

REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: July 12, 2019

Findings Date: July 12, 2019

Team Leader: Gloria C. Hale

Assistant Chief: Lisa Pittman

Project ID #: R-11699-19

Facility: Cross Creek Health Care

FID #: 943128

County: Hyde

Applicants: Liberty Commons Nursing and Rehabilitation Center of Hyde County, LLC
Liberty Healthcare Properties of Hyde County, LLC

Project: Add no more than 30 ACH beds pursuant to a need determination in the 2019 SMFP for a total of no more than 50 NF beds and 30 ACH beds upon completion of this project and Project ID# F-11462-18 (relocate 20 NF beds to Charlotte) and Project ID# F-11461-18 (relocate 10 NF beds to Charlotte)

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

The applicants, Liberty Commons Nursing and Rehabilitation Center of Hyde County, LLC and Liberty Healthcare Properties of Hyde County, LLC, collectively referred to hereinafter as “the applicant”, own and operate Cross Creek Health Care (Cross Creek), an 80-bed nursing facility (NF) located in Hyde County. The applicant proposes to add 30 adult care home (ACH) beds to Cross Creek pursuant to the 2019 State Medical Facilities Plan (SMFP) need determination for a total of 50 NF beds and 30 ACH beds upon completion of the project and two other previously-approved projects, Project ID# F-11462-18 (relocate 20 NF beds to Charlotte) and Project ID# F-11461-18 (relocate 10 NF beds to Charlotte).

Need Determination

Table 11D in the 2019 SMFP, on page 253, shows there is a need determination for 30 ACH beds in Hyde County. This application proposes to develop 30 ACH beds in Hyde County. The application is consistent with the need determination.

Policies

There are two policies in the 2019 SMFP which are applicable to this review: Policy LTC-3: Certification of Beds for Special Assistance and Policy GEN-3: Basic Principles.

Policy LTC-3: Certification of Beds for Special Assistance, on page 24 of the 2019 SMFP, states:

“Certificate of need applicants proposing to develop new adult care home beds pursuant to a need determination shall demonstrate that the proposed beds will be certified for special assistance and that at least 5 percent of the projected days of care in the third full fiscal year of operation shall be provided to residents receiving State-County Special Assistance.”

In Section B, page 15, the applicant states that the proposed ACH beds will be certified for State-County Special Assistance. In Section L, page 49, the applicant states that in operating year (OY) three, 81.5% of patient days of care will be State-County Special Assistance.

The applicant adequately demonstrates that at least 5% of the projected days of care will be provided to residents receiving State-County Special Assistance. The application is consistent with Policy LTC-3.

Policy GEN-3: Basic Principles, on page 31 of the 2019 SMFP, states:

“A certificate of need applicant applying to develop or offer a new institutional health service for which there is a need determination in the North Carolina State Medical Facilities Plan shall demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value for resources expended. A certificate of need applicant shall document its plans for providing access to services for patients with limited financial resources and demonstrate the availability of capacity to provide these services. A certificate of need applicant shall also document how its projected volumes incorporate these concepts in meeting the need identified in the State Medical Facilities Plan as well as addressing the needs of all residents in the proposed service area.”

Promote Safety and Quality - The applicant describes how it believes the proposed project would promote safety and quality in Section B.10, page 15; Section O, pages 54-57; and referenced exhibits. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would promote safety and quality.

Promote Equitable Access – The applicant describes how it believes the proposed project would promote equitable access in Section B.10, page 16; Section C.8, page 23, Section L, pages 49-50; and referenced exhibits. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would promote equitable access.

Maximize Healthcare Value – The applicant describes how it believes the proposed project would maximize healthcare value in Section B.10, page 16; Section F.1, pages 31-25; Section K, pages 44-45; and Section N, pages 52-53. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would maximize healthcare value.

The applicant adequately demonstrates how the projected volumes incorporate the concepts of quality, equitable access and maximum value for resources expended in meeting the need for Hyde County ACH beds. The application is consistent with Policy GEN-3.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- 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 does not propose to develop more ACH beds than are determined to be needed in the service area.
- The applicant adequately demonstrates that the proposal is consistent with the applicable policies for the following reasons:
 - The applicant adequately demonstrates how the projected volumes incorporate the concepts of quality, equitable access and maximum value for resources expended in meeting the need for Hyde County ACH beds.
 - The applicant adequately demonstrates that at least 5% of the projected days of care will be provided to residents receiving State-County Special Assistance.

(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 applicant proposes to add 30 ACH beds to the existing Cross Creek for a total of 50 NF beds and 30 ACH beds.

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.*” Cross Creek is located in Hyde County, thus, the service area for this project is Hyde County. Facilities may also serve residents of counties not included in their service area.

In Section C, pages 18-20, the applicant provides the historical and projected patient origin at Cross Creek, as summarized in the following tables.

**Cross Creek
 Historical Patient Origin
 Last Full Fiscal Year
 10/1/17-9/30/18**

County or State	NF Beds Percent of Patients	ACH Beds Percent of Patients	Total Beds Percent of Patients
Beaufort	11.0%	0.0%	11.0%
Dare	7.5%	0.0%	7.5%
Hyde	57.0%	0.0%	57.0%
Pitt	12.0%	0.0%	12.0%
Tyrrell	7.5%	0.0%	7.5%
Other counties*	5.0%	0.0%	5.0%
Total	100.0%	0.0%	100.0%

Source: Section C, page 18

*Other counties include: Chowan, Sampson, and Washington

**Cross Creek
Projected Patient Origin
Third Full Fiscal Year
10/1/22-9/30/23**

County or State	NF Beds Percent of Patients	ACH Beds Percent of Patients	Total Beds Percent of Patients
Beaufort	10.0%	1.5%	6.9%
Dare	7.0%	1.5%	5.0%
Hyde	68.0%	95.0%	78.1%
Pitt	6.0%	0.0%	3.8%
Tyrrell	4.0%	2.0%	3.1%
Other counties*	5.0%	0.0%	3.1%
Total	100.0%	100.0%	100.0%

Source: Section C, pages 19-20

Other counties include: Chowan, Pasquotank, Sampson, Washington and Wake

In Section C, page 19, 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 20-22, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services. The applicant states:

- There is a need determination in the 2019 SMFP for 30 ACH beds in Hyde County.
- There are no ACH beds in Hyde County.
- The 65+ age group in Hyde County is expected to grow by nearly 12% from 2017 to 2022.
- Hyde County officials, Department of Social Services, and health care providers support the proposal to add 30 ACH beds. (See Exhibits C.4 and I.2)

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

- The 2019 SMFP projects a 33-bed deficit for Hyde County and identifies a need for 30 additional ACH beds.
- There are currently no ACH beds in Hyde County.
- The applicant provides documentation of broad community support for the proposed project in Exhibits C.4 and I.2.

Projected Utilization

In Section Q, the applicant provides the historical (FY2018), interim (FY2019, FY2020), and projected utilization for FY2021-FY2023 (October 1 through September 30), as shown in the table below.

Cross Creek Utilization

	Historical	Interim	Interim	Projected		
	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023
# NF Beds	80	80	80	50	50	50
Days of Care	14,469	14,981	14,981	15,330	15,330	15,330
Occupancy Rate	49.6%	51.3%	51.3%	84.0%	84.0%	84.0%
# ACH Beds	0	0	0	30	30	30
Days of Care	0	0	0	4,476	9,855	9,855
Occupancy Rate	0	0	0	43.3%	90.0%	90.0%
Total # Beds	80	80	80	80	80	80
Days of Care	14,469	14,981	14,981	19,806	25,185	25,185
Occupancy Rate	49.6%	51.3%	51.3%	67.8%	86.3%	86.3%

In Section Q, page 63 and Section C, pages 21-22, the applicant provides the assumptions and methodology used to project utilization, which are summarized below.

- Historical utilization represents actual utilization for the last full fiscal year and includes the facility’s 80 NF beds.
- Utilization of NF beds is based on a historical, consistent average of 42 NF patients.
- Fill-up of the ACH beds is based on the applicant’s experience with a recently opened ACH facility, the high percentage of patient days projected to be covered by State-County Special Assistance, and the large projected increases in the elderly population in Hyde County.

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

- Projected utilization is based on the applicant’s experience with occupancy at a recently-opened facility, and
- Projected utilization is based on Hyde County demographics and payor factors.

Access

In Section C.8, page 23, the applicant describes the access low-income persons, racial and ethnic minorities, women, disabled people, the elderly, and underserved groups will have to the proposed services, stating that services will be non-restrictive and available on a first-come, first-served basis. The applicant states, on page 23:

“Cross Creek admits residents based on the ability of the facility to satisfy the resident’s needs and based on bed availability. Cross Creek will continue these services for the ACH beds in this application.”

In Section L, page 49, the applicant projects that 18.5% of total ACH bed days will be private pay and 81.5% will be covered by State-County Special Assistance in the third full fiscal year (FY2023) following completion of the project. The projected payor mix is reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- 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 (payer 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 a reduction or elimination of a service.

- (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 add 30 ACH beds to Cross Creek for a total of 50 NF beds and 30 ACH beds.

In Section E, page 29, 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 this alternative would not address the need for adult care services in Hyde County and that residents would continue to seek these services outside the county. Therefore, this alternative is not the most effective alternative.

Develop the ACH Beds in Another Location – the applicant states that this would involve developing an entirely new stand-alone ACH facility which would be costly and would have limited efficiency, driving up costs for patients. Therefore, this is not the most effective alternative.

On page 29, the applicant states that its proposal is the most effective alternative because the proposed bed space is already available, meets ACH regulations for private and semi-private rooms, and the facility is already staffed to nursing care levels.

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

- The application is conforming to all statutory and regulatory review criteria.
- The applicant provides credible information to explain why it believes the proposed project is the most effective alternative.

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 reasons stated above. Therefore, the application is approved subject to the following conditions:

- 1. Liberty Commons Nursing and Rehabilitation Center of Hyde County, LLC and Liberty Healthcare Properties of Hyde County, LLC shall materially comply with all representations made in the certificate of need application.**
- 2. Liberty Commons Nursing and Rehabilitation Center of Hyde County, LLC and Liberty Healthcare Properties of Hyde County, LLC shall add no more than 30 adult care home beds for a total of no more than 50 nursing facility beds and 30 adult care home beds at Cross Creek Health Care upon completion of this project, Project I.D. #F-11462-18 (relocate 20 NF beds to Charlotte), and Project I.D. #F-11461-18 (relocate 10 NF beds to Charlotte).**
- 3. Cross Creek Health Care shall provide care to recipients of State-County Special Assistance with Medicaid, commensurate with representations made in the application.**
- 4. For the first two years of operation following completion of the project, Liberty Commons Nursing and Rehabilitation Center of Hyde County, LLC and Liberty Healthcare Properties of Hyde County, 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.

- 5. 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 Commons Nursing and Rehabilitation Center of Hyde County, LLC and Liberty Healthcare Properties of Hyde 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.**
- 6. Liberty Commons Nursing and Rehabilitation Center of Hyde County, LLC and Liberty Healthcare Properties of Hyde County, 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 add 30 ACH beds to the existing Cross Creek for a total of 50 NF beds and 30 ACH beds.

Capital and Working Capital Costs

In Section Q, page 66, the applicant projects the total capital cost of the project, as shown in the table below.

Construction/ Renovation	\$99,000
Architecture/Engineering Fees	\$30,000
Equipment/Furniture	\$300,000
Financing Costs	\$10,000
Total	\$439,000

In Section F, pages 32-33, the applicant projects there will be no start-up costs or initial operating expenses because Cross Creek is an existing facility.

Availability of Funds

In Section F, page 31, the applicant states that the capital costs for the project will be funded with accumulated reserves/owner’s equity. Exhibit F.2 contains letters from the Certified Public Accountant of the owners, John A. McNeill Jr. and Ronald McNeill, and the owners themselves, dated April 9, 2019 and April 4, 2019, respectively, attesting to the availability of funds for the proposed project.

Financial Feasibility

In Section Q, the applicant provides pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Form F.5, pages 86-87, the applicant projects that revenues will exceed operating expenses in the first three operating years of the project, as summarized in the table below.

**Cross Creek
Revenue and Expenses**

	PY1 FY2021	PY2 FY2022	PY3 FY2023
Total Beds (NF and ACH)	80	80	80
Total Gross Revenues (Charges)	\$3,140,661	\$3,462,981	\$3,480,819
Total Contractual Adjustments	\$15,549	\$17,106	\$17,195
Total Net Revenue	\$3,125,112	\$3,445,875	\$3,463,624
Average Net Revenue per Bed	\$39,064	\$43,073	\$43,295
Total Operating Expenses (Costs)	\$3,182,749	3,284,871	\$3,285,924
Average Operating Expense per Bed	\$39,784	\$41,061	\$41,074
Net Income	(\$57,637)	\$161,004	\$177,700

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, and
- 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 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 add 30 ACH beds to Cross Creek for a total of 50 NF and 30 ACH beds.

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.*” Cross Creek is located in Hyde County; thus, the service area for this project is Hyde County. Facilities may also serve residents of counties not included in their service area.

Table 11A on page 232 of the 2019 SMFP shows that there are no ACH facilities in Hyde County. Table 11C, page 250, shows that Hyde County has a deficit of 33 ACH beds.

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 bed services in Hyde County, stating that it would not result in unnecessary duplication because there are no other ACH services in the county. The applicant states that the proposal would give the residents of Hyde County some much needed ACH services.

The applicant adequately demonstrates that the proposal would not result in an unnecessary duplication of existing or approved services in the service area for the following reasons:

- The project is pursuant to a need determination for 30 ACH beds in Hyde County.
- The applicant adequately demonstrates the need for the 30 ACH beds.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- 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, Form H, the applicant provides current and projected staffing for the entire facility in full-time equivalent (FTE) positions, as illustrated in the following table.

Position	Current (4/15/19) FTEs	1 st FFY (FY2021) FTEs	2 nd FFY (FY2022) FTEs	3 rd FFY (FY2023) FTEs
RNs	3.30	3.30	3.30	3.30
Licensed Practical Nurses	2.60	5.10	5.10	5.10
Aides	13.60	16.77	16.77	16.77
Director of Nursing	1.00	1.00	1.00	1.00
MDS Nurse	1.00	1.00	1.00	1.00
Medical Records	1.00	1.00	1.00	1.00
Physical Therapy	1.20	1.20	1.20	1.20
Speech Therapy*				
Occupational Therapy	0.60	0.60	0.60	0.60
Dietary	5.55	8.00	8.00	8.00
Social Services	0.70	1.00	1.00	1.00
Activities	0.30	1.00	1.00	1.00
Transportation	0.10	0.85	0.85	0.85
Laundry and Linen	1.12	1.12	1.12	1.12
Housekeeping	2.24	2.24	2.24	2.24
Plant Operation & Maintenance	1.00	1.00	1.00	1.00
Administration	1.00	1.00	1.00	1.00
Other (Business Office)	1.00	1.00	1.00	1.00
Other (Med Tech)	1.93	1.93	1.93	1.93
TOTAL	39.00	49.00	47 [49.00]	47 [49.00]

Source: Form H in Section Q of the application

*Contracted service

Totals may not sum due to rounding

The assumptions and methodology used to project staffing are provided in Section Q, page 88. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in Form F.4, which is found in Section Q. In Section H, pages 38-39, the applicant describes the methods used to recruit or fill new positions and their existing training and continuing education programs. On page 39, the applicant identifies the medical

director and provides a letter, in Exhibit H.4, indicating his interest in continuing to serve as medical director 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, and
- 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.

C

In Section I.1, page 41, the applicant identifies the necessary ancillary and support services for the proposed services. The following services are provided to patients at Cross Creek through contract billing: Podiatry, Pharmacy, Laboratory, Dietary Services, Speech Therapy, Optometry, Rehab Services, Occupational Therapy, Barber/Beauty Services, Hospice/Respite Services, X-Ray/Radiology, and Dialysis. Those services provided by in-house staff include: facility van service, Social Services, Housekeeping, Pastoral/Chaplaincy, and personal laundry.

On pages 41-42, the applicant adequately explains how each ancillary and support service is made available.

In Section I, page 42, the applicant describes its existing and proposed relationships with other local health care and social service providers and provides supporting documentation in Exhibit I.2.

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

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.

- (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. Therefore, Criterion (9) is not applicable to this review.

- (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

The applicant is not an HMO. Therefore, Criterion (10) is not applicable to this review.

- (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 applicant does not propose to 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;

C

In Section L, page 48, the applicant states that 10.3% of Cross Creek's patient days during FFY2018 were private pay, 5.0% were paid by Medicare, and 83.7% were paid by Medicaid. All of the beds were NF beds. In Section L, page 47, the applicant provides the following comparison:

	Percentage of Total Patients Served by the Cross Creek Facility during the Last Full FY	Percentage of the Population of the Service Area
Female	67.5%	44.0%
Male	32.5%	56.0%
Unknown	0.0%	0.0%
64 and Younger	25.0%	81.0%
65 and Older	75.0%	19.0%
American Indian		
Asian		
Black or African-American		
Native Hawaiian or Pacific Islander		
White or Caucasian		
Other Race		
Declined / Unavailable	N/A	

Conclusion

The Agency reviewed the:

- application, and
- exhibits to the application.

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

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

C

Regarding any obligation to provide uncompensated care, community service, or access by minorities and persons with disabilities, in Section L, page 49, the applicant states that it is not obligated under federal regulations to provide uncompensated care, community service, or access by minorities and persons with disabilities.

In Section L, page 49, the applicant states that during the last five years, there have been no patient civil rights access complaints filed against the facility or any affiliated facility located in North Carolina.

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.

- (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 Q, Form F.3, page 75, the applicant projects the following payor mix for the entire facility during the third fiscal year of operation following project completion, as shown in the table below.

**Cross Creek Projected Payor Mix
FFY2023**

Payor Category	NF and ACH Services as Percent of Total
Private Pay	18.0%
Commercial Insurance	0.7%
Medicare	9.6%
Medicaid	61.7%
State-County Special Assistance	10.0%

As shown in the table above, during the third full fiscal year of operation, the applicant projects that 18% of total services will be provided to private pay patients, 9.6% to Medicare patients, 61.7% to Medicaid patients, and 10% to State-County Special Assistance patients. In addition, the applicant provides projections for payor mix for NF beds and ACH beds, respectively, in two separate tables in Section L, page 49. The applicant projects that in the third fiscal year following completion of the project, 18.5% of the patient days for ACH beds will be private pay and 81.5% will be State-County Special Assistance.

In Section L, page 49, the applicant provides the assumptions and methodology used to project payor mix during the third full fiscal year of operation following completion of the project. The projected payor mix is reasonable and adequately supported because the projected payor mix is based on the historical payor mix of the facility and the high percentage of patient days paid by Medicaid.

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.

- (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 50, the applicant adequately describes the range of means by which patients will have access to the proposed services.

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.

- (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 51, the applicant adequately describes the extent to which area health professional training programs will have access to the facility for training purposes and provides supporting documentation in Exhibit M-1.

Conclusion

The Agency reviewed the:

- application, and
- exhibits to the application.

Based on that review, the Agency concludes that the applicant adequately demonstrate 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 add 30 ACH beds to Cross Creek for a total of 50 NF beds and 30 ACH beds.

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.*” Cross Creek is located in Hyde County; thus, the service area for this project is Hyde County. Facilities may also serve residents of counties not included in their service area.

Table 11A on page 232 of the 2019 SMFP shows there are no facilities with ACH beds in Hyde County. Table 11C, page 250, shows that Hyde County has a projected deficit of 33 ACH beds.

In Section N, pages 52-53, 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 cost-effectiveness, quality, and access to the proposed services. On page 52, the applicant states:

“There is currently not an ACH facility located in Hyde County. Therefore, approval of this CON would allow Hyde County residents assisted living services that is [sic] not currently there. ... Cross [Creek] plans to expand its already high quality services is [sic] an efficient manner to minimize cost increases to the patient while maintaining quality. Adding ACH beds in Hyde County will allow access for residents of Hyde County at all payer levels and have the added cost value of reducing travel related expenditures for nursing home residents and their families.”

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 and Q of the application and any exhibits).
- Quality services will be provided (see Section O of the application and any exhibits).
- Access will be provided to underserved groups (see Section L of the application and any exhibits).

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- 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 Exhibit A.7, page 99, the applicant identifies the skilled nursing facilities located in North Carolina owned, operated or managed by the applicant or a related entity. The applicant identifies a total of 27 of this type of facility located in North Carolina.

In Section O.3, page 56, the applicant identifies five nursing facilities that had received immediate jeopardy citations during the 18 months immediately preceding submission of this application. The applicant states, on page 56, that all of these facilities are back in compliance. After reviewing and considering information provided by the applicant, the Nursing Home Licensure and Certification Section, the Adult Care Licensure Section and considering the quality of care provided at all 27 NF facilities and four ACH facilities, the applicant provides 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.

C

The Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1100 are applicable to this review. The specific criteria are discussed below.

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

10A NCAC 14C .1102 PERFORMANCE STANDARDS

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

-NA- The applicant does not propose to add nursing facility beds to an existing facility.

- (b) *An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.*
- NA- The applicant does not propose to establish a new nursing facility or add nursing facility beds to an existing facility.
- (c) *An applicant proposing to add adult care home beds to an existing facility shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed adult care home beds within the facility in which the new beds are to be operated was at least 85 percent.*
- NA- The applicant's Cross Creek facility does not have any adult care home beds, thus there is no historical occupancy.
- (d) *An applicant proposing to establish a new adult care home facility or add adult care home beds to an existing facility shall not be approved unless occupancy is projected to be at least 85 percent for the total number of adult care home beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.*
- C- In Section Q, on Form C, the applicant projects that the facility's adult care home beds will have an occupancy rate of 90 percent by the end of the second operating year following project completion. The applicant provides the assumptions and methodology to project utilization in Section C, pages 20-22 and Section Q, page 63. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.