

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: April 26, 2019

Findings Date: April 26, 2019

Project Analyst: Mike McKillip

Team Leader: Gloria Hale

Project ID #: J-11656-19

Facility: Chatham County Rehabilitation Center

FID #: 130367

County: Chatham

Applicants: Liberty Healthcare Properties of Chatham County, LLC

Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC

Project: Relocate 16 ACH beds from Liberty Commons Nursing and Rehab Center of Halifax County and 20 ACH beds from Liberty Commons Nursing and Rehab Center of Columbus County to Chatham County Rehabilitation Center (Project I.D. # J-11378-17) for a total of 105 NF beds and 36 ACH beds upon project completion

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

N.C. Gen. Stat. §131E-183(a) The Agency 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.

C

In this application, which is a change of scope (COS) for Project I.D. # J-11378-17, the approved, but undeveloped, Chatham County Rehabilitation Center project, the applicants propose to relocate 16 ACH beds from Liberty Commons Nursing and Rehab Center of Halifax County and 20 ACH beds from Liberty Commons Nursing and Rehab Center of Columbus County to Chatham County Rehabilitation Center for a total of 105 nursing care beds and 36 ACH beds upon project completion. In Project I.D. # J-10168-13, the applicants, Liberty Healthcare Properties of Chatham County, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC, were approved to develop a new 90-bed

nursing facility in Chatham County In Project I.D. # J-11378-17, the applicants were authorized to relocate 25 nursing care beds from Legion Road Healthcare in Orange County to Chatham County Rehabilitation Center, for a total of 115 nursing care beds upon project, which was a change of scope for Project I.D. #J-10168-13. On November 1, 2018, the applicants received a material compliance determination from the Agency to reduce the number of nursing care beds to be relocated from Legion Road Healthcare in Orange County from 25 to 15 nursing care beds, for a total of 105 nursing care beds at Chatham County Rehabilitation Center.

Need Determination

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 2019 State Medical Facilities Plan (2019 SMFP). Therefore, there are no need determinations applicable to this review.

Policies

The applicant was found conforming to the following policies in Project ID #J-11378-17:

- Policy NH-6: Relocation of Nursing Facility Beds
- Policy NH-8: Innovations in Nursing Facility Design

There are two policies in the 2019 SMFP which are applicable to this review: *Policy LTC-2: Relocation of Adult Care Home Beds* and *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*.

Policy LTC-2: Relocation of Adult Care Home Beds states:

“Relocations of existing licensed adult care home beds are allowed to another service area. Certificate of need applicants proposing to relocate licensed adult care home beds to another service area shall:

- 1. Demonstrate that the proposal shall not result in a deficit, or increase an existing 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, or increase an existing 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.”*

The applicants propose to relocate a total of 36 adult care home beds from two different existing facilities located in two different counties, Columbus and Halifax. The following table

shows the projected 2022 adult care home beds surpluses for each of the counties from the 2019 SMFP, Table 11C: Adult Care Home Bed Need Projections, pages 249-250, and the projected surpluses after the proposed relocation of ACH beds.

2019 SMFP Adult Care Home Beds Surpluses

County	Projected ACH Bed Surplus*	ACH Beds to be Relocated in the Proposed Project	ACH Bed Surplus After Proposed Relocations
Halifax	+238	-16	+222
Columbus	+73	-20	+53

*From the 2019 SMFP, Table 11C: Adult Care Home Bed Need Projections for 2022, pages 249-250.

As shown in the table above, the two counties from which the applicants propose to relocate ACH beds will continue to have a projected surplus of ACH beds following the proposed relocations.

Also, the 2019 SMFP, Table 11C: Adult Care Home Bed Need Projections for 2022 indicates that Chatham County has a projected deficit of 36 ACH beds. Therefore, the proposed relocation of 36 ACH beds to Chatham County would not result in a surplus of ACH beds [36 – 36 = 0] in the county that would gain ACH beds as a result of the proposed project. The application is consistent with Policy LTC-2.

Policy GEN-4, on page 31 of the 2019 SMFP, states:

“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, Certificate of Need 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 is 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.”

The proposed capital expenditure for this project exceeds \$2 million; therefore, Policy GEN-4 is applicable to this review. In Section B.10, page 21, the applicants state that the proposed building addition will be constructed using the latest technologies to assure maximum energy efficiency, in compliance with the requirements of Policy GEN-4 in the SMFP. The applicants further include a written statement describing specifics related to energy and water usage efficiencies. The applicants adequately demonstrate that the application includes a written statement describing the project's plan to assure improved energy efficiency and water conservation. Therefore, the application is consistent with Policy GEN-4.

Conclusion

Therefore, the application is conforming to this criterion.

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicants adequately document the plan for relocating existing ACH beds from facilities in Columbus County and Halifax County to the proposed facility in Chatham County is consistent with Policy LTC-2.
- The applicants provide a written statement that demonstrates that the project includes a plan for energy efficiency and water conservation.

- (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.

C

In this application, which is a change of scope (COS) for Project I.D. # J-11378-17, the approved, but undeveloped, Chatham County Rehabilitation Center project, the applicants propose to relocate 16 ACH beds from Liberty Commons Nursing and Rehab Center of Halifax County and 20 ACH beds from Liberty Commons Nursing and Rehab Center of Columbus County to Chatham County Rehabilitation Center for a total of 105 nursing care beds and 36 ACH beds upon project completion. In Project I.D. # J-10168-13, the applicants, Liberty Healthcare Properties of Chatham County, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC, were approved to develop a new 90-bed

nursing facility in Chatham County In Project I.D. # J-11378-17, the applicants were authorized to relocate 25 nursing care beds from Legion Road Healthcare in Orange County to Chatham County Rehabilitation Center, for a total of 115 nursing care beds upon project, which was a change of scope for Project I.D. #J-10168-13. On November 1, 2018, the applicants received a material compliance determination from the Agency to reduce the number of nursing care beds to be relocated from Legion Road Healthcare in Orange County from 25 to 15 nursing care beds, for a total of 105 nursing care beds at Chatham County Rehabilitation Center. Also, at project completion, Liberty Commons Nursing and Rehab Center of Halifax County will have 50 nursing care beds and nine ACH beds, and Liberty Commons Nursing and Rehab Center of Columbus County will have 107 nursing care beds and 20 ACH beds.

Patient Origin

On page 219, the 2019 SMFP defines the service area for adult care home beds as the county in which the adult care home bed is located. Thus, the service area for this facility consists of Chatham County. Facilities may also serve residents of counties not included in their service area.

In Section C.3, pages 23-24, the applicants provide the projected patient origin for the 36 ACH beds that are being proposed to be relocated to Chatham County Rehabilitation Center, as summarized below.

**Chatham County Rehabilitation Center
Projected Patient Origin for 36 Relocated ACH Beds**

County	General ACH Beds % of Total
Chatham	95%
Orange	5%
TOTAL	100%

Source: Application page 23

In Section C, pages 23-24, the applicants provide the assumptions and methodology used to project patient origin. The applicants’ assumptions are reasonable and adequately supported.

Analysis of Need

In Section C.4, pages 24-27, the applicants explain why they believe the population projected to utilize the proposed services needs the proposed services, as summarized below:

- The 2019 SMFP identifies a projected 36-bed deficit of ACH beds for Chatham County in 2022, and surpluses of ACH beds in Columbus and Halifax counties, from which the applicants propose to relocate the ACH beds (page 24).
- Development and population growth projections for Chatham County support the need additional ACH services in the service area (pages 24-26).

- The ACH beds at Liberty Commons Nursing and Rehab Center of Halifax County and Liberty Commons Nursing and Rehab Center of Columbus County are underutilized (pages 26-27).

The information is reasonable and adequately supported for the following reasons:

- The applicants demonstrate that based on the North Carolina Office of State Budget and Management (NCOSBM) estimates, Chatham County’s total population of seniors (aged 65 and older and the age cohort most likely to utilize ACH beds) is expected to increase significantly through 2030.
- The applicants provide documentation of the historical utilization of the existing ACH beds in Columbus and Halifax counties.

Projected Utilization

In Section Q, the applicants provide projected utilization of the Chatham County Rehabilitation Center as illustrated in the following table.

Chatham County Rehabilitation Center – Projected Utilization

	OY1 10/1/24-9/30/25	OY2 10/1/25-9/30/26	OY3 10/1/26-9/30/27
NF Beds			
# of NF Beds	105	105	105
# of Patient Days	27,303	35,770	35,770
Occupancy Rate	71.24%	93.33%	93.33%
ACH Beds			
# of ACH Beds	36	36	36
# of Patient Days	9,298	12,045	12,045
Occupancy Rate	70.76%	91.67%	91.67%

In Section Q, the applicant provides the assumptions and methodology used to project utilization, which is summarized below.

- The applicants state that the utilization projections for the nursing care beds remain unchanged from the previously approved application.
- The applicants state that Liberty opened a 30 ACH bed facility in Mecklenburg County, The Terrace at Brightmore of South Charlotte, in April, 2015. The applicants utilized the census data from that project to project utilization for this proposed project. The applicants state that the census at The Terrace at Brightmore of South Charlotte has consistently stayed at capacity. For the proposed Chatham County Rehabilitation Center project, the applicants state they project a faster fill up rate because the 36 ACH beds will be in a combination facility, and because they are projecting 33% State/County assistance.
- The applicants state they also relied on their recent experience operating similar facilities, and on the projected demographic trends in the Chatham County service area.

Projected utilization is reasonable and adequately supported for the following reasons:

- The applicants relied on historical data/experience and current data from a different existing Liberty ACH facility.
- The applicants relied on utilization census from other Liberty operated facilities.
- The fill-up rate is reasonable based on the management company’s experience and the applicants’ projected need.

Access

In Section C, page 29, the applicants state Chatham County Rehabilitation Center will provide services to all persons without discrimination on the basis of “*social, racial, ethnic, or gender related issues.*” In Section L, page 57, the applicants project the following payor mix for the proposed ACH beds during the third full fiscal year of operation following completion of the project, as illustrated in the following table.

**Chatham County Rehabilitation Center: ACH Beds
(Year 3: 10/1/2026 – 9/30/27)**

Payor Category	Services as Percent of Total ACH Services
Private Pay	67%
County Assistance/Medicaid	33%
Total	100%

Source: Table on page 57

The projected payor mix is reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicants adequately identify the population to be served.
- The applicants adequately explain why the population to be served needs the services proposed in this application.
- Projected utilization is reasonable and adequately supported.
- The applicants project the extent to which all residents, including underserved groups, will have access to the proposed services (payor mix) and adequately supports its assumptions.

(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.

C

In this application, which is a change of scope (COS) for Project I.D. # J-11378-17, the approved, but undeveloped, Chatham County Rehabilitation Center project, the applicants propose to relocate 16 ACH beds from Liberty Commons Nursing and Rehab Center of Halifax County and 20 ACH beds from Liberty Commons Nursing and Rehab Center of Columbus County to Chatham County Rehabilitation Center for a total of 105 nursing care beds and 36 ACH beds upon project completion. In Project I.D. # J-10168-13, the applicants, Liberty Healthcare Properties of Chatham County, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC, were approved to develop a new 90-bed nursing facility in Chatham County. In Project I.D. # J-11378-17, the applicants were authorized to relocate 25 nursing care beds from Legion Road Healthcare in Orange County to Chatham County Rehabilitation Center, for a total of 115 nursing care beds upon project, which was a change of scope for Project I.D. #J-10168-13. On November 1, 2018, the applicants received a material compliance determination from the Agency to reduce the number of nursing care beds to be relocated from Legion Road Healthcare in Orange County from 25 to 15 nursing care beds, for a total of 105 nursing care beds at Chatham County Rehabilitation Center. Also, at project completion, Liberty Commons Nursing and Rehab Center of Halifax County will have 50 nursing care beds and nine ACH beds, and Liberty Commons Nursing and Rehab Center of Columbus County will have 107 nursing care beds and 20 ACH beds.

In Section D, page 34, the applicants explain why they believe the needs of the population presently utilizing the services to be reduced, eliminated or relocated will be adequately met following completion of the project. On page 34, the applicants state:

“The Applicants are removing beds from counties where there are clear surpluses and moving them to a county that shows a strong need for beds. The relocation of these ACH beds will not have any negative effect, as there are no patients currently utilizing these beds. Furthermore, the applicants are only proposing to relocate a portion of the underutilized beds from each facility and not the total number of underutilized beds. Thus, there will continue to be capacity at each of the two facilities. ... In fact, it will only have a positive effect as it will put 36 AL beds into service.”

In Section C, pages 27-28, the applicants provide historical utilization data for Liberty Commons Nursing and Rehab Center of Halifax County that shows the facility’s 25 ACH beds operated at an average occupancy rate of 25 percent in the most recent operating year (2018). Also, on page 26, the applicants provide historical utilization data for the Liberty Commons Nursing and Rehab Center of Columbus County that shows the facility’s 40 ACH beds operated at an average occupancy rate of 40 percent in the most recent operating year (2018).

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the applicant adequately demonstrates that:

- The needs of the population currently using the services to be reduced, eliminated or relocated will be adequately met following project completion.
- The project will not adversely impact the ability of underserved groups to access these services following project completion.

- (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.

CA

In this application, which is a change of scope (COS) for the approved, but undeveloped, Chatham County Rehabilitation Center project, the applicants propose to relocate 16 ACH beds from Liberty Commons Nursing and Rehab Center of Halifax County and 20 ACH beds from Liberty Commons Nursing and Rehab Center of Columbus County to Chatham County Rehabilitation Center for a total of 105 nursing care beds and 36 ACH beds upon project completion.

In Section E, pages 36-37, the applicants describe the alternatives they considered and explain why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need. The alternatives considered were:

- Maintain and develop the project as approved in Project I.D. J-11378-17 - This alternative would leave the existing underutilized ACH beds in counties with a surplus of ACH beds, without meeting the needs of Chatham County for ACH beds. Therefore, this was not the least costly or most effective alternative.
- Relocate the 36 ACH Beds to Another County – After evaluating the situations in the other counties with a projected deficit of ACH beds, the applicants determined Chatham County had the greatest need for the beds.
- Develop a 36-bed ACH Facility - The applicants state that developing a stand-alone ACH facility is less cost-effective than developing a larger, combination facility that includes both nursing care and adult care home beds, where patients are able to age in place. Therefore, this was not the most effective alternative.

The applicants adequately demonstrate that the alternative proposed in this application is the most effective alternative to meet the need for the following reasons:

- The application is conforming to all statutory and regulatory review criteria.

- The applicants provide credible information to explain why they believe the proposed project is the most effective alternative.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above. Therefore, the application is approved subject to the following conditions:

- 1. Liberty Healthcare Properties of Chatham County, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall materially comply with the representations in this application.**
- 2. Liberty Healthcare Properties of Chatham County, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall relocate 16 adult care home beds from Liberty Commons Nursing and Rehab Center of Halifax County and 20 adult care home beds from Liberty Commons Nursing and Rehab Center of Columbus County to Chatham County Rehabilitation Center for a total of 105 nursing care beds and 36 adult care home beds upon completion of this project, Project I.D. # J-10168-13 and Project I.D. # J-11378-17.**
- 3. Upon completion of the project, Liberty Commons Nursing and Rehab Center of Halifax County shall be licensed for no more than 50 nursing care beds and 9 adult care home beds.**
- 4. Upon completion of the project, Liberty Commons Nursing and Rehab Center of Columbus County shall be licensed for no more than 107 nursing care beds and 20 adult care home beds.**
- 5. Liberty Healthcare Properties of Chatham County, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall provide care to recipients of State/County Special Assistance with Medicaid, commensurate with representations made in the application.**
- 6. For the first two years of operation following completion of the project, Liberty Healthcare Properties of Chatham County, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall not increase private pay charges more than 5% of the projected private pay charges provided**

in Section Q of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.

7. No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, Liberty Healthcare Properties of Chatham County, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:

- a. Payor mix for the services authorized in this certificate of need.**
- b. Utilization of the services authorized in this certificate of need.**
- c. Revenues and operating costs for the services authorized in this certificate of need.**
- d. Average gross revenue per unit of service.**
- e. Average net revenue per unit of service.**
- f. Average operating cost per unit of service.**

8. Liberty Healthcare Properties of Chatham County, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency 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.

C

In a change of scope to Project I.D. # J-11378-17, the applicants propose to relocate 16 ACH beds from Liberty Commons Nursing and Rehab Center of Halifax County and 20 ACH beds from Liberty Commons Nursing and Rehab Center of Columbus County to Chatham County Rehabilitation Center for a total of 105 nursing care beds and 36 ACH beds upon project completion.

Capital and Working Capital Costs

In Section Q, Form F.1b, page 71, the applicants project the total capital cost of this project (add 36 ACH beds) as shown in the table below.

	Original Costs (Project ID # J-11378-17)	Additional Costs for 36 ACH Beds	Total
Site Preparation Costs	\$4,547,513	\$0	\$4,547,513
Construction Costs	\$9,649,926	\$4,619,274	\$14,269,200
Miscellaneous Costs	\$1,509,700	\$351,800	\$1,861,500
Total	\$15,707,139	\$4,971,074	\$20,678,213

In Section Q, page 70, the applicants provide the assumptions used to project the capital cost.

In Section F.3, the applicants project total working capital costs of \$1,299,888. On page 40 of the application, the applicants state that start-up costs and initial operating expenses associated with the COS application over and above the original working capital costs of \$1,037,797 will be \$262,091 to cover additional staffing and operating expenses during the fill-up of the 36 ACH beds.

Availability of Funds

In Section F, page 38, the applicants state that the capital cost will be funded as shown in the table below.

Sources of Capital Cost Financing

Type	Liberty Healthcare Properties of Chatham County, LLC	Total
Loans	\$0	\$0
Accumulated reserves or OE *	\$4,971,074	\$4,971,074
Bonds	\$0	\$0
Other (Specify)	\$0	\$0
Total Financing	\$4,971,074	\$4,971,074

* OE = Owner's Equity

In Section F, page 40, the applicants state that the working capital needs of the project will be funded as shown in the table below.

Sources of Financing for Working Capital		Amount
(a)	Loans	\$
(b)	Cash or Cash Equivalents, Accumulated Reserves or Owner's Equity	\$1,299,888
(c)	Lines of credit	\$
(d)	Bonds	\$
(e)	Total	\$1,299,888

In Section F, page 39, the applicants state that the capital costs will be financed by the owner's equity of John A. McNeill, Jr. and Ronald B. McNeill, owners of the applicants. In Exhibit F.2, the applicants provide a letter dated February 12, 2019, from John A. McNeill, Jr. and Ronald B. McNeill expressing their intention to fund the capital and working capital costs for the proposed project. The applicants adequately demonstrate that sufficient funds will be available for the capital needs of the proposed project.

Financial Feasibility

The applicants provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Form F.5, the applicants project that revenues will exceed operating expenses in the first three operating years of the project, as shown in the table below.

Chatham County Rehabilitation Center: Entire Facility (NF and ACH beds)

	1st Full Fiscal Year	2nd Full Fiscal Year	3rd Full Fiscal Year
Total Patient Days	36,601	47,815	47,815
Total Gross Revenues (Charges)	\$8,394,085	\$11,223,688	\$11,325,516
Total Net Revenue	\$7,600,611	\$10,183,699	\$10,285,324
Average Net Revenue per Patient Days	\$208	\$213	\$215
Total Operating Expenses (Costs)	\$7,456,562	\$8,063,443	\$8,235,342
Average Operating Expense per Patient Days	\$204	\$169	\$172
Net Income	\$144,049	\$2,120,256	\$2,049,982

The assumptions used by the applicants in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See Section Q of the application and supplemental information for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicants adequately demonstrate that the capital and working capital costs are based on reasonable and adequately supported assumptions.
- The applicants adequately demonstrate availability of sufficient funds for the capital and working capital needs of the proposal.
- The applicants adequately demonstrate sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

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

In this application, which is a change of scope (COS) for Project I.D. # J-11378-17, the approved, but undeveloped, Chatham County Rehabilitation Center project, the applicants propose to relocate 16 ACH beds from Liberty Commons Nursing and Rehab Center of Halifax County and 20 ACH beds from Liberty Commons Nursing and Rehab Center of Columbus County to Chatham County Rehabilitation Center for a total of 105 nursing care beds and 36 ACH beds upon project completion. In Project I.D. # J-10168-13, the applicants, Liberty Healthcare Properties of Chatham County, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC, were approved to develop a new 90-bed nursing facility in Chatham County. In Project I.D. # J-11378-17, the applicants were authorized to relocate 25 nursing care beds from Legion Road Healthcare in Orange County to Chatham County Rehabilitation Center, for a total of 115 nursing care beds upon project, which was a change of scope for Project I.D. #J-10168-13. On November 1, 2018, the applicants received a material compliance determination from the Agency to reduce the number of nursing care beds to be relocated from Legion Road Healthcare in Orange County from 25 to 15 nursing care beds, for a total of 105 nursing care beds at Chatham County Rehabilitation Center. Also, at project completion, Liberty Commons Nursing and Rehab Center of Halifax County will have 50 nursing care beds and nine ACH beds, and Liberty Commons Nursing and Rehab Center of Columbus County will have 107 nursing care beds and 20 ACH beds.

On page 219, the 2019 SMFP defines the service area for adult care home beds as the county in which the adult care home bed is located. Thus, the service area for this facility consists of Chatham County. Facilities may also serve residents of counties not included in their service area.

Based on data in Table 11A: Inventory of Adult Care Homes (Assisted Living) Beds in the 2019 SMFP, page 224, Chatham County has a total of four facilities with ACH beds with a total planning inventory of 362 ACH beds. Also, based on data in Table 11C: Adult Care Home Need Projections for 2022 in the 2019 SMFP, page 249, Chatham County is projected to have an adult care home bed deficit of 36 beds in 2022.

In Section G, pages 44-45, the applicants explain why they believe their proposal would not result in the unnecessary duplication of existing or approved adult care services in Chatham County. Specifically, the applicants state that the 2019 SMFP projects a deficit of 36 ACH beds for Chatham County in 2022, and the population of Chatham County is projected to grow significantly through 2030. Also, on page 45, the applicants state:

“Furthermore, after analysis of the 2018 ACH LRA’s, almost all of the ACH days listed were for private pay. The county average was 82% private pay, 17% county assistance, and 1% other. The applicants are projecting filling up over 33% of its census with county assistance/Medicaid residents for the ACH beds, which we feel will greatly fill the void to place special assistance residents in adult care homes within Chatham County.”

The applicants adequately demonstrate that the proposal would not result in an unnecessary duplication of existing or approved services in the service area for the following reasons:

- The applicants adequately demonstrate that the 36 ACH beds are not being utilized at the existing Halifax and Columbus County facilities.
- The applicants adequately demonstrate the need the population has for the 36 ACH relocated Policy LTC-2 beds.
- The applicants adequately demonstrate that the relocated ACH beds are needed in addition to the existing ACH beds in Chatham County.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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.

C

In Section Q, Form H, page 90, the applicants provide projected full-time equivalent (FTE) staffing for the proposed services for the first three operating years, as shown in the tables on pages 92-94 of the application, which is summarized below:

Chatham County Rehabilitation Center Staffing (Operating Years 1-3)

	Nursing Care Beds	Adult Care Home Beds	Total Facility
Registered Nurse	7.00	0.00	7.00
Licensed Practical Nurse	16.70	5.70	22.40
Aides	38.60	13.20	51.80
Director of Nursing	1.00	0.00	1.00
Assistant Director of Nursing	1.00	0.00	1.00
MDS Nurse	1.00	0.00	1.00
Alzheimer's Coordinator	1.00	0.00	1.00
Staff Development Coordinator	0.74	0.26	1.00
Clerical (Ward Secretary)	1.00	0.00	1.00
Medical Records	1.00	0.00	1.00
Physical Therapy	2.50	0.00	2.50
Speech Therapy	0.50	0.00	0.50
Occupational Therapy	1.63	0.00	1.63
Social Services	1.50	0.00	1.50
Activities	1.49	0.51	2.00
Transportation	0.74	0.26	1.00
Laundry & Linen	3.13	1.07	4.20
Housekeeping	4.91	1.69	6.60
Plant Operations & Maintenance	1.49	0.51	2.00
Administration	0.74	0.26	1.00
Other (Business Office)	1.49	0.51	2.00
Total*	89.16	23.97	113.00

*Totals may not foot due to rounding.

The assumptions and methodology used to project staffing are provided in Section H, Form H. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in Form F.4, which is found in Section Q. In Section H, page 48, the applicants describe the methods to be used to recruit or fill new positions and its proposed training and continuing education programs. The applicants adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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

In Project I.D. #J-11378-18, the applicants were found conforming to this Criterion. The applicants propose no changes in the current COS application that would affect that determination.

- (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

The applicants do not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicants do not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered. Therefore, Criterion (9) is not applicable to this review.

- (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

The applicants are not HMOs. Therefore, Criterion (10) is not applicable to this review.

- (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.

C

In Project I.D. # J-11378-17, the application was found conforming to this criterion. In Section K, the applicants state that there were no changes proposed in this COS application except an updated floor plan to accommodate the addition of the proposed 36 ACH beds. Line drawings are provided in Exhibit K.5.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to 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

In Project I.D. # J-11378-17, this Criterion was deemed to be not applicable because the applicant proposed to develop a new facility. The applicant proposes no changes in the current COS application that would affect that determination.

(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

In Project I.D. # J-11378-17, this Criterion was deemed to be not applicable because the applicant proposed to develop a new facility. The applicants propose no changes in the current COS application that would affect that determination.

- (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 Project I.D. # J-11378-17, the application was conforming to this criterion. The applicants propose a COS for the approved, but undeveloped, Chatham County Rehabilitation Center. In the current COS application, the applicants propose to add 36 ACH beds to the Chatham County Rehabilitation Center by relocating 36 ACH beds from facilities in Columbus and Halifax counties for a total of 105 nursing care beds and 36 ACH beds at Chatham County Rehabilitation Center upon project completion.

In Section L, page 57, the applicants project the following payor mix for the proposed ACH services during the third full fiscal year of operation following completion of the project, as shown in the table below.

ACH Beds- Third Full FFY (10/1/2026 – 9/30/2027)

Payor Category	Services as Percent of Total ACH Services
Private Pay	67%
County Assistance/Medicaid	33%
Total	100%

Source: Table on page 57 of the application.

As shown in the table above, during the third full fiscal year of operation, the applicant projects that 33% of total ACH services will be provided to patients receiving County Assistance/Medicaid.

The projected payor mix is reasonable and adequately supported based on the applicants' historical business experience.

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to 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 Project I.D. # J-11378-17, the application was conforming to this Criterion and the applicants propose no changes in the current COS application that would affect that determination.

- (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

In Project I.D. # J-11378-17, the application was conforming to this criterion and the applicants propose no changes in the current COS application that would affect that determination.

- (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.

C

In this application, which is a change of scope (COS) for Project I.D. # J-11378-17, the approved, but undeveloped, Chatham County Rehabilitation Center project, the applicants propose to relocate 16 ACH beds from Liberty Commons Nursing and Rehab Center of Halifax County and 20 ACH beds from Liberty Commons Nursing and Rehab Center of Columbus County to Chatham County Rehabilitation Center for a total of 105 nursing care beds and 36 ACH beds upon project completion. In Project I.D. # J-10168-13, the applicants, Liberty Healthcare Properties of Chatham County, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC, were approved to develop a new 90-bed nursing facility in Chatham County. In Project I.D. # J-11378-17, the applicants were authorized to relocate 25 nursing care beds from Legion Road Healthcare in Orange County to Chatham County Rehabilitation Center, for a total of 115 nursing care beds upon project, which was a change of scope for Project I.D. #J-10168-13. On November 1, 2018, the applicants received a material compliance determination from the Agency to reduce the number of nursing care beds to be relocated from Legion Road Healthcare in Orange County from 25 to 15 nursing care beds, for a total of 105 nursing care beds at Chatham County Rehabilitation Center. Also, at project completion, Liberty Commons Nursing and Rehab Center of Halifax County will have 50 nursing care beds and nine ACH beds, and Liberty Commons Nursing and Rehab Center of Columbus County will have 107 nursing care beds and 20 ACH beds.

On page 219, the 2019 SMFP defines the service area for adult care home beds as the county in which the adult care home bed is located. Thus, the service area for this facility consists of Chatham County. Facilities may also serve residents of counties not included in their service area.

Based on data in Table 11A: Inventory of Adult Care Homes (Assisted Living) Beds in the 2019 SMFP, page 224, Chatham County has a total of four facilities with ACH beds with a total planning inventory of 362 ACH beds. Also, based on data in Table 11C: Adult Care Home Need Projections for 2022 in the 2019 SMFP, page 249, Chatham County is projected to have an adult care home bed deficit of 36 beds in 2022.

In Section N, pages 60-61, the applicants describe the expected effects of the proposed services on competition in the service area and discuss how any enhanced competition in the service area will promote the cost-effectiveness, quality and access to the proposed services. On page 60, the applicants state:

“The applicants demonstrated in Project J-11378-17 (and previously J-10168-13) the expected positive effects of the SNF beds on the competition. In regard to this change of scope, the proposed project will have a positive effect on competition in the area, as the demand for these 36 ACH beds may encourage other facilities with poor utilization in Chatham County to improve their current situations in order to compete. Access to ACH beds at Chatham County Rehabilitation Center, especially to those residents in need of Medicaid and Special Assistance residents (1/3 of the 36 ACH beds will be reserved for Medicaid/Special Assistance), will allow admission of residents who seek homelike care at lower costs.”

The applicants adequately describe the expected effects of the proposed services on competition in the service area and adequately demonstrates:

- The cost-effectiveness of the proposal (see Sections F and Q of the application, any exhibits and the supplemental information)
- Quality services will be provided (see Section O of the application and any exhibits)
- Access will be provided to underserved groups (see Section L of the application, any exhibits and the supplemental information.)

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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.

C

In Section A.1, page 4, the applicants state that Liberty Real Properties II, LLC (Liberty) is the parent company of Liberty Healthcare Properties of Chatham County, LLC. In Section A.10, pages 10-11, the applicants provide a list of its affiliates which include 26 nursing home facilities and 4 adult care homes located in North Carolina owned, operated or managed by the applicant or a related entity.

In Section O, pages 58-59, the applicants state that, during the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred in five of the twenty-six nursing facilities: Southport Nursing, Woodlands Nursing and Rehabilitation Center, Liberty Commons Nursing and Rehabilitation Center of Rowan County, Bermuda Commons, and Liberty Commons Nursing and Rehabilitation Center of Lee County. The applicants state that all of the problems have been corrected as documented in Section O, page 64, except for Woodlands Nursing and Rehabilitation Center which was awaiting a revisit and expected to be in compliance as of February 2019. According to the files in the Nursing Home Licensure and Certification Section, DHSR during the 18 months immediately preceding submission of the application through the date of this decision, incidents related to quality of care occurred in eight of these facilities and all are back in compliance as of the date of this decision. Furthermore, according to the files in the Adult Care Licensure Section, DHSR during the 18 months immediately preceding submission of the application through the date of this decision, incidents related to quality of care occurred in two of the four adult care home facilities: The Commons at Brightmore and Liberty Commons Assisted Living. According to the files in the Adult Care Licensure Section all are back in compliance as of the date of this decision.

After reviewing and considering information provided by the applicants and by the Nursing Home Licensure and Certification Section, the Adult Care Licensure Section and considering the quality of care provided at all 30 facilities, the applicants provided sufficient evidence that quality care has been provided in the past.

- (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

In Project I.D. # J-11378-17, the application was conforming to The Criteria and Standards for Nursing Facility or Adult Care Home Facility Services promulgated in 10A NCAC 14C .1100 and the applicants propose no changes in the current COS application that would affect that determination.