



Healthcare Planning and Certificate of Need Section

**Acute Care Services Committee Minutes**  
**September 12, 2017**  
**10:00a.m. – 12 Noon**  
**Brown Bldg. Room 104, Raleigh, N.C.**

<b>Members Present:</b> Dr. Sandra Greene, Christina Apperson, Dr. Mark Ellis, Representative Donny Lambeth, Kenneth Lewis, Dr. Robert McBride
<b>Members Absent:</b> Stephen Lawler
<b>Healthcare Planning Staff Present:</b> Paige Bennett, Sharetta Blackwell, Elizabeth Brown, Amy Craddock, Tom Dickson, Andrea Emanuel
<b>DHSR Staff Present:</b> Martha Frisone, Fatimah Wilson
<b>Attorney General's Office:</b> Bethany Burgon

Agenda Items	Discussion/Action	Motions	Recommendations/ Actions
<b>Welcome &amp; Introductions</b>	Dr. Greene welcomed members, staff and visitors to the meeting. She acknowledged that the meeting was open to the public; however, discussions, deliberations, and recommendations would be limited to members of the Acute Care Services Committee and staff.		
<b>Review of Executive Order No. 46 and Executive Order No. 122</b>	Dr. Greene reviewed Executive Orders 46 ( <i>Reauthorizing the State Health Coordinating Council</i> ) and 122 ( <i>Extending the State Health Coordinating Council</i> ) with committee members and explained procedures to observe before taking action at the meeting.  Dr. McBride recused himself from voting on the petition from OrthoCarolina.		
<b>Approval of May 2, 2017 Minutes</b>	A motion was made and seconded to approve the May 2, 2017 minutes.	Dr. McBride Dr. Ellis	Motion approved
<b>Order of Meeting</b>	Dr. Greene announced that, due to the large number of petitions pertaining to Chapter 6, the meeting will cover chapters in the following order: 5, 7, 8, and 6. Petitions, comments, and agency reports pertaining to the petitions discussed at the meeting can be located at: <a href="https://www2.ncdhhs.gov/dhsr/mfp/committeemeet.html#acsc">https://www2.ncdhhs.gov/dhsr/mfp/committeemeet.html#acsc</a> .		
<b>Acute Care Hospital Beds – Chapter 5</b>	Dr. Greene asked Dr. Craddock to provide an update and review of the hospitals with Truven data discrepancies.  <b><i>Truven Data Discrepancy Report</i></b> The agency reconciles the acute days of care reported on the Hospital License Renewal Applications (LRA) submitted to DHSR with the data submitted to Truven Health Analytics. The Agency provides this comparison report for committee review and comment, but does not include it in Chapter 5 of the SMFP. The agency receives Truven data twice during the year. Staff		

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	<p>presented a preliminary Data Discrepancy report at the May 2<sup>nd</sup> meeting. The current table uses the “refreshed” Truven data, which was received in August; it incorporates all data changes made by the hospitals, including corrections to Truven and LRA data as a result of the draft discrepancy report. The table presented lists the facilities that still have a greater than ±5% discrepancy between the License Renewal Applications and data submitted to Truven. The preliminary report contained 19 facilities. After corrections and revisions, the current report contains 9 facilities. None of these discrepancies affected need determinations.</p> <p>There was one petition for Chapter 5. Dr. Craddock presented the Agency Report.</p> <p><b>Petitioner: UNC Hospitals</b> The Petition requests the removal of the need determination for 36 beds in Orange County. No comments were received.</p> <p><b>Recommendation:</b> Given that the refreshed Truven data resulted in removal of the need determination in Orange County, the Committee voted to accept the Agency’s recommendation to deny the petition because it is moot.</p> <p><b>Data Updates</b> Dr. Craddock noted that Truven data was refreshed and incorporated into Table 5A (Acute Care Bed Need Projections). Refreshed Truven data resulted in two changes to the need determinations presented in the <i>2018 Proposed SMFP</i>. The need determination in Mecklenburg County increased from 36 beds to 50. The need determination for 36 beds in Orange County was removed. The need determination in Moore County remained at 22.</p> <p><b>Committee Recommendation:</b> A motion was made and seconded to forward Chapter 5, Acute Care Hospital Beds, to the SHCC.</p>	<p>Dr. McBride Ms. Apperson</p> <p>Ms. Apperson Dr. McBride</p>	<p>Motion approved</p> <p>Motion Approved</p>
<p><b>Other Acute Care Services - Chapter 7</b></p>	<p>The Agency received no petitions or comments in any of these areas. Updates to data did not result in changes to need determinations.</p> <p><b>Committee Recommendation:</b> A motion was made and seconded to forward Chapter 7, Other Acute Care Services, to the SHCC.</p>	<p>Rep. Lambeth Dr. McBride</p>	<p>Motion approved</p>
<p><b>Inpatient Rehabilitation Services – Chapter 8</b></p>	<p>The Agency received one petition regarding inpatient rehabilitation services. Dr. Andrea Emanuel presented the Agency Report.</p> <p><b>Petitioners: Novant Health and HealthSouth Corporation</b> The Petitioners request an adjusted need determination for 50 inpatient rehabilitation beds in Health Service Area (HSA) III. The Agency received 93 letters of support of and two comments</p>		

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	<p>in opposition to this petition.</p> <p><b>Discussion:</b> The committee discussed the rationale for the request for 50 beds in light of the methodology's indication for a need for only eight beds. In addition, Rep. Lambeth noted that under healthcare reform new policies at the state level are likely to incentivize providers to move to lower level bed options for patients that do not require full hospitalization. He recommended that the Agency review the methodology to examine whether it is responsive to this situation, such that the projection of bed need allows sufficient time for development of new beds.</p> <p><b>Recommendation:</b> The agency recommends approving an amendment to the Petitioners' request to show a need for eight inpatient rehabilitation beds in the <i>2018 SMFP</i>. The Committee voted to accept the Agency's recommendation.</p> <p><i>Data Updates</i> Updates to data did not result in changes to need determinations.</p> <p><b>Committee Recommendation:</b> A motion was made and seconded to forward Chapter 8, Inpatient Rehabilitation Services, to the SHCC.</p>	<p>Dr. McBride Ms. Apperson</p> <p>Dr. McBride Dr. Ellis</p>	<p>Motion Approved (4 in favor, 1 opposed. Chair did not vote.)</p> <p>Motion Approved</p>
<p><b>Operating Rooms – Chapter 6</b></p>	<p><b>Single Specialty Ambulatory Surgery Facility Demonstration Project.</b> Dr. Craddock provided the following updates.</p> <p><b><i>Piedmont Outpatient Surgery Center in Forsyth County submitted its Year 5 report.</i></b> Piedmont Outpatient Surgery Center received a license in February 2012. The report covers the period, January 1, 2016-December 31, 2016. This is POSC's final report for the demonstration project. Based on the review of the annual report, the agency determined that Piedmont Outpatient Surgery Center materially complies with the demonstration project criteria outlined in the Plan and conditions on the certificate of need. In addition, the Agency determined that POSC has met all reporting requirements of the Demonstration Project.</p> <p><b><i>Mallard Creek Surgery Center in Mecklenburg County submitted its Year 3 report.</i></b> Mallard Creek Surgery Center received a license in May of 2014. The agency received the project report for the period May 7, 2016 to May 6, 2017. Based on the review of the annual report, the agency determined that Mallard Creek Surgery Center materially complies with the demonstration project criteria in Table 6D in the <i>2010 Plan</i> and the conditions on the certificate of need.</p> <p><b><i>Triangle Orthopaedics Surgery Center in Wake County submitted its Year 4 report.</i></b> Triangle Orthopaedics Surgery Center received a license in February 2013. The agency received</p>		

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	<p>the facility’s report for the period March 1, 2016 to February 28, 2017. Dr. Craddock noted that she requested additional information from TOSC regarding the sharp increase in the net revenue attributed to self-pay and Medicaid from last year. The administrator at TOSC reported that, per instructions in the 2010 SMFP, the source of the difference is that the basis for calculating revenue uses revenue collected. The number of patients, however, corresponds to the patients seen during a reporting period, regardless of when revenue (if any) was collected for them. The Committee discussed this issue in further detail later during presentation of the petition from OrthoCarolina.</p> <p>After presentation of the reports and discussion, Dr. Greene noted that Piedmont Outpatient Surgery Center has completed its reporting requirements for the demonstration project, and asked what happens next. Ms. Frisone responded that, based on the CON law, the facility must remain a single specialty facility, unless a request is made and approved to become multi-specialty. If this occurs, the application will be reviewed based on the statutory and regulatory review criteria. After completion of the fifth year of the demonstration project, the facilities will no longer be required to submit the Single-Specialty Ambulatory Surgery Facility Demonstration Project Annual Evaluation to CON.</p>		
	<p>The Agency received eight petitions regarding operating rooms. Dr. Craddock presented the Agency reports.</p> <p><b><i>Petition 1. OrthoCarolina</i></b>  The Petitioner proposes to change the following requirements of the Single Specialty Ambulatory Surgery Demonstration Project:</p> <ul style="list-style-type: none"> <li>• Reduce the charity care requirement from 7% to 5%; and</li> <li>• Exclude the revenue from procedures that do not yet have a Medicare allowable amount or are not currently ASC (ambulatory surgery center) approved by Medicare from the denominator.</li> </ul> <p>The Agency received one comment in favor of the petition, one mixed, and one opposed.</p> <p><b><u>Discussion:</u></b> Another issue brought to the Committee concerns the basis for calculating the 7% requirement. This was introduced earlier in the meeting in the discussion of the Triangle Orthopaedics Surgery Center report. This issue concerns the accounting basis used for reporting of revenue. The language in Table 6D of the <i>2010 SMFP</i> refers to revenue collected. The demonstration sites correctly interpret this language in terms of cost accounting to mean that the facility must have received the reimbursement funds. Typically, the facilities use the accrual accounting method to tabulate revenue, however. This confusion is an unintended consequence of the wording of the demonstration criteria. The Agency recommends correcting this confusion by changing the language in the applicable criterion in Table 6D of the <i>2010 SMFP</i>.</p>		

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	<p>Dr. McBride provided additional information about OrthoCarolina’s activities regarding service to persons who are indigent and/or uninsured, in response to a comment submitted to the Agency.</p> <p><b>Recommendations:</b> (1) The Agency recommends approval of the request to change the seven percent requirement calculation for all three demonstration sites. Chapter 6 of the SMFP will include the following revised instructions to demonstration sites (replaced language crossed out, new language underlined): “the percentage of the facility’s total <del>collected</del> <u>earned</u> revenue that is attributed to self-pay and Medicaid revenue shall be at least seven percent, which shall be calculated as follows: the Medicare allowable amount for self-pay and Medicaid surgical cases minus all revenue <del>collected</del> <u>earned</u> from self-pay and Medicaid cases, divided by the total <del>collected</del> <u>earned</u> revenues for all surgical cases performed in the facility <u>for procedures for which there is a Medicare allowable fee</u>. (2) The Agency recommends denial of the request to reduce the percentage of revenue attributable to self-pay and Medicaid from 7% to 5%. The Committee voted to accept the Agency’s recommendations.</p>	Rep. Lambeth Dr. Ellis	Motion approved (Dr. McBride recused)
	<p><b>Petition 2: Cape Fear Valley Medical Center</b> The Petitioner requests an adjustment to the operating room (OR) methodology such that the projected growth rate for surgical cases be held constant when population growth is negative. The Agency received one letter of support.</p> <p><b>Recommendation:</b> The Agency recommends approval of the petition. The Committee voted to accept the Agency’s recommendation.</p>	Dr. McBride Rep. Lambeth	Motion Approved
	<p><b>Petition 3: Wake Forest Baptist Health</b> The Petitioner requests an adjustment to the 2018 SMFP need determination for ORs in Forsyth County, by reducing the OR need from six to four.</p> <p><b>Recommendation:</b> The Agency recommends approval of the petition. Further, the Agency recommends clarification of language in the Methodology for Projecting Operating Room Need section of Chapter 6 of the SMFP to reflect this exception to the handling of underutilized ORs. Staff will submit the new language to Dr. Greene for approval. The Committee voted to accept the Agency’s recommendations.</p>	Dr. McBride Mr. Lewis	Motion Approved
	<p><b>Petition (Comment) 4: Duke University Health System</b> Duke University Health System (DUHS) submitted a Comment regarding the definition of a health system as used in the OR methodology. Specifically, the Comment states that Duke Regional Hospital (DRH) should not be included as a facility of the DUHS. No comments or letters were received in relation to this comment.</p> <p>Since release of the Proposed 2018 SMFP, and apart from the Comment from DUHS and the particulars of the relationship between Duke Regional Hospital and Duke University Medical</p>		

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	<p>Center, Agency staff has considered the need to clarify the definition of health system and how health systems are included in need determination calculations.</p> <p><b>Recommendation:</b> The Agency recommends the following revisions to the Assumptions of the Methodology section on page 1 in Chapter 6 of the 2018 SMFP (deleted language is crossed out, new language is underlined):</p> <p>A “health system” includes all licensed or approved health service facilities with operating rooms located in the same service area that are owned <u>or leased</u> by:</p> <ol style="list-style-type: none"> <li>1. the same legal entity (i.e., the same individual, trust or estate, partnership, corporation, hospital authority, or the State or political subdivision, agency or instrumentality of the State); or</li> <li>2. the same parent corporation or holding company; or</li> <li>3. a subsidiary of the same parent corporation or holding company; or</li> <li>4. a joint venture in which the same parent; holding company; or a subsidiary of the same parent or holding company is a participant and has <del>a controlling interest in the health service facility</del> <u>the authority to propose changes in the location or number of ORs in the health service facility.</u></li> </ol> <p>The staff also proposed new language in the same section of Chapter 6 regarding a related issue that came to light after release of the Proposed 2018 SMFP. It involves a situation, for example, in which a CON is issued for a hospital to relocate ORs to a new corporate entity – one that the hospital may be part of but does not control. This situation can create a deficit for the hospital, and perhaps a need determination for the service area, merely by relocating the ORs. This result does not seem to reflect the intent of the methodology. Therefore, Agency staff crafted the following paragraph to add to the Assumptions of the Methodology section of Chapter 6.</p> <p><u>A health system may consist of only one health service facility. In the event that a need for additional operating rooms is generated by the relocation or transfer of operating rooms to a different health system, the need determination will not appear until the relocated or transferred operating rooms are licensed in their new location.</u></p> <p>The Committee voted to accept the Agency’s recommendations.</p>	<p>Dr. McBride Mr. Lewis</p>	<p>Motion Approved</p>
	<p><b>Petition 5:</b> Wilmington Health Submitted a petition for an adjusted need determination for two ORs in Onslow County. This petition was withdrawn in August, so no action was taken.</p> <p><b>Petition 6: Graystone Ophthalmology Associates</b> Graystone Eye Surgery Center requests an adjusted need determination for one additional OR in Catawba County. The Agency received 12 letters of support from physicians at Graystone, six additional letters of support, and one letter in opposition.</p> <p><b>Recommendation:</b> The Agency recommends approval of the petition. The Committee voted to accept the Agency’s recommendation.</p>	<p>Mr. Lewis Dr. McBride</p>	<p>Motion approved</p>

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	<p><b>Petition 7: Cape Fear Valley Medical Center</b> The Petitioner requests an adjusted need determination for one additional OR in Cumberland County. The Agency received two comments, one in support and one opposed.</p> <p><b>Recommendation:</b> The Agency recommends approval of an adjusted need determination for one OR in Cumberland County in the 2018 SMFP for the purpose of training surgical residents in inpatient and outpatient procedures. The Committee voted to accept the Agency's recommendation.</p>	Rep. Lambeth Mr. Lewis	Motion Approved
	<p><b>Petition 8: Azura Vascular Care, and Partners</b> Fresenius Vascular Care, Inc. d/b/a Azura Vascular Care, American Access Care of NC, PLLC, Eastern Nephrology Associates, PLLC, Metrolina Nephrology Associates, PA, and North Carolina Nephrology, PA request an adjusted need determination for a demonstration project to develop two operating rooms in each of the six Health Services Areas statewide, to be located in single-specialty vascular access ambulatory surgical facilities, to provide a full range of vascular access services necessary for end-stage renal disease (ESRD) patients. The Agency received 62 letters of support and three comments in opposition to the petition; one of the comments was withdrawn.</p> <p><b>Discussion:</b> The Committee discussed the need to consider this proposal further. Dr. Greene and staff will consider options for the appropriate next steps.</p> <p><b>Recommendation:</b> The agency recommends denial of the petition. The Committee voted to accept the Agency's recommendation.</p> <p>Dr. Craddock reported that updates to data since the release of the <i>2018 Proposed SMFP</i> yielded no changes to need determinations.</p> <p><b>Committee Recommendation:</b> A motion was made and seconded to forward Chapter 6, Operating Rooms.</p>	Dr. McBride Rep. Lambeth  Rep. Lambeth Ms. Apperson	Motion Approved  Motion approved
<b>Other Business</b>	<p><b>Committee Recommendation:</b> A motion was made and seconded to authorize staff to update tables and narratives as indicated.</p> <p>Dr. Greene reminded everyone that the SHCC would next meet on October 4, 2017 at 10:00 a.m. in Conference Room 104 of the Brown Building.</p>	Mr. Lewis Ms. Apperson	Motion approved
<b>Adjournment</b>	There being no further business, Dr. Greene adjourned the meeting.		