

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
380 Knollwood Street / Suite 530 / Winston-Salem, NC 27103
Tel: 336.774.3300 Fax: 336.774.3372
www.nelsonmullins.com

Denise M. Gunter
Tel: 336.774.3322
Fax: 336.774.3372
denise.gunter@nelsonmullins.com

August 19, 2011

Via Electronic Mail

State Health Coordinating Council
North Carolina Department of Health and Human Services
2714 Mail Service Center
Raleigh, North Carolina 27699-2714

Re: NCHA Petition Concerning Policy AC-3

Dear Chairman Wainwright and Members of the Council:

On behalf of Novant Health, Inc. ("Novant"), I am writing to express support for the recommendation filed by the North Carolina Hospital Association ("NCHA") on August 1, 2011 concerning SMFP Policy AC-3.

As the Council is aware from previous petitions that Novant has filed concerning Policy AC-3, Novant believes that Policy AC-3 has been abused and needs to be reformed to make the health planning process in North Carolina fair and equitable to all providers. Earlier this year, several members of the North Carolina House of Representatives sponsored HB 743 ("An Act to Ensure Equal Treatment of Health Service Applicants Under the State Medical Facilities Plan") to amend N.C. Gen. Stat. § 131E-183(b) to make the need determinations in the SMFP applicable to all CON applicants. We understand that a House Select Committee has been formed to study CON and related hospital issues, including Policy AC-3.

In response to the concerns that have been raised about Policy AC-3, NCHA formed a work group consisting of hospital representatives from across the state, including representatives from academic medical centers, tertiary hospitals and community hospitals. This work group spent considerable time revising Policy AC-3 to address concerns that have been raised while at the same time ensuring that the academic medical centers are not disadvantaged with respect to their teaching and research activities. The result of the work group's efforts is contained in the proposed amended Policy AC-3 attached to NCHA's August 1 letter.

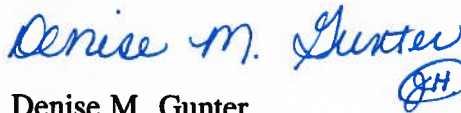
State Health Coordinating Council
August 19, 2011
Page 2

The compromise reached by the work group is not perfect, but it is a vast improvement over existing Policy AC-3. In particular, the proposed amended Policy AC-3 strengthens the 20-Mile Rule, which is the portion of Policy AC-3 that Novant believes is particularly susceptible to abuse. AMCs would now be required to document the efforts they made to collaborate with non-AMCs within 20 miles before seeking a Policy AC-3 exemption from the need determinations in the SMFP. The proposed amended Policy AC-3 also contains safeguards and accountability procedures that do not exist in current Policy AC-3. These safeguards and accountability procedures should improve North Carolina's health planning process by making sure that Policy AC-3 assets are used for academic purposes.

Novant encourages the SHCC to adopt NCHA's amended Policy AC-3.

Thank you for your consideration of this comment. Please let me know if you have any questions.

Sincerely,


Denise M. Gunter