

**Comments Regarding UNC Hospitals-RTP CON Application  
Project No. J-12065-21**

**Submitted by WakeMed Health & Hospitals  
June 1, 2021**

WakeMed appreciates the opportunity to provide the following comments opposing the certificate of need application filed by UNC Hospitals to develop an acute care hospital in southern Durham County with 40 acute care beds and 2 operating rooms, per the allocation in the 2021 State Medical Facilities Plan (SMFP).

**Overview**

While UNC maintains that the chief justification for the new hospital is to improve accessibility to inpatient and outpatient hospital services that would otherwise utilize an existing UNC Health facility, it is not reasonable to assume that UNC would spend \$251 million merely to improve accessibility to existing UNC patients. Aside from purported improvement in geographic accessibility, the UNC Hospitals-RTP (“UNC-RTP”) application will offer nothing new to Durham County residents in terms of acute care service mix, cost effectiveness, or quality.

The proposed project should not be approved, as it does not conform with applicable certificate of need Review Criteria found in N.C.G.S. §131E-183, as described below.

**Review Criterion 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, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.*

The UNC-RTP project does not conform with Review Criterion 3. The applicant failed to demonstrate that the project is needed for the following reasons:

- Patient origin projections are unreasonable;
- The project is duplicative of other acute care facilities located in close proximity;
- Emergency Department projections are based on unreliable assumptions;
- The application failed to consider excess emergency department capacity in the service area;
- The project may have detrimental effect on existing and proposed facilities in the UNC Health system.

### Patient Origin Assumptions Are Unreasonable

The project's proposed site, at the intersection of N.C. Highway 54 and N.C. Highway 147 in southern Durham County, is located approximately 2 miles from the Wake/Durham County line. The new facility will be accessible to Wake County residents via Interstate 40, as well as N.C. Highways 54, 55 and 147. On Application Page 32, UNC-RTP states that a chief objective of the project is to improve accessibility to UNC Health's services to Durham County residents, with 90 percent of patients projected to originate from Durham County, with an emphasis on southern Durham County. It would appear farfetched to assume that the applicant is committed to spend over \$250 million to develop a facility that will simply maintain its existing market shares in Durham County.

UNC-RTP projects that 9.2 percent of its patients will originate from Wake County. However, the proposed facility's proximity to Wake County, which is growing more rapidly than Durham County, particularly in the western region consisting of Morrisville, Cary and Apex, suggests that a surreptitious motive for the project is to attract Wake County patients to the new facility. Projections provided in Exhibit C.4-1 show that Durham County's population is expected to increase by 14.1 percent from 2021-2031, or by 45,864 residents. By contrast, Wake County's population is projected to grow by 18.7 percent, or 208,799 residents, over the same period, adding over 4 times the total number of residents as Durham County. A large proportion of this growth is anticipated to occur in western Wake County.

UNC-RTP will be also located very close to Orange County, whose residents will have access to the new hospital from the west via N.C. Highway 54 and Interstate 40. Many residents of Orange County will be located closer to UNC-RTP than residents of Durham County. However, UNC-RTP projected to serve no patients from Orange County *in any service*. Due to its location, and UNC Health's presence and brand recognition, it is unrealistic to assume that the facility will treat no patients from Orange County.

Additionally, UNC admits on Page 6 of their Assumptions that "Of all 116 hospitals in the state, fewer than 10 had immigration percentages of less than 10 percent, most of those were critical access hospitals, and none were in urban/suburban areas like southern Durham County". Their own statement directly invalidates their patient origin calculations, rendering them unreasonable.

### Impact on Existing and Approved Acute Care Facilities

The table below provides approximate road mileage and drive-times from the UNC-RTP site to acute care facilities shown on the map on Application page 58 and/or located within a 25-minute drive of the proposed location.

**Table 1**

**Existing and Approved Acute Care Facilities Located Within 25 Minutes' Drive Time from UNC-RTP Site<sup>1</sup>  
Listed in Ascending Order by Distance**

Facility	Facility County	Distance from UNC-RTP (miles)	Drive-Time from UNC-RTP (minutes)	Services Currently Offered		
				Acute Care Beds	Operating Rooms	24/7 Emergency Dept.
WakeMed Brier Creek Healthplex	Wake	9.0	13	No	No	Yes
Duke University Hospital	Durham	11.9	17	Yes	Yes	Yes
UNC Rex Hospital-Main Campus	Wake	13.0	18	Yes	Yes	Yes
Duke Regional Hospital	Durham	13.5	22	Yes	Yes	Yes
UNC Hospitals-Main Campus	Orange	13.6	23	Yes	Yes	Yes
North Carolina Specialty Hospital	Durham	13.8	23	Yes	Yes	No
WakeMed Apex Healthplex	Wake	13.9	19	No	No	Yes
WakeMed Cary Hospital	Wake	17.3	21	Yes	Yes	Yes
WakeMed North Hospital	Wake	18.1	21	Yes	Yes	Yes
Duke Raleigh Hospital	Wake	18.8	23	Yes	Yes	Yes
UNC Rex Holly Springs Hospital <sup>2</sup>	Wake	21.5	25	Yes	Yes	Yes

Source: Google Maps, [www.google.com/maps](http://www.google.com/maps)

The table above shows there are 11 existing and approved acute care facilities, offering combinations of acute care beds, operating rooms and/or emergency department services, within a 25-minute drive from the proposed UNC-RTP site. Several of these facilities are located in Wake County and are closer to the site than facilities in Durham County. In addition, Duke Green Level Hospital, a proposed acute care hospital with 40 beds and 2 ORs that would be located approximately 10 miles/13 minutes from UNC-RTP, is currently under Agency review.

Two existing or approved acute care hospitals are located in western Wake County, and both have either added or will add licensed bed capacity in Calendar Year 2021. WakeMed Cary Hospital recently increased its licensed capacity from 178 to 208 acute care beds<sup>3</sup>, and is located approximately 17 miles from the UNC-RTP site. UNC Rex Holly Springs, a 50-bed acute care hospital<sup>4</sup>, is slated to open later in 2021 and is located approximately 21 miles from the site. Combined, these two facilities will add 80 licensed beds, and 29,220 available patient days, to western Wake County. In addition, the CON application for Duke Green Level Hospital, a 40-bed facility, is currently under Agency review and would be located 10 miles from the proposed site.

Please also see the discussion for Review Criterion 18a.

<sup>1</sup> The closest existing street address to the proposed site is 3308 East N.C. Highway 54, Research Triangle Park, NC 27709.

<sup>2</sup> Scheduled to open later in 2021.

<sup>3</sup> CON Project No. J-11428-17.

<sup>4</sup> CON Project No. J-8669-11.

### Inpatient Projections are Unreasonable and Inadequately Supported

The UNC-RTP application proposes to develop a 40-bed acute care hospital, designed as a “conservatively-sized community hospital” (Application page 29). Additionally, the application states “such community hospitals need not duplicate the more specialized, high acuity services (such as neonatal intensive care or open-heart surgery), which are already available at tertiary and quaternary hospitals in the area”. Further, on Page 3 of the Assumptions to Section C, the application excludes specific “high acuity” services. However, there appears to be notable, high-volume, services missing that cannot be accounted for in either the exclusion list, or the inclusions list mentioned in Section C, such as GI Endoscopy services. It is also unclear which Cardiovascular services were included and which were excluded as the application states on Application page 35 “Vascular Surgery” will be performed, yet contradicts that on page 3 of the Assumptions by excluding some Cardiac Surgery. Vascular Surgery is not listed in the specialties provided in Exhibit C.5-4. Additionally, the application specifically excludes some Neurosurgical and Oncology services, yet provides letters of support from UNC-employed Oncology and Neurosurgery physicians stating their willingness to provide care at this facility.

A more appropriate and accurate calculation would have been to project utilization based on the specific MS-DRGs for the services which UNC proposes to offer in Section C. UNC states that given the limited number of beds and operating rooms, and lack of demand and support services, UNC-RTP will not offer the same services as UNC Medical Center in Chapel Hill, UNC Hospitals-Hillsborough, or UNC Rex Hospital. Despite this assertion, UNC admittedly uses the market share from these facilities without making the appropriate adjustments.

A key part of the UNC application is identifying patients that would be served by UNC-RTP Hospital. The application makes clear that their “target” ZIP Codes are 27707, 27713, 27709, 27703, as well as only subset of specialties typically provided at a “conservatively-sized community hospital”. However, their projections rely on data from all ZIP Codes in Durham County, as well as an unclear and indeterminable subset of services, which are contradicted elsewhere in the application.

In conclusion, UNC inflated their market share, inflated their utilization, and inadequately and unclearly manipulated acuity-related data to meet the Performance Standards. UNC’s projections and utilization are not conforming as they fail to make the appropriate adjustments to reflect their “target” patient, service area, and offered services, and are therefore not reasonable or adequately supported.

### Emergency Department Projections Based on Unreasonable Assumptions

The UNC-RTP application proposes to develop a 12-bed emergency department. In its Assumptions to Section C that follow Section P, the UNC-RTP application discusses the methodology for projecting emergency department (ED) volumes. On Application page 10 (following Section P), UNC notes that Durham County ED visits declined by a compound annual growth rate (CAGR) of 0.3 percent per year between CYs 2017-2019. UNC then applied this negative growth rate to each year

through 2029. For the period 2019-2029, UNC projects that Durham County ED visits will decline 2.6 percent.

The data in Exhibit C.4-1 show that Durham County's population is projected to increase 14.1 percent between 2021-2031, or 1.3 percent per year. It is unrealistic to assume that, given this population growth which would add over 45,000 residents to Durham County, emergency department utilization in what is projected to be the state's fifth most populous county by 2031 would continue to decline over time. Although UNC deems this projection method as "conservative", the assumptions are not reasonable and understate the potential growth in ED visit volumes. Additional data points would have been beneficial in determining the trend.

#### Emergency Department Capacity in Service Area

Several hospital-based and stand-alone emergency departments currently operate near the proposed UNC-RTP site. Most of these facilities have available emergency department capacity; the UNC-RTP facility would only serve to exacerbate this capacity.

According to the Emergency Department Benchmarking Alliance (EDBA), most emergency departments are designed to treat 1,300-1,700 visits per patient care space per year, depending on patient volume and type of ED<sup>5</sup>. EDBA found that when visit volumes exceeded 1,900 visits per treatment space per year, the proportion of "walkaways" – patient who leave without being seen – increases, due to unacceptable wait times. In planning for new emergency departments and evaluating capacity of its existing EDs, WakeMed has used the metric of 1,800 visits per bed per year as its standard for programming ED treatment space.

The following facilities provide 24/7 emergency departments and are located within 15 road miles of the proposed UNC-RTP site. The table includes the number of ED beds and FY 2020 ED visits as reported on Page 8 of the 2021 Hospital License Renewal Applications on file at the Agency, as well as percent utilization using the benchmark of 1,800 visits per bed per year.

On Application page 39, UNC forecasts that the RTP Hospital will treat 9,807 ED visits in Project Year 3, which equates to only 817.3 visits per bed. None of the EDs in the table above were utilized above 1,800 visits per bed per year in 2020, which indicates that existing facilities have available capacity.

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<sup>5</sup> "Emergency Department Performance Measures, 2014 Data Guide", published by the Emergency Department Benchmarking Alliance, Denver, CO, page 16.

**Table 2****Emergency Department Utilization at Acute Care Facilities Located Within 15 Road Miles of Proposed UNC-RTP Site**

Facility	Facility County	Distance from UNC-RTP (miles)	Number of ED Beds	FY 2020 ED Visits	FY 2020 ED Visits Per Bed	Percent Capacity <sup>6</sup>
WakeMed Brier Creek Healthplex	Wake	9.0	12	18,926	1577.2	87.6%
Duke University Hospital	Durham	11.9	68	71,650	1053.7	58.5%
UNC REX Hospital-Main Campus	Wake	13.0	48	60,544	1261.3	70.0%
Duke Regional Hospital	Durham	13.5	39	54,197	1389.7	77.2%
UNC Hospitals-Main Campus <sup>7</sup>	Orange	13.6	159	75,221	473.1	26.2%
WakeMed Apex Healthplex	Wake	13.9	12	17,265	1438.8	79.9%

Source: 2021 Hospital License Renewal Applications

Impact on WakeMed Facilities

The UNC-RTP facility will be located approximately 9 road miles from WakeMed Brier Creek Healthplex, which operates a stand-alone ED. WakeMed Brier Creek reported 21,966 ED visits in FY 2019 and 18,926 visits in FY 2020<sup>8</sup>, with more than 40 percent of visits originating from Durham County, as shown in the table below.

**Table 3****WakeMed Brier Creek Healthplex  
Emergency Department Patient Origin, FYs 2019 and 2020**

County	Percent of Total Visits	
	FY 2019	FY 2020
Durham, NC	43.6%	44.6%
Wake, NC	43.5%	43.6%
Granville, NC	2.4%	2.5%
Franklin, NC	1.0%	1.1%
Orange, NC	1.0%	0.7%
Johnston, NC	0.7%	0.7%
All Other	7.7%	6.8%
Total	100.0%	100.0%

Source: WakeMed internal data

In FY 2019, the last full fiscal year prior to the onset of the COVID-19 pandemic, WakeMed Brier Creek treated approximately 9,500 ED visits from Durham County, more than the total that UNC-RTP projects to serve from Durham County in its Project Year 3. WakeMed believes that, given the project's proposed location, the UNC-RTP facility will have a detrimental impact on ED utilization at WakeMed Brier Creek.

Approval of another emergency department in this area would duplicate existing and proposed emergency services with little improvement in access to emergency services. With more patients

<sup>6</sup> Calculation: ED visits ÷ (ED beds x 1800).

<sup>7</sup> ED Beds and Visits includes UNC Hospitals-Hillsborough.

<sup>8</sup> Source: WakeMed 2020 and 2021 Hospital License Renewal Applications.

now choosing less expensive options such as urgent care and telehealth for their emergent health needs, it would be unreasonable to approve another ED provider.

#### Impact on Services at Other UNC Hospitals' Locations

The purpose of the UNC-RTP project is ostensibly to improve accessibility to UNC's acute care services to residents of Durham County, for which UNC Hospitals facilities already provides a significant amount of care. The application describes how UNC-RTP will allow UNC Health to maintain its existing market shares in Durham County; this is volume that is currently directed to UNC Medical Center in Chapel Hill, UNC Hospitals-Hillsborough, and UNC Rex Hospital in Raleigh. However, the UNC-RTP application did not discuss how the patient volume from Durham County, that is currently directed to existing UNC facilities in adjoining counties, will be backfilled.

For the reasons above, the UNC-RTP application does not conform with Review Criterion 3.

#### **Review Criterion 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.*

In Section E, the applicant describes alternatives to the proposed project, including maintaining status quo, developing the facility in a different location, and developing the facility with different number of beds and services.

However, UNC did not discuss the merits of other viable alternatives to the proposed project, such as foregoing development of acute care beds and opting instead to develop a freestanding ambulatory surgical facility (ASF) in Durham County, with up to 2 licensed operating rooms. Such a project would be considerably less costly, and would allow UNC to treat outpatient surgical patients originating in Durham County without incurring the significant cost of an acute care hospital. For this reason, the project does not conform with Review Criterion 4.

#### **Review Criterion 5**

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

As described in Review Criterion 3, UNC-RTP's volume projections are not reasonable, reliable or adequately supported, particularly for the acute care beds and emergency department. Because projected revenues and expenses are based at least in part on projected volumes, then projected revenues and expenses in the UNC-RTP application are also unreasonable. Therefore, UNC-RTP does not conform with Review Criterion 5.

### **Review Criterion 6**

*The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.*

UNC-RTP would duplicate existing and approved acute care facilities and services in southern Durham and western Wake Counties. In particular, the project would result in unnecessary duplication of acute care beds, emergency department services, and surgical services. Given the existing and approved facilities located within a 25-minute drive time from its proposed site, UNC-RTP would be duplicative and potentially cause confusion for patients. Please see discussion in Review Criterion 3.

A proposed project which is unreasonably duplicative cannot be the most effective or efficient solution.

### **Review Criterion 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.*

The UNC-RTP application included more than 100 letters of support for the project. However, with only 2 exceptions, all letters provided were provided by physicians, mid-level providers or administrative staff employed by UNC Health. Most letters did not indicate where the physician or mid-level practices, so it cannot be easily determined where the provider primarily works. Although many letters from healthcare providers indicated that they currently treat patients who live in Durham County, it is not clear which providers intend to practice at the UNC-RTP facility following its opening. No letters were included from independent, community-based providers, raising the issue of whether non-employed physicians in the area will have admitting privileges at the new hospital.

The application also contained no support letters from local community advocacy groups or first-responder organizations. There is no evidence that groups that could affect the success of the project indicated their backing of UNC-RTP Hospital.

Additionally, the proposed UNC-RTP location's extreme proximity to WakeMed Brier Creek should have necessitated coordination with WakeMed as the existing health care system in the immediate vicinity. UNC Health made no attempt to coordinate, collaborate, or even notify WakeMed of this proposed project.

For these reasons, the UNC-RTP project does not conform with Review Criterion 8.



### **Review Criterion 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.*

The total capital cost of the UNC-RTP facility is \$251 million, or approximately \$6.3 million per licensed bed. This is the most expensive project proposed for CON approval in recent history. Although Durham County and the surrounding area are slated to experience significant population growth over the next decade, it would appear imprudent to approve such an expensive capital project when previously-approved projects at existing and proposed facilities have yet to open.

### **Review Criterion 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 would not have a favorable impact.*

The proposed project is in response to the need determination of 40 acute care beds and 2 operating rooms awarded to Durham County in the 2021 State Medical Facilities Plan (SMFP). As described above, the project will be duplicative of existing and approved acute care facilities in the area. With 11 existing and approved acute care facilities located within a 25-minute drive of UNC-RTP, the effect on competition is questionable.

On Application page 121, UNC states that the project “will provide convenient, local access to UNC Hospitals’ hospital-based services in Durham County for the growing number of patients the service area that currently access hospitals owned and operated by UNC Health in other counties.” The statement implies that UNC intends for UNC-RTP to serve only UNC Health system patients and physicians.

### **Summary**

The UNC-RTP application is nonconforming with numerous CON Review Criteria. Due to this nonconformity, WakeMed recommends that the Agency deny the application.