



COMPETITIVE COMMENTS ON
2023 MECKLENBURG COUNTY ACUTE CARE BED APPLICATIONS
SUBMITTED BY NOVANT HEALTH
DECEMBER 1, 2023

Four CON applications were submitted in response to the 2023 SMFP need determination for 164 additional acute care beds in Mecklenburg County, including:

CON Project ID# F-012439-23 Atrium Health CMC: Add 112 acute care beds at Carolinas Medical Center (CMC)

CON Project ID# F-012444-23 Atrium Health University: Add 10 acute care beds at AH University City

CON Project ID# F-012446-23 Atrium Health Pineville: Add 42 acute care beds at Atrium Health (AH) Pineville

CON Project ID# F-012457-23 Novant Health Presbyterian Medical Center (NHPMC): Add 54 acute care beds at NHPMC.

As the foregoing list shows, the total number of beds applied for exceeds the SMFP need determination. Atrium Health (“AH”) has applied for all 164 acute care beds; Novant Health has applied for less than one-third of the 2023 need determination. As the smaller health system in Mecklenburg County with a demonstrated need for the 54 beds at its flagship, tertiary level medical center, the Novant Health application should be approved for 54 beds at NHPMC.

These comments are submitted by Novant Health in accordance with N.C. Gen. Stat. § 131E-185(a1)(1) to address the representations in the applications, including a comparative analysis and a discussion of the most significant issues regarding the applicants’ conformity with the statutory and regulatory review criteria (the “Criteria”) in N.C. Gen. Stat. §131E-183(a) and (b). Other non-conformities and errors in the competing applications may exist and Novant Health reserves the right to develop additional opinions, as appropriate upon further review and analysis.

These comments demonstrate that the AH applications are not approvable and therefore, no beds should be awarded to AH in this review. In the event the Agency decides to award any beds to AH, Novant Health respectfully submits that the award to AH should be no greater than 110 beds in total. This would allow the Agency to approve the Novant Health application as proposed. This is in the best interests of patients because it promotes competition which increases choices, leads to lower prices, and enhances quality and

innovation. As the Novant Health application demonstrates, it is conforming to all applicable review criteria and rules and is the comparatively superior applicant in this review.¹

COMPARATIVE ANALYSIS

Pursuant to G.S. § 131E-183(a)(1) and the 2023 State Medical Facilities Plan, no more than 164 acute care beds may be approved for Mecklenburg County in this review. Because the applications in this review collectively propose to develop 218 additional acute care beds in Mecklenburg County, all applications cannot be approved for the total number of beds proposed. Therefore, a comparative review is required as part of the Agency findings after each application is reviewed independently against the applicable statutory review criteria. The following factors have recently been utilized by the Agency for all reviews regardless of the type of services or equipment proposed:

- Conformity with Statutory and Regulatory Review Criteria
- Scope of Services
- Geographic Accessibility
- Historical Utilization
- Access by Service Area Residents
- Access by Underserved Groups: Charity Care
- Access by Underserved Groups: Medicaid
- Access by Underserved Groups: Medicare
- Competition (Access to a New or Alternate Provider)
- Projected Average Net Revenue per Patient
- Projected Average Total Operating Expense per Patient

These are the factors the Agency used in the 2022 Mecklenburg County Acute Care Bed Review. *See* Findings in Project I.D.#s: F-12280-22, F-12281-22, F-12282-22, & F-F-12293-22, dated March 24, 2023. The Agency may use its discretion to add other comparative factors based on the facts of the competitive review. The following summarizes the competing applications relative to the potential comparative factors.

¹ To be clear, Novant Health is not agreeing that Atrium Health should be approved for any beds, and it is not waiving any right to appeal an award of beds to Atrium Health.

Conformity with CON Review Criteria and Rules

Only applicants demonstrating conformity with all applicable review Criteria and rules can be approved, and only the application submitted by Novant Health demonstrates conformity to all Criteria:

Conformity of Applicants

Applicant	Project I.D.	Conforming/ Non-Conforming
CMC	F-012439-23	No
AH University City	F-012444-23	No
AH Pineville	F-012446-23	No
NHPMC	F-012457-23	Yes

The Novant Health application is based on reasonable and supported volume projections and adequate projections of cost and revenues. As discussed below, the competing applications contain errors and flaws which result in one or more non-conformities with statutory and regulatory review Criteria. Therefore, the Novant Health application is the most effective alternative regarding conformity with applicable review Criteria and rules.

Scope of Services

NHPMC and CMC each represent the flagship hospital in Mecklenburg County for their respective health systems. AH University City and AH Pineville are existing acute care hospitals that provide numerous types of medical services, but offer a lesser range of services with lower average acuity levels than patients treated at NHPMC and CMC.

Novant Health notes the Agency found that CMC was a more effective alternative regarding scope of services in the 2022 Mecklenburg County competitive acute care bed review based on CMC’s status as an academic medical center (AMC) and a Level I trauma center. Novant Health respectfully disagrees with the Agency’s 2022 determination. There is no real connection between CMC's status as an AMC and Level I Trauma Center and the proposed projects. The beds at CMC will not be used specifically for teaching purposes or for trauma patients. Any patient could be admitted to the beds at CMC, and any physician with admitting privileges could see the patient.

Furthermore, NHPMC has training and teaching programs similar to CMC, including residencies in pharmacy, emergency medicine, infectious diseases, and oncology.² Novant Health also notes the CMI for CMC and NHPMC are very close. See page 65 of CMC’s application and page 41 of NHPMC’s application. Furthermore, as described in its application, NHPMC expects to achieve designation as a Level II Trauma Center during 2024. There are no material differences between CMC and NHPMC as acute care providers within the Mecklenburg County service area regarding scope of services and therefore, it is not

² <https://www.novanthealth.org/medical-education/residency-programs/>

appropriate to find CMC the more effective alternative with respect to scope of services merely because it is an AMC and Level I trauma center.

Therefore, NHPMC and CMC are more effective alternatives regarding the scope of services, and AH Pineville and AH University City are less effective alternatives in this review.

Geographic Accessibility

All four applications propose to development of new acute care beds to existing facilities. NHPMC, CMC, and AH University City each propose to develop new acute care beds in Charlotte. AH Pineville proposes to develop new acute care beds in Pineville, which already has 298 acute care beds (excluding NICU).

The following table summarizes the average population per existing and approved acute care beds in the Mecklenburg County Municipalities involved in this competitive review.

Municipality	Existing/Approved Beds (Excluding Neonatal Beds)	2022 Population	Population/Bed
Charlotte	1,851	894,866	483.5
Pineville	298	10,931	36.7

Source: NCOSBM

Based on a comparison of population per bed in the applicable municipalities, the AH Pineville application is a less effective alternative.

Access can also be measured by when the proposed services will be implemented. The sooner a service is implemented, the more quickly it can benefit patients. Novant Health’s proposed project effectively increases access to acute care services in Mecklenburg County. Novant Health’s proposed additional acute care beds will become operational by July 1, 2025. The 2023 SMFP acute care bed methodology forecasts need during 2025; therefore, Novant Health’s project timetable is consistent with the SMFP planning horizon for the need determined acute care beds. We further note that the 14 beds approved for NHPMC in Project ID F-12293-22 are physically ready, but unopened pending DHSR Construction review.

CMC’s project will not operationalize the proposed beds until April 1, 2027, nearly two years later than Novant Health’s project and five years after the applicable SMFP was published. Therefore, Novant Health’s proposal is a more effective alternative for increasing access to acute care beds in this review.

Historical Utilization

The following table illustrates historical acute care bed utilization for the existing facilities in this review based on acute care days as reported in Table 5A of the 2023 SMFP.

Facility	FFY 2021 Acute Care Days	ADC	# of Acute Care Beds*	Utilization Rate	Projected (Surplus)/Deficit
CMC	312,739	857	1,170	73.2%	114
AH Pineville	78,542	215	298	72.2%	32
AH University City	31,404	86	111	77.5%	44
NH Presbyterian	422,685	1,158	1,609	72.0%	159

*Existing and approved acute care beds

Source: 2023 SMFP, Table 5A, Proposed 2024 SMFP, Table 5A

Based on the acute care bed methodology, each of the facilities in this competitive review exhibits bed deficits that contributed to the 2023 Mecklenburg County acute care bed need determination. No single facility or system generated the need in the 2023 SMFP, and even if one facility or system did generate the need, it would not entitle that facility or system to any beds. Each applicant must demonstrate the need for the project proposed in its application. We note, however, that by itself, NHPMC’s deficit of 159 beds exceeds the 2023 need determination of 154 beds. No single hospital in the Atrium Health system has a similar deficit of beds. This supports NHPMC’s demonstration of need for its more modest proposal of 54 beds.

The need for additional acute care beds in the 2023 SMFP is triggered by the utilization of the total number of existing and approved acute care beds within a given service area. To project inpatient days of care in 2025, the total annual percentage of change during 2015-2019 is divided by four to determine the historical percentage change for the county. For positive annual percentages of change, as is the case for Mecklenburg County, add one to determine the county growth rate multiplier. For counties with a positive county growth rate multiplier, 2025 projected days of care are calculated by compounding the growth rate multiplier over the next four years. Mecklenburg County’s growth rate multiplier is 1.0325. The historical days of care used to calculate the Mecklenburg County growth rate multiplier are summarized in the following table.

Mecklenburg County Acute Care Days

	2015 Days	2016 Days	2017 Days	2018 Days	2019 Days	Average Annual Change
Atrium Health Total Days	377,117	382,846	395,604	405,977	421,703	2.84%
<i>Atrium Health Annual Change</i>		1.5%	3.3%	2.6%	3.9%	
Novant Health Total Days	185,521	182,594	185,596	190,746	217,163	4.17%
<i>Novant Health Annual Change</i>		-1.6%	1.6%	2.8%	13.8%	
County Total Days	562,638	565,440	581,200	596,723	638,866	3.25%
<i>County Annual Change</i>		0.5%	2.8%	2.7%	7.1%	

Source: DHSR Healthcare Planning Section, Table 5A: Acute Care Bed Need Projections

As illustrated in the previous table, Novant Health’s systemwide acute days of care have experienced a higher rate of growth compared to Atrium Health. Mecklenburg County’s historical acute care growth rate and the resulting county growth rate multiplier are attributed to Novant Health’s robust historical utilization. In other words, regarding projected bed need per the acute care bed methodology, Atrium Health benefits from Novant Health’s robust historical utilization via the application of a growth rate (3.25%) that is higher compared to Atrium Health’s historical utilization (2.84%).

If Atrium Health’s systemwide projected acute care bed need were calculated based on its historical rate of change (2.84%) instead of the Mecklenburg County rate of change (3.25%), the Atrium Health system projected bed need would be **reduced** from 159 beds in column K of Table 5A of the 2023 SMFP by 89 beds total a projected bed need of 70 beds. Please see the following table.

Atrium Health System Projected Acute Care Bed Need Based on Historical Growth Rate Multiplier

Facility Name	Licensed Acute Care Beds	Adjustments	IP DOC	GRM	Projected Days of Care	2025 ADC	2025 Beds Adjusted for Target Occ.	Projected Deficit/ (Surplus)
2022 Acute Care Bed Need Determination	0	65		1.0284	0	0	0	-65
Atrium Health Lake Norman	0	30		1.0284	0	0	0	-30
Atrium Health Pineville	223	70	78,542	1.0284	87,841	241	320	27
Atrium Health University City	95	8	31,404	1.0284	35,122	96	144	41
Carolinas Medical Center	970	162	312,739	1.0284	349,765	958	1,229	97
Atrium Health	1,288	270	422,685		472,728	1,295	1,693	70

Source: Bed need calculated based on 2023 SMFP acute care bed methodology substituting Atrium Health’s historical growth rate multiplier (1.0284) instead of county growth rate multiplier (1.0325).

Conversely, if Novant Health’s system projected bed need were calculated based on its historical rate of change (4.17%) instead of the county rate of change, the Novant Health system projected bed need would increase from 70 beds in Column K of Table 5A of the 2023 SMFP to 111 beds.

Novant Health System Projected Acute Care Bed Need Based on Historical Growth Rate Multiplier

Facility Name	Licensed Acute Care Beds	Adjustments	IP DOC	GRM	Projected Days of Care	2025 ADC	2025 Beds Adjusted for Target Occ.	Projected Deficit/ (Surplus)
Novant Health Ballantyne Medical Center	0	36		1.0417	0	0	0	-36
Novant Health Huntersville Medical Center	135	12	31,139	1.0417	36,671	100	141	-6
Novant Health Matthews Medical Center	146	20	44,913	1.0417	52,892	145	217	51
Novant Health Mint Hill Medical Center	36	0	11,231	1.0417	13,226	36	54	18
Novant Health Presbyterian Medical Center	481	-7	142,504	1.0417	167,819	460	589	115
Novant Health Steele Creek Medical Center	0	32		1.0417	0	0	0	-32
Novant Health	798	93	229,787		270,608	741	1,002	111

Source: Bed need calculated based on 2023 SMFP acute care bed methodology substituting Novant Health’s historical growth rate instead of the Mecklenburg County growth rate.

Novant Health has conservatively proposed the addition of only 54 acute care beds at NHPMC, which is less than half of the systemwide deficit projected in the previous table, and less than the projected facility deficit of 94 beds per the standard acute care bed methodology, and less than one third of the total new acute care beds needed in Mecklenburg County pursuant to the 2023 SMFP.

Additionally, Novant Health can promptly and efficiently develop the proposed additional acute care beds because the project does not require renovation or construction. Novant Health’s proposed additional acute care beds will become operational by June 1, 2025. The 2023 SMFP acute care bed methodology forecasts bed need during 2025; therefore, Novant Health’s project timetable is consistent with the SMFP planning horizon for the need determined acute care beds. The speed with which Novant Health can develop its proposed 54 beds at NHPMC is relevant to meeting the needs of patients. We further note that the 14 beds approved for NHPMC in Project ID F-12293-22 are physically ready, but unopened pending DHSR Construction review.

For the foregoing reasons, Novant Health’s proposal to develop 54 additional acute care beds at NHPMC is the most effective alternative regarding historical utilization.

Competition (Patient Access to a New or Alternate Provider)

The following table illustrates the existing and approved providers located in the service area. Considering the applicants in this competitive review are each existing providers in the service area, the expansion of an existing provider that currently controls fewer acute care beds than another provider would encourage all providers in the service area to improve quality and lower costs in order to compete for patients.

As of November 2023, there are 2,502 existing and approved acute care beds, allocated between 10 facilities operated by two providers (Novant Health and Atrium Health) in the Mecklenburg County Service Area, as illustrated in the following table.

Facility	Existing/Approved Beds (Excluding Neonatal Beds)
AH Lake Norman	0 (+30)
AH Pineville	268 (+30)
AH University City	95 (+16)
CMC	979 (+191)
Atrium Total	1,609
NH Ballantyne Medical Center	0 (+36)
NH Huntersville Medical Center	135 (+12)
NH Health Matthews Medical Center	146 (+20)
NH Health Presbyterian Medical Center	469 (+7)
NH Mint Hill Medical Center	36
NH Steele Creek Medical Center	0 (+32)
Novant Total	893
Mecklenburg County Total	2,502

Source: Table 5A, 2023 SMFP; Proposed 2024 SMFP, applications under review; 2023 LRAs

Atrium Health currently controls 1,609 of the 2,502 acute care beds in Mecklenburg County, or 64.3%. Novant Health controls only 893 of the acute care beds in Mecklenburg County, or 35.7%.

If AH University City, AH Pineville, and Carolinas Medical Center each have their applications approved for a combined total of 164 acute care beds, Atrium Health would control 1,773 of the 2,666 existing or approved acute care beds (following this review) in Mecklenburg County, or 66.5 percent, and Novant would control 893 of the 2,668 existing or approved acute care beds, or 33.4 percent. Thus, a decision to approve all Atrium applications and disapprove the NHPMC application would actually worsen the competitive imbalance that presently exists in Mecklenburg County. This is not in patients' best interests.

If NHPMC's application for 54 acute care beds is approved, and the remaining 110 acute care beds are awarded to Atrium Health University City, Atrium Health Pineville, and Carolinas Medical Center, Novant Health would control 947 of the 2,666 existing and approved acute care beds in Mecklenburg County, or 35.5 percent, and Atrium would control 1,719 of the 2,666 existing and approved acute care beds in Mecklenburg County, or 64.5 percent. Regardless of the ultimate conclusion of this comparative analysis, AH will control a larger percentage of acute care beds in Mecklenburg County than it currently does.

The Agency has repeatedly recognized that improving competition in Mecklenburg County is an important issue, and has repeatedly determined that Novant Health is the more effective alternative with regard to competition in Mecklenburg County acute care bed reviews. *See, e.g.*, Findings in 2022 Mecklenburg County Acute Care Bed Review, p. 118 (March 24, 2023); Findings in 2021 Mecklenburg County Acute Care Bed Review, p. 129 (March 29, 2022); Findings in 2020 Mecklenburg County Acute Care Bed Review, p. 185 (May 4, 2021); Findings in 2019 Mecklenburg County Acute Care Bed Review, p. 223 (April 2, 2020); and Findings in 2018 Mecklenburg County Acute Care Bed Review, p. 172 (April 5, 2019). The facts have not changed. The Agency should analyze competition in the same way it has in the last several reviews and determine that the NHPMC Application is the more effective alternative with respect to competition.

Therefore, with regard to patient access to a new or alternate provider, the application submitted by Novant Health is the most effective alternative, and the applications submitted by Atrium Health are less effective alternatives.

Access By Service Area Residents

On page 32, the 2023 SMFP defines the service area for acute care beds as “the acute care bed service area in which the bed is located. The acute care bed service areas are the single and multicounty groupings shown in Figure 5.1.” Figure 5.1, on page 36, shows Mecklenburg County as a single-county acute care bed service area. Thus, the service area for this review is Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

The following table illustrates access by service area residents during the third full fiscal year following project completion.

Projected Service to Mecklenburg County Residents, Project Year 3

	CMC	AH Pineville	AH University	NHPMC
# of Mecklenburg County Patients	25,317	8,735	6,981	22,044
% of Mecklenburg County Patients	50.7%	38.2%	79.4%	68.5%

Source: CON applications, Section C.3

As shown in the previous table, NHPMC is the second most effective applicant regarding number and percentage of Mecklenburg County patients during the third project year.

Novant Health acknowledges the Agency has determined in previous reviews that an analysis of access by service area residents was inconclusive in Mecklenburg County. In the 2022 Mecklenburg County acute care bed review the Agency stated, “the acute care bed need determination methodology is based on utilization of all patients that utilize acute care beds in Mecklenburg County and is not only based on patients originating from Mecklenburg County.” 2022 Findings, p. 120. The Agency stated that CMC’s Level I trauma center and academic medical center status, “is likely to pull in many patients from

significant distances who are seeking the specialized level of health care offered by Carolinas Medical Center.” Id. Additionally, in its concurrent 2023 Mecklenburg County applications, AH contends that it is not appropriate to determine the comparative effectiveness of access by service area residents.

Novant Health respectfully disagrees with the Agency’s 2022 inconclusive determination and AH’s contention. Every acute care service area serves patients from counties outside the service area, i.e., in-migration. Moreover, as previously discussed, CMC’s status as an AMC and Level I Trauma Center is not relevant to this review because the beds in question would be used for any patient, not just trauma patients or patients seeking services that are only available at CMC. A comparison of acute care in-migration among other urban counties reveals that Mecklenburg County has a comparatively lower percentage of patients in-migrating compared to other counties. Please see the following table.

Percentage of Patients In-migrating to Service Area

County/Service Area	No. of Acute Care Beds (Existing & Approved)	In-Migration (% of Patients from Other Counties)
Orange	859	83.6%
Durham	1,411	64.9%
Moore	371	61.1%
Pitt	861	58.2%
Forsyth	1,625	56.1%
New Hanover	729	53.7%
Buncombe	749	52.3%
Mecklenburg	2,603	42.3%
Wake	1,547	30.5%

Source: Proposed 2024 SMFP, 2023 Acute Care Patient Origin Report: Patient Origin by County of Service
 Excludes neonatal beds

As shown in the previous table, the majority of acute care discharges that occurred in Mecklenburg County during FY2022 were residents of Mecklenburg County (58%). Only 42% of acute care discharges that occurred in Mecklenburg County were those of residents from other counties. Orange, Durham, Moore, Pitt, Forsyth, New Hanover, and Buncombe counties each have much higher percentages of patients in-migrating from counties outside the respective service area. Novant Health notes that the 2020 Forsyth Acute Care Bed Review included a conclusive determination of access by service area residents and Forsyth County has a comparatively higher percentage of in-migration compared to Mecklenburg County.³

The Agency’s statement from the 2022 Mecklenburg County acute care bed review that *“the acute care bed need determination methodology is based on utilization of all patients that utilize acute care beds in*

³ Agency Findings for 2020 Forsyth Acute Care Beds Review, pp. 59-60 (January 2, 2021).

Mecklenburg County and is not only based on patients originating from Mecklenburg County” is true for any respective acute care service area. Novant Health would note the Agency has also determined that, “regarding this comparative factor, the application projecting to serve the largest number of service area residents is the more effective alternative based on the assumption that residents of a service area should be able to derive a benefit from a need determination for additional acute care beds in the service area where they live.” See page 120 of Agency Findings for 2022 Mecklenburg Acute Care Bed Review. Therefore, consistent with the intent of the comparative factor and in consideration of the comparatively lower percentage of in-migration that occurred in Mecklenburg County during FY2022, it is reasonable and appropriate to reach a conclusive determination regarding access by service area residents in this review as shown in the following table.

Comparative Factor	CMC	AH Pineville	AH University	NHPMC
Access by Service Area Residents: No. of Patients	Less Effective	Less Effective	More Effective	More Effective
Access by Service Area Residents: % of Patients	Less Effective	Less Effective	More Effective	More Effective

Access By Underserved Groups

Underserved groups are defined in G.S. § 131E-183(a)(13) as follows:

“Medically underserved groups, such as medically indigent or low-income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority.”

For access by underserved groups, applications are compared with respect to three underserved groups: charity care patients (i.e., medically indigent or low-income persons), Medicare patients and Medicaid patients. Access by each group is treated as a separate factor.

The Agency may use one or more of the following metrics to compare the applications:

- Total charity care, Medicare, or Medicaid patients
- Charity care, Medicare, or Medicaid admissions as a percentage of total patients
- Total charity care, Medicare, or Medicaid dollars
- Charity care, Medicare, or Medicaid dollars as a percentage of total gross or net revenues
- Charity care, Medicare, or Medicaid cases per patient

The above metrics the Agency uses are determined by whether or not the applications included in the review provide data that can be compared as presented above and whether or not such a comparison would be of value in evaluating the alternative factors.

Projected Charity Care

The following table compares projected charity care in the third full fiscal year following project completion for the applicants.

Projected Charity Care – 3rd Full FY

Applicant	Form F.2b	Form C.1b		Form F.2b	
	Total Charity Care	Discharges	Avg Charity Care per Discharge	Gross Revenue	% of Gross Revenue
CMC	\$72,323,569	49,964	\$1,448	\$1,587,162,446	4.6%
AH Pineville	\$19,920,604	25,081	\$794	\$491,972,873	4.0%
AH University	\$12,915,191	10,923	\$1,182	\$182,275,119	7.1%
NHPMC	\$67,049,892	32,184	\$2,083	\$2,107,621,370	3.2%

There are notable differences among the competing applications that result in an analysis of charity care being inconclusive. In Section L, page 93, Novant Health states that it provides charity care to both insured and uninsured patients. Additionally, on page 95 Novant Health states that it makes no differentiation between charity care and reduced-cost care patients.

In Section L, page 127, CMC says its internal data does not track charity care as a payor source and charity care is provided to patients across all payor categories. However, in the assumptions immediately following Forms F.2 and F.3, the applicant states that projected charity care is the difference between projected gross revenue and projected net revenue for self-pay patients.

In Section L, page 127, AH Pineville says its internal data does not track charity care as a payor source and charity care is provided to patients across all payor categories. However, in the assumptions immediately following Forms F.2 and F.3, the applicant states that projected charity care is the difference between projected gross revenue and projected net revenue for self-pay patients.

In Section L, page 126, AH University City says its internal data does not track charity care as a payor source and charity care is provided to patients across all payor categories. However, in the assumptions immediately following Forms F.2 and F.3, the applicant states that projected charity care is the difference between projected gross revenue and projected net revenue for self-pay patients.

Additionally, NHPMC’s pro formas are not structured the same way as those from CMC, AH Pineville, and AH University City. NHPMC’s pro formas capture the entire patient stay. In the assumptions and methodology for Form F.2, Novant Health states that the acute care gross charges include nursing units, inpatient surgery revenue, ED services, imaging, obstetrics/newborn costs, and all ancillary services. In the assumptions and methodology for Forms F.2 and F.3, AH University City, AH Pineville, and CMC all

state the gross revenue includes acute care bed charges and expenses only, and do not include any ancillary services such as lab, radiology, or surgery.

Based on the differences in how each applicant categorizes charity care and the differences in the presentation of pro forma financial statements, one cannot make a valid comparison of the charity care provided by each applicant for purposes of evaluating which application was more effective regarding this comparative factor. Accordingly, the Agency should determine that this factor is inconclusive. *See also* Findings in 2022 Mecklenburg County Acute Care Bed Review, p. 123.

Projected Medicare

The following table compares projected access by Medicare patients in the third full fiscal year following project completion for all the applicants in the review.

Projected Medicare Revenue – 3rd Full FY

Applicant	Form F.2b	Form C.1b	Avg Medicare Rev. per Discharge	Form F.2b	% of Gross Revenue
	Total Medicare Revenue	Discharges		Gross Revenue	
CMC	\$608,789,235	49,964	\$12,185	\$1,587,162,446	38.4%
AH Pineville	\$307,568,387	25,081	\$12,263	\$491,972,873	62.5%
AH University	\$89,399,410	10,923	\$8,185	\$182,275,119	49.0%
NHPMC	\$957,029,370	32,184	\$29,736	\$2,107,621,370	45.4%

Generally, the application projecting to provide the most revenue to Medicare patients is the more effective alternative for this comparative factor. As shown in the previous table, NHPMC is the most effective alternative with respect to average Medicare revenue per discharge.

As previously described, NHPMC’s pro formas are not structured the same way as those from AH University City, AH Pineville, and CMC. In the assumptions and methodology for Form F.2, Novant Health states that the acute care gross charges include nursing units, inpatient surgery revenue, ED services, imaging, obstetrics/newborn costs, and all ancillary services. In the assumptions and methodology for Forms F.2 and F.3, AH University City, AH Pineville, and CMC all state the gross revenue includes acute care bed charges and expenses only, and do not include any ancillary services such as lab, radiology, or surgery.

Based on the differences in the presentation of pro forma financial statements, one cannot make a conclusive comparison of the Medicare access provided by each applicant for purposes of evaluating which application was more effective regarding this comparative factor. Accordingly, the Agency should determine that this factor is inconclusive. *See also* Findings in 2022 Mecklenburg County Acute Care Bed Review, p. 124.

Projected Medicaid

The following table compares projected access by Medicaid patients in the third full fiscal year following project completion for all the applicants in the review.

Projected Medicaid Revenue – 3rd Full FY

Applicant	Form F.2b	Form C.1b	Avg Medicaid Rev. per Discharge	Form F.2b	% of Gross Revenue
	Total Medicaid Revenue	Discharges		Gross Revenue	
CMC	\$433,965,130	49,964	\$8,686	\$1,587,162,446	27.3%
AH Pineville	\$46,257,361	25,081	\$1,844	\$491,972,873	9.4%
AH University	\$32,597,421	10,923	\$2,984	\$182,275,119	17.9%
NHPMC	\$251,532,107	32,184	\$7,815	\$2,107,621,370	11.9%

Generally, the application projecting to provide the most revenue to Medicaid patients is the more effective alternative for this comparative factor. As shown in the previous table, NHPMC projects the highest average Medicaid revenue per discharge.

As previously described, NHPMC’s pro formas are not structured the same way as those from AH University City, AH Pineville, and CMC. In the assumptions and methodology for Form F.2, Novant Health states the acute care gross charges include nursing units, inpatient surgery revenue, ED services, imaging, obstetrics/newborn costs, and all ancillary services. In the assumptions and methodology for Forms F.2 and F.3, AH University City, AH Pineville, and CMC all state that gross revenue includes acute care bed charges and expenses only, and do not include any ancillary services such as lab, radiology, or surgery.

Based on the differences in the presentation of pro forma financial statements, one cannot make a conclusive comparison of the Medicaid access provided by each applicant for purposes of evaluating which application was more effective regarding this comparative factor. Accordingly, the Agency should determine that this factor is inconclusive. *See also* Findings in 2022 Mecklenburg County Acute Care Bed Review, p. 124.

Projected Average Net Revenue per Patient

The following table shows the projected average net revenue per patient in the third year of operation for each of the applicants, based on the information provided in the applicants’ pro forma financial statements (Section Q). Generally, the application proposing the lowest average net revenue is the more effective alternative regarding this comparative factor since a lower average may indicate a lower cost to the patient or third-party payor.

Projected Average Net Revenue per Patient – 3rd Full FY

Applicant	Form C.1b	Form F.2b	Average Net Revenue per Discharge
	Discharge	Net Revenue	
CMC	49,964	\$421,372,146	\$8,434
AH Pineville	25,081	\$116,774,197	\$4,656
AH University	10,923	\$48,590,887	\$4,448
NHPMC	32,184	\$625,211,520	\$19,426

As previously described, NHPMC’s pro formas are not structured the same way as those from AH University City, AH Pineville, and CMC. In the assumptions and methodology for Form F.2, Novant Health states the acute care gross charges include nursing units, inpatient surgery revenue, ED services, imaging, obstetrics/newborn costs, and all ancillary services. In the assumptions and methodology for Forms F.2 and F.3, AH University City, AH Pineville, and CMC all state that gross revenue includes acute care bed charges and expenses only, and do not include any ancillary services such as lab, radiology, or surgery.

Therefore, a comparison of projected net revenue per patient is inconclusive. *See also* Findings in 2022 Mecklenburg County Acute Care Bed Review, p. 125.

Projected Average Operating Expense per Patient

The following table shows the projected average operating expense per patient in the third full fiscal year following project completion for each facility. Generally, the application projecting the lowest average operating expense per patient is the more effective alternative with regard to this comparative factor to the extent it reflects a more cost-effective service which could also result in lower costs to the patient or third-party payor.

Projected Average Operating Expense per Patient – 3rd Full FY

Applicant	Form C.1b	Form F.2b	Average Operating Expense per Discharge
	Discharge	Operating Expense	
CMC	49,964	\$412,806,853	\$8,262
AH Pineville	25,081	\$117,711,556	\$4,693
AH University	10,923	\$45,212,207	\$4,139
NHPMC	32,184	\$603,655,769	\$18,756

As previously described, NHPMC’s pro formas are not structured the same way as those from AH University City, AH Pineville, and CMC. In the assumptions and methodology for Form F.2, Novant Health states the acute care gross charges include nursing units, inpatient surgery revenue, ED services, imaging, obstetrics/newborn costs, and all ancillary services. In the assumptions and methodology for Forms F.2 and F.3, AH University City, AH Pineville, and CMC all state that gross revenue includes acute care bed charges and expenses only, and do not include any ancillary services such as lab, radiology, or surgery.

Therefore, a comparison of the projected average operating expense per patient is inconclusive. *See also Findings in 2022 Mecklenburg County Acute Care Bed Review, p. 126.*

Additional Comparative Factors for Consideration

As discussed previously, the Agency has discretion to consider additional comparative factors and is not required to adhere to the factors used in prior reviews. Should the Agency wish to consider additional factors, NHPMC offers the following factors for the Agency’s consideration. Even if the Agency declines to use these proposed additional factors, they highlight certain relevant aspects of the projects. Viewed in the overall context of these applications, they support the approval of NHPMC’s application.

Access to Proposed New Acute Care Beds: Services Offered

If the Agency determines its analysis of “Access by Service Area Residents” and “Access by Medically Underserved” to be inconclusive, Novant Health believes the Agency should include a comparative factor that can result in a meaningful and conclusive comparison of access among the competing applications in this review. One such factor is a comparison of when the projected acute care beds will become operational. Regarding this comparative factor, the application that projects to develop new acute care beds the fastest is the more effective alternative based on the assumption that patients utilizing acute care beds in the service area will benefit from the need-determined acute care beds expeditiously. For information purposes, the 2023 SMFP acute care bed methodology forecasts acute care bed need during 2025. The following table compares the project completion dates for the applications in this review.

Projected Service to Mecklenburg County Residents, Project Year 3

	CMC	AH Pineville	AH University	NHPMC
# of Mecklenburg County Patients	4/1/2027	7/1/2025	6/1/2025	7/1/2025

Source: CON applications, Section P

AH Pineville, AH University, and NHPMC each propose to operationalize additional acute care beds by mid-2025.

Novant Health’s proposed project effectively increases access to acute care services in Mecklenburg County. Novant Health can immediately develop the proposed additional acute care beds because the project does not require renovation or construction. Novant Health’s proposed additional acute care bed would become operational by July 1, 2025, which is consistent with the 2023 SMFP acute care bed methodology forecasted need.

CMC’s project will not operationalize the proposed beds until April 1, 2027, a year and nine months later than Novant Health’s project. Therefore, Novant Health’s proposal is a more effective alternative for increasing access to acute care beds in this review compared to CMC’s proposal.

As discussed previously, NHPMC has demonstrated its ability to rapidly develop acute care bed projects to meet patient needs. The 14 beds approved for NHPMC in Project ID F-12293-22 are physically ready, but unopened pending DHSR Construction review.

Project Capital Cost

Cost control is one of the bedrock principles of CON. *See, e.g.,* G.S. §§ 131E-175(1), (2), (4), (6), and (7). As shown in the following table, NHPMC projects the lowest capital cost of the competing proposals.

Project Capital Costs

	CMC	AH Pineville	AH University	NHPMC
CON Capital Cost	\$161,320,353	\$30,924,841	\$7,149,215	\$993,816

Source: CON applications, Form F.1

Novant Health’s project does not require renovation or construction. Therefore, Novant Health’s proposal is the most cost-effective alternative to meet the need for additional acute care beds in Mecklenburg County.

Summary

The following table lists the comparative factors and states which application is the more effective alternative.

Comparative Factor	Novant Health	CMC	AH Pineville	AH University
Conformity with Review Criteria	Most Effective	Less Effective	Less Effective	Less Effective
Scope of Services	Equally Effective	Equally Effective	Equally Effective	Less Effective
Geographic Accessibility	More Effective	Equally Effective	Less Effective	Equally Effective
Historical Utilization	Most Effective	Less Effective	Less Effective	Less Effective
Enhance Competition	Most Effective	Less Effective	Less Effective	Less Effective
Access by Service Area Residents: No. of Patients	More Effective	More Effective	Less Effective	Less Effective
Access by Service Area Residents: % of Patients	More Effective	Less Effective	Less Effective	More Effective
Access by Underserved Groups				
Projected Charity Care	Inconclusive	Inconclusive	Inconclusive	Inconclusive
Projected Medicare	Inconclusive	Inconclusive	Inconclusive	Inconclusive
Projected Medicaid	Inconclusive	Inconclusive	Inconclusive	Inconclusive
Projected Average Net Revenue per Patient	Inconclusive	Inconclusive	Inconclusive	Inconclusive
Projected Average Operating Expense per Patient	Inconclusive	Inconclusive	Inconclusive	Inconclusive
Access to Proposed New Acute Care Beds: Services Offered	More Effective	Less Effective	More Effective	More Effective
Project Capital Cost	More Effective	Less Effective	Less Effective	Less Effective

For each of the comparative factors previously discussed, NHPMC’s application is determined to be more effective alternative for the following factors:

- Conformity with Review Criteria
- Scope of Services
- Geographic Accessibility
- Historical Utilization
- Enhance Competition
- Access by Service Area Residents: Number of Patients
- Access by Service Area Residents: % of Patients
- Access to Proposed New Acute Care Beds: Services Offered
- Project Capital Cost

COMMENTS REGARDING CRITERION (3)

The CMHA System is *Not* Chronically Underbedded

The CMC, AH Pineville, and AH University City applications each contain identical discussions of “Overview of Unmet Need” and “The CMHA System is Chronically Underbedded (Unlike Any Other Hospital or System in NC),” which claim that the Atrium Health system in Mecklenburg County has a need for additional acute care beds. The Agency should not be persuaded by these overly dramatic and factually incorrect assertions. Atrium Health’s alleged system-based need and comparisons to other North Carolina health systems do not inform the Agency why the specific projects proposed by the applications conform to Criterion (3). The applicant must still demonstrate the need for the specific project it proposes.

Similar narratives were included in Atrium Health’s 2022 Mecklenburg County applications and were rejected in the Agency’s analyses of conformity to Criterion (3). Specifically, the following provides excerpts from the Agency’s findings in the 2022 Mecklenburg Acute Care Bed Review.

2022 Mecklenburg Acute Care Bed Review
Project ID #s: F-12280-22, F-12281-22, F-12282-22, & F-12293-22
Page 14

Analysis of Need – In Section C, pages 46-76, the applicant combined its discussion of need for additional acute care beds at AH Pineville with discussion of the Atrium health system need for acute care beds and comparisons which are not part of the analysis of whether the application is conforming with Criterion (3). The discussion that follows in this section focuses only on the need as it relates to AH Pineville in this specific application under review.

In Section C, Atrium discusses how historical acute care bed need determinations in Mecklenburg County have been generated entirely or primarily by Atrium facilities. However, on page 47 in Chapter 5 of the 2022 SMFP, it states:

“Any person can apply for a CON to meet the need, not just the health service facility or facilities that generated the need.”

Atrium has the burden of demonstrating the need for the proposed acute care beds in its applications as submitted. In Section C, page 51, the applicant states:

“[Atrium] acknowledges that a provider that generates the need for additional capacity is not entitled to that need; it must submit an approvable application and demonstrate that it has the most effective alternative for the entire allocation.”

2022 Mecklenburg Acute Care Bed Review
Project ID #s: F-12280-22, F-12281-22, F-12282-22, & F-12293-22
Page 24

Analysis of Need – In Section C, pages 45-77, the applicant combined its discussion of need for additional acute care beds at CMC with discussion of the Atrium health system need for acute care beds and comparisons which are not part of the analysis of whether the application is conforming with Criterion (3). The discussion that follows in this section focuses only on the need as it relates to CMC in this specific application under review.

In Section C, Atrium discusses how acute care bed need determinations in Mecklenburg County have been generated entirely by Atrium facilities. However, on page 47 in Chapter 5 of the 2022 SMFP, it states:

“Any person can apply to meet the need, not just the health service facility or facilities that generated the need.”

Atrium has the burden of demonstrating the need for the proposed acute care beds in its applications as submitted. In Section C, page 50, the applicant states:

“[Atrium] acknowledges that a provider that generates the need for additional capacity is not entitled to that need; it must submit an approvable application and demonstrate that it has the most effective alternative for the entire allocation.”

2022 Mecklenburg Acute Care Bed Review
Project ID #s: F-12280-22, F-12281-22, F-12282-22, & F-12293-22
Page 34

Analysis of Need – In Section C, pages 45-73, the applicant combined its discussion of need for additional acute care beds at AH University City with discussion of the Atrium health system need for acute care beds and comparisons which are not part of the analysis of whether the application is conforming with Criterion (3). The discussion that follows in this section focuses only on the need as it relates to AH University City in this specific application under review.

In Section C, Atrium discusses how acute care bed need determinations in Mecklenburg County have been generated entirely by Atrium facilities. However, on page 47 in Chapter 5 of the 2022 SMFP, it states:

“Any person can apply to meet the need, not just the health service facility or facilities that generated the need.”

Atrium has the burden of demonstrating the need for the proposed acute care beds in its applications as submitted. In Section C, page 50, the applicant states:

“[Atrium] acknowledges that a provider that generates the need for additional capacity is not entitled to that need; it must submit an approvable application and demonstrate that it has the most effective alternative for the entire allocation.”

Consistent with the Agency's previous decision to properly disregard Atrium Health's expansive description of its perceived system-based need, the Agency should decline to give credit to Atrium's self-serving and irrelevant "Overview of Unmet Need" and "The CMHA System is Chronically Underbedded (Unlike Any Other Hospital or System in NC)."

Atrium's claims of chronic under-beddedness are nothing new. The Agency has heard these arguments many times before, and, as the chart on page 52 of the CMC application shows, has always awarded Atrium at least some beds every time it has applied in the last five reviews. Still, Atrium is not satisfied, and seems to believe that if it keeps making exaggerated claims of capacity constraints, the Agency will capitulate and award Atrium everything it asks for, every time it asks. The CON Law and the SMFP do not support this distorted result for several reasons. First, it unfairly tilts the competitive scales in Atrium's favor, which harms patients and payors. Second, it encourages the Agency to avoid analyzing the applications according to their individual merit and conducting a reasonable comparative analysis. Third, it eliminates any incentive Atrium has to try to manage its capacity constraints using a massive inventory of 1,609 existing and approved acute care beds in Mecklenburg County. The Agency should disregard Atrium's hyperbole and analyze the applications according to the law.

Atrium states on page 66 of AH Pineville, 64 of AH University and 64 of the CMC application that the 2023 SMFP does not consider that Novant Health's utilization declined in FFY2022. However, Atrium merely reiterates the obvious fact that the 2023 SMFP acute care bed methodology projects utilization based upon FFY2021 inpatient days of care. NHPMC's application addresses FFY2022 utilization in its demonstration of need for services proposed and projected utilization.

2023 SMFP Acute Care Bed Methodology

The CMC, AH Pineville, and AH University City applications each include a discussion of the projected bed need generated by AH facilities based on the 2023 SMFP acute care bed need methodology. However, similar narratives were included in AH's 2022 Mecklenburg County applications and were not influential in the Agency's analyses of conformity to Criterion (3). Specifically, the following provides excerpts from the Agency's findings in the 2022 Mecklenburg Acute Care Bed Review.

2022 Mecklenburg Acute Care Bed Review
Project ID #s: F-12280-22, F-12281-22, F-12282-22, & F-12293-22
Page 14

In Section C, Atrium discusses how historical acute care bed need determinations in Mecklenburg County have been generated entirely or primarily by Atrium facilities. However, on page 47 in Chapter 5 of the 2022 SMFP, it states:

"Any person can apply for a CON to meet the need, not just the health service facility or facilities that generated the need."

2022 Mecklenburg Acute Care Bed Review
 Project ID #s: F-12280-22, F-12281-22, F-12282-22, & F-12293-22
 Page 24

In Section C, Atrium discusses how acute care bed need determinations in Mecklenburg County have been generated entirely by Atrium facilities. However, on page 47 in Chapter 5 of the 2022 SMFP, it states:

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2022 Mecklenburg Acute Care Bed Review
 Project ID #s: F-12280-22, F-12281-22, F-12282-22, & F-12293-22
 Page 34

In Section C, Atrium discusses how acute care bed need determinations in Mecklenburg County have been generated entirely by Atrium facilities. However, on page 47 in Chapter 5 of the 2022 SMFP, it states:

“Any person can apply to meet the need, not just the health service facility or facilities that generated the need.”

The following table summarizes projected acute care bed deficits for existing facilities based on the acute care bed methodology in the 2023 SMFP.

Facility	FFY 2021 Acute Care Days	ADC	# of Acute Care Beds	Utilization	Projected (Surplus)/Deficit
CMC	312,739	857	970	88.3%	114
AH Pineville	78,542	215	223	96.5%	32
AH University City	31,404	86	95	90.6%	44
NH Presbyterian	142,504	390	481	81.2%	94

Source: 2023 SMFP, Table 5A

Each of the facilities in this competitive review has a projected bed deficit that contributed to the 2023 Mecklenburg County acute care bed need determination. No single applicant drove the need or is entitled to any beds.

As previously described, the 2023 SMFP Mecklenburg County growth rate multiplier is 1.0325. The historical days of care used to calculate the multiplier are summarized in the following table.

Mecklenburg County Acute Care Days

	2015 Days	2016 Days	2017 Days	2018 Days	2019 Days	CAGR
Atrium Health Total Days of Care	377,117	382,846	395,604	405,977	421,703	2.84%
Novant Health Total Days of Care	185,521	182,594	185,596	190,746	217,163	4.17%
Mecklenburg Co. Total Days of Care	562,638	565,440	581,200	596,723	638,866	3.25%

Source: 2018 SMFP - 2023 SMFP, Table 5A: Acute Care Bed Need Projections

As illustrated in the previous table, Novant Health’s systemwide acute days of care experienced a much higher rate of growth compared to Atrium Health. Mecklenburg County’s growth rate multiplier is therefore attributed to Novant Health’s robust historical utilization. In other words, regarding projected bed need per the acute care bed methodology, Atrium Health artificially benefits from Novant Health’s robust historical utilization via the application of a growth rate (3.25%) that is higher compared to Atrium Health’s historical utilization (2.84%).

If Atrium Health’s systemwide projected acute care bed need were calculated based on its historical rate of change (2.7%) instead of the county rate of change, the Atrium Health system projected bed need would be reduced by 89 beds. Please see the following table.

Atrium Health System Projected Acute Care Bed Need Based on Atrium Health Historical Growth Rate

AH Growth Rate Multiplier	2023 SMFP Bed Inventory	2025 Projected Days of Care	2025 Projected ADC	2025 Beds Adjusted for Target Occupancy	Projected 2025 Deficit or (Surplus)
1.0284	1,558	472,728	1,295	1,693	70

Source: Bed need calculated based on 2023 SMFP acute care bed methodology substituting Atrium Health’s historical rate of growth for acute care days instead of the Mecklenburg County growth rate for acute care days.

Conversely, if Novant Health’s system projected bed need were calculated based on its historical rate of change (4.17%) instead of the county rate of change, the Novant Health system projected bed need would increase from 70 beds to 111 beds.

Novant Health System Projected Acute Care Bed Need Based on Novant Health Historical Growth Rate

Growth Rate	2023 SMFP Bed Inventory	2025 Projected Days of Care	2025 Projected ADC	2025 Beds Adjusted for Target Occupancy	Projected 2025 Deficit or (Surplus)
4.17%	891	270,608	741	1,002	111

Source: Bed need calculated based on 2023 SMFP acute care bed methodology substituting Novant Health’s historical growth rate instead of the Mecklenburg County growth rate for acute care days.

The previous analyses are provided for illustrative purposes and to underscore the fact that AH is not entitled to any need-determined acute care beds in this review. If the Agency determines that the AH applications conform to all statutory review criteria and administrative rules, then the decision is ultimately based on the comparative analysis. As previously described, the Novant Health application is comparatively superior to the AH applications, and should be approved for all 54 beds proposed in its application.

The AH applications do not use reasonable and supported assumptions. The Agency should find these applications non-conforming with Criterion (3).

Based on the previously described facts which render the AH applications non-conforming to Criterion (3), the AH applications are also non-conforming to Criteria (1), (4), (5), (6), and (18a) and 10A NCAC 14C .3803.

COMMENTS REGARDING CRITERION (6)

AH is applying for 164 additional acute care beds when the respective AH facilities collectively have 267 approved beds that have yet to be developed. As shown in Table 5A of the 2024 SMFP, CMC is approved for 191 additional acute care beds that have not been developed. AH Pineville is approved for 30 additional acute care beds that have not been developed (Project ID F-12147-21 & F-12280-22). AH University City is approved for 16 additional acute care beds that have not been developed (Project ID F-12146-21 & F-12282-22). Despite claims that additional acute care bed capacity is needed “today,” AH has failed to identify any solutions for implementing incremental acute care bed capacity in the near term. AH has not demonstrated in the applications as submitted that the current or past capacity issues raised in its applications will exist once the approved beds are developed. Additionally, it will be many years before these beds are developed at AH facilities, thus discrediting the claim that Atrium needs capacity “today.”

Accordingly, the AH applications propose an unnecessary duplication of existing *or approved* capacity, and should be disapproved.

COMMENTS REGARDING CRITERION (18a)

In deciding which conforming applications to approve or partially approve, the Agency should consider the public interest in maintaining a competitive balance in the largest healthcare market in North Carolina. There is a public interest in creating, maintaining, and improving competitive balance to keep AH from becoming even more dominant and enabling Atrium to dictate rates to commercial payors, self-insured employers, and individuals. As the Agency is aware from comments submitted in previous Mecklenburg County acute care bed reviews, Atrium Health has been sued on antitrust grounds by the United States Department of Justice and private parties for abusing its dominance. *See, e.g., United States v. The Charlotte-Mecklenburg Hospital Authority*, 3:16-cv-00311 (W.D.N.C.); *Benitez v. The Charlotte-Mecklenburg Hospital Authority*, 992 F.3d 229 (4th Cir. 2021); *DiCesare v. The Charlotte-Mecklenburg Hospital Authority*, 376 N.C. 63, 852 S.E.2d 146 (2020). The USDOJ's antitrust case against Atrium Health culminated in a Final Judgment, a copy of which is attached to these comments. The only policy tool the Agency has to improve competitive balance in Mecklenburg County is its CON decisions. The CON Law exists to protect patients, and patients benefit from competition because it lowers cost and improves quality. Therefore, the Agency should continue to evaluate the competitive balance of acute care beds in Mecklenburg County.

As previously described, AH controls 64.3% of the existing and approved acute care beds in Mecklenburg County. Novant Health controls only 35.7% of the existing and approved acute care beds in Mecklenburg County. Despite CON approval of 14 additional acute care beds during the 2022 Mecklenburg Acute Care Bed Review, Novant Health continues to maintain a minority share of acute care beds in the service area. Therefore, the proposed additional acute care bed capacity at NHPMC will positively impact competition by narrowing the gap of control that remains between Novant Health and AH in Mecklenburg County.

The AH applications are non-conforming with Criterion (18a) and should be disapproved.

CONCLUSION

With regard to acute care beds, only the application submitted by Novant Health is fully conforming to all applicable Criteria and rules and the Novant Health Application is also comparatively superior to the AH applications. Therefore, the Novant Health application should be approved as submitted. If the Agency finds the AH applications conforming with all CON criteria and performance standards, the CMC, AH Pineville, and AH University applications are less effective alternatives than the NHPMC application and should be denied or partially approved (for a maximum of 110 beds) on that basis. Fostering competitive balance in Mecklenburg County, or not unnecessarily worsening competitive imbalance, will maximize healthcare value by incentivizing high-quality care, lowering costs, and expanding patient choice.