

### **111-2-2-.30 Specific Review Considerations for Skilled Nursing and Intermediate Care Facilities.**

(1) **Applicability.** A Certificate of Need will be required prior to the establishment of a new or expanded skilled nursing facility, intermediate care facility, or an intermingled facility.

(2) **Definitions.**

(a) "Horizon year" means the last year of the three-year projection period for need determinations for a nursing facility.

(b) "Hospital-based nursing facility" means a nursing facility which meets the current definition of "Hospital-Based Nursing Facilities" as defined in the current Policies and Procedures for Nursing Facility Services by the Georgia Department of Community Health, Division of Medical Assistance. A new hospital-based nursing facility can only result from conversion of existing inpatient space on the hospital's campus.

(c) "Intermediate care facility" (ICF) means an institution which provides, on a regular basis, health related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide but who, because of their mental or physical condition, require health related care and services beyond the provision of room and board.

(d) "Intermingled facility" means a nursing facility that provides both skilled intermediate levels of care.

(e) "Medicare distinct part skilled nursing unit" means a unit which meets the current definition of "Distinct Part of an Institution as SNF" as defined in the current Medicare Part A Intermediary Manual by the Centers for Medicare and Medicaid Services (CMS) of the U.S Department of Health and Human Services.

(f) "Nursing facility" means a facility classified as either a skilled nursing facility, an intermediate care facility or an intermingled facility which admits patients by medical referral and provides for continuous medical supervision via 24-hour-a-day nursing care and related services in addition to food, shelter, and personal care.

(g) "Official State Health Component Plan" means the document related to the above-named services developed by the Department, established by the Georgia State Health Strategies Council, and adopted by the Board of Community Health.

(h) "Planning area" for all nursing facilities, with the exception of state nursing facilities, means the geographic regions in Georgia defined in the "Official State Health Component Plan". "Planning area for a state nursing facility" means the State of Georgia.

(i) "Retirement community-based nursing facility" means a nursing facility which operates as a lesser part of a retirement community which is a planned, age-restricted, congregate living development which offers housing, recreation, security, dietary services, and shared living areas accessible to all residents.

(j) "Skilled nursing facility" (SNF) means a public or private institution or a distinct part of an institution which is primarily engaged in providing inpatient skilled nursing care and related services for patients who require medical or nursing care or rehabilitation services for the rehabilitation of the injured, disabled or sick persons.

(k) "State nursing facility" is a facility that meets the definition of a Nursing Facility as defined above and is owned and operated by a branch or branches of government of the State of Georgia.

(l) "Urban county" means a county with a projected population for the horizon year of 100,000 or more and population density for that year of 200 or more people per square mile. All other counties are "rural".

(3) **Standards.**

(a) The need for a new or expanded nursing facility in a planning area in the horizon year shall be determined through application of a numerical, supply-oriented need method and an assessment of current planning area utilization designed to measure demand for services.

1. The numerical need for a new or expanded nursing facility in any planning area in the horizon year shall be determined by a population-based formula which is a sum of the following:

(i) a ratio of 0.43 beds per 1,000 projected horizon year Resident population age 64 and younger;

(ii) a ratio of 9.77 beds per 1,000 projected horizon year Resident population age 65 through 74;

(iii) a ratio of 32.5 beds per 1,000 projected horizon year Resident population age 75 through 84; and

(iv) a ratio of 120.00 beds per 1,000 projected horizon year Resident population age 85 and older.

2. The demand for services in each planning area will be measured by the cumulative facility bed utilization rate during the most recent survey year period. The utilization rate shall be determined by dividing the bed days available for resident care by the actual bed days of resident care.

3. In order to establish need for a new or expanded nursing facility in any planning area, the utilization rate in that planning area shall have equaled or exceeded ninety-five percent (95%) during the most recent survey year.

(b) The required bed size for a new nursing facility in a rural or urban county is as follows: (Rural/urban designation shall be based on the county within which the proposed facility is to be located.)

1. A freestanding nursing facility in a rural county: a minimum of 60 beds;

2. A freestanding nursing facility in an urban county: a minimum of 100 beds;

3. A hospital-based nursing facility in a rural county: a minimum of 10 beds and a maximum of 20 beds;

4. A hospital-based nursing facility in an urban county: a minimum of 20 beds and a maximum of 40 beds;

5. A retirement community-based nursing facility: 1 nursing home bed for each 4 residential units, with a minimum of 20 beds and a maximum of 30 beds.

(c) In competing applications, favorable consideration may be given for the inclusion of services for special needs populations, such as but not limited to, persons with Alzheimer's Disease and related disorders, medically fragile children, or persons with HIV/AIDS. An applicant must document a need for the service and that it is cost effective.

(d) The Department may allow an exception to 111-2-2-.30(3)(a) under the following circumstances:

1. the establishment of a new Medicare distinct part skilled nursing unit if the proposed unit is to be located in a county that does not have an existing Medicare unit; and if the

applicant can document that there is limited access in the proposed planning area for skilled nursing services for Medicare patients. Limited access means that existing nursing facilities have not provided the proposed services in response to a demonstrated demand for the services over the three (3) most recent years. The implementation of an approved Certificate of Need will be valid only if the proposed beds will be limited to Medicare recipients. This exception is available to existing nursing facilities and hospitals; or

2. the applicant for a new or expanded nursing facility can show that there is limited access in the proposed geographic service area for special groups such as, but not limited to medically fragile children and HIV/AIDS patients. Limited access means that existing nursing facilities have not provided the proposed services in response to a demonstrated demand for the services over the three (3) most recent years.

(e) An applicant for a new or expanded facility must document provision of continuity of care by meeting each of the following:

1. An applicant shall provide a community linkage plan which demonstrates factors such as, but not limited to, referral arrangements with appropriate services of the healthcare system and working agreements with other related community services assuring continuity of care; and
2. An applicant shall document the existence of proposed and/or existing referral agreements with a nearby hospital to provide emergency services and acute-care services to residents of the proposed or existing facility; and
3. An applicant shall provide existing or proposed rehabilitation plans for services to facility residents; and
4. An applicant shall provide existing or proposed discharge planning policies.

(f) An applicant for a new or expanded nursing facility must provide evidence of the intent to meet all appropriate requirements regarding quality of care as follows:

1. An applicant shall provide a written statement of its intent to comply with all appropriate licensure requirements and operational procedures required by the Office of Regulatory Services of the Department of Human Resources; and
2. An applicant shall provide evidence that there are no uncorrected operational standards in any existing Georgia nursing homes owned and/or operated by the applicant or by the applicant's parent organization. Plans to correct physical plant deficiencies in the applying facility must be included in the application; and
3. An applicant and any facility owned and/or operated by the applicant or its parent organization shall have no previous conviction or Medicaid or Medicare fraud; and
4. An applicant shall demonstrate the intent and ability to recruit, hire and retain qualified personnel to meet the current Medicaid certification requirements of the Department's Division of Medical Assistance for the services proposed to be provided and that such personnel are available in the proposed geographic service area; and
5. An applicant shall provide a plan for a comprehensive quality improvement program that includes, but is not limited to, procedures and plans for staff training and a program to monitor specific quality indicators and measure the facility's performance accordingly; and
6. In competing applications, favorable consideration will be given to an applicant that provides evidence of the ability to meet accreditation requirements of appropriate accreditation agencies within two years after the facility becomes operational.

(g) An applicant or a new or expanded facility must provide evidence of meeting the following standards pertaining to financial accessibility:

1. An applicant shall provide a written commitment of intent to participate in the Medicaid and Medicare programs if appropriate; and
2. An applicant shall demonstrate a case-mix of Medicaid, Medicare and private pay patients; and
3. Document policies and practices of nondiscrimination by past performance of the applicant or its parent organization.

(h) A new or expanded state nursing facility may be exempted from the provisions of 111-2-2-.30(3)(a), (b), (c), (d), and (g) of these Rules when the facility meets all of the following criteria:

1. documentation that the proposed facility will meet the definition of a state nursing facility as defined in 111-2-2-.30(1)((k) of these Rules; and
2. documentation that the applicant will admit patients from any of Georgia's counties with a primary focus on a pre-designated, multi-county service area or region; and
3. the facility intends to become accessible to patients whose care, because of income and other limitations, would normally come under the jurisdiction of the state; and
4. such other considerations as may be considered necessary by the Department at the time of the application.

(i) An applicant for a new or expanded nursing facility shall document an agreement to provide Department requested information and statistical data related to the operation and provision of nursing facility services and to report that data to the Department in the time frame and format requested by the Department.

Authority O.C.G.A. Secs. 31-5A et seq., 31-6 et seq. **History.** Original Rule entitled "Specific Review Considerations for Skilled Nursing and Intermediate Care Facilities" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.