

STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

MEDICAL CARE COMMISSION QUARTERLY MEETING

DIVISION OF HEALTH SERVICE REGULATION
701 BARBOUR DRIVE, RALEIGH NC 27603

VIA TELECONFERENCE

February 11, 2011

9:00 A.M.

I. MEDICAL CARE COMMISSION QUARTERLY MEETING, February 11, 2011 – 9:00 a.m.

MEMBERS PRESENT	MEMBERS ABSENT
Lucy H. Bode, Chairperson Joseph D. Crocker, Vice-Chairperson George A. Binder, M.D. Gerald P. Cox George H.V. Cecil Charles T. Frock Elizabeth Kanof, M.D. Eileen Kugler, RN, MSN, MPH, FNP Albert F. Lockamy, Jr. RPh Mary L. Piepenbring Carl K. Rust, M.D. Margaret Weller-Stargell John Fagg, M.D. Henry A. Unger, M.D.	Clifford B. Jones, Jr. DDS James H. Leonard Robert E. Schaaf, M.D.
<u>DIVISION OF HEALTH SERVICE REGULATION STAFF</u> Drexdal Pratt, Director, DHSR, Secretary, MCC Christopher B. Taylor, CPA, Assistant Secretary, MCC Steven Lewis, Chief, Construction Section, DHSR Diana Barbry, Administrative Assistant, MCC/DHSR Erin Glendening, Rules Coordinator, DHSR	

II. CHAIRPERSON'S COMMENTS

Ms. Bode welcomed everybody to the meeting and asked the audience to introduce themselves. She then questioned the members to see if anyone had a conflict of interest with anything coming before the Commission at the meeting. Ms. Bode reminded the members that in accordance with Advisory Opinion dated November 19, 2010 any Commission member with \$10,000 or more invested in a particular bank would need to abstain from voting on a project, in which the bank was involved. It was decided that the recusals would be done at the time each project was presented for a vote.

III. APPROVAL OF MINUTES from the November 19, 2010 meeting. (attached as Exhibit A).

Commission Action: Motion was made by Mr. Cecil, seconded by Mr. Crocker and unanimously approved.

IV. DIVISION DIRECTOR'S REPORT

Mr. Pratt reported on matters of interest to the Commission. He gave a brief overview of the current Legislative Bills that are affecting DHSR and the current effects of Executive Order # 70. Mr. Pratt updated the members on Division of Health Service Regulation to move to several different buildings on

the Dix Campus and informed the Commission that the Division Office would be moving as of April 2011 and the May meeting would be held in the Brown Building.

Other items to report on are listed below (see Exhibits B – B/3):

1. Quarterly Report on Bond Program (attached as Exhibit B)
2. Bond Counsel Fees Report (attached as Exhibit B/1)
3. Underwriter Fees Report (attached as Exhibit B/2)

The Executive Committee held a telephone conference meeting on the following date:

December 9, 2010.....**Exhibit B/3**

V. New Business:

A. Executive Committee Appointment.....Christopher B. Taylor

Resolved: The Commission does hereby ratify the appointment by the Chairman of Charles Frock to serve in lieu of Mary Piepenbring as a Member of the Executive Committee for the Year Ending December 31, 2011. It was determined that due to the number of years Mary Piepenbring has served continuously as a member of the Executive Committee that she was ineligible to serve in that position for the year ending December 31, 2011. In order to correct the oversight and to ensure the proper functioning of the Executive Committee the Chairman appointed Charles Frock to the position for the Year Ending December 31, 2011.

Commission Action: Motion was made by Mr. Cox, seconded by Mr. Crocker and unanimously approved.

B. Executive Order # 70.....Lucy Bode

Mrs. Bode updated the Commission on the actions being taken to ensure Medical Care Commission compliance with the Governor’s Executive Order # 70.

VI. Bond Projects

A. Lower Cape Fear Hospice, Inc. Wilmington, NC-Christopher Taylor & Steven Lewis (Exhibit C &D)

Statements were given by Debra Pressley and Lauren Bistrom of Lower Cape Fear Hospice.

Commission Action: Motion was made by Mr. Crocker, seconded by Dr. Rust and unanimously approved with the recusal of Mr. Cox and Dr. Fagg.

Resolved: The Commission grants preliminary approval to a project for Lower Cape Fear Hospice for the construction and equipment of a new 7 bed inpatient facility located in Bolivia, North Carolina. The facility will provide Hospice comfort care, which emphasizes the control of pain and other symptoms. Focusing on the physical, psychological, social and spiritual needs of the patients and their families, the Brunswick County Hospice LifeCare Center Facility will provide a complete plan of family-centered care for residents. Lower Cape Fear Hospice will also construct an Outpatient Services Administrative office attached to the Hospice Facility. The project is in accordance with a preliminary application, plans, specifications and participation as follows:

ESTIMATED SOURCES OF FUNDS

Principal amount of bonds to be issued	\$3,500,000
Cash and negotiable securities from reserves	909,491
Interest earned during construction	10,500
Other Equity Contribution (Land)	<u>396,000</u>
Total	\$4,815,991

ESTIMATED USES OF FUNDS

Site costs	
Land survey fees, legal fees and subsoil investigation	\$405,501
Site utility development and accessibility costs	432,999
Construction contracts	2,839,252
Construction contingency (5% of construction contract)	141,963
Architect/engineer fees and reimbursables	312,315
Moveable equipment	420,461
Bond interest during construction	126,000
Underwriters' discount/placement fees	30,000
Legal fees for corporation counsel	10,000
Bond counsel	35,000
CON fee	25,000
Local Government Commission Fee	8,750
Bank Counsel	20,000
Bank Commitment Fee	8,750
Total	<u>\$4,815,991</u>

Tentative approval is given with the understanding that the governing board of Lower Cape Fear Hospice, Inc. accepts the following conditions:

1. The project will continue to be developed pursuant to the applicable Medical Care Commission guidelines.
2. Any required certificate of need must be in effect at the time of the issuance of the bonds or notes.
3. Financial feasibility must be determined prior to the issuance of bonds.
4. The project must, in all respects, meet requirements of §G.S. 131A (Health Care Facilities Finance Act).
5. The Executive Committee of the Commission is delegated the authority to approve the issuance of bonds for this project and may approve the issuance of such greater principal amount of the loan as shall be necessary to finance the project; provided, however, that the amount set forth above shall not be increased by more than ten percent (10%).
6. The bonds or notes shall be sold in such a manner and upon such terms and conditions as will, in the sole judgment of the Executive Committee of the Commission, result in the lowest cost to the facility and its patients.
7. The borrower shall develop and implement a plan, based on guidelines adopted by the Medical Care Commission, to improve the health status of the citizens of North Carolina living within its service area. A status report conforming to requirements adopted by the Medical Care Commission shall be submitted annually to the Commission.
8. All health care facilities and services directly or indirectly owned or controlled by the health care organization, including physician practices, shall be available to Medicare and Medicaid patients with no limitations imposed as a result of the source of reimbursement.
9. If public approval of the bonds is required for the purpose of Section 147(f) of the Internal Revenue Code of 1986, as amended ("Section 147(f)"), this tentative approval shall constitute the recommendation of the

Commission that the Governor of the State of North Carolina (the "Governor") approve the issuance of such bonds, subject to the satisfaction of the requirements of Section 147(f) concerning the holding of a public hearing prior to the submission of such recommendation to the Governor.

Based on information furnished by applicant, the project is:

- | | | | | | | |
|--|---|-----|-------|----|-------|-----|
| 1. Financially feasible | ✓ | Yes | _____ | No | _____ | N/A |
| 2. Construction and related costs are reasonable | ✓ | Yes | _____ | No | _____ | N/A |

B. Cleveland County Healthcare System, Shelby, NC-Christopher Taylor & Steven Lewis (Exhibit C & E)

Commission Action: Motion was made by Mr. Crocker, seconded by Dr. Binder and a unanimously approved with the recusal of Mrs. Bode and Dr. Rust.

Statements were given by Rose Coyne of Cleveland County Health Care System and Mark Keener and Chris Norberg of Carolina's Healthcare System

Resolved: The Commission grants preliminary approval to a project for Cleveland County HealthCare System ("CCHS") which includes Cleveland Regional Medical Center ("CRMC"), Kings Mountain Hospital ("KMH") and Cleveland Pines Nursing Center to refund its outstanding North Carolina Medical Care Commission Series 2001 VRDBs to eliminate certain risks currently associated with variable rate bonds. Construction projects include lobby/bathroom upgrades and area renovations. Significant equipment projects include equipping and furnishing the outpatient imaging center currently under construction, replacing patient monitoring & IV pumps house wide, patient bed and mattress replacement. Other projects include various radiographic equipment replacement, laboratory equipment, surgical tables and equipment, and other medical equipment. The project is in accordance with a preliminary application, plans, specifications and participation as follows:

ESTIMATED SOURCES OF FUNDS

Principal amount of bonds to be issued	\$39,015,000
Original Issue Premium	349,199
Total	\$39,364,199

ESTIMATED USES OF FUNDS

Construction contracts	\$1,854,245
Construction contingency (2.5% of construction contract)	100,000
Architect/engineer fees and reimbursables	150,000
Moveable equipment	9,526,918
Consultants' fees related to construction (Interior Design)	11,428
Amount required to refund 2001 Bonds	27,000,000
Underwriters' discount (includes \$40,000 for counsel)	431,693
Feasibility fees	17,500
Accountants fees	20,000
Legal fees for corporation counsel	60,000
Bond counsel	75,000
Rating agencies	80,000
Trustee fees	7,500

Printing costs	3,000
DHSR plan review	16,000
Local Government Commission Fee	8,750
Miscellaneous fees	<u>2,165</u>
Total	\$39,364,199

Tentative approval is given with the understanding that the governing board of Cleveland County HealthCare System accepts the following conditions:

1. The project will continue to be developed pursuant to the applicable Medical Care Commission guidelines.
2. Any required certificate of need must be in effect at the time of the issuance of the bonds or notes.
3. Financial feasibility must be determined prior to the issuance of bonds.
4. The project must, in all respects, meet requirements of §G.S. 131A (Health Care Facilities Finance Act).
5. The Executive Committee of the Commission is delegated the authority to approve the issuance of bonds. or this project and may approve the issuance of such greater principal amount of the loan as shall be necessary to finance the project; provided, however, that the amount set forth above shall not be increased by more than ten percent (10%).
6. The bonds or notes shall be sold in such a manner and upon such terms and conditions as will, in the sole judgment of the Executive Committee of the Commission, result in the lowest cost to the facility and its patients.
7. The borrower will provide the Commission annually a copy of the Advocacy Needs Data Initiative (ANDI) form it files with the North Carolina Hospital Association (NCHA) in accordance with a resolution passed by the Commission on February 9, 2007 adopting the NCHA Community Benefits reporting format and methodology for hospitals reporting to the Commission.
8. All health care facilities and services directly or indirectly owned or controlled by the health care organization, including physician practices, shall be available to Medicare and Medicaid patients with no limitations imposed as a result of the source of reimbursement.
9. If public approval of the bonds is required for the purpose of Section 147(f) of the Internal Revenue Code of 1986, as amended (“Section 147(f)”), this tentative approval shall constitute the recommendation of the Commission that the Governor of the State of North Carolina (the “Governor”) approve the issuance of such bonds, subject to the satisfaction of the requirements of Section 147(f) concerning the holding of a public hearing prior to the submission of such recommendation to the Governor.

Based on information furnished by applicant, the project is:

- | | | | | | | |
|--|-------------------------------------|-----|--------------------------|----|--------------------------|-----|
| 1. Financially feasible | <input checked="" type="checkbox"/> | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | N/A |
| 2. Construction and related costs are reasonable | <input checked="" type="checkbox"/> | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | N/A |

D. RESOLUTION APPOINTING A SUCCESSOR BOND TRUSTEE FOR THE NORTH

CAROLINA MEDICAL CARE COMMISSION VARIABLE RATE DEMAND HEALTH CARE FACILITIES REVENUE REFUNDING BONDS (WAKE FOREST UNIVERSITY HEALTH SCIENCES), SERIES 2008A, 2008B, 2008C AND 2008D, AND APPROVING A SUCCESSOR MASTER TRUSTEE.....Christopher Taylor (Exhibit F)

Commission Action: Motion was made by Mr. Cecil, seconded by Mr. Lockamy and unanimously approved.

WHEREAS, the North Carolina Medical Care Commission (the “Commission”) is a commission of the Department of Health and Human Services of the State of North Carolina and is authorized under Chapter 131A of the General Statutes of North Carolina, as amended, to borrow money and to issue in evidence thereof bonds and notes for the purpose of providing funds to pay all or any part of the cost of financing or refinancing health care facilities; and

WHEREAS, the Commission has executed and delivered four Trust Agreements, each dated as of October 1, 2008 (the “Trust Agreements”), between the Commission and U.S. Bank National Association (“US Bank”), as successor bond trustee (the “Prior Trustee”), which secure the Commission’s outstanding Variable Rate Demand Health Care Facilities Revenue Refunding Bonds (Wake Forest University Health Sciences), Series 2008A, 2008B, 2008C and 2008D (collectively, the “Bonds”); and

WHEREAS, the proceeds of each series of the Bonds was loaned by the Commission to Wake Forest University Health Sciences (“Health Sciences”), and to evidence and secure its obligation to repay the loan of such proceeds Health Sciences issued to the Commission its Obligations under and pursuant to the Master Trust Indenture, dated as of August 1, 2002, as supplemented and amended (the “Master Indenture”), by and between Health Sciences and US Bank, as successor master trustee (the “Master Trustee”)

WHEREAS, US Bank has determined to resign as Prior Trustee under the Trust Agreements and as Master Trustee under the Master Indenture; and

WHEREAS, the Commission has determined that the public interest will best be served by the appointment of The Bank of New York Mellon Trust Company, N.A. as successor bond trustee (the “Successor Trustee”) under each of the Trust Agreements and as Master Trustee under the Master Indenture; and

WHEREAS, there has been presented at this meeting a draft of the form of Agreement of Resignation, Appointment and Acceptance among the Commission, the Prior Trustee and the Successor Trustee;

NOW, THEREFORE, THE NORTH CAROLINA MEDICAL CARE COMMISSION DOES HEREBY RESOLVE:

Section 1. The Bank of New York Mellon Trust Company, N.A. is hereby appointed Successor Trustee to the Prior Trustee, and the execution of an Agreement of Resignation, Appointment and Acceptance with respect to each series of the Bonds, in the form presented at this meeting, is hereby authorized.

Section 2. The Secretary and the Assistant Secretary of the Commission are authorized to cause notice of the resignation of the Prior Trustee and the appointment of the Successor Trustee to be given in the name of the Commission by the Successor Trustee, and to secure the appropriate consents, if any.

Section 3. The form, terms and provisions of the Agreement of Resignation, Appointment and Acceptance, in the form presented at this meeting, are hereby approved in all respects, and the Chairman, Vice Chairman, or any member of the Commission designated in writing by the Chairman of the Commission for such purpose and the Secretary or the Assistant Secretary of the Commission are hereby authorized and directed to

execute and deliver with respect to each series of the Bonds an Agreement of Resignation, Appointment and Acceptance in substantially the form presented at this meeting, together with such changes, modifications and deletions, as they, with the advice of counsel, may deem necessary and appropriate, such execution and delivery to be conclusive evidence of the approval and authorization thereof by the Commission.

Section 4. The Commission hereby approves the appointment by Health Sciences of US Bank as Master Trustee.

Section 5. The Chairman, the Vice Chairman, any member of the Commission designated in writing by the Chairman of the Commission, the Secretary and the Assistant Secretary of the Commission are authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, certificates, agreements or other instruments, as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated herein.

Section 6. This resolution shall take effect immediately upon its passage.

VII. Refunding of Commission Bond Issues

Recommended:.....**Chris Taylor**

WHEREAS, the bond market is in a period of generally fluctuating interest rates, and

WHEREAS, in the event of decline of rates during the next quarter, refunding of certain projects could result in significant savings in interest expense thereby reducing the cost of health care to patients, and

WHEREAS, the Commission will not meet again until May 13, 2011

THEREFORE, BE IT RESOLVED; that the Commission authorizes its Executive Committee to approve projects involving only the refunding of existing Commission debt between this date and May 13, 2011.

Commission Action: Motion was made by Dr. Unger, seconded by Mr. Frock and unanimously approved.

VIII. MEMBER REPORT

IX. QUESTIONS FROM THE PUBLIC - The Chairperson will receive questions from the public.

X. ADJOURNMENT - A motion to adjourn is requested.

Commission Action: Motion was made by Mrs. Bode, seconded by Mr. Crocker and unanimously approved.

THE MEETING ADJOURNED AROUND 9:45 A.M.

**Drexal Pratt
Secretary**

 2/29/11

Date