ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS
C = Conforming
CA = Conditional
NC = Nonconforming
NA = Not Applicable

DECISION DATE: March 2, 2012

PROJECT ANALYST: Jane Rhoe-Jones
ASSISTANT CHIEF: Martha J. Frisone

PROJECT I.D. NUMBER: F-8763-11 / Mercy Hospital, Inc. d/b/a Carolinas Medical Center-Mercy/Pineville / Add 38 acute care beds on the Mercy campus for a total of 162 acute care beds on the Mercy Campus upon project completion / Mecklenburg County

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

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

(1) The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

C

Mercy Hospital, Inc. d/b/a Carolinas Medical Center-Mercy/Pineville (CMC-Mercy/Pineville) is located at 2001 Vail Avenue in Charlotte. CMC-Mercy/Pineville consists of two campuses: the Mercy campus in downtown Charlotte and the Pineville campus. CMC-Mercy/Pineville is currently licensed for 169 acute care beds (as of the date this application was filed) on the Mercy campus. The applicant proposes to add 38 new acute care beds on the Mercy campus. The 2011 State Medical facilities Plan (2011 SMFP) includes an Acute Care Bed Need Determination for 107 additional acute care beds in Mecklenburg County. The 2011 SMFP states:

> *"Any qualified applicant may apply for a certificate of need to acquire the needed acute care beds. A person is a qualified applicant if he or she proposes to operate the additional acute care beds in a hospital that will provide:*
>
> *(1) a 24-hour emergency services department,*

(2) inpatient medical services to both surgical and non-surgical patients, and

(3) if proposing a new licensed hospital, medical and surgical services on a daily basis within at least five of the major diagnostic categories as recognized by the Centers for Medicare and Medicaid services (CMS), as follows: ... [as listed in the 2011 SFMP]."

The applicant proposes to develop 38 of the 107 acute care beds available for Mecklenburg County in the 2011 SMFP. The applicant does not propose to develop more acute care beds than are determined to be needed in Mecklenburg County. The Mercy campus currently operates a 24-hour emergency services department. In Exhibit 11, page 230, the applicant provides the number of patient days of care by major diagnostic category (MDC) provided at the Mercy campus during Calendar Year 2010. The Mercy campus provided services in all 25 MDCs listed in the 2011 SMFP. Therefore, the applicant adequately demonstrates that it will provide medical and surgical services in at least five MDCs recognized by the Centers for Medicare and Medicaid Services (CMS). CMC-Mercy/Pineville adequately demonstrates that it provides inpatient medical services to both surgical and non-surgical patients. Thus, CMC-Mercy/Pineville is a qualified applicant and the proposal is consistent with the need determination in the 2011 SMFP for acute care beds in Mecklenburg County.

Policy GEN-3: Basic Principles are also applicable to this review. This policy states:

"*A certificate of need applicant applying to develop or offer a new institutional health service for which there is a need determination in the North Carolina State Medical Facilities Plan (SMFP) shall demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing health care value for resources expended. A certificate of need applicant shall document its plans for providing access to services for patients with limited financial resources and demonstrate the availability of capacity to provide these services. A certificate of need applicant shall also document how its projected volumes incorporate these concepts in meeting the need identified in the SMFP as well as addressing the needs of all residents in the proposed service area*."

Regarding promoting safety and quality, in Section III, pages 84-86, the applicant state:

"*In 2008, CMC-Mercy adopted the Planetree philosophy of personalized care that places the patient at the forefront of the health care journey. Physicians and staff at CMC-Mercy understand that no two patients are alike, and that tailoring care to that patient's specific condition makes a profound difference during recovery from an illness, injury or surgery. Planetree, Inc. is a non-profit organization that helps facilities create patient-centered healing environments. CMC-Mercy is the first hospital in North Carolina to receive this designation and one of approximately 100 hospitals in the world*.

… An added benefit to its commitment to patient-centered care has been the local and national recognition given to CMC-Mercy for quality care and a positive patient

> *experience. For example, for four years in a row, CMC-Mercy's emergency department has been recognized for outstanding patient experience under the J.D. Power and Associates Distinguished Hospital Program. In 2010 and 2011, CMC-Mercy received Inpatient Designation by the J.D. Power and Associates Distinguished Hospital Program. In addition, CMC-Mercy was honored with three Gold Seals of Approval by The Joint Commission. The disease specific Gold Seal certifications were achieved for Acute Coronary Syndrome, Total Hip Replacement and Total Knee Replacement*."

The applicant adequately demonstrates the proposal will promote safety and quality.

Regarding promoting equitable access, in Section III, pages 86-87, the applicant states:

> "*CMC-Mercy was founded on the principle of equal access for all patients in need of care. Beginning with the Sisters of Mercy in 1906 until the present day, CMC-Mercy has continually provided care to any person seeking acute care services. During CY 2010, CMC-Mercy provided $39,596,501, or 7.2 percent of gross revenue, in charity and bad debt. Certainly, with the addition of 38 acute care beds at CMC-Mercy, access to inpatient services for all patients will be improved as more patients will be able to receive the services they need and expect when they come to CMC-Mercy for care*."

In Section VI, pages 113-116, CMC-Mercy describes its charity care policies. See Exhibits 5, 15, 35 and 36 for copies of the policies. On pages 113 and 116, the applicant states:

> "*CMC-Mercy provides services to all persons in need of medical care, regardless of race, sex, creed, age, national origin, handicap, or ability to pay.*
>
> …
>
> *CMC-Mercy's services are and will remain accessible to Medicare and Medicaid recipients, the uninsured, and the underinsured. … Further, in compliance with the federal EMTALA law, emergency services and care are provided to all patients who present to the hospital who request examination or treatment of a medical condition to determine if an emergency condition exists*."

The applicant adequately demonstrates the proposal will promote equitable access.

Regarding maximizing healthcare value, in Section III, page 87, the applicant states:

> "*The proposed project in and of itself represents the most effective approach to maximize health care value for the development of 38 additional acute care beds at CMC-Mercy. As proposed in this project, renovating existing space is a more cost effective means of providing additional acute care capacity than construction of a new bed unit. With the relocation of the LTACH* [Carolinas Specialty Hospital-Mercy Restorative Care Hospital] *to a new facility on the campus of CMC-Pineville, CMC-*

Mercy can reclaim the use of the vacated space and develop the new bed unit with minimal costs, particularly as compared to new construction. In addition, the use of vacated bed space following the relocation of beds to CMC-Pineville provides an additional cost-savings as the bed units are in existence today and will not require extensive renovations to become operational. As such, CMC-Mercy believes the additional acute care capacity is being provided in such a way that will involve minimal cost while also creating additional space to care for the growing number of patients coming to the hospital – maximizing health care value as promulgated in Policy GEN-3.

For these reasons, CMC-Mercy believes the proposed project will promote safety and quality in the delivery of health services while promoting equitable access and maximizing health care value for resources expended for the residents of Mecklenburg and surrounding counties."

The applicant adequately demonstrates the need for the 38 additional acute care beds and adequately demonstrates that projected volumes for the proposed services incorporate the basic principles in meeting the needs of the patients to be served. The applicant adequately demonstrates the proposal will maximize health care value. See Criteria (3) and (13c) for additional discussion. Thus, the application is conforming to Policy GEN-3.

Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities is also applicable to this review. This policy states:

"*Any person proposing a capital expenditure greater than $2 million to develop, replace, renovate, or add to a health service facility pursuant to G.S. 131E-178 shall include in its certificate of need application a written statement describing the project's plan to assure improved energy efficiency and water conservation.*

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

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

In Section III, pages 88-90, the applicant states:

"*CHS is committed to energy efficiency and sustainability that balances the need for health services and environmental sustainability in the communities it serves. …*

Guiding Principles

1. *Implement environmental sustainability to improve and reduce our environmental impact.*
2. *Integrate sustainable operational and facility best practices into existing and new facilities.*
3. *Encourage partners to engage in environmentally responsible practices.*
4. *Promote environmental sustainability in work, home and community.*
5. *Deliver improved performance to provide a long term return on investment that supports our mission and values.*

…

… The design team for the proposed project has Energy Star, Leadership in Energy and Environmental Design (LEED) and Hospitals for a Healthy Environment Green Guide for HealthCare (GGHC) experience. Together, the team seeks the following:

- *Meet or exceed the requirements of the North Carolina Building Code in effect when construction drawings are submitted for review to the DHSR Construction Section.*
- *Use a Commissioning Agent to verify facility operates as designed.*
- *Use Environmental Protection Agency Energy Star for Hospitals rating system to compare performance following 12 months of continuous operation.*
- *Refer to United States Green Building Council (USGBC) LEED* guidelines and GGHC to identify opportunities to improve the efficiency and performance. *LEED for Health Care is not yet available. Early drafts were based on GGHC.*
- *Provide natural lighting where possible to augment electrical lighting and reduce electricity usage compared to a traditional hospital.*
- *Design and locate windows to appropriately serve functions of lighting, ventilation and external views for patient rooms, family and staff areas.*
- *Control the solar heat gain into the facility through overhangs, natural buffers, sun controls and selection of glazing systems.*
- *Design for maximum efficiency and life cycle benefits within each mechanical system: heating, cooling, water, sewer and irrigation.*
- *Provide where feasible, heat recovery systems to extract heat normally wasted in exhaust air and transfer this energy to incoming ventilation air to reduce energy usage.*

- *Use energy guidelines of the United States Department of Housing and Urban Development, United States Department of Energy, and the American Society of Heating, Refrigeration, and Air Conditioning Engineers for the design of health care facilities.*

CMC-Mercy utilizes and enforces engineering standards that mandate use of state-of-the-art components and systems. The proposed project will be designed in full compliance with applicable local, state, and federal requirements for energy efficiency and consumption."

The applicant adequately describes the project's plan to assure improved energy efficiency and water conservation. Thus, the application is conforming to Policy GEN-4.

In summary, CMC-Mercy/Pineville is conforming to the need determination in the 2011 SMFP, Policy GEN-3 and Policy GEN-4. Therefore, the application is conforming to this criterion.

(2) Repealed effective July 1, 1987.

(3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.

C

Mercy Hospital, Inc. d/b/a Carolinas Medical Center-Mercy/Pineville (CMC-Mercy/Pineville) is located in Mecklenburg County. Mercy Hospital, Inc. is a wholly-owned subsidiary of the Charlotte-Mecklenburg Hospital Authority (CMHA) d/b/a Carolinas HealthCare System (CHS). CMC-Mercy/Pineville consists of two separate campuses (on one license): Mercy (in downtown Charlotte) and Pineville. The Mercy campus is currently licensed for 169 acute care beds (as of the date this application was filed). The applicant proposes to add 38 acute care beds on the Mercy campus for a total of 162 acute care beds on the Mercy campus upon completion of this project and Project I.D. #F-7979-07.

In Section II.1, pages 15-25, the applicant describes the scope of this and related projects as follows:

"*Since August 2009, CMC-Mercy had transferred 16 beds to CMC-Pineville as part of the implementation of the Phase I and Phase II projects at the south Mecklenburg medical center. As a result of these bed transfers, CMC-Mercy currently operates 169 acute care beds (139 medical/surgical beds and 30 ICU beds) …*

The final bed transfer for CMC-Pineville Phase II is expected to occur by June 2013 when CMC-Mercy transfers 45 additional beds to CMC-Pineville, completing the bed

transfers under Project ID # F-7979-07.
With the approval of the proposed addition of 38 medical/surgical beds, as of January 1, 2014, CMC-Mercy will operate a total of 132 medical/surgical beds. …

… at the completion of the CMC-Pineville projects, CMC-Mercy will have transferred a total of 61 medical/surgical beds to CMC-Pineville. However, with CMC-Mercy's current and projected medical/surgical growth, as described in Section III.1(b), expanding CMC-Mercy's bed capacity has become a priority for the medical center. CMC-Mercy proposes to add 38 adult medical/surgical beds in partial response to the need identified in the 2011 State Medical Facilities Plan for 107 additional acute care beds in Mecklenburg County. CMC-Mercy proposes to develop approximately 36 percent of the total beds allocated for Mecklenburg County. While the relocation of beds to CMC-Pineville was necessary to meet the demand growth at that time in Pineville, the proposed project is needed now to expand the medical/surgical capacity to meet the current and projected need at CMC-Mercy. At the completion of this project and CMC-Pineville's Phase II project, CMC-Mercy will operate a total of 132 adult medical/surgical beds and 30 ICU beds for a total of 162 licensed acute care beds, ***or seven medical/surgical beds less than it operates currently****."* [Emphasis in original.]

In Section II, pages 18-21 and Exhibit 3, the applicant illustrates the proposed bed transfers from the Mercy campus to the Pineville campus with stacking diagrams. Regarding these stacking diagrams, the applicant states:

"*The Interim Phase I Stacking Diagram-CMC Pineville Transfers (Exhibit 3). … since August 2009, CMC-Mercy has transferred 16 medical/surgical beds to CMC-Pineville. In 2013, CMC-Mercy will transfer 45 additional beds to CMC-Pineville. With the final transfer of beds to CMC-Pineville, certain CMC-Mercy bed units will lose medical/surgical beds. These include 2 North (-16 beds), 3 North (-1 bed), 4 North (-3 beds), 5 North (-15 beds), and 4 South (-10 beds) for a total of 45 beds that will be transferred to CMC-Pineville.*

"*The Interim Phase I Stacking Diagram-Initial 38 Beds at CMC-Mercy (Exhibit 3) depicts the initial placement of the 38 additional medical/surgical beds in existing bed units at CMC-Mercy, backfilling some of the bed units that transferred medical/surgical beds to CMC-Pineville. The goal of CMC-Mercy is to get the beds into operation as quickly as possible following approval of the project. The units that will house the 38 beds initially include 2 North (+16 beds), 5 North (+12 beds), and 4 South (+10) beds. Because these are existing medical/surgical units that were partially or wholly vacated in the bed transfer to Pineville, no renovations will be required to begin operating theses beds in Interim Phase 2.*

The Proposed Project Stacking Diagram (Exhibit 3) shows final configuration of beds/units following completion of the project. In this final phase, all 16 beds on 2 North will be relocated to 7 South, along with six of the 12 beds that were added to 5 North in Interim Phase 2. At the completion of this project, the 38 additional beds

will be located as follows: ten on 4 South, six on 5 North, and 22 on 7 South.

With the completion of the proposed project, CMC-Mercy will be licensed for 132 medical/surgical beds and 30 ICU beds for a total acute care bed count of 162.

2 North Unit/4 South Unit
Neither 2 North nor 4 South will undergo any renovations in this project. The 2 North Unit is a temporary location for 16 beds as all 16 will ultimately be transferred to 7 South following the relocation and renovation of the LTACH unit on 7 South. The 4 South Unit will accommodate the 10 additional beds permanently with no renovation required.

5 North Bed Unit
As noted in the Existing Stacking Diagram (Exhibit 3), the existing 5 North unit is configured as 29-bed medical/surgical unit. However, in the Interim Phase 2, 5 North will house 12 of the additional 38 beds, six of which will permanently relocate to 7 North at the completion of the project. … Following the approval of this application and the final relocation of 45 beds to CMC-Pineville with Project ID # F-7979-07, CMC Mercy will begin renovations that will result in the ultimate unit configuration of 20 beds (Proposed Stacking Diagram).

7 South Bed Unit
… CMC-Mercy proposes to develop a 22-bed medical/surgical unit on 7 South in space vacated by the relocation of Carolinas Specialty Hospital's (CSH) LTACH unit to a new facility on the CMC-Pineville campus (Project ID# F-8640-11). The rationale for placing the beds on 7 South is that the relocation of the LTACH unit leaves prime space vacant that can easily be renovated to accommodate a 22-bed medical/surgical unit. … CSH's primary need was for more space for the 40-bed LTACH. Not only does the long-term care hospital need larger rooms but also needs additional support space not currently available in its current location on 7 South at CMC-Mercy. …

As discussed in Section III.1(a), orthopedic specialty services at CMC-Mercy have continued to develop since 2007; utilization of orthopedic services combined with the quality of the staff and expertise of the orthopedic physicians has resulted in a growing demand for additional medical/surgical bed capacity. Because of its proximity to the existing 7 North orthopedic unit, CMC-Mercy proposes to renovate the space on 7 South vacated by the LTACH and create a 22-bed medical/surgical unit focused on orthopedics. The co-location of these two orthopedic units will allow CMC-Mercy to consolidate its orthopedic services in order to optimize care delivery. …

The project proposes to develop the 22 medical/surgical beds in approximately 16,400 square feet of space in the south wing of the 7th floor at the city-center hospital. With the renovation, the existing unit will be reconfigured as 22 private rooms as opposed to the 40 private and semi-private rooms on the floor today. One of

the major reasons CMC-Mercy must redesign this space is due to the size of the rooms. … The proposed larger room configuration will accommodate the equipment required for the recovery phase of medical/surgical patients. …

Another aspect of patient centered care is the inclusion of space on the unit for physical and occupational therapy. … CMC-Mercy expects the majority of patients cared for in the 7 South unit to be orthopedic patients. To accommodate the need orthopedic patients have for intensive inpatient rehab following most surgical procedures, CMC-Mercy will include space on the unit for these services. …"

Population to be Served

In Section III.5, page 98, the applicant states:

"*The proposed addition of 38 acute care beds to CMC-Mercy's existing bed complement is not expected to have any impact on patient origin. However, as outlined in Section III.1(b), CMC-Mercy expects volume to shift to CMC-Fort Mill and CMC-Pineville during project years. CMC-Mercy projected patient origin for its adult acute care beds based on its existing patient origin by service, modified to account for the projected shifts to CMC-Fort Mill and CMC-Pineville, as outlined in the methodologies presented in the CMC-Fort Mill and CMC-Pineville exhibits (See Exhibits 31 and 13, respectively). CMC-Mercy assumed that all patients shifting to CMC-Fort Mill will originate from York County*."

The following table illustrates patient origin for acute care services, as reported by the applicant in Section III, pages 94-95 (current) and 97-98 (projected).

County	Current % of Total Patients	Year 1: % of Total Patients	Year 2: % of Total Patients
Mecklenburg	61.7%	62.3%	63.8%
York	9.0%	8.5%	6.3%
Union	7.7%	6.3%	6.5%
Gaston	4.2%	4.2%	4.3%
Cabarrus	2.3%	2.5%	2.6%
Other*	15.1%	16.1%	16.5%
Total	100%	100%	100%

*Other includes 81 counties in North & South Carolina & other states; listed by the applicant on page 98.

In Section III, page 96, the applicant in discusses the service area for the Mercy campus:

"*CMC-Mercy projects that Mecklenburg County will remain its primary service area and Union, Gaston, and Cabarrus counties in North Carolina and York County in South Carolina will be secondary service areas. Over 60 percent of CMC-Mercy's acute care patients originate from Mecklenburg County. Patients from the medical center's secondary service area represent approximately 20 percent of acute care patients. In total, CMC-Mercy's primary and secondary service area represent over 80 percent of acute care patients*."

The applicant adequately identified the population it proposes to serve.

Demonstration of Need

In Section III, page 49, the applicant states that the need for the 38 additional acute care beds on the Mercy campus is based on the following:

- "*The need for additional acute care beds in Mecklenburg County identified in the 2011 SMFP;*
- *The dynamic population growth in Mecklenburg County, including the growth in the population over age 65; and*
- *The need for additional capacity at CMC-Mercy*."

Regarding the need determination in the 2011 SMFP, in Section III page 50, the applicant states:

> "*The application of the acute care bed need methodology in the 2011 SMFP results in the single largest need for additional acute care beds identified in Mecklenburg County within the last twenty years. Since 1994, three acute care bed need determinations for Mecklenburg County have been identified. … in 2008, there was a need identified for 27 beds, in 2009 there was a need for* [sic] *identified for 27 beds, in 2009 there was a need for* [sic] *identified for 30 beds, and the current SMFP identifies a need for 107 additional acute care beds*."

Regarding projected population growth in Mecklenburg County, in Section III, pages 57-60 and Exhibits 27 and 28, the applicant provides demographic information which illustrates that Mecklenburg County is one of the fastest growing counties in North Carolina. The applicant also documents that the number of residents aged 65 and older is increasing. The applicant states this projected population growth will increase demand for acute care beds.

Regarding the need for additional capacity on the Mercy campus, in Section III, page 67, the applicant provides historical acute care bed utilization between FFY 2007 and FFY 2011 (annualized). As shown in the table below, patient days increased at a compound annual growth rate (CAGR) of 6.5% over the four year period.

Mercy Campus	
Federal Fiscal Year	Patient Days
2007	30,277
2008	32,870
2009	31,241
2010	34,218
2011 (annualized)	39,000

Mercy Campus

In Section III, pages 79 and 81 the applicant provides projected utilization of the acute care beds on the Mercy campus during the first three operating years, as shown in the table below.

Mercy Campus				
Calendar Year	Patient Days	Average Daily Census	Acute Care Beds	Occupancy Rate
2011 (Annualized)	39,407	108.0	169	63.9%
2012	41,052	112.5	169	66.6%
2013 (Year 1)	39,598	108.5	162	67.0%
2014 (Year 1)	41,298	113.1	162	69.8%
2015 (Year 2)	42,125	115.4	162	71.2%
2016 (Year 3)	43,946	120.4	162	74.3%

In Section III, pages 71-81, the applicant provides the assumptions and methodology used to project utilization of the acute care beds on the Mercy campus, as summarized below:

Step	***Description Mercy Campus***
1	*Examine 'Historical Acute Care Bed Utilization.'*
2	*Determine the 'Projected Acute Care Bed Patient Days Prior to Shifts' by applying projected growth rates to patient days.* [based on compound annual growth rates (CAGRs) for FFY 2007 - 2010]
3	*'Convert Federal Fiscal Year data to Calendar Year data.'*
4	*Determine the projected 'Shift of Patient Days from CMC-Mercy to CMC-Fort Mill.'* [In September 2011, CMC was approved by the South Carolina Department of Health and Environmental Control to develop a new acute care hospital in Fort Mill, SC. It is projected to become operational on January 1, 2015.]
5	*Determine the projected 'Shift of Patient Days from CMC-Mercy to CMC-Pineville.'* [In 2008 CMC-Pineville was approved to add 86 acute care beds (Project ID# F-7979-07), with acute care patients to be shifted from CMC-Mercy to CMC-Pineville beginning in CY 2013.]
6	*Determine the 'Projected Acute Care Bed Patient Days' by subtracting shifted volume from the projected CMC-Mercy volume.*
7	*Determine 'Projected Acute Care Admissions' by dividing projected patient days by the historical average length of stay.*

The following table illustrates the CAGR for acute care bed utilization on the Mercy campus.

Mercy Campus			
Federal Fiscal Year	Adult Med/Surg	Adult ICU	Total
2007	24,774	5,503	30,277
2008	26,604	6,266	32,870
2009	25,157	6,084	31,241
2010	27,896	6,322	34,218
2011 Annualized	31,220	7,781	39,000
CAGR	6.0%	9.09%	6.5%

Source: CMC-Mercy HLRAs and CMC-Mercy internal data.

Regarding the growth in patient days on the Mercy campus, the applicant states on pages 73-74:

> "*CMC-Mercy believes that the growth from FFY 2010 to FFY 2011 annualized may, in part, be a reflection of the operating room transfer and replacement project that was completed in 2010. While it would be reasonable for CMC-Mercy to base its patient day growth on its FFY 2007 to 2011 annualized CAGRs for each bed category, CMC-Mercy has chosen to use the more conservative FFY 2007 to FFY 2010 CAGRs, 4.0 percent for adult medical/surgical and 4.7 percent for adult ICU, which are all based on full year utilization data. Moreover, the FFY 2007 to 2010 CAGRs are approximately two-thirds and one-half of the FFY 2007 to 2011 annualized CAGRs*."

Mercy Campus		
	Adult Med/Surg	*Adult ICU*
FFY 2007 to 2010	*4.0%*	*4.7%*
FFY 2007 to 2011 Annualized	*6.0%*	*9.0%*

Projected utilization of the acute care beds on the Mercy campus is based on reasonable and supported assumptions.

Pineville Campus

In Exhibit 13, page 240, the applicant states that in 2008 the Pineville campus was approved for 86 additional acute care beds for a total of 206 beds (Project ID# F-7979-07). The applicant projects utilization of the acute care beds on the Pineville campus during the first three operating years, as shown in the table below.

Pineville Campus				
Calendar Year	Patient Days	Average Daily Census	Acute Care Beds	Occupancy Rate
2011 Annualized	31,900	87	120	72.8%
2012	32,728	90	120	74.7%
2013 (Year 1)	62,426	171	206	83.0%
2014 (Year 2)	64,060	176	206	85.2%
2015 (Year 3)	55,916	153	206	74.4%

In Exhibit 13 the applicant provides the assumptions and methodology used to project utilization of the acute care beds on the Pineville campus, which are summarized below:

Step	***Description Pineville Campus***
1	*Calculate historic use rate* [discharges per 1,000 population] *and project future utilization by submarket.*
2	*Project future facility utilization prior to any shifts.*
3	*Shift of Discharges from CMC* [Main] *and CMC-Mercy* [CMC assumes that some of the utilization of CMC-Main and CMC-Mercy will shift to CMC-Pineville in CY 2013, upon completion of the renovation and expansion project at CMC-Pineville]

4	*Impact of CMC-Fort Mill* [CMC assumes that there will be a shift in utilization from the Pineville campus to CMC-Fort Mill, beginning in January 2015.]
5	*Summary of Utilization*

Projected utilization of the acute care beds on the Pineville campus is based on reasonable and supported assumptions.

CMC–University

In Exhibit 21, page 275, the applicant states that in 2008 the Pineville campus was approved for the relocation of 36 acute care beds from CMC-University to the Pineville campus, reducing the number of acute care beds at CMC-University from 130 to 94. The applicant projects utilization of the acute care beds at CMC-University during the first three operating years as shown in the table below.

CMC–University				
Calendar Year	Patient Days	Average Daily Census	Acute Care Beds	Occupancy Rate
2011 Annualized	22,162	60.7	130	46.7%
2012	22,225	60.9	130	46.8%
2013 (Year 1)	22,289	61.1	94	65.0%
2014 (Year 2)	22,353	61.2	94	65.1%
2015 (Year 3)	22,331	61.2	94	65.1%

In Exhibit 21 the applicant provides the assumptions and methodology used to project utilization of CMC-University's acute care beds, as summarized below:

Step	***Description*** **CMC-University**
1	*Examine the historical utilization* [patient days] *for CMC-University.*
2	*Project future facility utilization prior to any shifts.* [based on compound annual growth rate in patient days for FFY 2007-2011 annualized]
3	*Impact of CMC-Fort Mill* [South Carolina] [CMC-Main assumes that there will be a shift in utilization from CMC-University to CMC-Fort Mill beginning in January 2015.]
4	*Impact of CMC-Fort Mill* [CMC-Main assumes that there will be a shift in utilization from CMC-Pineville to CMC-Fort Mill, beginning in January 2015.]
5	*Summary of Utilization*

Projected utilization of the acute care beds at CMC-University is based on reasonable and supported assumptions.

CMC-Main

On page 105, the applicant projects utilization of the acute care beds at CMC-Main during the first three operating years; as shown in the table below.

CMC–Main				
Calendar Year	Patient Days	Average Daily Census	Acute Care Beds	Occupancy Rate
2011 Annualized	261,376	716.1	795	90.1%
2012	264,420	724.4	795	91.1%
2013 (Year 1)	250,319	685.8	814	84.3%
2014 (Year 2)	253,010	693.2	814	85.2%
2015 (Year 3)	250,483	686.3	814	84.3%

In Section III, pages 96-108, the applicant provides the assumptions and methodology used to project utilization of CMC-Main's acute care beds, as summarized below:

Step	***Description*** **CMC–Main**
1	*Examine CMC's Historical Acute Care Bed Utilization and Projected Population.*
2	*Determine the Projected Acute Care Bed Patient Days Prior to Shifts by applying projected* [population] *growth rates to historical patient days.*
3	*Convert Federal Fiscal Year data to Calendar Year data.*
4	*Determine the projected Shift of Patient Days from CMC to CMC-Fort Mill.*[In September 2011, CMC was approved by the South Carolina Department of Health and Environmental Control to develop a new acute care hospital in Fort Mill, SC. It is projected to become operational on January 1, 2015.]
5	*Determine the projected Shift of Patient Days from CMC to CMC-Pineville.*[In 2008 the Pineville campus was approved to add 86 acute care beds, with adult acute care patients to be shifted from CMC-Main and the Mercy campus to the Pineville campus, beginning in CY 2013 (Year 1).]
6	*Determine the Projected Acute Care Bed Patient Days by subtracting shifted volume from the projected CMC volume.*
7	*Determine Projected Acute Care Admissions by dividing projected patient days by the historical average length of stay.*

Projected utilization of the acute care beds at CMC-Main is based on reasonable and supported assumptions.

All CMHA Hospitals in Mecklenburg County Combined

The following table summarizes the projected utilization of all CMHA hospitals (i.e., under common ownership) in the Mecklenburg County hospital service area in the third year of operation following project completion.

CMHA Hospitals in Mecklenburg County (Project Year 3)				
Hospital	Patient Days	Average Daily Census	Licensed Acute Care Beds	Occupancy Rate
Mercy Campus	43,946	120.4	162	74.3%
Pineville	55,916	153.0	206	74.4%

Campus				
CMC-University	22,331	61.2	94	65.1%
CMC-Main	250,483	686.3	814	84.3%
Total	372,676	1,021.0	1,276	80.0%

In Year Three, the projected occupancy rate of the total number of CMHA licensed acute care beds under common ownership in Mecklenburg County is 80.0%, which exceeds the performance standard in 10A NCAC 14C .3803(a), which requires the projected occupancy rate in the third year of operation to be at least 75.2% for hospitals with an average daily census greater than 200 patients. Projected utilization for the acute care beds is based on reasonable and supported assumptions. Therefore, the applicant adequately demonstrates the need for 38 additional acute care beds on the Mercy campus.

In summary, the applicant adequately identifies the population proposed to be served and adequately demonstrates the need for the proposed project. Therefore, the application is conforming to this criterion.

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

NA

(4) Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

CA

In Section III.3, pages 90-94, the applicant discusses the alternatives it considered prior to submission of this application and the basis for selection of the proposed project. The alternatives considered include: maintaining the status quo, postponing the CON application, moving beds from other CMHA campuses to the Mercy campus, adding beds to other CMHA campuses, developing more than 38 beds, and developing 38 beds in space vacated by the relocation of Carolinas Specialty Hospital (Mercy Restorative Care) and relocating beds to the Pineville campus. Furthermore, the application is conforming to all other applicable statutory and regulatory review criteria. See Criteria (1), (3), (5), (6), (7), (8), (13), (14), (18a), (20) and 10A NCAC 14C .3800. The applicant adequately demonstrates that the proposal is its least costly or most effective alternative to meet the need. Therefore, the application is conforming to this criterion and approved subject to the following conditions.

1. **Mercy Hospital, Inc. d/b/a Carolinas Medical Center-Mercy/Pineville shall materially comply with all representations made in the certificate of need application.**

2. **The Mercy campus shall be licensed for no more than 162 acute care beds upon completion of this project and Project I.D. #F-7979-07.**

3. **Mercy Hospital, Inc. d/b/a Carolinas Medical Center-Mercy/Pineville shall not acquire, as part of this project, any equipment that is not included in the project's proposed capital expenditure in Section VIII of the application and that would otherwise require a certificate of need.**

4. **Mercy Hospital, Inc. d/b/a Carolinas Medical Center-Mercy/Pineville shall develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes. The plan must be consistent with the applicant's representations in the written statement as described in paragraph one of Policy GEN-4.**

5. **Mercy Hospital, Inc. d/b/a Carolinas Medical Center-Mercy. Mercy Hospital, Inc. d/b/a Carolinas Medical Center-Mercy/Pineville shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section in writing prior to issuance of the certificate of need.**

(5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

In Section VIII.2, pages 131-132, the applicant states that the total capital costs of the proposed project will be $6,679,000, including $3,084,460 for renovation, $1,692,650 for fixed and movable equipment, $251,725 for furniture, $409,000 for financing and interest, $609,200 for consultant fees and $631,965 for contingency. In Section IX, page 136, the applicant states there are no start-up or initial operating expenses associated with the proposed project.
In Section VIII.3, page 132, the applicant states that the total capital cost of the project will be financed with tax-exempt bonds issued in 2011. Exhibit 40 contains a letter from the Executive Vice President and Chief Financial Officer of CHS, dated October 17, 2011, which states:

> "*As the Chief Financial Officer for Carolinas HealthCare System, I am responsible for the financial operations of CMC-Mercy. As such, I am very familiar with the organization's financial position. The total capital expenditure for the project is*

estimated to be $6,679,000 and will be funded through proceeds from bonds issued in 2011."

Exhibit 41 contains the audited financial statements of The Charlotte-Mecklenburg Hospital Authority which shows that as of December 31, 2010, CMHA had $673,446,000 in Current Assets and $5,071,717,000 in Total Net Assets. The applicant adequately demonstrates the availability of sufficient funds for the capital needs of the proposed project.

In the projected revenue and expense statements for CMC-Mercy/Pineville, the applicant projects revenues and expenses for the entire facility and for the acute care beds. The applicant projects that revenue will exceed expenses in the first three years of operation for the entire facility, as shown in the table below:

CMC-Mercy/Pineville Projected Revenue and Expenses (in 000s)			
	Year 1 CY 2014	Year 2 CY 2015	Year 3 CY 2016
Total Net Revenue	$292,928	$313,437	$334,945
Total Expenses (Direct and Indirect)	$215,416	$226,861	$239,835
Net Income	$77,512	$85,576	$95,763

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization. See Criterion (3) for discussion of projected utilization.

In summary, the applicant adequately demonstrates the availability of sufficient funds for the capital needs of the project, and adequately demonstrates that the financial feasibility of the proposal is based upon reasonable projections of costs and revenues. Consequently, the application is conforming to this criterion.

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

C

The 2011 SMFP includes an Acute Care Bed Need Determination for 107 additional acute care beds in Mecklenburg County. The applicant proposes to develop 38 acute care beds in Mecklenburg County. The applicant does not propose to develop more acute care beds than are determined to be needed in the service area. The applicant adequately demonstrates the need for its proposal. See Criterion (3) for discussion. Therefore, the applicant adequately demonstrates that the proposed project would not result in the unnecessary duplication of existing or approved health service capabilities or facilities. Consequently, the application is conforming to this criterion.

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

C

In Section VII.1, pages 123-124, the applicant provides the current staffing for the existing beds and the proposed staffing for the additional 38 acute care beds. The applicant states:

> "*At the completion of the proposed project and CMC-Pineville's Phase II projection* [sic], *CMC-Mercy will operate a total of 32 adult medical/surgical beds or seven fewer than it currently operates. Nonetheless, CMC-Mercy conservatively projects to add staffing to its adult medical/surgical units in order to accommodate this increased volume*."

The following tables illustrate the current and proposed staffing for the additional 38 acute care beds.

CMC-Mercy		
Position	Total # of FTE Positions Employed CY 2010	Proposed # of FTE Positions Employed CY 2015
RN	123.0	130.4
LPN	7.8	8.3
Aides	21.0	22.3
Supervisory	4.0	4.2
Tech	17.3	18.3
Clerical	.5	.5
Unit Secretary	14.9	15.8
Total	188.5	199.8

As shown in the above table, the applicant projects the proposed staffing for the second full fiscal year following completion of the project. In Section VII.3, page 125, the applicant states that it does not anticipate any difficulty recruiting staff for these positions. In Section V.3(c), page 128, the applicant identifies the physician serving as Chief of Medical Staff for CMC-Mercy/Pineville. The applicant demonstrates the availability of adequate health manpower and management personnel for the provision of the proposed services. Therefore, the application is conforming to this criterion.

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

C

Exhibit 4 contains a letter signed by the Vice President and Chief Nursing Officer for CMC-Mercy/Pineville which lists the ancillary and support services currently available on the Mercy campus. Exhibit 35 contains a list of area health care facilities with which CMC-Mercy/Pineville has transfer agreements and a copy of a standard transfer agreement. Exhibit 45 contains letters from physicians expressing support for the proposed project. The applicant adequately demonstrates that the necessary ancillary and support services will be available and that the services will be coordinated with the existing health care system. Therefore, the application is conforming to this criterion.

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

NA

(10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates: (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:

(i) would be available under a contract of at least 5 years duration;
(ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
(iii) would cost no more than if the services were provided by the HMO; and
(iv) would be available in a manner which is administratively feasible to the HMO.

NA

(11) Repealed effective July 1, 1987.

(12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

NA

13) The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and

ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:

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

C

In Section VI.2 (a-f), page 113, the applicant states:

> "*CMC-Mercy provides services to all persons in need of medical care, regardless of race, creed, age, sex, national origin, handicap, or ability to pay. Please see Exhibit 15 for a copy of CHS's System wide Hospital Admission, Credit and Collection Policy, which includes CHS's Non-Discrimination Policy*."

In Sections VI.12 and 13, page 120, the applicant provides the payor mix during CY 2010 for the entire facility and acute care services, as shown below:

CMC-Mercy/Pineville	
Patient Days as Percent of Total Utilization	
Medicare / Managed Care	56.9%
Commercial / Managed Care	26.3%
Medicaid	13.3%
Self-Pay / Other	3.7%
Total	100.0%

The Division of Medical Assistance (DMA) maintains a website which offers information regarding the number of persons eligible for Medicaid assistance and estimates of the percentage of uninsured for each county in North Carolina. The following table illustrates those percentages as of June 2010 and CY 2008-2009, respectively. The data in the table were obtained on February 9, 2012. More current data, particularly with regard to the estimated uninsured percentages, were not available.

	Total # of Medicaid Eligible as % of Total Population	**Total # of Medicaid Eligibles Age 21 and older as % of Total Population**	**% Uninsured CY 2009 (Estimate by Cecil G. Sheps Center)**
Mecklenburg County	15.0%	5.1%	20.1%
Statewide	17.0%	6.7%	19.7%

The majority of Medicaid eligibles are children under the age of 21. This age group does not utilize the same health services at the same rate as older segments of the population, particularly the adult acute care services proposed in this application.

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

The Office of State Budget & Management (OSBM) maintains a website which provides historical and projected population data for each county in North Carolina. In addition, data is available by age, race or gender. However, a direct comparison to the applicants' current payor mix would be of little value. The population data by age, race or gender does not include information on the number of elderly, minorities or women utilizing health services. Furthermore, OSBM's website does not include information on the number of handicapped persons.

The applicant demonstrates that medically underserved populations currently have adequate access to the services provided at CMC-Mercy/Pineville. 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 handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

C

In Section VI.11(a), page 56, the applicant states:

> "*CMC-Mercy has had no obligations to provide uncompensated care during the last three years. … the medical center provides, without obligation, a considerable amount of bad debt and charity care …*"

In Section VI.10(a), page 119, the applicant states that no civil rights access complaints have been filed against any affiliated entity of CHS in the last five years. According to the Acute and Home Care Licensure and Certification Section, DHSR, the facility is currently in compliance with EMTALA regulations. 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 V1.14, page 121 of the application, the applicant states:

> "*The projected facility payor mix is based on CMC-Mercy's Calendar Year 2010 payor mix. The proposed project is not expected to impact the facility's payor mix.*"

The following table shows the projected payor mix during the second full operating year, as reported by the applicant on page 121.

CMC-Mercy/Pineville CY 2015 Projected Patient Days as Percent of Total Utilization	
Medicare / Managed Care	56.9%
Commercial / Managed Care	26.3%
Medicaid	13.3%
Self-Pay / Other	3.7%
Total	100.0%

The applicant demonstrates that it will provide adequate access to medically underserved populations. 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

In Section VI.9(a), page 118, the applicant states,

> "*Persons have access to services at CMC-Mercy through referrals from physicians who have admitting privileges at the medical center. Patients of CMC-Mercy are also admitted through the emergency department*."

Further, in Section VI.9(c), page 119, the applicant states,

> " … *CMC-Mercy has informal agreements with local and regional health care agencies that refer patients, through a physician to the medical center's services*."

The information provided is reasonable and credible and supports a finding of conformity 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

On pages 103-104 and in Exhibit 34, the applicant describes its relationships with area health professional training programs. CMHA has established arrangements with many training programs, including Central Piedmont Community College, Queens University of Charlotte, University of North Carolina at Charlotte, Gardner-Webb University, Presbyterian School of Nursing and Mercy School of Nursing. CMHA and Carolinas College of Health Sciences provide educational opportunities for over 1,000 residents, physician extenders and students in nursing, radiology and other allied health professions. CMHA manages the Charlotte Area Health Education Center through an arrangement with University of North Carolina at Chapel Hill. The information provided is reasonable and credible and supports a finding of conformity with 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

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

- The applicant adequately demonstrates that the proposal is needed and that it is a cost-effective alternative to meet the demonstrated need [see Criteria (1), (3), (4) and (5) for additional discussion];
- The applicant has and will continue to provide quality services [see Criteria (7), (8) and (20) for additional discussion]; and

- The applicant has and will continue to provide adequate access to medically underserved populations [see Criterion (13) for additional discussion].

Therefore, the application is conforming to this criterion.

(19) Repealed effective July 1, 1987.

(20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

C

CMC-Mercy/Pineville is accredited by the Joint Commission on Accreditation of Healthcare Organizations and certified for Medicare and Medicaid participation. According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, no sanctions or penalties related to quality of care were imposed on CMC-Mercy/Pineville by the State in the last eighteen months immediately preceding the date of this decision.

According to the files in the Acute and Home Care Licensure and Certification Section on February 2, 2011, CMC-Main was surveyed as a result of a complaint. That survey resulted in an Immediate Jeopardy (IJ) and condition-level deficiencies. Based on a full survey on March 4, 2011 and a follow-up survey on May 5, 2011, the IJ had been abated and the quality of care deficiencies had been corrected.

Therefore, the application is conforming to this criterion.

(21) Repealed effective July 1, 1987.

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

C

The application is conforming with all applicable Criteria and Standards for Acute Care Beds as promulgated in 10A NCAC 14C .3800. The specific criteria are discussed below.

.3802 INFORMATION REQUIRED OF APPLICANT

.3802(a) This rule states *"An applicant that proposes to develop new acute care beds shall complete the Acute Care Facility/Medical Equipment application form."*

-C- The applicant completed the Acute Care Facility/Medical Equipment application form.

3802(b)(1) This rule states *"An applicant proposing to develop new acute care beds shall submit the following information: (1) the number of acute care beds proposed to be licensed and operated following completion of the proposed project."*

-C- In Section II, page 33, the applicant proposes to add 38 acute care beds for a total of 162 licensed and operational acute care beds on the Mercy campus upon completion of this project

.3802(b)(2) This rule states *"An applicant proposing to develop new acute care beds shall submit the following information: ... (2) documentation that the proposed services shall be provided in conformance with all applicable facility, programmatic, and service specific licensure, certification, and JCAHO accreditation standards."*

-C- In Section II.2, page 33, the applicant states, "*CMC-Mercy has historically provided services in conformance with all applicable facility, programmatic, and service specific licensure, certification, and The Joint Commission accreditation standards and the proposed project will be no exception*. …"

.3802(b)(3) This rule states *"An applicant proposing to develop new acute care beds shall submit the following information: ... (3) documentation that the proposed services shall be offered in a physical environment that conforms to the requirements of federal, state, and local regulatory bodies."*

-C- In Section II, page 33, the applicant states that CMC-Mercy/Pineville has historically developed its facilities in accordance with all regulatory requirements. Exhibit 10 contains a letter from the President of CMC-Mercy/Pineville which states that the thirty-eight new acute care beds will be housed in a physical environment that conforms to the requirements of federal, state and local regulatory bodies.

.3802(b)(4) This rule states *"An applicant proposing to develop new acute care beds shall submit the following information: ... (4) if adding new acute care beds to an existing facility, documentation of the number of inpatient days of care provided in the last operating year in the*

existing licensed acute care beds by medical diagnostic category, as classified by the Centers for Medicare and Medicaid Services according to the list set forth in the applicable State Medical Facilities Plan."

-C- In Exhibit 11, the applicant includes a table illustrating the number of inpatient days of care provided in CY 2010 by medical diagnostic category (MDC), as classified by the Centers for Medicare and Medicaid Services according to the list set forth in the applicable SMFP.

.3802(b)(5) This rule states *"An applicant proposing to develop new acute care beds shall submit the following information: ... (5) the projected number of inpatient days of care to be provided in the total number of licensed acute care beds in the facility, by county of residence, for each of the first three years following completion of the proposed project, including all assumptions, data and methodologies."*

-C- In Exhibit 12, the applicant provides the projected number of inpatient days of care to be provided in the total number of licensed acute care beds in the Mercy campus facility by county of residence, for each of the first three years following completion of the proposed project. In Section III.1(b) and Exhibit 13, the applicant provides the assumptions and methodology used for the projections. See Criterion (3) for discussion regarding the reasonableness of the projections.

.3802(b)(6) This rule states *"An applicant proposing to develop new acute care beds shall submit the following information: ... (6) documentation that the applicant shall be able to communicate with emergency transportation agencies 24 hours per day, seven days per week."*

-C- Exhibit 14 contains a letter from the President of CMC-Mercy/Pineville which states: "*CMC-Mercy is able to communicate with* … [emergency transportation agencies] *24 hours per day, seven days per week*."

.3802(b)(7) This rule states *"An applicant proposing to develop new acute care beds shall submit the following information: ... (7) documentation that services in the emergency care department shall be provided 24 hours per day, seven days per week, including a description of the scope of services to be provided during each shift and the physician and professional staffing that will be responsible for provision of those services."*

- CA - On pages 35-37 and in Exhibit 14, states the Emergency Department operates 24 hours per day, 7 days per week. However, the applicant

does not describe the scope of services for each shift and does not provide the physician and professional staffing for each shift. Therefore, the application is conforming to this rule subject to the following condition.

Prior to issuance of the certificate of need, The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas Medical Center shall provide the Certificate of Need Section with a description of the scope of services to be provided in the Emergency Department during each shift and the proposed physician and professional staffing of the Emergency Department for each shift.

.3802(b)(8) This rule states *"An applicant proposing to develop new acute care beds shall submit the following information: ... (8) copy of written administrative policies that prohibit the exclusion of services to any patient on the basis of age, race, sex, creed, religion, disability or the patient's ability to pay."*

-C- In Exhibit 15, the applicant provides written administrative policies documenting that CMC-Mercy/Pineville will prohibit the exclusion of services to any patient on the basis of age, race, sex, creed, religion, disability or the patient's ability to pay.

.3802(b)(9) This rule states *"An applicant proposing to develop new acute care beds shall submit the following information: ... (9) a written commitment to participate in and comply with conditions of participation in the Medicare and Medicaid programs."*

-C- On page 113 provides a statement and in Exhibit 16, the applicant provides a written commitment from the President of CMC-Mercy/Pineville documenting CMC-Mercy/Pineville's commitment to continue to participate in and comply with conditions of participation in the Medicare and Medicaid programs.

.3802(b)(10) This rule states *"An applicant proposing to develop new acute care beds shall submit the following information: ... (10) documentation of the health care services provided by the applicant, and any facility in North Carolina owned or operated by the applicant's parent organization, in each of the last two operating years to Medicare patients, Medicaid patients, and patients who are not able to pay for their care."*

-C- On pages 38-39, the applicant provides documentation and a chart showing the percentages for Medicare, Medicaid, other and uninsured patients at CMHA facilities for CY 2009 and CY 2010**.**

.3802(b)(11) This rule states *"An applicant proposing to develop new acute care beds shall submit the following information: ... (11) documentation of strategies to be used and activities undertaken by the applicant to attract physicians and medical staff who will provide care to patients without regard to their ability to pay."*

-C- In Section II, page 40, the applicant states: "*As evidenced by the amount of charity care and bad debt provided in the last fiscal year, CMC-Mercy has already been successful in attracting physicians who are willing to provide care to patients without regard to the patient's ability to pay*." Exhibit 18 contains a letter from CMC-Mercy/Pineville's President which documents conformance with this rule.

.3802(b)(12) This rule states *"An applicant proposing to develop new acute care beds shall submit the following information: ... (12) documentation that the proposed new acute care beds shall be operated in a hospital that provides inpatient medical services to both surgical and non-surgical patients."*

-C- Exhibit 20 contains a letter from the President of CMC-Mercy/Pineville in which he commits to continuing to provide inpatient medical services to both surgical and non-surgical patients. In Exhibit 11, the applicant provides the number of inpatient days of care provided during CY 2010 in the existing licensed acute care beds by medical diagnostic category, as classified by the Centers for Medicare and Medicaid Services according to the list set forth in the 2011 SMFP, which includes both surgical and non-surgical services.

.3802(c) This rule states *"An applicant proposing to develop new acute care beds in a new licensed hospital or on a new campus of an existing hospital shall also submit the following information:*

(1) the projected number of inpatient days of care to be provided in the licensed acute care beds in the new hospital or on the new campus, by major diagnostic category as recognized by the Centers for Medicare and Medicaid Services (CMS) according to the list set forth in the applicable State Medical Facilities Plan;

(2) documentation that medical and surgical services shall be provided in the proposed acute care beds on a daily basis within at least five of the major diagnostic categories as recognized by the Centers for Medicare and Medicaid Services (CMS) according to the list set forth in the applicable State Medical Facilities Plan;

(3) copies of written policies and procedures for the provision of care within the new acute care hospital or on the new campus, including but not limited to the following:

(A) the admission and discharge of patients, including discharge planning;

(B) transfer of patients to another hospital;

(C) infection control; and

(D) safety procedures;

(4) documentation that the applicant owns or otherwise has control of the site on which the proposed acute care beds will be located; and

(5) documentation that the proposed site is suitable for development of the facility with regard to water, sewage disposal, site development and zoning requirements; and provide the required procedures for obtaining zoning changes and a special use permit if site is currently not properly zoned."

(6) correspondence from physicians and other referral sources that documents their willingness to refer or admit patients to the proposed new hospital or new campus."

-NA- The applicant proposes to add the new acute care beds to the existing acute care facility.

.3803 PERFORMANCE STANDARDS

.3803(a) This rule states *"An applicant proposing to develop new acute care beds shall demonstrate that the projected average daily census (ADC) of the total number of licensed acute care beds proposed to be licensed within the service area, under common ownership with the applicant, divided by the total number of those licensed acute care beds is reasonably projected to be at least 66.7 percent when the projected ADC is less than 100 patients, 71.4 percent when the projected ADC is 100 to 200 patients, and 75.2 percent when the projected ADC is greater than 200 patients, in the third operating year following completion of the proposed project or in the year for which the need determination is identified in the State Medical Facilities Plan, whichever is later."*

-C- The projected third year occupancy rate of the total number of CMHA licensed acute care beds under common ownership in Mecklenburg County is 80.0%, which exceeds the performance standard.

.3803(b) This rule states *"An applicant proposing to develop new acute care beds shall provide all assumptions and data used to develop the*

projections required in this Rule and demonstrate that they support the projected inpatient utilization and average daily census."

-C- The applicant's assumptions and data used to develop the projections required in this Rule are provided in Section III, pages 50-81(Mercy campus), Exhibit 13 (Pineville campus), Exhibit 21 (CMC-University) and Exhibit 22 (CMC-Main). The applicant's assumptions regarding projected inpatient utilization and average daily census are reasonable and credible and support a finding of conformity to this rule. See Criterion (3) for additional discussion.

.3804 SUPPORT SERVICES

.3804(a) This rule states *"An applicant proposing to develop new acute care beds shall document that each of the following items shall be available to the facility 24 hours per day, seven days per week:*

(1) laboratory services including microspecimen chemistry techniques and blood gas determinations;
(2) radiology services;
(3) blood bank services;
(4) pharmacy services;
(5) oxygen and air and suction capability;
(6) electronic physiological monitoring capability;
(7) mechanical ventilatory assistance equipment including airways, manual breathing bag and ventilator/respirator;
(8) endotracheal intubation capability;
(9) cardiac arrest management plan;
(10) patient weighing device for a patient confined to their bed; and
(11) isolation capability."

-C- Exhibit 4 contains a letter signed by the Vice President and Chief Nursing Officer which states that all of the items listed above are currently available 24 hours per day, seven days per week on the Mercy campus.

.3804(b) This rule states *"If any item in Paragraph (a) of this Rule will not be available in the facility 24 hours per day, seven days per week, the applicant shall document the basis for determining the item is not needed in the facility."*

-NA- The applicant states that all of the items in Paragraph (a) of this Rule are currently in place for the existing acute care beds, and the same will be available 24 hours per day, seven days per week in the 38 new acute care beds.

.3804(c) This rule states *"If any item in Paragraph (a) of this Rule will be contracted, the applicant shall provide correspondence from the proposed provider of its intent to contract with the applicant."*

-NA- In Section II, page 45, the applicant states that none of the items listed in Paragraph (a) of this Rule will be contracted.

.3805 STAFFING AND STAFF TRAINING

.3805(a) This rule states *"An applicant proposing to develop new acute care beds shall demonstrate that the proposed staff for the new acute care beds shall comply with licensure requirements set forth in Title 10A NCAC 13B, Licensing of Hospitals."*

-C- In Section II, page 45, the applicant states that the proposed staffing for the thirty-eight new acute care needs will comply with the licensure requirements set forth in Title 10A NCAC 13B, Licensing of Hospitals. Exhibit 23 contains a letter from the President of CMC-Mercy/Pineville documenting compliance.

.3805(b) This rule states *"An applicant proposing to develop new acute care beds shall provide correspondence from the persons who expressed interest in serving as Chief Executive Officer and Chief Nursing Executive of the facility in which the new acute care beds will be located, documenting their willingness to serve in this capacity."*

-C- Exhibits 24 and 25 contain letters from the President of CMC-Mercy/Pineville and the Chief Nursing Officer which document their intent to continue in their roles after the project has been completed.

.3805(c) This rule states *"An applicant proposing to develop new acute care beds in a new hospital or on a new campus of an existing hospital shall provide a job description and the educational and training requirements for the Chief Executive Officer, Chief Nursing Executive and each department head which is required by licensure rules to be employed in the facility in which the acute care beds will be located."*

-NA- The applicant does not propose to develop new acute care beds in a new hospital or on a new campus of an existing hospital.

.3805(d) This rule states *"An applicant proposing to develop new acute care beds shall document the availability of admitting physicians who shall admit and care for patients in each of the major diagnostic categories to be served by the applicant."*

-C- In Section VII, pages 128-129, CMC-Mercy/Pineville documents 1,178 active medical staff, by specialty. Exhibit 11 documents that CMC-Mercy/Pineville served patients from all MDCs by during CY 2010.

.3805(e) This rule states *"An applicant proposing to develop new acute care beds shall provide documentation of the availability of support and clinical staff to provide care for patients in each of the major diagnostic categories to be served by the applicant."*

-C- See Section VII.1, pages 123-124 for current and proposed staffing. Exhibit 23 contains a letter from the President of CMC-Mercy/Pineville which documents the availability of all appropriate staff.