

STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

**MEDICAL CARE COMMISSION QUARTERLY MEETING
DIVISION OF HEALTH SERVICE REGULATION
801 BIGGS DRIVE, RALEIGH NC 27603
BROWN BUILDING CONFERENCE ROOM- 104**

November 16, 2012

9:00 A.M.

AGENDA

I. MEDICAL CARE COMMISSION QUARTERLY MEETING

MEMBERS PRESENT	MEMBERS ABSENT
Lucy H. Bode, Chairperson Joseph D. Crocker, Vice-Chairperson George H.V. Cecil Gerald P. Cox John Fagg, M.D. Charles T. Frock Eileen Kugler, RN, MSN, MPH, FNP Albert F. Lockamy, Jr., RPh Mary L. Piepenbring Carl K. Rust, M.D. George A. Binder, M.D. Henry A. Unger, M.D. Robert E. Schaaf, M.D. Margaret Weller-Stargell (Via Conference Call) <u>DIVISION OF HEALTH SERVICE REGULATION STAFF</u> Drexdal Pratt, Director, DHSR/Secretary, MCC Christopher B. Taylor, CPA, Assistant Secretary, MCC Marjorie Acker, Construction Section, DHSR Diana Barbry, Executive Assistant, MCC/DHSR Nadine Pfeiffer, Rules Coordinator, DHSR Kathy Larrison, Auditor, MCC/DHSR Crystal Watson-Abbott, Auditor, MCC/DHSR Alice Creech, Bond Program Assistant, MCC/DHSR	Elizabeth Kanof, M.D.

II. CHAIRPERSON'S COMMENTS

The meeting was called to order by Ms. Bode who welcomed everybody to the meeting and requested that the members of the audience introduced themselves to the Members. She then questioned the Members to see if anyone had a conflict of interest with anything coming before the Commission at the meeting. Ms. Bode reminded the Members that in accordance with Advisory Opinion dated November 19, 2010 any Commission Member with \$10,000 or more invested in a particular bank would need to abstain from voting on a project, in which the bank was involved. It was decided that the recusals would be done at the time each project was presented for a vote.

III. APPROVAL OF MINUTES from the August 10, 2012 meeting. (**Exhibit A**)

Commission Action: Motion was made by Mr. Cecil, seconded by Mr. Lockamy and unanimously approved.

IV. DIVISION DIRECTOR'S REPORT - Mr. Pratt reported on matters of interest to the Commission. He gave a brief overview of the current DHSR projects and stated that we will be waiting on the adjustment period for the new Governor.

V. Appointment of Two Members to the Executive Committee.....Lucy Bode

Commission Action: Ms. Bode appointed Dr. Rust and Dr. Binder to serve a two year term starting in January 2013.

In accordance with 10 NCAC 13A.0101 at the last meeting in an even year the Chairman appoints Two Executive Committee Members to serve on the Executive Committee starting January 1st of the next year for a 2 Year term.

Other items to report on are listed below (**see Exhibits B – B/4**):

1. Quarterly Report on Bond Program (**attached as Exhibit B**)

The Executive Committee held telephone conference meetings on the following dates:

September 20, 2012 – To consider a series resolution authorizing the issuance of up to \$27,665,000 North Carolina Medical Care Commission Retirement Facilities First Mortgage Revenue Bonds (Cornelia Nixon Davis, Inc. Project), Series 2012 and to consider a resolution that grants preliminary approval to a project for Cumberland County Hospital System, Inc. d/b/a Cape Fear Valley Health System. (**attached as Exhibit B/1**)

September 28, 2012 - To authorize the sale of bonds, the proceeds of which are to be loaned to FirstHealth of the Carolinas, Inc. and to consider a resolution authorizing an amendment to the Entrance Fee Escrow Agreement and an amendment to a Trust Agreement for Penick Village. To consider a resolution approving an amendment to a Loan Agreement for Transylvania Community Hospital, Inc. To discuss a Material Event Notice related to the Failure of the Trustee to make a Sinking Fund Redemption payment on the 2002 Southeastern Regional Hospital Bonds. (**attached as Exhibit B/2**)

October 12, 2012 - To consider for approval the sale of bonds for Southeastern Regional Medical Center. (**attached as Exhibit B/3**)

October 26, 2012 - To consider a series resolution authorizing the issuance of \$118,405,000 for Wake Forest Baptist Obligated Group, Series 2012A, (2) to consider a series resolution authorizing the issuance of \$112,605,000 for Wake Forest Baptist Obligated Group, Series 2012B and (3) to consider a resolution approving the defeasance of the North Carolina Medical Care Commission FHA insured Mortgage Revenue Bonds (Morehead Memorial Hospital Project), Series 2005. (**attached as Exhibit B/4**)

VI. Presentation

Hospitals in NC and Southeastern US- The Current Position and Future Outlook

Dixon Hughes Goodman by Don McNeil and David Petrick

VII. Old Business

1. Rutherford Hospital - Presentation on Financial and Operational Position

Cindy Buck, CEO and John Domansky, Vice President of Operations

2. MedWest/ WestCare - Presentation on Financial and Operational Position

Rose Coyne, VP, CMC, Steve Heatherly, CEO and Mike McKnight, CFO Westcare

3. Nursing Home Rules.....**Nadine Pfeiffer (Exhibit C)**

Commission Action: Motion was made by Mr. Cox and seconded by Dr. Rust and unanimously approved to proceed with the Rulemaking Process.

4. EMS Rules..... **Nadine Pfeiffer (Exhibit D)**

Commission Action: Motion was made by Ms. Kugler and seconded by Mr. Cecil and unanimously approved to proceed with the Rulemaking Process.

5. EMS Rules..... **Nadine Pfeiffer (Exhibit E)**

Commission Action: Motion was made by Mr. Cox and seconded by Ms. Kugler and unanimously approved to proceed with the Rulemaking Process.

VIII. Bond Projects

A. Columbus Regional Healthcare System - Christopher Taylor and Majorie Acker

Statements were given by Henry Hawthorne, CEO Columbus Regional Hospital.

Commission Action: Motion was made by Mr. Crocker, seconded by Mr. Frock and approved with the recusal of Dr. Fagg, Dr. Rust, Mr. Cecil, Dr. Schaaf, Mr. Cox, Dr. Binder and Ms. Bode.

Resolved: The Commission grants preliminary approval to a project for Columbus Regional Healthcare System to provide funds, to be used together with other available funds, to finance (1) a \$5.7 million Surgery/Endo renovation that will add one additional surgical suite and one endoscopy suite.(2) \$7.6 million in facility infrastructure projects consisting of three Air Handler replacements, two boilers for hot water and steam, two chillers, new HVAC for the existing campus, building automation system and fire pump upgrades. (3) \$6.7 million replacement of the IT platform with the McKesson Paragon product and upgrades to the IT data center, and (4) refund the existing \$3.5 million BB &T note issued under N.C. General Statute 160A-20 to achieve an estimated \$103,000 in NPV savings (3.0% of refunded debt) all in accordance with a preliminary application, plans and specifications and participation as follows:

ESTIMATED SOURCES OF FUNDS

Principal amount of bonds to be issued	\$25,730,000
Cash and negotiable securities from reserves	90,366
Other Net Premium	<u>88,774</u>
Total	\$25,909,140

ESTIMATED USES OF FUNDS

Site costs	\$5,000
Construction contracts	
(A) Surgery Suite and endoscopy Center	3,019,765
(B) Facility Infrastructure	6,489,280
(C) Paragon and IT Systems and IT Data Center	6,763,279
Construction contingency (5% of construction contract)	813,616
Architect/engineer fees and reimbursables	1,403,782
Moveable equipment	933,438
Information Systems	196,438
Surveys, tests, insurance	94,481
Consultants' fees related to construction	212,907
Amount required to repay loan	3,487,527
Debt service reserve fund	1,924,970
Underwriters' discount (Included \$50,000 for counsel)	249,407
Feasibility fees	90,000
Accountants fees	30,000
Legal fees for Hospital counsel	55,000
Bond counsel	75,000
Rating agencies	30,000
Trustee fees	7,500
Printing costs	3,000
DHSR fee (G.S. 131E-267)	16,000
Local Government Commission fee	8,750
Total	\$25,909,140

Tentative approval is given with the understanding that the governing board of Columbus Regional Healthcare System accepts the following conditions:

1. The project will continue to be developed pursuant to the applicable Medical Care Commission guidelines.
2. Any required certificate of need must be in effect at the time of the issuance/conversion of the bonds or notes.
3. Financial feasibility must be determined prior to the issuance/conversion of bonds.
4. The project must, in all respects, meet requirements of §G.S. 131A (Health Care Facilities Finance Act).
5. The Executive Committee of the Commission is delegated the authority to approve the issuance/conversion of bonds for this project and may approve the issuance of such greater principal amount of the loan as shall be necessary to finance the project; provided, however, that the amount set forth above shall not be increased by more than ten percent (10%).
6. The bonds or notes shall be sold/converted in such a manner and upon such terms and conditions as will, in the sole judgment of the Executive Committee of the Commission, result in the lowest cost to the facility and its patients.
7. The borrower will provide the Commission annually a copy of the Advocacy Needs Data Initiative (ANDI) form it files with the North Carolina Hospital Association (NCHA) in accordance with a resolution passed by the Commission on February 9, 2007 adopting the NCHA Community Benefits reporting format and methodology for hospitals reporting to the Commission.

8. All health care facilities and services directly or indirectly owned or controlled by the health care organization, including physician practices, shall be available to Medicare and Medicaid patients with no limitations imposed as a result of the source of reimbursement.
9. If public approval of the bonds is required for the purpose of Section 147(f) of the Internal Revenue Code of 1986, as amended ("Section 147(f)"), this tentative approval shall constitute the recommendation of the Commission that the Governor of the State of North Carolina (the "Governor") approve the issuance of such bonds, subject to the satisfaction of the requirements of Section 147(f) concerning the holding of a public hearing prior to the submission of such recommendation to the Governor.

Based on information furnished by applicant, the project is:

- | | | | | | | |
|--|-------------------------------------|-----|--------------------------|----|--------------------------|-----|
| 1. Financially feasible | <input checked="" type="checkbox"/> | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | N/A |
| 2. Construction and related costs are reasonable | <input checked="" type="checkbox"/> | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | N/A |

Notes:

A) Information from Audited Financials for FYE September 30, 2011.

Operating income	\$1,151,517
Excess of revenue over expenses	\$2,390,183
Net cash provided by operating activities	\$33,708
Net increase in cash and cash equivalents	(\$6,823,249)

B) Community Benefits per ANDI Report for FYE 9/30/2011

Total Community Benefits	\$7,626,056
Bad Debts	<u>3,144,635</u>
Total	\$10,770,691

C) Not currently rated, but expect a BBB+ category rating on the Bond Issue.

D) Long Term Debt Service Coverage Ratio

Actual	FYE 9/30/2011	7.5
Projected	FYE 9/30/2012	8.2
Projected	FYE 9/30/2013	5.1
Projected	FYE 9/30/2014	5.9
Projected	FYE 9/30/2015	6.1

E) Bond Financing Participants:

Senior Manager - Wells Fargo
 Bond Counsel – Nexsen Pruet
 Corporation Counsel – Robinson Bradshaw & Hinson, LLP
 Underwriters' Counsel – Parker Poe Adams & Bernstein, LLP

B. Twin Lakes.....Chris Taylor & Charlie Harris, CEO Twin Lakes

Commission Action: Motion was made by Dr. Unger, seconded by Mr. Frock and approved with the recusal of Dr. Rust and Mr. Cox.

Resolution of the North Carolina Medical Care Commission Authorizing the Conversion of the Interest Rate Determination Method on Commission bonds resulting in a lower interest rate for Lutheran Retirement Ministries of Alamance County, North Carolina on the bonds.

Executive Committee Action:

WHEREAS, the North Carolina Medical Care Commission (the "*Commission*") is a commission of the Department of Health and Human Services of the State of North Carolina and is authorized under Chapter 131A of the General Statutes of North Carolina, as amended (the "*Act*"), to borrow money and to issue in evidence thereof bonds and notes for the purpose of providing funds to pay all or any part of the cost of financing or refinancing health care facilities and to refund bonds previously issued by the Commission; and

WHEREAS, Lutheran Retirement Ministries of Alamance County, North Carolina (the "*Corporation*") is a nonprofit corporation duly incorporated and validly existing under and by virtue of the laws of the State of North Carolina and is a "non-profit agency" within the meaning of the Act; and

WHEREAS, the Commission has previously issued its Health Care Facilities Revenue Refunding Bonds (Lutheran Retirement Ministries), Series 2009 (the "*Series 2009 Bonds*") for the benefit of the Corporation; and

WHEREAS, the Series 2009 Bonds are presently outstanding in an aggregate principal amount of \$29,630,000; and

WHEREAS, the Series 2009 Bonds are owned by Branch Banking and Trust Company ("*BB&T*") and BB&T has agreed to a conversion of the interest rate determination method for the Series 2009 Bonds from the current Bank-Bought Rate of 68% of one-month LIBOR plus 1.41375% per annum to a new Bank-Bought Rate of 68% of one-month LIBOR plus 1.2125% per annum; and

WHEREAS, the Corporation has given the required notice (the "*Notice*") to the Commission pursuant to the Trust Agreement dated as of December 1, 2009 between the Commission and The Bank of New York Mellon Trust Company, N.A. of the conversion and the related changes to the terms of the Series 2009 Bonds; and

NOW, THEREFORE, THE EXECUTIVE COMMITTEE OF THE NORTH CAROLINA MEDICAL CARE COMMISSION DOES HEREBY RESOLVE, as follows:

Section 1. The conversion of the interest rate determination method for the Series 2009 Bonds from the current Bank-Bought Rate of 68% of one-month LIBOR plus 1.41375% per annum to a new Bank-Bought Rate of 68% of one-month LIBOR plus 1.2125% per annum and the related changes to the terms of the Series 2009 Bonds as set forth in the Notice are hereby approved in all respects.

Section 2. The Chairman, Vice Chairman, Secretary, and any Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) are each hereby

authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, certificates, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by this Resolution.

Section 3. This Resolution shall take effect immediately upon its passage.

Statements were given by Charlie Harris to introduce his successor Pam Fox, President/CEO, to the Commission.

C. Lutheran Services for the Aging

Commission Action: Motion was made by Mr. Crocker, seconded by Dr. Binder and unanimously approved.

RESOLUTION AUTHORIZING THE AMENDMENT AND RESTATEMENT OF THE TRUST AGREEMENT AND LOAN AGREEMENT RELATING TO THE OUTSTANDING NORTH CAROLINA MEDICAL CARE COMMISSION VARIABLE RATE DEMAND HEALTH CARE FACILITY REVENUE BONDS (LUTHERAN SERVICES FOR THE AGING), SERIES 1998.

WHEREAS, the Commission is a commission of the Department of Health and Human Services of the State of North Carolina, and is authorized under Chapter 131A of the General Statutes of North Carolina, as amended (the "Act"), to borrow money and to lend the same to any public or nonprofit agency for the purpose of providing funds to finance or refinance all or any part of the cost of health care facilities; and

WHEREAS, on April 2, 1998, the Commission issued \$23,625,000 aggregate principal amount of its Variable Rate Demand Health Care Facility Revenue Bonds (Lutheran Services for the Aging) Series 1998 (the "Bonds"), pursuant to the Act and a Trust Agreement, dated as of March 1, 1998 (the "Original Trust Agreement"), between the Commission and The Bank of New York, as Trustee (the "Trustee"); and

WHEREAS, the Commission loaned the proceeds of the Bonds to Lutheran Services for the Aging, Inc., Lutheran Home – Winston-Salem, Inc. (formerly known as Lutheran Nursing Homes, Inc.), Lutheran Retirement Center-Salisbury, Inc. and Lutheran Retirement Center at Lutheridge, Inc. (the "Original Borrowers"), each a North Carolina nonprofit corporation and a "nonprofit agency" within the meaning and intent of the Act, pursuant to a Loan Agreement, dated as of March 1, 1998 (the "Original Loan Agreement"), between the Commission and the Original Borrowers; and

WHEREAS, as additional security for the Bonds, the Original Borrowers caused Branch Banking and Trust Company (the "Credit Provider") to issue and deliver an irrevocable, direct-pay letter of credit (the "Credit Facility") to the Trustee simultaneously with the issuance and delivery of the Bonds; and

WHEREAS, the Commission and the Original Borrowers, Lutheran Home Albemarle Property, Inc., Lutheran Home-Albemarle, Inc., Lutheran Home Hickory Property, Inc., Lutheran Home-Hickory, Inc., Lutheran Home at Trinity Oaks Property, Inc. and Lutheran Home at Trinity Oaks, Inc. entered into a First Amendment to Loan Agreement, dated as of October 1, 2004, for the

purpose of amending in certain respects the Original Loan Agreement (the "Original Loan Agreement" as so amended, the "Existing Loan Agreement"); and

WHEREAS, the Commission and the Trustee entered into a First Supplemental Trust Agreement, dated as of October 1, 2004 (the Original Trust Agreement as so amended, the "Existing Trust Agreement"), in connection with the amendment of the Original Loan Agreement; and

WHEREAS, Lutheran Services for the Aging, Inc., Lutheran Home Wilmington Property, Inc., Lutheran Home – Wilmington, Inc., LSA Elms Property, Inc., LSA Elms at Tanglewood, Inc., Lutheran Home Winston-Salem Property, Inc., Lutheran Home – Forsyth County, Inc., Lutheran Home Hickory West Property, Inc., Lutheran Home – Hickory West, Inc., LSA Management, Inc., LSA Pharmacy, Inc., Lutheran Home – Albemarle, Inc., Lutheran Home – Hickory, Inc., Lutheran Home at Trinity Oaks, Inc., Lutheran Home – Winston-Salem, Inc., Lutheran Home Albemarle Property, Inc., Lutheran Home Hickory Property, Inc., Lutheran Home at Trinity Oaks Property, Inc., Lutheran Services Property, Inc., Lutheran Retirement Center – Salisbury, Inc., Lutheran Retirement Center – Wilmington, Inc., Lutheran Retirement Center at Lutheridge, Inc., Lutheran Services for the Aging Foundation, Inc. and Abundant Living Adult Day Services, Inc. (collectively, the "Initial Members of the Obligated Group"), each a nonprofit corporation duly incorporated and validly existing under and by virtue of the laws of the State of North Carolina, propose to enter into a Master Trust Indenture, to be dated as of December 1, 2012 (the "Master Indenture"), between the Initial Members of the Obligated Group and The Bank of New York Mellon Trust Company, N.A., as master trustee; and

WHEREAS, the Initial Members of the Obligated Group propose to issue Obligations under the Master Indenture to secure their obligations under (i) the Existing Loan Agreement, as amended and restated pursuant to an Amended and Restated Loan Agreement, to be dated as of December 1, 2012 (the "Amended and Restated Loan Agreement"), between the Commission and the Initial Members of the Obligated Group, and (ii) an Amended and Restated Reimbursement Agreement, to be dated as of December 1, 2012, between the Credit Provider and the Initial Members of the Obligated Group; and

WHEREAS, Section 1001(f) of the Existing Trust Agreement allows, without the consent of or notice to any of the Owners of the Bonds but only with the consent of the Credit Provider, the Commission and the Trustee to effect any changes in the Existing Trust Agreement which, in the judgment of the Trustee, are not to the prejudice of the Trustee or the Owners of the Bonds and do not materially and adversely affect the Owners of the Bonds; and

WHEREAS, Section 1101(e) of the Existing Trust Agreement allows the Commission and the Trustee, without the consent of or notice to any of the Owners of the Bonds but only with the consent of the Credit Provider, to consent to changes to the Existing Loan Agreement in connection with any amendment of the Existing Trust Agreement permitted by Section 1001 thereof; and

WHEREAS, there has been presented at this meeting (i) a draft of the Amended and Restated Trust Agreement, to be dated as of December 1, 2012 (the "Amended and Restated Trust Agreement"), between the Commission and The Bank of New York Mellon Trust Company, N.A., as Trustee, and (ii) a draft of the Amended and Restated Loan Agreement; and

WHEREAS, the Commission has determined that the public will best be served by the

amendment and restatement of the Existing Trust Agreement and the Existing Loan Agreement;

NOW, THEREFORE, THE NORTH CAROLINA MEDICAL CARE COMISION DOES HEREBY RESOLVE, as follows:

Section 1. The forms, terms and provisions of the Amended and Restated Trust Agreement and the Amended and Restated Loan Agreement are hereby approved in all respects, and the Chairman, Vice Chairman or any member of the Commission designated in writing by the Chairman of the Commission for such purpose and the Secretary or the Assistant Secretary of the Commission are hereby authorized and directed to execute and deliver the Amended and Restated Trust Agreement and the Amended and Restated Loan Agreement in substantially the forms presented to this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary and appropriate; and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 2. The Chairman, the Vice Chairman, any member of the Commission designated in writing by the Chairman of the Commission for such purpose, the Secretary and the Assistant Secretary of the Commission are authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, officer's certificates, undertakings, agreements, allonges, new Bond certificates or other instruments, as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by the Amended and Restated Trust Agreement and the Amended and Restated Loan Agreement.

Section 3. This Resolution shall take effect immediately upon its passage.

IX. Refunding of Commission Bond Issues

Recommended:.....**Chris Taylor**

Commission Action: Motion was made by Mr. Cecil, seconded by Mr. Crocker and unanimously approved.

WHEREAS, the bond market is in a period of generally fluctuating interest rates, and

WHEREAS, in the event of decline of rates during the next quarter, refunding of certain projects could result in significant savings in interest expense thereby reducing the cost of health care to patients, and

WHEREAS, the Commission will not meet again until February 8, 2013,

THEREFORE, BE IT RESOLVED; that the Commission authorizes its Executive Committee to approve projects involving only the refunding of existing Commission debt between this date and February 8, 2013.

X. MEMBER REPORT

XI. 2013 MCC Meeting Dates.....Chris Taylor

February 7-8

May 16-17

August 8-9

November 14-15

XII. ADJOURNMENT - A motion to adjourn is requested.

THE MEETING ADJOURNED AROUND 12:40 P.M.



Drexal Pratt

Secretary

12/10/12

Date