

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

DATE: December 4, 2013  
PROJECT ANALYST: Bernetta Thorne-Williams  
ASSISTANT CHIEF: Martha J. Frisone

PROJECT I.D. NUMBER: F-10208-13/ LIFESPAN, INC/ Transfer one bed and adult client with complex behavioral challenges or complex medical conditions from J. Iverson Riddle Developmental Center to Tuckaseegee Group Home for a total of six ICF/IID beds upon project completion/ Mecklenburg 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

The 2013 State Medical Facilities Plan (SMFP) provides a methodology for the transfer of existing adult Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) (formerly Intermediated Care Facilities for the Mentally Retarded (ICF/MR)) beds from a State-Operated Developmental Center pursuant to Session Laws 1983, Ch. 858, HB 1395. The applicant, LIFESPAN, Inc, proposes to transfer one bed and adult client with complex behavioral challenges or complex medical conditions from J. Iverson Riddle Developmental Center to its existing five bed facility, Tuckaseegee Group Home, for a total of six ICF/IID beds upon project completion. The applicant proposes no capital cost associated with the transfer of the bed and the client to the existing community based group home.

The following policy in the 2013 SMFP is applicable to this review, Policy MH-1: Linkages Between Treatment Settings. Policy MH-1 states:

*“An applicant for a certificate of need for psychiatric, substance abuse, or Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) beds shall document that the*

*affected local management entity-managed care organization has been contacted and invited to comment on the proposed services.”*

In Exhibit 5 and supplemental information, the applicant provides copies of a Memorandum of Agreement (MOA) between the Tuckaseegee Group Home and MeckLINK Behavior Health, the local management entity-managed care organization (LME/MCO). Thus, the applicant adequately demonstrated the affected local management entity-managed care organization was contacted and invited to comment on the proposed service and the application is consistent with Policy MH-1.

Additionally, Session Laws 1983, Ch. 858, HB 1395 is applicable to this review. Session Laws 1983, Ch. 858, HB 1395 states:

*“Notwithstanding any law to the contrary, the Department of Human Resources may grant a certificate of need for a project which utilizes existing ICF-MR beds currently certified in State-operated facilities by transferring these beds with the approval of the director of the State facility, the Deputy Director for Mental Retardation, Division of Mental Health, Mental Retardation and Substance Abuse Services, Department of Human Resources, and the Secretary of the Department of Human Resources to community ICF-MR facilities which meet the following criteria:*

- 1) Maximum size of 15 beds per facility;*
- 2) Per diem cost must be more than the cost of the same beds in the State facility; and*
- 3) All beds must be utilized for a period of at least 12 months for the transfer of clients from the State facility to the community facility, after which fifty percent (50%) of vacant beds may be utilized for noninstitutional clients.”*

In Section I.12, pages 4-5, the applicant states that LIFESPAN, Inc. currently owns and operates four ICF/IID group homes in Charlotte, Mecklenburg County. On page 4, the applicant further states that the Tuckaseegee Group Home is an existing, 5-bed ICF/IID facility that has been in operation to provide services to adult clients with complex behavioral challenges or complex medical conditions since August 1, 1991 (original license effective date). In Section VI.4, page 39, the applicant states the Tuckaseegee Group Home currently provides care to five ambulatory individuals with complex behavioral challenges or complex medical conditions.

In this application, the applicant proposes to transfer one bed and the individual occupying that bed from a state operated facility, J. Iverson Riddle Developmental Center, to the Tuckaseegee Group Home for a total of six ICF/IID beds upon project completion. In Exhibit 5 and supplemental information, the applicant provides signed copies of a MOA between the Tuckaseegee Group Home and MeckLINK Behavioral Health, the North Carolina Division of State Operated Healthcare Facilities, and the Secretary of the North Carolina Department of Health and Human Services.

The applicant adequately demonstrated that the bed and the individual occupying the bed will be transferred from a state operated facility to a community based ICF/IID group home in accordance with Session Laws 1983, Ch. 858, HB 1395.

In summary, the applicant adequately demonstrates that the proposal is consistent with Policy MH-1 and Session Laws 1983, Chapter 858, House Bill 1395, and is therefore 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.

### C

The applicant, LIFESPAN, Inc. proposes to transfer one bed and adult client with complex behavioral challenges or complex medical conditions from J. Iverson Riddle Developmental Center to its existing Tuckaseegee Group Home for a total of six ICF/IID beds upon project completion.

#### Population to be Served

In Section III.6, page 30, the applicant provides the historical and projected patient origin for services at the Tuckaseegee Group Home, as illustrated in the table below.

| County       | Historical   |            | Projected    |             |
|--------------|--------------|------------|--------------|-------------|
|              | # of Clients | % of Total | # of Clients | % of Total* |
| Mecklenburg  | 5            | 100.0%     | 6            | 100.0%      |
| <b>Total</b> | 5            | 100.0%     | 6            | 100.0%      |

In Section VI.1, pages 38-39, the applicant states the facility will continue to accept all individuals that qualify for ICR/IID services, including those individuals that are low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups. On page 43, the applicant states that 100% of its reimbursement is from Medicaid.

The applicant adequately identified the population it proposes to serve.

### Need for Proposed Additional ICF/IID Bed

The applicant states in Section III.4(b), page 29, that the Tuckaseegee Group Home has operated at its current location since it was purchased in 1989. The applicant further states on page 29, that the location of the group home is close to medical services and community activities. In Section I.12, page 7, the applicant states that the group home was certified on May 28, 1992. In Section III.1(a), page 24, the applicant states the addition of one ICF/IID bed to the existing five bed facility would allow the Tuckaseegee Group Home to better meet the demand for ICF/IID beds in the service area and achieve financial feasibility. In Section III.1(b), pages 25-26, the applicant states:

*“Many states including North Carolina have been shifting away from larger congregate settings to smaller living arrangements in the community. Additionally, the findings in the recent US Department of Justice Transitions to Community Living settlement indicate that the state of North Carolina needs to take a swifter approach in placing individuals with developmental disabilities in smaller community based settings.*

*According to the North Carolina Council on Developmental Disabilities, over 167,000 persons in NC have a developmental disability. Out of the 167,000 individuals with developmental disabilities, approximately 1,593 individuals reside in a state run institution. North Carolina’s percentage of persons with disabilities living in state operated facilities is higher than the national average (estimated 21% compared to 13% nationally). The table below shows the bed inventory for licensed beds in each of North Carolina’s state operated developmental centers.”*

As reported in the 2013 SMFP, the ICF/IID bed inventory in state operated developmental centers in North Carolina is as follows:

| <b>Center Name</b>       | <b>Licensed # of beds</b> |
|--------------------------|---------------------------|
| Caswell Center           | 811                       |
| J. Iverson Riddle Center | 492                       |
| Murdoch Center           | 659                       |
| O’Berry Center           | 384                       |
| <b>Total</b>             | <b>2,346</b>              |

In Section III.1(b), page 25, the applicant states between 2009 and 2011 that there has been an increase of 8.75% in the total number of individuals with intellectual and developmental disabilities. The applicant further states on page 25, that according to the report from DMH/DD/SAS on strategic planning for 2010-2013, there was an 11% increase in the number of new individuals in need of developmental services and an 8% increase for those with a dual diagnosis of mental health and developmental disabilities. Additionally, the applicant states these percentages do not capture those individuals within the community with developmental disabilities that are underserved and un-served.

According to the records in the Mental Health Licensure and Certification Section there are 30 licensed ICF/IID facilities in Mecklenburg County with 178 beds. The 2013 SMFP lists two additional facilities as having been approved; each facility will operate 6 ICF/IID beds for a total of 32 facilities with a 190 existing or approved ICF/IID beds. Those facilities, as reported in the 2013 SMFP, are illustrated in the table below.

| <b>ICF/IID Facilities in the MeckLINK Behavioral Healthcare Service Area</b>        |                           |   |   |
|---|---------------------------|---|---|
| <b>Name of Facility</b>   | <b># of Licensed Beds</b> | <b># of CON Approved Beds Awaiting Completion/Licensure</b> | <b>Total Approved &amp; Licensed Beds</b> |
| Bon Rea Drive Group Home LIFESPAN   | 5                         |   |   |
| Dalmoor Drive Group Home  | 6                         |   |   |
| Flowe Drive Group Home  | 6                         |   |   |
| Gail b. Hanks Group Home  | 6                         |   |   |
| Heathcroft  | 6                         |   |   |
| Leaves  | 6                         |   |   |
| Mantle Court Group Home   | 6                         |   |   |
| Oak St. Group Home St. Mark   | 6                         |   |   |
| Ravendale Drive Group Home  | 6                         |   |   |
| RHA/Howell –Monroe Road   | 6                         |   |   |
| RHA/Howell – Shelburne Pl   | 6                         |   |   |
| RHA/Howell –Burtonwood Circle   | 6                         |   |   |
| RHA/Howell - Lakeview   | 6                         |   |   |
| Starnes Group Home  | 6                         |   |   |
| <b>Tuckaseegee Group Home-LIFESPAN</b>  | 5                         |   |   |
| VOCA-Denbur Drive Group Home  | 6                         |   |   |
| VOCA-Freedom Group Home   | 6                         |   |   |
| VOCA-Harrisburg Road Group Home   | 6                         |   |   |
| VOCA-Mallard Drive  | 6                         |   |   |
| VOCA-Mecklenburg Group Home*  |                           | Project I.D # F-8242-08–6 beds                              |   |
| VOCA-Norwich Road Group Home  | 6                         |   |   |
| VOCA-Oak Drive Group Home   | 6                         |   |   |
| VOCA-Oakhaven Drive Group Home  | 6                         |   |   |
| VOCA-Purser Group Home  | 6                         |   |   |
| VOCA-Sandburg Group Home  | 6                         |   |   |
| VOCA-Simpson Group Home   | 6                         |   |   |
| VOCA-St. John Church Road   | 6                         |   |   |
| VOCA-Toddsville Road Group Home   | 6                         |   |   |
| VOCA-Wilson Ave Group Home  | 6                         |   |   |
| VOCA-Woodbridge Road  | 6                         |   |   |
| Woodbend Replacement GH   | 6                         | Project I.D. #F-7714-06–6 beds                              |   |
| <b>Total</b>  | <b>178</b>                | <b>12</b>   | <b>190</b>                                |
| Source: 2013 License Renewal Application and the 2013 State Medical Facilities Plan |                           |   |   |

As illustrated in the table above, all the ICF/IID group homes in Mecklenburg County are licensed or approved for six beds with the exception of the Tuckaseegee and Bon Rea Drive group homes, both of which are owned by LIFESPAN, Inc. The applicant reports on pages 26-

27, that according to the data on the NC DMH Bed Availability database all of the ICF/IID facilities currently operational in Mecklenburg County operated at 100% capacity in the month of August 2013 with the exception of one facility. The applicant also states on page 27 that the Tuckaseegee Group Home constantly receives calls from family members seeking placement for individuals with complex behavioral challenges or complex medical conditions which further supports the need for one additional ICF/IID bed in a community based group home. Additionally, the applicant states that the 5-bed Tuckaseegee Group Home operates with the same ratios and staffing patterns as a 6-bed facility. The applicant also states on page 27, that operating and staffing the Tuckaseegee Group Home like a 6-bed facility while only bringing in revenue for a five-bed facility has made it difficult for the group home to be profitable or to break-even. The applicant states the relocation of one existing bed from a state operated facility would allow the Tuckaseegee Group Home to be more cost effective and to operate more efficiently.

In Section IV, page 33, Table IV.1, the applicant provides utilization at Tuckaseegee Group Home for the three months immediately preceding submittal of the proposed project, as illustrated in the table below.

| <b>Historical Tuckaseegee Group Home Utilization</b> |                            |                       |                            |
|--|----------------------------|-----------------------|----------------------------|
| <b>Month</b>   | <b>ICF/IID Client Days</b> | <b>Occupancy Rate</b> | <b># of Certified Beds</b> |
| June   | 150                        | 100%                  | 5                          |
| July   | 155                        | 100%                  | 5                          |
| August   | 155                        | 100%                  | 5                          |
| <b>Total</b>   | 460                        | 100%                  | 5                          |

In Section IV, page 33, the applicant illustrates in Tables IV.2 and IV.3 and supplemental information, the following projected utilization for the Tuckaseegee Group Home, as summarized in the table below.

|                               | Month                        | ICF/MR Client Days | Occupancy Rate | # of Certified Beds |
|-------------------------------|------------------------------|--------------------|----------------|---------------------|
| <b>Year 1</b>                 |                              |                    |                |                     |
| <b>1<sup>st</sup> Quarter</b> | July, August & September     | 552                | 100.0%         | 6                   |
| <b>2<sup>nd</sup> Quarter</b> | October, November & December | 552                | 100.0%         | 6                   |
| <b>3<sup>rd</sup> Quarter</b> | January, February & March    | 540                | 100.0%         | 6                   |
| <b>4<sup>th</sup> Quarter</b> | April, May & June            | 546                | 100.0%         | 6                   |
|                               | <b>Year 1 Total</b>          | 2,190              | 100.0%         | 6                   |
| <b>Year 2</b>                 |                              |                    |                |                     |
| <b>1<sup>st</sup> Quarter</b> | July, August & September     | 552                | 100.0%         | 6                   |
| <b>2<sup>nd</sup> Quarter</b> | October, November & December | 552                | 100.0%         | 6                   |
| <b>3<sup>rd</sup> Quarter</b> | January, February & March    | 540                | 100.0%         | 6                   |
| <b>4<sup>th</sup> Quarter</b> | April, May & June            | 546                | 100.0%         | 6                   |
|                               | <b>Year 2 Total</b>          | 2,190              | 100.0%         | 6                   |

The applicant further states on page 33 that 100% of its individual days of care are reimbursed by Medicaid. In Section IV, pages 33-34, the applicant provides its assumptions and methodologies used to project the days of care. The applicant states:

*“All assumptions and specific methodology used to project the utilization data for the proposed project are based on history and census data from the Tuckaseegee Group Home, as we as other five (5) and six (6) bed group homes owned and operated by LIFESPAN, Inc. ICF/IID beds are in high demand and any time that beds are empty would be likely due to hospital stays, therapeutic leave, when it is necessary for a resident to receive 24 hour skilled nursing levels of care or unforeseen delays in the LME-MCO qualification and approval process for a proposed resident. As a result of that history of constant demand and any open bed being quickly filled. It is a reasonable assumption that any empty bed in the projected future will be filled quickly with a resident waiting for placement.”*

The applicant does not propose to develop new ICF/IID beds, but rather to transfer one bed and the individual occupying that bed from the J. Iverson Riddle Developmental Center to the Tuckaseegee Group Home for a total of six ICF/IID beds upon project completion. In Exhibit 5 and supplemental information, the applicant provides signed copies of a MOA between the Tuckaseegee Group Home and MeckLINK Behavioral Health, the North Carolina Division of

State Operated Healthcare Facilities, and the Secretary of the North Carolina Department of Health and Human Services.

Projected utilization of the 6-bed ICF/IID group home is based on reasonable, credible and supported assumptions regarding growth in utilization, which is based on historical utilization for 5 and 6 bed ICF/IID group homes. Additionally, the applicant demonstrated the need to relocate one bed and the individual occupying that bed from a state operated facility to a community based group home.

In summary, the applicant adequately identified the population to be served, adequately demonstrated the need the population projected to be served has for the proposed project, and demonstrated all residents of the service area with complex behavioral challenges or complex medical conditions and residing in a state operated developmental center, and, in particular, underserved groups, are likely to have access to the services proposed. Therefore, the application is conforming to this criterion.

- (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.

NA

- (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.

C

In Section II.11, page 23, the applicant describes the two alternatives considered which include the following:

- 1) Maintain Status Quo – LIFESPAN, Inc. considered maintaining the status quo, however, the applicant concluded to do nothing would not address the State’s goal of increasing community based services or the growing demand for ICF/IID services.
- 2) Relocation of One Bed from a State Operated Developmental Center – the applicant concluded that the relocation of one existing bed and the individual occupying that bed to the Tuckaseegee Group Home was the most effective alternative to meet the growing demand for ICF/IID services in the service area. The applicant filed the proposed application pursuant to Session Laws 1983, Ch. 858, HB 1395, which the applicant states represents the only avenue currently available for adding ICF/IID beds to existing

community based group homes. Thus, the applicant concluded that this was its least costly and most effective alternative to meet the need for additional community based ICF/IID services.

Furthermore, the application is conforming to all other applicable statutory and regulatory review criteria, and thus, is approvable. A project that cannot be approved cannot be an effective alternative.

The applicant adequately demonstrates that the proposed alternative is the most effective or least costly alternative to meet the need to provide community based ICF/IID services. The application is conforming to this criterion and approved subject to the following conditions.

1. **LIFESPAN, Inc. shall materially comply with all representations made in the certificate of need application and supplemental information. In those instances where representations conflict, LIFESPAN, Inc. shall materially comply with the last-made representation.**
  2. **Upon project completion, Tuckaseegee Group Home shall be certified for no more than six ICF/IID beds.**
  3. **LIFESPAN, Inc. at its Tuckaseegee Group Home shall serve no more than six adults with complex behavioral challenges or complex medical conditions.**
  4. **The actual Medicaid per diem reimbursement rate shall be determined by the Division of Medical Assistance in accordance with 10A NCAC 22G .0301.**
  5. **LIFESPAN, 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

The applicant states that the Tuckaseegee Group Home is an existing group home which recently added another bedroom to the existing facility which did not require a certificate of need. In Section III.1, page 25, the applicant states that the addition of a sixth bed would allow the Tuckaseegee Group Home to serve more clients and thus be more financially feasible. In Section VIII.1, page 50, the applicant states that as the additional room has already been constructed, there is no capital cost

associated with the proposed project. In Section IX, page 55, the applicant states that there will be no start-up expenses or initial operating cost associated with the proposed project.

Exhibit 16 of the application contains the audited financial statements for LIFESPAN Incorporated and Affiliate for the fiscal year ending June 30, 2012. As of June 30, 2012, LIFESPAN, Inc. had \$939,246,000 in cash and cash equivalents, \$11,683,936 in total assets and \$7,119,694,000 in net assets (total assets less total liabilities). The applicant adequately demonstrated the availability of sufficient funds, if required, for the proposed project.

The applicant provided pro forma financial statements for the first two years of the project. The applicant projects that the Tuckaseegee Group Home revenues will exceed operating expenses in each of the first two full fiscal years, as illustrated in the table below.

|                                  | Project Yr 1 | Project Yr 2 |
|----------------------------------|--------------|--------------|
| Projected number of days of care | 2,190        | 2,190        |
| Gross Service Revenue            | \$647,692.50 | \$647,692.50 |
| Total Operating Expenses         | \$619,005.95 | \$618,255.95 |
| Net Income                       | \$28,686.55  | \$29,436.55  |

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See Criterion (3) for discussion of utilization projections which is incorporated hereby as if fully set forth herein. The applicant adequately demonstrated that the financial feasibility of the proposal is based upon reasonable projections of costs and charges, and therefore, the application is conforming to this 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

Session Laws 1983, Ch. 858, HB 1395 provides a methodology for the transfer of existing adult ICF/IID beds from a State-Operated Developmental Center to a community based facility. The applicant, LIFESPAN, Inc, proposes to transfer one bed and adult client with complex behavioral challenges or complex medical conditions from J. Iverson Riddle Developmental Center to its existing five bed facility, Tuckaseegee Group Home, for a total of six ICF/IID beds upon project completion. The applicant does not propose to increase the number of ICF/IID beds in North Carolina. The applicant adequately demonstrates the need for one additional bed and client at the Tuckaseegee Group Home. See Criterion (3) for the discussion regarding the need for the proposal which is incorporated hereby as if fully set forth herein.

The applicant adequately demonstrates the project will not result in the unnecessary duplication of existing or approved ICF/IID services in Mecklenburg County. Consequently, 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.5, pages 46-47, Tables 1 and 2, the applicant provides its current and projected full time equivalent (FTE) staff for the Tuckaseegee Group Home, as illustrated in the table below.

| <b>Position</b>  | <b>Current FTE</b> | <b>Projected FTE</b> |
|--|--------------------|----------------------|
| QMRP**   | 1.0                | 1.0                  |
| Group Home Manager                                       | 1.0                | 1.0                  |
| RN**   | 1.0                | 1.0                  |
| LPN**  | 1.0                | 1.0                  |
| Residential Enrichment Specialist<br>(Direct Care Staff) | 14.0               | 10.0                 |
| Enrichment Specialists (Day<br>Placement)                | 4.0                | 4.0                  |
| Compliance Specialist                                    | 1.0                | 1.0                  |
| Psychology Services<br>(Contracted Services)             | 1.0                | 1.0                  |
| Medical Director/Physician<br>(Contracted Services)      | 1.0                | 1.0                  |
| Pharmacy Consultant<br>(Contracted Services)             | 1.0                | 1.0                  |
| Dietary Staff<br>(Contracted Services)                   | 1.0                | 1.0                  |
| Maintenance/Repair Staff                                 | 1.0                | 1.0                  |
| Administrative & General                                 | 8.0                | 8.0                  |
| Administrative Assistant                                 | 1.0                | 1.0                  |
| Accounting Staff   | 4.0                | 4.0                  |
| Human Resource/Benefits<br>Administrator                 | 3.0                | 3.0                  |
| <b>TOTAL</b>   | <b>44.0</b>        | <b>44.0</b>          |

\*\*Indicates staff that split their time worked between the four LIFESPAN, Inc. group homes operated in Mecklenburg County.

As illustrated in the table above, the applicant does not project an increase the number of FTEs at the Tuckaseegee Group Home with the relocation of one bed and the individual occupying the bed from a state operated facility. The table above also includes contracted staff which the

applicant states are utilized based on an as needed basis which therefore allows the annual consultant hours to vary throughout the year.

On page 47, the applicant states:

*“QP, RN, and LPN positions are split between the (4) group homes owned and operated by LIFESPAN, Inc. The compliance Specialist position and Maintenance positions are split between three (3) programs and the same (4) group homes.”*

In Section VII.5, page 46, the applicant states the Development Day Service program is also operated by LIFESPAN, Inc. and staffed by four FTEs (Enrichment Specialist), with monitoring provided by the program coordinator, the qualified professional and the program director.

In Section VII.4, page 48, the applicant provides the number of direct care staff per shift, as illustrated in the table below.

**Direct Care Staffing Chart**

| Day of Week           | Shifts |         |       | Total   |
|-----------------------|--------|---------|-------|---------|
|                       | Day    | Evening | Night | Per Day |
| Sunday                | 3      | 3       | 2     | 8       |
| Monday                | 3      | 3       | 2     | 8       |
| Tuesday               | 3      | 3       | 2     | 8       |
| Wednesday             | 3      | 3       | 2     | 8       |
| Thursday              | 3      | 3       | 2     | 8       |
| Friday                | 3      | 3       | 2     | 8       |
| Saturday              | 3      | 3       | 2     | 8       |
| <b>Total per Week</b> | 21     | 21      | 14    | 56      |

For the table above, the applicant assumed the following as reported on pages 48-49:

*“Overnight staff are released at 9:00 a.m. during the week. The three (3) FTE staff on the day shift includes one (1) of the overnight FTE staff. Staff typically work a seven (7) day on, seven (7) day off schedule. Therefore, the same staff may be working portions of multiple shifts on any given day. ...”*

Because of the staffing pattern with staff working seven days on and seven days off and then overlapping of shifts, the staffing per shift is illustrated in the table below, as reported on page 48 of the application.

| Position | Shifts |         |         | Total     |
|----------|--------|---------|---------|-----------|
|          | Day    | Evening | Night*  | Per Shift |
| RNs      | 1      | 1       | On Call | 1         |

|                       |   |   |         |    |
|-----------------------|---|---|---------|----|
| LPNs                  | 1 | 1 | On Call | 1  |
| Direct Care Staff     | 3 | 3 | 2       | 8  |
| <b>Total per Week</b> | 5 | 5 | 2       | 10 |

\*Total reflects the on-call nursing staff being easily accessible, but not physically in the group home during the night shift.

On page 44, the applicant states that one RN and one LPN work on the first and second shifts alongside three FTEs (direct care staff). The RN and the LPN are scheduled on call during the third shift which operates with two FTEs (direct care staff).

In Section VII.8, page 49, the applicant states as a “*provider of choice*”, LIFESPAN, Inc., expects no problem recruiting healthcare professional staff for its group homes. The applicant further states that LIFESPAN, Inc. offers competitive salaries and excellent benefits which further enables the company to receive employment inquiries on a regular basis from qualified staff.

The applicant demonstrated the availability of adequate personnel resources to provide the proposed services. Therefore, the applicant 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

In Table 2, page 47, the applicant states it will have facility paid consultants for the following ancillary and support services: dietary services, occupational therapy, physical therapy, medical director/physician, and speech therapy. In Section II.2(d), page 18, the applicant states:

*“LIFESPAN, Inc.’s ICF/IID group homes operate under the Active Treatment model, as dictated by Appendix J of the CMS State Operations Manual. While on site in the home, individuals are engaged in active treatment through individualized program goals that are based on annual periodic functional assessment. Individuals in the home have the opportunity to participate in activities of their choosing at the group home site such as indoor and outdoor recreation, computer activities, art projects and gardening. Those developmental day services provided on-site are facilitated by the group home staff... .”*

In Section VII.5, page 46, the applicant states the Developmental Day Service program is also operated by LIFESPAN, Inc. and staffed by four FTEs (Enrichment Specialists) with monitoring by the Program Coordinator, the Qualified Professional and the Program Director. The applicant states in Section II.1, page 11 that LIFESPAN, Inc. operates two Creative Campus sites in Mecklenburg

County with both sites being located within 45 minutes normal drive time from the Tuckaseegee Group Home.

In Section II, page 13, the applicant states LIFESPAN, Inc. provides and will continue to provide medical monitoring through its on-staff RN and LPN and through regular medical visits with Dr. Lattimer Taylor. Exhibit 11 contains copies of MCO (Managed Care Organizations) contracts with those partners being MeckLINK Behavioral Healthcare, Western Highlands Area Authority, Sandhills Center (formerly The Guilford Center), Cardinal Innovations/Piedmont Behavioral Health, Partners Behavioral Health Management, Smoky Mountain Center and Centerpoint Human Services. Also see Exhibit 15 for copies of healthcare provider contracts for nutrition and dietary services and psychology services.

The applicant adequately demonstrated that the necessary ancillary and support services will be available 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.

NA

The applicant proposes to relocate one existing ICF/IID bed and the individual occupying that bed from a state operated facility into an existing bedroom at the Tuckaseegee Group Home for a total of six ICF/IID beds upon project completion. The proposed project does not call for any new construction or renovations to the existing facility.

- (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

In Sections VI.9 and VI.10, page 43, the applicant states the current payor mix for the Tuckaseegee Group Home is 100% Medicaid and the projected payor mix for the second year of operation will continue to be 100% Medicaid.

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. 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 2009 (Estimate by Cecil G. Sheps Center)</b> |
|--------------------|---|--|--|
| Mecklenburg County | 15.0%   | 5.1%   | 21.1%  |
| Statewide          | 17.0%   | 6.7%   | 19.7%  |

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 adult ICF/IID services proposed in this application. Nevertheless, 100% of the adult residents are Medicaid recipients.

The Office of State Budget & Management (OSBM) maintains a website which provides historical and projected population data for each county in North Carolina. In addition, data is available by age, race or gender. However, a direct comparison to the applicant's current payer 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 utilizing health services. Furthermore, OSBM's website does not include information on the number of handicapped persons.

The applicant demonstrates that medically underserved populations currently have adequate access to the services offered at the Tuckaseegee Group Home. Therefore, 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

In Section VI.6, pages 39-41, the applicant discusses its admission process. See Exhibit 6 for a copy of LIFESPAN, Inc.'s admission policy. In Section VI.8(a), page 43, the applicant states there have not been any civil rights access or Division of Health Service Regulation, Mental Health Licensure Section patient rights complaints filed against LIFESPAN, Inc. facilities operating in the Mecklenburg County catchment area in the past five years. Therefore, 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.2, page 38, the applicant states it will provide services to people regardless of their income, race/ethnicity, gender, disability, or age. The applicant proposes that 100% of its client days would be provided to Medicaid recipients in the second year of operation. The applicant demonstrated that it will provide access to medically underserved populations, and, therefore, the application is conforming to this criterion.

- (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 accordance with Session Laws 1983, Ch. 858, HB 1395, all referrals to the relocated ICF/IID shall be from State-Operated Developmental Centers.

- (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

The applicant states in Section V.1, page 35:

*“LIFESPAN, Inc. participates in regular health professional training programs in the area that accommodate the clinical needs of the group home staff, as well as other providers and people in the areas of medical, nursing and therapy training. LIFESPAN, Inc. also provides training programs in the community to target the clinical needs of potential staff to support LIFESPAN, Inc. services and programs. These training programs are largely beneficial to the attraction and recruitment of potential staff, as well as the excellent retention rates for current staff. The following list is [sic] contains some of the various groups that LIFESPAN, Inc. partners with to provide these services and programs:*

- *MeckLINK Behavioral Healthcare*
- *Mecklenburg Provider Network*
- *NC Council of Community Programs*
- *NC Providers Association*
- *Mecklenburg County Area AHEC*
- *Association for Persons in Supported Employment*
- *TEACCH Autism Program*
- *Carolinas Medical Center*
- *The American Red Cross”*

See Exhibit 27 for LIFESPAN, Inc.’s Training Policy.

The applicant adequately demonstrates that the proposed facility will accommodate the clinical needs of area health professional training programs. The information provided in Section V.1 is reasonable and credible and supports a finding of conformity 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

In this application, the applicant proposes to transfer one ICF/IID bed and the individual occupying the bed from a state operated facility to a community based ICF/IID group home in accordance with Session Laws 1983, Ch. 858, HB 1395. The applicant does not propose the increase of ICF/IID beds in North Carolina.

According to the records in the Mental Health Licensure and Certification Section there are 30 licensed ICF/IID facilities in Mecklenburg County with 178 beds. The 2013 SMFP list two additional facilities as having been approved; each facility will operate 6 ICF/IID beds for a total of 32 facilities with 190 existing or approved ICF/IID beds. Those facilities, as reported in the 2013 SMFP, are illustrated in the table below.

| <b>ICF/IID Facilities in the MeckLINK Behavioral Healthcare Service Area</b>        |                           |   |   |
|---|---------------------------|---|---|
| <b>Name of Facility</b>   | <b># of Licensed Beds</b> | <b># of CON Approved Beds Awaiting Completion/Licensure</b> | <b>Total Approved &amp; Licensed Beds</b> |
| Bon Rea Drive Group Home LIFESPAN   | 5                         |   |   |
| Dalmoor Drive Group Home  | 6                         |   |   |
| Flowe Drive Group Home  | 6                         |   |   |
| Gail b. Hanks Group Home  | 6                         |   |   |
| Heathcroft  | 6                         |   |   |
| Leaves  | 6                         |   |   |
| Mantle Court Group Home   | 6                         |   |   |
| Oak St. Group Home St. Mark   | 6                         |   |   |
| Ravendale Drive Group Home  | 6                         |   |   |
| RHA/Howell –Monroe Road   | 6                         |   |   |
| RHA/Howell – Shelburne Pl   | 6                         |   |   |
| RHA/Howell –Burtonwood Circle   | 6                         |   |   |
| RHA/Howell - Lakeview   | 6                         |   |   |
| Starnes Group Home  | 6                         |   |   |
| <b>Tuckaseegee Group Home-LIFESPAN</b>  | 5                         |   |   |
| VOCA-Denbur Drive Group Home  | 6                         |   |   |
| VOCA-Freedom Group Home   | 6                         |   |   |
| VOCA-Harrisburg Road Group Home   | 6                         |   |   |
| VOCA-Mallard Drive  | 6                         |   |   |
| VOCA-Mecklenburg Group Home*  |                           | Project I.D # F-8242-08–6 beds                              |   |
| VOCA-Norwich Road Group Home  | 6                         |   |   |
| VOCA-Oak Drive Group Home   | 6                         |   |   |
| VOCA-Oakhaven Drive Group Home  | 6                         |   |   |
| VOCA-Purser Group Home  | 6                         |   |   |
| VOCA-Sandburg Group Home  | 6                         |   |   |
| VOCA-Simpson Group Home   | 6                         |   |   |
| VOCA-St. John Church Road   | 6                         |   |   |
| VOCA-Toddsville Road Group Home   | 6                         |   |   |
| VOCA-Wilson Ave Group Home  | 6                         |   |   |
| VOCA-Woodbridge Road  | 6                         |   |   |
| Woodbend Replacement GH   | 6                         | Project I.D. # F-7714-06–6 beds                             |   |
| <b>Total</b>  | <b>178</b>                | <b>12</b>   | <b>190</b>                                |
| Source: 2013 License Renewal Application and the 2013 State Medical Facilities Plan |                           |   |   |

In Section V.6, page 37, the applicant discusses the expected effects of the proposal on competition in the service area including how any enhanced competition will have a positive impact on the cost-effectiveness, quality and access to the proposed services. The applicant states:

*“The State of North Carolina entered into a settlement agreement with the Department of Justice on August 23, 2012. The purpose of the agreement was to assure that persons with mental illness and developmental disabilities are allowed to reside in their communities in the least restrictive settings of their choice. As such, the State of North Carolina has implemented initiatives to ensure that the State will meet the requirements of the ADA, the Rehab Act and the Olmstead decision, which require that services to individuals with developmental disabilities be served in the most integrated environment to meet their needs. ... LIFESPAN, Inc. has added one (1) additional bedroom to their Tuckaseegee Group Home in order to allow an individual in a state operated developmental center to receive care in a community based ICF/IID facility.*

*Additionally, the Tuckaseegee Group Home staffing patterns are the same as the staffing patterns in LIFESPAN, Inc.’s other six (6) bed group homes. Adding the additional one (1) bed to the Tuckaseegee Group Home will allow LIFESPAN, Inc. to meet the high demand for the community-based service, run the ... Group Home more efficiently and achieve cost effective feasibility and utilization.”*

See also Sections II, III, V, VI and VII where the applicant discusses the impact of the project on cost-effectiveness, quality and access.

The information provided by the applicant 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 applicant adequately demonstrates the need to transfer one ICF/IID bed and its occupant from the J. Iverson Riddle Developmental Center to the community based Tuckaseegee Group Home and that the transfer is a cost-effective alternative;
- ◆ The applicant adequately demonstrates that LIFESPAN, Inc. will continue to provide quality services; and
- ◆ The applicant demonstrates that LIFESPAN, Inc. 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

According to the Mental Health Licensure and Certification Section, no incidents have occurred at the LIFESPAN, Inc ICF/IID facilities operated in Mecklenburg County, within the eighteen months immediately preceding the date of this decision, for which any condition level citations or penalties have been imposed related to the quality of care. Therefore, the application is conforming to this criterion.

- (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

The applicant does not propose to develop new ICF/IID beds, but rather to relocate one existing ICF/IID bed and the individual occupying the bed from the J. Iverson Riddle Developmental Center to its existing Tuckaseegee Group Home for a total of six ICF/IID beds upon project completion. Therefore, the Criteria and Standards for Intermediate Care Facility/Mentally Retarded (ICF/MR) in 10A NCAC 14C .2400, are not applicable to this review.