



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

KODY H. KINSLEY • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

VIA EMAIL ONLY

August 30, 2022

Gary S. Qualls, K & L Gates
Gary.qualls@klgates.com

Exempt from Review

Record #: 4012
Date of Request: August 17, 2022
Facility Name: University of North Carolina Medical Center
FID #: 923517
Business Name: University of North Carolina Hospitals at Chapel Hill
Business #: 1900
Project Description: Renovation of the neonatal intensive care unit (NICU)
County: Orange

Dear Mr. Qualls:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency), determined that the above referenced proposal is exempt from certificate of need review in accordance with G.S. 131E-184(g). Therefore, you may proceed to offer, develop or establish the above referenced project without a certificate of need.

It should be noted that this determination is binding only for the facts represented by you. Consequently, if changes are made in the project or in the facts provided in your correspondence referenced above, a new determination as to whether a certificate of need is required would need to be made by the Agency. Changes in a project include but are not limited to: (1) increases in the capital cost; (2) acquisition of medical equipment not included in the original cost estimate; (3) modifications in the design of the project; (4) change in location; and (5) any increase in the number of square feet to be constructed.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Michael J. McKillip
Team Leader

Micheala Mitchell
Chief

cc: Construction Section, DHSR
Acute and Home Care Licensure and Certification Section, DHSR

**NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION
HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION**

LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603
MAILING ADDRESS: 809 Ruggles Drive, 2704 Mail Service Center, Raleigh, NC 27699-2704
<https://info.ncdhhs.gov/dhsr/> • TEL: 919-855-3873

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER



K&L GATES

Gary S. Qualls
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August 17, 2022

Via E-Mail

Micheala Mitchell, Chief
Healthcare Planning and Certificate of Need Section
Division of Health Service Regulation
N.C. Department of Health and Human Services
809 Ruggles Drive
Raleigh, NC 27603

RE: UNC Hospitals -- NICU Main Campus Exemption Project

Dear Ms. Mitchell:

We are filing this Exemption Notice on behalf of our client, UNC Hospitals (“UNCH”), with the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section (the “Agency”).

Pursuant to N.C. Gen. Stat. § 131E-184(g), UNCH gives this prior written notice of a proposed exempt project (the “NICU Renovation Project”). As you know, UNCH is a licensed hospital and is thus an existing “health service facility” under the CON Law. See N.C. Gen. Stat. § 131E-176(9b). This NICU Renovation Project entails the following components:

1. Construction renovations will occur on the 6 Floor Women’s Hospital and 4th Floor Oncology Hospital sections of UNCH in the process of the bed relocation described below.
 - a. 22 Gynecology Beds on 6 Floor Women’s Hospital will be converted to Neonatal Beds (Level IV) beds. See Existing Floor Plans for 6 Floor Women’s Hospital Showing Proposed Demolition (Exhibit 1A) and Proposed Floor Plans for 6 Floor Women’s Hospital After Renovations (Exhibit 1B).

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- b. 14 Gynecology Beds will be relocated from 6 Floor Women's Hospital to 4th Floor Oncology Hospital within UNCH to supplant 14 Oncology Beds. See Existing 4th Floor Oncology Hospital Floor Plans Showing Proposed Demolition (Exhibit 2A) and Proposed 4th Floor Oncology Hospital Floor Plans After Renovations (Exhibit 2B).
4. The total capital costs for the foregoing renovations are projected to be \$6.4 Million. See Exhibit 3 (Capital Cost Sheet).
5. This NICU Renovation Project will not entail any increase in UNCH's total licensed bed capacity.
6. The NICU Renovation Project merely entails the following redistribution among existing UNCH acute care beds:
 - a. The number of licensed acute care beds categorized as Neonatal Intensive Care ("NICU" or "Neonatal Level IV") Beds will increase by 22 (from 48 to 70).
 - b. The number of licensed acute care beds categorized as Gynecology Beds will decrease by eight (from 22 to 14).
 - c. The number of licensed acute care beds categorized as Oncology Beds will decrease by 14 (from 77 to 63).

Thus, UNCH's net number of acute care beds will remain the same after this intra-acute care bed redistribution.

I. Exemption Provisions.

This NICU Renovation Project falls within the "Main Campus Exemption Provisions" in N.C. Gen. Stat. § 131E-184(g)(1)-(3). The Main Campus Exemption Provisions provide as follows:

- (g) The Department shall exempt from the certificate of need review and any capital expenditure that exceeds the two million dollar (\$2,000,000) threshold set forth in G.S. 131E-176(16)b if all of the following conditions are met:
 - (1) The sole purpose of the capital expenditure is to renovate, replace on the same site, or expand the entirety or a portion of an existing health service facility that is located on the main campus.
 - (2) The capital expenditure does not result in (i) a change in bed capacity as defined in G.S. 131E-176(5) or (ii) the addition of a health service facility or any other new institutional health service other than that allowed in G.S. 131E-176(16)b.

- (3) The licensed health service facility proposing to incur the capital expenditure shall provide written notice to the Department along with supporting documentation to demonstrate that it meets the exemption criteria of this subsection.

For purposes of the foregoing Main Campus Exemption Provisions in Section 131E-184(g), the term “main campus” is defined in N.C. Gen. Stat. § 131E-176(14n) as follows:

- (14n) “Main campus” means all of the following for the purpose of G.S. 131E-184(f) and (g) only:
 - a. The site of the main building from which a licensed health service facility provides clinical patient services and exercises financial and administrative control over the entire facility, including the buildings and grounds adjacent to that main building.
 - b. Other areas and structures that are not strictly contiguous to the main building but are located within 250 yards of the main building.

II. The Exempt NICU Renovation Project.

The NICU Renovation Project involves two parts: (a) the 6 Floor Women’s Hospital Renovations; and (b) the 4th Floor Oncology Hospital Renovations. The capital expenditures for both parts combined are projected to be roughly \$6.4 Million, thus triggering the exemption analysis under N.C. Gen. Stat. § 131E-184(g). See Exhibit 3.

In accordance with Sections 131E-184(g)(1) and 131E-176(14n), clinical patient services, financial control, and administrative control of UNCH are provided in the same UNCH Main Campus Hospital Building as the exempt renovations. Only existing health services currently offered at UNCH will be provided as a result of this NICU Renovation Project. In accordance with Section 131E-184(g)(2), the NICU Renovation Project’s capital expenditures will “not result in (i) a change in bed capacity as defined in G.S. 131E-176(5) or (ii) the addition of a health service facility or any other new institutional health service other than that allowed in G.S. 131E-176(16)b.”

No other new institutional health service triggers are implicated here. No new operating rooms will be developed and no major medical equipment will be acquired as a result of this NICU Renovation Project. Additionally, no *per se* reviewable equipment or services are proposed here. N.C. Gen. Stat. § 131E-176(16)(f) and (f1). Finally, because UNCH already operates NICU services, N.C. Gen. Stat. § 131E-176(16)(f)(3) is not triggered by merely converting existing acute care beds for specific use as additional NICU beds for UNCH’s existing NICU.

III. The NICU Renovation Main Campus Exemption As Potential Interim Measure.

Although the following information is not necessary to this Exemption Notice, we provide the following additional context. The proposed 2023 SMFP contemplates that NICU beds will be exempt from the standard need methodology and planning inventory for acute care beds in 2023. See Exhibit 4. If these NICU exemption provisions are included in the final 2023 SMFP, UNCH plans to file a CON application in 2023 for additional NICU beds (outside of the acute care bed need methodology) as a means to develop additional NICU capacity. In the event this becomes an option, UNCH would have the ability to add NICU beds while retaining its current complement of Oncology (77) and Gynecology (22) beds, which would be optimal for patient care. Thus, while UNCH intends to pursue the NICU renovation and expansion project described herein regardless, it is possible that the regulatory means by which it accomplishes this project could change after the 2023 SMFP takes effect. Of course, UNCH would seek all necessary regulatory approvals, including obtaining a CON in the event it seeks an increase in total licensed acute care beds.

UNCH has a significant need across the acute care bed spectrum. However, UNCH's NICU need is quite pressing and it is important that this project get underway as soon as possible. Thus, pending the potential 2023 SMFP opportunity to apply for additional NICU beds, UNCH's current plans are to convert existing non-NICU acute care beds to NICU use through this Main Campus Exemption.

IV. Conclusion.

Based on the foregoing information, UNCH requests that the Agency provide a written response confirming that UNCH's NICU Renovation Project is exempt from certificate of need review. Thank you for your assistance in regard to this matter. If you have any questions or need further information, please feel free to contact me at the number above.

Sincerely,



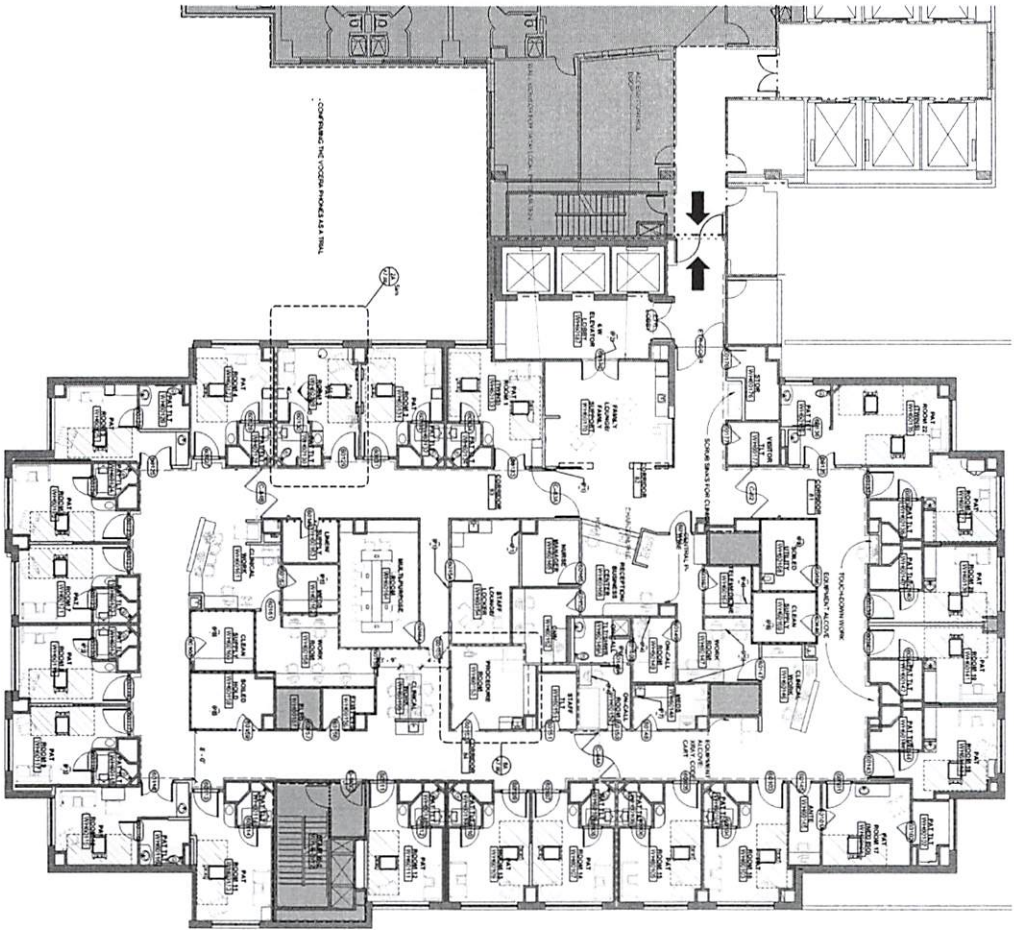
Gary S. Qualls

Exhibits

- 1A. Existing Floor Plans for 6 Floor Women's Hospital Showing Demolition
- 1B. Proposed Floor Plans for 6 Floor Women's Hospital After Renovations
- 2A. Existing 4th Floor Oncology Hospital Floor Plans Showing Demolition
- 2B. Proposed 4th Floor Oncology Hospital Floor Plans After Renovations
- 3. Total Capital Cost Sheet
- 4. Draft 2023 SMFP Excerpts

Exhibit 1A

Exhibit 1B



6W NCCC Expansion - Proposed Construction

GENERAL PLAN NOTES

1. REVIEW EXISTING AND PROPOSED CONSTRUCTION RELATED CONDITIONS
2. VERIFY ALL EXISTING CONDITIONS AND RECORD THEM AS SHOWN ON THE EXISTING PLAN
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30. VERIFY ALL EXISTING CONDITIONS AND RECORD THEM AS SHOWN ON THE EXISTING PLAN

KEYNOTES PLAN

1. KEYNOTE 1: EXISTING CONDITIONS
2. KEYNOTE 2: PROPOSED CONSTRUCTION
3. KEYNOTE 3: EXISTING CONDITIONS
4. KEYNOTE 4: PROPOSED CONSTRUCTION
5. KEYNOTE 5: EXISTING CONDITIONS
6. KEYNOTE 6: PROPOSED CONSTRUCTION
7. KEYNOTE 7: EXISTING CONDITIONS
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27. KEYNOTE 27: EXISTING CONDITIONS
28. KEYNOTE 28: PROPOSED CONSTRUCTION
29. KEYNOTE 29: EXISTING CONDITIONS
30. KEYNOTE 30: PROPOSED CONSTRUCTION

LINE SCHEDULE LEGEND

- 1. 3 HOUR HORIZONTAL EXIST
- 2. 2 HOUR HORIZONTAL EXIST
- 3. 1 HOUR HORIZONTAL EXIST
- 4. 1 HOUR HORIZONTAL EXIST
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ARCHITECT
 HOK
 201 South Main Street
 Charlotte, NC 28202
 P: 704.376.7711
 F: 704.376.8000
 www.hok.com

UNC HOSPITAL- 6W NCCC EXPANSION
 101 MANNING DRIVE, CHAPEL HILL, NC 27514

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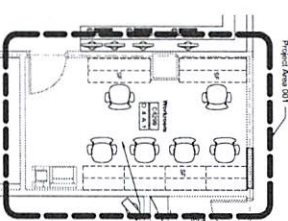
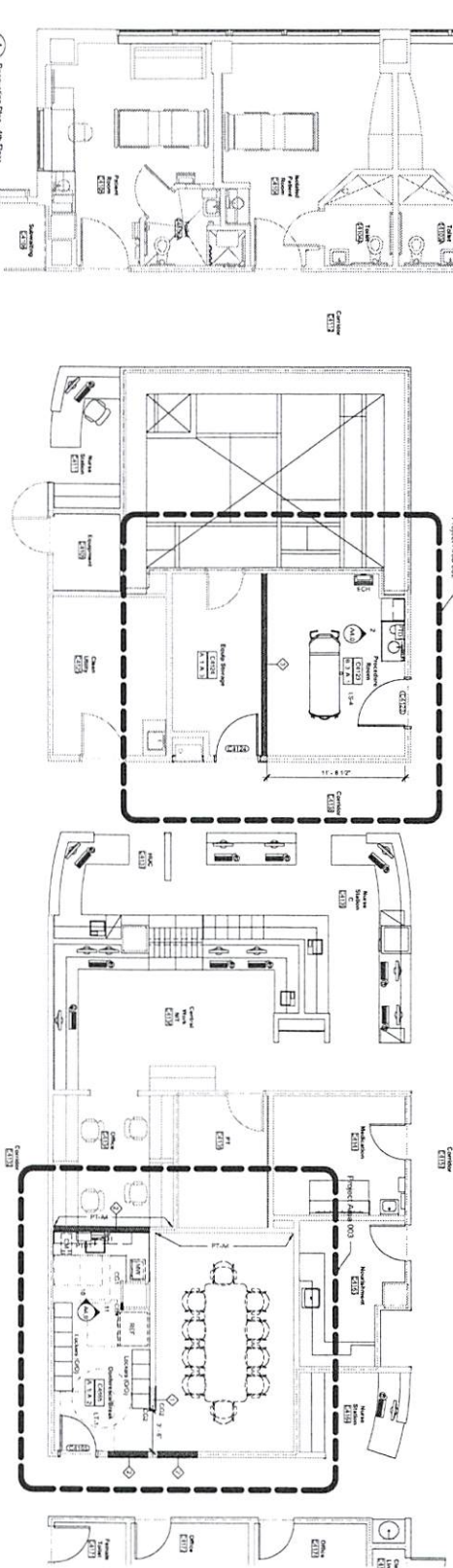
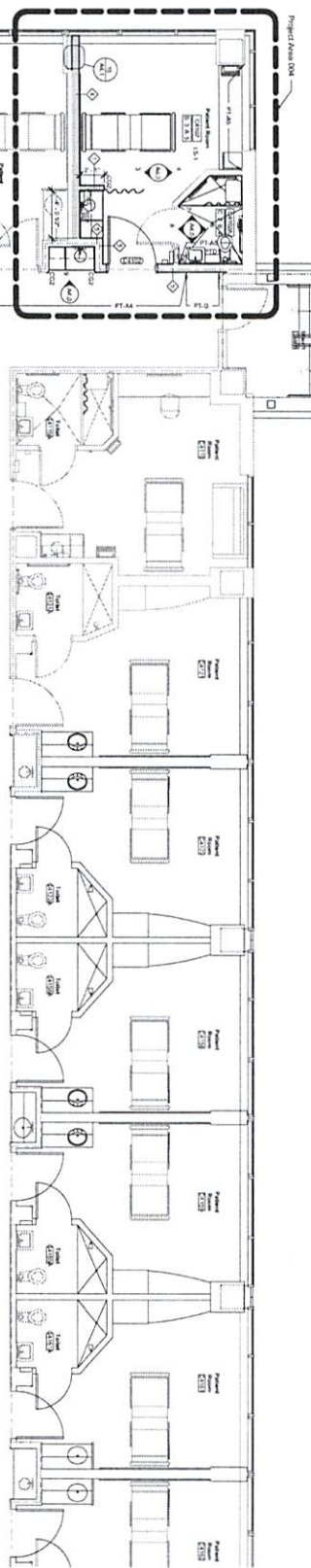
FLOOR PLANS

A2.00

DESIGN DEVELOPMENT

Exhibit 2A

Exhibit 2B



GENERAL RENOVATION NOTES:

- The Owner/Client is aware of the risks associated with the renovation of existing structures.
- Notwithstanding to the extent of the contract documents, the contractor shall be responsible for the safety of the work.
- Provision for all work.
- Contractor shall be responsible for the safety of the work.
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LEGEND:

- DOOR SCHEDULE
- WALL SCHEDULE
- EXISTING WALL
- EXISTING WALL WITH REINFORCEMENT
- EXISTING WALL WITH REINFORCEMENT AND FINISH
- EXISTING WALL WITH REINFORCEMENT AND FINISH WITH INSULATION
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WALL LEGEND:

- EXISTING MASONRY WALL
- EXISTING CONCRETE WALL
- EXISTING CMU WALL
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UNC HOSPITALS
 SCOP: 22-25004-01A
6 Women's to 4 Oncology
 CHAPEL HILL, NORTH CAROLINA

MHAworks
 PLANNING ARCHITECTURE INTERIORS
 501 WASHINGTON STREET, SUITE G
 DURHAM, NORTH CAROLINA 27701
 P 919.482.2470
 F 919.482.5369
 www.mhaworks.com

PROJECT: 21188
DATE: 8/10/22
SHEET NUMBER: A2.0

UNC HOSPITALS logo and seal.

Exhibit 3

PROPOSED TOTAL CAPITAL COST OF PROJECT

A. Site Costs

(1) Full purchase price of land	\$	0
Acres _____ Price per Acre \$ _____		
(2) Closing costs	\$	0
(3) Site Inspection and Survey	\$	0
(4) Legal fees and subsoil investigation	\$	0
(5) Site Preparation Costs		
Soil Borings	\$	0
Clearing - Earthwork	\$	0
Fine Grade for Slab	\$	0
Roads - Paving	\$	0
Concrete Sidewalks	\$	0
Water and Sewer	\$	0
Footing Excavation	\$	0
Footing Backfill	\$	0
Termite Treatment	\$	0
Other (Specify)	\$	0
Sub-Total Site Preparation Costs	\$	0
(6) Other (Specify)	\$	0
(7) Sub-Total Site Costs		\$ 0

B. Construction Contract

(8) Cost of Materials		
General Requirements	\$	0
Concrete/Masonry	\$	0
Woods/Doors & Windows/Finishes	\$	0
Thermal & Moisture Protection	\$	0
Equipment/Specialty Items	\$	0
Mechanical/Electrical	\$	0
Other (Unit Strut Support)	\$	0
Sub-Total Cost of Materials	\$	0
(9) Cost of Labor	\$	0
(10) Other (Specify)	\$	0
Firestopping	\$	0
Asbestos Abatement	\$	0
Window Upgrade	\$	0
HVAC Upgrade	\$	0
(11) Sub-Total Construction Contract		\$ 3,415,535.20

C. Miscellaneous Project Costs

(12) Building Purchase	\$	0
(13) Fixed Equipment Purchase	\$	993,876.24
(14) Movable Equipment Purchase	\$	1,443,443.00
(15) Furniture	\$	176,352.00
(16) Landscaping	\$	0
(17) Consultant Fees		
Architect and Engineering Fees	\$	372,316.00
Legal Fees	\$	0
Market Analysis	\$	0
Other (Structural fee)	\$	0
Other (Specify)	\$	0
Sub-Total Consultant Fees	\$	0
(18) Financing Costs (e.g. Bond, Loan, etc.)	\$	0
(19) Interest During Construction	\$	0
(20) Other (Specify)	\$	0
(21) Sub-Total Miscellaneous		\$ 2,985,987.24
(22) Total Capital Cost of Project (Sum A-C above)		\$ 6,401,522.44

I certify that, to the best of my knowledge, the above construction related costs of the proposed project named above are complete and correct.

Signature of Licensed Architect or Engineer

Exhibit 4

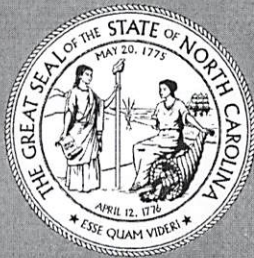
EXHIBIT

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NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**
Division of Health Service Regulation

CHAPTER 5

ACUTE CARE HOSPITAL BEDS

Introduction

G.S. 131E-176(13) defines a hospital as “a public or private institution which is primarily engaged in providing to inpatients, by or under supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled or sick persons. The term includes all facilities licensed pursuant to G.S. 131E-77, except long-term care hospitals (LTCHs).”

There are 108 licensed acute care hospitals in the state. The occupancy rate for acute care beds is 62.9%. Table 5A shows that certificates of need have been issued to decrease the number of beds in some areas and increase the number of beds in other areas, resulting in a net of 1,262 new beds to be developed.

Definitions

An acute care hospital bed’s service area is the single or multicounty grouping shown in Figure 5.1. See below for the delineation of service areas.

The *reporting year* is October 1 through September 30. The *current* reporting year is October 1, 2020 through September 30, 2021.

The methodology projects bed need four years beyond the current reporting year. The *current projection year* is 2025.

The *planning inventory* is the number of beds used in need determination calculations. It is the number of licensed beds as of the last day of the reporting year as submitted by the hospital, plus any new beds approved by CON that are under development as of the last day of the reporting year, minus any beds delicensed after the end of the reporting year, minus any beds approved or licensed pursuant to Policy AC-3 as of the last day of the reporting year.

A *hospital under common ownership* is a hospital that is owned by the same or a related legal entity as at least one other acute care hospital in the same service area. All other hospitals are *single* hospitals.

Changes from the Previous Plan

This chapter contains substantive changes from the previous State Medical Facilities Plan (SMFP). Due to sustained impacts of the COVID-19 pandemic, and in response to a petition to remove neonatal intensive care unit (NICU) beds from the acute care need methodology, the State Health Coordinating Council (SHCC) decided to adjust calculations for determining acute care bed need in the 2023 SMFP. The changes are described below under “Application of the Methodology.”

Basic Principles

1. Acute care hospitals are the providers of essential health care services, one of the state’s largest employers, the largest single investment of public funds in many communities, magnets for physicians deciding where to practice, and building blocks in the economic development of their communities. North Carolina must safeguard the future of its hospitals.

the county without a licensed acute care hospital is grouped with both of the counties with a licensed acute care hospital.

If an entity has a certificate of need (CON) to develop an acute care hospital in a county without an acute care hospital, the planning inventory in Table 5A will include these beds upon licensure. Before licensure, the beds remain under development in the multicounty service area. Upon licensure of the beds, the county where they are licensed becomes a single county service area.

Application of the Methodology (Table 5A)

Step 1: Determine the number of acute care beds in the inventory by totaling:

- a. the number of licensed acute care beds at each hospital (*Column D*) exclusive of beds licensed or approved at academic medical center teaching hospitals (listed in Appendix F) pursuant to Policy AC-3, and exclusive of beds that provide Level II, III and IV NICU services; and
- b. the number of acute care beds for which certificates of need have been issued, but for which changes in the license were not made by the end of the reporting year (i.e., additions, reductions, and relocations) (*Column E*); and
- c. the number of acute care beds for which a need determination in the SMFP is pending review or appeal (*Column E*); and
- d. the number of beds delicensed after the end of the reporting year (*Column E*).

Step 2: Enter the total number of inpatient days of care provided by each hospital for the reporting year, exclusive of days of care provided in Level II, III and IV NICU services (*Column F*).

Step 3: Calculate the projected inpatient DOC for each service area for the projection year as follows:

- a. Determine the total number of inpatient DOC during each of the reporting years between 2015 and 2019.
- b. Calculate the difference in the number of inpatient DOC provided from year to year.
- c. For DOC for 2016-2019, determine the percentage change from the previous reporting year by dividing the calculated difference in inpatient DOC by the total number of inpatient days provided during the previous reporting year [$(\{\text{current reporting year} - \text{previous reporting year}\} / \text{previous reporting year})$].

Step 4: Determine the Service Area Growth Rate Multiplier (*Column G*). For each service area, total the annual percentages of change and divide by four to determine the average annual change rate. For positive change, add 1 to obtain the County Growth Rate Multiplier.

Step 5: Determine the Projected DOC (*Column H*). If the County Growth Rate Multiplier is negative, carry forward the inpatient DOC for the reporting year unchanged to Column H. If the County Growth Rate Multiplier is positive, calculate the compounded growth factor projected for the next four reporting years by using the County Growth Rate Multiplier (from Step 4) in the first year and compound the change each year thereafter at the same rate [$\text{Inpatient DOC} \times (\text{County Growth Rate Multiplier})^4$].

Step 6: Calculate the projected midnight average daily census for each hospital for the projection year by dividing the projected DOC provided at the hospital (from Step 5) by 365.25 days (*Column I*).