



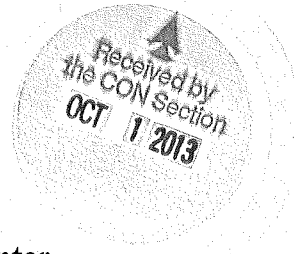
# Long Term Care Management Services

*Caring with Excellence*

Chatham County Rehabilitation Center

Liberty Healthcare Properties of Chatham County, LLC

Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC



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October 1, 2013

Craig Smith, Section Chief  
Kim Randolph, Project Analyst  
Certificate of Need Section, DHSR, DHHS  
809 Ruggles Drive  
Raleigh, NC 27603

Dear Mr. Smith and Ms. Randolph,

In accordance with NC G.S. §131E-185(a1)(1), Chatham County Rehabilitation Center, Liberty Healthcare Properties of Chatham County, LLC, and Liberty Commons Nursing and Rehabilitation of Chatham County, LLC hereby submit the following comments related to competing applications filed in response to the need determination in the 2013 NC State Medical Facilities Plan ("SMFP") for 90 skilled nursing beds to be located in Chatham County. Our comments include discussion of representations made in the competing applications and whether, or not, the applications comply with the relevant review criteria, plans, and standards. We offer comments on the following applications:

- J-10167-13      Kensington Rehab and Nursing Center**
- J-10169-13      Chatham Health and Rehabilitation Center**
- J-10170-13      UNC Hospitals Nursing Care and Rehabilitation Center**
- J-10171-13      PruittHealth – Chatham, LLC**

Our comments are organized to address specific discrepancies and questions separately for each individual application. Based on our analysis of the applications, our Chatham County Rehabilitation Center application represents the most effective alternative for meeting the needs of Chatham County and also is the only application that fully conforms to all the relevant review criteria, plans, and standards. We appreciate your consideration of our comments in your review process.

Sincerely,

Hunter Diefes  
Director, Financial Planning  
HDiefes@libertyhcare.com  
(910) 332-1983

# **Competitive Comments on Applications Submitted in Response to the Need Determination for 90 Skilled Nursing beds in Chatham County**

Submitted by

Chatham County Rehabilitation Center  
Liberty Healthcare Properties of Chatham County, LLC  
Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC  
Applicants of Project ID# J-10168-13

## **Overview**

We have closely examined each of the applications referenced above for accuracy and to the extent that each meets the review criteria outlined in NC G.S. §131E-183. We discovered discrepancies and errors of varying severity in all applications examined and found instances in each application where the applicants failed to adequately satisfy review criteria with the information and responses provided.

Each analyst must perform a review of competitive CON applications based on comparative review factors chosen by that analyst. Although several factors are routinely used in skilled nursing bed reviews, the analyst is free to pick and choose the criteria he/she deems most appropriate for comparison. Therefore we have chosen not to perform a side-by-side analysis of the applications, but rather chose to identify specific issues we found with each application. In all competing applications examined there are flaws and issues of such a nature as to warrant each non-conforming to relevant review criteria. Therefore, we assert that Liberty's Chatham County Rehabilitation Center application is the most effective alternative proposed to meet the needs of the residents of Chatham County, particularly those that are currently underserved, and is the only application submitted that fully conforms to the relevant review criteria, plans, and standards, and therefore, should be approved for development.

## **Comments on Competitive CON Applications – Chatham County**

### **Project ID: J-10167-13: J.E.E, LLC/Kensington Rehab and Nursing Center, Inc.**

- Facility is proposed to be located in the Center Township, which currently has a surplus of skilled nursing beds and is therefore a less effective alternative for the location of facility beds.
- The application proposes to contract for Diagnostic, Dental, and Podiatry services but does not provide any documentation from a provider indicating their willingness or ability to provide such services. Furthermore, the application indicates an intention to use contracted parties for Nursing Services and Transportation, but does not provide any documentation from a party willing or able to provide such services.
- The applicants' proposed Medicaid mix is 74%, which is below the county average of 77.3%. This is also less than Liberty's proposed 78% Medicaid case mix.
- Applicant repeatedly points out the fact that Chatham Hospital in Siler City is the only acute care hospital in Chatham County. While this is true, UNC Hospitals in Chapel Hill is closer to many parts of Chatham County, including the Williams and Baldwin Township, where the largest bed deficits are, and can and do serve these areas. A fact also not considered by the applicants is the location and availability of EMS stations throughout the county. These can respond to and assist in emergency situations and so assuming that all emergency response in Chatham County must come from Chatham Hospital is not accurate.
- Applicant projects that 88% of its residents will originate from Chatham County. This is much less than Liberty's projected 95%. Given that there is an identified need in Chatham County for 90 new skilled nursing beds and the applicant is only projecting to fill 79 of their proposed 90 beds with Chatham residents, they are a less effective alternative than Liberty.
- In the second full year of operation the applicants propose to devote only 28.6% of its patient days to Medicaid patients in private rooms. Alternatively, Liberty proposes that 40% of its patient days will be provided to Medicaid patients in a private room.
- Applicant does not include any Medicare contractual adjustment in its financial projections. The applicants per diem operating cost is approximately \$214. This cost is

higher than the proposed private and Medicaid rates. Thus, if the applicants Medicare revenue projections are inaccurate, the financial feasibility of the facility is questionable.

## **Project ID J-10169-13: Chatham Health Investors, LLC/Chatham Healthcare Group, LLC**

- Applicants failed to identify Maggie Valley Nursing and Rehabilitation Center (identified in Section I.12(a)) in its response to question II.6(a).
- In Section III.2(a) applicants failed to discuss all the various alternatives, such as the size and location of the facility, a joint venture, or any other feasible alternatives. In fact, the only alternative discussed was to not apply and therefore the applicants did not demonstrate that the least costly or most effective alternative was proposed.
- Applicants did not provide any methodology or assumptions used to project its patient origin. Applicants stated, "*No methodology was used to project the percentages in 2.(a).*" Therefore the applicants' projections are unreliable and unsubstantiated.
- Applicants provided for one month of Lease/Taxes expense in the Estimated Start-Up Expenses but stated that the estimated period of time for start-up is 3 months. The applicants did not provide the assumptions used to project the number of months for start-up so it appears that the start-up costs are understated by \$180,000 (\$90,000 x 2). The applicants propose funding the start-up and working capital with a line of credit for up to \$900,000. Because the total start-up and working capital should be \$1,017,600, the applicants have underfunded this amount by \$117,600 and therefore have not demonstrated adequate funding ability for the project.
- Applicants did not provide any contractual adjustments in its Form B financial projections. Liberty, on the other hand, provided a 90% contractual adjustment of ancillaries.

**Project ID J-10170-13: University of North Carolina Hospitals at Chapel Hill (UNC Hospitals)/Chatham Park Investors, LLC (CPI)**

- In considering the need/demand for new skilled nursing beds in Chatham County, the applicants utilized population by Zip Code for their analysis. However, they only analyzed those zip codes wholly contained within Chatham County and thus did not include the entire county population. Most notably, the applicants failed to include an analysis of the Fearington area in northeast Chatham County. Thus this analysis is incomplete and the results are based on flawed methods and assumptions. The applicants therefore did not demonstrate that there is a need for their proposed project.
- The applicants propose a 10-bed ventilator unit. While the applicants do cite the general scarcity of ventilator beds in the state, they do not offer specific statistics or methodology to support the inclusion of a 10-bed ventilator unit in Chatham County. On page 82 the applicants state, *"In looking at the tremendous population growth in the county, particularly in the 65 and older segment of the population, and factoring in the need for ventilator services, UNC Hospitals recognized a need for ventilator capacity in the county and did not consider this option [not constructing a ventilator unit] a viable alternative."* The applicants provide no statistical analysis or data (other than stating that there is a relative lack of available ventilator beds) to substantiate the development of ventilator beds. More specifically, the application does not explain or justify the specific number (10) of beds to be developed as a ventilator unit. This represents more than 11% of the total number of beds to be proposed and without any statistical data or analysis included the applicants failed to show a need for this portion of the proposed project.
- The 2013 NC SMFP projects a need for 90 additional skilled nursing beds for Chatham County residents. The applicants project that fewer than 50% of its patients will originate from Chatham County, despite this demonstrated need for new beds in the county. Therefore this application is a less effective alternative to those applications that project the majority of its patients to originate from within Chatham County.
- Applicants project opening the new facility on October 1, 2015, but on page 99 of the application they project a fill up period commencing in October of 2013.
- Applicants project a 4.5 month start-up period but do not project any expense for facility lease. According to the proposed lease agreement included as Exhibit 1, the base rent due is \$14.00 per square foot, or \$77,102.67 per month. Assuming that UNC Hospitals would not be permitted to occupy the building without a lease agreement in effect, it is reasonable to assume that this lease must be in effect during the start-up period. Therefore an additional \$346,962.02 in start-up capital is required. The applicants have grossly understated the estimated start-up costs and therefore have not demonstrated the financial viability of this project.

**Project ID J-10171-13: PruittHealth – Chatham/Chatham Healthcare Properties, Inc.**

- Applicants propose to establish relationships with several third party providers. Section II.4(b) requests that the applicant “*provide documentation of the provider’s ability or interest in providing the service.*” Rather than providing the requested documentation, the applicants included letters to third party providers expressing interest in establishing relationships. This does not constitute a provider’s ability or interest to provide a service and therefore the applicants did not adequately demonstrate that ancillary support services will be provided.
- Applicant projects the lowest amount of Medicaid patient days (70%) of any applicant and therefore is the least effective alternative with respect to access by the medically underserved.
- Although the applicants acknowledge that “*numerous community leaders mentioned that Chatham County is in need for an Alzheimer’s/dementia residents special care unit in nursing home*” the applicants chose not to propose a dedicated special care unit. In fact, Liberty Healthcare is the only applicant that is responsive to this need by proposing a dedicated SCU for Alzheimer’s/Related Dementia residents.
- The applicants state that a location in Siler City is less effective than an area in central Chatham County, yet they propose a location there as their secondary site. Siler City is more than 16 miles (as the crow flies) from the applicants’ primary site. Furthermore the applicants failed to adequately justify the need for a new nursing facility in Siler City, should the primary site become unavailable or not suitable to develop.
- On page 156 of their CON application, the applicants state, “*Surveys and conversations with approximately 30 healthcare providers who serve Chatham County residents, coordinators and advocates indicate a need for additional services for residents who rely on Medicaid.*” However, the applicants project a Medicaid patient percentage that is below the Chatham County average and that is the lowest of all applicants in this review.
- Applicant failed to include any expense for Bad Debt or for Medicaid Assessment Fee in its Form C expense projections and therefore understated expenses and overstated net income.