

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

**The North Carolina Medical Care Commission  
809 Ruggles Drive  
Raleigh, North Carolina**

**MINUTES**

**CALLED MEETING OF THE EXECUTIVE COMMITTEE  
CONFERENCE TELEPHONE MEETING ORIGINATING FROM THE  
COMMISSION'S OFFICE  
MAY 22, 2014  
3:00 P.M.**

**Members of the Executive Committee Present:**

Dr. John A. Fagg  
Joseph D. Crocker  
Dr. George A. Binder  
Albert F. Lockamy  
Mary L. Piepenbring  
Dr. Carl K. Rust

**Members of the Executive Committee Absent:**

George H. V. Cecil

**Members of Staff Present:**

Christopher B. Taylor, CPA, Assistant Secretary  
Alice S. Creech, Bond Program Assistant

**Others Present:**

Alice Pinckney Adams, Robinson Bradshaw & Hinson, PA  
John Cheney, Ponder & Co.  
Lynn DeJaco, FirstHealth of the Carolinas  
Richard Marvin, M2FAS, LLC  
Doreen Schlicht, First Health of the Carolinas  
Allen K. Robertson, Robinson Bradshaw & Hinson, PA

**1. Purpose of Meeting**

To authorize the execution and delivery of a First Supplemental Trust Agreement for the 2001 Bonds issued for the benefit of The Presbyterian Home at Charlotte, Inc. To consider a resolution of an Escrow and Defeasance Agreement for Rutherford Hospital, and (3) to consider for approval a preliminary refunding for FirstHealth of the Carolinas.

**2. 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 Variable Rate Demand Health Care Facilities Revenue Bonds (The Presbyterian Home at Charlotte, Inc. Project), Series 2001 (the “Bonds”)**-Remarks were made by Richard Marvin and Allen Robertson.

**Executive Committee Action:** A motion was made by Dr. George Binder, seconded by Mr. Al Lockamy and approved with Dr. John Fagg and Dr. Carl Rust abstaining from the vote.

WHEREAS, 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 \$23,500,000 aggregate principal amount of its Variable Rate Demand Health Care Facilities Revenue Bonds (The Presbyterian Home at Charlotte, Inc. Project), Series 2001, of which \$9,265,000 aggregate principal amount is outstanding (the “Bonds”), pursuant to the terms of a Trust Agreement dated as of September 1, 2001 (the “Original Trust Agreement”) between the Commission and First-Citizens Bank & Trust Company, succeeded by U.S. Bank National Association (the “Trustee”); and

WHEREAS, on September 24, 2010 (the “Conversion Date”) the Commission and the Trustee entered into an Amended and Restated Trust Agreement dated as of September 24, 2010 (the “Trust Agreement”) for the purpose of amending and restating the Original Trust Agreement to add a “Bank-Bought Rate” mode and convert to that mode; and

WHEREAS, the Commission has loaned the proceeds of the Bonds to the Corporation pursuant to an Amended and Restated Loan Agreement dated as of September 24, 2010 (the “Agreement”) between the Commission and the Corporation; and

WHEREAS, the Bonds were purchased on the Conversion Date and continue to be held by Branch Banking and Trust Company (the “Bank Holder”); and

WHEREAS, since the Conversion Date, the Bonds have been bearing interest at a Bank-Bought Rate (as defined in the Trust Agreement) equal to 68% of One-Month LIBOR plus 1.24% per annum; and

WHEREAS, during the initial Bank-Bought Rate Period (as defined in the Trust Agreement), the Bonds are subject to mandatory tender upon notice by the Majority Bank Holders (as defined in the Trust Agreement) on or after the last day of the Bank-Bought Minimum Holding

Period (as defined in the Trust Agreement), which was initially specified to be September 24, 2017; and

WHEREAS, the Bank has proposed to reduce the Bank-Bought Rate to 68% of One-Month LIBOR plus 1.15% per annum and extend the Bank-Bought Minimum Holding Period to the final maturity date of August 1, 2024 (the “Modifications”);

WHEREAS, the Modifications will be treated as a “reissuance” (i.e., a deemed current refunding) of the Bonds for federal income tax purposes; and

WHEREAS, Section 11.02 and 11.06 of the Trust Agreement permit the Commission and the Bond Trustee, with the consent of the Bank Holder as the Holder (as defined in the Trust Agreement) of 100% of the Bonds, to enter into agreements supplemental to the Trust Agreement to make any change to the Trust Agreement;

WHEREAS, by a resolution adopted on May 1, 2014, the Commission preliminarily approved the Modifications, 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; and

WHEREAS, there has been presented at this meeting a draft copy of a First Supplemental Trust Agreement, to be dated the date of delivery thereof (the “Supplement”) between the Commission and the Bond Trustee, that would amend the Trust Agreement to make the Modifications; and

WHEREAS, the Corporation has requested that the Commission approve the Supplement and authorize its execution and delivery;

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

Section 1. The form, 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 bond counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

As set forth in the Trust Agreement, the Bonds mature on August 1, 2024 and are subject to the Sinking Fund Requirements set forth in Schedule 1 hereto.

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 to execute and deliver a replacement Bond reflecting the terms of the Supplement to the Bank Holder and to take such other action and to execute and deliver any such other documents, certificates,

undertakings, agreements or other instruments as they, with the advice of bond counsel, may deem necessary or appropriate to effect the changes made in the Supplement and the reissuance of the Bonds.

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

**Schedule 1**

Required Redemption of the Bonds

<u>August 1,</u>	<u>Amount</u>	<u>August 1,</u>	<u>Amount</u>
2011	\$555,000	2018	\$ 825,000
2012	585,000	2019	870,000
2013	620,000	2020	925,000
2014	655,000	2021	975,000
2015	695,000	2022	1,035,000
2016	740,000	2023	1,095,000
2017	780,000	2024*	1,160,000

\* Final Maturity

Professional Fees Comparison for  
 Sharon Towers Series 2001 Bonds (2014 Reissuance)

<u>Professional</u>	<u>Fees Estimated In Preliminary Approval Resolution</u>	<u>Actual Fees</u>
Bank counsel	\$ 8,500.00	\$ 8,500.00
Bond counsel	15,000.00	15,000.00
Corporation counsel	10,500.00	10,500.00
Bank fee for extension	14,500.00	13,897.50
Financial advisor fee	20,000.00	20,000.00

3. **Resolution of the North Carolina Medical Care Commission Approving the Execution and Delivery of an Escrow and Defeasance Agreement in Connection with the Defeasance and Redemption of its Health Care Facilities Revenue and Revenue Refunding Bonds (Rutherford Hospital, Incorporated), Series 2010**-Remarks were made by Alice Adams.

**Executive Committee Action:** A motion was made by Ms. Mary Piepenbring, seconded by Mr. Al Lockamy and approved with Dr. John Fagg and Dr. Carl Rust abstaining from the vote.

**WHEREAS**, the North Carolina Medical Care Commission (the “Commission”), a commission of the Department of Health and Human Services of the State of North Carolina, has issued its Health Care Facilities Revenue and Revenue Refunding Bonds (Rutherford Hospital, Incorporated), Series 2010, of which \$20,723,529.53 aggregate principal amount is outstanding (the “Bonds”), pursuant to a Trust Agreement dated as of December 1, 2010 (the “Trust Agreement”), between the Commission and The Bank of New York Mellon Trust Company, N.A., as bond trustee (the “Bond Trustee”), and loaned the proceeds from the sale of the Bonds to Rutherford Hospital, Incorporated (the “Corporation”) pursuant to a Loan Agreement, dated as of December 1, 2010, between the Commission and the Corporation; and

**WHEREAS**, all of the Bonds were purchased and are currently held by Branch Banking and Trust Company (the “Bank Holder”); and

**WHEREAS**, the Corporation and DLP Healthcare, LLC (“DLP”) have entered into an agreement pursuant to which the Corporation will transfer certain of its assets to a joint venture (the “Transfer”) in which DLP will have the majority ownership interest; and

**WHEREAS**, the Transfer is expected to become effective as of June 1, 2014, which is a Sunday; and

**WHEREAS**, in connection with the Transfer, the Corporation and the Commission desire to defease the Bonds on June 1, 2014 and redeem the Bonds on June 2, 2014 (the “Redemption Date”); and

**WHEREAS**, DLP will deposit the amount necessary to redeem the Bonds into an Escrow and Defeasance Agreement to be dated on or about May 30, 2014 (the “Agreement”) among the Commission, the Corporation, the Bond Trustee, in its capacities as bond trustee and escrow agent, DLP and the Bank Holder, a form of which has been presented at this meeting, and, assuming the Transfer occurs as of June 1, 2014, such amount will be used to pay principal and interest on the Bonds through and including the Redemption Date; and

**WHEREAS**, the Agreement provides that if the Transfer does not occur as of June 1, 2014, the Bonds will not be redeemed and will remain outstanding; and

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

Section 1. The forms, terms and provisions of the Agreement are hereby approved in all respects, and the Chairman, Vice Chairman, Secretary, and any 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 Agreement 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, and any Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) are each hereby 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 Agreement.

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

4. **FirstHealth of the Carolinas, Inc., Pinehurst - Christopher B. Taylor, Lynn DeJaco and Allen Robertson**

**Executive Committee Action:** A motion was made by Dr. Carl Rust, seconded by Mr. Joe Crocker and unanimously approved.

**Resolution:** The Commission grants preliminary approval to a project for FirstHealth of the Carolinas, Inc. to proceed with a refunding for savings of the outstanding 2024 and 2029 maturities of the \$54,500,000 North Carolina Medical Care Commission Health Care Revenue Refunding Bonds (FirstHealth of the Carolina's Project) Series 2009C. The refunding is to be accomplished by fixed rate bank bought bonds and is currently projected to generate approximately \$3.2 million of net present value savings. This estimated net present value savings equals 18.37% of the par amount of the Series 2009C Bonds to be refunded. The proposed Series 2014 Bonds will be purchased by PNC Bank, NA and have an initial put period of ten years. The current estimated fixed interest rate for the Series 2014 Bonds is 2.77%. The proposed refunding transaction is in accordance with an application received as follows:

**ESTIMATED SOURCES OF FUNDS**

Principal amount of bonds to be issued	\$18,160,000
<b>Total Sources</b>	<b>\$18,160,000</b>

**ESTIMATED USES OF FUNDS**

Escrow deposit required to refund bonds	\$17,960,000
Accountants fee	25,000
Bond counsel	40,000
Corporation counsel	40,000
Trustee fees and counsel	3,000
Local Government Commission fee	8,750
Financial Advisor	56,000
Bank purchaser counsel	25,000
Miscellaneous	2,250
<b>Total</b>	<b>\$18,160,000</b>

Tentative approval is given with the understanding that the governing board of FirstHealth of the Carolinas, 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. 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	✓ _____	Yes	_____	No	_____	N/A
2. Construction and related costs are reasonable	_____		_____	No	_____	✓

**Notes:**

**1) Information from 2013 Audit for FirstHealth of the Carolinas, Inc. and Affiliates**

<b>Operating Income</b>	<b>\$13,840,000</b>
<b>Increase in Unrestricted Net Assets</b>	<b>\$51,245,000</b>
<b>Increase in Net Assets</b>	<b>\$51,654,000</b>
<b>Net Cash provided by Operating Activities</b>	<b>\$25,000,000</b>
<b>Net increase (decrease) in Cash and Cash Equivalents (Due primarily to purchases of property and equipment)</b>	<b>(\$14,584,000)</b>

**2) Estimated 2013 Community Benefits for FirstHealth of the Carolinas, Inc.**

<b>Estimated Bad Debt Costs</b>	<b>\$37,428,491</b>
	<b>\$16,401,338</b>
	<b>\$53,829,829</b>

**3) Projected Long Term Debt Service Coverage Ratios**

<b>Actual</b>	<b>2013</b>	<b>5.80</b>
<b>Projected FYE</b>	<b>2014</b>	<b>4.87</b>
<b>Projected FYE</b>	<b>2015</b>	<b>5.30</b>
<b>Projected FYE</b>	<b>2016</b>	<b>5.75</b>
<b>Projected FYE</b>	<b>2017</b>	<b>6.17</b>

**4) Bond Ratings**

**Moody's Aa3 (stable outlook)**  
**Standard & Poor's AA- (stable outlook)**  
**Fitch AA- (stable outlook)**

**5) Participants in transaction**

<b>Bond counsel</b>	<b>Robinson Bradshaw &amp; Hinson, PA</b>
<b>Corporation counsel</b>	<b>Nelson Mullins Riley &amp; Scarborough, LLP</b>
<b>Financial advisor</b>	<b>Ponder &amp; Co.</b>
<b>Bank bond purchaser</b>	<b>PNC Bank, NA</b>
<b>Bank counsel</b>	<b>Parker Poe Adams &amp; Bernstein, LLP</b>
<b>Trustee</b>	<b>Bank of New York Mellon Trust Co.</b>



**Trustee counsel**

**McGuire Woods, LLP**

**5. Adjournment**

There being no further business, the meeting was adjourned at 2:30 p.m.

Respectfully submitted,

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Christopher B. Taylor, C.P.A.  
Assistant Secretary

