

REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conforming as Conditioned

NC = Nonconforming

NA = Not Applicable

Decision Date: August 9, 2021

Findings Date: August 9, 2021

Project Analyst: Julie M. Faenza

Team Leader: Gloria C. Hale

Project ID #: J-12056-21

Facility: Liberty Commons Nursing & Rehabilitation Center of Durham County

FID #: 190528

County: Durham

Applicant: Liberty Healthcare Properties of Durham County, LLC

Project: Relocate no more than 8 NF beds from Liberty Commons Nursing & Rehabilitation Center of Alamance County which is a change of scope for Project ID #J-11803-19 (relocate 49 NF beds) for a total of no more than 57 NF beds upon completion of both projects

REVIEW CRITERIA

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.

C

Liberty Healthcare Properties of Durham, LLC (hereinafter referred to as “Liberty” or “the applicant”), proposes a change of scope to Project I.D. #J-11803-19, a previously approved but not yet developed project. Project I.D. #J-11803-19 approved the development of Liberty Commons Nursing & Rehabilitation of Durham County (LC of Durham), a new skilled nursing facility (SNF), by relocating 49 existing NF beds from Forsyth County into Durham County. In Project I.D. #G-11854-20, an affiliate of the applicant was approved to relocate 32 existing NF beds from an unaffiliated SNF in Alamance County to Liberty Commons Nursing & Rehabilitation Center of Alamance County (LC of Alamance). In this change of scope application, the applicant proposes to relocate eight of the 32 NF beds from Project I.D. #G-

11854-20 to Durham County and develop them at LC of Durham. Upon project completion, LC of Durham will have a total of 57 NF beds instead of 49 NF beds.

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 2021 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations applicable to this review.

Policies

There are two policies in the 2021 SMFP which are applicable to this review.

Policy NH-6: Relocation of Nursing Facility Beds, on page 23 of the 2021 SMFP, states:

“Relocations of existing licensed nursing home facility beds to another service area are allowed. Certificate of need applicants proposing to relocate licensed nursing home facility 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 nursing home facility beds in the county that would be losing nursing home facility 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 nursing home facility beds in the county that would gain nursing home facility 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 applicant proposes to relocate eight NF beds out of Alamance County. Additionally, the applicant proposes to relocate 11 NF beds from LC of Alamance to Buncombe County (see Project I.D. #B-12054-21).

In Table 10C on page 169 of the 2021 SMFP, Alamance County is listed as having a surplus of 39 NF beds. Relocating a combined total of 19 NF beds out of Alamance County will leave Alamance County with a surplus of 20 NF beds.

In Table 10C on page 170 of the 2021 SMFP, Durham County is listed as having a deficit of eight NF beds. Relocating eight NF beds from Alamance County into Durham County will leave Durham County with neither a surplus nor a deficit of NF beds.

Relocating a combined total of 19 NF beds out of Alamance County will not result in a deficit or increase an existing deficit of licensed NF beds in Alamance County and will not result in a surplus or increase an existing surplus of licensed NF beds in Durham County.

Policy NH-8: Innovations in Nursing Home Facility Design, on page 23 of the 2021 SMFP, states:

“Certificate of need applicants proposing new nursing home facilities and replacement nursing home facilities shall pursue innovative approaches in environmental design that address quality of care and quality of life needs of the residents. These plans could include innovative design elements that encourage less institutional, more home-like settings, privacy, autonomy and resident choice, among others.”

In Section B, pages 27-29, the applicant describes the innovative approaches in environmental design that it plans to incorporate into the proposed project. Additionally, Project I.D. #J-11803-19 was consistent with Policy NH-8 and the applicant proposes no other changes as part of this project which would affect that determination.

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 based on the following reasons:

- The applicant does not propose to develop any beds, services, or equipment for which there is a need determination in the 2021 SMFP.
- The applicant adequately demonstrates that the proposal is consistent with Policy NH-6 because the applicant adequately demonstrates that relocating a combined 19 NF beds out of Alamance County will not result in a deficit or increase an existing deficit for NF beds in Alamance County and relocating the eight NF beds to Durham County will not result in a surplus or increase an existing surplus for NF beds in Durham County.
- The applicant adequately demonstrates that the proposal is consistent with Policy NH-8 because the applicant adequately demonstrates that the design of the proposed NF facility would incorporate innovative approaches in environmental design that address quality of care and quality of life needs for the patients.
- Project I.D. #J-11803-19 was consistent with Policy NH-8 and the applicant proposes no other changes as part of this project which would affect that determination.

(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, ... persons [with disabilities], the elderly, and other underserved groups are likely to have access to the services proposed.

C

The applicant proposes a change of scope to Project I.D. #J-11803-19 (develop a new SNF, LC of Durham, by relocating 49 NF beds from Forsyth County) by developing an additional eight NF beds to be relocated from Alamance County. Upon completion of this project and Project I.D. #J-11803-19, LC of Durham will have a total of 57 NF beds.

A certificate of need for Project I.D. #J-11803-19 was issued on March 31, 2020, approving the development of LC of Durham via the relocation of 49 existing NF beds from Forsyth County. Separately, an affiliate of the applicant received a certificate of need for Project I.D. #G-11854-20 on March 15, 2020, authorizing the relocation of 32 existing NF beds from one facility in Alamance County to another facility, LC of Alamance, also located in Alamance County. According to the latest information received by the Agency, renovations to existing space at LC of Alamance are underway but not yet complete and the 32 existing NF beds have not yet been relocated to LC of Alamance.

This change of scope application proposes to take eight NF beds approved to be relocated to LC of Alamance pursuant to Project I.D. #G-11854-20 and instead relocate and develop them at LC of Durham. LC of Durham would have 57 NF beds upon completion of this project and Project I.D. #J-11803-19.

Patient Origin

On page 143, the 2021 SMFP defines the service area for nursing home beds as “... *the county in which the bed is located. Each of the 100 counties in the state is a separate service area.*” Thus, the service area for this facility is Durham County. Facilities may also serve residents of counties not included in their service area.

LC of Durham is not an existing facility and has no historical patient origin. In Section C, page 45, the applicant does not project any changes to the patient origin it projected in Project I.D. #J-11803-19. The applicant states that the location of the facility is not changing, and it believes that the patient origin projections in Project I.D. #J-11803-19 will not change with the addition of eight NF beds.

The applicant’s assumptions are reasonable and adequately supported based on the following:

- Project I.D. #J-11803-19 was found conforming with this criterion, and the applicant proposes no other changes as part of this project which would affect that determination.
- The current application as submitted contains no information that would make reliance on the previous patient origin projections unreasonable.

Analysis of Need

In Section C, pages 43-46, and in supplemental information, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services, summarized as follows:

- **Increasing Population of People Age 65 and Older in Durham County:** the applicant states the population in Durham County age 65 and older is projected to increase by almost 78 percent between 2010 and 2021 and is projected to increase by an additional 22 percent between 2021 and 2026, based on data obtained from Spotlight Pop-Facts by Environics. The applicant states the senior population tends to have the highest disability rates and greatest need for long term care.

The applicant further states that since there is an existing deficit of eight NF beds in Durham County, it can be inferred that the projected population increase in Durham County would support the need for more NF beds in Durham County. The applicant “calculated” the impact of the projected population increase by plugging only the projected population increases into the need methodology in Chapter 10 of the 2021 SMFP to demonstrate that while population has been increasing in Durham County for some time and is not new, the projected population increase could support the need to relocate eight NF beds into Durham County.

- **Capacity Constraints at LC of Alamance:** In Project I.D. #G-11854-20, LC of Alamance was approved to relocate 32 NF beds from a non-Liberty SNF in Alamance County. The applicant states it has had increasing demand for private rooms and because the rooms at LC of Alamance are semi-private rooms, operating private rooms caps the number of NF beds available. The applicant provides an article from Skilled Nursing News¹ from May 2021, which states that 31 percent of SNF operators made some change from semi-private to private rooms in the last year. The article also cites Pruitt Health’s CEO, who stated they plan to increase the number of private rooms they have and that he expects families to demand more private rooms. Pruitt Health operates numerous SNFs in North Carolina, including two in Durham County. The applicant states the COVID-19 pandemic also shows the need for private rooms.

The applicant states these shifts in the industry, many of which accelerated in the last year, are the reason why LC of Alamance previously believed it had the capacity to add 32 new NF beds to the facility and why it now will not be able to fully utilize the 32 NF beds it was planning to relocate to LC of Alamance.

- **Liberty’s Experience Operating Smaller Facilities:** the applicant states that Liberty tries to develop SNFs with at least 100 NF beds whenever possible, but states that it operates other SNFs in North Carolina with similar numbers of NF beds as proposed for LC of Durham and which have occupancy rates of around 80 percent even with the COVID-19 pandemic.

¹<https://skillednursingnews.com/2021/05/covid-accelerates-shift-to-private-skilled-nursing-rooms-up-31-in-2020/>, accessed on June 25, 2021.

- Need for Private Rooms: the applicant states relocating eight NF beds to Durham County will allow it to add eight additional private rooms to LC of Durham, and as referenced above, SNF operators are moving more toward private rooms. The applicant further states that, due to the physical capacity constraints at LC of Alamance and the trend of moving toward private rooms, LC of Alamance has a maximum capacity of 103 NF beds, which will leave beds unutilized.

The information is reasonable and adequately supported based on the following:

- The applicant provides documentation of the projected population increase of people age 65 and older in Durham County.
- The applicant provides examples of how the projected population increase of people age 65 and older in Durham County would support the relocation of eight NF beds to Durham County.
- The applicant uses data and information from reliable sources.
- The applicant provides information from the broader SNF industry that supports its reasons for proposing to relocate the NF beds to Durham County.

Projected Utilization

On Form C.1b in Section Q, the applicant provides projected utilization, as illustrated in the table below.

LC of Durham Projected Utilization – FYs 1-3			
	FY 1 – FFY 2026	FY 2 – FFY 2027	FY 3 – FFY 2028
# of Beds	57	57	57
# of Admissions	130	145	145
# of Patient Days	16,583	18,980	18,980
ALOS*	127.6	130.9	130.9
Occupancy Rate	79.7%	91.2%	91.2%

*ALOS = Average Length of Stay

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

- The applicant states that based on its experience with owning or operating more than 30 SNF in North Carolina (as of the date this application was submitted), it projected a net average fill-up rate of four patients per week.
- The applicant considered the current and projected population and demographic data for Durham County in projecting utilization.
- The applicant states it used the same overall assumptions as it did for Project I.D. #F-11803-19.

In supplemental information, the applicant provided data on facility fill-up rates from when it opened Summerstone Health & Rehabilitation Center in Kernersville. The 100-NF bed SNF opened in August 2017. The applicant provides data showing that during the first three months that the SNF was offering services, it had a fill-up rate of 19 residents per month or 4.75 residents per week. The applicant further provides data showing that Summerstone had an average occupancy rate of 92 percent during its second full year of operation.

During the State Health Coordinating Council (SHCC) meeting on June 2, 2021, members of the SHCC were discussing the impact of the COVID-19 pandemic on SNF utilization. Industry members stated utilization had dropped to approximately 70 percent on average and recovery was expected to be slow, at approximately one percent per month. In supplemental information, the applicant states that because it is not projected to be licensed until October 2025, that would be enough time for utilization to rebound. The applicant further cites an industry economist who states data is showing that occupancy rates at SNFs are starting to stabilize².

Projected utilization is reasonable and adequately supported based on the following:

- The applicant relied on its experience in owning and operating existing SNFs in North Carolina to project utilization.
- The applicant provided evidence of its experience in achieving utilization similar to the projected utilization in this application.
- The applicant accounted for projected increases in population and relevant demographic data in projecting utilization.
- Project I.D. #J-11803-19 was conforming with this statutory criterion and the applicant proposes no other changes as part of this project which would affect that determination.

Access to Medically Underserved Groups

In Section C, page 47, the applicant states access by medically underserved groups is not projected to change as a result of this change of scope application. The applicant states:

“Access by medically underserved groups is not expected to be different from what was projected in the previously approved application. There has been no change by the applicants in regard to serving medically underserved groups. Liberty Commons of Durham County will allow admissions only on the written order of a physician. Persons whose health, habilitative, or rehabilitative needs cannot be met by the services offered in the facility will not be admitted. Otherwise, Liberty Commons of Durham County affords equal treatment and access to its services for all persons, without discrimination due to age, race, color, religion, sex, marital status, national origin,

²<https://www.nic.org/news-press/occupancy-at-u-s-skilled-nursing-facilities-shows-signs-of-stabilization/>, accessed on June 25, 2021

sexual orientation, ancestry, or disability, or any other factor that would classify a resident as underserved.”

The applicant adequately describes the extent to which all residents of the service area, including underserved groups, are likely to have access to the proposed services based on the following:

- The applicant projects no change to access for medically underserved groups as a result of this change of scope application.
- Project I.D. #J-11803-19 was found conforming with this criterion and the applicant proposes no other changes as part of this project which would affect that determination.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- 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 all the reasons described above.

- (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, ... persons [with disabilities], and other underserved groups and the elderly to obtain needed health care.

C

The applicant proposes a change of scope to Project I.D. #J-11803-19 (develop a new SNF, LC of Durham, by relocating 49 NF beds from Forsyth County) by developing an additional eight NF beds to be relocated from Alamance County. Upon completion of this project and Project I.D. #J-11803-19, LC of Durham will have a total of 57 NF beds.

LC of Alamance is currently licensed for 90 NF beds and 48 adult care home beds. A certificate of need for Project I.D. #G-11854-20 was issued on May 15, 2020, approving the relocation of 32 NF beds from Edgewood Place at the Village of Brookwood, for an approved total of 122 NF beds at LC of Alamance. In the current application, the applicant proposes to relocate eight of the NF beds from Project I.D. #G-11854-20 to LC of Durham instead. Separately, in Project I.D. #B-12054-21, the applicant proposes to relocate 11 of the NF beds from Project I.D. #G-11854-20 to Pisgah Manor in Buncombe County instead. Upon completion of this

project, Project I.D. #G-11854-20, and Project I.D. #B-12054-21, LC of Alamance will be licensed for 103 NF beds and 48 adult care home beds.

In supplemental information, the applicant explains why it believes the needs of the population presently utilizing the services to be relocated will be adequately met following completion of the project. The applicant states that the beds to be relocated are not currently in use.

Regarding the need for the beds at LC of Alamance as represented in Project I.D. #G-11854-20, the applicant states in supplemental information that due to the increased demand for private rooms, LC of Alamance will have a functional cap of 103 NF beds at the existing SNF, which will leave 19 of the 32 NF beds approved to be relocated in Project I.D. #G-11854-20 unoccupied and unused.

The information is reasonable and adequately supported based on the following:

- The applicant provides a reasonable explanation for the change in the need it represented it had at LC of Alamance in Project I.D. #G-11854-20.
- In Exhibit C.8, the applicant provides a letter from the administrator of LC of Alamance, which states that the functional capacity of the building is 103 NF beds.

On Form D.1 in Section Q, the applicant provides projected utilization for LC of Alamance, as illustrated in the following table.

LC of Alamance* Projected Utilization – FFYs 2020-2026							
	Prior FY	Interim FYs					FY 1
	FFY 2020	FFY 2021	FFY 2022	FFY 2023	FFY 2024	FFY 2025	FFY 2026
# of Beds**	90	103	103	103	103	103	103
# of Admissions	242	265	265	265	265	265	265
# of Patient Days	28,121	33,945	33,945	33,945	33,945	33,945	33,945
ALOS***	116.20	128.09	128.09	128.09	128.09	128.09	128.09
Occupancy Rate	85.60%	90.29%	90.29%	90.29%	90.29%	90.29%	90.29%

*In Section Q, the table lists the facility as Pavilion Health Center at Brightmore. That is clearly a typographical error.

**In Table D.1, the applicant lists 122 beds during the interim FFYs. Because 19 beds will not be utilized, the Project Analyst lists the bed count as 103 and recalculates utilization.

***ALOS = Average Length of Stay

In Section Q immediately following Form D, the applicant provides the assumptions and methodology used to project utilization, which are summarized below.

- The applicant projects the utilization for LC of Alamance based on its experience operating SNFs in North Carolina.
- The applicant provides a letter from the administrator of LC of Alamance, documenting that the functional capacity of the building is 103 beds and projecting that while the current

census is 75 residents, once the construction related to Project I.D. #G-11854-20 is complete, it expects residency to rise to 93 patients due to the addition of new NF beds.

Projected utilization is reasonable and adequately supported based on the following:

- The applicant relies on its historical experience in operating SNFs in North Carolina.
- The applicant provides information from the facility administrator, who is in an excellent position to understand capacity and utilization trends.
- It is reasonable to believe that newly renovated private rooms at an existing SNF will be quickly occupied.

Access to Medically Underserved Groups

In Section D, page 53, the applicant states:

“..., according to the 2021 license renewal application [sic] for Liberty Commons of Alamance County, 20,683 (74%) of the total census days were reimbursed by Medicaid. Liberty Commons of Alamance County have [sic] and will continue to support access to [medically underserved groups]. Therefore, this relocation of beds will have no ill effect on [medically underserved groups].

The applicant adequately demonstrates that the needs of medically underserved groups who will continue to use NF beds at LC of Alamance will be adequately met following completion of the project for the following reasons:

- The NF beds being relocated are not currently being used at LC of Alamance and will have no impact on the applicant’s ability to serve existing and future residents in medically underserved groups.
- The applicant will be better able to serve future residents by relocating the NF beds because it will allow for the creation of more private rooms at each facility.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- 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 applicant adequately demonstrates that the needs of the population currently using the services to be relocated will be adequately met following project completion for all the reasons described above.
 - The applicant adequately demonstrates that the project will not adversely impact the ability of underserved groups to access these services following project completion for all the reasons described above.
- (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

The applicant proposes a change of scope to Project I.D. #J-11803-19 (develop a new SNF, LC of Durham, by relocating 49 NF beds from Forsyth County) by developing an additional eight NF beds to be relocated from Alamance County. Upon completion of this project and Project I.D. #J-11803-19, LC of Durham will have a total of 57 NF beds.

In Section E, page 55, the applicant describes the alternatives considered and explains 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 the Status Quo: the applicant states there is current and future need for private rooms and maintaining the status quo would not be as operationally efficient and would not serve its residents as well as relocating the NF beds; therefore, this was not an effective alternative.
- Relocate Fewer Than Eight NF Beds: the applicant states relocating fewer than eight NF beds would still leave Durham County with a deficit of NF beds and it would leave LC of Alamance with more vacant beds than its practical capacity; therefore, this was not an effective alternative.

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

- The applicant provides reasonable and adequately supported information to explain why it believes the proposed project is the most effective alternative.
- The application is conforming to all other statutory and regulatory review criteria. Therefore, the application can be approved.

Conclusion

The Agency reviewed the:

- Application

- Exhibits to the application
- Supplemental information requested by the Agency
- 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. Therefore, the application is approved subject to the following conditions:

- 1. Liberty Healthcare Properties of Durham County, LLC (hereinafter, the certificate holder) shall materially comply with all representations made in the certificate of need application, the application for Project I.D. #J-11803-19, and any supplemental information. If representations conflict, the certificate holder shall materially comply with the last made representation.**
- 2. In a change of scope for Project I.D. #J-11803-19, the certificate holder shall develop a 57-bed nursing home facility in Durham County by relocating no more than 8 nursing home facility beds previously approved to be relocated to Liberty Commons Nursing & Rehabilitation Center of Alamance County pursuant to Project I.D. #G-11854-20 and developing them with the 49 nursing home facility beds approved in Project I.D. #J-11803-19 to be relocated from Forsyth County to Durham County.**
- 3. Upon completion of this project and Project I.D. #J-11803-19, Liberty Commons Nursing & Rehabilitation Center of Durham County shall be licensed for no more than 57 nursing home facility beds.**
- 4. Upon completion of this project, Project I.D. #G-11854-20, and Project I.D. #B-12054-21, Liberty Commons Nursing & Rehabilitation Center of Alamance County shall be licensed for no more than 103 nursing home facility beds and 48 adult care home beds.**
- 5. The approved combined capital expenditure for both Project I.D. #J-11803-19 and this project is \$9,577,895, an increase of \$657,020 over the previously approved capital expenditure of \$8,920,875 in Project I.D. #J-11803-19.**
- 6. For the first two years of operation following completion of the project, the certificate holder 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. Progress Reports:**
 - a. Pursuant to G.S. 131E-189(a), the certificate holder shall submit periodic reports on the progress being made to develop the project consistent with the timetable and representations made in the application on the Progress Report form provided by the Healthcare Planning and Certificate of Need Section. The form is available online at: <https://info.ncdhhs.gov/dhsr/coneed/progressreport.html>.**

	Project ID #J-11803-19	New	Total
Land/Closing Costs/Site Prep	\$737,855	\$0	\$737,855
Construction/Renovation Contracts	\$7,158,020	\$572,020	\$7,730,040
Architect/Engineering Fees	\$450,000	\$0	\$450,000
Non-medical Equipment/Furniture	\$520,000	\$80,000	\$600,000
Consultant Fees	\$55,000	\$5,000	\$60,000
Total	\$8,920,875	\$657,020	\$9,577,895

In Section Q immediately following Form F.1b, the applicant provides the assumptions used to project the additional capital cost. The applicant adequately demonstrates that the projected capital cost is based on reasonable and adequately supported assumptions based on the following:

- The applicant uses many of the same capital cost projections as it did in Project I.D. #J-11803-19.
- The increase in projected capital cost is due almost entirely to the additional construction and furniture to accommodate the additional NF beds, with minimal projected increases to other projected capital costs.
- The application as submitted provides no information that would call into question the reasonableness of financial projections used in Project I.D. #J-11803-19 as applied to the change of scope application.

In Section F, page 62, the applicant states there will be no changes to the projected working capital costs as approved in Project I.D. #J-11803-19.

Availability of Funds

In Exhibit F.5, the applicant provides a letter dated March 29, 2021, which is signed by John A. McNeill, Jr., and Ronald B. McNeill. The letter states, in part:

“We have both agreed and are both committed to personally funding the proposed project, the construction and operation of the proposed facility, including any working capital, start-up and capital expenditures associated with the project. We personally have sufficient funds to provide for the required equity and start up operating capital for the development of the proposed project if it is approved.”

Exhibit F.5 also contains a letter dated March 30, 2021 from the CPA of John A. McNeill, Jr. and Ronald B. McNeill, which states:

“I am aware of the McNeill’s [sic] financial status, including current liabilities and debt obligations and I will attest that John A. McNeill Jr. and Ronald B. McNeill each have in excess of \$15,000,000 in cash, stocks, or short term investments in order to fund any construction and operation of the proposed relocation, including any working capital, start-up and capital expenditures associated with the project.”

Liberty has a number of projects under development which project to spend more than the \$30 million in cash, stocks, or short-term investments documented in the letter from the CPA for the McNeill brothers.

In supplemental information, the applicant provided a letter dated June 28, 2021 and signed by the Chief Financial Officer (CFO) of Liberty Healthcare Management, Inc. The letter states the CFO has been with Liberty since November 2003 and outlines the CFO’s education and experience. The letter states that in the latest Liberty combined financial balance sheet, Liberty has in excess of \$450,000,000 in total cash and assets available to fund any capital costs associated with the project.

The applicant adequately demonstrates the availability of sufficient funds for the capital needs of the project based on the following:

- The applicant provides documentation of the commitment to use the necessary funding toward development of the proposed project.
- The applicant provides documentation of the availability of sufficient financial resources to fund the proposed changes to capital and working capital costs.

Financial Feasibility

The applicant provided updated pro forma financial statements for the first three full fiscal years of operation following completion of the project. On Form F.2b in Section Q, the applicant projects that revenues will exceed operating expenses in the second and third full fiscal years following completion of the project, as shown in the table below.

LC of Durham Projected Revenue & Expenses – FYs 1-3 (FFYs 2026-2028)			
	FY 1 (FFY 2026)	FY 2 (FFY 2027)	FY 3 (FFY 2028)
# of Patient Days	16,583	18,980	18,980
Gross Revenue	\$4,871,123	\$5,636,051	\$5,696,712
Net Revenue	\$4,255,877	\$4,930,810	\$4,990,410
Average Net Revenue per Patient Day	\$257	\$260	\$263
Operating Costs	\$4,520,238	\$4,709,553	\$4,774,573
Average Operating Costs per Patient Day	\$273	\$248	\$252
Net Income/(Loss)	(\$264,361)	\$221,257	\$215,837

The assumptions used by the applicant in preparation of the pro forma financial statements are provided in Section Q. The applicant adequately demonstrates that the financial feasibility of the proposal is reasonable and adequately supported based on the following:

- The applicant accounts for projected operating expenses, such as salaries, consistent with projections elsewhere in the application.
- Projected utilization is based on reasonable and adequately supported assumptions. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- 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 applicant adequately demonstrates that the capital costs are based on reasonable and adequately supported assumptions.
 - The applicant adequately demonstrates availability of sufficient funds for the capital needs of the proposal.
 - The applicant adequately demonstrates 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.

C

The applicant proposes a change of scope to Project I.D. #J-11803-19 (develop a new SNF, LC of Durham, by relocating 49 NF beds from Forsyth County) by developing an additional eight NF beds to be relocated from Alamance County. Upon completion of this project and Project I.D. #J-11803-19, LC of Durham will have a total of 57 NF beds.

On page 143, the 2021 SMFP defines the service area for nursing home beds as “... *the county in which the bed is located. Each of the 100 counties in the state is a separate service area.*” Thus, the service area for this facility is Durham County. Facilities may also serve residents of counties not included in their service area.

Table 10A on page 152 of the 2021 SMFP shows a total of 1,391 existing and approved NF beds in 13 existing and approved SNFs in Durham County. There are 206 NF beds that are excluded from the planning inventory pursuant to Policy NH-2, leaving a total of 1,185 NF beds in 13 SNFs. The table below summarizes the existing and approved SNFs and beds as shown in the 2021 SMFP.

Durham County Inventory of Existing/Approved NF Beds				
Facility	# of Beds	CON Adjustments	# of Excluded Beds	Planning Inventory
Accordius Health at Rose Manor	111	0	0	111
Brian Center Southpoint	140	0	0	140
Carver Living Center	232	0	0	232
Croasdaile Village	110	0	74	36
Durham Nursing & Rehab Center	126	0	0	126
Hillcrest Convalescent Center	120	0	0	120
Liberty Commons of Durham County	0	49	0	49
Pettigrew Rehabilitation Center	96	0	0	96
PruittHealth-Carolina Point	18	0	0	18
PruittHealth-Durham	125	0	0	125
The Cedars of Chapel Hill	74	0	74	0
The Forest at Duke	58	0	58	0
Treyburn Rehabilitation Center	132	0	0	132
Total	1,342	49	206	1,185

In Section G, page 64, the applicant explains why the proposal would not result in the unnecessary duplication of existing or approved NF bed services in Durham County. The applicant states:

“...the Applicants propose to relocate already existing NF beds in the SMFP Inventory...in an over-bedded county to one which currently has a bed deficit. The 2021 SMFP has identified Durham County as having an 8 NF bed deficit, which this application seeks to eliminate. Therefore, the proposed project will not result in unnecessary duplication.”

The applicant adequately demonstrates that the proposal would not result in an unnecessary duplication of existing or approved services in the service area based on the following:

- The applicant provides data and analysis to show the growing population of Durham County will have more NF bed deficits in the future. The discussion regarding analysis of need found in Criterion (3) is incorporated herein by reference.
- The applicant adequately demonstrates that the proposed NF beds to be relocated into Durham County are needed in addition to the existing or approved NF beds in Durham 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

The applicant proposes a change of scope to Project I.D. #J-11803-19 (develop a new SNF, LC of Durham, by relocating 49 NF beds from Forsyth County) by developing an additional eight NF beds to be relocated from Alamance County. Upon completion of this project and Project I.D. #J-11803-19, LC of Durham will have a total of 57 NF beds.

On Form H in Section Q, the applicant provides the projected full-time equivalent (FTE) staffing from Project I.D. #J-11803-19 as well as updated projected FTE staffing for the additional proposed services, as summarized below.

LC of Durham – Projected Staffing – Project I.D. #J-11803-19 & Proposed				
	J-11803-19	FY 1 – FFY 2026	FY 2 – FFY 2027	FY 3 – FFY 2028
Nurse Secretary	0.50	1.00	1.00	1.00
Registered Nurses (RNs)	4.20	4.20	4.20	4.20
Licensed Practical Nurses (LPNs)	6.30	8.40	8.40	8.40
Certified Nurse Aides/Assistants	13.13	13.20	13.20	13.20
Director of Nursing	1.00	1.00	1.00	1.00
MDS Nurse	1.00	1.00	1.00	1.00
Physical Therapists	2.80	1.00	1.00	1.00
Physical Therapy Assistants	0.00	0.80	0.80	0.80
Physical Therapy Technicians	0.00	1.00	1.00	1.00
Speech Therapists	0.50	0.60	0.60	0.60
Occupational Therapists	1.80	1.00	1.00	1.00
Occupational Therapy Aides	0.00	0.80	0.80	0.80
Social Workers	1.00	1.00	1.00	1.00
Activities Director	1.00	1.00	1.00	1.00
Medical Records	1.00	1.00	1.00	1.00
Laundry & Linen	1.50	1.50	1.50	1.50
Housekeeping	4.00	4.10	4.10	4.10
Maintenance/Engineering	1.00	1.00	1.00	1.00
Administrator	1.00	1.00	1.00	1.00
Business Office	1.00	1.00	1.00	1.00
Transportation	1.00	1.00	1.00	1.00
Total	43.73	46.60	46.60	46.60

In Section H, pages 65-66, the applicant states the increase in projected staffing is due solely to the proposed addition of eight NF beds. Adequate operating expenses for the health manpower and management positions proposed by the applicant are budgeted in the pro forma financial statements on Form F.3b, which is found in Section Q.

Project I.D. #J-11803-19 was conforming with this criterion and while the projections in this criterion changed from those in Project I.D. #J-11803-19, the applicant proposes no changes in the current application which would otherwise affect the prior determination of conformity.

The applicant adequately demonstrates the availability of adequate health manpower and management personnel for the provision of the proposed services based on the following:

- The applicant adequately explains the need for increased staffing as part of the proposed project.
- The previous staffing levels and assumptions found in Project I.D. #J-11803-19 were conforming with this criterion and the changes proposed by the applicant in the current application do not otherwise affect the prior determination of conformity.

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.

- (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 applicant proposes a change of scope to Project I.D. #J-11803-19 (develop a new SNF, LC of Durham, by relocating 49 NF beds from Forsyth County) by developing an additional eight NF beds to be relocated from Alamance County. Upon completion of this project and Project I.D. #J-11803-19, LC of Durham will have a total of 57 NF beds.

Ancillary and Support Services

In Section I, pages 68-69, the applicant states there are no changes to the information that was previously provided in Project I.D. #J-11803-19.

The applicant adequately demonstrates that the necessary ancillary and support services will be made available because Project I.D. #J-11803-19 was conforming with this criterion and the applicant proposes no changes in the current application which would affect that determination.

Coordination

In Section I, page 69, the applicant states there are no changes to the information that was previously provided in Project I.D. #J-11803-19.

The applicant adequately demonstrates that the proposed services will be coordinated with the existing health care system because Project I.D. #J-11803-19 was conforming with this criterion and the applicant proposes no changes in the current application which would affect that determination.

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 all the reasons described above.

- (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 applicant does 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 applicant does 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 applicant is not an HMO. 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

The applicant proposes a change of scope to Project I.D. #J-11803-19 (develop a new SNF, LC of Durham, by relocating 49 NF beds from Forsyth County) by developing an additional eight NF beds to be relocated from Alamance County. Upon completion of this project and Project I.D. #J-11803-19, LC of Durham will have a total of 57 NF beds.

In Section K, pages 72-73, the applicant states that the change of scope project involves construction of an additional 3,092 square feet of new space in addition to the previously approved construction of 38,692 square feet of new space, for a combined total of 41,784 square feet of new space. Line drawings are provided in Exhibit K.5.

In Section K, page 73, the applicant adequately explains how the cost, design, and means of construction represent the most reasonable alternative for the proposal based on the following:

- The applicant states the cost estimate for the proposed new facility and the additional NF beds proposed in this project was based on the architect's experience with designing similar facilities.
- The applicant states it chose to add space for the relocated NF beds by adding onto existing planned sections of the building to minimize impacts on site costs and building footprint alterations.

In Section K, page 74, the applicant adequately explains why the proposal will not unduly increase the costs to the applicant of providing the proposed services or the costs and charges to the public for the proposed services. The applicant states the only increases in cost are due to additional construction and furniture and those will not unduly increase costs to provide the proposed services or costs and charges to the public for the proposed services.

On page 74, the applicant identifies any applicable energy saving features that will be incorporated into the construction plans.

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 all the reasons described above.

- (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 ... persons [with disabilities], 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

Neither the applicant nor any related entities own, operate, or manage an existing health service facility located in the service area. Therefore, Criterion (13a) is not applicable to this review.

- (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

Neither the applicant nor any related entities own, operate, or manage an existing health service facility located in the service area. Therefore, Criterion (13b) is not applicable to this review.

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

C

In Section L, page 80, the applicant states it projects no changes to the responses it previously provided as part of Project I.D. #J-11803-19.

Project I.D. #J-11803-19 was conforming with this criterion and the applicant proposes no changes in the current application which would affect that determination.

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 all the reasons described above.

- (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 L, page 80, the applicant states it projects no changes to the responses it previously provided as part of Project I.D. #J-11803-19.

Project I.D. #J-11803-19 was conforming with this criterion and the applicant proposes no changes in the current application which would affect that determination.

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 all the reasons described above.

- (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 applicant proposes a change of scope to Project I.D. #J-11803-19 (develop a new SNF, LC of Durham, by relocating 49 NF beds from Forsyth County) by developing an additional eight NF beds to be relocated from Alamance County. Upon completion of this project and Project I.D. #J-11803-19, LC of Durham will have a total of 57 NF beds.

In Section M, page 81, the applicant states it projects no changes to the responses it previously provided as part of Project I.D. #J-11803-19.

Project I.D. #J-11803-19 was conforming with this criterion and the applicant proposes no changes in the current application which would affect that determination.

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 demonstrate that the proposed services will accommodate the clinical needs of health professional training programs in the area; 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.

C

The applicant proposes a change of scope to Project I.D. #J-11803-19 (develop a new SNF, LC of Durham, by relocating 49 NF beds from Forsyth County) by developing an additional eight NF beds to be relocated from Alamance County. Upon completion of this project and Project I.D. #J-11803-19, LC of Durham will have a total of 57 NF beds.

On page 143, the 2021 SMFP defines the service area for nursing home beds as “... *the county in which the bed is located. Each of the 100 counties in the state is a separate service area.*” Thus, the service area for this facility is Durham County. Facilities may also serve residents of counties not included in their service area.

Table 10A on page 152 of the 2021 SMFP shows a total of 1,391 existing and approved NF beds in 13 existing and approved SNFs in Durham County. There are 206 NF beds that are excluded from the planning inventory pursuant to Policy NH-2, leaving a total of 1,185 NF beds in 13 SNFs. The table below summarizes the existing and approved NF facilities and beds as shown in the 2021 SMFP.

Durham County Inventory of Existing/Approved NF Beds				
Facility	# of Beds	CON Adjustments	# of Excluded Beds	Planning Inventory
Accordius Health at Rose Manor	111	0	0	111
Brian Center Southpoint	140	0	0	140
Carver Living Center	232	0	0	232
Croasdaile Village	110	0	74	36
Durham Nursing & Rehab Center	126	0	0	126
Hillcrest Convalescent Center	120	0	0	120
Liberty Commons of Durham County	0	49	0	49
Pettigrew Rehabilitation Center	96	0	0	96
PruittHealth-Carolina Point	18	0	0	18
PruittHealth-Durham	125	0	0	125
The Cedars of Chapel Hill	74	0	74	0
The Forest at Duke	58	0	58	0
Treyburn Rehabilitation Center	132	0	0	132
Total	1,342	49	206	1,185

In Section N, page 82, the applicant states the changes proposed in this application will not change any expected effects of the proposal on competition in the proposed service area from what was stated in the original application. The applicant states:

“The applicants [sic] adequately demonstrated in the approved application that the project will have a positive impact on competition in the proposed service area. The relocation of an additional 8 NF beds to the proposed Liberty Commons of Durham will not result in changes to the expected effects on competition in the proposed service area. Durham County is a largely urban area with 12 existing skilled nursing facilities with a current planning inventory of 1,185 NF beds. These additional 8 beds represent an increase of only 0.7% to the total planning inventory but will contribute significantly to the operational efficiency of the facility which will in turn contribute to lower rates for residents. Liberty Commons of Durham will be a new, modern facility with 100% private rooms, equipped with the latest in healthcare technology and staffed with highly trained and caring professionals. The Applicants [sic] believe Liberty Commons of Durham will quickly become a top choice for county residents and we expect this success will encourage operators of other county facilities to evaluate capital improvements of their facilities to improve and up fit where possible to remain competitive in the marketplace.”

In Section L, page 83, the applicant states the changes proposed in this application will not change the impact of enhanced competition on the cost-effectiveness, quality, and access by medically underserved groups from what was stated in the original application. On page 83, the applicant states:

“The Applicants [sic] believe that this addition of 8 NF beds to the already approved 49 NF bed facility (Liberty Commons of Durham) would not result in changes to the impact of enhanced competition on the cost effectiveness, quality and access by medically underserved groups from what was stated in the previously approved application. The proposed project still anticipates offering rates that are competitive to surrounding facilities.

Liberty Commons of Durham will be a new, modern, and residential facility that will achieve greater operational efficiency and it is expected to become a top choice for local residents.

Access by medically underserved groups is not expected to be different from what was projected in the previously approved application. There has been no change by the applicants in regard to serving medically underserved groups. Liberty Commons of Durham will allow admissions only on the written order of a physician. Persons whose health, habilitative, or rehabilitative needs cannot be met by the services offered in the facility will not be admitted. Otherwise, Liberty Commons of Durham affords equal treatment and access to its services for all persons, without discrimination due to age, race, color, religion, sex, marital status, national origin, sexual orientation, ancestry, or disability, or any other factor that would classify a resident as underserved.”

Project I.D. #J-11803-19 was conforming with this criterion and the applicant proposes no changes in the current application which would affect that determination.

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.

- (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

The applicant proposes a change of scope to Project I.D. #J-11803-19 (develop a new SNF, LC of Durham, by relocating 49 NF beds from Forsyth County) by developing an additional eight NF beds to be relocated from Alamance County. Upon completion of this project and Project I.D. #J-11803-19, LC of Durham will have a total of 57 NF beds.

On Form O in Section Q, the applicant identifies the SNFs located in North Carolina owned, operated, or managed by the applicant or a related entity. The applicant identifies a total of 35 SNFs located in North Carolina.

In Section O, pages 86-87, the applicant states that, during the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred in three of these facilities. The applicant states that two of the immediate jeopardy citations have been abated and the facilities are back in compliance. The applicant states the remaining immediate jeopardy citation has been abated and the facility is still out of compliance, but that the facility is disputing the citation and has not yet had a follow-up survey. 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 four of these facilities. Three facilities have resolved the issue and the fourth is too new to have a resolution on file. After reviewing and considering information provided by the applicant and by the Nursing Home Licensure and Certification Section and considering the quality of care provided at all 35 SNFs, the applicant provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

(21) Repealed effective July 1, 1987.

G.S. 131E-183 (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-11803-19, the application was conforming to Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1102, and the applicant proposes no changes in the current change of scope application which would affect that determination. The applicant does not propose any other changes in this change of scope application which would make this or any other Criteria and Standards applicable to this review. Therefore, there are no administrative rules that are applicable to this review.