DELIVERED VIA EMAIL

April 24, 2018

Andrea Emmanuel, PhD, Planner
Health Planning and Certificate of Need Section
NC Division of Health Service Regulation
2704 Mail Service Center
Raleigh, NC 27699

RE: Comments on Adult Care Methodology for 2019 State Medical Facilities Plan

Dear Dr. Emmanuel,

Thank you for inviting comments on proposed methodology changes for the Adult Care chapter of the *State Medical Facilities Plan* prior to publishing the draft. We appreciate the time and effort invested by members of staff, the State Health Coordinating Council, and volunteers. We understand that consistency with nursing home policies and methodologies is one goal; another is enhanced distribution of and access to adult care beds throughout the state. Although the proposed approach is similar to the nursing home methodology, several of the recommendations will have unintended consequences that are not in the best interests of the state.

My observations are those of an owner and operator of several facilities in the state. For your convenience, I have provided comments in the context of the proposed methodology or policy change.

Should you have any questions, please do not hesitate to contact me.

Regards,

D. Gray Angell, Jr.
Member / Manger

Response to Proposed Changes to ACH Need Methodology

<u>Recommendation 1</u>: Calculate bed use rates for each county's projected utilization by using the county average change rate (ACR) over the last five years rather than age-specific use rates calculated for the state. For each of the previous five years, each county's bed use rate will be derived using the total of census for all facilities within the county and the total population of the county. Bed use rates over those five years will be used to calculate each county's ACR. However, if any county's ACR is more than 2 standard deviations above the average ACR for all counties, then that county's ACR plus 2 standard deviations will be used to project utilization for that county.

<u>Recommendation 1 Response</u>: *<u>We oppose use of county specific use rates.</u> We believe age-based, statewide use rates reflect the most accurate and current market demand, while avoiding disadvantages associated with county-specific use rates.*

The following illustrates problems with the proposed county-based use rate and county ACR:

- *The state does not have patient origin information for adult care home utilization;*
- *The proposed methodology involves beds used in a county;*
- *The proposed recommendation presumes that adult care home beds currently distribute among the counties proportionately to the need. This is not true; and,*
- *The maximum possible use rate can vary 200 percent or more from one county to the next. Consider the following example using real population and bed count data for Macon and Mecklenburg counties. The example assumes that beds in each county are 100 percent occupied.*

Table 1: Use Rate Example at 100 percent Bed Occupancy

County	Macon	Mecklenburg
2021 Population (target year)	36,884	1,165,628
2018 SMFP ACH Bed Inventory	178	3,305
Beds Used @ 100 percent occupancy	178	3,305
Use Rate / 1,000 Population*	***4.83***	***2.84***

Source: North Carolina Office of State Budget Management and 2018 State Medical Facilities Plan
**Use Rate = 2018 ACH Inventory / 2021 Population x 1,000*

Mecklenburg cannot catch up to Macon's use rate. A county with a fast-growing population and full beds will suffer from a perpetually low use rate that will only get lower as population increases. The numerator (beds) will stay constant and the denominator (population) will increase; the resulting use rate will decrease every year.

Adjusting the use rate with a five-year county ACR will not make up for the disparity. In fact, it could make it worse.

- *A negative ACR will decrease the forecast use rate.*
- *A positive ACR will increase forecast use rate. However, a positive ACR will not compensate for the limitation imposed by a restricted bed supply.*
- *Recommendation 1 offers a solution for counties with very fast-growing ACRs, but does not address counties with low or negative ACRs. It also does not discuss how to protect negative ACR counties from the unfair disadvantage associated with limited bed supply.*

We are recommending the Agency continue to use statewide, age-based use rates from the most recent occupancy data on license renewal applications. We believe age-based, statewide use rates are more equitable.

Recommendation 2: *Include a vacancy factor to calculate each county's adjusted projected utilization.* Each county's projected bed utilization will be divided by the vacancy factor to derive the adjusted projected utilization.

Recommendation 2 Response: *We believe the inclusion of a vacancy factor to calculate each county's adjusted projected utilization is an appropriate addition to the need calculation. We are aware the group of interested parties discussed a 90 and 95 percent vacancy factor. We recommend a 90 percent vacancy factor based on our operational experience. Operating an adult care home or combination facility at 95 percent vacancy does not allow enough patient choice or room for bed turnover. This is especially true for smaller facilities where a five percent vacancy equals one or two beds (Example: 5 percent of a 50-bed facility is 2.5 beds unoccupied. By contrast, 10 percent vacancy would provide for five beds open at any one time.)*

It is important to consider horizons; the need methodology horizon is only three years beyond the State Medical Facilities Plan year. Operating a facility at 10 percent vacancy permits timely patient turnover, recognizes the lag time to develop a new facility, provides for efficient staffing, and allows for patient choice.

Recommendation 3: *Use the maximum occupancy rate calculated in determining need.* Occupancy rates can be calculated using either the average or median daily census. Occupancy rates derived this way would be based on the one-day facility (average or median) census for all facilities within a county. Occupancy rates could also be calculated using either the average or median days of care. Occupancy rates calculated in this manner would be based on the total days of care provided by all facilities within a county over the data year. The recommendation is to use the highest of the occupancy rates resulting from these four calculations in determining need for each county.

Recommendation 3 Response: *We support this recommendation. Using the highest of the occupancy rates resulting from the four proposed calculations in determining need for each county will represent occupancy at peak utilization. Using a lesser occupancy rate will not reflect the true utilization of ACH beds in a county at peak demand.*

Recommendation 4: *An occupancy rate of 80%, rather than 85%, will be a threshold for determining need.* As noted in Recommendation 7, the occupancy rate indicated for each county will be the highest rate calculated. For any county that has a deficit index between 10% and 50%, a need will be determined if its occupancy rate is at least 80%.

Recommendation 4 Response: *We agree that an occupancy rate threshold of 80 percent is better than 85 percent in determining need in a county. Some counties are larger than others, some have unique traffic patterns, and the needs across a county can be different. Restricting a need determination because some facilities have a lower utilization than others is an unfair hindrance to facilities that cannot fill an internal need through acquisition or partnership.*

Recommendation 5: *Revise* Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds *language to reflect that all ACH beds in Continuing Care Retirement Communities (CCRCs) will be removed from the bed inventory.* Recommended language change in the final paragraph detailing *Policy LTC-1* in Chapter 4 is as follows:

> **~~One half~~ One hundred percent of the adult care home beds developed under this exemption shall be excluded from the inventory used to project adult care home bed need for the general population. Certificates of need issued under policies analogous to this policy in the North Carolina State Medical Facilities Plans subsequent to the North Carolina 2002 State Medical Facilities Plan are automatically amended to conform with the provisions of this policy at the effective date of this policy.**

Recommendation 6: *Revise language to reflect that all ACH beds in CCRCs will be removed from the bed inventory and from the occupancy rate calculations, regardless of whether the beds were developed pursuant to* Policy LTC-1. The recommended language change for the basic assumption listed in Chapter 11 is as follows:

> **~~One half~~ One hundred percent of the beds developed as part of a qualified continuing care retirement community, including those that were developed prior to the enactment of Policy LTC-1, are excluded from the inventory, and the associated days of care will be removed from the occupancy rate calculation.**

Recommendation 5 & 6 Response: *We are in agreement with both recommendations for CCRC beds that are not available to the general population. We believe that general population beds in CCRCs should be treated like all other ACH beds in the state.*

Recommendation 7: ***Revise language in* Policy LTC-2: Relocation of Adult Care Home Beds *to reflect that beds can be relocated from any county with a surplus of beds to any county with a deficit of beds.*** **The recommended language change for *Policy LTC-2* in Chapter 4 is as follows:**

> ~~**1. Demonstrate that the facility losing beds or moving to a contiguous county is currently serving residents of that contiguous county; and**~~
>
> ~~**2.**~~ **1. Demonstrate that the proposal shall not result in a deficit, or increase an existing deficit in the number of licensed adult care home beds in the county that would be losing adult care home beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins; and**
>
> ~~**3.**~~ **2. Demonstrate that the proposal shall not result in a surplus or increase an existing surplus of licensed adult care home beds in the county that would gain adult care home beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins.**

***Recommendation 7 Response**: We are in agreement with this recommendation. It will support redistribution of available beds in the state and should reduce the long delays that currently occur before increases in demand can be met by increases in supply as the state demographics shift.*

Recommendation 8: ***Develop a policy that aims to increase access to adult care home beds by special assistance populations.*** **The recommended policy language is as follows:**

> **Certificate of Need applicants proposing to develop new adult care home beds pursuant to a need determination shall demonstrate that the proposed beds will be certified for special assistance and that at least 5% of the projected days of care in the third full fiscal year of operation shall be provided to residents receiving State-County Special Assistance.**

***Recommendation 8 Response**: We do not agree that* **all** *beds should be certified for Special Assistance. As worded, the policy would require that every new adult care home bed be certified for Special Assistance populations. This would isolate one population for special treatment and make beds less accessible to most of the population in need. Persons of all income groups need access to adult care beds. As written, the policy requires that all new beds be certified, thus available to Special Assistance populations.*

Special Assistance payments do not cover the cost of routine adult care in new facilities. It is therefore unreasonable for the state to require new facilities to certify every bed for this population group. A policy that requires new facilities to serve a portion of this population is more equitable. For example:

> **Certificate of Need applicants proposing to develop new adult care home beds pursuant to a need determination shall demonstrate that ~~the proposed beds will be certified for special assistance and that~~ at least 5% of the projected days of care in the third full fiscal year of operation shall be provided to residents receiving State-County Special Assistance, if the respective county intends to fund new adult care beds.**

It is reasonable to require applicants proposing to develop new adult care home beds pursuant to a need determination to address Special Assistance populations if there is a need in the county. Some counties may have budget restrictions that will prevent them from compensating providers for new Special Assistance beds in the county.

From an operational and financial feasibility perspective, it is also difficult to be financially viable and provide more than five percent of total days to residents with State-County Special Assistance.

To be affordable for the provider, State County Assistance beds are best included in Special Care Units. At present, the state legislature has imposed a moratorium on certification of Special Care units. While the moratorium is in place, this policy is premature.

Recommendation 9: ***In all license renewal applications relevant to adult care home beds, add an item to collect information on the number of operational (versus licensed) adult care home beds that are in facilities.***

Item X. Total operational beds on July 31, 2018 _____
Do not include beds that are vacant and unavailable or use. For example, a bed might be unavailable due to ongoing renovations, because it is a second bed in a private room or because of staff shortages.

Recommendation 10: ***In all license renewal applications relevant to adult care and nursing home beds, add items to collect data on the number of unrestricted beds in CCRCs that are occupied by residents from the general public*. The suggested items are as follows:**

Item X. Some Continuing Care Retirement Communities have adult care home beds that are not restricted to individuals contracted with the facility.

a. Do you have unrestricted adult care home beds in your facility? ___Yes ___No

b. If yes, how many are unrestricted? _____

c. If yes, how many unrestricted adult care home beds were occupied by individuals NOT contracted with your facility on July 31, 2018? _____

Item X. Some Continuing Care Retirement Communities have nursing home beds that are not restricted to individuals contracted with the facility.

a. Do you have unrestricted nursing home beds in your facility? _____Yes _____No

b. If yes, how many are unrestricted? _____

c. If yes, how many unrestricted nursing home beds were occupied by individuals NOT contracted with your facility on July 31, 2018? _____

Recommendation 9 and 10 Response: *We are in full agreement with these recommendations.*