

REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conforming as Conditioned

NC = Nonconforming

NA = Not Applicable

Decision Date: September 27, 2023

Findings Date: October 4, 2023

Project Analyst: Cynthia Bradford

Co-Signer: Micheala L. Mitchell

Project ID #: J-12355-23

Facility: Liberty Commons Rehabilitation and Nursing Care of Raleigh

FID #: 230315

County: Wake

Applicants: Liberty Healthcare Properties of Raleigh, LLC

Liberty Commons of Raleigh, LLC

Project: Develop a new 125-bed NF by relocating 122 NF beds from Liberty Commons of Carteret County (Project ID # P-12179-22 (Develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center)) and 3 NF beds from Pinehurst Healthcare and Rehabilitation (Moore County)

REVIEW CRITERIA

G.S. 131E-183(a): The Department shall review all applications utilizing the criteria outlined in this subsection and shall determine that an application is either consistent with or not in conflict with these criteria before a certificate of need for the proposed project shall be issued.

- (1) The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

C

Liberty Healthcare Nursing Properties of Raleigh, LLC and Liberty Commons of Raleigh, LLC (hereinafter referred to as "Liberty" or "the applicant") proposes to develop a new 125 bed NF by relocating 122 NF beds from Liberty Commons of Carteret County (Project ID # P-12179-22 (Develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center)) and 3 NF beds from Pinehurst Healthcare and Rehabilitation (Moore County).

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 2023 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations applicable to this review.

Policies

There are three policies in the 2023 SMFP which are applicable to this review: *Policy NH-6: Relocation of Nursing Facility Beds*, *Policy NH-8: Innovations in Nursing Home Facility Design* and *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*.

Policy NH-6: Relocation of Nursing Facility Beds, on page 24 of the 2023 SMFP states:

“Relocations of existing licensed nursing home facility beds to another service area are allowed. Certificate of need applicants proposing to relocate licensed nursing home facility beds to another service area shall:

- 1. demonstrate that the proposal shall not result in a deficit, or increase an existing deficit in the number of licensed nursing home facility beds in the county that would be losing nursing home 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 home facility beds in the county that would gain nursing home 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.”*

Policy NH-8: Innovations in Nursing Home Facility Design, on page 24 of the 2023 SMFP, states:

“Certificate of need applicants proposing new nursing home facilities and replacement nursing home 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 29-31, and Exhibit K.1, the applicant describes the innovative approaches in environmental design that it plans to incorporate into the proposed project.

Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities, on page 30 of the 2023 SMFP, states:

“Any person proposing a capital expenditure greater than \$4 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."

The capital expenditure of the project is over \$4 million dollars. In Section B, pages 30-31, the applicant describes its plan to assure improved energy efficiency and water conservation.

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 based on the following:

- The applicant does not propose to develop any beds, services, or equipment for which there is a need determination in the 2023 SMFP.
- The applicant adequately demonstrates that the proposal is consistent with Policies NH-6, NH-8 and Policy GEN-4 based on the following:
 - The applicant adequately demonstrates that the proposal is consistent with Policy NH-6 because the proposed project will not result in a deficit, or increase an existing deficit in the number of licensed nursing home facility beds in the county that would be losing nursing home facility beds as a result of the proposed project, and proposal shall not result in a surplus or increase an existing surplus of licensed nursing home facility beds in the county that would gain nursing home facility beds.

- The applicant adequately demonstrates that the proposal is consistent with Policy NH-8 because they adequately document the innovative approaches in environmental design to address quality of care and quality of life needs of the residents.
 - The applicant adequately demonstrates that the application includes a written statement describing the project's plan to ensure 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, ... persons [with disabilities], the elderly, and other underserved groups are likely to have access to the services proposed.

C

The applicant proposes to develop a new 125 bed NF by relocating 122 NF beds from Liberty Commons of Carteret County (Project ID # P-12179-22 (Develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center)) and 3 NF beds from Pinehurst Healthcare and Rehabilitation (Moore County).

Patient Origin

On page 139, the 2023 SMFP defines the service area for nursing home beds as “... *the county in which the bed is located. Each of the 100 counties in the state is a separate service area.*”

The applicant proposes to develop a new 125 bed NF by relocating 122 NF beds from Liberty Commons of Carteret County (Project ID # P-12179-22 (Develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center)) and 3 NF beds from Pinehurst Healthcare and Rehabilitation (Moore County) to the newly proposed Liberty Commons Rehabilitation and Nursing Care of Raleigh. Raleigh, NC is located in Wake County. Thus, the service area for this facility is Wake County. Facilities may also serve residents of counties not included in their service area.

Liberty Commons Rehabilitation and Nursing Care of Raleigh - is not an existing facility. The following table illustrates projected patient origin.

| County | Liberty Commons Rehabilitation and Nursing Care of Raleigh Projected Patient Origin | | | | | |
|--------------|--|-------------|--|-------------|--|-------------|
| | 1 st Full FY 10/1/2028 to 9/30/2029 (FY 2029) | | 2 nd Full FY 10/1/2029 to 9/30/2030 (FY 2030) | | 3 rd Full FY 10/1/2030 to 9/30/2031 (FY 2031) | |
| | Patients | % of Total | Patients | % of Total | Patients | % of Total |
| Wake | 200 | 80.32% | 360 | 80.00% | 410 | 79.92% |
| Johnston | 12 | 4.82% | 22 | 4.89% | 25 | 4.87% |
| Franklin | 7 | 2.81% | 12 | 2.67% | 14 | 2.73% |
| Durham | 7 | 2.81% | 12 | 2.67% | 14 | 2.73% |
| Harnett | 7 | 2.81% | 12 | 2.67% | 14 | 2.73% |
| Nash | 5 | 2.01% | 10 | 2.22% | 12 | 2.34% |
| Other/ Unk. | 11 | 4.42% | 22 | 4.89% | 24 | 4.68% |
| Total | 249 | 100% | 450 | 100% | 513 | 100% |

Source: Section C, page 35-36.

In Section C, page 36, the applicant provides the assumptions and methodology used to project its patient origin. The applicant’s assumptions are reasonable and adequately supported based on the following:

- The applicant refers to “*NF patient County of residence at admission*” data from the North Carolina DHHS website to project patient origin.
- The applicant utilized existing patient origin data from existing nursing home facilities within Wake County.
- The applicant assumes that the facility will serve a greater portion of Wake County residents than the current average based on its projected need in Wake County.

Analysis of Need

In Section C, pages 37-43, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services, summarized as follows:

- **Wake County’s Growing Senior Population**- The applicant cites data from *Clarita’s [sic] Spotlight by Environics Analytics* to demonstrate the growing senior population in Wake County. According to the data, the 65+ population in Wake County grew 48.69% from 2010 to 2023 and is projected to grow an additional 23.99% by 2028. The 65+ age cohort tend to utilize nursing facility services more than younger age cohorts, therefore, demonstrating the growing need for the proposed NF beds. (Page 38)
- **Increased Life Expectancy**- The applicant cites data demonstrating life expectancy in every age group in Wake County has increased from 1990 to 2020. The senior population has the greatest need for long-term care services. Increased life expectancy increases the likelihood of greater need of nursing services. (Page 39)
- **Misleading Wake County Occupancy**- The applicant states that the 2023 license renewal applications for nursing facilities was misleading as it relates to NFs that were operating below 70% occupancy. Some of these facilities counted were continuous care retirement

communities (CCRC). Once these CCRC facilities were removed from the overall count, the NF occupancy rates increased to 83%. (Pages 40-41)

- **Increase Availability for Medicaid Beds**- The applicant is projected to serve 25,915 Medicaid recipient days for the third full fiscal year. That projection amounts to a total projection of 60.17% Medicaid residents of the total served. This is an increase of 9% over the current average in Wake County. (Page 42)
- **Certified Retirement Community/Local Support**- The applicant cites local support for the proposed project and the fact that Wake County is ranked as one of the top ten retirement hot spots in the United States. Furthermore, Wake County is the only oceanfront county in North Carolina designated as a “*Certified Retirement Community*” by the State of North Carolina. (Page 43)

The information is reasonable and adequately supported based on the following:

- The applicant provided documentation supporting population growth in the 65+ population cohort and the increased need of this population cohort for skilled nursing care in a NF bed setting.
- The applicant provided documentation supporting occupancy rates in Wake County exceeding the 70% margin.
- The applicant provided documentation showing the need for more NF beds in Wake County.

Projected Utilization

In Section Q, page 101, the applicant provides projected utilization, as illustrated in the following table.

| Liberty Commons of Raleigh -Projected Utilization | | | |
|--|--------------------------|-------------------------|--------------------------|
| | FFY1 FFY 2029 | FFY2 FFY2030 | FFY3 FFY 2031 |
| # of Patient Days | 20894 | 38141 | 43070 |
| Total # of Beds | 125 | 125 | 125 |
| # of Admissions | 249 | 450 | 513 |
| Average Length of Stay | 83.91 | 84.76 | 83.96 |
| Occupancy Rate | 45.80% | 83.60% | 94.40% |

Source: Section Q, page 101, Form C.1b

In Section Q, page 102, the applicant provides the assumptions and methodology used to project utilization, which is summarized below.

- The applicant’s projections were supported by sampling NF census at two (2) communities currently operated in Wake County by Liberty affiliates. Both facilities maintained over 89% occupancy in 2023.
- The applicant’s projected utilization is based on its experience with owning or operating 37 NFs in North Carolina.

- The applicant considered the current and projected population and demographic data for Wake County in projecting utilization.

Projected utilization is reasonable and adequately supported based on the following:

- The applicant relied on its experience in owning and operating existing 37 NF facilities in North Carolina to project utilization.
- The applicant demonstrated that its current NFs in Wake County has sustained occupancy rates over 89% for 2023.
- The applicant accounted for the need for operational NF beds in Wake County to project utilization based on the following factors:
 - Wake County’s Growing Senior Population
 - Increased Life Expectancy
 - Misleading Wake County Occupancy
 - Increase Availability for Medicaid Meds
 - Local Support

Access to Medically Underserved Groups

In Section C, page 48, the applicant states:

“Services provided will be non-restrictive with respect to social, racial, ethnic, or gender related issues and will be provide on a first come, first served basis. It will be the policy Liberty commons to admit anyone over the age of 18 who qualifies for and is need of care...Therefore, medically underserved groups will have access to the service components proposed.”

The applicant provides the estimated percentage for each medically underserved group, as shown in the following table.

| Medically Underserved Groups | Percentage of Total Patients |
|-------------------------------------|-------------------------------------|
| Low-income persons | 60% |
| Racial and ethnic minorities* | NA |
| Women | 65% |
| Persons with Disabilities | 100% |
| Persons 65 and older | 85% |
| Medicare beneficiaries | 20% |
| Medicaid recipients | 60% |

Source: Section C, page 48

*Liberty does not have these statistics.

The applicant adequately describes the extent to which all residents of the service area, including underserved groups, are likely to have access to the proposed services based on the applicant’s policy.

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 all the reasons described above.

- (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, ... persons [with disabilities], and other underserved groups and the elderly to obtain needed health care.

C

The applicant proposes to develop a new 125 bed NF by relocating 122 NF beds from Liberty Commons of Carteret County (Project ID # P-12179-22 (Develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center)) and 3 NF beds from Pinehurst Healthcare and Rehabilitation (Moore County).

Liberty Commons of Carteret County

In Section D, the applicant explains why it believes the needs of the population presently utilizing the services to be relocated will be adequately met following completion of the project. On page 52, the applicant states:

“Harborview Health Care Center (“Harborview”) has been closed to admissions due to extensive damage from Hurricane Florence in 2018. Since that time, the 122 NF beds associated with this community had been licensed and part of the inventory of beds in Carteret County, but unavailable to Carteret County residents since the community has been closed since 2018. Therefore, the population is not currently being served by these beds.”

In Section D, pages 52-53, The applicant continues to state,

“Due to damage caused by Hurricane Florence in 2018, and again by Hurricane Dorian in 2019, two facilities have remained closed (Harborview and Snug Harbor... ... over the next few years, 42 NF beds from The Embassy at Morehead City and 64 unutilized beds from PruittHealth – Sea Level will come back into service to serve the residents of Carteret County. Therefore, Carteret County will have ample availability

to meet the needs of county residents, which means the relocation of the beds will have minimal effect, specifically regarding each group above.”

- The 122 NF beds being transferred from the previously approved Liberty Commons of Carteret were originally approved to be relocated from Harborview Health Care Center (Project ID # P-12179-22). Harborview has been closed to admissions due to extensive damage from Hurricane Florence in 2018. Therefore, there is not any historical or projected bed utilization for this facility.
- There are two CON approved nursing facilities in development to replace the facilities damaged during natural disasters. These facilities should be operational within the next few years and will be available to serve patients in Carteret County.
- Table 10C on page 165 of the 2023 SMFP identifies Moore County as having a 254 NF bed surplus. The applicant proposes to move 122 NF beds to Wake County. Wake County has a 451 NF bed deficit according to the same table (2023 SMFP, page 168).

The information is reasonable and adequately supported based on the following:

- Applicant states that relocating 122 beds to another facility will not affect the patients currently utilizing the facility because these beds are not filled.
- The relocation of beds would allow the projected 254 bed surplus in Carteret County to be reduced by 122 NF beds.
- There are two nursing facilities in development that should be operational within the next few years and will be available to serve patients in Carteret County.

Pinehurst Healthcare and Rehabilitation Center (Pinehurst)

In Section D, page 53-56, the applicant explains why it believes the needs of the population presently utilizing the services at Pinehurst Healthcare and Rehabilitation Center to be relocated will be adequately met following completion of the project. On page 56, the applicant states:

“Pinehurst is proposing to transfer skilled nursing beds to Wake County to reduce the number of semi-private rooms and get the community to an appropriate amount of private rooms. There will be no effect on the patients continuing to use the facility, as the beds are simply not being utilized currently and would be better utilized in Wake County. Additionally, the relocation of beds would allow the projected 245 bed surplus in Moore County to be reduced by 3 NF beds. Therefore, not only would the relocation have no effect on the patients continuing to use the facility, but it would allow the beds to be utilized in Wake County.”

In Section Q, page 106, the applicant provides the historical and projected utilization for Pinehurst Healthcare and Rehabilitation Nursing Center, as illustrated in the following table.

| Pinehurst Healthcare and Rehabilitation Center- Projected Utilization | | | |
|--|-------------------------------------|-------------------------------------|------------------------------------|
| | Interim Fiscal Year 2027 | Interim Fiscal Year 2028 | Full Fiscal Year 1 2029 |
| # of Patient Days | 35902 | 35902 | 35902 |
| Total # of Beds | 144 | 144 | 141 |
| # of Admissions | 229 | 229 | 229 |
| Average Length of Stay | 156.78 | 156.78 | 156.78 |
| Occupancy Rate | 68.3% | 68.3% | 69.3 |

Source: Section Q, page 103, Form D.1

In Section Q, page 104, the applicant provides the assumptions and methodology used to project utilization, which are summarized below.

- The applicant utilized previous census and admissions from the facilities to project interim and FFY 1 utilization.
- Pinehurst is licensed for 144 NF beds and has a current occupancy rate of 68.3%. By transferring 3 NF beds to the proposed facility, the occupancy rate increases to 69.8%.
- Applicant states that relocating 3 NF beds to another facility will not affect the patients currently utilizing the facility because these beds are not filled.
- Table 10C on page 165 of the 2023 SMFP identifies Moore County as having a 245 NF bed surplus. The applicant proposes to move 3 NF beds from Pinehurst to Wake County. Wake County has a 451 NF bed deficit according to the same table (2023 SMFP, page 168).

The information is reasonable and adequately supported based on the following:

- Relocating NF beds from Pinehurst Healthcare and Rehabilitation Nursing Center will increase occupancy rates to 69.3%.
- Relocating 3 NF beds to another facility will not affect the patients currently utilizing the facility because these beds are not filled.
- The relocation of beds would allow the projected 254 bed surplus in Moore County to be reduced by 3 NF beds.

Projected Utilization

In Section C and in Section Q, the applicant provides projected utilization of the 125 NF beds, as illustrated in the following table:

| Liberty Commons of Raleigh- Projected Utilization | | | |
|--|--------------------------|-------------------------|--------------------------|
| | FFY1 FFY 2029 | FFY2 FFY2030 | FFY3 FFY 2031 |
| # of Patient Days | 20894 | 38141 | 43070 |
| Total # of Beds | 125 | 125 | 125 |
| # of Admissions | 249 | 450 | 513 |
| Average Length of Stay | 83.91 | 84.76 | 83.96 |
| Occupancy Rate | 45.80% | 83.60% | 94.40% |

Source: Section Q, page 101, Form C.1b

Access to Medically Underserved Groups

In Section C, page 48, the applicant states:

“Services provided will be non-restrictive with respect to social, racial, ethnic, or gender related issues and will be provided on a first come, first served basis. It will be the policy Liberty Commons of Raleigh to admit anyone over the age of 18 who qualifies for and is in need of care. Liberty Commons of Raleigh will not admit persons for whom the appropriate care cannot be provided by the facility. Liberty Commons of Raleigh will admit residents based on the ability of the facility to satisfy the resident’s needs and based on bed availability. Therefore, medically underserved groups will have access to the service components proposed.”

The applicant provides the estimated percentage for each medically underserved group during the third full fiscal year, as shown in the following table:

| MEDICALLY UNDERSERVED GROUPS | PERCENTAGE OF TOTAL PATIENTS |
|-------------------------------------|-------------------------------------|
| Low-income persons | 60% |
| Racial and ethnic minorities | N/A |
| Women | 65% |
| Persons with disabilities | 100% |
| Persons 65 and older | 85% |
| Medicare beneficiaries | 20% |
| Medicaid recipients | 60% |

Source: Section C, page 48

The applicant adequately describes the extent to which all residents of the service area, including underserved groups, are likely to have access to the proposed services based on the applicant’s policy.

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 applicant adequately demonstrates that the needs of the population currently using the services to be relocated will be adequately met following project completion for all the reasons described above.

- The applicant adequately demonstrates that the project will not adversely impact the ability of underserved groups to access these services following project completion for all the reasons described above.
- (4) Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

C

The applicant proposes to develop a new 125 bed NF by relocating 122 NF beds from Liberty Commons of Carteret County (Project ID # P-12179-22 (Develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center)) and 3 NF beds from Pinehurst Healthcare and Rehabilitation (Moore County).

In Section E, page 57, the applicant describes the alternatives it considered and explains why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need. The alternatives considered were:

- **Maintain the Status Quo**- The applicant states that maintaining the status quo would result in the continued non-utilization of 3 NF beds in Moore County. However, that would also mean a brand-new facility would still get built in Carteret County (Project P-12179-22). Nevertheless, and as explained in more detail in Section B.9.c, Carteret County has a current surplus of 254 NF beds. Additionally, 2 entities are building brand new NF facilities in Carteret County. Therefore, and as described in more detail in Section C, Wake County has a need for these beds and maintaining the status quo was dismissed.
- **Develop the 125 NF Beds in Another County**- The 2023 SMFP projects a SNF bed deficit in only one (1) county in North Carolina by the year 2026 – Wake County. Therefore, per Policy NH-6, the only county that would allow a relocation of existing licensed NF beds to another service area is Wake County. However, Wake County was selected because the proposed relocation of these SNF beds will not create a deficit in Carteret or Moore Counties, the proposed relocation of these SNF beds will not create or increase a surplus in Wake County, and Wake County has the characteristics the applicants required in a target county for development.

The applicant adequately demonstrates that the alternative proposed in this application is the most effective alternative to meet the need based on the following:

- The applicant provides reasonable information to explain why it believes the proposed project is the most effective alternative.
- The application is conforming to all other statutory and regulatory review criteria. Therefore, the application can be approved.

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 reasons stated above. Therefore, the application is approved subject to the following conditions:

1. **Liberty Healthcare Nursing Properties of Raleigh, LLC and Liberty Commons of Raleigh, LLC (hereinafter certificate holder) shall materially comply with all representations made in the certificate of need application.**

The certificate holder shall develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center in Carteret County, and 3 NF beds from Pinehurst Healthcare and Rehabilitation in Moore County for a total of no more than 125 NF beds.

2. **Upon completion of the project Liberty Commons Rehabilitation and Nursing Care of Raleigh shall be licensed for no more than 125 nursing facility beds.**
3. **Upon completion of this project the certificate holder shall take the necessary steps to delicense 122 NF beds from Harborview Health Care Center in Carteret County, and 3 NF beds from Pinehurst Healthcare and Rehabilitation in Moore County for a total of no more than 125 NF beds.**
4. **For the first two years of operation following completion of the project, the certificate holder shall not increase private pay charges more than 5% of the projected private pay charges provided in Section Q of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.**
5. **The certificate holder shall 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.**
6. **Progress Reports:**
 - a. **Pursuant to G.S. 131E-189(a), the certificate holder shall submit periodic reports on the progress being made to develop the project consistent with the timetable and representations made in the application on the Progress Report form provided by the Healthcare Planning and Certificate of Need Section. The form is available online at: <https://info.ncdhhs.gov/dhsr/coneed/progressreport.html>.**
 - b. **The certificate holder shall complete all sections of the Progress Report form.**

- c. **The certificate holder shall describe in detail all steps taken to develop the project since the last progress report and should include documentation to substantiate each step taken as available.**
 - d. **The first progress report shall be due on January 1, 2024.**
7. **The certificate holder shall not acquire as part of this project any equipment that is not included in the project’s proposed capital expenditures in Section Q of the application and that would otherwise require a certificate of need.**
8. **The certificate holder shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**
- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

The applicant proposes to develop a new 125 bed NF by relocating 122 NF beds from Liberty Commons of Carteret County (Project ID # P-12179-22 (Develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center)) and 3 NF beds from Pinehurst Healthcare and Rehabilitation (Moore County).

Capital and Working Capital Costs

In Section Q, Form F.1a, page 105, the applicant projects the total capital cost of the project, as shown in the table below.

| Capital Costs | Applicant 1 | Applicant 2 | Total Sum |
|----------------------------------|--|----------------------------------|---------------------|
| | Liberty Healthcare Nursing Properties of Raleigh, LLC. | Liberty Commons of Raleigh, LLC. | |
| Purchase Price of Land | \$2,726,900 | \$0 | \$2,726,900 |
| Closing Costs | \$81,807 | \$0 | \$81,807 |
| Site Preparation | \$1,750,000 | \$0 | \$1,750,000 |
| Construction/ Renovation | \$24,437,700 | \$0 | \$24,437,700 |
| Landscaping | \$200,000 | \$0 | \$200,000 |
| Architect/ Engineering Fees | \$733,131 | \$0 | \$733,131 |
| Furniture | \$1,500,000 | \$0 | \$1,500,000 |
| Consultant Fees | \$150,000 | \$0 | \$150,000 |
| Other (Construction Contingency) | \$1,221,885 | \$0 | \$1,221,885 |
| Total Capital Cost | \$32,801,423 | \$0 | \$32,801,423 |

Source: Section Q, Form F.1a, page 105

In Section Q, pages 106, and in Exhibit K.3, the applicant provides the assumptions used to project the capital cost. The applicant adequately demonstrates that the projected capital cost is based on reasonable and adequately supported assumptions based on the following:

- The applicant projects the cost of land at \$335,000 per acre based on both market research and current land negotiations.
- The applicant projects the cost of furniture to be \$12,000 per bed based on prior development experience.
- The applicant projects construction cost for the proposed 81,459 square foot building based on a cost of \$300 per square foot plus a 5% contingency.
- The applicant estimates engineering and architectural fees based on cost verifications documented in Exhibit K.3 (Architect Cost Verifications).

In Section F.3, page 61, the applicant projects that start-up costs will be \$253,532 and initial operating expenses will be \$1,097,798 for a total working capital of \$1,351,330. On page 61, the applicant provides the assumptions and methodology used to project the working capital needs of the project. The applicant adequately demonstrates that the projected working capital needs of the project are based on reasonable and adequately supported assumptions based on the following:

- The applicant’s projections are based on Liberty’s extensive experience in building, operating, and managing facilities in North Carolina including thirty-seven nursing homes and eight assisted living facilities.

Availability of Funds

In Section F.2, page 59, the applicant states that the capital cost will be funded, as shown in the table below.

| Sources of Capital Cost Financing | | |
|---|--|---------------------|
| Type | Liberty Healthcare Nursing Properties of Raleigh, LLC | Total |
| Loans | \$ | \$ |
| Cash and Cash Equivalents, Accumulated reserves or OE * | \$32,801,423 | \$32,801,423 |
| Bonds | \$ | \$ |
| Other (Specify) | \$ | \$ |
| Total Financing | \$32,801,423 | \$32,801,423 |

* OE = Owner’s Equity

In Section F.3, page 61, the applicant states that the working capital needs of the project will be funded, as shown in the table below.

| Sources of Financing for Working Capital | Amount |
|--|--------------------|
| Loans | \$ |
| Cash or Cash Equivalents, Accumulated Reserves or Owner's Equity | \$1,351,330 |
| Lines of credit | \$ |
| Bonds | \$ |
| Total * | \$1,351,330 |

Exhibit F.2 contains a letter from the Chief Financial Officer of Liberty Healthcare Management, Inc. attesting that Liberty has in excess of \$450,000,000 in total cash and assets to fund any capital expenditures associated with the project.

Exhibit F.2 also contains a letter dated April 5, 2023, which is signed by John A. McNeill, Jr., and Ronald B. McNeill. The letter states, in part:

“We have both agreed and are both committed to personally funding the Proposed Project, the construction and operation of the proposed addition, including any working capital, start-up and capital expenditures associated with the project. We personally have sufficient funds to provide for the required equity and start up operating capital for the development of the proposed project if it is approved.”

The applicant adequately demonstrates the availability of sufficient funds for the capital and working capital needs of the project based on the following:

- The applicant provides documentation of the commitment to use the necessary funding toward development of the proposed project.
- The applicant provides documentation of the availability of sufficient financial resources to fund the proposed changes to capital and working capital costs.

Financial Feasibility

The applicant provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Form F.2b, the applicant projects that revenues will exceed operating expenses in the second and third full fiscal years following completion of the project, as shown in the table below.

| Liberty Commons of Raleigh (NF Beds) | | | |
|--|--|--|--|
| | 1st Full Fiscal Year (10/1/28-9/30/29) | 2nd Full Fiscal Year (10/1/29-9/30/30) | 3rd Full Fiscal Year (10/1/30-9/30/31) |
| Total Patient Days | 49535 | 49535 | 49535 |
| Total Gross Revenues (Charges) | \$6,776,156 | \$13,055,811 | \$15,232,253 |
| Total Net Revenue | \$6,741,792 | \$12,989,226 | \$15,154,569 |
| Average Net Revenue per Patient Days [^] | \$136 | \$262 | \$306 |
| Total Operating Expenses (Costs) | \$7,405,807 | \$12,452,794 | \$13,151,356 |
| Average Operating Expense per Patient Days ^{^^} | \$150 | \$251 | \$625 |
| Net Income | (\$664,015) | \$536,432 | \$2,003,213 |

[^] May not sum due to rounding

The assumptions used by the applicant in preparation of the pro forma financial statements are provided in Section Q. The applicant adequately demonstrates that the financial feasibility of the proposal is reasonable and adequately supported based on the following:

- The applicant accounts for projected operating expenses and income, such as salaries and charges, consistent with projections elsewhere in the application.
- Projected utilization is based on reasonable and adequately supported assumptions. See the discussion regarding projected utilization in Criterion (3) which is 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 conforming to this criterion for the following reasons:

- The applicant adequately demonstrates that the capital and working capital costs are based on reasonable and adequately supported assumptions for all the reasons described above.
- The applicant adequately demonstrates availability of sufficient funds for the capital and working capital needs of the proposal for all the reasons described above.
- The applicant adequately demonstrates sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of revenues and operating expenses for all the reasons described above.

- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

C

The applicant proposes to develop a new 125 bed NF by relocating 122 NF beds from Liberty Commons of Carteret County (Project ID # P-12179-22 (Develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center)) and 3 NF beds from Pinehurst Healthcare and Rehabilitation (Moore County).

On page 139, the 2023 SMFP defines the service area for nursing home beds as “... *the county in which the bed is located. Each of the 100 counties in the state is a separate service area.*”

The applicant proposes to develop a new 125 beds NF by relocating 122 NF beds from Liberty Commons of Carteret County (Project ID # P-12179-22 (Develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center)) and 3 NF beds from Pinehurst Healthcare and Rehabilitation (Moore County) to the newly proposed Liberty Commons Rehabilitation and Nursing Care of Raleigh. Raleigh, NC is in Wake County. Thus, the service area for this facility is Wake County. Facilities may also serve residents of counties not included in their service area.

Table 10A on page 160 of the 2023 SMFP shows a total of 2,760 existing and approved NF beds in Wake County. The table below summarizes the existing and approved NFs and beds as shown in the 2023 SMFP.

| Wake County Inventory of Existing/Approved NF Beds | | | | |
|---|-------------------------------|-------------------------|-----------------------------|---------------------------------|
| Facility | Total Licensed NF Beds | CON Bed Transfer | Total Available Beds | Total Planning Inventory |
| BellaRose Nursing and Rehab | 100 | 0 | 100 | 100 |
| Brightmore Healthcare Center of Cary | 0 | 0 | 28 | 25 |
| Brittany Place | 25 | 0 | 25 | -24 |
| Britthaven of Holly Springs | 0 | 90 | 90 | 90 |
| Capital Nursing and Rehabilitation Center | 125 | 0 | 125 | 125 |
| Cary Health and Rehabilitation Center | 120 | 0 | 120 | 120 |
| Dan E & Mary Louise Stewart Health Center of Springmoor | 173 | 0 | 173 | 0 |
| Glenaire | 71 | 0 | 71 | 20 |
| Hillcrest Raleigh at Crabtree Valley | 134 | 0 | 134 | 134 |
| Hillside Nursing Center of Wake Forest | 130 | 0 | 130 | 130 |
| Litchford Falls Healthcare and Rehabilitation Center | 90 | -90 | 0 | 0 |
| PruittHealth-Raleigh | 150 | 18 | 168 | 168 |
| Raleigh Rehabilitation Center | 157 | 0 | 157 | 157 |
| Rex Hospital | 0 | 0 | 120 | 120 |
| Sunnybrook Rehabilitation Center | 95 | 0 | 95 | 95 |
| Swift Creek Health Center* | 28 | 0 | 28 | 28 |
| The Cardinal at North Hills | 15 | 0 | 15 | 0 |
| The Laurels of Forest Glenn | 120 | 0 | 120 | 120 |
| The Oaks at Whitaker Glen-Mayview | 139 | 0 | 139 | 139 |
| The Rosewood Health Center | 57 | 0 | 57 | 0 |
| Tower Nursing and Rehabilitation Center | 180 | -90 | 90 | 90 |
| UNC Rex Rehabilitation and Nursing Care Center of Apex | 107 | 0 | 107 | 107 |
| Universal Health Care/Fuquay-Varina | 100 | 0 | 100 | 100 |
| Universal Health Care/North Raleigh | 132 | 0 | 132 | 132 |
| Universal Health Care/Wake Forest | 0 | 119 | 119 | 119 |
| Wake County Health and Rehabilitation Center | 0 | 0 | 95 | 95 |
| WakeMed | 0 | 0 | 13 | 13 |
| WakeMed Cary Hospital | 0 | 0 | 24 | 24 |
| Wellington Rehabilitation and Healthcare | 80 | 0 | 80 | 80 |
| Windsor Point Continuing Care Retirement Community | 45 | 0 | 45 | 0 |
| Zebulon Rehabilitation Center | 60 | 0 | 60 | 60 |
| | | | | |
| Total | 2,590 | 47 | 2,760 | 2,367 |

In Section G, page 70, the applicant explains why it believes its proposal would not result in the unnecessary duplication of existing or approved NF bed services in Wake County. The applicant states:

“The net effect of the proposed project is to correct a deficiency of NF beds in a county that needs additional NF beds (Wake County), and also partly correct a surplus of service in counties that has too many NF beds (Carteret and Moore Counties). Reduction of the surplus in Carteret and Moore County represents the elimination of unnecessary duplication.”

The applicant adequately demonstrates that the proposal would not result in an unnecessary duplication of existing or approved services in the service area based on the following:

- The proposal would not result in an increase in NF beds in Wake County outside of what was planned in the 2023 SMFP.
- The applicant adequately demonstrates that the proposed relocation and replacement of the NF beds is needed in addition to the existing or approved NF beds in Wake County.

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 all the reasons described 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

The applicant proposes to develop a new 125 bed NF by relocating 122 NF beds from Liberty Commons of Carteret County (Project ID # P-12179-22 (Develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center)) and 3 NF beds from Pinehurst Healthcare and Rehabilitation (Moore County).

In Section Q, Form H, page 113, the applicant provides projected full-time equivalent (FTE) staffing for the proposed services, as illustrated in the following table.

| Position | Projected FTE Staff | | |
|--|--------------------------------|--------------------------------|--------------------------------|
| | 1 st FFY FY 2029 | 2 nd FFY FY 2030 | 3 rd FFY FY 2031 |
| Registered Nurses | 7 | 7 | 7 |
| Licensed Practical Nurses | 5 | 23 | 23 |
| Certified Nurse Aides/Nursing Assistants | 21 | 28 | 28 |
| Director of Nursing | 1 | 1 | 1 |
| Assistant Director of Nursing | 0 | 1 | 1 |
| MDS Nurse | 1 | 1 | 1 |
| Staff Development Coordinator | 1 | 1 | 1 |
| Physical Therapists | 2 | 2 | 2 |
| Physical Therapy Assistant | 0 | 3 | 3 |
| Speech Therapists | 0 | 2 | 2 |
| Occupational Therapists | 2 | 1 | 1 |
| Occupational Therapists Aides | 1 | 2 | 2 |
| Cooks | 3 | 4 | 4 |
| Dietary Aides | 7 | 8 | 8 |
| Social Workers | 1 | 3 | 3 |
| Activities Director | 1 | 3 | 3 |
| Medical Records | 0 | 2 | 2 |
| Laundry & Linen | 3 | 3 | 3 |
| Housekeeping | 8 | 10 | 10 |
| Maintenance/Engineering | 1 | 2 | 2 |
| Administrator/CEO | 1 | 1 | 1 |
| Assistance Administrator | 0 | 1 | 1 |
| Business Office | 2 | 5 | 5 |
| Other (HR) | 1 | 1 | 1 |
| Other (Marketing) | 1 | 1 | 1 |
| Other (Nurse Secretary) | 1 | 1 | 1 |
| TOTAL | 70 | 117 | 117 |

The assumptions and methodology used to project staffing are provided in Section Q. Adequate operating expenses for the health manpower and management positions proposed by the applicant are budgeted in Form F.3b. In Section H, page 73, the applicant describes the methods to be used to recruit or fill new positions and its proposed training and continuing education programs.

The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed services based on the applicant’s extensive experience in operating nursing home facilities throughout the state of North Carolina and its existing recruitment and training programs.

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 all the reasons described 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

The applicant proposes to develop a new 125 bed NF by relocating 122 NF beds from Liberty Commons of Carteret County (Project ID # P-12179-22 (Develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center)) and 3 NF beds from Pinehurst Healthcare and Rehabilitation (Moore County).

Ancillary and Support Services

In Section I, page 74, the applicant identifies the necessary ancillary and support services for the proposed services. On pages 74-75, the applicant explains how each ancillary and support service is or will be made available.

Coordination

In Section I, page 75, 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. The applicant adequately demonstrates that the proposed services will be coordinated with the existing health care system based on the following:

- The applicant and its affiliates are a post-acute healthcare company that has an established presence in the service area.
- The applicant provides letters from local health care providers stating their support for the project and their intentions on referring patients to the proposed facility.

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 all the reasons described above.

- (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. 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 applicant is not an HMO. Therefore, Criterion (10) is not applicable to this review.

- (11) Repealed effective July 1, 1987.
- (12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

C

The applicant proposes to develop a new 125 bed NF by relocating 122 NF beds from Liberty Commons of Carteret County (Project ID # P-12179-22 (Develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center)) and 3 NF beds from Pinehurst Healthcare and Rehabilitation (Moore County).

In Section K, page 78, the applicant states that the project involves constructing 81,459 square feet of new space. Line drawings are provided in Exhibit K.1.

On pages 78-79, the applicant identifies 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. Supporting documentation is provided in Exhibit K.4. The site appears to be suitable for the proposed nursing home facility based on the applicant's representations and supporting documentation.

On page 81-82, the applicant adequately explains how the cost, design and means of construction represent the most reasonable alternative for the proposal based on the following:

- The proposed project will incorporate many of the same features that are the most cost-effective with respect to both design and means of construction based on the applicant's experience in developing and operating long-term care facilities.
- The applicant chose the design because it will produce a high-quality facility with a residential exterior and interior appearance while still being cost-conscious and operationally efficient.

On page 79, the applicant adequately explains 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 based on the following:

- The applicant has utilized the current rates available to project rates which results not unduly increasing the costs and charges to the public.
- The construction costs are justified based on the architect's costs estimates in Exhibit K.3.

On page 80, the applicant identifies any applicable energy saving features that will be incorporated into the construction plans.

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 all the reasons described above.

(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 ... persons [with disabilities], 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

Liberty Commons Rehabilitation and Nursing Care of Raleigh is not an existing facility. 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 persons with disabilities to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

NA

Liberty Commons Rehabilitation and Nursing Care of Raleigh is not an existing facility. Therefore, Criterion (13b) is not applicable to this review.

(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 87, the applicant projects the following payor mix for the proposed services during the third full fiscal year (10/1/30 to 9/30/31) of operation following completion of the project, as shown in the table below.

| Liberty Commons of Raleigh Projected Payor Mix for FY3 (NF Beds) (10/01/2030 to 9/30/2031) | |
|---|---|
| Payor Category | Percent of Total Patients Served |
| Self-Pay | 15.25% |
| Medicare | 20.34% |
| Medicaid | 60.17% |
| Insurance | 1.69% |
| Other (Managed Care) | 2.54% |
| Total | 100.0% |

Source: Table on page 89 of the application.

As shown in the table above, during the third full fiscal year of operation, the applicant projects that 15.25% of total services will be provided to self-pay patients, 20.34% to Medicare patients and 60.17% to Medicaid patients.

On pages 87-88, the applicant provides 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 based on the following:

- The applicant utilized the historical data from the 2023 License Renewal Applications (LRA's) for the three operating nursing facilities in Wake County.
- The applicant, based on its experience with brand new, state-of-the art facilities, anticipates more private payors and Medicare patients will utilize the facility and adjusted their projections.

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 conforming to this criterion based on the reasons stated above.

- (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 89, 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
- Information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion.

- (14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

C

The applicant proposes to develop a new 125 bed NF by relocating 122 NF beds from Liberty Commons of Carteret County (Project ID # P-12179-22 (Develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center)) and 3 NF beds from Pinehurst Healthcare and Rehabilitation (Moore County).

In Section M.1, page 91, the applicant describes 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.1. The applicant adequately demonstrates that health professional training programs in the area will have access to the facility for training purposes based on the following:

- Liberty operates over 37 nursing facilities in North Carolina and has established relationships with health professional training programs. The applicant states “...*in practice, every individual location establishes and maintains a relationship with local training programs and routinely serves as a clinical training site whenever necessary.*”
- In Exhibit M.1, the applicant provides a letter from Wake Tech Community College expressing their willingness to establish a clinical training agreement.

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 all the reasons described above.

- (15) Repealed effective July 1, 1987.
(16) Repealed effective July 1, 1987.

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

C

The applicant proposes to develop a new 125 bed NF by relocating 122 NF beds from Liberty Commons of Carteret County (Project ID # P-12179-22 (Develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center)) and 3 NF beds from Pinehurst Healthcare and Rehabilitation (Moore County).

On page 139, the 2023 SMFP defines the service area for nursing home beds as “... *the county in which the bed is located. Each of the 100 counties in the state is a separate service area.*”

The applicant proposes to develop a new 125 beds NF by relocating 122 NF beds from Liberty Commons of Carteret County (Project ID # P-12179-22 (Develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center)) and 3 NF beds from Pinehurst Healthcare and Rehabilitation (Moore County) to the newly proposed Liberty Commons Rehabilitation and Nursing Care of Raleigh. Raleigh, NC is in Wake County. Thus, the service area for this facility is Wake County. Facilities may also serve residents of counties not included in their service area.

Table 10A on page 160 of the 2023 SMFP shows a total of 2,760 existing and approved NF beds in Wake County. The table below summarizes the existing and approved NFs and beds as shown in the 2023 SMFP.

| Wake County Inventory of Existing/Approved NF Beds | | | | |
|---|-------------------------------|-------------------------|-----------------------------|---------------------------------|
| Facility | Total Licensed NF Beds | CON Bed Transfer | Total Available Beds | Total Planning Inventory |
| BellaRose Nursing and Rehab | 100 | 0 | 100 | 100 |
| Brightmore Healthcare Center of Cary | 0 | 0 | 28 | 25 |
| Brittany Place | 25 | 0 | 25 | -24 |
| Britthaven of Holly Springs | 0 | 90 | 90 | 90 |
| Capital Nursing and Rehabilitation Center | 125 | 0 | 125 | 125 |
| Cary Health and Rehabilitation Center | 120 | 0 | 120 | 120 |
| Dan E & Mary Louise Stewart Health Center of Springmoor | 173 | 0 | 173 | 0 |
| Glenaire | 71 | 0 | 71 | 20 |
| Hillcrest Raleigh at Crabtree Valley | 134 | 0 | 134 | 134 |
| Hillside Nursing Center of Wake Forest | 130 | 0 | 130 | 130 |
| Litchford Falls Healthcare and Rehabilitation Center | 90 | -90 | 0 | 0 |
| PruittHealth-Raleigh | 150 | 18 | 168 | 168 |
| Raleigh Rehabilitation Center | 157 | 0 | 157 | 157 |
| Rex Hospital | 0 | 0 | 120 | 120 |
| Sunnybrook Rehabilitation Center | 95 | 0 | 95 | 95 |
| Swift Creek Health Center* | 28 | 0 | 28 | 28 |
| The Cardinal at North Hills | 15 | 0 | 15 | 0 |
| The Laurels of Forest Glenn | 120 | 0 | 120 | 120 |
| The Oaks at Whitaker Glen-Mayview | 139 | 0 | 139 | 139 |
| The Rosewood Health Center | 57 | 0 | 57 | 0 |
| Tower Nursing and Rehabilitation Center | 180 | -90 | 90 | 90 |
| UNC Rex Rehabilitation and Nursing Care Center of Apex | 107 | 0 | 107 | 107 |
| Universal Health Care/Fuquay-Varina | 100 | 0 | 100 | 100 |
| Universal Health Care/North Raleigh | 132 | 0 | 132 | 132 |
| Universal Health Care/Wake Forest | 0 | 119 | 119 | 119 |
| Wake County Health and Rehabilitation Center | 0 | 0 | 95 | 95 |
| WakeMed | 0 | 0 | 13 | 13 |
| WakeMed Cary Hospital | 0 | 0 | 24 | 24 |
| Wellington Rehabilitation and Healthcare | 80 | 0 | 80 | 80 |
| Windsor Point Continuing Care Retirement Community | 45 | 0 | 45 | 0 |
| Zebulon Rehabilitation Center | 60 | 0 | 60 | 60 |
| | | | | |
| Total | 2,590 | 47 | 2,760 | 2,367 |

Regarding the expected effects of the proposal on competition in the service area, in Section N, page 92, the applicant states:

“Liberty Commons of Wake County will have a positive effect on competition in the area, as the demand for the 125 NF beds may encourage other facilities with poor utilization in Wake County to improve their current situations to compete, thereby encouraging greater efficiencies and better quality of care all around. The proposed project will also introduce 125 brand new beds to the county, thus having a positive impact upon the cost effectiveness, quality, and access.”

Regarding the impact of the proposal on cost effectiveness, in Section K, pages 78-80 and in Section N, page 92, the applicant states:

“Approval of this CON would allow Liberty Commons to develop a state-of-the-art nursing home facility for the current and future residents of Wake County.”

In Section K, pages 78-80 the applicant states that the proposed project will incorporate many of the same features that are the most cost-effective with respect to both design and means of construction based on the applicant’s experience in developing and operating long-term care facilities. The applicant further states that the construction costs are justified based on the architect’s costs estimates in Exhibit K.3.

See also Sections C, F, and Q of the application and any exhibits.

Regarding the impact of the proposal on quality, in Section N, pages 92, the applicant states:

“The safety and quality policies and procedures currently followed by Liberty would continue at the proposed Liberty Commons.”

See also Sections C and O of the application and any exhibits.

Regarding the impact of the proposal on access by medically underserved groups, in Section N, page 93, the applicant states:

“Liberty Commons will afford equal treatment and access to its services for all persons, without discrimination due to age, race, color, religion, sex, marital status, national origin, sexual orientation, ancestry, or disability, or any other factor that would classify a resident as underserved. Additionally, Liberty Commons has projected to serve 55% Medicaid residents for the 3rd FFY.”

See also Sections C and L of the application and any exhibits.

The applicant adequately describes the expected effects of the proposed services on competition in the service area and adequately demonstrates the proposal would have a positive impact on cost-effectiveness, quality, and access because the applicant adequately demonstrates that:

- 1) The proposal is cost effective because the applicant adequately demonstrated: a) the need the population to be served has for the proposal; b) that the proposal would not result in an unnecessary duplication of existing and approved health services; and c) that projected revenues and operating costs are reasonable.

- 2) Quality care would be provided based on the applicant's representations about how it will ensure the quality of the proposed services and the applicant's record of providing quality care in the past.
- 3) Medically underserved groups will have access to the proposed services based on the applicant's representations about access by medically underserved groups and the projected payor mix.

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 based on all the reasons described above.

- (19) Repealed effective July 1, 1987.
- (20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

C

In Section Q, Form O, the applicant identifies the nursing facilities located in North Carolina owned, operated or managed by the applicant or a related entity. The applicant identifies a total of 37 of this type of facility located in North Carolina.

In Section O, page 95, the applicant states that, during the 18 months immediately preceding the submittal of the application, the nursing facilities identified in Form O *"have provided quality care during the 18 months immediately preceding submission of this application."*

On pages 96-97, the applicant identifies nine facilities that have been cited for immediate jeopardy. The facilities are: Liberty Commons Nursing and Rehabilitation Center of Johnston County, Liberty Commons Nursing and Rehabilitation Center of Columbus County, Shorehead Health Care and Retirement Center, Liberty Commons and Rehabilitation Center (Wilmington), Summerstone Health and rehabilitation Center, Roxboro Healthcare and Rehabilitation Center, Louisburg Healthcare and Rehabilitation Center, Woodlands Nursing and Rehabilitation Center, and Liberty Commons Nursing and Rehabilitation Center of Lee County.

According to a quality check provided by the Nursing Home Licensure and Certification Section, DHSR dated May 3, 2023, Cross Creek Health Care is a closed facility and the other 36 facilities are in compliance. According to the files in the Nursing Home Licensure and

Certification Section, DHSR, during the 18 months immediately preceding submission of the application through May 3, 2023, incidents related to quality of care occurred in nine facilities: Pisgah Manor Health Care Center was back in compliance as of 7/4/22, Liberty Commons Nursing and Rehab Ctr of Columbus County was back in compliance on 4/14/22, Shoreland Health Care and Retirement Center Inc was back in compliance as of 8/5/22, Summerstone Health and Rehab Center was back in compliance as of 8/18/22, Oak Forest Health and Rehabilitation was back in compliance as of 11/16/22, Roxboro Healthcare & Rehabilitation Center was back in compliance as of 8/22/22. Louisburg Healthcare & Rehabilitation Center was surveyed on 1/23/23 have resolved their IJ but are still working on rectifying their standard tags as of the date of this report. Liberty Commons Rehabilitation Center was surveyed on 7/15/22 and have resolved their IJ but are still working on rectifying their standard tags as of the date of this report.

After reviewing and considering information provided by the applicant and by the Nursing Home Licensure and Certification Section and considering the quality of care provided at all 37 facilities, the applicant provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

(21) Repealed effective July 1, 1987.

G.S. 131E-183 (b): The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

NA

The applicant proposes to develop a new 125 bed NF by relocating 122 NF beds from Liberty Commons of Carteret County (Project ID # P-12179-22 (Develop a new facility by relocating no more than 122 NF beds from Harborview Health Care Center)) and 3 NF beds from Pinehurst Healthcare and Rehabilitation (Moore County). The Criteria and Standards for Nursing Facility or Adult Care Home Services, promulgated in 10A NCAC 14C .1100, are not applicable to this review because the applicant does not propose to add new NF beds to an existing facility or to develop a new facility.