



Atrium Health

**Comments on
The Presbyterian Hospital's and
Novant Health, Inc.'s Acute Care Bed
Certificate of Need Application,
Project ID # F-012570-24**

December 2, 2024

**Competitive Comments on Mecklenburg County
Acute Care Bed Applications**

submitted by

The Charlotte-Mecklenburg Hospital Authority

In accordance with N.C. GEN. STAT. § 131E-185(a1)(1), The Charlotte-Mecklenburg Hospital Authority¹ (CMHA) hereby submits the following comments related to the application filed by The Presbyterian Hospital and Novant Health, Inc. (collectively referred to herein as Novant Health) to add 80 new acute care beds to The Presbyterian Hospital d/b/a Novant Health Presbyterian Medical Center (NH Presbyterian) in response to the need identified in the *2024 State Medical Facilities Plan (SMFP)* for 89 additional acute care beds in Mecklenburg County. CMHA's comments include *"discussion and argument regarding whether, in light of the material contained in the application and other relevant factual material, the application complies with the relevant review criteria, plans and standards."* See N.C. GEN. STAT. § 131E-185(a1)(1)(c).² In order to facilitate the Agency's ease in reviewing these comments, CMHA has organized its discussion by issue, specifically noting the general Certificate of Need (CON) statutory review criteria and regulations creating the non-conformity of each issue, as they relate to Novant Health's NH Presbyterian application, Project ID # F-012570-24. CMHA's comments include issue-specific comments on the NH Presbyterian application as well as a comparative analysis related to its application:

- Carolinas Medical Center (CMC), Add 89 acute care beds, Project ID # F-012574-24

As detailed above, given the number of proposed additional acute care beds, both applications cannot be approved as proposed. The comments below include substantial issues that CMHA believes render Novant Health's NH Presbyterian application non-conforming with applicable statutory criteria and regulatory review criteria. However, as presented at the end of these comments, even if the NH Presbyterian application was conforming, the CMC application filed by CMHA is comparatively superior to the application filed by Novant Health and represents the most effective alternative for expanding access to acute care services in Mecklenburg County.







¹ Advocate Aurora Health, Inc. ("AAH") and Atrium Health, Inc. ("Atrium Health") formed Advocate Health, Inc. ("Advocate Health"), a nonprofit corporation, to manage and oversee AAH, Atrium Health, and their respective subsidiaries and affiliates. As part of Atrium Health, The Charlotte-Mecklenburg Hospital Authority and Wake Forest University Baptist Medical Center are now part of the Advocate Health enterprise and are managed and overseen by Advocate Health.

² CMHA is providing comments consistent with this statute; as such, none of the comments should be interpreted as an amendment to its application filed on October 15, 2024 (Project ID # F-012574-24).

GENERAL COMMENTS

As detailed in the issue-specific comments in the following section, Novant Health’s application does not conform to all of the Certificate of Need (CON) statutory review criteria and regulations. Most notably, there is a significant overstatement in its projected growth rate. When acute care days are adjusted to reflect a more reasonable growth rate, neither NH Presbyterian nor the Novant Health system in Mecklenburg County meet the performance standards defined in 10A NCAC 14C .3803, as demonstrated in the issue-specific section below. Additionally, Novant Health's financial projections lack credibility, as they use outdated 2022 salaries expense for 2023 and fail to adjust 2024 staffing levels for increased patient volume and additional acute care beds. As a result, Novant Health’s application is not approvable. In contrast, CMHA’s application sufficiently demonstrates utilization while also being based on assumptions that are conservative and founded in reliable historical evidence. Therefore, CMHA’s application is the best alternative to meet the need in Mecklenburg County and should be approved.

Even if Novant Health’s application was conforming to all CON statutory review criteria and regulations, the CMHA system, including CMC, demonstrates a significantly greater need for acute care beds than the Novant Health system. The chart below compares the need at CMHA and Novant Health based on FFY 2023 data from the *Proposed 2025 SMFP*, the most recent data available.

CMHA		Novant Health
300	Projected Bed Deficit (Surplus)	(10)
98.7%	Occupancy Rate	70.0%
	Above Target Occupancy Rate	
20.7%	Above / (Below) Target Occupancy Rate of Licensed Beds by:	(8.0%)
278 patients	Above / (Below) Target ADC by:	(66 patients)
5.6%	Growth from FFY 2022 to FFY 2023	(2.6%)
	Highest Occupancy Rate in the State	
	Temporary Licensed Beds Approval	

CMHA has documented in its application the direct impact the lack of sufficient licensed acute care beds has had on its ability to compete for inpatient services. Competition is not enhanced, but rather is **stifled** in a service area where one provider has available capacity to grow and accommodate new patient demand while the other provider operates at maximum capacity and has limited-to-no ability to compete for growing patient demand. CMHA’s staggering system-wide growth rates following the implementation of additional temporary beds afforded by the COVID-19 waiver suggest that growth at CMHA hospitals has historically been constrained by insufficient acute care bed capacity. In contrast,

the Novant Health system has had underutilized beds and adequate capacity to grow for years. (Despite this, overall acute care days at Novant Health actually declined from FFY 2021 to FFY 2022 and again from FFY 2022 to FFY 2023.) Thus, the COVID-19 bed waiver temporarily improved competition for inpatient services in Mecklenburg County – especially for the medically underserved – by increasing acute care bed capacity at CMHA facilities. With the expiration of the COVID-19 bed waiver last year, CMHA has returned to its operational limits with temporary expansion limited to just 10 percent of licensed bed capacity under temporary bed overflow status. **CMHA urges the Agency to consider more than just the number and percentage of assets awarded but rather the need of each system expressed as a function of available resources and capacity.** Competition is enhanced when organizations are allowed capacity to the maximum extent that is both demanded by patients and effectively utilized. As demonstrated in the application submitted, more capacity is clearly needed and justified at CMHA facilities, particularly CMC.

ISSUE-SPECIFIC COMMENTS

1. The Novant Health application fails to demonstrate the reasonableness of its projected utilization.

Novant Health fails to demonstrate the reasonableness of its projected utilization as it uses an unsupported growth rate for NH Presbyterian and overstates projected volume.

In its “Form C.1a and C.1b Utilization – Assumptions and Methodology,” Novant Health “projects ‘baseline’ acute care days at NH Presbyterian using its facility-specific FFY18-FFY23 annualized inpatient days of care CAGR (3.4%),” as shown in the excerpt below.

Year	Discharges	Days of Care	ALOS
FFY2018	25,732	106,989	4.2
FFY2019	27,037	120,319	4.5
FFY2020	27,201	127,710	4.7
FFY2021	26,891	139,964	5.2
FFY2022	27,087	133,264	4.9
FFY2023	25,050	126,686	5.1
FFY2024*	27,650	139,382	5.0
Compound Annual Growth Rate		Days of Care	
18-23	5-YR CAGR	3.4%	

*Annualized based on seven months data (Oct-Apr)
Source: FFY2018-FFY2023 HIDI, FFY2023 YTD utilization based on Novant Health internal data

Source: Project ID # F-012570-24, p. 124.

However, the majority of the growth over this five-year period can be attributed to a 12.5 percent increase from FFY 2018 to FFY 2019, with markedly slower growth or declining volume thereafter, as displayed in the table below. Further, while Novant Health states that utilization during FFY24 increased significantly, several factors call this claim into question. For example, in its 2023 CON application for additional acute care beds at NH Presbyterian, Novant Health projected 130,227 days of care in FFY23

based on 11 months of annualized data.³ The actual volume for that year, as presented in Novant Health’s current application, turned out to be significantly less, or just 126,686 days of care (see excerpt from p. 124 above). This is a significant variance given the actual volume in FFY23 only included one month of additional data. In this application, Novant Health is projecting acute care days will be up 10 percent in FFY24, but this number is based on the annualization of just seven months of data (October-April). Given Novant Health’s overstated FFY23 volume in last year’s application, it is unclear if its annualized FFY 2024 figure is reliable. Even with the purported volume increase in FFY24, days of care at NH Presbyterian have actually declined over the last three years by 582 patient days (139,964 in FFY21 to 139,382 in FFY24), as shown in the table below. This recent data suggests that growth has stalled and that 3.4 percent is not a reasonable assumption for future growth.

NH Presbyterian Historical Year Over Year Growth 2018-2024

	FFY18	FFY19	FFY20	FFY21	FFY22	FFY23	FFY24	'18-'23 CAGR	'21-'24 CAGR
Days of Care	106,989	120,319	127,710	139,964	133,264	126,686	139,382	3.4%	(0.1%)
Year Over Year Growth		12.5%	6.1%	9.6%	-4.8%	-4.9%	10.0%		

Source: Project ID # F-012570-24

In its current application (p. 39), Novant Health explains that it believes “FY2021 and FY2022 days of care were elevated by intermittent surges in COVID-19 hospitalizations and the rebounding of inpatient volumes from elective procedures delayed during FY2020.” Novant Health then goes on to say that “FFY 2023 acute care utilization has stabilized...” However, Novant Health does not explain the significant growth from FFY 2018 to FFY 2019 or why the growth from FFY 2018 to FFY 2023 is the best representation of future growth. This is significant because NH Presbyterian would not meet the performance standards defined in 10A NCAC 14C .3803 if FFY 2018 were excluded when calculating the historical compound annual growth rate. As shown in the table below, every growth rate that excludes FFY 2018 is lower than the selected CAGR.

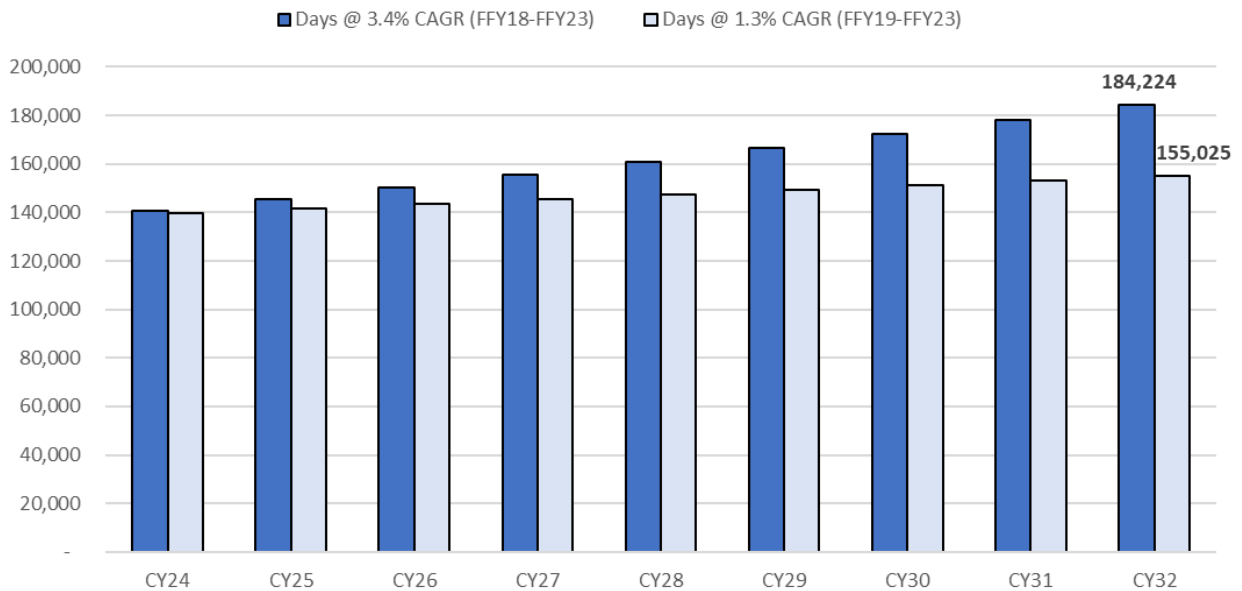
NH Presbyterian Historical CAGRs

	CAGR
FFY18-FFY23	3.4%
FFY19-FFY23	1.3%
FFY20-FFY23	-0.3%
FFY21-FFY23	-4.9%
FFY22-FFY23	-4.9%

There is a significant difference in projected acute care days at NH Presbyterian in Project Year 3 (CY 2032) depending on which compound annual growth rate is used. The chart below demonstrates the impact of removing the anomalous growth rate from FFY18-FFY19 by utilizing the FFY19-FFY23 CAGR, the next highest historical CAGR.

³ Project ID # F-12457-23, p. 121

NH Presbyterian Projected Baseline Acute Care Days



Under the performance standards in the Criteria and Standards for Acute Care Beds, the target occupancy rate for NH Presbyterian is 78.0 percent based on an ADC that is greater than 400. The target occupancy rate for the Novant Health system as a whole is 78.0 percent based on the same standard. As shown in the table below, when FFY 2018 data is excluded and the more reasonable FFY 2019 to FFY 2023 historical CAGR is applied instead, NH Presbyterian and the Novant Health system in Mecklenburg County are projected to operate at 70.7 and 73.6 percent respectively in Project Year 3, or 7.3 and 4.4 percentage points below target occupancy.

Revised Utilization in Project Year 3 (CY 2032)

	<i>NHPMC Total Days</i>	<i>Novant Health Total Days</i>
Final Days as Submitted	179,364	297,705
Reduction	(29,199)	(29,199)
Revised Final Days	150,165	268,506
Acute Care Beds	582	999
Occupancy Rate	70.7%	73.6%
Target Occupancy Rate	78.0%	78.0%

In summary, Novant Health's FFY 2024 projection is unrealistic, and its chosen growth rate contradicts recent trends. By overstating acute care days in FFY 2024 and utilizing an aggressive growth rate despite declining volume, Novant Health creates the perception that it will meet performance standards when in fact this is not supported by more reasonable, data-based assumptions.

Thus, Novant Health’s application is non-conforming with Criteria 3, 4, 5, 6, and 18a, as well as the performance standards specified in 10A NCAC 14C .3803.

2. The Novant Health application fails to demonstrate financial feasibility.

Novant Health fails to demonstrate financial feasibility as its salaries expense is unsupported and understated. A direct comparison of Novant Health’s 2024 NH Presbyterian acute care bed CON application and last year’s 2023 NH Presbyterian acute care bed CON application reveals that baseline salaries were not updated during the development of the current 2024 application. As shown in the two excerpts below from Novant Health’s 2023 application, the salaries expense was \$104,740,848 for 1,001 FTEs in FY 2022.

2023 Application Form F.3a

Form F.3a Historical and Interim Operating Costs				
Form F.3a Historical and Interim Operating Costs NHPMC Acute Care Services	Last Full FY	Interim Full FY	Interim Full FY	Partial Interim Year
	F: 01/01/2022	F: 01/01/2023	F: 01/01/2024	F: 01/01/2025
	T: 12/31/2022	T: 12/31/2023	T: 08/31/2024	T: 06/30/2025
Salaries (from Form H Staffing)	\$104,740,848	\$106,523,609	\$112,753,270	\$59,924,622

Source: Project ID # F-12457-23, p. 132

2023 Application Form H

Form H Staffing NHPMC Acute Care Services			
Form H Staffing Include employees, contract employees and temporary employees but not independent contractors	Current Staff As of 12/31/2022		
	# of FTEs	Average Annual Salary per 1 FTE**	Total Salary *
	B	C	D=B*C
Registered Nurses	732.4	\$128,359	\$94,005,639
Certified Nurse Aides / Nursing Assistants	198.2	\$37,070	\$7,347,585
Director of Nursing	3.0	\$193,264	\$579,791
Clerical	67.0	\$41,908	\$2,807,832
Total	1,001		\$104,740,848

Source: Project ID # F-12457-23, p. 134

The two excerpts below from Novant Health’s current 2024 application demonstrate that the salaries expense remained the same in FY 2023 at \$104,740,848 for 1,001 FTEs.

2024 Application Form F.3a

Form F.3a Historical and Interim Operating Costs				
Form F.3a Historical and Interim Operating Costs NHPMC Acute Care Services	Last Full FY	Interim Full FY	Interim Full FY	Interim Full FY
		F: 01/01/2023 T: 12/31/2023	F: 01/01/2024 T: 12/31/2024	F: 01/01/2025 T: 12/31/2025
Salaries (from Form H Staffing)	\$104,740,848	\$107,883,074	\$119,693,523	\$127,178,305

Source: Project ID # F-012570-24, p. 135

2024 Application Form H

Form H Staffing			
NHPMC Acute Care Services Form H Staffing Include employees, contract employees and temporary employees but not independent contractors	Current Staff As of 12/31/2023		
	# of FTEs	Average Annual Salary per 1 FTE**	Total Salary *
	B	C	D=B*C
Registered Nurses	732.4	\$128,359	\$94,005,639
Certified Nurse Aides / Nursing Assistants	198.2	\$37,070	\$7,347,585
Director of Nursing	3.0	\$193,264	\$579,791
Clerical	67.0	\$41,908	\$2,807,832
Total	1,001		\$104,740,848

Source: Project ID # F-012570-24, p. 137

It is unreasonable for Novant Health to claim that the actual salaries expense in 2023 would remain unchanged from 2022.

Further, Novant Health's projected salary increases raise significant concerns about the application's financial feasibility. On page 135 of its application, Novant Health projects a three percent salary increase (from \$104,780,848 in 2023 to \$107,883,074 in 2024). While this appears to account for standard inflation, it is notably inconsistent with Novant Health's own operational projections. For example, the application states that "staffing is based on expected patient days with minimum staffing requirements" (p. 142) and projects a 10 percent increase in days of care for FFY 2024 (p. 124). Additionally, according to Form C, NH Presbyterian's acute care bed capacity increased from 445 to 476 beds in 2024. Given these substantial increases in both patient volume and facility capacity, a mere inflation-based salary adjustment appears significantly understated.

CMHA's financial analysis reveals two critical issues:

1. The 2023 salary baseline inappropriately relies on 2022 data.
2. The 2024 projections fail to account for increased staffing needs driven by higher patient volumes and expanded bed capacity.

A more realistic projection would align salary increases with the seven percent growth in acute care bed capacity in 2024.⁴ This is conservative relative to the ten percent projected growth in patient days. This adjustment would add approximately \$9.4 million in expenses (\$7.5 million in salaries and \$1.9 million in benefits) – an impact that would likely persist in subsequent years. Given that Project Year 3's projected net income is only \$7.3 million, these more realistic staffing costs would render the project financially unfeasible.

Thus, Novant Health's application is non-conforming with Criterion 5, 7, and 18a and should not be approved.

In summary, based on the issues detailed above, the NH Presbyterian application is non-conforming with the review criteria established under N.C. GEN. STAT. § 131E-183, specifically Criteria 3, 4, 5, 6, 7, and 18a. The NH Presbyterian application should not be approved.

⁴ 476 beds in 2024 - 445 beds in 2023 / 445 = 7 percent

COMPARATIVE ANALYSIS

The NH Presbyterian application (Project ID # F-012570-24) and the CMC application (Project ID # F-012574-24) both propose to develop acute care beds in response to the 2024 SMFP need determination for Mecklenburg County. Given that both applicants propose to meet all or part of the need for the 89 additional acute care beds in Mecklenburg County, both cannot be approved as proposed. To determine the comparative factors that are applicable in this review, CMHA examined recent Agency findings for competitive acute care bed reviews. Based on that examination and the facts and circumstances of the competing applications in this review, CMHA considered the following comparative factors:

- Conformity with Review Criteria
- Scope of Services
- Geographic Accessibility
- Historical Utilization
- Competition
- Access by Service Area Residents
- Access by Underserved Groups
 - Projected Medicare and Medicaid
- Average Net Revenue per Patient Day
- Average Operating Expense per Patient Day
- Provider Support

CMHA believes that the factors presented above and discussed in turn below should be used by the Agency in reviewing the competing applications.

Conformity with Applicable Statutory and Regulatory Review Criteria

CMHA's application adequately demonstrates that its acute care bed proposal conforms to all applicable statutory and regulatory review criteria. In contrast, the NH Presbyterian application does not adequately demonstrate that its proposal is conforming to all applicable statutory review criteria as discussed previously. Specifically, the NH Presbyterian application is non-conforming with Criteria 3, 4, 5, 6, 7, and 18a and fails to meet the performance standards specified in 10A NCAC 14C .3803. An application that is not conforming to all applicable statutory and regulatory review criteria cannot be approved. Therefore, with regard to conformity, CMHA's application is more effective than the NH Presbyterian application.

Scope of Services

CMC and NH Presbyterian are both existing acute care hospitals that provide a broad spectrum of acute care services. CMC is a Level I trauma center and a quaternary care academic medical center.⁵ NH Presbyterian is a Level II trauma center and a tertiary care facility. The scope of services for a Level I trauma center are greater than a Level II trauma center, and a quaternary care academic medical center provides a higher scope of services than a tertiary care facility. Therefore, based on the Agency's past

⁵ As designated by the Healthcare Planning and Certificate of Need Section and as listed in Appendix F of the 2024 SMFP. See page 417 of the 2024 SMFP.

position on this comparative factor – that the application proposing to provide the greatest scope of services is the more effective alternative – the CMC application is more effective with regard to scope of services.

Geographic Accessibility

Both applications submitted in response to the need identified in the 2024 SMFP for 89 additional acute care beds in Mecklenburg County propose to add acute care beds to an existing facility. Given that both applications propose to locate additional acute care beds at existing hospitals within a few miles of the other, the applications are comparable with regard to geographic accessibility.

Historical Utilization

The table below shows acute care bed utilization for existing facilities based on acute care days as reported in Table 5A of the 2024 SMFP. As shown in the 2024 SMFP, CMHA facilities demonstrate a combined deficit of 244 acute care beds, including a projected deficit of 139 beds at CMC/Atrium Health Mercy. By comparison, the Novant Health system has a total deficit of 10 acute care beds.

Mecklenburg County Historical Acute Care Bed Utilization

	<i>FFY22 Acute Care Days</i>	<i>ADC</i>	<i># of Acute Care Beds</i>	<i>Utilization</i>	<i>Proj. (Surplus) / Deficit 2026</i>
CMC/Atrium Health Mercy	328,618	900	979	92.0%	139
CMHA System	458,064	1,255	1,342	93.5%	244
NH Presbyterian	129,926	356	469	75.9%	42
Novant Health System	215,374	590	786	75.1%	10

Source: 2024 SMFP

As shown above, CMC/Atrium Health Mercy alone generated a deficit almost **14 times greater** than the entire Mecklenburg County Novant Health system. Further, every existing CMHA facility in Mecklenburg County shows a deficit of beds. **These deficits, when combined, add up to the largest bed deficit of any health system in the state.**

In a service area such as Mecklenburg County with two, established, multi-hospital systems, CMHA does not believe that the Agency should compare acute care bed deficits and surpluses – or occupancy rates – among individual facilities but rather should make these comparisons at the system-level. A core principle of the SMFP acute care bed need methodology is an analysis of need by system in Mecklenburg County; it is the system-based deficits/surpluses that determine whether or not additional beds are needed. Moreover, both existing systems in Mecklenburg County have been approved for projects – still under development – that proposed to shift both resources and patients between facilities, which is further evidence that a system-to-system comparison under these circumstances is more appropriate and that a facility-specific analysis would create artificial results.

Based on FFY 2022 data included in the 2024 SMFP (which excludes neonatal days/beds), CMHA facilities in Mecklenburg County operated at an overall occupancy rate of 93.5 percent of licensed beds – 15.5 percentage points above the target occupancy of 78.0 percent – and with an average daily census of 208 patients above target occupancy. Conversely, Novant Health facilities in Mecklenburg County operated

at an overall occupancy rate of 75.1 percent – 2.9 percentage points below the target occupancy of 78.0 percent – and with an average daily census of 23 below target occupancy. When placeholders are allocated according to CON approvals from the 2023 Acute Care Bed Need Determination and all adjustments are included, the CMHA system is still projected to exceed the target occupancy rate of 78.0 percent in 2026 while the Novant Health system is not (81.6 percent vs. Novant Health’s 73.0 percent). Further, after 2023 placeholders are included, CMHA still faces a significant deficit of 106 acute care beds, while Novant Health’s minor deficit becomes a surplus of 16 beds.

Thus, with regard to historical utilization, the CMHA system has higher historical utilization and a higher projected deficit than the Novant Health system. Therefore, CMC is the more effective alternative.

Competition

In some prior reviews, the Agency has used other comparative factors, such as “Competition,” to compare applicants’ total bed complement without considering whether the applicants’ existing capacity demonstrates a deficit or surplus of beds and without considering such factors as occupancy rate. These reviews found any applicant with fewer beds more effective than applicants with a greater number of beds. As an example of the Agency’s rationale under this application of the “Competition” comparative factor, an existing provider with a hundred acute care beds that only served twenty patients would be found to be a more effective alternative than another provider with two hundred beds that served hundreds of patients and demonstrated a deficit of capacity. CMHA believes that the “Competition” comparative factor applied in this way is contrary to the purpose of the CON statute and should not be applied in such a narrowly defined manner.

The concept of competition is complex, particularly in relation to healthcare and, therefore, cannot be singularly defined as a simple comparison of existing assets. While the Agency has the explicit authority to evaluate competition in CON reviews per N.C. GEN. STAT. § 131E-183(18a), it is not charged with protecting a specific facility’s market share. Specifically, the Basic Principles found in Chapter 5 of the *2024 SMFP*, which address acute care hospital beds, indicate that *“it is not the policy of the state to guarantee the survival and continued operation of all the state’s hospitals, or even any one of them.”* See page 31 of the *2024 SMFP*. Given that it is not the State’s responsibility to guarantee the operation of any single hospital, it follows that it is likewise not the State’s responsibility to manage competition by counting resources between hospitals, particularly without any regard for need.

CMHA and Novant Health are two existing, mature, and well-established acute care service providers in Mecklenburg County. Novant Health is an existing provider with 919 existing and approved acute care beds. CMHA is an existing provider with 1,747 existing and approved acute care beds. Both applicants propose to develop acute care beds at existing facilities within Mecklenburg County. As such, neither CMHA nor Novant Health would qualify as a “new or alternative provider” under the Agency’s historical reasoning of the “Competition (Patient Access to a New or Alternative Provider)” comparative factor in competitive reviews over the last decade. Specifically, the Agency has stated in numerous competitive reviews over the last several years that an applicant proposing to increase access to a “new provider” is a more effective alternative with regard to “Competition/Patient Access to a New or Alternative Provider.” In the 2022 MRI review for the Pitt, Greene, Hyde and Tyrrell multicounty service area, the Agency declared the two well-established applicants – OrthoEast (with one existing mobile MRI scanner) and Greenville MRI (with two existing fixed MRI scanners) – as equally effective in regard to this comparative factor. The Agency specifically noted that both applicants are equally effective despite the fact that OrthoEast does not yet own a fixed MRI scanner:

“Generally, the application proposing to increase competition in the service area is the more effective alternative with regard to this comparative factor. The introduction of a new provider in the service area would be the most effective alternative based on the assumption that increased patient choice would encourage all providers in the service area to improve quality or lower costs in order to compete for patients. Although OrthoEast does not own a fixed MRI scanner, both applicants are existing providers of MRI services in the service area of Pitt, Green[sic], Hyde and Tyrrell Counties; therefore, neither of the applicants would qualify as a new or alternative provider in the service area. Thus, with regard to this comparative factor, the proposals are equally effective.” See Findings, p. 61

Likewise, both CMHA and Novant Health provide acute care services in the Mecklenburg County service area. Neither system qualifies as a new or alternative provider of acute care services in Mecklenburg County.

In addition, Novant Health has a history of arguing that existing service providers are equal regarding this comparative factor regardless of the number of service component resources. In its comments in opposition to Wilmington Health and EmergeOrtho in the 2023 New Hanover MRI competitive review, Novant Health stated, “NH New Hanover, Wilmington Health, and EmergeOrtho all provide fixed MRI scanner services in New Hanover County. As discussed above, both Wilmington Health and EmergeOrtho already offer fixed MRI services at freestanding sites in New Hanover County, so their applications to offer ‘freestanding fixed MRI services’ do not propose anything new or different. Accordingly, this factor does not favor any applicant in this review.”⁶ According to Novant Health, all three applicants in this review were equal despite differences in MRI inventory; upon submission, Novant Health was operating five fixed MRI scanners (71.4 percent) in the county while EmergeOrtho and Wilmington Health were operating one fixed MRI scanner each (14.3 percent). Similarly, in its comments in opposition to OrthoCarolina in the 2022 Mecklenburg MRI competitive review, Novant Health stated, “...both NH Matthews and OrthoCarolina are existing providers of fixed and mobile MRI services in Mecklenburg County . . . As neither applicant is a new fixed MRI provider, both applicants are equally effective with respect to competition.”⁷ In that review, Novant Health once again stated the applicants were equal despite differences in MRI inventory; upon submission, Novant Health owned nine fixed MRI scanners (33.3 percent) in the county while OrthoCarolina only owned two (7.4 percent). **By Novant Health's own reasoning, since both CMC and NH Presbyterian are established providers of acute care services in Mecklenburg County, they are equally effective in terms of competition.**

Access by Service Area Residents

According to patient origin data compiled by NC DHSR, less than 57 percent of patients served by Mecklenburg County acute care bed providers originate from within the county. As shown in the table below, out of state patients (predominantly from South Carolina) comprise almost 15 percent of total

⁶ Comments Submitted by Novant Health New Hanover Regional Medical Center, LLC and Novant Health, Inc. In Opposition to Wilmington Health, PLLC and EmergeOrtho, P.A. dated May 31, 2023. P. 41-42.

⁷ Comments Submitted by Presbyterian Medical Care Corp. and Novant Health, Inc. In Opposition to OrthoCarolina, P.A. dated December 1, 2022. P. 24.

acute care bed admissions provided by Mecklenburg County acute care providers followed by neighboring North Carolina counties.

**Total Patient Origin for
Mecklenburg County Acute Care Bed Providers**

NC County/State of Origin	2023 Percent of Total
Mecklenburg	56.2%
Other States*	14.8%
Union	6.7%
Gaston	4.2%
Cabarrus	3.4%
Iredell	2.3%
Mitchell	2.2%
Lincoln	1.9%
Cleveland	1.5%
Rowan	1.1%
Stanly	1.1%
All Others**	4.6%
Total	100.0%

Source: 2023 Patient Origin Reports as compiled by NC DHSR.

*Other States includes all other states.

**All Others includes all other North Carolina counties.

As noted in CMHA’s applications, without the demand for acute care services originating from outside of Mecklenburg County, there would not be a need for additional acute care bed capacity to be located in Mecklenburg County. As CMHA demonstrates in its applications, Mecklenburg County would have a surplus of 1,337 acute care beds, or more than half its existing capacity, if not for the demand for acute care bed services originating from outside of the county.

In the Agency Findings for the 2019 Mecklenburg County Acute Care Bed and Operating Room Review, the Agency’s comparative analyses included a comparative factor, “Access by Service Area Residents,” but did not draw any conclusions about the factor. Pages 236 and 237 of the Agency Findings for the 2019 Mecklenburg County Acute Care Bed and Operating Room Review state, “Atrium is correct that the Acute Care Bed Need Determination in the 2019 SMFP is based on the total number of acute care days at each hospital and not based on anything related to Mecklenburg County-specific acute care days. Further, Mecklenburg County is a large urban county with over one million residents, two large health systems plus other smaller healthcare groups, and is on the border of North Carolina and South Carolina... the Agency believes that in this specific instance attempting to compare the applicants based on the projected acute care bed access of Mecklenburg County residents has little value [emphasis added].” Subsequently, the Agency maintained this position in its Findings for the 2020, 2021, 2022, and 2023 Mecklenburg County Acute Care Bed and Operating Room Reviews in which it did not evaluate this comparative factor.

CMHA agrees with the Agency’s findings regarding this factor in recent reviews and maintains its belief that this comparative factor, if applied, would be inappropriate or inconclusive for a review of the proposed project. The need for additional acute care bed capacity in Mecklenburg County, and

specifically, the need determination in the 2024 SMFP, is a result of the utilization of all patients that utilize acute care beds located in Mecklenburg County. Mecklenburg County residents comprise less than 57 percent of that utilization and there would be a large surplus of capacity if not for the demand for acute care bed services originating from outside the county. Under these circumstances, it would not be appropriate to determine the comparative effectiveness of an applicant based on service to Mecklenburg County residents when the need as identified for the proposed additional acute care bed capacity is not based solely on Mecklenburg County patients. (Other methodologies in the SMFP, such as nursing facility beds, are based only on the population residing in the county; a factor for “Access by/Service to Service Area Residents” may be more appropriate in such a review, but that is not the case with acute care beds.) Rather, if anything, CMHA believes the Agency should recognize that the need for additional acute care bed capacity in Mecklenburg County is driven by residents across the region and evaluate an applicant’s geographic reach in assessing the need for additional acute care bed capacity located in Mecklenburg County.

Access by Underserved Groups

Projected Medicare and Medicaid

The table below shows each applicant's projected Medicare and Medicaid patients as a percentage of total acute care utilization, as reported in Section L.3 of the respective applications.

	<i>% of Medicare</i>	<i>% of Medicaid</i>
CMC	39.1%	21.7%
NH Presbyterian	32.5%	17.9%

Source: Section L.3.

As shown in the table above, CMC projects to serve a higher percentage of Medicare patients and a higher percentage of Medicaid patients, making it the more effective alternative for both comparative factors.

In previous Mecklenburg County acute care bed reviews, the Agency has found this factor to be inconclusive as Novant Health’s pro formas are not structured in the same way as CMHA’s pro formas. As a result of this difference in structure, a comparison of the raw number of Medicare charges is indeed inappropriate for this competitive review to assess access by underserved groups. However, while Novant Health does include additional service revenue and expenses in its pro formas, both applicants clearly provide the projected payor mix for acute care bed services in Section L.3, which is shown above. As a result, **a comparison of Medicare and Medicaid as a percentage of patients is appropriate** for this competitive review as it reflects the proportion of an applicant’s access dedicated to underserved patients. Thus, this method allows an equitable comparison by eliminating factors that may inadvertently skew the comparison.

Average Net Revenue per Patient Day

The following table shows average net revenue per patient day and per patient in the third full fiscal year of operation.

	<i>Net Revenue</i>	<i># of Days</i>	<i>Net Revenue per Day</i>	<i># of Patients</i>	<i>Net Revenue per Patient</i>
CMC	\$459,385,520	331,050	\$1,388	49,409	\$9,298
NH Presbyterian	\$825,095,299	179,364	\$4,600	35,581	\$23,189

Source: Form F.2.

Novant Health’s application includes all services a patient receives during an inpatient stay, including inpatient surgery, emergency department services provided to an admitted patient, imaging provided during an inpatient stay, and applicable ancillary services. CMHA’s application includes acute care bed discharges only and does not include ancillary services such as lab, radiology, or surgery that generate additional revenue for acute care inpatients. As shown in the table above, CMC projects the lowest net revenue per patient day and per patient.

Average Operating Expense per Patient Day

The following table shows average operating expense per patient day and per patient in the third full fiscal year of operation.

	<i>Operating Expense</i>	<i># of Days</i>	<i>Expense per Day</i>	<i># of Patients</i>	<i>Expense per Patient</i>
CMC	\$446,002,318	331,050	\$1,347	49,409	\$9,027
NH Presbyterian	\$817,768,097	179,364	\$4,559	35,581	\$22,983

Source: Form F.2.

Novant Health’s application includes all services a patient receives during an inpatient stay, including inpatient surgery, emergency department services provided to an admitted patient, imaging provided during an inpatient stay, and applicable ancillary services. CMHA’s application includes acute care bed discharges only and does not include ancillary services such as lab, radiology, or surgery that generate additional revenue for acute care inpatients. As shown in the table above, CMC projects the lowest operating expense per patient day and per patient.

Provider Support⁸

Given the substantial projected acute care bed deficit for CMHA, as well as the significant difference between the level of provider support for CMHA’s project compared to Novant Health’s, CMHA believes the use of the provider support comparative factor could be of particular importance to the Agency in this review. In addition, the CMHA application also received significant community and patient support.⁹

⁸ While not used in every competitive review, there have been numerous reviews in which provider support has been used as comparative factor, including the 2019 Orange County Operating Room Review and, in 2018, the Orange County Operating Room Review, the Mecklenburg County Operating Room Review, the Durham County Operating Room Review, the Wake County Operating Room Review, the Buncombe County Operating Room Review, and the Forsyth County Operating Room Review.

⁹ While the table notes the differences in community support, the Agency has rarely, if ever, used community support as a comparative factor.

The following table illustrates the number of letters of support included with each application from physicians and community members/patients.

	<i>Physicians/Providers/ Administrators</i>	<i>Community/Patients</i>
CMC	32	26
NH Presbyterian	14	0

Source: Support letter exhibits.

As shown above, the CMC application included the most letters of support from physicians/providers/administrators and the most letters of support from community members/patients. Therefore, with regard to provider support, the CMC application is the more effective alternative.

Summary of Comparative Analysis

The following table summarizes the comparative analysis for acute care beds.

<i>Comparative Factor</i>	<i>CMC</i>	<i>NH Presbyterian</i>
Conformity with Review Criteria	Yes	No
Scope of Services	More Effective	Less Effective
Geographic Accessibility	Equally Effective	Equally Effective, But Not Approvable
Historical Utilization	More Effective	Less Effective
Competition	Equally Effective	Equally Effective, But Not Approvable
Access by Service Area Residents	Not Applicable	Not Applicable
Projected Medicare	More Effective	Less Effective
Projected Medicaid	More Effective	Less Effective
Average Net Revenue per Patient Day	Inconclusive	Inconclusive
Average Expense per Patient Day	Inconclusive	Inconclusive
Provider Support	More Effective	Less Effective

The Agency’s Historical Comparison of CMC and NH Presbyterian

Both CMC and NH Presbyterian have applied for additional beds in 2024 after applying for Mecklenburg County’s three most recent acute care bed need determinations. The following table summarizes the Agency’s comparative analysis for acute care beds for each recent need determination that included CMC and NH Presbyterian.

Need Determination Year	2021	2022	2023
Conformity with Review Criteria	Equally Effective	Equally Effective	Equally Effective
Scope of Services	CMC	CMC	CMC
Geographic Accessibility	Equally Effective	Equally Effective	Equally Effective
Competition / Access to New / Alternative Provider	NH Presbyterian	NH Presbyterian	NH Presbyterian
Historical Utilization	CMC	CMC	CMC
Access by Underserved Groups: Charity Care	Inconclusive	N/A	N/A
Access by Underserved Groups: Medicare	Inconclusive	Inconclusive	Inconclusive
Access by Underserved Groups: Medicaid	Inconclusive	Inconclusive	Inconclusive
Average Revenue per Day	Inconclusive	Inconclusive	Inconclusive
Average Expense per Day	Inconclusive	Inconclusive	Inconclusive
Conclusion			
CMC More Effective	2	2	2
NH Presbyterian More Effective	1	1	1

Source: 2021, 2022, and 2023 Mecklenburg Acute Care Bed Reviews

As demonstrated above, the Agency consistently applied this comparative analysis in the 2021, 2022, and 2023 competitive reviews. In each instance, CMC was found more effective for two comparative factors while NH Presbyterian was found more effective for only one comparative factor. As a result, the CMC application was found comparatively superior in all three years.

As discussed in CMHA’s comparative analysis above, CMHA agrees with the Agency that CMC is more effective regarding scope of services and historical utilization than NC Presbyterian. However, CMHA encourages the Agency to reevaluate other comparative factors, specifically competition, access by underserved groups: Medicare, access by underserved groups: Medicaid, and provider support as discussed at length above. This analysis would find CMC more effective for five comparative factors, while NH Presbyterian would not be more effective for any comparative factors.

SUMMARY

As detailed in the issue-specific comments, Novant Health’s application does not conform to all the CON statutory review criteria and regulations, and its application is not approvable. Even if Novant Health’s application were approvable, CMHA believes that its CMC application is the more effective alternative for the 89 acute care beds needed in Mecklenburg County. Moreover, the CMC application is comparatively superior based on the Agency’s historical comparison of these two applicants. In summary, the CMC application is fully conforming to all applicable statutory and regulatory review criteria and comparatively superior on the relevant factors in this review. As such, the CMC application submitted by CMHA should be approved.

Please note that in no way does CMHA intend for these comments to change or amend its application filed on October 15, 2024. If the Agency considers any statements to be amending CMHA’s applications, those comments should not be considered.