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CON Section

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June 1, 2010

Mr. Craig R. Smith, Chief
Certificate of Need Section
Division of Health Service Regulation
2704 Mail Service Center
Raleigh, North Carolina 27699-2704

Dear Mr. Smith:

In accordance with N.C. GEN. STAT. § 131E-185(a1)(1), AssistedCare Home Health ("AssistedCare") submits the following comments related to applications to establish a new home health agency in Wake County. AssistedCare's comments include "discussion and argument regarding whether, in light of the material contained in the application and other relevant factual material, the application complies with the relevant review criteria, plans and standards." N.C. GEN. STAT. § 131E-185(a1)(1)(c). As such, AssistedCare's comments are organized by the general CON statutory review criteria and specific regulatory criteria and standards, as they relate to the following applications:

- **ARC Therapy Services, LLC, (ARC), Project ID# J-8507-10**
- **SunCrest Home Health of North Carolina, Inc., (SunCrest), Project ID # J-8508-10**
- **Home Health and Hospice Care, Inc., (3HC), Project ID# J-8509-10**
- **Community Home Health of North Carolina, LLC, (Community), Project ID # J-8510-10**
- **United Home Care, Inc., (United), Project ID # J-8511-10**
- **Continuum II Home Care and Hospice, (Continuum), Project ID # J-8512-10**
- **AssistedCare Home Health, Inc., (AssistedCare), Project ID # J-8506-10**

Based on AssistedCare's review of the applications, and as demonstrated in detail in the attached comments, each application, with the exception of AssistedCare's application, is non-conforming with several review criteria and should not be approved. We appreciate your consideration of these comments.

Sincerely,

Emily Cromer

Emily Cromer
Consultant to AssistedCare Home Health

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Competitive Comments on Wake County Home Health Agency Applications

submitted by

AssistedCare Home Health, Inc.

In accordance with N.C. GEN. STAT. § 131E-185(a1)(1), AssistedCare Home Health, Inc. (AssistedCare) submits the following comments related to competing applications to develop a home health agency in Wake County to meet a need identified in the *2010 State Medical Facilities Plan* (*SMFP*). AssistedCare's comments include "*discussion and argument regarding whether, in light of the material contained in the application and other relevant factual material, the application complies with the relevant review criteria, plans and standards.*" See N.C. GEN. STAT. § 131E-185(a1)(1)(c). As such, AssistedCare's comments are organized by the general CON statutory review criteria and specific regulatory criteria and standards, as they relate to the following applications:

- **ARC Therapy Services, LLC, (ARC), Project ID# J-8507-10**
- **SunCrest Home Health of North Carolina, Inc., (SunCrest), Project ID # J-8508-10**
- **Home Health and Hospice Care, Inc., (3HC), Project ID# J-8509-10**
- **Community Home Health of North Carolina, LLC, (Community), Project ID # J-8510-10**
- **United Home Care, Inc., (United), Project ID # J-8511-10**
- **Continuum II Home Care and Hospice, (Continuum), Project ID # J-8512-10**
- **AssistedCare Home Health, Inc., (AssistedCare), Project ID # J-8506-10**

ARC Therapy Services

(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, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.*

ARC fails to demonstrate the need of the population for the proposed project, based on the following reasons:

On page 70 of its application, ARC provides Table IV.2, which shows its projected number of visits by discipline. However, the total figures in Table IV.2 are inconsistent with the proforma financial projections as Table IV.2 shows a total of 436 speech therapy visits in Year 2, while the proforma assumes 117 speech therapy visits in Year 2. This inconsistency calls into question the accuracy of ARC's utilization and financial projections.

(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.*

ARC fails to demonstrate that the financial and operational projections are based on reasonable assumptions and therefore fails to demonstrate the immediate and long-term financial feasibility of the project.

ARC's financial projections are both inaccurate and unreasonable given its gross understatement of expenses which are described in the paragraphs below.

ARC did not provide a response to X.7, and consequently failed to demonstrate how ARC would contain costs for the proposed project. If the applicant is not making any efforts to contain costs, then the long-term financial feasibility of the proposal is not accurately reflected in the proformas.

Additionally, the projected salary expenses in Table VII.2 are inconsistent with the proformas. Specifically, Table VII.2 states that in Year 2, ARC projects 0.28 FTEs for speech therapy with a salary of $80,434 per FTE. As such, ARC's proformas should reflect a speech therapy salary expense of $22,521 in Year 2. However, its proformas include only $6,033, which understates the staffing expense by $16,488. Further, as discussed under

Criterion 7, ARC also did not project sufficient staff to provide the services proposed for physical therapy, speech therapy, occupational therapy, social work, and CNA/Aide services. The staff deficiencies equate to a total omission of $35,287 in salary expenses in Year 2 as well as an understatement of benefits and taxes. Also discussed under Criterion 7, ARC appears to have omitted an Assistant Director of Nursing as well as LPNs from its staffing projections, thereby further understating salary expenses in its proformas.

Finally, as discussed under Criterion 3, ARC's utilization projections are unreasonable and unsubstantiated, therefore calling into question the reasonableness of its financial projections, which are directly related to projected utilization.

For these reasons, ARC is not conforming with Criterion 5 and is not the most effective alternative.

(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.*

ARC fails to demonstrate the availability of resources necessary for the provision of the services proposed to be provided.

ARC did not project sufficient staff to provide the services proposed for physical therapy, speech therapy, occupational therapy, social work, and CNA/Aide services. Specifically, ARC did not project enough FTEs to perform the projected number of visits for each of these disciplines in Year 2 as outlined in the table below.

Discipline	*Projected Year 2 Visits*	*Visits per FTE per Day*	*FTEs Needed for Projected Visits**	*Projected Year 2 FTEs*	*Difference*
Physical Therapy	2,461	6.0	1.78	1.58	(0.20)
Speech Therapy	436	6.0	0.32	0.28	(0.04)
Occupational Therapy	439	6.0	0.32	0.08	(0.24)
Social Work	121	3.0	0.18	0.16	(0.02)
CNA/Aide	654	7.0	0.41	0.36	(0.05)

*Calculation: Projected visits / visits per FTE per day / 230 days per year

The deficit in projected FTEs equates to a total of 744 visits that ARC projected, but will not have the ability to provide in Year 2. Given the underestimation of staff required to provide the level of services proposed in Table IV.2 of its application, ARC is non-conforming with Criterion 7.

Further, despite ARC's claims in Section II.1.(b) regarding the PT, OT, ST, MSW, and CNA services it proposes to provide to Wake County clients, it did not budget enough staff for the provision of these services. In Section VII.7.(a-b), ARC indicates that it will provide 24/7 on-call service to clients. The number of FTEs budgeted is already insufficient to meet the number of visits projected, much less the additional on-call duties that will be demanded of them.

On page 20 of its application, ARC provides an organizational chart for the proposed Wake County home health agency. Included in that organizational chart is an Assistant Director of Nursing as well as LPNs. However, Table VII.2 does not include any projected staff for either of these positions, which suggests that ARC erroneously omitted these staff positions in Section VII and therefore underestimated salary expenses in its proforma financial statements.

Finally, on page 16 of its application, ARC indicates that it will provide nutritional counseling to its patients and specifically states the following: "Personnel Requirements: Registered Nurses/Nutritionist (outside consult, PRN basis)." However, ARC does not project any dietary consult hours in Tables VII.2 or VII.3. Nor did ARC provide a copy of any proposed contract with, or a letter of intent from, a nutritionist. Therefore, ARC has not demonstrated the availability of resources to provide this proposed service.

For each of these reasons, ARC is not conforming with Criterion 7.

(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.*

ARC fails to demonstrate the availability of all proposed ancillary and support services.

As discussed under Criterion 7, ARC failed to demonstrate that it will make available, or otherwise make arrangements for, the provision of nutritional counseling services. Therefore, ARC is not conforming with Criterion 8.

SunCrest Home Health

(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, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.*

SunCrest fails to demonstrate the need of the population for the proposed project, based on the following reasons:

On pages 41 and 42, SunCrest provides 2009 license renewal data for Wake County home health agencies to determine payor mix, visits per patient and percentage of visits by discipline. However, these figures are not the same as those assumed in the applicant's projections. On page 42, assumption B states that the Wake County data was "adjusted from experience at other SunCrest (parent) agencies," but SunCrest failed to explain how it adjusted the license renewal data to arrive at SunCrest's assumed visits per patient per discipline and payor mix. Additionally, SunCrest does not indicate to which figure this assumption applies. Finally, the adjustment is based on the parent company's experience, which is not in North Carolina and cannot be similarly assumed in Wake County without further information.

(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.*

SunCrest fails to demonstrate that the financial and operational projections are based on reasonable assumptions and therefore fails to demonstrate the immediate and long-term financial feasibility of the project.

On page 54 of its application, SunCrest provides its projected payor mix. However, SunCrest failed to provide any assumptions for how it determined the payor mix of duplicated patients, as this differs from the payor mix of unduplicated patients provided in Section IV.

Additionally, SunCrest's revenue projections assume that its contractual adjustments will decrease for all insurance payors between Years 1 and 2, as described on page 74 of its application, but provides no basis for this assumption. In other words, SunCrest assumes that it will have to deduct less from its commercial payor charges in Year 2 than it will in Year 1. This

flawed and unsubstantiated assumption potentially results in overstated net revenue. Furthermore, when estimating revenue, SunCrest projects its Medicare reimbursement for LUPAs by applying a ten and eight percent deduction to its projected charges by discipline in Years 1 and 2, respectively. As shown in the table below, with the exception of social work, this overstates LUPA reimbursement per visit by as much as 43 percent in Year 2 when compared to actual published LUPA reimbursement rates for Wake County.

Discipline	*SunCrest Assusmed LUPA Reimbursement Year 2*	*Medicare Home Health PPS Rate-Wake County (Eff. 1/1/09)*	*% Difference*
Nursing	$119.60	$106.43	+12.4%
Physical Therapy	$147.20	$116.37	+26.5%
Speech Therapy	$147.20	$126.45	+16.4%
Occupational Therapy	$147.20	$117.15	+25.6%
Medical Social Work	$156.40	$170.61	-8.3%
CNA/Aide	$69.00	$48.20	+43.2%

On page 74 of its application, SunCrest states that gross revenue for Medicare is the expected average home health resource group (HHRG) per admitted patient, multiplied by volume. However, SunCrest did not provide information regarding projected episodes of care and the estimated percentage of LUPAs in its assumptions or anywhere in its application.

Further, the staffing costs provided in Table VII.2 are inconsistent with projected salary expenses in the proforma. Specifically, in Year 1, SunCrest projects 1.5 FTEs for a physical therapist, or 3,120 total hours per year [1.0 FTE (2,080 hours) + 0.5 FTE (1,040) = 1.5 FTEs (3,120 hours)]. With no salary expense per FTE provided in Table VII.2, it is assumed that both full-time and part-time employees have an hourly wage rate of $80 per hour as stated in Table VII.2 on page 60. This equates to a total staffing cost of $249,600 for physical therapy (3,120 hours x $80 per hour), but SunCrest's proforma only includes a salary expense of $90,865 for physical therapy.

Finally, as discussed under Criterion 3, SunCrest's utilization projections are unreasonable and unsubstantiated, therefore calling into question the

reasonableness of its financial projections, which are directly related to projected utilization.

For these reasons, SunCrest is not conforming with Criterion 5 and is not the most effective alternative.

(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.*

SunCrest fails to demonstrate the availability of resources necessary for the provision of the services proposed to be provided.

As discussed under Criterion 5, SunCrest fails to demonstrate sufficient availability of resources to provide projected physical therapy services, and is therefore not conforming with Criterion 7. Further, on page 12 of its application, SunCrest stated, "Case conferences are conducted on all patients in the home health program at the time care is started, at weekly conferences, recertification, and at any significant change in condition and prior to discharge. Weekly case conferences are conducted by a multi-disciplinary team of health care professionals headed by a primary clinician who is responsible for assuring effective communication among all disciplines involved in the patient's care, and that care is coordinated among all services and disciplines." Although SunCrest, in Section II.1.(c) of its application stated that it would "coordinate all patient care services" and review "these individualized patient care plans," there appears to be no personnel designated to manage these conferences and coordinate the activities of the involved disciplines. As such, SunCrest is not conforming with Criterion 7.

In addition, SunCrest is one of only two agencies that propose to contract for therapy services. All the others, with the exception of United propose to hire local therapy staff.

Home Health and Hospice Care (3HC)

(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, or home health offices that may be approved.*

3HC fails to demonstrate that its project is consistent with all applicable policies and need determinations in the State Medical Facilities Plan.

The need determination in the *2010 State Medical Facilities Plan* indicates a need for **one additional** Medicare-certified home health agency in Wake County to serve 444 patients by 2011. Because 3HC is already a provider of home health services to Wake County patients and proposes to simply shift its existing Wake County clients from its Johnston County agency to its proposed Wake County agency [see response to Criterion (3) and 18(a)], its proposal does not fulfill the need determination in the *2010 SMFP* for an additional (i.e., a new provider) home health agency. While 3HC proposes to meet the home health need for 444 patients by 2011 (it proposes to serve 458 patients in 2011 <u>through its Johnston County office</u> followed by 477 patients in 2012 served through its new Wake County office), it clearly states on page 50 of its application that those 458 patients in 2011 will be served by its Johnston County office: "3HC's Johnston County agency will continue to serve Wake County patients during FY 2010 and FY 2011. Upon completion of the proposed project in FY 2012, 3HC's Johnston County agency will no longer serve residents from Wake County."

Therefore, the total 444 **additional** patients in Wake County that will need home health care in 2011 would not be served by 3HC in Wake County. For these reasons, 3HC is not conforming with Criterion 1.

(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, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.*

3HC fails to demonstrate the need of the population for the proposed project, based on the following reasons:

In 2009, 3HC provided care to 422 residents of Wake County through its Medicare-certified agency in Johnston County. As shown in the map provided in Attachment 1, a 50-mile radius of the existing Johnston County agency encompasses all of Wake County and as such, can provide care to all residents of Wake County. Further, as the red circle indicates on the map in Attachment 1, the addition of a Medicare-certified office by 3HC at its proposed site in Wake County will not provide any additional access or new services to Wake County patients but will encompass portions of counties adjacent to Wake County such as Chatham, Alamance, Orange, Person, and Granville counties. Moreover, in addition to the care provided by its existing agency in Johnston County, in FY 2009, 3HC provided care for Wake County residents through its Medicare-certified agencies in Wilson and Sampson counties.

To demonstrate the need for the proposed project, 3HC cites its experience in serving Wake County patients by its Johnston County agency. Based on its 2010 license renewal data, Wake County patients (422 total in FY 2009) represent nearly 30 percent of 3HC's clients served by the Smithfield agency. As stated on page 50 of 3HC's application, this agency most recently experienced a growth rate in Wake County home health patients of 40.1 percent from FY 2008 to FY 2009. However, on page 50 of its application, 3HC states "Upon completion of the proposed project in FY 2012, 3HC's Johnston County agency will no longer serve residents from Wake County. The proposed project will not have any negative effects on the utilization of existing services at any of the 3HC's home health offices." 3HC fails to provide data that would support this statement, as is it proposing to eliminate nearly 30 percent of its Johnston County agency utilization. 3HC also states on page 27 of its application, "As described previously, 3HC has an existing certified home health agency located in Johnston County that served 422 Wake County residents in FY 2009. The proposed services will not duplicate the services provided by 3HC's Johnston County home health agency. Upon completion of the proposed project, the Johnston County agency will no longer serve residents from Wake County." For its assertion on page 50 that the proposed Wake County office will have no impact on its Johnston County office to be true, the Wake County patients that 3HC projects to serve from its proposed office in FY 2012 would have to be all new patients, not merely Wake County patients shifted from its Johnston County office. If this were the case, 3HC's project would undeniably result in a duplication of services.

(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.*

3HC fails to demonstrate that it has proposed the least costly or most effective alternative.

Please see the response to Criterion (3).

(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.*

3HC fails to demonstrate that the financial and operational projections are based on reasonable assumptions and therefore fails to demonstrate the immediate and long-term financial feasibility of the project.

On page 85 of its application, 3HC projects that only 0.3 percent of its projected visits will be self pay/indigent/charity care. This assumption appears to be unreasonably low and is inconsistent with license renewal data available for Wake County home health agencies, as shown below. On average, self pay/indigent/charity care represented 3.0 percent of total visits among Wake County home health agencies in FY 2009.

Wake County Agency	*Self Pay / Indigent / Other Visits*	*Total Visits*	*% Self Pay / Indigent / Other*
Horizons	34	2,637	1.3%
Liberty	10	22,512	0.0%
Tar Heel	2,375	22,994	10.3%
At Home	14	8,782	0.2%
Heartland	584	24,758	2.4%
WakeMed	1,447	35,763	4.0%
Rex	527	49,833	1.1%
Total	4,991	167,279	3.0%

3HC provides very limited assumptions to determine the methodology in projecting revenue and expenses. Specifically, no information was provided to determine Medicare reimbursement and contractual adjustments. Also,

3HC's assumptions do not state if indirect office expenses, which is to include both management and clerical expenses, are provided in its office overhead line item. If so, this line item only totals $5,448 in Year 1 which seems to underestimate this expense.

As discussed under Criterion 7, 3HC also did not project sufficient staff to provide the services proposed for nursing, physical therapy, occupational therapy, and CNA/Aide services. The staff deficiencies equate to a total omission of $19,107 in salary expenses in Year 2 as well as an understatement of benefits and taxes.

Finally, as discussed under Criterion 3, 3HC's utilization projections are unreasonable and unsubstantiated, therefore calling into question the reasonableness of its financial projections, which are directly related to projected utilization.

For these reasons, 3HC is not conforming with Criterion 5 and is not the most effective alternative.

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

3HC fails to demonstrate that its proposal will not result in the unnecessary duplication of existing services.

Please see the response to Criterion (3).

(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.*

3HC fails to demonstrate the availability of resources necessary for the provision of the services proposed to be provided.

3HC did not project sufficient staff to provide the services proposed for nursing, physical therapy, occupational therapy, and CNA/Aide services. Specifically, 3HC did not project enough FTEs to perform the projected number of visits for each of these disciplines in Year 2 as outlined in the table below.

Discipline	*Projected Year 2 Visits*	*Visits per FTE per Day*	*FTEs Needed for Projected Visits**	*Projected Year 2 FTEs*	*Difference*
Nursing	4,664	5.6	3.62	3.47	(0.15)
Physical Therapy	1,979	5.0	1.72	1.65	(0.07)
Occupational Therapy	464	5.0	0.40	0.39	(0.01)
CNA/Aide	1,449	5.6	1.13	1.08	(0.04)

*Calculation: Projected visits / visits per FTE per day / 230 days per year

The deficit in projected FTEs equates to a total of 350 visits that 3HC projects, but will not have the ability to provide in Year 2. Given the underestimation of staff required to provide the level of services proposed in Table IV.2 of its application, 3HC is not conforming with Criterion 7.

Although 3HC proposes a wide range of services to be provided to Wake County residents in Section II.1.(b) of its application, it fails to budget enough staff to provide nursing, PT, OT, and CNA services. Despite 3HC's indication in Section II.1.(a) of its application that it would provide a wound care team (which includes a diabetic educator), a CRNI (infusion) educator, nutrition services, anodyne therapy, interpreter services as well as corporate oversight of quality assurance and educational development, 3HC did not project sufficient staff to meet basic visit needs, much less the range of special services it proposes. 3HC also did not allocate expenses for administrative duties related to services provided by its proposed Wake County home health agency. 3HC also discussed in Section VII of its application (page 92) that its agency "trains all staff members providing home health services in each of its agencies in eastern North Carolina in all necessary skills." Given all the services and education activities that 3HC plans to provide and the minimal allocation of administrative personnel to coordinate/facilitate these activities, in addition to its understaffing of health manpower, one has to question 3HC's ability to do all the things it proposes.

Community Home Health

(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.*

Community fails to demonstrate that the financial and operational projections are based on reasonable assumptions and therefore fails to demonstrate the immediate and long-term financial feasibility of the project.

On page 57 of its application, Community assumes each patient will receive an average of 18 visits. However, payor data from 2010 license renewal applications for Wake County home health agencies suggests that this assumption is incorrect and overestimates the number of visits per patient for most payors as shown in the tables below.

	Medicare		
Wake County Home Health Agency	***Clients***	***Visits***	***Visits per Client***
Horizons	97	2,295	23.7
Liberty	1,126	15,991	14.2
Tar Heel	902	18,316	20.3
At Home	226	5,114	22.6
Heartland	1,295	20,626	15.9
WakeMed	1,177	20,560	17.5
Rex	1,888	36,357	19.3
Total	**6,711**	**119,259**	**17.8**

	Medicaid		
Wake County Home Health Agency	***Clients***	***Visits***	***Visits per Client***
Horizons	9	14	1.6
Liberty	53	593	11.2
Tar Heel	137	1,384	10.1

	Medicaid		
Wake County Home Health Agency	***Clients***	***Visits***	***Visits per Client***
At Home	64	1,134	17.7
Heartland	74	2,228	30.1
WakeMed	318	4,550	14.3
Rex	76	719	9.5
Total	**731**	**10,622**	**14.5**

	Commercial		
Wake County Home Health Agency	***Clients***	***Visits***	***Visits per Client***
Horizons	39	294	7.4
Liberty	571	5,918	10.4
Tar Heel	90	919	10.2
At Home	216	2,520	11.7
Heartland	120	1,320	11.0
WakeMed	689	9,206	13.4
Rex	931	12,230	13.1
Total	**2,656**	**32,407**	**12.2**

	Self Pay/Indigent/Other		
Wake County Home Health Agency	***Clients***	***Visits***	***Visits per Client***
Horizons	2	34	17.0
Liberty	4	10	2.5
Tar Heel	99	2,375	24.0
At Home	5	14	2.8
Heartland	62	584	9.4
WakeMed	172	1,447	8.4
Rex	57	527	9.2
Total	**401**	**4,991**	**12.4**

	Total		
Wake County Home Health Agency	***Clients***	***Visits***	***Visits per Client***
Horizons	147	2,637	18.0
Liberty	1,754	22,512	12.8
Tar Heel	1,228	22,994	18.7
At Home	511	8,782	17.2
Heartland	1,551	24,758	16.0
WakeMed	2,356	35,763	15.2
Rex	2,952	49,833	16.9
Total	**10,499**	**167,279**	**15.9**

Additionally, on page 120 of its application, Community assumes that while the payor mix in the first ten months will be 30 percent commercial, this percent will decrease afterwards to nine percent. Community fails to provide any data to demonstrate how, as a smaller percentage of Community's clients, commercial patients will receive the same access to home health services in Year 2 as they will during the first ten months of the proposed project. Since Medicare generally reimburses for home health services at a higher rate than commercial payors, Community's decrease in commercial volume and corresponding increase in Medicare volume in Year 2 results in higher total revenue, and is unrealistic given that commercial clients represented 19 percent of total visits for Wake County home health agencies in FY 2009, as reported in 2010 license renewal applications.

Finally, as discussed under Criterion 7, Community also did not project sufficient staff to provide the services proposed for nursing, physical therapy, and CNA/Aide services. The staff deficiencies equate to a total omission of $15,067 in salary expenses in Year 2 as well as an understatement of benefits and taxes.

(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.*

Community fails to demonstrate the availability of resources necessary for the provision of the services proposed to be provided.

Community did not project sufficient staff to provide the services proposed for nursing, physical therapy, and CNA/Aide services.

Specifically, Community did not project enough FTEs to perform the projected number of visits for each of these disciplines in Year 2 as outlined in the table below.

Discipline	*Projected Year 2 Visits*	*Visits per FTE per Day*	*FTEs Needed for Projected Visits**	*Projected Year 2 FTEs*	*Difference*
Nursing	3,568	5.6	2.76	2.64	(0.11)
Physical Therapy	2,496	5.8	1.87	1.79	(0.08)
CNA/Aide	714	6.5	0.48	0.46	(0.02)

*Calculation: Projected visits / visits per FTE per day / 230 days per year

The deficit in projected FTEs equates to a total of 280 visits that Community projects, but will not have the ability to provide in Year 2. Given the underestimation of staff required to provide the level of services proposed in Table IV.2 of its application, Community is not conforming with Criterion 7.

United Home Care

(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, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.*

United fails to demonstrate the need of the population for the proposed project, based on the following reasons:

United projects unrealistically high utilization figures and growth assumptions due to its incorrect use of the standard methodology in the *State Medical Facilities Plan*, which is described in the paragraphs below.

On page 113 of its application, United applies Region J's 2006-2008 home health compound annual growth rate (CAGR) by age group to project forward Wake County home health patients served between 2009 and 2014. United describes these figures as conservative projections, and in the last paragraph states that "applying the Region J CAGR instead of the Wake County CAGR is the methodology utilized in the 2010 *State Medical Facilities Plan* and thus, is reasonable for projecting future utilization." However while it is correct that the *SMFP* applies a Region J growth rate, and not the

Wake County average annual rate of change, the methodology does not utilize a compound annual growth rate. Instead, the *SMFP* methodology multiplies the average annual rate of change by the FY 2008 total number of home health patients served by age group. This product is multiplied by three and added to the FY 2008 projection to project the number of patients served by existing agencies in FY 2011. As a result of United's misuse of the *SMFP* methodology, in Table III.14 of its application, United projects 14,665 patients served in 2011 which is inconsistent with the *SMFP*'s projection of 14,495 patients, and overestimates the need in the *SMFP* methodology by 170 patients.

On page 116 of United's application, Table III.19 illustrates demonstrated need in Year 1, 538 patients, as the difference between projected total utilization in Wake County and estimated potential clients served per the *SMFP* methodology. United assumes "the methodology used is similar to the State's methodology and thus is valid for projecting need. Additionally the applicant believes these estimates are extremely conservative." However the *SMFP* methodology also accounts for agencies under development, and as such, adjusts its potential FY 2011 patients served by 275, which results in a projection of 14,769 potential patients served, accounting for the approved Bayada agency. Had United's methodology also accounted for the approved Bayada agency, it would have reduced its FY 2011 demonstrated need from 538 patients to 263 patients. Following the *SMFP*'s standard methodology format, United would have added 275 to its 14,665 projected patients served to equal 14,940, then subtracted that figure from its total estimated utilization of 15,203 patients to arrive at a deficit of 263 unserved patients.

Consequently, whereas the *State Medical Facilities Plan* projects patients served between 2008 and 2011 to grow by the equivalent of 6.8 percent compound annual growth rate, United projects a growth rate of 40 percent in unduplicated patients served between Year 1 and Year 2. Similarly, United projects a growth rate of 68.5 percent in patient visits between Year 1 and Year 2. As a result, United's utilization projections are extremely overstated and unreasonable as they compare to both competitive applications and the *State Medical Facilities Plan*.

For these reasons, United is not conforming with Criterion 3.

(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.*

United fails to demonstrate that the financial and operational projections are based on reasonable assumptions and therefore fails to demonstrate the immediate and long-term financial feasibility of the project.

On page 173 and in Exhibit 71 of its application, United states that its payor mix is reasonably based on Wake County license renewal data and United's operating experience. However, United's operating experience is solely based in Georgia and is not reflective of the payor mix in Wake County or North Carolina. Furthermore, United fails to provide any basis for calculating its proposed payor mix from these two sources, which results in significant differences between actual Wake County data reported in license renewal applications and the payor mix that United proposes in Exhibit 71.

Home Health Payor Mix Comparison (as a percent of clients)

	Medicare	*Medicaid*	*Commercial*	*Self Pay*	*Indigent*	*Other*
Wake County*	67.5%	9.1%	21.3%	0.0%	0.5%	1.6%
Proposed by United	79.0%	12.5%	5.0%	1.5%	2.0%	0.0%

*2009 Wake County payor mix based on data reported in 2010 license renewal applications

Further, as discussed under Criterion 7, United proposes to use staff from its affiliated organizations, United Rehab and United Clinical Services, located in Norcross, Georgia. The location of the therapy staff raises the question of travel costs for staff that are located nearly 400 miles from Raleigh but are expected to serve patients in Wake County, North Carolina. This is of particular concern in that 150 of United's admissions in Year 1, and 204 admissions in Year 2, are projected to be physical therapy admissions. See Table IV.1 on page 131 of United's application. The same is true for the wound care nurse, durable medical equipment service, United Medical, and the dietary consultant, all of which are located in Norcross, Georgia. Travel costs in the proforma include only $7.00 per nursing/CNA visit and no travel is included for therapy visits. Furthermore, the contract costs for physical therapy in Year 1 are $196,715 which covers 3,011 visits. That equals to $65.33 per visit, which is the contract amount included in Table VII.2. However, that amount would not cover travel expenses (including gas that currently ranges between $2.75 and $3.15 per gallon) for the multiple contract staff.

Finally, as discussed under Criterion 3, United's utilization projections are unreasonable and unsubstantiated, therefore calling into question the reasonableness of its financial projections, which are directly related to projected utilization.

For these reasons, United is not conforming with Criterion 5 and is not the most effective alternative.

(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.*

United fails to demonstrate the availability of resources necessary for the provision of the services proposed to be provided.

United indicates that it differs from existing providers in that it will provide comprehensive services by a single provider. However, a large percentage of its providers, particularly therapy providers, are located in Norcross, Georgia. Specifically, United proposes to utilize contract staff, including PT, OT, ST and MSW, according to Table VII.3 on page 194 of its application. On pages 181-184 of its application, United indicates that it will contract staff from United Clinical Services, Inc. and United Rehab, Inc. in Norcross, Georgia. However, Norcross, Georgia is 393 miles (or 6 hours and 30 minutes) from Raleigh, according to Google map calculations. Clearly, some of United's core staff will not be immediately available, especially for evenings, weekends, and holiday on-call. Also, the proposed arrangement will result in higher travel costs required for staffing with contract agencies located two states away. According to Table VII.3, United proposes to make a total of 6,969 contract visits in Year 2 of the project. These 6,969 visits include medical social worker, physical therapy, occupational therapist, and speech therapist visits in year 2. [Note: The proposed social worker is located in Raleigh.] United's proforma does not include any travel for therapy services. Since the proposed therapists are nearly 400 miles away and even assuming the therapists will make numerous visits during one trip, the amount allocated for each visit, plus the lack of any travel allocations for therapy raise doubts about the availability of appropriate resources to support staff needed for the new agency office.

In addition, United is one of only two agencies that propose to contract for therapy services. All the others, with the exception of SunCrest propose to hire local therapy staff.

Finally, because United does not provide web-based administrative services as some of the other applicants, the proposed agency is heavy with management positions. In Year 1, more than half of the agency FTEs are for management positions rather than direct patient care positions, indicating that United likely does not represent the most efficient or effective staffing model.

Continuum II Home Care and Hospice

(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.*

Continuum fails to demonstrate that it has proposed the least costly or most effective alternative.

On page 21 of the application, Continuum states, "Although already licensed to provide home care from the proposed agency location, Continuum has held this license in abeyance pending an opportunity to obtain Medicare/Medicaid certification, which this CON allocation to Wake County provides." Continuum is therefore already a licensed agency that could be providing services to Wake County residents, but it has chosen not to do so. This failure to utilize an existing license clearly demonstrates Continuum's failure to make the most effective use of its existing resources.

On page 51 of its application in the response to Policy Gen-3: Basic Principles, Continuum provides a discussion of the cost-effectiveness of the proposed project but the discussion is related to hospice care, not home health. While there may be some correlation between home health and hospice care, it is reasonable that the cost-effectiveness of the proposed project should include a discussion related to home health care not hospice care.

(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.*

Continuum fails to demonstrate that the financial and operational projections are based on reasonable assumptions and therefore fails to

demonstrate the immediate and long-term financial feasibility of the project.

On page 69 of its application, Continuum provides assumptions regarding episodes per patient and visits per episode to determine projected Medicare visits. However, it fails to account for the differences in LUPA and non-LUPA reimbursement per Medicare episode. On page 113 of its application, Continuum assumes a per visit Medicare reimbursement of $3,892, which was calculated by dividing total Medicare reimbursement in North Carolina in 2007 by the number of Medicare home health patients in 2007. This projected reimbursement rate was then multiplied by the number of unduplicated Medicare patients to project Medicare reimbursement for Years 1 and 2. Continuum's projected per visit Medicare reimbursement rate is extremely high compared to all of the competitive applications (most likely because of its failure to account for LUPA reimbursement), and as a result, overestimates its projected Medicare reimbursement.

Continuum does not propose any bad debt in the application (VI.7.(d)) but does include bad debt in its proforma. As this response in the application represents an inconsistency, it is impossible to determine which response is accurate.

Finally, as discussed under Criterion 7, Continuum did not project sufficient staff and as a result, its projected staffing and related expenses are understated.

For these reasons, Continuum is not conforming with Criterion 5 and is not the most effective alternative.

(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.*

Continuum fails to demonstrate the availability of resources necessary for the provision of the services proposed to be provided.

Continuum states on page 90, "Scheduled visits may be delegated to LPN staff within the parameters of scope of practice." However, while Table VII.2 includes salary amounts and projected visits for LPNs, it does not include any FTEs. Therefore, there are no LPNs for Continuum to delegate visits to as stated and it is unclear whether or not Continuum has actually projected sufficient staff to provide the services it proposes.

(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.*

Continuum fails to demonstrate that its project will have a positive impact upon the cost effectiveness, quality, and access to the services proposed.

On page 21 of the application, Continuum states, "Although already licensed to provide home care from the proposed agency location, Continuum has held this license in abeyance pending an opportunity to obtain Medicare/Medicaid certification, which this CON allocation to Wake County provides." Continuum is therefore already a licensed agency that could be providing services to Wake County residents, but it has chosen not to do so. This failure to utilize an existing license clearly demonstrates Continuum's failure to make the most effective use of its existing resources.

GENERAL COMPARATIVE COMMENTS

The AssistedCare, ARC Therapy Services, Community Home Health of NC, Continuum Home Care and Hospice, Home Health and Hospice Care, SunCrest Home Health of NC, and United Home Care of Wake County applications each propose to develop one home health agency in response to the *2010 SMFP* need determination for Wake County. Pursuant to N.C. GEN. STAT. § 131E-183(a)(1) and the *2010 SMFP*, no more than one new home health agency may be approved for Wake County in this review. Because each of the seven applicants proposes to develop a new home health agency in Wake County, all of the applications cannot be approved. AssistedCare acknowledges that each review is different and therefore, that the comparative review factors employed by the Project Analyst in any given review may be different depending upon the relevant factors at issue. Given the nature of the review, the Analyst must decide which comparative factors are most appropriate in assessing the applications.

In order to determine the most effective alternative to meet the identified need for one additional home health agency in Wake County, AssistedCare reviewed and compared the following factors in each application:

- Access by Medicaid Recipients
- Visits per Unduplicated Patient

- Total Cost per Visit
- Net Revenue per Visit
- Net Revenue per Unduplicated Patient
- Ratio of Net Revenue per Visit to Cost per Visit
- Provision of Specialized Services

AssistedCare believes these factors are appropriate and/or have been used in previous competitive home health agency findings.[1]

Projected Access by Medicaid Recipients

The following table compares the percentage of visits provided to Medicaid patients, demonstrating the applicants' proposed access to this medically underserved population.

Applicant	*Proposed Medicaid % by Visit-Yr. 2*
AssistedCare	7.00%
United	10.7%
Suncrest	8.0%
Home Health & Hospice Care (3HC)	15.6%
Community	16.8%
ARC Therapy	12.26%
Continuum	10.00%
Current Wake County Average	*6.3%*

While some applicants project a higher percentage of Medicaid visits, AssistedCare's projected percentage is the most consistent with (and even slightly higher than) the actual historical experience of existing home health agencies in Wake County. Given the actual Wake County average of 6.3 percent Medicaid visits, it is questionable whether applicants projecting significantly higher than this will actually achieve their

[1] Please note that in developing comparative review factors, AssistedCare looked to previous home health reviews for guidance, such as: the 2007 Wake County Home Health Review and the 2009 Mecklenburg County Home Health Review. Where appropriate, AssistedCare has included relevant comparative factors used in those reviews. See, e.g., the 2007 Wake County Home Health Review (using the following comparative factors: projected access by Medicaid recipients; visits per unduplicated patient; total administrative cost; net revenue per unduplicated patient; net revenue per visit; ratio of net revenue per visit to cost per visit; and nursing salaries in year two); the 2009 Mecklenburg County Home Health Review (using the following comparative factors: projected access by Medicaid recipients; provision of services to the non-English speaking, non-Hispanic population; visits per patient; administrative cost per visit; net revenue per visit; net revenue per patient; ratio of net revenue per visit to cost per visit; and nursing and home health aide salaries in year two).

projections. Therefore, AssistedCare represents the most realistic and effective applicant in terms of providing access to home health services to Medicaid recipients.

Visits per Unduplicated Patient

In order to assess the number of proposed visits per patient, AssistedCare divided the total number of proposed visits in Year 2 (IV.2) by the total number of unduplicated patients proposed in Year 2 (IV.1). The resulting visits per patient for each applicant are provided in the table below.

Applicant	*Visits per Patient- Yr. 2*
AssistedCare	15.9
United	23.3
Suncrest	15.7
Home Health & Hospice Care (3HC)	17.7
Community	17.4
ARC Therapy	15.1
Continuum	18.4
Wake County Average	15.9
Statewide Average	18.7

United proposes the highest number of visits per patient at 23.3 visits, and therefore might appear to be the most effective alternative. However, as discussed previously, United has grossly overestimated projected visits and failed to demonstrate that its utilization projections are based on reasonable assumptions. In addition, while other applicants project a high number of visits per patient, their projections are not consistent with the Wake County average. In contrast, AssistedCare's projected visits per patient are consistent with the actual experience of existing home health agencies in Wake County. Therefore, AssistedCare is the best representation of the experience of Wake County home health agencies and is the most effective alternative.

Total Cost per Visit

The following table is a comparison of the total cost per visit proposed by each applicant (total operating costs in each applicant's proforma financial statements divided by total visits in IV.2).

Applicant	*Total Cost per Visit- Yr. 2*
AssistedCare	$132.56
United	$138.30
Suncrest	$162.68
Home Health & Hospice Care (3HC)	$113.15
Community	$129.27
ARC Therapy	$122.82
Continuum	$138.83

As discussed under Criterion 3, ARC, SunCrest, 3HC, and United's utilization projections are unreasonable and unsubstantiated, therefore calling into question the reasonableness of their financial projections, which rely directly on projected utilization. Furthermore, as discussed under Criterion 5, ARC, SunCrest, 3HC, Community, United, and Continuum all failed to demonstrate the reasonableness of their financial projections based on projected revenues and expenses. As a result, AssistedCare is the most effective alternative with regard to total cost per visit, based on reasonable assumptions.

Net Revenue per Visit

Net revenue per visit was calculated by dividing the projected patient net revenue from Form B by the projected number of visits from Section IV, as shown in the table below.

Applicant	*Projected Visits Year Two*	*Net Revenue Year Two*	*Net Revenue Per Visit*
AssistedCare	7,550	$1,093,370	$144.82
United	13,710	$1,940,687	$141.55
Suncrest	7,611	$1,342,830	$176.43
Home Health & Hospice Care (3HC)	8,782	$1,022,928	$116.48
Community	7,134	$937,180	$131.37
ARC Therapy	6,705	$924,731	$137.92
Continuum	8,839	$1,448,407	$163.87

As discussed under Criterion 3, ARC, SunCrest, 3HC, and United's utilization projections are unreasonable and unsubstantiated, therefore calling into question the reasonableness of their financial projections, which rely directly on projected utilization. Furthermore, as discussed under Criterion 5, ARC, SunCrest, 3HC, Community, United, and Continuum all failed to demonstrate the reasonableness of their financial

projections based on projected revenues and expenses. As a result, AssistedCare is the most effective alternative with regard to net revenue per visit, based on reasonable assumptions.

Net Revenue per Patient

Net revenue per unduplicated patient was calculated by dividing the net patient revenue by the number of unduplicated patients projected by the applicant in Section IV.1. The following table shows the net revenue per unduplicated patient based on projected revenues in Form B of the proformas and the number of projected unduplicated patients in the second operating year.

Applicant	***Projected Patients Year Two***	***Net Revenue Year Two***	***Net Revenue Per Patient***
AssistedCare	474	$1,093,370	$2,306.69
United	588	$1,940,687	$3,300.49
Suncrest	484	$1,342,830	$2,774.44
3HC	497	$1,022,928	$2,058.21
Community	487	$937,180	$1,924.39
ARC Therapy	444	$924,731	$2,082.73
Continuum	480	$1,448,947	$3,018.64

As discussed under Criterion 3, ARC, SunCrest, 3HC, and United's utilization projections are unreasonable and unsubstantiated, therefore calling into question the reasonableness of their financial projections, which rely directly on projected utilization. Furthermore, as discussed under Criterion 5, ARC, SunCrest, 3HC, Community, United, and Continuum all failed to demonstrate the reasonableness of their financial projections based on projected revenues and expenses. AssistedCare projects the fourth lowest net revenue per patient of all applicants and the lowest net revenue per patient of all applicants with projections based on reasonable assumptions. Therefore, AssistedCare is the most effective alternative.

Ratio of Net Revenue per Visit to Cost per Visit

Applicant	*Visits Year Two*	*Net Revenue/Visit Year Two*	*Total Cost/Visit Year Two*	*Ratio of Net Revenue/Visit to Cost/Visit*
AssistedCare	7,550	$144.82	$132.56	109%
United	13,710	$141.55	$138.30	102%
Suncrest	7,611	$176.43	$162.68	108%
Home Health & Hospice Care (3HC)	8,782	$116.48	$113.15	103%
Community	7,134	$131.37	$129.27	102%
ARC Therapy	6,705	$137.92	$122.82	112%
Continuum	8,839	$163.87	$138.83	118%

As discussed under Criterion 3, ARC, SunCrest, 3HC, and United's utilization projections are unreasonable and unsubstantiated, therefore calling into question the reasonableness of their financial projections, which rely directly on projected utilization. Furthermore, as discussed under Criterion 5, ARC, SunCrest, 3HC, Community, United, and Continuum all failed to demonstrate the reasonableness of their financial projections based on projected revenues and expenses. As a result, AssistedCare is the most effective alternative, based on reasonable assumptions.

Specialized Services

AssistedCare is the only applicant that demonstrated a web-based quality and data collection system already in place and operational. AssistedCare also appears to be the only applicant that has electronic medical records which also include web-based software that allows physicians to view patient records remotely and to make changes to the orders and sign off in real time. No other applicant even proposes to have this capability. Finally, AssistedCare is the only applicant to comprehensively propose to combine behavioral health care with its medical care of home health patients through existing structures and relationships.

SUMMARY

In summary, based on both its comparative analysis and the comments on the competing applications, as well as the analysis presented in its application, AssistedCare believes that its application represents the most effective alternative for meeting the need identified in the 2010 *SMFP* for an additional home health agency in Wake County.

Attachment 1