

Public Hearing Comments

ESRD Policy Petition

Presented by Timothy Walsh, Senior Financial Analyst

Good afternoon. My name is Tim Walsh and I am here with David Holmes on behalf of Liberty Healthcare and Rehabilitation Services (“Liberty”). Liberty will be submitting a petition to request a Policy to be added to the 2023 SMFP, proposed as Policy ESRD-4, which will allow for the development or expansion of a kidney disease treatment center at a skilled nursing facility.

Background

Liberty is an experienced family-owned company that has been helping people manage their healthcare needs for more than 145 years. Our principal owners, Sandy and Ronnie McNeill, are the fourth generation of McNeill’s immersed in the healthcare industry. Today, Liberty owns, operates, or manages thirty-seven nursing homes, eight assisted living facilities, two independent living communities, six CCRC’s, a home health and hospice company, two pharmacies, a medical equipment and IV therapy company, a healthcare management company, and a Medicare Advantage plan healthcare insurance company. Liberty strives to be a dynamic healthcare provider while exhibiting the highest ethical values and providing quality, compassionate care and excellent service to all individuals whose care we have been entrusted with. The current structure for dialysis residents residing in nursing homes is not allowing us to provide quality health care services to the residents and communities we serve.

Reasons for the Proposed Adjustment:

Liberty has determined that there are unique circumstances throughout the state, specifically in nursing homes, that necessitate the new ESRD Policy proposed. Approval of this petition will provide Liberty and other SNF’s throughout the State the opportunity to submit a

Certificate of Need (CON) application to help address the needs of a growing nursing home population.

Liberty justifies the proposed new Policy based on several factors, including:

- Advancing American Kidney Health initiative
- Basic Principles outlined in Chapter 9 of the SMFP
- Innovative dialysis technology
- CKD and ESRD most common in people aged 65 years and older
- Transportation to outpatient (offsite) dialysis clinics are challenging for nursing home facilities and residents
- Unsustainable contracting models with dialysis centers
- CON regulation of dialysis facilities in other states
- Liberty Dialysis Experience

Advancing American Kidney Health initiative

In 2019, the Administration launched the Advancing American Kidney Health Initiative, which was designed to advance American kidney health. As part of the Initiative, the President introduced Executive Order 13879, which directed the Department of Human Services (HHS) to take bold action to transform how kidney disease is prevented, diagnosed, and treated within the next decade. A new Policy to the SMFP allowing the development or expansion of a kidney disease treatment center at a skilled nursing facility will help meet the goals set forth in the Executive Order.

Basic Principles outlined in Chapter 9 of the SMFP

The Basic Principles of Chapter 9, End-Stage Renal Disease Dialysis Facilities, of the 2022 SMFP provides (in part) the following:

- As a means of making ESRD services more accessible to patients, one goal of the N.C. Department of Health and Human Services is to minimize patient travel time to and from the facility.
- The State Health Coordinating Council encourages applicants for dialysis stations to provide or arrange for: home training and backup for facility-based patients suitable for home dialysis or in a facility that is a reasonable distance from the patient's residence;

This Policy would give access to ESRD services more accessible to nursing home residents patients as well as encouraging home dialysis that is a reasonable distance from the patients residence.

Innovative dialysis technology

If this Petition is approved, Liberty plans to ensure the highest quality of care is being provided to nursing home ESRD patients using leading edge technology. Liberty plans to use a state-of-the-art dialysis machine, which is designed to offer a better experience for patients and providers. Some of the innovative features include:

1. Wireless Connectivity, which allows for two way data communication to automatically send treatment data to the cloud, facilitating the efficient sharing of information with the patient's medical team
2. Touchscreen Guidance, which comes with animations and conversational instructions for a user-friendly experience;
3. Sensor-based automation, which help to automate much of the setup, treatment, management, and maintenance;
4. Dialysate on demand, which purifies water and produces dialysate in real-time;
5. Mobility, as all you need is an electrical outlet and tap water

6. Automatic, regular updates to activate new capabilities and feature enhancements, which ensures that patients and providers have access to the latest optimizations without the need to replace existing hardware.
7. Flexible treatment duration; and
8. Automated self-clean and scheduled saline flush

CKD and ESRD most common in people aged 65 years and older

The Centers for Disease Control and Prevention (CDC) says that chronic kidney disease (CKD) affects 15% of US adults. In people age 65 and older, that prevalence is 38%. This is an important declaration, because according to the CDC National Center for Health Statistics, 83.5% of nursing home residents are 65 years of age or older. As of 2019, 809,103 people in the U.S. were living with end-stage renal disease. Almost 43% of ESRD patients are 65 or older.

Transportation to outpatient (offsite) dialysis clinics are challenging for nursing home facilities and residents

The vast majority of nursing home residents needing dialysis cannot transport themselves. For the resident, the ride is disruptive, confusing and time-consuming. Many times, this causes residents to miss their scheduled therapies/rehab, meals, medications, and family visits. This proposal would allow residents needing therapy services to receive their therapy while their dialysis schedule is adjusted around the resident's schedule. Residents would no longer miss meals and medications or family visits. Cooperation between dialysis team and the nursing home team can be collaborated where the care of each patient is consistent and individualized.

Unsustainable contracting models with dialysis centers

Under normal circumstances, development of an outpatient dialysis facility at the nursing facility would require a county need determination. However, county need determinations are very rare. Therefore, the only way nursing home residents may receive dialysis treatments would be to

have the SNF transport the resident to and from an off-site ESRD facility or to have the resident receive dialysis treatment in the nursing home by a currently certified ESRD facility. I have previously detailed the agonizing circumstances related to traveling to offsite dialysis. Consequently, the only true current alternative would be to contract with dialysis providers to provide the dialysis treatments in the nursing home. Accordingly, Liberty has had discussions with providers and were, unfortunately, offered terms that are not economically viable.

CON Regulation of Dialysis Facilities in Other States

Currently, thirty-five (35) states operate a CON program, with variations state to state. Of the thirty-five (35) CON states, only eleven (11) have some form of CON program that regulates kidney disease treatment centers (including North Carolina). Liberty believes it is important to note that the three (3) states neighboring North Carolina (South Carolina, Tennessee, and Virginia) are all CON states that do not regulate dialysis under their CON laws. One of the states that appears to be leading the Nursing Home Dialysis Model is Illinois. Illinois has an established CON program, which includes regulating dialysis centers. However, the Act provides an exemption to dialysis units that are located in licensed nursing homes. The Act's specific provision reads:

(B) This Act does not apply to a dialysis unit located in a licensed nursing home that offers or provides dialysis-related services to residents with end stage renal disease who have elected to receive home dialysis within the nursing home.

This proposed Policy would allow North Carolina to join Illinois at the forefront of providing dialysis services for this special nursing home patient population within the nursing home, which will directly correlate to an increase in home dialysis.

Liberty Dialysis Experience

Currently, twenty-seven (27) of Liberty's nursing home facilities have at least one dialysis resident. The current structure for nursing home dialysis residents is unpleasant and punishing for

our residents. David's public comments will paint the picture of a day in the life of the current nursing home dialysis patient.

Conclusion

Liberty wants to conclude that it is not the intent to use the proposed policy to displace outpatient dialysis facilities in the community. Liberty sees a need for both. Approval of this petition will provide Liberty and other SNF's throughout the State the opportunity to develop or expand a kidney disease treatment center at a skilled nursing facility for the benefit of nursing home ESRD residents.

Thank you for your time and I am happy to answer any questions the SHCC might have.