PETITION

Petition for a New Nursing Care Facility Policy

PETITIONER

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STATEMENT OF THE PROPOSED CHANGE

UNC Hospitals (UNC) respectfully petitions the State Health Coordinating Council (SHCC) to add a new nursing care facility policy to the *2015 State Medical Facilities Plan (2015 SMFP)*. Specifically, UNC requests that the following policy be added:

> POLICY NH-9: PLAN EXEMPTION FOR VENTILATOR NURSING CARE BEDS
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> A nursing care facility may apply for a certificate of need for additional ventilator-dependent nursing care beds equal to the greater of ten beds or ten percent of its existing beds without regard to the nursing care bed need shown in Chapter 10: Nursing Care Facilities. To qualify for such an exemption, applications for certificates of need shall demonstrate how the proposed nursing care bed capacity will be used exclusively for ventilator dependent patients.
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> The beds developed under this policy shall be excluded from the inventory used to project nursing care bed need for the general population.

BACKGROUND

As the principal teaching hospital for the University of North Carolina at Chapel Hill's School of Medicine, UNC provides a comprehensive array of healthcare services to the citizens of North Carolina. UNC first opened in 1952 as the North Carolina Memorial Hospital and has served not only as a patient care-oriented facility, but also as a teaching, research, and community service resource for North Carolina. UNC is recognized as one of the highest-quality healthcare institutions in the nation, winning multiple awards for its patient safety and quality of care, nursing care, research, and

teaching. As North Carolina's only state-owned referral, tertiary and quaternary care center, UNC accepts any North Carolina citizen requiring treatment.

One of UNC's greatest ongoing concerns is that it has patients that are languishing in its ICU for significant lengths of time when they could be discharged because of the obstacles that arise when attempting to place these patients in lower acuity settings. A significant portion of these difficult to place patients are ventilator-dependent patients who are receiving prolonged mechanical ventilation (PMV).

While some patients need ventilation services for only a few hours, others need it for weeks, months, or even years. Moreover, the number of patients requiring prolonged ventilation is increasing due to improvements in life saving medical therapy in critically ill patients, an aging population, and the increased use of aggressive surgical procedures.

PMV patients, in particular, are remaining at UNC for longer than necessary due to the difficulty in placing these patients in other facilities. While filling hospital beds is generally helpful for a hospital's bottom line, such is not the case with ventilator-dependent patients; moreover, it is not in keeping with the goal of current healthcare reform efforts. Most patients on ventilators are covered by Medicare and hospitals receive the same flat diagnosis-related group (DRG) payment for these patients, whether they stay one day or six months. Patients who receive ventilation in the ICU disproportionately contribute to the high cost of ICU care. Moreover, these patients have different needs and resource consumption patterns than other patients in acute care ICUs. Factors driving the need to transition these patients out of acute care hospital ICUs include: rising costs of hospital care, need to decrease the use of critical care resources for medically stable ventilator-dependent patients not requiring ICU critical care, need to ensure the availability of ICU beds for critically ill patients, need to decrease the risk of ventilator-dependent patients acquiring nosocomial infections, and the need to improve ventilator-dependent patients' quality of life by transitioning them to the optimal care setting: a nursing facility.

UNC recently conducted an analysis of its ventilator patients and identified 60 acute care patients in FY 2013 with an acute average length of stay of 33.8 days. Based on their diagnosis and acuity, UNC believes these patients could have been discharged much sooner to a lower acuity setting, specifically skilled nursing beds, if ventilator beds would have been available. In fact, UNC's expected average acute length of stay for these patients was 16.9 days, a nearly 17 day difference on average. In total, these UNC patients stayed in the hospital for an extra 1,012 days or an average daily census of 2.8 patients. That means that, on average, three acute care beds, and in most cases, ICU beds were filled daily with ventilator patients that could have been cared for in a more cost effective setting. In fact, UNC conservatively estimates that over $2,100 per patient day is saved in expenses by treating these patients in a ventilator bed in a skilled nursing facility rather than an inpatient hospital bed. Thus, the extra 1,012 days these patients remained at UNC resulted in over $2.1 million in unneeded costs to the healthcare system, which could have been saved if a ventilator beds were available.

UNC's 60 ventilator patients demonstrate a significant need for ventilator beds. Once discharged from acute care settings, these patients remain in a skilled nursing facility for nearly a year. Based on information from an existing skilled nursing provider, the average length of stay for patients in a ventilator bed is 335 days. Thus, UNC's patients alone translate into a need for at least 55 ventilator beds (60 patients x 335 average length of stay = 20,100 vent bed days ÷ 365 days = average daily census of 55 patients). As shown below, North Carolina only has 90 ventilator beds statewide.

Of the potential sites for care, the nursing facility setting represents the optimal setting for patients requiring PMV given that it can provide the most appropriate care in the lowest cost setting.[1]

Ventilator-dependent patients are best served in a setting that is dedicated to the care and treatment of this patient population. Research suggests that medical care for ventilator-dependent patients may be superior in a long-term nursing facility ventilator unit. In particular, the ability to successfully wean a patient from ventilator care has been linked to the healthcare provider's skill and experience with patients with PMV. Moreover, nursing facility ventilator-dependent care is a fraction of the cost of the same care provided in the acute care hospital setting.

UNC and other providers recognize that the nursing facility setting is optimal for these patients and as such currently refers its ventilator-dependent patients to nursing facilities offering these specialty services. However, given the limited availability of these services, placing these patients in the optimal nursing facility setting is often difficult.

At present, there are only four skilled nursing facilities that provide ventilation services in North Carolina, one of which, Vidant Pungo Hospital, is planning to cease offering the service as of April 1, 2014. At that point, there will only be 90 ventilator beds available throughout the state or only 0.2 percent of total nursing facility beds in North Carolina (90/46,405 = 0.2 percent).

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[1] Other potential settings include: long-term care hospitals (LTCHs), and rehabilitation facilities. While patients may also receive care at home, the 24-hour nursing care that is required for home ventilation is often cost-prohibitive. Relative to ventilator-dependent patients, LTCHs only admit patients who have a reasonable chance of being weaned from mechanical ventilation and have rehabilitation potential. Keeping ventilator-dependent patients whose use has become more chronic in nature has become cost-prohibitive for LTCHs. Moreover, LTCHs present an access issue for the underserved population as they do not typically accept Medicaid patients and only very few self-pay/no-pay patients. In addition, LTCHs will not accept Medicare patients whose Medicare inpatient days have expired. Ventilator-dependent patients have different needs and resource consumption patterns than other patients in rehabilitation facilities. Of note, patients with PMV do not require the intensive rehabilitative therapy provided in rehabilitation facilities.

Facility Name	*Facility County*	*Total Licensed Beds*	*Ventilator Beds*
Kindred East	Guilford	23	23
Oak Forest Health and Rehabilitation	Forsyth	170	18
Valley Nursing Center	Alexander	183	49
Total		**376**	**90**

Source: http://www.ncdhhs.gov/dhsr/nhlcs/pdf/ventbedslist.pdf
Note: Avante at Charlotte is listed on the N.C. Division of Health Service Regulation website as a provider of ventilator beds. However, a phone call to that facility confirmed that they do not provide the service.

These few existing ventilation units in North Carolina operate at such high occupancy levels that transferring patients to them is difficult and often impossible. Historically, UNC referred ventilator-dependent patients to Blue Ridge Health Care Center in Wake County. However, that facility no longer offers ventilator services after a change in ownership. Thus, in instances where it is feasible for UNC to discharge a patient to a nursing facility with ventilator beds, the transfer requires long transport, which could be avoided if these specialty services were developed as needed throughout the state.

In an attempt to remedy this issue, UNC submitted a Certificate of Need (CON) application for a 90 bed skilled nursing facility, which included 10 ventilator beds, in response to a need determination for 90 additional skilled nursing beds in Chatham County in the *2013* SMFP. UNC's application was found conforming on each of the review criterion, but was denied on the basis of the comparative review. In comparing the competitive applications, the CON Section did not use ventilator beds as a factor in the comparison, and given the low number of facilities with ventilator beds, it is likely that such a comparison has not been used in the past. The CON Section historically performs a comparative review of applications which rewards applicants with lower overall costs and charges and higher access to Medicaid patients, and did so in its review of the Chatham County skilled nursing bed applications. Due to the complexity and intensity of ventilator services compared to general skilled nursing care, providers of ventilator beds are viewed unfavorably in such reviews. Similarly, ventilator beds tend to serve a greater percentage of Medicare patients on average than general skilled nursing beds which is also viewed unfavorably. Given these factors, applicants proposing ventilator beds are at a distinct disadvantage in competitive reviews. Since most CON applications for new nursing beds are reviewed competitively, UNC believes that the same challenges will persist in future reviews and that the most effective method of addressing this unmet need is the development of the proposed policy.

A similar situation existed in Wake County and was remedied by the SHCC through the approval of a petition by WakeMed for additional NICU beds in the *2009 SMFP*. Like UNC's current proposal, WakeMed cited the unmet need for a specialized bed type which was ignored in the Acute Care Bed Need Methodology process and disadvantaged in competitive CON reviews because of the high cost and specialized nature of the service.

While the unmet need cited in WakeMed's petition was clearly specific to Wake County and thus, a special need adjustment was warranted, the unmet need for ventilator beds in nursing facilities is much broader. As discussed above, there is a lack of ventilator beds statewide and the need is likely to grow over time. Special need adjustments result in a one-time allocation which would not allow individual providers to determine the needs for their patients over time. Moreover, special need adjustments are typically assigned to a particular county or service area. The need for ventilator services is not confined to a particular county or service area. As such, a broader solution is necessary.

While a specific need methodology might provide a mechanism to control the supply of these beds, it does not seem feasible to develop a statewide methodology that accurately captures the need for ventilator beds. Utilization related to these patients is spread across multiple sites of care as the shortage of these beds does not allow the care to occur in the optimal skilled nursing setting. Given this issue, UNC does not believe an *SMFP* need methodology can accurately project the needs for this population. As such, a statewide policy that encourages the specific development of ventilator beds, exclusively for ventilator patients, is needed.

UNC believes that multiple providers across the state could potentially recognize and successfully demonstrate the need for ventilator beds if provided the opportunity to do so. Based on UNC's experience in trying to place ventilator dependent patients in skilled nursing facilities, there is a great need for additional capacity in North Carolina. If not for the statewide dearth of for ventilator bed capacity in nursing facilities, these patients would have been discharged earlier from the acute care setting, reducing healthcare costs, and allowing them to receive their care in an optimal setting.

REASON FOR THE REQUESTED ADJUSTMENT

The current nursing care bed need methodology, found in Chapter 10 of the *2014 SMFP*, excludes ventilator beds as well as other specialized bed types from the state planning inventory. This exclusion implicitly recognizes the specialized nature of the services for ventilator dependent patients in these beds. However, there is no mechanism for adding ventilator beds outside of the standard methodology. Other states, specifically New York, plan for the need of ventilator beds separately from general skilled nursing beds. As discussed above, ventilator beds are a vital service in decline in North Carolina. Moreover, providers of ventilator beds are disadvantaged in competitive Certificate of Need (CON) reviews due to the specific population they serve as well as the higher charges and costs of the service relative to general skilled nursing care. As such, UNC proposes that the SHCC create a new policy that will enable providers to develop additional ventilator beds.

The proposed policy will enable and encourage nursing care facilities to develop needed ventilator beds throughout the state. Ventilator beds offer substantial cost savings over other sites of care in addition to the clinical benefits to patients of a dedicated unit with experience treating PMV patients. By UNC's estimates, ventilator beds save over $2,100

per patient day in comparison to acute care beds. This policy, thus, works towards national goals for greater healthcare value as well as statewide concern with spending and quality related to the Medicaid program, as evidenced by the work of the Medicaid Reform Advisory Group of the North Carolina State Legislature.

The proposed policy allows for an ongoing response to the need for these services across the state as individual providers identify patient needs. Providers that are willing to offer this vital service will be able to do so as a complement to their existing general nursing care beds and not by reducing the number of those beds. Currently, providers in this situation would need to wait until a need determination for additional nursing care beds is generated in their county and then file a CON application to develop ventilator beds under that need determination. However, providers of ventilator beds are disadvantaged in competitive CON reviews.

As stated in the language for the proposed policy, any beds created under the proposed policy must be used exclusively for ventilation patients. This restriction will serve a three-fold purpose. First, it will prevent the unnecessary development of general nursing care beds which have not been identified as needed by the standard methodology. Second, it will encourage the development of needed ventilation beds by allowing those providers who can meet the need to propose and demonstrate through a CON application that they can effectively do so. Finally, unlike the status quo, which discourages existing providers from initiating the service and thereby restricting their general use beds, it will not discourage existing providers from offering the service, because the approved ventilator beds will be considered separately from the balance of the facility's beds.

ADVERSE EFFECTS IF PETITION IS NOT APPROVED

If not approved, access to ventilator beds will continue to be limited in North Carolina. Patients requiring ventilator services will have limited access to the optimal care setting and instead receive care in acute care hospitals ICUs, LTCHs, or rehabilitation facilities. Patients will remain in acute care hospital ICUs, potentially for months at a time, until they can be placed in a more appropriate setting. These patients will not be receiving optimal care that would be available to them in a ventilator bed in a nursing care facility. Acute care hospital ICU capacity will continue to be constrained by these patients and less available for critically ill patients. Finally, the overall healthcare system will continue to incur unneeded costs as these patients will receive care in hospital ICU, LTCHs, or rehabilitation facilities when it could be provided in a lower cost setting.

ALTERNATIVES CONSIDERED

File a Petition for a Methodology Change

As utilization related to ventilation patients is spread across multiple sites of care, it does not seem feasible to develop a statewide methodology that accurately captures the need for ventilator beds. As such, a statewide policy that encourages the specific development of ventilator beds, exclusively for ventilator patients, is needed.

File a Petition for a Special Need Adjustment

Special need adjustments result in a one-time allocation which would not allow individual providers to determine the needs for their patients over time. Moreover, special need adjustments are typically assigned to a particular county or service area. The need for ventilator services is not confined to a particular county or service area. As such, a broader solution is necessary.

Add Ventilator Beds through Current Certificate of Need Process

The need for ventilator beds will not be addressed through individual county need determinations and the unlikely possibility that ventilator providers will awarded beds in competitive CON review. Providers of ventilator beds are disadvantaged in competitive CON reviews and the SHCC recognized a similar dynamic in granting a special need adjustment for NICU beds in Wake County, given the specialized nature of that service.

Develop Acute Care or LTCH bed capacity

In order to continue to care for ventilator patients, UNC and other acute care providers could develop additional acute care or LTCH beds. However, as explained in detail above, these types of settings are not the ideal locations for the care of these patients, particularly due to the much higher financial cost to the healthcare system. It should be noted, however, that the current shortage of ventilator beds is quite possibly inflating the need for acute care beds statewide as patients often remain in those beds for months at a time.

UNNECESSARY DUPLICATION

Providers are currently able to designate any nursing care facility bed as a ventilator bed. However, the lack of beds in the state and growing need for those services indicates that providers are unwilling to add ventilator services at the expense of reduced capacity for general skilled nursing patients. As such, UNC does not believe the proposed policy will lead to unnecessary duplication of these services. Given the complexity of the service and resources required, providers will only develop ventilator beds if they are committed to the service and the beds are truly needed. Providers will

not develop unnecessary capacity in part because any beds developed under this policy will be exclusively used for ventilator patients. Finally, providers will be required to apply for a CON in which they will be required to demonstrate the need for the proposed ventilator beds, thus further ensuring against unnecessary duplication.

BASIC PRINCIPLES

Safety and Quality

The proposed policy change will enable the development of needed ventilator bed capacity statewide. Ventilator patients are best served by care in skilled nursing facilities with a service dedicated to the care and treatment of this patient population. Research suggests that medical care for ventilator-dependent patients may be superior in a long-term nursing facility ventilator unit. In particular, the ability to successfully wean a patient from ventilator care has been linked to the healthcare provider's skill and experience with patients with PMV. Ventilator-dependent patients have a decreased risk of acquiring nosocomial infections and increased quality of life in skilled nursing settings.

Access

There is currently limited access to ventilator beds across North Carolina, as evidenced by the months-long waits for patient placement experienced by UNC. Moreover, some Medicare and Medicaid patients are difficult to place in alternative care settings like LTCHs. As such, the proposed policy will increase access overall for this vital service and, in particular, to underserved patient populations.

Value

The proposed policy change will further the ability of the healthcare system in the state to provide greater value to patients and payors. Of the potential sites for care, the nursing facility setting represents the optimal setting for patients requiring PMV given that it can provide the most appropriate care in the lowest cost settings. Nursing facility ventilator-dependent care is a fraction of the cost of the same care in an acute care ICU, which is where many patients wait until a ventilator bed is available.

CONCLUSION

In conclusion, UNC requests that the SHCC approve the petition to add a new policy that will enable providers to develop additional ventilator beds in skilled nursing care facilities. The proposed change will encourage and enable providers to develop a vital service that is needed statewide.

Thank you for your consideration.