

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

DECISION DATE: March 2, 2012
PROJECT ANALYST: Bernetta Thorne-Williams
CHIEF: Craig R. Smith

PROJECT I.D. NUMBER: B-8759-11/ Beystone Health and Rehabilitation Co and Fletcher Academy, Inc/ Relocate and replace existing 50 bed nursing facility/ Henderson County

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

G.S. 131E-183(a) The Department shall review all applications utilizing the criteria outlined in this subsection and shall determine that an application is either consistent with or not in conflict with these criteria before a certificate of need for the proposed project shall be issued.

- (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.

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Beystone Health and Rehabilitation Co and Fletcher Academy, Inc propose to construct the 50 bed replacement nursing facility on Haywood Road, in Mills River (Henderson County). The primary site does not have an actual address as the 16.2 acres, 8 acres of which the applicants propose to purchase, is currently undeveloped; however, the address of the property directly across the street from the proposed site is 4144 Haywood Road. The proposed site is seven miles from the existing facility which is located at 80 Brownsberger Circle, in Fletcher (Henderson County). Beystone Health and Rehabilitation Co proposes to co-own and operate the 31,935 square foot nursing facility with Fletcher Academy. The proposed nursing facility will continue to be managed by Ardent Health and Rehabilitation d/b/a SanStone Health and Rehabilitation. The facility will consist of 30 private rooms and 20 semi-private rooms and will be designed to incorporate a "home-like environment". The proposed project does not involve the addition of any new health service facility beds, services or equipment for which there is a need determination in the 2011 State Medical Facilities Plan (SMFP). However, there are several policies on pages 30-31 of the 2011 SMFP that are applicable to this review; Policy NH-6: Relocation of Nursing Facility Beds; Policy NH-8: Innovations in Nursing Facility Beds and page 40; Policy GEN-4: Energy

Efficiency and Sustainability for Health Service Facilities. Those policies are discussed below:

“Policy NH-6: Relocation of Nursing Facility Beds

Relocations of existing licensed nursing facility beds are allowed only within the host county and to contiguous counties currently served by the facility, except as provided in Policies NH-4, NH-5 and NH-7. Certificate of need applicants proposing to relocate licensed nursing facility beds to contiguous counties shall:

- 1. Demonstrate that the proposal shall not result in a deficit in the number of licensed nursing facility beds in the county that would be losing adult care home beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins, and*
- 2. Demonstrate that the proposal shall not result in a surplus of licensed nursing facility beds in the county that would gain adult care home beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins.”*

In Section III.3, page 37, the applicants state:

“The applicant’s proposal to transfer beds within the host country is consistent with the above policy.”

The applicants propose to relocate the existing nursing facility beds within Henderson County. Therefore, the replacement facility will not change the current nursing facility bed inventory in Henderson County. Consequently, the application is conforming with Policy NH-6.

“Policy NH-8: Innovations in Nursing Facility Beds

Certificate of need applicants proposing new nursing facilities, replacement nursing facilities, and projects associated with the expansion and/or renovation of existing nursing facilities shall pursue innovative approaches in care, practices, work place practices and environmental design that address quality of care and quality of life needs of the residents. These plans could include innovative design elements that encourage less institutional, more home-like settings, privacy, autonomy and resident choice, among others.”

In Section III.3, pages 37-38, the applicants state:

“The new facility will offer the latest in comfort and design features that look and feel more “home-like” and offer the maximum amount of privacy and autonomy. Some of the specific features that the proposed new building will offer are as follows:

- 30 of the 50 rooms will be private rooms and will have carpet or wood look flooring with private baths*
- The semi-private rooms will be spacious with carpeting or wood looking flooring with tasteful wall coverings*
- The new facility will have warm and comfortable bedding and sitting areas in the rooms*
- The hallways will not have the typical institutional feel. They will be carpeted and have sconce type lighting*
- The building will have large, bright and colorful common/family areas throughout the building*
- The building will have warm lighting that is energy efficient*
- There will be a large well equipped therapy area with kitchen, bedroom, and living areas which will contribute to the provision of quality care*
- The antiquated practice of having medical records charting areas visible by residents and others will be eliminated*
- The facility will adopt computerized charting and wireless internet access*

The innovative care practices that will be incorporated into the new building are as follows:

- Specialized menus will be offered to the residents and restaurant style dining will be available*
- There will be no set time for medication administration-residents will be allowed to choose when this occurs within the appropriate time frame from a clinical standpoint*
- Meals will not be served when dictated by facility staff, but rather when the resident chooses*
- An emphasis will be placed on outside activities like gardening, walking on the planned walking trails, and participating in cookouts at the planned gazebo and fire pit*
- There will be significant resident and family council input on an ongoing basis*
- The staff will be trained to provide the residents choices*
- Transportation will be provided to allow resident [sic] to enjoy off campus activities*
- The facility will be made available as [sic] training site for nursing assistant programs*
- A recycling program will be implemented with recycling bins in nursing and patient areas*
- The facility will use environmentally friendly products”*

The applicants adequately demonstrate the proposal incorporates innovative approaches to patient care, work place practices and environmental design that address quality of care and quality of life needs of the residents. Therefore, the applicants demonstrate that they will be consistent with Policy NH-8.

“Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities

“Any person proposing a capital expenditure greater than \$2 million to develop, replace, renovate or add to a health service facility pursuant to G.S. 131E-178 shall

include in its certificate of need application a written statement describing the project's plan to assure improved energy efficiency and water conservation.

In approving a certificate of need proposing an expenditure greater than \$5 million to develop, replace, renovate or add to a health service facility pursuant to G.S. 131E-178, the Certificate of Need Section shall impose a condition requiring the applicant to develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes. The plan must be consistent with the applicant's representation in the written statement as described in paragraph one of Policy GEN-4.

Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. 131E-184 are required to submit a plan of energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant's representation in the written statement as described in paragraph one of Policy GEN-4. The plan shall not adversely affect patient or resident health, safety or infection control."

In Section III.3, page 39, the applicants state:

"The building will be constructed with energy efficient insulation consistent with existing building codes. Insulated windows, energy efficient split heating and cooling equipment as well as energy efficient appliances will be incorporated into the design of the building. The building will also have programmable thermostats, energy efficient fluorescent lighting and LED lighting, and dual level switching. Motion sensors for the lighting will be placed in common areas. A central lighting control system will be used for the common areas which will reduce energy consumption. Either a PV solar array system will be utilized which will tie directly into the electrical system of the building and help offset energy consumption or a net metering system which sells power directly to the utility company."

The applicants demonstrate that they will assure improved energy efficiency and water conservation in the proposed replacement nursing facility. Therefore, the applicants will be consistent with Policy GEN-4.

In summary, the application is consistent with Policy NH-6, Policy NH-8, Policy GEN-4, and is therefore conforming to this criterion.

- (2) Repealed effective July 1, 1987.
- (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.

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The applicants, Beystone Health and Rehabilitation Co, whose parent company is Ardent Health and Rehabilitation Co, and Fletcher Academy, Inc propose to construct a 31,935 square foot replacement 50 bed nursing facility near 4144 Haywood Road, in Mills River (Henderson County) which is seven miles from the existing facility. The facility will consist of 30 private rooms and 20 semi-private rooms and will incorporate a “home-like” feel.

Population to be Served

In Section III.8, page 42 and III.9(a), page 43, the applicants state their current and projected patient origin during the first full year of operation following completion of the proposed project (10/1/2013-9/30/2014), as illustrated in the table below.

	Current Patient Origin	Projected Patient Origin
County	% of Total NF Admissions	% of Total NF Admissions
Henderson	84.10%	84.10%
Buncombe	11.36%	11.36%
Out-of-State	4.54%	4.54%
Total	100.0%	100.0%

In Section III.9(b), page 43, the applicants state:

“Patient origin percentages were based on the county of origin for the residents at the existing Beystone Health and Rehabilitation facility.”

The applicants adequately identify the population to be served.

Need to Replace the Facility

In Section III.1(a), page 31, the applicants state:

“The genesis of this proposal did not result from an unmet need from a bed capacity standpoint, but rather from the need for a newer, more modern and up to date health care facility. The current building was built in 1967. The building that houses the kitchen was built in 1933. The current physical plant is outdated and inefficient from an energy conservation standpoint.”

In Section III.1(b), pages 32-33, the applicants discuss the reasons why the facility needs to be replaced. The applicants state:

“[T]he need for this project was generated by the need for a new physical plant. The following issues exist with the current physical plant that make the delivery of quality patient care a challenge for the operators:

- The building is over 40 years old and not built to current energy efficiency standards*
- it was originally built as a sanatorium and has outlived its useful life as a nursing facility*
- The building has limited curb appeal*
- Parking is located 150 yards from building*
- Direct access to the front of the building is difficult and cumbersome*
- The roof is an unattractive flat roof that needs to be replaced*
- The air conditioning unit needs to be replaced*
- Plumbing is leaking and needs to be replaced*
- The kitchen sits under an old unused building that leaks and needs to be demolished*
- There is no parking for handicapped individuals located close to the building*
- The beauty shop is small and inadequate*
- There are no administrative offices or lobby in the front of the building. Visitors have to walk into the nursing facility without being properly greeted*
- The building is on 2 levels. The dining room is downstairs and patients must be transported up and down the elevator 3 times a day. This is disconcerting to the residents, time consuming, inefficient, and contrary to “best practices” patient care*
- Transitioning up and down stairs on a routine basis is unsafe*
- The laundry facility is antiquated and needs to be replaced*
- The semi private rooms are only 198 square feet compared with the 286 square feet per semi private room proposed*
- The windows are old, not energy efficient, and need to be replaced*
- The resident bathrooms are extremely small*
- The building is on the campus of Fletcher Academy, clustered amongst several other buildings, in a setting that is congested and confusing”*

The applicants adequately demonstrate the need to construct a replacement facility.

Projected Utilization

In Section IV.1, page 45, the applicants provide the utilization data for the nine months immediately preceding the submission of the application. Further, in Section IV.2, pages 48-49 the applicants provide projected utilization data for the nursing facility for the first two years of operation following completion of the proposed project, as illustrated in the tables below.

Table IV.1 – Historical Utilization
December 1, 2010 – August 31, 2011

	Dec	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Total
Patient Days	1,502	1,402	1,360	1,494	1,469	1,473	1,337	1,464	1,442	12,943
Occupancy Rate	96.90%	90.45%	97.14%	96.39%	97.93%	95.03%	89.13%	94.45%	93.03%	94.47%
# of beds	50	50	50	50	50	50	50	50	50	50

Table IV.2 – Projected Utilization First Full Federal Fiscal Year
 October 1, 2013 – September 30, 2014

	1 st Quarter 10/1-12/31	2 nd Quarter 1/1-3/31	3 rd Quarter 4/1-6/30	4 th Quarter 7/1-9/30	Total
Patient Days	4,228	4,275	4,323	4,370	17,196
Occupancy Rate	91.91%	95.00%	95.01%	95.00%	94.22%
# of beds	50	50	50	50	50

Table IV.2 – Projected Utilization Second Full Federal Fiscal Year
 October 1, 2014 – September 30, 2015

	1 st Quarter 10/1-12/31	2 nd Quarter 1/1-3/31	3 rd Quarter 4/1-6/30	4 th Quarter 7/1-9/30	Total
NH Patient Days	4,370	4,275	4,323	4,370	17,338
Occupancy Rate	95.00%	95.00%	95.01%	95.00%	95.00%
# of beds	50	50	50	50	50

In Section III.1(b), page 31, the applicants state:

“Cost report data obtained from the Division of Medical Assistance and license renewal data obtained from DHHS licensure shows the average occupancy rate to be approximately 91% in the county. ... There are 9 nursing facilities in Henderson County. All are operating in excess of 90% occupancy except Carolina Village, which is a CCRC and does not accept Medicaid residents, and Mountain Home Health and Rehab, which is a facility that is over 30 years old and based on information we have been provided, has converted several semi-private rooms to private rooms. All other facilities had occupancy in excess of 90% with 4 in excess of 94%, which is effectively operational capacity.

Henderson County’s projected 2011 population of individuals over the age of 65 is 24,616. The estimated 2016 population of individuals over 65 is 28,504. This is a 15.79% increase in this population demographic in just 5 years. The projected increase in population for individuals age 65 and over in zip code 28759 (proposed location of facility) is projected to increase approximately 22.4% between 2011 and 2016.”

In Exhibit 8, the applicants provide a listing of the licensed nursing home facilities in Henderson County, their licensed bed capacity, number of patient days and the facilities’ occupancy rates, as illustrated in the table below.

Facility Name	Licensed Bed Capacity	Total Patient Days	% of Occupancy
Beystone Health and			

Rehab	50	16,626	91.1%
Brian Center Health and Rehab (Hendersonville)	120	40,552	92.6%
Golden Living Healthcare (Hendersonville)	150	49,612	90.6%
Hendersonville Health and Rehab	130	44,627	94.1%
Life Change Center of Hendersonville	80	27,992	95.9%
Carolina Village	58	18,008	85.1%
Mountain Home Health and Rehab	134	38,429	78.6%
Universal Healthcare/ Fletcher	90	31,594	96.2%
The Laurels of Hendersonville	100	34,368	94.2%

The applicants’ projected utilization is based on reasonable assumptions regarding the increased number of private rooms and the improvements to the overall size and function of the proposed replacement facility. The applicants adequately identify the population to be served and demonstrate the need the population has for the replacement of the existing 50 bed nursing facility. Therefore, the application is conforming with this criterion.

- (3a) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the applicant shall demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care.

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The applicants, Beystone Health and Rehabilitation Co and Fletcher Academy, Inc propose to relocate the 50 bed nursing facility from its current location at 80 Brownsberger Circle in Fletcher to Haywood Road in Mills River, which is approximately seven miles away, in Henderson County. The total number of licensed nursing beds will remain 50. Beystone Health and Rehabilitation Co. will be geographically accessible to the same population currently being served at the existing facility.

In Section III.7(a), page 41, the applicants state:

“All residents of Beystone Health and Rehabilitation will be offered the opportunity to transfer to the newly constructed facility. The applicant plans to transfer all existing patients over a 3 day period.”

Further, in Section III.7(b), page 41, the applicants state:

“The overall long term impact will be positive. From a medical standpoint, the residents will be transferred to a newly constructed facility with modern amenities, which should improve their overall well being. There will be no financial impact on Medicare, Medicaid, or Hospice residents. Private pay residents will be asked to transition over time to a slightly higher per-diem room rate, but this is in line with other facilities in the area.”

The applicants demonstrate that the relocation and replacement of the beds will have a positive effect on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care. Consequently, the application is conforming to this criterion.

- (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.

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In Section III.2 (a), pages 34-35, the applicants describe the four alternatives considered, including to maintain the status quo, partnering with another entity to construct a combination nursing and adult care home facility, construct a 50 bed addition onto Hendersonville Health and replacement and relocation of the facility to a new location. In Section III.2(a), page 35, the applicants explain why the proposed project is the least costly or most effective. The applicants state:

“... [T]o relocate the 50 beds to another site within Henderson County and construct a new facility. This would provide the medically underserved of Henderson County a newly constructed energy efficient nursing facility. ... The intent of the applicants is to construct this new facility at a location within reasonable proximity to the existing facility.

... .”

Furthermore, the application is conforming with all other applicable statutory review criteria. See Criteria (1), (3), (3a), (5), (6), (7), (8), (12), (13), (14), (18a), and (20). The applicants adequately demonstrate that its proposal is the least costly or most effective alternative. Therefore, the application is conforming with this criterion and approved subject to the following conditions.

- 1. Beystone Health and Rehabilitation Co and Fletcher Academy, Inc shall materially comply with all representations made in its certificate of need application.**
- 2. Beystone Health and Rehabilitation Co and Fletcher Academy, Inc shall construct a replacement nursing facility with a total licensed bed complement of no more than 50 beds upon completion of the project.**

3. **Beystone Health and Rehabilitation Co and Fletcher Academy, Inc shall provide documentation that the 50 beds at the existing Beystone Health and Rehabilitation Co are delicensed following completion of the proposed replacement nursing facility.**
 4. **Beystone Health and Rehabilitation Co and Fletcher Academy, Inc shall submit all patient charges and actual per diem reimbursement for each source of patient payment to the Certificate of Need at year end for each of the first two operating years following licensure of the beds in the new facility.**
 5. **For the first two full federal fiscal years of operation following completion of the project, actual private pay charges shall not be increased more than 5% of the projected private pay charges provided in Section X of the application without first obtaining a determination from the Certificate of Need Section that the proposed increase is in material compliance with the representations made in the certificate of need application.**
 6. **Beystone Health and Rehabilitation Co and Fletcher Academy, Inc shall receive Medicaid per diem rates allowed by the Division of Medical Assistance, under the NC State Plan Section .0102.**
 7. **Beystone Health and Rehabilitation Co and Fletcher Academy, Inc shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section, in writing prior to issuance of the certificate of need.**
- (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.

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In Section VIII, page 72, the applicants project the total capital expenditure for the proposed project to be \$6,817,388 which includes \$1,542,000 in site costs, \$3,193,500 in construction contract costs, \$595,000 in equipment and furniture costs, \$125,000 in architect and engineering fees, \$35,000 in Certificate of Need preparation costs, \$10,000 in legal costs, \$50,000 in financing costs, \$166,888 in interest during construction, and \$1,100,000 in other costs. In Section X.2, page 73, the applicants state the proposed project will be financed through a commercial loan of \$5,652,925 and owner's equity of \$1,164,463. In Section XI, page 77, the applicants state there will be no start-up or initial operating expenses associated with the proposed project.

Exhibit 24 contains a letter dated September 29, 2011, from a Vice President of BB&T, which states:

“We understand Beystone Health and Rehabilitation Co (Beystone) and Fletcher Academy, Inc. (Fletcher) plan on filing a Certificate of Need application to re-locate 50 Nursing Facility beds and construct a new facility in Henderson County.

We have had significant discussions with Beystone about the feasibility of this project. We would be happy to consider lending up to \$5,652,925 to fund the project. The amount loaned would be secured by a first deed of trust. If the loan were made today, the interest rate would be 4.65% fixed for 10 years, with an amortization term of 25 years.”

Exhibit 20 contains a letter dated October 5, 2011 from Christopher Sprenger, President and Michael DeLoach, Vice President committing owner’s equity, which state:

“We are the owners, or partial owners, of several nursing facilities in North Carolina. We pledge to reserve approximately \$1,250,000 in cash and cash equivalents identified on our most recent financial statements for the following facilities to construct a new 50 bed nursing facility in Henderson County:

<i>Madison Health and Rehabilitation (100% owners)</i>	\$ 514,837
<i>Stone Creek Health and Rehabilitation (100% owners)</i>	\$ 96,745
<i>Sanford Health and Rehabilitation (75% owners)</i>	\$ 449,214
<i>Oak Forest Health and Rehabilitation (50% owners)</i>	\$524,574
<i>Hendersonville Health and Rehabilitation (50% owners)</i>	\$429,142”

The applicants demonstrate the availability of funds for the capital needs of the proposed project.

In Section X.4, page 87, the applicants project the following monthly rates and charges by payor source for the facility in the first two full federal fiscal years (October 1, 2013 – September 30, 2015) of operation following completion of the proposed project.

Payor Source	Private Room	Semi-Private Room
Private Pay	\$205.00	\$195.00
Medicare *	\$440.60	\$440.60
Medicaid	\$178.12	\$178.12
Other (Hospice)	\$178.12	\$178.12

* Medicare charge should be the weighted average of the facility’s RUG rates. This rate is adjusted for the change in the Medicare rate that will occur 10/1/11

In the projected revenue and expense statement, the applicants project that revenues will exceed operating costs in each of the first two years of operation. The assumptions used by the applicants in preparation of the pro formas are reasonable. See Criterion (3) for discussion of utilization projections.

In summary, the applicants adequately demonstrated the availability of funds for the capital needs of the proposal and adequately demonstrate that the financial feasibility of the proposal

is based on reasonable projections of cost and revenues. Therefore, the applicants are conforming to the criterion.

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

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The applicants, Beystone Health and Rehabilitation Co and Fletcher Academy, Inc adequately demonstrate the need to construct a 50 bed replacement nursing facility. The applicants do not propose to develop additional nursing facility beds. The proposal will not result in a change in the total number of nursing facility beds in Henderson County. See Criterion (3) for discussion. Consequently, the applicants adequately demonstrate the proposed project would not result in the unnecessary duplication of existing or approved health service capabilities or facilities in Henderson County. Therefore, the application is conforming with this criterion.

- (7) The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.

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The applicants project the following staff for the second full federal fiscal year of the proposed project, as reported on pages 62-63 of the application and illustrated in the table below.

	FTEs
Routine Services	
Director of Nursing	1.0
Assistant Director of Nursing	.50
MDS Nurse	.50
RNs	2.8
LPNs	7.0
Certified Nursing Assistant	18.2
Medical Records	1.0

Dietary	
Certified Dietary Manager	1.0
Cooks	2.8
Dietary Aides	2.8
Social Work Services	
Social Services Director	1.0
Activity Services	
Activity Director	1.0
Housekeeping/Laundry	
Housekeeping Supervisor	1.0
Housekeeping Aides	2.8
Laundry Aides	1.4
Operation & Maintenance	
Maintenance Supervisor	1.0
Admin. & General	
Administrator	1.0
Admissions Coordinator	1.0
Bookkeeper	1.0
Total	48.8

Note: On page 62, Table VII.I, the applicants state that the facility has 7.0 RN supervisors, however, the number of positions and the salary amount as stated in the pro formas reflect that is the number of LPNs employed by the facility. In the table above, the project analyst assumed the applicant made an error in stating the positions as RN supervisor, therefore the positions are reflected above as LPNs..

In Section VII.3(h), page 66, the applicants state:

“The number of staff is based upon current staffing. Current staffing was increased by one CNA position in the event (not anticipated) patient acuity varies from current acuity.”

The applicants propose to increase the current staff from 48.8 FTE positions to 50.2 FTEs for the second full federal fiscal year following completion of the proposed project. The applicants project 5,824 RN hours (2.8 RNs x 2,080 annual hours =5,824), 14,560 LPN hours (7.0 LPNs x 2,080 annual hours = 14,560), and 37,856 CNA hours (18.2 CNAs x 2,080 annual hours = 37,856) in Project Year 2. Therefore, the applicants project 3.4 nursing hours per patient day in Project Year 2 [(5,824 + 14,560 + 37,856) / 17,196 total patient days = 3.38 nursing hours per day].

Exhibit 17 contains a letter from Donald L. Culver, MD, Medical Director of Beystone Health and Rehabilitation Co, expressing his willingness to continue to serve as medical director upon project completion. Adequate costs for the health manpower and management positions proposed by the applicants are budgeted in the Pro forma financial statements. The applicants adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services. Therefore, the applicants are conforming to this criterion.

- (8) The applicant shall demonstrate that the provider of the proposed services will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services. The applicant shall also demonstrate that the proposed service will be coordinated with the existing health care system.

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In Section II.4, pages 26-27, the applicants state it will provide physical, speech, and occupational therapy services through a contractual arrangement with Rehab Solution. See Exhibit 7 for copies of the contractual agreements. Exhibit 15 contains copies of transfer agreements with Hendersonville Health and Rehabilitation, Park Ridge Health, Stone Creek Health & Rehabilitation and Margaret R. Pardee Memorial Hospital. Therefore, the applicants adequately demonstrate that the necessary ancillary and support services will be available and that the proposed services will be coordinated with the existing health care system. Consequently, the application is conforming with this criterion.

- (9) An applicant proposing to provide a substantial portion of the project's services to individuals not residing in the health service area in which the project is located, or in adjacent health service areas, shall document the special needs and circumstances that warrant service to these individuals.

NA

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates: (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:
- (i) would be available under a contract of at least 5 years duration;
 - (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
 - (iii) would cost no more than if the services were provided by the HMO; and
 - (iv) would be available in a manner which is administratively feasible to the HMO.

NA

- (11) Repealed effective July 1, 1987.
- (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.

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The applicants propose to construct a replacement nursing facility which will have an estimated 31,935 square feet. The replacement facility will consist of 30 private rooms and 20 semi-private rooms and will incorporate a “*more home-like environment*”. In Section VIII.1, page 72, the applicants project the total cost for construction for the building will be \$3,193,500. Exhibit 39 contains a letter dated October 1, 2011 from the architect which states:

“We have examined the feasibility of several design alternatives for construction of a 50 bed nursing facility. Based on our selected design (31,935 S.F.), I would estimate that the square foot cost for new construction will be approximately \$100.00 for a total new building budget of \$3,193,500.

The total site development costs including grading, fill, compaction, paving and site utilities will be approximately \$480,000. The total architectural fee will be \$125,000. Thus the total development costs for the building and the site improvements along with architectural would be approximately \$3,798,500.”

The Architect states that the cost per square foot is \$100.00 [100.00x31,935=3,193,500] which concurs with the projected construction cost provided by the applicants in Section VIII. In Section XI.14, page 102, the applicants state that the construction of the new nursing facility will incorporate the following efficient energy concepts:

“The exterior envelope of the building addition is designed with high insulation values, contributing maximum efficiency of HVAC systems. Attic insulation is minimum R-38, walls are R-19. All gazing is insulated. Low-E coated, with thermally broken frames where applicable. All exterior doors are insulated or have insulating glazing. The construction will comply with the NC State Energy Code and low volume toilet will be utilized.”

The applicants adequately demonstrated that the cost, design, and means of construction represent the most reasonable alternative and that the construction costs will not unduly increase costs and charges for the proposed health care services. See Criterion (5) for discussion of costs and charges. Therefore, the application is conforming with this criterion.

- (13) The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of 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 the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:

- (a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

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The Division of Medical Assistance (DMA) maintains a website which offers information regarding the number of persons eligible for Medicaid assistance and estimates of the percentage of uninsured for each county in North Carolina. The following table illustrates those percentages as of June 2010 and CY 2009, respectively. The data in the table was obtained on February 9, 2012. More current data, particularly with regard to the estimated uninsured percentages, was not available.

	Total # of Medicaid Eligibles as % of Total Population	Total # of Medicaid Eligibles Age 21 and older as % of Total Population	% Uninsured CY 2008 (Estimate by Cecil G. Sheps Center)
County			
Henderson	14%	5.4%	19.7%
Statewide	17%	6.7%	19.7%

Data for Beystone Health and Rehabilitation Co is not available on the DMA web site.

The majority of Medicaid eligibles are children under the age of 21. This age group does not utilize the same health services at the same rate as older segments of the population, particularly the services offered by Beystone Health and Rehabilitation Co.

Moreover, the number of persons eligible for Medicaid assistance may be greater than the number of Medicaid eligibles who actually utilize health services. The DMA website includes information regarding dental services which illustrates this point. For dental services only, DMA provides a comparison of the number of persons eligible for dental services with the number actually receiving services. The statewide percentage of persons eligible to receive dental services who actually received dental services was 48.6% for those age 20 and younger and 31.6% for those age 21 and older. Similar information is not provided on the website for other types of services covered by Medicaid. However, it is reasonable to assume that the percentage of those actually receiving other types of health services covered by Medicaid is less than the percentage that is eligible for those services.

The Office of State Budget & Management (OSBM) maintains a website which provides historical and projected population data for each county in North Carolina. In addition, data is available by age, race or gender. However, a direct comparison to

the applicants' current payor mix would be of little value. The population data by age, race or gender does not include information on the number of elderly, minorities or women utilizing health services. Furthermore, OSBM's website does not include information on the number of handicapped persons.

In Section VI.2, page 57, the applicants provide the current payor mix (October 1, 2009 – September 30, 2010), as illustrated in the table below.

Payor Source	% of Patient Days
Private Pay	10.91%
Medicare	14.99%
Medicaid	59.02%
Other (Hospice)*	15.08%
Total	100.00%

*Hospice care in Nursing Facilities is a Medicaid program

As of February 9, there were eight facilities with nursing facility beds in Henderson County excluding hospitals and Continuing Care Retirement Communities (CCRCs) with NF beds. The following table illustrates the payor mix for residents who were eligible for Medicaid and Medicare in those facilities and the Statewide Averages for Fiscal Year 2009, as reported to the Division of Medical Assistance.

Facility	Number of Beds	Medicaid NF Days as a % Total NF Days Reported to DMA in 2009 Cost Reports	Medicare NF Days as a % of Total NF Days Reported to DMA in 2009 Cost Reports
Beverly Healthcare (Hendersonville)	150	79.1%	9.3%
Beystone Health and Rehab	50	54.0%	17.5%
Brian Center Health and Rehab	120	67.6%	14.7%
Hendersonville Health and Rehab	130	50.8%	30.3%
Life Change Center of Hendersonville	80	30.8%	23.1%
Mountain Home Health and Rehab	134	81.4%	10.4%

The Laurels of Hendersonville	100	56.7%	25.7%
Universal Healthcare/Fletcher	90	54.8%	15.5%
Countywide Average	854	61.5%	18.0%
Statewide Average	41,296	67.6%	16.5%

As illustrated in the table above, the provision of care to Medicaid patients at Beystone Health and Rehabilitation is at 54%, and the North Carolina average is 67.6% Medicaid patients. Furthermore, Henderson County’s rate of Medicaid eligible persons over the age of 21 is 5.4% while the North Carolina’s average is 6.7%. Thus, the Beystone’s Medicaid NF days and Henderson County’s Medicaid eligible rates are proportional to the respective North Carolina averages of Medicaid NF days and Medicaid eligible persons over age 21.

The applicants demonstrated that the existing facility currently provides adequate access to the medically underserved populations. Therefore, the application is conforming with this criterion.

- (b) Its past performance in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

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In Section VI.5(a), page 58, the applicants state:

“Services are provided on a first come first serve basis with priority given to Henderson County residents. Special emphasis will be given to residents who are difficult to place from area facilities and agencies.”

In Section VI.6(a), page 59, the applicants state, *“The applicant is not aware of any civil rights access complaints that have been filed against the existing facility.”*

Therefore, the application is conforming with this criterion.

- (c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

C

In Section VI.3, page 58, the applicants project the payor mix for the second full federal fiscal year (October 1, 2013 – September 30, 2014), as illustrated in the table below.

Payor Source	% of Patient Days
Private Pay	10.91%

Medicare	14.99%
Medicaid	59.02%
Other (Hospice)	15.08%
Total	100.00%

*Hospice care in Nursing Facilities is a Medicaid program

The applicants demonstrated that the proposed replacement nursing facility will provide adequate access to the medically underserved populations. Therefore, the application is conforming with this criterion.

- (d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

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In Section VI.7, page 59, the applicants state:

“Beystone Health and Rehabilitation has developed relationships with a wide range of sources from which it receives referrals The occupancy rate of the facility leaves no doubt as to its status in the community. An occupancy rate of almost 95% (based on the most recent nine months) cannot be achieved without significant community support and referral sources.”

The applicants demonstrate a range of means by which a person would have access to the proposed services. Therefore, the application is conforming with this criterion.

- (14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

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See Exhibit 14 for copies of a letter from Beystone Health and Rehabilitation offering the site for continued clinical training programs to Blue Ridge Community College.

The applicants adequately demonstrate that the proposed project will accommodate the clinical needs of health professional training programs. Therefore, the application is conforming to this criterion.

- (15) Repealed effective July 1, 1987.
(16) Repealed effective July 1, 1987.
(17) Repealed effective July 1, 1987.
(18) Repealed effective July 1, 1987.
(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.

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See Sections II.6, II.7, III.1, III.2, III.3, III.6, III.7, V.7, VI, VII, and XI.7. The information provided by the applicants in those sections is reasonable and credible and adequately demonstrates that the proposal would have a positive impact on cost-effectiveness, quality and access to the proposed services because:

- The applicants adequately demonstrate that the proposal is needed and that it is a cost-effective alternative to meet the demonstrated need [see Criteria (1), (3), (4) (5) and (12) for additional discussion];
- The applicants has and will continue to provide quality services [see Criteria (7), (8) and (20) for additional discussion];
- The applicants has and will continue to provide adequate access to medically underserved populations [see Criterion (13) for additional discussion].

Therefore, the application is conforming to this criterion.

- (19) Repealed effective July 1, 1987.
- (20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

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Beystone Health and Rehabilitation Co is a certified provider of Title XVIII (Medicare) and Title XIX (Medicaid). According to files in the Nursing Home and Licensure and Certification Section in the Division of Health Service Regulation, no incidents have occurred within the eighteen months immediately preceding the date of the decision for which any sanctions or penalties related to quality of care were imposed by the State. Therefore, the application is conforming to this criterion.

- (21) Repealed effective July 1, 1987.
- (b) The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

NA

The Criteria and Standards for Nursing Facility or Adult Care Home Facility Services in 10A NCAC 14C .1100 are not applicable because the applicants do not propose to establish new skilled nursing beds.