

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: November 26, 2018

Findings Date: November 26, 2018

Project Analyst: Gregory F. Yakaboski

Team Leader: Gloria Hale

Project ID #: F-11549-18

Facility: Rowan County Health & Rehabilitation Center

FID #: 180374

County: Rowan

Applicant(s): Britthaven, Inc.

Hillco, Ltd.

Granite Falls LTC, LLC

Project: Develop a new 89-bed nursing facility, including a 30-bed SCU, by relocating 49 NF beds from Premier Nursing & Rehabilitation Center (Onslow County), 20 NF beds from Jacob's Creek Nursing & Rehabilitation Center (Rockingham County) and 20 NF beds from Chowan River Nursing & Rehabilitation Center (Chowan County)

### 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

Britthaven, Inc. (Britthaven), Hillco, Ltd (Hillco) and Granite Falls LTC, LLC (Granite Falls) (also known collectively as the applicants) propose to develop a new 89-bed nursing facility in Rowan County, including a 30-bed SCU, by relocating 49 NF beds from Premier Nursing & Rehabilitation Center (Onslow County), 20 NF beds from Jacob's Creek Nursing & Rehabilitation Center (Rockingham County) and 20 NF beds from Chowan River Nursing & Rehabilitation Center (Chowan County). The new 89 bed NF would be known as Rowan

County Health & Rehabilitation Center (RCHRC). Britthaven is a 100% owned subsidiary of Hillco and will own the building. Granite Falls will operate the facility.

### **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 2018 State Medical Facilities Plan (2018 SMFP). Therefore, there are no need determinations applicable to this review.

### **Policies**

The following three policies are applicable to this review:

- **Policy NH-6: Relocation of Nursing Facility Beds**
- **Policy NH-8: Innovations in Nursing Home Design**
- **Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities**

**Policy NH-6: Relocation of Nursing Facility Beds**, on page 25 of the 2018 SMFP, states:

*“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.”*

In Section B, pages 16-17, the applicants explain why they believe their application is conforming to Policy NH-6: Relocation of Nursing Facility Beds. On page 17, the applicants state that relocating the 89 NF beds in total from Chowan, Onslow and Rockingham counties to Rowan County will neither create a deficit in any of the counties from which the NF beds are being relocated nor will it create a surplus of NF beds in Rowan County, as illustrated in the table below:

County	NF Bed Surplus/(Deficit) in 2018 SMFP*	Proposed NF Bed Relocation to Rowan County	Surplus/(Deficit) after Relocation of NF Beds to Rowan County
Chowan	42	20	22
Onslow	144	49	95
Rockingham	43	20	23
Rowan	(89)	89	0

\*Source: 2018 SMFP, Table 10C and Tables on page 17 of the application.

Therefore, the application is consistent with Policy NH-6.

**Policy NH-8: Innovations in Nursing Facility Design**, on page 25 of the 2018 SMFP, states:

*“Certificate of need applicants proposing new nursing facilities and replacement nursing facilities shall pursue innovative approaches in environmental design that address quality of care and quality of life needs of the residents. These plans could include innovative design elements that encourage less institutional, more home-like settings, privacy, autonomy and resident choice, among others.”*

In Section B, pages 19-21, the applicants explain why they believe their application is conforming to Policy NH-8: Innovations in Nursing Facility Design. On page 19, the applicants state,

*“To facilitate the optimal environmental design and address both the articulated and unarticulated needs of the buildings [sic] population (including patients, staff, and visitors) we will use the latest in Design Thinking methodologies to gather information and create an end user focused design and optimal patient environment.”*

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

**Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities**, on page 33 of the 2018 SMFP, states:

*“Any person proposing a capital expenditure greater than \$2 million to develop, replace, renovate, or add to a health service facility pursuant to G.S. 131E-178 shall include in its certificate of need application a written statement describing the project’s plan to assure improved energy efficiency and water conservation.*

*In approving a certificate of need proposing an expenditure greater than \$5 million to develop, replace, renovate, or add to a health service facility pursuant to G.S. 131E-178, Certificate of Need 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 is required to submit a plan for energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant's representation in the written statement as described in paragraph one of Policy-GEN 4. The plan shall not adversely affect patient or resident health, safety, or infection control."*

In Section B, pages 24-25, the applicants explain why they believe their application is conforming to Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities. On pages 24-25, the applicants provide a written statement describing the proposed project's plan to assure improved energy efficiency and water conservation including solar panels, Energy Star rated appliances, motion sensing switches for lighting, programmable and lockable thermostats, low flow plumbing fixtures, rainwater harvesting irrigation systems and xeriscaping-landscaping techniques.

The application is consistent with Policy GEN-4.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments

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 proposal is consistent with Policy NH-6 because the applicants demonstrate that relocating the 89 NF beds from Chowan, Onslow and Rockingham counties to Rowan County will not create a deficit in any of the counties from which the NF beds are being relocated from nor will it create a surplus of NF beds in Rowan County.
- The applicants adequately demonstrate that the proposal is consistent with Policy NH-8 because the applicants demonstrate that the proposed project shall pursue innovative approaches in environmental design that address quality of care and quality of life needs of the residents. These plans could include innovative design elements that encourage less institutional, more home-like settings, privacy, autonomy and resident choice, among others.
- The applicants adequately demonstrate that the proposal is consistent with Policy GEN-4 because they provide a written statement describing the project's plan to assure improved energy efficiency and water conservation.

- (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.

NC

The applicants propose to develop a new 89-bed nursing facility in Rowan County, including a 30-bed SCU, by relocating 49 NF beds from Premier Nursing & Rehabilitation Center (Onslow County), 20 NF beds from Jacob's Creek Nursing & Rehabilitation Center (Rockingham County) and 20 NF beds from Chowan River Nursing & Rehabilitation Center (Chowan County).

**Patient Origin**

On page 183, the 2018 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 consists of Rowan County. Facilities may also serve residents of counties not included in their service area.

The following table illustrates current and projected patient origin.

**Projected Patient Origin: OY3 (FFY 2024)**

County	General NF Beds		SCU NF Beds	
	# of Patients	% of Total Patients	# of Patients	% of Total Patients
Rowan	45	82%	21	75%
Cabarrus	3	5%	1	3.6%
Iredell	1	2%	1*	3.6%
Davidson	1	2%	1*	3.6%
Davie	1	2%	1*	3.6%
Stanly	1	2%	1*	3.6%
Mecklenburg	1	2%	1*	3.6%
Other	2	3%	1	3.6%
<b>Total</b>	<b>55</b>	<b>100%</b>	<b>28</b>	<b>100%</b>

Source: Table on page 27 of the application. The number of patients was totaled incorrectly in the application. The patient totals and percent of total patients have been corrected.

\*In the Table on page 27 the number of patients is listed as “0”. However, given the other information in this table, in Section Q and throughout the application, the number of projected patients for the SCU NF Beds for Iredell, Davidson, Davie, Stanly and Mecklenburg counties should be “1” for OY3 (FFY 2024).

In Section C, page 28, and Exhibit C.3, the applicants provide the assumptions and methodology used to project patient origin. The applicants assumptions are reasonable and adequately supported.

### **Analysis of Need**

In Section C, pages 29-35, the applicants explains why they believe the population projected to utilize the proposed services needs the proposed services. On pages 30-32 the applicants performed a township analysis or “intra-county geographic” analysis of need for Rowan County and state that the distribution of NF beds in Rowan County results in several areas with a need for NF beds but which have no NF beds. The applicants propose to locate the new facility within China Grove Township as the township within Rowan County with the largest projected NF bed deficit and which also is contiguous to Atwell Township which has the second largest projected NF bed deficit in Rowan County. On pages 29-35, the applicant states that in Rowan County and several of the surrounding counties from which the applicants are projecting patients to originate from, the population of the 65+ age group and the 75+ age group are projected to increase as shown in the table on page 29 of the application. The projected increases for Rowan and Cabarrus counties are set forth below:

- In Rowan County, the population of the 65+ age group is projected to increase by 5,282 residents or by 21.5% from 2018 to 2025 and the population of the 75+ age group is projected to increase by 2,522 residents or 25.3% for the same period. (See page 29 of the application).
- In Cabarrus County, the population of the 65+ age group is projected to increase by 8,743 residents or by 31.3% from 2018 to 2025 and the population of the 75+ age group is projected to increase by 4,183 residents or 38.1% for the same period. (See page 29 of the application).

The 2018 SMFP projects a deficit of 89 NF beds in Rowan County for 2021. See Table 10C, page 207 of the 2018 SMFP.

### *Need for Special Care Unit (SCU) beds*

The applicant states that the Alzheimer’s Association reports that the percentage of people with Alzheimer’s Disease and Related Dementia (ADRD) increase with age:

- 3% of people ages 65-74
- 17% of people ages 75-84
- 32% of people ages 85 and older

Rowan County only has 5.51 SCU ADRD beds per 1,000 individuals age 65+ with Alzheimer’s Disease or, said alternatively, in 2018 2,540 residents of Rowan County will have Alzheimer’s Disease yet there are only 14 SCU beds available to the community in general in Rowan County.

Secure SCU beds allow a facility to address specific behaviors associated with Alzheimer’s such as aggression, thus better ensuring the safety of all the nursing facility residents. In addition, *“targeted activities and dining programs can be delivered directly to this population in an environment that is designed to both stimulate senses and mitigate negative circumstances and outcomes caused by the disease’s pathology (such as sundowning, also known as “late day confusion.”)* (See application pages 34-35)

The information is reasonable and adequately supported for the following reasons:

- The 2018 SMFP shows an 89 NF bed deficit in Rowan County for 2021. The proposed project is projected to start offering services on October 1, 2021.
- The projected population of the 65+ and 75+ age groups in Rowan County and surrounding counties is projected to grow from 2018 to 2025.
- The percentage of people with Alzheimer’s Disease increases per age group, including 17% of the people in the 75-84 age group.

*Projected Utilization*

In Section Q, the applicants provide projected utilization as illustrated in the following table.

	<b>OY1</b> 10/1/21 – 9/30/22	<b>OY2</b> 10/1/22 – 9/30/23	<b>OY3</b> 10/1/23 – 9/30/23
<b>NF Beds: Non-SCU</b>			
# of Beds	59	59	59
Days of Care	10,767	19,382	19,382
Occupancy Rate	50%	90%	90%
<b>NF Beds: SCU</b>			
# of Beds	30	30	30
Days of Care	5,475	9,855	9,855
Occupancy Rate	50%	90%	90%
<b>Total Facility</b>			
Total # of Beds	89	89	89
Total Days of Care	16,242	29,237	29,237
Overall Occupancy Rate	50%	90%	90%

Source: Section Q, Table C.

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

In Section C, pages 27-28, Exhibits C.3 and C.7, and in Section Q, the applicant provides the assumptions and methodology used to project utilization, which is summarized below.

- To project utilization for OY1 the applicants utilized the historic experience of another facility of a related entity, Clear Creek Nursing and Rehab, in Mecklenburg County. This facility had a 59% occupancy by the end of its first year of operation. The applicants project 50% occupancy by the end of OY1 for the proposed project.

- To project utilization for OY2, the applicants relied on historical data from four nursing facilities as follows:
  1. Liberty Health Care in Kernersville- filled up at an average of 13 residents per month.
  2. Huntersville Health & Rehabilitation Center- filled up at an average of 14.6 residents per month.
  3. Autumn Care of Cornelius- which averaged an occupancy of just under 90% in OY2 or an average of 91 patients.
  4. Springbrook Nursing and Rehab, operated by a related entity to the applicants, averaged 10 admissions per week in OY2 and 12.6 per week in OY3.
  
- The applicants' projected utilization for OY3 is the same as OY2.

However, projected utilization is not reasonable and adequately supported for the following reasons:

- The applicants do not provide any assumptions or methodology to project the occupancy rate for their proposed SCU beds.
  - There is no information provided in Section C, Section Q, or any other part of the application as submitted to explain how the applicants determined the projected utilization of the proposed SCU beds.
  - The applicants state that they used the experience of a nursing facility in Mecklenburg County, Clear Creek, to project their Year 1 utilization. In Exhibit C.7, the applicants provide the utilization regarding the total number of admissions/discharges, without specifying if any of those admissions or discharges are for SCU beds. However, in Section L, page 72, the applicants provide the historical patient origin for Clear Creek Nursing & Rehabilitation, which shows the facility does not have any SCU beds.
  - The applicants state in Section Q that they used the experience of other nursing facilities both in Mecklenburg County and in other counties to project their Year 2 utilization, and provide data in Exhibit C.7 for Huntersville Health & Rehabilitation Center, Autumn Care of Cornelius, and Summerstone Health & Rehabilitation (Summerstone). The applicants also referenced Springbrook Nursing and Rehabilitation (Springbrook). However, none of those facilities have SCU beds. In addition, the applicants' use of Summerstone's experience in Forsyth County and Springbrook's experience in Johnston County, both located in different Health Service Areas than the location of the proposed facility, is questionable.
  
- Pursuant to Session Law 2017-57, there is a moratorium on the issuance of SCU bed licenses by the Agency through June 30, 2019. According to the Agency's website<sup>1</sup> regarding SCU licenses, there is an exception process; however, as part of that process, the applicants will need to demonstrate that the request for an exception is "...consistent with the basic principles of safety and quality..." Even if the applicants had appropriately

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<sup>1</sup> <https://www2.ncdhhs.gov/dhsr/scumoratorium.html>, accessed on 10/26/2018.

projected SCU bed utilization in this application, due to the failure to demonstrate that quality care has been provided in the past, the applicants would not be approved for an exception to the moratorium. See the discussion regarding quality found in Criterion (20), which is incorporated herein by reference.

### Access

In Section C, page 37, the applicant states “*The applicants will accommodate all admissions for whom we are able to provide healthcare services.*” On page 73 the applicant states “*The applicants have shown disproportionate commitment to serving the Medically Underserved Medicaid population in North Carolina.*” In Section L, page 74, the applicant projects the following payor mix during the third full fiscal year of operation following completion of the project, as illustrated in the following table.

<b>Payor Category</b>	<b>NF Bed Patient Days as Percent of Total</b>
Medicaid*	66.5%
Medicare*	12.5%
Private Pay	15.0%
Other (Medicare Ad)	6.0%
<b>Total</b>	<b>100.0%</b>

Source: Table on page 74 of the application.

\*Including any managed care plans.

The projected payor mix is reasonable and adequately supported.

### Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to this criterion because projected utilization is not reasonable and not adequately supported.

- (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.

The applicants propose to develop a new 89-bed nursing facility in Rowan County, including a 30-bed SCU, by relocating 49 NF beds from Premier Nursing & Rehabilitation Center (Onslow County), 20 NF beds from Jacob's Creek Nursing & Rehabilitation Center (Rockingham County) and 20 NF beds from Chowan River Nursing & Rehabilitation Center (Chowan County).

Relocating the 89 NF beds in total from Chowan, Onslow and Rockingham counties to Rowan County will neither create a deficit in any of the counties from which the NF beds are being relocated nor will it create a surplus of NF beds in Rowan County as illustrated in the table below:

County	NF Bed Surplus/(Deficit) in 2018 SMFP*	Proposed NF Bed Relocation to Rowan County	Surplus/(Deficit) after Relocation of NF Beds to Rowan County
Chowan	42	20	22
Onslow	144	49	95
Rockingham	43	20	23
Rowan	(89)	89	0

\*Source: 2018 SMFP, Table 10C and Tables on page 17 of the application.

In Section D, page 42, the applicants explain why they believe the needs of the population presently utilizing the services to be reduced, eliminated or relocated will be adequately met following completion of the project. On page 42, the applicants state that no patients are currently using the beds proposed to be relocated and further states that the facilities have been unoccupied for the last fiscal year.

The applicants are only proposing to relocate a portion of the underutilized beds from each facility, not the total number of underutilized beds. Thus, there will continue to be capacity at each of the three facilities.

The applicants state, on page 42, that relocating some of the underutilized beds from each of the three NF facilities will permit “cost-effective renovation of space to create private rooms and enhanced common/activity areas” at each of the facilities, thereby creating increased privacy, increased space, and more modern, home-like settings.

In Section Q, the applicant provides projected utilization for the three nursing facilities from which NF beds will be relocated from, as illustrated in the following tables.

**Chowan County: Chowan River Nursing & Rehabilitation Center- 20 NF beds being relocated**

	<b>Prior FFY</b> 10/1/16 -9/30/17	<b>Interim FFY</b> 10/1/17 – 9/30/18	<b>OY1</b> 10/1/21 – 9/30/22	<b>OY2</b> 10/1/22 – 9/30/23	<b>OY3</b> 10/1/23 – 9/30/23
<b>NF Beds: Non-SCU</b>					
# of Beds	130	130	110	110	110
Days of Care	31,727	23,488	32,949	34,074	34,536
Occupancy Rate	66.9%	66.2%	82.1%	84.9%	86.0%
<b>NF Beds: SCU</b>					
# of Beds	0	0	0	0	0
Days of Care	na	na	na	na	na
Occupancy Rate	na	na	na	na	na
<b>Total Facility</b>					
Total # of Beds	130	130	110	110	110
Total Days of Care	31,727	23,488	32,949	34,074	34,536
Overall Occupancy Rate	66.9%	66.2%	82.1%	84.9%	86.0%

Source: Section Q, Form D.

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

**Onslow County: Premier Nursing & Rehabilitation Center- 49 NF beds being relocated**

	<b>Prior FFY</b> 10/1/16 -9/30/17	<b>Interim FFY</b> 10/1/17 – 9/30/18	<b>OY1</b> 10/1/21 – 9/30/22	<b>OY2</b> 10/1/22 – 9/30/23	<b>OY3</b> 10/1/23 – 9/30/23
<b>NF Beds: Non-SCU</b>					
# of Beds	209	209	160	160	160
Days of Care	50,004	34,301	49,813	52,272	54,531
Occupancy Rate	65.5%	60.1%	85.3%	89.5%	93.4%
<b>NF Beds: SCU</b>					
# of Beds	30	30	30	30	30
Days of Care	7,782	5,690	8,263	8,671	9,046
Occupancy Rate	71.1%	69.5%	75.5%	79.2%	82.6%
<b>Total Facility</b>					
Total # of Beds	239	239	190	190	190
Total Days of Care	57,768	39,991	58,076	60,943	63,577
Overall Occupancy Rate	66.2%	61.3%	83.7%	87.9%	91.7%

Source: Section Q, Form D.

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

**Rockingham County: Jacobs Creek Nursing & Rehabilitation Center- 20 NF beds being relocated**

	<b>Prior FFY</b> 10/1/16 -9/30/17	<b>Interim FFY</b> 10/1/17 – 9/30/18	<b>OY1</b> 10/1/21 – 9/30/22	<b>OY2</b> 10/1/22 – 9/30/23	<b>OY3</b> 10/1/23 – 9/30/23
<b>NF Beds: Non-SCU</b>					
# of Beds	170	170	150	150	150
Days of Care	48,678	36,245	50,961	52,693	54,266
Occupancy Rate	78.4%	78.1%	93.1%	96.2%	99.1%
<b>NF Beds: SCU</b>					
# of Beds	0	0	0	0	0
Days of Care	na	na	na	na	na
Occupancy Rate	na	na	na	na	na
<b>Total Facility</b>					
Total # of Beds	170	170	150	150	150
Total Days of Care	48,678	36,245	50,961	52,693	54,266
Overall Occupancy Rate	78.4%	78.1%	93.1%	96.2%	99.1%

Source: Section Q, Form D.

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

In Section Q, the applicants provide the assumptions and methodology used to project utilization, which is summarized below.

For each of the three facilities the applicants:

- 1<sup>st</sup>: Calculated the Average Daily Census (ADC) for FY18 and OY1 to OY3.
- 2<sup>nd</sup>: Calculated the projected percentage growth in the 75+ population group for each of the three counties for OY1 to OY3.
- 3<sup>rd</sup>: Advanced the current ADC by the projected percentage growth in the 75+ population group for each of the three counties for OY1 to OY3.

Projected utilization is reasonable and adequately supported because the applicants started with historical utilization and applied projected percentage growth, by year and by county, of an age group (75+) most likely to utilize the proposed services.

In Section D, pages 43-44, the applicants state, *“The reduction of NF beds from the facilities and counties identified will have no impact on any of the groups identified above [underserved groups]. ... The reduction (through relocation) of NF beds will not impede access in these counties. All counties from which beds will be removed will continue to have a NF-bed SURPLUS. Furthermore, the facilities themselves will still operate below maximum capacity based on utilization/occupancy trends.”*

**Conclusion**

The Agency reviewed the:

- Application

- Exhibits to the application
- Written comments
- Responses to comments

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.

NC

The applicants propose to develop a new 89-bed nursing facility in Rowan County, including a 30-bed SCU, by relocating 49 NF beds from Premier Nursing & Rehabilitation Center (Onslow County), 20 NF beds from Jacob's Creek Nursing & Rehabilitation Center (Rockingham County) and 20 NF beds from Chowan River Nursing & Rehabilitation Center (Chowan County).

In Section E, pages 46-47, the applicants state that they did not consider any other alternatives to develop the proposed project. The applicants state:

*“The need for the proposed project is specific to Rowan Co. The 2018 SMFP does not authorize the development of NEW NF beds to meet the identified NF-bed deficit. Therefore, the only way to address this need is through the relocation of existing underutilized NF beds from North Carolina counties with identified NF-bed SURPLUSES.”* (emphasis in original)

On pages 45-46, the applicants state that their proposal is the most effective alternative because there is no other option to address the demand for NF beds in Rowan County and because it allows for the relocation of NF beds from counties with NF bed surpluses to Rowan County which has a projected 89 NF bed deficit.

The applicants provide supporting documentation in Exhibit E.3(b).

However, the applicants do not adequately demonstrate that the alternative proposed in this application is the most effective alternative to meet the need for the following reason:

- The application is not conforming to all statutory and regulatory review criteria. An application that cannot be approved cannot be the most effective alternative.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to this criterion for the reasons stated above. Therefore, the application is denied.

- (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.

NC

The applicants propose to develop a new 89-bed nursing facility in Rowan County, including a 30-bed SCU, by relocating 49 NF beds from Premier Nursing & Rehabilitation Center (Onslow County), 20 NF beds from Jacob's Creek Nursing & Rehabilitation Center (Rockingham County) and 20 NF beds from Chowan River Nursing & Rehabilitation Center (Chowan County).

### **Capital and Working Capital Costs**

In Section Q, page 95, the applicants project the total capital cost of the project as shown in the table below.

Purchase Price of Land	\$1,273,000
Closing Costs	\$31,825
Site Preparation	\$1,528,508
Construction Contracts	\$10,043,189
Landscaping	\$60,259
Architect/Engineering Fees	\$581,598
Medical Equipment	\$173,738
Non-Medical Equipment	\$521,213
Furniture	\$694,950
Interest during construction	\$309,007
Other (specify)	\$50,000
<b>Total</b>	<b>\$15,267,286</b>

In Section Q, the applicants provide the assumptions used to project the capital cost.

In Section F, pages 49-50, the applicants project that start-up costs will be \$561,168 and initial operating expenses will be \$1,529,060 for a total working capital of \$2,090,228. On page 50,

the applicants provide the assumptions and methodology used to project the working capital needs of the project.

**Availability of Funds**

In Section F, page 48, the applicants state that the capital cost will be funded as shown in the table below.

**Sources of Capital Cost Financing**

Type	Britthaven	Total
Loans	\$15,267,286	\$15,267,286
<b>Total Financing</b>	<b>\$ 15,267,286</b>	<b>\$15,267,286</b>

In Section F, page 50, the applicants state that the working capital needs of the project will be funded as shown in the table below.

Sources of Financing for Working Capital		Amount
(b)	Cash or Cash Equivalents, Accumulated Reserves or Owner’s Equity	\$2,090,228
(e)	<b>Total *</b>	<b>[\$2,090,228]</b>

\*Project Analyst’s corrections are in brackets.

On page 48, the applicants state that the financing for the capital costs of the proposed project will come from loans. In Exhibit F.2 (b), the applicants provide a letter dated July 15, 2018 from the Senior Vice President of Wells Fargo Bank, N.A. which states:

*“As discussed, Britthaven, via its affiliate company, has access to a line of credit with Wells Fargo Bank, N.A. for the acquisition and construction of nursing homes. The amount of this line of credit is sufficient to cover the proposed capital expenditure and is currently available.”*

On pages 50 and 51, the applicants state that the financing for the working capital costs of the proposed project will come from “Cash or Cash Equivalents, Accumulated Reserves or Owner’s Equity”. On page 51 the applicant states: “The working capital will be funded from unrestricted cash of the applicant Granite Fall’s LTC Group, LLC parent company, Principle Long Term Care, Inc.”

In Exhibit F.3 (g), the applicants provide a letter, dated July 15, 2018, from the CFO of Principle Long Term Care, Inc. which states:

*“Based on my knowledge of Principle Long Term Care’s financial position, and in my capacity as CFO, Principle Long Term Care is willing and able to fund the working capital, when needed, for the above referenced project from cash or cash equivalents, accumulated reserves or owner’s equity.”*

However, the applicant does not adequately demonstrate the availability of sufficient funds for the capital and working capital needs of the project because the application contained no verification of the company’s assets through either an audited financial statement or other

appropriate documentation to verify the existence of sufficient funding for the working capital needs of the proposed project.

### **Financial Feasibility**

The applicants provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Forms F.3, F.4 and F.5, the applicants project that revenues will exceed operating expenses in the second and third operating years of the project, as shown in the table below.

	<b>1<sup>st</sup> Full Fiscal Year</b>	<b>2<sup>nd</sup> Full Fiscal Year</b>	<b>3<sup>rd</sup> Full Fiscal Year</b>
Total Days of Care	16,242	29,237	29,237
Total Gross Revenues (Charges)	\$4,572,604	\$8,231,113	\$8,231,113
Total Net Revenue	\$4,447,145	\$8,005,277	\$8,005,277
Average Net Revenue per Days of Care	\$273.81	\$273.81	\$273.81
Total Operating Expenses (Costs)	\$5,198,206	\$7,787,674	\$7,759,257
Average Operating Expense per Days of Care	\$320	\$266	\$265
Net Income	(\$751,061)	\$217,602	\$246,020

However, the assumptions used by the applicant in preparation of the pro forma financial statements are not reasonable and adequately supported for the following reasons:

- Projected utilization is questionable. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. Therefore, since projected revenues and expenses are based at least in part on projected utilization, projected revenues and expenses are also questionable.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to this criterion for the following reasons:

- The applicants do not adequately demonstrate availability of sufficient funds for the capital and working capital needs of the proposal.
- The applicants do not 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.

NC

The applicants propose to develop a new 89-bed nursing facility in Rowan County, including a 30-bed SCU, by relocating 49 NF beds from Premier Nursing & Rehabilitation Center (Onslow County), 20 NF beds from Jacob's Creek Nursing & Rehabilitation Center (Rockingham County) and 20 NF beds from Chowan River Nursing & Rehabilitation Center (Chowan County).

On page 183, the 2018 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 consists of Rowan 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 2018 SMFP, page 196, lists a total of 10 nursing facilities in Rowan County with a combined total of 984 NF beds in the planning inventory, as shown in the table below.

<b>2018 SMFP NF Inventory &amp; 2020 Need Projections Rowan County</b>	
# Facilities	10
# Beds in Nursing Homes	984
# Beds in Hospitals	0
Total Licensed Beds	984
Total CON Approved/License Pending	0
Total # Available	984
Sum of Exclusions	159
Total # in Planning Inventory	825
Projected Bed Utilization with Vacancy Factor in 2020*	914
Projected Bed <b>Deficit</b> 2021*	<b>89</b>

\*Source: Table 10C, 2018 SMFP, page 206.

In Section G, pages 55-56, the applicants explain why the proposal would not result in the unnecessary duplication of existing or approved NF bed services in Rowan County. The applicant states:

- There is currently a deficit of 89 NF beds in Rowan County. The proposed project of relocating 89 existing NF beds from other counties to create a new 89 bed NF in Rowan County will not create a surplus of NF beds in Rowan County but rather simply erase the 89 NF bed deficit in Rowan County.
- *“The proposed site location is in the Township with the largest projected NF-bed DEFICIT in 2021 and immediately contiguous (and accessible by roadways) to the Township with the second largest NF-bed DEFICIT.”*

However, the applicants do not adequately demonstrate that the proposal would not result in an unnecessary duplication of existing or approved services in the service area because the applicants do not adequately demonstrate that the proposed NF beds are needed in addition to the existing and approved NF beds in Rowan County. The discussions regarding need and projected utilization found in Criterion (3) are incorporated herein by reference.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not 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 Q, Form H, the applicant provides current and projected staffing for the proposed services as illustrated in the following table.

Position	<b>Third Full Fiscal Year- FTEs 10/1/2023 – 9/30/24</b>
Director of Nursing	1.00
Assistant Director of Nursing	1.00
Registered Nurses	10.29
Licensed Practical Nurses	9.83
Aides	32.99
MDS Nurse	1.00
Alzheimer's Coordinator	1.00
Staff Development Coordinator	1.00
Medical Records	1.00
Dietary	11.00
Social Services	1.00
Activities	2.00
Transportation	1.00
Laundry & Linen	2.00
Housekeeping	4.50
Plant Operation & Maintenance	2.00
Administration	6.00
<b>Total</b>	<b>88.61*</b>

Source: Table H in Section Q.

\*Says 89 in Table H, probably due to rounding.

The assumptions and methodology used to project staffing are provided in Section Q. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in Form F.4, which is found in Section Q. In Section H, pages 57-60, the applicants describe the methods to be used to recruit or fill new positions and its proposed training and continuing education programs. In Section H, page 60, the applicant identifies the proposed medical director. In Exhibit H.4.(b), the applicant provides a letter from the proposed medical director indicating an interest in serving as medical director for the proposed services.

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

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments

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 I, page 62, the applicants state that the following ancillary and support services are necessary for the proposed services:

- Medical Supplies
- Podiatry Services
- Dietary Consulting
- Pharmacy Consulting
- Medical Transportation
- Ambulance Transport
- Medical Direction
- Physical, Occupational, Speech & Respiratory Therapy
- Home Health
- Dental Services
- Mobile Radiographic Services
- Dialysis
- Hospice
- Home Health
- Laboratory Services
- Psychiatric Services
- Eye Care Services
- Beautician Services

On page 63, the applicant adequately explains how each ancillary and support service is or will be made available and provides supporting documentation in Exhibit I.1.(b).

In Section I, page 63, the applicant describes its efforts to develop relationships with other local health care and social service providers and provides supporting documentation in Exhibit I.2.(b).

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
- Written comments
- Responses to comments

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 applicant does 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 applicant does 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.

- (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 HMOs. 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 K, page 67, the applicants state that the project involves constructing 60,716 square feet of new space. Line drawings are provided in Exhibit K.1 (b).

On pages 67-68, the applicants adequately explain how the cost, design and means of construction represent the most reasonable alternative for the proposal.

On page 68, 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.

On page 68, the applicants identify any applicable energy saving features that will be incorporated into the construction plans.

On pages 69-70, and Exhibits K-4.(c-d), the applicants identify the proposed site and provides information about the current owner, zoning and special use permits for the site, and the availability of water, sewer and waste disposal and power at the site.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments

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;

NA

The applicants do not own or operate any nursing facilities in Rowan County and RCHRC is not an existing facility. All of the NF beds being relocated to develop RCHRC are from other counties in North Carolina. Therefore, Criterion (13a) is not applicable to this review.

- (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

Regarding any obligation to provide uncompensated care, community service, or access by minorities and persons with disabilities, in Section L.2, page 74, the applicants state that they have no such obligation.

In Section L, page 74, the applicants state that during the last five years, there have been no patient civil rights access complaints filed against the facility or any similar facilities owned by the applicants or a related entity and located in North Carolina.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments

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 L, page 74, the applicant projects the following payor mix for the proposed services during the third full fiscal year of operation following completion of the project, as shown in the table below.

<b>Payor Category</b>	<b>NF Bed Patient Days as Percent of Total</b>
Medicaid*	66.5%
Medicare*	12.5%
Private Pay	15.0%
Other (Medicare Ad)	6.0%
<b>Total</b>	<b>100.0%</b>

Source: Table on page 74 of the application.

\*Including any managed care plans.

As shown in the table above, during the third full fiscal year of operation, the applicant projects that 15% of total services will be provided to self-pay patients, 18.5% to Medicare patients and 66.5% to Medicaid patients.

On page 74, the applicant provides the assumptions and methodology used to project payor mix during the first three full fiscal years of operation following completion of the project. The projected payor mix is reasonable and adequately supported because it is based on the most recent NF utilization data from the last two License Renewal Applications (LRAs) of existing NF providers in Rowan County. See Exhibit L.3

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments

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 L, page 75, the applicant adequately describes the range of means by which patients will have access to the proposed services.

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments

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.

C

In Section M, page 77, the applicants describe the extent to which health professional training programs in the area will have access to the facility for training purposes and provides supporting documentation in Exhibit M.2.

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments

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.

NC

The applicants propose to develop a new 89-bed nursing facility in Rowan County, including a 30-bed SCU, by relocating 49 NF beds from Premier Nursing & Rehabilitation Center (Onslow County), 20 NF beds from Jacob's Creek Nursing & Rehabilitation Center (Rockingham County) and 20 NF beds from Chowan River Nursing & Rehabilitation Center (Chowan County).

On page 183, the 2018 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 consists of Rowan 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 2018 SMFP, page 196, lists a total of 10 nursing facilities in Rowan County with a combined total of 984 NF beds in the planning inventory, as shown in the table below.

<b>2018 SMFP NF Inventory &amp; 2020 Need Projections Rowan County</b>	
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Total CON Approved/License Pending	0
Total # Available	984
Sum of Exclusions	159
Total # in Planning Inventory	825
Projected Bed Utilization with Vacancy Factor in 2020*	914
Projected Bed <b>Deficit</b> 2021*	<b>89</b>

\*Source: Table 10C, 2018 SMFP, page 206.

In Section N, pages 79-80, the applicants describe the expected effects of the proposed services on competition in the service area and discuss how any enhanced competition in the service area will promote the cost-effectiveness, quality and access to the proposed services. On pages 79-80, the applicants state:

*“The project...will enhance the benefits of competition in the service area by delivering need-responsive services, state-of-the-art amenities, and staff-oriented workplace practices, all of which will contribute to quality of care. As a result, existing providers must, in order to compete, adjust their practices to this enhanced standard... the applicants regularly provide more total days of care to Medicaid patients, and one of the highest total percentage of total days of care, of all providers in North Carolina.”*

The applicants do not adequately describe the expected effects of the proposed services on competition in the service area and do not adequately demonstrate:

- The cost-effectiveness of the proposal (see Sections F and Q of the application and any exhibits).
- Quality services will be provided (see Section O of the application and any exhibits).

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not 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.

NC

In Section A.10, page 12, the applicants identify the nursing facilities located in North Carolina owned, operated, or managed by the applicants or a related entity. The applicants identify a total of 43 nursing facilities located in North Carolina.

In Section O, page 84, the applicants state that eight facilities have a 5-Star rating from the Centers for Medicare and Medicaid Services (CMS), four facilities have a 4-Star rating from CMS, and eight facilities have a 3-Star rating from CMS. The applicants provide a list of the 5-, 4-, and 3-Star rated facilities on page 84.

In Exhibit O.3.(a).(ii), and Exhibit O, the applicants state that, during the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred in 41 (85.4%) of these 48 facilities. In Section O, page 84, and in Exhibit O.3.(a).(ii), the applicants state 34 of the facilities are back in compliance. The applicants state that several facilities have submitted Plans of Correction and provide dates by which the applicants estimate the facilities will be back in compliance. The applicants state that at the time the application was submitted, three facilities were in the process of drafting Plans of Correction, and the applicants believe those three facilities will be back in compliance prior to the issuance of this decision.

However, the applicants do not provide sufficient evidence that quality care has been provided in the past for the reasons described below:

- The applicants fail to provide an adequate description of the incidents which led to violations of the Medicare Conditions of Participation involving quality of care. In Exhibit O, page 515, the applicants list the general category that a violation fell under, such as “Dietary” or “Quality of Care” or “Resident Rights,” but fail to provide any further detail that would enable the Agency to understand the scope of the incident and make an informed determination as to whether quality care has been provided in the past.
- As of November 15, 2018 the date that the Project Analyst accessed the Nursing Home Compare website<sup>2</sup>, eight facilities were listed as 5-Star; four facilities were listed as 4-Star and seven were listed as 3-Star for a total of 18 of 43 facilities (or 41.86%) that were rated 3-Star or higher. [Note: one facility, Tower Nursing and Rehabilitation, had no listing on the Nursing Home Compare website.]
- As of November 15, 2018 according to the Nursing Home Compare website, 47.9% of the 43 nursing facilities had a rating of 2-Star or lower: 12 of the applicants’ 48 facilities – 25

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<sup>2</sup> <https://www.medicare.gov/nursinghomecompare/>  
Accessed October 24, 2018

percent – had 1-Star ratings (Much Below Average). Another 11 facilities – approximately 22.9percent of the applicants’ 48 facilities – had 2-Star ratings (Below Average). 23/48 = 47.9%.

- 7 of those 14 facilities with deficiencies involving the provision of substandard quality of care had Immediate Jeopardy deficiencies (“J”-level deficiencies).
- CMS’s Nursing Home Compare website lists a total of 430 nursing facilities in North Carolina. Five are too new to rate; of the remaining 425, two of those nursing facilities – less than one-half of one percent – are flagged with a yellow warning triangle and text which reads:

*“If a nursing home has a history of persistent poor quality of care, as indicated by the findings of state or Federal inspection teams, it can be considered a Special Focus Facility (SFF). This means that the facility is subjected to more frequent inspections, escalating penalties, and potential termination from Medicare and Medicaid.”*

The two facilities in North Carolina which are considered SFFs are Lake Park Nursing and Rehabilitation Center in Union County and Richmond Pines Healthcare and Rehabilitation Center in Richmond County. Both of these SFFs are owned or operated by the applicants or a related entity.

Therefore, the applicants did not provide credible evidence that quality care has been provided at all of its facilities located in North Carolina during the 18 months immediately preceding submittal of the application. Consequently, the application is not 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.

NC

The application is not conforming with all applicable Criteria and Standards for Nursing Facility or Adult Care Home Facility Services promulgated in 10A NCAC 14C .1100. The specific criteria are discussed below.

**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.*

-NA- The applicants are not proposing to add nursing facility beds to an existing facility.

*(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.*

-NC- In Section Q, in Form C, the applicants project that the proposed facility will have an occupancy rate of 90 percent by the end of the second operating year following project completion. The applicants provide the assumptions and methodology to project utilization in Section Q following Form C. However, the applicants fail to demonstrate that the projections are reasonable and adequately supported. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. Therefore, the application is not conforming with this Rule.

*(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.