

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

DECISION DATE: January 27, 2015

PROJECT ANALYST: Tanya S. Rupp

TEAM LEADER: Lisa Pittman

PROJECT I.D. NUMBER: J-10316-14 / Liberty Healthcare Properties of Lee Tramway, LLC and Liberty Commons Nursing and Rehabilitation Center of Lee Tramway, LLC d/b/a Westfield Rehabilitation and Health Center / Construct an addition and relocate within Lee County 20 adult care home beds from A Step From Home Residential Care Facility to Westfield Rehabilitation and Health Center / Lee 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 applicants for this proposed project are Liberty Healthcare Properties of Lee Tramway, LLC (Liberty Properties), and Liberty Commons Nursing and Rehabilitation Center of Lee Tramway, LLC (Westfield Rehabilitation and Health Center). Within these findings, the applicants may be referred to collectively as either the applicants or Westfield.

The applicants currently operate an 83-bed nursing facility (Westfield Rehabilitation and Health Center) located at 3100 Tramway Road in Sanford. The applicants propose to acquire 20 licensed but not operational adult care home (“ACH”) beds from an existing facility (A Step From Home Residential Care Facility), located at 544 Cox Maddox Road in Sanford. Both facilities are located in Lee County. Westfield also proposes to construct a 9,725 square foot addition to its existing nursing facility in order to accommodate the 20 ACH beds proposed to be added. The A Step From Home Residential Care Facility’s 20 licensed but not operational ACH beds are listed in the inventory of ACH beds in Chapter 11, Table 11A,

of the 2014 State Medical Facilities Plan (“SMFP”). The proposed project does not involve the addition of any new health service facility beds, services or equipment for which there is a need determination in the 2014 State Medical Facilities Plan (SMFP).

However, the following policies are applicable to this review:

- Policy LTC-2: Relocation of Adult Care Home Beds
- Policy NH-8: Innovations in Nursing Facility Designs
- Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities

Policy LTC-2: Relocation of Adult Care Home Beds states

“Relocations of existing licensed adult care home beds are allowed only within the host county and to contiguous counties currently served by the facility. Certificate of need applicants proposing to relocate licensed adult care home beds to contiguous counties shall:

- 1. Demonstrate that the proposal shall not result in a deficit in the number of licensed adult care home beds in the county that would be losing adult care home beds as a result of the proposed project, as reflected in the State Medical Facilities Plan in effect at the time the certificate of need review begins, and*
- 2. Demonstrate that the proposal shall not result in a surplus of licensed adult care home beds in the county that would gain adult care home beds as a result of the proposed project, as reflected in the State Medical Facilities Plan in effect at the time the certificate of need review begins.”*

Both the existing and proposed locations are in Lee County. The application is consistent with Policy LTC-2.

Policy NH-8: Innovations in Nursing Facility Designs states:

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

In Section III.4, pages 22 - 23, the applicants describe the innovative designs and approaches in health care practices that are a part of the existing facility, and which were implemented when the facility was completed in August 2013. The applicants state the proposed addition will *“adhere to the same principles of Policy NH-8 that were incorporated into the design, construction, and operation of the current facility.”*

The application is consistent with Policy NH-8.

Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities states:

“Any person proposing a capital expenditure greater than \$2 million to develop, replace, renovate, or add to a health service facility pursuant to G.S. 131E-178 shall include in its certificate of need application a written statement describing the project’s plan to assure improved energy efficiency and water conservation.

In approving a certificate of need proposing an expenditure greater than \$5 million to develop, replace, renovate, or add to a health service facility pursuant to G.S. 131E-178, the Certificate of Need Section shall impose a condition requiring the applicant to develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy GEN 4.

Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. 131E-184 are required to submit a plan for energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy-GEN 4. The plan shall not adversely affect patient or resident health, safety, or infection control.”

In Section III.4, page 23, the applicants describe the proposed project’s plan to assure improved energy efficiency and water conservation. The application is consistent with Policy GEN-4.

In summary, the application is conforming to all applicable policies in the 2014 SMFP. Therefore, the application is 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.

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The applicants propose to relocate 20 licensed but not operational ACH beds within Lee County. The applicants plan to acquire the 20 ACH beds from A Step From Home Residential Care Facility, located in Sanford, and transfer the beds to Westfield Rehabilitation

and Health Center, which is likewise located in Sanford. The 20 ACH beds would be situated in a new wing to be constructed at Westfield, which was completed in August of 2013. A Step From Home Residential Care Facility’s 20 existing but not operational ACH beds are listed in the inventory of ACH beds in Chapter 11, Table 11A, page 231 of the 2014 State Medical Facilities Plan (“SMFP”).

Population to be Served

In Section III.8, page 26, the applicants provide the current patient origin at Westfield, as illustrated in the table below.

FFY 2013 Patient Origin

COUNTY	% OF NF ADMISSIONS
Lee	81.5%
Chatham	6.5%
Cumberland	6.0%
Harnett	2.4%
Wake	1.8%
Moore	1.2%
Mecklenburg	0.6%
Total	100.0%

In Section III.9, page 26, the applicants provide the projected patient origin for the nursing facility and adult care home beds at Westfield, as shown in the table below.

FFY 2018 Projected Patient Origin

COUNTY	% OF NF ADMISSIONS	% OF ACH ADMISSIONS
Lee	81.5%	85.0%
Chatham	6.5%	10.0%
Cumberland	6.0%	5.0%
Harnett	2.4%	0.0%
Wake	1.8%	0.0%
Moore	1.2%	0.0%
Mecklenburg	0.6%	0.0%
Total	100.0%	100.0%

On page 29, the applicants state:

“The applicants expect the ACH admissions to closely mirror what Westfield has experienced with its skilled nursing beds. It is expected that Lee County resident admissions will be somewhat higher because of the smaller number of ACH beds relative to the eighty-three NF beds that are currently licensed at Westfield. It is expected that approximately 85%, or seventeen of the twenty beds, will be occupied by residents originating from Lee County. The applicants expect to receive a few residents from Chatham County, which is contiguous to Lee County and is projected to be at capacity with its ACH beds and to have a one ACH bed deficit according to the proposed 2015 NC SMFP. Also similar to Westfield's current

admission experience the applicants project that one resident will originate from Cumberland County.”

The applicants adequately identify the population to be served.

Analysis of Need

In Section III.1, pages 18 - 20, the applicants describe the current state of ACH services in Lee County and the need to relocate the 20 existing ACH beds from A Step From Home Residential Care Facility, pointing out that the surplus of ACH beds reported in the 2014 SMFP is a reflection of outdated facilities with few private rooms, placing private pay patients in semi-private rooms. The following points summarize the remainder of applicants' statements:

- The 20 ACH beds that are the subject of this application are currently licensed but not operational because they are located in a facility that has closed.
- Lee County does not currently have a facility that offers multiple levels of care; therefore, patients must be transferred in and out of facilities as their health care needs change. This is not only burdensome, but potentially costly as well.
- This application proposes a facility with both nursing facility beds and ACH beds to accommodate patients' desire to "age in place" as health care needs change.
- Lee County needs additional private ACH beds. Part of the low utilization is, according to the applicants, a result of existing facilities utilizing semi-private rooms as private rooms for private pay patients in response to patient demand.
- The applicants state the surplus of ACH beds reflected in the 2014 SMFP is lower than reported because of the age and condition of the existing facilities, as well as the use of semi-private rooms for private pay patients.
- Existing Lee County ACH facilities are between 16 – 40 years old
- Some existing Lee County ACH facilities present quality of care issues. In fact, according to the applicant, 42% of Lee County ACH beds are in two facilities with quality of care issues.
- Lee County needs a new, state-of-the-art facility in which to offer quality NF and ACH services to Lee County patients in need of those services.

Additionally, the applicants state that providing a multi-level system of care in one new and updated facility will bring an increased level of care to those people in need of adult care home services in Lee County and in the rest of its service area.

In supplemental information provided to the Agency, the applicants state that since the facility began operating at the new site in August 2013, the utilization has increased from 68% to 81.4%. The applicants state:

“Westfield, with its new, state of the art therapy gym, immediately saw a large volume of short term rehabilitation admissions, contributing to initial fluctuation

in the facility's census. Since June 2014 Westfield's short term rehabilitation patient population has continued to remain high and the long-term care population has increased, which in turn has started to stabilize and raise the overall occupancy of the facility. For the months July 2014 – October 2014 Westfield's average occupancy was 81.4% with 8,313 occupied nursing days out of a possible 10,209 nursing days."

The applicant provided a table, reproduced below, to show the most recent growth in occupancy:

	7 / 14	8 / 14	9 / 14	10 / 14	TOTAL
Actual Days	2,189	1,991	1,968	2,165	8,313
Possible Days	2,573	2,573	2,490	2,573	10,209
% Occupancy	85.08%	77.38%	79.04%	84.14%	81.43%

With regard to utilization projections, the applicants further state:

*"An increase in Westfield's census from 84% in October 2014 to 94% in October 2017 represents an increase of roughly 8 patients. This growth translates to Westfield increasing its average census by roughly 3 patients **per year** over the next three years." [emphasis in original.]*

The applicants provide population data for the area that shows that the age 65 and over population group in Lee County is projected to grow by 17.6% between 2015 and 2020, with a Compound Annual Growth Rate of 3.3% during that same time. Thus, the applicants state, the demand for skilled nursing and adult care services will also likely increase.

In Exhibit 12, the applicants provide 18 letters from local physicians and other healthcare professionals in the area. Each of the letters states in part:

"Currently Westfield does not have any licensed adult care beds and there is not a combination facility with both adult care home and skilled nursing beds. This is an important part of the 'continuum of care' and 'aging in place' themes. Without both levels of care in one facility, residents are forced to transfer to different facilities as they require different levels of care. This disrupts a person's lifestyle and thrusts them into a new community of people, all of which reduces the quality of life of the resident."

The letters that have been signed by physicians state a willingness to refer patients to Westfield. The letters that were signed by other healthcare professionals confirm the need in the county for the services being proposed by Westfield Rehabilitation and Health Center.

Projected Utilization

In Section IV, pages 30 - 31, the applicants project utilization of the entire facility (83 nursing facility beds and 20 ACH beds for the first two full federal fiscal years (FFYs) based on historical data, as illustrated in the table below.

	1ST FULL FFY (10/1/17 – 9/30/18)	2ND FULL FFY (10/1/18 – 9/30/19)
Nursing Facility Beds		
Patient Days	28,470	28,470
Occupancy Rate	94.0%	94.0%
Number of Beds	83	83
Adult Care Home Beds		
Patient Days	6,322	6,570
Occupancy Rate	87.0%	90.0%
Number of Beds	20	20

As shown in the table above, in the second FFY of operation, Westfield projects the 20 ACH beds will operate at 90.0% of capacity [(6,570 days / 365 days per year) / 20 beds = 0.900 or 90.0%].

Furthermore, based on 2014 License Renewal Application data, there were 235 ACH admissions in Lee County in FY 2013, which averages 4.5 admissions per week [235 / 52 weeks = 4.5]. The applicants report that there were 245 Lee County ACH admissions in FY 2013, averaging 4.7 admissions per week; however, when the analyst reviewed the LRAs, the data showed a total of 235 ACH admissions in the licensed ACH facilities in Lee County that completed a 2014 LRA. The difference between 4.7 and 4.5 average weekly admissions is not critical in this review.

In addition to the projected growth in the population age 65 and over, and the referral letters provided by the applicants as discussed above, the applicants base projected utilization on extensive pre-opening marketing efforts, which will result in 10 new ACH admissions in the first four weeks, thus averaging 2.5 admissions per week. Considering that in all of FY2013 there was an average of 4.5 Lee County ACH admissions per week as noted above, the projections put forth by the applicants are reasonable. The applicants state that, based on local market conditions and pre-opening marketing efforts, *“roughly half of the patients needing ACH placement would choose the new facility”* proposed in this application over the antiquated and lower rated facilities. In addition, in order to reach the projected 90% occupancy by the end of the first full federal fiscal year, the facility must have 18 net admissions for the year, which is an average of 1.5 admissions per month. The 2013 Lee County average of 245 ACH admissions equals 20 per month, which exceeds 1.5 per month. Moreover, the applicant projects 61% of the ACH beds (11 of 18) will be County Assistance residents; therefore, Westfield can help to alleviate the increasing problem of trying to find placement for this underserved population.

Access

In Section VI, page 37, the applicants report the following historical payor mix for Westfield NF beds:

FFY 2013 Historical Payor Mix

PAYOR SOURCE	% OF NURSING PATIENTS
Private Pay	3.1%
Medicare	11.9%
Medicaid	75.6%
Hospice	9.0%
Other (HMA, VA, various)	0.4%
Total	100.0%

Since the 20 ACH beds that are proposed in this application to be relocated are currently unoccupied and not operational, no medically underserved residents are being served by those beds.

Once the ACH beds are operational, the applicants project that 61.11% of the ACH patient days will be County Assistance days.

Conclusion

In summary, Westfield adequately identifies the population to be served, and adequately demonstrates the need to relocate 20 existing ACH beds in Lee County. Furthermore, Westfield adequately demonstrates the extent to which medically underserved groups will have access to the proposed adult care home services following the relocation of those beds to the existing nursing facility. Therefore, the application is conforming to this criterion.

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

C

The applicants propose to relocate 20 licensed but not operational ACH beds from one facility to a nursing facility within Lee County. Both facilities are in Sanford, in Lee County. Because the beds to be relocated are currently not occupied, no patients will be displaced as a result of the proposed project.

Furthermore, the applicants project 61.11% of all resident days for the ACH beds will be provided to County Assistance recipients. At present, no medically underserved residents are being served by the 20 ACH beds, since those beds are currently not operational.

The application is conforming to this criterion.

- (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.

CA

In Section III.2, page 21, the applicants discuss the alternatives considered prior to the submittal of this application, which include:

- 1) Maintain the Status Quo - The applicants dismissed this alternative based on the need of the residents of Lee County that would go unmet if the beds were to be left licensed and not operational. In addition, the applicants determined that the surplus identified in Lee County for ACH beds is a result of poor quality, antiquated facilities, and at least one facility operating below licensed capacity in order to accommodate demand for private rooms. Therefore, doing nothing would not be in the best interest of those patients in Lee County who are in need of ACH services.
- 2) Build a new facility for the 20 ACH beds – the applicants dismissed this alternative because it would be too costly for only 20 beds; and the facility would not successfully achieve operational efficiency.
- 3) Acquire the 20 ACH beds and relocate the beds to Westfield - the applicants concluded that the proposal to acquire 20 ACH beds and add them to the existing nursing facility represented the most effective alternative to meet the unmet need for ACH services in Lee County, and to provide increased access to those services. Thus, the applicants concluded that the project as proposed was their least costly and most effective alternative.

The applicants propose to replace and relocate 20 existing but not operational ACH beds within the same county; the applicants do not propose to develop new ACH beds.

Furthermore, the application is conforming to all applicable statutory and regulatory review criteria, and thus, the application is approvable. An application that cannot be approved is not an effective alternative.

The applicants adequately demonstrated that the proposal is their least costly or most effective alternative to meet the need to replace and relocate the 20 ACH beds from a non-operational facility to an existing nursing facility. Consequently, the application is conforming to this criterion and is approved subject to the following conditions.

- 1. Liberty Healthcare Properties of Lee Tramway, LLC and Liberty Commons Nursing and Rehabilitation Center of Lee Tramway, LLC, d/b/a Westfield Rehabilitation and Health Center shall materially comply with all representations made in the certificate of need application and supplemental information provided to the Agency. If the information provided conflicts, Liberty Healthcare Properties of Lee Tramway, LLC and Liberty Commons Nursing and Rehabilitation Center of Lee Tramway, LLC, d/b/a Westfield Rehabilitation and Health Center shall comply with the last made representation.**
 - 2. Liberty Healthcare Properties of Lee Tramway, LLC and Liberty Commons Nursing and Rehabilitation Center of Lee Tramway, LLC, d/b/a Westfield Rehabilitation and Health Center shall relocate no more than 20 ACH beds from A Step From Home Residential Care Facility to its existing nursing facility, for a facility total of no more than 83 nursing facility beds and 20 adult care home beds at Westfield Rehabilitation and Health Center.**
 - 3. For the first two years of operation following completion of the project, Liberty Healthcare Properties of Lee Tramway, LLC and Liberty Commons Nursing and Rehabilitation Center of Lee Tramway, LLC, d/b/a Westfield Rehabilitation and Health Center shall not increase actual private pay charges more than 5% of the projected private pay charges provided in Section X of the application, without first obtaining a determination from the Agency that the proposed increase is in material compliance with the representations in the certificate of need application.**
 - 4. Liberty Healthcare Properties of Lee Tramway, LLC and Liberty Commons Nursing and Rehabilitation Center of Lee Tramway, LLC, d/b/a Westfield Rehabilitation and Health Center shall provide care to recipients of State/County Special Assistance with Medicaid consistent with the representations made in Section VI. 2.**
 - 5. Liberty Healthcare Properties of Lee Tramway, LLC and Liberty Commons Nursing and Rehabilitation Center of Lee Tramway, LLC, d/b/a Westfield Rehabilitation and Health Center shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**
- (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.

In Section VIII.1, page 53, the applicants project the total capital cost for the proposal will be \$2,287,230, which includes:

Site Costs	\$ 179,680
Construction Costs	\$1,834,250
Equipment and Furniture	\$ 160,000
Consultant Fees	<u>\$ 113,300</u>
Total:	\$2,287,230

In Section VIII.2, page 54, the applicants indicate that the capital cost of the project will be financed by the equity of the owners: John A. McNeill Jr. and Ronald B. McNeill. In Section IX, page 57, the applicants state that total working capital needed is \$80,139. On page 61, the applicants state that the working capital will be financed by owner’s equity.

Exhibit 15 contains a copy of an August 7, 2014 letter from the CPA for John A. and Ronald McNeill, which states:

“I am the CPA for both Mr. John A. McNeill, Jr. and Mr. Ronald McNeill. I understand that they have agreed to provide the funding for the capital costs and working capital associated with a proposed addition to the Westfield Rehabilitation and Health Center and the relocation and addition of twenty adult care home beds.

I am aware of the McNeill’s financial status, including current liabilities and debt obligations and I will attest that John A. McNeill Jr. and Ronald B. McNeill each have in excess of \$2,000,000 in cash, stocks, or short term investments in order to fund the construction and operation of the proposed addition, including any working capital, start-up and capital expenditures associated with the project.”

The applicants adequately demonstrate the availability of sufficient funds for the capital and working capital needs for this project.

In Section X, pages 66 - 67, the applicants projected charges/rates for the first two operating years following completion of the project. The monthly private pay charge for nursing facility beds is projected to be \$195.00 for a private room and \$170.00 for a semi-private room in each of the first two full federal fiscal years, as shown in the following table:

Source of Payment by Type of Care	First Federal Fiscal Year (FFY 2018)		Second Federal Fiscal Year (FFY 2019)	
	Private Room	Semi-Private Room	Private Room	Semi-Private Room
Nursing Unit				
Private Pay	\$195.00	\$170.00	\$195.00	\$170.00
Commercial Insurance	\$195.00	\$170.00	\$195.00	\$170.00
Medicare	\$429.49	\$429.49	\$429.49	\$429.49
Medicaid	\$167.76	\$167.76	\$167.76	\$167.76

Adult Care Home Unit				
Private Pay	\$168.00*	\$168.00*	\$168.00*	\$168.00*
County Assistance	\$57.11	\$57.11	\$57.11	\$57.11

*In Section XII, page 81, the applicants state the rate of \$168.00 for Private Pay in the ACH Unit is a blended rate, calculated as 80% of a private room rate of \$170 and 20% of a semi-private room rate of \$160 [(\$170 x .80) + (160 x .20) = 168].

Furthermore, in Forms B and C, the applicants project that revenues will exceed operating costs in both the first and second full federal fiscal year following completion of the proposed project, as shown in the table below.

	NURSING FACILITY BEDS*	ADULT CARE HOME BEDS	TOTAL FACILITY
First Full Project Year (FFY 2018)			
Revenues	\$7,389,796	\$642,845	\$8,032,641
Operating Costs	\$6,581,360	\$620,721	\$7,202,082
Net Income	\$ 808,435	\$ 22,124	\$ 830,559
Second Full Project Year (FFY 2019)			
Revenues	\$7,389,796	\$660,521	\$8,050,317
Operating Costs	\$6,574,959	\$629,454	\$7,204,413
Net Income	\$ 814,837	\$ 31,068	\$ 845,904

*The applicants do not propose to develop a special care unit, though in Section III they state they will provide dementia care if needed.

Westfield adequately demonstrates that projected revenues and operating costs are based on reasonable and adequately supported assumptions, including projected utilization. See discussion of projected utilization in Criterion (3) which is incorporated herein by reference.

In summary, Westfield adequately demonstrates the availability of sufficient funds for the capital and working capital needs of the project and adequately demonstrates that the financial feasibility of the proposal is based upon reasonable projections of operating costs and revenues. Therefore, the application is conforming to this criterion.

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

C

The applicants propose to relocate 20 licensed but not operational ACH beds within Lee County. Westfield Rehabilitation and Health Center is an existing nursing facility in Lee County that is acquiring the 20 ACH beds from A Step From Home Residential Care Facility, also in Lee County. A Step From Home Residential Care Facility's 20 ACH licensed but not operational ACH beds are currently listed in the inventory of ACH beds in Chapter 11, Table 11A, of the 2014 SMFP. Therefore, the proposed project would not result in an increase in the inventory of ACH beds in Lee County.

There are currently a total of six existing facilities in Lee County that offer adult care home services: A Step From Home Residential Care Facility, Ashewood Estates Retirement Center, Oakhaven Home, Oakhaven II, Parkview Retirement Center, and Victorian. The table below illustrates the occupancy of each as reported by the applicant in Section III.5, page 24.

FFY 2013 Occupancy of Adult Care Homes in Lee County

	TOTAL DAYS OF CARE	# OF BEDS	OCCUPANCY RATE	AGE OF FACILITY (YRS)
A Step From Home Residential Care Facility*	--	20	--	NA
Ashewood Estates Retirement Center	10,056	85	32.4%	16
Oakhaven Home	10,220	40	70.0%	40
Oakhaven II	3,285	12	75.0%	30
Parkview Retirement Center	24,820	116	58.6%	26
Victorian	5,721	50	31.3%	19
Total/Average Lee County	54,102	323	45.9%	26

*According to information in the 2014 LRA, this facility did not accept patients in FY 2013.

In Section III.1, page 19, the applicants discuss the 90 ACH bed surplus in Lee County reported in the 2014 SMFP. The applicants also discuss the low utilization of other Lee County facilities. In addition, some of the ACH facilities in Lee County have quality of care issues, many are outdated, and several are using semi-private rooms for private patients, in order to meet patient demand. All of these factors, according to the applicants, combine to present an artificially deflated County-wide utilization rate. Citing information obtained from the North Carolina Division of Health Service Regulation, Adult Care Licensure and Certification website, the applicants state:

“To receive a zero star rating, a facility has to receive a facility rating score of 69.9 or lower. In its latest complaint survey in November of 2013 Ashewood Estates received a score of 4.75 with six (6) Type A violations, three (3) Type B violations, and a suspension of admissions. Subsequent to the follow-up survey in February 2014 the facility was only able to bring its facility rating score to 29.75 which is still far below what is required for a one star facility. The Victorian did not fare much better in its latest complaint survey in December 2013 in which it was cited with five (5) Type B violations and a suspension of admissions with an overall facility rating score of 42.25. After the follow-up survey the facility had its suspension of admissions lifted but still received a zero star rating. Clearly these two facilities have recurring care issues, making them a less desirable option for the residents of Lee County. [citation omitted]”

The ACH landscape in Lee County consists of newer facilities (the newest being sixteen years old) with serious quality of care issues and very old facilities that are able to provide good quality care, but in aged and outdated facilities. The residents of Lee County need an option for ACH beds in a new facility that provides high quality of care. That option is most readily available at Westfield Rehabilitation and Health Center, which is brand new and is the only facility built within the last ten years in Lee County. Westfield has a four star overall facility rating as well as a four star rating for quality measures and will build a brand new addition to house the 20 ACH beds so that this population has their own dedicated area of the facility with living/dining space.”

The applicants adequately demonstrate that the proposed project would not result in the unnecessary duplication of existing or approved ACH beds in Lee County. Therefore, the application is 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.

C

The applicants propose to provide direct care staff twenty-four hours per day, seven days per week. In Section VII.4, page 50, the applicants state that by FFY 2019 (the second full federal fiscal year) the entire facility will be staffed by 57.56 direct care full-time equivalent (FTE) positions (49.84 in the NF and 7.72 in the ACH). The applicants project 2.36 direct care hours per patient day for the ACH beds. Adequate costs for the health manpower and management positions proposed by the applicants are budgeted in the pro forma financial statements. The applicants adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services. Therefore, the application is conforming to this criterion.

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

C

In Section II.4, pages 13-15, the applicants describe the ancillary and support services that will be provided by the facility or made available through agreements with other providers including dietary, transportation, dentistry, physician, therapy, recreation, personal care, housekeeping and laundry services. Westfield is an existing facility. In Section V.1, on pages 35-36, the applicants state that they contacted and received confirmation of continued support for the proposed project from the local social services agency as well as Central Carolina Hospital. Exhibits 11 and 12 contain documentation of continued support, as well as letters from local physicians indicating they will refer patients to the facility, including the new ACH

beds. The applicants adequately demonstrate that they will provide or make arrangements for the necessary ancillary and support services and that the proposed services will be coordinated with the existing health care community. Therefore, the application is 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.

C

The existing Westfield facility, located at 3100 Tramway Road in Sanford is 47,635 square feet, with 83 NF beds. The facility is a replacement facility, completed in August 2013, and was formerly called Lee County Nursing and Rehabilitation Facility. The applicants propose add a 9,725 square foot wing to the existing facility, for a facility total of 57,360 square feet upon project completion. According to the applicants in Section IX.8, page 75, there are currently 62 semi-private NF beds and 21 NF private beds. Upon completion of the new

construction there will be 62 semi-private NF and 21 private NF beds; and 4 semi-private and 16 private adult care home beds.

Total construction costs are projected to be \$1,834,250. Exhibit 22 contains a letter from an architect stating that the construction cost for the 20 bed addition would be \$1,667,500 which corresponds with line 7 on page 53 in application Table VIII.I.

In Section XI, pages 77 - 78, the applicants detail the energy and water saving features to be included in the proposed project which include: high energy heat pumps, ozone for the laundry, use of natural lighting and photovoltaic cells for the exterior lights to reduce the cost of energy consumption, electronic file storage and high efficiency windows.

The applicants adequately demonstrate that the cost, design and means of construction represent the most reasonable alternative and that the construction costs will not unduly increase costs and charges for health services. See discussion of costs and charges in Criterion (5) which is incorporated herein by reference. Therefore, the application is conforming to this criterion.

- (13) The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:
 - (a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

C

Westfield is an existing nursing facility with 83 NF beds. In Section VI.1, page 38, the applicants provide the current payor mix for the nursing facility, as illustrated in the table below.

August 2013 – June 2014

PAYOR	CURRENT NF DAYS AS A % OF TOTAL DAYS
Private Pay	9.03%
Commercial	1.20%
Medicare	36.03%
Medicaid	53.74%
Total	100.0%

The Division of Medical Assistance (DMA) maintains a website which provides the number of persons eligible for Medicaid in North Carolina, and estimates the

percentage of uninsured people for each county. The following table illustrates those percentages for the proposed service area and statewide.

	2010 Total # of Medicaid Eligibles as % of Total Population *	2010 Total # of Medicaid Eligibles Age 21 and older as % of Total Population *	CY2008-2009 % Uninsured (Estimate by Cecil G. Sheps Center) *
Lee	19%	7.2%	21.5%
Chatham	12%	4.1%	19.3%
Cumberland	18%	7.4%	20.3%
Harnett	17%	6.2%	20.3%
Wake	10%	3.3%	18.4%
Moore	14%	5.7%	18.5%
Mecklenburg	15%	5.1%	20.1%
Statewide	17%	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. This age group does not utilize the same health services at the same rates as older segments of the population, particularly the nursing facility services offered by Westfield.

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, as well as data sorted by age, race or gender. However, a direct comparison to the applicant's 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, handicapped, minorities or women utilizing health services.

The applicants demonstrate that medically underserved populations currently have adequate access to nursing services provided at Westfield. 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 applicant;

C

In Section VI.6, page 40, the applicants state

“There have been no civil rights access complaints filed against the existing facility or any related facilities.”

The application is conforming to this criterion.

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

C

In Section VI.3, page 39, the applicants project the following payor mix for the combination nursing and adult care home facility for the second full federal fiscal year (FFY 2018):

PAYOR	NURSING FACILITY DAYS AS A % OF TOTAL DAYS	ACH DAYS AS A % OF TOTAL DAYS
Private Pay	7.69%	38.89%
Commercial Insurance	5.13%	0.00%
Medicare	30.77%	0.00%
Medicaid	56.41%	0.00%
County Assistance	0.00%	61.11%
Total	100.00%	100.00%

The table shows the patients receiving Medicare, Medicaid, or County Assistance will comprise 87.18% of the nursing facility days and 61.11% of the adult care home days in the second federal fiscal year of operation. The applicants demonstrate that medically underserved populations will continue to have adequate access to the adult care home services provided by Westfield. Therefore, the application is 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 V.5, pages 35-36, the applicants state patients will have access to the nursing facility and adult care home services offered at Westfield by area physicians who have historically been referring patients. Westfield was formerly operated under the name Lee County Nursing and Rehabilitation, and the referral relationships developed under that name are projected to continue.

The applicants adequately demonstrate they offer a range of means by which residents will have access to the facility. Therefore, 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.

C

In Section V.1, page 35, the applicants state a training agreement with Central Carolina Community College is currently in place.

Exhibit 10 contains a copy of a signed training agreement with Central Carolina Community College, signed in 2008. The applicants state on page 35 that agreement will remain in place.

The applicants adequately demonstrate that the facility would accommodate the clinical needs of area health professional training programs. Therefore, the application is 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.

C

The applicants propose to relocate 20 existing but not operational ACH beds within Lee County. The applicants plan to acquire the 20 ACH beds from A Step From Home Residential Care Facility to Westfield Rehabilitation and Health Center (formerly Lee County

Nursing and Rehabilitation Center), both of which are located in Sanford, in Lee County. The 20 ACH beds would be situated in a new wing to be constructed at Westfield.

A Step From Home Residential Care Facility’s 20 ACH existing but not operational ACH beds are listed in the inventory of ACH beds in Chapter 11, Table 11A, page 231 of the 2014 State Medical Facilities Plan (“SMFP”).

There are currently a total of six existing facilities in Lee County that offer adult care home services: A Step From Home Residential Care Facility, Ashewood Estates Retirement Center, Oakhaven Home, Oakhaven II, Parkview Retirement Center, and Victorian. The table below illustrates the occupancy of each facility as reported by the applicant in Section III.5, page 24.

FFY 2013 Occupancy of Adult Care Homes in Lee County

	TOTAL DAYS OF CARE	# OF BEDS	OCCUPANCY RATE	AGE OF FACILITY (YRS)
A Step From Home Residential Care Facility*	--	20	--	NA
Ashewood Estates Retirement Center	10,056	85	32.4%	16
Oakhaven Home	10,220	40	70.0%	40
Oakhaven II	3,285	12	75.0%	30
Parkview Retirement Center	24,820	116	58.6%	26
Victorian	5,721	50	31.3%	19
Total/Average Lee County	54,102	323	45.9%	26

* According to information in the 2014 LRA, this facility did not accept patients in FY 2013.

In Section III, pages 18 – 19, the applicants describe quality and other facility issues with regard to the facilities in Lee County, and the resulting impact on the lower occupancy rates. The applicants state many of the facilities are largely outdated, and some have few or no private rooms; therefore, the patients who desire private rooms have been occupying semi-private rooms. As a result, the functional occupancy rate for those Lee County facilities is actually higher than the reported occupancy rate.

In Section III, pages 18 – 21, Westfield discusses how any enhanced competition in the service area will have a positive impact upon the cost-effectiveness, quality and access to the proposed services.

On page 25, the applicants state:

“This proposal will have a beneficial impact for the residents of Lee County. These twenty beds represent approximately 6% of the three hundred and twenty three total ACH beds in Lee County and therefore will have a minimal impact on existing facilities' admission rates. It will have an impact in that it will become the standard for Lee County residents' expectations for ACH care in the same way it has become the quality standard for skilled nursing care in the county. This will impact the existing facilities in that it will require them to update physical plants and improve quality of care in order to meet the expectations of the county residents. Westfield will likely draw the more acute ACH patients needing more care since these beds will be located in a facility that also has skilled nursing beds. These patients that require more attention and more care are also more costly to care for since they require more nursing hours per patient day than a typical ACH resident. Westfield, with RN's and LPN's already on staff, is more appropriately equipped to care for these residents which will help relieve other ACH facilities that may be staffing above their normal levels to care for these acute patients. Thus this proposal will help other existing facilities achieve better operating efficiencies and reduce overall costs.”

See also Sections II, III, V, VI and VII where the applicants discuss the impact of the project on cost-effectiveness, quality and access.

The applicants adequately demonstrate that any enhanced competition will have a positive impact on the cost-effectiveness, quality and access to the proposed services based on the information in the application and the following analysis:

- The applicants adequately demonstrate the need to relocate the 20 existing but not operational ACH beds within Lee County and that the proposed project is a cost-effective alternative to meet the documented need for adult care home services. See discussions regarding the analysis of need and alternatives found in Criteria (3) and (4), respectively, which are incorporated herein by reference.
- The applicants adequately demonstrate they will continue to provide quality services. The discussion regarding quality found in Criteria (1) and (20) is incorporated herein by reference.
- The applicants adequately demonstrate they will continue to provide adequate access to medically underserved populations. Presently, no medically underserved residents are being served by the 20 ACH beds to be relocated since those beds are currently not operational. The discussion regarding access found in Criteria (1) and (13) is incorporated herein by reference.

Therefore, the application is 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.

C

Westfield Rehabilitation and Health Center is an existing facility with 83 NF beds located in Sanford, in Lee County. The relocated facility opened under this name in August 2013. Formerly, the facility was known as Lee County Nursing and Rehabilitation Center. According to the records in the Adult Care Licensure Section of the Division of Health Service Regulation, within the eighteen months immediately preceding the date of this decision, there have been no issues with regard to quality of care issues.

- (21) Repealed effective July 1, 1987.
- (b) The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

C

The application is conforming to all applicable *Criteria and Standards for Nursing Facility or Adult Care Home Facility Services*, promulgated in 10A NCAC 14C .1100. The specific criteria are discussed below.

.1101 INFORMATION REQUIRED OF APPLICANT

- (a) *An applicant proposing to establish new nursing facility or adult care home beds shall project an occupancy level for the entire facility for each of the first eight calendar quarters following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.*

-NA- The applicants do not propose to establish new nursing facility or adult care home beds.

- (b) *An applicant proposing to establish new nursing facility or adult care home beds shall project patient origin by percentage by county of residence. All assumptions, including the specific methodology by which patient origin is projected, shall be stated.*

-NA- The applicants do not propose to establish new nursing facility or adult care home beds.

- (c) *An applicant proposing to establish new nursing facility or adult care home beds shall show that at least 85 percent of the anticipated patient population in the entire facility lives within a 45 mile radius of the facility, with the exception that this standard shall be waived for applicants proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, facilities that are fraternal or religious facilities, or facilities that are part of licensed continuing care facilities which make services available to large or geographically diverse populations.*

-NA- The applicants do not propose to establish new nursing facility or adult care home beds.

- (d) *An applicant proposing to establish a new nursing facility or adult care home shall specify the site on which the facility will be located. If the proposed site is not owned by or under the control of the applicant, the applicant shall specify at least one alternate site on which the services could be operated should acquisition efforts relative to the proposed site ultimately fail, and shall demonstrate that the proposed and alternate sites are available for acquisition.*

-NA- The applicants do not propose to establish new nursing facility or adult care home beds.

- (e) *An applicant proposing to establish a new nursing facility or adult care home shall document that the proposed site and alternate sites are suitable for development of the facility with regard to water, sewage disposal, site development and zoning including the required procedures for obtaining zoning changes and a special use permit after a certificate of need is obtained.*

-NA- The applicants do not propose to establish new nursing facility or adult care home beds.

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

-NA- The applicants do not propose to establish new nursing facility or adult care home beds.

.1102 PERFORMANCE STANDARDS

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

-NA- The applicants do not propose to add nursing facility beds to an existing facility.

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

-NA- The applicants do not propose to establish a new nursing facility or add nursing facility beds.

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

-NA- The applicants propose to add adult care home beds to an existing nursing facility; the existing facility does not currently have adult care home beds.

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

-C- In Section IV.2, pages 30 – 31, the applicants project occupancy during the first two full federal fiscal years of operation. On page 31, the applicants project occupancy to be 90% during the second full federal fiscal year of operation, as shown in the table below: See discussion of utilization assumptions and methodology in Criterion (3) which is incorporated herein by reference.

**Westfield Rehabilitation and Health Center
Second Project Year (Oct. 1, 2018 – September 30, 2019)**

	1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER	TOTAL
Pt. Days	1,656	1,620	1,638	1,656	6,570
# Beds	20	20	20	20	20
Occupancy	90.0%	90.0%	90.0%	90.0%	90.0%

As shown above, occupancy at Westfield Rehabilitation and Health Center is projected to be 90.0% for the total number of adult care home beds proposed to be operated for each quarter of the second year following completion of the proposed project. Therefore, the application is conforming to this rule.