

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: October 24, 2019

Findings Date: October 24, 2019

Project Analyst: Ena Lightbourne

Team Leader: Fatimah Wilson

Project ID #: B-11731-19

Facility: Pisgah Villa

FID #: 190313

County: Buncombe

Applicant(s): Pisgah Valley Retirement Center Properties, LLC
Pisgah Valley Retirement Center, LLC

Project: Develop a new 30-bed ACH facility pursuant to Policy LTC-1 on the campus of Pisgah Valley Retirement Center, an existing CCRC, for a total of 30 ACH beds, 118 NF beds and 72 ILUs

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

N.C. Gen. Stat. §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

Pisgah Valley Retirement Center Properties, LLC (“Pisgah Valley Properties”) and Pisgah Valley Retirement Center, LLC (“Pisgah Valley”), collectively referred to hereinafter as “the applicant”, proposes to develop a new, 30-bed adult care home (ACH) facility, Pisgah Villa, pursuant to Policy LTC-1 at the Pisgah Valley Retirement Center (PVRC), an existing Continuing Care Retirement Community (CCRC) located in Buncombe County. Pisgah Valley is currently licensed for 118 nursing facility (NF) beds and 72 independent living units (ILUs). The facility also includes a multi-unit assisted housing with services building (MUHS), which will be converted to develop the proposed 30-bed ACH facility. Upon completion of the proposed project, PVRC will have 118 NF beds, 72 ILUs, and 30 ACH beds.

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 2019 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations applicable to this review.

Policies

There is one policy in the 2019 SMFP which is applicable to this review: Policy LTC-1: *Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds*.

Policy LTC-1, on pages 23-24 of the 2019 SMFP, states:

“Qualified continuing care retirement communities may include from the outset or add or convert bed capacity for adult care without regard to the adult care home bed need shown in Chapter 11: Adult Care Homes. To qualify for such exemption, applications for certificates of need shall show that the proposed adult care home bed capacity:

- 1. Will only be developed concurrently with, or subsequent to, construction on the same site of 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.*
- 2. Will provide for the provision of nursing services, medical services or other health related services as required for licensure by the North Carolina Department of Insurance.*
- 3. 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 or adult care 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 adult care home unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.*
- 4. Reflects the number of adult care home 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 adult care home care.*
- 5. Will not participate in the Medicaid program or serve State-County Special Assistance recipients.”*

In Section B.6, pages 12-13, the applicant explains why it believes its application is consistent with Policy LTC-1. On pages 12-13, the applicant states the following:

- The ACH beds will be developed on the same site as the independent living accommodations and licensed NF beds.

- Pisgah Manor, a 118-bed NF on site, provides long term care, short term rehabilitation, and outpatient rehabilitation nursing services. The 30-bed ACH will be included in this provision.
- The 30 ACH beds will be used exclusively to meet the needs of people with whom the facility has continuing care contracts and who have lived in a non-nursing unit of the CCRC for a period of at least 30 days, unless as excepted by Policy LTC-1.
- The proposed number of ACH beds is required to meet the projected needs of the CCRC community and its residents.
- The proposed ACH beds will not be certified for participation in the Medicaid program or serve State-County Special Assistance recipients.

Conclusion

The Agency reviewed the:

- application, and
- exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reason:

The applicant adequately demonstrates that the proposal is consistent with Policy LTC-1 for the following reasons:

- The applicant adequately documents a plan for developing the proposed ACH beds on the same site as the ILU and a 118-bed nursing facility.
- The applicant adequately documents a plan for developing the proposed ACH beds to be used exclusively to meet the needs of existing IL residents.
- The applicant adequately documents the number of ACH beds required to meet the current and projected needs of residents with whom the facility has an agreement to provide continuing care.
- The applicant adequately documents that the proposed additional ACH beds will not be certified for participation in the Medicaid program.

- (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.

The applicant proposes to develop a new 30-bed ACH facility pursuant to Policy LTC-1 on the campus of Pisgah Valley Retirement Center, an existing CCRC, for a total of 30 ACH beds, 118 NF beds and 72 ILUs.

Patient Origin

On page 219, the 2019 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” Thus, the service area for this facility consists of Buncombe County. Facilities may also serve residents of counties not included in their service area.

The following table illustrates projected patient origin.

Pisgah Villa		
County	Third Full FFY (10/1/2022-9/30/23)	
	# of Patients	% of Total
Buncombe County	26	100.0%
Total	26	100.0%

Source: Section C.3, page 17.

In Section C, page 17, the applicant provides the assumptions and methodology used to project its patient origin. The applicant’s assumptions are reasonable and adequately supported.

Analysis of Need

In Section C, pages 18-20, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services. On pages 18-20, the applicant states:

- No current regulation of current multi-unit assisted housing with services (MUHS) beds (page 18);
- Community Support (pages 18-19);
- Large projected population growth among persons age 55 and older (pages 19-20); and
- The applicant’s affiliate historical experience in regard to the appropriate ratio of independent living units to assisted living beds (page 20)

The information is reasonable and adequately supported for the following reasons:

- The applicant analyzed demographic data from the North Carolina Office of State Budget and Management (NCOSBM) and found that in Buncombe County from 2010 to 2030, the population of persons age 55 and older is projected to increase by 36%; persons age 65-74 is projected to increase by 79% and persons age 75-84 will increase by 109%.
- The applicant used their affiliate historical experience regarding the appropriate ratio of ILUs to ACH beds to project the need for ACH beds at Pisgah Valley.

- The applicant provides letters of support from residents and family members of Pisgah Valley supporting the conversion of the MUHS building to assisted living.

Project Utilization

In Section Q, page 63, the applicant provides projected utilization, as illustrated in the following table.

Pisgah Villa Projected Utilization			
	1st Full FFY 10/1/20-9/30/21	2ND Full FFY 10/1/21-9/30/22	3RD Full FFY 10/1/22-9/30/23
# of General ACH Beds	30	30	30
Days of Care in General ACH Beds	9,490	9,490	9,490
Occupancy Rate	86.67%	86.67%	86.67%

In Section Q, page 62, the applicant provides the assumptions and methodology used to project utilization, which is summarized below.

- The applicant utilizes the historical census experience at the MUHS at Pisgah Valley to project the new ACH bed utilization.
- The applicant projects an immediate fill-up to 26 beds or an occupancy rate of 86.67% upon approval due to the existing MUHS residents. The applicant assumes they will immediately qualify for assisted living services.
- The applicant assumes the occupancy rate of 86.67% will hold at the same level for the first three operating years.
- The applicant projects utilization based on Buncombe County population growth data from the NCOSBM. Between 2010 and 2030 the population of persons age 55 and older is projected to increase by 36%; persons age 65-74 is projected to increase by 79% and persons age 75-84 will increase by 109%.

Projected utilization is reasonable and adequately supported for the following reasons:

- Projected utilization is based upon historical census experience
- Projected utilization is based upon immediate fill up occupancy rate from the current MUHS residents.
- Projected utilization is based population growth data that show an increase in the age 55+ population in Buncombe County.

Access

In Section C, page 21, the applicant states:

“Due to the restrictions of Policy LTC-1 beds, Pisgah Villa will only admit to its 30 adult care home “closed” beds anyone over the age of 55 (the minimum age for entry to Pisgah Valley independent living) who qualifies for adult care home services and who has a continuing care contract in place with Pisgah Valley and who have lived in a non-nursing unit of the CCRC for a period of at least 30 days. Pisgah Valley will also admit a resident to its “closed” beds if that resident has a continuing care contract in place with Pisgah Valley and also has a spouse that is capable of living independently and is a resident in a patio home at Pisgah Valley.”

In Section L, page 50, the applicant projects the following payor mix during the third full fiscal year of operation following completion of the project, as illustrated in the following table.

Pisgah Villa Projected Payor Mix Third Full FFY (10/01/2022 – 09/30/2023)		
Payor Source	Total ACH Beds	ACH Services as Percent of Total
Private Pay	9,460	100%
Total	9,460	100%

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicant adequately identifies the population to be served.
- The applicant adequately explains why the population to be served needs the services proposed in this application.
- Projected utilization is reasonable and adequately supported.
- The applicant projects the extent to which all residents, including underserved groups, will have access to the proposed services (payor mix) and adequately supports its assumptions.

- (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

The applicant does not propose to reduce, eliminate or relocate a facility or service. Therefore, Criterion (3a) is not applicable to this review.

- (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 applicant proposes to develop a new 30-bed ACH facility pursuant to Policy LTC-1 on the campus of Pisgah Valley Retirement Center, an existing CCRC, for a total of 30 ACH beds, 118 NF beds and 72 ILUs.

In Section E, page 27, the applicant describes the alternatives it considered and explains why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need. The alternatives considered were:

Maintain the Status Quo-The applicant states that maintaining the status quo would result in residents not receiving regulated assisted living services since MUHS is not regulated. In addition, the applicant states that due to the growth in persons over the age of 55 in Buncombe County, maintaining the status quo would not meet the need of the growing aged population in Buncombe County.

Develop the ACH Beds in another Location-The applicant states that building a new building to develop the ACH beds would not be cost effective as opposed to developing beds in the existing space that already meets the current ACH regulations on private and semi-private rooms.

Develop the ACH Beds in the existing MUHS Building-The applicant states that developing the ACH beds in the existing MUHS building would be the best alternative to meet the needs of the current and future residents. On page 27, the applicant states that its proposal is the most effective alternative because it would be cost-effective since the location already exist and would meet the need of the growing aged population.

The applicant adequately demonstrates that the alternative proposed in this application is the most effective alternative to meet the need for the following reasons:

- Developing the ACH beds in an existing building would avoid driving up costs which would increase costs for patients.
- The proposed project would meet the need of the growing aged population.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above. Therefore, the application is approved subject to the following conditions:

- 1. Pisgah Valley Retirement Center Properties, LLC and Pisgah Valley Retirement Center, LLC shall materially comply with all representations made in the certificate of need application.**
- 2. Pisgah Valley Retirement Center Properties, LLC and Pisgah Valley Retirement Center, LLC shall develop a new 30-bed ACH facility pursuant to Policy LTC-1 on the campus of Pisgah Valley Retirement Center, an existing CCRC, for a total of 30 ACH beds, 118 NF beds and 72 ILUs.**
- 3. Upon completion of the project, Pisgah Valley shall be licensed for no more than 30 adult care home beds.**
- 4. The Policy LTC-1 adult care home beds shall not participate in the Medicaid program or serve State-County Special Assistance recipients.**
- 5. The Policy LTC-1 adult care home 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 or adult care 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 adult care home unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.**
- 6. The new Policy LTC-1 adult care home beds shall be developed on the same site with the independent living units.**
- 7. For the first two years of operation following completion of the project, Pisgah Valley Retirement Center Properties, LLC and Pisgah Valley Retirement Center, LLC shall not increase private pay charges more than 5% of the projected private pay charges provided in Section Q 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.**
- 8. No later than three months after the last day of each of the first three full fiscal years of operation following initiation of the services authorized by this**

certificate of need, Pisgah Valley Retirement Center Properties, LLC and Pisgah Valley Retirement Center, 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.**

9. Pisgah Valley Retirement Center Properties, LLC and Pisgah Valley Retirement Center, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.

- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

The applicant proposes to develop a new 30-bed ACH facility pursuant to Policy LTC-1 on the campus of Pisgah Valley Retirement Center, an existing CCRC, for a total of 30 ACH beds, 118 NF beds and 72 ILUs.

Capital and Working Capital Costs

In Section Q, page 65, the applicant projects the total capital cost of the project as shown in the table below.

Construction/Renovation Contract(s)	\$99,000
Architect/Engineering Fees	\$15,000
Furniture	\$300,000
Consultant Fees (market Analysis, CON prep)	\$12,500
Total	\$426,500

In Section Q, page 64 the applicant provides the assumptions used to project the capital cost.

In Section F, pages 30-31, the applicant does not project any start-up costs or initial operating expenses due to the minimal costs to convert the MUHS building into a 30-bed adult care home.

Availability of Funds

In Section F, page 29, the applicant states that the capital cost will be funded as shown in the table below.

Sources of Capital Cost Financing

Type	Pisgah Valley Retirement Center Properties, LLC	Pisgah Valley Retirement Center, LLC	Total
Loans	\$	\$	\$
Accumulated reserves or OE *	\$426,500	\$	\$426,500
Bonds	\$	\$	\$
Other (Specify)	\$	\$	\$
Total Financing	\$426,500	\$	\$426,500

* OE = Owner's Equity

Exhibit F.2 contains a letter dated June 28, 2019 from the CPA of the managing entities, John A. McNeill, Jr. and Ronald McNeill attesting that collectively they have over \$30,000,000 in assets to fund the proposed project, including any working capital, start-up and capital expenditures associated with the project.

Financial Feasibility

The applicant provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Forms F.3, F.4, and F.5, pages 71-83, the applicant projects that revenues will exceed operating expenses in the first three operating years of the project, as shown in the table below.

Pisgah Villa	1st FFY 10/1/20-9/30/21	2nd FFY 10/1/21-9/30/22	3rd FFY 10/1/22-9/30/23
Total Patient Days	9,490	9,490	9,490
Total Gross Revenues (Charges)	\$1,458,300	\$1,531,900	\$1,619,100
Total Net Revenue	\$1,458,300	\$1,531,900	\$1,619,100
Average Net Revenue per Patient Day	\$153.03	\$161.42	\$170.61
Total Operating Expenses (Costs)	\$1,044,400	\$1,069,800	\$1,095,100
Average Operating Expense per Patient Day	\$110.05	\$112.73	\$115.40
Net Income	\$423,900	\$472,100	\$524,000

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See Section Q of the application for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicant adequately demonstrates that the capital costs are based on reasonable and adequately supported assumptions.
 - The applicant adequately demonstrates availability of sufficient funds for the capital and needs of the proposal.
 - The applicant adequately demonstrates sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.
- (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 applicant proposes to develop a new 30-bed ACH facility pursuant to Policy LTC-1 on the campus of Pisgah Valley Retirement Center, an existing CCRC, for a total of 30 ACH beds, 118 NF beds and 72 ILUs.

On page 219, the 2019 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” Thus, the service area for this facility consists of Buncombe County. Facilities may also serve residents of counties not included in their service area.

On Page 221-222 of the 2019 SMFP, Table 11A documents that there are a total of 30 existing or approved facilities in Buncombe County that offer or will offer ACH services. The table below is a summary of those 30 facilities in Buncombe County, recreated from the 2019 SMFP, Chapter 11, Table 11A (pages 221-222) and Table 11C (page 249). There is a projected surplus of 29 ACH beds in 2022 for Buncombe County.

2018 ACH Inventory and 2022 Need Projections For Buncombe County	
# ACH Facilities	30
# Beds in ACH Facilities	800
# Beds in Nursing Facilities	173
Total # of Licensed Beds	973
# CON Approved Beds (License Pending)	0
Total # ACH Beds in Planning Inventory	973
Projected Bed Utilization Summary	897
Projected Bed Surplus (Deficit)	29

In Section G, page 37, the applicant explains why it believes its proposal would not result in the unnecessary duplication of existing or approved ACH services in Buncombe County. The applicant states:

“The proposed ACH beds are being requested and will be developed pursuant to SMFP Policy LTC-1, which enables a CCRC to add bed capacity for adult care without regard to the adult care home bed need shown in Chapter 11: Adult Care Homes of the 2019 SMFP. The 30 ACH beds are proposed to be “closed beds” and will be used exclusively by people who Pisgah Valley has continuing care contracts with. 100% of the residents served by the ACH beds will come from Pisgah Valley’s pool of residents with whom Pisgah Valley has continuing care contracts and who are residents of Buncombe County at the time of their need for these services, who have lived in a non-nursing or adult care unit of the continuing care retirement community for a period of at least 30 days. The proposes project will not have any impact on existing facilities with ACH beds in Buncombe County.”

The applicant adequately demonstrates that the proposal would not result in an unnecessary duplication of existing or approved services in the service area since the beds will be considered “closed beds” and will only be used for residents of Pisgah Valley, an existing CCRC.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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 Q, page 85, the applicant provides current and projected full-time equivalent (FTE) staffing for the proposed services, as illustrated in the following table.

Position	Current FTE Staff	Projected FTE Staff
		2nd FFY 10/1/2021-9/30/2022
Licensed Practical Nurse (LPN)	0	0.4
Aides	0	8.4
Staff Development Coordinator	0	0.1
Dietary	0	2.8
Activities	0	0.8
Transportation	0	0.25
Housekeeping	0	0.18
Plant Operations and Maintenance	0	0.5
Administration	0	1.15
TOTAL*	0	15

*Totals may not sum due to rounding

The assumptions and methodology used to project staffing are provided in Section Q, page 84. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in Section Q, page 85. In Section H.2 and H.3, pages 39 and 40 respectively, the applicant describes the methods to be used to recruit or fill new positions and its proposed training and continuing education programs. In Section H, page 40, the applicant identifies the currently employed physician that provides medical direction at Pisgah Manor Health Care Center. In Exhibit H.4, the applicant provides a letter from the physician and the inpatient consultant indicating their support for the proposed services.

The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed services.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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.

In Section I, page 42, the applicant states that the following ancillary and support services are necessary for the proposed services:

Service	Facility Staff	Facility paid Consultant	Contract Billed to Patient	Staff Position or Proposed Provider
Podiatry			X	On-Site Care
Pharmacy			X	Sona Pharmacy
Laboratory			X	Mission Lab
Dietary Service	X			Facility Staff
Facility Van	X			Facility Transportation Staff
Medical Director		X		Dell Simon, MD
Speech Therapy	X			Facility Staff
Optometry			X	On-Sight Eye Care
Rehab Services	X			Facility Staff
Occupational Therapy	X			Facility Staff
Social Services	X			Facility Staff
Housekeeping	X			Facility Staff
Barber/Beauty			X	Angela Parcell
Hospice/Respite			X	Care Partners or Four Seasons
Personal Laundry	X			Facility Staff
X-ray/Radiology			X	QMX, Quality Mobile X-ray
Dialysis			X	DaVita

On page 42, the applicant adequately explains how each ancillary and support service is or will be made available.

In Section I, page 43, the applicant describes its existing and proposed relationships with other local health care and social service providers and provided supporting documentation in Exhibit H.4.

The applicant adequately demonstrates that the proposed services will be coordinated with the existing health care system.

Conclusion

The Agency reviewed the:

- Application

- Exhibits to the application

Based on that review, the Agency concludes that 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

The applicant does not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicant does not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered.

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates: (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:
- (i) would be available under a contract of at least 5 years duration;
 - (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
 - (iii) would cost no more than if the services were provided by the HMO; and
 - (iv) would be available in a manner which is administratively feasible to the HMO.

NA

- (11) Repealed effective July 1, 1987.
- (12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

NA

The applicants do not propose to construct any new space or make more than minor renovations to existing space. Therefore, Criterion 12 is not applicable to this review.

(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

Neither the applicant nor any related entities owns, operates or manages an existing health service facility located in the service area. Therefore, Criterion (13a) is not applicable to this review.

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

C

Regarding any obligation to provide uncompensated care, community service or access by minorities and persons with disabilities, in Section L.2, page 49, the applicants states it is under no obligation under any applicable federal regulations to provide uncompensated care, community service, or access by minorities and handicapped persons.

In Section L, page 49, the applicant states that during the last five years no patient civil rights access complaints have been filed against the facility or any similar facilities owned by the applicant or a related entity and located in North Carolina.

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

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

C

In Section L, page 50, the applicant projects the following payor mix for the proposed services during the or third full fiscal year of operation following completion of the project, as shown in the table below.

Pisgah Villa Projected Payor Mix Third Full FFY (10/01/2022 – 09/30/2023)		
Payor Source	Total ACH Beds	ACH Services as Percent of Total
Private Pay	9,460	100%
Total	9,460	100%

In Section L, page 50, the applicant states that the 30 ACH beds will be used to meet the needs of those with whom the facility has continuing care contracts and lived in a non-nursing unit for at least 30 days. The 2019 SMFP Policy LTC-1, prohibits participate in the Medicaid program and serving State-County Assistance recipients. The applicant projects 100% of its residents will be private pay.

The projected payor mix is reasonable and adequately supported because it is based on the restrictions related to Policy LTC-1 as outlined in the 2019 SMFP.

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

- (d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

C

In Section L, page 51, the applicant adequately describes the range of means by which patients will have access to the proposed services. The applicant states that due to the restrictions of Policy LTC-1 beds, Pisgah Valley will only admit those who have a continuing care contract and qualifies for ACH services.

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

- (14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

C

In Section M, page 52, the applicant describes the extent to which health professional training programs in the area have access to the facility for training purposes and provides supporting documentation in Exhibit M-1.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicant adequately demonstrates that the proposed services will accommodate the clinical needs of area health professional training programs, and therefore, the application is conforming to this criterion.

- (15) Repealed effective July 1, 1987.
(16) Repealed effective July 1, 1987.
(17) Repealed effective July 1, 1987.
(18) Repealed effective July 1, 1987.
- (18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

C

The applicant proposes to develop a new 30-bed ACH facility pursuant to Policy LTC-1 on the campus of Pisgah Valley Retirement Center, an existing CCRC, for a total of 30 ACH beds, 118 NF beds and 72 ILUs.

On page 219, the 2019 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” Thus, the service area for this facility consists of Buncombe County. Facilities may also serve residents of counties not included in their service area.

On Page 221-222 of the 2019 SMFP, Table 11A documents that there are a total of 30 existing or approved facilities in Buncombe County that offer or will offer ACH services. The table below is a summary of those 30 facilities in Buncombe County, recreated from the 2019 SMFP, Chapter 11, Table 11A (pages 221-222) and Table 11C (page 249). There is a projected surplus of 29 ACH beds in 2022 for Buncombe County.

2018 ACH Inventory and 2022 Need Projections For Buncombe County	
# ACH Facilities	30
# Beds in ACH Facilities	800
# Beds in Nursing Facilities	173
Total # of Licensed Beds	973
# CON Approved Beds (License Pending)	0
Total # ACH Beds in Planning Inventory	973
Projected Bed Utilization Summary	897
Projected Bed Surplus (Deficit)	29

In Section N, page 53, the applicant describes the expected effects of the proposed services on competition in the service area and discusses how any enhanced competition in the service area will promote the cost-effectiveness, quality and access to the proposed services. On page 53, the applicant states:

“There will be no adverse effect on other facilities in Buncombe County because Pisgah Valley is an existing CCRC with an established reputation in the local marketplace. The proposed additional ACH beds will be via Policy LTC-1, and therefore will be closed beds and not competing with assisted living facilities in Buncombe County.

...

As has been stated previously, the MUHS bed space meets all current codes for licensed ACH beds; the project will require no construction and minimal capital investment to convert the space from MUHS to ACH space.

...

The safety and quality policies and procedures currently followed by Liberty would continue for those served. Liberty places a strong focus on the performance improvement and patient safety and makes every effort to ensure safe, positive patient outcomes and process standardization across the organization.

...

As stated in Section L, due to restrictions in Policy LTC-1 beds, Pisgah Valley will only admit to its 30 adult care home “closed” beds anyone over the age of 55 (the minimum age for entry to Pisgah Valley independent living) who qualifies for adult care home services and who has a continuing care contract in place with Pisgah Valley and who have lived in a non-nursing unit of the CCRC for a period of at least 30 days.”

The applicant adequately describes the expected effects of the proposed services on competition in the service area and adequately demonstrates:

- The cost-effectiveness of the proposal (see Sections F, N and Q of the application and any exhibits)
- Quality services will be provided (see Section N and O of the application and any exhibits)
- Access will be provided to underserved groups (see Section C, L and N of the application and any exhibits)

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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 Q, page 61, the applicant identifies the Adult Care Home Facilities located in North Carolina owned, operated or managed by the applicant or a related entity. The applicant identifies a total of five of this type of facility located in North Carolina.

In Section O, page 56, the applicant states that, during the 18 months immediately preceding the submittal of the application, no identified affiliated Liberty ACH facility has operated out of compliance, has been suspended or denied payment for residents. According to the files in the Adult Care Home Licensure Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, incidents related to quality of

care have not occurred in any of these facilities. After reviewing and considering information provided by the applicant and by the Adult Care Home Licensure Section and considering the quality of care provided at all five facilities, the applicant 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 to a Continuing Care Retirement Community developing new Policy LTC-1 adult care home beds.