

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: October 27, 2017
Findings Date: October 27, 2017

Project Analyst: Celia C. Inman
Team Leader: Lisa Pittman

Project ID #: J-11378-17
Facility: Chatham County Rehabilitation Center
FID #: 130367
County: Chatham
Applicants: Liberty Healthcare Properties of Chatham County, LLC
Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC

Project: Relocate 25 NF beds from Legion Road Healthcare in Orange County to Chatham County Rehabilitation Center which is a change of scope for Project I.D. #J-10168-13 (develop a new 90-bed nursing facility in Chatham County) for a total of 115 NF beds upon completion of both projects

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

Liberty Healthcare Properties of Chatham County, LLC (Liberty Properties), and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC (Chatham County Rehabilitation Center), collectively referred to as “the applicants”, propose to acquire and relocate 25 nursing facility (NF) beds from Legion Road Healthcare in Orange County to Chatham County Rehabilitation Center, for a total of 115 NF beds, upon completion of

this project and Project ID #J-10168-13. This application is a Change of Scope application for Project ID #J-10168-13 (Develop a new 90-bed NF in Chatham County). Consistent with the previously approved Project ID #J-10168-13, Liberty Properties is the lessor and Chatham County Rehabilitation Center is the lessee.

Need Determination

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 2017 State Medical Facilities Plan (2017 SMFP); therefore, there are no need determinations in the 2017 SMFP which are applicable to this application.

Policies

The following policies are applicable to this review:

- **Policy NH-6: Relocation of Nursing Facility Beds**
- **Policy NH-8: Innovations in Nursing Facility Design**

Policy NH-6: Relocation of Nursing Facility Beds states:

“Relocations of existing licensed nursing facility beds are allowed. Certificate of need applicants proposing to relocate licensed nursing facility beds shall:

- 1. Demonstrate that the proposal shall not result in a deficit, or increase and existing deficit in the number of licensed nursing facility beds in the county that would be losing nursing facility beds as a result of the proposed project, as reflected in the North Carolina 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, or increase an existing surplus of licensed nursing facility beds in the county that would gain nursing facility beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins.”*

The proposed project involves the relocation of 25 NF beds from Legion Road Healthcare in Orange County to the previously approved 90-bed nursing facility to be developed in Chatham County (Project ID #J-10168-13); therefore the applicant must demonstrate that the relocation of the beds will not result in a deficit or increase an existing deficit in Orange County, nor result in a surplus or increase an existing surplus in Chatham County.

In Section III.4, page 62, the applicants state:

“The 2017 SMFP shows a surplus of 164 SNF beds in Orange County. Additionally, the 2017 SMFP shows a deficit of 27 beds in Chatham County.”

Table 10C, pages 212 and 214 of the 2017 SMFP, shows Chatham County has a deficit of 27 beds and Orange County has a surplus of 164 beds, respectively. Relocating 25 beds from Orange County to Chatham County will reduce the Chatham County bed deficit from 27 to 2 and reduce the Orange County bed surplus from 164 to 139. Thus, the relocation of the beds will not result in a deficit, or increase an existing deficit in Orange County, the county losing nursing facility beds, and will not result in a surplus, or increase an existing surplus in Chatham County, the county gaining nursing facility beds. Therefore, the application is consistent with Policy NH-6.

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

“Certificate of need applicants proposing new nursing facilities and replacement nursing facilities shall pursue innovative approaches in 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 57-62, the applicants describe how the proposed project pursues innovative approaches to incorporate home-like features, increased privacy, autonomy, resident choice, satisfaction and convenience that address quality of care and quality of life needs of the residents, including some private rooms, intimate dining and activity rooms and an outdoor courtyard. The information provided by the applicants is reasonable and adequately supports the determination that the proposal is consistent with Policy NH-8.

Conclusion

In summary, the applicants demonstrate that the proposal is conforming to all applicable policies in the 2017 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.

C

The applicants propose to acquire and relocate 25 licensed NF beds from Legion Road Healthcare, an existing nursing facility in Orange County to Chatham County Rehabilitation Center, the previously approved 90-bed Chatham County facility (Project ID #J-10168-13) for a total of 115 NF beds upon completion of both projects.

On page 191, the 2017 SMFP defines the service area for nursing facility beds as “*A nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*” The proposed facility, Chatham County Rehabilitation Center is located in Chatham County. Thus, the service area for this project consists of Chatham County. Facilities may also serve residents of counties not included in their service area.

Patient Origin

In Section III.9, page 65, the applicants provide the projected patient origin at the proposed facility during the first full federal fiscal year (FFY) of operation (October 1, 2020-September 30, 2021) following completion of the project as shown in the table below.

| County | NF Beds- Percent of Total NF Admissions | ACH Beds- Percent of Total ACH Admissions |
|---------------|--|--|
| Chatham | 95% | 0% |
| Orange | 5% | 0% |
| Total | 100% | 0% |

On page 65 of the application, the applicants identify the assumptions and methodology used to determine projected patient origin which include: the SMFP, the physical location of the proposed facility, and Liberty’s historical experience. The applicants further state that the SMFP shows Chatham County residents need the additional 25 nursing facility beds; therefore those residents will have admission priority over residents from other counties. However, due to the facility’s close proximity to Chapel Hill, the applicants do expect a small portion of residents to originate from Orange County.

The applicants adequately identify the population to be served.

Analysis of Need

Project ID #J-10168-13 approved the development of a 90-bed nursing facility to be located in Baldwin Township, Chatham County. In Section III.1, pages 48-52 of the application, the applicants describe the need for the Change of Scope application to relocate 25 licensed, unutilized NF beds from Legion Road Healthcare in Orange County to the approved 90-bed nursing facility, with a change in site location from Baldwin Township to Williams Township, Chatham County. The applicants state that the proposed 115-bed facility will:

- Help to meet a growing demand for skilled nursing beds in an underserved area of the county that shows a significant need for additional skilled nursing beds;
- Reserve a large percentage of beds for Medicaid recipients;

- Increase healthy competition among service providers by providing competitive market private pay rates; and
- Meet the need in the most cost effective manner.

As previously discussed, the 2017 SMFP shows a NF bed surplus of 164 beds in Orange County and a deficit of 27 beds in Chatham County. The applicants identified the Chatham County NF bed need by township using the 2017 SMFP data in conjunction with Nielsen Claritas Market Research Data (Claritas), as documented in Exhibit 3. The calculations identify Williams Township and adjacent Baldwin Township with “*overwhelmingly the largest bed need in the county*”, a combined deficit of 161 beds, exclusive of the already approved 90-beds. Williams Township is shown with a 2022 deficit of 103 NF beds and Baldwin with a deficit of 58 NF beds, higher deficits than any other townships in Chatham County.

The applicants also discuss planned economic development in the proposed area, including plans for a 10-bed hospice facility, and the availability of a cost effective alternative site for the proposed facility, considering the difficulty in negotiating land prices and identifying a cost efficient option for private sewer at the originally approved site.

On pages 50-51, the applicants state that the Legion Road Healthcare facility is under renovation and because of structural limitations and the need to stay competitive in the market and meet Liberty’s high quality standards, Legion Road Healthcare would not be able to incorporate 25 of its existing NF beds into the renovated building. Therefore, rather than “*shelving the beds*”, a decision was made to allow the beds to be acquired by a Liberty affiliate and relocated to Chatham County, where the beds would still be easily accessible to residents of Orange County, if needed. All of the Liberty affiliate owners of the proposed Chatham County Rehabilitation Center and Legion Road Healthcare fall under the direct ownership and control of John A. McNeill Jr. and Ronald B. McNeill, members/managers of Liberty Healthcare Group, LLC.

The applicants also discuss the letter provided by Ethel Farrell, Adult Services Supervisor for the Chatham County Department of Social Services, in Project ID #J-10168-13, Exhibit 12, in which she states:

“The Fearington area, in Williams and Baldwin Townships, is experiencing growth and although there are two private CCRC’s in this area, I think that this area would benefit from the addition of a nursing home that is open to the general public and accepts Medicaid and Medicare patients.”

Based on a review of the information provided by the applicants in Section III and related exhibits, the applicants adequately demonstrate the need to relocate 25 NF beds from Orange County to the approved 90-bed Chatham County Rehabilitation Center for a total of 115 beds and to develop the proposed facility at the new location in Chatham County.

Projected Utilization

In Section IV, pages 68-76, the applicants provide projected utilization for the 115 NF beds during the first three full FFYs, beginning October 1, 2020. Consistent with Project ID #J-10168-13, the applicants intend to develop a 20-bed Alzheimer’s Special Care Unit (SCU). The following table illustrates projected utilization during the first and second full FFY.

**NF Bed-Projected Utilization
 First and Second Operating Years**

| | | OY1 FFY 2021 | OY2 FFY 2022 |
|--------------------|----------------|-------------------------|-------------------------|
| NF (excluding SCU) | Patient Days | 22,974 | 32,478 |
| | Occupancy Rate | 66% | 94% |
| | # of beds | 95 | 95 |
| SCU | Patient Days | 6,188 | 6,935 |
| | Occupancy Rate | 85% | 95% |
| | # of beds | 20 | 20 |
| Total | Patient Days | 29,162 | 39,413 |
| | Occupancy Rate | 69% | 94% |
| | # of beds | 115 | 115 |

As shown in the table above, in the second full FFY of operation, the applicants project the 115 NF beds will operate at 94% of capacity [$39,413/365/115 = .9389$ or 94%].

In Section III, pages 48-52, and in Section IV, pages 68-72, the applicants provide the assumptions and methodology used to project utilization of the proposed 115 NF beds, summarized as follows:

- Chatham County is identified in the 2017 SMFP as having a deficit of 27 NF beds;
- Orange County is identified in the 2017 SMFP as having a surplus of 164 NF beds;
- Of the proposed 115 NF beds, 95 will be general NF beds and 20 will be SCU beds;
- Need for the proposed beds to be located in Fearington, Williams Township;
- Operating experience of the applicants; and
- Net average fill-up rate of four residents per week per CON instruction, Section IV.2(c).

In supplemental information requested by the Project Analyst and received during the expedited review of this project (October 5, 2017 and October 10, 2017), the applicants provided details of the methodology and assumptions by month that support the quarterly projections.

Projected utilization is based on reasonable and adequately supported assumptions.

Access

In Section VI.3, page 81, the applicants state that services provided by Chatham County Rehabilitation Center will be non-restrictive with respect to social, racial, ethnic, or gender related issues and will be provided on a first come, first served basis.

The applicants further state on page 82:

“If a private pay resident ‘spends-down’ and become [sic] Medicaid eligible he or she will not be discharged for that reason. Chatham County Rehabilitation Center proposes to reserve approximately 78% of its beds for Medicaid residents and therefore it is not anticipated that a transfer would be necessary due to spend down of private funds.”

Exhibit 28 of Project ID #J-10168-13 contains a copy of the proposed admissions policy which states, in part, *“Our admission policies apply to all residents admitted to the Facility, without regard to race, color, creed, national origin, age, sex, religion, handicap, ancestry, marital, veteran status, and/or payment source.”*

In Section VI.3, page 81, the applicants project the following payor mix during the second full FFY (2022):

Projected Days as a % of Total Days

| Payor Source | Nursing Patients (excluding SCU) | SCU Patients | ACH Patients |
|---------------------|---|---------------------|---------------------|
| Private Pay | 7.55% | 15.79% | 0.00% |
| Medicare | 15.77% | 0.00% | 0.00% |
| Medicaid | 76.68% | 84.21% | 0.00% |
| Total | 100.00% | 100.00% | 0.00% |

As shown in the table above, the applicants project that Medicare and Medicaid will be the payor source for 92% of the nursing patients and 84% of the SCU patients. The applicants adequately demonstrate the extent to which medically underserved populations would have access to the proposed NF services. Therefore, the application is conforming to this criterion.

Conclusion

In summary, the applicants identify the population to be served, adequately demonstrate the need that this population has for the proposed project and adequately demonstrate the extent to which all residents, including underserved groups, will have access to the proposed 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.

C

The applicants propose to acquire and relocate 25 licensed NF beds from Legion Road Healthcare, an existing nursing facility in Orange County to Chatham County Rehabilitation Center, the previously approved 90-bed Chatham County facility (Project ID #J-10168-13) for a total of 115 NF beds upon completion of both projects. Legion Road Healthcare is currently closed for renovations.

On page 191, the 2017 SMFP defines the service area for nursing facility beds as “*A nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*” The proposed facility, Chatham County Rehabilitation Center is located in Chatham County. Thus, the service area for this project consists of Chatham County. Facilities may also serve residents of counties not included in their service area.

The applicants propose to relocate 25 existing, but unutilized, NF beds from Legion Road Healthcare in Orange County to the proposed new facility in Chatham County. Because the 25 NF beds are not currently serving residents, no residents will be impacted by the relocation of the 25 NF beds. Furthermore, according to Table 10C, pages 212 and 214 of the 2017 SMFP, Chatham County has a deficit of 27 beds and Orange County has a surplus of 164 beds, respectively. Relocating 25 NF beds to Chatham County from Orange County will reduce Chatham County’s bed deficit from 27 to 2 and Orange County’s surplus from 164 to 139 beds.

In Section III, pages 50-55, the applicants discuss the large population growth in the Fearington area of Williams Township, the need for additional nursing beds, and the lack of skilled nursing facility beds open to the general population and the underserved population, particularly Medicaid beneficiaries.

The applicants also discuss the letter provided by Ethel Farrell, Adult Services Supervisor for the Chatham County Department of Social Services, in Project ID #J-10168-13, Exhibit 12, in which she states:

“The Fearington area, in Williams and Baldwin Townships, is experiencing growth and although there are two private CCRC’s in this area, I think that this area would benefit from the addition of a nursing home that is open to the general public and accepts Medicaid and Medicare patients.”

The applicants adequately demonstrate that 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

The applicants propose to acquire and relocate 25 NF beds from an existing facility in Orange County to the approved 90-bed nursing facility in Chatham County (Project ID #J-10168-13) for a total of 115 beds upon the completion of both projects. This project also relocates the proposed facility from the approved site in Baldwin Township to a site in Ferrington in Williams Township. Both the approved site and proposed site are in Chatham County.

In Section III, pages 52-55, the applicants describe the alternatives considered prior to submitting the application, which include:

- Maintain the Status Quo - The applicants state there is a significant NF bed shortage in Chatham County as well as a significant surplus in Orange County and maintaining the status quo would only exacerbate the problem of insufficient skilled nursing beds and limited access to Chatham County residents; therefore maintaining the status quo was not an effective alternative.
- Apply for Change of Scope Application to Construct 115-bed Facility in Ferrington - The applicants state that the significant growth coupled with the significant bed deficits in the northeastern area of Chatham County led the applicants to the conclusion that there is one definitive Chatham County area that would benefit from the development of a new skilled nursing facility – Ferrington, Williams Township. Relocating the 25 beds from its affiliate in Orange County helps to meet the need for additional beds in Chatham County while eliminating part of the surplus of NF beds in Orange County. Also the applicants state that a 115-bed facility allows the facility to take advantage of economies of scale in operations.

For the reasons as stated above, the applicants determined the least costly and most effective alternative is the Change of Scope application as proposed.

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

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

1. **Liberty Healthcare Properties of Chatham, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall materially comply with all conditions of approval on the certificate of need for Project ID #J-10168-13, except as specifically modified by the conditions of approval for this application, Project ID #J-11378-17.**
2. **Liberty Healthcare Properties of Chatham, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall materially comply with all representations made in the certificate of need application and the supplemental information received October 5, 2017 and October 10, 2017. In those instances where representations conflict, Liberty Healthcare Properties of Chatham, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall materially comply with the last made representation.**
3. **Liberty Healthcare Properties of Chatham, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall relocate no more than 25 NF beds from Legion Road Healthcare in Orange County to Chatham County Rehabilitation Center.**
4. **Chatham County Rehabilitation Center will be licensed for no more than 115 NF beds upon completion of this project and Project ID #J-10168-13.**
5. **Liberty Properties of Orange County, LLC shall take steps to de-certify 25 NF beds at Legion Road Healthcare.**
6. **The Medicaid per diem reimbursement rates for the new nursing facility beds shall be equal to the rates for the facility's existing beds as of the date on which the additional beds are certified.**
7. **The Chatham County Rehabilitation Center additional nursing facility beds shall not be certified for participation in the Medicaid program prior to July 1, 2020 unless the Division of Medical Assistance determines that state funds are available in the current Medicaid budget to pay for the care and authorizes an earlier certification date.**
8. **For the first two years of operation following completion of the project, Liberty Healthcare Properties of Chatham, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC 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 Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.

9. No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, Liberty Healthcare Properties of Chatham, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:

- a. Payor mix for the services authorized in this certificate of need.**
- b. Utilization of the services authorized in this certificate of need.**
- c. Revenues and operating costs for the services authorized in this certificate of need.**
- d. Average gross revenue per unit of service.**
- e. Average net revenue per unit of service.**
- f. Average operating cost per unit of service.**

10. Liberty Healthcare Properties of Chatham, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC 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 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

The applicants propose to acquire and relocate 25 NF beds from a licensed facility in Orange County to the previously approved 90-bed Chatham County Rehabilitation Center for a total of 115 beds, which is a Change of Scope application for Project ID #J-10168-13 (Develop a 90-bed nursing facility in Chatham County).

Capital and Working Capital Costs

In Section VIII, page 97 of this application, the applicants provide Table VIII.1. It is the same table provided in Project ID #J-10168-13 for the approved 90-bed facility. In supplemental information provided on October 5, 2017, during the expedited review of this project, the applicants provide an updated table of capital cost by line item, as summarized below:

Project Capital Cost

| | | |
|------------------------------|--------------|---|
| Site Costs | | |
| Land | \$ 3,028,500 | |
| Other Site Costs | \$ 1,320,881 | |
| Contingency | \$ 198,132 | |
| Total Site Costs | | \$ 4,547,513 |
| Construction Contract | | \$ 9,649,926 |
| Miscellaneous | | |
| Equipment | \$ 1,150,000 | |
| Architect & Engineering Fees | \$ 247,000 | |
| Other Consultant Fees | \$ 112,200 | |
| Total Miscellaneous | | \$ 1,509,700 [\$1,509,200] |
| Total Capital Cost | | \$ 15,707,139 [\$15,706,639] |

Note: Total Miscellaneous costs, as incorrectly summed by the applicant is \$500 higher than the actual projected cost, and results in a slightly higher capital cost, for which the applicant has provided funding documentation. Therefore, the miscalculation is insignificant and irrelevant.

Following the table provided on page 97 of the application, the applicants state:

“While we expect various line items in this budget to differ somewhat from what was projected in the original application, the Applicants do not expect the overall capital cost to exceed the above amount that was previously approved.”

On page 98, the applicants state, *“This change of scope application will not incur additional capital cost.”*

In Section IX, pages 102-103, the applicants project the total working capital costs will be \$1,037,797 [\$1,037,726] (start-up expenses: \$228,250 and initial operating expenses: \$809,477).

Availability of Funds

In Section VIII.2, page 98, and Section IX, page 108, the applicants state that the capital and working capital costs, respectively, will be financed through owner equity of John A. McNeill, Jr. and Ronald B. McNeill. On page 98, the applicants state:

“This project will be funded 100% with owner equity of John A. McNeill, Jr. and Ronald B. McNeill.”

In supplemental information provided on October 5, 2017 during the expedited review of this project, the applicants provide updated letters documenting the McNeills’ intent to fund the Change of Scope project and the availability of funding. The McNeill’s letter,

dated October 4, 2017, documents the McNeills' intent to fund the capital costs and working capital costs for Project ID #J-10168-13.

The updated letter, dated October 4, 2017, from Joel M. White, CPA of the firm Cherry Bekaert states that Mr. White is the CPA for both John A. McNeill, Jr. and Ronald B. McNeill, that he was aware of the proposed 115-bed Chatham County project, its projected capital and working capital costs and the financial status of the McNeill's at that time. Mr. White further attested to the fact that, at that point in time, the McNeill's each had in excess of \$15,000,000 in cash, stocks, or short term investments to fund the proposed 2017 project.

The applicants adequately demonstrate that sufficient funds will be available for the capital and working capital needs of the proposed project.

Financial Feasibility

In Tables X.4A and X.4B, pages 113-114, the applicants project the per diem reimbursement rate/charge for the first two full FFYs of operation, as follows:

| Payment Source by Type of Care | Private Room | Semi-Private Room |
|---|---------------------|--------------------------|
| NF Beds | | |
| Private Pay | \$300.00 | \$275.00 |
| Medicare | \$441.90 | \$441.90 |
| Medicaid | \$160.32 | \$160.32 |
| SCU Beds | | |
| Private Pay | \$335.00 | \$275.00 |
| Medicaid | \$160.32 | \$160.32 |

Note: Please see the assumptions and descriptions of the charges on pages 112.

Chatham County Rehabilitation Center is projected to have 115 NF beds, including 20 SCU Alzheimer's beds: 49 private NF rooms (49 beds) and 33 semi-private rooms (66 beds). This is an increase of three private rooms from the original application, Project ID #J-10168-13.

In the projected revenue and expense statement (Form B), the applicants project revenues will exceed operating expenses in the both the first and second full FFYs following completion of the proposed project, as illustrated in the table below.

| | Project Year 1 | | | Project Year 2 | | |
|--------------------------|--------------------------|-------------|-------------|--------------------------|--------------|--------------|
| | NF (excluding SCU) | SCU | Total | NF (excluding SCU) | SCU | Total |
| Projected # of Days | 22,974 | 6,188 | 29,162 | 32,478 | 6,935 | 39,413 |
| Projected Average Charge | \$ 216 | \$ 183 | \$ 209 | \$ 214 | \$ 184 | \$ 209 |
| Gross Patient Revenue | \$4,962,822 | \$1,130,460 | \$6,093,282 | \$ 6,954,196 | \$ 1,276,814 | \$ 8,231,010 |
| Contractual Allowances | \$ 950,623 | \$ - | \$ 950,623 | \$ 1,284,785 | \$ - | \$1,284,785 |
| Net Patient Revenue | \$4,012,199 | \$1,130,460 | \$5,142,659 | \$ 5,669,411 | \$1,276,814 | \$6,946,225 |
| Other Revenue | \$1,061,072 | \$ 1,299 | \$1,062,372 | \$ 1,434,359 | \$ 1,456 | \$1,435,816 |
| Total Revenue | \$5,073,271 | \$1,131,759 | \$6,205,030 | \$ 7,103,770 | \$1,278,270 | \$8,382,040 |
| Total Expense | \$4,518,756 | \$1,196,014 | \$5,714,770 | \$ 5,480,841 | \$1,194,597 | \$6,675,439 |
| Net Income | \$ 554,515 | \$ (64,255) | \$ 490,260 | \$ 1,622,929 | \$ 83,673 | \$1,706,602 |

The assumptions used by the applicants in preparation of the pro forma financial statements are reasonable including projected utilization, costs and charges. The discussions regarding projected utilization found in Criterion (3) and staffing in Criterion (7) are incorporated herein by reference. The applicants adequately demonstrate that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

Conclusion

In summary, the applicants adequately demonstrate the financial feasibility of the project is based upon reasonable and adequately supported assumptions regarding projected utilization, revenues (charges) and operating costs. 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 acquire and relocate 25 NF beds from an existing facility in Orange County to the approved 90-bed nursing facility in Chatham County (Project ID #J-10168-13) for a total of 115 beds upon the completion of both projects.

On page 191, the 2017 SMFP defines the service area for nursing facility beds as “A nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.” The proposed facility, Chatham County Rehabilitation Center is located in Chatham County. Thus, the service area for this project consists of Chatham County. Facilities may also serve residents of counties not included in their service area.

Table 10A of the 2017 SMFP, page 194, lists a total of five nursing facilities in Chatham County, including Chatham County Rehabilitation Center's 90 undeveloped beds approved in Project ID #J-10168-13. The inventory and projected need as shown in Table 10C of the 2017 SMFP, page 212, is summarized below.

Chatham County Nursing Bed Need Projections for 2020

| Projected 2020 NF Bed Utilization* | Licensed + Previous Allocations (Project ID #J-10168-13) | Exclusions | Planning Inventory | 2020 Bed Deficit |
|---|---|-------------------|---------------------------|-------------------------|
| 407 | 510 | 130 | 380 | -27 |

*Projected bed utilization is calculated using a vacancy factor by dividing projected bed utilization by 95%

As shown in the table above, there is a projected deficit of 27 NF beds, including the 90 NF beds allocated for Chatham County Rehabilitation Center. The discussions regarding analysis of need and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.

The applicants adequately demonstrate that the proposed project would not result in the unnecessary duplication of existing or approved NF beds in Chatham County. Consequently, 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

In Section VII.3, pages 90-91, the applicant projects the total staffing for the NF in the second full fiscal year of operation (FFY2022), as summarized in the table below.

| Salaried Staff Position | Number of Staff FTE Positions | | |
|---|--------------------------------|--------------------------------|--------------------------------|
| | General Nursing (w/o SCU) | Nursing SCU | Total |
| Director of Nursing | 0.82 | 0.18 | 1.00 |
| Alzheimer's Coordinator | 0.25 | 0.75 | 1.00 |
| Staff Development Coordinator | 0.82 | 0.18 | 1.00 |
| MDS Nurse | 0.82 | 0.18 | 1.00 |
| RNs | 5.78 | 1.24 | 7.02 |
| LPNs | 11.57 | 2.47 | 14.04 |
| CNAs | 34.7 | 7.41 | 42.12 |
| Ward Secretary | 0.41 | 0.09 | 0.50 |
| Medical Records | 0.41 | 0.09 | 0.50 |
| Dietary Services (Supervisor, Cooks, Aides) | 6.59 | 1.41 | 8.00 |
| Social Work Services (Director, Asst) | 1.23 | 0.27 | 1.50 |
| Activity Services (Director, Asst,) | 1.23 | 0.27 | 1.50 |
| Housekeeping (Supervisors, Aides) | 6.59 | 2.11 | 8.70 |
| Ancillary (PT, OT, ST) | 4.1 | 0 | 4.10 |
| Oper & Maint (Super) | 0.71 | 0.29 | 1.00 |
| Admin & Gen (Administrator, Other) | 2.05 | 0.45 | 2.50 |
| TOTAL* | 78.38 [78.08] | 18.10 [17.39] | 96.47 [95.47] |

*The Alzheimer's Coordinator was listed twice on page 90, therefore the total on page 91 is 1.00 (0.25+0.75) FTE higher than it should be. The correct totals are shown above in [brackets].

The Medical Director, Pharmacy Consultant, Dietician, Radiologist and Lab Tech will be contracted providers and therefore are not salaried FTE positions. The applicants provide the assumptions used in the projection of staffing on pages 88-89.

This Change of Scope application adds 25 beds to the 90 NF beds approved in Project ID #J-10168-13, for a total of 115 NF beds. Both projects include a 20-bed Alzheimer's SCU. The total proposed FTE positions for this Change of Scope application does not increase from the proposed staffing for Project ID #J-10168-13. However, the allocation of total FTE positions between the general NF beds and the SCU beds does change as the proposed project changes from developing a total of 90 (70 NF and 20 SCU) beds to a total of 115 (95 NF and 20 SCU) beds, increasing FTE positions for the increased number of general NF beds and decreasing FTE positions for the 20 SCU beds.

In Section VII.2, page 87, the applicants provide a table which illustrates the number of direct care staff per shift. The applicants propose to provide registered nurse (RN) and licensed practical nurse (LPN) coverage 24 hours per day, seven days per week. In Section VII.4, page 93, the applicant provides the direct care nursing staff hours per patient day. The applicant projects that NF patients will receive 0.37 RN, 0.74 LPN and 2.08 CNA direct care nursing hours per patient day for a total of 3.20 direct care hours

per patient day, which the applicants state: “*is well above* [emphasis in original] *NC regulations in order to provide the highest possible quality of care*”.

Adequate costs for the health manpower and management positions proposed by the applicants are budgeted in the pro forma financial statements. The applicant does not propose any other staffing changes in this application. In Project ID #J-10168-13, the application was conforming to this criterion, and the applicant proposes no other changes in the current application that would affect that determination. Consequently, this Change of Scope 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 Project ID #J-10168-13, the application was conforming to this criterion, and the applicant proposes no changes in the current application that would affect that determination. Consequently, this Change of Scope 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 to acquire and relocate 25 NF beds from a licensed facility in Orange County to the previously approved 90-bed Chatham County Rehabilitation Center for a total of 115 beds, which is a Change of Scope application for Project ID #J-10168-13 (Develop a 90-bed nursing facility in Chatham County).

The total square footage of the proposed 115-bed facility is 76,284. The applicants provide a line drawing in Exhibit 4 of the Change of Scope application. In Section XI.13, pages 126-127, the applicants state:

“The selected design was chosen from a basic prototype utilized by Tim Kurmaskie and Liberty at another facility currently under construction. The final design will be modified to fit the selected site dimensions and the proposed functions of a 115-bed facility. This will include changing 15 private rooms to semi-private. The configuration will be as follows: 49 private rooms and 33 semi-private rooms.

...

The cost estimate for the selected design was based upon the architect’s experience in designing similar facilities. The site costs were estimated by Tim Kurmaskie in conjunction with preliminary estimates from the McKim & Creed Firm, a site engineering firm located in Raleigh.”

However, the application does not provide a cost estimate for the selected design; and instead refers to Exhibit 38 of the approved Project ID #J-10168-13 application for the cost estimate, which is for the approved 90-bed facility and calculated at 2013 costs.

The proposed floor plan and line drawing (Exhibit 4 of the application) is the same one approved in Project ID #G-10220-13 (Relocate 100 nursing facility beds from Liberty Commons Nursing & Rehabilitation Center of Springwood to a new facility in Kernersville), with a certified cost estimate by Tim Kurmaskie of \$14,446,775 for the site development, construction and architectural and engineering fees.

In supplemental information requested by the Project Analyst in the expedited review of this Change of Scope project, the applicants provided an updated certified cost estimate, dated October 3, 2017, for the proposed 115-bed facility, which corresponds to the updated Table VIII.1, provided in the supplemental data submitted October 5, 2017, showing estimated capital costs for the Change of Scope project.

In Section XI.14, pages 127-128, the applicants provide a written statement describing the proposed project's plan to assure improved energy efficiency and water conservation. 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 project 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

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

NA

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

C

In Section VI.3, page 81, the applicants project the following payor mix during the second full FFY (2022):

Projected Days as a % of Total Days

| Payor Source | NF Patients(excluding SCU) | SCU Patients |
|---------------------|-----------------------------------|---------------------|
| Private Pay | 7.55% | 15.79% |
| Medicare | 15.77% | 0.00% |
| Medicaid | 76.68% | 84.21% |
| Total | 100.00% | 100.00% |

As shown in the table above, the applicants project that Medicare and Medicaid will be the payor source for 92% of the general nursing patients and 84% of the SCU patients. On page 81, the applicants state *“Services provided by Liberty Commons will be non-restrictive with respect to social, racial, ethnic, or gender related issues and will be provided on a first come, first served basis.”* Exhibit 28 of Project ID #J-10168-13 contains a copy of the proposed admissions policy which states, in part:

“Our admission policies apply to all residents admitted to the Facility, without regard to race, color, creed, national origin, age, sex, religion, handicap, ancestry, marital, veteran status, and/or payment source.”

The applicants demonstrate that medically underserved populations would have adequate access to the proposed NF services. 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 Project ID #J-10168-13, the application was conforming to this criterion, and the applicant proposes no changes in the current application that would affect that determination. Consequently, this Change of Scope 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

Exhibit 24 of Project ID #J-10168-13 contains copies of letters from the applicants sent to seven area health professional training programs offering the proposed nursing care facility as a clinical training site. Project ID #J-10168-13 was conforming to this criterion, and the applicants propose no changes in the current application that would affect that determination. Consequently, this Change of Scope 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 acquire and relocate 25 NF beds from an existing facility in Orange County to the approved 90-bed nursing facility in Chatham County (Project ID #J-10168-13) for a total of 115 beds upon the completion of both projects.

On page 191, the 2017 SMFP defines the service area for nursing facility beds as “*A nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*” The proposed facility, Chatham County Rehabilitation Center is located in Chatham County. Thus, the service area for this project consists of Chatham County. Facilities may also serve residents of counties not included in their service area.

Table 10A of the 2017 SMFP, page 194, lists a total of five nursing facilities in Chatham County, including Chatham County Rehabilitation Center’s 90 undeveloped beds approved in Project ID #J-10168-13. The inventory and projected need as shown in Table 10C of the 2017 SMFP, page 212, is summarized below.

Chatham County Nursing Bed Need Projections for 2020

| Projected 2020 NF Bed Utilization* | Licensed + Previous Allocations (Project ID #J-10168-13) | Exclusions | Planning Inventory | 2020 Bed Deficit |
|---------------------------------------|---|------------|-----------------------|---------------------|
| 407 | 510 | 130 | 380 | -27 |

*Projected bed utilization is calculated using a vacancy factor by dividing projected bed utilization by 95%

As shown in the table above, there is a projected NF bed deficit of 27 beds, including the 90 NF beds allocated for Chatham County Rehabilitation Center (Project ID #J-10168-13).

In Section V.6, page 79, the applicants discuss how any enhanced competition in the service area will promote the cost-effectiveness, quality and access to the proposed service, including improving access to services, developing a state-of-the-art and innovative facility, and providing a staff of high quality caregivers.

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

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

- The applicants adequately demonstrate the need for the proposed project and that it is a cost-effective alternative. The discussions regarding analysis of need and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.
- The applicants adequately demonstrate that they will provide quality services. The discussion regarding quality found in Criterion (20) is incorporated herein by reference.
- The applicants demonstrate that they will provide adequate access to medically underserved populations. The discussions regarding access found in Criteria (3), (3a), and (13) are 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

In Section II.6, pages 44-47, the applicants state that they or their affiliates currently own, lease, or manage 24 nursing facilities in North Carolina. According to the files in the Nursing Home Licensure and Certification Section, DHSR, a total of four incidents occurred at four different facilities within the eighteen months immediately preceding submission of the application through the date of this decision related to quality of care.

As of the date of this decision, the problems had been corrected. After reviewing and considering information provided by the applicants and by the Nursing Home Licensure and Certification Section and considering the quality of care provided at all 24 facilities, the applicants provided sufficient evidence that quality care has been provided in the past. 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.

NA

The Criteria and Standards for Nursing Facility or Adult Care Home Facility Services promulgated in 10A NCAC 14C .1100 are not applicable because the applicants do not propose to establish either new adult care home beds or new nursing facility beds.