ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS
C = Conforming
CA = Conditional
NC = Nonconforming
NA = Not Applicable

Decision Date: October 14, 2016
Findings Date: October 14, 2016

Project Analyst: Mike McKillip
Assistant Chief: Martha Frisone

Project ID #: L-11197-16
Facility: LifeCare Hospitals of North Carolina
FID #: 923113
County: Nash
Applicant: New LifeCare Hospitals of North Carolina, LLC
Project: Develop 40 nursing care beds as a unit of an existing long term care hospital (LTCH) pursuant to an adjusted need determination in the 2016 SMFP

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

G.S. 131E-183(a) The Agency 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 applicant, New LifeCare Hospitals of North Carolina, LLC d/b/a LifeCare Hospitals of North Carolina **[LifeCare]** proposes to develop 40 new nursing care beds in an addition to an existing long term care hospital (LTCH) located in Rocky Mount in Nash County.

Need Determination

The 2016 State Medical Facilities Plan (SMFP) includes an adjusted need determination for 40 nursing care beds for Nash County. On page 220, the 2016 SMFP states:

> *"In response to a petition, the State Health Care Coordinating Council approved the adjusted need determination for 40 additional nursing care beds for Nash County. Applicants must demonstrate these beds will be limited to patients who, upon*

admission, have the following conditions/needs: ventilator-dependency; tracheostomies; tracheostomies with bi-level positive airway pressure; bariatric status with tracheostomies; bariatric status over 300 pounds; IV antibiotics administered more than once daily; total parenteral nutrition; complex wounds; dialysis; ventilator dependency and/or tracheostomies combined with dialysis."

In Section II.2, pages 24-25, the applicant states,

"The adjusted need determination is the result of a successful petition filed by LifeCare to the State Health Coordinating Council (SHCC) in the summer of 2015 (see Exhibit 5). As noted in its petition, the driving force behind the requested adjusted need determination is to establish nursing care beds to care for complex patients with highly specialized nursing care needs that most nursing facilities are incapable of handling, including patients with the following conditions/needs:

- *Ventilator dependency,*
- *Tracheostomies,*
- *Tracheostomies with bi-level positive airway pressure (BiPAP),*
- *Bariatric patients with Tracheostomies,*
- *Bariatric patients over 300 pounds,*
- *IV antibiotics administered more than once daily,*
- *Total Parenteral Nutrition,*
- *Complex wounds,*
- *Dialysis, and*
- *Ventilator dependency and/or Tracheostomies combined with dialysis.*

Consistent with LifeCare's petition, the adjusted need determination for 40 additional nursing care beds in Nash County identified in the 2016 SMFP is limited to patients with one or more of the conditions/needs listed above upon admission. As such, the nursing care beds will be focused on care for high acuity and chronically ill patients that most nursing facilities are not equipped to care for and who require specialized nursing and rehabilitation needs [sic] *to maximize outcomes and reduce admissions to acute care settings."*

The applicant adequately demonstrated that the 40 proposed nursing care beds will be limited to patients who, upon admission, have the conditions/needs identified in the 2016 SMFP. Therefore, the application is consistent with the adjusted need determination in the 2016 SMFP for 40 nursing care beds for Nash County.

Policies

There are two policies in the 2016 SMFP which are applicable to this review: Policy GEN-3: Basic Principles and Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities.

Policy GEN-3

Policy GEN-3 states:

> *"A certificate of need applicant applying to develop or offer a new institutional health service for which there is a need determination in the North Carolina State Medical Facilities Plan shall demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value for resources expended. A certificate of need applicant shall document its plans for providing access to services for patients with limited financial resources and demonstrate the availability of capacity to provide these services. A certificate of need applicant shall also document how its projected volumes incorporate these concepts in meeting the need identified in the State Medical Facilities Plan as well as addressing the needs of all residents in the proposed service area."*

LifeCare addresses Policy GEN-3 as follows:

Promote Safety and Quality – The applicant describes how it believes the proposed project would promote safety and quality in Section II.5, page 45, and Section III.4, pages 78-79, and referenced exhibits. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would promote safety and quality.

Promote Equitable Access – The applicant describes how it believes the proposed project would promote equitable access in Section III.4, page 79, Section VI, pages 97-104, and referenced exhibits. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would promote equitable access.

Maximize Healthcare Value – The applicant describes how it believes the proposed project would maximize healthcare value in Section III.4, page 78, Section V.6, page 94. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would maximize healthcare value.

The applicant adequately demonstrates how its projected volumes incorporate the concepts of quality, equitable access and maximum value for resources expended in meeting the facility need as identified by the applicant. The application is consistent with Policy GEN-3.

Policy GEN-4

Policy GEN-4 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."

The proposed capital expenditure for this project is greater than $5 million. In Section III.4, pages 79-80, the applicant states, *"LifeCare will develop and implement an Energy Efficiency and Sustainability plan for the project that conforms to or exceeds the energy efficiency and water conservation standards incorporated in the latest editions of the N.C. State Building Codes."* The applicant describes its plan for improved energy efficiency and water conservation in Section III.4, pages 80-81, and Section XI.14, pages 146-147. The applicant adequately demonstrates that the application includes a written statement describing the project's plan to assure improved energy efficiency and water conservation. Therefore, the application is consistent with Policy GEN-4.

Conclusion

In summary, the applicant adequately demonstrates that the proposal is consistent with the adjusted need determination in the 2016 SMFP, and is consistent with Policy NH-8, Policy GEN-3 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.

C

The applicant, New LifeCare Hospitals of North Carolina, LLC d/b/a LifeCare Hospitals of North Carolina (LifeCare) proposes to develop 40 new nursing care beds to be located in an addition to its existing 50-bed long term care hospital (LTCH) located in Rocky Mount in Nash County. In Section I.11, page 9, the applicant states that LifeCare is 100 percent owned by

LifeCare Holdings, LLC. The applicant proposes to develop the 40 nursing care beds in a 32,942 square foot addition to the existing LTCH facility located at 1500 Noell Lane in Rocky Mount. In Section II.1, page 24, the applicant describes the project as follows:

> *"As noted previously, LifeCare Hospitals of North Carolina (LifeCare, hereafter) proposes to develop 40 nursing care beds (including 10 ventilator beds) as a department of the existing licensed and Medicare-certified long term care hospital (LTCH) in response to the adjusted need determination in the 2016 State Medical Facilities Plan (SMFP) for 40 additional nursing care beds for Nash County to serve patients limited to those with the following conditions/needs upon admission: ventilator-dependency; tracheostomies; tracheostomies with bi-level positive airway pressure; bariatric status with tracheostomies; bariatric status over 300 pounds; IV antibiotics administered more than once daily; total parenteral nutrition; complex wounds; dialysis; ventilator dependency and/or tracheostomies combined with dialysis. The nursing care beds will be developed on LifeCare's existing campus adjacent to, and connected via a connecting corridor to, the existing LTCH. The nursing care beds will function as a department of the LTCH and will be operated under the LTCH's license. This structure – and physical location of the facility in proximity to the LTCH – will allow LifeCare to share certain functions and staff between the LTCH and the nursing care beds. Not only will this create operational and staffing efficiencies, but it will also facilitate the seamless sharing of LifeCare's knowledge, expertise, and experience in caring for the target population gained through its operation of the LTCH – critically chronically ill patients who are clinically complex and require highly specialized nursing care."*

Patient Origin

On page 199, the 2016 SMFP defines the service area for nursing care beds as the county in which the bed is located. Thus, the service area consists of Nash County. Facilities may serve residents of counties not included in their service area.

In Section III.9, page 83, the applicant provides a table showing the projected patient origin for the proposed nursing care beds in first full federal fiscal year of operation (FFY2020), which is summarized below:

LifeCare Projected Patient Origin

County	Projected Percent of Total Patients
Nash	22.0%
Wilson	15.1%
Edgecombe	11.8%
Halifax	11.6%
Pitt	7.5%
Wake	6.1%
Wayne	3.4%
Beaufort	2.1%
Johnston	2.0%
Northampton	1.8%
Lenoir	1.7%
Hertford	1.6%
Martin	1.4%
Franklin	1.3%
Bertie	1.1%
Others*	9.5%
TOTAL	**100.0%**

Source: Table on page 83.
*The applicant lists the counties included in *"Others"* on page 83.

In Section III.9, page 84, the applicant states, *"LifeCare's projected patient origin is based on the weighted average of the existing patient origin for each component of the projected demand for the proposed nursing care beds."* The applicant adequately identified the population proposed to be served.

Analysis of Need

In Section III.1(a) and (b) of the application, the applicant describes the factors which it states supports the need for the proposed project, including:

- The need for nursing care beds for a subset of patients who are clinically complex and not generally accepted by the majority of nursing care facilities (pages 48-55).
- The need for nursing care beds that offer ventilator care services (pages 55-61)

The information provided by the applicant in the pages referenced above is reasonable and adequately supported.

Projected Utilization

In Section IV.2, page 88, the applicant provides projected utilization for the proposed nursing care beds in the first two full federal fiscal years of operation following completion of the project (FFY2020-FFY2021), which is summarized below.

LifeCare Nursing Care Beds
Projected Utilization, FFY2020 – FFY2021

Nursing Care Beds (Excluding SCU)	Project Year 1 FFY2020	Project Year 2 FFY2021
Patient Days	9,524	10,403
Occupancy Rate	87.0%	95.0%
# of Beds	30	30
Special Care Unit (Ventilator)		
Patient Days	3,175	3,468
Occupancy Rate	87.0%	95.0%
# of Beds	10	10
Total Nursing Care Beds		
Patient Days	**12,698**	**13,870**
Occupancy Rate	**87.0%**	**95.0%**
# of Beds	**40**	**40**

As shown in the table above, the applicant projects the occupancy rate in the proposed nursing care beds will be 95 percent in the second year of operation, which exceeds the utilization rate required in 10A NCAC 14C .1102(b).

In Section III.1(b), pages 61-71, the applicant describes its assumptions and methodology for projecting utilization of the proposed nursing care beds, which is based on patients who will be admitted from three populations: (1) LifeCare LTCH patients, (2) Primary service area patients, and (3) Non-primary service area patients. On pages 62-64, the applicant states,

> *"The first component of the demand analysis focused on patients historically served by LifeCare's LTCH. Many of these patients would benefit from the proposed nursing care beds. Currently, many of LifeCare's patients remain in an LTCH bed after their acute condition has subsided but cannot be discharged to a post-acute setting, such as the proposed nursing care beds, due to a lack of availability. As noted in the discussion above, the specialized patient population to be served by the proposed nursing care beds is not served by the majority of nursing care providers. Once developed, LifeCare would be able to discharge these LTCH patients to the proposed nursing care beds….*
>
> *In order to determine the potential nursing care bed utilization for these patients, LifeCare calculated the number of days of care that need to be provided in LTCH settings due to the acuity of the patients, then subtracted those days from the total days of care provided to the patients. … In order to determine the potential demand for these patients in future years, LifeCare assumed that demand would grow 20 percent by 2020 based on expected growth of 17 percent in the 65 and over population in LifeCare's historic four county service area (see Exhibit 14 for population data for Nash, Edgecombe, Wilson, and Halifax counties) and 3.0 percent growth in LTCH use rates based on LifeCare's 2010 to 2015 historic trend. The table below demonstrates projected future demand based on applying 20 percent growth to the current total nursing care ADC* [average daily census] *from LifeCare's LTCH.*

2020 Total Nursing Care Bed ADC from LifeCare LTCH Patients

	Current ADC from LTCH Patients	***2020 ADC from LTCH Patients***
Vent <96	*0.2*	*0.2*
Wound	*9.1*	*10.8*
Dialysis	*0.6*	*0.7*
Vent 96+	*2.7*	*3.3*
Total	***12.5***	***15.0***

As shown in the table above, the applicant projects that patients who could be appropriately transferred from LifeCare's existing 50-bed LTCH would account for an average daily census of 15 patients in the proposed 40-bed nursing care unit in 2020, which is the applicant's first operating year.

On pages 64-66, the applicant states,

> *"The second component of the demand analysis focused on short-term acute care inpatients (which does not include patients served by LifeCare's LTCH) originating from LifeCare's historic four-county service area that require nursing care services post-acute care discharge and have one or more of the identified conditions/needs.*
>
> *LifeCare analyzed Medicare Standard Analytic Files and data from the Medicare Provider Analysis and Review (MedPar) files to determine the number of Medicare Fee-for-Service and Medicare Advantage short-term acute care patients that originate from the four-county service area….*
>
> *Based on LifeCare's estimate by DRG for those short-term acute care inpatients that require nursing care bed services upon discharge, LifeCare estimated the total number of patients that could potentially be served by its proposed nursing care beds, as shown below.*

Total Potential Nursing Care Patients in Service Area

	2020 Patients with Identified Conditions/ Needs	***Percent of Patients Requiring Nursing Care Services Upon Discharge***	***Total Potential Patients***
Medicare FFS	*1,864*	*32%*	*590*
Medicare Advantage	*364*	*32%*	*115*
Total	***2,228***		***705***

> *Using average length of stay data for area nursing care facilities and assuming a length of stay for Medicare Advantage of 70 percent of Medicare FFS based on LifeCare's experience in other markets, LifeCare estimated the potential ADC attributable to these patients, as shown below.*

Total Potential Nursing Care Utilization in Service Area

	Total Potential Patients	***Assumed ALOS***	***Total Potential Days***	***Total Potential ADC***
Medicare FFS	*590*	*19.9*	*11,741*	*32.2*
Medicare Advantage	*115*	*13.9*	*1,599*	*4.4*
Total	***705***		***13,340***	***36.6***

As shown in the table above, the applicant projects that patients from its four-county primary market could potentially account for an average daily census of 36.6 patients that would be appropriate, due to their conditions/needs, for the proposed 40-bed nursing care unit in 2020.

On pages 66-69, the applicant states,

> *"The third and final component of the demand analysis focused on short-term acute care inpatients (which does not include patients served by LifeCare's LTCH) originating from outside of LifeCare's service area that require nursing care services post-acute care discharge and have one or more of the identified conditions/needs. Three hospitals were identified as potential sources of patients: UNC Nash Health Care, Vidant Medical Center, and WakeMed Raleigh….*
>
> *LifeCare analyzed Medicare Standard Analytic Files and MedPar data to determine the number of Medicare Fee-for-Service and Medicare Advantage short-term acute care patients originating from outside of LifeCare's service area attributable to these three hospitals….*
>
> *Based on LifeCare's estimate by DRG for those short-term acute care inpatients that require nursing care bed services upon discharge, LifeCare estimated the total number of patients that could potentially be served by its proposed nursing care beds, as shown below.*

Total Nursing Care Patients from for* [sic] *Identified Hospitals Outside Service Area

	Historical Patients with Identified Conditions/ Needs	***Percent of Patients Requiring Nursing Care Services Upon Discharge***	***Total Historical Patients***
Medicare FFS	*3,601*	*29%*	*1,042*
Medicare Advantage	*514*	*29%*	*149*
Total	***4,115***		***1,191***

Consistent with LifeCare's projected growth for Medicare Fee-for-Service and Medicare Advantage patients requiring nursing care services post-discharge the service area, the total historical demand for the proposed nursing care beds was projected forward to 2020. Please note that these growth rates are based on projected population growth, changes in Medicare enrollment, and CMA's standard skilled nursing facility discharge percentages by MS-DRG.

Total Nursing Care Patients for Identified Hospitals From Outside Service Area

	Total Historical Patients	***Total Potential Patients***
Medicare FFS	*1,042*	*1,069*
Medicare Advantage	*149*	*221*
Total	***1,191***	***1,290***

Using average length of stay data for area nursing care facilities and assuming a length of stay for Medicare Advantage of 70 percent of Medicare FFS based on LifeCare's experience in other markets, LifeCare estimated the potential ADC attributable to these patients, as shown below.

Total Potential Nursing Care Utilization for Identified Hospitals from Outside Service Area

	Total Potential Patients	***Assumed ALOS***	***Total Potential Days***	***Total Potential ADC***
Medicare FFS	*1,069*	*19.9*	*21,273*	*58.3*
Medicare Advantage	*221*	*13.9*	*3,072*	*8.4*
Total	***1,290***		***24,345***	***66.7***

As shown in the table above, the applicant projects that patients from the three hospitals identified as outside its proposed market could potentially account for an average daily census of 66.6 patients that would be appropriate, due to their conditions/needs, for the proposed 40-bed nursing care unit in 2020.

On pages 70-71, the applicant states,

"In order to estimate the potential patients to be served by the proposed beds, LifeCare estimated capture rates for each of the patient segments above, as shown below:

Total Potential Nursing Care Bed Utilization and Capture Rates

	Total Potential ADC	***LifeCare Capture Rate***	***LifeCare Nursing Care Beds ADC***
LifeCare LTCH Patients	*15.0*	*95%*	*14.2*
Primary Service Area Patients	*36.6*	*45%*	*16.5*
Patients from Outside Service Area	*66.7*	*11%*	*7.3*
Total	***118.3***	***32%***	***38.0***

With regard to its market share (*"capture rate"*) projections, on pages 70-71, the applicant states,

> *"For patients currently cared for by LifeCare's LTCH, LifeCare assumed a capture rate of 95 percent assuming that these patients could almost entirely be transitioned to the proposed nursing care beds. Based on its support from local providers, its historic ability to capture patients in its service area, and the unique services offered, LifeCare estimates that it will capture 45 percent of the potential primary service area patients identified for this service, which is less than one-half of the capture rate assumed for LifeCare's current patients (95 percent). Finally, LifeCare estimates that it will capture 11 percent of patients from outside the service area attributable to the identified hospitals based on its relationships with those providers, the lack of other suitable options for the care of these patients, and its historic experience serving LTCH patients from outside of its primary service area. This is approximately one-fourth of the capture rate for non-LifeCare patients from the primary service area. Overall, the projected capture rate of the potential identified demand is 32 percent which is reasonable based on the unique services offered, LifeCare's experience in North Carolina, and LifeCare's experience nationwide."*

As discussed above, the applicant projects the utilization of the proposed nursing care beds based on its experience operating a 50-bed LTCH, and its experience treating patients with the specific conditions/needs identified in the adjusted need determination in the 2016 SMFP. Also, the applicant's projections for patients from its primary market and from outside its proposed market are based on historical utilization data for patients with the conditions/needs identified in the 2016 SMFP, as well as population growth projections, and historical use rates for Medicare patients. Also, the applicant's market share projections are based on its experience serving patients with the conditions/needs identified in the 2016 SMFP at LifeCare's existing LTCH, and the applicant's established relationships with referral sources, both in the applicant's proposed primary market, and with providers from outside the primary market. Exhibit 22 contains letters from hospitals and physicians expressing support for the proposed project and their intention to refer patients to the proposed unit. Projected utilization of the 40 proposed nursing care beds is based on reasonable and adequately supported assumptions. Therefore, the applicant adequately demonstrated the need to develop 40 new nursing care beds for patients with the specific conditions/needs identified in the adjusted need determination in the 2016 SMFP.

Access

In Section VI.5, pages 100-103, the applicant states a commitment to provide services to all patients who need the services regardless of their ability to pay, racial/ethnic origin, age, gender, physical or mental conditions or other conditions that would classify them as underserved. In Section VI.3, page 98, the applicant projects that 92 percent of patient days will be provided to Medicare or Medicaid recipients in the proposed unit. The applicant adequately demonstrates the extent to which all residents, including underserved groups, will have access to the proposed services.

Conclusion

In summary, the applicant adequately identified the population to be served, demonstrated the need the population has for the project and adequately demonstrated the extent to which all residents, including underserved groups, will have access to the proposed services. 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.

CA

In Section III.2, pages 72-74, the applicant describes the alternatives considered prior to submitting this application for the proposed project, which include:

- Maintain the Status Quo – The applicant states that maintaining the status quo is not an effective alternative because it would continue to limit access to nursing care beds for certain medically complex patients.
- Develop the 40 Nursing Care Beds without a Ventilator Unit – The applicant states that developing the nursing care beds without a 10-bed ventilator unit is not an effective alternative because of the lack of access to those services and the risks associated with long transport of those patients to distant facilities.
- Develop the Nursing Care Beds in Another Location – The applicant states that another location is not an effective alternative because developing the nursing care beds adjacent to the LTCH will allow operational and staffing efficiencies, and facilitate the sharing of *"knowledge, expertise, and experience in caring for the target population –*

critically chronically ill patients who are clinically complex and require highly specialized nursing care – gained through its operation of the LTCH."

After considering those alternatives, the applicant states the alternative represented in the application is the most effective alternative to meet the identified need.

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

In summary, the applicant adequately demonstrates that the proposal is the least costly or most effective alternative to meet the identified need. Therefore, the application is conforming to this criterion and approved subject to the following conditions.

1. **New LifeCare Hospitals of North Carolina, LLC shall materially comply with all representations made in the certificate of need application.**

2. **New LifeCare Hospitals of North Carolina, LLC shall develop no more than 40 nursing care beds. These beds will be limited to patients who, upon admission, have the following conditions/needs: ventilator-dependency; tracheostomies; tracheostomies with bi-level positive airway pressure; bariatric status with tracheostomies; bariatric status over 300 pounds; IV antibiotics administered more than once daily; total parenteral nutrition; complex wounds; dialysis; ventilator dependency and/or tracheostomies combined with dialysis.**

3. **New LifeCare Hospitals of North Carolina, LLC 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, LifeCare, proposes to develop the 40 nursing care beds in a 32,942 square foot addition to the existing LTCH facility located at 1500 Noell Lane in Rocky Mount.

Capital and Working Capital Costs

In Section VIII.1, pages 117-118, the applicant states the total capital cost is projected to be as follows:

LifeCare Project Capital Cost

Site Costs	$690,000
Construction Costs	$8,210,000
Miscellaneous Project Costs	$2,655,000
TOTAL CAPITAL COST	**$11,555,000**

Source: Table on pages 117-118 of the application.

In Section IX.1, pages 123-124, the applicant states there will be $437,000 in start-up expenses and $1,166,443 in initial operating expenses associated with the project, for total working capital required of $1,603,443.

Availability of Funds

In Section VIII.2, page 118, the applicant states that the total project capital costs will be funded by the accumulated reserves of LifeCare Holdings, LLC, which is the parent company for LifeCare. Also, in Section IX.5, page 126, the applicant states that the working capital costs will be funded by the unrestricted cash of LifeCare Holdings, LLC. In Exhibit 18, the applicant provides a letter dated June 15, 2016, from the Chief Financial Officer for LifeCare Holdings, LLC, documenting its intention to fund $11,555,000 in capital costs and $1,603,443 in working capital costs for the proposed project. Exhibit 19 contains a copy of the Consolidated Financial Statements for LifeCare Holdings, LLC and Subsidiaries that indicate it had $82 million in cash and cash equivalents, $175 million in current assets, and $126 million in total net assets, as of December 31, 2015. The applicant adequately demonstrates that sufficient funds will be available for the capital and working capital needs of the project.

Financial Feasibility

In the pro forma financial statements for LifeCare's nursing care beds (Form B), the applicant projects that revenues will exceed operating expenses in the first two full federal fiscal years of operation, as shown in the table below.

Projected LifeCare Nursing Care Bed Revenue and Expenses

	PY1 FFY2020	PY2 FFY2021
Total Patient Days	12,698	13,870
Total Gross Revenue	$10,154,225	$11,091,440
Gross Revenue/Patient Day	$800	$800
Total Net Revenue	$6,826,082	$7,455,838
Net Revenue/Patient Day	$538	$538
Total Operating Expenses	$6,447,400	$6,726,302
Net Income (Loss)	**$378,682**	**$729,536**

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See the financial section of the application for the assumptions used regarding costs and charges. The discussion regarding utilization projections found in Criterion (3) is incorporated herein by reference. The applicant

adequately demonstrates that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

Conclusion

In summary, the applicant adequately demonstrates that sufficient funds will be available for the capital and working capital needs of the project. Furthermore, the applicant adequately demonstrates that the financial feasibility of the proposal is based upon reasonable projections of costs and charges. 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

The applicant, LifeCare, proposes to develop 40 new nursing care beds to be located in an addition to its existing 50-bed LTCH located in Rocky Mount in Nash County.

On page 199, the 2016 SMFP defines the service area for nursing care beds as the county in which the bed is located. Thus, the service area consists of Nash County. Facilities may serve residents of counties not included in their service area.

The following table identifies the existing nursing facilities located in Nash County.

Nash County Nursing Facilities

	Total Licensed Nursing Care Beds
Autumn Care of Nash	60
Hunter Hills Nursing and Rehabilitation Center	141
Rocky Mount Rehabilitation Center	117
South Village	100
Total	**418**

Source: Proposed 2017 SMFP, Table 10A.

As shown in the table above, there are four nursing care facilities with a total of 418 licensed nursing care beds in Nash County. However, the applicant states that most nursing facilities will not admit patients with the conditions/needs they propose to serve. In Section III.1, pages 48-49, the applicant states,

> *"Just as the discharge of patients from a general acute care hospital to an LTCH is a cost-effective, clinically appropriate method for their care, so too, is the discharge of patients from a LTCH to a nursing care facility. For a substantial subset of these patients, however, discharge to a nursing facility, though clinically appropriate, is impossible. Specifically, patients with certain conditions are not accepted by the majority of nursing care facilities in the state, even though they could otherwise be treated in the nursing care facility. ... LifeCare is aware of one nursing care facility in Nash County that does accept patients with tracheostomies; however, that facility is*

often full, and the percentage of patients with tracheostomies as their only condition (i.e. not combined with bariatric status or dialysis, etc.) is small. Given the nature of LTCH care, as significant number of LifeCare's patients have one or more of these conditions, as detailed below. As a result, patients who would otherwise be discharged to a nursing care facility either remain in a LTCH, or, if possible, are discharged to a distant nursing facility that will accept patients with these conditions."

The applicant adequately demonstrated the need to develop 40 new nursing care beds for patients with the specific conditions/needs identified in the adjusted need determination in the 2016 SMFP, and adequately demonstrated that the projected utilization is based on reasonable and adequately supported assumptions. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

The applicant adequately demonstrated that the proposal would not result in an unnecessary duplication of existing or approved nursing care beds in Nash 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.2, page 106, the applicant proposes to provide registered nurse (RN)/licensed practical nurse (LPN) coverage 24 hours per day, 7 days per week.

Direct Care Staff per Shift
October 1, 2020 – September 30, 2021

	RNs	LPNs	Aides	Total
Day Shift				
Nursing Unit	2	2	2	6
Special Care Unit (Ventilator)	1	1	0	2
Evening Shift*				
Nursing Unit	NA	NA	NA	NA
Special Care Unit (Ventilator)	NA	NA	NA	NA
Night Shift				
Nursing Unit	1.5	2	2	5.5
Special Care Unit (Ventilator)	1	0	1	2
Total for the Day				
Nursing Unit	3.5	4	4	11.5
Special Care Unit (Ventilator)	2	1	1	4

*The applicant states that all shifts are 12 hours, so only day and night shifts are reported.

In Section VII.2, pages 106-107, the applicant states the staff for each position can be converted to full-time equivalents (FTEs) by multiplying by 12 hours per day for 365 days. On page 107, the applicant provides the following table showing the projected FTE by position type:

Direct Care Staff Converted to FTEs
October 1, 2020 – September 30, 2021

Staff Position	Table VII.2 Staff	Total Hours (X 12 X 365)	PTO Adjustment (88.6%)	FTE Hours (/2,080)	Table VII.3 FTEs
RNs	5.5	24,090	27,190	13.07	13.07
LPNs	5	21,900	24,718	11.88	11.88
CNAs	5	21,900	24,718	11.88	11.88

Source: Section VII.2, page 107 of the application.

Adequate costs for the direct care nursing positions proposed by the applicant in Section VII.3 are budgeted in the pro forma financial statements. The table below shows the applicant's proposed direct care nursing staff and total direct care hours per patient day.

Direct Care Hours per Patient Day
Project Year 2 (10/01/20 – 09/30/21)

Nursing Facility	
FTEs	27.32
Direct care hours (DCH) per year per FTE	2,080
Direct care hours per year (FTEs x DCH per year)	56,833
Patient days per year	10,402
Direct care hours per patient day (DCH/Patient Days)	5.5
Special Care Unit (Ventilator)	
FTEs	9.52
Direct Care hours per year per FTE	2,080
Direct care hours per year (FTEs x DCH per year)	19,788
Patient days per year	3,468
Direct care hours per patient day (DCH/Patient Days)	5.7
Total Direct Care Staff	
FTEs	36.83
Direct Care hours per year per FTE	2,080
Direct care hours per year (FTEs x DCH per year)	76,621
Patient days per year	13,870
Direct care hours per patient day (DCH/Patient Days)	5.5

Source: Table VII.4, page 114.

The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed services, including a medical director. See Exhibit 7. Therefore, the application is conforming with 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.

In Section II.4, pages 43-45, the applicant describes the manner in which it will provide the necessary ancillary and support services. Exhibit 9 contains copies of agreements with providers of ancillary services, including audiology, dental services, laboratory, radiology and dialysis services. Exhibit 22 of the application contain copies of letters from area hospitals and physicians expressing support for the proposed project. The applicant adequately demonstrates that necessary ancillary and support services are available and that the proposed services will be coordinated with the existing healthcare 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 applicant, LifeCare, proposes to develop 40 new nursing care beds to be located in a 32,942 square foot addition to its existing 50-bed LTCH located in Rocky Mount in Nash County. Exhibit 21 contains a certified cost estimate from an architect that estimates construction costs that are consistent with the project capital cost projections provided by the

applicant in Section VIII.1, page 117 of the application. In Section IX.14, pages 146-147, and Exhibit 21, the applicant describes the methods that will be used by the facility to maintain efficient energy operations and contain the costs of utilities. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference. The applicant adequately demonstrates that the cost, design and means of construction represent the most reasonable alternative, and that the construction cost will not unduly increase costs and charges for health services. Therefore, the application is conforming to this criterion.

(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 response to a request for additional information, the applicant reported the following payer mix for its existing LTCH beds for CY2015:

Payer Category	LTCH Patient Days as Percent of Total
Medicare	81%
Medicare Managed Care	6%
Commercial Insurance	13%
Total	**100.0%**

The United States Census Bureau provides demographic data for North Carolina and all counties in North Carolina. The following table contains relevant demographic statistics for the applicant’s service area.

Percent of Population						
County	**% 65+**	**% Female**	**% Racial & Ethnic Minority***	**% Persons in Poverty****	**% < Age 65 with a Disability**	**% < Age 65 without Health Insurance****
Nash	16%	52%	48%	18%	11%	18%
Statewide	15%	51%	36%	17%	10%	15%

Source: http://www.census.gov/quickfacts/table, 2014 Estimate as of December 22, 2015.
*Excludes *"White alone"* who are *"not Hispanic or Latino"*
***"This geographic level of poverty and health estimates are not comparable to other geographic levels of these estimates. Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable…The vintage year (e.g., V2015) refers to the final year of the series (2010 through 2015). Different vintage years of estimates are not comparable."*

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, women or handicapped persons utilizing health services.

The applicant demonstrates that it currently provides adequate access to medically underserved populations. 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 103-104, the applicant states that no civil rights access complaints have been filed against LifeCare in 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 98, the applicant projects the following payer mix for the proposed nursing care beds in the second operating year (FFY2021) of the project.

Payer Category	Nursing Care Patient Days as Percent of Total	Special Care Unit (Ventilator) Patient Days as Percent of Total
Commercial Insurance	8.4%	6.7%
Medicare	91.6%	73.3%
Medicaid	0.0%	20.0%
Total	**100.0%**	**100.0%**

The applicant demonstrates that medically underserved populations will have adequate access to the proposed services. 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 Section VI.7, page 104, the applicant describes the range of means by which a person will have access to LifeCare's nursing care beds. The applicant adequately demonstrates that the facility will offer a range of means by which patients will 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 91, the applicant states that LifeCare has established relationships with area health professional training programs. Exhibit 15 contains copies of training arrangements area programs including Eastern Carolina University, Nash Community College, and Edgecombe Community College. The information provided 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

The applicant, LifeCare, proposes to develop 40 new nursing care beds to be located in an addition to its existing 50-bed LTCH located in Rocky Mount in Nash County.

On page 199, the 2016 SMFP defines the service area for nursing care beds as the county in which the bed is located. Thus, the service area consists of Nash County. Facilities may serve residents of counties not included in their service area.

The following table identifies the existing nursing facilities located in Nash County.

Nash County Nursing Facilities

	Total Licensed Nursing Care Beds
Autumn Care of Nash	60
Hunter Hills Nursing and Rehabilitation Center	141
Rocky Mount Rehabilitation Center	117
South Village	100
Total	**418**

Source: Proposed 2017 SMFP, Table 10A.

In Section V.6, pages 94-96, the applicant discusses how any enhanced competition will have a positive impact on the cost-effectiveness, quality and access to the proposed services. The applicant states,

> *"LifeCare's proposed project represents the most effective alternative for quality medical care at a lower cost. As discussed previously, by treating patients with appropriate nursing services rather than acute care services (including general acute, long-term acute, or acute rehabilitation), LifeCare can lower the cost of healthcare provided by transitioning these patients to the nursing care facility setting. … Further, as discussed below relative to quality, the proposed project will lead not only to cost savings, but also better more appropriate care….*
>
> *The proposed nursing care beds will promote access to healthcare services in the service area that do not currently exist – namely, highly specialized nursing care services in a nursing care facility setting for critically chronically ill patients who are medically complex. The proposed nursing care beds will also create local access to ventilator care services not currently available in the county or anywhere within a 100+ mile radius."*

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 in the application is reasonable and adequately demonstrates that any enhanced competition in the service area includes a positive impact on the 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 for the project and that it is a cost-effective alternative. The discussions regarding analysis of need and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.
- The applicant adequately demonstrates it will provide quality services. The discussion regarding quality found in Criteria (1) and (20) is incorporated herein by reference.
- The applicant demonstrates that it will provide adequate access to medically underserved populations. The discussion regarding access found in Criteria (3) and (13) is incorporated herein by reference.

Therefore, 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 I.12, page 10, the applicant states that LifeCare does not own, manage or operate any existing nursing facilities in North Carolina. However, the applicant owns LifeCare Hospitals North Carolina, which is long term care hospital (LTCH) located in Rocky Mount in Nash County. According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, the LifeCare LTCH has not been out of compliance with any Medicare Condition of Participation, nor have any other incidents occurred within the eighteen months immediately preceding submission of the application through the date of this decision, for which any sanctions or penalties related to quality of care were imposed by the State on the facility. After reviewing and considering information provided by the applicant and by the Acute and Home Care Licensure and Certification Section and considering the quality of care provided at LifeCare's LTCH, the applicant provided sufficient evidence that quality care has been provided in the past. 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.

C

The application is conforming with all applicable Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1100. The specific criteria are discussed below:

10A NCAC 14C .1102 PERFORMANCE STANDARDS

.1102(a) *An applicant proposing to add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed nursing facility beds within the facility in which the new beds are to be operated was at least 90 percent.*

-NA- The applicant does not propose to add nursing care beds to an existing nursing facility.

.1102(b) *An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.*

-C- In Section IV.2, page 88, the applicant projects occupancy of the proposed nursing care beds will be 95% in the second year of operation. In Section III.1, pages 61-71, and Section IV.2, page 89, the applicant provides the methodology and assumptions used to project occupancy. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

.1102(c) *An applicant proposing to add adult care home beds to an existing facility shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed adult care home beds within the facility in which the new beds are to be operated was at least 85 percent.*

-NA- The applicant does not proposes to add adult care home beds to an existing facility.

.1102(d) *An applicant proposing to establish a new adult care home facility or add adult care home beds to an existing facility shall not be approved unless occupancy is projected to be at least 85 percent for the total number of adult care home beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.*

-NA- The applicant does not propose to develop a new adult care home facility or to add adult care home beds to an existing facility.