

REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conforming as Conditioned

NC = Nonconforming

NA = Not Applicable

Decision Date: December 16, 2022

Findings Date: December 16, 2022

Project Analyst: Julie M. Faenza

Co-Signer: Mike McKillip

Project ID #: B-12247-22

Facility: Pisgah Manor Health Care Center

FID #: 120033

County: Buncombe

Applicants: Pisgah Valley Retirement Center Properties, LLC

Pisgah Valley Retirement Center, LLC

Project: Change of scope to Project ID #B-12054-21 (Relocate no more than 11 NF beds from Liberty Commons Nursing & Rehab Center in Alamance County, 14 NF beds from Cross Creek Health Care in Hyde County, and 25 NF beds from Mary Gran Nursing Center in Sampson County for a total of no more than 168 NF beds upon project completion) by instead relocating no more than 3 NF beds from Liberty Commons Nursing & Rehab Center, no more than 22 NF beds from Cross Creek Health Care, and no more than 25 NF beds from Mary Gran Nursing Center

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

Pisgah Valley Retirement Center Properties, LLC and Pisgah Valley Retirement Center, LLC (hereinafter referred to as “Liberty” or “the applicant) propose a change of scope (COS) to Project ID #B-12054-21.

A certificate of need was issued on October 19, 2021, for Project ID #B-12054-21. That application proposed to relocate 11 nursing home facility (NF) beds from Liberty Commons Nursing & Rehab Center in Alamance County, 14 NF beds from Cross Creek Health Care in

Hyde County, and 25 NF beds from Mary Gran Nursing Center in Sampson County to Pisgah Manor Health Care Center in Buncombe County. The current application proposes no change to the approved capital cost, the facility design, or other aspects of the approved project other than the origin of the NF beds approved to be relocated. In this application, the applicant instead proposes to relocate 36 NF beds from Cross Creek Health Care and 14 NF beds from Mary Gran Nursing Center. The applicant does not propose to relocate any NF beds from Liberty Commons Nursing & Rehab Center in Alamance County as part of the proposed project.

Need Determination

The original project did not involve a need determination pursuant to the 2021 State Medical Facilities Plan (SMFP) and the current COS application does not involve the addition of any new health service facility beds, services, or equipment for which there is a need determination in the 2022 SMFP. Therefore, there are no need determinations applicable to this review.

Policies

Project ID #B-12054-21 was found to be consistent with *Policy NH-6: Relocation of Nursing Home Facility Beds* as published in the 2021 SMFP. There are no changes to Policy NH-6 in the 2022 SMFP. Because the applicant proposes to relocate different numbers of NF beds from the approved application, including relocating more NF beds from Hyde County than originally proposed, Policy NH-6 also applies to the current application.

Policy NH-6: Relocation of Nursing Home Facility Beds, on pages 24-25 of the 2022 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.”*

Project ID #B-12054-21 was conforming with Policy NH-6. At that time, according to the 2021 SMFP, Buncombe County had a deficit of 50 NF beds. The applicant proposed to relocate 50 NF beds into Buncombe County, which eliminated the deficit of beds but did not create a surplus. Because the applicant is not proposing to change the number of beds being relocated

into Buncombe County, there is no need to consider 2022 SMFP surpluses or deficits in Buncombe County.

According to Table 10C in the 2022 SMFP, Hyde County has a surplus of 22 NF beds. This surplus does not take into account the 14 NF beds approved to be relocated from Hyde County as part of Project ID #B-12054-21 because the certificate of need was not issued until after October 1, 2022, the last day that data was updated for the 2022 SMFP.

In supplemental information requested by the Agency, the applicant proposes to relocate 8 additional NF beds from Hyde County instead of the 22 NF beds originally proposed as part of the COS application for a total of 22 NF beds to be relocated from Hyde County to Buncombe County. That would eliminate the surplus of NF beds in Hyde County but would not create a deficit of NF beds in Hyde County and would be consistent with Policy NH-6.

The applicant originally proposed to relocate 14 NF beds from Mary Gran in Sampson County to Buncombe County as part of this COS application. Additionally, the applicant originally proposed to eliminate the relocation of NF beds from Alamance County to Buncombe County as part of the COS application.

In supplemental information requested by the Agency, the applicant instead proposes to relocate 25 NF beds from Mary Gran Nursing Center in Sampson County to Buncombe County, as originally approved in Project ID #B-12054-21. Additionally, the applicant also proposes to relocate 3 NF beds from Liberty Commons of Alamance in Alamance County as part of the supplemental information requested by the Agency.

While the supplemental information requested by the Agency changes the number of beds proposed to be relocated from Alamance and Sampson counties as part of this COS application, it results in proposing to relocate fewer NF beds than were approved to be relocated from Alamance County to Buncombe County and no change to the number of NF beds approved to be relocated from Sampson County to Buncombe County than what was approved in Project ID #B-12054-21. Therefore, neither the originally proposed changes involving Alamance and Sampson counties in this COS application nor the changes involving Alamance and Sampson counties proposed in response to supplemental information requested by the Agency make Policy NH-6 applicable to Alamance or Sampson counties.

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 based on the following:

- The application does not propose any changes to what was approved in Project ID #B-12054-21 that would make any need determinations applicable to this review.
 - The applicant adequately demonstrates that the proposal is consistent with Policy NH-6.
- (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 COS for Project ID #B-12054-21 by relocating the same number of NF beds as approved in Project ID #B-12054-21, but by relocating more of them from Hyde County and fewer of them from Alamance County than approved in Project ID #B-12054-21.

Project ID #B-12054-21 was approved on September 17, 2021 and a certificate of need was issued effective October 19, 2021. The last day data was updated for the 2022 SMFP was October 1, 2021. Therefore, the relocation of 14 NF beds from Hyde County to Buncombe County, 11 NF beds from Alamance County to Buncombe County, and 25 NF beds from Sampson County to Buncombe County is not reflected in any of those county surpluses or deficits because the certificate of need was not issued until after the last day that data was updated for the 2022 SMFP.

The current application proposes no change to the approved capital cost, the facility design, or other aspects of the approved project other than the origin of the NF beds approved to be relocated. In this application, instead of relocating 11 NF beds from Liberty Commons Nursing & Rehab Center in Alamance County, 14 NF beds from Cross Creek Health Care in Hyde County, and 25 NF beds from Mary Gran Nursing Center in Sampson County, the applicant instead proposes to relocate 36 NF beds from Cross Creek Health Care and 14 NF beds from Mary Gran Nursing Center. The applicant does not propose to relocate any NF beds from Liberty Commons Nursing & Rehab Center in Alamance County as part of the proposed project.

In supplemental information requested by the Agency, the applicant proposes the following:

- Relocate 8 additional NF beds from Hyde County (instead of the 22 NF beds originally proposed in the application as submitted)
- Relocate 25 NF beds from Sampson County (instead of the 14 NF beds originally proposed in the application as submitted)

- Relocate 3 NF beds from Alamance County (instead of no relocation of NF beds as originally proposed in the application as submitted)

The tables below summarize the originally approved proposal in Project ID #B-12054-21, the original proposed changes in the COS application as submitted, and the changes proposed in response to supplemental information requested by the Agency.

PROJECT ID #B-12054-21 – AS APPROVED (CON ISSUED 10/19/2021)	
Original Location of NF Beds	# of NF Beds
Liberty Commons Nursing & Rehab Center – Alamance County	11
Cross Creek Health Center – Hyde County	14
Mary Gran Nursing Center – Sampson County	25
Total to Pisgah Manor Health Care Center – Buncombe County	50

CURRENT COS APPLICATION AS SUBMITTED (8/15/2022)	
Original Location of NF Beds	# of NF Beds
Liberty Commons Nursing & Rehab Center – Alamance County	0
Cross Creek Health Center – Hyde County	36
Mary Gran Nursing Center – Sampson County	14
Total to Pisgah Manor Health Care Center – Buncombe County	50

IN RESPONSE TO SUPPLEMENTAL INFO REQUESTED BY AGENCY	
Original Location of NF Beds	# of NF Beds
Liberty Commons Nursing & Rehab Center – Alamance County	3
Cross Creek Health Center – Hyde County	22
Mary Gran Nursing Center – Sampson County	25
Total to Pisgah Manor Health Care Center – Buncombe County	50

The end result is a decrease of 8 NF beds proposed to be relocated from Liberty Commons Nursing & Rehab Center in Alamance County, an increase of 8 NF beds proposed to be relocated from Cross Creek Health Center in Hyde County, and no change in the number of NF beds proposed to be relocated from Mary Gran Nursing Center in Sampson County.

Patient Origin

On page 145, the 2022 SMFP defines the service area for NF beds as “...*the county in which the bed is located.*” Thus, the service area for this facility is Buncombe County. Facilities may also serve residents of counties not included in their service area.

In Section C, page 43, the applicant states the current application does not project any changes to patient origin from what was originally projected in Project ID #B-12054-21. That project was conforming with this criterion and the applicant proposes no changes in the current application as submitted or in the requested supplemental information which would affect that determination. The information is reasonable and adequately supported because the applicant proposes no changes to the places of origin for the NF beds to be relocated.

Analysis of Need

In Section C, page 43, the applicant states the change to the location and number of NF beds to be relocated is due to the closure of Cross Creek Health Center (Hyde County) on July 15, 2021, after the application for Project ID #B-12054-21 was filed. The applicant states it chose not to delicense the NF beds at Cross Creek Health Center so that they could ultimately be relocated to a different location where they could better serve patients.

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

- The applicant is in the best position to know which of its existing NF beds should be relocated based on costs and utilization.
- Project ID #B-12054-21 was conforming with this criterion with regard to the demonstration of need to relocate NF beds to Buncombe County, and the applicant proposes no changes in the application as submitted which would affect that determination.
- The different representations in the supplemental information requested by the Agency do not impact the analysis of need discussed above.

Projected Utilization

In Section C, page 44, the applicant states the current application does not project any changes to future utilization from what was originally projected in Project ID #B-12054-21. The information is reasonable and adequately supported because the applicant proposes no changes in the number of or the type of beds to be relocated into Buncombe County. Project ID #B-12054-21 was conforming with this criterion and the applicant proposes no changes in the current application as submitted or in the requested supplemental information which would affect that determination.

Access to Medically Underserved Groups

In Section C, page 44, the applicant states the current application does not project any changes in access by medically underserved groups from what was originally projected in Project ID #B-12054-21. That project was conforming with this criterion and the applicant proposes no changes in the current application as submitted or in the requested supplemental information 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 the following reasons:

- Project ID #B-12054-21 adequately identified the population to be served and there are no changes proposed in this application as submitted or in the requested supplemental information which would affect that determination.
 - The applicant adequately explains why it is necessary to relocate additional beds from Cross Creek Health Care in Hyde County and fewer beds from Liberty Commons of Alamance in Alamance County.
 - Projected utilization was deemed reasonable and adequately supported in the application for Project ID #B-12054-21 and there are no changes proposed in this application or in the requested supplemental information which would affect that determination.
 - Project ID #B-12054-21 adequately identified the extent to which all residents, including underserved groups, were likely to have access to the proposed services, and there are no changes proposed in this application as submitted or in the requested supplemental information which would affect that determination.
- (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 COS for Project ID #B-12054-21 by relocating the same number of NF beds as approved in Project ID #B-12054-21, but by relocating more of them from Hyde County and fewer of them from Alamance County than approved in Project ID #B-12054-21.

The applicant is proposing to relocate additional NF beds from Cross Creek Health Care. In Section D, page 49, the applicant states Cross Creek Health Care closed on July 15, 2021; thus, there is no population presently served by the beds proposed to be relocated.

Project ID #B-12054-21 was conforming with this criterion and the applicant proposes no changes in the application as submitted or the requested supplemental information 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.

- (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 COS for Project ID #B-12054-21 by relocating the same number of NF beds as approved in Project ID #B-12054-21, but by relocating more of them from Hyde County and fewer of them from Alamance County than approved in Project ID #B-12054-21.

In Section E, page 51, the applicant states the only alternative considered was to maintain the status quo and develop Project ID #B-12054-21 as proposed. The applicant states that it incurred financial losses from trying to operate Cross Creek Health Care with a declining patient population and ultimately had to close it, with the hope of relocating the NF beds. Maintaining the status quo would not allow for the relocation of additional beds from Cross Creek Health Care.

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

- The applicant provides reasonable 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. Pisgah Valley Retirement Center Properties, LLC, and Pisgah Valley Retirement Center, LLC (hereinafter certificate holder) shall materially comply with the representations in this application, the representations in Project ID #B-12054-21, and any supplemental responses. Where representations conflict, the certificate holder shall materially comply with the last made representation.**
- 2. In a change of scope to Project ID #B-12054-21, the certificate holder shall relocate a total of no more than 22 nursing home facility beds from Cross Creek Health Center in Hyde County, no more than 25 nursing home facility beds from Mary Gran Nursing Center in Sampson County, and no more than 3 nursing home facility beds from Liberty Commons of Alamance in Alamance County to Pisgah Manor Health Care Center in Buncombe County.**
- 3. Upon completion of this project and Project ID #B-12054-21 (and any additional approved projects involving facilities other than Pisgah Manor Health Care Center), Pisgah Manor Health Care Center shall be licensed for no more than 168 nursing home facility beds, Cross Creek Health Care shall be licensed for no more than 28 nursing home facility beds, Liberty Commons of Alamance shall be licensed for no more than 111 nursing home facility beds, and Mary Gran Nursing Center shall be licensed for no more than 134 nursing home facility beds.**
- 4. 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 made in the certificate of need application.**
- 5. 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>.**
 - b. The certificate holder shall complete all sections of the Progress Report form.**
 - c. The certificate holder shall describe in detail all steps taken to develop the project since the last progress report and should include documentation to substantiate each step taken as available.**
 - d. The first progress report shall be due on June 1, 2023.**
- 6. No later than three months after the last day of each of the first three full fiscal years of operation following initiation of the services authorized by this certificate of need, the certificate holder 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.**
 - 7. The certificate holder 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

The applicant proposes a COS for Project ID #B-12054-21 by relocating the same number of NF beds as approved in Project ID #B-12054-21, but by relocating more of them from Hyde County and fewer of them from Alamance County than approved in Project ID #B-12054-21.

Capital and Working Capital Costs

In Section A, page 17, the applicant states there are no capital costs projected as part of this COS application. In Section F, page 58, the applicant states the current application does not project any changes to working capital costs from what was originally projected in Project ID #B-12054-21. The information is reasonable and adequately supported because the applicant proposes no change to the number of or the type of beds being relocated to Pisgah Manor Health Care Center. Project ID #B-12054-21 was conforming with this criterion and the applicant proposes no changes in the current application as submitted or in the requested supplemental information which would affect that determination.

Financial Feasibility

In Section F, pages 58-59, the applicant states the current application does not project any changes to projected revenues and operating costs from what was originally projected in Project ID #B-12054-21. The information is reasonable and adequately supported based on the following:

- Projected utilization is based on reasonable and adequately supported assumptions. See the discussion regarding projected utilization in Criterion (3) which is incorporated herein by reference.
- Project ID #B-12054-21 was conforming with this criterion and the applicant proposes no changes in the current application as submitted or in the requested supplemental information 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.

- (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 COS for Project ID #B-12054-21 by relocating the same number of NF beds as approved in Project ID #B-12054-21, but by relocating more of them from Hyde County and fewer of them from Alamance County than approved in Project ID #B-12054-21.

On page 145, the 2022 SMFP defines the service area for NF beds as “...*the county in which the bed is located.*” Thus, the service area for this facility is Buncombe County. Facilities may also serve residents of counties not included in their service area.

The applicant proposes no change to the number of NF beds being relocated into Buncombe County than approved in Project ID #B-12054-21. That project was conforming with this criterion and the applicant proposes no changes in the current application as submitted or in the requested supplemental information 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.

- (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 COS for Project ID #B-12054-21 by relocating the same number of NF beds as approved in Project ID #B-12054-21, but by relocating more of them from Hyde County and fewer of them from Alamance County than approved in Project ID #B-12054-21.

In Section H, pages 62-63, the applicant states there are no changes to the projected staffing during the first three full fiscal years of operation than approved in Project ID #B-12054-21. The information is reasonable and adequately supported because the applicant proposes no change to the number of or the type of beds being relocated to Pisgah Manor Health Care Center. Project ID #B-12054-21 was conforming with this criterion and the applicant proposes no changes in the current application as submitted or in the requested supplemental information 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.

- (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 COS for Project ID #B-12054-21 by relocating the same number of NF beds as approved in Project ID #B-12054-21, but by relocating more of them from Hyde County and fewer of them from Alamance County than approved in Project ID #B-12054-21.

In Section I, page 65, the applicant states there are no changes to the provision of necessary ancillary and support services or changes to coordination with the existing health care system than approved in Project ID #B-12054-21. The information is reasonable and adequately supported because the applicant proposes no change to the number of or the type of beds being relocated to Pisgah Manor Health Care Center. Project ID #B-12054-21 was conforming with this criterion and the applicant proposes no changes in the current application as submitted or in the requested supplemental information 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.

- (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 COS for Project ID #B-12054-21 by relocating the same number of NF beds as approved in Project ID #B-12054-21, but by relocating more of them from Hyde County and fewer of them from Alamance County than approved in Project ID #B-12054-21.

In Section K, pages 68-69, the applicant states there are no changes to the cost, design, and means of construction approved in Project ID #B-12054-21. The information is reasonable and adequately supported because the applicant proposes no change to the number of or the type of beds being relocated to Pisgah Manor Health Care Center. Project ID #B-12054-21 was conforming with this criterion and the applicant proposes no changes in the current application as submitted or in the requested supplemental information 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.

- (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;

C

Project ID #B-12054-21 was conforming with this criterion and the applicant proposes no changes in the current application as submitted or in the requested supplemental information which would affect that determination. Therefore, the application is conforming to this criterion.

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

C

Project ID #B-12054-21 was conforming with this criterion and the applicant proposes no changes in the current application as submitted or in the requested supplemental information which would affect that determination. Therefore, the application is conforming to this criterion.

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

C

In Section L, page 74, the applicant states there are no changes to projected access by medically underserved groups than what was approved in Project ID #B-12054-21. The information is reasonable and adequately supported because the applicant proposes no change to the number of or the type of beds being relocated to Pisgah Manor Health Care Center. Project ID #B-12054-21 was conforming with this criterion and the applicant proposes no changes in the current application as submitted or in the requested supplemental information which would affect that determination. Therefore, 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

Project ID #B-12054-21 was conforming with this criterion and the applicant proposes no changes in the current application as submitted or in the requested supplemental information which would affect that determination. Therefore, the application is conforming to this criterion.

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

C

The applicant proposes a COS for Project ID #B-12054-21 by relocating the same number of NF beds as approved in Project ID #B-12054-21, but by relocating more of them from Hyde County and fewer of them from Alamance County than approved in Project ID #B-12054-21.

In Section M, page 75, the applicant states there are no changes to accommodating the clinical needs of area health professional training programs as part of this COS application. Project ID #B-12054-21 was conforming with this criterion and the applicant proposes no changes in the current application as submitted or in the requested supplemental information 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.

- (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 COS for Project ID #B-12054-21 by relocating the same number of NF beds as approved in Project ID #B-12054-21, but by relocating more of them from Hyde County and fewer of them from Alamance County than approved in Project ID #B-12054-21.

On page 145, the 2022 SMFP defines the service area for NF beds as “...*the county in which the bed is located.*” Thus, the service area for this facility is Buncombe County. Facilities may also serve residents of counties not included in their service area.

In Section N, pages 76-77, the applicant states there are no changes to the expected effects of the proposal on competition in the proposed service area and there are no changes to the impact of enhanced competition on the cost-effectiveness, quality, and access by medically underserved groups than approved in Project ID #B-12054-21. The information is reasonable and adequately supported because the applicant proposes no change to the number of or the type of beds being relocated to Pisgah Manor Health Care Center. Project ID #B-12054-21 was conforming with this criterion and the applicant proposes no changes in the current application as submitted or in the requested supplemental information 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 based on all the reasons described 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 COS for Project ID #B-12054-21 by relocating the same number of NF beds as approved in Project ID #B-12054-21, but by relocating more of them from Hyde County and fewer of them from Alamance County than approved in Project ID #B-12054-21.

On Form O in Section Q, the applicant identifies the nursing home facilities located in North Carolina owned, operated, or managed by the applicant or a related entity. The applicant identifies a total of 37 of this type of facility located in North Carolina.

In Section O, pages 80-81, the applicant states that, during the 18 months immediately preceding the submittal of the application, incidents resulting in citations of immediate jeopardy occurred in eight of these facilities. After reviewing and considering information provided by the applicant and considering the quality of care provided at all 37 facilities, 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

The Criteria and Standards for Nursing Facility or Adult Care Home Services, promulgated in 10A NCAC 14C .1100, were not applicable to Project ID #B-12054-21 because the rules do not apply to a proposal to relocate existing licensed nursing home facility beds. The applicant proposes no changes in the current application as submitted or in the requested supplemental information which would affect that determination. Therefore, the administrative rules are not applicable to this review.