



August 10, 2022

DHSR.SMFP.Petitions-Comments@dhhs.nc.gov

Re: Mission Hospital Comments in Opposition to Petition by Henderson County Hospital Corporation d/b/a Margaret R. Pardee Memorial Hospital to Remove Acute Care Bed Need from 2023 Draft SMFP

I am writing on behalf of MH Mission Hospital, LLLP (“Mission Hospital”) regarding the Summer Petition filed by Henderson County Hospital Corporation d/b/a Margaret R. Pardee Memorial Hospital (“Pardee Hospital” or “Pardee”) asking the State Health Coordinating Council (the “SHCC”) to remove the need determination for thirty-one (31) additional acute care beds identified in the draft 2023 State Medical Facilities Plan (“SMFP”) for the Buncombe/Madison/Graham/Yancey acute care bed service area. Mission opposes the Petition filed by Pardee and asks the SHCC to deny the Petition for reasons set forth herein.

Pardee’s Petition

Pardee’s Petition, at its core, is an argument that the COVID-adjusted methodology the SHCC adopted to account for the impact of the COVID pandemic on health care utilization, and to develop a reasonable method of projecting future need for various acute care services, is deeply flawed. As such, Pardee’s Petition should have been filed as a Spring Petition because it challenges a statewide methodology, despite Pardee’s strained attempts to couch it as a Summer Petition only addressing the impact of the applicable methodology in one service area.

Pardee’s argument, in essence, is that the SHCC erred when it adjusted the patient days multiplier in the need methodology but failed to adjust the average length of stay (“ALOS”) downward from 2021 levels. Mission notes that if the SHCC were to approve the Pardee Petition, it would then be required to reexamine every other COVID-adjusted need methodology in the draft SMFP. Notably, Pardee’s affiliate, UNC Rex, has not petitioned the SHCC to remove the draft 2023 bed need in Wake County, which was undoubtedly affected by the SHCC’s COVID adjustments as well. Acute care beds were not the only CON-regulated service for which need methodologies were adjusted in response to COVID. However, Pardee seems to have no concern about other such adjustments – only the adjustments to the acute bed need methodology in the 4-county SMFP-designated service area including Buncombe County.

Flaws in Pardee’s Petition and Arguments

Pardee’s Petition and the arguments contained therein begin with and rest entirely upon a gross misrepresentation of the SMFP planning process, the framework of the SMFP-designated acute care service areas, and the history and utilization experiences of Mission Hospital. The Pardee Petition should be disapproved for the following reasons:

- First, Pardee is not located in the SMFP-designated acute care bed service area of Buncombe, Madison, Yancey and Graham counties and, as such, has no practical or legal standing to complain about the application of a SHCC need methodology in a service area where it is not located.



- Second, Pardee’s entire argument is that there is excess acute bed capacity in “Mission’s self-defined service area.” Pardee petition, p. 1. What this obfuscated language really means is that Pardee isn’t arguing there’s a bed surplus in the SMFP-designated acute bed service area of Buncombe/Graham/Madison/Yancey counties – the service area projected need about which they complain -- but that looking at the larger 18-county service area Mission serves as the region’s only tertiary care center, some hospitals located in some of those counties have excess bed capacity. Mission agrees. However, those other fourteen (14) counties are located in multiple, varied SMFP-designated acute care bed service areas and so Pardee’s point is irrelevant to the bed need in the Buncombe/Yancey/Madison/Graham service area. The SHCC does not project need for any CON-regulated equipment, service or facility in any SMFP-designated service area based on what is happening in other service areas. The argument is a smokescreen.
- Pardee argues in support of its Petition that no acute bed need has been generated in the Buncombe/Graham/Madison/Yancey service area for a decade, until now, apparently as some evidence that the need projected in the 2023 SMFP is not “real.” However, the same is true for other SMFP-designated service areas. The Buncombe/Graham/Madison/Yancey service area is not the only service area where acute care bed need has not been generated for years. For example, Wake County did not have a calculated bed need over 10 years but a need was reflected in the 2022 SMFP and the draft 2023 SMFP.
 - Pardee stresses in its Petition that it is managed by the UNC Health. Pardee expresses no concerns or issues with the 2023 draft bed need for Wake County, where UNC Rex operates, which was generated by the same population, use rate and other methodology factors as the Buncombe/Graham/Madison/Yancey service area need, presumably because it’s partner, UNC Health, has a hospital in Wake County and thus can apply for those beds.
 - In other words, Pardee selectively embraces the SHCC’s 2023 acute bed need methodology when it serves its purpose but opposes it when it does not.
- Pardee suggests that the acute care bed need reflected in the 2022 and the 2023 draft SMFPs were anomalies because there was no acute care bed need generated in the SMFP for many years based solely on “patient days.” Pardee Petition, p. 2. That argument is incorrect and misleading.
 - In the 2021 SMFP (based on 2020 data) Mission’s acute bed days from IBM Watson were 9,175 days less (4.4% less) than reported by Mission on its LRA.
 - If LRA data were used to project the SMFP acute bed need, which it is for most if not all other services in the SMFP, there would have been a need for 31 beds in the service area in the 2021 SMFP.
- Pardee’s claims that the draft 2023 acute bed need was generated ONLY by the modifications to the need methodology related to COVID are incorrect. Mission does have a need for additional acute care beds and Pardee’s selective and outcome-oriented manipulation of data does not accurately represent Mission’s acute care bed experience or future need.
- Likewise, Pardee’s claims that service area need in the 2022 SMFP was not generated by actual utilization, but by an artificially inflated growth rate, misrepresents the reality at Mission Hospital. Pardee Petition, p. 2.

- While the data source used for inpatient days may have been adjusted for COVID – 19 (by the use of 2021 growth rates), which resulted in 207,208 days for Mission Hospital, Mission actually reported 201,000 days of care on its LRA, which is an average daily census of 550.68 in 733 licensed beds or 75.1 percent occupancy.
 - Using the 1.157 growth rate from the 2021 SMFP (an SMFP that did not include COVID-related adjustments) x Mission’s actual days of care (201,000), Mission’s utilization alone would have generated in a need for 17.3 beds in the service area.—without any of the SHCC’s COVID-related adjustments.
- Relatedly, at page 2 of its Petition, Pardee claims that the need reflected in the draft 2023 SMFP is overstated because of the application in the methodology of a higher-than-actual growth rate projection.
 - The growth rate used in the Draft 2023 SMFP for the service area is exactly the same as it was in the 2021 SMFP – an SMFP which did **not** reflect any methodology adjustments for COVID. No one, including Pardee, has ever complained about the 2021 acute care bed need methodology.
- In comparing the 2023 Draft SMFP need to prior years’ need projections, Pardee fails to consider the fact that the 2023 SMFP removed the NICU beds for all providers (not just Mission), which recognized that lower NICU utilization had suppressed need for general acute care beds across the State.
 - This is not an adjustment related to COVID.
 - The Buncombe/Graham/Madison/Yancey service area would have shown a need in the 2021 SMFP – an SMFP that did not include COVID-related adjustments -- if NICU beds had been removed from the need calculation in that Plan per the LRA-reported utilization.
- On page 4 of its Petition, Pardee suggests that longer average lengths of stay (“ALOS”) are solely related to COVID. That is incorrect and the argument ignores the fact that hospital patients, particularly at tertiary medical centers, are becoming increasingly higher in acuity as less complex patients, including certain surgical patients, are shifting to outpatient care and more home-based care.
 - It is widely-acknowledged that hospitals providing specialized services will see an increase in utilization due to higher acuity care.
 - Pardee’s analysis of “impermanent increases in ALOS” fails to consider the impact of increasing acuity levels at tertiary inpatient hospitals, which is occurring independent of COVID.
- Pardee fails to recognize that the need calculations for the Buncombe/Graham/Madison/Yancey county service area in numerous prior SMFPs were based on 733 *licensed* beds at Mission Hospital, while Mission operated significantly fewer beds during the extended implementation period for its North Tower project, which opened in 2019. As the SHCC knows, the CON Section reflects not only licensed beds, but also beds which have been approved but are not yet operational, in data the SHCC uses to project future need.
 - In other words, Mission’s bed utilization and occupancy were calculated based on fewer beds than counted in the need methodology – with only operational beds generating actual occupancy. If the SHCC had relied upon utilization in Mission’s operating beds,



rather than its licensed beds, Mission’s utilization would have been even higher. Mission only makes this point to rebut Pardee’s claims that the need reflected in the SMFP isn’t “real,” but is a product solely of the SHCC’s COVID-related methodology adjustments.

- It is not surprising that Mission’s new, North Tower beds filled up as soon as they were open and a need was generated based on the utilization data once these beds were available for use.
- The acute care bed need reflected in both the 2022 SMFP and Draft 2023 SMFP is not surprising based on Mission’s high occupancy levels, particularly when NICU services are removed.
 - Mission’s occupancy levels excluding NICU beds have remained high for many years, exceeding the SMFP’s target occupancy rate during four (“4”) years since 2015.

Total Acute Care Beds w/o NICU	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	Annualized FY 2022	2015-2021 CAGR	2018-2022 CAGR
Beds	596	650	657	670	670	682	682	682	2.3%	0.8%
Days	169,890	172,894	177,897	179,112	190,630	187,214	210,716	210,366	3.7%	3.3%
% Occupancy	78.1%	72.9%	74.2%	73.2%	78.0%	75.2%	84.6%	84.5%	1.4%	2.5%

- In support of its flawed argument, Pardee at page 5 of its Petition argues that more than 70% of Mission’s patient days from it’s 18-county tertiary care service area are patients with DRGs that could be served in community hospitals. Again, Pardee pulls and manipulates data not from the 4-county service area which is the subject of its Petition, but from Mission’s larger 18-county service area. Even so, this point misses the mark.
 - The same argument would be true for the bed need for all tertiary medical centers and trauma centers in North Carolina. If that reality had any relevance to the issue raised in Pardee’s Petition, it would mean that Pardee’s affiliate, UNC Health, would derive its bed need from 70% community hospital-appropriate patients. This argument is an attack on the methodology and not appropriate for a Summer Petition.
 - Pardee ignores the fact that Mission operates 160 stepdown beds that allow its patients to step down from ICU-level care. This represents over a third of Mission’s med/surg beds. As reflected in Mission’s CON application for sixty-seven (67) additional acute care beds pursuant to the 2022 SMFP, currently pending before the CON Section, 37.6 percent of Mission’s med/surg patient days were stepdown days from ICU. Most ICU patients and 37.6 percent of med/surg patents step down from these ICU beds. If 37.6% of med/surg patients stepped down from a higher level of care, that limits the med/surg patients appropriate for a community hospital to only about 62%. Further, if all NICU, high risk OB, oncology, thoracic surgery, and trauma patients, plus patients having cardiovascular surgery, cardiac cath, specialty ICU services, pediatric specialty patients were excluded, none of whom are appropriate for community-based hospital beds, then Pardee’s estimate that of 70 percent of patients treated by Mission are “appropriate” for community hospitals is significantly overstated.
 - Pardee’s argument seems to be that community hospitals outside the Buncombe/Graham/Madison/Yancey service area, which are located in other SMFP-designated acute care bed service areas, can fill the need reflected in the 2023 draft



SMFP. That argument is nonsense and, if adopted, would undercut the entire SMFP planning process, the designation of service areas in the SMFP, and multiple other aspects of the health care planning and CON process. Further, even with the existence of community hospitals in adjoining Henderson, Haywood, Rutherford, and McDowell counties, patients are either choosing Mission or being referred to Mission for their care, including high-acuity care that most community hospitals do not offer.

- At pages 5-6 of its Petition, Pardee argues that some of Mission’s historical and existing utilization is driven by patients from outside the Buncombe/Graham/Madison/Yancey county service area.
 - That is true and reflects Mission’s role as the only tertiary care center in the 18-county western North Carolina region that it serves. This reality is not isolated to Mission.
 - Pardee’s arguments on this issue are an attack on the entire SMFP acute care bed need methodology. If Pardee wants to make this argument, it should have done so via a Spring Petition.
 - All tertiary medical centers in the state including Pardee’s affiliate, UNC Health, derive significant patient volume from outside of their service area. For FY 2021, UNC drew only 15.5% of its patients from Orange County. That number is substantially less than the percentage of Mission’s patients who hail from Buncombe County. If Pardee’s argument on this point were accepted, would that mean that UNC only needs 15.5% of its beds?
- Mission respectfully encourages the SHCC to consider the following factors as it deliberates over the Pardee Petition:
 - Since late 2021, Pardee has engaged in a constant series of regulatory and legal challenges against multiple proposed projects in either Buncombe County (where it is not located) or in the 4-county acute care bed SMFP-designated service area of Buncombe/Madison/Yancey/Graham counties, in which it also is not located, including:
 - A 2021- 2022 objection to and subsequent appeal of Mission’s attempts to develop a freestanding emergency department (“FSED”) in Arden, in southern Buncombe County (this appeal was subsequently dismissed by Mission and a replacement CON application for that project was filed and approved);
 - The 2022 CON application and approval for Mission to develop a freestanding ED in southern Buncombe County, which Pardee is currently appealing;
 - A 2022 CON application and approval for Mission to develop a freestanding ED in western Buncombe County, in Candler, which Pardee is currently appealing;
 - The acute care bed CON application of AdventHealth (“Fletcher Hospital”) to develop a 67-bed hospital pursuant to the 2022 SMFP in Candler, in western Buncombe County;
 - The acute care bed CON application of Novant Health to develop a 67-bed hospital pursuant to the 2022 SMFP in Candler, in western Buncombe County;
 - The acute care bed CON application of Mission to add sixty-seven (67) beds to its existing Asheville hospital pursuant to the 2022 SMFP.

- It is clear that despite its location in a distinct and separate SMFP-designated acute care bed service area, Pardee has and will continue to oppose any acute care-related project, proposed by any applicant, at any time, in an SMFP-service area in which it is not located.
- The SHCC and the DHR Healthcare Planning and Certificate of Need Section have a long, consistent history of honoring the applicable need planning methodology reflected in the SMFP, including the resulting draft need determinations, with two exceptions:
 - Where a clear data anomaly has occurred which all affected parties agree does not reflect actual need or reflects a data error of some sort; and/or
 - Where the projected need for equipment, services or facilities is “accurate” under the applicable need methodology but all interested parties operating in the SMFP-designated service area agree there really is no need.
 - Neither of those factors are present here:
 - Pardee’s attempts to describe the 2023 SMFP need for Buncombe County as a data anomaly are flawed and misleading and, if accepted, would apply to every county and every SMFP-covered service where COVID-related adjustments were made during the current planning process; and
 - Mission is a hospital provider in the Buncombe/Madison/Graham/Yancey acute bed service area. Pardee is not. Mission supports the 2023 projected acute bed need because there is a need for those beds.
- Pardee’s petition purports to challenge an SMFP planning methodology outcome. However, it is a thinly-veiled attack on Mission Hospital. Ironically, even if the current draft bed need which Pardee attacks remains in the 2023 SMFP, which it should, there is no guarantee that Mission be awarded those beds. The current 2022 acute bed need CON application cycle is the best evidence of this reality, as three (3) hospital applicants are currently competing for the available beds. Despite this, Pardee focuses exclusively in its Petition on Mission’s experiences, and on Mission data, and misrepresents both.
- Finally, Pardee makes reference to certain lawsuits in which Mission is involved. Mission will not respond to that entirely improper attack by Pardee, other than to say:
 1. The lawsuits Pardee references are just that—lawsuits involving allegations that are without merit, and which Mission and its parent HCA Healthcare are and will continue to contest vigorously.
 2. Our appellate courts have been clear that the sole and exclusive purview of the CON Section and thus of the SHCC is the CON Statute, not other statutes not within their jurisdiction.
 3. Before Pardee or any other hospital provider begins throwing stones at Mission based on unproven allegations in lawsuits, they should conduct a simple internet search of their own historical and current litigation history. Mission will not devolve to irrelevant and tasteless attacks on



its neighboring hospitals. We leave the SHCC to conduct its own research and draw its own conclusions on this issue.

For the reasons stated herein, Mission respectfully urges the SHCC to honor the standard acute care bed methodology as reflected in the 2023 draft SMFP, including the Buncombe/Graham/Madison/Yancey county acute care bed need projections, and to disapprove the Pardee Petition.

Respectfully,

A handwritten signature in cursive script that reads "Sondra Smith".

Sondra Smith
Vice President of Planning and Strategy HCA Mission