ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

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

DECISION DATE:	April 29, 2014
PROJECT ANALYST:	Gregory F. Yakaboski
INTERIM CHIEF:	Martha J. Frisone
PROJECT I.D. NUMBER:	J-10224-13 / SBH-Raleigh, LLC d/b/a Strategic Behavioral Center / Relocate 12 inpatient child and adolescent psychiatric beds from Broughton Hospital for a total of 32 inpatient child and adolescent psychiatric beds and 60 PRTF beds upon project completion / Wake 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

The applicant, SBH-Raleigh, LLC d/b/a Strategic Behavioral Center (SBC), proposes to relocate 12 inpatient psychiatric beds from Broughton Hospital pursuant to Policy PSY-1 in the 2013 State Medical Facilities Plan (SMFP). SBC is an existing facility located in Garner, Wake County, with 20 inpatient child/adolescent psychiatric beds and 72 psychiatric residential treatment facility (PRTF) beds. SBC is proposing to decrease the PRTF beds from 72 to 60 and increase the number of inpatient child/adolescent psychiatric beds from 20 to 32. The applicant does not propose to develop new inpatient psychiatric beds. Therefore, there are no need determinations in the 2013 SMFP applicable to this review.

There are two policies in the 2013 SMFP which are applicable to the review of this application.

Policy MH-1: LINKAGES BETWEEN TREATMENT SETTINGS states: *"An applicant for a certificate of need for psychiatric, substance abuse, or Intermediate Care Facilities for the Mentally Retarded (ICF/MR) beds shall document that the affected Local Management Entity has been contacted and invited to comment on the proposed services."* Exhibit 28 contains a letter of support for the project from Alliance Behavioral Healthcare, the Managed Care Organization (MCO) for Wake County and formerly known as the Local Management Entity (LME). The application is conforming with Policy MH-1.

Policy PSY-1: TRANSFER OF BEDS FROM STATE PSYCHIATRIC HOSPITALS TO COMMUNITY FACILITIES

> *"Beds in the state psychiatric hospitals used to serve short-term psychiatric patients may be relocated to community facilities through the certificate of need process. However, before beds are transferred out of the state psychiatric hospitals, services and programs shall be available in the community. State psychiatric hospital beds that are relocated to community facilities shall be closed within 90 days following the date the transferred beds become operational in the community.*
>
> *Facilities proposing to operate transferred beds shall submit an application to the Certificate of Need Section of the Department of Health and Human Services and commit to serve the type of short-term patients normally placed at the state psychiatric hospitals. To help ensure that relocated beds will serve those persons who would have been served by the State psychiatric hospitals, a proposal to transfer beds from a State hospital shall include a written memorandum of agreement between the local management entity serving the county where the beds are to be located, the secretary of Health and Human Services, and the person submitting the proposal."*

Exhibit 13 contains a signed memorandum of agreement dated October 2, 2013, between the LME-MCO serving Wake County, the Department of Health and Human Services and SBC.

The signed agreement provided in Exhibit 13, the letter of support in Exhibit 28 and pages 5-9 of the application adequately document the following:

- The LME-MCO has been contacted and invited to comment on the proposal.
- The Department of Health and Human Services has agreed to close the 12 psychiatric beds at Broughton Hospital within 90 days following the transfer of the beds to SBC.

- SBC has committed to serve the type of short-term psychiatric patients normally placed at the state psychiatric hospitals.

- The application includes a written memorandum of agreement between the LME-MCO, the Department of Health and Human Services and SBC.

In summary, the application is conforming with Policy MH-1 and Policy PSY-1. Therefore, the application is conforming 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.

NC

The applicant, SBC, proposes to relocate 12 inpatient psychiatric beds from Broughton Hospital pursuant to Policy PSY-1 in the 2013 SMFP. SBC is an existing facility located in Garner, Wake County, with 20 inpatient child/adolescent psychiatric beds and 72 psychiatric residential treatment facility (PRTF) beds. SBC is proposing to decrease the PRTF beds from 72 to 60 and increase the number of inpatient child/adolescent psychiatric beds from 20 to 32. The applicant does not propose to develop new inpatient psychiatric beds.

Population to be Served

In Section III, pages 30-31, the applicant provides the historical patient origin for inpatient psychiatric services, as illustrated in the following table.

County	Last Full Fiscal Year	
	# of Patients	% of Total
Wake	114	30.0%
Johnston	31	8.0%
New Hanover	25	7.0%
Cumberland	18	5.0%
Durham	17	4.0%
Onslow	15	4.0%
Harnett	13	3.0%
Pitt	11	3.0%
Nash	10	3.0%
Robeson	10	3.0%
Franklin	7	2.0%
Orange	7	2.0%
Pender	7	2.0%
Sampson	7	2.0%
*Other NC Counties	87	22.0%
Total	379	100.0%

*Other NC Counties include: Brunswick, Wilson, Beaufort, Duplin, Craven, Lee, Lenoir, Moore, Wayne, Carteret, Edgecombe, Halifax, Randolph, Union, Vance, Chatham, Guilford, Martin, Mecklenburg, Pasquotank, Rockingham, Scotland, Alamance, Bertie, Bladen, Caswell, Chowan, Currituck, Dare, Forsyth, Granville, Lincoln, Person, Rowan and Warren

In Section III, pages 32-33, the applicant provides the projected patient origin for the 12 proposed inpatient psychiatric beds for the first two operating years, as illustrated in the table below.

County	Operating Year One CY 2015		Operating Year Two CY 2016	
	# of Patients	% of Total	# of Patients	% of Total
Wake	165	50.0%	183	50.0%
Johnston	39	12.0%	44	12.0%
Durham	32	10.0%	36	10.0%
Cumberland	32	10.0%	36	10.0%
New Hanover	21	6.0%	22	6.0%
Nash	10	3.0%	11	3.0%
Harnett	10	3.0%	11	3.0%
Onslow	10	3.0%	11	3.0%
Pitt	10	3.0%	11	3.0%
Total	329	100.0%	365	100.0%

Note: On page 31, SBC states projected patient origin is for the 12 proposed beds, not all 32 beds [20 existing plus 12 proposed].

In Section III, page 32, the applicant states "*SBC opened 20 inpatient beds in our Garner facility in February 2013. The projections in the above chart are a*

reflection of the data we have acquired from February 20, 2013 – week of this application submission."

However, the applicant does not provide projected patient origin for all 32 of the inpatient child/adolescent psychiatric beds; only the 12 proposed in this application. This could partly explain the differences in the percentages. However, the applicant does not adequately explain in the application as submitted the differences in the percentages shown in the two tables above. This is a problem because the applicant implies that projected patient origin for the 12 proposed beds is based on the current patient origin for the 20 existing beds, yet does not explain the differences.

Demonstration of Need

In Section III, page 26, the applicant states:

> *"The Treatment Advocacy Center (TAC) report continues to be a point of reference regarding bed need criteria which indicates that there should be 50 public inpatient psychiatric beds per 100,000 individuals as a minimum number. The population growth will continue to put a strain on the already strained mental health system and the emergency departments' seeking inpatient beds for adolescents. As a result of the State's mental health reform initiative, local hospital emergency departments are being overwhelmed with psychiatric patients in distress. This trend affects not only those with mental illness but also others in the community who need emergency medical care. NAMI* [National Association for Mental Illness] *Wake County reports in the indicators of the Impact of North Carolina's 'Mental Health Reform' on People with Severe Mental Illness: 250,000 individuals with mental illness presented in the first quarter of 2008 as reported by the LME's. If the rate continues at the same pace there would be 332,000 presenting in emergency departments by year end requiring psychiatric services".*

On pages 26-27, the applicant cites the following factors in North Carolina to support the need for the proposed psychiatric beds:

- Approximately 150,000 people with psychiatric needs ended up in the emergency departments around the state in 2012;
- The wait time for a state bed for individuals that needed to go to a psychiatric hospital following evaluation averaged 3.5 days to more than 84 hours (Dave Richard, Director of the Division of Mental Health, Developmental Disabilities and Substance Abuse);

- Community hospitals spend an average of $1,000 per day to hold a person on an involuntary commitment to the ED (as estimated by the Wake County Chapter of NAMI)

- The wait time's impact on law enforcement includes, but is not limited to, additional shifts, over time costs, taking officers off of their regular beat, putting communities at risk.

- SBC opened its existing 20 child/adolescent inpatient psychiatric beds on February 20, 2013 and had 14 patients within the first 3 days.

- SBC consistently admitted youth that may have gone to the State hospital if not for SBC's 20 existing inpatient child/adolescent psychiatric beds.

- SBC has consistently had a waiting list over the last several months.

- SBC has had 1,333 admission referrals since February 2013. See Exhibit 8.

- The weekend of October 13, 2013, SBC had a male youth who also had to wait 24 hours in SBC's assessment area for a bed because there were no other beds available in the State. The same weekend SBC also had a waiting list of 12 additional youths.

- The weekend of November 9-10, SBC had a waiting list of 9 males from Mecklenburg County (there were no other available adolescent beds in the State). The result of no available beds is that 8 of the 9 youth had to wait in an ED and one child had to wait in the lobby of another hospital.

The 2013 SMFP, Table 15C(1) *Child/Adolescent Psychiatric Inpatient Bed Need Determinations*, page 391, identifies the need for 42 additional child/adolescent inpatient psychiatric beds in North Carolina. The 2014 SMFP, Table 15C(1) *Child/Adolescent Psychiatric Inpatient Bed Need Determinations*, page 374, identifies the need for 72 additional child/adolescent inpatient psychiatric beds in North Carolina. The LME-MCO for Wake County signed both a letter of support for the proposed project and a procurement contract with SBC for provision of services. See Exhibits 10 and Exhibit 10A.

<u>Projected Utilization</u>

In Section IV.1, page 35, the applicant provides projected utilization of the 12 new beds in the first two years of the project, as illustrated in the table below:

	First Full Fiscal Year CY 2013	Second Full Fiscal Year CY 2015
IP Psych Beds	12	12
Total # of Patients Admitted	329	365
Average Length of Stay	10	10
Total # of Patient Days of Care	3,285	3,650

In Section IV, pages 34-35, the applicant describes its assumptions and the methodology used to project utilization of the proposed 12 inpatient child/adolescent psychiatric beds. On page 32, the applicant states:

> *"The method used to project utilization comes from our previous 6 months of admission rate for our Strategic Behavioral Center-Garner inpatient beds. We have been tracking both the number of referral calls for acute services that we received as well as the number of children. We have not had available beds due to a full census."*

In Section II, page 20, and Section IV, page 34, the applicant provides the historical data for the last six months (May 2013 – October 2013). There were 20 licensed psychiatric beds within the facility for the six months immediately proceeding the submittal of the application. SBC provided a total of 3,292 patient days of care for that time period. Average occupancy for the preceding six months was 76.9% [20 beds x 214 days (the six months) = 4,280 days; 3,292 patient days of care/ 4,280 total days = 0.76915 or 76.92%] which exceeds the 75% average occupancy required by 10 NCAC 14C .2603(a).

However, 10 NCAC 14C .2603(b) requires that SBC project an occupancy rate of at least 75% *"for the total number of licensed psychiatric beds proposed to be operated in the facility no later than the fourth quarter of the second operating year following completion of the project."* In Section IV, pages 34-35, SBC only provides projected utilization for the 12 licensed psychiatric beds proposed in the current application. SBC does not provide projected utilization for the 32 licensed psychiatric beds to be operated in the facility upon project completion [20 existing plus 12 proposed]. Because the applicant did not provide the information necessary to determine if all 32 beds are needed [the 20 existing plus the 12 proposed] the applicant did not adequately demonstrate the need the population to be served has for the proposed project. Therefore, the application is nonconforming with 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.

NA

PRTF beds are not regulated by the Certificate of Need Section Law. See the definitions of "health service facility" and "health service facility bed" in G.S. 131E-176. Nevertheless, if Criterion (3a) were applicable to this review, the applicant adequately documents that 60 PRTF beds in Garner will be sufficient to meet the needs of the patients being served.

(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.

NC

In Section III.2, page 30, the applicant describes the alternatives considered prior to the submission of its application, which were to either maintain the status quo or increase the number of beds at the facility. However, the application is not conforming to all other applicable statutory and regulatory review criteria. See Criteria (3), (5), (7), (18a), (20) and the Criteria and Standards for Psychiatric Beds promulgated in 10A NCAC 14C .2600. An application that cannot be approved cannot be an effective alternative. Therefore, the applicant does not adequately demonstrate that the proposal is its least costly or most effective alternative. Consequently, the application is nonconforming with 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.

NC

In Section VIII, page 57, the applicant projects that there will be no capital costs associated with the proposed project.

In Section IX, page 69, the applicant projects no initial start-up costs or initial operating expenses.

In the Financials Section of the application, the applicant provides the projected revenues and operating costs for the 12 proposed beds.

However, SBC did not provide projected revenues and operating expenses for the entire facility, including the 32 inpatient child/adolescent psychiatric beds and the 60 PRTF beds. Form C-*Statement of Revenue and Expenses for the Existing and Proposed Inpatient Psychiatric Beds*; Form D-*Gross Revenue Worksheet for Existing and Proposed Inpatient Psychiatric Beds*; and Form E-*Net Revenue Worksheet for Existing and Proposed Inpatient Psychiatric Beds* state that they include both existing and proposed beds. However, the number of patient days set forth in each form corresponds to the number of patient days found in Section IV, pages 34-35, which are for only on the 12 proposed additional beds and none of the existing beds.

Furthermore, although the applicant provides a Form B which purports to be for the entire facility, analysis shows that Form B is incomplete. There is no historical data and for the "Interim" Year, there are expenses but no revenues. Moreover, because the applicant provided no assumptions for Form B, in particular projected utilization for all the beds in the facility, there is no way to evaluate the reasonableness and credibility of Form B.

In addition, Form C *Statement of Revenues and Expenses* contains deductions for both Charity Care and Bad Debt while Form D *Gross Revenue* contains no calculation for Bad Debt. Moreover, the calculations of Charity Care and Bad Debt found in Section VI, page 43, do not correspond to the Charity and Bad Debt projections found in Forms B, C and D.

Moreover, in Project Year 2, SBC projects that salaries will be the same as in the current operating year. The applicant does not adequately demonstrate that this is reasonable.

SBC does not adequately demonstrate that projected revenues and operating costs are based on reasonable, credible and supported assumptions, in particular projected utilization. See Criterion (3) for discussion regarding projected utilization which is incorporated hereby as if fully set forth herein.

In summary, although SBC adequately demonstrates the availability of sufficient funds for the capital needs of the project, SBC does not adequately demonstrate that the financial feasibility of the proposal is based upon reasonable projections of operating costs and revenues. Therefore, the application is nonconforming 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

Pursuant to Policy PSY-1 in the 2013 SMFP, the applicant proposes to relocate 12 inpatient child/adolescent psychiatric beds from Broughton Hospital to Garner, in Wake County. Upon completion of the proposed project, SBC will be licensed for 32 inpatient child/adolescent psychiatric beds and 60 PRTF beds. The closest child and adolescent inpatient psychiatric beds are located at Holly Hill Hospital in Raleigh (Wake County). According to the 2013 Licensure Renewal Application, in FFY 2011, the 60 child and adolescent inpatient psychiatric beds at Holly Hill Hospital in Raleigh (Wake County) were utilized at an occupancy rate of 79.4% and are often full. The applicant's discussion, summarized in Criterion (3), regarding the need for the 12 inpatient psychiatric beds to serve children and adolescents is incorporated hereby by reference as if set forth fully herein.

The 2014 SMFP, Table 15C(1): *Child/Adolescent Psychiatric Inpatient Bed Need Determinations,* identifies a need for 72 additional child and adolescent inpatient psychiatric beds statewide. This identified need is an increase of 30 child and adolescent inpatient psychiatric beds over the 42 additional such beds needed identified in the 2013 SMFP. As of the date of these findings the application due date for 17 of the 72 child and adolescent inpatient psychiatric beds has passed by and the Certificate of Need Section has only received an application to develop 1 of those 17 beds. The 12 beds to be relocated from Broughton exist but are not staffed for use.

The applicant adequately demonstrates that the proposed project will not result in unnecessary duplication of existing or approved inpatient psychiatric beds for children and adolescents. Consequently, 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.

NC

The following table illustrates the existing staffing of the facility, as shown in Section VII, page 47.

Existing Staffing

Position	Proposed FTEs	Average Annual Salary	Total Contract Hours	Average Contract Hourly Rate
Designated Director			40 hours/month	$150 -$250 per hour
Psychiatrists			**As Needed**	$150-$250 per hour
Psychologists	1		**As Needed**	Fee for Service
Psychiatric Social Workers	3	$49,920		
Psychiatric Registered Nurses	1	$56,160		
Qualified Mental Health Professionals (excluding psychiatrists, psychologists, psychiatric nurses and psychiatric social workers)	2.8	$24,960		
Registered Nurses	8.4	$54,080		
Nursing Assistants/Aides/Orderlies	14	$20,800		
Clerical Support/ Unit Secretaries	4.2	$20,800		
Medical Records	1	$27,040		
Housekeeping / Laundry	1	$20,800		
Engineering/Maintenance	.5	$20,800		
Administration	9	$47,840		
Finance/Business Office	1	$43,680		
Total	46.9			

The following table illustrates the proposed staffing for Project Year 2, as shown in Section VII, page 48.

Projected Staffing

Position	Proposed FTEs	Average Annual Salary	Total Contract Hours	Average Contract Hourly Rate
Designated Director			40 hours/month	$180 -$250 per hour
Psychiatrists			**As Needed**	$180-$250 per hour
Psychologists	1		**As Needed**	Fee for Service
Psychiatric Social Workers	3	$49,920		
Psychiatric Registered Nurses	1	$56,160		
Qualified Mental Health Professionals (excluding psychiatrists, psychologists, psychiatric nurses and psychiatric social workers)	2.8	$24,960		
Registered Nurses	12.6	$54,080		
Nursing Assistants/Aides/Orderlies	22.4	$20,800		
Clerical Support/ Unit Secretaries	1	$20,800		
Medical Records	1	$27,040		
Housekeeping / Laundry	1	$20,800		
Engineering/Maintenance	1	$20,800		
Administration	9	$47,840		
Finance/Business Office	1	$43,680		
Total	56.8			

In Section VII, pages 48-51, the applicant describes the recruitment and retention policies and procedures of SBC. Exhibit 12 contains a copy of the medical director's curriculum vitae and a signed letter which states he is a board-certified psychiatrist and will continue to serve as medical director for SBC.

On page 48, SBC states *"Staffing pattern will not change regarding the 12 beds in this project. We are proposing to increase our inpatient beds by 12 and would then decrease 12 of our staffed and operational PRTF beds. This shift would not create the need for additional FTEs."* However, SBC projects 9.9 additional FTEs which is not consistent with the statement on page 48. Moreover, SBC projects the same salaries in Project Year 2 as in the current operating year, which could negatively impact staff retention. The applicant does not adequately demonstrate that this is reasonable.

The applicant does not adequately demonstrate the availability of resources, including health manpower and management personnel, for the provision of the

services proposed to be provided. Therefore, the application is nonconforming with 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

In Section II.8, pages 14-15, the applicant identifies the necessary ancillary and support services that will be made available for the facility. On page 23 the applicant provides the names of 4 medical practitioners with privileges at the facility and who practice at the facility. Exhibit 14 contains a copy of a transfer agreement with WakeMed. Exhibit 10 contains a pharmacy services agreement with Institutional Pharmacy and Exhibit 34 contains an agreement with Lab Corp. Exhibit 9 contains letters of support from NAMI-NC, New Hanover Regional Medical Center and Alliance Behavioral Healthcare. Exhibit 14 contains a copy of a transfer agreement with WakeMed and Exhibit 28 contains a letter of support from the Wake LME/MCO- Alliance Behavioral Healthcare. The applicant adequately demonstrates that the necessary ancillary and support services will be made available and that the proposed services 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 (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

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

In Section VI.11, page 45, the applicant provides the historical payor mix for the inpatient child/adolescent psychiatric beds since the date the facility opened until immediately prior to the submittal of this application (February 20, 2013 – October 31, 2013), which is shown in the following table.

Payor	Projected Patient Days as % of Total
Self Pay/ Indigent/ Charity	4.0%
Medicaid/(Health Choice)	7.0%
Commercial Insurance	19.0%
Managed Care/(Medicaid/MCO)	70.0%
Total	100.0%

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 for Wake, Johnston, Durham, Cumberland and New Hanover counties and statewide.

County	**2010 Total # of Medicaid Eligibles as % of Total Population ***	**2010 Total # of Medicaid Eligibles Age 21 and older as % of Total Population ***	**2009 % Uninsured (Estimate by Cecil G. Sheps Center) ***
Wake	10.0%	3.3%	18.4%
Johnston	18.0%	6.7%	20.0%
Durham	16.0%	5.8%	20.1%
Cumberland	18.0%	7.4%	20.3%
New Hanover	13.0%	5.7%	20.4%
Statewide	17.0%	6.7%	19.7%

*More current data, particularly with regard to the estimated uninsured percentages, was not available.

The majority of Medicaid eligibles are children under the age of 21.

The DMA website also contains the *Medicaid Annual Report, for State Fiscal Year (SFY) 2008*, the most recent fiscal year for which this data are available. According to this report, the elderly and disabled Medicaid recipients in North Carolina comprised 29% of total Medicaid recipients. Additionally, there were 145,898 aged (age 65+) Medicaid recipients in SFY 2008, which comprised 8.5% of the total Medicaid eligibles in North Carolina [145,898 / 1,726,412 total eligibles = 0.0845]. In Harnett County, data is available for January-August CY 2013. The data shows that, for the first eight months of 2013, the aged comprised 6.8% of the total Medicaid eligibles in the County [5,822 aged / 85,175 total eligibles = 0.0684].

Medicaid Recipients by Eligibility category data compare North Carolina Medicaid recipients grouped by age for SFY 2008 with the general population of the entire state, as shown in the table below:

MEDICAID RECIPIENTS BY ELIGIBILITY CATEGORIES VS. GENERAL POPULATION SFY 2008		
ELIGIBILITY CATEGORY	MEDICAID RECIPIENT	GENERAL POPULATION
Children (aged 5 – 20 years)	38%	24%
Adults (aged 21-64 years)	31%	57%
Children (aged birth-4 years)	21%	7%
Elderly (aged 65 and older)	10%	12%

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. 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.

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 are 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 do 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.

SBC provides 77% of its services to Medicaid recipients or MCO patients [7% Medicaid + 70% Managed Care (MCO/Medicaid)]. The applicant demonstrates that it provides adequate access to medically underserved populations. Therefore, the application is conforming 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 applicants;

C

In Section VI.9, page 45, the applicant states *"No civil rights equal access complaints have been filed against SBH or services owned, managed or operated by the parent company of the applicant(s) in North Carolina in the last five years."* In Section VI.10, page 45, the applicant further states "*There are no public obligations SBH has under applicable Federal regulations or agreements to provide uncompensated care, community service, or access to care by medically underserved, minorities and handicapped persons."*

(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

In Section VI.12, page 46, the applicant provides the projected payor mix for the inpatient child/adolescent psychiatric beds during Project Year 2, which is shown in the following table.

Payor	**Projected Patient Days as % of Total**
Self Pay/ Indigent/ Charity	3.0%
Medicaid/(Health Choice)	6.0%
Commercial Insurance	20.0%
Managed Care/(Medicaid/MCO)	70.0%
Total	100.0%

On page 46 the applicant states the projected payor mix is based on the facilities current and historic admission data since February 20, 2013 when the 20 inpatient beds opened. The applicant further states *"As a facility we anticipate 3% for charity care however we have run at 4% this year due to changes within the State MCO system and the onboarding of the NC Tracks which has caused the facility to continue to not be reimbursed for some patient care."*

The applicant demonstrates that medically underserved populations will have adequate access to inpatient child/adolescent psychiatric services offered at SBC. The application is conforming 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

In Section VI.8(c), page 45, the applicant states: *"SBC takes referrals for services from all providers, families and individuals."* In Section VI.8, pages 44-45, the applicant adequately demonstrates that the facility will offer a range of means by which patients will have access to inpatient child/adolescent psychiatric services. The information provided in Section VI.8 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

In Section V.1, page 36, the applicant states that SBC currently has professional agreements with North Carolina State University-MSW intern program and the University of North Carolina Chapel Hill Psychiatric Residency Program and graduate intern program. Exhibit 15 contains copies of these agreements. On page 36 the applicant states that SBC *"will continue to expand the scope of training programs as accessible to the organization and the timeliness of programming."* The application is conforming with 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.

NC

SBC proposes to relocate 12 inpatient child/adolescent psychiatric beds from Broughton Hospital to its existing facility located in Garner, Wake County and thus increase the number of child/adolescent inpatient beds at its facility from 20 to 32. The applicant does not propose to develop new inpatient psychiatric beds.

SBC is in the Wake LME-MCO (Alliance Behavioral Healthcare). In addition to SBC'S existing facility, Table 15A: *Inventory of Psychiatric Beds, Excluding State Hospitals by Local Management Entity-Management Care Organization (LME-MCO)* identifies one other facility in the Wake LME-MCO, Holly Hill Hospital, that serves children and adolescents.

In Section V, pages 37-38, the applicant discusses how any enhanced competition in the service area will promote the cost-effectiveness, quality and access to the proposed services. The applicant states "*The bed availability will create access to adolescents who are currently unable to access inpatient psychiatric beds due to a lack of availability. ... The increase in bed availability will also assist competitors regarding situations that continue to occur when a child presents at a facility and there are no beds available. They often end up waiting in a lobby or admissions area until a bed with the state becomes available. In this situation the child is not getting the treatment they need nor is waiting in a lobby for a day or two an ideal situation for a child that is a harm to himself or others in any way. ... The cost of holding patients until a bed is available will decrease for the emergency departments. The cost of multiple secure transports that the sheriff's departments throughout the state do will decrease.*" See also Sections II, III, V, VI and VII where the applicant discusses the impact of the project on cost-effectiveness, quality and access.

The applicant adequately demonstrates that any enhanced competition in the service area includes a positive impact on access to the proposed services. This determination is based on the information in the application and the following analysis:

- The applicant demonstrates that it will continue to provide adequate access to medically underserved populations.

However, the applicant does not adequately demonstrate the proposal will have a positive impact on the cost-effectiveness and quality of the proposed services. The applicant does not provide projected utilization for the entire facility and does not provide reasonable credible and supported financial proformas for the entire facility. See Criteria (3) and (5) respectively for discussion which is incorporated hereby as if set forth fully herein. Furthermore, the applicant has not provided sufficient evidence that SBC has provided quality care in the 18 months immediately preceding the date of this decision. See Criterion (20) for discussion which is incorporated hereby as if set forth fully herein.

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.

NC

SBH-Raleigh, LLC d/b/a Strategic Behavioral Center located in Garner is licensed by the NC Department of Health and Human Services. In response to the question *"Was the facility* [SBH-Raleigh, LLC d/b/a Strategic Behavioral Center Strategic Behavioral Center- Garner] *in compliance with all applicable Medicare conditions of participation during the last 18 months?"* the Acute and Home Care Licensure and Certification Section, DHSR, in an email dated April 25, 2014, provided the following response:

> *"This facility is out of compliance with the Mental Health Section, Acute Section and DMA."*

In an email dated April 29, 2014, from the Acute and Home Care Licensure and Certification Section, DHSR states:

> *"There are condition level deficits at this facility."*
>
> *A letter provided by the Acute and Home Care Licensure and Certification Section, DHSR dated April 17, 2014 to Bobby Eklofe, CEO of Strategic Behavioral Center- Garner from the North Carolian Department of Health and Human Services, Division of Medical Assistance states:*
>
> *In light of the findings in the final Statement of Deficiencies (SoD) (Form 2567) enclosed, the Division of Medical Assistance (DMA) has determined that your facility no longer meets the requirements for participation as a provider of Psychiatric Residential Treatment Facility (PRTF) services in the Medicaid program. Accordingly the Department of Health and Human Services Provider Administrative Participation Agreement between Strategic Behavioral Health, Garner location, and DHHS is being terminated, ... This termination will be effective 23 working days from electronic receipt of this letter or on May 21.*
>
> *...*
>
> *A substantial allegation survey was conducted at Strategic Behavioral Center, Garner, by DHSR, from March 18, 2014 through March 27, 2014, which identified three distinct incidents resulting in findings of immediate jeopardy (IJ)."*

The Acute and Home Care Licensure and Certification Section, DHSR also provided a copy of a letter dated April 11, 2014 from the Centers for Medicare & Medicaid Services which, in part, states:

> *"Strategic Behavioral Center- Garner was found not in compliance with the provisions of:*
>
> *482.12 Governing Body*
> *482.21 Quality Assessment Performance Improvement*
> *482.23 Nursing Service*
>
> *When a hospital, regardless of its Joint Commission accreditation status, is found to be out of compliance with one or more Conditions of Participation, a determination must be made that the facility no longer meets the requirements for participation as a provider of services in the Medicare program. Such a determination had been made in the case of Strategic Behavioral Center- Garner and, accordingly, the Medicare provider agreement between Strategic Behavioral Center-Garner and the Secretary of the Department of Health and Human Services will be terminated. This termination will be effective* ***July 10, 2014****."*

The applicant has not provided sufficient evidence that SBC has provided quality care in the 18 months immediately preceding the date of this decision. Therefore, the application is nonconforming 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.

NC

The application is not conforming to all applicable Criteria and Standards for Psychiatric Beds. The specific criteria are discussed below.

10A NCAC 14C .2602 INFORMATION REQUIRED OF APPLICANT

(a) An applicant proposing to establish new psychiatric beds shall project resident origin by percentage by county of residence. All assumptions and the methodology for projecting occupancy shall be stated.

-C- In Section III, pages 31-32, and Exhibit 6, the applicant provides projected patient origin by percentage by county of residence as well as all assumptions and the methodology for projecting occupancy of the 12 proposed beds.

(b) An applicant proposing to establish new psychiatric beds shall project an occupancy level for the entire facility for the first eight calendar quarters following the completion of the proposed project, including average length of stay. All assumptions and the methodology for projecting occupancy shall be stated.

-NC- In Section IV, pages 34-35, and Exhibits 6 and 8, the applicant provides the projected utilization and the occupancy level for the 12 proposed inpatient child/adolescent psychiatric beds for each of the first eight calendar quarters following project completion, including the average length of stay. The assumptions and methodology used are stated. However, the applicant does not project an occupancy level for the entire facility. Therefore, the application is nonconforming with this Rule.

(c) The applicant shall provide documentation of the percentage of patients discharged from the facility that are readmitted to the facility at a later date.

-C- In Section IV, pages 34-35, the applicant provides documentation of the percentage of patients discharged from the facility that are readmitted to the facility at a later date.

(d) An applicant proposing to establish new psychiatric beds shall describe the general treatment plan that is anticipated to be used by the facility and the support services to be provided, including provisions that will be made to obtain services for patients with a dual diagnosis of psychiatric and chemical dependency problems.

-C- In Section II, pages 14-15, the applicant describes the general treatment plan that is anticipated to be used by the facility and the support services to be provided. On page 12, the applicant states that it does not plan to admit patients with a dual diagnosis of psychiatric and chemical dependency problems.

(e) The applicant shall document the attempts made to establish working relationships with the health care providers and others that are anticipated to refer clients to the proposed psychiatric beds.

-C- In Section II, pages 17-18, the applicant states "*Since the opening of SBCs 20 inpatient psychiatric beds in February 2013 we have established relationships with multiple hospitals and MCOs resulting in patient admissions…*" Exhibit 6 contains a list of referrals by county. Exhibit 7 contains a list of project development visits. Exhibit 8 contains a list of referrals by source. Exhibit 9 contains letters of support from NAMI-NC, New Hanover Regional Medical Center and Alliance Behavioral Healthcare. Exhibit 14 contains a copy of a transfer agreement with WakeMed and Exhibit 28 contains a letter of support from the Wake LME/MCO- Alliance Behavioral Healthcare.

(f) The applicant shall provide copies of any current or proposed contracts or agreements or letters of intent to develop contracts or agreements for the provision of any services to the clients served in the psychiatric facility.

-C- Exhibits 10A, 10B and 10C contain copies of contracts with Alliance Behavioral Healthcare (MCO), EastPointe (MCO) and a request for contract adjustment with Partners Behavioral Health (MCO) respectively. Exhibit 32 contains a contract for pharmacy services. Exhibit 33 contains a contract for food services and Exhibit 34 contains a contract for laboratory services. Exhibit 12 also contains a letter from the current medical director expressing her willingness to continue to serve in this capacity for SBC.

(g) The applicant shall document that the following items are currently available or will be made available following completion of the project:
(1) admission criteria for clinical admissions to the facility or unit;

-C- Admission criteria for clinical admissions to the facility are provided on page 17.

(2) emergency screening services for the targeted population which shall include services for handling emergencies on a 24-hour basis or through formalized transfer agreements;

-C- On page 17, the applicant states that emergency services are provided 24/7/365.

(3) client evaluation procedures, including preliminary evaluation and establishment of an individual treatment plan;

-C- On pages 17-18, the applicant provides its client evaluation procedures, including preliminary evaluation and establishment of an individual treatment plan.

(4) procedures for referral and follow-up of clients to necessary outside services;

-C- On page 18, the applicant provides its procedures for referral and follow-up of clients to
necessary outside services.

(5) procedures for involvement of family in counseling process;

-C- On page 18, the applicant provides its procedures for involvement of family in counseling process.

(6) comprehensive services which shall include individual, group and family therapy; medication therapy; and activities therapy including recreation;

-C- On page 18, the applicant states describes the comprehensive services offered by SBC which include individual, group and family therapy; medication therapy; and activities therapy, including recreation.

(7) educational components if the application is for child or adolescent beds;

-C- On pages 18-19, the applicant states: *"SBC offers a Non-Public Private School on site for all patients. Students are placed in the regular school track unless special education services were being provided by their home school."*

(8) provision of an aftercare plan; and

-C- On page 19, the applicant describes the aftercare plan used by SBC.

(9) quality assurance/utilization review plan.

-C- Exhibit 5 contains a copy of the applicant's quality management plan.

(h) An applicant proposing to establish new psychiatric beds shall specify the primary site on which the facility will be located. If such site is neither owned by nor under option by the applicant, the applicant shall provide a written commitment to pursue acquiring the site if and when a certificate of need application is approved, shall specify at least one alternate site on which the facility could be located should acquisition efforts relative to the primary site ultimately fail, and shall demonstrate that the primary site and alternate sites are available for acquisition.

-C- In Section II, page 19, the applicant states that it owns the property at 3200 Waterfield Road in Garner and currently operates a facility on the property.

(i) *An applicant proposing to establish new psychiatric beds shall provide documentation to show that the services will be provided in a physical environment that conforms with the requirements in 10A NCAC 27G .0300.*

-C- On page 19, the applicant describes the proposed physical environment of the facility and states that the facility will met the requirements in 10A NCAC 27G .0300.

(j) *An applicant proposing to establish new adult or child/adolescent psychiatric beds shall provide:*

(1) documentation that adult or child/adolescent inpatient psychiatric beds designated for involuntary admissions in the licensed hospitals that serve the proposed mental health planning area were utilized at less than 70 percent for facilities with 20 or more beds, less than 65 percent for facilities with 10 to 19 beds, and less than 60 percent for facilities with one to nine beds in the most recent 12 month period prior to submittal of the application; or

(2) a written commitment that the applicant will accept involuntary admissions and will meet the requirements of 10A NCAC 26C .0103 for designation of the facility, in which the new psychiatric beds will be located, for the custody and treatment of involuntary clients, pursuant to G.S. 122C-252.

-C- Exhibit 11 contains a letter from the CEO of SBC which states that the facility will accept involuntary admissions and will meet the requirements of 10A NCAC 26C .0103.

.2603 PERFORMANCE STANDARDS

(a) *An applicant proposing to add psychiatric beds in an existing facility shall not be approved unless the average occupancy over the six months immediately preceding the submittal of the application of the total number of licensed psychiatric beds within the facility in which the beds are to be operated was at least 75 percent.*

-C- In Section II, page 20, and Section IV, page 34, the applicant provides the historical data for a over the last six months (May 2013 – October 2013). There were 20 licensed psychiatric beds within the facility for the six months immediately proceeding the submittal of the application. SBC provided a total of 3,292 patient days of care for that time period. Average occupancy for the preceding six months was 76.9% [20 beds x 214 days (the six months) = 4,280 days. 3,292 patient days of care/ 4,280 total days = 0.76915 or 76.92%] which exceeds the 75% average occupancy required by this rule.

(b) *An applicant proposing to establish new psychiatric beds shall not be approved unless occupancy is projected to be 75% for the total number of licensed psychiatric beds proposed to be operated in the facility no later than the fourth quarter of the second operating year following completion of the project.*

-NC- SBC has 20 existing licensed psychiatric beds and, in this project, is proposing to add 12 additional psychiatric beds for a total of 32 licensed psychiatric beds upon completion of the project. In Section II, page 20, and Section IV, page 35, SBC projects utilization for the first and second operating years for only the 12 additional beds proposed to be added by this project. SBC does not provide projected occupancy for the total number of licensed psychiatric beds [32 upon completion of the proposed project] to be operated in the facility no later than the fourth quarter of the second operating year following completion of the project. Therefore, the application is nonconforming to this Rule.

.2605 STAFFING AND STAFF TRAINING

(a) *A proposal to provide new or expanded psychiatric beds must provide a listing of disciplines and a staffing pattern covering seven days per week and 24 hours per day.*

-C- In Section II, pages 20-21, the applicant provides a listing of disciplines and a staffing pattern covering seven days per week and 24 hours per day.

(b) *A proposal to provide new psychiatric beds must identify the number of physicians licensed to practice medicine in North Carolina with a specialty in psychiatry who practice in the primary service area. Proposals specifically for or including child or adolescent psychiatric beds must provide documentation to show the availability of a psychiatrist specializing in the treatment of children or adolescents.*

-C- In Section II, pages 21-22, the applicant provides a list of licensed psychiatrists routinely providing care in SBC's primary service area, documenting the availability of psychiatrists specializing in the treatment of children or adolescents.

(c) *A proposal to provide additional psychiatric beds in an existing facility shall indicate the number of psychiatrists who have privileges and practice at the facility proposing expansion. Proposals specifically for or including child or adolescent psychiatric beds must provide documentation to show the availability of a psychiatrist specializing in the treatment of children or adolescents.*

-C- In Section II, page 23, the applicant identifies the number of psychiatrists who have privileges and practice at the facility. The applicant states *"Dr. Miles and*

Dr. Courvoisie are both Child and Adolescent Board certified Psychiatrists." Exhibit 12 contains the CVs of both Dr. Miles and Dr. Courvoisie.

(d) *A proposal to provide new or expanded psychiatric beds must demonstrate that it will be able to retain the services of a psychiatrist who is eligible to be certified or is certified by the American Board of Psychiatry and Neurology to serve as medical director of the facility or department chairman of the unit of a general hospital.*

-C- Exhibit 12 contains a letter from Karen Mills, MD stating that she is board-certified in child and adolescent psychiatry and expressing her willingness to continue to serve as Medical Director for SBC. She states *"I look forward to continuing to serve in this capacity when the addition of the 12 beds is completed."*

(e) *A proposal to provide new or expanded psychiatric beds must provide documentation to show the availability of staff to serve involuntary admissions, if applicable.*

-C- In Section II, page 23, the applicant states that SBC *"has a detailed staffing plan that provides for a sufficient number of clinical professionals to:*

- *Carry-out responsibilities and accountability to prescribe, delegate, and coordinate all patient care provided in this hospital."*

(f) *A proposal to provide new or expanded psychiatric beds must describe the procedures which have been developed to admit and treat patients not referred by private physicians.*

-C- In Section II, pages 23-25, the applicant describes the procedures which have been developed to admit and treat patients not referred by private physicians.

(g) *A proposal to provide new or expanded psychiatric beds shall indicate the availability of training or continuing education opportunities for the professional staff.*

-C- In Section II, page 25, the applicant describes the availability of training or continuing education opportunities for the professional staff.