

Burgos, Alexander N

Subject: FW: 2023 State Medical Facilities Plan Request for Information

From: Mitchell, Micheala L <Micheala.Mitchell@dhhs.nc.gov>

Sent: Friday, January 6, 2023 11:03 AM

To: Ascher, Seth M <seth.ascher@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Emanuel, Andrea N <andrea.emmanuel@dhhs.nc.gov>; Brown, Elizabeth <elizabeth.brown@dhhs.nc.gov>

Subject: Re: 2023 State Medical Facilities Plan Request for Information

Thank you Seth.

Best,

Micheala Mitchell, JD

[NC Department of Health and Human Services](#)

[Division of Health Service Regulation](#)

Section Chief, Healthcare Planning and CON Section

809 Ruggles Drive, Edgerton Building

2704 Mail Service Center

Raleigh, NC 27699-2704

Office: [919 855 3879](tel:9198553879)

Micheala.Mitchell@dhhs.nc.gov

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From: Ascher, Seth M <seth.ascher@oah.nc.gov>

Sent: Friday, January 6, 2023 11:00 AM

To: Mitchell, Micheala L <Micheala.Mitchell@dhhs.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Emanuel, Andrea N <andrea.emmanuel@dhhs.nc.gov>; Brown, Elizabeth <elizabeth.brown@dhhs.nc.gov>

Subject: RE: 2023 State Medical Facilities Plan Request for Information

Michaela,

Attached is my staff opinion recommending approval of the 2023 State Medical Facilities Plan. The purpose of the opinion is to summarize the unique review requirements for the State Medical Facilities Plan. If anything changes between now and the commission meeting, I will let you know.

Sincerely,

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

[\(984\) 236-1934](tel:9842361934)

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Burgos, Alexander N

Subject: FW: 2023 State Medical Facilities Plan Request for Information

From: Mitchell, Micheala L <Micheala.Mitchell@dhhs.nc.gov>

Sent: Wednesday, January 4, 2023 1:28 PM

To: Ascher, Seth M <seth.ascher@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Emanuel, Andrea N <andrea.emmanuel@dhhs.nc.gov>; Brown, Elizabeth <elizabeth.brown@dhhs.nc.gov>

Subject: RE: 2023 State Medical Facilities Plan Request for Information

Sounds good, thank you.

Micheala Mitchell, JD

(she/her/hers)

Section Chief, Healthcare Planning and CON Section

[NC Department of Health and Human Services](#)

[Division of Health Service Regulation](#)

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Burgos, Alexander N

Subject: FW: 2023 State Medical Facilities Plan Request for Information

From: Ascher, Seth M <seth.ascher@oah.nc.gov>

Sent: Wednesday, January 4, 2023 12:45 PM

To: Mitchell, Micheala L <Micheala.Mitchell@dhhs.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Emanuel, Andrea N <andrea.emmanuel@dhhs.nc.gov>; Brown, Elizabeth <elizabeth.brown@dhhs.nc.gov>

Subject: RE: 2023 State Medical Facilities Plan Request for Information

Micheala,

Thank you for your prompt response. I'll let you know if I have any additional questions.

Seth Ascher

Burgos, Alexander N

Subject: FW: 2023 State Medical Facilities Plan Request for Information
Attachments: RFI State Medical Facilities Plan.RRC Responses Final.docx

From: Mitchell, Micheala L <Micheala.Mitchell@dhhs.nc.gov>
Sent: Wednesday, January 4, 2023 11:12 AM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Emanuel, Andrea N <andrea.emmanuel@dhhs.nc.gov>; Brown, Elizabeth <elizabeth.brown@dhhs.nc.gov>
Subject: FW: 2023 State Medical Facilities Plan Request for Information

Good morning, Seth,

Attached, please find the responses to your request for information. For ease of review, they are in bold font.

The link to the 2023 State Medical Facilities Plan (SMFP), which was approved by the Governor on December 16, 2022, is located here: <https://info.ncdhhs.gov/dhsr/ncsmfp/index.html>. The Governor's signature is on PDF page # 9 of the SMFP.

Andrea Emanuel and Elizabeth Brown require evites to the January 19th meeting if they have not been sent already.

Thank you,

Micheala Mitchell, JD
(*she/her/hers*)
Section Chief, Healthcare Planning and CON Section
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[Division of Health Service Regulation](#)
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REQUEST FOR INFORMATION

AGENCY: State Health Coordinating Council

RULE CITATION: State Medical Facilities Plan

DEADLINE FOR RECEIPT: January 6, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has reviewed this plan and supporting materials to determine if it was adopted in accordance with G.S. 131E-176(25). The Commission has not yet reviewed this plan and therefore there has not been a determination as to whether the plan will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this rule, the staff requests the follow clarifications:

On page 10 of the Notebook, the included email appears to contain a link. Was this a link to the website reproduced on pages 16 and 17 of the Notebook? If not, what did this link to?

There are two links in the email on page 10 of the OAH Notebook. The first link is to the “North Carolina State Medical Facilities Plan (SMFP)” webpage located on the Healthcare Planning and Certificate of Need (HPCON) sub link within the Division of Health Service Regulation’s (DHSR’s) website. The webpage allows the viewer to access all iterations of the SMFP from 2007 to the present.

The second link in the email on page 10 of the OAH Notebook takes the viewer to the “Meeting Information” webpage located on the HPCON sub link within the DHSR website which includes the dates and meeting documents for all the 2022 State Health Coordinating Council (SHCC) and committee meetings. This link also includes an archive or prior SHCC meeting documents and dates going back to 2008.

Conversely, pages 16 and 17 of the OAH Notebook include the public hearing dates during which the SHCC received comments from members of the public regarding the development of the 2023 SMFP. These dates are all listed on the “Public Hearings” webpage located on the HPCON sub link within the DHSR website.

On pages 16 and 17 of the Notebook, it appears that these pages were reproduced from the website on 3/11/22. The text of the website indicates it was last modified on

Seth Ascher
Commission Counsel

Date submitted to agency: December 19, 2022

3/01/22. When was the information about the March 2, 2022, meeting added to the website?

The dates for all meetings and hearings related to the development of the 2023 SMFP were included in Chapter 2 of the 2022 SMFP (see, pages 11-13 of the 2022 SMFP). The 2022 SMFP was posted to the North Carolina State Medical Facilities Plan webpage on December 28, 2021. Dr. Amy Craddock notified all interested parties of the posting on December 28, 2021.

Additionally, Dr. Craddock referenced the March 2, 2022 meeting in correspondence to the interested parties on December 29, 2022 and in subsequent correspondence on February 7, 2022. (see, OAH Notebook, pgs. 12 and 9 in that order)

On page 9 of the Notebook, an email about the March 2, 2022, meeting indicates that it will take place at 10:00 AM. On page 19 of the Notebook, it appears that the Secretary of State's Public Meeting Calendar listed the March 2, 2022, meeting occurring at 1:30 AM. On pages 35 and 36 of the Notebook, the sign in sheets for the March 2, 2022, meeting indicate that it started at 10:00 AM. What time was the March 2 meeting held?

The March 2, 2022 meeting was held at 10:00 a.m.

Page 11 of the 2022 SMFP states that “all SHCC meetings are scheduled from 10:00 a.m. until noon...” and that the “Council will conduct a public hearing on statewide issues related to the development of the Proposed 2023 SMFP immediately following the business meeting on March 2.”

The HPCON Section received no inquiries about the discrepancy between the time listed on the Secretary of State's Public Meeting Calendar versus the correct time noted:

- **on the Public Hearing webpage.**
- **in the 2022 SMFP.**
- **in Dr. Craddock's email to the interested parties on February 7, 2022.**

On page 79 of the Notebook, is “SHCC's Recommendation to the Governor” the Council's final action on the plan? Or were there additional Council actions on the plan prior to submission to the Governor?

The SHCCs recommendation to the Governor was its final action as it relates to the development of the 2023 SMFP.

Please submit responses to the reviewing attorney via email or to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher
Commission Counsel

Date submitted to agency: December 19, 2022

Burgos, Alexander N

From: Mitchell, Micheala L
Sent: Monday, December 19, 2022 5:12 PM
To: Ascher, Seth M
Cc: Burgos, Alexander N; Emanuel, Andrea N; Brown, Elizabeth
Subject: RE: 2023 State Medical Facilities Plan Request for Information

Thank you, Seth.

Please add Andrea Emanuel and Elizabeth Brown to the list of staff that should also receive an evite for the January 19th RRC meeting. I have copied them on this correspondence so that you can access their email addresses.

We will send our responses to your questions and documentation of the Governor's approval of the State Medical Facilities Plan to you by the 1/6/23 deadline.

Best,

Micheala Mitchell, JD

(she/her/hers)

Section Chief, Healthcare Planning and CON Section

[NC Department of Health and Human Services](#)

[Division of Health Service Regulation](#)

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From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Monday, December 19, 2022 5:03 PM
To: Mitchell, Micheala L <Micheala.Mitchell@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 2023 State Medical Facilities Plan Request for Information

Ms. Mitchell,

I am the attorney who reviewed the submission from the North Carolina State Health Coordinating Council related to the 2023 State Medical Facilities Plan for the January 2023 RRC meeting. The RRC will formally review the Plan at its meeting on Thursday, January 19, 2023, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting and we will get invites out to them as well.

I have attached a document requesting clarification on several details from your submission. Please submit your responses, as well as documentation of the Governor's approval, by 5 p.m. on January 6, 2023.

In the meantime, please let me know if you have any questions or concerns.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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From: Rules, Oah <oah.rules@oah.nc.gov>
Sent: Tuesday, November 22, 2022 3:43 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: FW: 2023 State Medical Facilities Plan

From: Craddock, Amy D <amy.craddock@dhhs.nc.gov>
Sent: Tuesday, November 22, 2022 3:39 PM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Mitchell, Micheala L <Micheala.Mitchell@dhhs.nc.gov>; Emanuel, Andrea N <andrea.emmanuel@dhhs.nc.gov>
Subject: 2023 State Medical Facilities Plan

Please see attached:

- Transmittal memo for 2023 State Medical Facilities Plan
- Documentation for January Rules Review Commission meeting

Please get in touch with Micheala Mitchell if you have questions. I am retiring at the end of the month and am taking leave until 12/30.

Thanks.

Amy Craddock, PhD

N.C. Department of Health and Human Services
Assistant Chief, Healthcare Planning - Division of Health Service Regulation
809 Ruggles Drive
Raleigh, N.C. 27603
Office: 919-855-3869

Main Planning office: 919-855-3865

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