

Principle Long Term Care, Inc.

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May 31, 2011

Received by the
CON Section

31 MAY 2011 4 01 19

Tanya Rupp, Project Analyst
Certificate of Need Section
NC Division of Health Service Regulation
2704 Mail Service Center
Raleigh, NC 27699-2704

Dear Ms. Rupp:

Please find attached comments regarding the following CON application, which was submitted for the Review Period beginning May 1, 2011:

- Project ID #M-8672-11, Co-Applicants:
 - Blessed Health & Rehab of Dunn, LLC
 - Dunn RE, LLC

Thank you for your review and consideration of these remarks. Should you have any questions regarding these materials, please do not hesitate to contact me.

Sincerely,
Principle Long Term Care, Inc.



Max Mason,
Development Coordinator

Enclosures

Comments Re: CON Project ID #M-8672-11

Blessed Health & Rehab of Dunn, LLC & Dunn RE, LLC (Co-applicants)
*Replacement and Relocation of an Existing Nursing Facility from
Dunn to Angier, Harnett County, NC*

Submitted By: Principle Long Term Care, Inc.

Overview

These comments are submitted in regard to the CON application filed by Blessed Health & Rehab of Dunn, LLC and Dunn RE, LLC (collectively "the applicants," "Blessed Health") proposing to **replace** and **relocate** Blessed Health & Rehab of Dunn (f/k/a Magnolia Living Center). The applicants propose to develop the replacement facility in Angier, which is located in northern Harnett Co. and is approximately 17 miles from its current location in Dunn. A review of the applicants' proposal reveals several areas of potential non-conformity to various CON Review criteria. These findings are described in greater detail below; however, they should not be construed as inclusive of all possible deficiencies and/or non-conformities.

CON Review Criterion (3)

Criterion (3) states that:

*The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, **in particular, low income persons**, racial and ethnic minorities, women, handicapped persons, the elderly, and other **underserved groups** are likely to have access to the services proposed. [Emphasis added.]*

Based on the data provided in the CON application, it appears that the applicants propose to **reduce** the percentage of days of care provided to **Medicaid patients** from 84.2% to 77.3%. Please see the following:

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Blessed Health & Rehab of Dunn					
Facility Occupancy Jan. - Feb. 2011 & 10/2014 to 9/2015					
Payor Source	Nursing Days (No Spec. Care)	Nursing Days (Special Care)	TOTAL Days	% of Total Days	Projected % DoC
Private Pay	110.40	59.01	169	3.3%	2.47%
Commercial Ins.	21.23	0.00	21	0.4%	0.5%
Medicare	335.43	147.97	483	9.4%	16.46%
Medicaid	3638.82	698.03	4337	84.2%	77.3%
HMA	12.74	0.00	13	0.2%	0.3%
County Assistance	0.00	0.00	0	0.0%	
Other (Hospice)	127.38	0.00	127	2.5%	3.0%
Total	4246.00	905.00	5151	100.0%	100.0%

Source: Blessed Health CON application p. 66 & p. 86

An examination of Blessed Health's 2011 License Renewal Application shows that the facility has historically provided in excess of 82% of its days of care to Medicaid patients.

Blessed Health & Rehab (f/k/a Magnolia Living Center)		
Days of Care by Payor Source, FY 2010		
Payor Source	Days	% of Total
Medicare	2,593	8.2%
Medicaid	26,152	82.6%
Private	1,509	4.8%
Other	1,397	4.4%
Total	31,651	100%

Source: 2011 License Renewal Application

Since this proposal is for a total facility replacement and relocation, Medicaid recipients who are currently served by this provider may lack adequate access to these services in the future.

CON Review Criterion (3a)

Criterion 3(a) states the following:

*In the case of a reduction or elimination of a service, **including the relocation of a facility** or a service, the applicant shall demonstrate that the needs of **the population presently served** will be met adequately by the proposed relocation or by alternative arrangements, and **the effect of** the reduction, elimination or **relocation** of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved*

groups and the elderly to obtain needed health care. **[Emphasis added]**

Based on the applicants' current and projected **county-of-patient-origin**, it appears that their proposal may not adequately demonstrate that the project will meet the needs of the population **presently** served. Specifically, the applicants project that they will serve a **notably different** population upon completion and operation of their proposed replacement facility than is currently (and recently) served at its existing facility. Data on pages 63-64 of the CON application show the following:

TABLE 1.

PATIENT ORIGIN 9/30/11 TO 10/1/11

COUNTY	NF BEDS	ACH BEDS
	PERCENT OF TOTAL NF ADMISSIONS	PERCENT OF TOTAL ACH ADMISSIONS
Harnett	51.0%	N/A
Cumberland	15.9%	N/A
Johnston	12.6%	N/A
Sampson	7.3%	N/A
Wake	5.3%	N/A
Lee	3.3%	N/A
Durham	2.0%	N/A
Wayne	1.3%	N/A
Bladen	0.7%	N/A
Duplin	0.7%	N/A
TOTAL	100.0%	N/A

TABLE 2.

PATIENT ORIGIN 10/1/14 TO 9/30/15

COUNTY	NF BEDS	ACH BEDS
	PERCENT OF TOTAL NF ADMISSIONS	PERCENT OF TOTAL ACH ADMISSIONS
Harnett	75.0%	N/A
Johnston	12.0%	N/A
Wake	12.0%	N/A
Lee	1.0%	N/A
TOTAL	100.0%	N/A

As illustrated, the applicants will go from approximately 16% of patients originating from Cumberland County (TABLE 1.) to 0% at the new facility (TABLE 2.). A similar, though

somewhat smaller trend (from an historical perspective), is evident for residents of Sampson County (from 7.3% to 0%).

Residents of these counties (i.e. Cumberland and Sampson) have, since at least 2008, relied on Blessed Health for skilled nursing care, as the following data, extracted from the applicants' facility's License Renewal Applications (through the NC DHSR Medical Facilities Planning Section database), reveal:

TABLE 3.

Magnolia Living Center Analysis of Patients Served by County of Origin FY 2008							
Facility	Facility County	Patient County	Beginning Census	Admissions	Total	Medicaid Patients	% by County
Magnolia Living Center, LLC	Harnett	Craven	0	1	1	1	0.5%
Magnolia Living Center, LLC	Harnett	Cumberland	14	17	31	7	16.6%
Magnolia Living Center, LLC	Harnett	Harnett	46	49	95	21	50.8%
Magnolia Living Center, LLC	Harnett	Johnston	13	22	35	12	18.7%
Magnolia Living Center, LLC	Harnett	Sampson	3	9	12	2	6.4%
Magnolia Living Center, LLC	Harnett	Lee	1	0	1	1	0.5%
Magnolia Living Center, LLC	Harnett	Wake	8	0	8	2	4.3%
Magnolia Living Center, LLC	Harnett	Robeson	1	0	1	1	0.5%
Magnolia Living Center, LLC	Harnett	Wayne	1	0	1	1	0.5%
Magnolia Living Center, LLC	Harnett	Bladen	1	0	1	1	0.5%
Magnolia Living Center, LLC	Harnett	Moore	1	0	1	1	0.5%
Magnolia Living Center, LLC Total			89	98	187	50	100.0%

TABLE 4.

Magnolia Living Center Analysis of Patients Served by County of Origin FY 2009							
Facility	Facility County	Patient County	Beginning Census	Admissions	Total	Medicaid Patients	% by County
Magnolia Living Center LLC	Harnett	Cumberland	15	12	27	24	16.9%
Magnolia Living Center LLC	Harnett	Harnett	45	40	85	69	53.1%
Magnolia Living Center LLC	Harnett	Johnston	15	10	25	20	15.6%
Magnolia Living Center LLC	Harnett	Lee	1	2	3	0	1.9%
Magnolia Living Center LLC	Harnett	Moore	0	1	1	0	0.6%
Magnolia Living Center LLC	Harnett	Sampson	5	3	8	7	5.0%
Magnolia Living Center LLC	Harnett	Wake	4	2	6	4	3.8%
Magnolia Living Center LLC	Harnett	Wayne	2	3	5	0	3.1%
Magnolia Living Center LLC Total			87	73	160		100.0%

Individuals from these counties that have relied on Blessed Health for accessible nursing facility care will, apparently, **lose access** to these services upon facility replacement and relocation. Thus, it appears the applicants may not conform to the requirements of Criterion 3(a).

Furthermore, as illustrated above in TABLE 2, Blessed Health projects that nearly a **quarter** of its residents will originate from Wake County (12%) and Johnston County (12%). On p. 47, the applicants imply that most of the patients they will serve from these two counties will be residents of the following Townships: Holly Springs, Middle Creek, and Panther Branch in Wake County and Cleveland, Elevation, and Pleasant Grove in Johnston County.

Expecting to serve residents from these specific Townships, however, is questionable since the applicants apparently **failed to acknowledge** the **pending development** of **two (2) new** nursing facilities in Wake County (Holly Springs) and Johnston County (Clayton), projects for which **CONs were recently issued**. Each of these two facilities proposes to serve residents from the **same areas** (i.e., Townships) of Wake County and Johnston County as identified by the applicants. Without accounting for the impact of these new facilities, the applicants **likely** have not **accurately substantiated** the need identified; thus, the facility occupancy and revenue projections may not be accurate.

The applicants' proposed reduction in access to Medicaid recipients (in relation to **Criterion (3)), as discussed above, may also render the proposal non-conforming to Criterion (3a).

CON Review Criterion (5)

Criterion (5) states that:

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.

In connection to the patient county-of-origin issue discussed above (Review Criterion (3a)), the applicants may have failed to demonstrate the **financial feasibility** of their proposal. That is, if utilization projections rely on occupancy by residents of the identified Wake County and Johnston County Townships, many of whom would more likely be served by closer facilities soon-to-be-developed in those areas, projected revenues are **overstated**. It is clear that the applicants do anticipate serving a meaningful number of residents from western Johnston County and southern Wake County. On p. 65, the applicants state that 24% of patients "will be split evenly between Wake and Johnston Counties; which will both be less than five miles from the proposed facility."

CON Administrative Review Criterion/Rule 10A NCAC 14C .1101 (d)

Rule 10A NCAC 14C .1101 (d) states the following:

An applicant proposing to establish a new nursing facility or adult care home shall specify the site on which the facility will be located. If the proposed site is not owned by or under the control of the applicant,

the applicant shall specify at least one alternate site on which the services could be operated should acquisition efforts relative to the proposed site ultimately fail, and shall demonstrate that the proposed and alternate sites are available for acquisition.

Although the CON Section appears to have determined that the Administrative Rules pertaining to nursing facilities are Not Applicable to facility replacement/relocation reviews, not assessing conformity to this rule **in this review** could be a substantive omission. Specifically, the applicants may have failed to sufficiently demonstrate **site control**. Beginning on p. 763, the applicants provide an option for their proposed site. However, the option **expires** August 31, 2011. Although this date is beyond the 90 day review period (which is projected to end on July 29, 2011), plus the required appeal timeframe, it is **not** beyond the 150-day period that could arise if the CON Section workload precludes the assigned analyst from completing the review within 90 days. Based on recent reviews of non-competitive applications, there is reason to believe that this review could extend beyond the 90 days (plus the appeal period). Under those circumstances, the term of the option could expire and the site would no longer be under the applicant's control. No secondary site was identified as available. Should acquisition efforts fall through, there is no guarantee that the applicants could obtain a site for the same price relied upon for financial projections. A more expensive site could increase the total cost to a point that renders the project financially infeasible and, thus, non-conforming to CON Review Criterion (5).