

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: October 30, 2018

Findings Date: October 30, 2018

Project Analyst: Julie M. Faenza

Team Leader: Fatimah Wilson

Project ID #: F-11550-18

Facility: Western Mecklenburg Health & Rehabilitation Center

FID #: 180375

County: Mecklenburg

Applicants: Britthaven, Inc.

Hillco, Ltd.

Granite Falls LTC, LLC

Project: Develop a new 110-bed nursing facility, including 30 special care unit beds, by relocating 80 nursing facility beds from Macon Valley Nursing & Rehabilitation Center (Macon County) and 30 nursing facility beds from Magnolia Lane Nursing & Rehabilitation Center (Burke 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

Three applicants – Britthaven, Inc. (Britthaven), Hillco, Ltd. (Hillco), and Granite Falls LTC, LLC (Granite Falls) – propose to develop Western Mecklenburg Health & Rehabilitation Center (Western Mecklenburg), a new 110-bed nursing facility (NF), by relocating 80 NF beds from Macon Valley Nursing & Rehabilitation Center in Macon County and 30 NF beds from Magnolia Lane Nursing & Rehabilitation Center in Burke County. 30 NF beds will be special care unit (SCU) 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 2018 State Medical Facilities Plan (SMFP). Therefore, no need determinations are applicable to this review.

Policies

There are three policies applicable to this review: **Policy NH-6: Relocation of Nursing Facility Beds**, **Policy NH-8: Innovations in Nursing Facility Design**, and **Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities**.

Policy NH-6: Relocation of Nursing Facility Beds

Policy NH-6, 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.”*

Prior to the development of the proposed project, the 2018 SMFP shows the following surpluses and deficits for each of the three counties implicated in this review:

2018 SMFP NF Bed Surpluses/Deficits (Table 10C)	
County	Surplus/Deficit
Burke	Surplus of 91 NF beds
Macon	Surplus of 130 NF beds
Mecklenburg	Deficit of 395 NF beds
Project I.D. #F-11461-18	Add 83 NF beds
Project I.D. #F-11462-18	Add 100 NF beds
Project I.D. #F-11464-18	Add 36 NF beds
Mecklenburg New Total	Deficit of 176 NF beds

Both Burke and Macon counties have a surplus of NF beds and Mecklenburg County has a deficit of NF beds.

If the proposed project is approved, it would result in changes to the existing surpluses and deficits for the three counties implicated in this review. The table below shows what the surpluses and deficits would be for each of those three counties if the proposed project is approved.

2018 SMFP Mecklenburg County NF Bed Surpluses/Deficits (After Project Approval)	
County	Surplus/Deficit
Burke	Surplus of 91 NF beds
Relocate 30 NF beds	Surplus of 61 NF beds
Macon	Surplus of 130 NF beds
Relocate 80 NF beds	Surplus of 50 NF beds
Mecklenburg	Deficit of 176 NF beds
Relocate 110 NF beds into county	Deficit of 66 NF beds

As shown in the tables above:

- Relocating NF beds from Burke and Macon counties will not result in a deficit, or increase an existing deficit in the number of licensed NF beds in Burke and Macon counties, as reflected in the 2018 SMFP.
- Relocating NF beds into Mecklenburg County will not result in a surplus, or increase an existing surplus in the number of licensed NF beds in Mecklenburg County, as reflected in the 2018 SMFP.

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

Policy NH-8: Innovations in Nursing Facility Design

Policy NH-8, 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. The applicants state they plan to utilize a number of innovative approaches that will improve quality of life, such as design based on ability level rather than age; use of color to assist in creating the type of environment desired for each space; circadian lighting designed to assist patients with better health; and other features which will increase the feeling of a home-like setting and increase patient autonomy.

The application is consistent with Policy NH-8.

Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities

Policy GEN-4, on page 33 of 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. The applicants provide a written statement of the minimum energy conservation features they will utilize, such as motion-sensing lighting, programmable thermostats, and low flow plumbing fixtures.

The application is consistent with Policy GEN-4.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- 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 proposal is consistent with Policy NH-6.

- The applicants adequately demonstrate that the proposal is consistent with Policy NH-8.
 - The applicants adequately demonstrate that the proposal is consistent with Policy GEN-4.
- (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 110-bed nursing facility in Mecklenburg County, which will include 30 SCU beds, by relocating existing NF beds from Burke and Macon counties.

Patient Origin

On page 183, the 2018 SMFP defines the service area for nursing facility beds as “... *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 Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

The following table illustrates projected patient origin.

Projected Patient Origin – Third FFY (10/1/23 – 9/30/24)				
County	General NF Beds		SCU NF Beds	
	# Patients	% of Total*	# Patients	% of Total
Mecklenburg	65	90%	24	90%
Gaston	2	2%	1	2%
Iredell	2	2%	1	2%
Cabarrus	1	1%	0	1%
Rowan	1	1%	0	1%
Other	2	2%	1	2%
Total	73	100%	27	100%

Note: Tables may not foot due to rounding.
Source: Section C, page 27.

In Section C, page 28, 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 28-35, the applicants explain why the population projected to utilize the proposed services needs the proposed services:

- Need for Additional NF Beds – the applicants state that despite an error in data that results in an inaccurate projection of NF bed need for Mecklenburg County, and despite the relocation of 219 NF beds to Mecklenburg County in 2018 as the result of other approved projects, there is still an existing deficit of NF beds (pages 28-29).
- Demographics – the applicants state that Mecklenburg County will have the second highest growth rate of all counties statewide for citizens 65 and older and that the Mecklenburg County projected growth of populations age 65 and older as well as age 75 and older are at least one standard deviation above the statewide mean growth rate (page 29).
- Intra-County Geographic Need – the applicants performed a ZIP code analysis of need using the methodology published in the 2018 SMFP and state that the distribution of NF beds in Mecklenburg 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 in one of these identified areas (pages 30-32).
- Need for SCU Beds – the applicants state that there are too few SCU beds available to residents of Mecklenburg County based on prevalence rates of Alzheimer’s Disease and dementia. The applicants state that Mecklenburg County has only 3.74 SCU beds per 1,000 people age 65 and older with Alzheimer’s Disease and dementia, which is well below the statewide average of 8.34 SCU beds per 1,000 people age 65 and older with Alzheimer’s Disease and dementia (pages 33-35).

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

- The applicants or related entities own Clear Creek Nursing & Rehabilitation (Clear Creek) in Mecklenburg County. According to Table 10A, on page 193 of the 2018 SMFP, Clear Creek has 120 licensed NF beds. According to the 2018 License Renewal Application (LRA) submitted for Clear Creek, as of September 30, 2017, there were 71 patients occupying the 120 NF beds, for a utilization rate of 59.2 percent. 49 of the NF beds were unoccupied.
- Clear Creek Nursing submitted its first LRA for the 2014 LRA cycle, indicating that as of September 30, 2013, it had not yet started offering services. The facility reported increased and stabilized utilization on subsequent LRAs until the 2018 LRA, when utilization dropped, as shown in the table below.

Clear Creek Utilization – 2014-2018 LRAs					
	2014 LRA	2015 LRA	2016 LRA	2017 LRA	2018 LRA
# Patients	0	72	83	82	71
# Beds	120	120	120	120	120
Occupancy Rate	--	60.0%	69.2%	68.3%	59.2%
Increase/Decrease	--	--	+15.3%	-1.2%	-13.4%

- The applicants or related entities own University Place Nursing & Rehabilitation (University Place) in Mecklenburg County. According to Table 10A, on page 194 of the 2018 SMFP, University Place has 207 licensed NF beds. According to the 2018 License Renewal Application (LRA) submitted for University Place, as of September 30, 2017, there were 140 patients occupying the 207 NF beds, for a utilization rate of 67.6 percent. 67 of the NF beds were unoccupied.
- Starting with the 2014 LRA cycle, University Place’s utilization has been consistently decreasing, as shown in the table below.

University Place Utilization – 2014-2018 LRAs					
	2014 LRA	2015 LRA	2016 LRA	2017 LRA	2018 LRA
# Patients	200	199	190	180	140
# Beds	207	207	207	207	207
Occupancy Rate	96.6%	96.1%	91.8%	87.0%	67.6%
Increase/Decrease	--	-0.5%	-4.5%	-5.3%	-22.2%

- The two nursing facilities combined have a total of 116 unoccupied NF beds. Clear Creek’s utilization has dropped 14.5 percent from its highest utilization during the 2016 LRA cycle, but has never had an occupancy rate of at least 70 percent. University Place’s utilization has dropped 30.0 percent from its highest utilization during the 2014 LRA cycle. The applicants do not discuss utilization at their existing facilities in the application as submitted and provide no reasonable and adequately supported information as to why they need an additional 110-bed nursing facility in Mecklenburg County, especially when they have two facilities that, combined, have more unoccupied NF beds than the facility they propose to develop. The applicants do not explain why they need to relocate an additional 110 NF beds into Mecklenburg County when their existing facilities have low utilization and more unoccupied NF beds than they propose to relocate. Alternatively, the applicants do not explain why they could not simply relocate existing NF beds from their existing facilities to develop a new nursing facility.

Projected Utilization

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

Western Mecklenburg Projected Utilization – FYs 2022-2024			
	FY 2022	FY 2023	FY 2024
# General NF Beds	80	80	80
Days of Care	12,775	26,279	26,279
Occupancy Rate	44%	90%	90%
# SCU NF Beds	30	30	30
Days of Care	7,300	9,854	9,854
Occupancy Rate	67%	90%	90%
# of Total NF Beds	110	110	110
Days of Care	20,075	36,133	36,133
Occupancy Rate	50%	90%	90%

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

- For Year 1, the applicants noted that a Mecklenburg County nursing facility owned and operated by a related entity, Clear Creek, had a 59 percent occupancy rate after its first 12 months. The applicants state that due to the experience of Clear Creek Nursing & Rehabilitation, they projected a 50 percent utilization rate by the end of Year 1.
- For Year 2, the applicants considered the following facility utilization rates as part of their projections:
 - Huntersville Health & Rehabilitation Center (Mecklenburg County) averaged 94.8 percent occupancy during FY 2017, its second year of operation, and had 14.6 admissions per week.
 - Autumn Care of Cornelius (Mecklenburg County) had an average of 91 patients, an occupancy rate of just under 90 percent, during FY 2017 (its second year of operation).
 - Summerstone Health & Rehabilitation (Forsyth County), a 100-bed nursing facility, had an average fill rate of 13 residents per month in its first operating year (see page 62 of Project I.D. #F-11461-18 for this data).
 - Springbrook Nursing & Rehabilitation (Johnston County), the applicants’ newest facility, admitted an average of 10 patients per week during its second year of operation and 12.6 patients per week during its third year of operation.
- The applicants provide supporting documentation in Exhibit C.7.

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 71, 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 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. However, none of those facilities have SCU beds. The applicants do operate a facility in Mecklenburg County with SCU beds – University Place Nursing & Rehabilitation – but the applicants did not use data from that facility to project utilization.
- 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 website¹ 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 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 36, the applicants state that they will serve any patient for whom they can provide services.

In Section L, page 73, the applicants project the following payor mix during the third full fiscal year of operation following completion of the project, as illustrated in the following table.

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

Western Mecklenburg – Projected Payor Mix – Third FFY (FY 2024)						
Payor Source	Patient Days			Percentage		
	General	SCU	Total	General	SCU	Total
Private Pay	2,102	788	2,890	8%	8%	8%
Insurance*	0	0	0	0%	0%	0%
Medicare*	3,942	1,478	5,420	15%	15%	15%
Medicaid*	17,870	6,701	24,571	68%	68%	68%
Other (Medicare Advantage)	2,365	887	3,252	9%	9%	9%
Total	26,279	9,854	36,133	100%	100%	100%

*Including any managed care plans

The projected payor mix is reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- 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 explain why the population to be served needs the services proposed in this application.
- Projected utilization is not reasonable and not adequately supported.
- The applicants or related entities own two additional nursing facilities in the service area which are operating at only 59.2% and 67.6% of capacity, and which have 116 unoccupied NF beds. The applicants do not adequately address why the services proposed in this application are needed in addition to that existing capacity.

- (3a) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the applicant shall demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care.

C

The applicants propose to develop a new 110-bed nursing facility in Mecklenburg County, which will include 30 SCU beds, by relocating existing NF beds from Burke and Macon counties.

The applicants propose to relocate 80 existing NF beds from Macon Valley Nursing & Rehabilitation in Macon County. According to Table 10A of the 2018 SMFP, on page 192, the facility currently has 200 licensed NF beds; following completion of the proposed project, Macon Valley Nursing & Rehabilitation will have 120 licensed NF beds. The applicants also propose to relocate 30 existing NF beds from Magnolia Lane Nursing & Rehabilitation in Burke County. According to Table 10A of the 2018 SMFP, on page 185, the facility currently has 121 licensed NF beds; following completion of the proposed project, Magnolia Lane Nursing & Rehabilitation will have 91 licensed NF beds.

In Section D, pages 40-41, 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 41, the applicants state:

“None of the beds proposed for relocation are currently in use by any patients. Furthermore, the beds proposed for relocation represent only a portion of the total number of underutilized beds in these facilities.”

In Exhibit D.2.(b), the applicants provide the following supporting documentation:

- Historical census data for Macon Valley Nursing & Rehabilitation, showing that since 2010, at least 86 NF beds (and typically more) have remained unoccupied.
- Historical census data for Magnolia Lane Nursing & Rehabilitation, showing that since 2010, at least 31 NF beds have remained unoccupied.

In Section D, page 42, the applicants state that the reduction of NF beds from the facilities and counties listed will have no impact on access by any underserved groups, since the beds are not currently utilized.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicant adequately demonstrates 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 110-bed nursing facility in Mecklenburg County, which will include 30 SCU beds, by relocating existing NF beds from Burke and Macon counties.

In Section E, page 45, 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 Mecklenburg 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 NF beds from North Carolina counties with identified NF-bed SURPLUSES.”
(emphasis in original)

On page 45, 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 Mecklenburg County and because it allows for the relocation of NF beds from counties with low historical NF bed utilization and projected future NF bed surpluses.

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 reasons:

- The applicants or related entities own or operate two existing nursing facilities in Mecklenburg County with a combined total of 116 unoccupied NF beds. The applicants do not explain why they did not consider the alternative of relocating existing NF beds to develop a new facility rather than relocating NF beds from outside of Mecklenburg County.
- 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
- 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 110-bed nursing facility in Mecklenburg County, which will include 30 SCU beds, by relocating existing NF beds from Burke and Macon counties.

Capital and Working Capital Costs

In Section Q on Form F.1a, page 92, the applicants project the total capital cost of the project as shown in the table below.

Site Costs	\$2,777,956
Construction Costs	\$11,992,411
Equipment/Furniture	\$1,717,854
Professional Fees	\$729,644
Interest During Construction	\$355,688
Total	\$17,573,554

Note: Totals may not foot due to rounding

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

In Section F, pages 48-49, the applicants project that start-up costs will be \$659,071 and initial operating expenses will be \$1,612,405 for a total working capital of \$2,271,476. On page 49, the applicants provide the assumptions and methodology used to project the working capital needs of the project.

Availability of Funds

In Section F, page 47, the applicants state that the capital cost will be funded through a loan to Britthaven.

In Section F, pages 49-50, the applicants state that the working capital needs of the project will be funded with cash or cash equivalents from Principle Long Term Care, Inc., which is the parent company of Granite Falls (one of the applicants).

However, the applicants do not adequately demonstrate the availability of sufficient funds for the capital and working capital needs of the project for the following reasons:

- In Exhibit F.2.(b), the applicants provide a letter from a Senior Vice President at Wells Fargo Bank, N.A., stating that the applicants have a line of credit that will cover the capital expenditure; however, the letter does not list the capital expenditure or the amount of the line of credit, so there is no way for the Project Analyst to determine whether the line of credit can provide sufficient funding to cover the capital needs of the proposed project.

- In Exhibit F.3.(g), the applicants provide a letter from the CFO of Principle Long Term Care, Inc., stating that the company has the funding necessary to cover the working capital needs of the proposed project; however, there is no verification of the company’s assets, 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

In Section Q, the applicants provide pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Form 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.

Western Mecklenburg – Revenue and Expenses – FYs 2022-2024			
	FY 2022	FY 2023	FY 2024
Total Patient Days	20,075	36,133	36,133
Total Net Revenue	\$5,616,310	\$10,111,239	\$10,111,239
Average Net Revenue per Patient Day	\$280	\$280	\$280
Total Operating Expenses (Costs)	\$6,110,051	\$9,588,778	\$9,556,068
Average Operating Expense per Patient Day	\$304	\$265	\$264
Net Income/(Loss)	(\$493,741)	\$522,461	\$555,171

The assumptions used by the applicants in preparation of the pro forma financial statements are reasonable, including projected utilization, costs, and charges. See Section Q 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

Based on that review, the Agency concludes that the application is not conforming to this criterion because the applicants do not adequately demonstrate availability of sufficient funds for the capital and working capital needs of the proposed project.

- (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 110-bed nursing facility in Mecklenburg County, which will include 30 SCU beds, by relocating existing NF beds from Burke and Macon counties.

On page 183, the 2018 SMFP defines the service area for nursing facility beds as “... 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 Mecklenburg 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, on pages 192-193, lists 30 nursing facilities and one hospital with NF beds in Mecklenburg County, for a combined total of 3,280 NF beds, as shown in the table below.

Mecklenburg County NF Beds – 2018 SMFP Inventory		
Facility	Location	Number of NF Beds
Asbury Care Center	Charlotte	120
Autumn Care of Cornelius	Cornelius	102
Avante at Charlotte	Charlotte	100
Brian Center Health & Rehabilitation/Charlotte	Charlotte	120
Brian Center Nursing Care/Shamrock	Charlotte	100
Brookdale Carriage Club Providence	Charlotte	42
Carrington Place	Matthews	166
Charlotte Health & Rehabilitation Center	Charlotte	90
Clear Creek Nursing & Rehabilitation Center	Mint Hill	120
Complete Care at Charlotte	Charlotte	120
Complete Care at Dartmouth	Charlotte	133
Hunter Woods Nursing & Rehabilitation Center	Charlotte	120
Huntersville Health & Rehabilitation Center	Huntersville	90
Huntersville Oaks*	Huntersville	66
Mecklenburg Health & Rehabilitation Center	Charlotte	100
Novant Health Presbyterian Medical Center	Charlotte	16
Olde Knox Commons at The Villages of Mecklenburg	Huntersville	114
Pavilion Health Center at Brightmore	Charlotte	120
Peak Resources – Charlotte	Charlotte	142
Pineville Rehabilitation & Living Center	Pineville	106
Royal Park Rehabilitation & Health Center	Matthews	169
Sardis Oaks	Charlotte	124
Saturn Nursing & Rehabilitation Center	Charlotte	120
Sharon Towers	Charlotte	96
Southminster	Charlotte	60
The Pines at Davidson	Davidson	51
The Stewart Health Center	Charlotte	56
University Place Nursing & Rehabilitation Center	Charlotte	207
White Oak Manor – Charlotte	Charlotte	180
WillowBrooke Court SC Ctr at Plantation Estates	Matthews	80
Wilora Lake Healthcare Center	Charlotte	70

Note: This table does not exclude NF beds that are excluded from the NF bed methodology.
 *Huntersville Oaks has 168 NF beds. There was an error in previous versions of the SMFP going back several years. The 2019 SMFP will reflect the correct total for this facility.

In Section G, pages 53-55, the applicants explain why they believe their proposal will not result in the unnecessary duplication of existing or approved NF services in Mecklenburg County. The applicants state that only two other nursing facilities in Mecklenburg County have SCU

beds, and there are currently only 46 SCU beds for Mecklenburg County in the 2018 SMFP inventory. The applicants state that there is a need for NF beds in Mecklenburg County, as established by the deficit resulting from use of the standard methodology, and state that the distribution of NF beds throughout Mecklenburg County is not uniform. The applicants state that they plan to locate the proposed facility in an area of Mecklenburg County which has a need for NF beds but is lacking NF beds.

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 Mecklenburg 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
- 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 applicants provide projected staffing for the proposed services as illustrated in the following table.

Western Mecklenburg Projected Staffing			
Position	1st FFY	2nd FFY	3rd FFY
Registered Nurses	10.29	12.63	12.63
Licensed Practical Nurses	5.62	14.04	14.04
Aides	21.29	42.82	42.82
Director of Nursing	1.00	1.00	1.00
Assistant Director of Nursing	0.00	1.00	1.00
MDS Nurse	1.00	1.00	1.00
Alzheimer's Coordinator	1.00	1.00	1.00
Staff Development Coordinator	1.00	1.00	1.00
Medical Records	1.00	1.00	1.00
Dietary	8.00	12.00	12.00
Social Services	1.00	2.00	2.00
Activities	1.00	2.00	2.00
Transportation	1.00	1.00	1.00
Laundry and Linen	1.00	2.00	2.00
Housekeeping	2.50	5.00	5.00
Plant Operation & Maintenance	2.00	2.00	2.00
Administration	6.00	7.00	7.00
TOTAL*	65.00 [64.70]	108.00 [108.49]	108.00 [108.49]

Source: Form H in Section Q of the application

*Numbers in brackets are the Project Analyst's calculations

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 applicants are budgeted in Form F.4, which is found in Section Q. In Section H, pages 56-58, the applicants describe the methods to be used to recruit or fill new positions and their proposed training and continuing education programs. In Section H, page 59, the applicants identify the proposed medical director. In Exhibit H.4.(b), the applicants provide a letter from the proposed medical director expressing his support for the proposed project and his willingness to serve as medical director.

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

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 61, the applicants state that the following ancillary and support services are necessary for the proposed services:

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

On pages 61-62, the applicants adequately explain how each ancillary and support service will be made available and provide supporting documentation in Exhibit I.1.(b).

In Section I, page 62, the applicants describe their efforts to develop relationships with other local health care and social service providers and provide 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

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 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 66, the applicants state that the project involves constructing 72,500 square feet of new space. Line drawings are provided in Exhibit K.1.(b).

On pages 66-67, the applicants adequately explain how the cost, design, and means of construction represent the most reasonable alternative for the proposal.

On page 67, the applicants adequately explain why the proposal will not unduly increase the costs to the applicants of providing the proposed services or the costs and charges to the public for the proposed services.

On page 67, the applicants identify any applicable energy saving features that will be incorporated into the construction plans.

On pages 68-69, the applicants identify the proposed site and provide 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. The applicants provide supporting documentation in Exhibit K.4.(b).

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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;

C

The applicants propose to develop a new nursing facility. In Section L, pages 70-71, the applicants state that they currently provide services to area residents at other area nursing facilities.

In Section L, page 71, the applicants provide the historical payor mix for FFY 2017, the last FFY, for two nursing facilities owned and/or operated by the applicants or an affiliated entity and which are located in Mecklenburg County, as shown in the tables below.

University Place Nursing & Rehab – Historical Payor Mix Last FFY (10/1/16-9/30/17)						
Payor Source	Patient Days			Percentage		
	General	SCU	Total	General	SCU	Total
Private Pay	1,111	218	1,329	2%	2%	2%
Insurance*	20	0	20	0%	0%	0%
Medicare*	2,282	274	2,556	5%	3%	4%
Medicaid*	44,240	10,076	54,316	93%	95%	93%
Other (managed care)	162	0	162	0%	0%	0%
Total	47,815	10,568	58,383	100%	100%	100%

*Including any managed care plans

Note: Tables may not foot due to rounding.

Clear Creek Nursing & Rehab – Historical Payor Mix Last FFY (10/1/16-9/30/17)						
Payor Source	Patient Days			Percentage		
	General	SCU	Total	General	SCU	Total
Private Pay	5,050	0	5,050	18%	0%	18%
Insurance*	124	0	124	0%	0%	0%
Medicare*	7,374	0	7,374	26%	0%	26%
Medicaid*	15,484	0	15,484	55%	0%	55%
Other (managed care)	5	0	5	0%	0%	0%
Total	28,037	0	28,037	100%	0%	100%

*Including any managed care plans

Note: Tables may not foot due to rounding.

The applicants also provide the historical payor mix for FFY 2017 for all statewide facilities operating under the Principle Long Term Care umbrella, as shown in the table below.

Principle Long Term Care (NC Total) – Historical Payor Mix Last FFY (10/1/16-9/30/17)						
Payor Source	Patient Days			Percentage		
	General	SCU	Total	General	SCU	Total
Private Pay	95,058	0	95,058	6%	0%	6%
Insurance*	1,241	0	1,241	0%	0%	0%
Medicare*	235,180	0	235,180	16%	0%	16%
Medicaid*	1,152,611	0	1,152,611	77%	0%	77%
TRICARE	11,869	0	11,869	1%	0%	1%
Other (managed care)	5,729	0	5,729	0%	0%	0%
Total	1,501,688	0	1,501,688	100%	0%	100%

*Including any managed care plans

Note: Tables may not foot due to rounding.

In Section L, page 70, the applicants provide the following comparison.

	Percentage of Total Patients Served by the Facility during the Last Full FY	Percentage of the Population of the Service Area
Female	58.0%	63.0%
Male	42.0%	37.0%
Unknown	0.0%	0.0%
64 and Younger	25.6%	22.0%
65 and Older	74.4%	78.0%
American Indian	<1.0%	1.0%
Asian	0.0%	5.6%
Black or African-American	50.0%	33.4%
Native Hawaiian or Pacific Islander	0.0%	0.0%
White or Caucasian	44.0%	57.3%
Other Race	3.0%	2.7%
Declined / Unavailable	3.0%	0.0%

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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

Regarding any obligation to provide uncompensated care, community service, or access by minorities and persons with disabilities, in Section L, page 72, the applicants state that they have no such obligation.

In Section L, page 72, 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

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 73, the applicants project 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.

Western Mecklenburg – Projected Payor Mix – Third FFY (FY 2024)						
Payor Source	Patient Days			Percentage		
	General	SCU	Total	General	SCU	Total
Private Pay	2,102	788	2,890	8%	8%	8%
Insurance*	0	0	0	0%	0%	0%
Medicare*	3,942	1,478	5,420	15%	15%	15%
Medicaid*	17,870	6,701	24,571	68%	68%	68%
Other (Medicare Advantage)	2,365	887	3,252	9%	9%	9%
Total	26,279	9,854	36,133	100%	100%	100%

*Including any managed care plans

As shown in the table above, during the third full fiscal year of operation, the applicants project 8 percent of total services will be provided to private pay patients, 15 percent to Medicare patients, and 68 percent to Medicaid patients.

On page 73, the applicants provide the assumptions and methodology used to project payor mix during the third full fiscal year of operation following completion of the project. The projected payor mix is reasonable and adequately supported for the following reasons:

- It is based in part on analysis of payor sources for all Mecklenburg County nursing facilities (excluding CCRCs).
- It is based in part on the applicants’ historical experience at similar facilities.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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 74, the applicants adequately describe the range of means by which patients will have access to the proposed services.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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 75, the applicants describe the extent to which health professional training programs in the area will have access to the facility for training purposes and provide supporting documentation in Exhibit M.2.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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 110-bed nursing facility in Mecklenburg County, which will include 30 SCU beds, by relocating existing NF beds from Burke and Macon counties.

On page 183, the 2018 SMFP defines the service area for nursing facility beds as “... *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 Mecklenburg 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, pages 192-193, lists 30 nursing facilities and one hospital with NF beds in Mecklenburg County, for a combined total of 3,280 NF beds, as shown in the table below.

Mecklenburg County NF Beds – 2018 SMFP Inventory		
Facility	Location	Number of NF Beds
Asbury Care Center	Charlotte	120
Autumn Care of Cornelius	Cornelius	102
Avante at Charlotte	Charlotte	100
Brian Center Health & Rehabilitation/Charlotte	Charlotte	120
Brian Center Nursing Care/Shamrock	Charlotte	100
Brookdale Carriage Club Providence	Charlotte	42
Carrington Place	Matthews	166
Charlotte Health & Rehabilitation Center	Charlotte	90
Clear Creek Nursing & Rehabilitation Center	Mint Hill	120
Complete Care at Charlotte	Charlotte	120
Complete Care at Dartmouth	Charlotte	133
Hunter Woods Nursing & Rehabilitation Center	Charlotte	120
Huntersville Health & Rehabilitation Center	Huntersville	90
Huntersville Oaks*	Huntersville	66
Mecklenburg Health & Rehabilitation Center	Charlotte	100
Novant Health Presbyterian Medical Center	Charlotte	16
Olde Knox Commons at The Villages of Mecklenburg	Huntersville	114
Pavilion Health Center at Brightmore	Charlotte	120
Peak Resources – Charlotte	Charlotte	142
Pineville Rehabilitation & Living Center	Pineville	106
Royal Park Rehabilitation & Health Center	Matthews	169
Sardis Oaks	Charlotte	124
Saturn Nursing & Rehabilitation Center	Charlotte	120
Sharon Towers	Charlotte	96
Southminster	Charlotte	60
The Pines at Davidson	Davidson	51
The Stewart Health Center	Charlotte	56
University Place Nursing & Rehabilitation Center	Charlotte	207
White Oak Manor – Charlotte	Charlotte	180
WillowBrooke Court SC Ctr at Plantation Estates	Matthews	80
Wilora Lake Healthcare Center	Charlotte	70

Note: This table does not exclude NF beds that are excluded from the NF bed methodology.
 *Huntersville Oaks has 168 NF beds. There was an error in previous versions of the SMFP going back several years. The 2019 SMFP will reflect the correct total for this facility.

In Section N, pages 77-78, 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 77-78, the applicants state:

“This project, if approved, 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 we are committed to delivering.”

...

“This proposal will have a positive impact on cost effectiveness, quality, and access by the medical underserved because, first and foremost, the applicants and their related parties are well-established providers of NF care in the county, service area and state. ... [T]he applicants and their sister facilities have demonstrated a long-standing commitment to serving the groups considered ‘medically underserved’, and particularly the Medicaid population. 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). The discussions regarding need found in Criterion 3 and availability of funding found in Criterion 5 are incorporated herein by reference.
- Quality services will be provided (see Section O of the application and any exhibits). The discussion regarding quality found in Criterion 20 is incorporated herein by reference.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was 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, 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.

On page 82, 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 82.

In Exhibit O.3.(a).(ii), the applicants state that, during the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred in 41 of these 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 four 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.3.(a).(ii), 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.
- In the time period between submission of the application and the date that the Project Analyst accessed the Nursing Home Compare website² (July 16, 2018 through October 24, 2018), two facilities that were not listed by the applicants on page 82 achieved 3-Star ratings from CMS. However, four of the eight facilities identified by the applicants as being 3-Star facilities were downgraded by CMS to 2-Star facilities.
- As of October 24, 2018, according to the Nursing Home Compare website, 13 of the applicants’ 43 facilities – 30 percent – had 1-Star ratings (Much Below Average). Another 12 facilities – approximately 28 percent of the applicants’ 43 facilities – had 2-Star ratings (Below Average).
- 14 facilities – approximately one-third of the facilities identified in response to this question – had deficiencies involving the provision of substandard quality of care within the 18 months prior to submission of the application.
- 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

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

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 the Criteria and Standards for Nursing Facility or Adult Care Home 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 do not propose 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 do not propose 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 do not propose to establish a new adult care home facility or add adult care home beds to an existing facility.