Acute Care Services Committee
Agency Response
Proposed Operating Room Methodology
2018 State Medical Facilities Plan

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Comment:
Duke University Health System (DUHS) provided comments regarding the "definition of a health care system for which operating room surpluses and deficits are aggregated within a service area." Specifically, the Comment states that Duke Regional Hospital (DRH) should not be included as a facility of the DUHS.

Background Information:
Chapter Two of the *North Carolina Proposed 2018 State Medical Facilities Plan (SMFP)* provides that "[a]nyone who finds that the North Carolina State Medical Facilities Plan policies or methodologies, or the results of their application, are inappropriate may petition for changes or revisions. Such petitions are of two general types: those requesting changes in basic policies and methodologies, and those requesting adjustments to the need projections." The planning process and time allow for submission of petitions requesting adjusted need determinations in the summer. It should be noted that any person might submit a certificate of need (CON) application for a need determination in the Plan. The CON review could be competitive and there is no guarantee that the petitioner would be the approved applicant.

The new methodology consists of several steps to determine the number of ORs needed in each OR service area. The methodology projects the number of surgical hours by first multiplying the average case times reported by each facility by the hours for inpatient and ambulatory cases for the previous year (data year). This result is then multiplied by the projected population change between the data year and four years beyond the data year (target year). The number of operating rooms required by the target year is the result of dividing the projected number of surgical hours for the target year by the number of hours per OR per year for each facility based on assumptions

used in the SMFP, while accounting for outliers. The final step calculates the number of additional ORs needed by subtracting the projected total number of required ORs from the current OR inventory for each health system in the service area. Deficits for all health systems are summed to obtain the need for ORs in the service area.

The "Assumptions of the Methodology" section of Chapter 6 of the Proposed 2018 SMFP defines as health system:

> For the purposes of the operating room methodology, a "health system" includes all licensed health service facilities with operating rooms located in the same service area that are owned by:
>
> 1. the same legal entity (i.e., the same individual, trust or estate, partnership, corporation, hospital authority, or the State or political subdivision, agency or instrumentality of the State); or
> 2. the same parent corporation or holding company; or
> 3. a subsidiary of the same parent corporation or holding company; or
> 4. a joint venture in which one or more of the participants in the joint venture owns a licensed health service facility with operating rooms located in the same service area.

DUHS highlights the statement in the definition of "health system" regarding ownership, and points out that it does not own DRH. Rather Durham County owns DRH and the Durham County Hospital Corporation Board of Trustees has oversight of the facility. Moreover, DUHS does not have sole discretion to close or relocate ORs at DRH. As such, the ORs DRH should not be included in calculations of the surplus/deficit of ORs for DUHS.

Analysis/Implications:

The DRH website states that, "[i]n 1998, an agreement with Duke University Health System was signed and the two officially began a 20-year partnership. The agreement was amended in 2009, extending the partnership for a 'rolling' 40-year term." It further states that, "[o]n July 1, 2013, Durham Regional Hospital became Duke Regional Hospital as a result of extensive market research in the communities the hospital serves. This name change was based on feedback from residents who participated in the research and preferred a Duke-branded health care facility."[1]

The Agency issued CON (J-6551-02) in 2002 to "Duke University Health System d/b/a Durham Regional Hospital (lessor) and Select Specialty Hospital-Durham, Inc. (lessee)." The CON referred to delicensure of psychiatric beds at Durham Regional Hospital; relocation of acute care beds from Duke University Medical Center to Durham Regional; and development of a long-term care hospital at Durham Regional.

The acute care bed methodology changed effective in the 2004 SMFP to identify hospitals under common ownership. The acute care bed methodology has defined Duke University Medical Center and DRH as "hospitals under common ownership" since the 2004 SMFP. Neither DUHS nor DRH have contacted the Agency to indicate that the information in Chapter 5 is incorrect. Since 2004, DUHS has had one need determination. In the 2017 SMFP, Duke University Medical Center had a 145-bed deficit that was offset by a 49-bed surplus at DRH, yielding a 96-bed need determination. DUHS raised no issues of ownership regarding this need determination.

[1] https://corporate.dukehealth.org/duke-regional-hospital-history

In terms of ORs, Duke University Medical Center currently has a deficit of 5.77 ORs; James A. Davis Ambulatory Surgery Center (owned by Duke) has a surplus of 3.63 ORs; and DRH has a surplus of 0.94 ORs. The need determination totals the deficits and surpluses to arrive at a total deficit of 1.20 ORs for DUHS as a whole (5.77 - .3.63 - 94 = 1.20). If DRH were removed from DUHS, the DUHS deficit would be 2.14 (5.77 - 3.63 = 2.14).

Adding the deficit of 2.75 ORs at NC Specialty Hospital to the current 1.20 deficit at DUHS yields a service area deficit of 3.95 ORs, which is a service area need determination of 4 ORs. Removing DRH from DUHS would increase the service area deficit to 4.89, which would be a need determination of 5 ORs.

Agency Recommendation:

The agency supports the new methodology for OR need determination. Since release of the Proposed 2018 SMFP, and apart from the Comment from DUHS, the Agency has considered the need to clarify the definition of health system and how health systems are included in need determination calculations.

With these considerations in mind and given available information and comments submitted by the August 10, 2017 deadline date for comments on petitions and comments, and in consideration of factors discussed above, the agency recommends the following revisions to the Assumptions of the Methodology section on page 1 in Chapter 6 of the 2018 SMFP (deleted language is crossed out, new language is underlined):

> **Assumptions of the Methodology**
>
> A "health system" includes all licensed or approved health service facilities with operating rooms located in the same service area that are owned <u>or leased</u> by:
>
> 1. the same legal entity (i.e., the same individual, trust or estate, partnership, corporation, hospital authority, or the State or political subdivision, agency or instrumentality of the State); or
> 2. the same parent corporation or holding company; or
> 3. a subsidiary of the same parent corporation or holding company; or
> 4. a joint venture in which the same parent; holding company; or a subsidiary of the same parent or holding company is a participant and has ~~a controlling interest in the health service facility~~ <u>the authority to propose changes in the location or number of ORs in the health service facility</u>.
>
> <u>A health system may consist of only one health service facility. In the event that a need for additional operating rooms is generated by the relocation or transfer of operating rooms to a different health system, the need determination will not appear until the relocated or transferred operating rooms are licensed in their new location.</u>
>
> For the Proposed 2018 State Medical Facilities Plan, when a need is calculated, the minimum need determination for operating rooms is set to two, after rounding. In addition, the maximum operating room need determination in a service in a single year

will not exceed six, regardless of the deficit calculated. The Agency will reevaluate these two adjustments in 2018 to recommend whether to continue them.[2]

Certificate of Need applications for new operating rooms are not restricted to the entity(ies) that generated the deficits.

[2] This paragraph may be altered or deleted in subsequent SMFPs.