

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: June 8, 2016

Findings Date: June 8, 2016

Project Analyst: Bernetta Thorne-Williams

Team Leader: Lisa Pittman

Project ID #: J-11127-16

Facility: The Cedars of Chapel Hill, DuBose Health Center

FID #: 001203

County: Durham

Applicant: The Cedars of Chapel Hill, LLC

The Cedars of Chapel Hill Club, Inc.

The Cedars of Chapel Hill Condominium Association

Project: Add 30 nursing facility beds pursuant to policy NH-2 for a total of 74 nursing facility beds and 4 adult care home beds upon project completion

### REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

G.S. 131E-183(a) The Agency 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 Cedars of Chapel Hill, LLC, The Cedars of Chapel Hill Club, Inc., and The Cedars of Chapel Hill Condominium Association propose to add 30 nursing facility beds pursuant to Policy NH-2 to The Cedars of Chapel Hill, DuBose Health Center. The applicants propose to have 74 licensed nursing facility beds and four adult care home beds at the Continuing Care Retirement Community (CCRC) located at 101 Green Cedar Lane, in Chapel Hill (Durham County), upon project completion.

There are no need determinations in the 2016 State Medical Facilities Plan (SMFP) applicable to the review of this proposal.

## **Policies**

There are two policies in the 2016 SMFP applicable to this review: Policy NH-2: Plan Exemption for Continuing Care Retirement Communities, and Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities.

Policy NH-2 states:

*“Qualified continuing care retirement communities may include from the outset or add or convert bed capacity for nursing care without regard to the nursing care bed need shown in Chapter 10: Nursing Care Facilities. To qualify for such exemption, applications for certificates of need shall show that the proposed nursing care bed capacity:*

- 1. Will only be developed concurrently with or subsequent to construction on the same site of facilities for both of the following levels of care:
  - a. independent living accommodations (apartments and homes) for people who are able to carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats, houses, cottages and rooms;*
  - b. licensed adult care home beds for use by people who, because of age or disability, require some personal services, incidental medical services, and room and board to assure their safety and comfort.**
- 2. Will be used exclusively to meet the needs of people with whom the facility has continuing care contracts (in compliance with the North Carolina Department of Insurance statutes and rules) who have lived in a non-nursing unit of the continuing care retirement community for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical condition requiring nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract.*
- 3. Reflects the number of nursing care beds required to meet the current or projected needs of residents with whom the facility has an agreement to provide continuing care after making use of all feasible alternatives to institutional nursing care.*
- 4. Will not be certified for participation in the Medicaid program.*

*One half of the nursing care beds developed under this exemption shall be excluded from the inventory used to project nursing care bed need for the general population. Certificates of need issued under policies analogous to this policy in the North Carolina State Medical Facilities Plans subsequent to the 1985 State Medical Facilities Plan are automatically amended to conform with the provisions of this*

*policy at the effective date of this policy. Certificates of need awarded pursuant to the provisions of Chapter 920, Session Laws 1983 or Chapter 445, Session Laws 1985 shall not be amended.”*

In Sections III.4, page 18, the applicants state:

*“The project specifically meets the letter and spirit of policy NH-2: ... because the facility includes from the on-set long-term nursing facility beds, without regard to the bed need shown in the State Medical Facilities Plan. Its long-term nursing bed capacity is developed concurrently with facilities for independent living accommodations. Therefore, nursing facility beds are used exclusively to meet the needs of persons with whom the facility has continuing care contracts, ... The facility is not (and will not be) certified for participation in the Medicaid program, but will reflect the number of beds required to meet the current or projected needs of the continuing care retirement community residents/Members.”*

The applicants adequately demonstrate conformance with the requirements of Policy NH-2.

Policy GEN-4 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 of 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.”*

The proposed capital expenditure for this project is greater than \$5 million. In Section XI, page 69, the applicants state how the proposed project will maintain efficient energy and conserve water conservation.

The applicants adequately demonstrate conformance with the requirements of Policy GEN-4.

**Conclusion**

In summary, the application is conforming with Policy NH-2 and Policy GEN-4. Therefore, the application is conforming with this criterion.

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

C

The applicants propose the addition of 30 nursing facility beds (24 private beds and 6 semi-private beds) pursuant to policy NH-2.

**Population to be Served**

On page 199, the 2016 SMFP defines the service area for nursing beds as the county in which the bed is located. Thus, the service area consists of Durham County. Facilities may serve residents of counties not included in their service area.

In Section III.8, page 19, the applicants identify the current and proposed patient origin for the CCRC, as illustrated below.

County	Current		Projected	
	NF Beds as % of Total	ACH Beds as of Total	NF Beds as % of Total	ACH Beds as of Total
Durham	97.7%	100.0%	100.0%	100.0%
Mecklenburg	2.3%	0.0%	0.0%	0.0%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

The applicants adequately identify the population proposed to be served.

**Analysis of Need**

On page 16 the applicants state The Cedars of Chapel Hill (The Cedars) operates 306 independent living units, 44 skilled nursing home (NH) beds and the four adult care home beds (ACH). In an effort to continue to provide a continuum of care to its residents, the Cedars propose to add an additional 30 skilled nursing beds to the existing DuBose Health Center.

In Section III.1(a) and (b), pages 16-17, the applicants describe the factors contributing to the need for additional nursing beds at the CCRC, as follows:

- An aging population (page 16).
- The CCRC has been at or near full capacity since 2014 (page 16).
- Other facilities have been used to meet the overflow needs (page 16)
- The CCRC provides for short-term and long-term stays (page 16).
- The CCRC has a waiting list for those who desire a private room (page 16).
- Eighteen residents living in Independent Living who receive 24 hour Home Care Services who would benefit from the availability of a nursing facility bed (page 16).
- Eight of the Independent Living patients have a diagnosis of Alzheimer’s or Dementia (page 17).

Projected Utilization

In Section IV.1, pages 22-24, the applicants provide projected utilization for the 74 NH beds and the four existing ACH beds through the first two full fiscal years (FFY) of operation following project completion (FY2018-FY2021), as summarized below.

**CCRC Projected Utilization**

	<b>FFY2018*</b>	<b>FFY2019</b>	<b>FFY2020</b>
Total Nursing Home Beds	74	74	74
Patient Days of Care	4,600	21,990	23,424
<b>Occupancy Rate</b>	<b>67.6%</b>	<b>81.4%</b>	<b>86.5%</b>
Total ACH Beds	4	4	4
Patient Days	368	1,460	1,464
<b>Occupancy Rate</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>
Total # of CCRC Beds	78	78	78
Total # of Patient Days	4,968	23,450	24,888
<b>Total Occupancy Rate</b>	<b>69.2%</b>	<b>82.4%</b>	<b>87.2%</b>

\*The applicants project 74 beds beginning with the 4<sup>th</sup> quarter of FY 2018. Projections for FFY 2018 are for are for the three-month period from July 1, 2018 to September 30, 2018.

As shown in the above table, the applicants project the CCRC will have an occupancy rate of 82.4% with the nursing bed component having 81.4% in the first full fiscal year of operation (FFY2019). The applicants also project that the entire CCRC will have 87.2% occupancy with 86.5% in the nursing bed components in the second full fiscal year of operation (FFY2020).

The applicants states the assumptions and methodology used to project utilization is based on the existing residents of The Cedars of Chapel Hill (see page 19). Projected utilization is based on reasonable and adequately supported assumptions.

Access

In Section III.1, pages 16-17, the applicants state that the proposed Policy NH-2 beds will be used exclusively to meet the needs of people with whom the facility has contracts. Additionally,

in Section VI.2, page 31, the applicants state that the facility is not and will not be certified for participation in the Medicaid program.

### **Conclusion**

In summary, the applicants adequately identify the population to be served, adequately demonstrate the need the population projected to be served has for the proposed project, and adequately demonstrates the extent to which all residents of the service area will have access to the services. 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.

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.

CA

In Section III.2, pages 17-18, the applicants describe the two alternatives considered prior to submitting this application for the proposed project, which include:

1. Maintain the Status Quo –The applicants state that maintaining the status quo is not an effective alternative due because the current number of beds cannot meet the needs of the residents.
2. Develop the project as proposed – The applicants state that the addition of 30 skilled nursing beds is the most effective alternative as the CCRC knew it would need to expand the facility, the only question was “*when the residents would require an expansion was left to be determined ... the timing for such an expansion is now appropriate.*”

Furthermore, the application is conforming to all other statutory and regulatory review criteria, and thus, is approvable. A project that cannot be approved cannot be an effective alternative.

In summary, the applicants adequately demonstrate that their proposal is the least costly or most effective alternative to meet the identified need. Therefore, the application is conforming to this criterion and approved subject to the following conditions.

1. **The Cedars of Chapel Hill, LLC, The Cedars of Chapel Hill Club, Inc., and The Cedars of Chapel Hill Condominium Association shall materially comply with all representations made in the certificate of need application.**
  2. **The Cedars of Chapel Hill, LLC, The Cedars of Chapel Hill Club, Inc., and The Cedars of Chapel Hill Condominium Association shall add no more than 30 Policy NH-2 nursing facility beds to its existing facility for a total of 74 nursing facility beds and 4 adult care home beds upon project completion.**
  3. **The 30 Policy NH-2 nursing facility beds shall not be certified for participation in the Medicaid program.**
  4. **The 30 Policy NH-2 nursing facility beds shall be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and regulations) who have lived in a non-nursing unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical condition requiring nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract.**
  5. **The 30 new Policy NH-2 nursing facility beds shall be developed on the same site with the independent living units.**
  6. **The Cedars of Chapel Hill, LLC, The Cedars of Chapel Hill Club, Inc., and The Cedars of Chapel Hill Condominium Association shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and Certificate of Need Section 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.

C

### **Capital and Working Capital Costs**

In Section VIII.1, page 44, the applicants project the total project capital cost will be \$8,363,227, as shown in the table below.

**Project Capital Cost**

Site Costs	\$917,963
Construction Contract Costs	\$5,664,131
Equipment & Furniture	\$1,079,720
Consultant Fees	\$701,413
<b>Total Capital Cost</b>	<b>\$8,363,227</b>

In Section IX, page 49, the applicants project there will be no start-up or initial operating expenses associated with the proposed project.

**Availability of Funds**

In Section VIII.2 page 45, the applicants state that the project will be funded through The Cedars of Chapel Hill, L.L.C cash flow. Exhibit 20 contains a February 9, 2016 letter signed by the President and CEO of The Cedars of Chapel Hill, which states:

*“This will confirm that The Cedars of Chapel Hill, L.L.C., the original developer of The Cedars, will construct and donate an addition to The DuBose Health Center that will contain 30 additional beds for skilled nursing care.*

*The entire cost of this addition will be paid by The Cedars of Chapel Hill, L.L.C so that no construction costs will be paid by The Cedars of Chapel Hill Club, Inc. or The Cedars of Chapel Hill Condominium Association.”*

Exhibits 22-24 of the application contain the audited financial statements for The Cedars of Chapel Hill, L.L.C, The Cedars of Chapel Hill Club, Inc., and The Cedars of Chapel Hill Condominium Association for the years ending December 31, 2013 and 2014. As of December 31, 2014, The Cedars of Chapel Hill, L.L.C had \$178,833 in cash and cash equivalents, \$2,978,372 in total assets, and \$206,546 member’s equity. (See Exhibit 22). As of December 31, 2014, The Cedars of Chapel Hill Club, Inc., had \$769,480 in cash, \$5,985,352 in total assets and \$960,207 in net loss (see Exhibit 23). As of December 31, 2014, The Cedars of Chapel Hill Condominium Association, had \$2,518,905 in cash, \$4,774,259 in total assets and \$4,774,259,000 in net assets (see Exhibit 24).

Additionally, in Exhibit 21 the applicants provide the following projections for the availability of funds to finance the proposed 30 bed expansion:

*“In January 2016, \$3,113,509 ... was disbursed from an escrow account to the Company.*

*For 2016, the projection is that an additional \$2,434,984 of cash will be generated, an additional \$2,531,835 in 2017 and \$2,631,909 in 2018. The cash from the escrow account plus the cash flow from operations for 2016 through 2018 total \$10,712, 237.”* [\$3,113,509 (escrow money) + 2,434,984 (2016 projected cash flow) + \$2,531,835 (2017 projected cash flow) + \$2,631,909 (2018 projected cash follow) = \$10,712,237].



Exhibit 19 contains a letter dated February 1, 2016 from the Senior Vice President of SunTrust Bank, which states:

*“This will confirm that SunTrust Bank is very interested in working with you to provide financing for the expansion of the DuBose Health Center.*

*We are interesting in providing up to \$5,000,000 should you need it ...”*

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

**Financial Feasibility**

In the pro forma financial statements (Form B and C) and supplemental information the applicants project that operating expenses will exceed revenues for the proposed service component in the first two full fiscal years of the project. There are discrepancies in Form B, which the applicants explain in supplemental information. Furthermore, the applicants project revenues for the entire CCRC will exceed operating expenses in the first two full fiscal years of the project, as shown in the tables below.

**The Cedars of Chapel Hill – Nursing Bed Component**

	<b>FY2018*</b>	<b>FY2019</b>	<b>FY2020</b>
Total Revenue	\$606,797	\$3,206,594	\$3,638,939
Total Operating Expenses	\$1,344,792	\$5,889,960	\$6,162,950
Net Income	(\$737,995)	(\$2,683,366)	(\$2,524,011)

**The Cedars of Chapel Hill - Entire Facility**

	<b>FY2018*</b>	<b>FY2019**</b>	<b>FY2020</b>
Total Revenue	\$5,553,034	\$23,569,204	\$24,620,664
Total Operating Expenses	\$5,340,577	\$22,618,799	\$23,549,114
Net Income	\$212,457	\$950,405	\$1,071,550

\*The applicants project 74 beds beginning with the 4<sup>th</sup> quarter of FY 2018. Projections for FFY 2018 are for the three-month period from July 1, 2018 to September 30, 2018.

\*\*Form B and C in supplemental information

The assumptions used by the applicants in preparation of the pro forma financial statements and supplemental information is reasonable, including projected utilization, costs and charges. See the financial section of the application and supplemental information for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. The applicants adequately demonstrate that the financial feasibility of the proposal is based upon reasonable projections of costs and charges. 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 purpose to add 30 nursing beds pursuant to Policy NH-2 of the 2016 SMFP. On page 199, the 2016 SMFP defines the service area for nursing facility beds as the county in which the bed is located. Thus, the service area consists of Durham County. Facilities may serve residents of counties not included in their service area.

According to the 2016 SMFP there are 1,312 licensed skilled nursing home beds in Durham. The 2016 SMFP, indicates there will be a surplus of 221 nursing beds in Durham County in 2019, as shown in the table below.

**Durham County Nursing Bed Need Projections for 2019**

<b>Total ACH Bed Need Projected in 2019</b>	<b>Currently Licensed</b>	<b>Planning Inventory</b>	<b>Surplus</b>	<b>Additional Beds Needed</b>
1,003	1,312	1,224	221	0

Source: Table 10B, 2016 State Medical Facilities Plan.

However, the applicants propose to add 30 nursing beds to an existing CCRC pursuant to Policy NH-2.

The applicants adequately demonstrate the need the population to be served has for 30 nursing beds. See Criteria (1) and (3) for discussion of the need for the proposed 30 beds. Consequently, the applicants adequately demonstrate that the proposed project will not unnecessarily duplicate existing or approved health service capabilities or facilities. 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.

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In Section VII.3, page 39, the applicants projects the staffing for the nursing beds in the second full fiscal year of operation (FY2020), as shown in the table below.

<b>Position</b>	<b>Number of Staff (FTE)</b>
Director of Nursing	1.0
Assistant Director of Nursing	1.0
Staff Development Coordinator	1.0
MDS Nurse	1.0
RNs	5.6
LPNs	14.0
CNAs	50.4
Medical Records Consultant	.75
Scheduling Coordinator	1.0
Dietician	1.0
Food Service Supervisor	1.0
Cooks	5.0
Dietary Aides	11.0
Social Services Director	1.0
Social Services Assistant	1.0
Activity Director	1.0
Activity Assistants	2.5
Housekeeping Supervisor	1.0
Housekeeping Aides	5.0
Maintenance Supervisor	1.0
Janitors	1.0
Maintenance Specialist	1.0
Administrator	1.0
Administrative Secretary	1.0
Bookkeeper	1.0
Receptionist	1.0
Billing Coordinator	1.0
<b>TOTAL</b>	<b>113.25</b>

Source: Table VII.3 pages 39-40.

On page 37, the applicants provide a table which illustrates the number of direct care staff per shift. In Section VII.4, page 43, the applicants provide the direct care nursing staff hours per patient day. The applicants project that patients will receive .53 RN, 1.32 LPN and 4.75 CNA direct care nursing hours per patient day for a total of 6.6 direct care hours per patient day.

Exhibit 14 contains a copy of a letter from J. Marvin McBride, M.D., expressing his willingness to continue serving as the Medical Director for The Cedars at Chapel Hill, DuBose Health Center. 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

Exhibit 8 contains agreements with various healthcare providers to include: pharmacy, physical, speech, and occupational therapies, durable medical equipment and medical supplies, and behavioral health services.

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 system. 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 applicants propose the addition of 30 nursing facility beds (24 private beds and 6 semi-private beds) pursuant to policy NH-2. The proposed project would require 21,908 square feet of new construction and 1,576 square feet of renovated space for a total of 55,553 square feet upon project completion.

Exhibit 32 contains a letter from Resolute Building Company that estimates the construction costs will total \$6,545,443, which roughly corresponds to the project capital cost projections for site and construction costs, respectively of (\$917,963 + \$5,664,131 = 6,582,094) provided in Section VIII.1, page 44. In Section XI.14, page 69, the applicants describe the methods that will be used by the facility to maintain efficient energy operations and contain the costs of utilities. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference. The applicants adequately demonstrate that the cost, design and means of construction represent the most reasonable alternative, and that the construction cost will not unduly increase costs and charges for health services. 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;

NA

Policy NH-2: Plan Exemption for Continuing Care Retirement Communities requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at The Cedars of Chapel Hill, DuBose Health Center for at least 30 days.

- (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

Policy NH-2: Plan Exemption for Continuing Care Retirement Communities requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at The Cedars of Chapel Hill, DuBose Health Center for at least 30 days.

- (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

NA

Policy NH-2: Plan Exemption for Continuing Care Retirement Communities requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at The Cedars of Chapel Hill, DuBose Health Center for at least 30 days.

- (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.

NA

Policy NH-2: Plan Exemption for Continuing Care Retirement Communities requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at The Cedars of Chapel Hill, DuBose Health Center for at least 30 days.

- (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 28, the applicants state The Cedars of Chapel Hill, The Dubose Health Center has agreements with Watts School of Nursing to provide clinical training for registered nurse (RN) and with Durham Technical Community College to provide training for certified nursing assistants (CNA). Exhibit 11 contains the agreements between Duke's Watts School of Nursing and Durham Technical Community College to use The Cedars of Chapel Hill, The Dubose Health Center as a clinical training site. The applicants demonstrate that the proposed health services will accommodate the clinical needs of health professional training programs in the area. 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.

NA

Policy NH-2: Plan Exemption for Continuing Care Retirement Communities requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at The Cedars of Chapel Hill, DuBose Health Center for at least 30 days.

- (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

In Section I.12, page 9, the applicants state it does not currently own, lease, or manage any other nursing home facilities in North Carolina. The applicants further state on page 9 that its management company, Life Care Services, has managed more than six facilities in North Carolina over the past 25 years. A Google search revealed four other facilities in North Carolina that provide skilled nursing services and are currently managed by Life Care Services. Those facilities are:

- Croasdaile Village, in Durham
- Cypress Glen Retirement Community, in Greenville
- Wesley Pines Retirement Community, in Lumberton
- WhiteStone: A Masonic and Eastern Star Community, in Greensboro

According to the Nursing Home Licensure and Certification Section, DHSR, within the 18 months immediately preceding the date of this decision, there were no incidents for which suspension of admissions, provisional license, or certification deficiencies that would constitute substandard quality of care were imposed on The Cedars of Chapel Hill. The only facility noted to provide substandard Quality of Care was Croasdaile Village as noted during a survey conducted on January 16, 2016. The facility was consequently brought back into compliance on February 11, 2016. After reviewing and considering the information provided by the applicants and by the Nursing Home Licensure and Certification Section, the applicants have provided evidence that quality care has been provided in the past and demonstrated that there is no pattern of substandard quality of care. Therefore, the application is conforming to this criterion

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

C

The proposal is conforming with all applicable Criteria and Standards for Nursing Facility or Adult Care Home Services in 10A NCAC 14C Section .1100, as indicated below.

**SECTION .1100 - CRITERIA AND STANDARDS FOR NURSING FACILITY OR ADULT CARE HOME SERVICES**

**.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.*
- C- In Section IV.I, page 21, the applicants provide the historical utilization for the nursing facility for the nine months immediately preceding the submittal of the application (May 1, 2015 – January 31, 2016), which illustrates the 44 nursing beds operated with 95.7% utilization. This exceeds the 90% utilization required for this rule.
- (b) *An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.*



- C- In Section IV.2, Table IV.2, pages 23-24, the applicants provide the projected utilization for the first two years following completion of the proposed project, as illustrated below.

	<b>FFY2018*</b>	<b>FFY2019</b>	<b>FFY2020</b>
Total Nursing Home Beds	74	74	74
Patient Days of Care	4,600	21,990	23,424
<b>Occupancy Rate</b>	<b>67.6%</b>	<b>81.4%</b>	<b>86.5%</b>

As illustrated above, the applicants project an 86.5% utilization in FY 2020. However, the applicants are applying for the additional 30 skilled nursing beds pursuant to Policy NH-2: Plan Exemption for Continuing Care Retirement Communities. This policy requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at The Cedars of Chapel Hill, DuBose Health Center for at least 30 days.

- (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 are not proposing to add adult care home beds to an existing facility.
- (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.*
- NA- The applicants are not proposing to add adult care home beds to an existing facility.