed in an effort to accommodate the clinical needs of health professional training programs in the area."*

The applicant adequately demonstrates that health professional training programs in the area have access to the facility for training purposes based on the information provided in Section M.1, pages 130-131, as described above.

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 all the reasons described above.

(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 develop a 52-bed inpatient rehabilitation hospital by relocating 7 existing inpatient rehabilitation beds from Duke Regional Hospital and 25 existing inpatient rehabilitation beds from WakeMed. Also, the applicant proposes to relocate 12 previously approved but not yet developed inpatient rehabilitation beds from Duke Raleigh Hospital (Project I.D. # J-10021-12) and to relocate 8 previously approved but not yet developed inpatient rehabilitation beds from WakeMed (Project I.D. # J-10018-12).

The 2021 SMFP defines the service area for inpatient rehabilitation beds as the Health Service Area (HSA) in which the beds are located. Appendix A of the 2021 SMFP contains a map showing the six HSAs in the state. Thus, the service area for this application is HSA IV, which includes Chatham, Durham, Franklin, Granville, Johnston, Lee, Orange, Person, Vance, Wake and Warren counties. Facilities may also serve residents of counties not included in their service area.

The *Proposed 2022 State Medical Facilities Plan* identifies the existing and approved inpatient rehabilitation beds in HSA IV, as summarized in the following table.

Existing and Approved Inpatient Rehabilitation Beds in HSA IV

Facility	Licensed Beds	CON Issued/ Pending Development	2020 Occupancy Rates
Duke Raleigh Hospital	0	12	0.0%
Duke Regional Hospital	30	0	81.5%
Maria Parham Hospital	11	0	53.1%
University of North Carolina Hospitals	30	0	91.6%
WakeMed	98	8	72.3%
Totals	**169**	**20**	**71.1%**

Source: Table 8A: Inventory and Utilization of Inpatient Rehabilitation Beds, Proposed 2022 SMFP

In Section N.1, page 132, the applicant states the proposed project will enhance competition in the service area by promoting cost effectiveness, quality, and access to services. The applicant states,

> *"The extent that an inpatient rehabilitation hospital 'competes' with other similar facilities is a function of its ability to treat patients more quickly, more effectively, and with greater patient satisfaction than other facilities in close proximity. An inpatient rehabilitation hospital that has insufficient bed capacity, physical plant limitations, and limited ancillary and support services is less competitive than one that provides a full range of services in a sufficiently sized and well-equipped facility. The proposed project seeks to enhance access to inpatient rehabilitation care by establishing a new inpatient rehabilitation facility in a fast-growing part of HSA IV."*

Regarding the impact of the proposal on cost effectiveness, in Section N.2, page 133, the applicant states:

> *"Additionally, the proposed project will alleviate the capacity constraints experienced in the acute care beds at WakeMed and DUHS, by eliminating delays in discharge to IRF level care. Reducing acute care ALOS will reduce costs of care for the hospitals, payors, and patients. As discussed in Section C, the facility constraints at both facilities, and the consequent inability to implement and operate the already CON-approved inpatient rehabilitation beds at the respective facilities, have resulted in substantial excess of care days for patients waiting to be discharged to rehabilitation beds. Finally, when patients are unable to access IRF-level care it can have a direct impact on their rehabilitation and ultimately on their resultant functional levels. When patients are unable to return to their highest functional level, this costs both patients and society overall."*

See also Sections C, F, and Q of the application and any exhibits.

Regarding the impact of the proposal on quality, in Section N.2, page 133, the applicant states,

> *"WCRH will strive to provide high-quality inpatient rehabilitation services to all. Quality takes many forms, including excellent clinical outcomes, exceeding accreditation standards, and providing a positive patient and family-centered*

experience that is measured in patient satisfaction results. To this end, WCRH will rely on Kindred's multifaceted management expertise in overall quality assurance and performance improvement including patient safety, risk management, infection prevention and control, and accreditation services."

See also Sections C and O of the application and any exhibits.

Regarding the impact of the proposal on access by medically underserved groups, in Section N.2, page 136, the applicant states:

"Enhancing access to healthcare services is an important mission that drives WCRH's triventure affiliates to ensure that the healthcare needs of the service area community are effectively addressed. To this end, WCRH will integrate procedures with a goal to enhance access to high quality care for the medically underserved populations of the service area. The triventure affiliates of WCRH do not discriminate against any patient based on income, age, gender, ethnicity, physical handicap, ability to pay, or insurance coverage."

See also Sections C and L of the application and any exhibits.

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, quality, and access because the applicant adequately demonstrates that:

1) The proposal is cost effective because the applicant adequately demonstrates: a) the need the population to be served has for the proposal; b) that the proposal would not result in an unnecessary duplication of existing and approved health services; and c) that projected revenues and operating costs are reasonable.
2) Quality care would be provided based on the applicant's representations about how it will ensure the quality of the proposed services and the applicanst's record of providing quality care in the past.
3) Medically underserved groups will have access to the proposed services based on the applicant's representations about access by medically underserved groups and the projected payor mix.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion 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 O, the applicant identifies the inpatient rehabilitation facilities located in North Carolina owned, operated, or managed by the applicant or a related entity. The applicant identified three facilities: Duke Rehabilitation Institute (Duke Regional Hospital), Duke Raleigh Hospital and WakeMed Rehabilitation Hospital (WakeMed).

In Section O.4, page 145, the applicant states that during the 18 months immediately preceding the submittal of the application, there were no incidents related to quality of care at these facilities. According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, there were no incidents related to quality of care that occurred in any of the applicant's facilities. After reviewing and considering information provided by the applicant and by the Acute and Home Care Licensure and Certification Section and considering the quality of care provided at the facilities, the applicant 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.

G.S. 131E-183 (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.

NA

The applicant proposes to develop a 52-bed inpatient rehabilitation hospital by relocating 7 existing inpatient rehabilitation beds from Duke Regional Hospital and 25 existing inpatient rehabilitation beds from WakeMed. Also, the applicant proposes to relocate 12 previously approved but not yet developed inpatient rehabilitation beds from Duke Raleigh Hospital (Project I.D. # J-10021-12) and to relocate 8 previously approved but not yet developed inpatient rehabilitation beds from WakeMed (Project I.D. # J-10018-12). There are no administrative rules that are applicable to proposals to relocate existing or approved inpatient rehabilitation beds. Therefore, this Criterion is not applicable.