



Received by the
CON Section
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October 29, 2010

Mr. Craig Smith, Chief
Certificate of Need Section
North Carolina Division of Facilities Services
701 Barbour Drive
Raleigh, NC 27603

Re: CON Application (Project I.D. #A-8569-10) Hospice House Foundation & Four Seasons Development of a 6 Bed Inpatient Facility in Macon County

Dear Mr. Smith:

Attached are our comments in opposition to the Referenced project. It is our strong belief that these proposed beds are not needed and are duplicative of services already available in Macon County by providers that have substantive excess capacity. To add additional beds in this environment is an unpardonable misuse of healthcare and donated dollars that could be much better spent in other areas. The application greatly exaggerates the need of inpatient hospice in the area, the penetration that can be accomplished in the six county region and underestimates the number of patients that will still opt for care in area hospitals, nursing homes and assisted living facilities. Additionally, many of the letters of support garnered for this project were based upon the provision of residential care for patients that do not have a caregiver, which is not part of their request.

In accordance with N.C.G.S. Section 131E-185(a)(2), Angel Medical Center is requesting a Public Hearing for the proposed project to be held within the next 20 days.

Please feel free to contact me if there are any questions related to our comments.

Sincerely

A handwritten signature in black ink that reads 'Tim Hubbs'.

Tim Hubbs
Chief Executive Officer

"Dedicated professionals providing compassionate and superior healthcare to all."

P.O. Box 1209 • Franklin, North Carolina 28744 • (828) 369-4232

**Comments in Opposition from Angel Medical Center, Inc.
Regarding Hospice House Foundation of WNC, Inc. and Hospice of
Henderson County, Inc. d/b/a Four Seasons Compassion for Life
to Develop a Six-Bed Hospice Inpatient Facility in Macon County
Certificate of Need Application (Project I.D. # A-8569-10)
Submitted September 15, 2010 for October 1, 2010 Review Cycle**

I. Introduction

In accordance with N.C.G.S. Section 131E-185(a)(1), Angel Medical Center, Inc., submits the following comments regarding the September 15, 2010 Certificate of Need Application Project I.D. # A-8569-10 submitted for the October 1, 2010 review cycle by Hospice House Foundation of WNC, Inc. and Hospice of Henderson County, Inc. d/b/a Four Seasons Compassion for Life to develop a Six-Bed Hospice Inpatient Facility in Macon County (Hospice House of Western North Carolina).

Hospice House Foundation of WNC, Inc. (Hospice House) and Hospice of Henderson County, Inc. d/b/a Four Seasons Compassion for Life (Four Seasons) plan to develop a 12,925 square foot, six-bed hospice inpatient facility for the provision of general inpatient and inpatient respite care. There are no residential beds proposed in the CON Application. The hospice inpatient facility (Hospice House of Western North Carolina) will be owned by Hospice House, and licensed and operated by Four Seasons.

Hospice House/Four Seasons states that Hospice House of Western North Carolina will cost \$714,800 per bed. The total project cost is \$4,285,078 plus total working capital of \$195,529. Included in the total project cost is the purchase of a 3.9 acre property at 2255 Old Murphy Road, Franklin, zip code 28734 for \$850,000.

II. Request for Public Hearing

In accordance with N.C.G.S. Section 131E-185(a)(2), Angel Medical Center hereby requests that a public hearing be scheduled and conducted regarding the Application no more than twenty days from the conclusion of the written comment period.

III. Hospice House Should Be Denied

The CON Application submitted by Hospice House/Four Seasons should be denied for the following reasons.

- The proposed project is not financially feasible.
- The projections are based upon unreasonable assumptions, including an average annual increase in hospice admissions of 13%, and are significantly overstated.
- The defined service area is unreasonable.

- The Four Seasons Henderson County Service Area and Proposed Hospice House of WNC Service Area are not comparable.
- The cost of adding inpatient hospice services in Macon County is significantly greater than providing inpatient hospice care in a Critical Access Hospital.
- Hospice House/Four Seasons did not provide documentation of available funding for the proposed capital expenditure.

Additional detail is provided below in the discussion of specific CON Review Criteria found in G.S. 131E-183.

IV. CON Review Criteria

The following comments are submitted based upon the CON Review Criteria found at G.S.131E-183. While some issues impact multiple Criteria, they are discussed under the most relevant review Criterion and referenced in others to which they apply.

G.S. 131E-183 (1)

The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

For the reasons discussed below, the proposed project is non-conforming to CON Review Criterion (1), and the Application should not be approved.

A. 2009 Hospice House Petition for a Special Need Adjustment to the Hospice Inpatient Bed Need Methodology Should Not Have Been Approved

In 2009 Hospice House submitted a Petition for a Special Need Adjustment to the Hospice Inpatient Bed Need Methodology for consideration by the Long Term and Behavioral Health Committee of the SHCC. Hospice House provided only select information, provided incorrect information, and failed to include critical information which impacts the development of the proposed facility. Had that information been presented in the 2009 Hospice House Petition, it is doubtful that the Petition requesting an adjusted inpatient hospice bed need for Macon County would have been approved.

1. Hospice House Presented Incorrect Information in its 2009 Petition

In a footnote on page 3 of its 2009 Petition, included in Attachment 1, Hospice House stated that “the service area projected for the Haywood County facility (Haywood County only) does not overlap with the [6-county] service area discussed in this petition.” That statement is untrue.

In its CON application for a six-bed hospice inpatient facility in Haywood County, Haywood Regional Medical Center projected that 5% of the inpatients served at the new facility during the first year of operation will be residents of Swain, Madison, Transylvania, and Jackson Counties, as shown in the following table.¹ That percentage is projected to increase in years two and three.

**The Homestead of Haywood Regional Medical Center Hospice
Projected Patient Origin**

Projected Patient Origin for Inpatient Facility Years 1, 2 and 3			
Location/County	2011 (Year 1)	2012 (Year 2)	2013 (Year 3)
Projected Inpatient Admissions			
Haywood County	109	141	156
Other* Counties	5	7	8
Total inpatient admissions	114	148	164
% patients from Haywood County	96%	95%	95%

**Other Counties are Swain, Madison, Transylvania and Jackson Counties.*

The Homestead of Haywood Regional Medical Center Hospice will be located at 127 Sunset Ridge Road in Clyde. As shown in the previous table, **there is and will be an overlap in the service area of the Homestead of Haywood Regional Medical Center Hospice and Hospice House’s proposed 6-county service area. This information was available at the time of the 2009 Petition and was not included in the 2009 Petition.**

2. 2008 Feasibility Study Did Not Support the Development of a Six-Bed Hospice Inpatient Facility

Angel Medical Center (AMC) and Hospice House of WNC retained the services of Health Planning Source, Inc. (HPS) to explore the feasibility of developing an inpatient and residential hospice facility to meet the needs of residents from Macon County, as a primary service area, and Clay, Jackson, and Swain Counties as a secondary service area in 2008.

On page 11 of its Petition, Hospice House shared only a few details from the 2008 Feasibility Study. Hospice House chose **not** to disclose to the Agency the sine quo non of the 2008 Feasibility Study, included in Attachment 2.

- **Page 9:** “The **greatest potential barrier to success is the lack of financial and operational viability of the hospice facility** and the hospital’s unwillingness/inability to commit long-term to offset losses incurred by the facility.” [emphasis added]
- **Page 32:** “Based on its knowledge of existing hospice facilities, [Health Planning Source] believes that a **six-bed facility alone is unlikely to be financially feasible.**” [emphasis added]

¹ Project ID #A-8337-09, approved 10/28/09.

- Page 34: “The facility’s target occupancy rate is based on 85 percent.”
- The projected three year income statement for a six-bed hospice inpatient facility, which was included in the feasibility study, is shown in the following table.

**2008 Feasibility Study - Six Bed Inpatient Hospice
Projected Income Statements**

	Year 1	Year 2	Year 3
Occupancy Level	50%	60%	85%
Net Revenue	\$629,169	\$842,457	\$1,134,725
Annual Expenses	\$940,785	\$999,762	\$1,182,473
Net Loss	\$ (311,616)	\$ (157,305)	\$ (47,748)
% of Revenues for Self Pay/Charity	3.7%	3.7%	3.7%

Source: Attachment 2, page 54

Hospice House did not include a copy of the 2008 Feasibility Study, included here as Attachment 2, with its 2009 Petition.

After careful review, AMC was very concerned that the Feasibility Study understated the staffing needs and overstated the occupancy of the proposed facility. AMC discussed with Hospice House the results of the 2008 Feasibility Study, and decided not to move forward with Hospice House on its 2009 Petition for a special need determination for six hospice inpatient beds. Hospice House chose not to disclose to the Long Term Behavioral Health Committee the reasons for AMC's decision to not participate in the 2009 Petition.

3. The SHCC Should Have Denied the 2009 Hospice House Petition

AMC did not support² the 2009 Hospice House Petition. AMC chose, however, not to oppose that Petition because it reasonably believed that the Agency would recommend denial of the Petition. The basis for AMC’s belief was three-fold:

- The revised hospice inpatient facility need methodology had only been in place for several months, and it was premature for the Agency to recommend deviating from that revised methodology.
- Hospice House did not make a convincing showing of unique and special circumstances to justify an adjusted need determination in Macon County.
- Macon County projected inpatient days were to decline from 891 (2012)³ to 812 (2013)⁴.

² The 2009 Hospice House Petition included two letters signed by Angel Home Health & Hospice on July 25, 2007. There also were several letters signed by representatives of Angel Health & Hospice in 2005. These were submitted with a pre-2009 petition.

³ 2009 SMFP, Table 13C

⁴ Proposed 2010 SMFP, Table 13C

At its October 9, 2009 meeting, the SHCC recommended acceptance of the Agency's recommendation to approve the 2009 Hospice House Petition for an adjusted need determination for six hospice inpatient beds in Macon County in the *Final 2010 SMFP*.

AMC stands by its belief that it was premature for the SHCC to approve an adjusted need determination for hospice inpatient beds in Macon County in the *2010 SMFP* when substantive changes in the standard need methodology had just been put in place for the *2010 SMFP*.

While the CON Section cannot change the 2010 State Medical Facilities Need Determination for six inpatient hospice beds in Macon County, the information provided herein by AMC, should be considered and the CON Application should be denied.

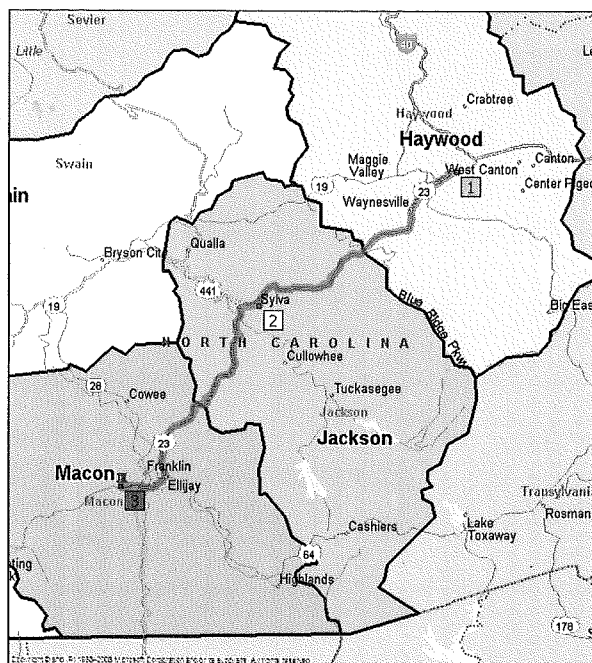
B. Policy Gen-3 – Basic Principles

As discussed in detail in the context of CON Review Criterion (3) below, Hospice House/Four Seasons fails to demonstrate the quantitative and qualitative need for the project, and therefore fail to document how its projected volumes incorporate the Basic Principles in meeting the need identified in the *2010 SMFP* for a six-bed hospice inpatient facility in Macon County. Consequently, the Application is not conforming to Policy GEN-3, and does not conform to CON Review Criterion (1).

1. Access to Inpatient Hospice Care

On page 38 of the CON Application, Hospice House/Four Seasons states that "[t]he proposed facility location is more accessible to the residents of all six counties than any other hospice facility in North Carolina or any neighboring State. This is incorrect. As shown in the following map, approximately half of the geographic area of Jackson County is closer to the Haywood inpatient hospice facility. Throughout its CON Application, Hospice House/Four Seasons states that the proposed facility will improve access for the residents of the proposed service area. This is not accurate as shown by the following map.

Mileage and Travel Time
Sylva to Proposed Macon County Facility and Haywood County Facility



The previous map shows that Sylva, the County Seat of Jackson County is approximately equidistance from the proposed Macon County location and the Haywood County facility in Clyde, currently under development. In addition, travel from Sylva to Clyde is considerably easier to navigate in bad weather as there is a mile high mountain between Sylva and Franklin. Additional mapping and mileage detail is included in Attachment 3.

In addition, portions of Swain County are also closer to the facility in Haywood County as shown in the mapping and mileage tables included in Attachment 3. Furthermore, Hospice House/Four Seasons fails to acknowledge the topography of the region and the driving difficulties inherent in this mountainous region, especially during the winter months. In most cases, local hospitals and nursing facilities provide more reasonable alternatives to an elderly population than the proposed location during the winter months. If one goal is to provide services so the patient can be near a spouse or a close friend at the end of life, the proposed facility does not meet that goal for many residents of the six county area due to hazardous driving conditions inherent in the mountainous area of western North Carolina.

2. Cost of Inpatient Hospice Care

On page 33 of the CON Application, Hospice House/Four Seasons implies that the cost of hospice inpatient services in the Region in a hospital setting is more costly than the proposed inpatient hospice facility. This is an inaccurate statement. Angel Medical Center, Highlands-Cashiers Hospital, and Swain Medical Center are all designated as Critical Access Hospitals (CAH) and all have excess capacity. The provision of inpatient hospice care for the primary

payors (Medicare and NC Medicaid) is at the price set by CMS and the State of NC and would be the same price whether it was provided in an inpatient hospital or a hospice house. If patient volume in the CAHs above are reduced because of a new inpatient facility, the average costs of providing care in these facilities would actually increase since they all have excess capacity. Generally, no additional staff is required to care for inpatient hospice patients, and no additional fixed assets are necessary. Using existing facilities with excess capacity is far better than building additional facilities and increasing the cost of bricks and mortar as well as operational costs.

Therefore, Hospice House/Four Seasons overstated the impact of the proposed project as related to both Access and Cost and is therefore not consistent with the Basic Principles included in the 2010 SMFP. Furthermore, Hospice House/Four Seasons failed to justify the need for the proposed project as discussed below in Criterion (3).

G.S. 131E-183 (3)

The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.

As will be discussed in detail below, Hospice House/Four Seasons overstated the population to be served and failed to demonstrate the quantitative and qualitative need for the proposed six-bed hospice inpatient facility to be located in Macon County.

A. Hospice House/Four Seasons Service Area is Unreasonable

CON Review Criterion (3) requires each applicant to identify the population to be served by the proposed project.

On page 35, Hospice House/Four Seasons projects the proposed six-bed hospice inpatient facility will have a service area consisting of six counties:

- Macon;
- Jackson;
- Cherokee;
- Clay;
- Graham; and,
- Swain.

On page 42, Hospice House/Four Seasons projects patient origin by county of residence for the first two years of operation, as shown in the following table. Those projections are “based on the county-level utilization projection that is presented beginning on page 45.”

**Hospice House of Western North Carolina
Projected Patient Origin
July 2013 – June 2015**

County & Location	Project # of Patients	Percent of Total Patients
Macon	72	27%
Jackson	59	22%
Cherokee	54	20%
Swain	24	9%
Clay	21	8%
Graham	11	4%
Other Areas	27	10%
TOTAL	268	100%

The previous table shows that Hospice House/Four Seasons projects that less than **30%** of hospice inpatients will be residents of **Macon County**. The proposed six-bed hospice inpatient facility will serve **63%** of hospice inpatients from **Jackson, Cherokee, Swain, Clay, and Graham**. An additional 10% will be residents of “Other Areas.” As such, **73%** of hospice inpatients in the first two operating years will **be residents of counties other than Macon County**.

Throughout the CON Application, Hospice House/Four Seasons utilizes several assumptions based upon Four Seasons’ experience with Elizabeth House in Henderson County. The projected patient origin in the CON Application is just the opposite of the experience with Elizabeth House in Henderson County; 99% of patients of Elizabeth House in Henderson County are residents of Henderson County.⁵ In its 2008 CON application to expand Elizabeth House, Four Seasons projected that 100% of its patients will be residents of Henderson County.⁶

An informal review of two of the most recently approved hospice inpatient facility CON applications is revealing:

- G-8396-09 Stokes County Hospice Home (approved 12/4/09) – to be located in south central Stokes County – primary service area is Stokes, secondary service area is Rockingham; projects more patient days from Stokes than Rockingham (64%/46%)
- G-8412-09 Hospice of Alamance-Caswell (approved 2/26/10) – 93% patients from Alamance County

Based upon this information, it is unreasonable to assume that 73% of patients will originate outside of Macon County.

In addition, as previously discussed, a significant portion of the population in Jackson and Swain Counties are closer to the inpatient hospice facility under development in Haywood County.

⁵ Agency Findings for Four Seasons Hospice (Project ID # B-8114-08) dated September 30, 2008, page 5

⁶ Agency Findings for Four Seasons Hospice (Project ID # B-8114-08) dated September 30, 2008, page 5

Therefore, again, Hospice House/Four Seasons overstated the population to be served and as a result, has overstated projected hospice admissions in the six county area.

Finally, Hospice House/Four Seasons projects that 10% of its patients will be from other counties and states. On page 57 of the CON Application, Hospice House/Four Seasons states that this 10% "Other Patients Served" is based upon the experience of the Four Seasons inpatient hospice facility in Henderson County (Elizabeth House). The patient origin for Elizabeth House reflected on its 2010 Licensure Renewal Hospice Supplemental Information Form, included in Attachment 4, does not show a 10% "Other Patients Served." In fact, there are no patients from any county or State other than the three county service area defined by Four Seasons. Therefore, the 10% "Other Patients Served" is undocumented, and results in overstated population to be served and total projected patient visits by 10%.

Therefore, Hospice House/Four Seasons has not correctly identified a population base to be served by the proposed project and the CON Application is non-conforming to CON Review Criterion (3).

B. The Homestead of Haywood Regional Medical Center Hospice Provides Geographic Access to Residents of Jackson and Swain Counties

On page 38 of the CON Application, Hospice House/Four Seasons states that they consider the hospice inpatient facility under development in Haywood County "will not provide geographic access to hospice inpatient services for the residents of the proposed [six-county] service area." That assertion is false.

In its CON application for a six-bed hospice inpatient facility in Haywood County, Haywood Regional Medical Center projected that 5% of the inpatients served at the new facility during the first year of operation will be residents of Swain, Madison, Transylvania, and Jackson Counties, as shown in the following table.⁷ That percentage is expected to increase in years two and three.

**The Homestead of Haywood Regional Medical Center Hospice
Projected Patient Origin**

Projected Patient Origin for Inpatient Facility Years 1, 2 and 3			
Location/County	2011 (Year 1)	2012 (Year 2)	2013 (Year 3)
Projected Inpatient Admissions			
Haywood County	109	141	156
Other* Counties	5	7	8
Total inpatient admissions	114	148	164
% patients from Haywood County	95.6%	95.2%	95.1%

*Other Counties are Swain, Madison, Transylvania, and Jackson Counties.

⁷ Project ID #A-8337-09, approved 10/28/09.

The Homestead of Haywood Regional Medical Center Hospice will be located at 127 Sunset Ridge Road in Clyde, and will open two years before the proposed facility in Macon. During that two year period, it is reasonable to expect that referral patterns and preferences will be established for residents of Swain, Madison, Transylvania, Haywood and Jackson Counties.

Jackson County is located between Macon and Haywood Counties as shown in the maps included in Attachment 3. Sylva, the County Seat, is geographically closer to The Homestead in Haywood County and the road system is easier to travel, particularly in bad weather. Swain County is located north of both Macon and Jackson County as shown in the maps included in Attachment 3. Bryson City, the County Seat, is located approximately midway between The Homestead and the hospice inpatient facility proposed by Hospice House/Four Seasons. Residents of Jackson County and Swain County seek health care services in Haywood County or further east in Asheville. It is not reasonable to assume that referral patterns for inpatient hospice care will shift to Macon County, when there is a new facility, The Homestead, located in Haywood County.

Furthermore, in 2009, Haywood Regional Medical Center, the parent of The Homestead of Haywood Regional Medical Center Hospice, Harris Regional Medical Center in Jackson County and Swain County Hospital in Swain County merged into one entity. It is reasonable to expect that inpatient hospice referrals from Jackson and Swain Counties will go to the inpatient hospice facility owned by Haywood Regional Medical Center given the closer proximity of The Homestead to residents of Jackson and Swain Counties and the common ownership of existing health service providers. It is also reasonable to expect that the patient origin from Jackson and Swain Counties presented in the Haywood County hospice CON Application is probably understated.

As a result, the projected utilization at the proposed six-bed inpatient hospice facility is overstated because the projections upon which they are based include the total Jackson County and Swain County populations.

C. Residents of Cherokee and Clay Counties Will Not Drive to Macon County for Inpatient Hospice Care

It is doubtful that residents of Cherokee and Clay Counties will seek inpatient hospice care in Macon County for several reasons. First, the road system to Franklin from these counties is mountainous and curvy, and in winter the roads are treacherous. Travel times from Hayesville in Clay County and Murphy in Cherokee County vary widely based upon traffic on the two lane road and weather.

On a clear day it takes 45 minutes to travel from Franklin to Hayesville and 60 minutes to get to Murphy. The trip traverses a 4,107 mountain located between Franklin and Hayesville. You have to go through Hayesville to get to Murphy. If the weather is rainy, snowy, foggy or icy, that travel not only takes longer, but is riskier as well.

Furthermore, Chatuge Regional Hospital in Hiawassee, GA and Union General Hospital in Blairsville, GA are both closer to Hayesville and Murphy than Franklin and patients do not have to cross the mountain to get to those facilities or to Murphy Medical Center which provides inpatient hospice care. Utilizing the Murphy Medical Center hospice inpatient care provides a more convenient and reasonable alternative for residents of these counties.

Secondly, residents of Cherokee and Clay Counties do not seek inpatient health care services in Macon County as shown in the following table.

**Angel Medical Center
Inpatient Market Share**

County	FY 2009		YTD FY 2010 October 2009 -March 2010	
	Discharges	% Discharges	Discharges	% Discharges
Cherokee	10	0.58%	3	0.36%
Clay	16	0.92%	9	1.07%
Graham	2	0.12%	1	0.12%
Jackson	28	1.62%	9	1.07%
Macon	1,529	88.38%	762	90.93%
Swain	11	0.64%	5	0.60%

Source: Thomson Reuters, NC Hospital Database

Less than one percent of inpatient hospital discharges for residents of Cherokee and Clay Counties in FY 2009 and YTD in 2010 were provided by AMC in Macon County. As a result, the projected utilization at the proposed six-bed inpatient hospice facility is overstated because the projections upon which they are based include the significant patient days from Clay and Cherokee Counties.

D. SHHC Hospice Methodologies Task Force Made Substantial Changes to Hospice Inpatient Methodology for the 2010 SMFP Which Hospice House/Four Seasons Disregards

During a five month period between January 23 and May 1, 2009, the SHHC Hospice Methodologies Task Force met to evaluate the hospice home care and hospice inpatient need determination methodologies for the *Proposed 2010 SMFP*. Assumptions utilized by Hospice House/Four Seasons in the CON Application for the proposed facility are grossly overstated when compared to the new Inpatient Hospice Bed Need Methodology. As a result, projected need is overstated and the project is non-conforming with Criterion (3).

The Task Force recommended that the hospice inpatient bed methodology be modified to utilize projected hospice days of care calculated by multiplying projected hospice admissions by **the lower of the statewide median average length of stay or the actual average length of stay for each county**. That selection reduces the inclusion of days of care that may not be appropriate for an inpatient facility. It also recommended that **projected hospice admissions be determined by**

the application of the two year trailing average growth rate in the number of admissions served to current admissions. Lastly, it recommended that inpatient days as a percent of total days of care be determined to be approximately six percent based on statewide inpatient days as a percent of total days of care.

The Task Force submitted its recommendations to the Long Term Behavior Health Committee, which approved those recommendations at its meeting on May 15, 2009.

At its meeting on May 27, 2009, the SHCC approved the recommendations of the Task Force. Application of the revised hospice inpatient bed need methodology to then-current information generated a need determination for hospice inpatient beds in the *2010 SMFP*, as shown in the following table.

**2010 SMFP - Hospice Inpatient Bed Need Determination
Based Upon the New Bed Need Methodology**

Service Area	Hospice Inpatient Bed Need
Randolph County	6
Sampson County	6
Total	12

Source: 2010 SMFP

Those need determinations were published in the *2010 SMFP*. In addition, petitions for adjusted inpatient hospice bed need were approved by the Long Term Behavior Health Committee for Alexander, Buncombe, Craven, and Macon Counties.

The Macon County adjusted inpatient hospice bed need in the *2010 SMFP* resulted from a petition filed by Hospice House which aggregated inpatient hospice bed deficits in the *Proposed 2010 SMFP* in Macon County (3-beds), Jackson County (2-beds), and Swain County (1-bed) as reflected on page 3 of the 2009 Hospice House Petition (Attachment 1).

Application of the new methodology in the *Proposed 2011 SMFP* reflects a decrease in need for the three counties aggregated in the 2009 Hospice House Petition as shown in the following table.

**Comparison of 2010 SMFP and Proposed 2011 SMFP Inpatient Bed Need Determination
Based Upon the New Bed Need Methodology**

County	2010 SMFP	Proposed 2011 SMFP
Macon County	3	2
Jackson County	2	2
Swain County	1	1
Total	6	5

Source: 2010 SMFP; Proposed 2011 SMFP

As shown in the previous table, the three counties that were combined in the 2009 Hospice House Petition, no longer show a need for six inpatient hospice beds. This determination is consistent with and supports Angel Medical Center's determination that an inpatient hospice in Macon County will not be financially feasible as discussed below.

Furthermore, in order to justify the need for the proposed facility, Hospice House/Four Seasons had to use a service area considerably larger than the three counties aggregated in the 2009 Hospice House Petition, or the four counties defined as the service area in the 2008 Feasibility Study, page 13 of Attachment 2. As shown on page 35 of the CON Application, the proposed service area for the facility is comprised of the six western-most counties in North Carolina:

- Macon County;
- Jackson County;
- Cherokee County;
- Clay County;
- Graham County; and,
- Swain County.

AMC provides details and travel information which does not support the proposed six county service area for the proposed facility.

In addition, Hospice House/Four Seasons had to utilize admission growth rate assumptions significantly greater than the North Carolina growth rate established in the Hospice Inpatient Bed Need Methodology. The following table provides the North Carolina historical growth rate assumptions utilized in the *2010 SMFP* and in the *Proposed 2011 SMFP* Hospice Inpatient Bed Need Methodology and the historical growth in hospice admissions for the combined six county area as reflected in the CON Application.

Hospice Admission Growth Rates

Year	Total Medicare Hospice Admissions - Six Counties - Pg 53	Annual Growth	NC - SMFP Total Hospice Admissions	Annual Growth
2006	482		28,666	
2007	484	0.4%	30,907	7.8%
2008	492	1.7%	32,509	5.2%
2009			33,401	2.7%
2006-2008 Two Year Trailing Average Growth Rate		1.0%		6.5%
2007-2009 Two Year Trailing Average Growth Rate				4.0%

Source: Page 53 CON Application; 2010 SMFP; Proposed 2011 SMFP

As shown in the previous table, the growth in hospice admissions in the six counties identified by Hospice House/Four Seasons as the proposed service area has a two year trailing average

growth rate from 2006 to 2008 of only 1.0%. Total North Carolina growth in hospice admissions during the same timeframe was 6.5%. From 2007 to 2009, the two year trailing average growth rate reflected in the *Proposed 2011 SMFP* has decreased to 4.0% for North Carolina. At stated above, the new Hospice Inpatient Bed Need Methodology utilizes the North Carolina two year trailing average growth rate to project future hospice admissions by county. Hospice House/Four Seasons, however, disregards the Hospice Inpatient Bed Need Methodology growth rate assumptions, and utilize a significantly more aggressive growth rate of over 13% as shown in the following table.

Hospice Admission Growth Rates in Hospice House/Four Seasons CON Application

Year	Total Medicare Hospice Admissions - Six Counties - Pg 53	Annual Growth
2006	482	
2007	484	0.4%
2008	492	1.7%
2009	No Interim Projections Provided	
2010	No Interim Projections Provided	
2011	No Interim Projections Provided	
2012	No Interim Projections Provided	
2013	809	64.4%
2014	877	8.4%
2015	946	7.9%
2016	1,015	7.3%
Growth 2008-2016		106.3%
Average Annual Growth (8 Years 2008-2016)		13.3%

Source: Page 53 CON Application; 2010 SMFP; Proposed 2011 SMFP
 *2013 growth rate represents growth from 2008 - 2013

Hospice House/Four Seasons utilizes an average annual growth rate of over 13% to project future hospice admissions in the defined service area. Additional discussion of the growth rate utilized is included below.

Finally, the new Inpatient Hospice Bed Need Methodology assumes that inpatient hospice days in a county reflect 6% of total hospice days. Based upon the assumptions provided on pages 45 through 52 of the CON Application, Hospice House/Four Seasons projects a total of 1,015 Medicare hospice patients in the six county area on page 53. On page 60, Hospice House/Four Seasons assumes an average length of stay (ALOS) per patient of 70 days which calculates to 71,050 total Medicare hospice days.

Projected total inpatient Medicare hospice days for the proposed six county area, reflected on page 55, total 467 patients. On page 58 Hospice House/Four Seasons assumes an average length of stay per inpatient hospice patient of 10 days which calculates to 4,670 total inpatient hospice days. Based upon these assumptions, projected inpatient hospice days for the six county area are

greater than 6.0% of total hospice days; 4,670 inpatient Medicare hospice days / 71,050 total Medicare hospice days = 6.7%.

Furthermore, in Section 6 of the CON Application on page 70, Medicare patient days are greater than total Medicare patients. This means that ALOS for Medicare patients at Hospice House/Four Seasons is greater than 10 days for Medicare patients and the percent of inpatient hospice days would be even greater. Once again the assumptions utilized by Hospice House/Four Seasons are overstated and inconsistent with the new Hospice Inpatient Bed Need Methodology.

As a result, the proposed Hospice House/Four Seasons CON Application is non-conforming to Criterion (3) and should be denied.

E. Hospice House/Four Seasons Total Hospice Day Projections Unreasonable

Based upon the assumptions provided on pages 45 through 52 of the CON Application, Hospice House/Four Seasons projects a total of 1,015 Medicare hospice patients in the six county area in 2016 as reflected on page 53. On page 60 Hospice House/Four Seasons assumes an average length of stay (ALOS) per patient of 70 days which calculates to 71,050 total Medicare hospice days.

In 2009, existing home hospice agencies provided 25,062 days of care to 420 residents of the six county area. According to Hospice House/Four Seasons, this volume will increase to more than 71,000 days by 2016; an increase of almost 50,000 patient days.

However, on page 60 of the CON Application Hospice House/Four Seasons projects total home hospice days of only 9,730 patient days in 2016. This means that to reach the projected penetration rate of 75% reflected on page 50 of the CON Application, home hospice days provided by existing home hospice agencies must increase by nearly 40,000 patient days if the projections made by Hospice House/Four Seasons are considered reasonable. This is not plausible and therefore, the projections made by Hospice House/Four Seasons are not reasonable and the application should be denied.

F. Hospice Inpatient Bed Need Methodology – Results in Decreased Need for Inpatient Hospice Beds in Macon County in the *Proposed 2011 SMFP*

The *Proposed 2011 SMFP* projects **a surplus of four hospice inpatient beds** in Macon County in 2014.⁸ That projected surplus results from the application of the standard hospice inpatient methodology, which methodology was revised in 2009.

⁸ Table 13C, *Proposed 2011 SMFP*

It is noteworthy that Macon County projected inpatient days continue to decline from 891 (2012)⁹ to 812 (2013)¹⁰ to 694 (2014)¹¹. Hospice House/Four Seasons does not disclose that decline in the CON Application.

As utilization of hospice inpatient services is projected to decline in Macon County, the CON Section is asked by Hospice House/Four Seasons to approve a six-bed hospice inpatient facility to be located in Macon County at a cost of \$714,800 per bed¹².

G. Assumptions Utilized in Projections Are Significantly Overstated

On page 45, Hospice House/Four Seasons presents a bullet point list of eight factors that they used to project utilization. That methodology is based on unreasonable assumptions. As a result, Hospice House/Four Seasons fails to show a need for the proposed six-bed hospice inpatient facility in Macon County.

1. Projected Increases in Medicare Hospice Penetration Rates Are Unreasonable

On page 50, Hospice House/Four Seasons presents Medicare hospice penetration rates from 2000 to 2008. They project that Medicare hospice penetration rates in each of the six counties by 2017 “will approach the actual rate for Henderson County in 2008.” Hospice House/Four Seasons claims that the penetration rate for Henderson County in 2008 is 79%.

Medicare hospice penetration rate is based on hospice services total – hospice home care and hospice inpatient care. Hospice House/Four Seasons’ assumption is unreasonable -- they assume that total Medicare hospice penetration rate will grow from:

- 48% in Macon County in 2008 to 76% in 2016 (58.3%);
- 56% in Jackson County in 2008 to 76% in 2016 (35.7%); and,
- 40% in the Six County Service Area in 2008 to 75% in 2016 (87.5%).

There is no documentation offered to support the magnitude of Hospice House/Four Seasons’ assumption. The proposed increases are based 100% on the experience of Four Seasons in Henderson County. As discussed below, demographics in Henderson County are significantly different from the proposed service area. Henderson County is an anomaly, the penetration rates in that county are way above the statewide average, and substantially higher than the next highest county penetration rate. Therefore, Four Seasons’ penetration rate prediction is totally unreasonable.

⁹ 2009 SMFP, Table 13C

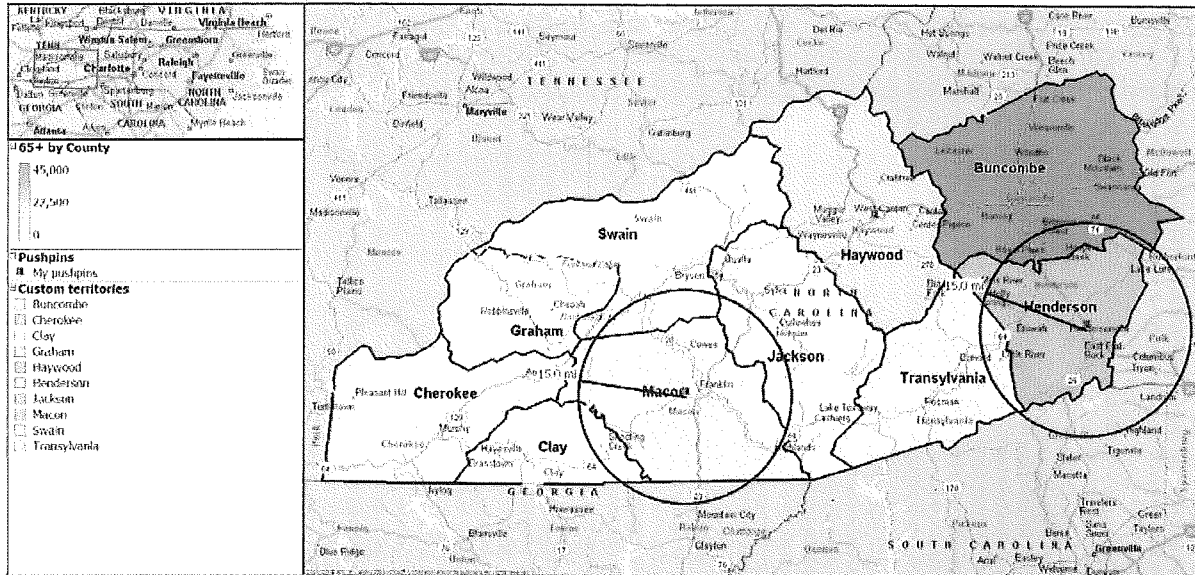
¹⁰ 2010 SMFP, Table 13C

¹¹ Proposed 2011 SMFP, Table 13C

¹² CON Application A-8569-10 at page 113.

Henderson County has over 100,000 total population within a 15 mile radius in 2010. Of these 24,742 were over age 65. Macon County has a population of about 35,000, with 8,899 residents over age 65 in 2010. The shading in the following map illustrates these differences and the population distribution over age 65 by county in 2013.

Western North Carolina Population Distribution 65+ in 2013



Source: NC OSBM Population Projections

The previous map illustrates simply the huge difference between the Henderson County market and the Macon County market. The proposed service area is wide-spread and the topographical features of the area include many of the highest mountains in North Carolina. The six county service area is very rural. Henderson County, on the other hand, has become a bedroom community of Asheville in Buncombe County.

In addition, Henderson County has only one hospice home care provider, Four Seasons, which has a very strong volunteer and support system. In 2009, Four Seasons controlled 98.7% of all home hospice care to Henderson County residents. In comparison, Macon County has two hospice home care providers, Angel Medical Center Hospice Care and Highlands-Cashiers Hospice Care, (projected to be acquired by Four Seasons late 2010/early 2011).

Finally, there are significant socio-economic differences between the two counties, which impact the utilization of healthcare services. The following table show economic indicators in 2007 for each of the six counties compared to Henderson County.

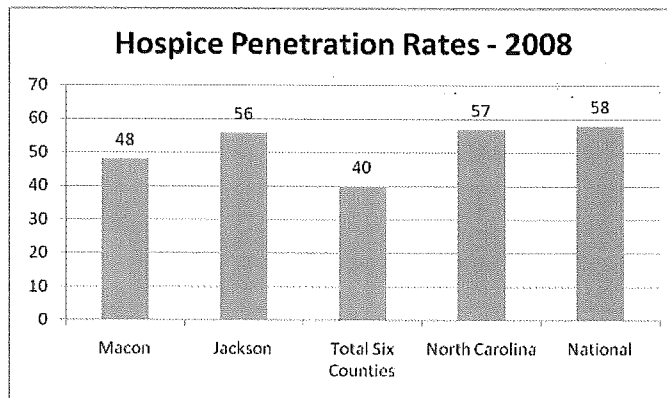
County Economic Indicators - 2007

County	Median Income	Median Income Percent of Henderson County	Per Capita Income	Per Capita Percent of Henderson County
Henderson	\$ 45,737.00	100%	\$ 23,994.00	100%
Jackson	\$ 39,371.00	86%	\$ 20,887.00	87%
Macon	\$ 38,603.00	84%	\$ 20,159.00	84%
Clay	\$ 37,643.00	82%	\$ 20,412.00	85%
Swain	\$ 34,136.00	75%	\$ 17,076.00	71%
Cherokee	\$ 33,037.00	72%	\$ 18,180.00	76%
Graham	\$ 31,471.00	69%	\$ 15,548.00	65%

Source: Claritas

As shown in the previous table, economic indicators in all of the six service area counties are less than, some considerably less than, the median income and per capita income of Henderson County. This is significant as it impacts the ability to travel longer distances for care. Many residents of Cherokee and Swain Counties, who have an inpatient option at the local hospital may elect to remain close to home for these reasons.

Finally, the following comparison of the existing hospice penetration rates in Macon and Jackson Counties, the two largest and most proximate populations to the proposed facility, to North Carolina and National hospice penetration rates, shows some room for improvement in the hospice penetration rate, but does not support the outrageous increases proposed by Hospice House/Four Seasons.



Source: CON Application Pages 50 and 374

As illustrated in the previous chart, Jackson County and Macon County penetration rates are approaching the state and national averages. This means that the penetration rates in the remaining four counties in the proposed service area are considerably less as reflected on page 50 of the application. Therefore, it is doubtful that locating the proposed facility in Macon County will result in the projected overall increases in penetration rates proposed in the Application. Therefore, the market penetration assumptions set forth by Hospice House/Four

Seasons, which reflect an overall increase in penetration rates of almost 90% are unreasonable and use of the North Carolina penetration rate would be a more reasonable alternative to project future utilization for these six counties.

Further, the Medicare hospice penetration rate is for total hospice services – hospice home care and hospice inpatient care. Hospice House/Four Seasons not only did not acknowledge that fact, but also did not address it. Hospice House/Four Seasons conveniently ignores their statement on page 54:

The large majority of hospice care is delivered in the patient's home or principal residence.

If there will be an increase in Medicare hospice penetration in a county, such as Macon, it is in large part due to utilization of hospice home care services. The proposed project is for an inpatient hospice facility. Four Seasons does not, at the time of submission of the CON Application, provide outpatient hospice in Macon or any of the surrounding counties. Four Seasons is in the process of purchasing an existing hospice. The existing hospice does not have similar penetration rates as those of the hospice in Henderson County, where it does not have any competition. It is not reasonable to expect that Four Seasons will achieve that level of penetration because Macon County has an existing, highly successful home care and hospice run by Angel Medical Center.

2. Comparison of Projected Increase in Admissions as a Result of the Increase in Medicare Hospice Penetration Rate to 2010 SMFP North Carolina Hospice Admission Growth Rate

As previously discussed, Hospice House/Four Seasons had to grow hospice admissions at a rate significantly greater than the North Carolina growth rate established in the Hospice Inpatient Bed Need Methodology. As discussed previously, the growth in hospice admissions in the six counties identified by Hospice House/Four Seasons as the proposed service area has a two year trailing average growth rate from 2006 to 2008 of only 1.0%. Total North Carolina growth in hospice admissions during the same timeframe was 6.5%. From 2007 to 2009, the two year trailing average growth rate reflected in the *Proposed 2011 SMFP* decreased to 4.0% for North Carolina.

Hospice House/Four Seasons disregarded the Hospice Inpatient Bed Need Methodology growth rate assumptions. As previously discussed, Hospice House/Four Seasons did not provide interim projections for hospice services. No changes in hospice providers will be realized in Macon County or the proposed service area before 2011. The proposed facility will not open until 2013. The following table utilizes the North Carolina two year trailing average growth rate from 2007 to 2009 of 4.0% included in the *Proposed 2011 SMFP* to project patient admissions for 2010 through 2012 to calculate actual annual projected growth rates utilized in the projections for the proposed project.

Hospice Admissions in CON Application

Year	Total Medicare Hospice Admissions - Six Counties - Pg 53	Annual Growth
2006	482	
2007	484	0.4%
2008	492	1.7%
2009	512	4.0%
2010	532	4.0%
2011	553	4.0%
2012	576	4.0%
2013	809	40.6%
2014	877	8.4%
2015	946	7.9%
2016	1015	7.3%
Growth 2012-2016		76.3%
Average Annual Growth (4 Years 2012-2016)		19.1%

Source: Page 53 CON Application; 2010 SMFP; Proposed 2011 SMFP

Hospice House/Four Seasons did not provide interim projections. Projections for 2009 - 2012 above are based upon NC 2 year trailing average of 4.0%.

As shown in the previous table, when the State methodology is utilized to project interim admissions for 2009 through 2012 the Hospice House/Four Seasons average annual growth rate reflected above is over 19% from 2012 to 2016. There is no discussion, documentation or support for the aggressive growth rate projections utilized in the CON Application.

As a result, the CON Application is non-conforming to CON Review Criterion (3).

3. Medicare Hospice Patients to "Exceed 1,000 for 2016" in the Six-County Service Area

As a result of the aggressive growth in penetration rates, which results in unreasonable overall patient admission growth rates, as previously discussed, Hospice House/Four Seasons assumes that the "projected patients served are expected to exceed 1,000 for 2016." These are aggregate patients from the six counties in the Proposed Service Area. On page 53, Hospice House/Four Seasons presents historical hospice patients (2000-2008) from the CMS Standard Analytical Files that contain counts of the numbers of patients served each calendar year.

Medicare hospice patients reflect the total number of patients receiving hospice home care and hospice inpatient care. Hospice House/Four Seasons' assumption is dramatic -- they assume that total Medicare hospice patients will grow from:

- 171 in Macon County in 2008 to 314 in 2016 (83.6%);
- 134 in Jackson County in 2008 to 206 in 2016 (53.7%); and,

- 492 in the total proposed Service Area in 2008 to 1,015 in 2016 (106.3%).

No documentation is offered to support the magnitude of Hospice House/Four Seasons' assumption as previously discussed. Macon County has two existing hospice outpatient providers that have been in business for many years. There is no reason to assume that 83% of the population is underserved for hospice home care services. Hospice House/Four Seasons provided no documentation to support this claim, and the proposed increase in patients served by 2016.

4. Increase in Medicare Hospice Inpatient Use Rate Is Unreasonable

On page 54, Hospice House/Four Seasons states that "the hospice inpatient use rate is the percentage of hospice patients who use the inpatient level of care." Hospice House/Four Seasons then states:

The large majority of hospice care is delivered in the patient's home or principal residence. However, there may be periods of time when symptoms cannot be controlled in the home setting or when primary caregivers cannot provide adequate support in the home setting. During such periods inpatient hospice care is appropriate. Inpatient hospice care amounts to less than 10 percent of all hospice days of care. However, a much larger percentage of patients may need an episode of inpatient care at some time during their hospice stay. For Four Seasons Hospice [in Henderson County] in 2008, inpatient days were fewer than 6 percent of total hospice days, but 48 percent of Medicare patients utilized inpatient care at some time during their stay. For 2000 through 2008, on average, 46 percent of Four Season's Medicare patients [in Henderson County] used inpatient care. This average rate is used to project the number of Medicare patients who will need an episode of inpatient care.

On that basis, Hospice House/Four Seasons assumes that Medicare hospice inpatient "use rate" will grow from:

- 19% in Macon County in 2008 to 46% in 2013 and remain at that level through 2016 (475%);
- 8% in Jackson County in 2008 to 46% in 2013 and remain at that level through 2016 (35.7%); and,
- 12% in the Six County Service Area in 2008 to 46% in 2013 and remain at that level through 2016 (283.3%).

Again, the magnitude of those assumptions is unreasonable and is based solely on the experience of one county. There simply is no documentation offered to support the magnitude of Hospice House/Four Seasons' assumption.

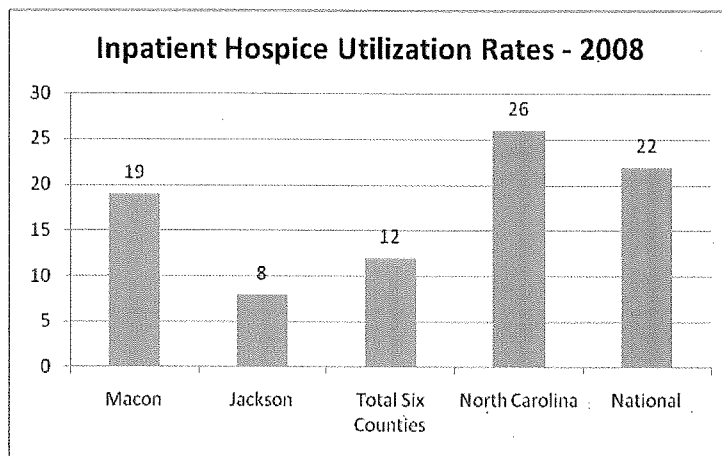
Seemingly contradictory to the foregoing assumption, Hospice House/Four Seasons states

historical levels of inpatient use in the six-county proposed service area have been very low compared to the need for inpatient care. In fact, the inpatient use rate fell significantly between 2006 and 2008. It is precisely this inappropriately low utilization that the proposed hospice inpatient facility is intended to correct.

Hospice House/Four Seasons presumes that:

- “There is a need for inpatient care,” which need is unmet;
- The “low utilization” is “inappropriate; and,
- The proposed hospice inpatient facility will “correct” “inappropriately low utilization.”

Hospice House/Four Seasons wrongly equates “need” and “low utilization.” Low utilization may be due to need being met by hospice home care, and a preference among patients and families for hospice home care, as well as patients who die without hospice care. Furthermore, the following graph illustrates that the Macon County inpatient hospice utilization rate is approaching the North Carolina average and the National average.



Source: CON Application Pages 54 and 380

It should be noted that compared to data from the previous year, rates in both Macon and Jackson Counties decreased significantly in 2008, as reflected on page 54 of the CON Application. Data from 2007 was more comparable to North Carolina and National inpatient hospice utilization rates. Therefore, there may be a data problem with the 2008 data reflected in the previous table or a better rate for comparison purposes would be a three year average. That said it appears that comparison of the existing inpatient hospice utilization rates in Macon and Jackson Counties, the two largest and most proximate populations to the proposed facility, to North Carolina and National hospice penetration rates, shows some potential for growth, but does not support the outrageous increases proposed by Hospice House/Four Seasons.

Therefore, the inpatient utilization assumptions set forth by Hospice House/Four Seasons, which reflect an overall increase in inpatient hospice utilization rates of over 200% are unreasonable.

Use of the North Carolina inpatient hospice utilization rate would be a more reasonable alternative to project future utilization for these six counties.

5. Projected Medicare Hospice Inpatients for the 6-County Proposed Service Area to Increase Over 100% between 2008 and 2013

As previously discussed the projected increase in inpatient utilization rates is unreasonable. Therefore, the projections reflected on page 55, where Hospice House/Four Seasons projects the number of Medicare hospice inpatients for each of the six counties by multiplying the projected hospice patients by the projected inpatient “use rate” by county are unreasonable as indicated below.

Hospice House/Four Seasons assumes that the number of Medicare hospice inpatients will grow from:

- 32 in Macon County in 2008 to 118 in 2013 (268.8%), and from 118 to 144 in 2016 (22%);
- 11 in Jackson County in 2008 to 81 in 2013 (636.4%), and from 81 to 95 in 2016 (7%); and,
- 58 in the Six County Service Area in 2008 to 372 in 2013 (541.4%), and from 372 to 467 in 2016 (25.5%).

The magnitude of those assumptions is unreasonable. No documentation is offered to support those assumptions.

6. Market Share of Proposed Hospice Inpatients is Projected to Increase from 0% to 45% in the Six-County Service Area

On page 56, Hospice House/Four Seasons projects the number of Medicare hospice inpatients from each of the six Service Area Counties that will be patients of the proposed facility by multiplying the project hospice patients by the projected “market share.”

On that basis, Hospice House/Four Seasons assumes that they will “meet 45 percent of the inpatient needs of the proposed service area by 2017, during its fourth year of operation.”

**Hospice House of Western North Carolina
Market Share Assumptions
2010 – 2017**

Calendar Year	Macon	Jackson	Total
2010	0%	0%	0%
2013	10%	13%	11%
2014	25%	31%	26%
2015	30%	38%	32%
2016	35%	44%	37%
2017	50%	50%	45%

Hospice House/Four Seasons' market share assumptions are based on their erroneous view that hospice services provided in "other settings [hospitals and skilled nursing facilities] have not proven effective in meeting the needs for inpatient hospice care in the proposed service area." Please see a detailed discussion in the context of CON Review Criterion (6) below.

7. Other Counties and States Assumption of 10% Unreasonable

As previously discussed, Hospice House/Four Seasons projects that 10% of their patients will be from other counties and states. On page 57 of the CON Application, Hospice House/Four Seasons states that this 10% "Other Patients Served" is based upon the experience of the Four Seasons inpatient hospice facility in Henderson County, Elizabeth House. The patient origin for Elizabeth House reflected on its 2010 Licensure Renewal Hospice Supplemental Information Form, included in Attachment 4, does not show a 10% "Other Patients Served." In fact, there are no patients from any county or state other than the three county service area defined by Four Seasons and 97% of all patients are from Henderson County.

Furthermore, even if the patient origin at Elizabeth House reflected a 10% in-migration from other counties, Elizabeth House has a one county service area all of which is within a 15 mile radius. The proposed service area is a six-county area which reflects a much larger geographic area, and Macon County is in the middle of the highest mountains in North Carolina. As previously discussed, the topography of the region will prevent patients from travelling to the proposed facility. Therefore, the 10% "Other Patients Served" is undocumented and results in overstating the population to be served and total projected patient visits by 10%.

8. Projected Utilization Rate Is Unreasonable

Finally, as discussed previous, the assumptions utilized in projecting future utilization of the proposed facility are unreasonable. These projections result in a projected utilization rate approaching 100%. Hospice House/Four Seasons had to project utilization at this level in order to be financially feasible. A review of utilization of North Carolina inpatient hospice facilities tells a very different story.

In the *Proposed 2010 SMFP* in Table 13D, included with these comments on pages 31 and 32 of Attachment 5, the occupancy rate statewide for inpatient hospice beds was 67.69% in FY 2009.

That percentage is based upon 280 operational beds. Of the 30 operational inpatient hospice facilities in North Carolina, 10 facilities (30%) operated at an occupancy level exceeding 80% in 2009 and nine facilities (30%) operated at an occupancy level less than 65% in 2009.

Four Seasons in Henderson County (Elizabeth House) operated at an occupancy level of 65.55%. In December 2008, Elizabeth House opened seven additional inpatient hospice beds, increasing capacity to 19 beds. Assuming that the 12 beds were utilized at 99.8% occupancy for the first two months of FY 2009 (October and November), which is consistent with the historical utilization data presented in the CON application for expansion of Elizabeth House, utilization of the 19 beds for the first ten months of operation was only 66.1%¹³. According to the CON application submitted for the expansion of Elizabeth House, projected utilization for the 19 bed facility in the first year of operation was 89.5%. Therefore, Four Seasons overstated utilization in its previous CON application by over 20% for the first year of operation.

In addition, Table 13D identifies 129 additional CON approved inpatient hospice beds in North Carolina that are under development. That represents a 46% increase in beds statewide. The six bed inpatient hospice facility in Haywood County was not included in the 129 additional CON approved inpatient hospice beds in North Carolina.

Hospice House/Four Seasons failed to provide any documentation to support the projected utilization of over 85% in project year three. The projections for the proposed project are not reasonable and therefore, the project is non-conforming to CON Review Criterion (3).

H. Need for Residential Beds Not Addressed

Hospice House/Four Seasons does not propose to build any hospice residential beds, which is a venue to serve short-term needs of hospice home care patients. Room and board are not covered under the hospice Medicare benefit.

Medicare admission criteria for inpatient hospice care are very specific. Under the Medicare hospice benefit, beneficiaries must require an intensity of care directed towards pain control or other symptom management that cannot be managed in any other setting.

Caregiver breakdown is the loss of the individual's support structure and should not be confused with the coverage requirements for medically reasonable and necessary care. Caregiver breakdown should not be billed as general inpatient care. Many of the letters of support included in the CON Application reference the need for inpatient care when a patient does not have an available caregiver. The proposed six-bed hospice inpatient facility cannot admit those patients.

¹³ Calculation as follows. October and November 08 have 61 days. Capacity for October and November = 61 x 12 = 732 available bed days. 99.8% utilization in Oct and Nov = 731 patient days (732 x 99.8%). Total patient days for FY 2009 = 4,546 inpatient day according to *Proposed 2011 SMFP*. December 08 - September 09 have 304 days. Capacity for December 08 - September 09 = 304 x 19 = 5,776 available bed days. Inpatient days from December 08 - September 09 = 4,546 - 731 = 3,815 inpatient days. Occupancy level for first 10 months with 19 beds = 66.1%

Hospice House/Four Seasons continually advertises and indicates that patients meeting this description (i.e., patients in need of residential beds) will be served by the proposed six-bed hospice inpatient facility to be located in Macon County. Included in Attachment 6 are documents from the Hospice House of WNC website and news articles which discuss the availability of care for patients without caregivers. Those tools were used to market the proposed six-bed hospice inpatient facility and generate letters of support. As indicated in the CON Application, the proposed facility will not provide residential care.

I. The Application Lacks Support

On page 64, Hospice House/Four Seasons states that “Four Seasons Hospice relies on local healthcare and social service providers for the vast majority of its referrals.” The vitality of the proposed six-bed hospice inpatient facility looks bleak based on the lack of letters of support from Macon County physicians, hospitals, nursing facilities, and adult care homes.

1. There Is Little Macon County Physician Support for the Proposed Hospice House of Western North Carolina

Exhibit 35 of the CON Application contains the Letters of Support from Physicians shown in the following table in the order presented in Exhibit 35.

**Practitioner Letters of Support for
Proposed Hospice House of Western North Carolina**

Name of Physician	Practice	Specialty	County
Ronald P. Fisher, MD	Extended Care Physicians-Mountain, PA ¹⁴	Palliative Medicine	Jackson
Steven S Crider, MD	Mountain Medical Associates, LLP	Internal Medicine	Haywood
John F. Baumrucker, MD	Highlands Emergency Room	Family Practice	Macon
Mark Engle, MD	Swain Medical Center	Primary Care, ED, Hospitalist	Swain
A. Earl Haddock, MD, FACP	Sylva Cardiology	Cardiology	Jackson
Jennifer S. Bunnaw, MD	Swain Medical Center	Family Practice	Jackson
Thomas J. Wolf, MD	WNC Internal Medicine	Internal Medicine	Jackson
Thomas V. Clayton, MD	Andrews Internal Medicine	Internal Medicine	Cherokee
Teresa A. Heavner, MD Dan Stroup, MD Jill Sonnenberg, MD	Chatuge Family Practice	Family Practice	Clay
Christopher H. Chay, MD	Cancer Care of Western NC	Oncology and Hematology	Buncombe
Billie Shepard, MD	Extended Care Physicians	Internal Medicine	Buncombe
Robert J. Adams, MD	WNC Hospitalist Service	Hospitalist Medicine	Jackson
Jessica K. Ange, MD	Sylva Family Practice	Family Practice	Jackson
Roy P. Gallinger, MD	Sylva Family Practice	Family Practice	Jackson
Kathy Campbell, PA	Sylva Family Practice	Family Practice	Jackson
Steven W. Queen, MD	Sylva Medical Center	Internal Medicine	Jackson
Waverly S. Green, MD, FCCP	Western Carolina Pulmonary & Critical Care	Carolina Pulmonary & Critical Care	Jackson
Colin Goggin, MD	Swain Medical Center	Family Medicine	Swain
Lee Manthorne, DO	Swain Medical Center	Internal Medicine	Swain
Elizabeth E. Dixon, MD	Swain Medical Center	Internal Medicine	Swain
Frank VanMiddlesworth, MD, PhD	Swain Medical Center		Swain
Matthew Mahar, MD	Wellspring Family Practice	Family Practice	Jackson
Ronald M. Friedman, MD	Cancer Care of WNC	Oncology and Hematology	Buncombe
Bryce Eichelberger, NP-C	Tallulah Health Center, PA	Family Practice	Graham
Kathryn Lynch, MD	Tallulah Health Center, PA	Family Practice	Graham
Patricia Johnson, MD	Tallulah Health Center, PA	Family Practice	Graham
Deborah Allen PA-C	Tallulah Health Center, PA	Family Practice	Graham
J. Aimee Queng, MD	Tallulah Health Center, PA	Family Practice	Graham
Katherine MacKenzie, FNP-BC	Tallulah Health Center, PA	Family Practice	Graham
Delores Moyer, MHA/NHA	Skyland Care Center		Jackson
Rebecca D. Olson, RN, MS	Good Samaritan Clinic		Jackson
Catherine J. Ward, OD Daryl D. Gossett, OD	Family Eyecare	Optometry	Macon
Anthony J. Esterwood, MD	Center for Family Medicine	Family Medicine	Macon
Todd D. Davis, MD	Center for Family Medicine	Family Medicine	Macon
Nathan L. Brenner, DMD		Family Dentistry	Macon
William J. Handley, MD	Sylva Orthopaedic Associates, PA	Orthopaedics and Sports Medicine	Jackson
Eva A. Susfal, MD	Center for Family Medicine	Family Medicine	Macon
TOTAL = 37			

Note: Yellow highlight are from Macon County; blue highlight are non-physician practitioners.

Of the six letters of support from providers in Macon County, two letters are from provider groups that would be totally unlikely to refer a patient to the proposed facility: two optometrists and a dentist. The remaining four letters are from physicians in family

¹⁴ Information from NC Medical Board Licensee Search, website accessed on October 2, 2010

practice/family medicine, who are under contract with MedWest (Swain Hospital, Harris Regional (Westcare) and Haywood Regional), which is supporting the Homestead Hospice House in Haywood County. Many of the other physicians listed are also associated with MedWest.

It is significant that **84% of the letters of support from physicians** are from physicians located **outside of Macon County**. That percentage is consistent with Hospice House/Four Seasons' projected patient origin for the proposed facility – 73% of patients are projected to be residents of counties other than Macon. It also is noteworthy that many of those letters do not refer to Macon County as the proposed facility location.

Hospice House/Four Seasons again demonstrates a lack of need for the proposed project in Macon County.

2. No Support from Hospitals, Nursing Facilities, or Assisted Living Facilities

Exhibit 36 contains Letters of Support from Other Institutions, Offices, and Organizations. There is **no** letter from a hospital, nursing facility or adult care home in support of the proposed Hospice House of Western North Carolina from any facility in the Six County Service Area.

Further, there is no letter from a hospital, nursing facility or adult care home in Macon County in support of the proposed six-bed hospice inpatient facility. None of the facilities listed in the following table supported this project.

Hospitals, Nursing Facilities, and Adult Care Homes Macon County

Hospital	Nursing Facility	Adult Care Home
Angel Medical Center	Britthaven of Franklin	Britthaven of Franklin
Highlands-Cashiers Hospital	Highlands-Cashiers Hospital/Eckerd Center	Chestnut Hill of Highlands
		Franklin House
		Grandview Manor Care Center

The absence of such letters is telling. Hospice House/Four Seasons again demonstrates a lack of need for the proposed project in Macon County. Were there an actual need for the proposed project in Macon County, it is reasonable to expect that there would have been letters of support from all eight Macon County-based hospitals, nursing facilities, and adult care homes.

G.S. 131E-183 (4)

Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

As discussed in detail in the context of CON Review Criterion (3), Hospice House/Four Seasons has not demonstrated a need for the proposed six-bed hospice inpatient facility in Macon County. As such, they have not demonstrated that the least costly or most effective alternative has been proposed.

Furthermore, as previously discussed, removing inpatient hospice days from Critical Access Hospitals results in higher cost per patient day at the CAH, plus the added cost of the proposed new inpatient hospice facility, which overall increases the cost of health care services in the community. Hospice House/Four Seasons did not consider that increased cost of care to the community in their CON Application. A more effective alternative would be to support the three CAHs located in the six county area with funds to make designated areas of the hospitals more hospice-friendly.

Therefore, the CON Application does not conform to CON Review Criterion (4), and should not be approved.

G.S. 131E-183 (5)

Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

A. The CON Application does not Contain Documentation of Available Funds for Capital and Operating Needs

In Section IX.1., pages 91 and 92, Hospice House/Four Seasons states the start-up expenses for the project will be \$55,139, which includes expenses staffing, initial inventory medical supplies, non capital equipment (computers), initial inventory drugs, and miscellaneous office supplies. In addition, total estimated initial operating expenses of \$140,390 will be required to cover all operating deficits for the first 18 months of operations. Initial operating expenses include salaries and fringe benefits, supplies, food, purchased services, interest, and other cash expenses. Total working capital required for the project is \$195,529. Hospice House will extend a line of credit of \$250,000 to Four Seasons to cover the working capital required for the project.

Exhibit 25 contains Financial Statements of Hospice House. According to the Balance Sheet included in Exhibit 25, **Hospice House has total current assets of \$129,473.95** as of August 14, 2010; **\$46,376.09 of those total current assets is restricted.** According to the Statement of Financial Income and Expenses, October 1, 2009 through August 14, 2010, **Hospice House has a negative net income of \$18,609.80.**

It is reasonable to ask how Hospice House will be able to extend a line of credit of \$250,000 to Four Seasons to cover the working capital required for the project.

In Section VIII.5, page 85, Hospice House/Four Seasons states the anticipated sources of funding as follows:

Hospice House/Four Seasons expects that “public campaign funds will retire the bank debt after five years.” That is a rather ambitious expectation considering that Hospice House has set aside only \$100,000 over the last eight years and intends to raise \$840,000 by May 1, 2011, as indicated in Exhibit 24.

Hospice House/Four Seasons has not provided any documentation of the ability to raise these funds. No letters or studies related to hiring a professional fund raising group were included in the CON Application, and the only discussion included referenced the experience of the Elizabeth House in Henderson County.

As previously discussed, the Henderson County hospice market is very different from the proposed service area hospice market. Without additional analysis of the proposed Hospice House/Four Seasons service area by a professional fund raising consultant, there is no documentation of Hospice House/Four Seasons’ ability to raise the necessary funds. No study or analysis of the market has been completed to determine if a successful campaign to raise over \$4,000,000 can be achieved. To date, Hospice House/Four Seasons has been less than successful in attempts to raise funds as documented in the CON Application.

Further, the “letter of interest” in Exhibit 23 from United Community Bank is not documentation of “a willingness to finance the proposed project,” as required by Section VIII.7. It does not provide “verification that [United Community Bank] has examined the financial position of the borrower and found it to be adequate to support the proposal.” It also does not document the “proposed interest rate.”

B. Proposed Project Is Not Financially Feasible

AMC decided not to partner Hospice House with respect to a hospice inpatient facility in Macon County. That decision was anything but “abrupt,” as it has been characterized by Hospice House/Four Seasons. That decision came after serious deliberation, and is based on a conclusion that a six bed hospice inpatient facility in Macon County is not financially feasible. That conclusion was drawn directly from the 2008 Feasibility Study, Attachment 2, for the development of an inpatient and residential hospice facility in Macon County, as a primary service area, and Clay, Jackson, and Swain Counties as a secondary service area. The following are a few of the key areas of concern, which areas Hospice House/Four Seasons chose not to share with the Agency in its 2009 Petition and in the CON Application:

- Page 9: “The greatest potential barrier to success is the lack of financial and operational viability of the hospice facility and the hospital’s unwillingness/inability to commit long-term to offset losses incurred by the facility.”
- Page 32: “Based on its knowledge of existing hospice facilities, [Health Planning Source] believes that a six-bed facility alone is unlikely to be financially feasible.”
- Page 34: “The facility’s target occupancy rate is based on 85 percent.”
- Projected three year income statement for a six-bed hospice inpatient facility is shown in the following table.

**2008 Feasibility Study - Six Bed Inpatient Hospice
Projected Income Statements**

	Year 1	Year 2	Year 3
Occupancy Level	50%	60%	85%
Net Revenue	\$629,169	\$842,457	\$1,134,725
Annual Expenses	\$940,785	\$999,762	\$1,182,473
Net Loss	\$ (311,616)	\$ (157,305)	\$ (47,748)
% of Revenues for Self Pay/Charity	3.7%	3.7%	3.7%
Assumed Contributions	\$1,054,576	\$1,054,576	\$537,288
Upfront Costs	\$2,636,440		

Source: Attachment 2, page 54

For comparison purposes, the following table shows Four Seasons Hospice – Facility Income Statement Detail, which is included in Proforma B.

**Four Seasons Hospice*
Projected Income Statement**

	Year 1	Year 2	Year 3
Occupancy Level	53.0%	69.4%	87.2%
Net Revenue	\$684,768	\$899,809	\$1,133,531
Annual Expenses	\$796,077	\$887,009	\$965,032
Net Loss/Gain	\$(111,308)	\$12,881	\$168,519
% of Revenues for Self Pay/Charity	1.3%	1.3%	1.3%
Assumed Contributions**	\$900,000	\$900,000	\$900,000
Upfront Costs	\$4,285,078 plus total working capital of \$195,529		

* It is assumed that the Four Seasons Hospice refers to the proposed facility “Hospice House of Western North Carolina.” Source: Pages 123 and 124 of the Application.

**These are not included on Projected Income Statement of Four Seasons Hospice; they are included on Projected Income Statement of Hospice House Foundation of WNC, Inc. Source: page 122 of the Application.

As shown in the previous two tables, the cost of developing the proposed project has increased by almost \$1,700,000 since 2008. In addition, the assumed contributions from the community remains high at \$900,000 in the third year of operation. As stated on page 9 of the 2008 Feasibility Study, Attachment 2, "Obtaining community support to fund ongoing operations will be more difficult."

In August 2010, AMC completed an additional financial evaluation of the feasibility of a six-bed hospice inpatient facility. That evaluation demonstrated that even if existing resources and facilities were used to provide hospice inpatient services, the annual operating costs would be over \$1,000,000 per year for a six-bed hospice inpatient unit. At a 75% occupancy rate, losses over the first three years would be over \$100,000. For occupancy rates less than 75%, losses would be far greater.

Furthermore, the assumptions utilized by Hospice House/Four Seasons are significantly overstated. As a result, utilization projections are overstated. Therefore, the CON Application does not conform to CON Review Criterion (5), and should not be approved.

G.S. 131E-183 (6)

The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

A. Duplication of Existing Health Service Capabilities in Macon County

Hospice House/Four Seasons opines on page 56 that

[o]ther settings will continue to be available for inpatient hospice care including beds that may be contract beds at hospitals and certified skilled nursing facilities. These other settings have not proven effective in meeting the needs for inpatient hospice care in the proposed service area. [...] The utilization projections for the proposed facility assume that it will meet 45 percent of the inpatient needs of the proposed service area by 2017, during its fourth year of operation.

Hospice House/Four Seasons will duplicate existing health service capabilities in Macon County that provide hospice inpatient and residential services and will negatively impact existing facilities.

1. Impact on Existing Critical Access Hospitals

AMC is a non-profit Medicare Critical Access Hospital in Franklin, Macon County. AMC has 25 acute care beds which are designated for the CAH. Highlands-Cashiers Hospital in Highlands, Macon County with 25 licensed acute care beds also is a CAH.

The primary benefit of CAH status is reimbursement for inpatient admissions under the Reasonable Cost Method from Medicare (as opposed to prospective payment system used for most other hospitals).¹⁵ Angel operates at less than full occupancy most of the year and as such the reimbursement they receive for hospice inpatients helps pay for fixed costs at the hospital. If an additional inpatient hospice facility is added in Macon County and some of these Angel inpatients are served in the new facility, then it will lower occupancy at Angel and reduce the overall efficiency of Angel, thus increasing the average cost of providing inpatient care to Angel's patients. The cost to Medicare will also go up, since Medicare and NC Medicaid pay CAH hospitals based on their actual costs. **A CAH will be reimbursed at reasonable cost no matter whether a patient is in an acute care bed.**

In the case of hospice care, a hospice may contract with a CAH to provide the Medicare hospice hospital benefit. Reimbursement from Medicare is made to the hospice. The CAH may dedicate beds to the hospice, but the beds must be counted toward the 25-bed maximum. A hospice patient can be admitted to the CAH for any care involved in their treatment plan or for respite care. The CAH negotiates reimbursement through an agreement with the hospice.¹⁶ Both Highlands or Angel have excess capacity and to build additional inpatient beds to provide services already being provided by these hospitals is an inefficient use of healthcare/donated dollars and should not be allowed.

2. Britthaven of Franklin

Britthaven of Franklin is licensed for 200 nursing home beds in Macon County. According to the *2010 SMFP*, Britthaven of Franklin has a surplus of 25 nursing home beds.¹⁷ The *Proposed 2011 SMFP* projects a surplus of 23 nursing home beds in 2014.¹⁸

On November 13, 2009, AMC proposed by letter to Hospice House that AMC, Britthaven of Franklin, and Hospice House could work together to use an empty wing at Britthaven, which wing has a separate entrance and a separate parking lot, as a possible site for hospice inpatient beds. That proposal would minimize costs of start-up and to utilize resources of the current providers in the community. Hospice House declined that proposal.

B. Negative Impact on Angel Medical Center

Hospice House/Four Seasons has not addressed the negative impact of the proposed six-bed hospice inpatient facility on AMC.

The proposed location of the six-bed hospice inpatient facility at 2225 Old Murphy Road, Franklin, NC 28734 is 3.79 miles/8 minutes from AMC, which is located at 120 Riverview Street, Franklin, NC 28734.¹⁹

¹⁵ https://www.triwest.com/provider/newslist.aspx?aud=1&xf=101409_criticalAccess

¹⁶ http://www.cms.gov/CertificationandCompliance/04_CAHS.asp

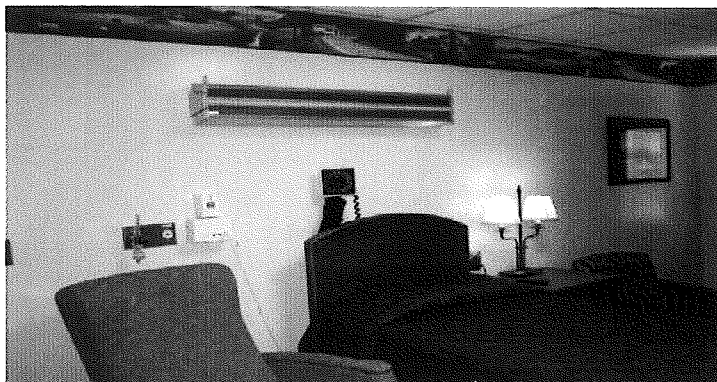
¹⁷ *2010 SMFP*, Table 10B

¹⁸ *Proposed 2011 SMFP*, Table 10B

¹⁹ <http://www.mapquest.com>

AMC has 8-9 beds available for hospice inpatient patients and one room designed specifically for hospice inpatient care. None of those beds are fully utilized.

In 2008, AMC provided 253 days of hospice inpatient care and 28 hospice respite days of care. Many of those days were provided in a room at AMC specifically designated for hospice (pictured below).



Inpatient hospice can, is, and will continue to be provided at AMC through a contract with Angel Home Health & Hospice. Angel Home Health & Hospice also provides hospice services to the residents of Britthaven Nursing Home and Grandview Manor (assisted living).

As discussed above, Hospice House/Four Seasons has not demonstrated that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities. Therefore, the CON Application does not conform to CON Criterion (6), and should not be approved.

G.S. 131E-183 (12)

Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

As discussed in the context of CON Review Criterion (5) above, the CON Application does not contain documentation of the availability of funds for capital and operating needs, and the proposed hospice inpatient facility is not financially feasible. To that end, the construction of a six-bed hospice inpatient facility does not represent the most reasonable alternative.

As discussed in the context of CON Review Criteria (6) above, the construction of a six-bed hospice inpatient facility in Macon County will unduly increase the costs to the public of providing health services by other persons.

For those reasons, the CON Application does not conform to CON Review Criterion (12).

G.S. 131E-183 (18a)

The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

Hospice House/Four Seasons did not adequately demonstrate that the proposal for a six-bed hospice inpatient facility in Macon County would have a positive impact on competition between providers and cost-effectiveness of hospice inpatient services.

As discussed in the context of CON Review Criteria (6) above, the construction of a six-bed hospice inpatient facility in Macon County will unduly increase the costs to the public of providing health services.

For those reasons, the CON Application does not conform to CON Review Criterion (18a).

V. CON Criteria and Standards for Hospices – 10A NCAC 14C .4000

10A NCAC 14C .4002(b)(1)-(11)

As discussed in detail in the context of CON Review Criterion (3) above, Hospice House/Four Seasons fails to adequately demonstrate the quantitative and qualitative need for the proposed six-bed hospice inpatient facility in Macon County. The methodology used to project volume of the facility is flawed, based on unreasonable assumptions, inconsistent, and overstates that volume.

10A NCAC 14C .4002(b)(5)

Hospice House/Four Seasons did not respond to the question regarding the readmission rate of hospice patients.

10A NCAC 14C .4002(b)(7)

As discussed in detail in the context of CON Review Criterion (3) above, the proposed project lacks physician, hospital, nursing facility, and adult care home support from Macon County.

Hospice House/Four Seasons did **not** provide documentation of attempts to establish working relationships with sources of referrals to the proposed hospice facility including proposed agreements for the provision of inpatient care and residential care. No letters of support or agreements with existing hospitals, nursing facilities or adult care homes were provided.

10A NCAC 14C .4002(b)(9) and (a)(10)

Neither Hospice House nor Four Seasons is a licensed hospice in Macon County as required by the CON Criteria and Standards for Hospices – 10A NCAC 14C .4000.

Hospice House/Four Seasons did not provide “copies of the proposed contractual agreements, if the applicant is not a licensed hospice, with a licensed hospice or a licensed home care agency with a hospice designation on its license, for the provision of hospice services[.]”

In the absence of copies of proposed contractual agreements, the CON Application does not conform to the CON Criteria and Standards for Hospices – 10A NCAC 14C .4000.

Hospice House/Four Seasons also does not provide “documentation of the projected number of patients to be referred for each payor type from the referring hospices [....]”

In the absence of the proposed documentation, the CON Application does not conform to the CON Criteria and Standards for Hospices – 10A NCAC 14C .4000.

There are two existing hospice home care agencies in Macon County²⁰: Angel Home Health & Hospice and Highlands-Cashiers Hospice. Four Seasons is in the process of acquiring Highlands-Cashiers, but has not yet completed that transaction. Four Seasons represents that the transaction will be complete on January 1, 2011. According to the Purchase Agreement included in Exhibit 9, closing of the transaction between Four Seasons and Highlands-Cashiers Hospital was to be complete by October 1, 2010. Paragraph 9 reads as follows:

9. **Closing.** Subject to the satisfaction of the other conditions precedent described in Section 8 above, **the closing of the sale of the Assets and the other transactions contemplated by and described in this Agreement (the “Closing”) shall take place on or about October 1, 2010** at the Seller’s offices. The date of the Closing is referred to as the “Closing Date.” **In the event that the conditions precedent described in Section 8 above are not met by January 1, 2011 (or such other date as may be mutually agreed to by the parties)** through no fault of the terminating party, then this Agreement shall be terminated at such time and the parties shall bear their respective costs and expenses. **The termination date may be extended by mutual agreement of the Buyer and Seller. [Emphasis added.]**

If the transaction does not close on January 1, 2011, then the Purchase Agreement allows the parties to mutually agree to another Closing Date. In addition, by mutual agreement to extend

²⁰ Table 13A, *Proposed 2011 SMFP*

the Purchase Agreement termination date of January 1, 2011, the parties may extend the termination date beyond January 1, 2011.

The CON Section has from 90 to 150 days to review an application for a certificate of need.

At the time of the submission of this Application, Four Seasons was not a licensed hospice. If the transaction does not close on January 1, 2011, Four Seasons will not have been a licensed hospice **for 93 days from October 1, 2010, date on which the CON review period began.**

Hospice House/Four Seasons projects that February 28, 2011 is the Anticipated Date of Decision, which is the end of the 150 day CON review period. It is possible that the transaction will not close on January 1, 2011, and Four Seasons will not be a licensed hospice for the entirety of the 150 day CON review period.

10A NCAC 14C .4004(c) and (d)

Hospice House/Four Seasons failed to provide documentation of pharmaceutical services for the proposed facility.

For the reasons set forth above, the CON Application is non-conforming to 10A NCAC 14C .4000, the CON Criteria and Standards for Hospices, and should be denied.

VI. Conclusion

Angel Medical Center strongly supports the availability of hospice services for residents of Macon County and the surrounding area. Angel Home Health and Hospice, a division of AMC, has provided hospice home care to the residents of Macon County since 1996. When necessary, AMC provides inpatient hospice care to Angel Home Health and Hospice patients.

For several years, AMC worked diligently with Hospice House to study the need for and the financial feasibility of a freestanding inpatient hospice facility for residents of Macon County and surrounding counties. In 2008, a Feasibility Study determined that a six bed freestanding inpatient hospice was not a financially viable project. At that time, AMC withdrew its support for the project.

PETITION

**Petition for a Special Need Adjustment to the Hospice Inpatient Bed
Need Methodology**

Petitioner:

Hospice House Foundation of WNC, Inc.
P.O. Box 815
Franklin, NC 28744

Michele Alderson, President
(828) 524.6375
micheleralderson@yahoo.com

Requested Change

The Hospice House Foundation of WNC, Inc. (hereinafter referred to as "HHF of WNC") requests an adjusted need determination for six hospice inpatient beds in Macon County.

About the Petitioner

HHF of WNC is a 501(c)(3) private, not-for-profit foundation that was founded in 2005 by a group of hospice volunteers, three physicians (including two hospice medical directors and a family physician), business persons and interested parties, who have a deep passion for hospice and recognize the critical need for an inpatient hospice facility in our western region of the state. "The mission of the Hospice House Foundation of WNC is to provide and endow a hospice inpatient facility for our community and to support hospice."

We have attempted on two separate occasions to collaborate with the local hospice agency in Macon County, Angel Hospice and Palliative Care (owned and operated by Angel Medical Center), to develop a freestanding hospice facility in our community. Two successful special need petitions, prepared by HHF of WNC on behalf of Angel Hospice and Palliative Care, have been filed resulting in need determinations for inpatient hospice beds for Macon County in the 2007 and 2008 *State Medical Facilities Plans*. We were prepared to file a certificate of need application in August 2008 in coordination with Angel Hospice and Palliative Care, but learned in July that they were not willing to pursue the project. Angel's abrupt decision did not leave us sufficient time to regroup and prepare to file the application on our own in time for the August 2008

submission date. The criteria and standards for hospice facilities, to which we must conform in a certificate of need application in order to have it considered for approval, require evidence of a contractual arrangement with a licensed hospice home care agency for the management of the facility. Developing a new partnership in such a short timeframe was not possible.

Unfortunately, our unsuccessful efforts to work with our local hospice agency delayed our progress. While our progress has been delayed, our commitment to our mission to develop a hospice facility for our community remains strong. We currently are engaged in discussions with two different hospice agencies about potential partnerships for the management of our proposed facility. Four Seasons Hospice and Palliative Care has expressed a definite interest in the partnership and a shared commitment to our mission. Four Seasons has been providing hospice care in Henderson and surrounding counties for nearly 30 years and operates a very successful 19-bed freestanding hospice facility, which originally opened with 12 beds in 1999. We are engaged in ongoing discussions with another hospice agency that also operates a successful freestanding hospice facility and are awaiting proposals from both providers at this time.

As stated previously, the Foundation's mission has not wavered. That mission has tremendous community support as reflected by the more than 400 citizens who recently attended a fundraising event in June, and the over 1,000 donors that we have in our donor database. Donations continue to come in for the hospice house even though a formal capital campaign has not been initiated. Community support for our efforts is further evidenced by the many letters of support submitted with this petition. Although many of these letters were submitted with previous petitions, the sentiments remain unchanged. Nothing about the need and support for an inpatient hospice facility in Macon County, that has been demonstrated successfully in two previous petitions, has changed. All that has changed is that we, the Foundation, have resolved to no longer be stifled by unsuccessful attempts to partner with Angel Hospice and Palliative Care, and have made significant inroads in forging a committed partnership with another provider. With the promise of a strong partnership, which we have historically lacked, we know that our mission can finally come to fruition if given the opportunity to file a certificate of need application for inpatient hospice beds in 2010.

Reasons for Requested Change

First, it should be noted that the need for the requested change, which has been demonstrated in two previous special need petitions that were approved by the Long-Term Care and Behavioral Health Committee and ultimately the State Health Coordinating Council, has not changed.

The *Proposed 2010 State Medical Facilities Plan (SMFP)* indicates a deficit of three (3) inpatient hospice beds in Macon County. A deficit of six (6) beds is required to generate a need determination for inpatient hospice beds in any county. Additionally, the *Proposed 2010 SMFP* identifies a deficit of two (2) inpatient beds in Jackson County and one (1) inpatient bed in Swain County, both of which are contiguous to Macon County. Thus, while a demonstrable need exists in the western region of the state in the *Proposed 2010 SMFP*, no allocation has been made to serve this unmet need. For these reasons, HHF of WNC is requesting an adjustment to the need determination in the *Proposed 2010 SMFP* for an allocation of six (6) inpatient hospice beds in Macon County.

HHF of WNC believes that there are a number of reasons that its petition should be approved, each of which is discussed in detail below.

1. A need exists for an inpatient hospice facility in the far west region of North Carolina.

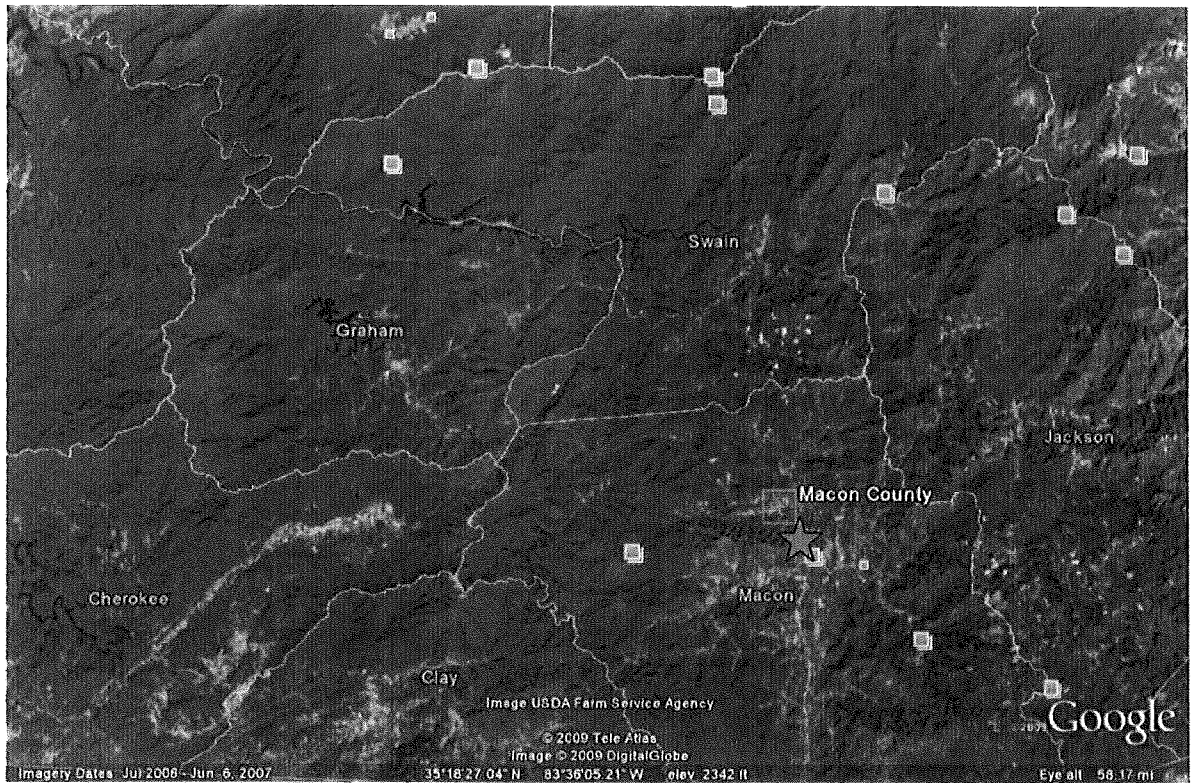
Geography

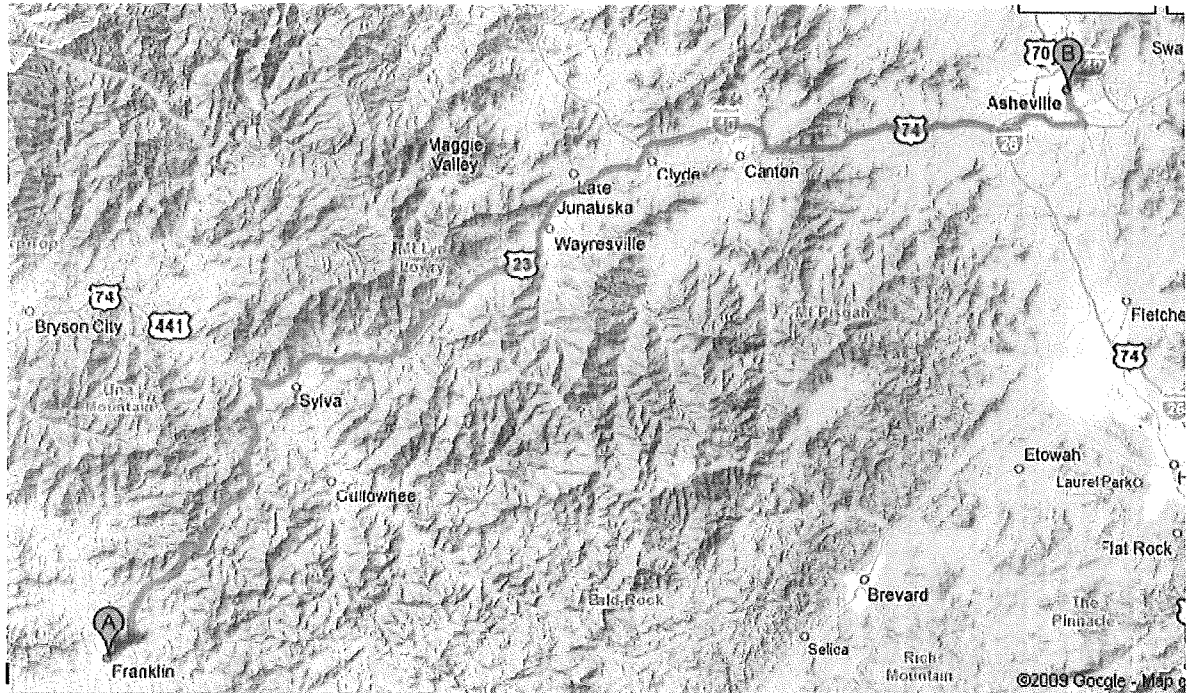
There is currently no inpatient hospice facility in North Carolina in the six-county area that comprises the far west region of the state (Macon, Jackson, Swain, Clay, Graham, and Cherokee counties). The closest existing freestanding hospice facility is the John Keever Solace Center in Asheville, which operates 15 inpatient beds and 12 residential beds.¹ Not only is the Solace Center located 75 miles east of Macon County, its inpatient beds are operating at 100 percent capacity (per data reported in the *Proposed 2010 SMFP*) with an active waiting list. Therefore, there is no alternative for hospice patients in our community who need inpatient care other than to be admitted to a hospital or nursing home, neither of which is an ideal setting for providing end-of-life care and carrying out the hospice philosophy.

Even if the Solace Center had additional capacity, the travel to Asheville from the westernmost region of the state would place an undue and sometimes insurmountable burden on hospice patients and their caregivers, most of whom are elderly. Macon County alone covers 517 square miles of

¹ It should be noted that an inpatient hospice facility in Haywood County is currently under certificate of need review. However, according to information presented in that certificate of need application, the service area projected for the Haywood County facility (Haywood County only) does not overlap with the service area discussed in this petition. Therefore, the development of a hospice facility in Macon County, as discussed in this petition, would have no impact on the proposed facility in Haywood County, nor should the development of the Haywood facility have an impact on the need for our facility.

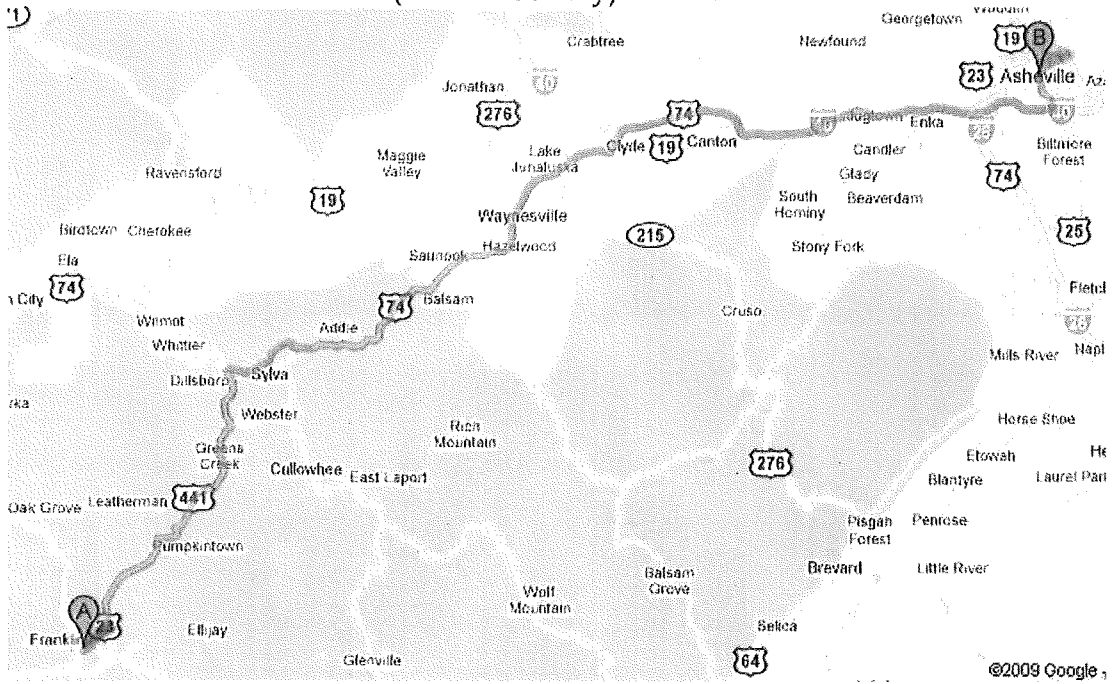
mountainous terrain, and the geography is an important factor to consider in determining the need for an inpatient facility in this region. Travel times in the mountains are significantly longer and more difficult than in other parts of the state, especially for elderly patients and caregivers. The first map below shows the mountainous terrain of the six-county area; the second shows the difficult terrain that must be traveled from Franklin to Asheville. Franklin is identified on the first map with a red star.



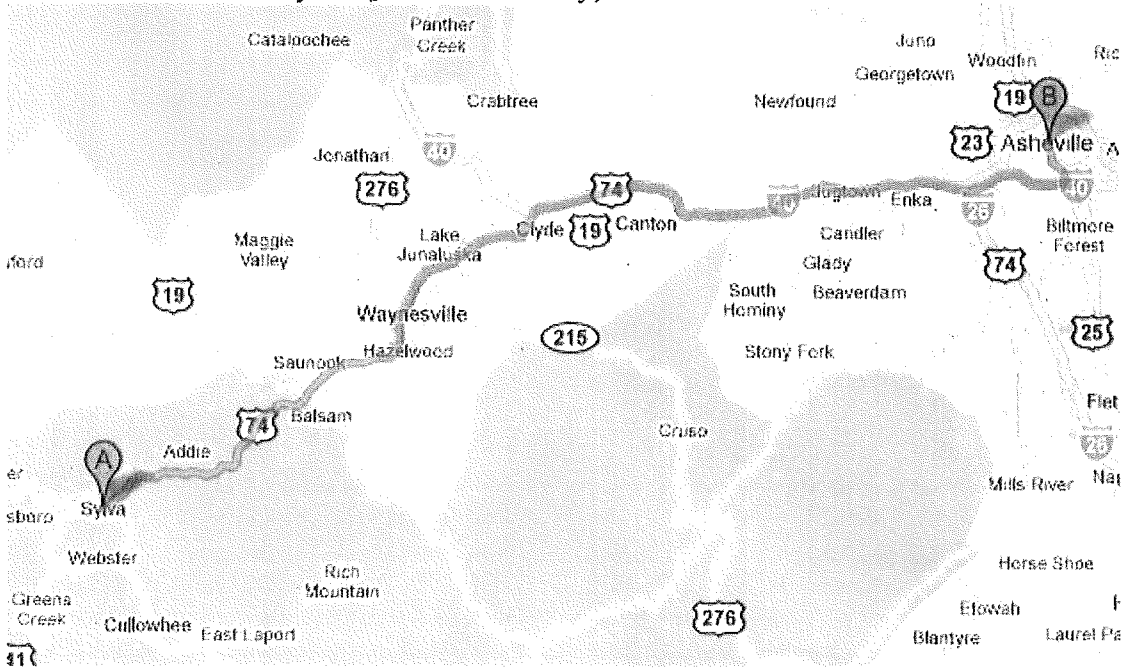


As clearly evident on these maps, the entire region is mountainous, which makes even ordinary travel a challenge and travel during inclement weather sometimes impossible. Those challenges are even greater for elderly patients and their caregivers. Compounding the challenges posed by the mountainous terrain, travel from any of the six westernmost counties to the closest hospice facility in Asheville is dependent on just a few main thoroughfares as shown in the series of maps below. If for any reason, any of the main thoroughfares, particularly Highway 74 or Interstate-40, is impassable (as has happened on occasion), travel to Asheville in a reasonable amount of time is virtually impossible.

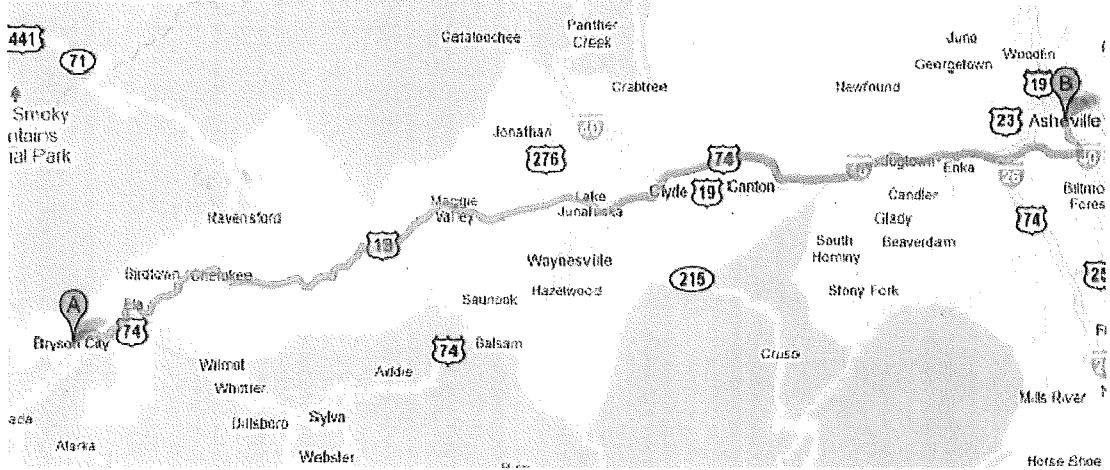
Franklin (Macon County) to Asheville



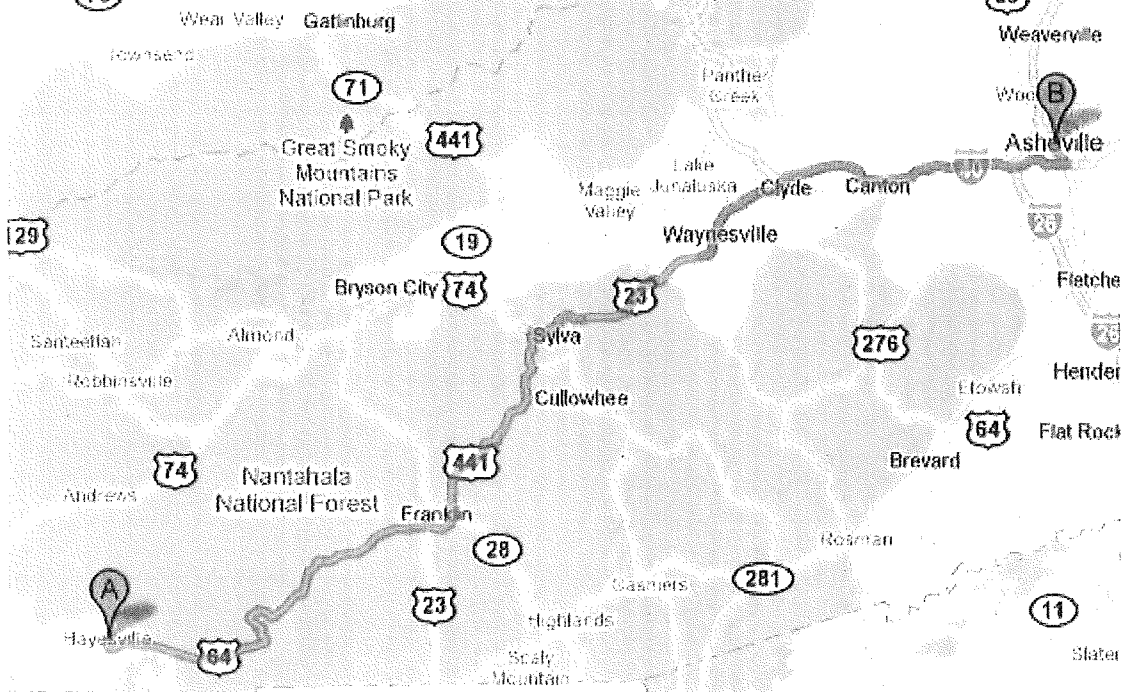
Sylva (Jackson County) to Asheville



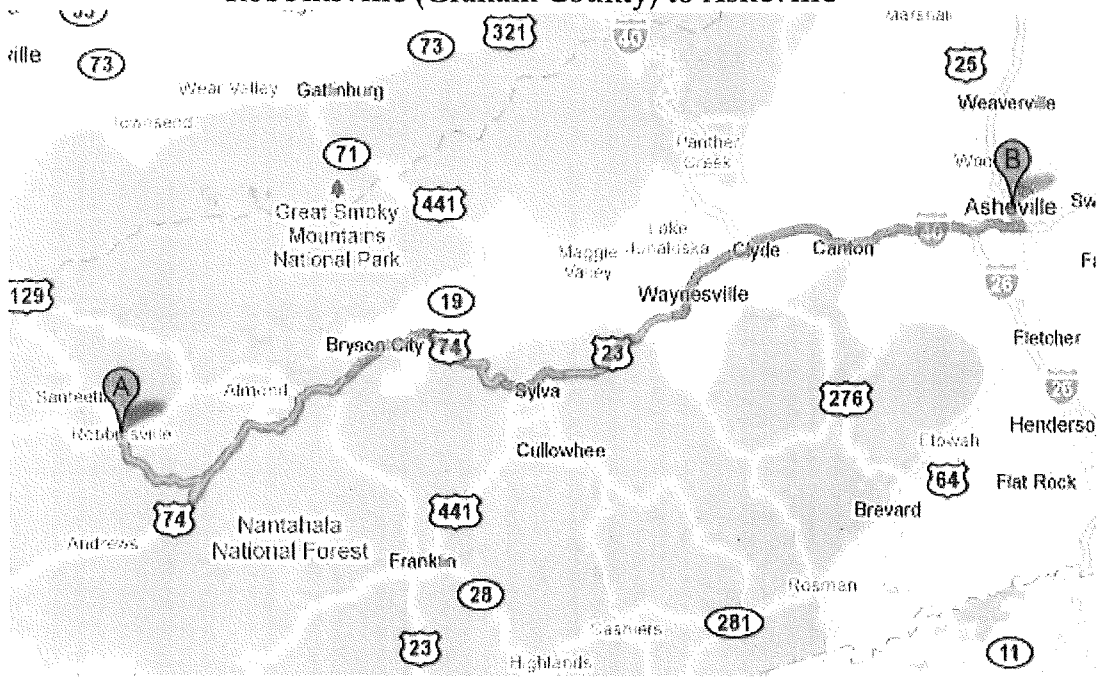
Bryson City (Swain County) to Asheville



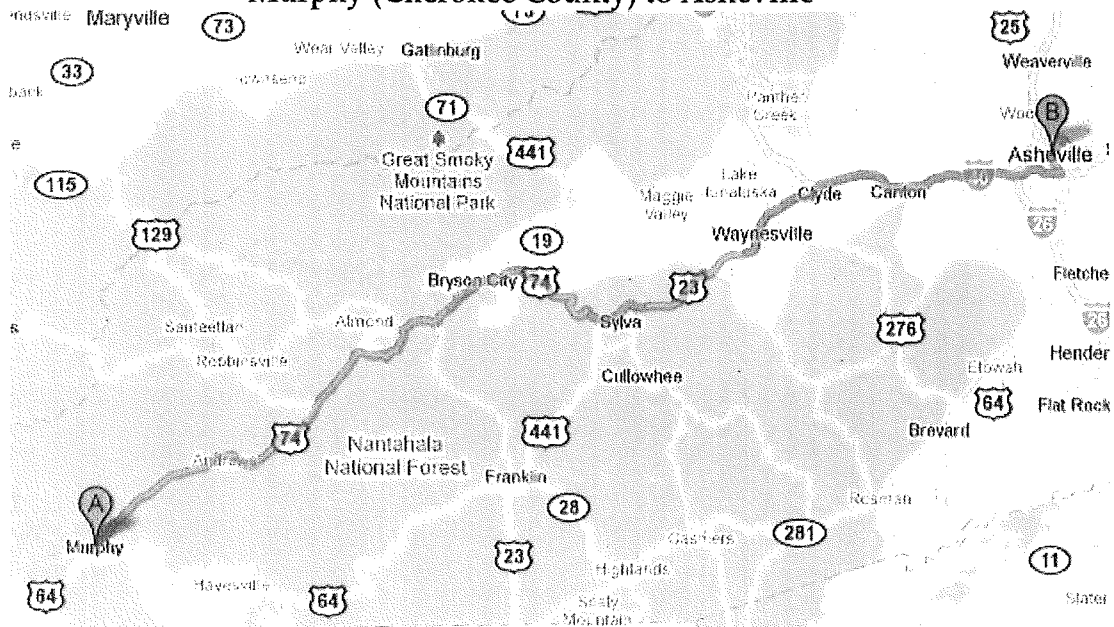
Hayesville (Clay County) to Asheville



Robbinsville (Graham County) to Asheville



Murphy (Cherokee County) to Asheville



As previously stated, there are no inpatient hospice facilities in the six westernmost counties of North Carolina (Macon, Jackson, Swain, Clay, Graham, and Cherokee), a geographic area of 2,047 square miles with a total population of more than 130,000. Of these six counties, four have an

identified deficit of inpatient hospice beds in the *Proposed 2010 SMFP* as shown in the table below.

<i>County</i>	<i>Proposed 2010 SMFP Inpatient Hospice Bed Deficit</i>
Macon	3
Jackson	2
Swain	1
Clay	0
Graham	0
Cherokee	1

HHF of WNC believes that the inpatient hospice needs of these residents can be served effectively in one freestanding hospice facility located in Macon County, specifically Franklin. Franklin is centrally located in the far western region of North Carolina. The distance from Franklin to the county seat of each of the six westernmost counties is as follows:

<i>County Seat (County)</i>	<i>Distance from Franklin</i>
Sylva (Jackson County)	19.5 miles
Bryson City (Swain County)	31.2 miles
Hayesville (Clay County)	34.8 miles
Robbinsville (Graham County)	47.0 miles
Murphy (Cherokee County)	62.9 miles

Demographics

Further, the westernmost six counties continue to experience increases in the retiree population, exacerbating the need for inpatient hospice services in the region. According to the North Carolina Office of State Budget and Management's population estimates for 2008, persons age 65 and older equaled 18.8 percent of the combined population for each of these six counties, compared to 12.4 percent for North Carolina overall. By 2019, persons age 65 and older will comprise 19.7 percent of the total population of the six counties combined as compared to 14.7 percent of the total North Carolina population. Further, according to Macon County Planner Derek Roland, by the year 2029, only 1.3 percent of the population growth in Macon County will be attributable to natural growth of local families; 98.7 percent will be from immigration, mostly retirees. The far western region of North Carolina is now, and is projected to continue to be, a significant

retirement destination, which will certainly impact the need for end-of-life care services in the region, including freestanding inpatient hospice services.

In addition to the higher percentage of elderly, the actual number of older residents in these counties supports the need for inpatient hospice services. As shown on the chart below, the population age 65 and over in these six counties totaled nearly 25,000 in 2008, according to the North Carolina Office of State Budget and Management.

<i>County</i>	<i>2008 Age 65+ Population</i>
Macon	7,391
Jackson	5,608
Swain	2,090
Clay	2,270
Graham	1,599
Cherokee	5,574
Total	24,532

Combined, these counties would rank among the top ten North Carolina counties for total population age 65 and over.

<i>County</i>	<i>2008 Age 65+ Population</i>
Mecklenburg	80,654
Wake	73,515
Guilford	57,563
Forsyth	44,015
Buncombe	34,609
Cumberland	27,087
Gaston	26,058
New Hanover	25,412
Durham	25,122
Davidson	22,060

In contrast, however, each of these ten counties has an existing inpatient hospice facility or one currently under development, while the counties in the far western region of the state remain unserved.

Projected Demand and Feasibility

In 2008, HHF of WNC and Angel Medical Center jointly engaged Health Planning Source, a health care consulting firm, to complete a market feasibility study and financial business plan for development of a freestanding hospice facility in Macon County. The defined service area in the market feasibility study included a primary service area of Macon County and a secondary service area of Jackson, Swain, and Clay counties. Using widely accepted projection methodologies, the feasibility study projected demand for hospice services by level of care, including inpatient, residential and respite.

Consistent with the discussion of need in this petition, the demand analysis in the feasibility study assumed that an inpatient hospice facility in Macon County would serve hospice patients from the greater western region, specifically, Jackson, Swain, and Clay counties, regardless of the agency to which they are initially admitted. This assumption is reasonable, particularly given that most of the counties in this region of the state are served by multiple hospice providers and that each of those hospice providers also serves multiple counties.

	Good Shepherd	Angel Hospice	Highlands-Cashiers	WestCare
Cherokee	▲			
Clay	▲			
Graham		√		√
Jackson		√	√	▲
Macon		▲	▲	√
Swain		▲		√

▲ Office located within county, according to the Proposed 2010 SMFP, 2008 patient origin data.

√ Served county from another office according to the Proposed 2010 SMFP, 2008 patient origin data.

As such, it is logical to assume that hospice patients in the surrounding counties identified will be referred to a hospice facility in Macon County. The results of the demand analysis in the feasibility study indicate that the four-county area could support eight inpatient beds by 2012, as well as a number of residential beds. The income statement, conservatively based upon the results of the market feasibility study and business plan, showed a positive net income for a 12-bed facility (six inpatient beds and six residential beds) by the second year of operation.

2. Existing alternatives to the special need adjustment are less effective and more costly.

At present, hospice patients in Macon and surrounding counties who require inpatient care must be admitted to a hospital or nursing home. These settings are less effective locales and are generally more expensive venues for the delivery of hospice care. Inpatient care outside a hospice facility is frequently fragmented, resulting in a departure from the hospice philosophy of care and a less than ideal end of life experience for dying patients and their loved ones. Additionally, the hospice home care staff is constantly challenged to orient, train, and educate the staff of the institutional inpatient provider. The inpatient staff do not specialize in hospice care and are asked to care for both acute care and hospice patients simultaneously. Thus, they must transition from different treatment philosophies in dealing with acute care and palliative care patients, transitioning moment to moment between aggressive, curative treatment for the acute care patient and comfort management of the hospice patient's symptoms, pain, and death experience.

As a result of these and other factors, the advantages of a freestanding inpatient/residential facility include:

- Hospice principles and practices are the primary goal as the unit is not physically or programmatically attached to any other facility.
- The inpatient unit is designed to be a homelike atmosphere.
- The agency's cost reflects only those costs required to support the needs of hospice patients, not the high-technology equipment and services required for an acute care setting but not needed by hospice patients.
- Hospice maintains control to ensure that only hospice-appropriate services are provided.
- Patients are served by an interdisciplinary team, with staffing that reflects the needs of both patients and families.
- The facility and its staff make provisions for teaching caregiving skills to family members so they can participate in the care and support of the patient while in the facility.
- Continuity between home and facility-based care, all consistent with the overall hospice interdisciplinary team plan of care.

Further, patients admitted to and cared for in an inpatient hospice facility incur significantly lower costs than those admitted to acute care settings. Studies estimate that approximately 25 percent of Medicare's expenses are paid for patients in their last year of life. The use of hospice has been proven

to reduce Medicare expenditures. A 2007 Duke University study reported in *Social Science & Medicine* found that hospice use reduced Medicare program expenditures during the last year of life by an average of \$2,039 per hospice user.² Additionally, some complex hospice patients require frequent readmissions for inpatient services. In the absence of a freestanding hospice facility, readmissions of hospice patients must be managed in an environment that is not only more costly but also not the most appropriate environment for hospice patients. Acute care hospitals are focused on providing an environment directed to acute, life-saving interventions versus the palliative and supportive care of a hospice patient in need of temporary remedies.

Finally, as previously discussed, there are no other hospice facility alternatives in the region, nor does the existing facility in Asheville have sufficient capacity to accommodate the needs of the residents of the far western region of the state. In short, the approval of this petition is crucial to provide the mechanism for creating access to quality and cost-effective inpatient hospice services where none currently exists.

3. The county six-bed minimum should not be applied to Macon County.

As previously discussed, HHF of WNC believes that the needs of the six far western counties can be effectively met in one centrally located hospice facility in Macon County. Given the requirement that a deficit reach six (6) beds before a need determination is generated, combined with the historically low deficits in any one of the six westernmost counties, it is unlikely that a need determination will be made in any of these counties in the foreseeable future based on application of the standard methodology alone. However, as discussed in this petition, supported by previous petition approvals, and the overwhelming community support for this project, a need for freestanding inpatient hospice services in this region of our state certainly exists. Therefore, HHF of WNC asks that the combined deficits of these six counties be considered as evidence that a freestanding inpatient hospice facility centrally located in this region can reasonably support six inpatient hospice beds.

² Taylor, Jr., Donald H.; Osterman, Jan; Van Houtven, Courtney H.; Tulskey, James A.; Steinhauer, Karen. (2007). What length of hospice use maximizes reduction in medical expenditures near death in the US Medicare program? *Social Science & Medicine*, Volume 65, Issue 7, October 2007, pages 1466-1478.

Implications if the Petition is Not Approved

The only alternative if this petition is not approved is to maintain status quo, meaning that hospice patients in the far western region of our state will continue to have no access to freestanding hospice services. Without the approval of this petition, a need determination in any one of the six far west counties is unlikely in the foreseeable future. If the petition is not approved, hospice patients in our region will continue to be underserved. Hospice patients requiring inpatient care will have to be admitted to a hospital or nursing home, which is less effective for the reasons presented in this petition.

If given the opportunity to submit a certificate of need application for inpatient beds in 2010, HHF of WNC also intends to seek approval for the development of residential hospice beds, allowing for the development of a comprehensive freestanding hospice facility in Macon County that could serve the immediate needs of the far western region. The development of a combination inpatient/residential facility would provide the most appropriate level of care for hospice patients requiring a higher level of care, while doing so in a more cost-effective environment than provided by either the hospital or nursing home settings.

For these reasons, HHF of WNC requests an adjusted need determination for six (6) inpatient hospice beds in Macon County.