

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

DECISION DATE: September 26, 2014

FINDINGS DATE: October 3, 2014

PROJECT ANALYST: Tanya S. Rupp

INTERIM CHIEF: Martha J. Frisone

PROJECT I.D. NUMBER: N-10284-14 / Community Outreach Youth Services, LLC / Develop a new child/adolescent chemical dependency treatment facility with eight-beds pursuant to a need determination in the 2014 State Medical Facilities Plan / Robeson

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.

NC

Community Outreach Youth Services, LLC proposes to develop a new 8-bed chemical dependency treatment (substance abuse) facility for children and adolescents to be located at 177 Cardinal Avenue in Lumberton in Robeson County. In Section XI.1, page 46, the applicant states that it already owns an existing building that it proposes to license as a substance abuse facility.

The applicant's petition for expedited review was approved by the Certificate of Need (CON) Section. Consequently, in order to determine that the application conforms to all applicable statutory and regulatory review criteria, the CON Section requested a significant amount of supplemental information from the applicant. Moreover, there are discrepancies between the original and the copy of the application. In addition to requesting this information in writing on July 9, 2014, the Project Analyst and the Interim Chief met with the applicant and his representatives on August 1, 2014 to discuss the request. However, the applicant's response to the CON Section's request was not received until the day the decision had to be mailed (September 26, 2014).

In addition, CON law requires an applicant to submit an original and a copy of each application. In this case, the application and the copy are not identical; therefore, there are discrepancies between the two versions.

Need Determination

The 2014 State Medical Facilities Plan (SMFP) identified a need for 10 new child/adolescent substance abuse beds in the Eastern Mental Health Planning Region which includes Robeson County. The Local Management Entity (LME) is Eastpointe.

In Section I.8, page 6, the applicant states that it proposes to serve patients between the ages of 7-20 years old who suffer from alcohol abuse and/or chemical dependency and the accompanying psychological and social issues. However, the age range for child/adolescent substance abuse beds is 0-17 years. Patients 18 and older cannot be admitted to child/adolescent substance abuse beds. The applicant did not apply for any of the adult substance abuse beds available in the 2014 SMFP.

Nevertheless, the proposal is consistent with the need determination.

Policies

There are two policies in the 2014 State Medical that are applicable to this review: Policy MH1 *Linkages between Treatment Settings*, and Policy GEN-3 *Basic Principles*. Each of these policies is discussed below.

Policy MH1: Linkages between Treatment Settings

This policy states:

“An applicant for a certificate of need for psychiatric, substance abuse or intermediate care facilities for individuals with intellectual disabilities (ICF/IID) beds shall document that the affected local management entity-managed care organization has been contacted and invited to comment on the proposed services.”

However, the application as submitted did not include anything to document that the applicant contacted Eastpointe inviting that MCO to comment on its proposal to develop 8 child/adolescent substance abuse beds in Lumberton. Included in the supplemental information received on September 26, 2014 is an undated one page document addressed to “Eastpointe MCO” informing the MCO of the applicant’s intent to develop an 8-bed substance abuse facility in Robeson County. The applicant adequately demonstrates that the application is consistent with Policy MH-1.

Policy GEN-3: Basic Principles

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.”

Promote Safety and Quality

The applicant does not provide sufficient information in the application as submitted or in the supplemental information received on September 26, 2014 to adequately document the following:

- The availability of resources, including health manpower and management personnel for the level of services proposed. The discussion regarding staffing found in Criterion (7) is incorporated herein by reference.
- All necessary ancillary and support services will be available. The discussion regarding ancillary and support services found in Criterion (8) is incorporated herein by reference.

Therefore, the applicant does not adequately demonstrate that its proposal will promote safety and quality.

Promote Equitable Access

The applicant does not provide sufficient information in the application as submitted or in the supplemental information received on September 26, 2014 to adequately document that the proposal would promote equitable access. The discussion regarding access found in Criteria (3) and (13c) is incorporated herein by reference.

Maximize Healthcare Value

The applicant does not provide sufficient information in the application as submitted or in the supplemental information received on September 26, 2014 to adequately document the following:

- The need that the population proposed to be served has for the proposed facility. The

- discussion regarding need found in Criterion (3) is incorporated herein by reference.
- The financial feasibility of the proposed facility is based upon reasonable projections of costs and charges. The discussion regarding financial feasibility found in Criterion (5) is incorporated herein by reference.

Therefore, the applicant does not adequately demonstrate that its proposal will maximize healthcare value for the resources expended.

Conclusion

In summary, the applicant adequately demonstrates that its proposal to develop an 8-bed substance abuse facility for children and adolescents is consistent with the need determination in the 2014 SMFP and Policy MH-1. However, the applicant does not adequately demonstrate that the proposal is consistent with Policy GEN-3. Therefore, the application is not conforming to 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

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The applicant's petition for expedited review was approved by the Certificate of Need (CON) Section. Consequently, in order to determine that the application conforms to all applicable statutory and regulatory review criteria, the CON Section requested a significant amount of supplemental information from the applicant. Moreover, there are discrepancies between the original and the copy of the application. In addition to requesting this information in writing on July 9, 2014, the Project Analyst and the Interim Chief met with the applicant and his representatives on August 1, 2014 to discuss the request. However, the applicant's response to the CON Section's request was not received until the day the decision had to be mailed (September 26, 2014).

In Section I.8, page 6, the applicant states that it proposes to serve patients between the ages of 7-20 years old who suffer from alcohol abuse and/or chemical dependency and the accompanying psychological and social issues. However, the age range for child/adolescent substance abuse beds is 0-17 years. Patients 18 and older cannot be admitted to child/adolescent substance abuse beds. The applicant did not apply for any of the adult

substance abuse beds available in the 2014 SMFP.

Population to be Served

In Section III.4, page 16, the applicant states:

“Community Outreach Youth Services plans to establish HSA V ... as the primary geographic boundaries of the proposed services area. Community Outreach Youth Services plans to establish HSA IV and HSA VI ... as our secondary geographic boundaries. Community Outreach Youth Services has made this rational decision based upon the location of the proposed facility which is located in Robeson County. Community Outreach Youth Services will also be conveniently accessible to counties in our geographical boundaries.”

The applicant refers to a map in Exhibit 5. Exhibit 5 contains a copy of *Appendix A* of the 2014 SMFP, which is a map of North Carolina showing the counties in each HSA. However, in the supplemental information received on September 26, 2014, the applicant provides projected patient origin *“for all substance abuse clients admitted the first two years of operation following completion of the project,”* as shown in the following table:

COUNTY	PROJECTED # OF CLIENTS	% OF TOTAL # OF CLIENTS
Robeson	7	87.5%
Cumberland	1	12.5%
Gates	0	
Carteret	0	
Total	8	100%

The original table showed two patients each from the four counties listed in the table. In the supplemental information, the applicant changed the information as shown in the table above. However, the information is not credible since it appears to show only 8 patients during the entire first two operating years. The applicant did not adequately identify the population it proposes to serve.

Analysis of Need

Section III of the application consists of six questions regarding an unmet need for the proposed services. In Section III.1, page 16, the applicant states:

“Community Outreach Youth Services have [sic] found that there is an unmet need for 10 Child/Adolescent Chemical Dependency Treatment beds. (See Exhibit 3)”

Exhibit 3 contains a copy of Table 16D, from the 2014 Proposed SMFP. This table shows that there is a need for 15 child/adolescent chemical dependency treatment beds in the Western Mental Health Planning Region, 3 child/adolescent chemical dependency treatment beds in the Central Mental Health Planning Region, and 10 child/adolescent chemical dependency treatment beds in the Eastern Mental Health Planning Region, which includes

Robeson County.

In Section III.2, page 16, the applicant states:

“Community Outreach Youth Services plans to operate an 8-bed child/adolescent chemical dependency treatment facility in accordance with the 2014 State Medical Facility plan need determination.”

In Section III.3, page 16, the applicant states there is *“an increase in drug use amongst teens. (See Exhibit 4a & 4b).”* Exhibit 4a and 4b are the first and second pages of a brochure for the Eastpointe Call Center. Page 4b, the second page, contains highlighted statistics about substance abuse at a global and national level. There is nothing in the brochure that adequately documents an unmet need for the proposed 8-bed substance abuse facility for children and adolescents in Lumberton in Robeson County.

In summary, the applicant does not provide sufficient information in the application or the supplemental information received on September 26, 2014 to adequately document that the population proposed to be served, which was not adequately identified, has an unmet need for the proposed 8-bed substance abuse facility in Lumberton in Robeson County.

Projected Utilization

In the supplemental information received on September 26, 2014, the applicant provides projected utilization of the proposed facility during each of the first three operating years following completion of the project, as shown in the following table.

Intensive Treatment Bed Utilization			
QUARTER	CLIENT DAYS	OCCUPANCY RATE	# CERTIFIED BEDS
1	270	3	8
2	360	4	8
3	540	6	8
4	720	8	8
Year 1 Total	1,890	21	8
5	720	8	8
6	720	8	8
7	720	8	8
8	720	8	8
Year 2 Total	2,880	32	8
9	720	8	8
10	720	8	8
11	720	8	8
12	720	8	8
Year 3 Total	2,880	32	8

In Section IV.2, page 20, the applicant states:

“Community Outreach Youth Services based our assumptions on information found in the 2014 State Medical Facilities Plan which identified a need for 10 child/adolescent chemical dependency treatment beds for the Eastern Region.”

In Section IV.4, page 20, the applicant states:

“Community Outreach Youth Services will operate within the State rules and regulations regarding Child/Adolescent Chemical Dependency residential treatment and projects to have an average length of stay to be 30 days per client. Community Outreach Youth Services will assess the progress of our clients prior to the 30 days ending to determine if the individual meets the continued stay criteria.”

However, projected utilization as shown in the table above is not consistent with the projected patient origin provided in the supplemental information. Moreover, the applicant does not adequately document that projected utilization is based on reasonable assumptions. Specifically, the applicant does not adequately explain its assumptions or provide adequate documentation to support its assumptions.

Access to Services

In Section VI.1, page 23, the applicant states:

“Community Outreach Youth Services plans to operate an 8 bed child/adolescent chemical dependency treatment facility that will provide services to individuals with low income, racial and ethnic minorities, and other underserved persons. Community Outreach Youth Services will provide training for cultural sensitivity to ensure quality of care is provided to the identified populations.”

In Section VI.4, page 23, the applicant states it will not require any financial payment prior to or upon admission to its facility.

In Section VI.9, page 26, the applicant provides the projected payor mix during the second operating year, as shown in the following table:

PAYOR	DAYS AS % OF UTILIZATION	% OF TOTAL REVENUE
Medicaid	80%	80%
County Assistance	10%	10%
Other	10%	10%
Total	100%	100%

As shown in the table above, the applicant projects that 80% of the patients will be covered by Medicaid, 10% will be covered by County Assistance and 10% will be “Other.” However, the applicant does not define “Other.” Furthermore, the applicant does not provide the assumptions it used to project the payor mix for the proposed facility. Therefore, the applicant does not adequately demonstrate that the projected payor mix is based on reasonable and adequately supported assumptions. Consequently, the applicant does not

adequately demonstrate 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.

Conclusion

In summary, the applicant does not adequately:

- Identify the population to be served.
- Demonstrate the need that this population has for the services proposed.
- Demonstrate 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 proposed services.

Consequently, the application is not 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.

NA

- (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.4(b), page 17, the applicant states:

“Community Outreach Youth Services plans to effectively serve the unmet need in the proposed service area. Community Outreach Youth Services has made a rational decision that HSA V as our primary service area ... and HSA IV and HSA VI ... as our secondary service area based upon being conveniently accessible to our primary/secondary geographical boundaries.”

However, the applicant does not identify other alternatives, if any, that it considered prior to submitting this application. Therefore, the applicant does not adequately demonstrate that this proposal is its least costly or most effective alternative to meet the need for child/adolescent substance abuse beds in the Eastern Mental Health Planning Region. Furthermore, the application is not conforming to all applicable statutory and regulatory review criteria. An application that cannot be approved cannot be an effective alternative. Consequently, the application is not conforming to this criterion and is not approved.

- (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

Capital and Working Capital Costs

Capital Cost

In Section VIII.1, page 35, the applicant states the capital cost of the proposed project is projected to be \$52,750.00, including \$50,000 for purchase of the building, \$2,500.00 for furniture and \$250.00 in closing costs.

However, the applicant does not provide sufficient information in the application as submitted or in the supplemental information received on September 26, 2014 to adequately document that the projected capital cost is sufficient to complete the proposed project. Based on discussions with staff in the Construction Section, DHSR, the applicant may be required to make changes to the building. In an email, a copy of which was sent to the applicant on September 10, 2014, the Construction Section states:

“the facility located at 177 Cardinal Avenue in Lumberton was previously licensed under the DHSR – Mental Health Licensure and Certification Section as a .1700 program – Residential Treatment Staff Secure for Children and Adolescents for a capacity of four. It was originally licensed in 2002 and was classified under the NCSBC - Section 421.2 as a Residential Care Home which allowed the facility to be classified as a single family dwelling but required it to meet the additional safety features listed under that Section of the Code

*If this facility were to request to be licensed today for a capacity of eight residents, it would be re-classified most likely under Section 425.4 – Small Non-ambulatory Care Facilities which also requires it to meet the listed requirements under Section 425.3 – Small Residential Care Facilities. Section 425.3.1 requires the building to be EITHER 1-hour rated construction or sprinkled with a system meeting (National Fire Protection Association) NFPA 13D. Since this facility most likely is not built to 1-hour rated construction then they would be required to put in a sprinkler system. When they put in the sprinkler system, it then meets the requirement under Section 425.4.1. Section 425.4 clearly states the facility shall (also) meet the requirements for Small Residential Care Facilities that are listed under Sections 425.3.2 through 425.3.11. The main building upgrades for this reclassification would be providing **the sprinkler system**, remote exits, **enclosed exit stairways if 2-stories**, current smoke detection, **building fire alarm system**, Class C finish, and no heaters.”* [emphasis in original].

The applicant did not provide sufficient information in the supplemental information received on September 26, 2014 to document that the proposed capital expenditure includes sufficient funds to make the changes discussed in the email quoted above or that such changes are not required.

Working Capital Costs

In Section IX, page 40, the applicant projects that the start-up costs will be \$1,100 and the initial operating expenses will be \$10,675. The total working capital costs are projected to be \$12,675.

Availability of Funds

In Section VIII.2, page 35, the applicant states it will fund the capital cost with owner's equity and grants. In Section IX, page 41, the applicant states that it will fund the working capital needs of the project with grants. On page 35, the applicant states that it has \$164,000 in owner's equity and grants totaling \$20,000. However, the application does not contain sufficient information, such as financial statements or a balance sheet, to document that the applicant has sufficient funds to cover the proposed equity contribution. In addition, the application does not contain sufficient information to document that the applicant has received grants which would be available for the proposed project. Moreover, the application does not contain documentation from a fiscally responsible officer of the applicant which states that the owner's equity and grants would be used to fund the capital and working capital needs of the project. Therefore, the applicant does not adequately demonstrate the availability of sufficient funds for the capital and working capital needs of the project.

Financial Feasibility

The Form A Balance Sheet in the pro forma section at the end of the application is not complete and is thus inaccurate. Moreover, the applicant did not provide the assumptions used to project the dollar amounts that were included. A revised Form B Statement of Operating Results and Retained Earnings was provided in the supplemental information received on September 26, 2014. However, the applicant did not provide the assumptions used to project the revenues and expenses reported in Form B. Therefore, the applicant does not adequately demonstrate that the projected revenues and expenses are based on reasonable and adequately supported assumptions. Moreover, since projected revenues and expenses are based in part on projected utilization, they are not reliable since projected utilization is not based on reasonable and adequately supported assumptions. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. Therefore, the applicant did not adequately demonstrate that the financial feasibility of the project is based upon reasonable projections of costs and charges.

Conclusion

In summary, the applicant does not adequately demonstrate the availability of sufficient funds for the capital and working capital needs of the project. Furthermore, the applicant does not adequately demonstrate the immediate or long-term financial feasibility of the proposal is based on reasonable projections of costs and charges. Consequently, the application is not 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.

NC

The applicant did not provide in the application as submitted or in the supplemental information received on September 26, 2014 any analysis of existing and approved child/adolescent substance abuse beds in the Eastern Mental Health Planning Region. Currently, there are no existing or approved child/adolescent substance abuse beds located in Robeson County, the Eastpointe MCO or the Eastern Mental Health Planning Region. There are 86 existing adult substance abuse beds in the Eastern Mental Health Planning Region, including 16 in Nash County in the Eastpointe MCO. None are located in Robeson County.

However, the applicant does not adequately demonstrate that its proposed facility is needed or that projected utilization is based on reasonable and adequately supported assumptions. The discussion regarding need and projected utilization found in Criterion (3) is incorporated herein by reference. Therefore, the applicant does not adequately demonstrate that the proposed project will not result in the unnecessary duplication of existing or approved child/adolescent substance abuse services in the Eastern Mental Health Planning Region. Consequently, the application is not conforming to 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

In the supplemental information received on September 26, 2014, the applicant provides information regarding the staffing during the first operating year of the proposed facility, as shown in the following table.

Position	# of Full-time Equivalent (FTE) Positions	Annual Salary	Annual Consultant Hours	Hourly Consultant Fee
Clinical Director	1	\$55,000	2,080	
Qualified Professional	6	\$31,200	2,496	\$15
Associate Professional	2	\$20,800	1,664	\$12

As shown in the table above, it appears that the applicant proposes to employ nine FTEs to staff the proposed facility and to contract for consultants.

However, in Section II.1(f), page 12, the applicant provides the following table which is not consistent with the information regarding proposed staffing in the supplemental information received on September 26, 2014.

<i>Service</i>	<i>Facility Staff</i>	<i>Facility Paid Consultant</i>	<i>Contract Billed to Patient</i>	<i>Staff Position / or Proposed Provider</i>	<i>Date Service Available</i>
<i>A</i>	<i>X</i>			<i>Certified Substance Abuse Counselor</i>	<i>8/16/2014</i>
<i>B</i>	<i>X</i>			<i>Medical Records Technician</i>	<i>8/16/2014</i>
<i>C</i>	<i>X</i>			<i>Qualified Mental Health Professional</i>	<i>8/16/2014</i>
<i>D</i>	<i>X</i>			<i>Associate Professional</i>	<i>8/16/2014</i>
<i>D [sic]</i>	<i>X</i>			<i>Para-Professional</i>	<i>8/16/2014</i>
<i>F</i>	<i>X</i>			<i>Clinical Director</i>	<i>8/16/2014</i>

There are staff positions identified on page 12 that were not identified in the supplemental information received on September 26, 2014. Furthermore, the table on page 12 identifies all of the staff as facility employees rather than consultants, as shown in the supplemental information.

The applicant does not adequately demonstrate the availability of resources, including health manpower and management personnel, for the level of services proposed. Consequently, the application is not 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.

NC

In Section II.(e), page 11, the applicant identifies the required ancillary and support services that will be provided. However, the application does not include sufficient information to adequately document how and by whom those services will be made available. Therefore, the applicant does not adequately demonstrate that it will make available or otherwise make arrangements for the provision of the necessary ancillary and support services. Consequently, the application is not conforming to 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.

NC

In Section XI.1, page 46, the applicant states it owns the building it proposes to utilize for the proposed substance abuse facility. In Section VIII.1, page 35, and the supplemental information received on September 26, 2014, the applicant indicates that it paid \$50,000 to acquire the building. The applicant does not project any construction or renovation costs.

In Section IX.7, on page 46a, the applicant states it will use energy efficient light bulbs and tank-less water heaters in the facility.

However, based on discussions with staff in the Construction Section, DHSR, the applicant may be required to make changes to the building. In an email, a copy of which was sent to the applicant on September 10, 2014, the Construction Section states:

“the facility located at 177 Cardinal Avenue in Lumberton was previously licensed under the DHSR – Mental Health Licensure and Certification Section as a .1700 program – Residential Treatment Staff Secure for Children and Adolescents for a

capacity of four. It was originally licensed in 2002 and was classified under the NCSBC - Section 421.2 as a Residential Care Home which allowed the facility to be classified as a single family dwelling but required it to meet the additional safety features listed under that Section of the Code

*If this facility were to request to be licensed today for a capacity of eight residents, it would be re-classified most likely under Section 425.4 – Small Non-ambulatory Care Facilities which also requires it to meet the listed requirements under Section 425.3 – Small Residential Care Facilities. Section 425.3.1 requires the building to be EITHER 1-hour rated construction or sprinkled with a system meeting (National Fire Protection Association) NFPA 13D. Since this facility most likely is not built to 1-hour rated construction then they would be required to put in a sprinkler system. When they put in the sprinkler system, it then meets the requirement under Section 425.4.1. Section 425.4 clearly states the facility shall (also) meet the requirements for Small Residential Care Facilities that are listed under Sections 425.3.2 through 425.3.11. The main building upgrades for this reclassification would be providing **the sprinkler system, remote exits, enclosed exit stairways if 2-stories, current smoke detection, building fire alarm system, Class C finish, and no heaters.**” [emphasis in original].*

The applicant did not provide sufficient information in the application or the supplemental information received on September 26, 2014 to document that the proposed services can be developed and offered in the building without renovations. Therefore, the applicant does not adequately demonstrate that the cost, design and means of construction represent the most reasonable alternative. Consequently, the application is not 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;

NA

(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;

NA

- (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

NC

In Section VI.1, page 23, the applicant states:

“Community Outreach Youth Services plans to operate an 8 bed child/adolescent chemical dependency treatment facility that will provide services to individuals with low income, racial and ethnic minorities, and other underserved persons. Community Outreach Youth Services will provide training for cultural sensitivity to ensure quality of care is provided to the identified populations.”

In Section VI.4, page 23, the applicant states it will not require any financial payment prior to or upon admission to its facility.

In Section VI.9, page 26, the applicant provides the projected payor mix during the second operating year, as shown in the following table:

PAYOR	DAYS AS % OF UTILIZATION	% OF TOTAL REVENUE
Medicaid	80%	80%
County Assistance	10%	10%
Other	10%	10%
Total	100%	100%

As shown in the table above, the applicant projects that 80% of the patients will be covered by Medicaid, 10% will be covered by County Assistance and 10% will be “Other.” However, the applicant does not define “Other.” Furthermore, the applicant does not provide the assumptions it used to project the payor mix for the proposed facility. Therefore, the applicant does not adequately demonstrate that the projected payor mix is based on reasonable and adequately supported assumptions. Consequently, the applicant does not project that medically underserved populations will have adequate access to the proposed services and the application is not conforming to 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.6(a), page 24, the applicant states

“Community Outreach Youth Services will have referral sources from MH/DD/SA Authority, Abuse Authority as well as police to help facilitate services to appropriate individuals.

...

Community Outreach Youth Services has made contact with Robeson County Department of Juvenile Justice, Robeson County Department of Social Services, Chaparral Youth Services, Palmer Prevention, and Eastpointe (MCO).”

The application is conforming to 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.

NC

In Section V.1, page 21, the applicant states that it plans to accommodate the clinical needs of area health professional training programs. However, there is no documentation in the application to support that statement. Consequently, the application is not conforming 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.

NC

Community Outreach Youth Services, LLC proposes to develop a new 8-bed substance abuse facility for children and adolescents to be located at 177 Cardinal Avenue in Lumberton in Robeson County. In Section XI.1, page 46, the applicant states that it already owns an existing building that it proposes to license as a substance abuse facility.

Currently, there are no existing or approved child/adolescent substance abuse beds located in Robeson County, the Eastpointe MCO or the Eastern Mental Health Planning Region. There

are 86 existing adult substance abuse beds in the Eastern Mental Health Planning Region, including 16 in Nash County in the Eastpointe MCO. None are located in Robeson County.

However, the applicant does not provide sufficient information in the application or the supplemental information received on September 26, 2014 to adequately document how any enhanced competition would have a favorable impact on the cost-effectiveness, quality, and access to the proposed services. This determination is based on the application, the supplemental information and the following analysis.

- The applicant does not adequately identify the population proposed to be served or demonstrate the need this population has for the proposed facility. The discussion regarding population to be served and need found in Criterion (3) is incorporated herein by reference.
- The applicant does not adequately demonstrate that the proposal would be cost effective. The discussion regarding financial feasibility found in Criterion (5) is incorporated herein by reference.
- The applicant does not adequately demonstrate that it will provide quality services. The discussion regarding promoting quality and safety found in Criterion (1) is incorporated herein by reference.
- The applicant does not adequately demonstrate that it will provide adequate access to medically underserved populations. The discussion regarding access found in Criteria (1) and (13c) is incorporated herein by reference.

Consequently, the application is not conforming 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.

NA

- (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 Substance Abuse/Chemical Dependency Treatment Beds* as promulgated in 10A NCAC 14C .2500. Each criterion is discussed below.

10A NCAC 14C .2502 INFORMATION REQUIRED OF APPLICANT

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

-NC- in the supplemental information received on September 26, 2014, the applicant provides projected patient origin “for all substance abuse clients admitted the first two years of operation following completion of the project,” as shown in the following table:

COUNTY	PROJECTED # OF CLIENTS	% OF TOTAL # OF CLIENTS
Robeson	7	87.5%
Cumberland	1	12.5%
Gates	0	
Carteret	0	
Total	8	100%

The original table showed two patients each from the four counties listed in the table. In the supplemental information, the applicant changed the information as shown in the table above. However, the information is not credible since it appears to show only 8 patients during the entire first two operating years. Therefore, the application is nonconforming with this Rule.

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

-NC- In the supplemental information received on September 26, 2014, the applicant provides the following information.

QUARTER	PATIENT DAYS	OCCUPANCY RATE	# BEDS
1	270	3	8
2	360	4	8
3	540	6	8
4	720	8	8
Year 1 Total	1,890	21	8
1	720	8	8
2	720	8	8
3	720	8	8
4	720	8	8

Year 2 Total	2,880	32	8
1	720	8	8
2	720	8	8
3	720	8	8
4	720	8	8
Year 3 Total	2,880	32	8

In Section IV.2, page 20, the applicant states:

“Community Outreach Youth Services based our assumptions on information found in the 2014 State Medical Facilities Plan which identified a need for 10 child/adolescent chemical dependency treatment beds for the Eastern Region.”

In Section IV.4, page 20, the applicant states:

“Community Outreach Youth Services will operate within the State rules and regulations regarding Child/Adolescent Chemical Dependency residential treatment and projects to have an average length of stay to be 30 days per client. Community Outreach Youth Services will assess the progress of our clients prior to the 30 days ending to determine if the individual meets the continued stay criteria.”

However, projected utilization as shown in the table above is not consistent with the projected patient origin in the supplemental information. Moreover, the applicant does not adequately document that projected utilization is based on reasonable assumptions. Specifically, the applicant does not adequately explain its assumptions or provide adequate documentation to support its assumptions. Therefore, the application is nonconforming with this Rule.

- (c) *If the applicant is an existing chemical dependency treatment facility, the applicant shall document the percentage of patients discharged from the facility that are readmitted to the facility at a later date.*

-NA- The applicant is not an existing chemical dependency treatment facility.

- (d) *An 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, including procedure for accepting emergency admissions;*

-NC- In Exhibit 8, the applicant provides a copy of its admissions policy for the proposed facility; however, the admissions policy does not include a procedure for accepting emergency admissions. Furthermore, that information is not provided anywhere else in the application or the supplemental information received on September 26, 2014. Therefore, the application is nonconforming with this Rule.

- (2) *client evaluation procedures, including preliminary evaluation and establishment of an individual treatment plan;*
 - C- In Section II.2(b), page 14, the applicant describes the facility's evaluation procedures, including preliminary evaluation and establishment of an individual treatment plan.
- (3) *Procedures for referral and follow-up of clients to necessary outside services;*
 - C- In Section II.2(e), page 14, the applicant describes the facility's procedures for referral and follow-up of clients to necessary outside services.
- (4) *Procedures for involvement of family in counseling process;*
 - C- In Section II.2(d), page 14, the applicant describes the facility's procedures for involvement of family in the counseling process.
- (5) *Provision of an aftercare plan; and*
 - C- In Section II.2(e), page 14, the applicant describes the facility's aftercare plan.
- (6) *Quality assurance / utilization review plan.*
 - C- In Section II.2(a), page 14, the applicant states it "will establish a QA/QI staff member to assure quality of services rendered." In addition, the applicant states it will utilize client surveys.
- (e) *An 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 intensive treatment beds.*
 - C- In the supplemental information received on September 26, 2014, the applicant provides sufficient documentation of efforts to establish working relationships with potential referral sources.
- (f) *An 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 chemical dependency treatment facility.*
 - NC- The supplemental information received on September 26, 2014 suggests that some services will be provided through contracts or agreements. The discussion regarding staffing found in Criterion (7) is incorporated herein by reference. However, the applicant does not provide copies of any proposed contracts or agreements or letters of intent to develop contracts or agreements

for the provision of services to the clients served in the proposed substance abuse facility. Therefore, the application is nonconforming with this Rule.

- (g) *An applicant shall document the provisions that will be made to obtain services for patients with a dual diagnosis of chemical dependency and psychiatric problems.*
- C- In Section II.2(f), page 15, the applicant states it will “*link our clients with local Mental Health Providers to ensure that the psychiatric needs are being addressed.*”
- (h) *An applicant proposing to establish new intensive treatment 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 XI.1, page 46, the applicant states that the proposed facility will be developed in an existing building located at 177 Cardinal Avenue in Lumberton. There is nothing in the original application or exhibits to document ownership of the building; however, in Exhibit 1 of the application copy, the applicant provides a copy of an HUD settlement agreement that confirms that the owners of the LLC purchased the building.
- (i) *An applicant proposing to establish new intensive treatment beds shall document that the services will be provided in a physical environment that conforms with the requirements in 10A NCAC 27G .0300 which are incorporated by reference including all subsequent amendments.*
- NC- In Section II.1(d), page 10, the applicant states:

“Community Outreach Youth Services has reviewed the following, NC Licensure/Standards: Program 10 NCAC 27G (.5600) General Policies & Procedures established by NC DHHS.”

However, based on discussions with staff in the Construction Section, DHSR, the applicant may be required to make changes to the building. In an email, a copy of which was sent to the applicant on September 10, 2014, the Construction Section states:

“the facility located at 177 Cardinal Avenue in Lumberton was previously licensed under the DHSR – Mental Health Licensure and Certification Section as a .1700 program – Residential Treatment Staff Secure for Children and Adolescents for a capacity of four. It was originally licensed in 2002 and was classified under the NCSBC - Section 421.2 as a Residential Care Home

which allowed the facility to be classified as a single family dwelling but required it to meet the additional safety features listed under that Section of the Code

*If this facility were to request to be licensed today for a capacity of eight residents, it would be re-classified most likely under Section 425.4 – Small Non-ambulatory Care Facilities which also requires it to meet the listed requirements under Section 425.3 – Small Residential Care Facilities. Section 425.3.1 requires the building to be EITHER 1-hour rated construction or sprinkled with a system meeting (National Fire Protection Association) NFPA 13D. Since this facility most likely is not built to 1-hour rated construction then they would be required to put in a sprinkler system. When they put in the sprinkler system, it then meets the requirement under Section 425.4.1. Section 425.4 clearly states the facility shall (also) meet the requirements for Small Residential Care Facilities that are listed under Sections 425.3.2 through 425.3.11. The main building upgrades for this reclassification would be providing **the sprinkler system**, remote exits, **enclosed exit stairways if 2-stories**, current smoke detection, **building fire alarm system**, Class C finish, and no heaters.” [emphasis in original].*

The applicant did not provide sufficient information in the application or the supplemental information received on September 26, 2014 to document that the proposed services can be developed and offered in the existing building without renovations.

10A NCAC 14C .2503 PERFORMANCE STANDARDS

(a) *An applicant proposing additional intensive treatment beds shall not be approved unless overall occupancy, over the nine months immediately preceding the submittal of the application, of the total number of intensive treatment beds within the facility in which the beds are to be located has been:*

- (1) *75 percent for facilities with a total of 1 through 15 intensive treatment beds;*
or
- (2) *85 percent for facilities with a total of 16 or more intensive treatment beds.*

-NA- This application is for a new facility.

(b) *An applicant shall not be approved unless the overall occupancy of the total number of intensive treatment beds to be operated in the facility is projected by the fourth quarter of the third year of operation following completion of the project, to be:*

- (1) *75 percent for facilities with a total of 1 through 15 intensive treatment beds;*
or
- (2) *85 percent for facilities with a total of 16 or more intensive treatment beds.*

-NC- In the supplemental information received on September 26, 2014, the applicant provides projected occupancy of the proposed facility for the first 12 quarters of operation following completion of the project. The utilization rate in the fourth quarter of the third operating year is projected to be 100%. However, the applicant does not adequately demonstrate that projected utilization is based upon reasonable and adequately supported assumptions. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. Therefore, the application is nonconforming with this Rule.

(c) *The applicant shall document the specific methodology and assumptions by which occupancies are projected, including the average length of stay and anticipated recidivism rate.*

-NC- The applicant does not adequately document the specific methodology and assumptions by which it projected occupancy. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. Therefore, the application is nonconforming with this Rule.

10A NCAC 14C .2504 RESERVED FOR FUTURE CODIFICATION

10A NCAC 14C .2505 STAFFING AND STAFF TRAINING

(a) *An applicant proposing to establish new intensive treatment beds shall document that clinical staff members will be:*

- (1) *currently licensed or certified by the appropriate state licensure or certification boards; or*
- (2) *supervised by staff who are licensed or certified by the appropriate state licensure or certification boards.*

-C- In Section VII.5, page 29, the applicant states:

“Community Outreach Youth Services has consoled [sic] with individuals that are licensed by the appropriate state licensure boards and arrangements have been made for them to serve as the clinical staff member upon approval of the proposed project. Due to circumstances surrounding the release of their licensure information, the individual was skeptical about releasing the necessary documentation.”

(b) *An applicant proposing to establish new intensive treatment beds shall document that the staffing pattern in the facility is consistent with the staffing requirements contained in 10A NCAC 27G which are incorporated by reference including all subsequent amendments.*

-NC- In Section VII.6, page 29, the applicant states:

“Community Outreach Youth Services has provided documentation for our Qualified Professional staff members that demonstrates the consistence [sic] with the staffing requirements contained in 10A NCAC 27G (see Exhibit 10).”

Exhibit 10 contains a copy of temporary certificate of need rules from 2001, none of which are relevant to this Rule. The applicant does not provide sufficient information in the application or the supplemental information received on September 26, 2014 to adequately document that the staffing pattern in the facility will be consistent with the staffing requirements contained in 10A NCAC 27G. The discussion regarding staffing found in Criterion (7) is incorporated herein by reference. Therefore, the application is nonconforming with this Rule.