RULES
OF
DEPARTMENT OF COMMUNITY HEALTH

111-2
HEALTH PLANNING

111-2-2
Certificate of Need

111-2-2-.36 Specific Review Considerations for Long Term Care Hospitals.

(1) **Applicability.** A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing Long Term Care Hospital. An application for Certificate of Need for a new or expanded Long Term Care Hospital shall be reviewed under the General Review Considerations of Rule 111-2-2-.09 and the service-specific review considerations of this Rule.

(2) **Definitions.**

(a) 'Expansion' or 'Expanded' means the addition of beds to an existing CON-authorized or grandfathered Long Term Care Hospital. A CON-authorized or grandfathered Long Term Care Hospital may increase the bed capacity of an existing hospital by the lesser of ten percent of existing capacity or 10 beds if it has maintained an average occupancy of 85 percent for the previous twelve calendar months provided that there has been no such increase in the prior two years and provided that the capital expenditures associated with the increase do not exceed the Capital Expenditure Threshold. If such an increase exceeds the Capital Expenditure Threshold, the increase will be considered an expansion for which a Certificate of Need shall be required under these Rules.

(b) 'Free-standing LTCH' or 'Free-standing LTACH' means a Long Term Care Hospital organized and operated as a self-contained health care facility.

(c) 'Hospital-within-a-Hospital LTCH' or 'Hospital-within-a-Hospital LTACH' means a Long Term Care Hospital co-located within the same building or the same campus as another CON-Authorized hospital.

(d) 'Long Term Care Hospital' or 'LTCH' or 'Long Term Acute Care Hospital' or 'LTACH' means a hospital that is classified as a long term hospital by the Medicare program pursuant to 42 CFR 412.23(e). These hospitals typically provide extended medical and rehabilitative care for patients who are clinically complex and may suffer from multiple acute or chronic conditions. Services typically include comprehensive rehabilitation, respiratory therapy, head trauma treatment, and pain management. For regulatory purposes, the definition includes a hospital which asserts its intent to be Medicare-classified as a long term hospital within twenty-four (24) months of accepting its first patient. If an entity, which has been awarded a CON pursuant to this rule, has not been so classified by Medicare within this timeframe, the CON issued to that entity shall be revoked. An entity, which has had its CON revoked pursuant to this rule, shall not have the authority to operate as a general acute care hospital. However, an acute care hospital, which has been awarded a CON to convert acute care beds for use as a long term care hospital, may again use such beds for acute care if such beds have not been Medicare-classified as a long term care hospital within twenty-four (24) months of accepting its first patient. Furthermore, a hospital that has been approved through the certificate of need process to use a all of its short-stay beds for a Freestanding LTCH shall have such beds removed from the official inventory of available short-stay beds when the LTCH is certified by Medicare; provided, however, that the hospital's beds will revert to the official inventory of available short-stay beds at any point that the facility ceases to be certified by Medicare as an LTCH.

(e) 'New' means a hospital that has not been classified by the Medicare program as a long term hospital in the previous twelve months. For purposes of these rules, an existing hospital which proposes to be relocated to a location more than three miles from its present location shall be considered "new".

(f) 'Occupancy Rate' means the ratio of beds occupied by inpatients as reported on the most recent Annual Hospital Questionnaire divided by the total licensed beds.

(g) 'Official State Health Component Plan' means the document related to Long Term Care Hospitals developed by the Department, established by the Georgia Health Strategies Council and signed by the Governor of Georgia.

(h) 'Planning Region' means one of the four sub-state regions for Long Term Care Hospitals, as follows:

1. LTCH Region 1, including the following counties:

   Dade, Walker, Catoosa, Whitfield, Murray, Gilmer, Fannin, Union, Towns, Rabun, Stephens, Habersham, White, Lumpkin, Dawson, Pickens, Gordon, Chattooga, Floyd, Bartow, Cherokee, Forsyth, Hall, Banks, Franklin, Hart, Elbert, Madison, Jackson, Barrow, Gwinnett, Fulton, Cobb, Paulding, Polk, Haralson, Carroll, Douglas, DeKalb, Rockdale, Walton, Oconee, Clarke, Oglethorpe, Greene, Morgan, Newton, Butts, Henry, Clayton, Fayette, Coweta, Heard, Troup, Meriwether, Pike, Spalding, Lamar, and Upson

2. LTCH Region 2, including the following counties:

Wilkes, Lincoln, Columbia, McDuffie, Warren, Taliaferro, Hancock, Glascock, Putnam, Jasper, Monroe, Jones, Baldwin, Washington, Jefferson, Richmond, Burke, Screven, Jenkins, Emmanuel, Johnson, Treutlen, Montgomery, Wheeler, Telfair, Wilcox, Dodge, Laurens, Pulaski, Bleckley, Houston, Peach, Twiggs, Wilkinson, Bibb, and Crawford

3. LTCH Region 3, including the following counties:

   Harris, Talbot, Taylor, Muscogee, Chattahoochee, Marion, Schley, Macon, Dooly, Sumter, Webster, Stewart, Quitman, Randolph, Terrell, Lee, Crisp, Ben Hill, Irwin, Turner, Worth, Dougherty, Calhoun, Clay, Early, Baker, Mitchell, Colquitt, Miller, Cook, Tift, Berrien, Lanier, Echols, Lowndes, Brooks, Thomas, Grady, Decatur, and Seminole

4. LTCH Region 4, including the following counties:

   Effingham, Bulloch, Candler, Toombs, Tattnall, Evans, Bryan, Chatham, Liberty, Long, Wayne, Appling, Jeff Davis, Coffee, Bacon, Pierce, Brantley, McIntosh, Glynn, Camden, Charlton, Ware, Atkinson, and Clinch

(3) **Service-Specific Review Standards.**

(a) The need for new or expanded Long Term Care Hospital in a LTCH planning region shall be determined using the following need projection:

1. Determine the total discharges from general acute care hospitals less LTCH discharges, and less perinatal and neonatal discharges, and less psychiatric and substance abuse discharges, and less comprehensive inpatient physical rehabilitation discharges for the planning region in which the Long Term Care Hospital is or will be located. The source of discharge data for purposes of this rule include data collected pursuant to O.C.G.A. § 31-7-280(c)(14), or in the Department's discretion, discharge data collected on the most recent Annual Hospital Questionnaire.

2. Calculate the discharge rate for each planning region by dividing the number of current acute care discharges obtained in Step 1 in each planning region by the corresponding year's resident population projection from the Governor's Office of Planning and Budget in each planning region.

3. Calculate the projected discharges for each planning region by multiplying the discharge rate obtained in Step 2 by the horizon year resident population projection for that planning region and then reduce that figure by 6 percent to account for overlap with rehabilitation facilities.

4. Calculate gross beds needed in the horizon year as follows:

   (i) Multiply the projected discharges obtained in Step 3 by a utilization factor of 1.3% to determine the projected number of acute care discharge who may benefit from services at a LTCH.

(ii) Multiply the product obtained in Step 4(i) by the average LTCH length of stay for the most recent previous three-year period. Beginning with the first need calculation and continuing until the third complete year of survey data collected pursuant to this rule, the Department shall use 28.1 as a proxy for the average LTCH length of stay for the previous three years.

(iii) Divide the product obtained in Step 4(ii) by 365 to determine the projected daily LTCH census.

(iv) Divide the result obtained in Step 4(iii) by .85 to determine the number of projected LTCH beds utilizing an 85% capacity standard.

5. Determine the current inventory of LTCH beds in the planning region from Departmental data. For all long term care hospital providers, which have been licensed as a Long Term Care Hospital by the Department of Human Resources, the current inventory of LTCH beds shall reflect the number of beds reported as CON-authorized in the Facility Inventory prior to the date of adoption of these rules augmented from that time forward only by increases in bed capacity approved through the CON process (or by exemptions thereto) and by decreases due to a provider ceasing to provide such services for a period in excess of 12 months. For purposes of this rule, the initial inventory shall not include the beds of licensed rehabilitation hospitals even if such hospitals have a reported average length of stay of greater than 25 days for Medicare patients; the beds of such facilities shall continue to be included in the applicable Comprehensive Inpatient Physical Rehabilitation inventory.

6. If the projected LTCH bed need in Step 4(iv) is greater than the current inventory of LTCH beds in the planning region, the application for the Certificate of Need should reflect a number of beds equal to or lesser than the resulting unmet bed need.

(b) An applicant for a new or expanded Long Term Care Hospital shall document that the establishment or expansion of its hospital will not have an adverse impact on an existing and approved long term care hospital in its planning region. An applicant for a new or expanded Long Term Care Hospital shall have an adverse impact on existing and approved hospitals of the same type if it will:

1. decrease annual utilization of an existing hospital, whose current utilization is at or above 85%, to a projected annual utilization of less than 75% within the first twelve months following the acceptance of the applicant's first patient; or

2. decrease annual utilization of an existing hospital, whose current utilization is below 85%, by ten percent over the twelve months following the acceptance of the applicant's first patient.

The applicant shall provide evidence of projected impact by taking into account existing planning region market share of hospitals of the same type and future population growth or by providing sufficient evidence that the current population is underserved by the existing Long Term Care Hospitals within the planning region.

(c) The Department may grant an exception to the need methodology of 111-2-2-.36(3)(a) and to the adverse impact standard of 111-2-2-.36(3)(b) for an applicant proposing a program to be located in a county with a population of less than 75,000 and to be located a minimum of 50 miles away from any existing program in the state; or to remedy an atypical barrier to the services of an Long Term Care Hospital based on cost, quality, financial access or geographic accessibility. The Department may grant an exception to the need methodologies of either 111-2-2-.36(3)(a) and to the adverse impact standard of 111-22-.36(3)(b) if the applicant's annual census demonstrates 30 percent out of state utilization for the previous two years.

(d) A new or expanded Long Term Care Hospital shall have the following minimum bed sizes:

1. A new freestanding LTCH shall have a minimum bed size of forty (40) beds.

2. A new Hospital-within-a-Hospital LTCH shall have a minimum bed size of twenty (20) beds.

3. The minimum number of beds for the expansion of an existing Long Term Care Hospital, including satellite locations, shall be ten (10) beds or ten percent (10%) of the total current licensed bed total of current Long Term Care Hospital, whichever is less.

(e) An applicant for a new Long Term Care Hospital shall demonstrate the intent to meet the standards of the Joint Commission on the Accreditation of Healthcare Organizations within twenty-four (24) months of accepting its first patient. An applicant for an expanded Long Term Care Hospital shall be JCAHO-certified as of the date of its application and shall furnish proof of the certification as a part of the Certificate of Need application process.

(f) An applicant for a new Long Term Care Hospital shall demonstrate the intent to meet the Licensure Rules of the Georgia Department of Human Resources for such hospitals. An applicant for an expanded Long Term Care Hospital shall demonstrate a lack of uncorrected deficiencies as documented by letter from the Georgia Department of Human Resources.

(g) An applicant for a new or expanded Long Term Care Hospital shall have written policies and procedures for utilization review. Such review shall consider, but is not limited to, factors such as medical necessity, appropriateness and efficiency of services, quality of patient care, and rates of utilization.

(h) An applicant for a new or expanded Long Term Care Hospital shall document the existence of referral arrangements, including transfer agreements, with an acute-care hospital(s) within the planning region to provide emergency medical treatment to any patient who requires such care. If the nearest acute-care hospital is in an adjacent planning region, the applicant may document the existence of transfer agreements with that hospital in lieu of such agreements with a hospital located within the planning region.

(i) An applicant for a new or expanded Long Term Care Hospital shall foster an environment that assures access to services to individuals unable to pay and regardless of payment source or circumstances by the following:

1. providing evidence of written administrative policies and directives related to the provision of services on a nondiscriminatory basis;

2. providing a written commitment that un-reimbursed services for indigent and charity patients in the service will be offered at a standard which meets or exceeds three percent of annual gross revenues for the service after Medicare and Medicaid contractual adjustments and bad debt have been deducted;

3. providing documentation of the demonstrated performance of the applicant, and any facility in Georgia owned or operated by the applicant's parent organization, of providing services to individuals unable to pay based on the past record of service to Medicare, Medicaid, and indigent and charity patients, including the level of un-reimbursed indigent and charity care;

4. providing documentation of current or proposed charges and policies, if any, regarding the amount or percentage of charges that charity patients, self pay patients, and the uninsured will be expected to pay; and

5. agreeing to participate in the Medicare and Medicaid programs if such programs reimburse for such services.

(j) **Reserved.**

(k) An applicant for a new or expanded Long Term Care Hospital shall agree to provide the Department with requested information and statistical data related to the operation of such a Program on a yearly basis, or as needed, and in a format requested by the Department.

Authority: O.C.G.A. §§ 31-5A et. seq., 31-6 et. seq.