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PETITION

Petition for Special Need Adjustment for Nursing Care Beds in Nash County

PETITIONER

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STATEMENT OF REQUESTED ADJUSTMENT

LifeCare Hospitals of North Carolina (LifeCare) respectfully petitions the State Health Coordinating Council (SHCC) to create an adjusted need determination for 40 additional nursing care beds in Nash County in the *2016 State Medical Facilities Plan.* In order to ensure that the beds do not duplicate services already available in the area, while providing access to the target population, LifeCare suggests that the following language be added to the need determination, if approved:

> *In response to a petition from LifeCare Hospitals of North Carolina, the State Health Coordinating Council approved an adjusted need determination for 40 nursing care beds in Nash County. Applicants must demonstrate that the beds will be available to patients in all of the following categories of conditions/needs: ventilator-dependency; tracheostomies; tracheostomies with bi-level positive airway pressure; bariatric status with tracheostomies; bariatric status over 300 pounds; IV antibiotics administered more than once daily; total parenteral nutrition; complex wounds; dialysis; ventilator dependency and/or tracheostomies combined with dialysis. Further, applicants shall not be required to demonstrate that the patient populations they propose to serve in these beds live within any particular distance of the facility.*

Please note that it is LifeCare's intent that the language above require applicants to be willing to take patients in all of the categories, although a single patient may have only one of the conditions listed.

BACKGROUND

LifeCare operates a 50-bed long term care hospital (LTCH) in Rocky Mount in Nash County. LTCHs were created by Congress in the 1980s to facilitate prompt discharge of medically complex patients from acute care hospitals, in an effort to decrease Medicare spending. LTCHs are designed to provide highly specialized, acute care for critically chronically ill patients who are clinically complex, have multiple acute or chronic conditions (co-morbidities), and thus require long hospitalizations. LTCH patients average a length of stay of 25 days or more, along with specialized, twenty-four hours a day/seven days a week treatment and/or therapeutic intervention. While the needs of many within the LTCH patient population no longer warrant care in an expensive critical/intensive care setting, the patient needs are too complex and resource-intensive to be adequately met on a general medical/surgical unit, and the patient acuity level is too high for any post-acute milieu. Thus, the LTCH serves as a vital part of providing care to a unique subset of patients.

A similar set of challenges that led to the creation of the LTCH model also exists for LTCH patients that no longer need acute care, but continue to need ongoing nursing care. Once the acute condition has subsided, LTCH patients are typically discharged to home or a post-acute setting, such as skilled nursing facilities. Just as the discharge of patients from a general acute care hospital to an LTCH is a cost-effective, clinically appropriate method for their care, so, too, is the discharge of patients from a LTCH to a skilled nursing facility. For a substantial subset of these patients, however, discharge to a skilled nursing facility (SNF), though clinically appropriate, is impossible. Specifically, patients with certain conditions are not accepted by the majority of skilled nursing facilities in the entire state, even though they could otherwise be treated in the nursing facility. These include patients with the following conditions/needs:

- Ventilator dependency
- Tracheostomies
- Tracheostomies with bi-level positive airway pressure (BiPAP)
- Bariatric patients with Tracheostomies
- Bariatric patients over 300 pounds
- IV antibiotics administered more than once daily
- Total Parenteral Nutrition
- Complex wounds
- Dialysis
- Ventilator dependency and/or Tracheostomies combined with dialysis.

LifeCare does wish to note that one SNF in Nash County does accept patients with tracheostomies; however, that facility is often full, and the percentage of patients with tracheostomies as their only condition (i.e. not combined with bariatric status or dialysis, etc.) is small. Given the nature of LTCH care, a significant number of LifeCare's patients have one or more of these conditions, as detailed below. As a result, patients who would otherwise be discharged to a SNF either remain at LifeCare, or, if possible, are discharged to a distant SNF that will accept patients with these conditions. This creates several potential issues, such as:

- Occupying higher cost LTCH beds when lower cost nursing beds would be appropriate;
- Preventing the admission of patients from a general acute care setting into the LTCH, resulting in unnecessary costs in the general acute care setting; and,
- Necessitating extensive travel for patients and families if an accepting SNF is found at a distance.

One additional background issue drives the need for this petition. For LTCH patients, The Centers for Medicare and Medicaid Services (CMS) currently reimburses under a separate LTCH PPS; however, as of October 1, 2016, payment under the LTCH PPS will be limited to patients that either a) had at least a three-day length of stay in a critical/intensive care unit, or; b) has experienced 96 hours or more of ventilator care. LifeCare expects these changes to have multiple impacts, including increasing the acuity of its (already acute) patient population and making post-acute placement even more challenging, particularly for patients who were not successfully weaned off their ventilators.

REASON FOR THE REQUESTED ADJUSTMENT

As described in the section above, there is a subset of patients with certain conditions who can be cared for in a lower cost nursing care setting once their condition has subsided and acute care is no longer needed, yet LifeCare (and other providers) struggle to place these patients in SNFs because they still have unique needs which are beyond the capabilities of most SNFs. The following discussion explains the need for the proposed 40 beds to serve these patients. It should be noted that most electronic patient record systems make it difficult to identify a precise number of patients that fit into one of these categories who had difficulty finding a nursing facility; however, LifeCare believes the numbers presented below are conservative estimates, as they include only those patients that could be verified as falling into one of the categories listed above.

Lack of Available Ventilator Beds

As the SHCC is aware, there are currently only three skilled nursing facilities in the state that accept ventilator dependent patients: Kindred Hospital in Greensboro, Oak Forest Health and Rehabilitation in Winston-Salem, and Valley Nursing and Rehabilitation Center in Taylorsville. Although occupancy specific to the ventilator beds is not available publicly, according to their license renewal applications, Kindred and Oak Forest maintain high overall occupancies (near or above 90 percent), and, based on difficulty placing patients, Valley Nursing's ventilator beds are often full as well. In total, these facilities operate 90 beds for ventilator-dependent patients. Even if one of these facilities has a ventilator bed available, given their locations in western North Carolina, the distance from Nash County and the eastern North Carolina region represents a significant barrier to patients and their families.

The need for additional ventilator beds is well-known to the SHCC and the Agency. In response to UNC Hospitals' 2014 petition for an additional nursing facility policy, the Agency replied[1] that while additional ventilator beds are needed, a new policy was unwarranted given that a provider can petition for a special need determination for ventilator beds. Please note that the Agency Report also recognized the particular need in eastern North Carolina. While LifeCare is not proposing to operate the nursing care beds solely for ventilator patients, the proposed beds would be available to ventilator patients, as well as patients with numerous other conditions described above.

LifeCare admits patients from UNC Hospitals and its affiliates, including Rex Hospital and, within Rocky Mount, Nash Health Care. Based on UNC Hospitals' petition, it identified a need for 55 nursing care beds for its ventilator patients alone. Given this need, which does not include patients with any other conditions or from any other hospitals, LifeCare believes there is a need for at least 40 nursing care beds to serve these patients.

Need for Nash Health Care Patients

LifeCare works closely with Nash Health Care (NHC) in Rocky Mount, accepting many of its patients needing long term acute care. According to data from NHC, it treats more than 700 patients each year that fall into one of these categories, qualify clinically for skilled nursing care, but cannot be transferred because of a lack of a SNF able or willing to accept the patient. The most prevailing need for

[1] http://www2.ncdhhs.gov/dhsr/mfp/pdf/2014/ltbh/0417_nh_unc_agencyrep.pdf

NHC is dialysis patients and those needing multiple daily IV antibiotic treatments. Assuming a SNF ALOS of 23 days for these patients (see discussion below regarding ALOS assumption), these patients alone generate a need for 49 nursing care beds, as shown in the following table. Please note that these are patients that would have been transferred directly from NHC to a SNF, and do not include patients that were transferred to LifeCare for LTCH care.

Total patients	700
x ALOS of 23 days =	
Total SNF patient days	16,100
÷ 365 days =	
ADC	44.1
÷ 90% occupancy	
Total bed need	**49**

Need for LifeCare Patients

LifeCare examined its own patient population to determine the need for nursing care beds to serve patients in one of these categories. In 2014, approximately 220 patients were candidates for skilled nursing care after their acute condition waned, but they were unable to be transferred to a SNF due to one or more of the listed conditions. Based on the first six months of 2015, LifeCare expects to have a similar number of patients unable to be transferred this year as well.

To determine the number of nursing care beds these patients could utilize, one needs to know the expected average length of stay, or ALOS for the patients. The ALOS varies widely based on multiple factors, most notably the patient's condition. For instance, patients with ventilator dependency often have lengths of stay approaching one year or more in a skilled nursing facility (see, e.g. Patient Case 1 below and UNC Hospitals' 2014 petition relating to ventilator nursing care beds, in which a SNF ALOS of 335 days was assumed[2]). Patients with another condition, such as the need for multiple daily doses of IV antibiotics, may need nursing care for a much shorter time. Lengths of stay also vary depending on whether the patient needs only short-term rehabilitation care or long term/permanent care. According to the National Care Planning Council, the nationwide ALOS for long term nursing home patients is approximately 270 days, and the ALOS for a short term rehabilitation (Medicare) patient is approximately 23 days[3]. LifeCare believes that the shorter ALOS is more

[2] http://www2.ncdhhs.gov/dhsr/mfp/pets/2014/ltbh/0306_nh_unch.pdf
[3] http://www.longtermcarelink.net/eldercare/nursing_home.htm

reasonable (and more conservative), given that it would not expect to house permanent patients and does not intend to replace existing local SNFs. While LifeCare recognizes that some patients' conditions may require long term placement, assuming the shorter length of stay results in a more conservative bed need. As shown in the table below, based solely on LifeCare's patients, the total need for nursing care beds for patients with these conditions is 15 beds.

Total patients	220
x ALOS of 23 days =	
Total SNF patient days	5,060
÷ 365 days =	
ADC	13.9
÷ 90% occupancy	
Total bed need	**15**

Thus, based on projections from Nash Health Care and LifeCare, there is a need for at least 64 nursing care beds in Nash County for these patients, not including the additional 55 beds needed for UNC Hospitals' ventilator patients.

Patient Examples

While the number of patients described above is an important justification for the petition, it is also vital to understand the patients behind the numbers. The following are examples of real patients[4] who would have benefitted from the availability of nursing care beds in Nash County to care for patients with the conditions described in this petition.

Patient Case 1: Ms. Y

A patient, Ms. Y, was admitted to LifeCare Hospitals of North Carolina in August 2012 from Vidant Medical Center with Acute Respiratory Failure requiring ventilator support. The patient's hospital course was complicated by multiple co-morbidities including: Dysphagia, Obesity Hypoventilation Syndrome, Coronary Artery Disease, Chronic Obstructive Pulmonary Disease, and Chronic anemia.

After multiple failed vent weaning attempts, Ms. Y was deemed a "chronic vent" patient and attempted referrals to Skilled Nursing Facilities began in April 2013. At that time, LifeCare attempted to refer Ms. Y to the four SNFs accepting

[4] Names have been altered to maintain HIPAA compliance.

ventilator patients: Pungo District Hospital, Valley Nursing and Rehab, Kindred of Greensboro, and Oak Forest. None of the facilities were able to accept Ms. Y. The reasons of denials included: no beds available, unable to accept due to morbid obesity (the patient weighed 304 pounds), mobility status, and no active Medicaid (although the patient did eventually receive approval for Medicaid).

Finally, after a 342 day length of stay at LifeCare, space became available and the patient was transferred to Valley Nursing and Rehab in Taylorsville, which is approximately 250 miles from the patient's primary residence.

While placement in a SNF was eventually possible, the length of time spent waiting for an available bed, as well as the distance from the patient's home to the accepting facility demonstrate that additional beds are needed, in eastern North Carolina, to care for these patients.

Patient Case 2: Ms. Q

Ms. Q was admitted to LifeCare Hospitals of North Carolina in November 2014 from a SNF in Scotland County with Providencia stuartii infected sacral wound. Patient received aggressive wound care and intravenous antibiotics throughout her stay. The patient's hospital course was complicated by uncontrolled diabetes, leukocytosis with elevated temperature, bedridden status, and hemodialysis.

In January 2015 the physician felt the patient clinically stable for discharge from LifeCare Hospitals of NC and referral to skilled nursing facilities was initiated. Attempts were made to refer the patient to facilities in 33 counties. Three SNFs initially offered a bed to the patient; however, none of them were ultimately able to accept the patient because the closest dialysis facilities, operated by one of the two largest outpatient dialysis providers in the state, would not accept non-ambulatory (i.e. stretcher-bound) dialysis patients.

The Nephrologist following the patient at LifeCare Hospitals of NC became involved, and helped the patient be accepted at Roanoke Landing in Plymouth, with hemodialysis provided by a local dialysis facility. The patient remained at LifeCare for 90 days and discharged in mid-February, 2015.

In this case, the length of stay at LifeCare was more than 30 days longer than necessary, dictated not by the patient's condition, but by the lack of available local facilities that could provide dialysis care for bed-ridden SNF patients. Approval of the petition would pave the way for development of a facility in Nash County that would accept long term care patients needing dialysis treatment, including those that are not ambulatory.

Patient Case 3: Ms. K

Ms. K was admitted to LifeCare Hospitals of North Carolina in November 2013 from Vidant Medical Center with Acute Respiratory Failure requiring ventilator support. The patient's hospital course was complicated by multiple co-morbidities including: Morbid Obesity, Chronic Anemia, Coronary Artery Disease, and bedridden status.

After multiple failed vent weaning attempts, Ms. K was deemed a "chronic vent" patient and referrals to Skilled Nursing Facilities began in February 2014. At that time, Ms. K was referred to the all three of the long term vent facilities in North Carolina. Reasons of denials included: inability to accept due to morbid obesity (patient weighed 454 pounds) and non-ambulatory status.

Skilled Nursing Facility referrals were extended to out-of-state facilities. The patient was eventually accepted at Wyndridge Health and Rehab in Crossville, Tennessee, which is approximately 526 miles from the patient's primary residence. The patient remained in our hospital for 118 days and was discharged in March 2014.

In the case of Ms. K, given the expectation that neither her ventilator dependency nor her morbid obesity would change, the only alternative was to refer her to a facility many hours away from home. LifeCare believes this type of care should be available to patients in North Carolina, particularly those in the eastern part of the state.

Patient 4: Mr. Z

Mr. Z was admitted to LifeCare Hospitals of NC in June 2015 from Wilson Medical Center with Acute and Chronic Respiratory Failure. The patient's hospital course has been complicated by tachycardia, leukocytosis, thrombocytopenia, and pulmonary fibrosis with acute exacerbation.

The patient's acute status has subsided, yet he continues to be an inpatient at LifeCare Hospital due to high oxygen demand. Patient is on six liters high flow oxygen via nasal cannula at rest but requires 10 to 12 liters high flow with movement. Patient resides in Wilson County and there are no Skilled Nursing Facilities in that county that will accept 10 to 12 liters high flow oxygen.

The patient currently has a length of stay at LifeCare Hospitals of 32 days. Patient will remain at LifeCare Hospital of North Carolina at least until oxygen

> *is weaned to eight liters with movement. Even then there is no guarantee that Mr. Z will be able to be placed, as only one facility in Nash and Edgecombe counties will accept patients on eight liters of oxygen.*

If nursing care beds were available for patients with conditions described in this petition, LifeCare would be able to transfer Mr. Z to that facility immediately, providing him and the healthcare system more cost-effective care close to home.

Summary

LifeCare believes that the data presented above clearly show the need for 40 nursing care beds to treat patients with one or more of the listed conditions. Although LifeCare recognizes that approval of the petition is not a guarantee that it would receive the CON for the nursing care beds, it would like the SHCC to understand that LifeCare believes it can develop the beds in a cost-effective manner. If approved, LifeCare would develop the beds on its existing campus, where they would be co-located with multiple support services. As such, these services would not need to be duplicated for the nursing care beds. In addition, the beds would likely be located in existing space that could be renovated to accommodate the beds without requiring new construction.

ADVERSE EFFECTS IF PETITION IS NOT APPROVED

If not approved, access to skilled nursing care beds for certain medically complex patients will continue to be limited across North Carolina, particularly in Nash County and the eastern part of the state. Patients with ventilator dependency, tracheostomies, weight over 300 pounds, etc. will have limited access to the optimal care setting. Patients will remain in higher cost settings, potentially for months at a time, until they can be placed in a more appropriate lower cost setting. These patients will not be receiving optimal care that would be available to them in a nursing care facility. Acute care hospital and LTCH capacity will continue to be constrained by these patients and less available for acutely ill patients. Finally, the overall healthcare system will continue to incur unneeded costs as these patients will receive care in hospitals or LTCHs when it could be provided in a lower cost setting.

ALTERNATIVES CONSIDERED

LifeCare considered several alternatives to petitioning for SNF beds in Nash County. First, maintaining the status quo was considered, but given the ongoing need for skilled nursing beds to serve these patients in a lower acuity setting, LifeCare determined that it should file this petition.

Next, LifeCare considered applying for a CON for nursing care beds under Policy NH-1, which allows the conversion of up to 10 beds to from acute care to nursing care. However, this alternative is not feasible for several reasons. First, LifeCare's 50 LTCH beds currently operate at around 80 percent occupancy; thus, converting any of them over to nursing care would prevent LifeCare from meeting the need for its long term acute care patients. Second, Policy NH-1 requires hospitals to be located in a non-metropolitan county, as defined by the U.S. Office of Management and Budget. Although LifeCare believes that Nash County is essentially rural, it does not meet the definition of non-metropolitan, and thus, could not apply for nursing care beds under this policy. For these reasons, LifeCare rejected its consideration of Policy NH-1.

Next, LifeCare considered a request for more or fewer than 40 beds. As shown above, considering the need at LifeCare, Nash Health Care and UNC Hospitals alone, 119 nursing care beds could be filled on an annual basis. LifeCare is aware that need determinations for nursing care beds are typically for 90 beds or more to allow the development of new providers. However, given the surplus of beds in Nash County, even though most of those beds are not available to any of these patients, LifeCare determined that a lower, more conservative number would be more appropriate at this time. After consideration of the need for a sufficient number of beds to be financially feasible, LifeCare determined that 40 beds allowed for the development of a feasible service that would also appropriately serve a portion of the significant need that exists for this care.

Given that none of the other potential alternatives would result in the same benefits to patients and the healthcare system overall, LifeCare believes that its petition represents the most effective alternative.

EVIDENCE THAT THE PROPOSED CHANGE WOULD NOT RESULT IN UNNECESSARY DUPLICATION

From the discussion above, it is clear that approval of this petition would not result in unnecessary duplication, because there are no facilities in Nash County that provide skilled nursing care to the majority of these patients. Moreover, only three SNFs in the entire state current accept ventilator-dependent patients. As explained above, the intent of this petition is not to enable the development of skilled nursing beds that would compete with the existing SNFs in the area; LifeCare works with and discharges patients to those SNFs on a regular basis. The petition would, however, enable the development of SNF beds to serve a patient population that currently must remain in the LTCH after their acute

condition has subsided, due specifically to the lack of existing resources to care for these patients in a post-acute (i.e. SNF) setting.

In addition, although the *Proposed 2016 SMFP* does show a small surplus of SNF beds in Nash County (16), that number is considerably lower than the surplus in previous years due to the recent closure of a 60-bed SNF facility in Nashville. In fact, the Nursing Home Workgroup is currently developing a revised methodology for use in future *SMFPs* which shows a **deficit** of SNF beds in Nash County according to materials distributed at the July 29th meeting. Moreover, and to the point of this petition, **none of the existing beds in Nash County serve the vast majority of patients** that are the subject of this petition.

Finally, due to the special nature of the care provided at LifeCare, which would also be reflected in the patients served with the proposed SNF beds if LifeCare is able to develop them, LifeCare's patient origin shows that, unlike SNF facilities that traditionally serve patients close to home, the majority of its patients are not from Nash County, but from a broader region:

LifeCare LTCH Beds FFY 2014 Patient Origin by County

County	*Percentage of Patients*
Nash	21%
Edgecombe	11%
Halifax	12%
Wayne	9%
Pitt	7%
Wilson	6%
Wake	4%
Other counties and states	30%

In contrast, a review of data from existing Nash County SNFs shows that, on average, approximately two-thirds of their patients are from Nash County, with over 80 percent originating from Nash and Edgecombe counties. Therefore, even if the proposed beds were serving patients that could be served in existing SNFs, any impact would be spread among many facilities in multiple counties. However, since there are no SNFs in any of these seven named counties providing care for the vast majority of the types of patients described in the petition, none of the patients could have been cared for in SNFs in these counties, and LifeCare's petition will not *duplicate* existing services, and will thus not result in *unnecessarily* duplication.

LifeCare has included proposed language for the need determination in order to ensure that, if approved, the allocation of 40 additional nursing care beds will not result in unnecessary duplication. In particular, it has recommended that the beds can only be approved for facilities willing to take patients with any one or more of the conditions listed; that is, the approved facility cannot single out one or two conditions of patients that it would accept, but must be willing and able to care for all of the listed conditions. In addition, LifeCare recommends that the geographic limitation of 45 miles, which is currently the standard in the CON rules for nursing care beds. While this standard is important to ensure care is available locally for standard nursing care beds, given the unique nature of the patients to be treated in the beds requested in this petition, LifeCare believes that removing this limitation would help to prevent unnecessary duplication of services available locally.

EVIDENCE OF CONSISTENCY WITH THE THREE BASIC PRINCIPLES

LifeCare believes the petition is consistent with the three basic principles: safety and quality, access, and value.

SAFETY AND QUALITY

As noted above, the proposed adjusted need determination would enable the development of 40 beds that will serve medically complex patients that currently lack sufficient access to nursing care beds. These patients can be optimally cared for in a skilled nursing facility with increased quality of life. For example, ventilator patients who do not have an acute condition are best served 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 prolonged mechanical ventilation. Ventilator-dependent patients have a decreased risk of acquiring nosocomial infections and increased quality of life in skilled nursing settings. Similarly, patients with the other listed conditions will benefit from the care received by a clinical staff dedicated to a limited set of issues, whose goal is improving the patient and discharging the patient home, if possible, or to another long term care setting. As such, the proposed service would improve the safety and quality of care provided to these patients.

ACCESS

As explained throughout this petition, there is currently limited access to nursing care beds for the medically complex patients listed above, as evidenced by the months-long wait for patient placement experienced by LifeCare, NHC, and UNC Hospitals. The proposed adjusted need determination will increase access for patients of these facilities as well as more broadly in Eastern North Carolina, which has no ventilator beds at this time, and few beds serving any of the other types of patients as well.

VALUE

The proposed adjusted need determination will further the ability of the healthcare system in the state to provide greater value to patients and payors. A skilled nursing facility bed represents the optimal setting for patients who no longer need acute care, but continue to need ongoing nursing care for the complex medical conditions identified in this petition. Skilled nursing facility care is a fraction of the cost of the same care in a hospital or LTCH, which is where many patients wait until a skilled nursing care bed is available. Furthermore, LifeCare can develop the requested beds in a cost-effective manner on its existing campus where they would be co-located with multiple existing support services.

CONCLUSION

In conclusion, LifeCare requests that the SHCC approve the petition for an adjusted need determination for 40 nursing care beds with language requiring that applicants demonstrate that the beds will be available to patients with one or more of the identified medical conditions/needs. The proposed change will enable the development of a vital service that is greatly needed.

Thank you for your consideration.