

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

DECISION DATE: July 12, 2012
TEAM LEADER: Lisa Pittman
ASSISTANT CHIEF: Martha J. Frisone

PROJECT I.D. NUMBERS:

O-8779-12 / Smithville Township d/b/a J. Arthur Doshier Memorial Hospital/
Convert 14 adult care home beds to 14 nursing facility beds for a total bed
complement of 64 nursing facility beds and 0 Adult Care Home beds / Brunswick
County

O-8780-12 / Universal Properties-Brunswick, LLC and Universal Health Care-
Brunswick, Inc. / Add 14 new nursing facility beds, including 4 new Alzheimer's
beds and 10 new short term rehabilitation beds for a total bed complement of 104
nursing facility beds / Brunswick County

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

G.S. 131E-183(a) The Department shall review all applications utilizing the criteria outlined in this subsection and shall determine that an application is either consistent with or not in conflict with these criteria before a certificate of need for the proposed project shall be issued.

- (1) The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

C - Doshier
NC - Universal

The 2012 State Medical Facilities Plan (2012 SMFP) establishes a need determination for 14 additional nursing facility (NF) beds in Brunswick County. Two applications for 14 beds were submitted to the Certificate of Need Section. The two applications propose a total of 28 NF beds. However, the limit on the number of NF beds that may be approved is 14 beds. There are two SMFP policies applicable to the review: NH-8 and GEN-3. Each proposal and its conformity with the need determination and these policies is briefly described below.

Smithville Township d/b/a J. Arthur Doshier Memorial Hospital [**Doshier**] operates 50 NF beds and 14 adult care home (ACH) beds as part of the hospital. The applicant proposes to convert the 14 ACH beds to 14 NF beds for a total complement of 64 NF beds. The applicant does not propose to develop more than 14 new NF beds.

Universal Properties-Brunswick, LLC and Universal Health Care-Brunswick, Inc. [**Universal**] operate a 90 bed nursing facility. The applicants propose to develop 14 new NF beds, including 4 new Alzheimer's beds and 10 new short term rehabilitation beds, for a total bed complement of 104 NF beds. The applicants do not propose to develop more than 14 new NF beds.

Policy NH-8: Innovations in Nursing Facility Design in the 2012 SMFP is applicable to the review of these proposals. The policy states:

“Certificate of need applicants proposing new nursing facilities, replacement nursing facilities, and projects associated with the expansion and/or renovation of existing nursing facilities shall pursue innovative approaches in care practices, work place practices and environmental design that address quality of care and quality of life needs of the residents. These plans could include innovative design elements that encourage less institutional, more home-like settings, privacy, autonomy and resident choice, among others.”

The applicants responded to Policy NH-8 as follows:

Doshier. In Section III.4, page 78, the applicant states:

“The application demonstrates innovative approaches in care practices, workplace practices and environmental design that address quality of care and quality of life needs of the residents. The applicant believes the following innovative approaches differentiate its proposal from competing applicants in this review.”

Continuing on pages 78-81, the applicant provides examples of its innovative care practices, work place practices and environmental design that address quality of care and quality of life needs of residents. Examples include its involvement in the Journey of Change effort to move nursing homes from institutional to residential care experiences, its Eden programs of pet therapy and spa bathing and its Person Centered Collaborative culture change initiative. The applicant's discussion on pages 78-81 is hereby incorporated by reference as if fully set forth herein. Therefore, the application is conforming with Policy NH-8.

Universal. In Section III.4, page 52, the applicants state:

“Universal Health Care/Brunswick's vision of culture change is a blending of ideas, philosophies and environments driven by residents and staff, creating a homelike

environment unique to each community while at the same time improving the quality of care and quality of life. At Universal Health Care/Brunswick, this will involve:

- *Changing the care of nursing home residents from Staff Directed Care to Patient Directed Care.*
- *When feasible, consistent assignments will enable caregivers to provide care to the same individuals consistently and will allow them to get to know a person's preferences and accommodate daily rhythms.*
- *Enhanced dining programs such as steam-table service in the dining rooms to eliminate trays and be immediately responsive to resident requests.*
- *...*
- *Plants and animals encouraging a life-enhancing environment."*

Continuing on pages 52-54, the applicants describe the approaches in innovative care practices, work place practices and environmental design that address quality of care and quality of life needs of residents. The applicants' discussion on pages 52-54 is hereby incorporated by reference as if fully set forth herein. Therefore, the application is conforming with Policy NH-8.

Policy GEN-3: Basic Principles is also applicable to this review. This policy states:

"A certificate of need applicant applying to develop or offer a new institutional health service for which there is a need determination in the North Carolina State Medical Facilities Plan shall demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value for resources expended. A certificate of need applicant shall document its plans for providing access to services for patients with limited financial resources and demonstrate the availability of capacity to provide these services. A certificate of need applicant shall also document how its projected volumes incorporate these concepts in meeting the need identified in the State Medical Facilities Plan as well as addressing the needs of all residents in the proposed service area."

The applicants responded to Policy GEN-3 as follows:

Dosher. In Section III.4, pages 82-85, the applicant describes how it believes the project conforms with Policy GEN-3. The applicant adequately demonstrates the proposal will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value for resources expended. See Criteria (3), (5), (7), (8), (13) and (20) for additional discussion relating to safety and quality, equitable access and maximizing healthcare value which is hereby incorporated as if fully set forth herein.

On page 82, Dosher states that it *"will continue to deliver high-quality services using experience and expertise gained over the last 12 years and continuously learning from*

new developments in the long-term care industry. This approach brought Doshier to its current position in the Top 39 nursing homes in the United States.”

In Section V.6, pages 108-110, the applicant describes how Doshier’s proposed project “*will foster competition by promoting the cost effectiveness, quality, and access to Doshier’s nursing care facility services in Brunswick County.*”

Therefore, the application is conforming to Policy GEN-3.

Universal. In Section III.4, page 51, the applicants describe how they believe the project conforms with Policy GEN-3. The applicants adequately demonstrate the proposal will promote safety and quality in the delivery of health care services while maximizing healthcare value for resources expended. See Criteria (3), (5), (7), (8), (12) and (20) for additional discussion relating to safety and quality and maximizing healthcare value which is hereby incorporated as if fully set forth herein.

In Section V.6, page 70, the applicants state Universal’s proposed project “*will have a positive impact on ... and access of under-served groups to the services proposed.*” However, the applicants do not adequately demonstrate they will provide adequate access to medically underserved populations. See Criteria (13a) and (13c) for discussion relating to adequate access to medically underserved population which is hereby incorporated as if fully set forth herein. Therefore, the application is nonconforming to Policy GEN-3.

In summary, both applications conform to the need determination in the 2012 SMFP, although the limit on the number of NF beds that may be approved in this review is 14 NF beds. Therefore, both applications cannot be approved. [See the Comparative Analysis section for the decision.] Both applications are conforming with Policy NH-8. The Doshier application is conforming with Policy GEN-3. The Universal application is nonconforming with Policy GEN-3. Therefore the Doshier application is conforming with this criterion and the Universal application is nonconforming with this criterion.

- (2) Repealed effective July 1, 1987.
- (3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.

C - Both Applications

Doshier proposes to convert its 14 ACH beds to 14 NF beds for a total complement of 64 NF beds. In Section I.12(a), page 13, the applicant states that it does not own, manage or operate any other nursing care facilities. In Sections II.2, pages 25-44, and II.4, pages 45-47, the applicant states that the nursing facility is physically connected to J. Arthur

Dosher Memorial Hospital, a Critical Access Hospital, and operates as a hospital-based unit. The applicant reports that it will continue to provide a full range of nursing, ancillary and support services.

In Section III.1, pages 55-73 and referenced exhibits, the applicant provides documentation supporting the need for the proposed services. In Section III.9(a), page 89, the applicant provides the projected patient origin for the facility during the first full federal fiscal year of operation following completion of the project, as shown in the following table.

Dosher’s Patient Origin FFY13

County	% of Total NF Admissions
Brunswick	92.3%
Out of County*	7.7%
Total	100%

*Out of County includes: Cumberland, New Hanover, Robeson and Out of State (New York, New Jersey, Virginia, Pennsylvania, South Carolina, and Maryland).

As shown in the table above, the applicant projects that 92% of admissions will be residents of Brunswick County. In Section III.9(b), page 90, the applicant provides the assumptions utilized in its projections, stating in part: *“Resident origin projections are based on historical data. The Project Year 1 estimate combines historical resident origin for its existing 50 beds, from Table III.14, with an estimated resident origin for its 14 new beds.”* In Section IV.2, pages 93-97, the applicant provides projected utilization for the first three full federal fiscal years of operation. In Section IV.2(e), pages 98-99, the applicant provides the assumptions and methodology used to project utilization. The applicant adequately demonstrates that projected utilization is based on reasonable and supported assumptions.

In summary, **Dosher** adequately identifies the population to be served and demonstrates the need this population has for the proposed services. Therefore, the application is conforming to this criterion.

Universal proposes to add 14 NF beds for a total complement of 104 NF beds. In Section I.12(a), pages 7-8, the applicants state that they do not own, lease, or manage any other nursing facilities. The legal entities that are the applicants do not own or operate other nursing facilities. Mr. Donald Beaver, owner and President of Universal Health Care/Brunswick, Inc. and Manager of Universal Properties, LLC does own, lease or manage other nursing facilities through other related entities. The fifteen additional properties listed as being owned by Mr. Beaver are managed by Choice Health Management Services, LLC. In Sections II.2, pages 13-28, II.3, pages 28-37, and II.4, pages 37-39, the applicants state they will *“adhere to established standards of quality nursing care services that surpass basic regulatory requirements.”*

In Section III.1, pages 46-48, the applicants provide documentation supporting the need for the proposed services. In Section III.9(a), page 57, the applicants provide the projected patient origin for the proposed facility during the first full federal fiscal year of operation, as shown in the following table.

Universal's Patient Origin FFY15

County	% of Total NF Admissions
Brunswick	92%
Out of County*	5%
Out of State	3%
Total	100%

*Out of County includes: Bladen, Carteret, Columbus, New Hanover, Pender, Robeson and Wake Counties

As shown in the table above, the applicants project that 92% of admissions will be residents of Brunswick County. Also on page 57, the applicants provide the assumptions utilized in their projections, including past utilization patterns of providers in the county and the facility's past experience. In Section IV.2, pages 60-63, the applicants provide projected utilization for the first two full federal fiscal years of operation. In Section IV.2(e), page 60, the applicants state they assumed a net average fill-up rate of four residents per week; an assumption the application form instructs applicants to use. No other methodology or assumptions are provided. The applicants adequately demonstrate that projected utilization is based on reasonable and supported assumptions.

In summary, Universal adequately identifies the population to be served and demonstrates the need this population has for the proposed 14 additional NF beds. Therefore, the application is conforming to this criterion.

- (3a) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the applicant shall demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care.

C - Doshier
NA - Universal

Doshier proposes to convert 14 ACH beds to 14 NF beds for a total complement of 64 NF beds. In Section III.6(a), page 86, the applicant reports that "*As of November 1, 2011, there are no adult care residents in Doshier's nursing care facility, and Doshier has no plans to admit any adult care residents.*" In addition, the applicant reports that as of

September 30, 2011, adult care homes in Brunswick County were operating at 72% capacity, providing ample ACH bed capacity for the county. For occupancy data for each facility, see Table III.1 – Existing and Approved Brunswick County Adult Care Homes, page 57, and Exhibit 38.

In summary, Doshier demonstrates that the needs of the population presently served will be met adequately by the proposed conversion of 14 ACH beds at the facility. See Criteria (13a) and (13c) for discussion of access by medically underserved groups which is hereby incorporated as if fully set forth herein. Therefore, the application is conforming to this criterion.

Universal is not proposing to reduce or eliminate any services.

- (4) Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

C – Doshier
NC- Universal

Doshier. In Section III.2, pages 73-76, the applicant describes the alternatives considered which include maintaining the status quo, building more NF beds, developing a dedicated Alzheimer's/Dementia Special Care Unit, developing a dedicated rehabilitation unit, and the chosen option: converting 14 ACH beds to general admission NF beds. Doshier adequately demonstrates that the proposal is consistent with the need determination and applicable policies in the 2012 SMFP, the 14 additional NF beds are needed and will not result in an unnecessary duplication, the conversion of the ACH beds will not adversely impact current ACH patients, the proposal is financially feasible, the beds will be adequately staffed, the proposal will be coordinated with the existing health care system, necessary ancillary and support services will be provided and quality care will be provided. Thus, the application is conforming to all other applicable statutory and regulatory review criteria, including Criteria (1), (3), (3a), (5), (6), (7), (8), (13), (14), (18a), (20), and 10A NCAC 14C .1100. Doshier adequately demonstrates that its proposal is its least costly or most effective alternative to meet the identified need. Therefore the application is conforming to this Criterion.

Universal. In Section III.2, pages 49-50, the applicants describe the alternatives considered which include maintaining the status quo, applying for a smaller number of NF beds, not adding any additional Alzheimer's beds, and the chosen option: adding 14 NF beds, including 4 Alzheimer's beds and 10 short term rehabilitation beds. However, Universal does not adequately demonstrate that it has or will provide adequate access to medically underserved groups. Thus, the application is not conforming to all other applicable statutory and regulatory review criteria, including Criteria (1), (13a), (13c), and (18a). Therefore, Universal does not adequately demonstrate that the proposal is their

least costly or most effective alternative. Consequently, the application is not conforming to this Criterion.

- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C – Both Applications

Each application was evaluated to determine whether it adequately demonstrated the availability of funds to meet the operating and capital needs of the project and for financial feasibility based on reasonable projections of costs and charges for each facility's second full federal fiscal year of operation. The costs and charges evaluated for each application include:

- direct (less ancillary) operating costs per patient day
- private pay charges for both private and semi-private rooms; and
- other issues related to the projected capital costs, operating expenses and revenue of the nursing facilities, including but not limited to, material omissions or inconsistencies in information.

Each facility's projected direct (less ancillary) operating cost per patient day in the second full fiscal year of operation was compared to the FFY 2009 Brunswick County and state average direct (less ancillary) operating cost per patient day. Direct operating costs include nursing care, dietary, social services, and patient activities. The ancillary cost is excluded from the direct operating cost in this comparison because many nursing homes contract with private companies which bill ancillary costs for private pay and Medicaid patients to Medicare Part B.

Indirect operating costs include laundry and linen, housekeeping, plant operation and maintenance, property ownership and use, and general and administrative. Indirect costs will vary depending on the characteristics of the proposed facility, such as, age of the facility, number of square feet and number of private rooms. Therefore, the Agency is unable to draw any conclusion, at this time, regarding the reasonableness of the applicants' indirect costs.

The most recent year for which Division of Medical Assistance (DMA) cost data for nursing facilities is available is FFY 2009. The table below shows the direct costs (less ancillary), total direct costs, total indirect costs, and total costs per patient day for the existing Brunswick County nursing facilities based on FFY 2009 DMA cost data, excluding the two applicants, Doshier and Universal. Nursing facility beds operated by

hospitals [Dosher] are evaluated separately because of the additional hospital overhead they are required to include in their cost data. Because Universal was not licensed until December 23, 2009, which is after the 2009 fiscal year ended (September 30th) there is no FFY 2009 DMA cost data for Universal. The statewide average is included, in part, because the sample size in Brunswick County is small (only 3 facilities).

FFY 2009 Nursing Facility Costs

Brunswick County Nursing Facility	Direct Costs Less Ancillary	Total Direct Costs/Day	Total Indirect Costs/Day	Total Costs Per Patient Day
Autumn Care of Shallotte	\$106.19	\$111.47	\$36.34	\$147.71
Brunswick Cove Living Center	\$94.36	\$95.43	\$50.69	\$146.12
Ocean Trail Convalescent Center	\$106.70	\$110.64	\$58.21	\$168.85
Universal Health / Brunswick	-	-	-	-
Brunswick County Average	\$102.42	\$105.85	\$48.41	\$154.26
North Carolina State Average	\$104.89	\$109.26	\$45.62	\$154.88

Source: 2009 DMA Cost Data

The table below shows the statewide average direct costs (less ancillary), total direct costs, total indirect costs, and total costs per patient day for the existing nursing facilities operated by hospitals based on FFY 2009 DMA cost data, including Dosher. As mentioned above, NF beds operated by hospitals are evaluated separately because of the additional hospital overhead they are required to include in their cost data.

Nursing Facilities Operated by Hospitals	Direct Costs Less Ancillary	Total Direct Costs/Day	Total Indirect Costs/Day	Total Costs Per Patient Day
Dosher	\$132.71	\$134.87	\$153.70	\$288.57
North Carolina State Average	\$171.46	\$196.17	\$92.61	\$288.78
Our Community Hospital (Lowest)	\$85.79	\$88.00	\$31.90	\$119.90
Iredell Memorial Hospital (Highest)	\$423.89	\$759.56	\$207.91	\$967.47

Source: 2009 DMA Cost Data

Private pay charges proposed in each application for the second full federal fiscal year of operation are compared to the 2011 private pay charges for existing nursing facilities in Brunswick County. Private pay charges are compared for both private rooms and semi-private rooms, as reported in the *2012 Renewal Application for License to Operate a Nursing Home*. The following table shows the November 2011 private pay charges for nursing services for the existing nursing facilities in Brunswick County.

Private Pay Charges at Brunswick County Nursing Facilities

Facility	Private Room	Semi-Private Room
Autumn Care of Shallotte	\$185.00	\$177.00
Brunswick Cove Living Center	\$167.00	\$155.00

Dosher Nursing Facility	\$176.50	\$173.00
Ocean Trail Convalescent Center	\$147.50*	\$145.00*
Universal Health/ Brunswick	\$175.00	\$165.00
Average	\$170.20	\$163.00

Source: November 2011 data from 2012 License Renewal Applications (LRA)

* Mid-point of range listed in LRA

Dosher. In Section VIII.2, page 136, the applicant projects the total capital expenditure for the proposed project (minor cosmetic renovations) will be \$193,500, which will be funded with Dosher’s accumulated reserves. In Section IX.5, page 146, the applicant projects \$5,000 in working capital will be funded by accounts receivable of Dosher. Exhibit 46 contains a letter dated February 1, 2012 from the Senior Vice President /Chief Financial Officer of Dosher, which states:

“This letter documents the availability of all funds necessary for any equity and working capital required for the proposed nursing care facility bed addition project, applied for by Smithfield Township d/b/a J. Arthur Dosher Memorial Hospital.

J. Arthur Dosher Memorial Hospital hereby commits to provide all funds necessary to successfully develop and operate the proposed project. Funds necessary for any capital expenditure or working capital will be supplied from accumulated reserves and cash flow from operations. The specific amount of funding required for this project is included on the attached schedule.”

Exhibit 29 contains a copy of Dosher’s consolidated financial statements which show, as of September 30, 2010, Dosher had Total Assets of \$50,013,542; Cash and Cash Equivalents of \$9,677,813; Increase in Net Assets of \$1,478,831; Net Assets (total assets less total liabilities) of \$44,042,777; and Net Cash Provided by Operating Revenue of \$3,199,362.

Therefore, the applicant adequately documents the availability of funds for the proposed conversion of 14 ACH beds to 14 NF beds.

The following table compares the applicant’s second full federal fiscal year of operation projections of:

- (1) direct (less ancillary) operating cost per patient day with the FFY 2009 Brunswick County and statewide averages; and
- (2) private pay charges with the highest November 2011 Brunswick County charges.

Dosher Second Full Federal Fiscal Year of Operation Fiscal Year 2014	Nursing Services
Direct Costs Less Ancillary Costs	
FFY10 Dosher direct (less ancillary) operating cost per patient day*	\$111.96

FY09 Brunswick County direct (less ancillary) avg. operating cost per patient day**	\$102.42
FY09 statewide direct (less ancillary) avg. operating cost per patient day (excluding Hospital-operated)**	\$104.89
FY09 statewide direct (less ancillary) average operating cost per patient day- Hospital-operated NFs**	\$171.46
Applicant's projected direct (less ancillary) operating cost per patient day in 2 nd year of operation (FFY14)	\$115.41
Private Pay Charges	
Brunswick County's November 2011 highest private room charge ***	\$185.00
Applicant's projected private room charge in 2 nd year of operation	\$185.50
Brunswick County's November 2011 highest semiprivate room charge ***	\$177.00
Applicant's projected semiprivate room charge in 2 nd year of operation (FFY14)	\$182.00

*Source: Form A, pages 177-178.

**Source: FFY 2009 cost reports submitted to the Division of Medical Assistance.

***Source: 2012 Nursing Facility Licensure Renewal Application.

As shown in the above table, the applicant's projected direct (less ancillary) operating cost per patient day in the second year of operation (FFY 2014) is higher than the FFY 2009 Brunswick County average and higher than the FFY 2009 statewide average (excluding hospital-operated NFs), however it is lower than the FFY 2009 statewide average for hospital-operated NFs. The applicant projects the indirect cost per patient day will be \$127.90 in FFY 2014. Further, the applicant's proposed private pay charges are reasonable in comparison to the average private pay charges for existing nursing facilities in Brunswick County. The pro forma financial statements submitted in Form B indicate that the nursing facility (which does not have a special care unit) will have a net loss of \$1,959,560 in the second year of operation following completion of the project. However the NF beds are operated as part of a hospital. The applicant states, on page 59, that the hospital's need to subsidize the NF beds will decrease as a result of this project. In other words, the NF beds operate at a loss now; the project will reduce those losses. In a different certificate of need application (Project I.D.# O-8768-11) filed on November 15, 2011 (three months before this application), Doshier adequately demonstrated that the hospital, as a whole entity, is financially viable. In summary, the applicant adequately demonstrates that the proposed project is financially feasible given the NF beds are only one department in the hospital, and is based on reasonable projections of costs and charges for hospital based NF beds. Therefore, the application is conforming to this criterion.

Universal. In Section VIII.1, pages 91-92, the applicants project the total capital expenditure for the proposed project (6,546 square foot addition) will be \$994,238 which will be funded with owner's equity of Mr. Don Beaver. In Section IX.3, the applicants project no start-up or initial operating expenses. Exhibit 14 contains a letter dated February 9, 2012 from a Partner with Davidson, Holland, Whitesell & Co., PLLC, Certified Public Accountants and Consultants, which states,

"This letter is to confirm that Davidson, Holland, Whitesell & Co. PLLC has examined the personal financial statements of Donald C. Beaver and wife Vickie L. Beaver with regard to the proposed certificate of need application being filed for the development of the 14 additional beds in Universal Properties/Brunswick, LLC.

We can confirm to you that Mr. and Mrs. Beaver have a net worth of over \$50,000,000.

Based on our examination of their personal financial statements, they have more than enough funds to provide the proposed \$1,000,000 of owner's equity to this project."

Exhibit 12 contains a letter dated February 8, 2012, from a Private Client Advisor with U.S. Trust, which states:

"This letter is to confirm that Bank of America has examined the personal financial statements of you and your wife Vickie L. Beaver with regard to the proposed certificate of need application to be filed on February 15, 2012 for the addition of 14 beds at the Universal Properties Brunswick nursing facility.

We can confirm that you and Mrs. Beaver have a net worth of over \$50,000,000.

Based on our review, you have more than enough funds to provide the \$1,000,000 financing for this project."

Exhibit 13 contains a letter, dated February 9, 2012, from Donald C. Beaver agreeing "to provide personal funding of \$1,000,000 to satisfy the CON requirements for the 14 beds to be added to Universal Properties/Brunswick, LLC."

Therefore, the applicants adequately document the availability of funds for the proposed addition of 14 NF beds.

The following table compares the applicants' second full federal fiscal year of operation projections of:

- (3) direct (less ancillary) operating cost per patient day with the FY 2009 Brunswick County and statewide averages; and
- (4) private pay charges with the highest November 2011 Brunswick County charges.

Universal Second Full Federal Fiscal Year of Operation Fiscal Year 2016	Nursing Services
Direct Costs Less Ancillary Costs	
FFY09 Universal average direct (less ancillary) operating cost per patient day*	\$96.17
FFY09 Brunswick County direct (less ancillary) avg. operating cost per patient day**	\$102.42
FFY09 statewide direct (less ancillary) average operating cost per patient day**	\$104.89
Applicants' projected direct (less ancillary) operating cost per patient day in 2 nd year of operation (FFY16)	\$100.81

Private Pay Charges	
Brunswick County's November 2011 highest reasonable private room charge ***	\$185.00
Applicants' projected private room charge in 2 nd year of operation	\$175.00
Brunswick County's November 2011 highest semiprivate room charge ***	\$177.00
Applicants' projected semiprivate room charge in 2 nd year of operation (FFY14)	\$165.00

*Source: FFY 2009 cost reports submitted to the Division of Medical Assistance: Average of Universal's facilities in NC. Universal Brunswick opened in December 2009 and does not have a 2009 cost report.

**Source: FFY 2009 cost reports submitted to the Division of Medical Assistance.

***Source: 2012 Nursing Facility Licensure Renewal Application.

As shown in the above table, the applicants' projected direct (less ancillary) operating cost per patient day in the second year of operation (FFY 2016) is less than the FFY 2009 Brunswick County average and the FFY 2009 statewide average. The applicants project the indirect cost per patient day will be \$100.81 in FFY 2016. Further, the applicants' proposed private pay charges are reasonable in comparison to the average private pay charges for existing nursing facilities in Brunswick County. The pro forma financial statements submitted in Form B indicate that the NF beds (excluding special care units) will have a net profit of \$611,271, and the total facility will have a net profit of \$414,838 in the second year of operation following completion of the project.

In summary, the applicants adequately demonstrate that the proposed project is financially feasible, and is based on reasonable projections of costs and charges for the applicants' second full federal fiscal year of operation. Therefore, the application is conforming to this criterion.

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

C – Both Applications

Dosher. The 2012 State Medical Facilities Plan (2012 SMFP) identifies a need for 14 additional NF beds for Brunswick County in response to a petition submitted in 2011. The applicant proposes to convert 14 ACH beds to 14 NF beds for a total of 64 NF beds. The applicant does not propose to develop more than the 14 NF beds determined by the State Health Coordinating Council (SHCC) and the Governor to be needed in Brunswick County in addition to the existing and approved NF beds. The applicant adequately demonstrates the need for the additional beds based on reasonable projected utilization and that the development of the 14 new NF beds will not unnecessarily duplicate existing health service capabilities or facilities. See Criteria (1) and (3) for additional discussion relating to demonstration of need for the 14 additional NF beds in Brunswick County which is hereby incorporated as if fully set forth herein. Thus, the application is conforming with this criterion.

Universal. The 2012 State Medical Facilities Plan (2012 SMFP) identifies a need for 14 additional NF beds for Brunswick County in response to a petition submitted in 2011.

The applicant proposes to add 14 NF beds for a total of 104 NF beds. The applicant does not propose to develop more than the 14 NF beds determined by the SHCC and Governor to be needed in Brunswick County in addition to the existing and approved NF beds. The applicant adequately demonstrates the need for the additional beds based on reasonable projected utilization and that the development of the 14 new NF beds will not unnecessarily duplicate existing health service capabilities or facilities. See Criteria (1) and (3) for additional discussion relating to demonstration of need for the 14 additional NF beds in Brunswick County which is hereby incorporated as if fully set forth herein. Thus, the application is conforming with this criterion.

- (7) The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.

C – Both Applications

Dosher proposes to provide registered nurse (RN) and licensed practical nurse (LPN) coverage 24 hours per day, 7 days per week and projects nursing hours per patient day (NHPPD) in excess of the minimum nursing staff requirements as established in the North Carolina Rules for the Licensing of Nursing Homes. See Section II.2, page 32 and Section III.4, page 79. Adequate costs for the direct care nursing positions proposed by the applicant in Sections II.2, II.4, and Table VII.3 are budgeted in the pro forma financial statements. The table below illustrates the applicant’s proposed direct care nursing staff and total direct care nursing hours per patient day.

Dosher Staffing Year Two

	FTE Positions
Direct Care Nursing Staff	
RN	4.2
LPN	8.4
Aides	30.8
Total	43.4
Total Direct Care NHPPD	
Nursing	3.93

Source: Section VII.4.

Exhibit 12 contains a letter from G. Thomas Holland, MD stating his intent to continue to serve as the facility’s Medical Director. In Section VII.5, page 130, the applicant states that during the last two years it has hired 1 RN and has not had to fill vacancies for the Administrator, Director of Nursing or any department head positions. The applicant demonstrates the availability of adequate health manpower and management personnel for the provision of the proposed services. Therefore, the application is conforming to this criterion.

Universal proposes to provide registered nurse (RN) and licensed practical nurse (LPN) coverage 24 hours per day, 7 days per week. Adequate costs for the direct care nursing positions proposed by the applicants in Sections II.2, II.4, and Table VII.3 are budgeted in the pro forma financial statements. The table below, from pages 82-83, illustrates the applicants' proposed direct care nursing staff and total direct care nursing hours per patient day.

Universal Staffing Year Two	
	FTE Positions
Direct Care Nursing Staff (including special care units)	
RN	7.00
LPN	11.20
Aides	44.99
Total	63.19
Total Direct Care NHPPD	
Nursing (excluding special care units)	3.57
Alzheimer's Unit	3.13
Total Nursing Facility Beds	3.48

Source: Section VII.4.

Exhibit 9 contains a letter of support from Kavita Persaud, MD as well as a medical director agreement between Dr. Persaud and a former administrator at Universal. In Section VII.5, page 86, the applicants state that during the last two years they have hired the following number of staff: five administrators, six Directors of Nursing, twenty-four RNs, and thirty-four department heads. Given that the facility is new, it is not surprising that there were a significant number of positions to fill. However, it is somewhat surprising that the facility has had six Directors of Nursing in two years. Nevertheless, the applicants demonstrate the availability of adequate health manpower and management personnel for the provision of the proposed services. Therefore, the application is conforming to this criterion.

- (8) The applicant shall demonstrate that the provider of the proposed services will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services. The applicant shall also demonstrate that the proposed service will be coordinated with the existing health care system.

C – Both Applications

Dosher. In Section II.4, pages 45-47, the applicant lists the ancillary and support services available at the facility, including physical, occupational and speech therapies, dietary services, activities, recreational and social services, rehabilitative services, and bariatric services. Dosher's NF beds are operated as part of a Critical Access Hospital, which provides many of these services on-site. Exhibit 12 contains a letter from G. Thomas Holland, MD stating his intent to continue to serve as the facility's Medical Director. Exhibit 21 and Public Comments contain letters from eight physicians who

support the proposed project and account for 210 annual referrals. Furthermore, three physicians and eight other members of the community spoke in support of the applicant's proposal at the public hearing. Exhibit 39 and Public Comments contain letters from twenty eight members of the community who support the project. Providers have been identified to include: Southern Pharmacy (pharmacy), Lower Cape Fear Hospice, Community Home Care and Hospice, and Liberty Home Care (hospice services), Dr. B. Thomas Ellis, DDS (dental), On-Sight Senior Care (eye care), Vickie Allen, RD, LDN (dietician), River Run Laundromat and Halifax Linen Services (housekeeping and laundry), Atlantic Foot Specialists (podiatry) and Pat Pittard (beauty and barber). J. Arthur Doshier Memorial Hospital will continue to provide medical records consultation, laboratory/pathology, radiology/diagnostic imaging, dietician services, and medical supplies to the nursing center. See Exhibits 12, 20, 21, 24 and 25.

In summary, the applicant adequately demonstrates that it will provide or make arrangements for the necessary ancillary and support services and that the proposed project will be coordinated with the existing health care system. Therefore, the application is conforming with this criterion.

Universal. In Section II.4, pages 37-38, the applicants list the ancillary and support services available at the facility, including respiratory care, speech therapy, therapeutic activities, social services, and hospice/respite care. Some of the providers have been identified to include: Dr. Kibler (podiatry), Medi PAC Pharmacy (pharmacy), Nextwave (laboratory), Trilogy (mental and behavioral program), Sharon Harper (family support groups) and Cheryl Workburn (wound care program). In Section II.4, pages 38-39, the applicants state that relationships are already in place with the pharmacy and lab companies and that the remaining consultants will be hired on an as needed basis. Unnamed consultants are listed as providers of the following services: dentistry, audiology, optometry, and ophthalmology. The applicants adequately demonstrate they would provide or make arrangements for the necessary ancillary and support services.

Exhibit 9 contains a letter of support by Kavita Persaud, MD as well as a medical director agreement signed by Dr. Persaud and a former administrator at Universal. Exhibit 7 contains a letter from one physician, Dr. Persaud, who supports the proposed project; letters from three members of the community and a letter from one former patient. No physicians or other members of the public spoke in support of the applicants at the public hearing. Exhibit 18 contains a copy of a transfer agreement between Universal and Brunswick Community Hospital.

In summary, the applicants adequately demonstrate that they will provide or make arrangements for the necessary ancillary and support services and that the proposed project will be coordinated with the existing health care system. Therefore, the application is conforming with this criterion.

- (9) An applicant proposing to provide a substantial portion of the project's services to individuals not residing in the health service area in which the project is located, or in adjacent health service areas, shall document the special needs and circumstances that warrant service to these individuals.

NA

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates:
- (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and

NA

- (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:
- (i) would be available under a contract of at least 5 years duration;
- (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
- (iii) would cost no more than if the services were provided by the HMO; and
- (iv) would be available in a manner which is administratively feasible to the HMO.

NA

- (11) Repealed effective July 1, 1987.
- (12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

NA – Doshier
C - Universal

Doshier only proposes minor cosmetic renovations such as replacing floor coverings.

Universal. In Section XI.5, page 117, the applicants state they propose to construct a new 6,546 square foot addition. Exhibit 15 contains a cost estimate from an architect which states:

“We examined the feasibility of several design alternatives for the construction of a 14 bed nursing addition to the existing Universal HealthCare of Brunswick County. Based on our selected design (6546 S.F.), I would estimate that the square foot cost for new construction will be approximately \$103.00 for a total new building budget of \$674,238.00.

The total site development costs including grading, fill, compaction, paving and site utilities will be approximately \$122,000. The total architectural fee will be \$75,000. Thus the total development costs for the building and site improvements along with the architectural fee would be approximately \$871,238.00.

The above square footages and estimates of costs are similar to several projects we have completed in North Carolina during the past two years.”

One applicant, Universal Properties/Brunswick LLC, owns the land and facility which it leases to the second applicant, Universal Health Care/Brunswick, Inc. Exhibit 19 contains a copy of the Warranty Deed. Exhibit 3 contains a copy of the lease agreement. In Section XI.14, pages 120-121, the applicants state that they will use the following methods to “*maintain energy efficient operations and contain the costs of utilities:*” ozone laundry systems which will allow use of 90% cold water, T8 or T5 lighting, R13 walls and R30 in ceilings, a minimum of a 16” overhang, thermal pane windows, thermal break window sashes and high efficiency heat pumps.

In summary, the applicants adequately demonstrate that the cost, design and means of construction represent the most reasonable alternative for the project they propose, and that the construction cost will not unduly increase costs and charges for health services. See Criterion (5) for discussion of costs and charges. The application is conforming to this criterion.

- (13) The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of 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 the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:

- (a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

C - Doshier
NC - Universal

The Division of Medical Assistance (DMA) maintains a website which offers information regarding the number of persons eligible for Medicaid assistance and estimates of the percentage of uninsured for each county in North Carolina. The following table illustrates those percentages as of June 2009 and CY 2009, respectively. The data in the table was obtained on June 12, 2012. More current data was not available.

	Total # of Medicaid Eligibles as % of Total Population	Total # of Medicaid Eligibles Age 21 and older as % of Total Population	% Uninsured CY 2009 (Estimate by Cecil G. Sheps Center)
Brunswick	6.9%	2.8%	19.8%
Statewide	16.5%	6.7%	19.7%

The majority of Medicaid eligibles are children under the age of 21. This age group does not utilize the same health services at the same rate as older segments of the population, particularly the services offered by skilled nursing facilities.

Moreover, the number of persons eligible for Medicaid assistance may be greater than the number of Medicaid eligibles who actually utilize health services. The DMA website includes information regarding dental services which illustrates this point. For dental services only, DMA provides a comparison of the number of persons eligible for dental services with the number actually receiving services. The statewide percentage of persons eligible to receive dental services who actually received dental services was 48.6% for those age 20 and younger and 31.6% for those age 21 and older (SFY10). Similar information is not provided on the website for other types of services covered by Medicaid. However, it is reasonable to assume that the percentage of those actually receiving other types of health services covered by Medicaid is less than the percentage that is eligible for those services. With respect to NF services, the Medicaid percentage is substantially higher than the percentage of Medicaid eligibles.

The Office of State Budget & Management (OSBM) maintains a website which provides historical and projected population data for each county in North Carolina. In addition, data is available by age, race or gender. However, a direct comparison to the applicants' current payor mix would be of little value. The population data by age, race or gender does not include information on the number of elderly, minorities or women utilizing health services. Furthermore, OSBM's website does not include information on the number of handicapped persons.

As of June 12, 2012, there are four nursing facilities with licensed NF beds in Brunswick County, plus the licensed NF beds at J. Arthur Doshier Memorial Hospital nursing center. The following table illustrates the payor mix for these facilities and the Brunswick County and statewide averages for FFY 2009, as reported to the Division of Medical Assistance, and on the 2012 annual Licensure Renewal Applications (LRAs) (FFY 2011 data).

Facility	Medicaid NF Days as a % of Total NF Days		Medicare NF Days as a % of Total NF Days	
	FFY 2009 (DMA Cost Reports)	FFY 2011 (2012 LRAs)	FFY 2009 (DMA Cost Reports)	FFY 2011 (2012 LRAs)
Autumn Care – Shallotte (130 beds)	78%	79.0%	13%	11.4%
Brunswick Cove (175 beds)	72%	76.7%	16%	11.7%
Doshier (Hospital based) (50 beds)	56%	67.7%	4%	2.8%
Ocean Trail (99 beds)	60%	59.4%	14%	12.5%
Universal (90 beds)	NA	51.5%	NA	25.3%
Brunswick County Average	70%	69.8%	13%	13.0%
Statewide Avg. (excluding Hosp NF)	68%	NA	16%	NA
Statewide Avg. Hospital Operated	66%	NA	16%	NA

Source: 2012 LRAs and 2009 DMA cost reports

Doshier. In Section VI.5(a), page 113, the applicant states:

“Routine services are provided on a first-come, first-serve basis. Doshier does not discriminate on the basis of payor, race, sex, religion, handicap conditions, or on any other circumstance or physical condition, which classify an individual, as underserved. Please see Exhibit 11 for a copy of the admission policy.”

As shown in the table above, during FFY 2009, Doshier provided 56 percent of total nursing patient days to Medicaid recipients, which is less than both the statewide and Brunswick County averages. However, as shown in the table below, in FFY 2011 that percentage had risen to 68%, which is above the 2009 statewide average for hospital based NF beds and equal to the average for non-hospital based nursing facilities.

In Section VI.7, page 115, the applicant describes the strategies and policies Doshier uses to ensure access to its services by indigent and other medically underserved persons. In Section VI.2, Table VI.2, page 111, the applicant provides the payor mix for NF patients for the last fiscal year (FFY 2011).

Doshier Days as % of Total Days FFY 2011

Payor Source	Nursing Patients
<i>Total Days</i>	17,937
Private Pay*	29.5%
Medicare	2.8%
Medicaid	67.7%
Total	100.0%

* Private Pay includes commercial insurance.

The applicant demonstrates that medically underserved populations currently have adequate access to NF services provided at Doshier. Therefore, the application is conforming to this criterion.

Universal. In Section VI.5(a), page, 73, the applicants state,

“Enclosed in Exhibit 10 are Universal Healthcare of Brunswick’s admission policies for the nursing facility for which the application is submitted.

All services provided by Universal Health Care of Brunswick for the 104-beds will be non-restrictive [in] relation to low-income persons, social, racial and ethnic minorities, women, handicapped persons, private pay, Medicare and Medicaid beneficiaries, [and] uninsured indigent persons.”

Although Universal was not in operation during FFY 2009, the most recent cost data available is FY 2009 therefore it is the best comparison data available. Universal’s 2011 Licensure Renewal Application reflects that in FFY 2010, the applicants provided 39 percent of total nursing patient days to Medicaid recipients which is substantially less than both the statewide and Brunswick County averages. As shown in the table below, in FFY 2011 that percentage had risen to 52%, which remains well below the both the statewide and Brunswick County averages for NF beds.

In Section VI.7, pages 74-75, the applicants describe the strategies and policies Universal uses to ensure access to its services by indigent and other medically underserved persons. In Section VI.2, page 71, the applicants provide the payor mix for the Special Care Unit and for the non-Special Care unit at the nursing facility for the last fiscal year (FFY 2011); however they do not include the number of patient days associated with each unit. Therefore, to be able to determine the payor mix for the entire NF, data from the facility’s 2012 LRA is used, as shown below.

Universal Days as % of Total Days FFY 2011

Payor Source	Nursing Patients (including special care unit)
<i>Total Days</i>	28,178
Private Pay	18.6%
Other	4.6%
Medicare	25.3%

Medicaid	51.5%
Total	100.0%

Source: 2012 LRA

Furthermore, the applicants have not provided the level of Medicaid access that they proposed when they initially applied to develop this facility in 2005; a level that was an influencing factor in their being chosen as the most effective applicant in the 2005 Review. From the Comparative Analysis Summary, page 77, of the Required State Agency Findings for the 2005 Brunswick County Nursing Facility Review:

*“The following is a summary of the reasons the proposal submitted by **Universal** is determined to be the most effective alternative in this review.*

...

- *Universal projects the second highest percentage of total patient days to be provided to Medicaid recipients of all applicants. See the Comparative Analysis for discussion.” [Emphasis in original.]*

From the Comparative Analysis, Access by Underserved Groups, pages 71-72, Universal projected to provide 77.3% of its patient days to Medicaid recipients in the second operating year after project completion. However, the facility only provided 51.5% Medicaid days in FFY 2011, the first full FFY after project completion.

The applicants do not demonstrate that medically underserved populations currently have adequate access to NF services provided at Universal. Therefore, the application is nonconforming to this criterion.

- (b) Its past performance in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

C – Both Applications

Dosher. In Section VI.6, page 114, the applicant states:

“No civil rights complaints have been filed against the Dosher Nursing Center in the last five years.”

Therefore, the application is conforming to this criterion.

Universal. In Section VI.6, page 74, the applicants state:

“There have been no civil rights access complaints filed against Universal Health Care of Brunswick.”

Therefore, the application is conforming to this criterion.

- (c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

C – Doshier
NC - Universal

Doshier. In Section VI.3, page 112, the applicant projects the payor mix for NF services to be provided at Doshier during Year 2 (FFY14) as illustrated in the following table.

Doshier
Projected Days as % of Total Days
FFY 2014

Payor Source	Nursing Patients
<i>Total Days</i>	22,995
Private Pay*	27.49%
Medicare	2.76%
Medicaid	69.75%
Total	100.00%

* Private Pay includes commercial insurance.

As shown in the table above, Doshier projects that 70% of total days will be provided to Medicaid recipients, a percentage consistent with Doshier's historical payor mix and the Brunswick County average in FFY 2011. The applicant demonstrates that medically underserved populations will have adequate access to the proposed nursing facility services and the application is conforming with this criterion.

Universal. In Section VI.3, page 72, the applicants project the payor mix for the nursing and special care unit patients to be provided at Universal during the second full federal fiscal year (FFY16). Combined, the projected payor mix is as follows:

Universal
Projected Days as % of Total Days
FFY 2016

Payor Source	Nursing Patients (including special care units)
<i>Total Days</i>	36,135
Private Pay	20.2%

Other	6.1%
Medicare	19.2%
Medicaid	54.5%
Total	100.0%

As shown in the table above, Universal projects that approximately 55% of total days will be provided to Medicaid recipients, a percentage consistent with the actual payor mix for the facility but well below the Brunswick County average in FFY 2011 and what Universal projected in its 2005 application. The applicants do not demonstrate that medically underserved populations will have adequate access to the proposed nursing facility services and the application is nonconforming with this criterion.

- (d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

C – Both Applications

Dosher. In Section VI.7, page 115, the applicant documents the range of means by which patients would have access to the NF services to be provided at Dosher. The information provided is reasonable and credible and supports a finding of conformity with this criterion.

Universal. In Section VI.7, pages 74-75, the applicants document the range of means by which patients would have access to the NF services to be provided at Universal. The information provided is reasonable and credible and supports a finding of conformity with this criterion.

- (14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

C – Both Applications

Dosher. In Section V.1, page 104, and Exhibit 42, Dosher states that it currently has formal relationships with several training programs, including the University of North Carolina at Wilmington, Brunswick Community College, and South Brunswick High School. The applicant states that it will continue to provide access to area schools and to assist in health professional training during and following the proposed project. The information provided is reasonable and credible, and supports a finding of conformity to this criterion.

Universal. In Section V.1, page 67, Universal states that it *“proposes to work in close concert with Brunswick Community College. Universal has made contact with this institution and advised them that Universal Health Care of Brunswick would extend its*

facility for training purposes should Universal Health Care of Brunswick be granted the CON for Brunswick County. Brunswick Community College has existing training programs for RNs, LPNs and C.N.A.s.” The information provided is reasonable and credible, and supports a finding of conformity to this criterion.

- (15) Repealed effective July 1, 1987.
 - (16) Repealed effective July 1, 1987.
 - (17) Repealed effective July 1, 1987.
 - (18) Repealed effective July 1, 1987.
- (18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

C – Doshier
NC - Universal

Doshier. See Sections II, III, V, VI and VII. In particular, see Section II.5, pages 47-53, and Section V.6, pages 108-110, in which Doshier discusses the impact of the proposed project on competition in the service area as it relates to promoting cost-effectiveness, quality and access. The information provided by the applicant in those sections is reasonable and credible and adequately demonstrates that the expected effects of the proposal on competition include a positive impact on cost-effectiveness, quality and access to nursing facility services in Brunswick County. This determination is based on the information in the application, and the following:

- The applicant adequately demonstrates the need to convert 14 ACH beds to 14 NF beds and that it is a cost-effective alternative to meet the identified need;
- The applicant has and will continue to provide quality services; and
- The applicant has and will continue to provide adequate access to medically underserved populations.

Therefore, the application is conforming to this criterion.

Universal. See Sections II, III, V, VI and VII. In particular, see Section II.5, pages 39-44 and Section V.6, page 70, in which Universal discusses the impact of the proposed project on competition in the service area as it relates to promoting cost-effectiveness, quality and access. However, the information provided by the applicants in those sections is not reasonable and credible and does not adequately demonstrate that the expected effects of the proposal on competition include a positive impact on access to NF services in Brunswick County. This determination is based on the following:

- The facility does not currently provide adequate access to Medicaid recipients. Universal’s 2011 LRA reflects that in FFY 2010 the applicants provided only 39 percent of total nursing patient days to Medicaid recipients which is less than both the statewide and Brunswick County averages. As shown in the table below, in FFY 2011 that percentage had risen to 51.5%, which remains well below the both the statewide and Brunswick County averages.
- Furthermore, the applicants have not provided the level of Medicaid access that they proposed when they initially applied to develop this facility in 2005; a level that was an influencing factor in their being chosen as the most effective applicant in the 2005 Review. From the Comparative Analysis Summary, page 77, of the Required State Agency Findings for the 2005 Brunswick County Nursing Facility Review:

*“The following is a summary of the reasons the proposal submitted by **Universal** is determined to be the most effective alternative in this review.*

...

- *Universal projects the second highest percentage of total patient days to be provided to Medicaid recipients of all applicants. See the Comparative Analysis for discussion.” [Emphasis in original.]*

From the Comparative Analysis, Access by Underserved Groups, pages 71-72, Universal projected to provide 77.3% of its patient days to Medicaid recipients in the second operating year after project completion. However, the facility only provided 51.5% Medicaid days in FFY 2011, the first full FFY after project completion.

Universal Days as % of Total Days FFY 2011

Payor Source	Nursing Patients (including special care unit)
<i>Total Days</i>	<i>28,178</i>
Private Pay	18.6%
Other	4.6%
Medicare	25.3%
Medicaid	51.5%
Total	100.0%

Source: 2012 License Renewal Application

- The facility is not projected to provide adequate access to Medicaid recipients. In Section VI.3, page 72, the applicants project the payor mix for the nursing and special care unit patients to be provided at Universal during the second full federal

fiscal year (FFY16). Combined, the applicants' projected payor mix is shown in the following table:

**Universal
Projected Days as % of Total Days
FFY 2016**

Payor Source	Nursing Patients (including special care units)
<i>Total Days</i>	36,135
Private Pay	20.2%
Other	6.1%
Medicare	19.2%
Medicaid	54.5%
Total	100.0%

The applicants project to provide only 54.5% of nursing days to Medicaid recipients, well below both the statewide (68%) and Brunswick County average (70%) in FFY 2009 as reported to DMA. Moreover, the percentage is significantly lower than the percentage projected in the 2005 application (77%). Therefore, the application is nonconforming to this criterion.

- (19) Repealed effective July 1, 1987.
- (20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

C – Both Applications

Dosher is accredited by the Joint Commission as a Critical Access Hospital and certified by CMS for Medicare and Medicaid participation. Furthermore, Dosher received a Five Star Quality Rating by CMS out of a possible five star rating (see Nursing Home Compare at Medicare.gov). According to the files in the Nursing Home Licensure and Certification Section, DHSR, within the eighteen months immediately preceding the date of this decision, there were no incidents at Dosher for which licensure penalties, suspension of admissions, provisional licensure, or certification deficiencies constituting substandard quality of care were imposed on the facility. Therefore, the application is conforming to this criterion.

Universal is certified by CMS for Medicare and Medicaid participation. Universal received a Three Star Quality Rating by CMS out of a possible five stars (see Nursing Home Compare at Medicare.gov). According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, within the 18 months immediately preceding the date of this decision, there were no incidents at Universal for which any licensure penalties, suspension of admissions, provisional licensure, or certification deficiencies constituting substandard quality of care were imposed on the facility. Therefore, the application is conforming to this criterion.

- (21) Repealed effective July 1, 1987.

- (b) The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

C – Both Applications

Both proposals are consistent with all applicable Criteria and Standards for Nursing Facility Services as required by 10A NCAC 14C .1100. See discussion below.

.1101 INFORMATION REQUIRED OF APPLICANT

- .1101(a) *An applicant proposing to establish new nursing facility or adult care home beds shall project an occupancy level for the entire facility for each of the first eight calendar quarters following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.*
- C- **Dosher.** In Section IV.2, pages 95-96, the applicant projects occupancy levels for the first eight quarters for the NF beds. In Section IV.2(e), page 98, the applicant provides the assumptions used to project occupancy.
- C- **Universal.** In Section IV.2, pages 60-63, the applicants project occupancy levels for the first eight quarters for the facility. In Section IV.2(e), page 60, the applicants provide the assumption used to project occupancy.
- .1101(b) *An applicant proposing to establish new nursing facility or adult care home beds shall project patient origin by percentage by county of residence. All assumptions, including the specific methodology by which patient origin is projected, shall be stated.*
- C- **Dosher.** In Section III.9, page 89, the applicant provides current and projected patient origin by county of residence as well as the assumptions and methodologies used to make the projections. The information provided is reasonable and credible and supports a finding of conformity with this rule. See Criterion (3) for additional discussion relating to projected patient origin which is hereby incorporated as if fully set forth herein.

- C- **Universal.** In Section III.8-9, pages 56-57, the applicants provide current and projected patient origin by county of residence as well as the assumptions and methodologies used to make the projections. The information provided is reasonable and credible and supports a finding of conformity with this rule. See Criterion (3) for additional discussion relating to projected patient origin which is hereby incorporated as if fully set forth herein.
- .1101(c) *An applicant proposing to establish new nursing facility or adult care home beds shall show that at least 85 percent of the anticipated patient population in the entire facility lives within a 45 mile radius of the facility, with the exception that this standard shall be waived for applicants proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, facilities that are fraternal or religious facilities, or facilities that are part of licensed continuing care facilities which make services available to large or geographically diverse populations.*
- C- **Dosher.** In Section III.10, page 91, the applicant shows that at least 92.3 percent of the projected residents of the NF beds will live within 45 miles of the facility. The information provided is reasonable and credible and supports a finding of conformity with this rule.
- C- **Universal.** In Section III.10, page 58, the applicants state that 93 percent of the projected residents of the facility will live within 45 minutes driving time of the facility. In addition, the applicants state that 90% of the projected residents are residents of Brunswick County and thus live within a 45 mile radius of the facility. The application is conforming with this rule.
- .1101(d) *An applicant proposing to establish a new nursing facility or adult care home shall specify the site on which the facility will be located. If the proposed site is not owned by or under the control of the applicant, the applicant shall specify at least one alternative site on which the services could be operated should acquisition efforts relative to the proposed site ultimately fail, and shall demonstrate that the proposed and alternate sites are available for acquisition.*
- NA- **Both applicants.** Dosher and Universal are existing facilities.
- .1101(e) *An applicant proposing to establish a new nursing facility or adult care home shall document that the proposed site and alternate sites are suitable for development of the facility with regard to water, sewage disposal, site development and zoning including the required procedures for obtaining*

zoning changes and a special use permit after a certificate of need is obtained.

-NA- **Both applicants.** Doshier and Universal are existing facilities.

.1101(f) *An applicant proposing to establish new nursing facility or adult care home beds shall provide documentation to demonstrate that the physical plant will conform with all requirements as stated in 10A NCAC 13D or 10A NCAC 13F, whichever is applicable.*

-C - **Doshier.** In Section II, page 23, the applicant states that the project requires no construction, only “paper conversion” of ACH beds to NF beds at the existing facility. All rooms in the nursing center were constructed to NF standards and are conforming to 10A NCAC 13D. See Sections II and XI and referenced exhibits for documentation regarding conformity with all requirements as stated in 10A NCAC 13D.

-C- **Universal.** See Section XI and referenced exhibits for documentation regarding conformity with all requirements as stated in 10A NCAC 13D.

.1102 REQUIRED PERFORMANCE STANDARDS

.1102(a) *An applicant proposing to add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed nursing facility beds within the facility in which the new beds are to be operated was at least 90 percent.*

-C- **Doshier.** In Section IV.1, page 92, the applicant provides occupancy rates for the NF beds from April through December 2011. As shown below, the occupancy rate for the 9 month period is 97%.

2011 - Month	Patient Days	Occupancy Rate
April	1,488	99%
May	1,541	99%
June	1,464	98%
July	1,456	94%
August	1,553	100%
September	1,486	99%
October	1,518	98%
November	1,399	93%
December	1,473	95%
9-Month Total	13,378	97%

- C- **Universal.** In Section IV.1, page 59, the applicants provide occupancy rates for the facility from April through December 2011. As shown below, the occupancy rate for the 9 month period is 91%.

2011 - Month	Patient Days	Occupancy Rate
April	2,314	86%
May	2,465	88%
June	2,422	90%
July	2,667	96%
August	2,634	94%
September	2,326	86%
October	2,512	90%
November	2,547	94%
December	2,628	94%
9-Month Total	22,515	91%

- .1102(b) *An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.*

- C- **Dosher.** In Section IV.2, page 96, the applicant projects occupancy will be 98% for all four quarters of Year Two. All assumptions are stated in Section IV.2(e), page 98. See the table below for projected utilization rates for the second full federal fiscal year of operation for the proposed project.

Dosher's Projected Utilization Second Full Federal Fiscal Year 10/1/13 – 9/30/14

	Q1 Oct.-Dec.	Q2 Jan.-Mar.	Q3 Apr.-June	Q4 July-Sep.	FFY14
Nursing (Excluding Special Care)					
Patient Days	5,796	5,670	5,733	5,796	22,995
Occupancy Rate	98%	98%	98%	98%	98%
# of Beds	64	64	64	64	64
Special Care (Alzheimer's)					
Patient Days					
Occupancy Rate					
# Beds					
Total Facility					

Patient Days	5,796	5,670	5,733	5,796	22,995
Occupancy Rate	98%	98%	98%	98%	98%
# Beds	64	64	64	64	64

-C- **Universal.** In Section IV.2, page 63, the applicants project occupancy will be 95.19% for all four quarters of Year Two. The only assumption is stated in IV.2(e) page 60. See the table below for projected utilization rates for the second full federal fiscal year of operation for the proposed project.

Universal’s Projected Utilization Second Full Federal Fiscal Year 10/1/15 – 9/30/16

	Q1 Oct.-Dec.	Q2 Jan.-Mar.	Q3 Apr.- June	Q4 July-Sep.	FFY16
Nursing (Excluding Special Care)					
Patient Days	7,084	6,930	7,007	7,084	28,105
Occupancy Rate	96.25 %	96.25%	96.25 %	96.25%	96.25%
# of Beds	80	80	80	80	80
Special Care (Alzheimer’s/Memory Support)					
Patient Days	2,024	1,980	2,184	2,024	8,030
Occupancy Rate	91.67 %	91.67%	91.67 %	91.67%	91.67%
# Beds	24	24	24	24	24
Total Facility					
Patient Days	9,108	8,910	9,009	9,108	36,135
Occupancy Rate	95.19 %	95.19%	95.19 %	95.19%	95.19%
# Beds	104	104	104	104	104

.1102(c) *An applicant proposing to add adult care home beds to an existing facility shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed adult care home beds within the facility in which the new beds are to be operated was at least 85 percent.*

-NA- **Both Applicants.** Neither of the applicants proposes to add ACH beds to an existing facility.

.1102(d) *An applicant proposing to establish a new adult care home facility or add adult care home beds to an existing facility shall not be approved unless occupancy is projected to be at least 85 percent for the total number of adult care home beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions,*

including the specific methodologies by which occupancies are projected, shall be clearly stated.

-NA- **Both Applicants.** Neither of the applicants proposes to establish a new ACH facility or add ACH beds to an existing facility.

COMPARATIVE ANALYSIS

Pursuant to G.S. 131E-183(a)(1), no more than 14 new nursing facility beds may be approved in this review for Brunswick County. Because the two applicants collectively propose 28 new nursing facility beds, both applications cannot be approved. Therefore, after considering all of the information in each application and reviewing each application individually against all applicable review criteria, the Project Analyst also conducted a comparative analysis of the proposals to decide which proposal should be approved. For the reasons set forth below and in the rest of the findings, the application submitted by Doshier is approved and the application submitted by Universal is denied. Note: Universal’s application is not approvable standing alone.

Geographic Distribution of Beds

Both applicants propose adding NF beds to existing facilities. The following table identifies all existing nursing facilities located in Brunswick County, the area of the county in which they are located and the number of beds.

Facility	Current Address	Area of County	NF Beds
Autumn at Brunswick Plantation	#5 School Rd & Ash-Little Rd Ash, NC	West, close to Columbus County line	70*
Autumn Care of Shallotte	237 Mulberry Street Shallotte, NC 28470	Along Highway 17, south toward SC line	130
Brunswick Cove	1478 River Road Winnabow, NC 28479	Along NC 133, close to Wilmington	175
Doshier (Hosp NF)	924 Howe Street Southport, NC 28461	SE corner of the mainland, intersection of NC 133, NC 87 & NC 211	50
Ocean Trail	630 Fodale Avenue Southport, NC 28461	SE corner of the mainland, intersection of NC 133, NC 87 & NC 211	99
Universal	1070 Old Ocean Highway Bolivia, NC 28422	Along Highway 17B, center of county	90

Source: Table 10A, 2012 SMFP

* Project approved, not yet operational.

The proposals submitted by Doshier and Universal are equally effective alternatives in this review with regard to geographic distribution of the NF beds in Brunswick County since both proposals involve adding beds to an existing facility and both facilities are sites are readily accessible to residents and healthcare providers using existing major roadways. However, Universal’s application is not approvable standing alone.

Private Rooms

The following table illustrates the number of private rooms currently existing at each facility, the number of private rooms proposed by each applicant, and the percentage of private beds the facility would operate following completion of the proposed project. Doshier reports this information in Section XI.8, page 168. Universal reports this information in Section XI.8, page 118 and in Exhibit 17. Generally, the applicant

proposing the higher number of private beds as a percentage of total beds is the more effective alternative with respect to this comparative factor.

Applicant	Proposed # of New Beds in Private Rooms	Existing # of Beds in Private Rooms	Total # of Beds – New & Existing	% of Beds in Private Rooms as % of Total NF Beds (New & Existing)
Dosher	0	5	64	7.8%
Universal	14	18	104	30.8%

As shown in the above table, **Universal** proposes to add the largest number of private rooms. Therefore, the proposal submitted by **Universal** is the more effective alternative for developing additional private rooms within Brunswick County. However, Universal’s application is not approvable standing alone.

Access by Underserved Groups

The following table shows the applicants’ historical percentage of total nursing patient days provided to Medicaid recipients, their projections for the second full federal fiscal year, and the FFY 2009 county and statewide averages. Generally, the applicant proposing the higher Medicaid percentage is the more effective alternative with regard to this comparative factor.

As shown in the table below, **Dosher** provided a higher percentage of total patient days to Medicaid recipients, equaling the state average in FFY 2011. **Universal** provided a substantially lower percentage of total patient days to Medicaid recipients. Furthermore, Universal has not provided the level of Medicaid access that they proposed when they initially applied to develop this facility in 2005; a level that was an important factor in their being chosen as the most effective applicant in the 2005 Review. The Comparative Analysis Summary, page 77, of the Required State Agency Findings for the 2005 Brunswick County Nursing Facility Review (2005 Findings) states, in part::

*“The following is a summary of the reasons the proposal submitted by **Universal** is determined to be the most effective alternative in this review.*

...

- *Universal projects the second highest percentage of total patient days to be provided to Medicaid recipients of all applicants. See the Comparative Analysis for discussion.” [Emphasis in original.]*

In the 2005 application, Universal projected it would provide 77.3% of total patient days to Medicaid recipients in the second operating year after project completion. See pages 71-72 of the 2005 Findings. However, during the first full FFY after original project completion, Universal provided only 51.5% of total patient days to Medicaid recipients, a difference of 25.8 percentage points [77.3% - 51.5% = 25.8%] or 33% lower than projected in 2005 [25.8%/ 77.3% = 33%]. Furthermore, in the 2012 application, Universal projects it will provide only 54.6% of total patient days to Medicaid recipients in the second operating year of the project. Universal’s application is not approvable standing alone.

Facility	Medicaid NF Days as a % of Total NF Days			Projected Medicaid NF Days as a % of Total NF Days
	FFY 2009 (DMA Cost Reports)	FFY 2010 (2011 LRAs)	FFY 2011 (2012 LRAs)	
Dosher	56%	62.2%	67.7%	69.8% (FFY14)
Universal	NA%	39.0%	51.5%	54.6% (FFY16)
Brunswick County Average	70%	67.5%	69.8%	N/A
Statewide Average (excluding Hospital NF)	68%	N/A	N/A	N/A
Statewide Average – Hospital Operated	66%	N/A	N/A	N/A

Source: 2009 DMA cost reports, 2011 LRAs, 2012 LRAs, Application Section VI.3

As shown in the above table, **Dosher** projects the highest percentage of total patient days to be provided to Medicaid recipients.

In summary, the application submitted by **Dosher** is the more effective alternative with regard to access to services by Medicaid recipients.

Private Pay Charges

The following table shows the applicants' projected private pay charges in the second full year of operation. Generally, the application proposing the lower private pay charge is the more effective alternative.

Proposed Private Pay Charges Year 2

Applicant	Private Room	Semiprivate Room
Dosher	\$185.50	\$182.00
Universal	\$175.00	\$165.00

Source: Section X.4(f)

As shown in the table above, **Universal** proposes the lower private pay charge for both a private room and for a semi-private room. Therefore, the application submitted by **Universal** is the more effective alternative with regard to this comparative factor. However, Universal's application is not approvable standing alone.

Operating Costs

The following table illustrates the applicants' projected operating costs per patient day in the second year of operation. Generally, the applicant proposing the lower average operating cost per patient day is the more effective alternative. The data shown in the table below is from Form C in the respective application.

Projected Operating Costs – Second Full Federal Fiscal Year

Applicant	Total Direct Cost (less Ancillary) Cost per Patient Day	Total Direct Cost (less Ancillary) Plus Indirect Cost per Patient Day
Dosher	\$115.41	\$249.90
Universal	\$100.81	\$190.64

Universal projects the lowest total direct (less ancillary) and total direct (less ancillary) plus indirect cost per patient day. However, Universal’s application is not approvable standing alone. Moreover, **Dosher** is a general acute care hospital. It is typical for hospital based NF beds to report higher average operating costs per patient day due, in part, to the allocation of hospital overhead; a cost not present for non-hospital based nursing homes.

Staffing

Salaries

The following tables show the applicants’ projected direct care nursing salaries for registered nurses (RNs), licensed practical nurses (LPNs), and nurse aides (NAs) during the second year of operation, as reported by the applicants in Section VII.3. Generally, the application proposing the higher annual salary for direct care staff is the more effective alternative.

Applicant	Projected Annual Registered Nurse (RN) Salary
Dosher	\$53,056
Universal	\$54,267

As shown in the above table, **Universal** projects the highest annual salary for RNs. Therefore, the proposal submitted by **Universal** is the more effective alternative with regard to the annual salary for RNs. However, Universal’s application is not approvable standing alone.

Applicant	Projected Licensed Practical Nurse (LPN) Annual Salary
Dosher	\$42,500
Universal	\$44,197

As shown in the above table, **Universal** projects the highest annual salary for LPNs. Therefore, the proposal submitted by **Universal** is the more effective alternative with regard to the annual salary for LPNs. However, Universal’s application is not approvable standing alone.

Applicant	Projected Nurse Aide (NA) Annual Salary	Projected Nurse Aide Hourly Rate
Dosher	\$ 24,650	\$11.85*
Universal	\$ 21,714	\$11.14**

*Based on 2,080 hours per year per nurse aide
**Based on 1,950 hours per year per nurse aide

As shown in the above table, **Dosher** projects the highest annual salary for NAs. Furthermore, adjusting for the difference in number of hours to be worked annually (2,080 hours versus 1,950 hours) Dosher still projects the highest hourly rate for NAs. Therefore, the proposal submitted by **Dosher** is the more effective alternative with regard to the annual salary for NAs. Moreover, Universal’s application is not approvable standing alone.

The following table shows the applicants' projected Director of Nursing salary during second year of operation, as reported by the applicants in Section VII.3.

Applicant	Projected Director of Nursing Annual Salary
Dosher	\$80,700
Universal	\$80,080

As shown in the above table, **Dosher** projects the highest annual salary for the Director of Nursing. Therefore, the proposal submitted by **Dosher** is the more effective alternative with regard to the annual salary for the Director of Nursing. Moreover, Universal's application is not approvable standing alone.

Taxes and Benefits

The following table illustrates the applicants' projected percentage of salaries to be paid for employee taxes and benefits in the second year of operation. Generally, the application proposing the higher percentage is the more effective alternative.

Applicant	Taxes and Benefits as a % of Salaries
Dosher	24%
Universal	23%

As shown in the table above, the difference in the projected percentage of salaries to be paid for employee taxes and benefits between the two facilities is 1%. Therefore, the projected percentage of salaries to be paid for employee taxes and benefits between the two facilities is comparable. However, Universal's application is not approvable standing alone.

Nursing Hours per Patient Day

The following table illustrates the applicants' projected nursing hours per patient day (NHPPD) to be provided by direct care routine services staff (RNs, LPNs & Aides) in Year Two as reported in the table in Section VII.4 of the application and budgeted in the pro formas.

Applicant	Total Direct Care NHPPD*
Dosher	3.93
Universal	3.48*

*Based on 1,950 hours provided per Nurse Aide

As shown in the above table, **Dosher** projects the highest total direct care NHPPD. Therefore, the proposal submitted by **Dosher** is the more effective alternative with regard to total direct care NHPPD. Moreover, Universal's application is not approvable standing alone.

The following table illustrates the applicants’ projected NHPPD to be provided by licensed direct care routine services staff (RNs & LPNs) in Year Two as reported in the table in Section VII.4 of the application and budgeted in the pro formas.

Applicant	Licensed (RNs & LPNs) Direct Care NHPPD
Dosher	1.14
Universal	1.04

As shown in the above table, **Dosher** projects the highest licensed (RNs & LPNs) direct care NHPPD. Therefore, the proposal submitted by **Dosher** is the more effective alternative with regard to licensed (RNs & LPNs) direct care NHPPD. Moreover, Universal’s application is not approvable standing alone.

Staff Turnover/Stability

The following table illustrates the number of persons hired by each facility for certain positions in the last two years.

Position	Dosher	Universal
Administrator	0	5
Director of Nursing	0	6
Registered Nurses	1	24
Department Heads	0	34

Source: Section VII.5

Dosher has maintained the more stable staff as reflected in the chart above. Dosher has only hired one registered nurse in the last two years, while Universal has hired five administrators, six directors of nursing and numerous registered nurses and department heads. Therefore the proposal submitted by **Dosher** is the more effective alternative with regard to staff turnover/stability. Moreover, Universal’s application is not approvable standing alone.

Quality of Care

Dosher is certified by CMS for Medicare and Medicaid participation and certified as a Critical Access Hospital. Furthermore, Dosher received a Five Star Quality Rating by CMS (out of a possible five star rating). In addition, **Dosher** is also accredited by the Joint Commission. Universal is certified by CMS for Medicare and Medicaid participation. Universal received a Three Star Quality Rating by CMS (out of a possible five stars). Universal does not indicate that it is accredited by the Joint Commission nor does the Joint Commission’s website reflect that Universal is accredited by them. While both facilities provide quality care, **Dosher’s** Joint Commission accreditation and Five Star Rating make it the more effective alternative.

Conformity with Review Criteria

The application submitted by **Dosher** was conforming to all applicable statutory and regulatory criteria and standards for nursing facility services reviews. However, the application submitted by **Universal** is not conforming to all applicable statutory and regulatory criteria and standards for nursing facility services reviews. See discussion in Criteria (1), (4), (13a), (13c) and (18a).

SUMMARY

The following is a summary of the reasons the proposal submitted by **Dosher** is determined to be the more effective alternative in this review.

- The application is conforming to all statutory and regulatory review criteria.
- Dosher projects the highest percentage of total patient days to be provided to Medicaid recipients.
- Dosher proposes the highest annual salary for nurse aides and for the Director of Nursing.
- Dosher proposes the highest NHPPD and the highest licensed direct care NHPPD (RNs and LPNs).
- Dosher provides the most stability in staffing.
- Dosher received a Five Star rating from CMS and is accredited by the Joint Commission.

The following table:

- 1) Compares the proposal submitted by Universal with the proposal submitted by the approved applicant, Dosher; and
- 2) Illustrates (bolded metrics) the reasons the approved application is a more effective alternative than the proposal submitted by Universal.

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.

<u>Comparative Factor</u>	<u>Dosher</u>	<u>Universal</u>
Geographic distribution of beds	Effective	Effective
% of private rooms	7.8%	30.8%
Medicaid access FFY 2011	67.7%	51.5%
Medicaid access projected	67.8%	54.6%
Private pay charge – private rm	\$185.50	\$175.00
Private pay charge – semi-private rm	\$182.00	\$165.00
Average direct operating cost per diem	\$115.41	\$100.81
RN salary	\$53,056	\$54,267
LPN salary	\$42,500	\$44,107
Aide salary	\$24,650	\$21,714
DON salary	\$80,700	\$70,080
Taxes and benefits	24%	23%
NHPPD*	3.93	3.48
Licensed NHPPD*	1.14	1.04
CMS Star Ratings	5	3
Conforming to review criteria	Yes	No

*Nursing hours per patient day

CONCLUSION

Each application is individually conforming to the need determination in the 2012 SMFP for 14 new NF beds in Brunswick County. However, G.S. 131E-183 (a)(1) states that the need determination in the SMFP is the determinative limit on the number of NF beds that can be approved by the Certificate of Need Section. The Certificate of Need Section determined that the application submitted by **Dosher** is the more effective alternative proposed in this review for the development of 14 new NF beds in Brunswick County and is approved. Therefore, the proposal submitted by **Universal** is denied.

The application submitted by **Dosher** is approved subject to the following conditions.

1. **Smithfield Township d/b/a J. Arthur Dosher Memorial Hospital shall materially comply with all representations made in its certificate of need application.**
2. **Smithfield Township d/b/a J. Arthur Dosher Memorial Hospital shall convert 14 adult care home beds to 14 nursing facility beds for a total of no more than 64 nursing facility beds and zero adult care home beds upon completion of the project.**
3. **Smithfield Township d/b/a J. Arthur Dosher Memorial Hospital shall submit all patient charges and actual per diem reimbursement rates for each source of patient payment to the CON Section at year end for each of the first two operating years following licensure of the beds in the facility.**
4. **Smithfield Township d/b/a J. Arthur Dosher Memorial Hospital shall receive the Medicaid per diem reimbursement rates allowed by the Division of Medical Assistance, under the NC State Plan Section .0102.**
5. **Smithfield Township d/b/a J. Arthur Dosher Memorial Hospital shall file the proposed budget for the facility with the Division of Medical Assistance no later than thirty days prior to the prospective certification date of the new beds.**
6. **The 14 additional nursing facility beds shall not be certified for participation in the Medicaid program prior to July 1, 2012 unless the Division of Medical Assistance determines that state funds are available in the current Medicaid budget to pay for the care and authorizes an earlier certification date.**
7. **For the first two full federal fiscal years of operation following completion of the project, Smithfield Township d/b/a J. Arthur Dosher Memorial Hospital's actual private pay charges shall not be increased more than 5% of the projected private pay charges provided in Section X of the application without first obtaining a determination from the Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.**
8. **Smithfield Township d/b/a J. Arthur Dosher Memorial Hospital shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section in writing prior to issuance of the certificate of need.**