

**STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**MEDICAL CARE COMMISSION QUARTERLY MEETING
DIVISION OF HEALTH SERVICE REGULATION
801 BIGGS DRIVE, RALEIGH NC 27603
BROWN BUILDING CONFERENCE ROOM- 104**

September 12, 2014

9:00 AM

MINUTES

MEMBERS PRESENT	MEMBERS ABSENT
John A. Fagg, M.D., Chairperson Joseph D. Crocker, Vice-Chairperson George A. Binder, M.D. George H.V. Cecil Charles T. Frock Harold Garland Charles H. Hauser Elizabeth P. Kanof, M.D. Eileen C. Kugler, RN, MSN, MPH, FNP Albert F. Lockamy, Jr., RPh Paul McGill, D.D.S. Carl K. Rust, M.D. Robert E. Schaaf, M.D. Henry A. Unger, M.D. Paul M. Wiles	Mary L. Piepenbring Margaret Weller-Stargell
<p><u>DIVISION OF HEALTH SERVICE REGULATION STAFF</u></p> Drexdal Pratt, Director, DHSR/Secretary, MCC Christopher B. Taylor, CPA, Assistant Secretary, MCC Steven Lewis, Chief, Construction Section, DHSR Megan Lamphere, Rules Coordinator, DHSR Diana Barbry, Executive Assistant, MCC/DHSR Alice Creech, Bond Program Assistant, MCC/DHSR Kathy Larrison, Auditor, MCC/DHSR Crystal Watson-Abbott, Auditor, MCC/DHSR	

I. CHAIRPERSON’S COMMENTS

The meeting was called to order by Dr. Fagg who welcomed everybody to the meeting and Dr. Fagg then questioned the Members to see if anyone had a conflict of interest with anything coming before the Commission at the meeting. Dr. Fagg 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.

II. APPROVAL OF MINUTES May 16, 2014 meeting..... **Exhibit A**

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

III. DIVISION DIRECTOR'S REPORT - Mr. Pratt reported on matters of interest to the Commission.

Other items to report on are listed below:..... **Exhibits B – B/6**

1. Quarterly Report on Bond Program**Exhibit B**

The Executive Committee held telephone conference meetings on the following dates:

May 22, 2014 - To authorize the execution and delivery of a First Supplemental Trust Agreement for the 2001 Bonds issued for the benefit of The Presbyterian Home at Charlotte, Inc. To consider a resolution of an Escrow and Defeasance Agreement for Rutherford Hospital, and (3) to consider for approval a preliminary refunding for FirstHealth of the Carolinas.**Exhibit B/1**

June 18, 2014 - To consider preliminary approval to refinancing projects for (1) United Methodist Retirement Homes and (2) Deerfield Episcopal Retirement Community.....**Exhibit B/2**

June 25, 2014 - To grant preliminary approval to a project for Iredell Memorial Hospital and to authorize the execution and delivery of a Second Supplemental Trust Agreement for the 2007 Bonds issued for the benefit of Iredell Memorial Hospital, Incorporated.....**Exhibit B/3**

July 10, 2014 - To consider resolutions authorizing the sale of bonds for Deerfield Episcopal Retirement Community, Inc., FirstHealth of the Carolinas, Inc., United Methodist Retirement Homes, and a preliminary approval for Galloway Ridge..... **Exhibit B/4**

August 14, 2014 - To consider preliminary approval to refinancing project for United Methodist Retirement Homes (Cypress Glen Retirement Community) Series 2009A Bonds.....**Exhibit B/5**

August 22, 2014 - To authorize the sale of bonds, the proceeds of which are to be loaned to Galloway Ridge, Inc., (2) To authorize the execution and delivery of a First Supplemental Trust Agreement for the 2009A Bonds issued for the benefit of The United Methodist Retirement Homes, Incorporated, the successor by merger to Cypress Glen Retirement Community, (3) A final resolution to approve the change from Bank of New York Mellon to Regions Bank as Master Trustee and Bond Trustee for all of Novant Health NCMCC Bond Issues and (4) A memorandum requesting that the NCMCC Executive Committee grant approval for Division of Health Service Regulation to move forward with the repeal of Subchapter 10A NCAC 13H, Licensing of Homes for Developmentally Disabled Adults..... **Exhibit B/6**

IV. Presentations

Primer on Bond Financing Legal Structure..... **Exhibit D / D1**
Allen Robertson of Robinson, Bradshaw, & Hinson P.A

Results of Compliance Examination on Medical Care Commission Bond Issues for 2012.....**Exhibit C**
Crystal Watson-Abbott & Kathy Larrison, MCC Auditors

V. Resolution: Regarding Compliance as Condition for Issuance of Debt

Commission Action: Motion was made by Mr. Wiles, seconded by Dr. Schaaf and unanimously approved to require that borrowers be in compliance with terms of all of their outstanding Commission debt issues prior to the sale, issuance or reissuance of additional Commission Debt. The standard conditions for preliminary approval of a project will include a condition setting forth this requirement.

VI. Bonds

1. Duke University Health System, Inc., Durham - Christopher B. Taylor

Statements were given by Chris Taylor informing the Commission that Duke has selected SunTrust Bank to provide the leases.

Commission Action: Motion was made by Dr. Binder seconded by Mr. Cecil and approved with the recusal of Dr. Schaaf and Dr. Fagg.

Resolved: The Commission grants preliminary approval to a project for Duke University Health System, Inc. for the establishment of a tax-exempt operating/capital master lease program (the “lease program”), to be capped at \$40 million. The lease program will cover the period July 1, 2014 through June 30, 2017. The new lease program will replace the lease program which expired on June 30, 2014. The \$40 million in leases for equipment will be utilized at Duke University Hospital, Duke Regional Hospital, Duke Raleigh Hospital, and/or other health care facilities operated by Duke University Health System, Inc. The lessor for this lease program will be selected prior to the final approval by the Commission and the closing of this transaction. The project is in accordance with an application, received as follows.

ESTIMATED SOURCES OF FUNDS

Tax exempt lease	\$40,000,000
Equity contribution	60,000
Total Sources	\$40,060,000

ESTIMATED USES OF FUNDS

Moveable equipment leases	\$40,000,000
Bond counsel fee	30,000
Corporation counsel fee	30,000
Total uses	\$40,060,000

Tentative approval is given with the understanding that the governing board of Duke University Health System, 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 draw on the leases.

3. Financial feasibility must be determined prior to the execution of the leases.
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 leases for this project and may approve the issuance of such greater amount of leases 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 leases shall be put in place 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 leases 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 leases, 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	<u>√</u>	Yes	_____	No	_____	N/A
2. Construction and related costs are reasonable	_____	Yes	_____	No	<u>√</u>	N/A

Notes:

- 1) Information from 2013 Audit for Duke University Health System, Inc. and Affiliates.

Operating Income	\$184,108,000
Increase in unrestricted net assets	\$519,877,000
Increase in net assets	\$516,787,000
Net cash provided by operating activities	\$281,856,000
Net (decrease) increase in cash and cash equivalents	(\$66,020,000) (A)

(A) Primarily due to capital expenditures, payments on debt and transfers to Duke University.

2) Ratings

Fitch	<u>AA</u>
Moody's	<u>Aa2</u>
Standard & Poor's	<u>AA</u>

3) Community Benefits from 2013 ANDI Report

	Community Benefits	Costs of Treating Bad Debt Patients
Duke University	\$255,814,938	\$13,681,224
Duke Regional	\$ 54,587,887	\$ 4,193,073
Duke Raleigh	<u>\$ 48,768,659</u>	<u>\$ 3,759,965</u>
Total	\$359,171,484	\$21,634,262

4) Long Term Debt Coverage Ratios

Actual	2013	4.80
Forecasted	2014	4.84
Forecasted	2015	5.53
Forecasted	2016	5.66
Forecasted	2017	5.75

5) Participants in transaction

Bond counsel	Robinson Bradshaw & Hinson, PA
Corporation counsel	Sutherland Asbill & Brennan, LLP
Lessor	TBD
Lessor counsel	TBD

2. United Methodist Retirement Homes, Durham, NC - Christopher B. Taylor

Statements were given by Chris Taylor.

Commission Action: Motion was made by Dr. McGill seconded by Dr. Schaaf and approved with the recusal of Dr. Rust and Dr. Fagg.

Resolved: The Commission grants preliminary approval to a project for United Methodist Retirement Homes to provide funds to be used, together with other available funds to effect a reissuance for federal tax purposes of the North Carolina Medical Care Commission \$14,300,000 Retirement Facilities First Mortgage Revenue Bonds (The United Methodist Retirement Homes Project) Series 2010A. The Series 2010A Bonds are currently outstanding in the amount of \$9,415,000. The transaction will extend the initial put period for approximately ten years from February 1, 2015 to October 1, 2024. The interest rate for the period will be changed from 68% of one month LIBOR plus 1.625% to 68% of one month LIBOR plus 1.1325%. The Series 2010A Bonds are currently held by BB&T as Bank Bought Bonds and will be held by BB&T after the completion of the transaction. The project is in accordance with an application received as follows:

ESTIMATED SOURCES OF FUNDS

Principal amount of bonds to be issued	\$9,415,000
Equity contribution	<u>68,453</u>
Total Sources	\$9,483,453

ESTIMATED USES OF FUNDS

Reissuance of 2010A Bonds	\$9,415,000
Structuring agent fee	32,953
Corporation counsel	7,000
Bond counsel	15,000
Bank counsel	3,500
Miscellaneous	<u>10,000</u>
Total Uses	\$9,483,453

Tentative approval is given with the understanding that the governing board of The United Methodist Retirement Homes 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 reissuance of the bonds or notes.
3. Financial feasibility must be determined prior to the reissuance 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 reissuance of bonds for this project and may approve the reissuance 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. 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.
8. The borrower will comply with the Commission's Resolution: Community Benefits/Charity Care Agreement and Program Description for CCRC's as adopted on November 9, 2007.

9. Based on information furnished by applicant, the project is -

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

Notes:

1) Information from 2013 Audits for Cypress Glen (CG) and United Methodist Retirement Homes (UMRH) (They merged as of October 1, 2013)

	<u>CG</u>	<u>UMRH</u>
Operating income	\$1,527,624	\$2,984,779
Change in unrestricted net assets	\$1,363,539	\$4,045,270
Change in net assets	\$2,045,074	\$4,235,164
Net cash provided by operating activities	\$3,946,865	\$5,756,582
Net change in cash	\$229,762	(\$1,291,195)

2) Ratings: Neither UMRH or CG are rated

3) Long Term Service Coverage Ratios

Actual	FYE	2013	<u>1.77</u>
Forecasted	FYE	2014	<u>2.04</u>
Forecasted	FYE	2015	<u>2.15</u>
Forecasted	FYE	2016	<u>2.29</u>

4) Community Benefit Percentage G.S. 105- for FYE 2013

	<u>CG</u>	<u>UMRH</u>
G.S. 105 Percentage	8.72%	10.78%
Property tax exemption	100%	100%

5) Transaction Participants

Structuring agent	Ziegler Securities
Borrowers counsel	Womble Carlyle Sandridge & Rice, PLLC
Bond counsel	Robinson Bradshaw & Hinson, PA
Bank purchaser	BB&T
Bank counsel	Moore & Van Allen
Bond trustee	US Bank

VII. Old Business

Nursing Home Licensure & Certification Rules

Megan Lamphere

- Final Adoption of Rules and Fiscal Note 10A NCAC 13D .2402, .2503

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

Health Care Cost Reduction & Transparency Rules

Megan Lamphere

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

Final Adoption of Rules and Fiscal Note (Fair Billing and Collections Practices) **Megan Lamphere**

10A NCAC 13B Licensing of Hospitals .3110, .3502 **Megan Lamphere**

10A NCAC 13C Licensing of Ambulatory Surgical Facilities .0202, .0205, .0301 **Megan Lamphere**

- **Withdraw/Rescind Rules (Health Care Cost Data Reporting)**

10A NCAC 13B Licensing of Hospitals .2101, .2102, .2103, .2104, .2105

10A NCAC 13C Licensing of Ambulatory Surgical Facilities .0103, .0206, .0207, .0208

Commission Action: Motion was made by Mr. Hauser seconded by Dr. Rust and unanimously approved.

- **Approval to Propose Temporary Rules (Health Care Cost Data Reporting)**

10A NCAC 13B Licensing of Hospitals .2101, .2102

10A NCAC 13C Licensing of Ambulatory Surgical Facilities .0103, .0206

Commission Action: Motion was made by Mr. Hauser seconded by Dr. McGill and unanimously approved.

VIII. New Business

Licensing of Homes for Developmentally Disabled Adults

Megan Lamphere

- Repeal of Subchapter H (Update from Executive Committee Meeting) **Megan Lamphere**

Commission Action: Motion was made by Dr. McGill seconded by Mr. Crocker and unanimously approved.

Licensing of Homes for the Aged and Infirm (Adult Care Homes)

Megan Lamphere

- Approval to Propose Permanent Rules 10A NCAC 13F .1003, .1010

Commission Action: Motion was made by Mr. Crocker seconded by Dr. McGill and unanimously approved.

Licensing of Family Care Homes

Megan Lamphere

- Approval to Propose Permanent Rules 10A NCAC 13G .1003, .1010
- **Commission Action:** Motion was made by Mr. Crocker seconded by Dr. McGill and unanimously approved.

HB 74—Periodic Review of Existing Rules per G.S. 150B-21.3

Initial Category Determinations for the following Subchapters:

- 10A NCAC 13L Nursing Pool Licensure **Megan Lamphere**

Commission Action: Motion was made by Mr. Crocker seconded by Ms. Kugler and unanimously approved.

- 10A NCAC 13M Mammogram and Pap Smear Certification **Megan Lamphere**

Commission Action: Motion was made by Dr. Binder seconded by Ms. Kugler and unanimously approved.

- 10A NCAC 13O Health Care Personnel Registry **Megan Lamphere**

Commission Action: Motion was made by Dr. McGill seconded by Ms. Kugler and unanimously approved.

XI. 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 November 14, 2014,

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 November 14, 2014.

- X. MEMBER REPORT** – Dr. Fagg reported to the Commission members that Ms. Kugler, Dr. Schaaf and Dr. Unger had been reappointed to the Medical Care Commission for another term. Dr. Fagg also requested that a committee be created to review the Ethics Commission Rules about the Advisory Opinion dated November 19, 2010 in regards to the Commission member’s stock ownership.

XI. ADJOURNMENT - A motion to adjourn is requested.

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

THE MEETING WAS ADJOURNED @ 11:45 am.

Drexdal Pratt, Secretary

Date