

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

DECISION DATE: April 11, 2013

PROJECT ANALYST: Tanya S. Rupp  
CON CHIEF: Craig R. Smith

PROJECT I.D. NUMBER: M-10070-12 / Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. / Construct a new 129-bed nursing facility in Lillington by relocating 129 existing nursing facility beds / Harnett County

### REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

G.S. 131E-183(a) The Department shall review all applications utilizing the criteria outlined in this subsection and shall determine that an application is either consistent with or not in conflict with these criteria before a certificate of need for the proposed project shall be issued.

- (1) The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

C

Universal Properties / Lillington, LLC (Lessor) (“UPL”), and Universal Health Care / Lillington, Inc. (Lessee) (“UHL”) propose to construct a new 129-bed nursing facility, Universal Health Care / Lillington (“UHCL”), by relocating 129 existing nursing facility (NF) beds from the existing location to a new facility on the Brightwater Science and Technology Campus in Lillington. The proposed location is adjacent to the new Harnett Health Central Hospital. The facility will include 31 private rooms and 49 semi-private rooms, and will not have an Alzheimer’s care unit. There are no need determinations applicable to the review of this application; however, there are two policies in the 2012 State Medical Facilities Plan (SMFP) that are applicable. Policy NH-8 and Policy GEN-4 are applicable and are discussed in further detail below.

Policy NH-8: Innovations in Nursing Facility Beds, on page 31 of the 2012 SMFP states:

*“Certificate of need applicants proposing new nursing facilities, replacement nursing facilities, and projects associated with the expansion and/or renovation of existing nursing facilities shall pursue innovative approaches in care, practices, work place*

*practices and environmental design that address quality of care and quality of life needs of the residents. These plans could include innovative design elements that encourage less institutional, more home-like settings, privacy, autonomy and resident choice, among others.”*

In Section III.4, pages 46 – 48, the applicants describe the plan for incorporating innovative practices in nursing facility design, in workplace practices, and in environmental design proposed for the replacement facility. On page 46, the applicants state:

*“Innovations in Nursing Facility Design*

*Universal Health Care of Lillington’s vision of culture change is a blending of ideas, philosophies and environments driven by residents and staff, creating a homelike environment unique to each community while at the same time improving the quality of care and quality of life. At Universal Health Care Lillington, this will involve:*

- *Changing the care of nursing home residents from Staff Directed Care to Patient Directed Care*
- *When feasible, consistent assignments will enable caregivers to provide care to the same individuals consistently and will allow them to get to know a person’s preferences and accommodate daily rhythms.*
- *Enhance dining programs such as steam-table service in the dining rooms to eliminate trays and be immediately responsive to resident requests.*
- *Empowering residents to schedule their Activities of Daily Living, thus enhancing autonomy.*
- *Neighborhoods, as opposed to medical units/halls, designed and named by the residents who live there [sic].*
- *31 private beds distributed throughout the facility to enhance patient privacy.*  
...”

On page 47, the applicants state:

*Innovations in Workplace Practices*

*Universal Health Care of Lillington offers competitive pay and attractive benefits to recruit qualified staff, and provides for a comprehensive benefits package and includes worker’s compensation insurance, payroll taxes and paid time off. ...*

*Universal Health Care of Lillington supports a high-participation work culture to achieve the highest level of service for its customers through a stable and dedicated workforce.”*

The applicants list 11 bullet points with which they propose to provide innovations in workplace practices, including but not limited to:

- *“Seminars, workshops and other educational programs and encourage staff to stay abreast of the latest in geriatric nursing.*

- *Various incentives and rewards to encourage staff retention. These programs include but are not limited to recognition pins, employee cookouts and parties, raffles, CNA Day and Nurses Week.*
  - *Involvement in direct care staff in the quality assurance process.*
  - *Regular staff meetings to encourage employees to suggest improvements in all aspects of facility operations.*
  - *Peer participation in new hire interviews, orientation and mentoring.*
- ...”

On pages 47 – 48, the applicants discuss the innovative approaches in environmental design that the proposed replacement facility will endeavor to incorporate. On page 47, the applicants state:

*“Universal Health Care of Lillington feature’s a neighborhood design concept [sic]. Patients will ‘live’ in Neighborhoods where the clinical team providing their care specializes in their specific health condition. ... The Neighborhood environment design represents a new paradigm where seniors can regain variety and freedom of choice.*

On page 48, the applicants describe the facility design features that will aid in creating a facility that resembles a residential neighborhood. The applicants state:

*“As a foundation of the Neighborhood design, traditional nursing home components are decentralized to create neighborhoods. Each Neighborhood, thus, becomes a community yielding an interactive and healing environment for residents.*

...

*The facility will contain 31 private rooms. This design will be a home like environment predicated upon privacy. The inclusion of 31 private rooms is a step in providing privacy to our residents. It is anticipated that each of the neighborhoods will be able to function fully within their own environment [sic].”*

In addition, in Section II.2, pages 20 – 24, the applicants provide further detail with regard to facility and environmental design and workplace practices which will enhance the quality of care and quality of life for the patients. The applicants adequately demonstrate that the proposed project incorporates innovative approaches in nursing facility design, workplace practices, and environmental design that will enhance the quality of care and quality of life needs of the nursing facility residents.

Therefore, the application is consistent with Policy NH-8 in the 2012 SMFP.

In addition, Policy GEN-4 is applicable to this review. Policy GEN-4, on page 40 of the 2012 SMFP states:

*“Any person proposing a capital expenditure greater than \$2 million to develop, replace, renovate or add to a health service facility pursuant to G.S. 131E-178 shall*

*include in its certificate of need application a written statement describing the project's plan to assure improved energy efficiency and water conservation.*

*In approving a certificate of need proposing an expenditure greater than \$5 million to develop, replace, renovate or add to a health service facility pursuant to G.S. 131E-178, the Certificate of Need Section shall impose a condition requiring the applicant to develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes. The plan must be consistent with the applicant's representation in the written statement as described in paragraph one of Policy GEN-4.*

*Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. 131E-184 are required to submit a plan of energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant's representation in the written statement as described in paragraph one of Policy GEN-4. The plan shall not adversely affect patient or resident health, safety or infection control."*

In Section XI.14, pages 119 - 120, the applicants state:

*"Universal Health Car of Lillington will utilize the following measures in order to maintain efficient energy operations and contain the costs of utilities:*

- Ozone for the laundry will allow Universal Health Care of Lillington to wash approximately 90% of its laundry utilizing cold water vs. hot water.*
- The use of T8 or T5 lighting to reduce the cost of energy consumption.*
- Use of R13 walls and R42 in ceiling.*
- A minimum of a 16-inch overhang.*
- Thermals pane windows.*
- Thermal break window ashes.*
- High efficiency heat pumps."*

In addition, in Exhibit 15 the applicants provide a November 7, 2012 letter signed by a licensed architect which states:

*"...we will to the best of our ability and knowledge develop a set of construction documents which comply with all applicable federal, states and local construction and licensure codes for this type of occupancy and building type [sic]."*

The applicants adequately demonstrate that the building design will assure improved energy efficiency and water conservation in the proposed replacement nursing facility. Therefore, Therefore, the application is consistent with Policy GEN-4.

In summary, the application is consistent with Policy NH-8 and Policy GEN-4; therefore, the application is conforming to this criterion.

- (2) Repealed effective July 1, 1987.
- (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.

## CA

Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. propose to construct a new 62,170 square foot 129-bed replacement nursing facility, Universal Health Care / Lillington, by relocating 129 existing nursing facility (NF) beds from the current facility location in Lillington to a new facility, also in Lillington. According to the applicant on page 42, the proposed facility will be constructed on a site that is 2.5 miles from the existing facility, and is adjacent to the new Harnett Health Central Campus (“**HHCC**”) hospital at the intersection of NC Highways 401 and 421 in Lillington. The site is on the new Brightwater Science and Technology Campus (“**Brightwater**”): a new mixed-use medical and business park located across the street from the County Government. The Brightwater Campus is also home to HHCC and Central Carolina Community College’s new training center. The applicants propose to construct an updated facility which will feature a ‘neighborhood’ design, with 31 private rooms and 49 semi-private rooms. According to the applicants in Section III.2, page 42, the current facility contains 129 nursing facility beds and 106 assisted living beds. The applicants state that the assisted living portion of the existing facility is antiquated and in poor quality, making it difficult to provide the quality of care that UHCL strives to provide. The applicants propose to relocate the 129 nursing facility beds from the existing facility to the proposed replacement facility. The existing facility will retain the assisted living beds, which will be relocated to the space vacated by the nursing facility. The assisted living portion of the building, once the patients have all transferred to the replacement facility, will be demolished, as discussed by the applicant on page 42.

The proposed replacement nursing facility will be constructed on one of two sites on the Brightwater campus. Both sites are currently zoned *Commercial and Industrial* (OI), each of which permits the development of a nursing home, as documented by the applicant in Section XI, page 112, and in Exhibit 21. Further, the site is not located on a flood plain and is currently served by public water and sewer systems.

### Population to be Served

In Section III.9, page 51, the applicants provide two identical tables to illustrate present and projected patient origin for the proposed nursing facility. Thus, the patient origin for the replacement facility is not projected to change, as illustrated in the following table.

**Projected Patient Origin**

COUNTY	% OF TOTAL ADMISSIONS
Harnett	70%
Cumberland	5%
Wake	11%
Johnson	5%
Lee	6%
Sampson	2%
Nash	0.25%
Bladen	0.25%
Buncombe	0.25%
New Hanover	0.25%
<b>Total</b>	<b>100%</b>

In Section III.9(b), page 52, the applicants state projected utilization is based on Universal Health Care's historical experience in Harnett County. The applicants adequately identify the population proposed to be served.

Need to Replace Facility

In Section III.1, page 42, the applicants state the need for the proposed replacement facility is based on the condition of the assisted living portion of the existing facility. The applicants state:

*“The current facility is a combination nursing home assisted living structure which is 235 beds. The assisted living portion is antiquated and does not lend itself to quality patient care. Universal is replacing the nursing home beds by building a new nursing facility. The current assisted living beds will be demolished and moved to the vacant nursing home beds. The residents of both the nursing home and assisted living facility will benefit.”*

In addition, on page 42, the applicants state:

*“The growth in population in Harnett County has increased by 34% from 2000 to 2012 necessitating the upgrading of the health care facility to modern standards.*

...

*Current occupancy of Universal Health Care of Lillington is 92%. Universal exceeds the State average of 88%.*

...

*The design of the new building will foster NH-8 policies and have 31 private rooms along with neighborhood design features....”*

In addition, on page 21, the applicants describe the benefits of the private room design that UHCL will offer. The applicants state:

*“Universal Health Care of Lillington better accommodates residents that prefer a private room in a financially feasible facility. Universal Health Care of Lillington’s design incorporates 31 private rooms, which is 24% of the total beds and 39% of the total number of rooms. Most private rooms respond to the culture change goal of giving residents control, thereby improving their self-esteem and sense of personal dignity. Private rooms enable resident choice in aspects of daily life that are significant to each resident, such as time to wake or go to bed, eating, naps, personal hygiene, and meals. Private rooms also offer environmental control such as room temperature, lighting to meet the resident’s needs, the opportunity [to] personalize the space and privacy when visiting with family and friends. ... Access to beds in the facility will increase as a result of the higher percentage of private rooms, since private rooms reduce the likelihood of gender-related conflicts. Each new private room in the facility will also have its own bathroom and shower, further reducing the possibility of gender-related conflicts. Each semi-private room will also have its own bathroom, which will also foster a greater degree of privacy because no bathroom will be shared by more than two people.”*

The applicants adequately identified the need to relocate the 129 nursing facility beds to a new facility.

Projected Utilization

In Section IV.1, page 55, the applicants provide historical utilization for the facility for the 9 months immediately preceding submittal of this application. See the following table:

**Historical Utilization of Nursing Facility Beds  
 February 1, 2012 – October 31, 2012**

	FEB.	MARCH	APRIL	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	TOTAL
Pt. Days	3,335	3,582	3,4125	3,638	3,429	3,465	3,615	3,471	3,558	31,505
# Beds	129	129	129	129	129	129	129	129	129	129
Occupancy	89.15%	89.57%	88.17%	90.97%	88.60%	86.65%	90.40%	89.69%	88.97%	89.13%

Additionally, this application was submitted on November 15, 2012, and in Section III.1, page 42, the applicants state the most recent occupancy was 92%.

On page 55, the applicants provide a table to illustrate the historical utilization of the existing facility. The table shows utilization statistics for 129 nursing facility beds and 27 assisted living beds, for a facility total of 156 beds [129 NF and 27 ACH = 156 total facility]. The 2013 License Renewal Application (LRA) in Exhibit 28 submitted by Universal Health Care of Lillington shows a facility total of 235 beds [129 NF beds and 106 ACH beds]. Exhibit 28, pages 376 and 377 (pages 6 and 7 of the LRA) shows that the facility had 21 patients in ACH beds on the date the LRA was completed. Therefore, although the facility is licensed for 106 ACH beds, fewer than 106 beds were occupied when the LRA was completed and

when this application was prepared. However, the number and utilization rate of assisted living beds in this facility is immaterial to this review, since the proposal is only for the relocation of 129 nursing facility beds.

In Section IV.2, page 56, the applicants state the first year of operation is projected to begin on October 1, 2014, which is the beginning of a federal fiscal year. On pages 58 – 59, the applicants project utilization for the 129 nursing facility beds in the replacement facility, as shown in the following table:

**Universal Health Care / Lillington  
 Projected Utilization  
 First Two Project Years (Oct. 1, 2014 – September 30, 2016)**

	<b>1<sup>ST</sup> QUARTER</b>	<b>2<sup>ND</sup> QUARTER</b>	<b>3<sup>RD</sup> QUARTER</b>	<b>4<sup>TH</sup> QUARTER</b>	<b>TOTAL</b>
<b>First Full Project Year (FFY2015 – 10/1/2014 – 9/30/2015)</b>					
Pt. Days	11,132	10,890	11,011	11,132	<b>44,165</b>
# Beds	129	129	129	129	129
Occupancy	93.8%	93.8%	93.8%	93.8%	93.8%
<b>Second Full Project Year (FFY2016 – 10/1/2015 – 9/30/2016)</b>					
Pt. Days	11,132	10,890	11,011	11,132	<b>44,165</b>
# Beds	129	129	129	129	129
Occupancy	93.8%	93.8%	93.8%	93.8%	93.8%

In addition, in Exhibit 2 the applicants provide a township map of Harnett County. In Exhibit 4, the applicants provide demographic data dated July 30, 2012 from the Nielson Solution Center to illustrate population growth projections for each township in Harnett County and the County as a whole. The project analyst created two tables to show those groups of townships that are closer to Lillington and to Dunn, along with the population growth projections for those townships.

See the following tables, prepared by the project analyst<sup>1</sup>:

**Projected Total Population Growth in Townships Closer to Lillington**

<b>TOWNSHIPS CLOSER TO LILLINGTON</b>	<b>2000 CENSUS</b>	<b>2012 ESTIMATE</b>	<b>2017 PROJECTION</b>	<b>% GROWTH 2012 - 2017</b>
Upper Little River	7,708	9,119	9,859	<b>8%</b>
Neills Creek	5,921	7,699	8,301	<b>8%</b>
Hectors Creek	3,629	5,303	5,989	<b>13%</b>

<sup>1</sup> The applicant’s data is subdivided into different age groups. For the purpose of these tables, however, the analyst used only the total population in each Township.

Black River	8,085	10,661	11,687	10%
Buckhorn	1,905	2,513	2,815	12%
Lillington	4,573	4,949	5,162	4%
Anderson Creek	11,216	14,808	16,396	11%
<b>Totals / Average Growth</b>	<b>43,037</b>	<b>55,052</b>	<b>60,209</b>	<b>10.7%</b>

**Projected Total Population Growth in Townships Closer to Dunn**

TOWNSHIPS CLOSER TO DUNN	2000 CENSUS	2012 ESTIMATE	2017 PROJECTION	% GROWTH 2012 - 2017
Duke	5,965	6,021	6,122	2%
Averasboro*	12,965	13,129	13,486	3%
<b>Total / Average Growth</b>	<b>18,930</b>	<b>19,150</b>	<b>19,608</b>	<b>2.4%</b>

\*Dunn is located in Averasboro township.

**Projected Total Population Growth in Townships Equidistant to Dunn and Lillington**

TOWNSHIPS EQUIDISTANT TO LILLINGTON AND DUNN	2000 CENSUS	2012 ESTIMATE	2017 PROJECTION	% GROWTH 2012 - 2017
Stewarts Creek	3,482	3,782	4,006	6%
Grove	9,475	11,260	12,160	8%
<b>Total / Average Growth</b>	<b>12,957</b>	<b>15,042</b>	<b>16,166</b>	<b>7.5%</b>

The data shows that the population of each township within Harnett County is projected to grow, and thus the entire county population is projected to grow. Furthermore, the data shows that total projected population growth for those townships which are closer to Lillington and thus more likely to serve patients in or near Lillington [10.7% average projected population growth] is four times greater than the projected population growth for those townships which are closer to Dunn and thus more likely to serve nursing patients in or near Dunn [2.4% average projected population growth].

In addition, Johnsonville and Barbeque are townships in the Western region of Harnett County which are too remote from both Lillington and Dunn to be able to clearly serve patients from one location over another. As with the other townships that are adjacent to or nearer to either Lillington or Dunn, the project analyst created a table to illustrate projected population growth in those areas. See the following table:

**Projected Total Population Growth in Townships Closer to Lee County**

TOWNSHIPS CLOSER TO DUNN	2000 CENSUS	2012 ESTIMATE	2017 PROJECTION	% GROWTH 2012 - 2017
Barbecue	9,174	17,993	20,907	16%
Johnsonville	6,927	11,380	13,003	14%
<b>Total</b>	<b>27,317</b>	<b>44,181</b>	<b>50,306</b>	<b>13.9%</b>

These two townships are at the western end of the County, and thus closer to Sanford in Lee County. There are three nursing facilities located in Sanford, which could potentially serve those residents in the westernmost portion of Harnett County. It is thus reasonable to consider that patients who require nursing services and who reside in either Barbeque or

Johnsonville township in western Harnett County may find it as easy to travel to Sanford as to Dunn or Lillington, although the total distance that would be traveled is comparable.

In addition, using the data provided in Exhibits 2 and 4, the project analyst extracted the Harnett County Township population growth projections from 2012 to 2017 for the age 65 and older group, which is the age group that is more likely to use nursing facility services. The analyst again divided the data into those townships which are closer to either Lillington or Dunn, equidistant, or remote. See the following tables:

**Projected Population Growth (Age 65+)  
 In Townships Closer to Lillington**

TOWNSHIPS CLOSER TO LILLINGTON	65+ 2012 ESTIMATE	65+ 2017 PROJECTION	% GROWTH 65+ 2012 - 2017
Upper Little River	874	1,171	34%
Neills Creek	1,013	1,219	20%
Hectors Creek	538	740	38%
Black River	957	1,275	33%
Buckhorn	225	323	44%
Lillington	473	571	21%
Anderson Creek	863	1,201	39%
<b>Total / Average Growth</b>	<b>4,080</b>	<b>5,299</b>	<b>29.9%</b>

**Projected Population Growth (Age 65+)  
 In Townships Closer to Dunn**

TOWNSHIPS CLOSER TO DUNN	65+ 2012 ESTIMATE	65+ 2017 PROJECTION	% GROWTH 65+ 2012 - 2017
Duke	919	1,071	17%
Averasboro*	1,842	2,167	18%
<b>Total / Average Growth</b>	<b>2,761</b>	<b>3,238</b>	<b>17.3%</b>

The analyst also compiled the same age group population growth data for the townships which are equidistant to Lillington and Dunn, and those townships which are closer to Lee County to the west. See the following tables:

**Projected Population Growth (Age 65+) in Townships  
 Equidistant to Dunn and Lillington**

TOWNSHIPS EQUIDISTANT TO LILLINGTON AND DUNN	65+ 2012 ESTIMATE	65+ 2017 PROJECTION	% GROWTH 65+ 2012 - 2017
Stewarts Creek	354	449	27%
Grove	1,082	1,430	32%
<b>Total</b>	<b>1,436</b>	<b>1,879</b>	<b>52.8%</b>

**Projected Population Growth (Age 65+)  
 Townships Closer to Lee County**

TOWNSHIPS CLOSER TO DUNN	65+ 2012 ESTIMATE	65+ 2017 PROJECTION	% GROWTH 65+ 2012 - 2017
Barbecue	1,230	1,734	41%

Johnsonville	757	1,057	39%
<b>Total</b>	<b>1,987</b>	<b>2,791</b>	<b>40.5%</b>

Notwithstanding the two westernmost townships, the total population growth projection for those persons age 65 and over in the townships that are closer to Lillington [29.9%] is greater than the total population growth projection for those persons age 65 and over in the townships that are closer to Dunn [17.3%]. Therefore, it is reasonable to conclude that those townships that are closer to Lillington would have a greater general population, and a greater population of persons age 65+, who are more likely to use nursing facility services. Thus, it is reasonable to propose to relocate the 129 replacement nursing facility beds proposed in this application near the hospital on the Brightwater Science and Technology Campus in Lillington, where the beds could serve those persons who require nursing care services.

With regard to service to low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups, the applicant states on page 65 that UHCL “*projects to offer 97% of its patient days to either Medicare, Medicaid & Hospice residents. This insures access to medically underserved groups.*” However, this information is misleading. According to the tables in Section IV.1, on pages 60 – 61, the applicants propose that 96 of 98 semi-private beds will be occupied primarily by Medicaid patients, including hospice patients [90 Medicaid + 6 Hospice = 96]. On the other hand, 23 of the 31 private rooms will be occupied by patients who do not receive Medicaid [18 Medicare + 3 commercial insurance + 2 private pay = 23]. Therefore, although the applicants project that 97% of the patient days will be served by underserved groups, the projections do not reflect the ability of Medicaid and Hospice patients to utilize a private room based on medical necessity.

In summary, the applicants adequately identify the population to be served and adequately demonstrate the need the population has for the relocation of the existing 129 nursing facility beds. Furthermore, the applicants’ projected utilization is based on reasonable and supported assumptions, notwithstanding the assumptions for the ability of Medicaid and Hospice patients to utilize a private room based on medical necessity. Therefore, the application is conforming to this criterion, subject to Condition Number 4 in Criterion 4.

- (3a) 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.

C

The applicants propose to relocate 129 existing, licensed nursing facility beds from an existing facility in Lillington to a new replacement facility, also in Lillington, approximately 2.5 miles away. The applicants project to serve the same population in the replacement

facility that is currently served in the existing facility. In Section III.6, page 49, the applicants state:

*“Universal proposes to relocate all nursing home residents to its new facility. Universal has met with individual residents and the Residents Council and informed the residents of Universal’s proposed plans. Universal has received an overwhelming positive response to its plans [sic]. ...”*

In Section III.7, page 50, the applicants state:

*“If indeed a resident who is currently served and does not want to move, Universal will make every attempt to transfer the resident to a facility of their choosing [sic]. However, based upon our discussions with our residents, it is highly unlikely this will occur. Universal will continuously advise our residents of the progress of our project and keep them informed relative to any problems.”*

In addition, since the applicants project to serve the same population currently served, they likewise project the same percentage of underserved patients as are served in the current facility. In Section III.7, page 50, the applicants state:

*“Currently, Universal serves 97% of its residents via Medicaid, Medicaid and Hospice [sic]. Universal anticipates the same utilization in the new facility. ... The residents in Harnett County will have an increase in accessibility due to the location adjacent to Betsy Johnson Hospital.”*

The applicants demonstrate that the needs of the population presently served would be adequately met following the relocation of the nursing facility beds. Therefore, the application is conforming to this 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.

#### CA

In Section III.2(a), pages 43 - 44, the applicants describe the other alternatives considered, including: 1. maintain the status quo, and 2. Replace the entire existing facility rather than the adult care home portion. In Section III.2(a), page 44, the applicants explain why they selected the proposed project over the other alternative. The applicants state:

*“Although the assisted living portion of the new facility is fairly [antiquated], the nursing home portion is relatively new and can continue to provide a quality environment and services to the assisted living residents.*

...

*Universal Health Care of Lillington chose to replace only the nursing home portion of the facility for the following reasons:*

- 1. New location would be adjacent to the new Betsy Johnson Hospital.*
- 2. The assisted living residents would be up graded to utilize the current nursing home facility once the nursing home residents are transferred.;*
- 3. Nursing home residents would benefit by being closer to the new hospital which would increase accessibility and foster a closer union between the two organizations.”*

It is reasonable to relocate the existing nursing facility beds to a location that will be adjacent to the hospital in Harnett County, rather than to relocate the adult care home portion of the existing facility. Nursing care services require more complex medical care, requiring care and services above the level of room and board. Nursing care services are available only through institutional facilities. Adult care services include “*residential care for aged or disabled persons whose principal need is a home which provides the supervision and personal care appropriate to their age and disability and for whom medical care is only occasional or incidental.*”<sup>2</sup> Therefore, it is logical and reasonable to relocate the nursing facility beds to a location that is adjacent to an existing hospital, where patients would have better access to the hospital and hospital services. Likewise, it is logical and reasonable to maintain the adult care home patients in the existing facility, and to transfer them to the NF portion of that facility. Furthermore, based on the applicants’ description of the quality of the ACH section of the existing facility, it is logical and reasonable to propose demolition of that section, once the ACH patients are transferred to the NF beds.

Furthermore, the application is conforming or conditionally conforming to all other applicable statutory review criteria. See Criteria (1), (3), (3a), (5), (6), (7), (8), (12), (13), (14), (18a), and (20). The applicants adequately demonstrate that the proposal is the least costly or most effective alternative with regard to the nursing facility beds in Harnett County. Therefore, the application is conforming to this criterion and is approved subject to the following conditions:

- 1. Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. shall materially comply with all representations made in its certificate of need application, as amended by the Conditions of approval.**
- 2. Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. shall construct a replacement nursing facility with a total licensed bed complement of no more than 129 beds upon completion of the project.**
- 3. Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. shall take the necessary steps to delicense the 129 nursing facility beds at the existing Universal Health Care of Lillington following completion of the proposed replacement nursing facility, by licensing the existing facility as a 106-bed adult care home.**

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<sup>2</sup> See NCGS 131E-176(1)

- 4. Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. shall provide access to private rooms for Medicaid patients, including hospice patients, based on medical necessity.**
  - 5. Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. shall submit all patient charges and actual per diem reimbursement for each source of patient payment to the Certificate of Need at year end for each of the first two operating years following licensure of the beds in the new facility.**
  - 6. For the first two full federal fiscal years of operation following completion of the project, actual private pay charges shall not be increased more than 5% of the projected private pay charges provided in Section X of the application without first obtaining a determination from the Certificate of Need Section that the proposed increase is in material compliance with the representations made in the certificate of need application.**
  - 7. Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. shall receive Medicaid per diem rates allowed by the Division of Medical Assistance, under the NC State Plan Section .0102.**
  - 8. Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. shall submit a plan to the Construction Section of the Division of Health Service Regulation for energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section, pursuant to Policy GEN-4 of the 2012 SMFP.**
  - 9. Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section, in writing prior to issuance of the certificate of need.**
- (5) 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.

C

In Section VIII, page 88, the applicants project the total capital expenditure for the proposed replacement nursing facility will be \$9,625,380, including \$2,250,000 in site costs, \$5,906,200 in construction contract costs, \$750,000 in equipment and furniture costs, \$175,000 in architect and engineering fees, \$228,000 in other consulting fees, and \$316,180 in other financing costs and interest. In Section IX.1, page 93, the applicants state there will be no start-up or initial operating expenses associated with the proposed project. In Section

VIII.2, page 89, the applicants state the proposed project will be financed through an HUD loan of \$7,125,380 and owner's equity of \$2,500,000.

In Exhibit 12, the applicants provide an August 7, 2012 letter from the Vice President of Lancaster Pollard Mortgage Company, which states in part:

*“Lancaster Pollard Mortgage Company has had an opportunity to review information and the financial proformas for the [replacement nursing facility] project. Based upon our preliminary underwriting assessment of this information, we believe the project, combined with an equity contribution of \$2,076,284, would meet the guidelines to obtain mortgage insurance under the Department of Housing and Urban Development's ('HUD') Section 232 program for the construction of a licensed health care facility. The mortgage insurance would be used as security to obtain an approximately \$8,305,136 loan for the project. The terms of FHA 232 financing are the following: loan term and loan amortization – 40 years; current market interest rate – 3.25% (fixed).*

*HUD has final approval of its insured projects and as a result will complete extensive reviews of the proposed architecture design, construction contracts, third party consultant reports and financial proformas. ...”*

In addition, in Exhibit 13 the applicants provide a November 12, 2012 letter signed by the owners and members of Universal Properties, LLC, which states:

*“We hereby agree to provide personal funding of \$2,500,000 to satisfy the CON requirements for the 129 replacement Skilled Nursing Beds in Lillington, North Carolina.”*

In Exhibit 14, the applicants provide a November 12, 2012 letter signed by the partner of Davidson, Holland, Whitesell & Co., PLLC, a certified public accounting firm, which states in part:

*“This letter is to confirm that David, Holland, & Whitesell & Co., PLLC has examined the personal financial statements of Donald C. Beaver and his wife, Vickie Beaver with regard to the proposed certificate of need application being filed for the development of the 129 replacement skilled nursing facility beds in Universal Health Care/Lillington, Inc. and Universal Properties/Lillington, LLC.*

*We can confirm to you that Mr. and Mrs. Beaver have a net worth of over \$50,000,000. ...”*

The applicants adequately demonstrate the availability of funds for the capital needs of the proposed project.

In Section X.4, page 101, the applicants provide a table to illustrate current rates and charges, for the period October 1, 2012 – December 31, 2012. See the following table:

**UHCL Current Reimbursement Rates/Charges  
 (Nursing Facility Beds)**

<b>PAYOR SOURCE</b>	<b>PRIVATE ROOM</b>	<b>SEMI-PRIVATE ROOM</b>
Private Pay	\$170.00	\$160.00
Commercial Insurance	\$327.89	\$327.89
Medicare	\$354.82	\$354.82
Medicaid	\$158.72	\$158.72
Other (Hospice)	\$158.72	\$158.72

In Section X.4, page 108, the applicants project the following rates and charges by payor source for the facility in the second full federal fiscal year (October 1, 2013 – September 30, 2015) of operation following completion of the proposed project.

<b>PAYOR SOURCE</b>	<b>PRIVATE ROOM</b>	<b>SEMI-PRIVATE ROOM</b>
Private Pay*	\$205.00 / \$185.00	\$170.00
Medicare	\$375.00	\$375.00
Medicaid	\$158.72	\$158.72
Other (Hospice)	\$158.72	\$158.72

\*On page 108, the applicant states there are two types of private pay, both of which are listed in the table.

In the projected revenue and expense statement, the applicants project that revenues will exceed operating costs in each of the first two years of operation. The assumptions used by the applicants in preparation of the pro formas are reasonable. See Criterion (3) for discussion of utilization projections.

In summary, the applicants adequately demonstrated the availability of funds for the capital needs of the proposal and adequately demonstrate that the financial feasibility of the proposal is based on reasonable projections of cost and revenues. Therefore, the applicants are conforming to the 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.

**C**

The applicants adequately demonstrate the need to construct a 129 bed replacement nursing facility. The applicants do not propose to develop additional nursing facility beds in Harnett County. Currently, there are a total of four nursing facilities in Harnett County, including Universal Health Care Lillington, and a total of 425 licensed nursing facility beds. Blessed Health & Rehab of Dunn, RE was approved in September 2011 to replace its 96 NF beds and relocate the facility to Angier. Thereafter, in June of 2012 and pursuant to a notice of

exemption from CON law and a material compliance determination issued by the Agency, Blessed Health & Rehab’s name was changed to Harnett Health and Rehabilitation Center when the ownership was transferred. Subsequently, in a Declaratory Ruling issued by the North Carolina Division of Health Service Regulation in July 2012, Harnett Health and Rehabilitation Center was approved to change the proposed location of the replacement facility from Angier to Lillington. Therefore, Lillington is now the location of Harnett Health & Rehabilitation Center’s 96 replacement NF beds, and the proposed location of UHCL’s 129 replacement NF beds. The other two facilities in Harnett County (Cornerstone Nursing and Rehabilitation Center and Harnett Woods Nursing and Rehabilitation Center) are located in Dunn, approximately 15 miles to the Southeast of Lillington. The current proposal will not result in a change in the total number of nursing facility beds in Harnett County, nor in Lillington. In addition, the greatest concentration of persons age 65 and over in Harnett County, who would use nursing facility services more than the younger cohorts, is closer to Lillington than to Dunn, where two of the other nursing facilities are located. Thus, it is reasonable to conclude that the population concentrations in and near Lillington would utilize nursing facility services more than either younger age groups or lesser concentrations of elderly patients as exist in and near Dunn. See Criterion (3) for discussion, which is incorporated by reference as if fully set forth herein. Furthermore, a review of the most recent data available, as reported in the 2012 LRAs for all four nursing facilities in Harnett County shows the following utilization for FY 2011:

**2012 LRA Utilization Data  
 Harnett County Nursing Facilities**

FACILITY	NUMBER OF BEDS	TOTAL NF DAYS	% UTILIZATION
Universal Health Care / Lillington	129	40,729	<b>86.5%</b>
Cornerstone Nursing & Rehabilitation Center	100	33,176	<b>90.9%</b>
Harnett Woods Nursing & Rehabilitation Center	100	35,770	<b>98.0%</b>
Harnett Health Nursing & Rehabilitation Center (formerly Blessed Health & Rehab)	96	31,906	<b>91.1%</b>
<b>County Average</b>	<b>425</b>	<b>141,581</b>	<b>91.3%</b>

The data from the LRAs shows that the Harnett County average utilization for nursing services was over 90% at the time the 2012 License Renewal Applications were completed. Furthermore, in Section III, page 42, the applicants state the most recent utilization for UHCL was 92%. The applicants project over 90% utilization in the first two years of operation of the replacement nursing facility beds, considering historical utilization and population growth projections. Even with the Declaratory Ruling authorizing Harnett Health and Rehabilitation to relocate to Lillington, given the historical utilization of NF beds in Harnett County combined with the projected population growth and concentration of persons age 65 and over, the applicants reasonably project sufficient utilization for the 129 replacement NF beds. Consequently, the applicants adequately demonstrate the proposed project would not result in the unnecessary duplication of existing or approved health service capabilities or facilities in Harnett County. Therefore, the application is conforming to this criterion.

- (7) The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.

C

In Section VII, pages 74 – 82, the applicants document that they propose to provide registered nurse (RN) and licensed practical nurse (LPN) coverage 24 hours per day, 7 days per week and project nursing hours per patient day (NHPPD) in excess of the minimum nursing staff requirements as established in the North Carolina Rules for the Licensing of Nursing Homes. Adequate costs for the direct care nursing positions proposed by the applicant in Sections II.2, II.4 and Table VII.3 are budgeted in the pro forma financial statements. The applicants document in Section V.3 and Exhibit 9 that Dr. Lakshman Rao is the current and proposed medical director for the facility. The applicants adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services, including a medical director. Therefore, the application is conforming to this 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.

C

Exhibits 7 and 9 contain letters from physicians supporting the proposal to replace the nursing facility beds in Harnett County. Exhibit 7 contains a letter from the Harnett County Department of Social Services, expressing support for the replacement nursing facility beds in Harnett County. In Sections II.2, pages 15 - 29, and II.4, page 34, the applicants list the ancillary and support services that will continue to be made available at the replacement facility, including speech therapy and rehabilitation services. In addition, in Section II.4, page 33, the applicants provide a table to illustrate that counseling services, physical therapy and occupational therapy will also be provided to the patients. The applicants adequately demonstrate that UHCL will provide or make arrangements for the necessary ancillary and support services, and that the proposed services will be coordinated with the existing health care system. Therefore, the application is conforming to this criterion.

- (9) An applicant proposing to provide a substantial portion of the project's services to individuals not residing in the health service area in which the project is located, or in adjacent health service areas, shall document the special needs and circumstances that warrant service to these individuals.

NA

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates: (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and (b) The

availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers: (i) would be available under a contract of at least 5 years duration; (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO; (iii) would cost no more than if the services were provided by the HMO; and (iv) would be available in a manner which is administratively feasible to the HMO.

NA

- (11) Repealed effective July 1, 1987.
- (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.

C

The applicants propose to construct a 62,176 square foot replacement nursing facility with 129 beds. The replacement facility will consist of 31 private rooms and 49 semi-private rooms and will incorporate a 'neighborhood' environment. In Section VIII.1, page 88, the applicants project the total construction cost for the project will be \$5,906,200. Exhibit 15 contains a November 7, 2012 letter from the architect which states:

*"We examined the feasibility of several design alternatives for the construction of a 129 bed nursing facility. Based on our selected design (62,170 S.F.), I would estimate that the square foot cost for new construction will be approximately \$95.00 for a total new building budget of \$5,906,150.00.*

*The total site development costs including grading, fill, compaction, paving and site utilities will be approximately \$750,000. The total architectural fee will be \$175,000. Thus the total development costs for the building and site improvements along with architectural fee would be approximately \$6,831,150.00."*

The Architect's statement of the \$95.00 cost per square foot for construction concurs with the projected construction cost provided by the applicants in Section VIII. In Section XI.14, page 120, the applicants state that the construction of the replacement nursing facility will incorporate efficient energy concepts in order to maintain energy efficient operations and contain utility costs.

- (13) The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and

ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:

- (a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

C

The Division of Medical Assistance (DMA) maintains a website which offers information regarding the number of persons eligible for Medicaid assistance and estimates of the percentage of uninsured for each county in North Carolina. The following table illustrates those percentages as of June 2010 and CY 2009, respectively. The data in the table was obtained on February 20, 2013. More current data, particularly with regard to the estimated uninsured percentages, was not available.

	<b>TOTAL # OF MEDICAID ELIGIBLES AS % OF TOTAL POPULATION</b>	<b>TOTAL # OF MEDICAID ELIGIBLES AGE 21 AND OLDER AS % OF TOTAL POPULATION</b>	<b>% UNINSURED CY 2008 – 2009 (ESTIMATE BY CECIL G. SHEPS CENTER)</b>
<b>County</b>			
Harnett	17%	6.2%	20.3%
Statewide	17%	6.7%	19.7%

Data for Universal Health Care / Lillington is not available on the DMA web site.

The majority of Medicaid eligibles are children under the age of 21. This age group does not utilize the same health services at the same rate as older segments of the population, particularly the nursing facility services offered by Universal Health Care / Lillington.

The DMA website also contains the *Medicaid Annual Report, for State Fiscal Year (SFY) 2008*, the most recent fiscal year for which this data are available. According to this report, the elderly and disabled Medicaid recipients in North Carolina comprised 29% of total Medicaid recipients. Additionally, there were 145,898 aged (age 65+) Medicaid recipients in SFY 2008, which comprised 8.5% of the total Medicaid eligibles in North Carolina [145,898 / 1,726,412 total eligibles = 0.0845]. In Harnett County, data is available for CY 2012 and the first two months of CY 2013. The data shows that, for the first two months of 2013, the aged comprised 7.3% of the total Medicaid eligibles in the County [4,326 aged / 59,648 total eligibles = 0.0725]. For all of 2012, that same group comprised 7.4% of all Harnett County Medicaid eligibles [20,292 aged / 273,978 total eligibles = 0.0741].

Medicaid Recipients by Eligibility category data compare North Carolina Medicaid recipients grouped by age for SFY 2008 with the general population of the entire state, as shown in the table below:

<b>MEDICAID RECIPIENTS BY ELIGIBILITY CATEGORIES VS. GENERAL POPULATION SFY 2008</b>		
<b>ELIGIBILITY CATEGORY</b>	<b>MEDICAID RECIPIENT</b>	<b>GENERAL POPULATION</b>
Children (aged 5 – 20 years)	38%	24%
Adults (aged 21-64 years)	31%	57%
Children (aged birth-4 years)	21%	7%
Elderly (aged 65 and older)	10%	12%

Moreover, the number of persons eligible for Medicaid assistance may be greater than the number of Medicaid eligibles who actually utilize health services. The DMA website includes information regarding dental services which illustrates this point. For dental services only, DMA provides a comparison of the number of persons eligible for dental services with the number actually receiving services. The statewide percentage of Medicaid recipients receiving dental services was 48.6% for those aged 20 and younger in SFY 2010 (Harnett County’s percentage was 48.9% for those age 20 and younger) and it was 31.6% for those age 21 and older (Harnett County’s percentage was 33.9% for those age 21 and older). Similar information is not provided on the website for other types of services covered by Medicaid. However, it is reasonable to assume that the percentage of those actually receiving other types of health services covered by Medicaid is less than the percentage that is eligible for those services.

The Office of State Budget & Management (OSBM) maintains a website which provides historical and projected population data for each county in North Carolina. Provisional county level data on this website shows that Harnett County had a projected total population of 121,417 as of July 1, 2012. Eleven percent [13,427] of the county’s total population was age 65 and older. Population estimates are available by age, race and gender by county; however a direct comparison to the applicants’ current payor mix would be of little value. The population data by age, race or gender does not include information on the number of elderly, minorities or women who utilize health services. Furthermore, OSBM’s website does not include information on the number of handicapped persons.

In Section VI.2, page 67, the applicants provide the current payor mix (October 1, 2011 – September 30, 2012), as illustrated in the table below.

<b>PAYOR SOURCE</b>	<b>NURSING FACILITY PATIENTS AS % OF TOTAL</b>	<b>ASSISTED LIVING PATIENTS AS % OF TOTAL</b>
Private Pay	4.00%	5.14%
Commercial Insurance	0.90%	--
Medicare	13.55%	--

Medicaid	78.23%	--
Other (Hospice)	3.23%	--
County Assistance	--	94.86%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>

\*Hospice care in Nursing Facilities is a Medicaid program

As of February 20, 2013, there were four facilities with nursing facility beds in Harnett County, excluding hospitals and Continuing Care Retirement Communities (CCRCs) with NF beds. The following table illustrates the payor mix for residents who were eligible for Medicaid and Medicare in those facilities, as reported in the 2013 License Renewal Applications.

**FY 2012 Harnett County Nursing Facility Payor Mix**

FACILITY	NUMBER OF BEDS	TOTAL NF DAYS	MEDICAID DAYS AS % OF TOTAL	MEDICARE DAYS AS % OF TOTAL
Universal Health Care / Lillington	129	41,522	78.9%	13.6%
Cornerstone Nursing & Rehabilitation Center	100	33,343	75.4%	19.0%
Harnett Woods Nursing & Rehabilitation Center	100	35,573	61.9%	18.4%
Harnett Health Nursing & Rehabilitation Center (formerly Blessed Health & Rehab)	96	30,131	85.0%	13.8%
<b>County Average</b>	<b>425</b>	<b>140,569</b>	<b>75.1%</b>	<b>16.1%</b>

\*Source: 2013 License Renewal Applications

\*All of the nursing facility beds in the facilities listed above are dually certified for participation in both Medicare and Medicaid programs.

\*Note that Harnett Health Nursing & Rehabilitation Center had been approved in 2011 with a slightly lower Medicaid payor mix projection, but a slightly higher Medicare payor mix projection [Medicaid: 77.27%; Medicare: 16.46%].

As illustrated in the table above, 78.9% of the care provided to patients at Universal Health Care / Lillington is to Medicaid recipients, and the Harnett County average percentage is 75.1%. Thus, Universal's percentage of Medicaid NF days exceeds Harnett County's average percentage of Medicaid NF days. The application is conforming to this criterion.

- (b) Its past performance in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

C

Recipients of Hill-Burton funds were required to provide uncompensated care, community service and access by minorities and handicapped persons. In Section VI.5, page 70, the applicant states:

*“All services provided by Universal Health Care of Lillington for the 129 beds will be non-restrictive relation to low-income persons, social, racial and ethnic minorities, women, handicapped persons, private pay [sic].”*

In Section VI.7, page 71, the applicant states:

*“All persons having a need for the services offered by Universal Health Care of Lillington as described in this CON application will have equal access to these services. It should be noted that admission to Universal Health Care of Lillington will be via physician orders.”*

In Exhibit 10, the applicants provide a copy of the existing admission policies for Universal Health Care / Lillington, which confirm the applicants’ statements quoted above. Therefore, although the statements made by the applicants on pages 70 and 71 refer to future admissions, it is reasonable to conclude that those same policies apply to past and present admissions.

In Section VI.6, page 70, the applicants state that they are not aware of any documented civil rights equal access complaints or violations filed against Universal Health Care / Lillington in the last five years. The application is conforming to this criterion.

- (c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

C

In Section VI.3, page 69, the applicants project the payor mix for the second full federal fiscal year (October 1, 2013 – September 30, 2014), as illustrated in the table below.

PAYOR	PATIENT DAYS AS % OF TOTAL DAYS
Private Pay	3.31%
Commercial Insurance	2.48%
Medicare	14.88%
Medicaid	74.38%
Other (Hospice)	4.96%
<b>Total</b>	<b>100.0%</b>

\*Hospice Care in nursing facilities is a Medicaid Program.

The applicants demonstrate that the proposed replacement nursing facility will provide adequate access to the medically underserved populations. Therefore, the application is conforming to this criterion. See also condition number 5 in Criterion (4).

- (d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

C

In Section VI.7, page 70, the applicants state:

*“Universal Health Care of Lillington does have a range of means by which a person will have access to health its services....”*

The applicants demonstrate a range of means by which a person would have access to the proposed services. Therefore, the application is conforming to this criterion.

- (14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

C

In Section V.1, page 62, the applicants state:

*“Universal Health Care of Lillington proposes to work in close concert with Central Carolina Community College. Universal has made contact with this institution and advised them that Universal Health Care of Lillington would extend its facility for training purposes should Universal Health Care of Lillington be granted the CON for [Harnett] County.”*

In Exhibit 26 the applicants provide a copy of a clinical services training agreement currently in place with Central Carolina Community College. The applicants adequately demonstrate that the proposed project will accommodate the clinical needs of health professional training programs in the area. Therefore, the application is conforming to this criterion.

- (15) Repealed effective July 1, 1987.  
(16) Repealed effective July 1, 1987.  
(17) Repealed effective July 1, 1987.  
(18) Repealed effective July 1, 1987.
- (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 will not have a favorable impact.

C

Universal Health Care / Lillington proposes to relocate 129 existing nursing facility beds and construct a replacement facility to be located on the Brightwater Science and Technology Campus in Lillington.

Currently, there are a total of four nursing facilities in Harnett County, including UHCL. The table below shows the facilities and the occupancy rates as reported in the 2012 License Renewal Applications (LRAs) for those facilities:

**2012 LRA Utilization Data  
 Harnett County Nursing Facilities**

FACILITY	NUMBER OF BEDS	TOTAL NF DAYS	% UTILIZATION
Universal Health Care / Lillington	129	40,729	<b>86.5%</b>
Cornerstone Nursing & Rehabilitation Center	100	33,176	<b>90.9%</b>
Harnett Woods Nursing & Rehabilitation Center	100	35,770	<b>98.0%</b>
Harnett Health Nursing & Rehabilitation Center (formerly Blessed Health & Rehab)	96	31,906	<b>91.1%</b>
<b>County Average</b>	<b>425</b>	<b>141,581</b>	<b>91.3%</b>

\*Information reported on the 2012 LRAs is from 2011 fiscal year.

In Section III.4, pages 45 - 46, the applicants discuss the impact of the proposed project on competition in the service area as it relates to promoting cost-effectiveness, quality and access to nursing facility services in Harnett County. See also Sections II, III, V, VI and VII where the applicants discuss the impact of the project on cost-effectiveness, quality and access nursing facility services in Harnett County.

The information provided by the applicants in those sections is reasonable and credible and adequately demonstrates that the expected effects of the proposal on competition in the service area include a positive impact on cost-effectiveness, quality and access to the proposed services. This determination is based on the information in the application and the following analysis:

- The applicants adequately demonstrate the need to relocate 129 nursing facility beds and construct a replacement facility, and that it is a cost-effective alternative;
- The applicants have and will continue to provide quality services; and
- The applicants have and will continue to provide adequate access to medically underserved populations.

The application is conforming to this criterion.

- (19) Repealed effective July 1, 1987.
- (20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

C

In Section III.6, pages 40 – 41, the applicants state that Universal Health Care Fletcher was cited during an annual survey on January 1, 2011 as a result of a patient leaving the facility with a family member without staff knowledge. In addition, the applicants state on page 41 that Universal Health Care Nashville was cited during an annual survey on April 9, 2012, as a result of the facility ordering an antipsychotic medication for a patient that the surveyors

believed was unnecessary. However, Fletcher is in Henderson County, to the far West; and Nashville is in Nash County, to the East. Since those facilities are not in the same county or service area as the Lillington facility, and since they do not share a common medical director or physician base, those instances described by the applicants in Section III.6 are immaterial to this review.

In addition, in Exhibit 16 the applicants provide a copy of a survey conducted by the North Carolina Adult Care Licensure and Certification Section at the Universal Health Care / Lillington facility on September 29, 2011, in which a patient complained that she had been sexually assaulted and the staff failed to properly report the incident to local authorities. According to the survey in Exhibit 16, the incident was investigated by the Licensure and Certification Section, which concluded that the incident was one that resulted in “*No actual harm with potential for more than minimal harm that is not immediate jeopardy.*” A recertification survey was conducted on October 20, 2011 and the facility was found to be in full compliance.

Exhibit 16 also contains a copy of an additional survey, also conducted on September 29, 2011, in which the facility was cited for failing to administer a prescription for a patient, due to the facility’s claim that the patient’s physician would not return phone calls to the facility to refill the patient’s medication. According to the survey in Exhibit 16, the incident was investigated by the Licensure and Certification Section, which concluded that the incident was one that resulted in “*No actual harm with potential for more than minimal harm that is not immediate jeopardy.*” A recertification survey was conducted on October 20, 2011 and the facility was found to be in full compliance.

- (21) Repealed effective July 1, 1987.
- (b) The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

NA