# Hospice Services
# Proposed 2009 State Medical Facilities Plan

*Petition Inpatient Hospice - 5: Hospice of Wake County

*Related Comment


# PETITION FOR AN ADJUSTED NEED DETERMINATION FOR HOSPICE INPATIENT BEDS FOR WAKE COUNTY

**Petitioner:**

Hospice of Wake County, Inc.
1300 St. Mary's Street, 4th Floor
Raleigh, NC 27605



John Thoma, CEO
(919) 828-0890
jthoma@hospiceofwake.org

**Requested Change:**

**Hospice of Wake County, Inc. (HOWC) petitions for an adjusted need determination for ten additional hospice inpatient beds in Wake County in the 2009 SMFP.**

*Reasons Supporting Requested Change:*

**Proposed 2009 State Medical Facilities Plan/Identified Need:**

HOWC has provided quality and compassionate end-of-life care to residents of Wake County and surrounding areas since 1979. Through HOWC, over 175 professional staff and 250 trained volunteers provide expert medical care and supportive services to over 1,500 patients and their families each year. HOWC is dedicated to helping meet the complex needs of families by providing services that include: counseling support for families, short-term respite care, spiritual care and counseling, volunteer support, bereavement care and end-of-life education.

The Proposed 2009 SMFP projects a need for thirty-three hospice inpatient beds in Wake County (47 beds less the 8 HOWC beds currently being developed and the 6 beds at Rex Hospital that are approved to relocate to HOWC). Although the need is clearly indicated by the standard methodology, there is no allocation as a result of the relatively low occupancy rate of the existing six hospice inpatient beds currently located at Rex Hospital. Under the current methodology, there is no mechanism for allocating additional hospice inpatient beds in Wake County until the existing six hospice inpatient beds at Rex Hospital reach 85% occupancy. Thus, HOWC is seeking an adjustment to the standard methodology to enable HOWC to submit a CON application for 10 additional hospice inpatient beds.

In the Proposed SMFP a statement has been inserted at the end of the Standard Methodology directing that petitions may be submitted for adjusted need determinations. The methodology reads:

> "The Long-Term and Behavioral Health Committee and the State Health Coordinating Council will consider petitions for adjusted need determinations that are filed in accordance with provisions outlined in Chapter 2 of the Plan."

The aforementioned hospice inpatient beds at Rex Hospital are to be relocated to a new freestanding inpatient hospice facility as per HOWC and Rex's approved CON application from 2007 (CON Project ID # J-7792-07), upon completion of HOWC's new inpatient facility. However, that project is currently still under development. Thus, Rex Hospital still operates the six inpatient hospice beds in its general acute care hospital until the completion of the project. Therefore, the standard methodology withholds the allocation of inpatient hospice beds in Wake County because of the occupancy rate of the six inpatient beds at Rex Hospital. However, the 76.62% occupancy rate at Rex Hospital is simply not reflective of the great need for hospice inpatient beds in Wake County.

HOWC justifies the proposed adjusted need determination based on several factors, including:

- Hospice utilization in Wake County is increasing rapidly.
- Wake County's population is aging and has great need for local hospice inpatient services.
- Occupancy rates of the Rex Hospital hospice inpatient beds are not representative of the need in Wake County.
- Hospice inpatient facilities beds located in an acute care facility are not conducive to the palliative care needs of hospice patients.

- Nursing facilities are ill-suited for the special needs of hospice patients.
- Cost effectiveness
- Community Support

These issues are described below.

## Hospice Utilization in Wake County

Residents of Wake County and their families and physicians recognize the valuable benefits that hospice services provide. As a result, the utilization of hospice services in Wake County has grown significantly. Notably, the total days of care provided by hospices in Wake County has increased by 228% since 2004, as shown in the table below.

**Total Historical Days of Care**
**For Hospice Agencies in Wake County**

| Year | Days of Care |
|---|---|
| 2004 | 67,240 |
| 2005 | 88,329 |
| 2006 | 98,942 |
| 2007 | 126,218 |
| 2008 | 153,001 |

Source: 2005, 2006, 2007, 2008 and Proposed 2009 SMFPs

In addition to the high county-based utilization of hospice services, HOWC has also experienced a significant increase in utilization. HOWC increased from 44,401 patient days of care in 2004 to 74,757 in 2008, with a compound annual growth rate of 11%. The following table applies HOWC's 2008 days of care to the inpatient bed methodology in the Proposed 2009 SMFP.

**2009 Hospice Inpatient Bed Need Projection**
**Hospice of Wake County**

| Column A | Column B | Column C | Column D | Column E | Column F | Column G | Column H |
|---|---|---|---|---|---|---|---|
| | Total Days of Care | 2007 Population | 2007 Hospice Days of Care per 1000 Pop | 2012 Projected Pop. | 2012 Est. Days of Care | Est. IP Days | Projected Total IP Beds |
| Wake | 74,757 | 832,211 | 89.83 | 988,136 | 88,764 | 7,101 | 23 |

Source: Proposed 2009 SMFP

As shown, HOWC days of care, independent of any other hospice agency, result in a need for 23 additional hospice inpatient beds. This data underlines the need for approval of HOWC's adjusted need petition for ten additional hospice inpatient beds in Wake County in the 2009 SMFP.

## Wake County Population Aging

Wake County is the second most populated county in North Carolina, and has the third most rapidly aging population. The demographics of the county demonstrate that the existing, significant need for additional hospice inpatient beds will only continue to increase.

Much of the growth in hospice utilization can be attributed to the rapidly aging population in Wake County. The following table demonstrates that Wake County's population of those aged 65 and older is projected to increase by nearly 33% in the next four years. This growth rate is more than double that of the State.

**2007 – 2012 Projected Population**
**Age 65+**

| | 2007 | 2012 | Growth |
|---|---|---|---|
| Wake County | 61,483 | 81,720 | 32.9% |
| North Carolina | 1,087,414 | 1,257,396 | 15.6% |

Source: NC Office of State Budget and Management

It is important to acknowledge the aging population in Wake County due to the correlation of age with hospice utilization. According to FY2005 data from the Carolinas Center for Hospice and End of Life Care, approximately 79% of hospice patients in North Carolina were aged 65 or older. Thus, as the Wake County population continues to increase and age, the need for hospice inpatient services will continue to increase.

The SHCC has previously found this evidence to be compelling, as shown in its Agency recommendation and subsequent SHCC approval of the adjusted need petitions submitted in 2003 by Hospice of Surry County and the petition submitted in 2005 by Hospice of Davidson County. The State approved adjusted need determinations for both Surry County and Davidson County based partly on this demographic need. The SHCC recognized that the relatively high utilization of hospice services, based in part on county aging, supported the recommendation for an adjusted need determination.

**Rex Hospital Hospice Inpatient Beds**

Currently, the only alternatives for hospice inpatient care in Wake County are:

- the six-bed hospice inpatient unit within Rex Hospital,
- a general acute care hospital bed, or
- a nursing facility bed.

Although the six licensed hospice inpatient beds at Rex are to be relocated to HOWC's new inpatient facility in Cary, the occupancy rate of these six beds continue to be the means by which hospice inpatient beds in Wake County are allocated. The standard methodology requires that the current inpatient hospice beds must be at or above 85% occupancy in order for a deficit to be determined. However, the six hospice inpatient beds at Rex Hospital have never had an occupancy rate above 80% in the past five years. Please refer to the following table.

**Historical Occupancy of Hospice Inpatient Beds**
**Rex Hospital**

| Year | Occupancy Rate |
|---|---|
| 2004 | 55.8% |
| 2005 | 63.8% |
| 2006 | 74.7% |
| 2007 | 70.6% |
| 2008 | 76.6% |

Source: 2005, 2006, 2007, 2008, and Proposed 2009 SMFPs

HOWC has worked for many years to support the hospice inpatient unit at Rex Hospital. Based on this experience, HOWC believes that, solely due to their location within an acute care hospital, the inpatient hospice beds at Rex Hospitals will never be utilized to maximum capacity. Therefore, the current occupancy rate of these beds is not an accurate representation of the hospice inpatient need in Wake County, and should not negatively impact the hospice inpatient bed methodology for Wake County.

Due to their current location within an acute care facility, the hospice inpatient beds at Rex Hospital are not preferred from a patient perspective. Although the unit at Rex Hospital is dedicated to hospice care, with a capable and caring staff, the acute care setting results in a less than preferable option for hospice patients. Specifically, hospice patients have a physician-certified life expectancy of less than six months, and thus have opted to forego traditional acute care services and to cease aggressive, curative treatments. In this instance, the hospice beds at Rex Hospital do not physically represent a departure from the acute setting, which hospice patients are not seeking. These patients benefit more from a home-like environment, with a palliative care approach that does not correspond to the types of treatments and services available in a general acute care hospital.

Even though Rex Hospital's inpatient hospice unit resembles a more home-like setting compared to its acute care units, hospice inpatients must enter the unit by walking through Rex Hospitals' Med/Surg unit. Additionally, family and friends must also find their way through the hospital, and thus compete with visitors for parking. It is difficult for patients, family and friends to receive the comprehensive, emotional benefits of hospice services when services are delivered in an acute care facility.

Many terminally ill patients are also afraid of dying in a hospital. Because of this fear, many refuse to be admitted to a hospital, even when hospice inpatient care is desperately needed. This refusal places additional demands on caregivers and hospice home care staff.

Rules and restrictions also prevent hospital units from providing the family the support necessary to preserve the hospice philosophy of care. In the hospital, visiting hours are frequently restricted; appropriate overnight accommodations are not readily available for family members; and pets, and sometimes children, are not allowed to visit the patient. An acute care hospital, such as Rex Hospital, cannot possibly be as physically conducive to families wishing to spend extended time.

In summary, Wake County's current hospice inpatient bed situation is unique in all of North Carolina. Nowhere else are hospice inpatient beds located within a general acute care hospital. Therefore, the standard need methodology, and specifically the 85% occupancy threshold, is not applicable to Wake County, and should be appropriately modified.

**Hospice Patients in Nursing Facilities**

As previously discussed, other than Rex Hospital, nursing facilities are currently the only option for residents of Wake County seeking local hospice inpatient services. For a few patients, a nursing facility may be preferable to an acute care setting. However, this solution does not ideally benefit most hospice patients and their families. Nursing home facilities are ill-suited for patients seeking palliative care. First, nursing facilities are designed for the needs of traditional nursing facility patients and not for hospice inpatients and their families. Second, nursing facility staff are not typically trained in hospice care.

In this past year, HOWC referred 21 patients to a nursing home facility for inpatient care; this represents 100 days of service. This number within Wake County has been steadily increasing over the years. The growth is indicative of the pressing need for hospice inpatient beds in Wake County.

**Cost Effectiveness**

HOWC is in the process of constructing Wake County's first freestanding hospice inpatient facility. As previously stated, this facility will include eight need determined hospice inpatient beds approved by the CON Section in 2006, as well as the six inpatient hospice beds relocated from Rex Hospital, approved by the CON Section in 2007.

HOWC is uniquely positioned to place 10 additional hospice inpatient beds into service in the most cost and time effective manner. The addition of ten hospice inpatient beds to an existing facility would result in greater operating economies of scale. In today's healthcare environment, which features great emphasis on minimizing the cost of care, this will be a tremendous benefit.

**Community Support**

Physician and community support for HOWC has been significant for many years. For instance, HOWC received numerous letters from physicians, health care providers, patient family members, and community members who supported both approved CON projects, and who have also expressed their satisfaction and support for the home care services that HOWC provides.

Further evidence of this widespread community support is HOWC's fundraising campaign for the developing inpatient facility. The project enjoys wide community support, with the public fund-raising campaign achieving significant success in a short period of time. This demonstrates that expanding the current services provided by HOWC is an initiative that the public supports.

*Adverse Effects of No Adjustment to the Need Determination*

As previously stated, although HOWC received CON approval in its pursuit of eight inpatient hospice beds in 2006, and received CON approval in 2007 to relocate the six hospice inpatient beds from Rex to its developing freestanding facility, there is still a great need for hospice inpatient beds in Wake County. The standard methodology demonstrates that there is a need for 47 hospice inpatient beds in Wake County, yet there are only 14 approved beds for the county. This is

due to the 85% occupancy threshold set by the state. However, Wake County presents a unique situation. It is the only county in the state where hospice inpatient beds are located in an acute care hospital. Therefore, an adjustment should be made to the standard need methodology for Wake County.

If this petition is not approved, the need for hospice inpatient beds in Wake County will continue to be largely unmet. Patients will continue to receive hospice inpatient care in either an acute care facility or in a nursing care facility, neither of which is designed for palliative care. Either option is a compromise solution for hospice patients and their families.

The additional ten hospice inpatient beds would enable HOWC to further its mission of providing high quality care to hospice patients in Wake County, and in accommodating the rapidly aging population and increasing demand for hospice services within Wake County.

*Conclusion*

In summary, Hospice of Wake County seeks an adjusted need determination for ten additional hospice inpatient beds in Wake County in the 2009 SMFP.

As previously detailed, HOWC believes this petition is justified based on the following factors:

- Hospice utilization in Wake County is increasing rapidly.
- Wake County's population is aging and has great need for local hospice inpatient services.
- Occupancy rates of the Rex Hospital hospice inpatient beds are not representative of the need in Wake County.
- Hospice inpatient facilities beds located in an acute care facility are not conducive to the palliative care needs of hospice patients.
- Nursing facilities are ill-suited for the special needs of hospice patients.
- Cost effectiveness
- Community Support

**SHCC Public Hearing Presentation Comments for**

**Adjusted Need Determination for Hospice**

**Inpatient Beds for Wake County**



Presented by John Thoma, Chief Executive Officer

Hospice of Wake County

August 1, 2008

Good afternoon, my name is John Thoma, and I am the Chief Executive Officer for Hospice of Wake County. For over twenty-nine years, Hospice of Wake County has provided quality and compassionate end-of-life care to residents of Wake County and the surrounding areas.

I am here today to present our petition for an adjusted need determination to include ten additional hospice inpatient beds in Wake County in the 2009 State Medical Facilities Plan.

The Proposed 2009 State Medical Facilities Plan identifies a need for thirty-three hospice inpatient beds in Wake County. Although this need is clearly indicated by the standard methodology, there is no allocation as a result of the relatively low occupancy rate of the existing six hospice beds currently located at an acute care hospital. Hospice of Wake County believes that the occupancy rate of these beds is not reflective of the need for hospice inpatient beds in Wake County.

Hospice of Wake County justifies the proposed adjusted need determination based on this and several other factors. Although these will be discussed in greater detail in our petition, I would like to outline a few of these issues for you, today.

First, residents of Wake County and their physicians recognize the valuable benefits that hospice services provide. As a result, the utilization of hospice services in Wake County has grown significantly. Notably, the days of care provided by hospices in Wake County has increased by 228% since 2004.

Much of this growth can be attributed to the rapidly aging population in Wake County. In fact, Wake County's population aged 65 and older is projected to increase by nearly 33% in the next four years. This growth rate is more than double that of the State, thus driving the increased need for hospice inpatient services.

However, as previously mentioned, there are only six hospice inpatient beds that are currently operational in Wake County, and these are located in Rex Hospital. Although Hospice of Wake County has worked for many years to support the hospice inpatient unit, we believe that solely due to their location within an acute care hospital, the inpatient hospice beds will never be utilized to maximum capacity.

This was a key component in HOWC and Rex's approved CON application from 2007 to relocate the six hospice inpatient beds from Rex Hospital to Hospice of Wake County's approved hospice inpatient facility. However, our facility remains under development

and will not be operational until late 2009. Thus, Rex Hospital still operates the six inpatient hospice beds in its general acute care hospital and will continue to do so until our inpatient facility is completed. Therefore, the standard methodology withholds the allocation of inpatient hospice beds in Wake County because of the occupancy rate of the six inpatient beds at Rex Hospital. It is our firm belief that the current occupancy rate of these beds is not an accurate representation of the hospice inpatient need in Wake County, and should not negatively impact the hospice inpatient bed methodology for Wake County.

Due to their current location within an acute care facility, the hospice inpatient beds at Rex Hospital are not preferred from a patient perspective. There are many reasons for this, including:

- Some hospice patients have opted to forego traditional acute care services and cease aggressive, curative treatments, and hospice beds at Rex Hospital do no represent a physical departure from this environment.

- Family and friends cannot receive the comprehensive, emotional benefits of hospice services.
- Many terminally ill patients are afraid of dying in a hospital.
- Visiting hours for family and friends are frequently restricted.
- Appropriate overnight accommodations are not readily available.

In addition, Wake County's current hospice inpatient bed situation is unique in North Carolina. Nowhere else in the Region are there hospice inpatient beds located within a general acute care hospital. Therefore, the standard need methodology, specifically the 85% occupancy threshold, is not applicable to Wake County, and should be appropriately modified.

Other than Rex Hospital, nursing facilities are currently the only option for residents of Wake County seeking local hospice inpatient services. This solution does not ideally benefit most hospice patients and their families. Nursing facilities are not designed to meet the

needs of hospice patients nor are nursing facility staff typically trained in hospice care.

In the past year, Hospice of Wake County referred 21 patients to a nursing home facility for inpatient care, representing 100 days of service. The number of patients referred to nursing homes within Wake County has been steadily increasing in recent years. This growth is indicative of the pressing need for additional hospice inpatient beds in Wake County.

Should this petition not be granted, the need for hospice inpatient beds in Wake County will continue to be largely unmet. Patients will continue to receive hospice inpatient care in either an acute care facility or in a nursing care facility, neither of which is designed for palliative care. Either option represents a compromise solution for hospice patients and their families.

In conclusion, Hospice of Wake County seeks to further its mission of providing high quality care to hospice patients in Wake County. The

additional ten hospice inpatient beds would enable us to do so, in addition to accommodating the rapidly aging population and increasing demand for hospice services within Wake County.

We feel there is a clear need for additional hospice inpatient beds located in Wake County. We hope you will support us in this effort by approving this petition for an adjusted need determination. Thank you for providing me with the opportunity to discuss this important issue.

scanners, simulators, major medical equipment as defined in G.S. 131E-176(14f), and diagnostic centers as defined in G.S. 131E-176(7a).

**POLICY GEN-1: REALLOCATIONS**

1. Reallocations shall be made only to the extent that the methodologies used in this Plan to make need determinations indicate that need exists after the inventories are revised and the need determinations are recalculated.

2. Beds or services which are reallocated once in accordance with this policy shall not be reallocated again. Rather, the Medical Facilities Planning Section shall make any necessary changes in the next annual North Carolina State Medical Facilities Plan.

3. Dialysis stations that are withdrawn, relinquished, not applied for, decertified, denied, appealed, or pending the expiration of the 30-day appeal period shall not be reallocated. Instead, any necessary redetermination of need shall be made in the next scheduled publication of the Dialysis Report.

4. Appeals of Certificate of Need Decisions on Applications
   Need determinations of beds or services for which the CON Section decision to approve or deny the application has been appealed shall not be reallocated until the appeal is resolved.

   a. Appeals resolved prior to August 17:
      If such an appeal is resolved in the calendar year prior to August 17, the beds or services shall not be reallocated by the CON Section; rather the Medical Facilities Planning Section shall make the necessary changes in the next annual North Carolina State Medical Facilities Plan, except for dialysis stations which shall be processed pursuant to Item (3).

   b. Appeals resolved on or after August 17:
      If such an appeal is resolved on or after August 17 in the calendar year, the beds or services, except for dialysis stations, shall be made available for a review period to be determined by the CON Section, but beginning no earlier than 60 days from the date that the appeal is resolved. Notice shall be mailed by the Certificate of Need Section to all people on the mailing list for the North Carolina State Medical Facilities Plan, no less than 45 days prior to the due date for receipt of new applications.

5. Withdrawals and Relinquishments
   Except for dialysis stations, a need determination for which a certificate of need is issued, but is subsequently withdrawn or relinquished, is available for a review period to be determined by the Certificate of Need Section, but beginning no earlier than 60 days from:

a. the last date on which an appeal of the notice of intent to withdraw the certificate could be filed if no appeal is filed,

b. the date on which an appeal of the withdrawal is finally resolved against the holder, or

c. the date that the Certificate of Need Section receives from the holder of the certificate of need notice that the certificate has been voluntarily relinquished.

Notice of the scheduled review period for the reallocated services or beds shall be mailed by the Certificate of Need Section to all people on the mailing list for the North Carolina State Medical Facilities Plan, no less than 45 days prior to the due date for submittal of the new applications.

6. Need Determinations for which No Applications are Received
   a. Services or beds with scheduled review in the Calendar Year on or before September 1: The Certificate of Need Section shall not reallocate the services or beds in this category for which no applications were received, because the Medical Facilities Planning Section will have sufficient time to make any necessary changes in the determinations of need for these services or beds in the next annual North Carolina State Medical Facilities Plan, except for dialysis stations.

   b. Services or beds with scheduled review in the Calendar Year after September 1: Except for dialysis stations, a need determination in this category for which no application has been received by the last due date for submittal of applications shall be available to be applied for in the second Category I review period in the next calendar year for the applicable HSA. Notice of the scheduled review period for the reallocated beds or services shall be mailed by the Certificate of Need Section to all people on the mailing list for the North Carolina State Medical Facilities Plan, no less than 45 days prior to the due date for submittal of new applications.

7. Need Determinations not Awarded because Application Disapproved
   a. Disapproval in the Calendar Year prior to August 17:
   Need determinations or portions of such need for which applications were submitted but disapproved by the Certificate of Need Section before August 17, shall not be reallocated by the Certificate of Need Section. Instead the Medical Facilities Planning Section shall make the necessary changes in the next annual North Carolina State Medical Facilities Plan if no appeal is filed, except for dialysis stations.

   b. Disapproval in the Calendar Year on or after August 17:
   Need determinations or portions of such need for which applications were submitted but disapproved by the Certificate of Need Section on or after August 17, shall be reallocated by the Certificate of Need Section, except for dialysis stations. A need in this category shall be available for a review period to be determined by the Certificate of Need Section but beginning no earlier than 95 days from the date the

application was disapproved, if no appeal is filed. Notice of the scheduled review period for the reallocation shall be mailed by the Certificate of Need Section to all people on the mailing list for the North Carolina State Medical Facilities Plan no less than 80 days prior to the due date for submittal of the new applications.

8. Reallocation of Decertified Intermediate Care Facilities for the Mentally Retarded (ICF/MR) Beds
If an ICF/MR facility's Medicaid certification is relinquished or revoked, the ICF/MR beds in the facility may be reallocated by the Department of Health and Human Services, Division of Health Service Regulation, Medical Facilities Planning Section after consideration of recommendations from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. The Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section shall schedule reviews of applications for any reallocated beds pursuant to Section (5) of this Policy.

**POLICY GEN-2: CHANGES IN NEED DETERMINATIONS**

1. The need determinations adopted in this document or in the Dialysis Reports shall be revised continuously throughout the calendar year to reflect all changes in the inventories of:

   a. the health services listed at G.S. 131E-176 (16)f;
   b. health service facilities;
   c. health service facility beds;
   d. dialysis stations;
   e. the equipment listed at G.S. 131E-176 (16)f1;
   f. mobile medical equipment; and
   g. operating rooms as defined in Chapter 6;

   as those changes are reported to the Medical Facilities Planning Section. However, need determinations in this document shall not be reduced if the relevant inventory is adjusted upward 60 days or less prior to the applicable "Certificate of Need Application Due Date."

2. Inventories shall be updated to reflect:

   a. decertification of Medicare-Certified home health agencies or offices, intermediate care facilities for the mentally retarded and dialysis stations;
   b. delicensure of health service facilities and health service facility beds;
   c. demolition, destruction, or decommissioning of equipment as listed at G.S. 131E-176(16)f1 and s;
   d. elimination or reduction of a health service as listed at G.S. 131E-176(16)f;
   e. addition or reduction in operating rooms as defined in Chapter 6;
   f. psychiatric beds licensed pursuant to G.S. 131E-184(c);
   g. certificates of need awarded, relinquished, or withdrawn, subsequent to the preparation of the inventories in the North Carolina State Medical Facilities Plan;
   h. corrections of errors in the inventory as reported to the Medical Facilities Planning Section.

Community Health, Inc.

P.O. Box 8109
Rocky Mount NC 27804-1109
t 252.972.2200
f 252.937.2647

COPY

February 20, 2008



Mr. Floyd Cogley
North Carolina Division of Health Service Regulation
Medical Facilities Planning Section
2714 Mail Service Center
Raleigh, NC 27699

**RE: Comments on 2008 State Medical Facilities Plan**
**Submitted by Community Health, Inc. on behalf of Carrolton Home Care, Inc. d/b/a Community Home Care and Hospice ("Community")**

Dear Mr. Cogley:

Please accept these comments to the 2008 State Medical Facilities Plan ("2008 SMFP") submitted by Community Health, Inc. on behalf of Carrolton Home Care, Inc. d/b/a Community Home Care and Hospice ("Community"). More specifically, we are commenting on the reallocation of hospice inpatient beds in Lee, Cumberland, Harnett, and Sampson counties in the 2008 SMFP. We understand that these comments do not rise to the level of a petition since we are not currently proposing changes to the basic policies or methodology. However, we hope that our comments may stimulate some discussion as to how to make the basic policies more equitable in the event a Certificate of Need ("CON") decision is appealed, possibly resulting in a reallocation of a new institutional health service pursuant to Policy GEN-1.4, as was the case at hand.

As you may be aware, Community applied for hospice inpatient beds in Sampson, Harnett, Lee and Cumberland counties in 2006 as allocated in the 2006 SMFP. Each of Community's applications were subsequently denied by the CON Section, in part because it was determined that Community failed to demonstrate the need for these services as required by CON Review Criteria N.C.G.S. §131E-183(3). Community appealed each of the decisions and subsequently settled with the Department of Health and Human Services on or about September 5, 2007, resulting in a dismissal of each appeal. Since the appeals were resolved after August 17, 2007, and prior to December 31, 2007, the inpatient beds were reallocated in the 2008 SMFP in accordance with Policy GEN 1-4, and without a further need determination. Written notice of the reallocated hospice inpatient beds for Cumberland, Harnett, Lee, and Sampson was not provided by the Division of Health Service Regulation ("DHSR") until December 17, 2007, well after the public review and comment period. See *Exhibit 1* for a copy of the Memorandum dated December 17, 2007, from DHSR reallocating the hospice inpatient beds.

Since the DHSR notice of reallocation of the hospice inpatient beds dated December 17, 2007, was published well after the public comment period, interested parties that may have wished to request an adjustment to the need determinations in the 2008 SMFP were effectively precluded from doing so. Community is of the opinion that there should have been some debate or reasonable opportunity for public comment as to whether the hospice inpatient beds should have been reallocated in these four counties. Community questions whether there is a need for additional hospice inpatient beds in Lee, Cumberland, Harnett, and Sampson counties in the 2008 SMFP, or whether these beds, if subsequently approved by the CON Section, would be an unnecessary duplication of services.

We appreciate the opportunity to present our concerns to the Medical Facilities Planning Section.

Sincerely,

Michael C. Hale
Vice-President of Legal Services
Community Health, Inc.

Enclosure

**EXHIBIT 1**

**North Carolina Department of Health and Human Services**
**Division of Health Service Regulation**
**Certificate of Need Section**
2704 Mail Service Center ▪ Raleigh, North Carolina 27699-2704

Michael F. Easley, Governor
Dempsey Benton, Secretary

http://facility-services.state.nc.us

Lee Hoffman, Section Chief
Phone: 919-855-3873
Fax: 919-733-8139

MEMORANDUM

TO: Recipients of the State Medical Facilities Plan

FROM: Craig R. Smith, Assistant Chief
for Lee B. Hoffman, Chief
Certificate of Need Section

DATE: December 17, 2007

SUBJECT: **Reallocation of Hospice Inpatient Beds in Cumberland, Harnett, Lee, and Sampson Counties from the 2006 State Medical Facilities Plan (SMFP)**

The Medical Facilities Planning Section and the Certificate of Need Section of the Division of Health Service Regulation announce the reallocation of hospice inpatient beds in Cumberland, Harnett, Lee, and Sampson Counties from the 2006 SMFP using the 2007 SMFP hospice bed need methodology. The reallocation is the result of the dismissal of four appeals of four denied applications received for the scheduled 2006 reviews.

As a result, there is now a need determination for additional hospice inpatient beds in each the above referenced counties. The specific need determination and the scheduled certificate of need reviews for the reallocated hospice inpatient beds are as follows:

| COUNTY | HOSPICE INPATIENT BEDS | REVIEW DATE | APPLICATION DUE DATE |
|---|---|---|---|
| Sampson | 12 | May 1, 2008 | April 15, 2008 |
| Harnett | 8 | September 1, 2008 | August 15, 2008 |
| Lee | 8 | September 1, 2008 | August 15, 2008 |
| Cumberland | 24 | December 1, 2008 | November 17, 2008 |

Therefore, persons who are interested in applying for the hospice inpatient beds in each of the specified counties must submit their respective CON applications to the CON Section no later than 5:30 p.m. on the specific date listed above.

For more information, write the Certificate of Need Section, Division of Facility Services, 2704 Mail Service Center, Raleigh, North Carolina 27699-2704 or call (919) 855-3873.

## Percent of Deaths Served by Hospice by County as Shown in the 2005 Thru 2009 North Carolina State Medical Facilities Plans

| State/County | % Deaths Served By Hospice Per 2005 SMFP | % Deaths Served By Hospice Per 2006 SMFP | % Deaths Served By Hospice Per 2007 SMFP | % Deaths Served By Hospice Per 2008 SMFP | % Deaths Served By Hospice Per 2009 SMFP |
|---|---|---|---|---|---|
| North Carolina | 23.53% | 25.57% | 29.00% | 30.46% | 33.46% |
| | | | | | |
| Alamance | 26.34% | 28.14% | 33.75% | 35.76% | 42.29% |
| Alexander | 25.57% | 19.72% | 23.53% | 33.77% | 35.52% |
| Alleghany | 15.92% | 12.40% | 20.45% | 20.28% | 22.22% |
| Anson | 18.89% | 16.38% | 11.86% | 21.97% | 14.77% |
| Ashe | 21.92% | 17.21% | 16.96% | 19.57% | 24.28% |
| Avery | 18.91% | 26.44% | 31.58% | 30.81% | 35.36% |
| Beaufort | 18.82% | 22.61% | 21.73% | 23.90% | 25.97% |
| Bertie | 12.21% | 14.61% | 15.57% | 18.33% | 20.92% |
| Bladen | 24.43% | 25.50% | 29.02% | 27.30% | 30.66% |
| Brunswick | 28.12% | 31.11% | 31.92% | 31.30% | 32.82% |
| Buncombe | 30.83% | 29.53% | 33.19% | 32.15% | 43.11% |
| Burke | 24.87% | 27.50% | 31.79% | 33.72% | 31.45% |
| Cabarrus | 18.26% | 22.84% | 29.70% | 33.26% | 40.31% |
| Caldwell | 31.56% | 35.70% | 43.64% | 43.67% | 44.11% |
| Camden | 22.06% | 15.00% | 24.64% | 31.58% | 23.08% |
| Carteret* | 15.50% | 18.36% | 21.02% | 21.85% | 27.62% |
| Caswell | 15.00% | 18.52% | 26.64% | 21.95% | 21.27% |
| Catawba | 31.98% | 37.73% | 45.44% | 47.51% | 54.11% |
| Chatham | 21.92% | 25.45% | 31.95% | 32.55% | 34.00% |
| Cherokee | 13.54% | 12.35% | 15.06% | 18.97% | 14.15% |
| Chowan | 5.70% | 13.61% | 11.11% | 9.69% | 17.44% |
| Clay | 10.38% | 10.34% | 13.16% | 17.19% | 13.33% |
| Cleveland | 33.33% | 30.80% | 34.64% | 38.70% | 43.89% |
| Columbus | 20.22% | 23.19% | 24.56% | 33.22% | 32.60% |
| Craven* | 10.18% | 12.11% | 15.45% | 19.51% | 22.21% |
| Cumberland* | 22.81% | 25.01% | 23.92% | 25.63% | 31.76% |
| Currituck | 19.50% | 18.50% | 21.59% | 22.94% | 27.81% |
| Dare | 9.79% | 18.11% | 14.18% | 10.00% | 23.38% |
| Davidson | 22.29% | 20.81% | 27.11% | 27.07% | 23.89% |
| Davie | 25.57% | 27.88% | 35.00% | 33.23% | 29.63% |
| Duplin | 12.83% | 14.96% | 21.43% | 27.03% | 21.48% |
| Durham | 24.17% | 24.78% | 30.55% | 34.27% | 32.81% |
| Edgecombe | 11.51% | 12.85% | 17.31% | 19.22% | 23.73% |
| Forsyth | 31.64% | 35.33% | 37.78% | 35.42% | 36.05% |
| Franklin | 17.51% | 18.00% | 17.73% | 19.26% | 27.93% |
| Gaston | 21.67% | 26.23% | 30.01% | 34.24% | 35.67% |
| Gates | 10.77% | 12.07% | 17.43% | 20.34% | 15.04% |
| Graham | 7.14% | 15.79% | 6.06% | 15.15% | 15.38% |
| Granville | 13.83% | 15.96% | 14.73% | 12.53% | 20.48% |
| Greene | 17.71% | 13.21% | 17.11% | 18.92% | 27.65% |
| Guilford | 23.97% | 24.92% | 26.10% | 26.98% | 32.62% |
| Halifax | 10.30% | 12.29% | 14.93% | 20.94% | 16.54% |
| Harnett* | 26.07% | 27.71% | 28.35% | 30.76% | 32.51% |
| Haywood | 26.22% | 25.31% | 28.64% | 28.87% | 33.74% |
| Henderson | 41.17% | 45.14% | 49.62% | 55.56% | 56.69% |
| Hertford | 19.45% | 21.36% | 26.26% | 22.30% | 31.08% |
| Hoke* | 26.72% | 37.10% | 29.20% | 27.41% | 24.70% |
| Hyde | 0.00% | 0.00% | 2.94% | 10.00% | 54.72% |
| Iredell | 21.77% | 20.63% | 27.92% | 29.64% | 34.35% |
| Jackson | 28.97% | 33.76% | 31.55% | 36.04% | 37.00% |

## Percent of Deaths Served by Hospice by County as Shown in the 2005 Thru 2009 North Carolina State Medical Facilities Plans

| State/County | % Deaths Served By Hospice Per 2005 SMFP | % Deaths Served By Hospice Per 2006 SMFP | % Deaths Served By Hospice Per 2007 SMFP | % Deaths Served By Hospice Per 2008 SMFP | % Deaths Served By Hospice Per 2009 SMFP |
|---|---|---|---|---|---|
| Johnston | 17.04% | 21.67% | 26.36% | 27.01% | 26.00% |
| Jones | 1.54% | 11.21% | 15.96% | 13.21% | 31.07% |
| Lee | 32.67% | 32.77% | 33.20% | 29.05% | 33.05% |
| Lenoir | 10.94% | 10.23% | 14.37% | 17.66% | 17.29% |
| Lincoln | 25.25% | 22.90% | 22.58% | 31.58% | 35.69% |
| McDowell | 17.86% | 24.04% | 27.95% | 28.77% | 24.63% |
| Macon | 21.39% | 26.34% | 28.64% | 30.22% | 32.14% |
| Madison | 24.12% | 23.39% | 28.85% | 23.29% | 35.89% |
| Martin | 9.01% | 13.68% | 12.61% | 20.41% | 27.36% |
| Mecklenburg | 25.13% | 26.85% | 30.62% | 32.90% | 38.63% |
| Mitchell | 37.06% | 33.78% | 44.81% | 41.15% | 32.88% |
| Montgomery | 15.54% | 22.43% | 20.26% | 24.03% | 23.69% |
| Moore* | 29.04% | 36.41% | 40.39% | 35.88% | 39.17% |
| Nash | 13.12% | 18.81% | 19.34% | 21.87% | 20.59% |
| New Hanover | 30.56% | 35.25% | 37.70% | 41.65% | 44.50% |
| Northampton | 11.62% | 13.99% | 16.78% | 15.48% | 24.23% |
| Onslow* | 19.92% | 22.48% | 26.04% | 21.56% | 21.61% |
| Orange | 30.97% | 33.57% | 34.10% | 29.82% | 51.08% |
| Pamlico | 9.55% | 10.22% | 13.01% | 18.34% | 22.95% |
| Pasquotank | 13.95% | 14.66% | 20.45% | 25.80% | 26.38% |
| Pender | 25.98% | 30.00% | 30.79% | 35.32% | 40.13% |
| Perquimans | 15.82% | 17.39% | 18.31% | 12.99% | 23.13% |
| Person | 18.21% | 17.22% | 23.38% | 17.36% | 28.53% |
| Pitt | 20.77% | 22.71% | 28.24% | 27.98% | 29.60% |
| Polk | 41.34% | 55.12% | 48.91% | 50.73% | 52.94% |
| Randolph | 26.06% | 30.95% | 27.04% | 31.22% | 37.20% |
| Richmond | 29.33% | 27.99% | 27.74% | 32.06% | 30.48% |
| Robeson | 24.69% | 19.87% | 27.66% | 26.11% | 25.50% |
| Rockingham | 17.27% | 21.30% | 22.40% | 24.71% | 21.48% |
| Rowan | 18.07% | 20.56% | 23.02% | 25.66% | 24.89% |
| Rutherford | 32.86% | 35.01% | 51.91% | 53.88% | 48.23% |
| Sampson | 17.29% | 17.90% | 19.40% | 22.84% | 29.12% |
| Scotland | 39.10% | 37.34% | 42.69% | 50.40% | 49.20% |
| Stanly | 22.80% | 20.81% | 25.67% | 32.21% | 35.11% |
| Stokes | 29.68% | 28.35% | 36.90% | 31.10% | 37.24% |
| Surry | 34.34% | 33.60% | 39.43% | 40.66% | 40.47% |
| Swain | 22.84% | 15.90% | 19.87% | 28.74% | 31.32% |
| Transylvania | 28.94% | 28.90% | 31.58% | 31.39% | 41.42% |
| Tyrrell | 6.56% | 11.76% | 12.12% | 4.35% | 24.00% |
| Union | 20.38% | 29.68% | 27.27% | 31.67% | 27.39% |
| Vance | 11.85% | 9.98% | 16.05% | 18.29% | 22.04% |
| Wake* | 28.21% | 32.52% | 37.82% | 36.30% | 39.28% |
| Warren | 14.04% | 8.76% | 11.52% | 14.41% | 17.27% |
| Washington | 6.80% | 11.64% | 15.29% | 13.66% | 18.46% |
| Watauga | 23.05% | 19.35% | 22.03% | 22.30% | 24.30% |
| Wayne* | 20.74% | 22.37% | 26.20% | 26.18% | 29.41% |
| Wilkes | 20.95% | 18.91% | 23.14% | 19.51% | 17.14% |
| Wilson | 12.02% | 16.46% | 18.44% | 26.03% | 23.60% |
| Yadkin | 19.02% | 21.31% | 26.57% | 24.45% | 28.38% |
| Yancey | 44.31% | 27.78% | 35.71% | 41.67% | 46.30% |

**Hospice Facilities Approved for Development by County and Percent Occupancy as Shown in the 2005 Thru 2009 North Carolina State Medical Facilities Plans**

| County | Facility | Occ. Rate * Per 2005 SMFP | Occ. Rate * Per 2006 SMFP | Occ. Rate * Per 2007 SMFP | Occ. Rate * Per 2008 SMFP | Occ. Rate * Per 2009 SMFP |
|---|---|---|---|---|---|---|
| Alamance | Hospice of Alamance / Hospice Home | 88.8 | 85.1 | 87.1 | 94.6 | 89.59 |
| Beaufort | Pamlico/Tar Hospice House | | NA | NA | NA | NA |
| Brunswick | Brunswick County Hospice Care Center | | | | | NA |
| Buncombe | Carepartners Hospice and Palliative Care/ Solace | 85.7 | 92.4 | 90.8 | 100 | 100.00 |
| Burke | Burke Palliative Care Center | | | NA | NA | NA |
| Cabarrus | Hospice/Palliative Care of Cabarrus County | | | NA | NA | NA |
| Caldwell | Caldwell Hospice and Palliative Care/ Kirkwood | 78.3 | 75.5 | 76.1 | 80.6 | 94.57 |
| Caldwell | Caldwell Hospice and Palliative Care/ Hospice House | | | | NA | NA |
| Catawba | Catawba Valley Hospice House | NA | NA | 72.8* | 94.1 | 97.75 |
| Cleveland | Hospice/Palliative Care Cleveland County / Wendover | 98.8 | 90.3* | 100 | 99.9 | 99.62 |
| Cleveland | Hospice of Cleveland County/Kings Mountain | | | | | NA |
| Columbus | Columbus County / Hospice Care Center | NA | NA | NA | NA | NA |
| Cumberland | Carroll S. Roberson Center | NA | NA | NA | 47.3* | 60.03 |
| Davidson | Hospice of Davidson County | | | NA | NA | NA |
| Duplin | Carolina East Hospice Center | | NA | NA | NA | NA |
| Durham | Duke Hospice | | | | NA | NA |
| Forsyth | Kate B. Reynolds Hospice Home | 100 | 97.7 | 100* | 100 | 100.00 |
| Gaston | Robin Johnson House - Gaston Hospice | NA | NA | NA | NA | NA |
| Guilford | Hospice/Palliative Care of Greensboro/ Beacon Place | 77 | 67 | 64.5* | 46.2 | 60.10 |
| Guilford | Hospice Home at High Point | NA | NA | NA | 0.0* | 69.13 |
| Harnett | E. Carlton Powell Hospice House | | | NA | NA | 45.94* |
| Henderson | Four Seasons Hospice and Palliative Care | 100 | 91.4* | 80.3 | 96.4 | 92.67 |
| Iredell | Hospice of Iredell County/Gordon Hospice House | NA | NA | 54.2* | 98 | 100.00 |
| Johnston | Johnston Memorial Hospital | | | | NA | NA |
| Mecklenburg | Presbyterian Hospital / Harris Hospital Unit | 65.9 | 71.1 | 78.8 | 75.9 | 84.45 |
| Mecklenburg | Levine and Dickson Hospice House | NA | NA | NA | NA | NA |
| Moore | First Health Hospice/Palliative Care | | | | NA | NA |
| Nash | Nash Regional Hospice House | | | | | NA |
| New Hanover | Lower Cape Fear Hospice / Hospice Care Center | 86.6 | 83.7 | 92.5 | 97.2 | 94.13 |
| Orange | Duke Hospice at the Meadowlands | 83.9 | 77.2 | 82.3 | 81.1 | 54.34 |
| Pitt | University Health System Hospice Care | | | | NA | NA |
| Randolph | Hospice of Randolph County | | | | NA | NA |
| Richmond | Hospice Haven of Richmond County | | | | NA | NA |
| Robeson | Southeastern Regional Medical Center | | | NA | NA | 25.9* |
| Robeson | Native Angles Hospice | | | | | NA |
| Rockingham | Hospice of Rockingham County | | | NA | NA | NA |
| Rowan | Rowan Regional Medical Center | | | | NA | NA |
| Rutherford | Hospice of Rutherford County / Hospice Home | NA | 31.3* | 64.6 | 85.9 | 94.93 |
| Scotland | Hospice of Scotland County/Hospice House | | | | NA | NA |
| Surry | Hospice of Surry County | | NA | NA | NA | NA |
| Union | Hospice of Union County | | | NA | NA | NA |
| Wake | Rex Hospital | 55.8 | 63.8 | 74.7 | 70.6 | 76.62 |
| Wake | Hospice of Wake County | | | NA | NA | NA |
| Wayne | 3HC/Kitty Askins Hospice Center | 100 | 98.5 | 95.8 | 99.6 | 100.00 |
| | **Total** | **86** | **84.6*** | **86.4*** | **89.4*** | **81.61*** |

* Adjusted for beds opened for part of year.

NA indicates facility did not report days of care for the reporting period. For example, the facility may not have opened.

A cell with no entry indicates the facility was not listed in the Plan because a Certificate of Need had not been issued for that plan year.