

**Novant Health, Inc. and Novant Health Presbyterian Medical Center  
7/31/2017 Comments in Opposition on  
Carolinas Medical Center-Charlotte 6/15/2017 CON Application  
To Add 45 New Acute Bed CON Project I.D. F-011362-17**

**Overview**

Carolinas Medical Center (CMC) is seeking the state's approval to add 45 new acute beds in existing unlicensed space that is currently used for "over-flow" patients. CMC estimates a capital cost of only \$1,200,000 and a projected opening date of 04/01/2018. In Section C of the CMC CON Application (page 37) CMC also states that it projects to shift inpatient volume to CHS Fort Mill in South Carolina when it opens.

On page 35 of its application, CMC is showing a current patient origin for its medical /surgical beds of:

- 41.9% Mecklenburg County
- 6.2% Gaston County
- 4.9% York County (SC)
- 4.7% Union County (NC)
- 4.1% Cleveland County (NC)
- 2.6% Cabarrus County (NC)
- 2.6% Lancaster (SC)
- 2.0% Iredell
- 28.1% Other

This demonstrates that 7.5% of CHS-Charlotte's medical/surgical inpatients originate in South Carolina.

**SECTION B – "CRITERION (1)" – G.S. 131E-183(a)(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."*

The need in the SMFP was generated based upon current inpatient days provided in inpatient acute care beds in Mecklenburg County. However, the methodology does not identify in which acute care facility those beds should be placed. It is simply a tool to identify the "determinative need" for acute care beds in the identified service area.

As will be discussed in the context of CON Review Criteria (3), (3a), (4), (5), (9) and (18a), CMC:

- Does not demonstrate need for the proposed project.

Therefore, the CMC CON application does not conform to Policy GEN-3 and CON Review Criterion (1).

**SECTION C - “CRITERION (3)” and RULES: - G.S. 131E-183(a)(3) and G.S. 131E-183(b)**

**Criterion (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.”**

CMC is located in central Mecklenburg County and as discussed below, over 10% of its total discharges were from South Carolina in FFY 2016.

The need in the SMFP was generated based upon current inpatient days provided in inpatient acute care beds in Mecklenburg County. However, the methodology does not identify in which acute care facility those beds should be placed. It is simply a tool to identify the “determinative need” for acute care beds in the identified service area. CHS inpatient hospitals currently serve a large number of South Carolina residents as discussed in the application and below. As discussed in the CMC application, a new hospital is being built in Fort Mill, South Carolina. This hospital will be either a 64-bed acute care hospital operated by CHS, OR it will be a 100-bed hospital operated by Piedmont Medical Center. Either way a new hospital with, at a minimum, 64 new acute care beds will be developed in Fort Mill in the next three to five years as reflected in **Attachment 1<sup>1</sup>**.

Currently, **an estimated 54 to 75 patients per day** from South Carolina are occupying an acute care bed at CMC as reflected in the following table.

**Estimated South Carolina ADC at CMC**

	<b>CY 2016</b>
South Carolina Discharges – 2017 LRA	10.4%
Total CMC Pt Days [Form C Assumptions page 3])	264,900
Estimated South Carolina Patient Days (% of discharges x Total CMC Pt Days)	27,550
South Carolina Estimated Average Daily Census	<b>75.5</b>
South Carolina Discharges Two Counties (Page 35)	7.5%
Total CMC Pt Days (Form C Assumptions page 3)	264,900
Estimated South Carolina Patient Days (% of discharges x Total CMC Pt Days)	19,868
South Carolina Estimated Average Daily Census	<b>54.4</b>

Source: LRAs; CHS-Application page 35

In its 2017 LRA, CMC reports that 10.4% of its total patients came from South Carolina. On page 35 of its application, CMC reports that 7.5% of its total medical surgical patients came from two counties in South Carolina, York (4.9%) and Lancaster (2.6%).

These estimates are based upon historical inpatient discharge information provided by CMC in its annual LRA and on page 35 of the CHS application. Novant Health did not find any patient origin data for total patient days in either the CMC or CHS-Pineville applications.

<sup>1</sup> Jan. 12, 2017 Charlotte Observer article, “Piedmont Medical Center wins appeal to build Fort Mill’s first hospital <http://www.charlotteobserver.com/news/local/article126222794.html>”

In Section Q of its application in the assumptions provided for Form C, CHS assumes that only 1.7% of total patient days from South Carolina will transfer back to the new hospital in their own state, once the CHS facility is operational. This represents 12.3 patients per day in 2017; **less than 25%** of all South Carolina residents seeking care at CMC. This is projected to increase to only 12.4 patients per day by 2021; **which is too low**. This assumption used by CHS is based upon the 2013 CON Application submitted in South Carolina for the Fort Mill Hospital. It does not reflect the increase in admissions and patient days provided for South Carolina residents at CMC since that time; nor does it reflect the high population growth experienced in York and Lancaster Counties in South Carolina since that time.

Mecklenburg County is the second fastest growing county in North Carolina. In fact, seven of the eight counties in HSA III are in the top 25 fastest growth counties when considering actual population growth as shown in the following table.

**Population Growth in North Carolina**

County	2017	2021	Growth	Average Annual Growth
Wake	1,052,122	1,141,451	89,329	1.7%
Mecklenburg	1,077,874	1,166,058	88,184	1.6%
Durham	307,438	327,816	20,378	1.3%
Johnston	193,035	210,312	17,277	1.8%
Union	228,065	244,212	16,147	1.4%
Cabarrus	205,097	221,185	16,088	1.6%
Forsyth	373,145	388,510	15,365	0.8%
Guilford	525,464	540,481	15,017	0.6%
Brunswick	128,891	141,611	12,720	2.0%
Buncombe	261,031	273,427	12,396	0.9%
Iredell	176,191	188,125	11,934	1.4%
New Hanover	226,069	237,746	11,677	1.0%
Onslow	199,025	207,801	8,776	0.9%
Alamance	161,309	169,439	8,130	1.0%
Gaston	216,693	224,810	8,117	0.7%
Orange	143,264	149,483	6,219	0.9%
Hoke	54,161	60,224	6,063	2.2%
Harnett	129,996	135,589	5,593	0.9%
Chatham	74,538	79,987	5,449	1.5%
Henderson	115,082	120,014	4,932	0.9%
Pender	60,408	65,333	4,925	1.6%
Moore	97,081	101,969	4,888	1.0%
Lincoln	83,554	87,870	4,316	1.0%
Wayne	125,146	129,267	4,121	0.7%
Rowan	141,806	145,177	3,371	0.5%

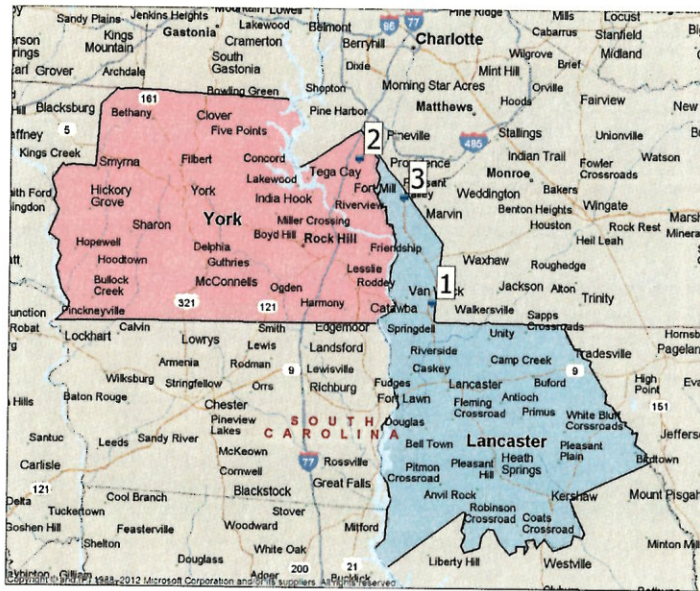
Source: NCOSBM 7.27.17

Any additional acute care beds awarded in Mecklenburg County should be awarded to meet the needs of residents of Mecklenburg County, not South Carolina. CMC relied on old projections from 2013 to

estimate the potential impact of a new hospital in Fort Mill. It is unreasonable for CMC to assume that the volume shifting would not increase from estimates made in 2013.

It is reasonable to assume that considerably more than 12 patients per day of the potential 75 estimated to be treated at CMC in the future will shift to a new hospital in Fort Mill. The new hospital in Fort Mill will be closer to home and family for practically all South Carolina residents. Novant Health mapped the time and distance from three points in northern Lancaster County and eastern York County to determine time and distance to CMC and Fort Mill. Traveling to Fort Mill was closer and faster for all three of the locations in the following map.

**Mapped Locations in South Carolina**



The projections provided by CMC do not take into consideration the large volume of patients that will seek care closer to home and family and avoiding the Charlotte traffic, when the new hospital is open in Fort Mill. CMC’s projections are overstated and unreasonable.

Therefore, the proposed project is not consistent with the CON Criteria and Standards for Acute Care Services and is non-conforming to Criterion 3.

**SECTION E - “CRITERION (4)” - G.S. 131E-183(a)(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 the context of CON Statutory Review Criterion (3), CMC failed to demonstrate a need of the identified population for the proposed project.

Consequently, CMC fails to demonstrate that it is the least costly or most effective alternative proposed, which demonstrates non-conformity with CON Review Criteria (4).

**SECTION F - "CRITERION (5)" - G.S. 131E-183(a)(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."*

With its modest \$1,200,000 capital cost this suggests that CMC is spending less than \$27,000 per bed for the proposed 45 new acute beds. The CMC average capital cost per bed based on the estimated total capital cost is actually \$26,666 per bed and may not be sufficient if there are unexpected considerations such as undiscovered damage in patient rooms or patient rooms that do not meet current building codes. Based on the \$120,000 construction cost included in the CMC total capital cost, the construction cost per bed for the CMC project is only \$2,667 per patient room. It is not clear whether CMC will be able to appropriately develop the 45 patient rooms with new acute beds due to the very conservative total capital cost that also fails to consider the impact of potential future litigation on the estimated total capital cost.

Further, as discussed in the context of CON Statutory Review Criterion (3), CHS-Pineville failed to demonstrate a need of the identified population for the proposed project. Therefore, the financial ProFormas for the project are based upon unreasonable data and cannot be determined reasonable.

Consequently, CHS-Charlotte fails to demonstrate that it is the least costly or most effective alternative proposed, which demonstrates non-conformity with CON Review Criteria (5).

**SECTION K - "CRITERION (12)" - G.S. 131E-183(a)(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."*

With its modest \$1,200,000 capital cost this suggests that CMC is spending less than \$27,000 per bed for the proposed 45 new acute beds. The CMC average capital cost per bed based on the estimated total capital cost is actually \$26,666 per bed and may not be sufficient if there are unexpected considerations such as undiscovered damage in patient rooms or patient rooms that do not meet current building codes. Based on the \$120,000 construction cost included in the CMC total capital cost, the construction cost per bed for the CMC project is only \$2,667 per patient room. It is not clear whether CMC will be able to appropriately develop the 45 patient rooms with new acute beds due to the very conservative total capital cost that also fails to consider the impact of potential future litigation on the estimated total capital cost.

Consequently, CMC fails to demonstrate that that the cost, design, and means of construction proposed represent the most reasonable alternative, and is non-conforming to CON Review Criteria (12).

**SECTION N - "CRITERION (18a)" - G.S. 131E-183(a)(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."*

As discussed above, CHS-Charlotte fails to demonstrate conformity with CON Review Criteria (1), (3), (4), (5) and (9). Consequently, CMC fails to demonstrate that its CON application is conforming to CON Review Criterion (18a).

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## Comparative Factors

### *Payor Mix for Medically Underserved Populations*

In CHS-Charlotte CON Application Section L (page 91 ), CHS-Charlotte fails to include a row label in the payor mix table for “Charity Care.” Also, CHS-Charlotte does not define Self-Pay in the payor mix table below. This omission makes it challenging to compare payor mix for medically underserved populations with other competing CON Applications.

<b>Payor Source</b>	<b>CHS-Charlotte Medical Surgical Beds-PY2 CY 2020</b>
Medicare	49.3%
Medicaid	13.5%
Commercial/Managed Care	26.9%
Other (worker’s comp & other)	2.6%
Self-Pay	7.7%
Total	100.0%

Note that this factor is not comparable when comparing the NHPMC NICU application. NICU patients are never Medicare. As reflected in the NHPMC NICU application, the predominant payors are Medicaid and insurance. North Carolina Medicaid has worked diligently over the years to assure that babies, especially babies from low-income families, have health insurance.

### *Cost Per Patient Day*

Note that this factor is not comparable when comparing the NHPMC NICU application. NICU patients are high-cost patients. NICU babies use considerable resources, and unlike other patients, the cost per patient day does not dramatically decrease after the first day or two in the hospital. NICU babies, have longer, more intensive, lengths of stay and as a result, higher costs per patient day. Therefore this factor cannot be compared regarding the NHPMC NICU.

### *Charity Care As A Percent of Net Revenue*

Note that this factor is not comparable when comparing the NHPMC NICU application. NICU patients are rarely charity patients. As reflected in the NHPMC NICU application, the predominant payors are Medicaid and insurance. North Carolina Medicaid has worked diligently over the years to assure that babies, especially babies from low-income families, have health insurance.

### *Total Capital Cost Per Square Foot*

It is unexpected that the total capital cost (\$1,200,000) per square foot for the development of 45 new acute beds at CHS-Charlotte is \$152.09 per SF ( $\$1,200,000/7,890\text{SF} = \$152.09/\text{SF}$ ). The total capital cost per SF for CHS-Pineville is \$337.98 ( $\$1,115,000/3,299\text{SF} = \$337.98/\text{SF}$ ). is 2.2 times larger than the total capital cost per SF for CHS-Charlotte. This suggests that CHS-Charlotte may have underestimated its total capital cost. The same architectural firm provided information for the total capital cost estimate.

### ***Construction Cost Per Square Foot***

It is odd that the construction cost amount (\$120,000) included in the CHS-Charlotte Total Capital Cost is less than the construction cost (\$300,000) included in the CHS-Pineville, as the construction cost per SF for CHS-Charlotte is \$15.09/SF ( $\$120,000/7,890 \text{ SF} = \$15.09 \text{ per SF}$ ) while the construction cost per SF for CHS-Pineville is \$90.93 /SF ( $\$300,000/3,299 \text{ SF} = \$90.93/\text{SF}$ ). This suggests that the construction cost per SF for CHS-Pineville is six times more than the construction cost per SF for CHS-Charlotte. This suggests that CHS-Charlotte may have understated its total capital costs. The same architectural firm provided the architect's certified construction cost estimate for CHS-Charlotte and CHS-Pineville.

### ***Distribution of Acute Bed Inventory In Mecklenburg County***

There are two predominant health systems serving Mecklenburg and surrounding counties. Novant Health operates an integrated system of physician practices, hospitals, outpatient centers, and more - each element committed to delivering a remarkable healthcare experience for patients. Carolinas Health System also operates an integrated system of physician practices, hospitals, outpatient centers, and more. These two healthcare systems compete with each other daily to meet the needs of patients as well as meeting the needs of physicians and other healthcare providers. While the majority of healthcare services are provided on an outpatient basis, it is critical that inpatient care be available when needed.

Over the years, Novant Health and CHS have competed for additional inpatient acute care beds multiple times. Currently, CHS has a large competitive advantage in the market with 1,316 licensed acute care beds. Novant Health has only 862 licensed and CON approved acute care beds. This reflects a disparity in the market with Novant Health having only 39.6% of total acute care beds.

Approving the Novant Health applications is the more effective alternative for beneficial choice and competition in Mecklenburg County.

### **Conclusion**

The CHS-Pineville and CMC applications do not demonstrate conformity with multiple CON Review Criteria and does not demonstrate conformity with multiple CON Regulatory Criteria and Standards for acute care inpatient services. The NHPMC NICU application and the NHPMC 18 bed application comply with all applicable CON review criteria and rules. The NHPMC applications are comparatively superior to the CHS applications in several key areas, including access for medically underserved populations. As a result, the CHS-Pineville and CMC CON applications should be denied and the NHPMC CON applications should be approved.

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# Piedmont Medical Center wins appeal to build Fort Mill's first hospital

By Joe Marusak and Karen Garloch

[jmarusak@charlotteobserver.com](mailto:jmarusak@charlotteobserver.com) - January 12, 2017

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- [Piedmont Medical Center wins appeal to build Fort Mill's first hospital](#)
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After a decade-long battle, Piedmont Medical Center in Rock Hill has won an appeal allowing it to build Fort Mill's first hospital.

The ruling by the South Carolina Court of Appeals came as a setback to Carolinas HealthCare System, which had previously gotten the OK to build a hospital there. Carolinas HealthCare did not say if it will appeal the case to the S.C. Supreme Court.

"We are in the process of reviewing the opinion," the Charlotte hospital system said in a statement. "Many York County residents have chosen, and will continue to choose, [Carolinas HealthCare System](#) providers for their care. We will maintain our commitment to providing the highest quality care and the comprehensive services needed for the residents in York County, and pledge to continue providing care and services for their families' health care needs.

Brad Talbert, Piedmont Medical Center's president and CEO, said he is pleased by the Court of Appeals ruling.

"While the ruling remains subject to appeal by Carolinas HealthCare, we are hopeful to conclude this legal process," Talbert said in a statement. "This new hospital, coupled with our recently announced plans to

construct a free-standing emergency department on Gold Hill Road, will enhance access to care for residents in this area.”

[\[RELATED: Piedmont Medical Center wins right to build Fort Mill hospital\]](#)

The ruling affirmed South Carolina Administrative Law Judge Phillip Lenski’s 2014 order that overturned a 2011 decision to give the coveted project to Carolinas HealthCare. That approval followed appeals of the state’s initial decision to give the project to [Piedmont Medical Center](#).

Much has been at stake. Piedmont Medical, owned by the for-profit Tenet Healthcare Corp., declared in the past that it will lose millions if the Charlotte titan wins. Carolinas HealthCare, Charlotte’s largest employer and one of the largest public nonprofit hospital systems in the country, seeks to expand its base of patients who can be referred to its other area hospitals.

Piedmont officials plan to build a 100-bed, \$120 million hospital at S.C. 160 West and U.S. 21 in Fort Mill, not far from Baxter Village, the housing community often cited as an example of York County’s booming growth.

The Fort Mill hospital will take 36 beds from Piedmont Medical and offer an emergency room, comprehensive women’s health services, advanced cardiac services and an intensive care unit, officials have said. It would create about 400 jobs.

In 2006, Piedmont Medical won the certificate of need from the state’s Department of Health and Environmental Control to build the hospital. But Carolinas HealthCare and Novant Health, which had also applied for the certificate of need to build the hospital, appealed. A judge later ordered state regulators to reopen applications, essentially restarting the process.

Carolinas HealthCare won that round in 2011, when the South Carolina [Department of Health and Environmental Control](#) ruled that its proposal best complied with the state’s health plan. Carolinas HealthCare proposed a 64-bed, \$77.5 million facility on land west of Sutton Road near Interstate 77.

Both Piedmont and Novant appealed that decision to the South Carolina Administrative Law Court, but Novant eventually withdrew. Over four weeks in 2014, Lenski heard lawyers for Piedmont argue that a Carolinas HealthCare hospital would financially harm Piedmont Medical Center and York County doctors. They noted that adverse economic impact is one of the factors DHEC can consider.

Carolinas HealthCare attorneys said their hospital would not economically harm Piedmont because northern York County residents are already getting their health care from Carolinas Medical Center and CMC-Pineville. Carolinas HealthCare officials estimated they are already serving more than 50 percent of the patients in the Fort Mill-Tega Cay area.

Read more here: <http://www.charlotteobserver.com/news/local/article126222794.html#storylink=cpy>