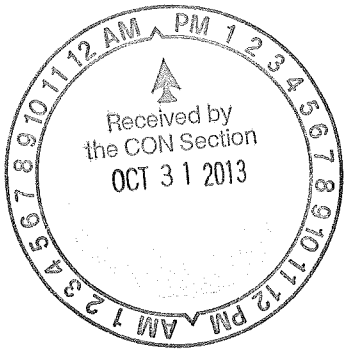
FRESENIUS
MEDICAL CARE

October 31, 2013



Mr. Craig R. Smith, Chief
Certificate of Need Section
Division of Health Service Regulation
809 Ruggles Drive
Raleigh, NC 27603

Re: Public Written Comments, CON Applications
CON Project ID # N-10200-13
CON Project ID # N-10201-13
CON Project ID # N-10204-13
CON Project ID # N-10211-13

Dear Mr. Smith:

Please find attached Public Written Comment for the above noted CON applications.

If you have any questions, please contact me.

Respectfully,

Jim Swann

Direct of Operations, Certificate of Need
3717 National Drive, Suite 206
Raleigh, North Carolina 27612
Phone 919-896-7230
FAX 919-896-7233

Public Written Comments
CON Project ID # N-10201-13
Total Renal Care, Inc., d/b/a
Scotland County Dialysis
Prepared and submitted by Jim Swann
FMC Director of Operations, Certificate of Need

The Certificate of Need application submitted by TRC is non-conforming to multiple CON review criteria and rules. The application is not approvable. The application is not conditionally approvable. The following comments illustrate deficiencies within the application.

1. The application is internally inconsistent and should not be approved. On Page 3 of the application, in response to Question I.8, the applicant says:

   > *"The facility will offer in-center hemodialysis, home hemodialysis training and support; and training in peritoneal dialysis and support."*

   On page 25 of the application the applicant makes the following statements in the first and third paragraph of the page:

   > *"The facility will provide peritoneal dialysis training and support modality."*
   >
   > *"Scotland County Dialysis will not provide home training in hemodialysis."*

   Taken together, the applicant has provided a Certificate of Need application which is inconsistent in its representations. Given the inconsistent representations of the applicant; the application fails to conform to CON Review Criteria 4. This is not the most effective alternative for the dialysis patients of Scotland County.

2. The applicant has provided an application based upon data known to be incorrect. BMA has provided DHSR Medical Facilities Planning Section with corrected information regarding the July 2013 SDR. The July 2013 SDR was produced by utilization of provided self-reported data. This was the first time the SDR has been compiled in this fashion. Unfortunately, there were errors in data reported by three BMA facilities (as well as other providers). This incorrect data led to the published Need Determinations within the July 2013 SDR. BMA is not suggesting that the SDR does not include the Need Determinations as noted by the applicant.

   The incorrect data led to a grossly exaggerated Five Year Average Annual Change Rates. TRC has utilized a rate of 10.9% as the Scotland County Five Year Average Annual Change Rate. The information provided by BMA to the Medical Facilities Planning Section (and to all dialysis providers operating in NC)

clearly demonstrates that a more correct growth rate would have been less than half of that employed by TRC, 5.3%.

If TRC had utilized a more correct 5.3%, their calculations would have produced projected year end census information as is indicated below. BMA has replicated the TRC methodology (from the application, beginning on page 31) below and changed the growth rate to 5.3%:

Date	Patients	X	Growth Rate	=	Year End Census
Begin September 1, 2013	23				
September 1, 2013 through August 31, 2014	23	X	1.053	=	24.219
September 1, 2014 through August 31, 2015	24.219	X	1.053	=	25.503
Add 2 Robeson County Patients	25.503	+	2	=	27.503
September 1, 2015 through August 31, 2016	25.503	X	1.053	=	26.854
Add 2 Robeson County Patients **End Operating Year 1**	26.854	+	2	=	**28.854**
September 1, 2016 through August 31, 2017	26.854	X	1.053	=	28.278
Add 2 Robeson County Patients **End Operating Year 2**	28.278	+	2	=	**30.278**

Obviously, if the applicant had used a corrected growth rate the projected year end census for both year one and two fail to achieve the required 3.2 patients per station for a 10 station facility (10A NCAC 14C .2203(a).

Thus, the applicant has over stated its projected census for the end of opeating years one and two.

BMA readily acknowledges Rule 10A NCAC 14C. 0402 which says:

> *"The correctness, adequacy, or appropriateness of criteria, plans, and standards shall not be an issue in a contested case hearing."*

However, BMA does suggest that the applicant knew the information which led to the SDR included incorrect data. A copy of the same corrected information provided to DHSR Medical Facilities Planning Section was sent to Mr. William L. Hyland of DaVita Healthcare Partners as well as all other providers of dialysis services in North Carolina.

Procedurally, DHSR / Medical Facilities Planning received the information from BMA as a petition to the SHCC. The SHCC Long Term and Behavioral Health

Committee met on September 11, 2013. The BMA petition was presented to the Committee with a recommendation from the Medical Facilities Planning Section to accept the petition and correct the SDR going forward. The Committee agreed. Mr. Hyland of DaVita Healthcare Partners was present at this meeting. This was fully four days in advance of the filing date of the CON applications arising from this incorrect need determination.

Subsequent to filing the applications, the full SHCC met on October 2, 2013, where upon the recommendations of the Long Term and Behavioral Health Committee were accepted. Thus, the next SDR, January 2014, will have corrected information regarding county ESRD census, and corrected county five year average annual change rates.

The point of all of this is that while the Need Determinations as published can not be an issue within a contested case hearing (a contested case hearing arising from this review is a very real possibility), in point of fact, all parties—the applicant, BMA, Medical Facilities Planning Section, the SHCC Long Term and Behavioral Health Committee—knew that the need determination was based upon faulty data.

Given the foreknowledge of the errors, it would have been prudent for the applicant to have chosen an alternative course. Alas, we are forced to contend with an application based upon faulty data.

The applicant has knowingly utilized an incorrect county five year average annual change rate in its projections of future patient populations to be served by the proposed facility.

Consequently, the applicant has knowingly prepared and filed a certificate of need application which is not reasonable, and is not based upon a reasonable foundation.

In the Brunswick County Contested Case, 08 DHR 0818, (arising from a competitive ESRD CON review, applications filed September 2007), Acting Division Director Horton cited to the *"Craven"* case" in his Findings of Fact number 68:

From the Final Agency Decision, 08 DHR 0818, Findings of Fact:

68. Projections attempt to predict something that will occur in the future; therefore, the very nature of a projection cannot be established with absolute certainty. Craven, 176 N.C. App. at 52-53, 625 S.E.2d 837, 841. Projections of a patient census made in a CON application thus conform to Criterion 3 as long as the projections are "reasonable." (ALJ Finding 65.).

The five year average annual change rate employed by Total Renal Care in its application is unreasonable. If it is unreasonable, then the resultant projections

must be rejected by the CON Project Analyst. Consequently the application is non-conforming to Review Criterion 3.

Further, because the financial projections of the applicant are based upon a faulty foundation, the financial projections are therefore unreasonable and non-conforming to Review Criterion 5.

Thus, the applicant has provided an application which can not be approved and is therefore not the most effective alternative. The application is non-conforming to CON Review Criteria 4.

3. The applicant has provided letters of support which are non-specific and unreliable. None of the letters of support provided by the applicant specify where the patient may reside within the county of residence. The CON Section has a long history of close scrutiny of patient letters of support. The patient letter of support must convey some sense of how the new facility would be more convenient.

   The patient letters of support provided by the applicant do not specify any area of the county that the patient may reside. With two exceptions, all of the patient letters of support indicate that the patient resides within Scotland County. However, Scotland County is a land area of 319 square miles. Wholesale acceptance of non-specific letters such as included in this application is an invitation to all CON applicants to provide vague data and insist that the CON Section accept such as absolute.

   Two of the patient letters are from Robeson County patients. One of these indicates that the patient traverses the width of Scotland County to travel to Moore County for dialysis. If the patient were seeking dialysis in a more convenient setting it would be more reasonable for the patient to seek dialysis at one of the two BMA facilities in western Robeson County, or at one of the two BMA facilities in Scotland County. One must question the accuracy of this letter.

   A second letter from a Robeson County patient, which similarly doesn't specify where in Robeson County the patient may reside, suggests the patient is traveling to McColl, SC for dialysis. A review of a roadmap indicates that Laurinburg is more easily accessed from Robeson County than is McColl, S.C. Again, if the patient were seeking dialysis in a more convenient setting it would be more reasonable for the patient to seek dialysis at one of the BMA facilities in western Robeson County or at one of the two BMA facilities in Laurinburg. One must question the accuracy of this letter.

   But, more importantly, absent any definition of where in Scotland County the patient may reside, the CON Analyst must reject the patient letters as non-specific. Absent a clear indication of the proposed facility as a more convenient

alternative, the applicant has failed to identify the needs of the population to be served.

4. On page 15 of the application, the applicant has relied upon data from the Southeastern Kidney Council which was accurate on April 3, 2012. This was 18 months prior to the commencement of the review for this application. The SDR is comprised of data which is much more current than 18 months. It was unreasonable to utilize non-current information.

5. The applicant has provided vague and unreliable information regarding its quality programs. On page 26 of the application the applicant refers to *"a nearly 205 reduction in gross mortality..."* What is the 205?

6. On page 28 of the application the applicant refers to a *"detailed analysis"* with regard to where to site the facility. There is no relevant discussion of this analysis. There is no information other than the conclusion. How can the CON Analyst conclude that the applicant has conducted a detailed analysis?

7. The applicant has offered information on page 34 in response to III.9 regarding the number of facilities operated by FMC and DaVita in surrounding counties. The question speaks to alternative methods for meeting the needs of the proposed project. The CON application process is not a State contrived effort to promote or discourage competition. Rather it is an effort to ensure appropriate distribution of health services for the citizens of our State. All applicants must prove their need case with reasonable projections. What is point of this element of the response offered by the applicant? It does not address any of the relevant CON review criteria or rules. The information provided by the applicant offers nothing of import to the analysis of alternatives.

8. The applicant indicates on page 35 that the facility will utilize single-use dialyzers. However, the floor plan included at Exhibit 40 does include a "re-use" room, or a room for processing dialyzers for re-use. Again, the applicant has provided information which is internally inconsistent, and unreliable. In this case the applicant should be found non-conforming to CON Review Criterion 12; the application is not a reasonable alternative and will not reduce costs of construction.

9. On page 42 the applicant has suggested that approval of the TRC application would not have *"any adverse effect on competition within Scotland County."* This is absolutely incorrect.

   Scotland County is an economically depressed county. The following information was obtained from the North Carolina Department of Commerce website: https://www.nccommerce.com/research-publications/incentive-reports/county-tier-designations. The information is included as an Attachment to these Public Written Comments.

"The N.C. Department of Commerce annually ranks the state's 100 counties based on economic well-being and assigns each a Tier designation. The 40 most distressed counties are designated as Tier 1, the next 40 as Tier 2 and the 20 least distressed as Tier 3."

Scotland County has been ranked in Tier 1. Scotland County is one of the most economically distressed counties in our State.

The BMA CON applications for BMA Laurinburg (CON Project ID # N-10178-13) and FMC Scotland County (CON Project ID # N-10189-13), filed on September 16, 2013, clearly reflect the economics of Scotland County.

a. Consider the amount of bad debt for both facilities as reported within the respective CON applications:

BMA bad debt in FMC Scotland County was $149,065 FY 2012.
BMA bad debt in BMA Laurinburg was $634,955 for FY 2012.

b. Further, consider the historical payor mix of both facilities as reported within the respective CON applications:

FMC Scotland County

The following table represents the historical payor mix at FMC Scotland County.

IC Payor Source	%
Private Pay	0.00%
Commercial Insurance	0.50%
Medicare	93.60%
Medicaid	1.78%
Medicare/Medicaid	0.00%
Medicare/Commercial	0.00%
State Kidney Program	0.00%
VA	4.13%
Other[Specify] Self/Indigent	0.00%
Total	100.00%

BMA Laurinburg

The following table represents the historical payor mix at BMA Laurinburg as of June 30, 2013.

IC Payor Source	In-Center	Home
Private Pay	0.0%	0.0%
Commercial Insurance	7.9%	26.3%
Medicare	76.6%	59.4%
Medicaid	9.3%	0.0%
Medicare/Medicaid	0.0%	0.0%
Medicare/Commercial	0.0%	0.0%
State Kidney Program	0.0%	0.0%
VA	5.7%	14.3%
Other[Specify] Self/Indigent	0.5%	0.0%
Total	100%	100.00%

These two Tables are indicative of the high percentage of patients relying upon Medicare and Medicaid and the low number of patients who have commercial insurance.

The addition of another facility in Scotland County will further dilute the already poor economic environment experienced by existing dialysis providers. The financial situation in Scotland County is so stressed that BMA has been forced to consider management of admissions based upon the patient insurance. In the FMC Scotland County CON application BMA has included the following on page 50 of the application:

> *"FMC Scotland County financial performance has been marginal due to the very low commercial mix at the facility. As is noted above, the most recent historical review indicates that 0.5% of revenue has been from commercial insurance. BMA will be working with the admissions team to re-direct one or two new dialysis patients, who reside on the north side of Laurinburg or Scotland County, with commercial insurance, to the FMC Scotland County facility. In a small facility population such as in FMC Scotland County, one or two patients with commercial insurance can dramatically alter the financial performance of the facility.*
>
> *BMA will not mandate patient admission to one facility or another. However, given the close proximity of the two facilities, it is reasonable to conclude that some patients with commercial insurance would choose FMC Scotland County. "*

There are many counties in North Carolina where BMA has more than one dialysis facility. BMA has not had to consider such actions in any other situation. This is further evidence of the dire financial circumstances of Scotland County residents and ESRD patients.

Approval of the TRC application, which is based upon data known to be faulty, will jeopardize the financial performance of existing facilities in Scotland County.

Consequently the application is not conforming with CON Review Criterion 18a. Given this failure on 18a, the application can not be considered as the most effective alternative and therefore fails to conform to CON Review Criterion 4.

10. On page 43, the applicant has erroneously inferred that approval of the TRC application would positively impact public transportation funds by requiring less time for travel to or from dialysis treatment. In point of fact, both of the BMA facilities have capacity for additional patients.

    a. FMC Scotland County is currently a 12 station dialysis facility. The census as reported in the July 2013 SDR was 41 patients. The facility capacity on traditional dialysis shifts is 48 patients. Thus, the facility could accept seven additional patients for dialysis without forcing any patients to dialyze on a third shift.

    b. BMA Laurinburg is currently a 26 station dialysis facility. One of the stations is dedicated to the provision of Home Hemo-dialsyis training and support. Thus, in a practical sense the facility has 25 in-center dialysis stations. The census as reported in the July 2013 SDR was 87 patients. The facility capacity on traditional dialysis shifts, with 25 stations, is 100 patients. Thus, the facility could accept 13 additional patients for dialysis without forcing any patients to dialyze on a third shift.

    As is discussed here, the BMA facilities could accept 20 additional dialysis patients.

    As noted within the TRC application, patients do make the choice of dialysis facilities. However, practically speaking, while patients may choose the dialysis facility, they also choose the nephrology physician. It is the nephrologist who refers the patient for dialysis and ultimately is responsible for the patient admission to a dialysis facility.

    The majority of the patient letters of support, included at Exhibit 12, indicate the patient is receiving dialysis at a DaVita facility in Hamlet (7 letters), Raeford (7 letters), Southern Pines (1 letter) and Pinehurst (1 letter). Thus, of 25 patient letters of support, 16, or 64%, of the patients are dialyzing at a facility where Dr. Nestor does not have admitting privileges.

    The applicant has not provided any evidence that Dr. Nestor, the proposed Medical Director and the ***only*** identified referring nephrologist in this application, has privileges at the DaVita facility in Hamlet, Raeford, Southern Pines or Pinehurst. To the contrary, the applicant says on page 52 of the application that Dr. Nestor has privileges at the DaVita facility in McColl, S.C. and the two BMA facilities in Scotland County.

- The applicant has not provided any evidence that the nephrologists from the DaVita facility in Hamlet, Raeford, Southern Pines or Pinehurst will seek and acquire admitting privileges at the proposed facility.

- The applicant has not provided any evidence that the dialysis patients from the DaVita facilities in Hamlet, Raeford, Southern Pines or Pinehurst, have been made aware of the reality of having to change nephrology physicians in order to be admitted to the proposed new facility.

Thus, it is not reasonable to accept that public transportation funds can be positively impacted. Therefore, it is not reasonable to accept this premise from the TRC CON Application. Absent some clear indication that patients will truly transfer their care to the proposed facility, the applicant has failed to identify the patient population to be served and the needs of the projected patient population for the proposed services. The application is non-conforming to CON Review Criterion 3. Failure to conform to CON Review Criterion 3 consequently causes the applicant's financial projections to be unreasonable and non-conforming to CON Review Criterion 5. Since the application fails to conform to Review Criterion 3 and 5 it can not be deemed the most effective alternative and therefore fails to conform to CON Review Criterion 4.

11. The applicant has not appropriately identified the patient population to be served. On page 44 of the application (and throughout its payor source identification) the applicant has suggested that the Medicaid population of the facility would be 4.2% of the patient population. The reality of the situation is that the TRC application represents only 60% of the total projected Medicaid population by BMA (combined both applications). The applicant has failed to appropriately identify the patient population to be served and in this case is not projecting a sufficient amount of care for Medicaid beneficiaries. Thus, the applicant fails to conform to CON Review Criterion 13c.

12. Further evidence supporting the applicant's failure to consider the economic situation of Scotland County is the applicant's projections of Bad Debt. The applicant has projected that it would incur only $33,719 in bad debt for Operating Year 1, and $36,820 for Operating Year 2 (Application Table X.4, page, 63). By the Applicant's assumptions (page 64), this equates to only $7 per treatment.

    Contrast this $7 per treatment with the BMA projections of bad debt. The following table demonstrates the BMA projections and clearly demonstrates that the applicant has failed to grasp the economic severity of providing dialysis care in Scotland County.

	Operating Year 1			Operating Year 2		
	Total Projected Bad Debt	Projected Treatments (In-center and Home)	$ / Treatment	Total Projected Bad Debt	Projected Treatments (In-center and Home)	$ / Treatment
FMC Scotland County	$111,510	6710	$ 16.62	$118,922	7147	$ 16.64
BMA Laurinburg	$278,972	14867	$ 18.76	$294,480	15594	$ 18.88

The applicant's failure to consider the economic impact of adding a third dialysis facility to a county with an already stressed economic environment indicates that the applicant has failed to appropriately consider the expected effects of competition in this county. Consequently the applicant is non-conforming to CON Review Criterion 18a.

13. On page 52 of the application, the applicant suggests that Dr. Nestor will be backed up by *"other area Nephrologists."* However, the applicant has not identified even a single other nephrologist to support the application, or who will have privileges at the facility. Dr. Nestor is already seeing dialysis patients at the two BMA facilities in Scotland County and at the DaVita facility in McColl, S.C. In this application, the applicant proposes that Dr. Nestor would not only have admitting privileges, but would also be the Medical Director.

    Absent any evidence of back-up nephrology coverage, and coupled with the requirements of rounding at four facilities, how will the applicant ensure appropriate coverage for the facility. The applicant has failed to ensure sufficient physician coverage for the facility and is therefore non-conforming to CON Review Criterion 7.

14. The applicant has provided an application which is based upon current Medicare reimbursement and fails to consider the reality of probable cuts to Medicare reimbursement. Any changes to Medicare reimbursement for dialysis care will become public record during the pendency of this CON application review. The CON Analyst should not fail to consider such changes as they are announced.

Comparative Analysis

In addition to the preceding comments, BMA notes that the CON Project Analyst will also complete a comparative analysis of the CON applications arising from the Scotland County Need Determination as published in the July 2013 SDR. BMA offers the following comments regarding a comparison of the TRC application and the BMA applications. The comparative factors are those used in other recent dialysis competitive reviews.

SMFP Principles

a. Home Training

TRC proposed to provide home training for Peritoneal Dialysis only. TRC proposes to refer home hemo-dialysis patients to their Moore County facility.

BMA provides home training for both Peritoneal Dialysis and Home Hemo-dialysis.

Both TRC and BMA are equal with regard to Peritoneal Dialysis training and support. However, BMA proposes to offer home training and support for home hemodialysis which is a growing modality in North Carolina. Therefore BMA is superior.

b. Hours of Availability

TRC has proposed to be operational from 6:00 AM to 4:00 PM.
FMC Scotland County has proposed to be operational from 6:00 AM to 5:00 PM.
BMA Laurinburg has proposed to be operational from 6:00 AM to 5:00 PM.

All applications are equal with regard to hours of operation.

c. Services in rural, remote areas

All three applications are based in Laurinburg, Scotland County. Scotland County is a rural county but not remote. Therefore all applications are equal with regard to this factor.

Facility Location

The TRC proposal is on the same street as BMA Laurinburg. FMC Scotland County is within Laurinburg but approximately 3.4 miles north of the Lauchwood Drive and Scotland County hospital area. Both TRC and BMA are equal with regard to location.

Access by underserved groups

Within Section VI of the applications, TRC and BMA have provided similar tables reflecting access by underserved groups:

Provider	Medicaid / Low Income	Elderly (65+)	Medicare	Women	Racial Minorities
TRC, Scotland County Dialysis	4.2%	14.8%	85.4%	50.8%	55%
FMC Scotland County	38.5%	48.7%	79.5%	41.0%	69.2%
BMA Laurinburg	51.8%	41.2%	75.3%	57.6%	83.5%

As the table reflects, the TRC application is woefully inferior with regard to Medicaid and Low-Income patients, the elderly, and racial minorities. The applications are comparable on service to Medicare beneficiaries and women.

Access to Ancillary and Support services

BMA and TRC both propose to utilize the local hospital for acute dialysis, emergency services, diagnostic evaluation services, x-ray services, blood banking and surgical services. Both providers offer lab in-house lab services. TRC proposes a transplant agreement with CMC in Charlotte; BMA has transplant agreements with Duke UMC and UNC Hospital. TRC proposes to offer peritoneal dialysis services. BMA offers peritoneal dialysis services at BMA Laurinburg. TRC proposes to refer home hemo-dialysis patients to its facility in Moore County. BMA offers home hemo-dialysis at BMA Laurinburg. The applicants are equal in all respects except for the provision of home hemo-dialysis training and support. BMA Laurinburg is the more effective alternative.

Service to Scotland County Residents

BMA is an existing provider within Scotland County and is serving Scotland County residents. However, TRC has included patient letters of support from 15 Scotland County residents dialyzing at other TRC locations in the region. Therefore, both applicants may be considered equal on this factor.

Access to Alternative Providers

Not applicable. Both providers are currently serving Scotland County residents.

Operating Costs and Revenues

All three applications included projections of operational costs and revenues in Section X of the applications. The following table summarizes costs and revenues on a per treatment basis.

a. Revenue per treatment.

	YR 1 TX	X.2 Rev	Rev / TX
FMC Scotland County	6710	$1,858,494	$276.97
BMA Laurinburg	14867	$4,649,541	$312.74
TRC	4817	$1,503,583	$312.14

	YR 2 TX	X.2 Rev	Rev / TX
FMC Scotland County	7147	$1,982,029	$277.32
BMA Laurinburg	15594	$4,908,008	$314.74
TRC	5260	$1,641,098	$312.00

Based upon the above, FMC Scotland County is the lowest in Operating Year 2, and therefore more effective with regard to revenue per treatment and. BMA Laurinburg and TRC Scotland County Dialysis are equal with regard to net revenues per treatment.

b. Operational Costs per Treatment

	YR 1 Tx	X.4 Exp	Exp / Tx
FMC Scotland County	6710	$1,713,230	$255.32
BMA Laurinburg	14867	$3,800,646	$255.64
TRC	4817	$1,477,387	$306.70

	Yr 2 TX	X.4 Exp	Exp / Tx
FMC Scotland County	7147	$1,805,045	$252.56
BMA Laurinburg	15594	$3,979,822	$255.21
TRC	5260	$1,570,835	$298.64

Based upon the above, the FMC Scotland County and BMA Laurinburg proposals are equal and more effective with regard to operational costs per treatment. The TRC proposal involves higher costs per treatment in both years.

c. Staff Salaries

Position	FMC Scotland County	BMA Laurinburg	TRC, Scotland County
RN	$50,753	$50,753	$70,019
PCT	$27,583	$27,583	$26,523
Administrator	$81,647	$81,647	$79,536

The above table demonstrates that TRC is the more effective alternative with regard to nursing salaries. However, both BMA alternatives offer higher salaries for Patient Care Technicians and facility administrator. Therefore, the BMA alternatives are more effective.

d. Charges to Insurers

Provider	Charge per treatment Commercial Insurance
BMA*	$1375.00
TRC	$1442.00

* Note: BMA charges are the same in both applications

BMA proposes a lower charge to commercial insurers and is therefore the most effective alternative.

Conformity with Review Criteria and Rules.

The BMA applications for BMA Laurinburg and FMC Scotland County are fully conforming to all review criteria and rules. The TRC application fails to conform to Review Criteria 3, 4, 5, 7, 13c, and 18a. Therefore the BMA applications are more effective.

Conclusion

The TRC application is non-conforming to Review Criteria 3, 4, 5, 7, 12, 13c, and 18a and is therefore un-approvable.

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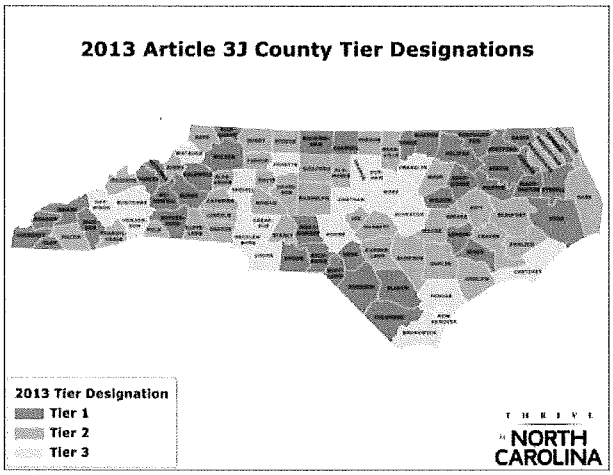
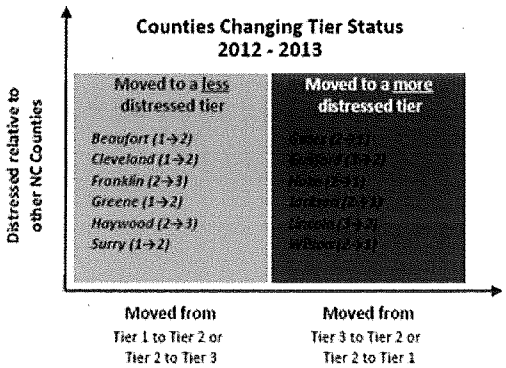


2013 County Tier Designations

The N.C. Department of Commerce annually ranks the state's 100 counties based on economic well-being and assigns each a Tier designation. The 40 most distressed counties are designated as Tier 1, the next 40 as Tier 2 and the 20 least distressed as Tier 3.

This Tier system is incorporated into various state programs, including the Article 3J Tax Credits, to encourage economic activity in the less prosperous areas of the state. Please see the 2013 County Tier Designations for a detailed view of designations.

Note: Article 3J Tax Credits should not be confused with Article 3A William S. Lee (WSL) Tax Credits. Article 3J is not a revision of the Lee Act; it replaces it. In general, William S. Lee Credits are repealed for business activities that occur on or after January 1, 2007 and Article 3J Credits take effect for taxable years beginning on or after January 1, 2007. Please see the 2013 County Tier Designations for a detailed view of designations.



- 2013 County Tier Designations (current page)
- 2012 County Tier Designations
- 2011 County Tier Designations
- 2010 County Tier Designations
- 2009 County Tier Designations
- 2008 County Tier Designations
- 2007 County Tier Designations

Click the county name to view the current county profile. To sort, click the *county* or *tier designation* in the head of the table.

County	Tier Designation
Alamance	2
Alexander	2
Alleghany	1
Anson	1
Ashe	2
Avery	2
Beaufort	2
Bertie	1
Bladen	1
Brunswick	3
Buncombe	3
Burke	1
Cabarrus	3
Caldwell	1
Camden	1
Carteret	3
Caswell	1
Catawba	2
Chatham	3
Cherokee	1
Chowan	1
Clay	1
Cleveland	2
Columbus	1
Craven	2
Cumberland	2
Currituck	2
Dare	2
Davidson	2
Davie	2
Duplin	2
Durham	3
Edgecombe	1
Forsyth	3
Franklin	3
Gaston	2
Gates	1
Graham	1
Granville	2
Greene	2
Guilford	2
Halifax	1

Harnett	2
Haywood	3
Henderson	3
Hertford	1
Hoke	1
Hyde	1
Iredell	3
Jackson	1
Johnston	3
Jones	1
Lee	2
Lenoir	1
Lincoln	2
Macon	2
Madison	2
Martin	1
McDowell	1
Mecklenburg	3
Mitchell	1
Montgomery	1
Moore	3
Nash	2
New Hanover	3
Northampton	1
Onslow	2
Orange	3
Pamlico	2
Pasquotank	2
Pender	3
Perquimans	2
Person	2
Pitt	2
Polk	2
Randolph	2
Richmond	1
Robeson	1
Rockingham	1
Rowan	2
Rutherford	1
Sampson	2
Scotland	1
Stanly	2
Stokes	2
Surry	2
Swain	1
Transylvania	2
Tyrrell	1
Union	3
Vance	1
Wake	3
Warren	1

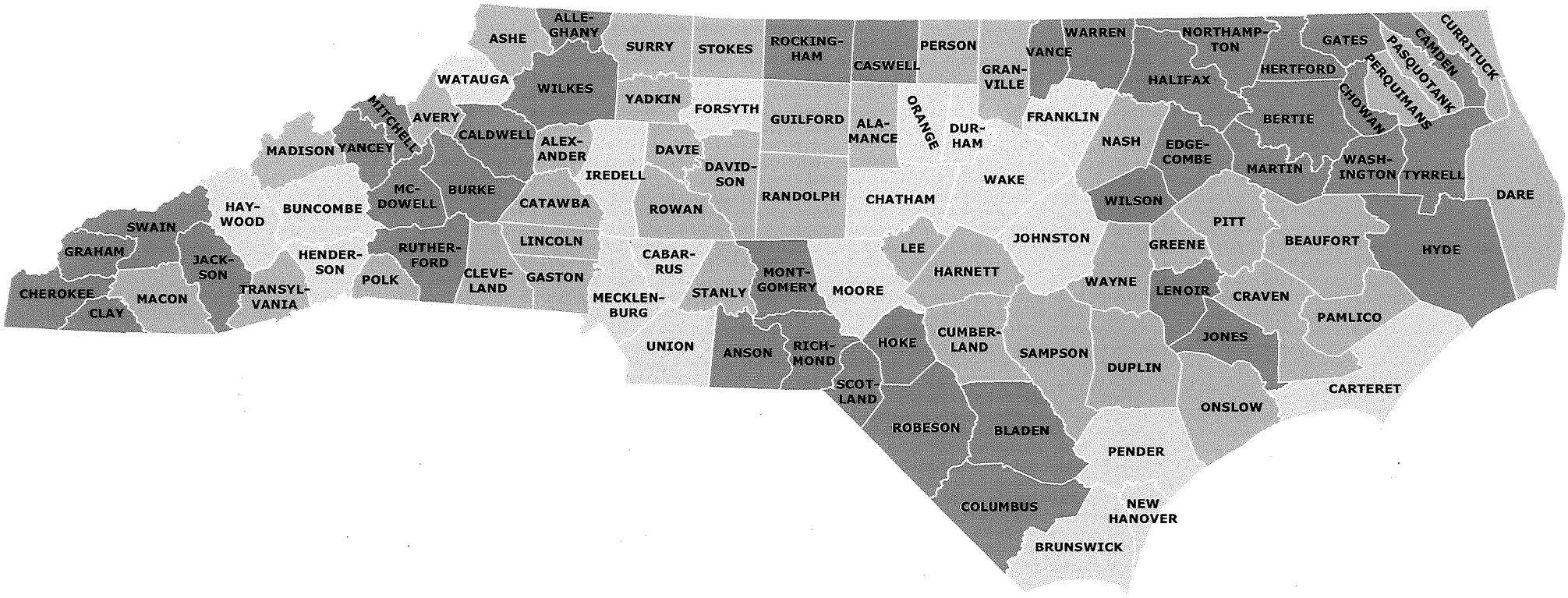
Washington	1
Watauga	3
Wayne	2
Wilkes	1
Wilson	1
Yadkin	2
Yancey	1

Home
About Our Department
Programs
News
Research & Publications

Energy
Business Development
Community Development
Employment Security
Film
International Trade

Labor & Economic Analysis
Science & Technology
Small Business
Tourism
Wine
Workforce

2013 Article 3J County Tier Designations



2013 Tier Designation

- Tier 1
- Tier 2
- Tier 3

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