STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

MEDICAL CARE COMMISSION QUARTERLY MEETING
DIVISION OF HEALTH SERVICE REGULATION
809 RUGGLES DRIVE, RALEIGH NC 27603
EDGERTON BUILDING
CONFERENCE ROOM – 026A
OR
TEAMS Video Conference: Click here to join the meeting
OR
Dial-IN: 1-984-204-1487 / Passcode: 610 014 187#

November 4, 2022 (Friday)
9:00 a.m.

Agenda

I. Meeting Opens – Roll Call

II. Chairman's Comments……Dr. John Meier

III. Public Meeting Statement……Dr. John Meier

This meeting of the Medical Care Commission is open to the public but is not a public hearing. Therefore, any discussion will be limited to members of the Commission and staff unless questions are specifically directed by the Commission to someone in the audience.

IV. Ethics Statement……Dr. John Meier

The State Government Ethics Act requires members to act in the best interest of the public and adhere to the ethical standards and rules of conduct in the State Government Ethics Act, including the duty to continually monitor, evaluate, and manage personal, financial, and professional affairs to ensure the absence of conflicts of interest.

V. North Carolina Board of Ethics Letters……Dr. John Meier

North Carolina Board of Ethics letters were received for the following members and were noted for a potential conflict of interest:

- **Kathy G. Barger (See Exhibit A/2)**
- **Sally B. Cone (See Exhibit A/3)**
- **Joseph D. Crocker (See Exhibit A/4)**
- **Bryant C. Foriest (See Exhibit A/5)**

- **Linwood B. Hollowell, III (See Exhibit A/6)**
- **Eileen C. Kugler (See Exhibit A/7)**
- **Ashley H. Lloyd, D.D.S. (See Exhibit A/8)**
- **John J. Meier, IV, M.D. (See Exhibit A/9)**
- **Neel G. Thomas, M.D. (See Exhibit A/10)**
- **Jeffrey S. Wilson (See Exhibit A/11)**

VI. Approval of Minutes (Action Items)……...……..Dr. John Meier

- **August 12, 2022** (Medical Care Commission Quarterly Meeting) (**See Exhibit A**)
- **August 18, 2022** (Executive Committee) (**See Exhibit B/1**)
- **October 7, 2022** (Medical Care Commission Special Meeting) (**See Exhibit A/1**)

VII. Bond Program Activities……...……Geary W. Knapp

A. Quarterly Report on Bond Program (**See Exhibit B**)

B. Notices & Non-Action Items & Technical Rule Changes

August 1, 2022 – FirsHealth of the Carolinas Series 2017A (**Conversion**)
- Par Value Outstanding: $38,090,000
- New Interest Rate

August 16, 2022 – FirsHealth of the Carolinas Series 2017C (**Conversion**)
- Par Value Outstanding: $44,860,000
- New Interest Rate and New Holding Period

September 1, 2022 – FirsHealth of the Carolinas Series 2017D (**Conversion**)
- Par Value Outstanding: $28,590,000
- New Interest Rate and New Holding Period

September 20, 2022 – FirsHealth of the Carolinas Series 2017B (**Conversion**)
- Par Value Outstanding: $29,630,000
- New Interest Rate and New Bank Holder

November 1, 2022 – EveryAge Series 2021B (**Refunding to Tax-Exempt**)
- Par Value Outstanding: $3,835,000
- Taxable Series 2021B becomes Tax-Exempt Series 2022B

VIII. Bond Project (Action Item)

A. Lutheran Retirement Ministries (Burlington)……....Geary W. Knapp

Resolution: The Commission grants preliminary approval for a Lutheran Retirement Ministries of Alamance County (dba Twin Lakes Retirement

Community) project to provide funds to be used, together with other available funds, to ***construct*** the following:

- Stockton Apartments
  - 5 story building with enclosed parking
  - 48 total units
- Chapel
- Community Building for apartment residents
- Connector structure

Capital expenditures for the new construction shall be included as listed below, 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	$ 58,018,954
Total Sources of Funds	**$ 58,018,954**

ESTIMATED USES OF FUNDS

Construction Contracts	$ 52,579,000
Architect Fees	900,000
Contingency	521,000
Total Moveable Equipment	1,000,000
Bond Interest During Construction	2,246,574
Underwriter's Placement Fee	232,080
Corporate Counsel Fee	83,000
Bond Counsel Fee	95,000
Swap Advisor Fee	75,000
Trustee Fee	17,500
DHSR Fee	40,000
LGC Fee	8,750
Bank Origination Fee	116,050
Bank Counsel Fee	50,000
Other (Appraisals, Surveys, etc.)	55,000
Total Uses	**$ 58,018,954**

Tentative approval is given with the understanding that the governing board of Lutheran Retirement Ministries of Alamance County (dba Twin Lakes Retirement Community) 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. Final 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 residents.

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 CCRCs as adopted.

9. The borrower will furnish, prior to the sale of or issuance of the bonds or notes or execution of the leases, evidence that it is in compliance with the covenants of all of its outstanding Medical Care Commission debt.

Based on information furnished by applicant, the project is:

Financially Feasible: YES
Construction & Related Costs are Reasonable: YES

(See Exhibit F for selected application information, fee schedule and Bond Sale Approval Form)

IX. Old Business (Discuss Rules, Fiscal Note, & Comments Submitted) (Action Item)

A. Rules for Adoption

1. Adult/Family Care Home Rules…….N. Pfeiffer & M. Lamphere
Readoption of 2 rules following Periodic Review (Phase 3.5)

- Rules: 10A NCAC 13F .0904 & 10A NCAC 13G .0904

(**See Exhibits C thru C/3**)

X. New Business (Discuss Rules & Fiscal Note) (Action Items)

A**. Petition for Rulemaking**

1. Nursing Pool Licensure……..…….N. Pfeiffer, A. Conley & Greta Hill
Approve or deny petition received

(**See Exhibits D thru D/3**)

XI. Schedule of 2023 MCC Quarterly Meetings for Adoption (Action Item)..…..Dr. Meier

February 9-10, 2023
May 11-12, 2023
August 10-11, 2023
November 2-3, 2023

XII. Appointment of Two Executive Committee Members (Action Item)….. Dr. John Meier

In accordance with 10A NCAC 13A.0101, the NCMCC's Chairman shall appoint two members to the Executive Committee to serve for a term of two years or until expiration of his/her regularly appointed term. No member of the Executive Committee, except the Chairman and Vice-Chairman, shall serve more than two two-year terms in succession. The terms are scheduled to expire 12/31/2024.

XIII. Election of Vice-Chairman (Action Item)……..…..…….……..……..Dr. John Meier

In accordance with N.C.G.S. § 143B-168, the NCMCC shall elect from the members a Vice-Chairman to serve for a term of two years (ending 12/31/2024) or until the expiration of his/her regularly appointed term.

XIV. Refunding of Commission Bond Issues (Action Item)…….…….……Geary W. Knapp

Recommended:

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 February 10, 2023 in Raleigh, North Carolina;

THEREFORE, BE IT RESOLVED; that the Commission authorize its Executive Committee to approve projects involving the refunding of existing Commission debt and amend previously approved projects to include refunding components only between this date and February 10, 2023. Refunding projects may include non-Commission debt, and non-material, routine capital improvement expenditures.

XV. Closed Session……..……..Dr. John Meier

XVI. **Meeting Adjournment**……..Dr. John Meier

STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

MEDICAL CARE COMMISSION QUARTERLY MEETING
DIVISION OF HEALTH SERVICE REGULATION
809 RUGGLES DRIVE, RALEIGH NC 27603
EDGERTON BUILDING
CONFERENCE ROOM – 026A
OR
TEAMS Video Conference: Click here to join the meeting
OR
Dial-IN: 1-984-204-1487 / Passcode: 947 464 630#

August 12, 2022 (Friday)
9:00 a.m.

Minutes

I. Meeting Attendance

MEMBERS PRESENT	MEMBERS ABSENT
John J. Meier, IV, M.D., Chairman Joseph D. Crocker, Vice-Chairman Kathy G. Barger Paul R.G. Cunningham, M.D. John A. Fagg, M.D. Bryant C. Foriest Linwood B. Hollowell, III Eileen C. Kugler, RN, MSN, MPH, FNP Karen E. Moriarty Stephen T. Morton Robert E. Schaaf, M.D. Neel G. Thomas, M.D. Lisa A. Tolnitch, M.D. Jeffrey S. Wilson	Sally B. Cone Ashley H. Lloyd, D.D.S.

DIVISION OF HEALTH SERVICE REGULATION STAFF S. Mark Payne, Director, DHSR/Secretary, MCC Geary W. Knapp, JD, CPA, Assistant Secretary, MCC Bethany Burgon, Attorney General's Office Kimberly Randolph, Attorney General's Office Jeff Harms, Acting Construction Chief, DHSR Nadine Pfeiffer, Rules Review Manager, DHSR Megan Lamphere, Chief, Adult Care Licensure Libby Kinsey, Assistant Chief, Adult Care Licensure Shalisa Jones, Policy Coordinator, Adult Care Licensure Azzie Conley, Chief, Acute & Home Care Licensure Greta Hill, Assistant Chief, Acute & Home Care Licensure Kathy Larrison, Auditor, MCC Alice Creech, Executive Assistant, MCC	

II. Chairman's Comments……..……..…….……Dr. John Meier

The Chairman thanked everyone for taking time to participate in the meeting today. He said when making decisions the number one priority and the center of everything should be the patient and the citizens of North Carolina. He stated he learned that from Dr. Paul Cunningham, which really had a big impact on him.

III. Public Meeting Statement…….…….……..……Dr. John Meier

This meeting of the Medical Care Commission is open to the public but is not a public hearing. Therefore, any discussion will be limited to members of the Commission and staff unless questions are specifically directed by the Commission to someone in the audience.

IV. Ethics Statement……..…….Dr. John Meier

The State Government Ethics Act requires members to act in the best interest of the public and adhere to the ethical standards and rules of conduct in the State Government Ethics Act, including the duty to continually monitor, evaluate, and manage personal, financial, and professional affairs to ensure the absence of conflicts of interest.

V. Approval of Minutes (Action Items)……...……..Dr. John Meier

- **May 3, 2022** (Medical Care Commission Special Meeting) (**See Exhibit A/1**)
- **June 8, 2022** (Executive Committee) (**See Exhibit B/1**)

COMMISSION ACTION: *A motion was made to approve the minutes by Ms. Kathy Barger, seconded by Mr. Joe Crocker, and unanimously approved.*

VI. Bond Program Activities……...……Geary W. Knapp

A. Quarterly Report on Bond Program (**See Exhibit B**)

B. Notices & Non-Action Items & Technical Rule Changes

July 8, 2022 – Cone Health Series 2013A (**Partial Redemption**)

- Par Value Redeemed: $30,000,000
- Cash provided from sale of Brookwood CCRC

VII. Old Business (Discuss Rules, Fiscal Note, & Comments Submitted) (Action Item)

A. Rules for Adoption

1. Adult/Family Care Home Rules…….N. Pfeiffer & M. Lamphere
Readoption of 20 rules following Periodic Review; Amendment of 4 rules; Repeal of 1 rule (Phase 3) (Total 25 rules)

- Rules: 10A NCAC 13F .0404, .0407, .0501, .0502, .0503, .0504, .0508, .0905, .1006, .1008, .1010, .1207

- 10A NCAC 13G .0404, .0406, .0501, .0502, .0503, .0504, .0507, .0508, .0903, .0905, .1005, .1006, .1208

(**See Exhibits C thru C/3**)

COMMISSION ACTION: *A motion was made to approve the Adult/Family Care Home Rules by Mr. Joe Crocker, seconded by Dr. Robert Schaaf, and unanimously approved.*

VIII. Refunding of Commission Bond Issues (Action Item)……..……Geary W. Knapp

Recommended:

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 4, 2022 in Raleigh, North Carolina;

THEREFORE, BE IT RESOLVED; that the Commission authorize its Executive Committee to approve projects involving the refunding of existing debt and amend previously approved projects to include refunding components only between this date and November 4, 2022. Refunding projects may be for non-Commission debt, and non-material, routine capital improvement expenditures.

COMMISSION ACTION: *A motion was made to authorize the Executive Committee to approve projects involving the refunding of existing debt between this date and November 4, 2022 by Mr. Joe Crocker, seconded by Ms. Kathy Barger, and unanimously approved.*

IX. Closed Session.....Dr. John Meier

COMMISSION ACTION: *A motion was made by Dr. Paul Cunningham to enter into a closed session, seconded by Mr. Joe Crocker, and unanimously approved.*

COMMISSION ACTION: *A motion was made to come out of the closed session by Dr. Paul Cunningham, seconded by Ms. Kathy Barger, and unanimously approved.*

X. Meeting Adjournment

There being no further business, the meeting was adjourned at 11:30 a.m.

Respectfully submitted,

Geary W. Knapp, JD, CPA
Assistant Secretary

STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

MEDICAL CARE COMMISSION QUARTERLY MEETING
DIVISION OF HEALTH SERVICE REGULATION
809 RUGGLES DRIVE, RALEIGH NC 27603
EDGERTON BUILDING
CONFERENCE ROOM – 026A
OR
TEAMS Video Conference: Click here to join the meeting
OR
Dial-IN: 1-984-204-1487 / Passcode: 554 792 503#

October 7, 2022 (Friday)
11:30 a.m.

MINUTES

I. Meeting Opens – Roll Call

MEMBERS PRESENT	MEMBERS ABSENT
John J. Meier, IV, M.D., Chairman Joseph D. Crocker, Vice-Chairman Sally B. Cone Paul R.G. Cunningham, M.D. John A. Fagg, M.D. Bryant C. Foriest Eileen C. Kugler, RN, MSN, MPH, FNP Karen E. Moriarty Stephen T. Morton Neel G. Thomas, M.D. Jeffrey S. Wilson	Kathy G. Barger Linwood B. Hollowell, III Ashley H. Lloyd, D.D.S. Robert E. Schaaf, M.D Lisa A. Tolnitch, M.D.
DIVISION OF HEALTH SERVICE REGULATION STAFF Mark Payne, Director, DHSR/Secretary, MCC Emery Milliken, Deputy Director, DHSR Geary W. Knapp, JD, CPA, Assistant Secretary, MCC Jeff Harms, Acting Construction Chief, DHSR Crystal Abbott, Auditor, MCC Kathy Larrison, Auditor, MCC Alice Creech, Executive Assistant, MCC	

OTHERS PRESENT	
Anita Holt, Forest at Duke Karen Henry, Forest at Duke Tad Melton, Ziegler Drew Langsam, NEMA Management	

II. Chairman's Comments……..……..…….……Dr. John Meier

III. Public Meeting Statement…….…….……..……Dr. John Meier

This meeting of the Medical Care Commission is open to the public but is not a public hearing. Therefore, any discussion will be limited to members of the Commission and staff unless questions are specifically directed by the Commission to someone in the audience.

IV. Ethics Statement……..…….Dr. John Meier

The State Government Ethics Act requires members to act in the best interest of the public and adhere to the ethical standards and rules of conduct in the State Government Ethics Act, including the duty to continually monitor, evaluate, and manage personal, financial, and professional affairs to ensure the absence of conflicts of interest.

V. Bond Project (Action Item)

A. Forest at Duke (Durham)…….Geary Knapp

1) Long-Term Debt Service Coverage Ratios (UPDATED):

Actual FYE 2021	3.94
Forecasted FYE 2022	4.36
Forecasted FYE 2023	4.43
Forecasted FYE 2024	2.30
Forecasted FYE 2025	2.62
Forecasted FYE 2026	3.59

Resolution: The Commission grants preliminary approval for The Forest at Duke, Inc. project to provide funds to be used, together with other available funds, to ***construct*** a single five-story building (250,000 square feet) which includes:

- 71 independent living apartments
- Expanded Community Center
  - Connects existing Community Center to New Health Center
  - Contains dining, fitness area, classroom, multi-purpose rooms, clinic and office space

Capital expenditures for the new construction shall be included as listed below, all in accordance with a preliminary application, plans and specifications and participation as follows (**NOTE: Project received preliminary approval from**

the Commission at the May 2022 Quarterly meeting at a total par amount approximately 15% lower than the below request):

ESTIMATED SOURCES OF FUNDS

Principal amount of bonds to be issued	$ 95,570,000
Total Sources of Funds	**$ 95,570,000**

ESTIMATED USES OF FUNDS

Construction Contracts	$ 82,483,508
Architect Fees	2,060,250
City of Durham Impact Fees	350,000
Construction Monitor	30,000
Project Management	975,000
Contingency	15,010
Moveable Equipment	829,711
Material Testing/Inspections	158,520
Moisture Intrusion	46,850
3rd Party Commissioning	58,400
Technology	264,833
Marketing	1,011,750
Surveys, Tests, Insurance, etc.	874,322
Bond Interest during Construction	5,510,596
Feasibility Fee	135,000
Local Government Commission Fee	8,750
Trustee Fee	12,500
Placement Agent	380,000
Appraisal, Survey, Title Insurance	80,000
Bank Origination Fee	65,000
Bank Purchaser Counsel	45,000
Corporate Counsel	75,000
Bond Counsel	100,000
Total Uses	**$ 95,570,000**

Tentative approval is given with the understanding that the governing board of The Forest at Duke, 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. Final 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 residents.

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 CCRCs as adopted.

9. The borrower will furnish, prior to the sale of or issuance of the bonds or notes or execution of the leases, evidence that it is in compliance with the covenants of all of its outstanding Medical Care Commission debt.

Based on information furnished by applicant, the project is:

Financially Feasible: YES
Construction & Related Costs are Reasonable: YES

(See Exhibit A for selected application information, fee schedule and Bond Sale Approval Form)

***COMMISSION ACTION*:** *A motion was made to approve the preliminary bond project by Mrs. Sally Cone, seconded by Mr. Joe Crocker, and unanimously approved with recusals of Dr. Paul Cunningham, and Dr. John Fagg.*

VI. Meeting Adjournment

There being no further business, the meeting was adjourned at 11:51 a.m.

Respectively Submitted

Geary W. Knapp, JD, CPA
Assistant Secretary

STATE ETHICS COMMISSION
POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

September 27, 2022

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Evaluation of Statement of Economic Interest Filed by Ms. Kathy G. Barger
NC Hospital Association Nominee - North Carolina Medical Care Commission

Dear Governor Cooper:

Our office has received **Ms. Kathy G. Barger's** 2021 and 2022 Statement of Economic Interest as a member of the **North Carolina Medical Care Commission (the "Commission")**. We have reviewed them for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants, and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Ms. Barger fills the role of a member nominated by the North Carolina Hospital Association. She owns financial interests in Nvidia Corporation, a technology company that provides services in the healthcare industry. As such, Ms. Barger has the potential for a conflict of interest and should exercise appropriate caution in the performance of her public duties should issues involving Nvidia Corporation or any organization she has financial interest in come before the Commission for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Corey Curry, SEI Unit
State Ethics Commission

cc: Kathy G. Barger
Mark Payne, Ethics Liaison

Attachment: Ethics Education Guide

STATE ETHICS COMMISSION
POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

September 27, 2022

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Evaluation of Statement of Economic Interest Filed by Mrs. Sally B. Cone
At-Large Member - North Carolina Medical Care Commission

Dear Governor Cooper:

Our office has received **Mrs. Sally B. Cone's** 2021 and 2022 Statement of Economic Interest as a member of the **North Carolina Medical Care Commission (the "Commission")**. We have reviewed them for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants, and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Mrs. Cone fills the role of an at-large member on the Commission. She owns financial interests in Thermo Fisher Scientific Inc., a company that manufactures and sells medical equipment. Mrs. Cone also owns financial interests in Protochips, Piedmont Angel Network Two LLC, and Pique Therapeutics, companies that directly or indirectly invest in or develop pharmaceutical or health-related technology. She is the Chair of the Cone Health Cancer Center – Community Advisory Board and a board member for Well Spring Group. Therefore, Mrs. Cone has the potential for a conflict of interest, and should exercise appropriate caution in the performance of her public duties, should issues involving any of these entities or interests come before the Commission for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Corey Curry, SEI Unit
State Ethics Commission

cc: Sally B. Cone
Mark Payne, Ethics Liaison

Attachment: Ethics Education Guide

STATE ETHICS COMMISSION
POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

September 27, 2022

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Evaluation of Statement of Economic Interest Filed by Joseph D. Crocker
At-Large Member - North Carolina Medical Care Commission

Dear Governor Cooper:

Our office has received **Mr. Joseph D. Crocker's** 2021 and 2022 Statement of Economic Interest as a member of the **North Carolina Medical Care Commission (the "Commission")**. We have reviewed them for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest or the likelihood for a conflict of interest.

The Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants, and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Mr. Crocker fills the role of an at-large member on the Commission.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Corey E Curry

Corey Curry, SEI Unit
State Ethics Commission

cc: Joseph D. Crocker
Mark Payne, Ethics Liaison

Attachment: Ethics Education Guide

STATE ETHICS COMMISSION

POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

September 26, 2022

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Evaluation of Statement of Economic Interest Filed by Mr. Bryant C. Foriest
At-Large Member - North Carolina Medical Care Commission

Dear Governor Cooper:

Our office has received **Mr. Bryant C. Foriest's** 2021 and 2022 Statement of Economic Interest as a member of the **North Carolina Medical Care Commission (the "Commission")**. We have reviewed them for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants, and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Mr. Foriest fills the role of an at-large member on the Commission. He is the Managing Director for the medical consulting company, Excalibur Consulting LLC. He disclosed that he received income from Foriest Enterprises Inc. and CompMed Innovations LLC during 2021. In addition, Mr. Foriest serves as a board member for Novant Health Forsyth Medical Center, Novant Health Thomasville Medical Center, and Novant Health Medical Park Hospital. Therefore, Mr. Foriest has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties, should issues involving these entities come before the Commission for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Corey E Curry

Corey Curry, SEI Unit
State Ethics Commission

cc: Bryant C. Foriest
Mark Payne, Ethics Liaison

Attachment: Ethics Education Guide

STATE ETHICS COMMISSION
POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

September 27, 2022

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Evaluation of Statement of Economic Interest Filed by Mr. Linwood B. Hollowell III
Duke Endowment Nominee - North Carolina Medical Care Commission

Dear Governor Cooper:

Our office has received **Mr. Linwood B. Hollowell's** 2021 and 2022 Statement of Economic Interest as a member of the **North Carolina Medical Care Commission (the "Commission")**. We have reviewed them for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants, and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Mr. Hollowell fills the role of a member nominated by the Duke Endowment. He serves as a board member for the North Carolina Healthcare Foundation. As such, Mr. Hollowell has the potential for a conflict of interest and should exercise appropriate caution in the performance of his should issues involving the North Carolina Healthcare Foundation come before the Commission for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Corey Curry, SEI Unit
State Ethics Commission

cc: Linwood B. Hollowell III
Mark Payne, Ethics Liaison

Attachment: Ethics Education Guide

STATE ETHICS COMMISSION
POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

September 26, 2022

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Evaluation of Statement of Economic Interest Filed by Ms. Eileen C. Kugler
NC Nurses Association - North Carolina Medical Care Commission

Dear Governor Cooper:

Our office has received **Ms. Eileen C. Kugler's** 2021 and 2022 Statement of Economic Interest as a member of the **North Carolina Medical Care Commission (the "Commission")**. We have reviewed them for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest or the likelihood for a conflict of interest.

The Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants, and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Ms. Kugler fills the role of a member nominated by North Carolina Nurses Association.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Corey E Curry

Corey Curry, SEI Unit
State Ethics Commission

cc: Eileen C. Kugler
Mark Payne, Ethics Liaison

Attachment: Ethics Education Guide

STATE ETHICS COMMISSION
POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

September 27, 2022

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Evaluation of Statement of Economic Interest Filed by Dr. Ashley H. Lloyd
Licensed Dentist - North Carolina Medical Care Commission

Dear Governor Cooper:

Our office has received **Dr. Ashely H. Lloyd's** 2021 and 2022 Statement of Economic Interest as a member of the **North Carolina Medical Care Commission (the "Commission")**. We have reviewed them for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest or the likelihood of a conflict of interest.

The Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants, and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Dr. Lloyd fills the role of a licensed dentist on the Commission.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Corey E Curry

Corey Curry, SEI Unit
State Ethics Commission

cc: Ashely H. Lloyd
Mark Payne, Ethics Liaison

Attachment: Ethics Education Guide

STATE ETHICS COMMISSION
POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

September 27, 2022

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Evaluation of Statement of Economic Interest Filed by Dr. John J. Meier IV
NC Medical Society Nominee - North Carolina Medical Care Commission

Dear Governor Cooper:

Our office has received **Dr. John J. Meier's** 2021 and 2022 Statement of Economic Interest as a member of the **North Carolina Medical Care Commission (the "Commission")**. We have reviewed them for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants, and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Dr. Meier fills the role of a licensed physician nominated by the North Carolina Medical Society to serve on the Commission. He is employed by Wake Internal Medicine Consultants and owns financial interests in several companies, including but not limited to, Exact Sciences, AbbVie, Abbott Laboratories and HealthScape Data. Therefore, Dr. Meier has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties, should issues involving Wake Internal Medicine Consultants or any entities in which he owns a financial interest come before the Commission for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Corey Curry, SEI Unit
State Ethics Commission

cc: Dr. John J. Meier IV
Mark Payne, Ethics Liaison

Attachment: Ethics Education Guide

STATE ETHICS COMMISSION
POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

September 27, 2022

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Evaluation of Statement of Economic Interest Filed by Dr. Neel G. Thomas
At-Large Member - North Carolina Medical Care Commission

Dear Governor Cooper:

Our office has received **Dr. Neel G. Thomas'** 2021 and 2022 Statement of Economic Interest as a member of the **North Carolina Medical Care Commission (the "Commission")**. We have reviewed them for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants, and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Dr. Thomas fills the role of an at-large member on the Commission. He is employed by Regional Anesthesia, PLLC. Because his place of employment could receive funding through the Commission, he has the potential for a conflict of interest. Therefore, Dr. Thomas should exercise appropriate caution in the performance of his public duties should issues involving Regional Anesthesia, PLLC come before the Commission for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Corey Curry, SEI Unit
State Ethics Commission

cc: Neel G. Thomas
Mark Payne, Ethics Liaison

Attachment: Ethics Education Guide

STATE ETHICS COMMISSION
POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

September 27, 2022

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Evaluation of Statement of Economic Interest Filed by Mr. Jeffrey Wilson
At-Large Member - North Carolina Medical Care Commission

Dear Governor Cooper:

Our office has received **Mr. Jeffrey Wilson's** 2021 and 2022 Statement of Economic Interest as a member of the **North Carolina Medical Care Commission (the "Commission")**. We have reviewed them for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants, and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Mr. Wilson fills the role of an at-large member on the Commission who has home health experience. He is the COO of Liberty Healthcare Management and a governing board member of the North Carolina Healthcare Facilities Association. Therefore, Mr. Wilson has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties, should issues involving Liberty Healthcare Management or the North Carolina Healthcare Facilities Association come before the Commission for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Corey Curry, SEI Unit
State Ethics Commission

cc: Jeffrey Wilson
Mark Payne, Ethics Liaison

Attachment: Ethics Education Guide

NC Medical Care Commission

Quarterly Report on **Outstanding Debt** (End: 1st Quarter FYE 2023)

Program Measures	FYE 2022 Ending: 6/30/2022	FYE 2023 Ending: 9/30/2022
Outstanding Debt	**$5,062,795,270**	**$5,004,986,613**
Outstanding Series	**117**[1]	**117**[1]

Detail of Program Measures	Ending: 6/30/2022	Ending: 9/30/2022
Outstanding Debt per Hospitals and Healthcare Systems	$3,560,138,783	$3,508,207,727
Outstanding Debt per CCRCs	$1,502,656,487	$1,496,778,886
Outstanding Debt per Other Healthcare Service Providers	$0	$0
Outstanding Debt Total	**$5,062,795,270**	**$5,004,986,613**
Outstanding Series per Hospitals and Healthcare Systems	59	59
Outstanding Series per CCRCs	58	58
Outstanding Series per Other Healthcare Service Providers	0	0
Series Total	**117**	**117**
Number of Hospitals and Healthcare Systems with Outstanding Debt	11	11
Number of CCRCs with Outstanding Debt	18	18
Number of Other Healthcare Service Providers with Outstanding Debt	0	0
Facility Total	29	29

Note 1: For FYE 2023, NCMCC has closed 4 **Bond Series**. Out of the closed Bond Series: 4 were conversions, 0 were new money projects, 0 combination of new money project and refunding, and 0 were refundings. The Bond Series outstanding from FYE 2022 to current represents all new money projects, refundings, conversions, and redemptions.

GENERAL NOTES: Facility Totals represent a parent entity total and do not represent each individual facility owned/managed by the parent entity. CCRCs are licensed by the NC Department of Insurance. "Other Healthcare Service Providers" would include nursing homes, rehabilitation facilities, assisted living, blood donation centers, and hospice facilities. The following parent entities represent the current "other healthcare service providers" with outstanding NC MCC debt: NONE AT THIS TIME

NC Medical Care Commission

Quarterly Report on **History** of NC MCC Finance Act Program (End: 1st Quarter FYE 2023)

Program Measures	FYE 2022 Ending: 6/30/2022	FYE 2023 Ending: 9/30/2022
Total PAR Amount of Debt Issued	**$28,681,980,327**	**$28,824,670,327**
Total Project Debt Issued (excludes refunding/conversion proceeds)[1]	**$13,517,222,552**	**$13,517,222,552**
Total Series Issued	**694**	**699**

Detail of Program Measures	Ending: 6/30/2022	Ending: 9/30/2022
PAR Amount of Debt per Hospitals and Healthcare Systems	$22,868,969,855	$23,010,139,855
PAR Amount of Debt per CCRCs	$5,438,715,242	$5,440,235,242
PAR Amount of Debt per Other Healthcare Service Providers	$374,295,230	$374,295,230
Par Amount Total	**$28,681,980,327**	**$28,824,670,327**
Project Debt per Hospitals and Healthcare Systems	$10,273,019,674	$10,273,019,674
Project Debt per CCRCs	$2,997,188,964	$2,997,188,964
Project Debt per Other Healthcare Service Providers	$247,013,915	$247,013,915
Project Debt Total	**$13,517,222,552**	**$13,517,222,552**
Series per Hospitals and Healthcare Systems	428	432
Series per CCRCs	227	228
Series per Other Healthcare Service Providers	39	39
Series Total	**694**	**699**
Number of Hospitals and Healthcare Systems issuing debt	99	99
Number of CCRCs issuing debt	41	41
Number of Other Healthcare Service Providers issuing debt	46	46
Facility Total	186	186

Note 1: Project Debt excludes bond proceeds that directly refunded prior NCMCC outstanding issues and conversion par amounts. Project Debt is an accumulation of all new project money, issuance costs (including issuance costs for refundings/conversions (if any)), and refundings of non-NCMCC debt.

GENERAL NOTES: Facility Totals represent each individual facility and do not represent parent entity totals. CCRCs are licensed by the NC Department of Insurance. "Other Healthcare Service Providers" would include nursing homes, rehabilitation facilities, assisted living, blood donation centers, and hospice facilities.

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
AUGUST 18, 2022
1:00 P.M.

Members of the Executive Committee Present:

John J. Meier, IV, M.D., Chairman
Sally B. Cone
Bryant C. Foriest
Eileen C. Kugler
Jeffrey S. Wilson

Members of the Executive Committee Absent:

Joseph D. Crocker, Vice-Chairman
Linwood B. Hollowell, III

Members of Staff Present:

S. Mark Payne, DHSR Director/MCC Secretary
Emery E. Milliken, DHSR Deputy Director
Geary W. Knapp, JD, CPA, Assistant Secretary
Kathy C. Larrison, MCC Auditor
Crystal Watson-Abbott, MCC Auditor
Alice S. Creech, Executive Assistant

Others Present:

Allen Robertson, Robinson Bradshaw & Hinson, PA
Bradley Dills, Ponder & Co.

1. Purpose of Meeting

To authorize the execution and delivery of a Second Supplemental Trust Agreement for the 2017D Bonds issued for the benefit of FirstHealth of the Carolinas, Inc.

2. 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 Variable Rate Health Care Facilities Revenue Refunding Bonds (FirstHealth of the Carolinas Project), Series 2017D (the "Bonds").

***Executive Committee Action**: A motion was made to approve the Second Supplemental Trust Agreement by Mrs. Eileen Kugler, seconded by Mr. Bryant Foriest, and unanimously approved.*

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 $28,590,000 aggregate principal amount of its Variable Rate Health Care Facilities Revenue Refunding Bonds (FirstHealth of the Carolinas Project), Series 2017D (the "Bonds"), all of which are outstanding, pursuant to the terms of a Trust Agreement, dated as of September 1, 2017, between the Commission and The Bank of New York Mellon Trust Company, N.A., as bond trustee (the "Bond Trustee"), as supplemented by a First Supplemental Trust Agreement dated as of April 2, 2020 (as supplemented, the "Trust Agreement"); and

WHEREAS, the Commission loaned the proceeds from the sale of the Bonds to FirstHealth of the Carolinas, Inc. (the "Corporation") pursuant to a Loan Agreement, dated as of September 1, 2017 (the "Loan Agreement"), between the Commission and the Corporation; and

WHEREAS, the Bonds were purchased upon their initial issuance, and continue to be held, by Wells Fargo Municipal Capital Strategies, LLC; and

WHEREAS, since their initial issuance, the Bonds have been bearing interest at a LIBOR Index Rate equal to the product of (a) the sum of (i) the Applicable Spread plus (ii) the product of (1) the LIBOR Index as multiplied by (2) the Applicable Factor, multiplied by (b) the Margin Rate Factor; and

WHEREAS, the Initial Period will end and the Bonds will be subject to mandatory tender for purchase on September 1, 2022; and

WHEREAS, the Corporation desires to convert the Bonds to a new Index Interest Rate on September 1, 2022 and remarket the Bonds to Truist Commercial Equity, Inc. (the "Bank Holder"); and

WHEREAS, the Corporation and the Bank Holder desire to replace the LIBOR Index Rate with the SOFR Index Rate as a permitted Index Interest Rate; and

WHEREAS, Sections 11.02 and 11.08 of the Trust Agreement permits 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; and

WHEREAS, there has been presented at this meeting a draft copy of a Second Supplemental Trust Agreement, to be dated as of September 1, 2022 (the "Supplement") between the Commission and the Bond Trustee, that would amend the Trust Agreement to make the changes necessary to replace the LIBOR Index Rate with the SOFR Index Rate as a permitted Index Interest Rate; 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.

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.

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

3. <u>Adjournment</u>

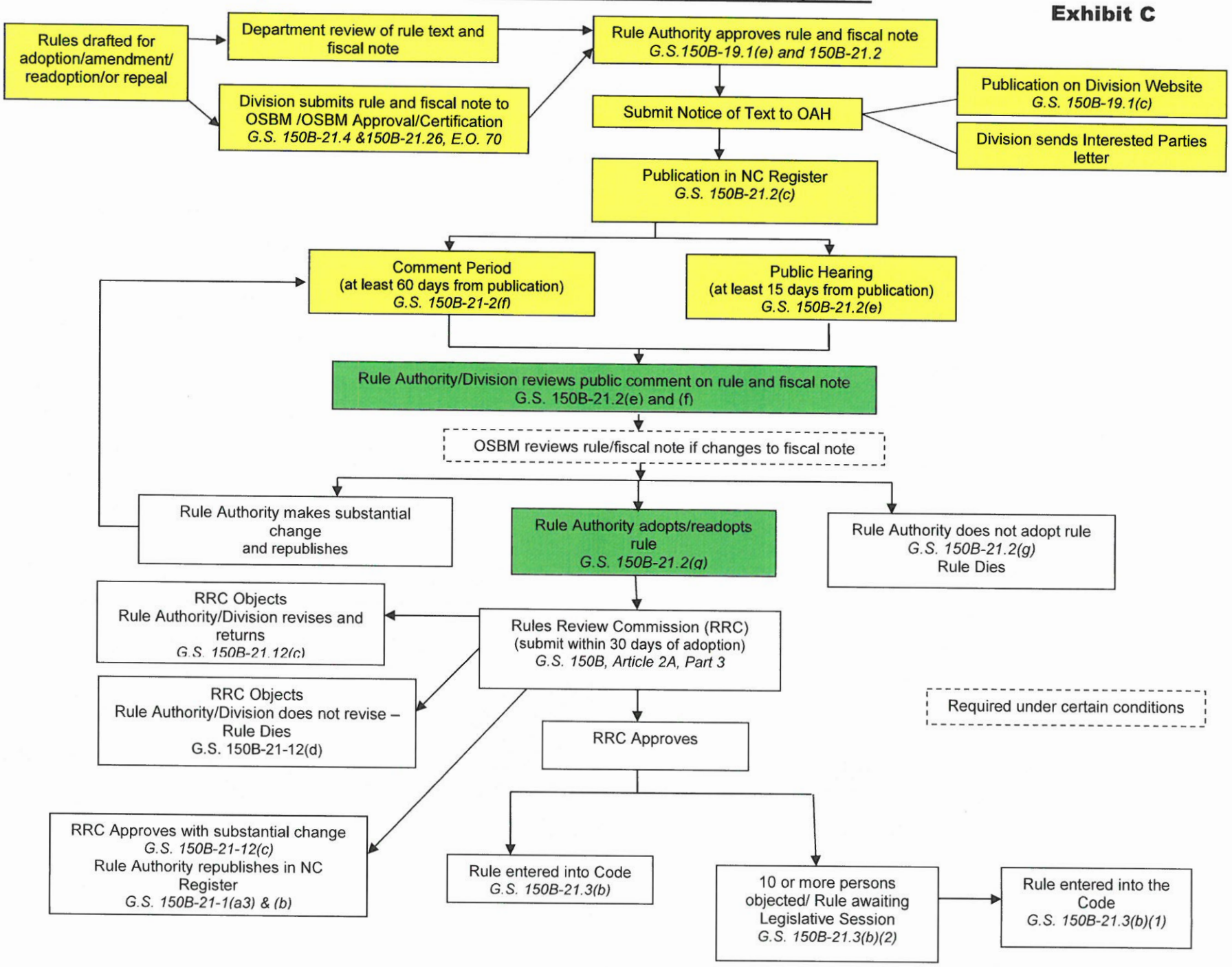
There being no further business, the meeting was adjourned at 1:08 p.m.

Respectfully submitted,

Geary W. Knapp, JD, CPA
Assistant Secretary

Process for Medical Care Commission to Adopt/Readopt Rule

Exhibit C



10A NCAC 13F .0904 is readopted as published in 36:24 NCR 1933-1937 as follows:

10A NCAC 13F .0904 NUTRITION AND FOOD SERVICE

(a) Food Procurement and Safety in Adult Care Homes:

(1) ~~The kitchen, dining and food storage areas shall be clean, orderly and protected from contamination.~~ Facilities with a licensed capacity of 7 to 12 residents shall ensure food services comply with Rules Governing the Sanitation of Residential Care Facilities set forth in 15A NCAC 18A .1600 which are hereby incorporated by reference, including subsequent amendments, assuring storage, preparation, and serving food and beverage under sanitary conditions.

(2) ~~All food and beverage being procured, stored, prepared or served by the facility shall be protected from contamination.~~ Facilities with a licensed capacity of 13 or more residents shall ensure food services comply with Rules Governing the Sanitation of Restaurants and Other Foodhandling Establishments set forth in 15A NCAC 18A .1300 which are hereby incorporated by reference, including subsequent amendments, assuring storage, preparation, and serving of food and beverage under sanitary conditions.

(3) All meat processing shall occur at a USDA-approved processing plant.

(4) There shall be at least a three-day supply of perishable food and a five-day supply of non-perishable food in the facility based on the ~~menus,~~ menus established in Paragraph (c) of this Rule for both regular and therapeutic diets.

(b) Food Preparation and Service in Adult Care Homes:

(1) Sufficient staff, ~~space~~ space, and equipment shall be provided for safe and sanitary food storage, ~~preparation~~ preparation, and service.

(2) Table service shall include a napkin and non-disposable place setting consisting of at least a knife, fork, spoon, ~~plate~~ plate, and beverage containers. ~~Exceptions may be made on an individual basis and shall be based on documented needs or preferences of the resident.~~

(3) Hot foods shall be served hot and cold foods shall be served cold.

(4) If residents require feeding assistance, food shall be maintained at serving temperature until assistance is provided.

(c) Menus in Adult Care Homes:

(1) Menus shall be prepared at least one week in advance with serving quantities specified and in accordance with the ~~Daily Food Requirements~~ daily food requirements in Paragraph (d) of this Rule.

(2) Menus shall be maintained in the kitchen and identified as to the current menu day and cycle for any given day for guidance of food service staff.

(3) Any substitutions made in the menu shall be of equal nutritional value, appropriate for therapeutic ~~diets~~ diets, and documented and maintained in the kitchen to indicate the foods actually served to residents.

(4) Menus shall be planned to take into account the food preferences ~~and customs~~ of the residents.

(5) Menus as served and invoices or other receipts of purchases shall be maintained in the facility for 30 days.

(6) Menus for all therapeutic diets shall be planned or reviewed by a ~~registered dietitian.~~ licensed dietitian/nutritionist. The facility shall maintain verification of the ~~registered dietitian's~~ licensed dietitian/nutritionist's approval of the therapeutic ~~diets which shall include an original signature by the registered dietitian and the registration number of the dietitian.~~ diets.

(7) The facility shall have a matching therapeutic diet menu for all physician-ordered therapeutic diets for guidance of food service staff.

(d) Food Requirements in Adult Care Homes:

(1) Each resident shall be served a minimum of three nutritionally ~~adequate,~~ adequate based on the requirements in Subparagraph (d)(3) of this Rule, palatable meals to the residents. Meals shall be served ~~a day~~ at regular ~~hours~~ times comparable to normal meal times in the community. There shall be ~~with~~ at least 10 hours between the breakfast and evening meals.

(2) Foods and beverages ~~that are appropriate to residents' diets~~ shall be offered in accordance with residents' prescribed diet or made available to all residents as snacks between each meal for a total of three snacks per day and shown on the menu as snacks.

(3) Daily menus for regular diets shall be based on the U.S. Department of Agriculture Dietary guidelines for Americans 2020-2025, which are hereby incorporated by reference including subsequent amendments and editions. These guidelines can be found at https://dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf for no cost and include the following:

(A) ~~Homogenized whole milk, low fat milk, skim milk or buttermilk:~~ Dairy and dairy alternatives: milk, yogurt, cheese, low-lactose or lactose-free dairy products, fortified soy beverages, and soy yogurt. One cup (8 ounces) of ~~pasteurized milk~~ dairy or dairy alternatives at least ~~twice~~ three times a day. Milk served shall be pasteurized. Reconstituted dry milk or diluted evaporated milk may be used in cooking ~~only and not for drinking purposes due to risk of bacterial contamination during mixing and the lower nutritional value of the product if too much water is used.~~ only.

(B) Fruit: Two servings of ~~fruit (one serving equals 6 ounces of juice; ½ cup of raw, canned or cooked fruit; 1 medium-size whole fruit; or ¼ cup dried fruit).~~ fruit; examples of one serving are as follows: 6 ounces of juice; ½ cup of raw, canned or cooked fruit; 1 medium-size whole fruit; or ¼ cup dried fruit. One serving shall be a citrus fruit or a single strength juice in which there is 100% of the recommended dietary allowance of vitamin C in each six ounces of juice. The second fruit serving shall be of another variety of fresh, ~~dried~~ dried, or canned fruit.

(C) Vegetables: Three servings of ~~vegetables (one serving equals ½ cup of cooked or canned vegetable; 6 ounces of vegetable juice; or 1 cup of raw vegetable).~~ vegetables; examples

of one serving are as follows: ½ cup of cooked or canned vegetable; 6 ounces of vegetable juice; or 1 cup of raw vegetable. One of these shall be a dark green, ~~leafy~~ leafy, or deep yellow vegetables three times a week.

(D) Eggs: One whole egg or substitute ~~(e.g., 2 egg whites or ¼ cup of pasteurized egg product)~~ such as 2 egg whites or ¼ cup of pasteurized egg product at least three times a week at breakfast.

(E) Protein: Two to three ounces of pure cooked meat at least two times a day for a minimum of 4 ounces. A substitute ~~(e.g.,~~ (such as 4 tablespoons of peanut butter, 1 cup of cooked dried peas or ~~beans~~ beans, or 2 ounces of pure cheese) may be served three times a week but not more than once a day, unless requested by the resident.

~~Note:~~ For the purposes of this Rule, Bacon is considered to be fat and ~~not meat for the purposes of this Rule.~~ does not meet the protein requirement for meat.

(F) Cereals and Breads: At least six servings of whole grain or enriched cereal and bread or grain products a day. Examples of one serving are as follows: 1 slice of bread; ½ of a bagel, ~~English muffin~~ English muffin, or hamburger bun; one 1 ½ -ounce muffin, 1- ounce roll, 2-ounce biscuit or 2-ounce piece of cornbread; ½ cup cooked rice or cereal ~~(e.g.,~~ (such as oatmeal or grits); ¾ cup ready-to-eat cereal; or one waffle, ~~pancake~~ pancake, or tortilla that is six inches in diameter. Cereals and breads offered as snacks may be included in meeting this requirement.

(G) Fats: Include butter, oil, ~~margarine~~ margarine, or items consisting primarily of one of ~~these (e.g., such as icing or gravy)~~ these, such as icing or gravy.

(H) Water and Other Beverages: Water shall be served to each resident at each meal, in addition to other beverages.

(e) Therapeutic Diets in Adult Care Homes:

(1) All therapeutic diet orders including thickened liquids shall be in writing from the resident's physician. Where applicable, the therapeutic diet order shall be specific to calorie, ~~gram~~ gram, or consistency, such as for ~~calorie-controlled~~ calorie-controlled ADA diets, low sodium ~~diets~~ diets, or thickened liquids, unless there are written orders ~~which~~ that include the definition of any therapeutic diet identified in the facility's therapeutic menu approved by a ~~registered dietitian.~~ licensed dietitian/nutritionist. For the purpose of this Rule "therapeutic diet" is a diet ordered by a physician or other delegated provider that is part of the treatment for a disease or clinical condition, to eliminate, decrease, or increase certain substances in the diet (e.g., sodium or potassium), or to provide mechanically altered food when indicated.

(2) Physician orders for nutritional supplements shall be in writing from the resident's physician and be ~~brand-specific,~~ brand-specific, unless the facility has defined a house supplement in its communication to the physician, and shall specify quantity and frequency.

(3) The facility shall maintain ~~an accurate and~~ a current listing of residents with physician-ordered therapeutic diets for guidance of food service staff.

(4) All therapeutic diets, including nutritional supplements and thickened liquids, shall be served as ordered by the resident's physician.

(f) Individual Feeding Assistance in Adult Care Homes:

(1) ~~Sufficient~~ The facility shall provide staff ~~shall be available~~ for individual feeding assistance ~~as needed.~~ in accordance to residents' needs.

(2) Residents needing help in eating shall be assisted upon receipt of the meal and the assistance shall be unhurried and in a manner that maintains or enhances each resident's dignity and respect.

(g) Variations from the required three meals or time intervals between meals to meet individualized needs or preferences of residents shall be documented in the resident's record.

History Note: *Authority G.S. 131D-2.16; 143B-165;*
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. April 1, 1984;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. June 1, ~~2004.~~ 2004;
Readopted Eff. January 1, 2023.

10A NCAC 13G .0904 is readopted as published in 36:24 NCR 1933-1937 as follows:

10A NCAC 13G .0904 NUTRITION AND FOOD SERVICE

(a) Food Procurement and Safety in Family Care Homes:

(1) ~~The kitchen, dining and food storage areas shall be clean, orderly and protected from contamination.~~ Food services shall comply with Rules Governing the Sanitation of Residential Care Facilities as promulgated by the Commission for Public Health which are hereby incorporated by reference, including subsequent amendments, assuring storage, preparation, and serving food under sanitary conditions. Copies of these Rules can be accessed online at https://ehs.ncpublichealth.com/rules.htm, at no cost.

~~(2) All food and beverage being procured, stored, prepared or served by the facility shall be protected from contamination.~~

~~(3)~~(2) All meat processing shall occur at a USDA-approved processing plant.

~~(4)~~(3) There shall be at least a three-day supply of perishable food and a five-day supply of non-perishable food in the facility based on the ~~menus,~~ menus established in Paragraph (c) of this Rule, for both regular and therapeutic diets.

(b) Food Preparation and Service in Family Care Homes:

(1) Sufficient staff, ~~space~~ space, and equipment shall be provided for safe and sanitary food storage, ~~preparation~~ preparation, and service.

(2) Table service shall include a napkin and non-disposable place setting consisting of at least a knife, fork, spoon, ~~plate~~ plate, and beverage containers. ~~Exceptions may be made on an individual basis and shall be based on documented needs or preferences of the resident.~~

(3) Hot foods shall be served hot and cold foods shall be served cold.

(4) If residents require feeding assistance, food shall be maintained at serving temperature until assistance is provided.

(c) Menus in Family Care Homes:

(1) Menus shall be prepared at least one week in advance with serving quantities specified and in accordance with the ~~Daily Food Requirements~~ daily food requirements in Paragraph (d) of this Rule.

(2) Menus shall be maintained in the kitchen and identified as to the current menu day and cycle for any given day for guidance of food service staff.

(3) Any substitutions made in the menu shall be of equal nutritional value, appropriate for therapeutic ~~diets~~ diets, and documented and maintained in the kitchen to indicate the foods actually served to residents.

(4) Menus shall be planned to take into account the food preferences ~~and customs~~ of the residents.

(5) Menus as served and invoices or other receipts of purchases shall be maintained in the facility for 30 days.

(6) Menus for all therapeutic diets shall be planned or reviewed by a ~~registered dietitian.~~ licensed dietitian/nutritionist. The facility shall maintain verification of the ~~registered dietitian's~~ licensed dietitian/nutritionist's approval of the therapeutic ~~diets which shall include an original signature by the registered dietitian and the registration number of the dietitian.~~ diets.

(7) The facility shall have a matching therapeutic diet menu for all physician-ordered therapeutic diets for guidance of food service staff.

(d) Food Requirements in Family Care Homes:

(1) Each resident shall be served a minimum of three nutritionally ~~adequate,~~ adequate based on the requirements in Subparagraph (d)(3) of this Rule, palatable meals to the residents. Meals shall be served ~~a day~~ at regular ~~hours~~ times comparable to normal meal times in the community. There shall be ~~with~~ at least 10 hours between the breakfast and evening meals.

(2) Foods and beverages ~~that are appropriate to residents' diets~~ shall be offered in accordance with residents' prescribed diet or made available to all residents as snacks between each meal for a total of three snacks per day and shown on the menu as snacks.

(3) Daily menus for regular diets shall be based on the U.S. Department of Agriculture Dietary Guidelines for Americans 2020-2025, which are hereby incorporated by reference, including subsequent amendments and editions. These guidelines can be found at https://dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf, at no cost and include the following:

(A) ~~Homogenized whole milk, low fat milk, skim milk or buttermilk.~~ Dairy and dairy alternatives: milk, yogurt, cheese, low-lactose or lactose-free dairy products, fortified soy beverages, and soy yogurt. One cup (8 ounces) of ~~pasteurized milk~~ dairy or dairy alternatives at least ~~twice~~ three times a day. Milk served shall be pasteurized. Reconstituted dry milk or diluted evaporated milk may be used in cooking ~~only and not for drinking purposes due to risk of bacterial contamination during mixing and the lower nutritional value of the product if too much water is used.~~ only.

(B) Fruit: Two servings of ~~fruit (one serving equals 6 ounces of juice; ½ cup of raw, canned or cooked fruit; 1 medium-size whole fruit; or ¼ cup dried fruit).~~ fruit; examples of one serving are as follows: 6 ounces of juice; ½ cup of raw, canned or cooked fruit; 1 medium-size whole fruit; or ¼ cup dried fruit. One serving shall be a citrus fruit or a single strength juice in which there is 100% of the recommended dietary allowance of vitamin C in each six ounces of juice. The second fruit serving shall be of another variety of fresh, ~~dried~~ dried, or canned fruit.

(C) Vegetables: Three servings of ~~vegetables (one serving equals ½ cup of cooked or canned vegetable; 6 ounces of vegetable juice; or 1 cup of raw vegetable).~~ vegetables; examples of one serving are as follows: ½ cup of cooked or canned vegetable; 6 ounces of vegetable

juice; or 1 cup of raw vegetable. One of these shall be a dark green, ~~leafy~~ leafy, or deep yellow vegetables three times a week.

(D) Eggs: One whole egg or substitute ~~(e.g., 2 egg whites or ¼ cup of pasteurized egg product)~~ such as 2 egg whites or ¼ cup of pasteurized egg product at least three times a week at breakfast.

(E) Protein: Two to three ounces of ~~pure~~ cooked meat at least two times a day for a minimum of 4 ounces. A substitute ~~(e.g.,~~ (such as 4 tablespoons of peanut butter, 1 cup of cooked dried peas or beans or 2 ounces of pure cheese) may be served three times a week but not more than once a day, unless requested by the resident.

Note: For the purposes of this Rule, Bacon is considered to be fat and ~~not meat for the purposes of this Rule.~~ does not meet the protein requirement for meat.

(F) Cereals and Breads: At least six servings of whole grain or enriched cereal and bread or grain products a day. Examples of one serving are as follows: 1 slice of bread; ½ of a bagel, English muffin or hamburger bun; one 1 ½ -ounce muffin, 1- ounce roll, 2-ounce biscuit or 2-ounce piece of cornbread; ½ cup cooked rice or cereal ~~(e.g.,~~ (such as oatmeal or grits); ¾ cup ready-to-eat cereal; or one waffle, ~~pancake~~ pancake, or tortilla that is six inches in diameter. Cereals and breads offered as snacks may be included in meeting this requirement.

(G) Fats: Include butter, oil, ~~margarine~~ margarine, or items consisting primarily of one of ~~these (e.g., icing or gravy)~~ these, such as icing or gravy.

(H) Water and Other Beverages: Water shall be served to each resident at each meal, in addition to other beverages.

(e) Therapeutic Diets in Family Care Homes:

(1) All therapeutic diet orders including thickened liquids shall be in writing from the resident's physician. Where applicable, the therapeutic diet order shall be specific to calorie, ~~gram~~ gram, or consistency, such as for ~~calorie-controlled~~ calorie-controlled ADA diets, low sodium ~~diets~~ diets, or thickened liquids, unless there are written orders ~~which~~ that include the definition of any therapeutic diet identified in the facility's therapeutic menu approved by a ~~registered dietitian.~~ licensed dietitian/nutritionist. For the purpose of this Rule "therapeutic diet" is a diet ordered by a physician or other delegated provider that is part of the treatment for a disease or clinical condition, to eliminate, decrease, or increase certain substances in the diet (e.g., sodium or potassium), or to provide mechanically altered food when indicated.

(2) Physician orders for nutritional supplements shall be in writing from the resident's physician and be ~~brand specific,~~ brand-specific, unless the facility has defined a house supplement in its communication to the physician, and shall specify quantity and frequency.

(3) The facility shall maintain ~~an accurate and~~ a current listing of residents with physician-ordered therapeutic diets for guidance of food service staff.

(4) All therapeutic diets, including nutritional supplements and thickened liquids, shall be served as ordered by the resident's physician.

(f) Individual Feeding Assistance in Family Care Homes:

(1) ~~Sufficient~~ The facility shall provide staff ~~shall be available~~ for individual feeding assistance as ~~needed.~~ in accordance with residents' needs.

(2) Residents needing help in eating shall be assisted upon receipt of the meal and the assistance shall be unhurried and in a manner that maintains or enhances each resident's dignity and respect.

(g) Variations from the required three meals or time intervals between meals to meet individualized needs or preferences of residents shall be documented in the resident's record.

History Note: *Authority G.S. 131D-2.16; 143B-165;*
Eff. January 1, 1977;
Amended Eff. October 1, 1977; April 22, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. August 3, 1992; July 1, 1990; September 1, 1987; April 1, 1987;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. June 1, ~~2004.~~ 2004;
Readopted Eff. January 1, 2023.

DHSR Adult Care Licensure Section
Fiscal Impact Analysis
Permanent Rule Readoption and Amendment with Substantial Economic Impact

Agency: North Carolina Medical Care Commission

Contact Persons: Nadine Pfeiffer, DHSR Rules Review Manager, (919) 855-3811
Megan Lamphere, Adult Care Licensure Section Chief, (919) 855-3784
Shalisa Jones, Regulatory Analyst, (704) 589-6214

Impact:

Federal Government:	No
State Government:	No
Local Government:	No
Private Entities:	Yes
Substantial Impact:	Yes

Titles of Rule Changes and N.C. Administrative Code Citation

Rule Readoptions (*See proposed text of these rules in Appendix)*
10A NCAC 13F .0904 Nutrition and Food Service
10A NCAC 13G .0904 Nutrition and Food Service

Authorizing Statutes: G.S. 131D-2.16; 131D-4.5; 143B-165

Introduction and Background

The agency is proposing to increase dairy serving requirements for adult and family care homes from 2 to 3 per day and expand the definition of dairy to include yogurt, cheese, low-lactose or lactose-free dairy products, fortified soy beverages, and soy yogurt. These proposed changes will align the rules with current United States Department of Agriculture (USDA) nutritional standards and provide facilities and residents with more dietary choices. Increasing the dairy requirements is expected to bring additional costs to the facilities that are not already offering dairy 3 times per day using the expanded definition of dairy.

The agency also proposes to reference applicable sanitation rules enforced by the Division of Public Health and make technical changes for clarity and consistency. These proposed changes do not affect current operations and have no economic impact. The agency does not anticipate any additional impact on state government or local government (i.e. county Departments of Social Services who monitor and conduct complaint investigations in adult care homes and family care homes) beyond their current job requirements to implement, monitor, or regulate the proposed amendments.

Under the authority of G.S. 150B-21.3A, Periodic review of existing rules, the North Carolina Medical Care Commission and Rules Review Commission approved the Subchapter reports with classifications for the rules under 10A NCAC 13F Licensing of Adult Care Homes of Seven or More Beds and 10 NCAC 13G Licensing of Family Care Homes. The rules were classified in the reports as

necessary with substantive public interest. Rules 13F .0904 and 13G .0904 are being presented for readoption with substantive changes. Most of the rules for both types of assisted living residences, adult care homes of seven beds or more and family care homes, are the same with the primary exception of staffing and physical plant requirements since they serve the same population based on need for care and services. Therefore, the 13F rules corresponding to the 13G rules being proposed for readoption with substantive changes are being amended concurrently to assure this traditional consistency.

Purpose and Benefits of Proposed Changes

The proposed changes update the language to include dietary options and serving requirements that align with the current USDA nutritional standards. The standards provide additional options for dairy, including dairy alternatives. The proposed language now includes yogurt, cheese, low-lactose/lactose-free dairy products, fortified soy beverages and soy yogurt. The USDA dietary guidelines provide a framework for dairy recommendations to include personal preferences, cultural inclusion, and budget-conscious options. Dairy foods are important to nutrition as it provides calcium and vitamin D needed for strong teeth and bones[1].

The USDA revised the dietary guidelines in December 2020 and the agency proposes to adopt those guidelines because the benefits of increased dairy intake have been proven to reduce falls and fractures among older adults residing in residential care. In an article published by BMJ today, "researchers in Australia, the Netherlands, and the United States completed a two-year trial that included at total of 7,195 residents with the mean age of 86 years old, thirty facilities were randomized to provide residents with additional milk, yogurt, and cheese, ultimately increasing the amount of calcium each day. Data from the trial confirmed risk reductions of 33% for all fractures, 46% of hip fractures, and 11% of falls"[3]. It was concluded, improving calcium and protein intakes by using dairy foods is a readily accessible intervention that reduces risk of falls and fractures commonly occurring in institutionalized older adults.

Estimated Costs to Facilities

The rule as written requires two 8-ounce servings of dairy daily shall be included in the daily menu for regular diets to include homogenized whole milk, low fat milk, skim milk, or buttermilk. While the proposed rules increase servings requirements from two to three 8-ounce servings per day, the expanded dairy options provide additional flexibility to operators.

The agency created and distributed surveys to providers in August 2021 and March 2022 to gather data regarding their current dairy serving frequency to determine how many of the 556 adult care homes and 537 family care homes may incur costs to comply with the proposed new dietary rules. The response rate for facilities answering dairy-related questions in the August survey was 19% for adult care homes and 12% for family care homes (15% total). The survey was refined and re-issued in March in an effort to improve the data available to estimate the impact of the proposed rules. The response rate from this survey was 30% for adult care homes and 11% for family care homes (16% total). Due to the low response rate, there is a high level of uncertainty about the number of facilities that will need to offer additional dairy servings under the new rules. The estimates in this analysis are based on the best data available to the agency.

Responses to the March 2022 survey indicate that 43% of adult care homes and 54% of family care homes (47% of all facilities) will need to increase the number of servings of dairy offered per day to comply with the proposed rules. The remaining 57% of the adult care home respondents and 46% of family care respondents are already serving 3 or more servings of dairy per day when considering the new, expanded definition of dairy (Tables 1 and 2).

Table 1. Number of Dairy Servings by Facility Type: Total Responses March 2022

Current Servings Per Day	Facility Type		Combined total
	Adult Care Home	Family Care Home	
1	4	6	10
2	46	26	72
3 or more	66	27	93
Total Respondents	166	59	175

Table 2. Number of Dairy Servings by Facility Type: Percentage of Total Responses

Current Servings Per Day	Facility Type		Combined total
	Adult Care Home	Family Care Home	
1	3%	10%	6%
2	40%	44%	41%
3 or more	57%	46%	53%
Total	100%	100%	100%

The Section estimated the average cost of compliance per facility for those that do not already serve dairy 3 or more times per day using the expanded definition (Table 3). The estimates are based on three components:

- Survey responses on the number of servings of dairy per day, used to estimate the proportion of facilities that would need to offer one or two additional servings of dairy
- The average number of residents in each facility that currently offers dairy less than 3 times per day, as reported in the survey, and
- USDA data on retail dairy prices in the Southeast as reported on March 25, 2022.[1]

This analysis presents the average annual costs for adult and family care homes, taking into account the proportion of facilities who would need to add one additional serving and facilities who would need to add two additional servings to comply with the proposed rules. There was a small amount of facilities who would need to offer two additional servings and a greater number of facilities who would need to offer only one additional serving (See Table 3). The agency recognizes that currently facilities are required to offer 2 servings of dairy per day, however the estimated average annual cost for adult and family care homes reflect data collected from facilities who currently offer one, two, and three or more servings per day to be inclusive of the current trends and obtain the most accurate estimated cost possible. The survey indicates that the proposed rule changes would incur costs for 47% of facilities. The remaining 53% of facilities are already offering the proposed 3 servings of dairy based on the new definition.

The agency's estimated an average cost for an 8oz serving of dairy of $1.28. This estimate was calculated by averaging the retail prices for the dairy products reported by the USDA, converted into costs per 8oz serving. USDA reports regional prices for several forms of cheese, ice cream, sour cream, and several forms of milk and yogurt by region. Butter was excluded from the calculation because butter is treated as a fat rather than dairy in the dietary rules. The agency chose to use the USDA data for the sake of consistency across providers and because requesting actual costs per serving of dairy from providers would likely be unsuccessful and unverifiable. It would be challenging for providers to develop an accurate calculation

[1] USDA Weekly Advertised Retail Prices.

based on the new definition and it would require a significant time investment for providers to obtain receipts for each dairy product purchased and report the information to the agency.

Estimated costs for adult care homes that do not already offer 3 servings of dairy under the expanded definition is $24,506 per facility, annually. For family care homes, estimated costs per facility would be $3,326 per facility, annually. See details in table 3.

Table 3. Estimated Average Annual Cost Per Facility by Type: Not Already Offering 3 Servings

	Additional serving needed	Average annual cost
Facility Type	Percent of facilities	
Adult Care Homes	43%	$24,506
Family Care Homes	54%	$3,326

Due to the low survey response rate, there is a high level of uncertainty about the number of facilities that will need to offer additional dairy servings under the new rules. Similarly, there is variability in the per-serving cost of dairy depending on the chosen products and price fluctuations. Thus, total costs are uncertain. **However, this analysis suggests that the proposed rules will have a substantial economic impact[2] on facilities of approximately $5.9 million dollars per year for adult care homes and $1 million per year for family care homes statewide**. These costs were calculated by multiplying the estimated number of affected facilities (43% of the 556 adult care homes and 54% of the 537 family care homes) by the average annual cost per facility not already offering three servings of dairy under the expanded definition.

Alternatives

An alternate to the current proposed rules would be to keep the rules the same, making only technical changes that include no fiscal impact. However, keeping the rules the same would limit residents from potentially receiving additional servings of dairy which would not align with the current USDA standards. The current proposed rules are a better alternative as they align with current USDA standards offering more variety and increase in necessary vitamins which promote the health and well-being of residents.

A second alternative that could be considered in lieu of the proposed rules would include a further expanded definition of dairy alternatives based on the resident's preference which could include calcium and vitamin D fortified plant-based milk alternatives such as rice milk, oat milk, coconut milk, or almond milk to meet the preferences of residents. By proposing a more expanded definition of dairy, it would be challenging for providers and their staff when purchasing these additional plant-based alternatives as they would need to ensure that they contain the proper amounts of vitamin D and calcium to meet the dairy recommendations. The current proposed rules are a better alternative as they meet the minimum current USDA standards. The current proposed rules are clear, concise, and give providers a variety of options to increase dairy serving requirements with dairy alternatives, without the need to pay special attention to the nutritional labels. The current proposed rules include soy milk and soy yogurt as an alternative plant-based option to meet the calcium and vitamin D nutrient requirements for residents who require or prefer a plant-based alternative.

[2] Defined as greater than $1 million in costs and benefits in a 12-month period per G.S. 150B 21.4(b1)

Summary of Technical Changes: No Impact

1. The rule as written required the kitchen, dining, and food storage area to be clean, orderly, and protected from contamination. The proposed changes update the rules to include references to applicable sanitation rules enforced by the Division of Public Health. There is no fiscal impact as adherence to these rules are already mandated by the Commission for Public Health.

Rationale: Sanitation requirements are necessary to ensure cleanliness of the kitchen, dining, and food storage areas. Adult and family care home facilities are required to implement effective sanitation procedures to protect residents' food which helps to prevent foodborne illness. The sanitation rules as outlined in 15A NCAC 18A provide clear guidelines for food service equipment, utensils, food supplies, and food protection for adult care homes. Family Care homes will now have clear guidelines by complying with the Rules governing the Sanitation of Residential Care Facilities as promulgated by the Commission for Public Health. Inclusion of the sanitation rules for adult and family care homes will provide explicit regulations for how to ensure the kitchen, dining, and food storage areas are to be cleaned, orderly, and protected from contamination.

2. Additional technical changes were made to the rule to clarify the wording used to identify who is responsible for reviewing therapeutic diets. The language as written refers to the individuals as a "registered dietician". The proposed language was modified to match their practice act in Article 25 of Chapter 90 of the General Statues.

3. The rule as written provides vague instruction with the use of the phrase "nutritionally adequate". The language was updated to provide clarity for how "adequate" will be defined in Subparagraph (d)(3) of the Rule. Subparagraph (d)(3) of the rule indicated the requirements of daily menus. The current rule as written also requires that meals shall be served during "regular hours." The rule language was updated to clarify meals should be provided during the hours that are normal for the community to give facilities the ability to create meal times that honor residents' choice and the culture of the community.

---

1 USDA Dietary Guidelines for Americans, 2020-2025
2 Data from the Adult Care Homes 2020 Facility License Renewal Applications
3(BMJ, 2021) "Effect of dietary sources of calcium and protein on hip fractures and falls in older adults in residential care: cluster randomized controlled trial"

Appendix

10A NCAC 13F .0904 is proposed for readoption with substantive changes as follows:

10A NCAC 13F .0904 NUTRITION AND FOOD SERVICE

(a) Food Procurement and Safety in Adult Care Homes:

(1) ~~The kitchen, dining and food storage areas shall be clean, orderly and protected from contamination.~~ Facilities with a licensed capacity of 7 to 12 residents shall ensure food services comply with Rules Governing the Sanitation of Residential Care Facilities set forth in 15A NCAC 18A .1600 which are hereby incorporated by reference, including subsequent amendments, assuring storage, preparation, and serving food and beverage under sanitary conditions.

(2) ~~All food and beverage being procured, stored, prepared or served by the facility shall be protected from contamination.~~ Facilities with a licensed capacity of 13 or more residents shall ensure food services comply with Rules Governing the Sanitation of Restaurants and Other Foodhandling Establishments set forth in 15A NCAC 18A .1300 which are hereby incorporated by reference, including subsequent amendments, assuring storage, preparation, and serving of food and beverage under sanitary conditions.

(3) All meat processing shall occur at a USDA-approved processing plant.

(4) There shall be at least a three-day supply of perishable food and a five-day supply of non-perishable food in the facility based on the ~~menus,~~ menus established in Paragraph (c) of this Rule for both regular and therapeutic diets.

(b) Food Preparation and Service in Adult Care Homes:

(1) Sufficient staff, ~~space~~ space, and equipment shall be provided for safe and sanitary food storage, ~~preparation~~ preparation, and service.

(2) Table service shall include a napkin and non-disposable place setting consisting of at least a knife, fork, spoon, ~~plate~~ plate, and beverage containers. ~~Exceptions may be made on an individual basis and shall be based on documented needs or preferences of the resident.~~

(3) Hot foods shall be served hot and cold foods shall be served cold.

(4) If residents require feeding assistance, food shall be maintained at serving temperature until assistance is provided.

(c) Menus in Adult Care Homes:

(1) Menus shall be prepared at least one week in advance with serving quantities specified and in accordance with the ~~Daily Food Requirements~~ daily food requirements in Paragraph (d) of this Rule.

(2) Menus shall be maintained in the kitchen and identified as to the current menu day and cycle for any given day for guidance of food service staff.

(3) Any substitutions made in the menu shall be of equal nutritional value, appropriate for therapeutic ~~diets~~ diets, and documented and maintained in the kitchen to indicate the foods actually served to residents.

(4) Menus shall be planned to take into account the food preferences ~~and customs~~ of the residents.

(5) Menus as served and invoices or other receipts of purchases shall be maintained in the facility for 30 days.

(6) Menus for all therapeutic diets shall be planned or reviewed by a ~~registered dietitian.~~ licensed dietitian/nutritionist. The facility shall maintain verification of the ~~registered dietitian's~~ licensed

dietitian/nutritionist's approval of the therapeutic ~~diets which shall include an original signature by the registered dietitian and the registration number of the dietitian.~~ diets.

(7) The facility shall have a matching therapeutic diet menu for all physician-ordered therapeutic diets for guidance of food service staff.

(d) Food Requirements in Adult Care Homes:

(1) Each resident shall be served a minimum of three nutritionally ~~adequate,~~ adequate based on the requirements in Subparagraph (d)(3) of this Rule, palatable meals to the residents. Meals shall be served ~~a day~~ at regular ~~hours~~ times comparable to normal meal times in the community. There shall be ~~with~~ at least 10 hours between the breakfast and evening meals.

(2) Foods and beverages ~~that are appropriate to residents' diets~~ shall be offered in accordance with residents' prescribed diet or made available to all residents as snacks between each meal for a total of three snacks per day and shown on the menu as snacks.

(3) Daily menus for regular diets shall be based on the U.S. Department of Agriculture Dietary guidelines for Americans 2020-2025, which are hereby incorporated by reference including subsequent amendments and editions. These guidelines can be found at https://dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf for no cost and include the following:

(A) ~~Homogenized whole milk, low fat milk, skim milk or buttermilk:~~ Dairy and dairy alternatives: milk, yogurt, cheese, low-lactose or lactose-free dairy products, fortified soy beverages, and soy yogurt. One cup (8 ounces) of ~~pasteurized milk~~ dairy or dairy alternatives at least ~~twice~~ three times a day. Milk served shall be pasteurized. Reconstituted dry milk or diluted evaporated milk may be used in cooking ~~only and not for drinking purposes due to risk of bacterial contamination during mixing and the lower nutritional value of the product if too much water is used.~~ only.

(B) Fruit: Two servings of ~~fruit (one serving equals 6 ounces of juice; ½ cup of raw, canned or cooked fruit; 1 medium-size whole fruit; or ¼ cup dried fruit).~~ fruit; examples of one serving are as follows: 6 ounces of juice; ½ cup of raw, canned or cooked fruit; 1 medium-size whole fruit; or ¼ cup dried fruit. One serving shall be a citrus fruit or a single strength juice in which there is 100% of the recommended dietary allowance of vitamin C in each six ounces of juice. The second fruit serving shall be of another variety of fresh, ~~dried~~ dried, or canned fruit.

(C) Vegetables: Three servings of ~~vegetables (one serving equals ½ cup of cooked or canned vegetable; 6 ounces of vegetable juice; or 1 cup of raw vegetable).~~ vegetables; examples of one serving are as follows: ½ cup of cooked or canned vegetable; 6 ounces of vegetable juice; or 1 cup of raw vegetable. One of these shall be a dark green, ~~leafy~~ leafy, or deep yellow vegetables three times a week.

(D) Eggs: One whole egg or substitute ~~(e.g., 2 egg whites or ¼ cup of pasteurized egg product)~~ such as 2 egg whites or ¼ cup of pasteurized egg product at least three times a week at breakfast.

(E) Protein: Two to three ounces of pure cooked meat at least two times a day for a minimum of 4 ounces. A substitute ~~(e.g.,~~ (such as 4 tablespoons of peanut butter, 1 cup of cooked dried peas or ~~beans~~ beans, or 2 ounces of pure cheese) may be served three times a week but not more than once a day, unless requested by the resident.

~~Note:~~ For the purposes of this Rule, Bacon is considered to be fat and ~~not meat for the purposes of this Rule.~~ does not meet the protein requirement for meat.

(F) Cereals and Breads: At least six servings of whole grain or enriched cereal and bread or grain products a day. Examples of one serving are as follows: 1 slice of bread; ½ of a bagel, ~~English muffin~~ English muffin, or hamburger bun; one 1 ½ -ounce muffin, 1- ounce roll, 2-ounce biscuit or 2-ounce piece of cornbread; ½ cup cooked rice or cereal ~~(e.g.,~~ (such as oatmeal or grits); ¾ cup ready-to-eat cereal; or one waffle, ~~pancake~~ pancake, or tortilla that is six inches in diameter. Cereals and breads offered as snacks may be included in meeting this requirement.

(G) Fats: Include butter, oil, ~~margarine~~ margarine, or items consisting primarily of one of ~~these (e.g., such as icing or gravy)~~ these, such as icing or gravy.

(H) Water and Other Beverages: Water shall be served to each resident at each meal, in addition to other beverages.

(e) Therapeutic Diets in Adult Care Homes:

(1) All therapeutic diet orders including thickened liquids shall be in writing from the resident's physician. Where applicable, the therapeutic diet order shall be specific to calorie, ~~gram~~ gram, or consistency, such as for ~~calorie controlled~~ calorie-controlled ADA diets, low sodium ~~diets~~ diets, or thickened liquids, unless there are written orders ~~which~~ that include the definition of any therapeutic diet identified in the facility's therapeutic menu approved by a ~~registered dietitian.~~ licensed dietitian/nutritionist. For the purpose of this Rule "therapeutic diet" is a diet ordered by a physician or other delegated provider that is part of the treatment for a disease or clinical condition, to eliminate, decrease, or increase certain substances in the diet (e.g., sodium or potassium), or to provide mechanically altered food when indicated.

(2) Physician orders for nutritional supplements shall be in writing from the resident's physician and be ~~brand specific,~~ brand-specific, unless the facility has defined a house supplement in its communication to the physician, and shall specify quantity and frequency.

(3) The facility shall maintain ~~an accurate and~~ a current listing of residents with physician-ordered therapeutic diets for guidance of food service staff.

(4) All therapeutic diets, including nutritional supplements and thickened liquids, shall be served as ordered by the resident's physician.

(f) Individual Feeding Assistance in Adult Care Homes:

(1) ~~Sufficient~~ The facility shall provide staff ~~shall be available~~ for individual feeding assistance ~~as needed.~~ in accordance to residents' needs.

(2) Residents needing help in eating shall be assisted upon receipt of the meal and the assistance shall be unhurried and in a manner that maintains or enhances each resident's dignity and respect.

(g) Variations from the required three meals or time intervals between meals to meet individualized needs or preferences of residents shall be documented in the resident's record.

History Note: *Authority G.S. 131D-2.16; 143B-165;*
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;

Amended Eff. April 1, 1984;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. June 1, ~~2004.~~ 2004;
Readopted Eff. January 1, 2023.

10A NCAC 13G .0904 is proposed for readoption with substantive changes as follows:

10A NCAC 13G .0904 NUTRITION AND FOOD SERVICE

(a) Food Procurement and Safety in Family Care Homes:

(1) ~~The kitchen, dining and food storage areas shall be clean, orderly and protected from contamination.~~ Food services shall comply with Rules Governing the Sanitation of Residential Care Facilities as promulgated by the Commission for Public Health which are hereby incorporated by reference, including subsequent amendments, assuring storage, preparation, and serving food under sanitary conditions. Copies of these Rules can be accessed online at https://ehs.ncpublichealth.com/rules.htm, at no cost.

~~(2)~~ ~~All food and beverage being procured, stored, prepared or served by the facility shall be protected from contamination.~~

~~(3)~~(2) All meat processing shall occur at a USDA-approved processing plant.

~~(4)~~(3) There shall be at least a three-day supply of perishable food and a five-day supply of non-perishable food in the facility based on the ~~menus,~~ menus established in Paragraph (c) of this Rule, for both regular and therapeutic diets.

(b) Food Preparation and Service in Family Care Homes:

(1) Sufficient staff, ~~space~~ space, and equipment shall be provided for safe and sanitary food storage, ~~preparation~~ preparation, and service.

(2) Table service shall include a napkin and non-disposable place setting consisting of at least a knife, fork, spoon, ~~plate~~ plate, and beverage containers. ~~Exceptions may be made on an individual basis and shall be based on documented needs or preferences of the resident.~~

(3) Hot foods shall be served hot and cold foods shall be served cold.

(4) If residents require feeding assistance, food shall be maintained at serving temperature until assistance is provided.

(c) Menus in Family Care Homes:

(1) Menus shall be prepared at least one week in advance with serving quantities specified and in accordance with the ~~Daily Food Requirements~~ daily food requirements in Paragraph (d) of this Rule.

(2) Menus shall be maintained in the kitchen and identified as to the current menu day and cycle for any given day for guidance of food service staff.

(3) Any substitutions made in the menu shall be of equal nutritional value, appropriate for therapeutic ~~diets~~ diets, and documented and maintained in the kitchen to indicate the foods actually served to residents.

(4) Menus shall be planned to take into account the food preferences ~~and customs~~ of the residents.

(5) Menus as served and invoices or other receipts of purchases shall be maintained in the facility for 30 days.

(6) Menus for all therapeutic diets shall be planned or reviewed by a ~~registered dietitian.~~ licensed dietitian/nutritionist. The facility shall maintain verification of the ~~registered dietitian's~~ licensed dietitian/nutritionist's approval of the therapeutic ~~diets which shall include an original signature by the registered dietitian and the registration number of the dietitian.~~ diets.

(7) The facility shall have a matching therapeutic diet menu for all physician-ordered therapeutic diets for guidance of food service staff.

(d) Food Requirements in Family Care Homes:

(1) Each resident shall be served a minimum of three nutritionally ~~adequate,~~ adequate based on the requirements in Subparagraph (d)(3) of this Rule, palatable meals to the residents. Meals shall be served ~~a day~~ at regular ~~hours~~ times comparable to normal meal times in the community. There shall be ~~with~~ at least 10 hours between the breakfast and evening meals.

(2) Foods and beverages ~~that are appropriate to residents' diets~~ shall be offered in accordance with residents' prescribed diet or made available to all residents as snacks between each meal for a total of three snacks per day and shown on the menu as snacks.

(3) Daily menus for regular diets shall be based on the U.S. Department of Agriculture Dietary Guidelines for Americans 2020-2025, which are hereby incorporated by reference, including subsequent amendments and editions. These guidelines can be found at https://dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf, at no cost and include the following:

(A) ~~Homogenized whole milk, low fat milk, skim milk or buttermilk.~~ Dairy and dairy alternatives: milk, yogurt, cheese, low-lactose or lactose-free dairy products, fortified soy beverages, and soy yogurt. One cup (8 ounces) of ~~pasteurized milk~~ dairy or dairy alternatives at least ~~twice~~ three times a day. Milk served shall be pasteurized. Reconstituted dry milk or diluted evaporated milk may be used in cooking ~~only and not for drinking purposes due to risk of bacterial contamination during mixing and the lower nutritional value of the product if too much water is used.~~ only.

(B) Fruit: Two servings of ~~fruit (one serving equals 6 ounces of juice; ½ cup of raw, canned or cooked fruit; 1 medium-size whole fruit; or ¼ cup dried fruit).~~ fruit; examples of one serving are as follows: 6 ounces of juice; ½ cup of raw, canned or cooked fruit; 1 medium-size whole fruit; or ¼ cup dried fruit. One serving shall be a citrus fruit or a single strength juice in which there is 100% of the recommended dietary allowance of vitamin C in each six ounces of juice. The second fruit serving shall be of another variety of fresh, ~~dried~~ dried, or canned fruit.

(C) Vegetables: Three servings of ~~vegetables (one serving equals ½ cup of cooked or canned vegetable; 6 ounces of vegetable juice; or 1 cup of raw vegetable).~~ vegetables; examples of one serving are as follows: ½ cup of cooked or canned vegetable; 6 ounces of vegetable juice; or 1 cup of raw vegetable. One of these shall be a dark green, ~~leafy~~ leafy, or deep yellow vegetables three times a week.

(D) Eggs: One whole egg or substitute ~~(e.g., 2 egg whites or ¼ cup of pasteurized egg product)~~ such as 2 egg whites or ¼ cup of pasteurized egg product at least three times a week at breakfast.

(E) Protein: Two to three ounces of ~~pure~~ cooked meat at least two times a day for a minimum of 4 ounces. A substitute ~~(e.g.,~~ (such as 4 tablespoons of peanut butter, 1 cup of cooked dried peas or beans or 2

ounces of pure cheese) may be served three times a week but not more than once a day, unless requested by the resident.

Note: For the purposes of this Rule, Bacon is considered to be fat and ~~not meat for the purposes of this Rule.~~ does not meet the protein requirement for meat.

(F) Cereals and Breads: At least six servings of whole grain or enriched cereal and bread or grain products a day. Examples of one serving are as follows: 1 slice of bread; ½ of a bagel, English muffin or hamburger bun; one 1 ½ -ounce muffin, 1- ounce roll, 2-ounce biscuit or 2-ounce piece of cornbread; ½ cup cooked rice or cereal ~~(e.g.,~~ (such as oatmeal or grits); ¾ cup ready-to-eat cereal; or one waffle, ~~pancake~~ pancake, or tortilla that is six inches in diameter. Cereals and breads offered as snacks may be included in meeting this requirement.

(G) Fats: Include butter, oil, ~~margarine~~ margarine, or items consisting primarily of one of ~~these (e.g., icing or gravy)~~ these, such as icing or gravy.

(H) Water and Other Beverages: Water shall be served to each resident at each meal, in addition to other beverages.

(e) Therapeutic Diets in Family Care Homes:

(1) All therapeutic diet orders including thickened liquids shall be in writing from the resident's physician. Where applicable, the therapeutic diet order shall be specific to calorie, ~~gram~~ gram, or consistency, such as for ~~calorie controlled~~ calorie-controlled ADA diets, low sodium ~~diets~~ diets, or thickened liquids, unless there are written orders ~~which~~ that include the definition of any therapeutic diet identified in the facility's therapeutic menu approved by a ~~registered dietitian.~~ licensed dietitian/nutritionist. For the purpose of this Rule "therapeutic diet" is a diet ordered by a physician or other delegated provider that is part of the treatment for a disease or clinical condition, to eliminate, decrease, or increase certain substances in the diet (e.g., sodium or potassium), or to provide mechanically altered food when indicated.

(2) Physician orders for nutritional supplements shall be in writing from the resident's physician and be ~~brand specific,~~ brand-specific, unless the facility has defined a house supplement in its communication to the physician, and shall specify quantity and frequency.

(3) The facility shall maintain ~~an accurate and~~ a current listing of residents with physician-ordered therapeutic diets for guidance of food service staff.

(4) All therapeutic diets, including nutritional supplements and thickened liquids, shall be served as ordered by the resident's physician.

(f) Individual Feeding Assistance in Family Care Homes:

(1) ~~Sufficient~~ The facility shall provide staff ~~shall be available~~ for individual feeding assistance as ~~needed.~~ in accordance with residents' needs.

(2) Residents needing help in eating shall be assisted upon receipt of the meal and the assistance shall be unhurried and in a manner that maintains or enhances each resident's dignity and respect.

(g) Variations from the required three meals or time intervals between meals to meet individualized needs or preferences of residents shall be documented in the resident's record.

History Note: *Authority G.S. 131D-2.16; 143B-165;*

Eff. January 1, 1977;

Amended Eff. October 1, 1977; April 22, 1977;

Readopted Eff. October 31, 1977;

Amended Eff. August 3, 1992; July 1, 1990; September 1, 1987; April 1, 1987;

Temporary Amendment Eff. July 1, 2003;

Amended Eff. June 1, ~~2004.~~ 2004;

Readopted Eff. January 1, 2023.

Exhibit D
Rulemaking Petition

NCHCFA
NORTH CAROLINA
HEALTH CARE FACILITIES ASSOCIATION

July 28, 2022

Mark Payne, Esq.
Office of the Director
Division of Health Service Regulation
N.C. Department of Health and Human Services
2701 Mail Service Center
Raleigh, North Carolina 27699-2701
VIA US MAIL and EMAIL: mark.payne@dhhs.nc.gov

Re: Petition for Rulemaking Regarding North Carolina Nursing Pool Agencies

Dear Director Payne:

On behalf of the nearly 400 skilled nursing facility members of the North Carolina Health Care Facilities Association ("NCHCFA"), we submit the following Petition for Rulemaking ("Petition") pursuant to 10A N.C.A.C. 13A .0201. The purpose of this Petition is to ask the North Carolina Medical Care Commission ("MCC") to amend and enhance existing rules set forth at 10A N.C.A.C. 13L .0101 *et seq.* governing North Carolina's nursing pool agencies, which are enforced by the Department of Health and Human Services (the "Department") through its Division of Health Service Regulation ("DHSR" or "Division"). These regulations and the MCC's rulemaking authority are pursuant to the Nursing Pool Licensure Act, N.C. Gen. Stat. section 131E-154.1 to 154.8, and the specific authority for rulemaking is in N.C. Gen. Stat. section 131E-154.4.

Consistent with 10A NCAC 13A .0201(b), which governs petitions for rulemaking involving the MCC, we present the following information regarding the contents[1] of the proposed rules and the reasons for this rulemaking request, the effect this proposal would have on existing rules, data supporting the proposal, the effect this proposal would have on existing practices in the areas involved, and information on those most likely to be affected.

A Draft of the Proposed Rule

[1] We have prepared draft rule text for the additions and amendments ("Attachment 1"), though we ask the MCC to consider the spirit of the request as overarching and ask that the MCC disregard or edit the proposed rule text if needed to allow this Petition for rulemaking.

We are requesting that the MCC amend existing regulations set forth at 10A N.C.A.C. 13L .0101 *et seq.* to clarify and to require the following of nursing pool agencies licensed under N.C. Gen. Stat. section 131E-154.1 to 154.8. In summary, we are requesting that the amended rules require that nursing pool agencies:

1. Document that each temporary nursing staff member (nurses, nurse aides, etc.) provided to health care facilities be an employee of the agency and not an independent contractor.
2. Maintain insurance coverage for workers' compensation for all nurses, nurse aides, and the like provided by the agency and provide certain minimum levels of professional and general liability coverage.
3. File with the Division: (i) the name and address of the bank, savings bank, or savings association in which the nursing pool agency deposits all employee income tax withholdings; and (ii) the name and address of any nurse, nurse aide or other employee whose income is derived from placement by the agency, if the agency purports the income is not subject to withholding.
4. Not restrict in any manner the employment opportunities of the nursing pool agency's employees.
5. Not, in any contract with any employee or health care facility, require the payment of liquidated damages, employment fees, or other compensation should the employee of the nursing pool agency be hired as a permanent employee of a health care facility.
6. Retain all records for five calendar years. All records of the nursing pool agency must be immediately available to the Division.
7. Maintain written procedures for meeting health care facility requests for nursing personnel, including the pool's usual minimum notice time before nursing personnel can be assigned and procedures for assigning back-up nursing personnel if an initial assignment is not fulfilled.
8. Establish a procedure for annually assessing the performance of nursing personnel it assigns to a health care facility, including at a minimum: (A) a review of and response to any facility complaints about nursing pool personnel; (B) a record of nursing pool staff's reliability in fulfilling assignments; and (C) on-site assessments of personnel placed in health care facilities.
9. Establish a procedure for annually assessing the nursing pool's performance under the terms of its written agreements developed with health care facilities to which the nursing pool assigns personnel. This review should include at a minimum: (1) reports on complaints from contracting health care facilities and their resolution; and (2) a record of responses to requests for assignment of personnel to health care facilities. The results of this assessment should be considered by the Division in deciding whether to renew a nursing pool's license.
10. Provide the services of nursing personnel to health care facilities only under the terms of a written agreement with the facility.
11. Include in those written agreements the following, at a minimum:
    a. The types and qualifications of nursing personnel available for assignment through the nursing pool agency;
    b. Any requirement for minimum advance notice by a health care facility in order to assure prompt arrival of assigned personnel;
    c. All fees and their duration including, but not limited to:
        i. Any fees charged to the health care facility for nursing pool staff travel time, including when such fees are assessed, whether they are separately charged to the health care facility or are embedded into or included within a flat or hourly

charge to the health care facility, and any minimum distance requirements from the nursing pool employee's home to a health care facility that must exist before such charges may be assessed;

ii. Any overtime charges which may be assessed to the health care facility under the written agreement including the specific situations in which such overtime charges may be assessed (e.g., when any single employee works for a contracted facility in excess of 40 hours in any individual week or when all nursing pool staff assigned to a health care facility combined work in excess of 40 hours in any individual week);

d. The pool's procedures for investigation and resolution of complaints about the performance of personnel assigned including interviews with the personnel who may be the subject of the complaint, and other relevant witnesses;

e. The pool's procedures for receiving and responding to notices from health care facilities of failure of personnel to report to assignments and for back-up staff in such instances;

f. The pool's procedures for providing notice to health care providers of actual or suspected abuse, theft, tampering or other diversion of controlled substances by nursing pool personnel which shall include, at a minimum, that the administrator (or designee) of the health care facility shall be immediately notified; and

g. Maintain a program for monitoring the quality of the nursing pool's performance which may include questionnaires or other surveys of health care facilities with which the nursing pool has written agreements.

12. Report on their annual license renewal applications the rate at which requested shifts from health care facilities are filled:
    a. At least 90 days prior to license expiration, the licensee shall submit an attestation detailing the number of contracted shifts, number of shifts missed, and number of shifts fulfilled for the three calendar quarters preceding the application.
13. File with their annual license renewal application a cost report to be developed by the DHSR that, at a minimum, details each nursing pool's annual revenue, expenses, and income, including profit margin. This report shall also detail what percentage of each nursing pool's annual revenue is derived from each type of health care facility (e.g., hospital, skilled nursing facility, etc.).

Reason for the Proposal

The reason for this Petition is to improve the quality of care for patients and residents in North Carolina health care facilities.

Health care facilities have increasingly been forced to rely upon nursing pool agencies during the Covid pandemic to provide adequate staff to residents and patients. This impacts every skilled nursing facility ("SNF") and every adult care home ("ACH") in North Carolina and potentially impacts other providers as well, such as home health agencies, hospices, and hospitals. In N.C. skilled nursing facilities alone, the percentage of nursing care provided by personnel of nursing pool agencies has increased almost 500% in the last several years--from 2.7% of all nursing care in the 4th quarter of 2019 to 13.3% of all nursing care in the 4th quarter of 2021 provided by nursing pool personnel. As a result, the practices of some nursing pool agencies have a much more significant impact on the care provided than they did several years ago.

This is concerning in itself due to the importance of staff continuity when caring for individuals in nursing homes, but some of the practices reported make it even more concerning.

The NCHCFA has heard multiple and ongoing complaints about the experiences of its members with some nursing pool agencies. These include the following: some nursing pools declining to fill shifts under existing contracts in an apparent effort to increase the price, sometimes shortly before a shift is set to begin; some nursing pools asserting they have no responsibility for their personnel because those personnel are independent contractors, which is not permitted under the nursing pool licensing statute; some nursing pools are enabling bidding mechanisms that result in competition over individual workers to fill shifts at multiple facilities, which results in some shifts at some facilities not being filled (or only filled when facility staff work double-shifts or similar mechanism); some nursing pools sending "nurses" to facilities who do not have a valid license; some nursing pools sending personnel into facilities as nurse aides who have troubling criminal background checks and who lack NA certification; and others. All of these have a tremendous and negative impact on the quality of care provided.

This is not a problem that is unique to North Carolina. The anecdotes heard here mirror similar experiences across the nation as evidenced by multiple public reports, news reports and significant activity in other states to amend statutes or regulations to address potential abuses by these agencies. The NCHCFA is aware of numerous states currently engaged in the process of enhancing regulation of nursing pool agencies including Iowa, Kentucky, Louisiana, Oregon, and Pennsylvania, among others. Other states have strong regulation already, including Massachusetts and Minnesota.

In addition to the items noted above that materially and directly impact the quality of care provided daily, we have also heard the following complaints from SNFs across the state:

- It appears there are nursing pool agencies in North Carolina may not be operating in compliance with existing licensure statutes and regulations applicable to such agencies, with a resulting impact on the care our SNF members provide to their residents;
    - Reports include nursing pools operating without a license from DHSR
    - And as noted above, nursing pools treating their personnel as independent contractors instead of employees or otherwise acting as if they have limited control over their personnel.
- Some nursing pool agencies have engaged in widespread pricing increases, as well as apparently some cases of price gouging during the Covid pandemic;
    - It is unclear whether these higher prices are passed along in the form of wages or other payments to nursing personnel or are retained by the pool agencies. A cost report would shed light on this issue.
- Some facility staff are lured away to some nursing pool agencies with promises of higher wages, only to learn later that they are not employees of the staffing agency, but are being treated as independent contractors responsible for their own health care and similar costs and for the payment of their own quarterly and annual state and federal taxes;
- Some nursing pool agency contracts are misleading, particularly as it relates to whether nursing pool staff are local or traveling in from a distance and the associated rates with those two different types of personnel;
- Some nursing pool agencies attempt to inflate their contractually-stated charges by adding premium per-hour or flat rate charges for "Covid outbreaks" in a facility, often defined not in

accord with CMS, CDC or local public health department definitions, but defined to mean a single case of Covid in a facility; and

- Some nursing pool agencies claim the right to excessive overtime charges when the total number of temporary staff they assign to a facility exceeds 40 hours in any single week, not when an individual employee exceeds that number of worked hours, and it's unclear whether these overtime charges are then retained by the agency or passed along to its staff members.

These are just a few of the complaints received by the NCHCFA. These issues are not limited to today's Covid-related environment. Health care staffing challenges existed before the current pandemic, have been greatly exacerbated by the Covid pandemic, and are likely to continue well into the future for economic, demographic, and workforce-related issues.

Additionally, the issues raised in this Petition are not just business issues or disputes among health care providers and nursing pool agencies. Rather, they have a direct impact on the health and well-being of North Carolinians relying on our State's nursing homes, adult care homes and other health care facilities. Regulating appropriate interaction among licensed health care entities for the protection of patients and the promotion of quality care is at the core of what the MCC does.

To be clear, the NCHCFA is not asking the Department, Division, or the MCC with this Petition to regulate wages and related benefits paid and provided to employees of nursing pool agencies, or in any manner to establish prices, charges or other costs of health care facilities engaging with nursing pool agencies. Rather, this Petition asks the MCC to enhance existing regulations to ensure compliance with the existing Nursing Pool Licensure Act codified at N.C. Gen. Stat. section 131E-154.1 to 154.8; and to provide a regulatory framework that promotes enhanced quality in the care provided in our health care settings, when that care is being provided by employees of nursing pools.

Effect on Existing Rules or Orders

This Petition will have no dilatory or negative impact on any existing rules or orders. Rather, the requested rule revisions and additions will ensure better quality of care for individuals being cared for by health care providers who rely upon nursing pool agencies during the current workforce crisis. Further, these proposed rules will ensure that nursing pool agencies and health care providers enter that relationship with a full and fair understanding of the services being offered, the conditions under which those services are being offered, and the costs of such services. The requested rule changes will also provide the Department with additional information and tools to ensure that nursing pool agencies engage in appropriate treatment of their employees, fair treatment of the health care facilities and government health care financing programs (e.g., NC Medicaid) which are their customers, and standard business practices designed to ensure accountability in the regulated services nursing pool agencies offer.

Any Data Supporting the Proposal

The dramatic rise in the percentage of nursing care being provided by nursing pools in NC skilled nursing facilities is derived from Payroll Based Journal data maintained by the Centers for Medicare and Medicaid Services (CMS). The NCHCFA is currently unaware of any empirical studies documenting the issues we have raised in this Petition. However, scores of complaints from NCHCFA members support this request. Further, issues similar to those raised in this Petition are well documented in health care

trade publications,[2] news stories,[3] and have been highlighted by Members of Congress.[4] Legislation entitled the Travel Nursing Agency Transparency Study Act recently filed in Congress would require an investigation into certain practices of certain nursing pool agencies.[5] The fact that multiple states[6] either have already engaged in legislative or rulemaking efforts or are in the process of doing so to address similar issues is further evidence of a nationwide problem with some nursing pool agency practices which is also apparent in North Carolina, as we have described.

Effect of the Proposed Rule on Existing Practices in the Area

Please see our comments in the remainder of this Petition which document the impact of not taking action to further regulate nursing pool agencies. We have also set forth herein the issues and challenges leading the NCHCFA to submit this Petition and the benefits which will inure from the adoption of additional or amended regulations.

Names of Those Most Likely to be Affected by the Proposed Rule

We cannot name individually each and every person who would be affected by the proposed rule because that list includes all health care providers in North Carolina who regularly or intermittently rely upon nursing pool agencies. The list of affected individuals also includes:

- The residents and patients of SNFs, ACHs and other health care providers who also depend directly upon staff from nursing pool agencies;
- The agencies themselves, some of which are currently the subject of ongoing, widespread criticism; and
- The personnel of nursing pool agencies.

We can, however, answer this question in the reverse – it is hard to imagine anyone who will be negatively impacted by the proposed rules, including those nursing pool agencies who have been historically and wish to continue to work in a cooperative, open, and fair manner with the health care facilities which are their customers and upon whom they rely for their business and income.

Name and Address of Petitioner

This Petition is being submitted by the North Carolina Healthcare Facilities Association, which is located at 5109 Bur Oak Circle, Raleigh, North Carolina 27612, on behalf of its nearly 400 skilled nursing facility members and the tens of thousands of elderly North Carolina residents they serve daily.

---

[2] See, e.g., https://skillednursingnews.com/2022/04/staffing-agencies-create-unfair-playing-field-widen-gaps-in-nursing-home-workforce/

[3] See, e.g., https://time.com/6149467/congress-travel-nurse-pay/

[4] See, e.g., https://skillednursingnews.com/2022/01/members-of-congress-urge-white-house-to-investigate-price-gouging-from-staffing-agencies/

[5] https://www.congress.gov/bill/117th-congress/senate-bill/4352?r=2&s=1

[6] See, e.g., https://www.jdsupra.com/legalnews/iowa-passes-new-requirements-for-health-1061315/; https://www.beckershospitalreview.com/finance/7-states-considering-legislation-to-prevent-price-gouging-by-staffing-agencies.html

Sincerely,

Adam Sholar
President and Chief Executive Officer

Attachment 1

Cc: Ken Burgess, Esq. (via email: kburgess@bakerdonelson.com)
Jim Harrell, Esq. (via email: jim@harrellpllc.com)
Ted Goins, NCHCFA Board Chair (via email: tgoins@lscarolinas.net)
NC Secretary of Health and Human Services Kody Kinsley (via email: kody.kinsley@dhhs.nc.gov)
NC Deputy Secretary for NC Medicaid Dave Richard (via email: dave.richard@dhhs.nc.gov)

SUBCHAPTER 13L - NURSING POOL LICENSURE

SECTION .0100 - GENERAL INFORMATION

10A NCAC 13L .0101 DEFINITIONS

The following definitions apply throughout this Subchapter:

(1) "Division" means the Division of Health Service Regulation within the Department of Health and Human Services.

(2) "Premises" means a building and the tract of land upon which it sits.

History Note: *Authority G.S. 131E-154.4;*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, 2015.

SECTION .0200 - LICENSING

10A NCAC 13L .0201 APPLICATION FOR LICENSE

(a) Requests for an initial nursing pool license and each license renewal application shall be submitted on application forms made available by the Division. Each application shall include the following information:

(1) Business identification consisting of the following:
  (A) The business name or names under which the licensed services will be offered in brochures, yellow pages, and other advertisements.
  (B) The full street address location of the office premises which the public will contact to obtain the offered nursing pool services.
  (C) The postal address of the office for which licensing is requested.
  (D) A listing or description of any state issued licenses applicable to the premises for which the application is submitted.

(2) Ownership disclosure consisting of the following:
  (A) The name of the legal person, corporation, partnership, or proprietor, with ownership liability and authority applying for a license.
  (B) The name, business title, address, and telephone number of the proprietor, managing partner, or chief executive officer.
  (C) The name of other corporations, trusts, or holding companies involved when the applying entity is a wholly owned subsidiary corporation.

(3) Names, title and telephone number of the on-site manager for the location to be licensed.

(4) General information on all health care related services expected to be offered to the public from the premises on the effective date of licensure.

(5) A certification by the applicant that each temporary nursing staff member (including all nurses and nurse aides) that the licensee will provide to health care facilities in this state will be employees of the licensee and not independent contractors.

(6) The name and address of the bank, savings bank, or savings association in which the licensee deposits all employee income tax withholdings

(7) The name and address of any nurse, nursing assistant, or nurse aide whose income is derived from placement by the agency, if the licensee purports the income is not subject to withholding.

(8) For renewal license applications, the results of the assessment required by 10A NCAC 13L .0301(a)(5).

(9) For renewal license applications, the rate at which requested shifts from health care facilities are filled:
  (A) At least 90 days prior to license expiration, the licensee shall submit an attestation on a form made available by the Division detailing the total number of contracted nursing personnel shifts, number of nursing personnel shifts missed, and number of nursing personnel shifts fulfilled for the three quarters preceding the renewal application.

(b) Nursing pools subject to this Subchapter, but exempt from separate licensure, shall submit an application in accordance with this Rule and an addendum to their existing license shall be issued.

(c) A copy of this Subchapter together with the governing statutes shall be maintained on the licensed premises for use by on-site personnel.

(d) Every application for renewal of a license shall include a cost report covering the most recently available 12 months of financial information. The information shall be reported on a form provided by the Division, which shall include, at a minimum, each nursing pool's annual revenue, expenses, and income, including profit margin. This cost report shall also detail what percentage of each nursing pool's annual revenue is derived from each type of

health care facility (e.g., hospital, skilled nursing facility, etc.). The Division may request and each nursing pool shall provide any information requested to substantiate the information set forth in the cost report. Errors in the preparation of the cost report, or failure to file, may result in revocation of a nursing pool's license.

History Note: *Authority G.S. 131E-154.4;*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, 2015.

10A NCAC 13L .0202 ISSUANCE OF LICENSE

(a) Each site shall be individually licensed when it has been determined by the Division that the site involved is substantially in compliance with this Subchapter. Business sites using the same public business name already licensed by the Division pursuant to G.S. 131E, Articles 5 or 6 shall have "nursing pool" added to their existing license.

(b) Nursing pools administered by health care facilities as defined in G.S. 131E-154.2 of the Nursing Pool Licensure Act, and agencies licensed under Article 5 or 6 of Chapter 131E of the General Statutes and not required to be separately licensed may request the issuance of a license as a more visible means of demonstrating their compliance with the provisions of this Subchapter.

(c) All licenses shall be renewed every two years.

History Note: *Authority G.S. 131E-154.3; 131E-154.4; 131E-154.5;*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, 2015.

10A NCAC 13L .0203 PROGRAM COMPLIANCE

(a) The Division shall employ a system of initial and renewal applications, complaint investigation and on-site inspections for nursing pools with sites in the state as a means for monitoring and determining program compliance. This system shall be applied uniformly to all licensed and license-exempt nursing pool premises. Routine licensing renewal activities may be conducted by mail. Licensing of nursing pools with sites outside the state, but which provide personnel to health care facilities within the state, shall be conducted by mail.

(b) In the event of non-compliance with any rule or rules in this Subchapter or the Nursing Pool Licensure Act, the business shall be given no more than thirty days, the specific time period to be determined by the Division, to correct the non-compliance.

(c) The Division may suspend, revoke, annul, withdraw, recall, cancel, or amend a license in accordance with G.S. 131E-154.6 for any nursing pool that substantially fails to comply with the rules contained in this Subchapter or that fails to implement an approved plan of correction for violations of rules cited by the Division. A nursing pool may appeal any adverse decision made by the Division concerning its license by making such appeal in accordance with the Administrative Procedure Act, G.S. 150B and departmental rules 10A NCAC 01 et seq. As provided for in G.S. 131E-154.7, the Division may seek injunctive relief to prevent a person from establishing or operating a nursing pool without a license.

History Note: *Authority G.S. 131E-154.4;*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, 2015.

10A NCAC 13L .0204 PUBLIC DISPLAY

(a) The nursing pool's license shall be valid only for the premises on which displayed and specified on the license.

(b) The public use of the pool's license status shall not be included in any advertisement which involves any unlicensed services offered by the licensee and has the potential for misleading the public into believing that both covered and non-covered services are represented by the license.

History Note: *Authority G.S. 131E-154.3; 131E-154.4;*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, 2015.

10A NCAC 13L .0301 WRITTEN POLICIES AND PROCEDURES

(a) The nursing pool shall have written administrative and personnel policies to govern the services that it provides. These policies shall include those concerning patient care, personnel, training and orientation, supervision, employee evaluation, and organizational structure. These policies shall also include the following:

(1) That the nursing pool will not restrict in any manner the employment opportunities of its employees.

(2) That the nursing pool will not, in any contract with any employee or health care facility, require the payment of liquidated damages, employment fees, or other compensation should the employee of the nursing pool agency be hired as a permanent employee of a health care facility.

(3) That the nursing pool will retain all records for five calendar years. All records of the nursing pool agency will be immediately available to the Division.

(4) That the nursing pool will maintain and adhere to written procedures for meeting health care facility requests for medical personnel, including the nursing pools's usual minimum notice time before medical personnel can be assigned, as well as procedures for assigning back-up medical personnel if an initial assignment is not fulfilled.

(5) That the nursing pool will maintain a procedure for annually assessing its performance under the terms of its written agreements with health care facilities to which the nursing pool assigns nursing personnel. The procedure shall include at a minimum: (1) keeping a report of complaints from contracting health care facilities and their resolution; and (2) maintaining a record of responses to requests for assignment of nursing personnel to health care facilities. The results of this annual assessment shall be considered by the Division in deciding whether to renew a license.

(6) That the nursing pool will provide the services of its nursing personnel to health care facilities only under the terms of a written agreement with the facility, which shall include at a minimum, the following:

(A) The types and qualifications of nursing personnel available for assignment through the nursing pool;

(B) Any requirement for minimum advance notice by a health care facility in order to assure prompt arrival of assigned nursing personnel;

(C) All fees and their duration including, but not limited, to:

i. Any fees charged to the health care facility for nursing pool staff travel time, including when such fees are assessed, whether they are separately charged to the health care facility or are embedded into or included with a flat or hourly charge to the health care facility, and any minimum distance requirements from the nursing pool employee's home to a health care facility that must exist before such charges may be assessed; and

ii. Any overtime charges which may be assessed to the health care facility under the written agreement including the specific situations in which such overtime charges may be assessed (e.g., when any single employee works for a contracted facility in excess of 40 hours in any individual week or when all nursing pool staff assigned to a health care facility combined work in excess of 40 hours in any individual week);

(D) The nursing pool's procedures for investigation and resolution of complaints about the performance of nursing personnel assigned, including interviews with the nursing personnel who may be the subject of the complaint, and other relevant witnesses;

(E) The nursing pool's procedures for receiving and responding to notices from health care facilities of failure of nursing personnel to report to assignments and for assigning back-up nursing pool staff in such instances;

(F) The nursing pool's procedures for providing notice to health care providers of actual or suspected abuse, theft, tampering or other diversion of controlled substances by nursing pool personnel which shall include, at a minimum, that the administrator of the health care facility or his or her designee shall be immediately notified. and

(G) The nursing pool's procedures for monitoring the quality of the nursing pool's performance which may include questionnaires or other surveys of health care facilities with which the temporary nursing pool has written agreements.

(b) At the option of the licensee, written policies and procedures may address other services not subject to the Nursing Pool Licensure Act. The Division shall not require separate policies and procedures if the premises from which nursing pool services are offered also offers additional temporary nursing services not subject to licensure.

(c) Policies shall provide that no reprisal action shall be taken against any employee who reports instances of patient rights violations or patient abuse, neglect or exploitation to the appropriate governmental authority.

(d) The Division shall require each licensed nursing pool to comply with its written policies and procedures as part of its system of Program Compliance.

10

History Note: *Authority G.S. 131E-154.4;*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, 2015.

10A NCAC 13L .0302 PERSONNEL RECORDS

(a) A nursing pool shall maintain a personnel record on each individual.

(b) Each individual's personnel record shall include:

(1) A legible copy of a current license to practice nursing as a registered nurse or a licensed practical nurse or a current Nurse Aide I or Nurse Aide II Listing Card issued by the North Carolina Board of Nursing.

(2) A completed job application with employment history, training, education, ~~and continuing education~~, continuing education, drug tests, criminal background checks, and a skills checklist.

(3) Results of reference checks.

(4) Performance evaluations at least annually. To inform each individual's annual performance evaluation, each nursing pool shall maintain a procedure for measuring performance and gathering feedback on the on-site performance of nursing personnel it assigns to a health care facility, including at a minimum: (A) receiving and maintaining any complaints about the individual's performance from health care facilities to which he or she has been assigned; (B) keeping a record of the individual's reliability in fulfilling assignments to health care facilities; and (C) at least one on-site assessment annually of the individual in a health care facility to which the individual is assigned.

History Note: *Authority G.S. 131E-154.4;*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, 2015.

10A NCAC 13L .0303 INSURANCE REQUIRED

The nursing pool shall carry general and professional liability insurance written by an insurer approved by the North Carolina Department of Insurance. Such coverage shall include, at a minimum, per occurrence coverage of $1 million and aggregate coverage of $3 million to insure against loss, damage, or expense incident to a claim arising out of death or injury as the result of negligence or malpractice by nursing pool or a nursing pool worker. The terms of such insurance shall be disclosed to clients receiving services from the licensee. The nursing pool shall carry workers' compensation insurance written by an insurer approved by the North Carolina Department of Insurance for all of its employees, including nurses and nurse aides, that are provided to other health care facilities.

History Note: *Authority G.S. 131E-154.4;*
Eff. February 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, 2015.

NORTH CAROLINA
ASSISTED LIVING ASSOCIATION

NCALA
3392 Six Forks Road
Raleigh NC 27609

August 3, 2022

Mark Payne, Esq.
Office of the Director
Division of Health Service Regulation
N.C. Department of Health and Human Services
2701 Mail Service Center
Raleigh, N.C. 27699-2701

Re: Support for the NCHCFA Petition for Rulemaking Regarding North Carolina Nursing Pool Agencies

Dear Mr. Payne:

I am writing in my capacity of President and Chief Executive Officer of the North Carolina Assisted Living Association ("NCALA"). NCALA represents over 350 North Carolina assisted living communities and actively advocates on behalf of its members and the tens of thousands of North Carolina seniors served by NCALA's members.

I am writing in connection with the July 28, 2022, ***Petition for Rulemaking Regarding North Carolina Nursing Pool Agencies*** (the "Petition") filed with your office by the North Carolina Healthcare Facilities Association ("NCHCFA"). I have reviewed the Petition and I write to express the full support of NCALA for the Petition and for the adoption of the revised and/or additional regulations requested therein.

Like the members of the NCHCFA, the member communities of NCALA have experienced the worst staffing shortage in our lifetimes. While the height of the Covid pandemic may be over for many Americans, the long-term care industry in North Carolina, specifically including the adult care home and assisted living industry, continues to struggle to find and retain an adequate, professional workforce. As a result, NCALA's members have also had to rely upon nursing pool agencies both during the height of the Covid pandemic and today.

Our members have shared with us numerous examples of confusing, misleading and predatory pricing by some nursing pool agencies; missed shifts by agency personnel with no accountability on the part of the nursing pool agency to ensure that staff are available for contracted shifts; inexplicable hourly charges for contract staff with inflated "add-ons" to agreed-upon contractual charges; and other problems with nursing pool agencies similar to those described in the Petition.

p (919) 467-2486
f (919) 467-5132
info@ncala.org
www.ncala.org

NCALA

NCALA welcomes the support and assistance of those North Carolina nursing pool agencies that abide by the state's licensure statute and regulations, and which fulfill their contractual obligations to assisted living communities. However, the practices of some nursing pool agencies do not appear to comport with the applicable licensure statute and have the potential to negatively impact resident care.

For these reasons, NCALA wholeheartedly supports the Petition and urges the Department and the Medical Care Commission to adopt the regulations proposed in the Petition. I would be happy to provide any additional information you may need or to answer any questions.

Sincerely,

Frances L Messer

Frances Messer
President/Chief Executive Officer

North Carolina Senior Living Association

Experience. Education. Advocacy.

August 23, 2022

Mark Payne, Director
Division of Health Service Regulation
N.C. Department of Health and Human Services
2701 Mail Service Center
Raleigh, North Carolina 27699-2701
Via US Mail and Email: mark.payne@dhhs.nc.gov

Re: Letter in support of the North Carolina Health Care Facilities Association's Petition for Rulemaking Regarding North Carolina Nursing Pool Agencies

Dear Mr. Payne,

On behalf of over 300 members of the North Carolina Senior Living Association, we are writing this letter in support of the July 28, 2022 Petition of Rulemaking from the North Carolina Health Care Facilities Association (NCHCFA) regarding North Carolina Nursing Pool Agencies. We agree with the rationale and recommendations outlined in NCHCFA's petition and also agree with their conclusion that the changes outlined in the petition are necessary to "improve the quality of care for patients and residents in North Carolina health care facilities".

Similar to NCHCFA, our association has also heard from some of its members concerning problems with nursing pool agencies. Some of the problems concern the nursing pool producing required background checks, Health Care Personnel Registry checks and other information providers need in order to remain in compliance with licensing rules concerning staff credentialing. In addition, similar to NCHCFA's complaints, many adult care home providers complain that when they use nursing pool staff, the staff often lure adult care home staff away for higher wages, but only to learn later that they are contractors and not actual employees of the nursing pool. All of the aforementioned issues impact resident care.

We appreciate your consideration of our letter of support of NCHCFA's Petition and are ready to engage further with your office and the Medicaid Care Commission during the rulemaking process.

Sincerely,

Jeff Horton, Executive Director

Cc: John J. Meier, IV, M.D., Chairman, NC Medical Care Commission

4010 Barrett Drive, Suite 102 Raleigh, NC 27609 *Phone:* 919.787.3560 *Fax:* 919.783.5415 www.ncseniorliving.org

Agency Recommendation on Nursing Pool Petition for Rulemaking

Petition

On July 28, 2022, the North Carolina Health Care Facilities Association ("NCHCFA") submitted a Petition for Rulemaking ("Petition") regarding the North Carolina Nursing Pool Agencies requesting the Medical Care Commission ("MCC") promulgate several rules. Pursuant to N.C. Gen. Stat. §150B-20, the MCC must grant or deny the rule-making petition. The North Carolina Department of Health and Human Services, Division of Health Service Regulation ("Agency" or "Department") recommends that the MCC grant in part and deny in part the rule-making petition for the following reasons.

Nursing Pool Licensure Act and Administrative Procedure Act

The Nursing Pool Licensure Act is contained in Part 5 of Article 6 in Chapter 131E of the North Carolina General Statutes. N.C. Gen. Stat. § 131E-154.1 provides authority for establishing licensing requirements for nursing pools. The MCC adopts the rules necessary for implementation of the Nursing Licensure Act.

> **§ 131E-154.4. Rules and enforcement.**
>
> (a) The Commission shall adopt, amend, and repeal all rules necessary for the implementation of this Part. These rules shall include the following requirements:
>
> (1) The nursing pool shall document that each employee who provides care meets the minimum licensing, training, and continuing education standards for the position in which the employee will be working;
>
> (2) The nursing pool shall comply with all other pertinent regulations relating to the health and other qualifications of personnel;
>
> (3) The nursing pool shall carry general and professional liability insurance to insure against the loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in the provision of health care services by the nursing pool or its employees;
>
> (4) The nursing pool shall have written administrative and personnel policies to govern the services that it provides. These policies shall include those concerning patient care, personnel, training and orientation, supervision, employee evaluation, and organizational structure; and
>
> (5) Any other aspects of nursing pool services that may need to be regulated to protect the public.
>
> (b) The Commission shall adopt no rules pertaining to the regulation of charges by the nursing pool or to wages paid by the nursing pool. (1989, c. 744, s. 1.)

The Administrative Procedure Act, Chapter 150B of the North Carolina General Statutes, contains the principles for the rule-making process.

§ 150B-19.1. Requirements for agencies in the rule-making process.

(a) In developing and drafting rules for adoption in accordance with this Article, agencies shall adhere to the following principles:

(1) An agency may adopt only rules that are expressly authorized by federal or State law and that are necessary to serve the public interest.

(2) An agency shall seek to reduce the burden upon those persons or entities who must comply with the rule.

(3) Rules shall be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.

(4) An agency shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed. The agency shall not adopt a rule that is unnecessary or redundant.

(5) When appropriate, rules shall be based on sound, reasonably available scientific, technical, economic, and other relevant information. Agencies shall include a reference to this information in the notice of text required by G.S. 150B-21.2(c).

(6) Rules shall be designed to achieve the regulatory objective in a cost-effective and timely manner.

Nursing Pool rules promulgated by the MCC must comply with the requirements and principles enumerated in N.C. Gen Stat. §150B-19.1(a)(1)-(6). NCHCFA has requested rules for 13 areas as outlined in the Petition.

Recommendation

Grant:

The Agency recommends that the MCC grant #6 and 8 because the rules requested or a similar rule developed by the MCC meet the requirements of N.C. Gen Stat. § 150B-19.1(a)(1)-(6).

6. Retain all records for five calendar years. All records of the nursing pool agency must be immediately available to the Division.

The Agency recommends that the MCC grant #6, or a rule with similar language and intent, because a record retention rule complies with the requirements of N.C. Gen Stat. § 150B-19.1(a)(1)-(6).

N.C. Gen Stat. § 131E-154.5 requires the Department inspect Nursing Pools and that the MCC adopt rules for inspections. A record retention rule is reasonably necessary for the Department to carry out its duties under N.C. Gen Stat. § 131E-154.5 Inspections.

The Agency recommends that the MCC determine an appropriate amount of time for a nursing pool to retain records and adopt a rule accordingly.

8. Establish a procedure for annually assessing the performance of nursing personnel it assigns to a health care facility including at a minimum: (A) a review of and response to any facility complaints about nursing pool personnel; (B) a record of nursing pool staff's reliability in fulfilling assignments; and (C) on-site assessments of a personnel placed in health care facilities.

The Agency recommends granting #8. Pursuant to N.C. Gen. Stat. § 131E-154.4(a)(4), the Commission shall adopt rules requiring nursing pools to have written policies that include those concerning patient care, personnel, training and orientation, supervision, employee evaluation, and organizational structure.

The Agency recommends that the MCC develop a rule for requiring a policy for annually assessing the performance of nursing personnel.

Deny:

The Agency recommends that the MCC deny #1-5 and 7-13 because the rules do not meet the requirements of N.C. Gen Stat. § 150B-19.1(a)(1)-(6).

1. Document that each temporary staff member (nurses, nurse aide, etc.) provided to health care facilities be an employee of the agency and not an independent contractor.

The Agency recommends denying #1 because it does not meet the requirements of N.C. Gen Stat. § 150B-19.1(a)(1),(2)&(4). A rule in this area is not necessary to serve the public interest, the Agency must seek to reduce the burden on the entities who must comply with the rule, and the cumulative effect is not necessary for the purpose of the Nursing Pool Licensure Act. This rule will not serve the public interest because the expense of complying may reduce the availability of nursing pool staff. Facilities in North Carolina rely on nursing pools to provide staff for the care of the patients and residents. It is in the interest of the public to have nursing pools available to provide care. #1 is unnecessary because the facilities have the ability to implement #1 though a contractual agreement with the nursing pool.

The Agency recommends denial of #1.

2. Maintain insurance coverage for workers' compensation for all nurses, nurse aides, and the like provided by the agency and provide certain minimum levels of professional and general liability coverage.

The Agency recommends denying #2 because it does not meet the requirements of N.C. Gen Stat. § 150B-19.1(a)(1),(2)&(4). N.C. Gen. Stat. § 131E-154.4(a)(3) requires a nursing pool to carry general and professional liability insurance. Worker's compensation insurance is not general or professional liability insurance. A rule in this area is not necessary to serve the public interest, the Agency must seek to reduce the burden on the entities who must comply with the rule, and the cumulative effect is not necessary for the purpose of the Nursing Pool Licensure statute.

This rule is not necessary to serve the public interest because it is not a requirement of the Nursing Pool Act and the expense of complying may reduce the availability of nursing pool staff. Facilities

in North Carolina rely on nursing pools to provide staff for the care of the patients and residents. It is in the interest of the public to have nursing pools available to provide care.

Furthermore, the facilities have the ability to implement #2 though a contractual agreement with the nursing pool.

Finally, the MCC does not have authority to promulgate this rule.

The Agency recommends denial of #2.

3. File with the Division: (i) the name and address of the bank, savings bank, or saving association in which the nursing pool agency deposits all employee income tax withholdings; and (ii) the name and address of any nurse, nurse aide or other employee whose income is derived from placement by the agency, if the agency purports the income is not subject to withholding.

The Agency recommends denying #3 because it does not meet the requirements of N.C. Gen Stat. § 150B-19.1(a)(1),(2)&(4). A rule in this area is not necessary to serve the public interest, the Agency must seek to reduce the burden on the entities who must comply with the rule, and the cumulative effect is not necessary for the purpose of the Nursing Pool Licensure Act.

This rule is not necessary to serve the public interest because it is not a requirement of the Nursing Pool Act and the expense of complying may reduce the availability of nursing pool staff. Facilities in North Carolina rely on nursing pools to provide staff for the care of the patients and residents. It is in the interest of the public to have nursing pools available to provide care. Furthermore, the facilities have the ability to implement #3 though the contractual agreement with the nursing pool.

Finally, the MCC does not have authority to promulgate this rule.

The Agency recommends denial of #3.

4. Not restrict in any manner the employment opportunities of the nursing pool agency's employees.

The Agency recommends denying #4 because it does not meet the requirements of N.C. Gen Stat. § 150B-19.1(a)(1),(2,)(3),(4)&(6). A rule in this area is not necessary to serve the public interest, the Agency must seek to reduce the burden on the entities who must comply with the rule, the rule is not necessary, the cumulative effect is not necessary to serve the purpose of the Nursing Pool Licensure Act, and this rule is unnecessary to implement the Nursing Pool Licensure Act.

This rule is not necessary to serve the public interest because it is not a requirement of the Nursing Pool Act and the expense of complying may reduce the availability of nursing pool staff. Facilities in North Carolina rely on nursing pools to provide staff for the care of the patients and residents. It is in the interest of the public to have nursing pools available to provide care. Furthermore, the facilities have the ability to implement #4 though the contractual agreement with the nursing pool.

Finally, the MCC does not have authority to promulgate this rule.

The Agency recommends denial of #4.

5. Not, in any contract with any employee or health care facility, require the payment of liquidated damages, employment fees, or other compensation should the employee of the nursing pool agency be hired as a permanent employee of a health care facility.

The Agency recommends denying #5 because it does not meet the requirements of N.C. Gen Stat. § 150B-19.1(a)(1),(2),(3),(4)&(6). A rule in this area is not necessary to serve the public interest, the Agency must seek to reduce the burden on the entities who must comply with the rule, the rule is not necessary, the cumulative effect does not serve the Nursing Pool Licensure Act, and this rule is unnecessary to implement the Nursing Pool Licensure Act.

This rule is not necessary to serve the public interest because it is not a requirement of the Nursing Pool Act and the expense of complying would reduce the availability of nursing pool staff. Facilities in North Carolina rely on nursing pools to provide staff for the care of the patients and residents. It is in the interest of the public to have nursing pools available to provide care. Furthermore, the facilities have the ability to implement #5 though the contractual agreement with the nursing pool.

Finally, the MCC does not have authority to promulgate this rule.

The Agency recommends denial of #5.

7. Maintain written procedures for meeting health care facility requests for nursing personnel, including the pool's usual minimum notice time before nursing personnel can be assigned and procedures for assigning back-up nursing personnel is an initial assignment is not fulfilled.

The Agency recommends denying #7 because it does not meet the requirements of N.C. Gen Stat. § 150B-19.1(a)(1),(2)&(4). A rule in this area is not necessary to serve the public interest, the Agency must seek to reduce the burden on the entities who must comply with the rule, and the cumulative effect is not necessary for the purpose of the Nursing Pool Licensure statute.

This rule is not necessary to serve the public interest because it is not a requirement of the Nursing Pool Act and the expense of complying would reduce the availability of nursing pool staff. Facilities in North Carolina rely on nursing pools to provide staff for the care of the patients and residents. It is in the interest of the public to have nursing pools available to provide care. Furthermore, the facilities have the ability to implement #7 though the contractual agreement with the nursing pool.

The Agency recommends denial of #7.

9. Establish a procedure for annually assessing the nursing pool's performance under the terms of its written agreements developed with health care facilities to which the nursing pool assigns personnel. This review should include at a minimum: (1) reports on complaints from contracting health care facilities and their resolution; and (2) a record of responses to requests for assignment of personnel to health care facilities. The results of this assessment should be considered by the Division in deciding whether to renew a nursing pool's license.

The Agency recommends denying #9 because it does not meet the requirements of N.C. Gen Stat. § 150B-19.1(a)(1),(2)&(4). A rule in this area is not necessary to serve the public interest, the Agency must seek to reduce the burden on the entities who must comply with the rule, and the cumulative effect is not necessary for the purpose of the Nursing Pool Licensure Act, especially since the current rules call for renewal every two years, not annually.

This rule is not necessary to serve the public interest because it is not a requirement of the Nursing Pool Act and the expense of complying would reduce the availability of nursing pool staff. Facilities in North Carolina rely on nursing pools to provide staff for the care of the patients and residents. It is in the interest of the public to have nursing pools available to provide care. Furthermore, the facilities have the ability to implement #9 though the contractual agreement with the nursing pool.

The Agency recommends denial of #9.

10. Provide the services of nursing personnel available to health care facilities only under the terms of a written agreement with the facility.

The Agency recommends denying #10 because it does not meet the requirements of N.C. Gen Stat. § 150B-19.1(a)(1),(2)&(4). A rule in this area is not necessary to serve the public interest, the Agency must seek to reduce the burden on the entities who must comply with the rule, and the cumulative effect is not necessary for the purpose of the Nursing Pool Licensure Act.

This rule is not necessary to serve the public interest because it is not a requirement of the Nursing Pool Act and the expense of complying would reduce the availability of nursing pool staff. Facilities in North Carolina rely on nursing pools to provide staff for the care of the patients and residents. It is in the interest of the public to have nursing pools available to provide care. Furthermore, the facilities have the ability to implement #10 though the contractual agreement with the nursing pool.

The Agency recommends denial of #10.

11. Include in those written agreements, the following, at a minimum:

- **a. The types and qualifications of nursing personnel available for assignment through the nursing pool agency;**
- **b. Any requirement for the minimum advance notice by a health care facility in order to assure prompt arrival of assigned personnel**
- **c. All fees and their duration including, but not limited to:**
    - **i. Any fees charged to the health care facility for nursing pool staff travel time, including when such fees are assessed, whether they are separately charged to the health care facility or are embedded into or included within a flat or hourly change to the health care facility, and any minimum distance requirements from the nursing pool employee's home to a health care facility that must exit before such charges may be assessed;**

ii. **Any overtime charges which may be assessed to the health care facility under the written agreement including the specific situations in which such overtime charges may be assessed (e.g., when any single employee works for a contracted facility in excess of 40 hours in any individual week or when all nursing pool staff assigned to a health care facility combined work in excess of 40 hours in any individual week);**

d. **The pool's procedure for investigation and resolution of complaints about the performance of personnel assigned including interviews with the personnel who may the subject of the complaint , and other relevant witnesses;**
e. **The pool's procedures for receiving and responding to notices from the health care facilities of failure of personnel to report to assignments and for back-up staff in such instances;**
f. **The pool's procedures for providing notice to health care providers of actual or suspected abuse, theft, tampering or other diversion of controlled substances by nursing pool personnel which shall include, at a minimum, that the administrator (or designee) of a health care facility shall be immediately notified; and**
g. **Maintain a program for monitoring the quality of the nursing pool's performance which may include questionnaires or other surveys of health care facilities with which the nursing pool has written agreements.**

The Agency recommends denying #11 because it does not meet the requirements of N.C. Gen Stat. § 150B-19.1(a)(1),(2)&(4). A rule in this area is not necessary to serve the public interest, the Agency must seek to reduce the burden on the entities who must comply with the rule, and the cumulative effect is not necessary for the purpose of the Nursing Pool Licensure Act.

This rule is not necessary to serve the public interest because it is not a requirement of the Nursing Pool Act and the expense of complying would reduce the availability of nursing pool staff. Facilities in North Carolina rely on nursing pools to provide staff for the care of the patients and residents. It is in the interest of the public to have nursing pools available to provide care. Furthermore, the facilities have the ability to implement #11 though the contractual agreement with the nursing pool.

Finally, the MCC does not have authority to promulgate a rule about the contractual agreements between a facility and a nursing pool. The facilities have the ability to implement #11 though the negotiations of the contractual agreement with the nursing pool.

The Agency recommends denial of #11.

12. Report on their annual License renewal application the rate at which the requested shifts from health care facilities are filled:

a. **At least 90 days prior to license expiration, the licensee shall submit an attestation detailing the number of contracted shifts, number of shifts missed,**

and number of shifts fulfilled for the three calendar quarters preceding the application.

The Agency recommends denying #12 because it does not meet the requirements of N.C. Gen Stat. § 150B-19.1(a)(1),(2)&(4). A rule in this area is not necessary to serve the public interest, the Agency must seek to reduce the burden on the entities who must comply with the rule, and the cumulative effect is not necessary for the purpose of the Nursing Pool Licensure Act.

This rule is not necessary to serve the public interest because it is not a requirement of the Nursing Pool Act and the expense of complying would reduce the availability of nursing pool staff. Facilities in North Carolina rely on nursing pools to provide staff for the care of the patients and residents. It is in the interest of the public to have nursing pools available to provide care.

The Agency recommends denial of #12.

13. File with their annual license renewal application a cost report to be developed by the DHSR that, at a minimum, details each nursing pool's annual revenue, expenses, and income, including profit margin. This report shall also detail what percentage of each nursing pool's annual revenue is derived from each type of health care facility (e.g., hospital, skilled nursing facility, etc.).

The Agency recommends denying #13 because it does not meet the requirements of N.C. Gen Stat. § 150B-19.1(a)(1),(2)&(4). A rule in this area is not necessary to serve the public interest, the Agency must seek to reduce the burden on the entities who must comply with the rule, and the cumulative effect is not necessary for the purpose of the Nursing Pool Licensure Act.

This rule is not necessary to serve the public interest because it is not a requirement of the Nursing Pool Act and the expense of complying would reduce the availability of nursing pool staff. Facilities in North Carolina rely on nursing pools to provide staff for the care of the patients and residents. It is in the interest of the public to have nursing pools available to provide care. Furthermore, the facilities have the ability to implement #13 though the contractual agreement with the nursing pool.

Finally, the MCC does not have authority to promulgate this rule.

The Agency recommends denial of #13.

EXHIBIT F

Compliance Summary:

- **No Violation of MCC Compliance policy**

1) Does Organization have a formal post tax issuance compliance policy?

   Yes

2) Who in the Organization will be designated to ensure appropriate compliance with the issuance?

   Chief Financial Officer (Brent Conklin)

3) What is the Organization's compliance monitoring plan?

   Twin Lakes has a compliance monitoring plan in place on the current outstanding bonds. The plan consists of the CFO (Brent Conklin) completing and compiling all compliance documents for the CEO's (Pam Fox) review whether it be monthly, quarterly or yearly. Once reviewed and approved by CEO, the CFO will submit all documents in a timely manner to ensure proper compliance on a monthly, quarterly and yearly basis. The CFO also communicates the submission of compliance documents during monthly (except December – no board meeting) board meetings as well.

4) How will the Organization report compliance deficiencies to leadership and the Board?

   Compliance deficiencies are reported immediately to the CEO and the NCMCC. Deficiencies are also reported to Bond Counsel and while remedial action is taking place reports would be given to the Board at regularly scheduled meetings.

Selected Application Information:

1) Information from FYE 2021 (9/30 Year End) Audit of Twin Lakes:

Net Income	$ 9,651,215
Operating Revenue	$ 34,991,770
Operating Expenses	($ 31,267,173)
Net Cash provided by Operating Activities	$ 11,759,722
Unrestricted Cash	$ 16,643,189
Change in Cash	($ 3,636,095)

Note: Decrease in cash largely due to purchases of property, equipment, and investments

2) Ratings:

Fitch – 'BBB'

3) Community Benefits (FYE 2021):

Per N.C.G.S § 105 – 6.3% (Eligible for 100% property tax exclusion)

- Total Community Benefits and Charity Care - $2,134,141

4) Long-Term Debt Service Coverage Ratios:

Actual FYE 2021	2.97
Forecasted FYE 2022	2.42
Forecasted FYE 2023	2.54
Forecasted FYE 2024	2.64
Forecasted FYE 2025	2.85
Forecasted FYE 2026	1.87

5) Transaction Participants:

Bond Counsel:	Hawkins Delafield & Wood LLP.
Underwriter:	B.C. Ziegler and Company
Underwriter Counsel:	TBD
Accountant (AUP Forecast):	Dixon Hughes Goodman LLP
Bank Purchaser:	Truist Bank
Bank Counsel:	TBD
Trustee:	TBD
Trustee Counsel:	TBD

6) Board Diversity:

Male:	10
Female:	9
Total:	**19**

Caucasian:	17
African American:	2
Total:	**19**

7) Diversity of Residents (737 Residents):

Male:	261
Female:	476
Total:	**737**

Caucasian:	720
African American:	10
Other:	17
Total:	**737**

8) Fee Schedule: See Page F-4

9) Bond Sale Approval Form: See Page F-5

Lutheran Retirement Ministries Of Alamance County, NC
Approved Rate Schedule
Fiscal Year Beginning October 1, 2022

	Single Occupancy		Double Occupancy	
	Fiscal Year 2021-2022	Fiscal Year 2022-2023	Fiscal Year 2021-2022	Fiscal Year 2022-2023
Coble Creek Healthcare Daily Rates:				
Private Room	$ 320.00	$ 338.00		
Market Rate (Non Community Members)	$ -	$ 355.00		
Moneta Springs Memory Care Daily Rates:				
Assisted Living - Private Room	$ 310.00	$ 323.00		
Assisted Living - Companion Room	$ 300.00	$ 313.00		
Deacon Pointe Assisted Living Monthly Rates:				
Small Unit	$ 5,419.00	$ 5,649.00	$ 7,935.00	$ 8,272.00
Large Unit	$ 5,765.00	$ 6,010.00	$ 8,281.00	$ 8,633.00
2nd Person Fee	$ 2,516.00	$ 2,623.00		
The Lakes Independent Living Monthly Rates:				
(Residents Prior to 10-01-03):				
Apartments - Heather & Edelweiss	$ 1,603.00	$ 1,671.00	$ 2,196.00	$ 2,289.00
Apartments - Laurel, Iris & Valerian	$ 1,879.00	$ 1,959.00	$ 2,472.00	$ 2,577.00
Villas - Acacia, Aspen & Chestnut	$ 1,879.00	$ 1,959.00	$ 2,472.00	$ 2,577.00
Villas - Birch & Dogwood	$ 2,049.00	$ 2,136.00	$ 2,642.00	$ 2,754.00
2nd Person Fee	$ 593.00	$ 618.00		
(Residents Subsequent to 09-30-03):				
Apartments - Heather	$ 1,683.00	$ 1,755.00	$ 2,342.00	$ 2,442.00
Apartments - Laurel	$ 1,902.00	$ 1,983.00	$ 2,561.00	$ 2,670.00
Apartments - Edelweiss	$ 2,110.00	$ 2,200.00	$ 2,769.00	$ 2,887.00
Apartments - Iris & Valerian	$ 2,202.00	$ 2,296.00	$ 2,861.00	$ 2,983.00
Villas - Acacia, Aspen & Chestnut	$ 2,390.00	$ 2,492.00	$ 3,049.00	$ 3,179.00
Villas - Birch & Dogwood	$ 2,484.00	$ 2,590.00	$ 3,143.00	$ 3,277.00
2nd Person Fee	$ 659.00	$ 687.00		
Garden Homes - Evergreen & Forsythia	$ 2,841.00	$ 2,962.00	$ 3,519.00	$ 3,669.00
Garden Homes - Gardenia	$ 3,023.00	$ 3,151.00	$ 3,701.00	$ 3,858.00
Garden Homes - Holly & Ivy	$ 3,199.00	$ 3,335.00	$ 3,877.00	$ 4,042.00
Garden Homes - Juniper	$ 2,658.00	$ 2,771.00	$ 3,336.00	$ 3,478.00
Garden Home 2nd Person Fee	$ 678.00	$ 707.00		
The Harbor Adult Day Care (Per Day):				
One or Two Days per Week	$ 73.00	$ 77.00		
Three or More Days per Week	$ 67.00	$ 71.00		
Other Rates (Per Hour):				
Home Care Services	$ 24.00	$ 25.00		
Housekeeping	$ 24.00	$ 25.00		

NC MCC Bond Sale Approval Form					
Facility Name: Twin Lakes					
	Time of Preliminary Approval				
SERIES: 2022 (Publicly Offered)					
PAR Amount	N/A				
Estimated Interest Rate	N/A				
All-in True Interest Cost	N/A				
Maturity Schedule (Interest) - Date	N/A				
Maturity Schedule (Principal) - Date	N/A				
Bank Holding Period (if applicable) - Date	N/A				
Estimated NPV Savings ($) (if refunded bonds)	N/A				
Estimated NPV Savings (%) (if refunded bonds)	N/A				
NOTES:					
	Time of Preliminary Approval				
SERIES: Series 2022 (Bank Held)					
PAR Amount	$58,018,954.00				
Estimated Interest Rate	4.50%				
All-in True Interest Cost	4.65%				
Maturity Schedule (Interest) - Date	01/01/2023 - 09/30/2053				
Maturity Schedule (Principal) - Date	09/30/2024 - 09/30/2053				
Bank Holding Period (if applicable) - Date	15 Years				
Estimated NPV Savings ($) (if refunded bonds)	N/A				
Estimated NPV Savings (%) (if refunded bonds)	N/A				
NOTES:					
Twin Lakes is currently "BBB" rated by Fitch. The Series 2022 bank placement will not be rated, but the rating remains outstanding on outstanding bonds.					