PETITION FOR CHANGE IN THE NORTH CAROLINA STATE MEDICAL FACILITIES PLAN

POLICIES APPLICABLE TO HOME HEALTH SERVICES (HH)

ATTENTION:

North Carolina Division of Health Service Regulation
Healthcare Planning & North Carolina State Health Coordinating Council
2704 Mail Service Center
Raleigh, North Carolina 27699-2704

PETITIONER:

LeadingAge North Carolina
c/o Tom Akins, President & CEO
222 N. Person St.
Raleigh, NC 27601
tom.akins@leadingagenc.org
(919) 571-8333

PETITIONER INFORMATION

LeadingAge North Carolina, based in Raleigh, North Carolina, has 69 member communities statewide that include Continuing Care Retirement Communities (CCRCs) and affordable housing providers. Its members employ more than 15,000 mission-oriented staff serving nearly 21,000 North Carolinians.

The scope of this Petition surrounds a proposed change in policy which would include an exemption to the NC State Medical Facilities Plan (SMFP) Need Projection for Home Health Agencies (Chapter 12) for CCRCs who wish to license and implement a Medicare Certified Home

Health Agency, and to service **exclusively** the people with whom the CCRC has a continuing care contract; and not the general population.

STATEMENT OF REQUESTED CHANGE IN POLICY:

LeadingAge North Carolina, herein referred to as LeadingAge, respectfully petitions the State Health Coordinating Council (SHCC) for a change in the Policies Applicable to Home Health Agencies (HH), as identified in Chapter 4 of the North Carolina State Medical Facilities Plan. Specifically, LeadingAge is requesting the addition of the following policy to the SMFP for 2019:

Policy HH-4: Plan Exemption for Continuing Care Retirement Communities – Home Health Agencies

Qualified Continuing Care Retirement Communities may include from the outset or add a licensed Medicare Certified Home Health Agency, without regard to the need determination shown in Chapter 12: Home Health Services. To qualify for such exemption, applications for certificates of need shall show that the proposed Medicare Certified Home Health Agency:

1. Will only be licensed concurrently with or after construction on the same site of facilities for the following levels of care:

    a. Independent living accommodations (apartments and homes) for people who can carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats, houses, cottages and rooms;

    b. Licensed adult care home beds for use by people who, because of age or disability, require some personal services, incidental medical services and room and board to assure their safety and comfort.

c. Licensed Nursing Care beds for use by people who, because of age, disability, or injury require skilled nursing services, rehabilitation services, or health-related services provided on a regular basis which are required above the level of room and board.

2. Will provide services 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).

3. Will not be certified for participation in the Medicaid program.

One hundred percent of the Home Health patients served under this exemption shall be excluded from Utilization Data used to project Home Health Agency need for the general population, as defined in the subsection "Sources of Data" of Chapter 12: Home Health Services.

BACKGROUND OF PETITION

Health Reform Implications to Post-Acute Care Providers

As the health care delivery model within our country moves from "Volume to Value" which shifts the focus of care delivery and reimbursements from fee for service to patient outcomes-; there has been increased attention on the utilization of home and community based services versus institutional/facility-based patient care. Historically, the leading post-acute discharge setting has been Skilled Nursing Facilities (SNF). However, with the expansion of "alternative payment models" which are increasingly both capitated and risk-based, the volume of patients discharged to home-care settings is being increased. See chart below from the Medicare Payment Advisory Commission with regards to the historical increase in Home Health services.

TABLE 9–5 Fee-for-service home health care services have increased significantly since 2002

	2002	2010	2011	2012	2013	2014	2015	Percent change 2002–2014	Percent change 2014–2015
Home health users (in millions)	2.5	3.4	3.4	3.4	3.4	3.4	3.5	37.3%	0.9%
Share of beneficiaries using home health care	7.2%	9.4%	9.4%	9.2%	9.2%	9.1%	9.1%	25.8	1.1
Episodes (in millions):	4.1	6.8	6.9	6.7	6.7	6.6	6.6	60.2	0.3
Per home health user	1.6	2.0	2.0	2.0	1.9	1.9	1.9	17.7	–0.6
Per FFS beneficiary	0.12	0.19	0.19	0.18	0.18	0.17	0.17	48.1	0.4
Payments (in billions)	$9.6	$18.4	$18.4	$18.0	$17.9	$17.7	$18.1	84.4	2.3
Per home health user	3,803	5,679	5,347	5,247	5,156	5,156	5,225	35.6	1.3
Per home health episode	2,645	3,084	2,916	2,900	2,896	2,908	2,965	12.1	1.9
Per FFS beneficiary	274	540	504	484	476	468	478	70.5	2.4

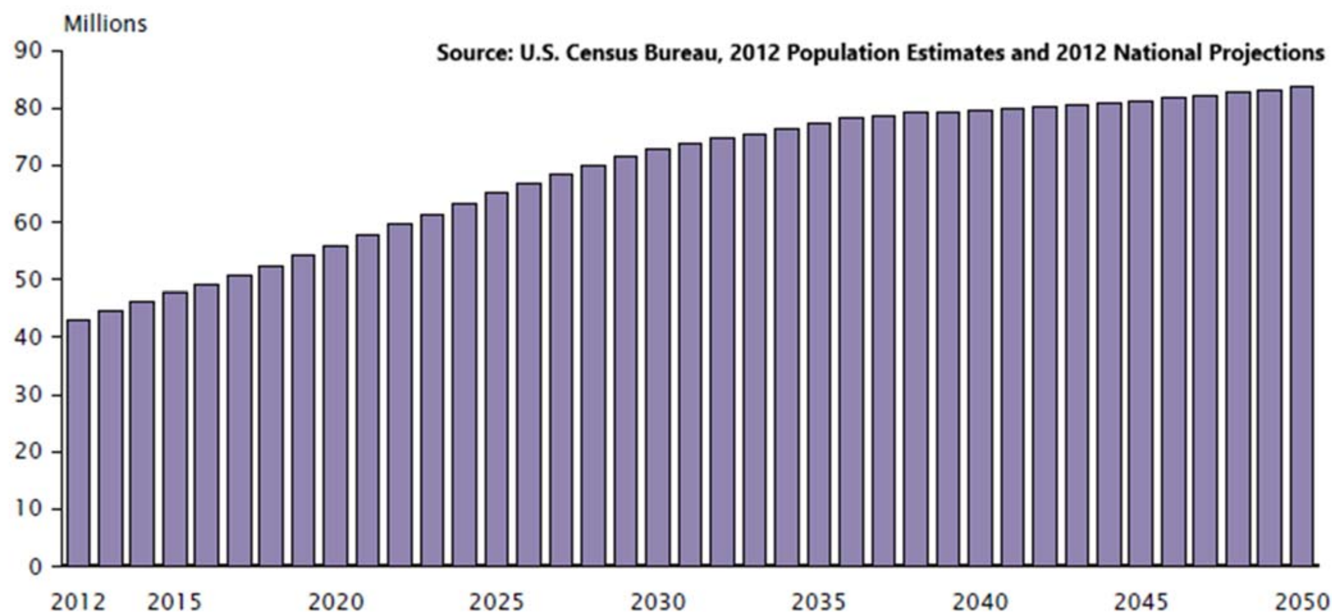
Note: FFS (fee-for-service). Percent change is calculated on numbers that have not been rounded; payment per episode excludes low-utilization payment adjustment cases.

Source: MedPAC analysis of home health standard analytical file.

Population Growth

Along with this change in our healthcare delivery model, our country is experiencing a profound shift in population demographics. According to the United States Census Bureau, the population of U.S. residents age 65 and over grew from 35.0 million in 2000, to 49.2 million in 2016; primarily due to the first influx of baby-boomers crossing the 65-year threshold. This trend is expected to continue for several years to come, which will inherently strain our Medicare benefit system and place demands on healthcare payers and providers to deliver care in the safest, most cost-effective setting; without sacrificing quality.

Population Aged 65 and Over for the United States: 2012 to 2050



Patient Satisfaction & Choice

In the current landscape of our health care delivery model, in addition to Safety and Quality, there is an increased focus on Patient Satisfaction. The CCRC community is especially attentive to the Patient Satisfaction aspect due to the inherent concept of "hospitality" that exists within a life-care community. With the ability of a CCRC to provide its residents the additional layer of Home Health services, LeadingAge is confident of the increased Satisfaction metrics that would follow.

While the Home Health care delivered under the current CCRC model (involving contractual relationships with third party providers) is in no way indicative of poor quality or safety; LeadingAge and its CCRC providers are continually faced with questions from residents as to why they cannot receive this benefit from their "life-care community". This confusion can have both direct and indirect effects on the underlying Patient Satisfaction scores for a CCRC patient receiving care. In other words, the CCRC patient receiving Home Health services may have acceptable safety measures, quality, and outcomes during their episode of care; however, the perception of satisfaction can be diluted due to having to receive care from "another provider", without the understanding as to why these services could not be delivered through the CCRC and its staff.

We also understand (and profoundly agree) that all patients have a choice as to their setting and provider of care. Patient Choice is, and always should be, paramount with regards to plans of care. This Petition in no way precludes a CCRC patient from selecting their provider of choice for Home Health services. It merely provides the CCRC an opportunity to offer another option; and one which includes care delivery from familiar faces within the life-care community. And although somewhat fundamental, we would also like to add that similar patient choice exists for the other care-related services lines within CCRC communities – Skilled Nursing and Adult Care Home; whereby similar exemptions exist within the SMFP, as outlined below.

Precedents

CCRCs were put in place with the mission of maintaining a campus where the continuum of aging care needs can be met within the life-care community. And while similar exemptions from the

NC SMFP exist for both Adult Care Home and Nursing Care services, there is no similar exemption for the delivery of Home Health services; mainly because the home and community based alternatives existing in today's healthcare environment were not as prevalent when CCRC charters and regulations first came into existence. Had the Home Health service line been as prevalent as in today's post-acute care environment, the efforts to include such an exemption within the underlying regulations and SMFP would have most certainly been taken.

LeadingAge would also like to point out a similar exemption for CCRC Home Health which exists in our neighboring state of South Carolina. Similar to North Carolina regulations, Medicare Certified Home Health Agencies licensed in South Carolina are subject to Certificate of Need review (but not the statistical Need Determination). However, an exemption for CCRC based Home Health Agencies exists within the South Carolina Health Plan per below:

South Carolina Health Plan Language:

Continuing Care Retirement Community Home Health Agencies

A licensed continuing care retirement community that also incorporates a skilled nursing facility may provide home health services and does not require Certificate of Need review provided:

1. *The continuing care retirement furnishes or offers to furnish home health services only to residents who reside in living units provided by the continuing care retirement community pursuant to a continuing care contract;*

2. *The continuing care retirement community maintains a current license and meets the applicable home health agency licensing standards; and*

3. *Residents of the continuing care retirement community may choose to obtain home health services from other licensed home health agencies.*

LeadingAge is fully aware of the differences in methodologies from state to state regarding Certificate of Need regulations, and the above-mentioned language is not intended to draw a parallel between the South Carolina and North Carolina Certificate of Need rules. We only include this South Carolina language as an example of the state of South Carolina's recognition of the need for Home Health services within the CCRC industry.

We would also like to recognize that while the above-mentioned South Carolina language excludes South Carolina CCRCs wishing to provide Home Health services from the Certificate of Need Application and Review process; this Petition is not asking for a similar exemption from the NC CON review process. We are merely asking for an exemption from the Need Determination outlined in Chapter 12 of the SMFP specific to Home Health Agencies, which would include similar language to that of the exemptions in place for both Skilled Nursing and Adult Care Home. We only include this South Carolina language as an example of the state of South Carolina's recognition of the need for Home Health services within the CCRC industry.

Additionally, this Petition in no way asks for any concessions on the licensure or regulatory requirements in effect for Medicare Certified Home Health Agencies. CCRCs wishing to explore this exception are expected to be fully aware of the regulatory oversight and licensure requirements associated with Medicare Certified Home Health Agencies.

CONFORMITY WITH THE STATE MEDICAL FACILITIES PLAN BASIC PRINCIPLES

(SAFETY & QUALITY, ACCESS, & VALUE)

LeadingAge has responsibly considered the compliance of this Petition with the core values and principals of the SMFP, and have concluded that the success of this Petition would, without doubt, comply with each component of the SMFP's guiding principles; Safety & Quality, Access, and Value).

Safety & Quality

While there are no relevant comparative statistics available for Home Health Agencies operated by CCRCs in NC, there is substantial information available with regards to the care-related Skilled Nursing Facility (SNF) services provided by NC CCRCs as compared to the broader NC SNF industry. Specifically, the CMS Five Star Rating System encompasses both the Safety (Health Inspection Rating) and Quality (Quality Measures) principals of the SMFP. LeadingAge considers this comparative information substantially indicative of the expectations of the CCRC industry with regards to Safety and Quality of care, and provides objective data which shows the superior outcomes and metrics, compared with the broader SNF industry.

The chart below represents the Five Star Ratings of all NC CCRCs with SNF Levels of Care, compared to the remaining SNF industry Five Star Ratings. Data components of the Five Star Rating System are substantially higher for CCRC SNFs, and the Overall Rating scores are greater than 50% higher than the remaining (Non-CCRC) SNF industry.

CMS SNF Five Star Rating

North Carolina Averages

	Overall Rating	Health Inspection Rating	Quality Measure Rating	Total Staffing Rating	RN Staffing Rating
NC CCRC CMS Five Star Ratings (SNF)	4.44	3.86	4.24	3.90	3.87
Remaining NC SNF CMS Five Star Ratings	2.84	2.72	3.44	2.52	2.68
Difference	**+ 1.6**	**+ 1.14**	**+ 0.8**	**+ 1.38**	**+ 1.19**
% Difference	**56%**	**42%**	**23%**	**55%**	**45%**

Source: CMS SNF Five Star Ratings Effective 2/1/2018
https://data.medicare.gov/Nursing-Home-Compare/Star-Ratings/ax9d-vq6k/data

Again, LeadingAge understands that this information is being relayed on a separate care-related service line from the scope of this Petition. However, this information shows the focused commitment of the CCRC community to both Quality and Safety of Care relative to all services provided through the life-care agreements; including any future Home Health service line as referenced in this Petition.

Along with Safety and Quality (in that specific order), LeadingAge is also in agreement with the SHCC's recognition that Patient Satisfaction is interconnected to these two guiding principals. In fact, one of the primary reasons for this Petition relates to the concept of Patient Satisfaction (as mentioned above). With an increased focus on Home Health services within the post-acute continuum of care, CCRCs are experiencing more residents with post-acute episodes utilizing the Home Health episodic payment benefit. As part of the trickle-down effect of Health Reform efforts and "Value-Based" reimbursement within the post-acute care space, this trend of Home Health referrals will continue to rise, and at higher volumes than previous years. And while this trend may not have yet hit its peak, LeadingAge believes CCRCs should have the ability to position themselves to live up to the commitment of providing for the continuum of aging care needs within the life-care community; without the disruption of having their Home Health benefit delivered by a third party.

Again, while Safety and Quality ratings associated with the current Home Health delivery platform (through third parties) is not in question, it is the opinion of LeadingAge that the Patient Satisfaction ratings would tremendously benefit from having Home Health services delivered directly through the CCRC and its staff. Some of the primary advantages of "on-campus" Home Health services, relative to increased Patient Satisfaction measures, include:

- Interoperability of Electronic Health Records within the CCRC
- Coordination of Care within the CCRC, and the ability to "follow" the patient throughout the post-acute episode
- Expected reductions in Hospital Readmissions
- Communication streams relative to patients' plans of care
- Consistent points of contact for both care-related and administrative questions
- Familiarity with caregivers

Access

LeadingAge maintains a full understanding of the SMFPs concept of Equitable Access, and agrees with the guiding principal of "Equitable access to timely, clinically appropriate, and high-quality health care for all the people of

North Carolina…" This Petition most appropriately addresses the concepts of timeliness and quality relative to the Access principal. The CCRC industry maintains its commitment to providing continuity of care for its life-care residents, in the most appropriate setting of care. While the provision of Home Health services can be coordinated through outside providers, this Petition aims to increase Access to care by streamlining the Care Coordination process within a life-care community. The current aging population is experiencing the effects of the most profound changes in our country's health care delivery system in decades. This Petition aims to provide some alleviation to the confusion and fragmentation of post-acute care by limiting the number of service providers caring for the CCRC population, and providing expedited Access to Home Health services.

Value

Without question, the notion of Value is at the forefront of today's healthcare conversations. Within the SMFP, the SHCC defines Value as "the maximum health care benefit per dollar expended." One of the primary drivers for Value comes with the avoidance of hospital readmissions. Through the exception referenced in this Petition, LeadingAge believes the risks associated with unplanned hospital readmissions will be greatly reduced. The Coordination of Care procedures taking place within the CCRC will allow clinicians to limit the number of caregivers and providers caring for a patient while also making decisions in the patient's best interest; including alternative settings on the CCRC campus (i.e. SNF). This care coordination ultimately leads to a more streamlined and efficient post-acute episode of care, which will mitigate the risk of rehospitalization. Examples of these Care Coordination advantages available within the CCRC include:

Knowledge of Patient

With access to resident information coupled with personal knowledge of the patient, CCRCs naturally have an upper hand when it comes to documentation, health history, and knowledge of potential risks which could lead to re-hospitalization.

Clinical Oversight

The clinical oversight within the CCRC provides a patient with the comfort of familiar caregivers with first-hand knowledge of the patient's history and clinical documentation. Plans of Care can be created more appropriately, and consistent with the patient's history of care provided within the CCRC.

Proximity to Patient

The concept of proximity to patient can often be under-valued. With patients receiving the Home Health benefit through the CCRC, more focused attention can be provided to further assist patients within the post-acute episode; including assistance with follow-up physician visits, organization of transportation, etc.

Technology

The Value component is further achieved through the interconnectivity of Electronic Health Record (EHR) systems available within the market. Patient history can seamlessly be shared between the various service lines within the CCRC, which leads to better care coordination and a reduction in re-hospitalization risk.

UNNECESSARY DUPLICATION OF RESOURCES

The spirit of the Certificate of Need regulations and the underlying SMFP includes the avoidance of unnecessary duplication of services. This Petition is, in no way, meant to impede on the Home Health services provided within the broader market. Based on a poll of LeadingAge member CCRCs, the potential Home Health patient volumes within CCRC life-care contracts represents less than 1% of the total Home Health patient volumes identified in the 2018 SMFP. Additionally, LeadingAge anticipates that that the CCRC industry would be very selective when choosing to move forward with a Medicare Certified Home Health Agency included under this exception; thereby reducing the patient potential even further. It is not the intention of this Petition and the underlying exception to harvest a market share of Home Health patients within the broader population. This Petition is only meant to provide additional services to the existing life-care

contracts of a CCRC in an effort to maintain the foundational concept of operating a true Life-Care Community.

POTENTIAL ADVSERSE EFFECTS ON POPULATION & ALTERNATIVES

When considering this Petition, LeadingAge has reflected on the potential adverse effects of **not** implementing this exception. And while the current delivery system for Home Health services through third party providers may have been historically acceptable, there are multiple components driving a need for more streamlined and continuity of care within CCRCs. The various reform elements outlined above are creating a gap in home-based services available to CCRC residents within their community. That gap will continue to widen over time, especially with demographic changes and elderly population growth.

The mission of a CCRC community is inherently to provide a continuity of care for all the aging care needs of its life-care residents. When considering the alternatives to this Petition, the only realistic option is to continue contracting with third parties for care delivery; which LeadingAge feels is contrary to the spirit, mission, and intention of a CCRC. Our life-care communities should, at a minimum, be able to have the **option** to apply for and license a Medicare Certified Home Health Agency for the life-care population of its campus.

CONCLUSION

Continuing Care is defined by NC General Statute § 58-64-1 as:

> *The furnishing to an individual other than an individual related by blood, marriage, or adoption to the person furnishing the care, of lodging together with nursing services, medical services, or other health related services, under a contract approved by the Department in accordance with this Article effective for the life of the individual or for a period longer than one year. "Continuing care" may also include home care services provided or arranged by a provider of lodging at a facility to an individual who has entered into a continuing care contract with the provider but is not yet receiving lodging*

To truly fulfill the duty of a "Continuing Care" facility, LeadingAge and its member representatives believe that the provision of home and community based services such as Medicare Certified Home Health is a vitally important component in the post-acute care continuum. CCRCs have been historically successful in the operations of the other care-related components within the campus (SNF & ACH - for which SMFP exemptions exist), even when faced with limited volumes. Through this Petition, LeadingAge is striving to help its CCRC member communities to stay current with the pace of change which is prevalent in today's health care environment, and to continue to provide for the needs of the life-care residents who look to the CCRC representatives for the provision of aging care services. While the current SNF and ACH exemptions for CCRCs found within the SMFP continue to be relevant, the population growth and health reform elements in today's environment are increasingly creating a gap in services for seniors who choose CCRCs for their living arrangements and life-care benefits. This Petition is being presented as a step towards filling this gap in services.

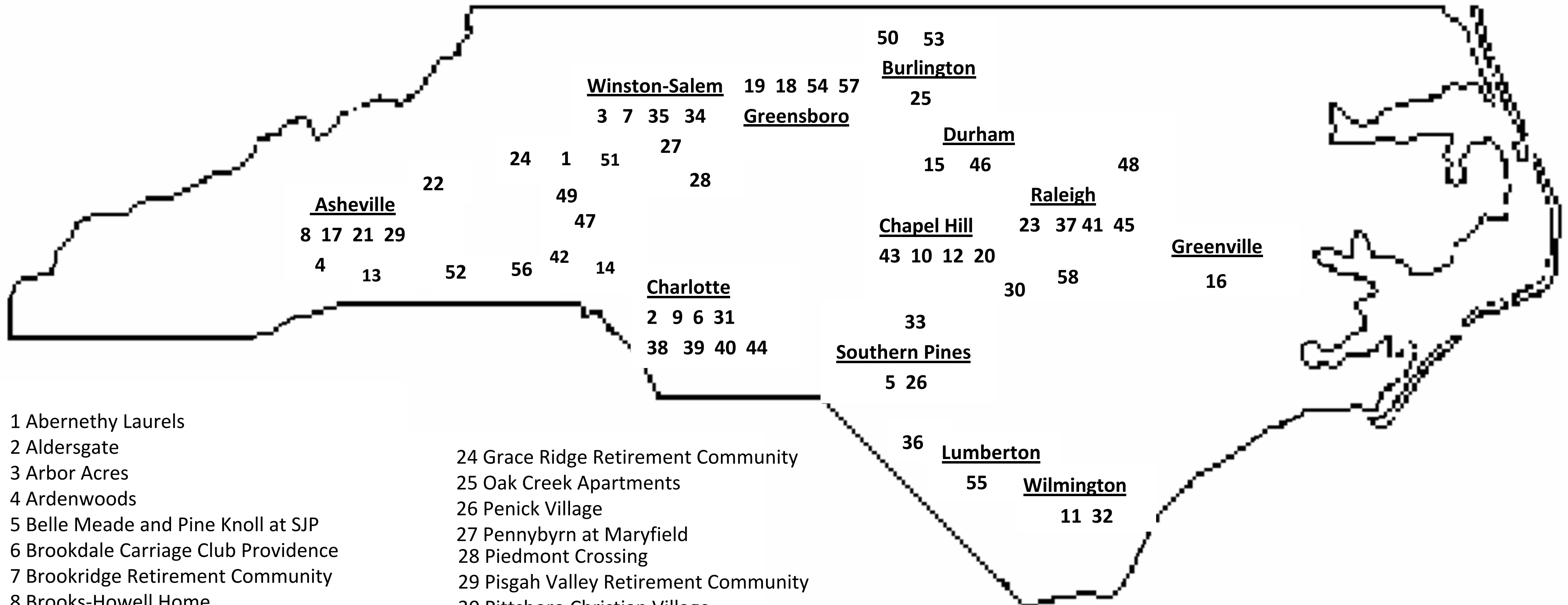
This Petition, in our opinion, shows compliance with all of the guiding principles reflected in the SMFP, and maintains the integrity of the Certificate of Need regulations and the mission of the State Health Coordinating Council.

LeadingAge wants to sincerely thank the North Carolina State Health Coordinating Council and the Healthcare Planning Section for the opportunity to participate in this Petition.

Tom Akins, President & CEO
LeadingAge NC

Attachment – NC CCRC Map

North Carolina Continuing Care Retirement Communities



1 Abernethy Laurels
2 Aldersgate
3 Arbor Acres
4 Ardenwoods
5 Belle Meade and Pine Knoll at SJP
6 Brookdale Carriage Club Providence
7 Brookridge Retirement Community
8 Brooks-Howell Home
9 Carmel Hills
10 Carol Woods
11 Carolina Bay at Autumn Hall
12 Carolina Meadows Retirement Community
13 Carolina Village
14 Covenant Village
15 Croasdaile Village Retirement Community
16 Cypress Glen Retirement Community
17 Deerfield Episcopal Retirement Community
18 Friends Homes West
19 Friends Homes at Guilford
20 Galloway Ridge at Fearrington
21 Givens Estates
22 Givens Highland Farms
23 Glenaire
24 Grace Ridge Retirement Community
25 Oak Creek Apartments
26 Penick Village
27 Pennybyrn at Maryfield
28 Piedmont Crossing
29 Pisgah Valley Retirement Community
30 Pittsboro Christian Village
31 Plantation Estates
32 Plantation Village
33 Quail Haven Village
34 River Landing at Sandy Ridge
35 Salemtowne
36 Scotia Village Retirement Community
37 SearStone
38 Sharon Towers
39 Sharon Village Apartments
40 Southminster
41 Springmoor Life Care Retirement Community
42 Stanley Total Living Center
43 The Cedars of Chapel Hill Club, Inc.
44 The Cypress of Charlotte
45 The Cypress of Raleigh
46 The Forest at Duke
47 The Gardens of Taylor Glen
48 The Oaks at Whitaker Glen
49 The Pines at Davidson
50 The Village at Brookwood
51 Trinity Oaks
52 Tryon Estates
53 Twin Lakes Community
54 Well-Spring Retirement Community
55 Wesley Pines Retirement Community
56 White Oak Village Apartments
57 Whitestone: A Masonic and Eastern Star Community
58 Windsor Point

ATTACHMENT