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## POLICIES APPLICABLE TO NURSING CARE FACILITIES (NH)

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### **Policy NH-1: Provision of Hospital-Based Nursing Care**

~~A certificate of need may be issued to a hospital which is licensed under G.S. 131E, Article 5, and which meets the conditions set forth below and in 10A NCAC 14C .1100, to convert up to 10 beds from its licensed acute care bed capacity for use as hospital-based nursing care beds without regard to determinations of need in Chapter 10: Nursing Care Facilities, if the hospital:~~

- ~~1. is located in a county which was designated as non-metropolitan by the U.S. Office of Management and Budget on January 1, 2016; and~~
- ~~2. on January 1, 2016, had a licensed acute care bed capacity of 150 beds or less.~~

~~The certificate of need shall remain in force as long as the North Carolina Department of Health and Human Services determines that the hospital is meeting the conditions outlined in this policy.~~

~~"Hospital-based nursing care" is defined as nursing care provided to a patient who has been directly discharged from an acute care bed and cannot be immediately placed in a licensed nursing facility because of the unavailability of a bed appropriate for the individual's needs.~~

~~Nursing care beds developed under this policy are intended to provide placement for residents only when placement in other nursing care beds is unavailable in the geographic area. Hospitals which develop nursing care beds under this policy shall discharge patients to other nursing facilities with available beds in the geographic area as soon as possible where appropriate and permissible under applicable law. Necessary documentation, including copies of physician referral forms (FL 2) on all patients in hospital-based nursing units, shall be made available for review upon request by duly authorized representatives of licensed nursing facilities.~~

~~For purposes of this policy, beds in hospital-based nursing care shall be certified as a "distinct part" as defined by the Centers for Medicare & Medicaid Services. Nursing care beds in a "distinct part" shall be converted from the existing licensed acute care bed capacity of the hospital and shall not be reconverted to any other category or type of bed without a certificate of need.~~

~~An application for a certificate of need for reconverting beds to acute care shall be evaluated against the hospital's service needs utilizing target occupancies shown in Policy AC 4, without regard to the acute care bed need shown in Chapter 5: Acute Care Hospital Beds. A certificate of need issued for a hospital-based nursing care unit shall remain in force as long as the following conditions are met:~~

- ~~1. The nursing care beds shall be certified for participation in the Title XVIII (Medicare) and Title XIX (Medicaid) programs;~~
- ~~2. The hospital discharges residents to other nursing facilities in the geographic area with available beds when such discharge is appropriate and permissible under applicable law;~~
- ~~3. Patients admitted shall have been acutely ill inpatients of an acute hospital or its satellites immediately preceding placement in the nursing care unit.~~

~~The granting of beds for hospital-based nursing care shall not allow a hospital to convert additional beds without first obtaining a certificate of need. Where any hospital, or the parent corporation or entity of such hospital, any subsidiary corporation or entity of such hospital, or any corporation or entity related to or affiliated with such hospital by common ownership, control or management:~~

- ~~1. Applies for and receives a certificate of need for nursing care bed need determinations in Chapter 10 of the North Carolina State Medical Facilities Plan, or~~
- ~~2. Currently has nursing home beds licensed as a part of the hospital under G.S. 131E, Article 5, or~~
- ~~3. Currently operates nursing care beds under the Federal Swing Bed Program (P.L. 96-499),~~

~~such hospital shall not be eligible to apply for a certificate of need for hospital-based nursing care beds under this policy. Hospitals designated by the State of North Carolina as Critical Access Hospitals pursuant to section 1820 (f) of the Social Security Act, as amended, which have not been allocated nursing care beds under provisions of G.S. 131E 175-190, may apply to develop beds under this policy. However, such hospitals shall not develop nursing care beds both to meet needs determined in Chapter 10 of the North Carolina State Medical Facilities Plan and this policy.~~

~~Beds certified as a "distinct part" under this policy shall be counted in the inventory of existing nursing care beds and used in the calculation of unmet nursing care bed need for the general population of a planning area.~~

~~Applications for certificates of need pursuant to this policy shall be accepted only for the February 1 review cycle for Health Service Areas I, II and III, and for the March 1 review cycle for Health Service Areas IV, V and VI. Nursing care beds awarded under this policy shall be deducted from need determinations for the county as shown in Chapter 10: Nursing Care Facilities.~~

~~Continuation of this policy shall be reviewed and approved by the North Carolina Department of Health and Human Services annually. Certificates of need issued under policies analogous to this policy in the North Carolina State Medical Facilities Plans subsequent to the 1986 Plan are automatically amended to conform to the provisions of this policy at the effective date of this policy.~~

~~The North Carolina Department of Health and Human Services shall monitor this program and ensure that patients affected by this policy are receiving services as indicated by their care plan, and that conditions under which the certificate of need was granted are being met.~~

### **Policy NH-2: Plan Exemption for Continuing Care Retirement Communities**

Qualified continuing care retirement communities may include from the outset or add or convert bed capacity for nursing care without regard to the nursing care bed need shown in Chapter 10: Nursing Care Facilities. To qualify for such exemption, applications for certificates of need shall show that the proposed nursing care bed capacity:

1. Will only be developed concurrently with or subsequent to construction on the same site of facilities for both of the following levels of care:

- a. independent living accommodations (apartments and homes) for people who are able to carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats, houses, cottages and rooms;
  - b. licensed adult care home beds for use by people who, because of age or disability, require some personal services, incidental medical services and room and board to assure their safety and comfort.
2. Will be used exclusively to meet the needs of people with whom the facility has continuing care contracts (in compliance with the North Carolina Department of Insurance statutes and rules) who have lived in a non-nursing unit of the continuing care retirement community for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical condition requiring nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract.
  3. Reflects the number of nursing care beds required to meet the current or projected needs of residents with whom the facility has an agreement to provide continuing care after making use of all feasible alternatives to institutional nursing care.
  4. Will not be certified for participation in the Medicaid program.

~~One half~~ **One hundred percent** of the nursing care beds developed under this exemption shall be excluded from the inventory **and the occupancy rate** used to project nursing care bed need for the general population. Certificates of need issued under policies analogous to this policy in the North Carolina State Medical Facilities Plans subsequent to the 1985 State Medical Facilities Plan are automatically amended to conform to the provisions of this policy at the effective date of this policy. Certificates of need awarded pursuant to the provisions of Chapter 920, Session Laws 1983 or Chapter 445, Session Laws 1985 shall not be amended.

### **~~Policy NH-3: Determination of Need for Additional Nursing Care Beds in Single Provider Counties~~**

~~When a nursing care facility with fewer than 80 nursing care beds is the only nursing care facility within a county, it may apply for a certificate of need for additional nursing care beds in order to bring the minimum number of nursing care beds available within the county to no more than 80 nursing care beds without regard to the nursing care bed need determination for that county as listed in Chapter 10: Nursing Care Facilities.~~

### **~~Policy NH-4: Relocation of Certain Nursing Facility Beds~~**

~~A certificate of need to relocate existing licensed nursing facility beds to another county(ies) may be issued to a facility licensed as a nursing facility under G.S. Chapter 131E, Article 6, Part 1, provided that the conditions set forth below and in 10A NCAC 14C .1100 and the review criteria in G.S. 131E-183(a) are met. A facility applying for a certificate of need to relocate nursing facility beds shall demonstrate that:~~

- ~~1. It is a non-profit nursing facility supported by and directly affiliated with a particular religion and that it is the only nursing facility in North Carolina supported by and affiliated with that religion;~~
- ~~2. The primary purpose for the nursing facility's existence is to provide long-term care to followers of the specified religion in an environment which emphasizes religious customs, ceremonies and practices;~~
- ~~3. Relocation of the nursing facility beds to one or more sites is necessary to more effectively provide nursing care to followers of the specified religion in an environment which emphasizes religious customs, ceremonies, and practices;~~
- ~~4. The nursing facility is expected to serve followers of the specified religion from a multi-county area; and~~
- ~~5. The needs of the population presently served shall be met adequately pursuant to G.S. 131E-183.~~

~~Exemption from the need determinations in Chapter 10: Nursing Care Facilities shall be granted to a nursing facility for purposes of relocating existing licensed nursing care beds to another county provided that it complies with all of the criteria listed in Subparts 1 through 5 above.~~

~~Any certificate of need issued under this policy shall be subject to the following conditions:~~

- ~~1. The nursing facility shall relocate beds in at least two stages over a period of at least six months or such shorter period of time as is necessary to transfer residents desiring to transfer to the new facility and otherwise make discharge arrangements acceptable to residents not desiring to transfer to the new facility; and~~
- ~~2. The nursing facility shall provide a letter to the Nursing Home Licensure and Certification Section, on or before the date that the first group of beds are relocated, irrevocably committing the facility to relocate all of the nursing facility beds for which it has a certificate of need to relocate; and~~
- ~~3. Subsequent to providing the letter to the Nursing Home Licensure and Certification Section described in Subsection 2 above, the nursing facility shall accept no new patients in the beds which are being relocated except new patients who, prior to admission, indicate their desire to transfer to the facility's new location(s).~~

#### **Policy NH-5: Transfer of Nursing Facility Beds from State Psychiatric Hospital Nursing Facilities to Community Facilities**

Beds in state psychiatric hospitals that are certified as nursing facility beds may be relocated to licensed nursing facilities. However, before nursing facility beds are transferred out of the state psychiatric hospitals, services shall be available in the community. State psychiatric hospital nursing facility beds that are relocated to licensed nursing facilities shall be closed within 90 days following the date the transferred beds become operational in the community.

Licensed nursing facilities proposing to operate transferred nursing facility beds shall commit to serve the type of residents who are normally placed in nursing facility beds at the state psychiatric hospitals. To help ensure that relocated nursing facility beds will serve those people who would have been served by state psychiatric hospitals in nursing facility beds, a certificate of need application to transfer nursing facility beds from a state hospital shall include a written memorandum of agreement between the director of the applicable state psychiatric hospital, the director of the North Carolina Division of State Operated Healthcare Facilities, the secretary of the North Carolina Department of Health and Human Services, and the person submitting the proposal.

This policy does not allow the development of new nursing care beds. Nursing care beds transferred from state psychiatric hospitals to the community pursuant to Policy NH-5 shall be excluded from the inventory.

#### **Policy NH-6: Relocation of Nursing Facility Beds**

Relocations of existing licensed nursing facility beds are allowed. ~~only within the host county and to contiguous counties, except as provided in Policies NH-4, NH-5 and NH-7.~~ Certificate of need applicants proposing to relocate licensed nursing facility beds ~~to a contiguous county~~ shall:

- ~~1. Demonstrate that the facility losing beds or moving to a contiguous county is currently serving residents of that contiguous county; and~~
1. Demonstrate that the proposal shall not result in a deficit, or increase and existing deficit in the number of licensed nursing facility beds in the county that would be losing nursing 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 facility beds in the county that would gain nursing 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.

#### **Policy NH-7: Transfer of Continuing Care Retirement Community Beds**

~~A certificate of need to relocate existing licensed nursing beds to another county or counties may be issued to a facility licensed as a nursing facility under G.S. Chapter 131E, Article 6, Part 1 without regard to the nursing care bed need shown in Chapter 10, provided that the following conditions are met:~~

- ~~1. Any certificate of need application filed pursuant to this policy must satisfy:~~
  - ~~a. the regulatory review criteria in 10A NCAC 14C .1100, except the performance standards in 10A NCAC 14C .1102(a) and (b); and~~
  - ~~b. the review criteria in G.S. 131E-183(a).~~
- ~~2. The nursing facility receiving the beds (“the receiving facility”) must:~~
  - ~~a. be part of a not for profit continuing care retirement community (CCRC);~~

- ~~b. be part of a CCRC which is affiliated through ownership, governance or leasehold with a not for profit organization which provides long term care to residents;~~
  - ~~e. provide CCRC services to residents from multiple counties in addition to the county in which the facility is located; and~~
  - ~~d. use the transferred beds exclusively to meet the needs of people either eligible for Medicaid or eligible for Medicaid within 45 days of admission to the nursing facility bed with whom the facility has continuing care contracts (in compliance with the North Carolina Department of Insurance statutes and rules) who have lived in a non-nursing unit of the continuing care retirement community for a period of at least 30 days.~~
- ~~3. The nursing facility transferring the beds (“the transferring facility”) must be a CCRC affiliated through ownership, governance or leasehold with the same not for profit organization as the receiving facility.~~
  - ~~4. The transferred beds shall not have been originally approved through the certificate of need process on or after January 1, 1976 and shall have been eligible prior to January 1, 1976 to be certified for Medicaid.~~
  - ~~5. No more than five beds may be transferred to any single nursing facility pursuant to this policy during any consecutive three year period.~~
  - ~~6. Certificate of need applicants proposing to relocate licensed nursing facility beds under this policy shall demonstrate that the proposal will not result in a deficit in the number of licensed nursing facility beds in the county that would be losing nursing 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.~~
  - ~~7. Nursing facility beds relocated under this policy shall be counted in the planning inventory of the receiving county.~~

### **Policy NH-8: Innovations in Nursing Facility Design**

Certificate of need applicants proposing new nursing facilities **and** replacement nursing facilities ~~and~~ projects associated with the expansion and/or renovation of existing nursing facilities shall pursue innovative approaches in care practices, work place practices ~~and~~ environmental design that address quality of care and quality of life needs of the residents. These plans could include innovative design elements that encourage less institutional, more home-like settings, privacy, autonomy and resident choice, among others.