

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

DECISION DATE: September 27, 2013
FINDINGS DATE: October 4, 2013
PROJECT ANALYST: Julie Halatek
SECTION CHIEF: Craig R. Smith

PROJECT I.D. NUMBER: A-10146-13 / MHI Investments, LLC and Macon Health Holdings, LLC d/b/a Franklin House / Relocate 11 adult care home beds from Cherokee County for a total of 81 adult care home beds upon project completion and completion of Project I.D. #A-8082-08 / Macon 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.

NC

MHI Investments, LLC and Macon Health Holdings, LLC d/b/a Franklin House (Franklin House) propose to relocate 11 adult care home (ACH) beds from Murphy House in Cherokee County to Franklin House, their facility under development in Macon County. This proposed relocation of ACH beds, along with Project I.D. #A-8082-08, would result in a bed complement of 81 ACH beds at Franklin House in Macon County.

The 2013 State Medical Facilities Plan (SMFP) is applicable to this review. Although there is no need determination in the 2013 SMFP for additional ACH beds in Macon County, the relocation of ACH beds between contiguous counties is addressed in Chapter 4 in Policies Applicable to Adult Care Homes. Policy LTC-2: Relocation of Adult Care Home Beds in the 2013 SMFP is applicable to this application; the policy states:

“Relocations of existing licensed adult care home beds are allowed only within the host county and to contiguous counties currently served by the facility. Certificate of

need applicants proposing to relocate licensed adult care home beds to contiguous counties shall:

1. Demonstrate that the proposal shall not result in a deficit in the number of licensed adult care home 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 adult care home 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.”

Macon County and Cherokee County are contiguous counties. According to the 2013 SMFP, Macon County is projected to have a deficit of 47 ACH beds in 2016 (Table 11B, page 261). Cherokee County is projected to have a surplus of 11 ACH beds in 2016 (Table 11B, page 260). Policy LTC-2 requires that the ACH beds to be relocated from Cherokee County must be existing, licensed, and serving residents from Macon County.

The 2013 SMFP shows four ACH facilities in Cherokee County. There are currently 24 licensed ACH beds in Cherokee County—Carolina Care Home #1 and Carolina Care Home #2 each have 12 licensed ACH beds.

There are two facilities with certificates of need (CON) to develop a total of 150 ACH beds. Cherokee Valley/Peachtree Manor has a CON to develop 80 ACH beds (Project I.D. #A-8701-11). According to the most recent progress report, dated June 10, 2013, no progress has been made in developing the facility other than preliminary design work. Murphy House has a CON to develop 70 ACH beds (Project I.D. #A-8084-08). However, according to the most recent progress report, dated June 12, 2013, no progress has been made in developing the facility aside from the CON application. The Cherokee County Building Inspector's office says there has been no building development—there are no permits on file for any type of construction. Thus, neither Cherokee Valley/Peachtree Manor nor Murphy House are existing licensed ACH facilities and they are not serving any residents.

Only Carolina Care Home #1 and Carolina Care Home #2 can propose relocating any ACH beds to another ACH facility because the ACH beds at those two ACH facilities are existing and licensed. In order to do so, Carolina Care Home #1 and Carolina Care Home #2 also must demonstrate they are currently serving residents of the county in which the ACH beds are to be located. Franklin House cannot propose the relocation of ACH beds owned by Carolina Care Homes #1 or #2 because they do not own or control the ACH beds.

In summary, the applicants fail to demonstrate that the ACH beds it proposes to move are existing, licensed, and serving residents from Macon County. Therefore, the application is nonconforming with Policy LTC-2 and 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.

NC

MHI Investments, LLC and Macon Health Holdings, LLC d/b/a Franklin House (Franklin House) propose to relocate 11 adult care home (ACH) beds from Murphy House in Cherokee County to Franklin House, their facility under development in Macon County. This proposed relocation of ACH beds, along with Project I.D. #A-8082-08, would result in a bed complement of 81 ACH beds at Franklin House in Macon County.

Population to Be Served

In the current application, the applicants provide no discussion of patient origin or the population to be served. The applicants stated in Project I.D. #A-8082-08 that Franklin House's population would be entirely from Macon County. However, because Franklin House is still under development, the applicants do not have current utilization.

The applicants do not adequately identify the population projected to be served.

Need to Relocate the ACH Beds

In Section II.4(b), page 8, the applicants state:

“There is a current unmet need of 214 adult care and Alzheimer’s beds in Macon County. Based upon ESRI demographic data, this figure is expected to grow approximately 2.3% or a total of 5 beds by the year 2014. Refer to Macon CON Application, Chapter IV Utilization and Exhibits F & G.”

The applicants do not specify a Project I.D. for the “Macon CON Application.” The agency inferred that the applicants are referring to the 2008 Project I.D. #A-8082-08. In that application, the applicants project utilization for the first three fiscal years after project completion. The projected third fiscal year ends September 30, 2013. Because the facility is not yet in existence, the projections made in Project I.D. #A-8082-08 cannot be verified or relied upon and are for a time period that has ended. The application for Project I.D. #A-8082-08 was submitted more than five years ago. The information in that application is not current enough to support a finding that the information is reasonable and credible; for example, the applicants reference changes in reimbursement in their most recent progress report that may affect need.

The applicants provide no information in the current application (Project I.D. #A-10146-13) to support a need to relocate the ACH beds from Cherokee County to Macon County.

Projected Utilization

In Section III.2, page 11, the applicants provide the following information regarding projected utilization:

Projected Utilization for First Two Fiscal Years—Franklin House								
	Q1 2015	Q2 2015	Q3 2015	Q4 2015	Q1 2016	Q2 2016	Q3 2016	Q4 2016
Adult Care Home								
# Beds	41	41	41	41	41	41	41	41
Discharges	0	0	0	0	0	0	0	0
Patient Days	920	1440	2002	2514	2576	2520	2548	2576
ALOS	24.4%	39.0%	53.7%	66.6%	68.3%	68.3%	68.3%	68.3%
Special Care Unit								
# Beds	40	40	40	40	40	40	40	40
Discharges	0	0	0	0	0	0	0	0
Patient Days	1288	1800	2366	2942	3434	3420	3458	3496
ALOS	35.0%	50.0%	65.0%	79.9%	93.3%	95.0%	95.0%	95.0%

The applicants do not explain why their information shows ALOS (Average Length of Stay) as a percentage of facility occupancy instead of a number of days.

The applicants do not explain how they project zero discharges in the first two fiscal years. Having zero discharges in the first two fiscal years is not a credible projection without any methodologies or assumptions provided to support the projections.

Criteria and Standards for Nursing Facility or Adult Care Home Services, codified under 10A NCAC 14C .1102(d), states:

“An applicant proposing to establish a new adult care home facility or add adult care home beds to an existing facility shall not be approved unless occupancy is projected to be at least 85 percent for the total number of adult care home beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.”

The agency applied the following analysis to the data in the table above:

$$\text{Q4 2016 ACH Patient Days (2576) + Q4 2016 SCU Patient Days (3496) = 6072} \\ \text{Total Patient Days}$$

$$\text{Total Patient Days (6072) / Days in Calendar Year (365) = 16.6 Average Patients}$$

$$\text{Average Patients (16.6) x Quarters (4) = 66.4 Average Patients per Day}$$

$$\text{Average Patients per Day (66.4) / Number of Beds (81) = 81.9\% Occupancy}$$

The applicants do not project occupancy of 85% or greater by the end of the second year after project completion. No assumptions or methodologies are provided. Thus, projected utilization is not based on reasonable, credible and supported assumptions.

In summary, the applicants do not adequately identify the population to be served, demonstrate the need to relocate the ACH beds, or show that the utilization projections are based on reasonable, credible, and supported assumptions. Therefore, the application is nonconforming 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.

NC

The relocation of 11 ACH beds from Cherokee County to Macon County would reduce the number of existing licensed ACH beds in Cherokee County. Currently, only 24 ACH beds are licensed in Cherokee County. Thus, the applicant proposes to relocate 46% of the existing licensed ACH beds in Cherokee County.

The agency notes that the projected surplus of ACH beds in Cherokee County is somewhat speculative, because 150 of the 174 ACH beds are either CON approved and under development, or CON approved and not under development. Until the two ACH facilities are completed and licensed the ACH bed count is not final. Only upon licensure of the ACH facilities will the actual ACH bed count be established because the owners of the ACH facilities could choose to develop fewer ACH beds than were approved.

The applicant did not discuss the effect of the relocation of nearly one-half of the existing licensed ACH beds 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. Therefore, the application is nonconforming with 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.

NC

In Section II.5, page 9, the applicants state:

“The addition of these 11 Beds to Franklin House will go toward eliminating the unmet need in Macon County.”

The applicants provide no further information that can be used to demonstrate that the applicants considered other alternatives and proposed the least costly or most effective alternative.

Brief History of Franklin House

- Application received on March 17, 2008 (Project I.D. #A-8082-08)
- Application approved; CON issued with effective date of September 30, 2008. The approved site is “Intersection of Tennessee View Street and Parkview Drive, Franklin, NC, 28734”
 - Original timetable approved by CON Section:

*“Obtain funds necessary to undertake project...December 1, 2008
Contract Award...June 1, 2009
25% completion of construction...December 31, 2009
50% completion of construction...April 1, 2010
75% completion of construction...June 30, 2010
Completion of construction...August 31, 2010
Licensure of facility...October 1, 2010
Medicare/Medicaid Certification of facility...October 1, 2010”*

- CON withdrawn by the CON Section for failure to demonstrate progress [per G.S. §131E-189(a)-(b)] on January 11, 2012
- Petition for contested case hearing filed by applicants; additional information received by the CON Section, resulting in a settlement agreement signed by Division of Health Service Regulation (DHSR) on November 1, 2012
- The settlement agreement has a provision about meeting timetable milestones and withdrawal of the certificate of need:

“1. Petitioners’ Agreement to Meet Timetable. Petitioners agree to meet each date (“Milestone”) listed in the Revised Timetable, attached as Exhibit A, no later than 120 days from each date provided.

2. Petitioners’ Failure to Meet Timetable. If Petitioners fail to meet any of the milestones in Exhibit A in the specified 120 days described in Paragraph 1, the Agency is authorized to initiate withdrawal proceedings without first requesting a comprehensive progress report.”

- The settlement agreement has a new timetable for Franklin House:

*“Final Drawings to DHSR Construction Section...November 15, 2012
Contract Award...December 17, 2012
25% completion of construction...March 31, 2013
50% completion of construction...May 30, 2013
75% completion of construction...September 30, 2013
Completion of construction...December 16, 2013*

Licensure of Facility...January 1, 2014
Occupancy/offering of services...January 15, 2014”

- A progress report and clarifying information received June 10, 2013 provides documentation that the applicant met the “Final Drawings to DHSR Construction Section” milestone and the “Contract Award” milestone within 120 days; however, a progress report was due September 15, 2013, and has not yet been received
- Per the settlement agreement, the September 15, 2013 progress report must show that the applicants met the milestone of “25% completion of construction” as of July 29, 2013, and that the applicants met the milestone of “50% completion of construction” as of September 27, 2013
- The settlement agreement does not provide for a change of site for the facility
- Franklin House has not requested a declaratory ruling to change the site of the facility
- A new site address is given in the current application (Project I.D. #A-10146-13) as “*Intersection of US Hwy 23-441 and Hunnicutt Lane, Franklin, NC, 28734*”
- G.S. §131E-181(a) states:

“A certificate of need shall be valid only for the defined scope, physical location, and person named in the application. A certificate of need shall not be transferred or assigned except as provided in G.S. 131E-189(c).”

In Section IX.2(a), the applicants identify the intersection of US Hwy 23-441 and Hunnicutt Lane in Franklin as the proposed site for development. In Section IX.1, the applicants state that ownership of the proposed site is “other.” The applicants do not provide any documentation to show they own the proposed site. A search of the property records shows that the current owner of the property is Macon Bank Inc. The proposed site is different than the approved site in the CON for Franklin House (intersection of Tennessee View Street and Parkview Drive in Franklin). The settlement agreement does not provide for a change of site for Franklin House. Approval of a declaratory ruling request by the Director of DHSR is required for a change of site.

Although it is permissible to change sites in a subsequent application, the applicants provided no supporting documentation to justify the change in site and the ownership of the site. Furthermore, the approval for Project I.D. #A-8082-08 states that the 70 bed ACH facility would be 50% complete by September 27, 2013, the date of the decision.

Brief History of Murphy House

- Application received on March 17, 2008 (Project I.D. #A-8084-08)
- Application approved; CON issued with effective date of September 30, 2008
 - Original timetable approved by CON Section:

“Obtain funds necessary to undertake project...December 1, 2008
Contract Award...June 1, 2009
25% completion of construction...December 31, 2009
50% completion of construction...April 1, 2010

75% completion of construction...June 30, 2010
Completion of construction...August 31, 2010
Licensure of facility...October 1, 2010
Medicare/Medicaid Certification of facility...October 1, 2010”

- CON withdrawn by the CON Section for failure to demonstrate progress [per G.S. §131E-189(a)-(b)] on July 8, 2012
- Petition for contested case hearing filed by applicants; additional information received by the CON Section, resulting in a settlement agreement signed by DHSR on April 18, 2012
- The settlement agreement has a new time table for Murphy House:

“Final Drawings to DHSR Construction Section...September 12, 2012
Contract Award...September 5, 2012
25% completion of construction...December 28, 2012
50% completion of construction...April 10, 2013
75% completion of construction...June 28, 2013
Completion of construction...September 12, 2013
Licensure of Facility...October 1, 2013
Occupancy/offering of services...October 15, 2013

- A progress report and clarifying information received June 12, 2013 shows that the applicants have made no progress on developing Murphy House aside from acquiring the CON. A progress report was due October 1, 2013, and has not yet been received

Thus, the applicants failed to demonstrate that the current CON holders are capable of developing the projects as originally approved. The application filed to relocate ACH beds from Cherokee County to Franklin County is not conforming to Policy LTC-2 in Criterion (1) and is premature given the current status of both projects (Project I.D. #A-8082-08 and Project I.D. #A-8084-08).

Furthermore, the applicants did not adequately demonstrate that Franklin House and Murphy House have common ownership. According to Project I.D. #A-8082-08, Franklin House is owned by MHI Investments, LLC and Macon Health Holdings, LLC. According to Project I.D. #A-8084-08, Murphy House is owned by Cherokee Health Investors, LLC and Cherokee Health Holdings, LLC.

According to the NC Secretary of State’s website, as of September 27, 2013, Macon Health Holdings, LLC has been administratively dissolved. The dissolution took place in May 2013 for failure to file an annual report in a timely manner (no reports had been filed since April 2010). Thus, one of the applicants (the lessee of Franklin House) no longer exists. It is therefore questionable whether Franklin House will be able to proceed with its development.

According to the NC Secretary of State’s website, as of September 27, 2013, MHI Investments, LLC has not filed an annual report since April 2010. Murphy House is owned by Cherokee Health Holdings, LLC and Cherokee Health Investors, LLC. According to the NC Secretary of State’s website, as of September 27, 2013, neither Cherokee Health

Holdings, LLC nor Cherokee Health Investors, LLC has filed an annual report since April 2010. The managers and registered agent of Macon Health Holdings, LLC; MHI Investments, LLC; Cherokee Health Holdings, LLC; and Cherokee Health Investors, LLC are all identical. They are thus at risk of being administratively dissolved pursuant to G.S. § 57C-6-03. It is therefore questionable whether Murphy House will have any ownership available to develop it, and questionable whether Franklin House will have any ownership available to develop it.

Furthermore, the application is not conforming to all other statutory and regulatory review criteria, and thus, is not approvable. A project that cannot be approved cannot be an effective alternative. See Criteria (1), (3), (3a), (4), (5), (6), (7), (12), (13c), (18a), and 10A NCAC 14C .1100—Criteria and Standards for Nursing Facility or Adult Care Home Services.

In summary, the applicants do not adequately demonstrate that the proposal to relocate 11 ACH beds from Cherokee County to Macon County is its least costly or most effective alternative to meet the need. Consequently, the application is disapproved.

- (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.

NC

In Section VI.4, page 16, the applicants project the following increases in capital cost:

Changes in Capital Costs for Franklin House		
Project Costs	Previously Approved	Proposed
Construction Contract	\$2,703,833	\$3,024,833
Fixed Equipment Purchase/Lease	\$375,000	\$450,000
Architect and Engineering Fees	\$130,000	\$147,500
Other (under consultant fees)*	\$18,000	\$21,000
Other*	\$30,000	\$37,000
Total	\$4,733,348	\$5,156,848

Other is not specified despite the application's note to specify

The applicants state that funding will be provided through a commercial loan and directs the agency to Exhibit N of its previous application (Project I.D. #A-8082-08). The referenced funding letter, Exhibit N of Project I.D. #A-8082-08, states that financing is available for a loan amount of \$4,835,348, which is less than the amount proposed by the applicants for this current project (Project I.D. #A-10146-13), and was written more than five years ago (March 2008). Thus, the applicants failed to demonstrate the availability of funds for the required capital expenditure to develop the proposed project.

The applicants do not provide any previously approved charge projections or reimbursement rates in the current application (Project I.D. #A-10146-13). Because reimbursement rates have changed during the last five years, the previously approved charge projections and

reimbursement rates from Project I.D. #A-8082-08 cannot be reasonably relied upon. The applicants provide proposed per diem operating costs which are the same as those previously approved in Project I.D. #A-8082-08. No assumptions or methodology are provided to substantiate the operating costs. The operating costs also do not reflect the costs associated with operating 11 additional ACH beds, a higher building square footage, or changes in revenues.

In summary, the applicants do not demonstrate the availability of funds for the required capital expenditure or for the initial operating needs of the proposed project; do not provide previously approved charge projections, reimbursement rates, assumptions, or methodology; and do not provide appropriate information to analyze the balance sheets of the proposed project. The applicants do not adequately demonstrate that the financial feasibility of the proposal is based upon reasonable projections of costs and revenues. Consequently, the application is nonconforming with this 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.

NC

MHI Investments, LLC and Macon Health Holdings, LLC d/b/a Franklin House (Franklin House) propose to relocate 11 adult care home (ACH) beds from Murphy House in Cherokee County to Franklin House, their facility under development in Macon County. This proposed relocation of ACH beds, along with Project I.D. #A-8082-08, would result in a bed complement of 81 ACH beds at Franklin House in Macon County.

According to the 2013 SMFP, there are currently 108 ACH beds developed in Macon County. There are 70 pending ACH beds in Macon County. The applicants provide no data to show that there will not be unnecessary duplication of ACH beds in Macon County, and the applicants do not provide any information to support the requirement of this criterion.

The applicants do not adequately demonstrate that proposed project will not result in the unnecessary duplication of existing or approved ACH beds in Macon County. Consequently, the application is nonconforming 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.

NC

In Section V.1, page 14, the applicants state: *"No Staff will be deleted. Staffing will be per Rules 10A NCAC 13F."* The applicants provide no further information on staffing or the availability of resources for the proposed services. The applicants propose adding 11 ACH beds (a 16% increase) but do not discuss whether additional staff will be needed; nor do the pro formas provide information on staffing budgets.

The applicants do not adequately demonstrate the availability of resources, including health manpower and administrative personnel, for the proposed services. Therefore, the application is nonconforming with 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.

C

The previous application, Project I.D. #A-8082-08, was conforming to this criterion and the applicants propose no changes in this current application to affect that determination. Therefore, the application is conforming to 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.

NC

The applicants propose relocating 11 ACH beds to Franklin House, their ACH facility under development, in Macon County. The applicants propose to increase the square footage from 27,032 square feet in the previous application (Project I.D. #A-8082-08) to 30,400 square feet (an increase of 3,368 square feet). The applicants do not supply any supporting documentation from building professionals to confirm the proposed increase or the feasibility of such an increase.

The applicants provide no information to demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative. The applicants also do not demonstrate that construction will not unduly increase the costs of providing health services. The applicants did not answer questions about incorporating energy saving features into construction plans. Therefore, the application is nonconforming 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;

NA

- (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;

NA

- (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

NC

The applicants provide the following table on page 13:

Projected Patient Days As Percentage of Total Utilization	
Medicare	
Medicaid	70%
Blue Cross and Blue Shield	
Commercial Insurance	
State Employees Health Plan	
Self-Pay (includes self-pay, indigent and charity care)	30%
Other as identified by applicant	
Total	100%

Note: blank spaces left blank by applicants

The applicants do not provide data as to the year for these projections and no assumptions or methodologies are provided to determine the reasonableness of the applicants' projections.

The applicants do not demonstrate that medically underserved populations will have adequate access to the proposed services. Therefore, the application is nonconforming 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.

C

In Section VI.5, page 12, the applicants state:

“Admission to our proposed facility will be primarily by physician and hospital referrals. Additional admissions will come from resident families and self-admissions.”

The applicants adequately demonstrate that Franklin House offers a range of means by which patients will 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.

C

The previous application, Project I.D. #A-8082-08, was conforming to this criterion and the applicants propose no changes in this current application to affect that determination. 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.

NC

MHI Investments, LLC and Macon Health Holdings, LLC d/b/a Franklin House (Franklin House) propose to relocate 11 adult care home (ACH) beds from Murphy House in Cherokee County to Franklin House, their facility under development in Macon County. This proposed relocation of ACH beds, along with Project I.D. #A-8082-08, would result in a bed complement of 81 ACH beds at Franklin House in Macon County.

According to the 2013 SMFP, there are currently 108 developed ACH beds in Macon County, with 70 ACH beds under development (the 70 previously approved ACH beds for Franklin House).

Despite a specific question regarding the subject matter of this criterion in Section V.6, the applicants provide no information to demonstrate the effects of proposed services on competition in the service area (neither positive effects nor negative effects).

The applicants do not adequately demonstrate that any enhanced competition includes a positive impact on the cost-effectiveness of the proposed services for the following reasons:

1. Utilization projections are unsupported and unreliable.
2. Cost projections are not provided.
3. Alternatives to the proposed project are not provided.

See Criteria (3), (4), (5), and (13c) for further discussion, which are hereby incorporated by reference as if fully set forth herein. Therefore, the application is nonconforming with 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.

NA

- (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.

NC

The application is not conforming to all applicable *Criteria and Standards for Nursing Facility or Adult Care Home Services* promulgated in 10A NCAC 14C .1100. The specific criteria are discussed below.

.1101 INFORMATION REQUIRED OF APPLICANT

- (a) *An applicant proposing to establish new nursing facility or adult care home beds shall project an occupancy level for the entire facility for each of the first eight calendar quarters following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.*
- NC- The applicants propose to relocate 11 ACH beds to its approved Macon County ACH facility. The applicants provide quarterly projections, but fail to provide assumptions or methodologies.
- (b) *An applicant proposing to establish new nursing facility or adult care home beds shall project patient origin by percentage by county of residence. All assumptions, including the specific methodology by which patient origin is projected, shall be stated.*
- NC- The applicants propose to relocate 11 ACH beds to its approved Macon County ACH facility. In Project I.D. #A-8082-08, the applicants projected that 100% of patients would originate from Macon County. In the current application (Project I.D. #A-10146-13), there is no discussion of patient origin.
- (c) *An applicant proposing to establish new nursing facility or adult care home beds shall show that at least 85 percent of the anticipated patient population in the entire facility lives within a 45 mile radius of the facility, with the exception that this standard shall be waived for applicants proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, facilities that are fraternal or religious facilities, or facilities that are part of licensed continuing care facilities which make services available to large or geographically diverse populations.*
- NC- The applicants propose to relocate 11 ACH beds to its approved Macon County ACH facility. In Project I.D. #A-8082-08, the applicants project that 100% of patients will

originate from Macon County; but in this application there is no discussion of patient origin.

- (d) *An applicant proposing to establish a new nursing facility or adult care home shall specify the site on which the facility will be located. If the proposed site is not owned by or under the control of the applicant, the applicant shall specify at least one alternate site on which the services could be operated should acquisition efforts relative to the proposed site ultimately fail, and shall demonstrate that the proposed and alternate sites are available for acquisition.*
- NC- The applicants propose to relocate 11 ACH beds to its approved Macon County ACH facility. The applicants specify the site on which the facility will be located in Section IX.2(a) of the application (intersection of US Hwy 23-441 and Hunnicutt Lane in Franklin); however, the proposed site differs from the approved site for Franklin House listed on its certificate of need (intersection of Tennessee View Strett and Parkview Drive in Franklin). There are currently no properties owned by either MHI Investments, LLC, or Macon Health Holdings, LLC. Thus, the applicants do not demonstrate that either the previously approved site or the proposed new site are owned by, under the control of, or available for acquisition by the applicants.
- (e) *An applicant proposing to establish a new nursing facility or adult care home shall document that the proposed site and alternate sites are suitable for development of the facility with regard to water, sewage disposal, site development and zoning including the required procedures for obtaining zoning changes and a special use permit after a certificate of need is obtained.*
- NC- The applicants propose to relocate 11 ACH beds to its approved Macon County ACH facility. The applicants specify the site on which the ACH facility will be located in Section IX.2(a) of the application (intersection of US Hwy 23-441 and Hunnicutt Lane in Franklin); however, the proposed site differs from the approved site for Franklin House listed on its certificate of need (intersection of Tennessee View Strett and Parkview Drive in Franklin). The applicants provide no documentation to demonstrate that the proposed site and an alternate site are conforming with the applicable requirements.
- (f) *An applicant proposing to establish new nursing facility or adult care home beds shall provide documentation to demonstrate that the physical plant will conform with all requirements as stated in 10A NCAC 13D or 10A NCAC 13F, whichever is applicable.*
- C- The applicants propose to relocate 11 ACH beds to its approved Macon County ACH facility. The previous application, Project I.D. #A-8082-08, was found to be conforming with all requirements of this rule and the applicants propose no changes in this current application to affect that determination.

.1102 PERFORMANCE STANDARDS

# Beds	40	40	40	40	40	40	40	40
Discharges	0	0	0	0	0	0	0	0
Patient Days	1288	1800	2366	2942	3434	3420	3458	3496
ALOS	35.0%	50.0%	65.0%	79.9%	93.3%	95.0%	95.0%	95.0%

Applying the following calculations to the above table:

Q4 2016 ACH Patient Days (2576) + Q4 2016 SCU Patient Days (3496) =
6072 Total Patient Days

Total Patient Days (6072) / Days in Calendar Year (365) = 16.6 Average
Patients

Average Patients (16.6) x Quarters (4) = 66.4 Average Patients per Day

Average Patients per Day (66.4) / Number of Beds (81) = 81.9%
Occupancy

The applicants do not project occupancy of 85% or greater by the end of the second year after project completion. No assumptions or methodologies are provided.