

§ 131A-34. Commission approval for loan.

(a) Approval Required. – UNC Health Care shall not award a loan under the Program unless the Commission approves it. If the Commission enters an order denying the loan, the proceedings under this Article shall be at an end.

(b) Conflict of Interest. – UNC Health Care must disclose to the Commission any potential conflict of interest in its review of an application and Plan. The Commission cannot approve a loan if the issuance of the loan would result in a material, direct financial benefit to UNC Health Care at the time the application and Plan are submitted to the Commission for its approval.

(c) Considerations. – The Commission shall review UNC Health Care's recommendations, an applicant's Plan, and any other information it may believe to have a bearing on whether the loan should be approved. If UNC Health Care has recommended disapproval of a loan, and the applicant has an evaluation prepared by a disinterested and qualified third party approved by the Commission, the Commission may consider the third party's evaluation of the applicant and the applicant's Plan. The Commission may require the applicant and eligible hospital, if different, to provide any of the following information for its consideration:

- (1) Current and historical financial information.
- (2) Whether the undertaking is necessary or expedient.
- (3) Its debt management procedures and policies.
- (4) Whether it is in default in any of its debt service obligations.
- (5) Any other information the Commission may believe to have a bearing on whether the loan should be approved.

(d) Loan Approval. – The Commission may approve the application if, upon the information and evidence it receives, it finds and determines:

- (1) That the loan is necessary or expedient.
- (2) That the amount proposed is adequate and not excessive for the proposed purpose of the loan.
- (3) That the Plan demonstrates a financially sustainable health care service model for the community in which the eligible hospital is located.
- (4) That the applicant's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will be repaid.
(2019-240, s. 27.2.)