

**STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

MEDICAL CARE COMMISSION QUARTERLY MEETING

Duke Medical Center
40 Duke Medicine Circle
Durham, NC 27710

**MEDICAL CENTER BOARD ROOM
Room - 1170 B**

August 10, 2012

9:00 A.M.

I. MEDICAL CARE COMMISSION QUARTERLY MEETING

MEMBERS PRESENT	MEMBERS ABSENT
Lucy H. Bode, Chairperson Joseph D. Crocker, Vice-Chairperson George H.V. Cecil Gerald P. Cox Charles T. Frock Elizabeth Kanof, M.D. Albert F. Lockamy, Jr., RPh James H. Leonard Mary L. Piepenbring Carl K. Rust, M.D. George A. Binder, M.D. Henry A. Unger, M.D. <u>DIVISION OF HEALTH SERVICE REGULATION STAFF</u> Drexdal Pratt, Director, DHSR/Secretary, MCC Christopher B. Taylor, CPA, Assistant Secretary, MCC Steven Lewis, Chief, Construction Section, DHSR Diana Barbry, Executive Assistant, MCC/DHSR Megan Lamphere, Rules Coordinator, DHSR Kathy Larrison, Auditor, MCC/DHSR Crystal Watson-Abbott, Auditor, MCC/DHSR Alice Creech, Bond Program Assistant, MCC/DHSR	John Fagg, M.D. Eileen Kugler, RN, MSN, MPH, FNP Robert E. Schaaf, M.D. Margaret Weller-Stargell

II. CHAIRPERSON'S COMMENTS

The meeting was called to order by Mr. Joe Crocker and Ms. Bode welcomed everybody to the meeting and requested that the members of the audience introduced themselves to the members. She then questioned the members to see if anyone had a conflict of interest with anything coming before the Commission at the meeting. Ms. Bode reminded the members that in accordance with Advisory Opinion dated November 19, 2010 any Commission member with \$10,000 or more invested in a particular bank would need to abstain from voting on a project, in which the bank was involved. It was decided that the recusals would be done at the time each project was presented for a vote.

III. APPROVAL OF MINUTES from the May 11, 2012 meeting. (**Exhibit A**).

Commission Action: Motion was made by Mr. Frock, seconded by Mr. Lockamy and unanimously approved.

IV. DIVISION DIRECTOR'S REPORT

Mr. Pratt reported on matters of interest to the Commission, he gave a brief overview of the current DHSR projects and he introduced Ms. Cheryl Ouimet who is the new COO for DHSR.

Other items to report on are listed below (see **Exhibits B – B/5**):

1. Quarterly Report on Bond Program (**attached as Exhibit B**)

The Executive Committee held telephone conference meetings on the following dates:

May 24, 2012 – To consider preliminary approval to a project for Catholic Health East / St. Joseph of the Pines (**Exhibit B/1**)

June 7, 2012 – To authorize the sale of bonds, the proceeds of which are to be loaned to Catholic Health East (**Exhibit B/2**)

June 14, 2012 – To authorize the sale of bonds, the proceeds of which are to be loaned to Duke University Health System, Inc. and a resolution approving a First Amendment to a Loan Agreement relating to the North Carolina Medical Care Commission Variable Rate Demand Health System Refunding Bonds for Transylvania Regional Hospital, Series 2011.**Exhibit B/3**)

June 22, 2012 – To consider a resolution approving a substitute Letter of Credit and the appointment of a successor Remarketing Agent for a subseries of bonds, the proceeds of which were loaned to Gaston Memorial Hospital, Incorporated, CaroMont Health Services, Inc. and CaroMont Health Inc., and authorizing and approving certain amendments to the Amended and Restated Trust Agreement pursuant to which such bonds were issued and the Loan Agreement relating thereto and to authorize the sale of bonds, the proceeds of which are to be loaned to WakeMed. (**Exhibit B/4**)

July 12, 2012 - To consider a resolution approving two substitute Letters of Credit and the appointment of a successor Remarketing Agent for bonds, the proceeds of which were loaned to Gaston Memorial Hospital, Incorporated, CaroMont Health Services, Inc. and CaroMont Health Inc., and authorizing and approving certain amendments to the Amended and Restated Trust Agreement pursuant to which such bonds were issued and the Loan Agreement relating thereto. (**Exhibit B/5**)

Presentation

Financial Condition of Hospitals & CCRC's – Powerpoint Presentation.....Exhibit C
Christopher Taylor, Kathy Larrison & Crystal Watson-Abbott

V. Old Business

Executive Order 70 – Rules Improvement Modification Program Update... Megan Lamphere

VI. New Business

- A. Resolution of Appreciation for Ken Durham..... Lucy Bode**
- B. Resolution of the North Carolina Medical Care Commission Authorizing the Issuance of**

\$28,650,000 North Carolina Medical Care Commission Health Care Facilities Revenue Refunding Bonds (Duke University Health System) Series 2012B and \$19,575,000 North Carolina Medical Care Commission Health Care Facilities Revenue Refunding Bonds (Duke University Health System) Series 2012C - Allen Robertson

Commission Action: Motion was made by Mr. Crocker, seconded by Mr. Cecil and approved with the recusal of Dr. Rust.

WHEREAS, the North Carolina Medical Care Commission (the “Commission”) is a commission of the Department of Health and Human Services of the State of North Carolina and is authorized under Chapter 131A of the General Statutes of North Carolina, as amended (the “Act”), to borrow money and to issue in evidence thereof bonds and notes for the purpose of providing funds to pay all or any part of the cost of financing or refinancing health care facilities; and

WHEREAS, Duke University Health System, Inc. (the “Corporation”) is a nonprofit corporation duly incorporated and validly existing under and by virtue of the laws of the State of North Carolina and is a “non-profit agency” within the meaning of the Act; and

WHEREAS, the Corporation has made application to the Commission for one or more loans in the aggregate principal amount of up to \$48,370,000, which will be used for the purpose of providing funds, together with other available funds, to (1) refund all of the Commission’s outstanding Hospital Revenue Bonds (Duke University Hospital Project) Series 1985B (the “1985B Bonds”) and (2) refund all of the Commission’s outstanding Hospital Revenue Bonds (Duke University Hospital Project) Series 1993A (the “1993A Bonds” and, collectively with the 1985B Bonds, the “Prior Bonds”); and

WHEREAS, the proceeds of the 1985B Bonds were loaned by the Commission to Duke University (the “University”) to finance (a) the acquisition of certain equipment for Duke University Hospital (the “Hospital”), which is located on the main campus of Duke University at Erwin Road, Durham, North Carolina, (b) the purchase of a maintenance building located at 2912 West Main Street, Durham, North Carolina, (c) the purchase of certain of the Hospital’s parking facilities and (d) the construction of a three-level addition to one of the Hospital’s parking facilities (collectively, the “1985B Project”); and

WHEREAS, the proceeds of the 1993A Bonds were loaned by the Commission to the University to finance all or a portion of the costs of (a) acquiring, constructing and equipping a multi-story parking facility to serve the Hospital, located adjacent to the Hospital between Trent Drive and Flowers Drive in Durham, North Carolina; (b) advance refunding a portion of the Commission’s outstanding Hospital Revenue Refunding Bonds (Duke University Hospital Project), Series 1985A, dated July 1, 1985, which were issued to advance refund (i) the Commission’s outstanding Hospital Revenue Bond (Duke University Hospital Project), Series B, dated July 1, 1980, the proceeds of which were used to complete the construction and equipping of the Hospital, (ii) the Commission’s outstanding Special Hospital Revenue Bond (Duke University Hospital Project), Series B, dated July 1, 1980, the proceeds of which were used to pay the costs of certain equipment and improvements to the Hospital, and (iii) the Commission’s outstanding Medical Center Parking Facilities Revenue Bonds (Duke University Project), Series A, dated January 1, 1979, the proceeds of which were used to construct a multi-story parking structure, a pedestrian and vehicular tunnel and a personal rapid transit vehicle for the benefit of the Hospital; (c) advance refunding all or a portion of the Commission’s outstanding Hospital Revenue Bonds (Duke University Hospital Project), Series 1991D, which were issued to finance the cost of acquiring, constructing and equipping a multi-story parking facility to serve the Hospital (collectively, the “1993A Project” and together with the 1985B Project, the “Project”); and (d) paying certain expenses incurred in connection with the authorization and issuance of the 1993A

Bonds; and

WHEREAS, on April 13, 1999, all obligations of the University with respect to the loans made by the Commission from the proceeds of the Prior Bonds became obligations of the Corporation, and the University was released from such obligations, when the University conveyed all of the Property of the Hospital, as such terms were defined in the Master Trust Indenture dated as of July 1, 1985 (the “1985 Master Indenture”), between the University and Wachovia Bank and Trust Company, N.A., as master trustee, to the Corporation pursuant to Section 3.09(e) of the 1985 Master Indenture; and

WHEREAS, the Commission has determined that the public will best be served by the proposed financing and, by a resolution adopted on July 12, 2012, has approved the issuance of the Bonds (as defined below), subject to compliance by the Corporation with the conditions set forth in such resolution, and the Corporation has complied with such conditions to the satisfaction of the Commission with respect to the refunding of the outstanding Prior Bonds; and

WHEREAS, there have been presented at this meeting draft copies of the following documents relating to the issuance of the Bonds:

(a) a Trust Agreement dated as of August 1, 2012 (the “2012B Trust Agreement”), between the Commission and The Bank of New York Mellon Trust Company, N.A., as bond trustee (the “2012B Bond Trustee”), securing the 2012B Bonds (as defined below);

(b) a Loan Agreement dated as of August 1, 2012 (the “2012B Loan Agreement”), between the Commission and the Corporation, related to the 2012B Bonds;

(c) a Supplemental Indenture for Obligation No. 36 dated as of August 1, 2012 (“Supplement No. 36”), between the Corporation and The Bank of New York Mellon Trust Company, N.A., in its capacity as successor master trustee to The Bank of New York (the “Master Trustee”), under the Master Trust Indenture dated as of April 13, 1999 (as supplemented, the “Master Indenture”), among the Corporation, Durham Therapies, Incorporated and the Master Trustee, which includes the form of Obligation No. 36, to be dated the date of its original issuance (“Obligation No. 36”);

(d) a Tender Agent Agreement dated as of August 1, 2012 (the “2012B Tender Agreement”), among the 2012B Bond Trustee, the Corporation and The Bank of New York Mellon Trust Company, N.A., as tender agent (the “2012B Tender Agent”), related to the 2012B Bonds;

(e) a Guaranty and Credit Agreement dated as of August 1, 2012 (the “2012B Bank Agreement”), between the Corporation and SunTrust Bank (the “Bank”), related to the 2012B Bonds;

(f) a Supplemental Indenture for Obligation No. 38 dated as of August 1, 2012 (“Supplement No. 38”), between the Corporation and the Master Trustee, under the Master Indenture, which includes the form of Obligation No. 38, to be dated the date of its original issuance (“Obligation No. 38”);

(g) a Trust Agreement dated as of August 1, 2012 (the “2012C Trust Agreement” and, collectively with the 2012B Trust Agreement, the “Trust Agreements”), between the Commission and The Bank of New York Mellon Trust Company, N.A., as bond trustee (the “2012C Bond Trustee” and, collectively with the 2012B Bond Trustee, the “Bond Trustees”),

securing the 2012C Bonds (as defined below);

(h) a Loan Agreement dated as of August 1, 2012 (the “2012C Loan Agreement” and, collectively with the 2012B Loan Agreement, the “Loan Agreements”), between the Commission and the Corporation, related to the 2012C Bonds;

(i) a Supplemental Indenture for Obligation No. 37 dated as of August 1, 2012 (“Supplement No. 37” and, collectively with Supplement No. 36, the “Bond Supplements”), between the Corporation and the Master Trustee, under the Master Indenture, which includes the form of Obligation No. 37, to be dated the date of its original issuance (“Obligation No. 37” and, collectively with Obligation No. 36, the “Bond Obligations”);

(j) a Tender Agent Agreement dated as of August 1, 2012 (the “2012C Tender Agreement” and, collectively with the 2012B Tender Agreement, the “Tender Agreements”), among the 2012C Bond Trustee, the Corporation and The Bank of New York Mellon Trust Company, N.A., as tender agent (the “2012C Tender Agent” and, collectively with the 2012B Tender Agent, the “Tender Agents”), related to the 2012C Bonds;

(k) a Guaranty and Credit Agreement dated as of August 1, 2012 (the “2012C Bank Agreement” and, collectively with the 2012B Bank Agreement, the “Bank Agreements”), between the Corporation and the Bank, related to the 2012C Bonds;

(l) a Supplemental Indenture for Obligation No. 39 dated as of August 1, 2012 (“Supplement No. 39” and, collectively with Supplement No. 38, the “Bank Supplements,” and together with the Bond Supplements, the “Supplements”), between the Corporation and the Master Trustee, under the Master Indenture, which includes the form of Obligation No. 39, to be dated the date of its original issuance (“Obligation No. 39” and, collectively with Obligation No. 38, the “Bank Obligations,” and together with the Bond Obligations, the “Obligations”); and

(m) a Contract of Purchase dated the date of issuance of the Bonds between the Local Government Commission of North Carolina and the Bank, as the purchaser of the Bonds, and approved by the Commission and the Corporation; and

WHEREAS, the Commission has determined that the Corporation is financially responsible and capable of fulfilling its obligations under the Loan Agreements, the Master Indenture, the Bond Supplements and the Bond Obligations; and

WHEREAS, the Commission has determined that adequate provision has been made for the payment of the principal of, redemption premium, if any, and interest on the Bonds;

NOW, THEREFORE, THE NORTH CAROLINA MEDICAL CARE COMMISSION DOES HEREBY RESOLVE, as follows:

Section 1. Capitalized words and terms used in this Resolution and not defined herein shall have the same meanings in this Resolution as such words and terms are given in the Master Indenture, the Trust Agreements and the Loan Agreements.

Section 2. Pursuant to the authority granted to it by the Act, the Commission hereby authorizes the issuance of the North Carolina Medical Care Commission Health Care Facilities Revenue Refunding Bonds (Duke University Health System) Series 2012B in the aggregate principal amount of \$28,650,000 (the “2012B Bonds”) and the North Carolina Medical Care Commission Health Care Facilities Revenue

Refunding Bonds (Duke University Health System) Series 2012C in the aggregate principal amount of \$19,575,000 (the “2012C Bonds” and, together with the 2012B Bonds, the “Bonds”). The 2012B Bonds shall mature on June 1, 2023 and the 2012C Bonds shall mature on June 1, 2015. The Bonds shall bear interest at such rates determined in accordance with the applicable Trust Agreement and shall be subject to Sinking Fund Requirements set forth in Schedule 1 hereto. During the initial Bank-Bought Index Floating Rate Periods (each of which is to the applicable maturity date), the 2012B Bonds will bear interest at 77% of one-month LIBOR plus 0.95% and the 2012C Bonds will bear interest at 73% of one-month LIBOR plus 0.55%, each subject to adjustment under certain circumstances.

The Bonds shall be issued as fully registered bonds in (i) denominations of \$100,000 or any integral multiple of \$5,000 in excess of \$100,000 during any Bank-Bought Index Floating Rate Period, Weekly Interest Rate Period, Daily Interest Rate Period, Short-Term Interest Rate Period or Index Floating Rate Period and (ii) denominations of \$5,000 or any integral multiples thereof during any Long-Term Interest Rate Period. The Bonds of each Series shall be issuable in book-entry form as provided in the applicable Trust Agreement. Interest on the Bonds of each Series shall be paid at the times and at the rates determined as specified in the applicable Trust Agreement. Payments of principal of and interest on the Bonds of each Series shall be forwarded by the applicable Bond Trustee to the registered owners of such Bonds in such manner as is set forth in the applicable Trust Agreement.

Section 3. The Bonds of each Series shall be subject to (i) optional redemption, extraordinary optional redemption and mandatory redemption, (ii) during any Daily Interest Rate Period or Weekly Interest Rate Period, optional tender for purchase, and (iii) mandatory tender for purchase, at all times, upon the terms and conditions, and at the prices set forth in the applicable Trust Agreement.

Section 4. The proceeds of the Bonds shall be applied as provided in Section 208 of the Trust Agreements. The Commission hereby finds that the use of the proceeds of the Bonds for loans to refund the outstanding Prior Bonds will accomplish the public purposes set forth in the Act.

Section 5. The forms, terms and provisions of the Trust Agreements and the Loan Agreements, are hereby approved in all respects, and the Chairman or Vice Chairman (or any other member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission are hereby authorized and directed to execute and deliver the Trust Agreements and the Loan Agreements in substantially the forms presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 6. The form, terms and provisions of the Contract of Purchase are hereby approved in all respects, and the Chairman, Vice Chairman (or any other member of the Commission designated by the Chairman), Secretary or any Assistant Secretary of the Commission are hereby authorized and directed to execute and deliver the Contract of Purchase in substantially the form presented at this meeting, together with such changes, modifications, insertions and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 7. The form of the Bonds of each Series set forth in the applicable Trust Agreement is hereby approved in all respects, and the Chairman or Vice Chairman (or any other member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission are hereby authorized and directed to execute, by manual or facsimile signature as provided in such form of the Bonds of such Series, and to deliver to the applicable Bond Trustee for authentication on behalf of the Commission, the Bonds of such Series in definitive form, which shall be

in substantially the form presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary, appropriate and consistent with the applicable Trust Agreement, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 8. The forms of the Supplements, the Obligations, the Tender Agreements and the Bank Agreements are hereby approved in substantially the forms presented to this meeting, together with such changes, modifications, insertions and deletions as the Chairman, Vice Chairman (or any other member of the Commission designated by the Chairman), Secretary or any Assistant Secretary of the Commission, with the advice of counsel, may deem necessary and appropriate, and the execution and delivery of the Trust Agreements by the Commission shall be conclusive evidence of the approval of the documents listed in this Section by the Commission

Section 9. The Commission hereby approves the action of the Local Government Commission authorizing the private sale of the Bonds to the Bank in accordance with the Contract of Purchase at the purchase price of 100% of the principal amount thereof.

Section 10. Upon their execution in the form and manner set forth in the applicable Trust Agreement, the Bonds of each Series shall be deposited with the applicable Bond Trustee for authentication, and the applicable Bond Trustee is hereby authorized and directed to authenticate the Bonds of such Series and, upon the satisfaction of the conditions set forth in Section 208 of the applicable Trust Agreement, the applicable Bond Trustee shall deliver the Bonds of such Series to the Bank against payment therefore.

Section 11. The Bank of New York Mellon Trust Company, N.A. is hereby appointed as the initial Bond Trustee for each Series of Bonds.

Section 12. If either Series of Bonds is converted to an interest rate other than the Bank-Bought Index Floating Rate, the Depository Trust Company, New York, New York is hereby appointed as the initial Securities Depository for such Series of the Bonds, with Cede & Co., a nominee thereof, being the initial Securities Depository Nominee and initial registered owner of such Series of Bonds.

Section 13. Drexal Pratt, Secretary of the Commission, Christopher B. Taylor, C.P.A., Assistant Secretary of the Commission, and Kathy C. Larrison, Auditor of the Commission, are each hereby appointed a Commission Representative as that term is defined in the Loan Agreements, with full power to carry out the duties set forth therein.

Section 14. The Chairman, Vice Chairman (or any other member of the Commission designated by the Chairman), Secretary and any Assistant Secretary of the Commission and are authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, certificates, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by the Trust Agreements, the Loan Agreements and the Contract of Purchase.

Section 15. This Resolution shall take effect immediately upon its passage.

Required Redemption of the Series 2012B Bonds

<u>Year</u>	<u>Amount</u>
2019	\$5,160,000
2020	5,430,000
2021	5,715,000
2022	6,015,000
2023*	6,330,000

* Maturity

Required Redemption of the Series 2012C Bonds

<u>Year</u>	<u>Amount</u>
2013	\$8,700,000
2014	8,700,000
2015*	2,175,000

* Maturity

Professional Fees Comparison for
Duke University Health System, Inc.

<u>Professional</u>	Fees Estimated In Preliminary Approval Resolution for <u>2012B/2012C</u>	Actual Fees for <u>2012B/2012C</u>
Bank Counsel	\$15,150/15,150	\$15,150/15,150
Bond Counsel	\$30,000/\$30,000	\$25,000/\$25,000
Corporation Counsel	\$15,000/15,000	\$15,000/15,000

C. Resolution of the North Carolina Medical Care Commission Approving and Authorizing Execution and Delivery of a Second Supplemental Trust Agreement relating to the North Carolina Medical Care Commission Hospital Revenue Bonds (Duke University Hospital Project) Series 1993A – Allen Robertson

Commission Action: Motion was made by Mr. Crocker, seconded by Mr. Cecil and approved with the recusal of Dr. Rust.

WHEREAS, on August 12, 1993, the North Carolina Medical Care Commission (the “Commission”), a commission of the Department of Health and Human Services of the State of North Carolina, issued \$28,650,000 aggregate principal amount of its Hospital Revenue Bonds (Duke University Hospital Project) Series 1993A (the “Bonds”), all of which are outstanding, pursuant to the terms of a Trust Agreement, dated as of August 1, 1993, as amended by a First Supplemental Trust Agreement dated as of November 5, 2004 (as supplemented, the “Trust Agreement”), between the Commission and Wachovia Bank of North Carolina, N.A., succeeded by The Bank of New York Mellon Trust Company,

N.A., as bond trustee (the “Bond Trustee”); and

WHEREAS, the Commission loaned the proceeds from the sale of the Bonds to Duke University (the “University”) pursuant to a Loan Agreement, dated as of August 1, 1993 (the “Loan Agreement”), between the Commission and the University; and

WHEREAS, on April 13, 1999, all obligations of the University under the Loan Agreement became obligations of Duke University Health System, Inc. (“DUHS”), and the University was released from such obligations, pursuant to Section 9.02 of the Loan Agreement when the University conveyed all of the Property of the Hospital, as such terms were defined in the Master Trust Indenture, dated as of July 1, 1985 (the “1985 Master Indenture”), between the University and Wachovia Bank and Trust Company, N.A., as master trustee, to DUHS pursuant to Section 3.09(e) of the 1985 Master Indenture; and

WHEREAS, Section 1101 of the Trust Agreement permits the Commission and the Bond Trustee, without the consent of any Holder (as defined in the Trust Agreement), to enter into agreements supplemental to the Trust Agreement to make any provision with respect to matters or questions arising under the Trust Agreement if the Bond Trustee determines such supplemental agreement shall not materially and adversely affect the Holders; and

WHEREAS, DUHS has requested that the provisions in Article III of the Trust Agreement regarding revocation of redemption notices be amended to allow revocation of a redemption notice to occur at any time on or prior to the stated redemption date; and

WHEREAS, there has been presented at this meeting a draft copy of a Second Supplemental Trust Agreement, dated as of August 10, 2012 (the “Supplement”) between the Commission and the Bond Trustee, that would amend the Trust Agreement as requested by DUHS; and

NOW, THEREFORE, THE NORTH CAROLINA MEDICAL CARE COMMISSION DOES HEREBY RESOLVE, as follows:

Section 1. The forms, terms and provisions of the Supplement are hereby approved in all respects, and the Chairman, Vice Chairman, Secretary or Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) are hereby authorized and directed to execute and deliver the Supplement in substantially the form presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 2. The Chairman, Vice Chairman, Secretary or Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) or any duly authorized Commission Representative under the Trust Agreement are authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, certificates, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by the Supplement.

Section 3. This Resolution shall take effect immediately upon its passage.

D. Resolution of the North Carolina Medical Care Commission Approving and Authorizing Execution and Delivery of a First Supplemental Trust Agreement relating to the North Carolina Medical Care Commission Hospital Revenue Bonds (Duke University Hospital Project) Series 1985B – Allen Robertson

Commission Action: Motion was made by Mr. Crocker, seconded by Mr. Cecil and approved with the recusal of Dr. Rust.

WHEREAS, on October 2, 1985, the North Carolina Medical Care Commission (the “Commission”), a commission of the Department of Health and Human Services of the State of North Carolina, issued \$43,500,000 aggregate principal amount of its Hospital Revenue Bonds (Duke University Hospital Project) Series 1985B (the “Bonds”), of which \$26,100,000 aggregate principal amount is outstanding, pursuant to the terms of a Trust Agreement, dated as of September 1, 1985 (the “Trust Agreement”), between the Commission and Wachovia Bank and Trust Company, N.A., succeeded by The Bank of New York Mellon Trust Company, N.A., as bond trustee (the “Bond Trustee”); and

WHEREAS, the Commission loaned the proceeds from the sale of the Bonds to Duke University (the “University”) pursuant to a Loan Agreement, dated as of September 1, 1985 (the “Loan Agreement”), between the Commission and the University; and

WHEREAS, on April 13, 1999, all obligations of the University under the Loan Agreement became obligations of Duke University Health System, Inc. (“DUHS”), and the University was released from such obligations, pursuant to Section 9.02 of the Loan Agreement when the University conveyed all of the Property of the Hospital, as such terms were defined in the Master Trust Indenture, dated as of July 1, 1985 (the “1985 Master Indenture”), between the University and Wachovia Bank and Trust Company, N.A., as master trustee, to DUHS pursuant to Section 3.09(e) of the 1985 Master Indenture; and

WHEREAS, Section 1101 of the Trust Agreement permits the Commission and the Bond Trustee, without the consent of any Holder (as defined in the Trust Agreement), to enter into agreements supplemental to the Trust Agreement to make any provision with respect to matters or questions arising under the Trust Agreement if the Bond Trustee determines such supplemental agreement shall not adversely affect or prejudice the interests of the Holders; and

WHEREAS, DUHS has requested that provisions allowing for conditional redemption notices be added to Article III of the Trust Agreement so that a redemption notice can be revoked at any time on or prior to the stated redemption date; and

WHEREAS, there has been presented at this meeting a draft copy of a First Supplemental Trust Agreement, dated as of August 10, 2012 (the “Supplement”) between the Commission and the Bond Trustee, that would amend the Trust Agreement as requested by DUHS; and

NOW, THEREFORE, THE NORTH CAROLINA MEDICAL CARE COMMISSION DOES HEREBY RESOLVE, as follows:

Section 1. The forms, terms and provisions of the Supplement are hereby approved in all respects, and the Chairman, Vice Chairman, Secretary or Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) are hereby authorized and directed to execute and deliver the Supplement in substantially the form presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary and

appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 2. The Chairman, Vice Chairman, Secretary or Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) or any duly authorized Commission Representative under the Trust Agreement are authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, certificates, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by the Supplement.

Section 3. This Resolution shall take effect immediately upon its passage.

VII. Bond Projects

1. NC Baptist Hospital Obligated Group, Winston-Salem - Christopher Taylor & Steven Lewis

Statements were given by Ed Chadwick, CFO and Dr. John McConnell, CEO

Commission Action: Motion was made by Mr. Cecil, seconded by Dr. Unger and approved with the recusal of Mrs. Bode, Dr. Rust, Mr. Leonard and Mr. Cox.

Resolved: The Commission grants preliminary approval to a project for the North Carolina Baptist Hospital Obligated Group (which includes North Carolina Baptist Hospital, Wake Forest University Health Sciences and Wake Forest University Baptist Medical Center) to provide funds, to (1) to be used together with other available funds, to refund the \$62,955,000 Series 2008A and \$31,330,000 Series 2008B North Carolina Medical Care Commission Variable Rate Demand Health Care Facilities Revenue Refunding Bonds (Wake Forest University Health Sciences) outstanding in the aggregate amount of \$86,985,000 and (2) to refund a taxable bridge loan outstanding in the amount of \$89,115,000, the proceeds of which were used to redeem the \$31,320,000 Series 2008C and the \$63,035,000 Series 2008D North Carolina Medical Care Commission Variable Rate Demand Health Care Facilities Revenue Refunding Bonds (Wake Forest University Health Sciences) and (3) to pay the termination fee related to the termination of the outstanding swap related to the Series 2008A, Series 2008B and to provide funds for construction of four (4) Projects: (A) Cancer Center Expansion on the main campus of an additional six (6) floors and 283,000 gross square feet to support the growth, (B) Construction and equipment for two (2) 45,000 sq. ft. medical office buildings to create the Clemmons Medical Plaza, (C) Expand and improve the Brenner Children's Emergency department to serve the unique needs of children and (D) The construction of phase one of the Davie Medical Plaza which includes a 101,000 sq ft. outpatient center and a 60,000 to 80,000 square foot medical office building. It also includes a new Epic system for integrated medical records as well as other information systems. All in accordance with a preliminary application, plans and specifications and participation as follows:

ESTIMATED SOURCES OF FUNDS

Principal amount of bonds to be issued	\$451,190,000
Interest earned during construction	128,490
Other- Bond Premium	<u>21,847,332</u>
Total	\$473,165,822

ESTIMATED USES OF FUNDS

Construction contracts	\$160,896,764
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Construction contingency (less than 1% of construction contract)	1,421,160
Architect/engineer fees and reimbursables	23,839,132
Moveable equipment	55,188,155
Escrow amount to refund bonds (Series 2008A & 2008B)	86,985,000
Other refinancing –Swap Termination	12,000,000
- Taxable Loan (Defeased Series 2008C and 2008D)	89,115,000
Other Project Costs	
Epic and Other Information Systems	40,000,000
Underwriters' discount	2,392,061
Feasibility fees	50,000
Accountants fees	80,000
Legal fees for Corporation counsel	75,000
Underwriter's Counsel	100,000
Bond counsel	300,000
Rating agencies	400,000
Trustee fees	10,000
Printing costs	10,000
DHSR reimbursables (G.S. 131E-267)	204,800
Local Government Commission fee	8,750
Financial Advisor	<u>90,000</u>
Total	\$473,165,822

Tentative approval is given with the understanding that the governing board of North Carolina Baptist Obligated Group accepts the following conditions:

1. The project will continue to be developed pursuant to the applicable Medical Care Commission guidelines.
2. Any required certificate of need must be in effect at the time of the issuance or conversion of the bonds or notes.
3. Financial feasibility must be determined prior to the issuance or conversion of bonds.
4. The project must, in all respects, meet requirements of §G.S. 131A (Health Care Facilities Finance Act).
5. The Executive Committee of the Commission is delegated the authority to approve the issuance or conversion of bonds for this project and may approve the issuance or conversion of such greater principal amount of the loan as shall be necessary to finance the project; provided, however, that the amount set forth above shall not be increased by more than ten percent (10%).
6. The bonds or notes shall be sold or converted in such a manner and upon such terms and conditions as will, in the sole judgment of the Executive Committee of the Commission, result in the lowest cost to the facility and its patients.
7. The borrower will provide the Commission annually a copy of the Advocacy Needs Data Initiative (ANDI) form it files with the North Carolina Hospital Association (NCHA) in accordance with a resolution passed by the Commission on February 9, 2007 adopting the NCHA Community Benefits reporting format and methodology for hospitals reporting to the Commission.
8. All health care facilities and services directly or indirectly owned or controlled by the health care

organization, including physician practices, shall be available to Medicare and Medicaid patients with no limitations imposed as a result of the source of reimbursement.

9. If public approval of the bonds is required for the purpose of Section 147(f) of the Internal Revenue Code of 1986, as amended (“Section 147(f)”), this tentative approval shall constitute the recommendation of the Commission that the Governor of the State of North Carolina (the “Governor”) approve the issuance of such bonds, subject to the satisfaction of the requirements of Section 147(f) concerning the holding of a public hearing prior to the submission of such recommendation to the Governor.

Based on information furnished by applicant, the project is -

- | | | | |
|--|------------------|------------------|-------------------|
| 1. Financially feasible | <u> ✓ </u> Yes | <u> </u> No | <u> </u> N/A |
| 2. Construction and related costs are reasonable | <u> ✓ </u> Yes | <u> </u> No | <u> </u> N/A |

Notes:

- 1) Information from Wake Forest Baptist Medical Center (Combined Financial Statements for North Carolina Baptist Hospital, Wake Forest University Health Sciences and Wake Forest University Baptist Medical Center) Audit for FYE June 30, 2011.

Operating excess revenues and support over expenses	\$49,125,000
Change in unrestricted net assets	\$290,285,000
Change in net assets	\$307,076,000
Net cash provided by operating activities	\$103,535,000
Increase in cash and cash equivalents	\$15,243,000

- 2) Long Term Debt Service Coverage Ratios

Actual	FYE	2011	5.1
Forecasted	FYE	2012	5.1
Forecasted	FYE	2013	5.0
Forecasted	FYE	2014	5.7
Forecasted	FYE	2015	6.3

- 3) Ratings (Long Term)

North Carolina Baptist Hospital Obligated Group
 Moody’s Aa3
 Standard & Poor’s AA-

- 4) Community Benefits – FY 2011

North Carolina Baptist Hospital Community Benefits	\$158,822,176
Bad Debts	<u>16,978,571</u>
Total	\$175,800,747

Wake Forest University Health Sciences	
Community Benefits	\$59,221,387
Bad Debt	<u>8,644,398</u>
	\$67,865,785

- 5) Co-Senior Managers for the Issue – Morgan Stanley and Goldman Sachs
 Bond Counsel – McGuire Woods, LLP
 Co-Manager - BB&T Capital Markets and potentially others

2. Lutheran Services for the Aging, Inc., Salisbury - Christopher Taylor & Steven Lewis

Statements were given by Ted Goins and Kirby Nickerson.

Commission Action: Motion was made by Mr. Crocker, seconded by Dr. Binder and approved with the recusal of Dr. Rust, Mr. Leonard and Mr. Cox.

Resolved: The Commission grants preliminary approval to a project for Lutheran Services for the Aging, Inc. to provide funds, to be used together with other available funds to (1) refinance the North Carolina Medical Care Commission (Lutheran Services for the Aging) Series 2009 and Series 2010 Bank Qualified Bonds and to fund (2) the construction of a 120 bed replacement Nursing facility in Hickory and (3) the construction of a 100 bed Nursing facility in Forsyth County to replace a part of the 217 bed existing facility, and (4) routine capital expenditures of \$3.5 million. All in accordance with a preliminary application, plans and specifications and participation as follows:

ESTIMATED SOURCES OF FUNDS

Principal amount of bonds to be issued	\$75,885,000
Equity Contribution	<u>153,062</u>
Total	\$76,038,062

ESTIMATED USES OF FUNDS

Construction contracts	\$22,578,063
Routine Capital Expenditures (equipment replacement & maintenance)	3,500,000
Construction contingency (2.5% of construction contract)	581,672
Architect/engineer fees and reimbursables	450,000
Moveable equipment (Hickory & Forsyth projects)	3,433,360
Surveys, tests, insurance	113,759
Consultants' fees related to construction	45,876
Amount required to refinance Series 2009 & 2010 Bonds	35,285,673
Bond interest during construction	2,117,236
Debt service reserve fund	6,259,673
Underwriters' discount/placement fee	1,327,988
Feasibility fees	110,000
Accountants fees	10,000
Legal fees for Corporation counsel	30,000
Bond counsel	100,000
Trustee fees	5,000
Printing costs	10,000
DHSR reimbursables (GS 131 E - 267)	39,024

Local Government Commission fee	8,750
Additional proceeds	1,988
Mortgage, Insurance, etc	30,000
Total	\$76,038,062

Tentative approval is given with the understanding that the governing board of Lutheran Services for the Aging, Inc. accepts the following conditions:

1. The project will continue to be developed pursuant to the applicable Medical Care Commission guidelines.
2. Any required certificate of need must be in effect at the time of the issuance of the bonds or notes.
3. Financial feasibility must be determined prior to the issuance of bonds.
4. The project must, in all respects, meet requirements of §G.S. 131A (Health Care Facilities Finance Act).
5. The Executive Committee of the Commission is delegated the authority to approve the issuance of bonds for this project and may approve the issuance of such greater principal amount of the loan as shall be necessary to finance the project; provided, however, that the amount set forth above shall not be increased by more than ten percent (10%).
6. The bonds or notes shall be sold in such a manner and upon such terms and conditions as will, in the sole judgment of the Executive Committee of the Commission, result in the lowest cost to the facility and its patients.
7. If public approval of the bonds is required for the purpose of Section 147(f) of the Internal Revenue Code of 1986, as amended (“Section 147(f)”), this tentative approval shall constitute the recommendation of the Commission that the Governor of the State of North Carolina (the “Governor”) approve the issuance of such bonds, subject to the satisfaction of the requirements of Section 147(f) concerning the holding of a public hearing prior to the submission of such recommendation to the Governor.
8. The borrower will comply with the Commission’s Resolution: Community Benefits/Charity Care Agreement and Program Description for CCRC’s as adopted on November 9, 2007.

Based on information furnished by applicant, the project is -

- | | | | | | | |
|--|----------|-----|-------|----|-------|-----|
| 1. Financially feasible | <u>✓</u> | Yes | _____ | No | _____ | N/A |
| 2. Construction and related costs are reasonable | <u>✓</u> | Yes | _____ | No | _____ | N/A |

Notes:

- 1) Information from Audited Financial Statements for Lutheran Services for the Aging, Inc. and Affiliates September 30, 2011

Operating Income	\$4,262,025
Increase in unrestricted net assets	\$4,267,252
Increase in net assets	\$6,231,866
Net cash provided by operating activities	\$4,721,969
Net increase (decrease) in cash	\$(1,792,956)

2) Community Benefit GS 105 Percentages 12.78%
Which qualifies for 100% property tax exemption

3) Rating- Not Rated

4) Long Term Debt Service Coverage Ratios

Actual	FYE 2011	2.35
Projected	FYE 2012	1.85
	2013	2.28
	2014	1.87
	2015	1.41

5) Senior Managers BB&T Capital Markets
Bond Counsel – McGuire Woods, LLP

VIII. Refunding of Commission Bond Issues

Recommended:.....**Chris Taylor**

Commission Action: Motion was made by Mr. Lockamy, seconded by Mr. Cox and unanimously approved.

WHEREAS, the bond market is in a period of generally fluctuating interest rates, and

WHEREAS, in the event of decline of rates during the next quarter, refunding of certain projects could result in significant savings in interest expense thereby reducing the cost of health care to patients, and

WHEREAS, the Commission will not meet again until November 16, 2012

THEREFORE, BE IT RESOLVED; that the Commission authorizes its Executive Committee to approve projects involving only the refunding of existing Commission debt between this date and November 16, 2012.

XIII. Questions from the Public – The Commission will receive questions from the public.

XIV. ADJOURNMENT - A motion to adjourn is requested.

Commission Action: Motion was made by Mr. Croker, seconded by Mr. Lockamy and unanimously approved.

THE MEETING ADJOURNED AROUND 11:40 A.M.

**Drexal Pratt
Secretary**

Date