

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: March 23, 2018

Findings Date: March 23, 2018

Project Analyst: Gregory F. Yakaboski

Team Leader: Fatimah Wilson

Project ID #: F-11419-17

Facility: Peak Resources- Cherryville

FID #: 120152

County: Gaston

Applicant(s): Century Care of Cherryville, Inc.

Peak Resources Realty-Gaston, LLC

Project: Relocate 20 nursing facility beds from Peak Resources-Gastonia to Peak Resources-Cherryville and construct a 20 bed addition for a total of 74 nursing facility beds and 57 adult care home beds upon project completion.

### REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

N.C. Gen. Stat. §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 applicants, Century Care of Cherryville, Inc. dba Peak Resources-Cherryville (Century Care) and Peak Resources Realty-Gaston, LLC (Peak Resources Realty), propose to relocate 20 nursing facility (NF) beds from Peak Resources-Gastonia to Peak Resources-Cherryville pursuant to Policy NH-6: *Relocation of Nursing Facility Beds* in the 2017 State Medical Facilities Plan (2017 SMFP) and construct a 20 bed addition at the Peak Resources-Cherryville facility. Century Care is the Lessee and Peak Resources Realty is the Lessor. Both facilities, Peak Resources-Gastonia and Peak Resources-Cherryville are located within Gaston County and have common ownership. Peak Resources-Gastonia currently has 120 NF beds and Peak Resources-Cherryville currently has 54 NF beds and 57 adult care home (ACH) beds. Upon

project completion Peak Resources-Gastonia will have 100 NF beds and Peak Resources-Cherryville will have 74 NF beds and 57 ACH beds.

### **Need Determination**

The proposed project does not involve the addition of any new health service facility beds, services or equipment for which there is a need determination in the 2017 SMFP. Therefore, no need determinations are applicable to this review.

### **Policies**

The following policy is applicable to this review:

- **Policy NH-6: Relocation of Nursing Facility Beds**

#### **Policy NH-6: Relocation of Nursing Facility Beds**

*Policy NH-6: Relocation of Nursing Facility Beds Relocations of existing licensed nursing facility beds are allowed. Certificate of need applicants proposing to relocate licensed nursing facility beds shall:*

- 1. Demonstrate that the proposal shall not result in a deficit, or increase an existing deficit in the number of licensed nursing facility beds in the county that would be losing nursing facility beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins; and*
- 2. Demonstrate that the proposal shall not result in a surplus, or increase an existing surplus of licensed nursing facility beds in the county that would gain nursing facility beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins.*

The applicants propose to relocate 20 NF beds from Peak Resources-Gastonia to Peak Resources-Cherryville. Both existing facilities are located within Gaston County. Therefore, the application is consistent with Policy NH-6.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion because the applicants adequately demonstrate that the proposal is consistent with Policy NH-6 based on the fact that both facilities involved in the relocation of the 20 NF beds are located in the same county.

- (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 applicants, pursuant to Policy NH-6: *Relocation of Nursing Facility Beds* of the 2017 SMFP, propose to relocate 20 NF beds from Peak Resources-Gastonia to Peak Resources-Cherryville and construct a 20 bed addition at the Peak Resources-Cherryville facility for a total of 74 NF beds and 57 ACH beds at Peak Resources-Cherryville upon project completion.

**Patient Origin**

On page 191, the 2017 SMFP defines the service area for nursing facility beds as “*A nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*” Thus, the service area for this facility is Gaston County. Facilities may also serve residents of counties not included in their service area.

The following table illustrates current and projected patient origin.

**Patient Origin: Current and First Full Fiscal Year**

County	Current		First Full Fiscal Year	
	NF Beds	ACH Beds	NF Beds	ACH Beds
	Percent of Total NF Admissions	Percent of Total ACH Admissions	Percent of Total NF Admissions	Percent of Total ACH Admissions
Gaston	51.65%	54.81%	51.65%	54.81%
Cleveland	33.41%	25.97%	33.41%	25.97%
Lincoln	13.52%	13.46%	13.52%	13.46%
Mecklenburg	0.41%	0.00%	0.41%	0.00%
Wake	0.20%	0.00%	0.20%	0.00%
Caldwell	0.20%	0.00%	0.20%	0.00%
Davidson	0.20%	0.00%	0.20%	0.00%
Catawba	0.00%	2.88%	0.00%	2.88%
Pender	0.00%	0.96%	0.00%	0.96%
Out of State	0.41%	1.92%	0.41%	1.92%
Total	100.00%	100.00%	100.00%	100.00%

In Section III, page 38, the applicant provides the assumptions and methodology used to project its patient origin. The applicants assumptions are reasonable and adequately supported.

**Analysis of Need**

In Section III, page 25, the applicants explain why the population projected to utilize the proposed services needs the proposed services. On page 25, the applicants state:

- Disconnect between the number of NF beds available to the medically underserved in Cherryville and surrounding areas and the existing, unmet need for NF beds in that area. There is currently a waiting list of 40 patients for Peak Resources-Cherryville. (See page 27 of the application.) Currently, Peak Resources-Gastonia is licensed for 120 NF beds. In Section III.6, page 34, the applicants state that the patient census has been declining such that upon completion of the proposed project the patient census is expected to be less than 100 NF patients.
- The physical differences between the two facilities:
  - Peak Resources-Cherryville facility:
    - Was built 3 years ago.
    - Currently has 576 square feet per bed/ 63,975 square feet overall.
    - An environment that is “nicer” and more conducive to patient care.
  - Peak Resources-Gastonia facility:
    - Was built 34 years ago
    - Currently has 250 square feet per bed/30,000 square feet overall.
    - An environment that is not as nice nor as conducive to patient care
- Currently, and upon project completion, the Peak Resources-Cherryville facility is “more pleasant” for residents, family and visitors with larger patient rooms, more private dining options, larger therapy rooms, wider hallways and larger common areas.

The information is reasonable and adequately supported.

**Projected Utilization**

In Section IV.1, page 39, the applicants document that the NF beds at Peak Resources-Cherryville had an average occupancy rate over the nine months immediately preceding the submittal of the application of 96% and the ACH beds had an average occupancy rate of 90.33% over the same time period as summarized in the table below.

**Historical Utilization of NF Beds for 11/1/2016 to 7/31/2017**

	<b>Totals for 11/1/16 – 7/31/17</b>
# of NF beds	54
Patient Days (last 9 months or 273 days)	13,320
Occupancy Rate*	96%

Table Source: Section IV.1, page 39

\*Occupancy Rate Calculation: Total Days/ 273 / # of beds.

**Historical Utilization of ACH Beds for 11/1/2016 to 7/31/2017**

	<b>Totals for 11/1/16 – 7/31/17</b>
# of ACH beds	57
Patient Days (last 9 months or 273 days)	14,057
Occupancy Rate*	90.33%

Table Source: Section IV.1, page 39

\*Occupancy Rate Calculation: Total Days/ 273 / # of beds.

In Section IV, pages 42-43, the applicants provide projected utilization for all 74 NF beds and 57 ACH beds during the first two full federal fiscal years (FFYs). The following table illustrates projected utilization during the first and second full FFY.

**Projected Utilization: NF beds  
 First and Second Operating Years**

	<b>OY1 FFY 2020</b>	<b>OY2 FFY 2021</b>
Patient Days	24,629	25,119
# of bed	74	74
Occupancy Rate	91.18%	93.0%

**Projected Utilization: ACH Beds  
 First and Second Operating Years**

	<b>OY1 FFY 2020</b>	<b>OY2 FFY 2021</b>
Patient Days	19,837	19,837
# of bed	57	57
Occupancy Rate	95.35%	95.35%

As shown in the tables above, in the second full FFY of operation, the applicants project the 74 NF beds will operate at 93.0% of capacity [ $25,119/365/74 = .9299$  or 93.0%] and the 57 ACH beds will operate at 95.35% of capacity [ $19,837/365/57 = .95347$  or 95.35%]

In Section III, pages 25-27, Section IV, pages 39-43, and referenced exhibits the applicants provide the methodology and assumptions underlying the projected utilization, which are summarized below:

- Applied a net average fill-up rate of four patients per week for the NF beds during the fill up period. (See Exhibit 27)
- Current waiting list of 40 patients for Peak Resources-Cherryville. (See page 27 of the application.)
- Occupancy rate at Peak Resources-Cherryville of 90.35% over the last nine months which is basically functional capacity of the NF beds when, *“the constant turnover of beds that is necessarily created by the provision of services to short term rehabilitation*

*patients, results in a shortage of beds for those requiring long term placement.” (See page 27 of the application)*

- 65+ is the population most likely to require nursing facility services. In Gaston County, Peak Resources-Cherryville is located in the 28021 ZIP code. Population data from Claritas shows that the 65+ age group is projected to grow by 15.5% in the 28021 zip code from 2017 to 2022. Further, the percentage of the population in the 28021 zip code 65+ is the highest of any zip code in Gaston County at 21.43%. (See Exhibit 13 and Section III, pages 26-27 of the application.)
- 705 of the NF beds within Gaston County are in Gastonia with an average occupancy rate of 86.96%. (See Exhibit 11-12 and Section III, page 25 of the application)
- 161 of the NF beds within Gaston County are in Cherryville with an average occupancy rate of 89.96%. (See Exhibit 11-12 and Section III, page 25 of the application)

Projected utilization of the NF beds is based on reasonable and adequately supported assumptions.

**Access**

In Section VI, pages 52-53, the applicants state *“Services are provided on a first come first serve basis...Financial circumstances have no bearing on the resident status. A private pay patient that becomes Medicaid eligible will simply have their services paid by the Medicaid program...There have been no civil rights complaints filed against this facility.”*

In Section VI.12, page 52, the applicants project the following payor mix for the proposed services during the second full fiscal year of operation following completion of the project, as shown in the table below.

**Projected Payor Mix in FFY2021: Projected Days as a % of Total Days**

Payor Source	Nursing Patients	ACH Patients- (Non-SCU)	ACH Patients- (SCU)
Medicaid	43.41%	N/A	N/A
Medicare	29.14%	N/A	N/A
County Assistance	N/A	38.47%	47.40%
VA/CHAMPUS	N/A	N/A	N/A
Commercial Insurance (RPA)	10.87%	N/A	N/A
Other-Hospice	4.95%	N/A	N/A
Private Pay	11.63%	61.53%	52.60%
Total	100.0%	100.0%	100.0%

The projected payor mix is reasonable and adequately supported.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicants adequately identified the population to be served.
  - The applicants adequately explain why the population to be served needs the services proposed in this application.
  - Projected utilization is reasonable and adequately supported.
  - The applicants project the extent to which all residents, including underserved groups, will have access to the proposed services (payor mix) and adequately supports its assumption
- (3a) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the applicant shall demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care.

## C

Pursuant to Policy NH-6: *Relocation of Nursing Facility Beds* of the 2017 SMFP the applicants propose to relocate 20 NF beds from Peak Resources-Gastonia to Peak Resources-Cherryville and construct a 20 bed addition at the Peak Resources-Cherryville facility for a total of 74 NF beds and 57 ACH beds at Peak Resources-Cherryville upon project completion.

According to Map Quest, Peak Resources-Cherryville is located 16.6 miles (a 25 minute drive) from Peak Resources-Gastonia. Therefore, the 20 NF beds would be geographically accessible to the same population currently served by Peak Resources-Gastonia. Currently, Peak Resources-Gastonia is licensed for 120 NF beds. In Section III.6, page 34, the applicants state that the patient census has been declining such that upon completion of the proposed project the patient census is expected to be less than 100 NF patients. Therefore, at the time the 20 NF beds are expected to be relocated from Peak Resources-Gastonia to the Peak Resources-Cherryville facility, 20 of the 120 NF beds at Peak Resources-Gastonia are projected to have no patients. If the 20 NF beds are empty, no patients will be effected by the relocation of the 20 NF beds. In addition, on page 34, the applicants state that, *“In the event there are more than 100 residents in the Gastonia facility at the time the additional Cherryville beds are placed on line, residents of Peak Resources-Gastonia will be offered placement in the Cherryville facility prior to satisfying the waiting list at Cherryville.”*

## **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the applicants adequately demonstrate that:

- The needs of the population currently using the services to be reduced, eliminated or relocated will be adequately met following project completion.
- The project will not adversely impact the ability of underserved groups to access these services following project completion.

- (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 28-29, the applicants describe the alternatives considered and explains why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need. The alternatives considered were:

- Maintain the Status Quo- The applicants state that the current location of the NF beds in the two Gaston County facilities does not reflect and effectively meet the demand for the NF beds within Gaston County. Therefore, maintaining the status quo is not an effective alternative.
- Relocate the existing Peak Resources-Gastonia facility to a new facility within the 28054 ZIP code- The applicants state that this alternative would not provide the most effective distribution of NF beds within Gaston County. In addition, the cost of developing a new facility would be cost prohibitive. Therefore, developing a new facility and relocating all of the NF beds from Peak Resources-Gastonia to the new facility is not the least costly or most effective alternative.
- Relocate 20 NF beds from Peak Resources-Gastonia to Peak Resources-Cherryville and construct a 20 bed addition at Peak Resources-Cherryville- Both facilities have common ownership which permits a unique understanding of the patient needs and economics of both facilities. The applicants state that this was the most economical and practical alternative to meet the need for additional beds at Peak Resources-Cherryville. This was the least costly and most effective alternative.

On page 29, the applicants state that the proposal is the most effective alternative because *“there is clearly a need for additional beds at Peak Resources- Cherryville, which will allow*

*more residents from Gaston County to be housed in a newly constructed physical plan that, virtually by definition, is more conducive to patient care.”*

The applicants adequately demonstrate that the alternative proposed in this application is the most effective alternative to meet the need because the proposed project is both the most economically feasible and the most practical from a bed distribution standpoint.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above. Therefore, the application is approved subject to the following conditions:

- 1. Century Care of Cherryville, Inc. and Peak Resources Realty-Gaston, LLC shall materially comply with all representations made in the certificate of need application and any supplemental responses. In the event that representations conflict, Century Care of Cherryville, Inc. and Peak Resources Realty-Gaston, LLC shall materially comply with the last made representation.**
- 2. Century Care of Cherryville, Inc. and Peak Resources Realty-Gaston, LLC shall relocate no more than 20 nursing facility beds from Peak Resources-Gastonia to Peak Resources-Cherryville.**
- 3. Century Care of Cherryville, Inc. and Peak Resources Realty-Gaston, LLC shall ensure that upon the 20 nursing facility beds being relocated from Peak Resources-Gastonia to Peak Resources-Cherryville that those 20 nursing facility beds will be delicensed from Peak Resources-Gastonia such that upon project completion Peak Resources-Gastonia is licensed for no more than 100 nursing facility beds.**
- 4. Upon completion of the project, Peak Resources-Cherryville, shall be licensed for no more than 74 nursing facility beds and 57 adult care home beds**
- 5. For the first two years of operation following completion of the project, Peak Resources-Cherryville shall not increase private pay charges more than 5% of the projected private pay charges provided in Section X of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.**

6. **No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, Century Care of Cherryville, Inc. dba Peak Resources-Cherryville and Peak Resources Realty-Gaston, LLC shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:**
  - a. **Payor mix for the services authorized in this certificate of need.**
  - b. **Utilization of the services authorized in this certificate of need.**
  - c. **Revenues and operating costs for the services authorized in this certificate of need.**
  - d. **Average gross revenue per unit of service.**
  - e. **Average net revenue per unit of service.**
  - f. **Average operating cost per unit of service.**
  
7. **Century Care of Cherryville, Inc. dba Peak Resources-Cherryville and Peak Resources Realty-Gaston, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency 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

Pursuant to Policy NH-6: *Relocation of Nursing Facility Beds* of the 2017 SMFP the applicants propose to relocate 20 NF beds from Peak Resources-Gastonia to Peak Resources-Cherryville and construct a 20 bed addition at the Peak Resources-Cherryville facility for a total of 74 NF beds and 57 ACH beds at Peak Resources-Cherryville upon project completion.

**Capital and Working Capital Costs**

In Section VIII, page 66, the applicants project the total capital cost of the project as shown in the table below.

Site Costs	\$200,000
Construction Costs	\$704,900
Equipment	\$200,000
Consultant Fees	\$132,500
Interest During Construction	\$61,870
<b>Total</b>	<b>\$1,299,270</b>

In Exhibit 33, the applicants provide the assumptions used to project the capital cost.

In Section IX, page 71, the applicants project there will be no working capital costs (start-up and initial operating expenses) as Peak Resources-Cherryville is an existing facility.

**Availability of Funds**

In Section VIII.2, page 67, and in supplemental information, the applicants state that the capital cost will be funded as shown in the table below.

<b>Sources of Capital Cost Financing</b>		
<b>Type</b>	<b>Peak Resources Realty-Gaston, LLC</b>	<b>Total</b>
Loans	\$1,299,270	\$1,299,270
<b>Total Financing</b>	<b>\$1,299,270</b>	<b>\$1,299,270</b>

**Financial Feasibility**

The applicants provided pro forma financial statements for the first two full federal fiscal years of operation following completion of the project. In the pro forma financial statement (Form B), the applicants project that revenues will exceed operating expenses in the first and second operating years of the project, as shown in the table below.

	<b>1<sup>st</sup> Full Fiscal Year (FFY 2020)</b>	<b>2<sup>nd</sup> Full Fiscal Year (FFY 2021)</b>
Total Patient Days	44,466	44,956
Total Revenues (Charges)	\$10,309,115	\$10,408,398
Total Net Revenue	\$10,596,364	\$10,703,354
Average Net Revenue per patient day	\$238.30	\$238.08
Total Operating Expenses (Costs)	\$10,369,481	\$10,457,399
Average Operating Expense per patient day	\$233.20	\$232.61
Net Income	\$226,883	\$245,955

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

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicants adequately demonstrate that the capital costs are based on reasonable and adequately supported assumptions.
  - The applicants adequately demonstrate availability of sufficient funds for the capital needs of the proposal.
  - The applicants adequately demonstrate sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.
- (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

Pursuant to Policy NH-6: *Relocation of Nursing Facility Beds* of the 2017 SMFP the applicants propose to transfer 20 NF beds from Peak Resources-Gastonia to Peak Resources-Cherryville and construct a 20 bed addition at the Peak Resources-Cherryville facility for a total of 74 NF beds and 57 ACH beds at Peak Resources-Cherryville upon project completion.

On page 191, the 2017 SMFP defines the service area for nursing facility beds as “*A nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*” Thus, the service area for this facility is Gaston County. Facilities may also serve residents of counties not included in their service area.

Table 10A *Inventory of Nursing Home and Hospital Nursing Care Beds* in the 2017 SMFP, page 197, lists a total of 11 nursing facilities in Gaston County with a combined total of 984 NF beds (972 existing and 12 approved), as shown in the table below.

<b>2017 SMFP NF Inventory &amp; 2020 Need Projections Gaston County</b>	
# Facilities	11
# Beds in Nursing Homes	972
# Beds in Hospitals	0
Total Licensed Beds	972
Total CON Approved/License Pending	12
Total # Available	984
Sum of Exclusions	50
Total # in Planning Inventory	934
Projected Bed Utilization with Vacancy Factor in 2020*	886
Projected Bed <b>Surplus</b> 2020*	<b>48</b>

\*Source: Table 10C, page 213, 2017 SMFP

The applicants do not propose to develop new NF beds, but rather to relocate 20 existing licensed NF beds between existing facilities in Gaston County. There is a waiting list of 40

patients for Peak Resources-Cherryville. (See page 27 of the application.) Furthermore, Peak Resources-Gastonia is currently licensed for 120 NF beds. In Section III.6, page 34, the applicants state that the patient census at Peak Resources-Gastonia has been declining such that upon completion of the proposed project the patient census is expected to be less than 100 NF patients.

The proposed project would not result in the unnecessary duplication of existing or approved NF bed services in the Gaston County service area based on the fact that: 1) the proposed project will not increase the inventory of NF beds in Gaston County; 2) There is an existing waiting list of 40 patients at Peak Resources- Cherryville; and 3) The patient census at the 120 NF bed Peak Resources-Gastonia facility is decreasing such that the patient census at this facility is expected to be less than 100 NF patients upon completion of the proposed project.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

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

### C

In Section VII, pages 56-62, the applicants provide current and projected staffing for the proposed services as illustrated in the following table.

Position	Current	2 <sup>nd</sup> Full Fiscal Year
	July 31, 2017	10/1/2020 – 9/30/21
Director of Nursing	1.00	1.00
Nurse Liaison	1.00	1.00
Staff Develop. Coordin.	1.00	1.00
RNs	2.80	2.80
Nursing Sup/SCU Coord.	2.80	2.80
LPNs	12.60	16.80
Certified Nursing Assist.	33.60	42.00
MDS Coordinator	2.00	2.00
Medical Records Coord.	0.20	1.00
Medication Aide	12.60	12.60
Ward Secretary	1.00	1.00
Social Services Director	1.00	1.00
Activity Director	1.00	1.00
Activity Assistants	1.00	1.00
Maintenance Sup	1.00	1.00
Administrator	1.00	1.00
Payroll	1.00	1.00
Admissions/Move In/Acc	1.00	1.00
Bookkeeper	1.00	1.00
Receptionist/HR	1.40	1.40
<b>TOTAL</b>	<b>80.80</b>	<b>93.40</b>

Source: Tables VII.1 and VII.3 in Section VII of the application.

The assumptions and methodology used to project staffing are provided in Section VII. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in the pro formas. In Section VII, page 64, and Exhibit 9, the applicants describe the methods used to recruit or fill new positions and its existing training and continuing education programs. In Exhibit 19 the applicant identifies the current medical director and provides a letter indicating an interest in continuing to serve as medical director for the proposed services.

The applicants adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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 Section II.4, pages 21-22, the applicants state that the following ancillary and support services are necessary for the proposed services: physical, occupational and speech therapy, pharmacy, housekeeping and laundry, and dietary.

On pages 21-22, the applicants adequately explain how each ancillary and support service is or will be made available and provides supporting documentation in Exhibit 8.

In Section V, pages 47-48, the applicants describe the existing and proposed relationships with other local health care and social service providers and provides supporting documentation in Exhibits 17-21.

The applicants adequately demonstrate that the proposed services will be coordinated with the existing health care system.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that 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

The applicants do not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicants do not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the

North Carolina county in which the services will be offered. Therefore, Criterion (9) is not applicable to this review.

- (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

The applicants are not a HMO. Therefore, Criterion (10) is not applicable to this review.

- (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

In Section XI, pages 93-95, the applicants state that the project involves constructing 5,035 square feet of new space for a total facility of 69,010 square feet. Line drawings are provided in Exhibit 32.

On pages 66 and 93-95, the applicants adequately explain how the cost, design and means of construction represent the most reasonable alternative for the proposal and provides supporting documentation in Exhibit 33.

On pages 28-29, the applicants adequately explain why the proposal will not unduly increase the costs to the applicant of providing the proposed services or the costs and charges to the public for the proposed services and provides supporting documentation in Exhibit 33.

On page 33, the applicants identify any applicable energy saving features that will be incorporated into the construction plans and provides supporting documentation in Exhibit 33.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that 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;

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In Section VI, page 51, the applicants report that in the last FFY (2016) at Peak Resources-Cherryville 72.63% of the NF patients had some or all of their services paid for by Medicare or Medicaid and that 38.47% of the ACH patients not in a SCU bed and 47.4% of ACH patients in a SCU bed had some or all of their services paid for by County Assistance, as illustrated in the table below.

**Historical Payor Mix in FFY2016: Current Days as a % of Total Days**

Payor Source	Nursing Patients	ACH Patients-(Non-SCU)	ACH Patients-(SCU)
Medicaid	30.65%	N/A	N/A
Medicare	41.98%	N/A	N/A
County Assistance	N/A	38.47%	47.40%
VA/CHAMPUS	N/A	N/A	N/A
Commercial Insurance (RPA)	15.66%	N/A	N/A
Other-Hospice	3.5%	N/A	N/A
Private Pay	8.21%	61.53%	52.60%
Total	100.0%	100.0%	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 applicants service area.

Percent of Population						
County	% 65+	% Female	% Racial & Ethnic Minority*	% Persons in Poverty**	% < Age 65 with a Disability	% < Age 65 without Health Insurance**
	2016 Estimate	2016 Estimate	2016 Estimate	2015 Estimate	2011-2015	2015 Estimate
Gaston	16%	52%	27%	17%	12%	13%
Cleveland	18%	52%	27%	20%	12%	13%
Lincoln	17%	50%	15%	13%	12%	14%
Statewide	16%	51%	37%	16%	10%	13%

Source: <http://www.census.gov/quickfacts/table> Latest Data 7/1/16 as of 8/22/17

\*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., V2016) refers to the final year of the series (2010 thru 2016). Different vintage years of estimates are not comparable."

However, a direct comparison to the applicants current payor mix would be of little value. The population data by age, race or gender does not include information on the number of elderly, minorities, women or handicapped persons utilizing health services.

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the applicants adequately document the extent to which medically underserved populations currently use the applicants existing services in comparison to the percentage of the population in the applicants service area which is medically underserved. 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 V.6, page 53, and supplemental information, the applicants state that during the last five years no patient civil rights access complaints have been filed against the

facility or any similar facilities owned by the applicant or a related entity and located in North Carolina.

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that 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.12, page 52, the applicants project the following payor mix for the proposed services during the second full fiscal year of operation following completion of the project, as shown in the table below.

**Projected Payor Mix in FFY2021: Projected Days as a % of Total Days**

Payor Source	Nursing Patients	ACH Patients-(Non-SCU)	ACH Patients-(SCU)
Medicaid	43.41%	N/A	N/A
Medicare	29.14%	N/A	N/A
County Assistance	N/A	38.47%	47.40%
VA/CHAMPUS	N/A	N/A	N/A
Commercial Insurance (RPA)	10.87%	N/A	N/A
Other-Hospice	4.95%	N/A	N/A
Private Pay	11.63%	61.53%	52.60%
Total	100.0%	100.0%	100.0%

As shown in the table above, during the second full fiscal year of operation, the applicant projects that 11.63% of total nursing services will be provided to self-pay patients, 29.14% to Medicare patients and 43.41% to Medicaid patients.

On page 52, the applicants provide the assumptions and methodology used to project payor mix during the second full fiscal year of operation following completion of the project. The projected payor mix is reasonable and adequately supported because it's based on historical payor mix and operational experience.

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that 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 53, the applicants adequately describe the range of means by which patients will have access to the proposed services.

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that 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.

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In Section V, page 47, the applicants describe the extent to which health professional training programs in the area have access to the facility for training purposes and provides supporting documentation in Exhibit 17.

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the applicants adequately demonstrate that the proposed services will accommodate the clinical needs of area health professional training programs, and therefore, the application is conforming to this criterion.

- (15) Repealed effective July 1, 1987.
- (16) Repealed effective July 1, 1987.
- (17) Repealed effective July 1, 1987.
- (18) Repealed effective July 1, 1987.
  
- (18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

C

Pursuant to Policy NH-6: *Relocation of Nursing Facility Beds* of the 2017 SMFP the applicants propose to transfer 20 NF beds from Peak Resources-Gastonia to Peak Resources-Cherryville and construct a 20 bed addition at the Peak Resources-Cherryville facility for a total of 74 NF beds and 57 ACH beds at Peak Resources-Cherryville upon project completion.

On page 191, the 2017 SMFP defines the service area for nursing facility beds as “*A nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*” Thus, the service area for this facility is Gaston County. Facilities may also serve residents of counties not included in their service area.

Table 10A *Inventory of Nursing Home and Hospital Nursing Care Beds* in the 2017 SMFP, page 197, lists a total of 11 nursing facilities in Gaston County with a combined total of 984 NF beds (972 existing and 12 approved), as shown in the table below.

<b>2017 SMFP NF Inventory &amp; 2020 Need Projections Gaston County</b>	
# Facilities	11
# Beds in Nursing Homes	972
# Beds in Hospitals	0
Total Licensed Beds	972
Total CON Approved/License Pending	12
Total # Available	984
Sum of Exclusions	50
Total # in Planning Inventory	934
Projected Bed Utilization with Vacancy Factor in 2020*	886
Projected Bed <b>Surplus</b> 2020*	<b>48</b>

\*Source: Table 10C, page 213, 2017 SMFP

The applicants do not propose to develop new NF beds, but rather to relocate 20 existing licensed NF beds between existing facilities in Gaston County. The proposed project will not increase the inventory of NF beds in Gaston County.

In Section V.6, pages 49-50, the applicants describe the expected effects of the proposed services on competition in the service area and discusses how any enhanced competition in the service area will promote the cost-effectiveness, quality and access to the proposed services.

In Section V.6, page 49, the applicants describe the expected effects of the proposed services on competition in the service area and discusses how any enhanced competition in the service area will promote the cost-effectiveness, quality and access to the proposed services. On page 50, the applicants state *“Given the positive impact this project will have on Peak Resources-Cherryville, and the ‘neutral’ impact that will be realized at Peak Resources-Gastonia, the overall impact to the county will be positive relative to cost effectiveness, quality of care, and access to healthcare services to the medically underserved.”*

In Section V.6, pages 49-50, the applicants adequately describe the expected effects of the proposed services on competition in the service area and adequately demonstrates:

- The cost-effectiveness of the proposal
- Quality services will be provided
- Access will be provided to underserved groups

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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 Exhibit 6, and supplemental information the applicants state that they currently own, lease, or manage 7 facilities in North Carolina. According to the files in the Nursing Home Licensure and Certification Section, DHSR, a total of one incident occurred at Peak Resources-Outer

Banks, Inc. within the eighteen months immediately preceding submission of the application through the date of this decision related to quality of care. As of the date of this decision, the problems had been corrected. After reviewing and considering information provided by the applicants and by the Nursing Home Licensure and Certification Section and considering the quality of care provided at all 7 facilities, the applicants 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 Criteria and Standards for Nursing Facility or Adult Care Home Facility Services promulgated in 10A NCAC 14C .1100 are applicable because the applicants propose to add nursing facility beds at an existing facility.

### **SECTION .1100 – CRITERIA AND STANDARDS FOR NURSING FACILITY OR ADULT CARE HOME SERVICES**

#### **10A NCAC 14C .1102 PERFORMANCE STANDARDS**

(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.

-C- The applicants propose to add nursing facility beds to the existing Peak Resources-Cherryville facility. In Section IV.1, page 39, the applicants document that 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 Peak Resources-Cherryville facility in which the new beds are to be operated was at least 90 percent as summarized in the table below.

**Peak Resources-Cherryville- Historical Utilization for 11/1/2016 to 7/31/2017**

	<b>Totals for 11/1/16 – 7/31/17</b>
# of NF beds	54
Patient Days (last 9 months or 273 days)	13,320
Occupancy Rate*	96%

Table Source: Section IV.1, page 39

\*Occupancy Rate Calculation: Total Days/ 273 / # of beds.

(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- The applicants propose to add nursing facility beds to the existing Peak Resources-Cherryville facility. In Section IV.2, pages 42-43, the applicants project occupancy is to be at least 90 percent for the total number of nursing facility beds proposed to be operated, for the first two years following the completion of the proposed project as shown in the table below.

**Peak Resources-Cherryville- Projected Utilization for OY1 and OY2**

	<b>OY1 10/1/2019 – 9/30/2020</b>	<b>OY2 10/1/2020 – 9/30/2021</b>
# of NF beds	74	74
Patient Days	24,629	25,119
Occupancy Rate	91.18%	93.0%

Table Source: Section IV, pages 42-43.

\*Occupancy Rate Calculation: Total Days/365/# of beds.

In Section III, pages 25-29, Section IV, pages 39-46, the applicants provide the methodology and assumptions underlying the projected utilization

(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 applicants are not proposing to add adult care home beds to an existing facility.

(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 stated.

-NA- The applicants are not proposing to establish a new adult care home facility or add adult care home beds to an existing facility.