Comments on
The Presbyterian Hospital's and Novant Health, Inc.'s Acute Care Bed Certificate of Need Application, Project ID # F-12144-21

December 1, 2021

Competitive Comments on Mecklenburg County
Acute Care Bed Applications

submitted by

The Charlotte-Mecklenburg Hospital Authority

In accordance with N.C. GEN. STAT. § 131E-185(a1)(1), The Charlotte-Mecklenburg Hospital Authority (CMHA) d/b/a Atrium Health[1] hereby submits the following comments related to the application filed by The Presbyterian Hospital and Novant Health, Inc. (collectively referred to herein as Novant Health) to add 22 new acute care beds to The Presbyterian Hospital d/b/a Novant Health Presbyterian Medical Center (NH Presbyterian) in response to the need identified in the *2021 State Medical Facilities Plan* (*SMFP*) for 123 additional acute care beds in Mecklenburg County. CMHA'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).[2] In order to facilitate the Agency's ease in reviewing these comments, CMHA has organized its discussion by issue, specifically noting the general Certificate of Need (CON) statutory review criteria and specific regulatory criteria and standards creating the non-conformity relative to each issue, as they relate to Novant Health's NH Presbyterian application, Project ID # F-12144-21. CMHA's comments include issue-specific comments on the NH Presbyterian application as well as a comparative analysis related to its applications:

- Atrium Health University City, Add 12 acute care beds, Project ID # F-12146-21
- Atrium Health Pineville, Add 36 acute care beds, Project ID # F-12147-21
- Carolinas Medical Center (CMC), Add 87 acute care beds, Project ID # F-12149-21

As detailed above, given the number of applications and the number of proposed additional acute care beds, all of the applications cannot be approved as proposed. The comments below include substantial issues that CMHA believes render Novant Health's NH Presbyterian application non-conforming with applicable statutory and regulatory review criteria. However, as presented at the end of these comments, even if all these applications were conforming, the concurrent and complementary applications filed by CMHA are comparatively superior to the application filed by Novant Health and represent the most effective alternative for expanding access to acute care services in Mecklenburg County.

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[1] The Charlotte-Mecklenburg Hospital Authority is part of the Atrium Health, Inc. enterprise. Atrium Health, Inc. is a nonprofit corporation that manages and oversees the activities, personnel, shared services, and business facilities of its enterprise including The Charlotte-Mecklenburg Hospital Authority and Wake Forest University Baptist Medical Center. Throughout these comments, the use of "Atrium Health" refers to The Charlotte-Mecklenburg Hospital Authority d/b/a Atrium Health and not to Atrium Health, Inc.

[2] CMHA is providing comments consistent with this statute; as such, none of the comments should be interpreted as an amendment to its applications filed on October 15, 2021 (Project ID #s F-12146-21, F-12147-21, and F-12149-21).

NH PRESBYTERIAN, ADD 22 ACUTE CARE BEDS, PROJECT ID # F-12144-21

Issue-Specific Comments

1. The NH Presbyterian application fails to adequately demonstrate the need for the proposed project insofar as its need argument is prefaced, in part, on the need to "*improve competitive balance*" in Mecklenburg County and to "*allow NH Presbyterian the capacity to continue competing*."

   In outlining the needs of the population it proposes to serve, the NH Presbyterian application relies in part on a factor it calls "*Increasing Acute Care Market Share*." *See* the NH Presbyterian application, page 41. Under this factor, Novant Health refers to its system as "*the smaller health system in the market*," makes reference to its "*significant investments to improve competitive balance*," and indicates that its proposed project will "*allow NH Presbyterian the capacity to continue competing*." *See* the NH Presbyterian application, pages 41 and 42.

   To the extent these references in Novant Health's application are intended to imply a need to maintain "*competitive balance*," CMHA maintains that such position misstates the CON statute. Of note, Criterion 18(a) states:

   > "*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*."

   Nowhere does Criterion 18(a) call for "*competitive balance*," rather, it speaks to expected effects on competition and enhanced competition. Further, existing providers adding beds under Criterion 18(a) does enhance competition. In fact, such position has been articulated by the Former Chief of the Certificate of Need Section. *See* Attachment 1, *AH North Carolina Owner, LLC d/b/a The Heritage of Raleigh v. NC DHHS*, 12 DHR 01164 (Deposition Transcript of Martha Frisone dated August 8, 2012, noting that "*the addition of…beds, regardless of who is approved for them, enhances competition, even for the facilities owned by that same provider, by adding additional capacity, which gives increased choice to the residents of Wake County and surrounding counties*.")

   Further, there is no mention of competitive balance in the Findings of Fact found in the CON statute.

   Finding of Fact (1), found at N.C. GEN. STAT. § 131E-176(1), states:

   > "*That the financing of health care, particularly the reimbursement of health services rendered by health service facilities, limits the effect of free market competition and government regulation is therefore necessary to control costs,*

> *utilization, and distribution of new health service facilities and the bed complements of these health service facilities*."

Finding of Fact (1) excerpted above establishes that government regulation is needed to ensure that healthcare facilities and bed complements are developed based on the needs of the population. Notably, Finding of Fact (1) includes no mention of the need for competitive balance or an obligation on the part of the Agency to somehow manage competition by counting resources and/or preferring one healthcare entity over another.

Finding of Fact (3), found at N.C. GEN. STAT. § 131E-176(3), states:

> "*That, if left to the market place to allocate health service facilities and health care services, geographical maldistribution of these facilities and services would occur and, further, less than equal access to all population groups, especially those that have traditionally been medically underserved, would result*."

Finding of Fact (3) excerpted above establishes that healthcare should not be a laissez-faire industry. That is, allocation of healthcare resources and services should not be left to the market as it could result in maldistribution of such resources and services, in particular relative to the medically underserved. These concerns articulated in Finding of Fact (3) are not about ensuring competitive balance, but rather, about ensuring access to services to the medically underserved. As noted in the CMHA applications, Atrium Health facilities serve a disproportionately high share of the medically underserved compared to Novant Health. *See* the Atrium Health University City application, pages 28-29, 64-65, and 120-123; the Atrium Health Pineville application, pages 29-30, 64-65, and 124-127; and the CMC application, pages 28-30, 66-67, and 124-127. As discussed in Section B.20 of the CMHA applications, in 2020, 63.5 percent of all Medicaid inpatients from Mecklenburg County were treated at an Atrium Health facility, compared with Atrium Health's 55.1 percent share of all patients. In addition, 56.7 percent of Medicare and 67.5 percent of Self-Pay acute care discharges in Mecklenburg County were treated at an Atrium Health facility. Notably, Atrium Health served almost twice (1.8 times) the percentage of Medicaid patients and more than double (2.5) the percentage of Self-Pay patients served by Novant Health. This means that while Atrium Health facilities served the majority of acute care discharges originating from Mecklenburg County in 2020, it served a **disproportionately higher share** of these underserved patients compared to Novant Health. Based on CMHA's demonstrated experience serving the underserved, the approval of the proposed CMHA projects will serve to enhance competition for all patients in the service area, including the medically underserved that are served disproportionately by CMHA.

Finding of Fact (4), found at N.C. GEN. STAT. § 131E-176(4), states:

> "*That the proliferation of unnecessary health service facilities results in costly duplication and underuse of facilities, with the availability of excess capacity leading to unnecessary use of expensive resources and overutilization of health care services*."

Finding of Fact (4) excerpted above establishes that the development of unnecessary healthcare facilities results in costly duplication and underuse of facilities and in so doing, serves to create excess capacity. These concerns articulated in Finding of Fact (4) are not about ensuring

competitive balance, but rather, about preventing unnecessary duplication of costly healthcare services. Relative to this Finding of Fact, it is important to note that as between Atrium Health facilities and Novant Health facilities, the *SMFP* continues to show a significant deficit for each of the Atrium Health hospitals in Mecklenburg County while three out of five Novant Health hospitals in Mecklenburg County currently operate with excess capacity of acute care beds. Moreover, as discussed in detail below relative to the comparative factor "Meeting the Need for Additional Acute Care Bed Capacity," after accounting for additional capacity awarded in the 2019 and 2020 acute care bed reviews, Novant Health's system overall shows a surplus of beds.

Finding of Fact (7), found at N.C. GEN. STAT. § 131E-176(7), states:

> "*That the general welfare and protection of lives, health, and property of the people of this State require that new institutional health services to be offered within this State be subject to review and evaluation as to need, cost of service, accessibility to services, quality of care, feasibility, and other criteria as determined by provisions of this Article or by the North Carolina Department of Health and Human Services pursuant to provisions of this Article prior to such services being offered or developed in order that only appropriate and needed institutional health services are made available in the area to be served*."

Finding of Fact (7) excerpted above establishes that new institutional health services must be subject to review and evaluation regarding need, cost of service, accessibility to services, quality of care, and feasibility. Notably, there is no mention of a review or evaluation of competitive balance or an obligation on the part of the Agency to somehow manage competition by counting resources and/or preferring one healthcare entity over another.

Finally, and as discussed in greater detail relative to the comparative factors, competition is not a simple comparison of existing capacity nor is it under the Agency's authority to protect market share. In addition to the Findings of Fact referenced above, the Basic Principles found in Chapter 5 of the *2021 SMFP*, which address acute care hospital beds, indicate that "*it is not the state's policy to guarantee the survival and continued operation of all the state's hospitals, or even any one of them*." *See* page 31 of the *2021 SMFP*. Given that it is not the state's responsibility to guarantee the operation of any single hospital, it follows that it is likewise not the state's responsibility to manage competition by counting resources between hospitals. As extensively detailed in its applications, Atrium Health does not have sufficient capacity to accommodate all the patients that attempt to choose its facilities. CMHA has clearly documented in its applications the negative impact not having sufficient bed capacity has on patients that are seeking admission at its facilities, including extensive delays waiting for bed placement and the necessity of turning away some patients for inpatient admission because of the lack of bed capacity. *See* the Atrium Health University City application, pages 40-51; the Atrium Health Pineville application, pages 42-52; and the CMC application, pages 43-54. Without sufficient bed capacity, Atrium Health's ability to accommodate the growing number of patients who **choose** Atrium Health facilities and physicians for their care continues to be restricted. As stated in the CMHA applications, when Atrium Health facilities are forced to refer or transfer patients elsewhere because they cannot find a bed, those patients typically end up at a Novant Health facility; as such, Novant Health's growth is partially due to Atrium Health's hospitals' inability to accommodate all the patients who choose them. Clearly, more capacity is needed at Atrium Health, not Novant Health, to enhance competition for acute care inpatients.

If acute care beds continue to be awarded to existing systems with surpluses, one of the foundational principles of the *SMFP* and CON process will be disregarded as beds are awarded based on factors other than the need of the population **as determined by their choice of provider and healthcare system**.

Based on the discussion above, Novant Health fails to demonstrate the need for the proposed project in accordance with Criterion 3. As such, the NH Presbyterian application is non-conforming with Criteria 1 and 3.

2. The NH Presbyterian application fails to use the correct county growth rate multiplier to project acute care bed days.

As demonstrated on pages 54, 55, 120, and 126 of the NH Presbyterian application, Novant Health indicates that it used a county growth rate multiplier (CGRM) of 1.0331 for Mecklenburg County from Table 5A of the "*expected*" or "*anticipated*" *2022 SMFP* to project acute care days at its Mecklenburg County hospitals. Not only is it unclear where Novant Health obtained the "*expected*" or "*anticipated*" *2022 SMFP* CGRM for Mecklenburg County,[3] but also, it bears mention that in its applications, CMHA utilized the CGRM from the *2021 SMFP* of 1.0325 (which is lower than the CGRM utilized by Novant Health) as the need determination at issue is based on the methodology in the *2021 SMFP*.

While this error directly impacts Novant Health's projected patient days as it is the actual growth rate used to project Novant Health patient days, Novant Health's expert in a 2020 contested case involving CMHA's application to develop a new hospital in Cornelius, Atrium Health Lake Norman (AHLN) (Project ID # F-11810-19)[4] opined that a misstatement by CMHA in its Atrium Health Lake Norman application, which involved a statement in support of its projections but not the actual growth rate used in its projections, was a reasonable basis for finding the application not reasonable and adequately supported. Please see Attachment 2 for excerpts from Dr. Luke's expert report as well as his trial testimony.

Based on the discussion above, Novant Health fails to meet the performance standards in the acute care bed rules (10A NCAC 14C .3803) as it failed to reasonably project acute care bed days and its data used to develop the projections do not support the projected inpatient utilization and average daily census.

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[3] While Novant Health indicates on pages 54 and 118 of its application that "*[o]n October 13, 2021 the SHCC agreed to use NH Mint Hill's actual DOC for FFY 2020 in the base year to calculate a projected future surplus/deficit of acute care beds but excluded NH Mint Hill's FFY 2020 utilization from the county growth rate multiplier calculation, based on recommendation from the Agency Report[,]*" CMHA is not aware of any revised source of the Mecklenburg County acute care bed day CGRM being provided by the SHCC or otherwise published or provided publicly. To CMHA's knowledge, the *Proposed 2022 SMFP* and Table 5A distributed at the Acute Care Services Committee meeting on September 14, 2021, which indicate a CGRM of 1.0353 and 1.0360, respectively, are the most recent source of the Mecklenburg County acute care bed day CGRM. Moreover, while Novant Health's application references the SHCC taking some action on "*October 13, 2021*," CMHA would remind the Agency that the SHCC meeting originally scheduled for October 13, 2021 was subsequently cancelled.

[4] *The Charlotte-Mecklenburg Hospital Authority d/b/a Atrium Health Lake Norman v. NC DHHS and Presbyterian Medical Care Corporation and Novant Health, Inc.*, 20 DHR 01836 and 20 DHR 03986.

3. The NH Presbyterian application fails to demonstrate that the least costly or most effective alternative has been proposed.

Novant Health fails to demonstrate that it has proposed the least costly or most effective alternative. In Section E, page 62, Novant Health discussed several alternatives it considered prior to the submission of its application as proposed. The alternatives considered by Novant Health included:

- "*Not applying for acute care beds*
- *Filing an application for a different number of acute care beds*
- *New construction at the NH Presbyterian campus to accommodate additional beds*"

Given the current market, Novant Health failed to select the most effective alternative. In reviewing Novant Health's alternatives, CMHA believes that Novant Health failed to adequately demonstrate why transferring existing assets was not the most effective alternative. Namely, the NH Presbyterian application does not include any discussion or evaluation of an alternative involving the relocation of its existing surplus acute care beds within the Novant Health system and why such an alternative was not a more effective alternative to meeting its identified need and consistent with its opinions regarding need on the record in *The Charlotte-Mecklenburg Hospital Authority d/b/a Atrium Health Lake Norman v. NC DHHS and Presbyterian Medical Care Corporation and Novant Health, Inc.*, 20 DHR 01836 and 20 DHR 03986.

Such evaluation of need is necessary to determine the degree to which applicants that are existing facilities may have surplus capacity, as avoiding excess capacity is a foundational finding of the North Carolina CON statute. Findings of Fact (4) and (6) state:

> *(4) "That the proliferation of unnecessary health service facilities results in costly duplication and underuse of facilities, with the availability of excess capacity leading to unnecessary use of expensive resources and overutilization of health care services."*
>
> *(6) "That excess capacity of health service facilities places an enormous economic burden on the public who pay for the construction and operation of these facilities as patients, health insurance subscribers, health plan contributors, and taxpayers."*

See N.C. GEN. STAT. § 131E-175. Findings of Fact (4) and (6).

As noted above, according to the *2021 SMFP*, three out of five Novant Health hospitals in Mecklenburg County currently operate with excess capacity of acute care beds. Moreover, as discussed in detail below relative to the comparative factor "Meeting the Need for Additional Acute Care Bed Capacity," after accounting for additional capacity awarded in the 2019 and 2020 acute care bed reviews, Novant Health's system overall shows a surplus of beds. As stated in the statute, excess capacity leads to unnecessary use of expensive resources, overutilization of healthcare services, and an economic burden on the public. By comparison, Atrium Health currently operates with the highest deficit of acute care bed capacity in the state and has done so for a number of years running.

Moreover, it bears mention that Novant Health is on the record in *The Charlotte-Mecklenburg Hospital Authority d/b/a Atrium Health Lake Norman v. NC DHHS and Presbyterian Medical Care Corporation and Novant Health, Inc.*, 20 DHR 01836 and 20 DHR 03986 stating that CMHA had sufficient bed capacity to accommodate the patients it proposed to serve in the 30 beds it was seeking to develop at AHLN. Please see Attachment 3 for excerpts from Dr. Luke's expert report as well as his trial and deposition testimony. As demonstrated in Attachment 3, Novant Health is clearly on the record stating that existing acute care bed providers can create bed capacity without the need for additional beds by using the following operational tactics:

- Avoid using licensed acute care beds for observation patients;
- Operate acute care beds up to 90% occupancy rates, on average annually;
- Once reaching the 90% "operational threshold," request temporary licensed beds via 10A NCAC 13B .3111.

Based on these operational tactics espoused, Novant Health has more than sufficient capacity of its existing acute care bed complement and does not demonstrate a need for 22 additional beds. As illustrated in the table below, Novant Health projects a system-wide total of 280,971 days in CY 2026 (based on the erroneous CGRM), or an average daily census of 770 patients. Assuming that Novant Health does not use its licensed acute care beds for observation patients, as Dr. Luke opined, Novant Health would need 855 beds in 2026 to operate at a 90 percent occupancy rate. Novant Health currently has 894 existing and approved acute care beds, resulting in a surplus of 39 beds in CY 2026 based on that opinion. In addition, as Dr. Luke opined, Novant Health would be eligible to apply for temporary bed capacity once operating at 90 percent, providing another 89 beds, or 983 total. Thus, Novant Health can operate at a surplus of 128 beds in CY 2026, without the award of additional beds in the 2021 review, by executing the tactics for which it opined in the 2020 contested case involving CMHA's AHLN application (Project ID # F-11810-19). Based on Dr. Luke's logic, it would appear that Novant Health has quite adequate existing capacity to accommodate the 280,971 patient days that are projected for CY 2026 in its application.

CY 2026 Projected Days	280,971
CY 2026 Projected ADC	770
Beds Needed at 90% Occupancy	855
Existing Licensed and Approved Beds	894
CY 2026 Deficit/(Surplus) at 90% Occupancy	(39)
Beds w Maximum Temporary Bed Capacity	983
CY 2026 Deficit/(Surplus) at 90% Occupancy w Temporary Beds	(128)

Based on the discussion above, Novant Health fails to demonstrate that it proposed the least costly or most effective alternative in accordance with Criterion 4. As such, the NH Presbyterian application is non-conforming with Criteria 1, 3, and 4.

4. The NH Presbyterian application fails to adequately 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 its proposal.

   As discussed above relative to Criterion 3, Novant Health fails to adequately demonstrate the need the population has for its proposed project; as such, Novant Health failed to demonstrate that its proposed project is financially feasible under Criterion 5.

   In addition, the financial information and statements in the application contain multiple inconsistencies and omissions:

   - Inconsistent Form F.2 Revenue Assumptions. All of Novant Health's assumptions identified in its Form F.2 Revenue Assumptions utilized Calendar Year (CY) 2019 "*to avoid any COVID-19 impact*" except for bad debt, "*which reflects the CY 2020 bad debt percent at NH Presbyterian License*." *See* NH Presbyterian application, page 135. It is unclear why Novant Health chose to treat bad debt differently than gross patient revenue, contractual adjustments, charity care, net patient revenue, and payor mix.
   - Understated Expenses. In 2021, Novant Health indicates that its admissions are expected to increase 7.2 percent with corresponding days decreasing 0.2 percent. Despite Novant Health's projected increase in admissions and relatively flat days, other supplies, pharmacy, equipment maintenance, central office overhead, insurance, and rental expense are projected to decline by a combined $15.6 million. Such decline – even if it may be associated with relatively flat days – is surprising and unexpected, in particular, relative to pharmacy given that pharmacy expenses are largely variable and subject to inflation. As such, Novant Health appears to have understated its expenses.

   Based on the discussion above, Novant Health 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 its proposal in accordance with Criterion 5. As such, the NH Presbyterian application is non-conforming with Criteria 1, 3, and 5.

In summary, based on the issues detailed above, Novant Health has failed to demonstrate that the project is consistent with the review criteria implemented under N.C. GEN. STAT. § 131E-183 and that the project is needed, and the NH Presbyterian application should be found non-conforming with Criteria 1, 3, 4, and 5 as well as the performance standards in the acute care bed rules (10A NCAC 14C .3803). The NH Presbyterian application should not be approved.

COMPARATIVE ANALYSIS

The NH Presbyterian application (Project ID # F-12144-21), the Atrium Health University City application (Project ID # F-12146-21), the Atrium Health Pineville application (Project ID # F-12147-21), and the CMC application (Project ID # F-12149-21) each propose to develop acute care beds in response to the *2021 SMFP* need determination for Mecklenburg County. Given that multiple applicants propose to meet all or part of the need for the 123 additional acute care beds in Mecklenburg County, not all can be approved as proposed. To determine the comparative factors that are applicable in this review, CMHA examined recent Agency findings for competitive acute care bed reviews. Based on that examination and the facts and circumstances of the competing applications in this review, CMHA considered the following factors:

- Conformity with Review Criteria
- Scope of Services
- Geographic Accessibility
- Meeting the Need for Additional Acute Care Bed Capacity
- Competition
- Geographic Reach
- Access by Underserved Groups
    - Access by Women, 65 and older, and Racial Minorities
    - Projected Medicare and Medicaid
    - Projected Charity Care
- Average Revenue per Patient Day
- Average Operating Expense per Patient Day
- Provider Support

CMHA believes that the factors presented above and discussed in turn below should be used by the Analyst in reviewing the competing applications.

<u>Conformity with Review Criteria</u>

The Atrium Health University City application, the Atrium Health Pineville application, and the CMC application adequately demonstrate that their acute care bed proposals are conforming to all applicable statutory and regulatory review criteria. By contrast, the NH Presbyterian application does not adequately demonstrate that its proposal is conforming to all applicable statutory and regulatory review criteria as discussed previously. An application that is not conforming to all applicable statutory and regulatory review criteria cannot be approved. Therefore, the Atrium Health University City application, the Atrium Health Pineville application, and the CMC application are equally effective alternatives and more effective than the NH Presbyterian application with regard to conformity with review criteria.

<u>Scope of Services</u>

Atrium Health University City, Atrium Health Pineville, CMC, and NH Presbyterian are all existing acute care hospitals which provide numerous types of medical services. Of these existing facilities, only one – CMC – is a Level I trauma center and a quaternary care academic medical center.[5] Therefore, based on

[5] As designated by the Healthcare Planning and Certificate of Need Section and as listed in Appendix F of the *2021 SMFP*. *See* page 428 of the *2021 SMFP*.

the Agency's past position on this comparative factor – that the application proposing to provide the greatest scope of services is the more effective alternative – the CMC application is the most effective with regard to scope of services.

Geographic Accessibility

All four applications submitted in response to the need identified in the *2021 SMFP* for 123 additional acute care beds in Mecklenburg County propose to add acute care beds to an existing facility. Given that all four applications propose to locate additional acute care beds at existing hospitals, the applications are comparable with regard to geographic accessibility.

Meeting the Need for Additional Acute Care Bed Capacity

The table below shows acute care bed utilization for existing facilities based on acute care days as reported in Table 5A of the *2021 SMFP*. As shown in the *2021 SMFP,* the Atrium Health system has a total deficit of 250 acute care beds including deficits of 14, 27, and 209 beds at Atrium Health University City, Atrium Health Pineville, and CMC/Atrium Health Mercy, respectively. By comparison, the Novant Health system has a total deficit of 29 acute care beds.

Mecklenburg County Facilities' Acute Care Bed Need/Surplus

	2023 Projected ADC	***2023 Beds Adjusted for Target Occupancy***	***Current Bed Inventory***	***Projected 2023 Deficit/ (Surplus)***
Atrium Health Pineville	224	298	271	27
Atrium Health University City	87	130	116	14
CMC/Atrium Health Mercy	1,002	1,282	1,073	209
Atrium Health Total	**1,312**	**1,710**	**1,460**	**250**
NH Ballantyne Medical Center	0	0	36	(36)
NH Huntersville Medical Center	83	125	151	(26)
NH Matthews Medical Center	128	180	154	26
NH Mint Hill Medical Center	21	31	50	(19)
NH Presbyterian Medical Center	443	567	483	84
Novant Health Total	**583**	**903**	**874**	**29**

Source: *2021 SMFP*.

As shown above, almost all of the need for additional acute care beds in the *2021 SMFP* for Mecklenburg County was triggered by the utilization of Atrium Health facilities; every Atrium Health facility showed a deficit of beds and **CMC showed the largest bed deficit of any facility or health system in the state**. As such, with regard to meeting the need for additional acute care bed capacity, the Atrium Health University City application, the Atrium Health Pineville application, and the CMC application are the more effective alternatives.

Further, as discussed in Section C.4 of each of CMHA's applications, it is also important to note that Novant Health's 29-bed deficit in the *2021 SMFP* does not account for the 20 beds that it was awarded for Novant Health Matthews Medical Center from the 2019 Mecklenburg County acute care bed review or the 32 beds that it was approved to develop at Novant Health Steele Creek in the 2020 acute care bed review.

After accounting for the additional capacity approved for Novant Health Matthews Medical Center and Novant Health Steele Creek Medical Center in 2019 and 2020, Novant Health shows a surplus of beds according to the *2021 SMFP* methodology as shown in the table below.

Novant Health Deficit / (Surplus)

Facility	*Licensed Acute Care Beds**	*Adjustments for Previous CONs / Previous Need**	*Total Licensed and Approved Acute Care Beds**	*2023 Beds Adjusted for Target Occupancy**	*Projected 2023 Deficit / (Surplus)**	*+ / (-) Beds from 2019 Review*	*+ / (-) Beds from 2020 Review*	*Adjusted Projected 2023 Deficit / (Surplus)*
NH Ballantyne Medical Center	0	36	36	0	(36)			(36)
NH Huntersville Medical Center	139	12	151	125	(26)			(26)
NH Matthews Medical Center	154	0	154	180	26	20		6
NH Mint Hill Medical Center	36	14	50	31	(19)			(19)
NH Presbyterian Medical Center	519	(36)	483	567	84			84
NH Steele Creek Medical Center	0	0	0	0	0		32	(32)
Total	**848**	**26**	**874**	**903**	**29**	**20**	**32**	**(23)**

*Source: *2021 SMFP*

As shown in the table above, the 20 beds awarded to Novant Health Matthews Medical Center from the 2019 acute care bed review were not included in the Adjustments for Previous CONs / Previous Need column of Table 5A in the *2021 SMFP*. These 20 beds were instead included in a 30-bed placeholder for the portion of beds from the 2019 acute care bed need determination that were under appeal at the time the *2021 SMFP* was finalized.[6]

In contrast, each Atrium Health hospital in Mecklenburg County is in need of additional acute care beds based on high patient demand (except recently approved and not yet operational Atrium Health Lake Norman – Project ID # F-12010-20) as shown in the table below. Of note, Atrium Health Lake Norman's projected patient population is expected to shift from existing Atrium Health hospitals in Mecklenburg County. Thus, the need for the beds at Atrium Health Lake Norman is reflected in the system-wide need.

[6] The decision to approve 20 beds for Novant Health Matthews Medical Center (Project ID # F-11807-19) and to deny 30 beds for Atrium Health Lake Norman (Project ID # F-11810-19) was appealed and not yet resolved at the time the *2021 SMFP* was finalized. The ultimate outcome of that appeal was to uphold the initial Agency decision to approve 20 beds for Novant Health Matthews Medical Center and deny 30 beds for Atrium Health Lake Norman, leaving 10 beds from the *2019 SMFP* need determination for Mecklenburg County unallocated.

Atrium Health Deficit / (Surplus)

Facility	*Licensed Acute Care Beds**	*Adjustments for Previous CONs / Previous Need**	*Total Licensed and Approved Acute Care Beds**	*2023 Beds Adjusted for Target Occupancy**	*Projected 2023 Deficit / (Surplus)**	*+ / (-) Beds from 2019 Review^*	*+ / (-) Beds from 2020 Review^^*	*Adjusted Projected 2023 Deficit / (Surplus)*
Atrium Health Pineville^^^	221	50**	271	298	27		7	20
Atrium Health University City	100	16	116	130	14		(12)	26
CMC / Atrium Health Mercy	1,055	18	1,073	1,282	209		69	140
Atrium Health Lake Norman	0	0	0	0	0		30	(30)
Total	**1,376**	**84**	**1,460**	**1,710**	**250**		**94**	**156**

*Source: *2021 SMFP*

**Includes 38 undeveloped beds from the 2018 Mecklenburg County acute care bed review and 12 beds approved from the 2019 review.

^The 12 beds approved for Atrium Health Pineville pursuant to Project ID # F-11813-19, the 16 beds initially approved for Atrium Health University City pursuant to Project ID # F-11812-19, and the 18 beds initially approved for CMC pursuant to Project ID # F-11811-19, none of which were subject to the appeal involving the decisions on the Atrium Health Lake Norman and Novant Health Matthews applications, were included in the Adjustments for Previous CONs / Previous Need column of Table 5A in the *2021 SMFP* and likewise in the same column of this table.

^^Includes seven additional beds approved for Atrium Health Pineville, 87 additional beds approved for CMC, and the development of 30 beds at Atrium Health Lake Norman through the relocation of 12 undeveloped beds from Atrium Health University City and 18 undeveloped beds from CMC.

^^^In June 2021, CMHA filed a CON application (Project ID # F-12084-21) to relocate 26 existing acute care beds from Atrium Health Pineville to Atrium Health Steele Creek where they will remain licensed as part of Atrium Health Pineville and will have no impact on the total number of licensed beds for Atrium Health. The application was conditionally approved on September 24, 2021.

CMC, including Atrium Health Mercy, generated the single highest acute care bed deficit of all Mecklenburg County hospitals from the *2017* to *the 2021 SMFP*. Notably, the acute care bed need generated by CMC in the *2019, 2020*, and *2021 SMFP* is the largest in the state. Further, Atrium Health Pineville has shown bed deficits in each of the last six *SMFPs* (*2016* to *2021 SMFP*) and has the highest occupancy rate among all hospitals in Mecklenburg County. Atrium Health University City has shown bed deficits in each of the last three *SMFPs* (*2019* to *2021 SMFP*). These deficits reflect the high (and increasing) utilization of Atrium Health acute care beds in the county.

In addition, and as noted in the issue-specific comments above, Novant Health failed to reasonably demonstrate that the relocation of its existing surplus acute care beds within the Novant Health system was not a more effective alternative to meeting its identified need and consistent with its opinions regarding need on the record in *The Charlotte-Mecklenburg Hospital Authority d/b/a Atrium Health Lake Norman v. NC DHHS and Presbyterian Medical Care Corporation and Novant Health, Inc.*, 20 DHR 01836 and 20 DHR 03986.

Such evaluation of need is necessary to determine the degree to which applicants that are existing facilities may have surplus capacity, as avoiding excess capacity is a foundational finding of the North Carolina CON statute. Findings of Fact (4) and (6) state:

> *(4) "That the proliferation of unnecessary health service facilities results in costly duplication and underuse of facilities, with the availability of excess capacity leading to unnecessary use of expensive resources and overutilization of health care services."*
>
> *(6) "That excess capacity of health service facilities places an enormous economic burden on the public who pay for the construction and operation of these facilities as patients, health insurance subscribers, health plan contributors, and taxpayers."*
>
> *See* N.C. GEN. STAT. § 131E-175. Findings of Fact (4) and (6).

As noted above, according to the *2021 SMFP*, three out of five Novant Health hospitals in Mecklenburg County currently operate with excess capacity of acute care beds. Moreover, after accounting for additional capacity awarded in the 2019 and 2020 acute care bed reviews, Novant Health's system overall shows a surplus of beds as previously discussed. As stated in the statute, excess capacity leads to unnecessary use of expensive resources, overutilization of healthcare services, and an economic burden on the public. By comparison, Atrium Health currently operates with the highest deficit of acute care bed capacity in the state and has done so for a number of years running.

CMHA has documented in its applications the negative impact not having sufficient bed capacity has on patients that are seeking admission at its facilities, including extensive delays waiting for bed placement and the necessity of turning away some patients for inpatient admission because of the lack of bed capacity. Without sufficient bed capacity, Atrium Health's ability to accommodate the growing number of patients who **choose** Atrium Health facilities and physicians for their care continues to be restricted. As stated in the CMHA applications, when Atrium Health facilities are forced to refer or transfer patients elsewhere because they cannot find a bed, those patients typically end up at a Novant Health facility; as such, Novant Health's growth is partially due to Atrium Health's hospitals' inability to accommodate all the patients who choose them. Based on data from Atrium Health's Physician Connection Line, Atrium Health's inability to admit all patients who wish to be served by its physicians at its facilities results in most of those patients being admitted to a Novant Health hospital. When patients are required to change

healthcare systems due to lack of capacity, they often have to change physicians as well, which is not ideal for continuity of care or patient satisfaction. As discussed throughout Section C.4 of the CMHA applications, Atrium Health as a system in Mecklenburg County is facing such significant capacity constraints and bed deficits that it simply has not had the ability to grow over the last four years at the rate of the Novant Health system that has underutilized beds and adequate capacity to grow.

CMHA has been able to manage high occupancy rates at its facilities by operating on temporary bed overflow status and more recently under a COVID-19 waiver granted under Executive Order 130 (this waiver temporarily replaces the temporary bed overflow requests under 10A NCAC 13B .311 and allows hospitals to surge bed capacity to address capacity constraints during the Public Health Emergency). By way of example, temporary bed overflow allows CMC to expand its capacity temporarily by 86 beds in order to accommodate its sustained high utilization and it limits the temporary expansion to 86 beds. The regulation does not, however, contemplate use of the temporary license as a long-term solution, particularly in that temporary bed spaces are not required to meet the same construction standards as a licensed acute care bed. The only long-term solution to address inpatient bed capacity issues is the approval of additional permanent acute care beds such as proposed in the CMHA applications for Atrium Health University City, Atrium Health Pineville, and CMC.

Historically, the Agency has conducted such a comparative analysis of need. For example, in the 2013 Mecklenburg County Acute Care Bed Review, the Agency's comparative analysis included "Meeting the Need for Additional Acute Care Beds" as a comparative factor. *See* Exhibit C.4-2 of the CMHA applications. This factor compared the projected bed deficit and surplus of each applicant as shown in the *2013 SMFP* and found the applicant with the greatest deficit to be more effective. CMHA believes that applicants with existing facilities should be evaluated based on need in comparison to existing utilization and those with deficits of capacity or higher utilization rates found to be superior to those with surpluses or lower utilization rates. In the 2020 Mecklenburg County Acute Care Beds and Operating Rooms Review, the Agency's comparative analysis included "Historical Utilization" as a comparative factor similar to "Meeting the Need for Additional Acute Care Beds." However, application of the factor in that review compared the historical occupancy rates of each facility as shown in the *2020 SMFP* and found the individual facility with the highest occupancy rate to be more effective. In a service area such as Mecklenburg County with two, established, multi-hospital systems, CMHA does not believe that the Agency should compare acute care bed deficits and surpluses – or occupancy rates – among individual facilities but rather should make these comparisons at the system-level. A core principle of the *SMFP* acute care bed need methodology is an analysis of need by system in Mecklenburg County; it is the system-based deficits/surpluses that determine whether or not additional beds are needed. Moreover, both existing systems in Mecklenburg County have been approved for projects – still under development – that proposed to shift both resources and patients between facilities, which is further evidence that a system-to-system comparison under these circumstances is more appropriate and that a facility-specific analysis would create artificial results. An analysis of historical bed need in the *SMFP,* as shown above, demonstrates that the need for additional acute care bed capacity in Mecklenburg County has been overwhelmingly at Atrium Health facilities compared to Novant Health facilities. Therefore, with regard to meeting the need for additional acute care bed capacity, the Atrium Health University application, the Atrium Health Pineville application, and the CMC application are the more effective alternatives.

Competition

In recent Mecklenburg County reviews, the Agency has used other comparative factors, such as "Competition," to compare applicants' total bed complement without considering whether the

applicants' existing capacity demonstrates a deficit or surplus or higher occupancy rates. The Agency Findings for the 2018, 2019, and 2020 Mecklenburg County Acute Care Bed and Operating Room Reviews included a "Competition" comparative factor in its analysis of both the acute care bed and operating room applications, which found any applicant with fewer beds or operating rooms more effective than applicants with a greater number of beds or operating rooms. As an example of the rationale under this application of the "Competition" comparative factor, an existing provider with ten acute care beds that served zero patients would be found to be a more effective alternative than another provider with fifty beds that served hundreds of patients and demonstrated a deficit of capacity. This example illustrates the faulty reasoning of that analysis, and CMHA believes that the "Competition" comparative factor as applied in the 2018, 2019, and 2020 Mecklenburg County Acute Care Bed and Operating Room Reviews is contrary to the purpose of the CON statute and should not be applied in that manner. Atrium Health and Novant Health are two existing, mature, and well-established acute care service providers in Mecklenburg County. As such, neither Atrium Health or Novant Health would qualify as a "new or alternative provider" under the Agency's historical reasoning of the "Competition (Patient Access to a New or Alternative Provider)" comparative factor in competitive reviews over the last decade. Specifically, the Agency has stated in numerous competitive reviews over the last four years that an applicant proposing to increase access to a "new provider" is a more effective alternative with regard to "Competition/Patient Access to a New or Alternative Provider." *See* Exhibit C.4-2 of the CMHA applications. In the 2019 Forsyth County MRI review, the Agency specifically noted with regard to the two applicants that are well-established providers in Forsyth County (Wake Forest Baptist and Novant Health):

> *"Both applicants and/or related entities provide MRI services in the service area of Forsyth County; therefore, neither applicant would qualify as a new or alternative provider in the service area. Thus, with regard to this comparative factor, the proposals are equally effective." See Findings, p. 74*

Likewise, both Atrium Health and Novant Health provide acute care services in the Mecklenburg County service area. Neither system qualifies as a new or alternative provider of acute care services in Mecklenburg County. In addition, CMHA has documented in its applications the negative impact not having sufficient bed capacity has on patients that are seeking admission at its facilities, including extensive delays waiting for bed placement and the necessity of turning away some patients for inpatient admission because of the lack of bed capacity. Without sufficient bed capacity, Atrium Health's ability to accommodate the growing number of patients who **choose** Atrium Health facilities and physicians for their care continues to be restricted. Clearly, more capacity is needed at Atrium Health, not Novant Health, to enhance competition for acute care inpatients.

Geographic Reach

According to patient origin data submitted on license renewal applications (LRAs), less than 60 percent of patients served by Mecklenburg County acute care bed providers originate from within the county. As shown in the table below, South Carolina patients comprise roughly 13 percent of total acute care bed admissions provided by Mecklenburg County acute care providers followed by neighboring North Carolina counties.[7]

[7] Please note, given the impact of the COVID-19 pandemic which emerged in the U.S. in 2020, CMHA has included the most recent patient origin data from 2020 as well as the patient origin data from 2019. While the COVID-19 pandemic did not have much effect, if any, on patient origin, it did affect patient days.

Total Patient Origin for
Mecklenburg County Acute Care Bed Providers

NC County/State of Origin	*2019 % of Total*	*2020 % of Total*
Mecklenburg	59.1%	56.8%
South Carolina	13.3%	12.9%
Union	7.0%	6.6%
Gaston	4.2%	4.2%
Cabarrus	2.8%	3.2%
Iredell	2.1%	1.9%
Lincoln	2.0%	1.9%
Cleveland	1.5%	1.4%
Rowan	1.2%	1.0%
Other States*	1.1%	4.2%
Stanly	0.9%	1.0%
Catawba	0.7%	-
All Others**	4.1%	5.0%
Total	**100.0%**	**100.0%**

Source: 2020-2021 Patient Origin Reports as compiled by NC DHSR.
*Other States includes all other states.
**All Others includes all other North Carolina counties.

As noted in CMHA's applications, without the demand for acute care services originating from outside of Mecklenburg County, there would not be a need for additional acute care bed capacity to be located in Mecklenburg County. As CMHA demonstrates in its applications, Mecklenburg County would have a surplus of 848 acute care beds, or more than one-third of its existing capacity, if not for the demand for acute care bed services originating from outside of the county. Under these circumstances, CMHA believes the Agency should recognize that the need for additional acute care capacity in Mecklenburg County is driven by residents across the region and evaluate an applicant's geographic reach in assessing the need for additional beds in Mecklenburg County.

Please note that previous Agency reviews have included an "Access by/Service to Service Area Residents" comparative factor. As detailed below, CMHA believes that this comparative factor would be inappropriate for a review of the proposed project. In the Agency Findings for the 2019 Mecklenburg County Acute Care Bed and Operating Room Review, the Agency's comparative analyses included a comparative factor, "Access by Service Area Residents," but did not draw any conclusions about the factor. Pages 236 and 237 of the Agency Findings for the 2019 Mecklenburg County Acute Care Bed and Operating Room Review state, "*Atrium is correct that the Acute Care Bed Need Determination in the 2019 SMFP is based on the total number of acute care days at each hospital and not based on anything related to Mecklenburg County-specific acute care days. Further, Mecklenburg County is a large urban county with over one million residents, two large health systems plus other smaller healthcare groups, and is on the border of North Carolina and South Carolina… the Agency believes that in this specific instance attempting to compare the applicants based on the projected acute care bed access of Mecklenburg County residents has little value* [emphasis added]." Subsequently, the Agency maintained this position in its Findings for the 2020 Mecklenburg County Acute Care Bed and Operating Review in which it did not evaluate this comparative factor. CMHA agrees with the Agency's findings regarding this factor in the 2019 and 2020

Acute Care Bed and Operating Room Reviews and maintains its belief that this comparative factor, if applied, would be inappropriate for a review of the proposed project. The need for additional acute care bed capacity in Mecklenburg County, and specifically, the need determination in the *2021 SMFP*, is a result of the utilization of all patients that utilize acute care beds located in Mecklenburg County. Mecklenburg County residents comprise less than 60 percent of that utilization and there would be a large surplus of capacity if not for the demand for acute care bed services originating from outside the county. Under these circumstances, it would not be appropriate to determine the comparative effectiveness of an applicant based on service to Mecklenburg County residents when the need as identified for the proposed additional acute care bed capacity is not based solely on Mecklenburg County patients. (Other methodologies in the *SMFP*, such as nursing facility beds, are based only on the population residing in the county; a factor for "Access by/Service to Service Area Residents" may be more appropriate in such a review, but that is not the case with acute care beds.) Rather, if anything, CMHA believes the Agency should recognize that the need for additional acute care bed capacity in Mecklenburg County is driven by residents across the region and evaluate an applicant's geographic reach in assessing the need for additional acute care bed capacity located in Mecklenburg County. Please note that CMHA's rationale for not including the comparative factor "Access by/Service to Service Area Residents" is consistent with the Agency findings in the 2019 and 2020 Mecklenburg County Acute Care Bed and Operating Room Findings. *See* Attachment 4 for an excerpt from the 2019 and 2020 Findings (see pages 228 and 241 of the 2019 Findings and pages 190 and 207 of the 2020 Findings, which indicate that "Access by Service Area Residents" was "Not Evaluated").

Access by Underserved Groups

The following table illustrates each applicant's percentage of acute care utilization to be provided to certain underserved groups as requested in Section C.6.b.

Underserved Groups

	Women	***65+***	***Racial Minorities***
Atrium Health University City	58.1%	18.2%	68.9%
Atrium Health Pineville	56.4%	30.2%	47.3%
CMC	59.4%	22.6%	59.8%
NH Presbyterian	60.0%	24.0%	48.0%

Source: Section C.6.b.

CMC and NH Presbyterian project to serve a similar percentage of women (59.4 percent and 60 percent, respectively); however, as noted previously, the NH Presbyterian application does not adequately demonstrate that its proposal is conforming to all applicable statutory and regulatory review criteria. An application that is not conforming to all applicable statutory and regulatory review criteria cannot be approved. Therefore, while the CMC and NH Presbyterian applications would be equally effective with regard to access by women, the NH Presbyterian application cannot be approved.

Atrium Health Pineville projects to serve the highest percentage of patients age 65 and older. As such, the Atrium Health Pineville application is the most effective alternative with regard to access by patients age 65 and older. Please note that while NH Presbyterian projects to serve the second highest percentage of patients age 65 and older, as noted previously, the NH Presbyterian application does not adequately demonstrate that its proposal is conforming to all applicable statutory and regulatory review criteria and

cannot be approved as proposed. Therefore, while the NH Presbyterian application would be more effective than the CMC and Atrium Health University City applications with regard to access by patients age 65 and older, the NH Presbyterian application cannot be approved.

Atrium Health University City projects to serve the highest percentage of racial minorities in its acute care beds while CMC proposes to serve the second highest percentage. As such, the Atrium University City application is the most effective alternative with regard to access by racial minorities while the CMC application is more effective than the NH Presbyterian and Atrium Health Pineville applications with regard to access by racial minorities. Please note that while NH Presbyterian projects to serve the third highest percentage of racial minorities, as noted previously, the NH Presbyterian application cannot be approved as proposed. Therefore, while the NH Presbyterian application would be more effective than the Atrium Health Pineville application with regard to access by racial minorities, the NH Presbyterian application cannot be approved.

Projected Medicare and Medicaid

The following table illustrates each applicant's percentage of acute care utilization to be provided to Medicare and Medicaid patients as stated in Section L.3 of the respective applications.

	% of Medicare	*% of Medicaid*
Atrium Health University City	40.7%	18.2%
Atrium Health Pineville	56.2%	10.9%
CMC	32.0%	30.7%
NH Presbyterian	35.2%	17.3%

Source: Section L.3.

Novant Health's application includes inpatient surgery, emergency department services provided to an admitted patient, all services to obstetric patients and newborns, imaging provided during an inpatient stay, and applicable ancillary services. The CMHA applications include acute care bed charges only and do not include ancillary services such as lab, radiology, or surgery that generate additional revenue for acute care inpatients. As shown in the table above, Atrium Health Pineville projects to serve the highest percentage of Medicare patients and CMC projects to serve the highest percentage of Medicaid patients, making these applications the most effective alternatives.

Further, and as noted previously and in the CMHA applications, Atrium Health facilities serve a disproportionately high share of the medically underserved compared to Novant Health. Based on CMHA's demonstrated experience serving the underserved, the approval of the proposed CMHA projects will serve to enhance access for the medically underserved that are served disproportionately by CMHA.

Projected Charity Care

The following table illustrates each applicant's projected charity care as a percentage of net and gross revenue in the third full fiscal year of operation.

	Charity Care	*Net Revenue*	*Charity Care as a % of Net Revenue*	*Gross Revenue*	*Charity Care as a % of Gross Revenue*
Atrium Health University City	$11,644,890	$35,733,223	32.6%	$143,122,677	8.1%
Atrium Health Pineville	$16,742,174	$78,745,638	21.3%	$353,549,029	4.7%
CMC	$94,428,401	$511,127,943	18.5%	$1,923,247,418	4.9%
NH Presbyterian	$61,554,377	$648,756,470	9.5%	$2,332,762,954	2.6%

Source: Form F.2.

Novant Health's application includes inpatient surgery, emergency department services provided to an admitted patient, all services to obstetric patients and newborns, imaging provided during an inpatient stay, and applicable ancillary services. The CMHA applications include acute care bed charges only and do not include ancillary services such as lab, radiology, or surgery that generate additional revenue for acute care inpatients. As shown in the table above, Atrium Health University City projects to provide the highest percentage of charity care while CMC and Atrium Health Pineville propose to serve the second and third highest percentage of charity care, respectively. NH Presbyterian projects to serve the lowest percentage of charity care. Therefore, the Atrium Health University City application is the most effective alternative with regard to charity care while the CMC and Atrium Health Pineville applications are more effective alternatives than the NH Presbyterian application with regard to charity care.

Average Net Revenue per Day

The following table shows average net revenue per patient day and per patient in the third full fiscal year of operation.

	Net Revenue	*# of Days*	*Net Revenue per Day*	*# of Patients*	*Net Revenue per Patient*
Atrium Health University City	$35,733,223	35,586	$1,004	8,277	$4,317
Atrium Health Pineville	$78,745,638	82,321	$957	19,554	$4,027
CMC	$511,127,943	334,186	$1,529	50,273	$10,167
NH Presbyterian	$648,756,470	168,633	$3,847	32,808	$19,774

Source: Form F.2.

Novant Health's application includes inpatient surgery, emergency department services provided to an admitted patient, all services to obstetric patients and newborns, imaging provided during an inpatient stay, and applicable ancillary services. The CMHA applications include acute care bed charges only and do not include ancillary services such as lab, radiology, or surgery that generate additional revenue for acute care inpatients. As shown in the table above, Atrium Health Pineville projects the lowest net revenue per patient day and per patient and NH Presbyterian projects the highest. Therefore, Atrium Health Pineville is the most effective alternative with regard to this factor while the Atrium Health University City and CMC applications are more effective alternatives than the NH Presbyterian application with regard to this factor.

Average Expense per Day

The following table shows average operating expense per patient day and per patient in the third full fiscal year of operation.

	Operating Expense	*# of Days*	*Expense per Day*	*# of Patients*	*Expense per Patient*
Atrium Health University City	$35,644,736	35,586	$1,002	8,277	$4,306
Atrium Health Pineville	$71,325,860	82,321	$866	19,554	$3,648
CMC	$401,715,791	334,186	$1,202	50,273	$7,991
NH Presbyterian	$643,262,002	168,633	$3,815	32,808	$19,607

Source: Form F.2.

Novant Health's application includes inpatient surgery, emergency department services provided to an admitted patient, all services to obstetric patients and newborns, imaging provided during an inpatient stay, and applicable ancillary services. The CMHA applications include acute care bed charges only and do not include ancillary services such as lab, radiology, or surgery that generate additional revenue and expenses for acute care inpatients. As shown in the table above, Atrium Health Pineville projects the lowest operating expense per patient day and per patient and NH Presbyterian projects the highest. Therefore, Atrium Health Pineville is the most effective alternative with regard to this factor while the Atrium Health University City and CMC applications are more effective alternatives than the NH Presbyterian application with regard to this factor.

Provider Support[8]

The following table illustrates the number of letters of support included with each application from physicians and community members/patients.

	Physicians/Providers	*Community/Patients*
Atrium Health University City	31	18
Atrium Health Pineville	105	26
CMC	40	13
NH Presbyterian	14	0

Source: Support letter exhibits.

As shown above, the Atrium Health Pineville application included the most letters of support from physicians and community members/patients. The NH Presbyterian application provided the fewest letters of support from physicians, the fewest letters of support from community members/patients, and the fewest letters combined. Therefore, with regard to provider support, the Atrium Health Pineville

[8] While not used in every competitive review, there have been numerous reviews recently in which provider support has been used as comparative factor, including the 2019 Orange County Operating Room Review and, in 2018, the Orange County Operating Room Review, the Mecklenburg County Operating Room Review, the Durham County Operating Room Review, the Wake County Operating Room Review, the Buncombe County Operating Room Review, and the Forsyth County Operating Room Review.

application, the Atrium Health University City application, and the CMC application are the more effective alternatives.

Summary of Comparative Analysis

The following table summarizes the comparative analysis for acute care beds.

Comparative Factor	*Atrium Health University City*	*Atrium Health Pineville*	*CMC*	*NH Presbyterian*
Conformity with Review Criteria	Yes	Yes	Yes	No
Scope of Services	Less Effective	Less Effective	**Most Effective**	Less Effective
Geographic Accessibility	Equally Effective	Equally Effective	Equally Effective	Equally Effective, But Not Approvable
Meeting the Need for Additional Acute Care Bed Capacity	More Effective	More Effective	More Effective	Less Effective
Competition	Equally Effective	Equally Effective	Equally Effective	Equally Effective, But Not Approvable
Geographic Reach	More Effective	More Effective	More Effective	Less Effective
Access by Women	Less Effective	Less Effective	Equally Effective	Equally Effective, But Not Approvable
Access by 65+	Less Effective	**Most Effective**	Less Effective	More Effective, But Not Approvable
Access by Racial Minorities	**Most Effective**	Less Effective	More Effective	Less Effective
Projected Medicare	More Effective	**Most Effective**	Less Effective	Less Effective
Projected Medicaid	More Effective	Less Effective	**Most Effective**	Less Effective
Projected Charity Care	**Most Effective**	More Effective	More Effective	Least Effective
Average Revenue per Day	More Effective	**Most Effective**	More Effective	Least Effective
Average Expense per Day	More Effective	**Most Effective**	More Effective	Least Effective
Provider Support	More Effective	More Effective	More Effective	Less Effective

Please note that in no way does CMHA intend for these comments to change or amend its concurrently and complementary applications as filed on October 15, 2021. If the Agency considers any statements to be amending CMHA's applications, those comments should not be considered.

Condensed Transcript
of the Testimony of

Martha Frisone

August 8, 2012

AH North Carolina Owner v. NC DHHS

Depositions, Inc.
Phone:(919) 557-4640
info@ncdepo.com
www.ncdepo.com

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whether or not one was a new provider versus an existing provider?
MS. HEATH: Objection.
THE WITNESS: I can't agree with you there. We -- each one is evaluated standing alone. And whether they're an existing provider already or they are not, the additional beds developed would enhance competition.
BY MS. MONTGOMERY:
Q. So you don't agree that a new provider may enhance competition better than an existing provider?
MS. HEATH: Objection.
MR. FISHER: Objection.
THE WITNESS: I don't have an opinion one way or the other, but I can't use that as a factor in evaluating conformity with 18A, because I have to evaluate each application standing alone.
BY MS. MONTGOMERY:
Q. Well, was it used in this case in the comparative analysis, which are existing and which are new providers in the county?
A. I don't know what you mean, "was it used." It's not a compare --
Q. Was it used?

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A. Competition is not a comparative factor, but, again, comparative factors are discretionary with the agency.
Q. So you're saying it's not something that you think you can look at in connection with 18A, because each application stands alone, but it's not used as a comparative factor.
MS. FERRELL: Objection.
BY MS. MONTGOMERY:
Q. So where is competition considered?
MS. FERRELL: Object to form. You're mischaracterizing her testimony.
MS. HEATH: Same objection.
THE WITNESS: It's considered in Criterion 18A. We have not chosen to include competition as a comparative factor in this particular review.
BY MS. MONTGOMERY:
Q. Okay. And how -- how did you consider -- let's just take for example the -- the Britthaven application that was proposing to -- that was discussed in the -- I'm sorry.
Britthaven Brier Creek is discussed on 1972, under 18A. There's no mention that Britthaven Brier Creek has existing facilities in Wake County?

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A. Not on page 1972. No. It is discussed elsewhere in the findings, and we were aware that it had existing facility.
Q. Okay.
A. But these would be 120 additional beds, and, therefore, they would enhance competition.
Q. Okay. So in your view a -- an existing provider that's adding additional beds is equivalent, in terms of competition, to a brand new provider in the community?
MR. HEWITT: Objection.
MS. FERRELL: Object to form.
MR. FISHER: Objection.
MS. HEATH: Objection.
THE WITNESS: I would not agree. I would state what I've stated already, that the addition of 120 beds, regardless of who is approved for them, enhances competition, even for the facilities owned by that same provider, by adding additional capacity, which gives increased choice to the residents of Wake County and surrounding counties.
BY MS. MONTGOMERY:
Q. The state medical facilities plan -- and I'll give you a copy of Exhibit 21 that we had looked

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at before, which is portions of the 2011 state medical facilities plan. If you look at --
A. Hold that thought. Sorry about that.
Q. If you look at the second assumption on page two --
A. Yes.
Q. Okay. And read that into the record, if you would?
A. Okay.
Q. That first sentence.
A. "Any advantages to patients that may arise from competition will be fostered by policies, which lead to the establishment of new provider institutions."
Q. And that is a plan that was applicable in this review of the Wake County nursing home reviews; correct?
A. Correct. This is a discussion of the assumptions underlying the SHCC's method of determining need for additional capacity.
Q. You don't believe it has any relevance to the review of the beds that were at issue in the Wake County nursing facility review?
MS. FERRELL: Object to the form.
MR. HEWITT: Object to the form.

Attachment 2

"*60. The Agency found the AHLN Application's projected utilization for acute care beds was not reasonable and adequately supported because Atrium's statement regarding projected growth rates is inaccurate. Atrium stated:* Atrium Health believes these projected growth rates are reasonable given that the historical growth in Atrium Health Lake Norman appropriate days of care served by Atrium Health Mecklenburg County hospitals has been 3.5 percent*."*

and

"*61. That growth rate was not based on growth in AHLN appropriate days of residents of the PSA and SSA that went to Atrium's Mecklenburg hospitals…*"

See Expert Report of Ronald Luke, JD, PhD, August 21, 2020.

They simply quoted this erroneous misstatement of 3.5, which I view as highly misleading and certainly not substantiating their assumptions.

See Draft Trial Tr. Vol. 9, p. 1788 (Direct of Ronald Luke).

Q. And, in your opinion, was Ms. Faenza correct or

was she in error to say that the growth rates for the Atrium Health Lake Norman application were not reasonable and adequately supported?
A. She's quite correct. And when you go to the underlying data, it – it's – it's the 3.5. <u>It's a totally misleading number, not a typographical error</u>.

[<u>emphasis added</u>] *See* Draft Trial Tr. Vol. 9, pp. 1791-1792 (Direct of Ronald Luke).

Q. Okay. Dr. Luke, there has been some discussion or opinions by Ms. Carter and Mr. Marvelle that the Agency in its analysis of the demonstration of need provided in the

Atrium Health Lake Norman application should have overlooked or treated what Atrium has called certain misstatements made with respect to assumptions for the demonstration of need, should have treated those differently, or that the Agency was unfair or too hard on Atrium with respect to those purported misstatements.
How would you respond to that?
A. I've already discussed that the 3.5, which is the basis they offer for <u>the reasonableness of their growth factors, is -- is -- is a significant and misleading misstatement, not any sort of a typographical error</u>.

[emphasis added] *See* Draft Trial Tr. Vol. 9, pp. 1798-1799 (Direct of Ronald Luke).

Q. Since the utilization projections that we looked at earlier in Form C of the Atrium Lake Norman application did not predicate its utilization projections on the 3.5 percent. Well, let me just ask that. There -- the 3.5 percent was not used to project utilization in the Atrium Lake Norman application, the calculations?
A. I think I've -- I think I have said a number of times, the 3.5 does not appear, but the 3.5 is used as the support for the numbers that were used. And with that being wrong, in effect, there's no support for the numbers that were used.

[emphasis added][1] *See* Draft Trial Tr. Vol. 9, p. 1935 (Cross of Ronald Luke).

[1] The actual growth rate used in the AHLN application was the projected population growth rate and cited in the application, which growth rate was lower than the 3.5% referenced, rendering Dr. Luke's statement that there was no support for the growth rate used in the projections incorrect.

Attachment 3

"*193. …To summarize some of my opinions on this issue: Atrium has the capacity with its existing and approved beds, including its "temporary" bed expansions to accommodate all patients it projected for the first three years of AHLN's operation*."

See Expert Report of Ronald Luke, JD, PhD, August 21, 2020.

Q. And what does the temporary license bed rule tell you about North Carolina policy on the reasonable operational occupancy percentage for acute care hospitals?

A. Well, my interpretation is, is that they have determined that 90 percent is a sort of operational threshold. If you get to that point that you need a temporary expansion, and that's a policy determination by rule making that the state has made as to where they set the operational capacity threshold.

See Draft Trial Tr. Vol. 9, pp. 1766-1767 (Direct of Ronald Luke).

Q. (BY MR. QUALLS) For example, in the hospitals with which you've dealt, is there an occupancy percentage level that -- that you have seen, that when that hospital reaches that occupancy level, it starts to seriously impede that hospital's ability to serve patients?
MS. HANGER: Objection.
MS. RANDOLPH: Objection. Randolph.
A. I -- I don't think there's a general answer to that.
The State of North Carolina has decided that the -- the level at which they can operate is up to 90 percent because 90 percent is when they will give additional temporary beds. Sometimes it's below 90 percent, and I infer from that rule that they believe that the hospital can operate at that average occupancy.

See Deposition Tr., p. 137 (Ronald Luke).

Q. And Novant's historical utilization in Mecklenburg County has been far below that of the Atrium system, correct?
A. In recent years I would agree with the statement. It's been below as far as [unintelligible].
Q. Okay. So if -- I guess the big picture point is that if you're saying Atrium has capacity when it is operating at a much higher occupancy level than Novant, then

Novant certainly has capacity, correct?
A. Not necessarily. I also testified about the fact that if a system has not built additional bed spaces for use as observation beds that they're reported occupancy may be low because, in fact, they still have the observation patients and have to accommodate them. But they are using licensed beds for those.
And based on my work with Novant, I know that to be true at the present time. I do know that, for instance, in the Matthews application, they are now seeing the need to build -- explicitly to build observation beds in addition to their licensed beds. But historically they have not.

See Draft Trial Tr. Vol. 9, p. 1861 (Cross of Ronald Luke).

Q. And if -- if -- so whether or not, for example, Novant would be in a crunch to serve patients and have any capacity constraints, it would have the normal acute care

capacity levels that it could get up to, and then if it ever got there, it could then avail -- Novant could then avail itself of the temporary bed capacity even beyond that, right?
A. Well, that's a hypothetical. I think right now the chances of getting up to the 90 percent are [unintelligible] because in their facilities they are using licensed beds to have as their observation patients.
Q. Okay. And nothing precludes Novant under the CON law from applying from observation -- observation beds, correct?
A. That's right.

See Draft Trial Tr. Vol. 9, pp. 1864-1865 (Cross of Ronald Luke).

Q. Dr. Luke, do you have an opinion based upon reasons other than what were discussed in the offer of proof whether Atrium can have sufficient licensed beds in its Mecklenburg County hospitals, manage the patient census it projected in its 2019 certificate of need application without the 30 beds at Atrium Health Lake Norman?
A. I do.
Q. And what is that opinion?
A. My opinion is that with the permanently licensed, the improved [approved] beds, the temporary licensed beds, and their observation beds, that they have quite adequate bed capacity to accommodate the 451,689 patient days that are projected for 2025 in their -- in their applications.

See Draft Trial Tr. Vol. 9, p. 1778 (Direct of Ronald Luke).

Q. And what are the bases for your opinion, Dr. Luke?
A. Well, the number that we have here, the 451,689, and then the inventory of licensed improved [approved] beds, the reported observation beds from the license renewal applications, and the temporary licensed beds as evidenced by Exhibit 2 of Joint Exhibit 50.

See Draft Trial Tr. Vol. 9, p. 1779 (Direct of Ronald Luke).

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS
C = Conforming
CA = Conditional
NC = Nonconforming
NA = Not Applicable

Decision Date: March 26, 2020
Findings Date: April 2, 2020

Project Analyst: Julie M. Faenza
Team Leader: Fatimah Wilson

COMPETITIVE REVIEW

Project ID #:	F-11807-19
Facility:	Novant Health Matthews Medical Center
FID #:	945076
County:	Mecklenburg
Applicants:	Presbyterian Medical Care Corp. Novant Health, Inc.
Project:	Add no more than 1 OR pursuant to the need determination in the 2019 SMFP for a total of no more than 9 ORs upon project completion

Project ID #:	F-11808-19
Facility:	Novant Health Matthews Medical Center
FID #:	945076
County:	Mecklenburg
Applicants:	Presbyterian Medical Care Corp. Novant Health, Inc.
Project:	Add no more than 20 acute care beds pursuant to the need determination in the 2019 SMFP for a total of no more than 174 acute care beds upon project completion

Project ID #:	F-11810-19
Facility:	Atrium Health Lake Norman
FID #:	190513
County:	Mecklenburg
Applicant:	The Charlotte-Mecklenburg Hospital Authority
Project:	Develop a new satellite hospital campus of Atrium Health University City with 30 acute care beds and 2 ORs pursuant to the need determinations in the 2019 SMFP

Project ID #:	F-11811-19
Facility:	Carolinas Medical Center
FID #:	943070
County:	Mecklenburg
Applicant:	The Charlotte-Mecklenburg Hospital Authority
Project:	Add no more than 18 acute beds pursuant to the need determination in the 2019 SMFP for a total of no more than 1,073 acute care beds upon project completion

Project ID #:	F-11812-19
Facility:	Atrium Health University City
FID #:	923516
County:	Mecklenburg
Applicant:	The Charlotte-Mecklenburg Hospital Authority
Project:	Add no more than 16 acute care beds pursuant to the need determination in the 2019 SMFP for a total of no more than 116 acute care beds upon project completion

Project ID #:	F-11813-19
Facility:	Atrium Health Pineville
FID #:	110878
County:	Mecklenburg
Applicant:	The Charlotte-Mecklenburg Hospital Authority
Project:	Add no more than 12 acute care beds pursuant to the need determination in the 2019 SMFP for a total of no more than 271 acute care beds upon completion of this project and Project I.D. #F-11622-18 (add 38 acute care beds)

Project ID #:	F-11814-19
Facility:	Atrium Health Pineville
FID #:	110878
County:	Mecklenburg
Applicant:	The Charlotte-Mecklenburg Hospital Authority
Project:	Add no more than 2 ORs pursuant to the need determination in the 2019 SMFP for a total of no more than 15 ORs upon completion of this project and Project I.D. #F-11621-18 (add 1 OR)

Project ID #:	F-11815-19
Facility:	Carolinas Medical Center
FID #:	943070
County:	Mecklenburg
Applicant:	The Charlotte-Mecklenburg Hospital Authority
Project:	Add no more than 2 ORs pursuant to the need determination in the 2019 SMFP for a total of no more than 64 ORs upon completion of this project, Project I.D. #F-11106-15 (relocate 2 ORs to Charlotte Surgery Center – Wendover Campus), and Project I.D. #F-11620-18 (add 2 ORs)

ORs in Mecklenburg County by Health System/Applicant – If Approved		
Health System (Applicants)	**Number of ORs**	**Percent of ORs**
Atrium (AH Lake Norman, AH Pineville, and CMC)	97	58.1%
Novant (NH Matthews)	66	39.5%
Others	5	3.0%
Total	167	100.0%

If all Atrium Health applications (**Atrium Health Lake Norman**, **Atrium Health Pineville**, and **Carolinas Medical Center**) are approved as submitted, Atrium would control 97 of the 167 existing and approved ORs located in Mecklenburg County, or 58.1 percent. If **Novant Health Matthews Medical Center's** application is approved, Novant Health would control 66 of the 167 existing and approved ORs located in Mecklenburg County, or 39.5 percent.

Even if CSC-M and CSC-W were not included in Atrium Health's total, Atrium Health would currently control 49.1 percent of the existing and approved ORs in Mecklenburg County, and if all Atrium Health applications were approved as submitted, Atrium Health would control 85 of the 167 existing and approved ORs in Mecklenburg County, or 50.1 percent.

Therefore, with regard to competition, the application submitted by **Novant Health Matthews Medical Center** is the more effective alternative and the applications submitted by **Atrium Health Lake Norman**, **Atrium Health Pineville**, and **Carolinas Medical Center** are less effective alternatives.

Access by Service Area Residents

On page 57, the 2019 SMFP defines the service area for ORs as *"…the operating room planning area in which the operating room is located. The operating room planning areas are the single and multicounty groupings shown in Figure 6.1."* Figure 6.1, on page 62, shows Mecklenburg County as its own OR planning area. Thus, the service area for this facility is Mecklenburg County. Facilities may also serve residents of counties not included in their service area. Generally, the application projecting to serve the highest percentage of Mecklenburg County residents is the more effective alternative with regard to this comparative factor since the need determination is for six additional ORs to be located in Mecklenburg County.

3rd Full FY		
Applicant	**% of Mecklenburg County Residents**	
NH Matthews	50.3% (IP)	46.6% (OP)
AH Lake Norman	85.5% (shared)	91.8% (C-Section)
AH Pineville	38.5%	
CMC	43.4%	

Source: Section C.3 (all applications)

As shown in the table above, **Atrium Health Lake Norman** projects to serve the highest percentage of Mecklenburg County residents during the third full fiscal year of operation following project completion, followed by **Novant Health Matthews Medical Center**, **Carolinas Medical Center**, and **Atrium Health Pineville**.

In comments submitted during the public comment period, Atrium states:

> *"Atrium Health believes that this comparative factor, as applied, would be inappropriate for a review of the proposed project. The need for additional operating room capacity in Mecklenburg County, and specifically, the need determination in the 2019 SMFP, is a result of the utilization of all patients that utilize surgical services located in Mecklenburg County. Mecklenburg County residents comprise a little more than 50 percent of that utilization, and there would be a large surplus of capacity if not for the demand for surgical services originating from outside the county. Under these circumstances, it would not be appropriate to determine the comparative effectiveness of an applicant based on service to Mecklenburg County residents when the need as identified for the proposed additional operating room capacity is not based solely on Mecklenburg County patients."*

Atrium is correct that the Operating Room Need Determination in the 2019 SMFP is based on the total number of surgical hours provided to patients and not based on anything related to Mecklenburg County-specific patients. Further, Mecklenburg County is a large urban county with over one million residents, two large health systems plus other smaller healthcare groups, and is on the border of North Carolina and South Carolina.

For statistical purposes, the United States Office of Management and Budget (US OMB) delineates Metropolitan Statistical Areas (MSAs) when using Census Bureau data. The US Census Bureau states the following about MSAs:

> *"The general concept of a metropolitan or micropolitan statistical area is that of a core area containing a substantial population nucleus, <u>together with adjacent communities having a high degree of economic and social integration with that core.</u>"*[1] (emphasis added)

The first list of MSAs (then known by a different name) was published in October 1950, and Charlotte was considered an MSA at that time. At first, only Mecklenburg County was included; however, by June 1983, the Charlotte-Gastonia MSA comprised six North Carolina counties and one South Carolina county.[2] Today, the Charlotte-Concord-Gastonia MSA is comprised of eight North Carolina counties and three South Carolina counties, and as of July 1, 2018 had an estimated population of more than 2.5 million people.[3]

Considering the discussion above, the Agency believes that in this specific instance attempting to compare the applicants based on the projected OR access of Mecklenburg County residents has little value.

<u>Access by Underserved Groups</u>

"Underserved groups" is defined in G.S. 131E-183(a)(13) as follows:

> *"Medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which*

[1] https://www.census.gov/programs-surveys/metro-micro/about.html, accessed March 6, 2020.
[2]https://www.census.gov/geographies/reference-files/time-series/demo/metro-micro/historical-delineation-files.html, accessed March 6, 2020.
[3]https://www.census.gov/geographies/reference-files/time-series/demo/metro-micro/delineation-files.html, accessed March 6, 2020.

Comparative Factor	NH Matthews	AH Lake Norman	AH Pineville	CMC
Conformity with Review Criteria	Yes	No	Yes	Yes
Scope of Services	**More Effective**	Not Approvable	**More Effective**	**More Effective**
Geographic Accessibility	Less Effective	Not Approvable	Less Effective	Less Effective
Historical Utilization	Less Effective	Not Approvable	Less Effective	**More Effective**
Competition/Access to New Provider	**More Effective**	Not Approvable	Less Effective	Less Effective
Access by Service Area Residents	Not Evaluated	Not Evaluated	Not Evaluated	Not Evaluated
Access by Underserved Groups				
Projected Charity Care	Inconclusive	Inconclusive	Inconclusive	Inconclusive
Projected Medicare	Inconclusive	Inconclusive	Inconclusive	Inconclusive
Projected Medicaid	Inconclusive	Inconclusive	Inconclusive	Inconclusive
Projected Average Net Revenue per Case	Inconclusive	Inconclusive	Inconclusive	Inconclusive
Projected Average Operating Expense per Case	Inconclusive	Inconclusive	Inconclusive	Inconclusive

The **Atrium Health Lake Norman** application is not an effective alternative with respect to Conformity with Review Criteria; therefore, it is not approvable and will not be further discussed in the comparative evaluation below:

- With respect to Conformity with Review Criteria, of the approvable applications, **Novant Health Matthews Medical Center**, **Atrium Health Pineville**, and **Carolinas Medical Center** offer equally effective alternatives. See Comparative Analysis for discussion.

- With respect to Scope of Services, of the approvable applications, **Novant Health Matthews Medical Center**, **Atrium Health Pineville**, and **Carolinas Medical Center** offer equally effective alternatives. See Comparative Analysis for discussion.

- With respect to Geographic Accessibility, of the approvable applications, **Novant Health Matthews Medical Center**, **Atrium Health Pineville**, and **Carolinas Medical Center** propose equally effective alternatives. See Comparative Analysis for discussion.

- With respect to Historical Utilization, of the approvable applications, **Carolinas Medical Center** offers the more effective alternative. See Comparative Analysis for discussion.

- With respect to Competition/Access to New Provider, of the approvable applications, **Novant Health Matthews Medical Center** offers the more effective alternative. See Comparative Analysis for discussion.

CONCLUSION

G.S. 131E-183(a)(1) states that the need determination in the SMFP is the determinative limit on the number of ORs that can be approved by the Healthcare Planning and Certificate of Need Section. Approval of all applications submitted during this review would result in ORs in excess of the need determination for Mecklenburg County. However, the application submitted by **Atrium Health Lake Norman** is not approvable and therefore cannot be considered an effective alternative. Consequently, the application submitted by **Atrium Health Lake Norman, Project I.D. #F-11810-19**, is denied. The applications submitted by **Novant Health Matthews Medical Center, Project I.D. #F-11807-19**, **Atrium Health Pineville, Project I.D. #F-11814-19**, and **Carolinas Medical Center, Project**

Mecklenburg County Historical Acute Care Bed Utilization (Table 5A of 2020 SMFP)				
Facility	**FFY 2018 Acute Care Days**	**ADC**	**# of Acute Care Beds***	**Utilization Rate**
NH Matthews	37,968	104	154	67.5%
CMC	311,337	853	1,010	84.5%
AH University City	27,132	74	100	74.0%
AH Pineville	67,508	185	206	89.8%

*Existing acute care beds during FFY 2018 only.

As shown in the table above, **Atrium Health Pineville** has the highest historical utilization, followed next by **Carolinas Medical Center**, **Atrium Health University City**, and then **Novant Health Matthews Medical Center**. **Atrium Health Lake Norman** is not an existing facility and as such has no historical utilization.

Therefore, with regard to historical utilization, **Atrium Health Pineville** is the more effective alternative, and **Carolinas Medical Center**, **Atrium Health University City**, **Novant Health Matthews Medical Center**, and **Atrium Health Lake Norman** are less effective alternatives.

Competition (Patient Access to a New or Alternative Provider)

There are 2,288 existing and approved acute care beds located in Mecklenburg County. **Atrium Health Lake Norman**, **Carolinas Medical Center**, **Atrium Health University City**, and **Atrium Health Pineville** are all affiliated with Atrium Health, which currently controls 1,414 of the 2,288 acute care beds in Mecklenburg County, or 61.8 percent. **Novant Health Matthews Medical Center** is affiliated with Novant Health, which currently controls 874 of the 2,288 acute care beds in Mecklenburg County, or 38.2 percent.

If **Atrium Health Lake Norman**, **Carolinas Medical Center**, **Atrium Health University City**, and **Atrium Health Pineville** each have their applications approved, Atrium would control 1,490 of the 2,364 existing or approved acute care beds in Mecklenburg County or 63.0 percent. If **Novant Health Matthews Medical Center's** application is approved, Novant Health would control 894 of the 2,364 existing and approved acute care beds in Mecklenburg County or 37.8 percent.

Therefore, with regard to competition, the application submitted by **Novant Health Matthews Medical Center** is the more effective alternative, and the applications submitted by **Atrium Health Lake Norman**, **Carolinas Medical Center**, **Atrium Health University City**, and **Atrium Health Pineville** are less effective alternatives.

Access by Service Area Residents

On page 36, the 2019 SMFP defines the service area for acute care beds as "*the acute care bed planning area in which the bed is located. The acute care bed planning areas are the single and multicounty groupings shown in Figure 5.1.*" Figure 5.1, on page 40, shows Mecklenburg County as its own acute care bed planning area. Thus, the service area for this facility is Mecklenburg County. Facilities may also serve residents of counties not included in their service area. Generally, the application projecting to serve the highest percentage of Mecklenburg County residents is the more effective alternative with regard to this comparative factor since the need determination is for 76 additional acute care beds to be located in Mecklenburg County.

3rd Full FY	
Applicant	**% of Mecklenburg County Residents**
NH Matthews	51.8%
AH Lake Norman	91.8%
CMC	45.3%
AH University City	72.4%
AH Pineville	47.2%

Source: Section C.3 (all applications)

As shown in the table above, **Atrium Health Lake Norman** projects to serve the highest percentage of Mecklenburg County residents during the third full fiscal year of operation following project completion, followed by **Atrium Health University City**, **Novant Health Matthews Medical Center**, **Atrium Health Pineville**, and **Carolinas Medical Center**.

In comments submitted during the public comment period, Atrium states:

> *"Atrium Health believes that this comparative factor, as applied, would be inappropriate for a review of the proposed project. The need for additional acute care bed capacity in Mecklenburg County, and specifically, the need determination in the 2019 SMFP, is a result of the utilization of all patients that utilize acute care beds located in Mecklenburg County. Mecklenburg County residents comprise less than 60 percent of that utilization, and there would be a large surplus of capacity if not for the demand for acute care bed services originating from outside the county. Under these circumstances, it would not be appropriate to determine the comparative effectiveness of an applicant based on service to Mecklenburg County residents when the need as identified for the proposed acute care bed capacity is not based solely on Mecklenburg County patients."*

Atrium is correct that the Acute Care Bed Need Determination in the 2019 SMFP is based on the total number of acute care days at each hospital and not based on anything related to Mecklenburg County-specific acute care days. Further, Mecklenburg County is a large urban county with over one million residents, two large health systems plus other smaller healthcare groups, and is on the border of North Carolina and South Carolina.

For statistical purposes, the United States Office of Management and Budget (US OMB) delineates Metropolitan Statistical Areas (MSAs) when using Census Bureau data. The US Census Bureau states the following about MSAs:

> *"The general concept of a metropolitan or micropolitan statistical area is that of a core area containing a substantial population nucleus, <u>together with adjacent communities having a high degree of economic and social integration with that core.</u>"*[4] (emphasis added)

The first list of MSAs (then known by a different name) was published in October 1950, and Charlotte was considered an MSA at that time. At first, only Mecklenburg County was included; however, by June 1983, the Charlotte-Gastonia MSA comprised six North Carolina counties and one South

[4] https://www.census.gov/programs-surveys/metro-micro/about.html, accessed March 6, 2020.

Carolina county.[5] Today, the Charlotte-Concord-Gastonia MSA is comprised of eight North Carolina counties and three South Carolina counties, and as of July 1, 2018 had an estimated population of more than 2.5 million people.[6]

Considering the discussion above, the Agency believes that in this specific instance attempting to compare the applicants based on the projected acute care bed access of Mecklenburg County residents has little value.

Access by Underserved Groups

"Underserved groups" is defined in G.S. 131E-183(a)(13) as follows:

> *"Medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority."*

Projected Charity Care

The following table shows projected charity care during the third full fiscal year following project completion for each facility. Generally, the application projecting to provide the most charity care is the more effective alternative with regard to this comparative factor.

Projected Charity Care – 3rd Full FY			
Applicant	**Projected Total Charity Care**	**Charity Care per Patient**	**% of Net Acute Care Bed Revenue**
NH Matthews	$19,810,814	$1,695	12.4%
AH Lake Norman*	$1,771,645	$826	18.6%
CMC	$21,733,594	$1,008	25.1%
AH University City	$7,309,504	$1,296	36.3%
AH Pineville	$10,199,060	$688	19.6%

Source: Form F.2 for each applicant.
***Includes medical/surgical, obstetrics, and ICU acute care beds.

As shown in the table above, **Carolinas Medical Center** projects the most charity care in dollars, **Novant Health Matthews Medical Center** projects the highest charity care per patient, and **Atrium Health University City** projects the highest charity care as a percent of net revenue. Therefore, the applications submitted by **Carolinas Medical Center**, **Novant Health Matthews Medical Center**, and **Atrium Health University City** are more effective alternatives with regard to access to charity care, and the applications submitted by **Atrium Health Pineville** and **Atrium Health Lake Norman** are less effective alternatives. However, differences in the acuity level of patients at each facility and the level of care (community hospital, tertiary care hospital, quaternary care hospital, etc.) at each facility may impact the averages shown in the table above. Further, **Novant Health Matthews Medical Center** and **Atrium Health Lake Norman** do not provide a method to calculate only

[5]https://www.census.gov/geographies/reference-files/time-series/demo/metro-micro/historical-delineation-files.html, accessed March 6, 2020.
[6] https://www.census.gov/geographies/reference-files/time-series/demo/metro-micro/delineation-files.html, accessed March 6, 2020.

in the same order they are discussed in the Comparative Analysis, which should not be construed to indicate an order of importance.

Comparative Factor	NH Matthews	AH Lake Norman	CMC	AH University City	AH Pineville
Conformity with Review Criteria	Yes	No	Yes	Yes	Yes
Scope of Services	**More Effective**	Not Approvable	**More Effective**	**More Effective**	**More Effective**
Geographic Accessibility	Less Effective	Not Approvable	Less Effective	Less Effective	Less Effective
Historical Utilization	Less Effective	Not Approvable	Less Effective	Less Effective	**More Effective**
Competition/Access to New Provider	**More Effective**	Not Approvable	Less Effective	Less Effective	Less Effective
Access by Service Area Residents	Not Evaluated	Not Evaluated	Not Evaluated	Not Evaluated	Not Evaluated
Access by Underserved Groups					
Projected Charity Care	Inconclusive	Inconclusive	Inconclusive	Inconclusive	Inconclusive
Projected Medicare	Inconclusive	Inconclusive	Inconclusive	Inconclusive	Inconclusive
Projected Medicaid	Inconclusive	Inconclusive	Inconclusive	Inconclusive	Inconclusive
Projected Average Net Revenue per Case	Inconclusive	Inconclusive	Inconclusive	Inconclusive	Inconclusive
Projected Average Operating Expense per Case	Inconclusive	Inconclusive	Inconclusive	Inconclusive	Inconclusive

The **Atrium Health Lake Norman** application is not an effective alternative with respect to Conformity with Review Criteria; therefore, it is not approvable and will not be further discussed in the comparative evaluation below:

- With respect to Conformity with Review Criteria, of the approvable applications, **Novant Health Matthews Medical Center**, **Carolinas Medical Center**, **Atrium Health University City**, and **Atrium Health Pineville** offer equally effective alternatives. See Comparative Analysis for discussion.

- With respect to Scope of Services, of the approvable applications, **Novant Health Matthews Medical Center**, **Carolinas Medical Center**, **Atrium Health University City**, and **Atrium Health Pineville** offer equally effective alternatives. See Comparative Analysis for discussion.

- With respect to Geographic Accessibility, of the approvable applications, **Novant Health Matthews Medical Center**, **Carolinas Medical Center**, **Atrium Health University City**, and **Atrium Health Pineville** propose equally effective alternatives. See Comparative Analysis for discussion.

- With respect to Historical Utilization, of the approvable applications, **Atrium Health Pineville** offers the more effective alternative. See Comparative Analysis for discussion.

- With respect to Competition/Access to New Provider, of the approvable applications, **Novant Health Matthews Medical Center** offers the more effective alternative. See Comparative Analysis for discussion.

REQUIRED STATE AGENCY FINDINGS

FINDINGS
C = Conforming
CA = Conforming as Conditioned
NC = Nonconforming
NA = Not Applicable

Decision Date: April 27, 2021
Findings Date: May 4, 2021

Project Analyst: Julie M. Faenza
Team Leader: Fatimah Wilson

COMPETITIVE REVIEW

Project ID #:	F-11993-20
Facility:	Novant Health Steele Creek Medical Center
FID #:	200889
County:	Mecklenburg
Applicants:	Novant Health, Inc. Steele Creek Development, LLC
Project:	Develop a new hospital with no more than 32 acute care beds and no more than 2 ORs pursuant to the need determinations in the 2020 SMFP

Project ID #:	F-12004-20
Facility:	South Charlotte Surgery Center
FID #:	200896
County:	Mecklenburg
Applicants:	South Charlotte Surgery Center, PLLC Antezana Management, LLC
Project:	Develop a new specialty ASF with no more than 1 OR pursuant to the need determination in the 2020 SMFP

Project ID #:	F-12006-20
Facility:	Carolinas Medical Center
FID #:	943070
County:	Mecklenburg
Applicant:	The Charlotte-Mecklenburg Hospital Authority
Project:	Add no more than 119 acute care beds pursuant to the need determination in the 2020 SMFP for a total of no more than 1,174 acute care beds upon project completion

Project ID #:	F-12008-20
Facility:	Carolinas Medical Center
FID #:	943070
County:	Mecklenburg
Applicant:	The Charlotte-Mecklenburg Hospital Authority
Project:	Add no more than 12 ORs pursuant to the need determination in the 2020 SMFP and a change of scope for Project ID #F-11815-19 (approved to add 2 ORs but would only add 1 OR) for a total of no more than 75 ORs upon completion of both projects

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Project ID #:	F-12009-20
Facility:	Atrium Health Pineville
FID #:	110878
County:	Mecklenburg
Applicant:	The Charlotte-Mecklenburg Hospital Authority
Project:	Add no more than 7 acute care beds pursuant to the need determination in the 2020 SMFP for a total of no more than 278 beds upon completion of this project, Project ID# F-11622-18 (add 38 beds), and Project ID# F-11813-19 (add 12 beds)

Each application was reviewed independently against the applicable statutory review criteria found in G.S. 131E-183(a) and the regulatory review criteria found in 10A NCAC 14C. After completing an independent analysis of each application, the Healthcare Planning and Certificate of Need Section (CON Section) also conducted a comparative analysis of all the applications. The Decision, which can be found at the end of the Required State Agency Findings (Findings), is based on the independent analysis and the comparative analysis.

This competitive review involves two health systems, in addition to an independent applicant, in Mecklenburg County – Atrium Health and Novant Health. Each health system has acute care hospitals, freestanding ambulatory surgical facilities, and numerous other facilities such as satellite emergency departments that will be discussed in these findings. Given the complexity of this review and the numerous facilities involved for each of the two health systems, the Project Analyst created the tables below listing each health system's referenced facilities and the acronyms or abbreviations used in the findings.

this specific situation, Atrium's projected system-wide deficit of acute care beds does indicate a higher historical utilization level than Novant's system-wide surplus of acute care beds.
Therefore, with regard to historical utilization, **Atrium Health Pineville** is the most effective alternative, and **Carolinas Medical Center** is a more effective alternative than **Novant Health Steele Creek Medical Center**.

Competition (Patient Access to a New or Alternative Provider)

There are 2,354 existing and approved acute care beds located in Mecklenburg County. **Carolinas Medical Center** and **Atrium Health Pineville** are affiliated with Atrium Health, which currently controls 1,460 of the 2,354 acute care beds in Mecklenburg County, or 62.0 percent. **Novant Health Steele Creek Medical Center** is affiliated with Novant Health, which currently controls 894 of the 2,354 acute care beds in Mecklenburg County, or 38.0 percent.

If **Carolinas Medical Center** and **Atrium Health Pineville** both have their applications approved, Atrium would control 1,586 of the 2,480 existing or approved acute care beds in Mecklenburg County, or 64.0 percent. If **Novant Health Steele Creek Medical Center's** application is approved, Novant Health would control 926 of the 2,480 existing and approved acute care beds in Mecklenburg County, or 37.3 percent.

Therefore, with regard to competition, the application submitted by **Novant Health Steele Creek Medical Center** is the more effective alternative, and the applications submitted by **Carolinas Medical Center** and **Atrium Health Pineville** are less effective alternatives.

Access by Service Area Residents

On page 33, the 2020 SMFP defines the service area for acute care beds as *"the acute care bed service area in which the bed is located. The acute care bed service areas are the single and multicounty groupings shown in Figure 5.1."* Figure 5.1, on page 38, shows Mecklenburg County as its own acute care bed service area. Thus, the service area for this facility is Mecklenburg County. Facilities may also serve residents of counties not included in their service area. Generally, the application projecting to serve the highest percentage of Mecklenburg County residents is the more effective alternative with regard to this comparative factor since the need determination is for 126 additional acute care beds to be located in Mecklenburg County.

However, the acute care bed need determination methodology is based on utilization of all patients that utilize acute care beds in Mecklenburg County and is not based on patients originating from Mecklenburg County. Further, Mecklenburg County is a large urban county with over one million residents, two large health systems plus numerous smaller healthcare groups, and is on the border of North Carolina and South Carolina.

Considering the discussion above, the Agency believes that in this specific instance attempting to compare the applicants based on the projected acute care bed access of Mecklenburg County residents has little value.

Comparative Factor	NH Steele Creek	CMC	AH Pineville
Conformity with Review Criteria	Yes	Yes	Yes
Scope of Services	Less Effective	**More Effective**	**More Effective**
Geographic Accessibility	**Most Effective**	Less Effective	**More Effective**
Historical Utilization	Less Effective	**More Effective**	**Most Effective**
Competition/Access to New Provider	**More Effective**	Less Effective	Less Effective
Access by Service Area Residents	Not Evaluated	Not Evaluated	Not Evaluated
Access by Underserved Groups			
Projected Charity Care	Inconclusive	Inconclusive	Inconclusive
Projected Medicare	Inconclusive	Inconclusive	Inconclusive
Projected Medicaid	Inconclusive	Inconclusive	Inconclusive
Projected Average Net Revenue per Case	Inconclusive	Inconclusive	Inconclusive
Projected Average Operating Expense per Case	Inconclusive	Inconclusive	Inconclusive

- With respect to Conformity with Review Criteria, **Novant Health Steele Creek Medical Center**, **Carolinas Medical Center**, and **Atrium Health Pineville** offer equally effective alternatives. See Comparative Analysis for discussion.

- With respect to Scope of Services, **Carolinas Medical Center** and **Atrium Health Pineville** offer more effective alternatives. See Comparative Analysis for discussion.

- With respect to Geographic Accessibility, **Novant Health Steele Creek Medical Center** offers the most effective alternative and **Atrium Health Pineville** offers a more effective alternative than **Carolinas Medical Center**. See Comparative Analysis for discussion.

- With respect to Historical Utilization, **Atrium Health Pineville** offers the most effective alternative and **Carolinas Medical Center** offers a more effective alternative than **Novant Health Steele Creek Medical Center**. See Comparative Analysis for discussion.

- With respect to Competition/Access to New Provider, **Novant Health Steele Creek Medical Center** offers the more effective alternative. See Comparative Analysis for discussion.

CONCLUSION

G.S. 131E-183(a)(1) states that the need determination in the SMFP is the determinative limit on the number of acute care beds that can be approved by the Healthcare Planning and Certificate of Need Section. Approval of all applications submitted during this review would result in acute care beds in excess of the need determination for Mecklenburg County. All applications submitted for acute care beds in this review are conforming to all applicable statutory and regulatory review criteria and are approvable standing alone. However, collectively they propose 158 acute care beds while the need determination is for 126 acute care beds; therefore, only 126 acute care beds can be approved.

As discussed above, **Atrium Health Pineville** was determined to be the most or more effective alternative for three factors:

There is a need determination in the 2020 SMFP for 12 ORs, which would increase the total number of existing and approved ORs (excluding dedicated C-Section ORs and trauma ORs) located in Mecklenburg County to 178 ORs. The table below shows the number of ORs and percentage of the total each applicant or health system would control if all applications were approved as submitted.

ORs in Mecklenburg County by Health System/Applicant		
Health System (Applicants)	**Number of ORs**	**Percent of ORs**
Atrium (Carolinas Medical Center)	107	60.1%
Novant (NH Steele Creek Medical Center)*	68	38.2%
Others	5	2.8%
South Charlotte Surgery Center	1	0.6%

Note: Even though the sum of the ORs is higher than 178, the percent of ORs controlled by each health system/applicant was calculated assuming a total of 178 ORs.
*Includes the OR awarded to NH Matthews in Project I.D. #F-11807-19 which is under appeal.

If **Carolinas Medical Center's** application is approved as submitted, Atrium would control 107 of the 178 existing and approved ORs located in Mecklenburg County, or 60.1 percent. If **Novant Health Steele Creek Medical Center's** application is approved as submitted, Novant Health would control 68 of the 168 existing and approved ORs located in Mecklenburg County, or 38.2 percent. If **South Charlotte Surgery Center's** application could be approved as submitted, **South Charlotte Surgery Center** would control one of the 178 existing and approved ORs located in Mecklenburg County, or 0.6 percent.

Even if the two campuses of Charlotte Surgery Center were not included in Atrium Health's total, Atrium Health would currently control exactly 50 percent of the existing and approved ORs in Mecklenburg County, and if all Atrium Health applications were approved as submitted, Atrium Health would control 95 of the 178 existing and approved ORs in Mecklenburg County, or 53.4 percent.

Therefore, with regard to increasing competition for surgical services in Mecklenburg County, the application submitted by **South Charlotte Surgery Center** is the most effective alternative and the application submitted by **Novant Health Steele Creek Medical Center** is a more effective alternative than the application submitted by **Carolinas Medical Center**.

Access by Service Area Residents

On page 51, the 2020 SMFP defines the service area for ORs as *"…the service area in which the room is located. The operating room service areas are the single or multicounty groupings as shown in Figure 6.1."* Figure 6.1, on page 57, shows Mecklenburg County as a single county OR service area. Thus, the service area for this facility is Mecklenburg County. Facilities may also serve residents of counties not included in their service area. Generally, the application projecting to serve the highest percentage of Mecklenburg County residents is the more effective alternative with regard to this comparative factor since the need determination is for 12 additional ORs to be located in Mecklenburg County.

However, the OR need determination methodology is based on utilization of all patients that utilize surgical services in Mecklenburg County and is not based on patients originating from Mecklenburg County. Further, Mecklenburg County is a large urban county with over one million residents, two large health systems plus other smaller healthcare groups, and is on the border of North Carolina and South Carolina.

Considering the discussion above, the Agency believes that in this specific instance attempting to compare the applicants based on the projected OR access of Mecklenburg County residents has little value.

Access by Underserved Groups

"Underserved groups" is defined in G.S. 131E-183(a)(13) as follows:

> *"Medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority."*

For access by underserved groups, the applications in this review are compared with respect to three underserved groups: charity care patients (i.e., medically indigent or low-income persons), Medicare patients, and Medicaid patients. Access by each group is treated as a separate factor.

Projected Charity Care

The following table shows projected charity care during the third full fiscal year following project completion for each facility. Generally, the application projecting to provide the most charity care is the more effective alternative with regard to this comparative factor.

Projected Charity Care – 3rd Full FY			
Applicant	**Total Charity Care**	**Av. Charity Care per Case**	**% of Gross Revenue**
NH Steele Creek IP (includes ORs)*	$4,027,249	$21,422	4.8%
NH Steele Creek OP Surgical Cases	$1,841,016	$2,037	4.8%
South Charlotte Surgery Center	$184,471	$334	1.5%
Carolinas Medical Center	$210,342,694	$5,298	7.5%

Sources: Forms C and F.2 for each applicant
*Based on 188 inpatient surgical cases; however, the projected financial information is for all inpatients, including those who do not utilize surgical services.

In Section L, page 125, **Novant Health Steele Creek Medical Center** says it does not track charity care as a payor source, charity care represents 4.8 percent of gross revenue, and it is provided to patients across all payor categories. Further, **Novant Health Steele Creek Medical Center**, which is proposing to develop a new hospital with many components, has pro forma financial statements that are structured differently than **South Charlotte Surgery Center** and **Carolinas Medical Center**, which are proposing projects that only involve ORs.

However, even if the applicants had provided pro forma financial statements in a manner that would allow the Agency to compare reasonably similar kinds of data, differences in the acuity level of patients at each facility, the level of care (specialty ASF, community hospital, and quaternary care academic medical center) at each facility, and the number and types of surgical services proposed by each of the facilities would make any comparison of little value.

SUMMARY

The following table lists the comparative factors and states which application is the more effective alternative with regard to that particular comparative factor. Note: the comparative factors are listed in the same order they are discussed in the Comparative Analysis, which should not be construed to indicate an order of importance.

Comparative Factor	NH Steele Creek	South Charlotte Surgery Ctr.	CMC
Conformity with Review Criteria	Yes	No	Yes
Scope of Services	Less Effective	Not Approvable	**More Effective**
Patient Access to Lower Cost Surgical Services	Less Effective	Not Approvable	Less Effective
Geographic Accessibility	**More Effective**	Not Approvable	Less Effective
Historical Utilization	Less Effective	Not Approvable	**More Effective**
Competition/Access to New Provider	**More Effective**	Not Approvable	Less Effective
Access by Service Area Residents	Not Evaluated	Not Evaluated	Not Evaluated
Access by Underserved Groups			
Projected Charity Care	Inconclusive	Inconclusive	Inconclusive
Projected Medicare	Inconclusive	Inconclusive	Inconclusive
Projected Medicaid	Inconclusive	Inconclusive	Inconclusive
Projected Average Net Revenue per Case	Inconclusive	Inconclusive	Inconclusive
Projected Average Operating Expense per Case	Inconclusive	Inconclusive	Inconclusive

The **South Charlotte Surgery Center** application is not an effective alternative with respect to Conformity with Review Criteria; therefore, it is not approvable and will not be further discussed in the comparative evaluation below:

- With respect to Conformity with Review Criteria, of the approvable applications, **Novant Health Steele Creek Medical Center** and **Carolinas Medical Center** offer equally effective alternatives. See Comparative Analysis for discussion.

- With respect to Scope of Services, of the approvable applications, **Carolinas Medical Center** offers the more effective alternative. See Comparative Analysis for discussion.

- With respect to Patient Access to Lower Cost Surgical Services, of the approvable applications, **Novant Health Steele Creek Medical Center** and **Carolinas Medical Center** offer equally effective alternatives. See Comparative Analysis for discussion.

- With respect to Geographic Accessibility, of the approvable applications, **Novant Health Steele Creek Medical Center** offers the more effective alternative. See Comparative Analysis for discussion.