

**Acute Care Services Committee
Agency Report
for Petition to Remove *Policy AC-5: Replacement of Acute Care Bed Capacity*
Proposed 2023 State Medical Facilities Plan**

Petitioner:

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Request:

Blue Ridge HealthCare Hospitals is requesting to remove Policy AC-5: Replacement of Acute Care Bed Capacity (“Policy AC-5” or “the Policy”) from the *2023 State Medical Facilities Plan (SMFP or “Plan”)*.

Background Information:

Chapter Two of the *North Carolina 2022 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.” Further, “[c]hanges with the potential for a statewide effect are the addition, deletion, and revision of policies or projection methodologies.”

As shown in the *2022 SMFP*, Policy AC-5 states:

*Proposals for either partial or total replacement of acute care beds (i.e., construction of new space for existing acute care beds) shall be evaluated against the utilization of the total number of acute care beds in the applicant’s hospital in relation to utilization targets found below. For hospitals **not** designated by the Centers for Medicare & Medicaid Services as Critical Access Hospitals, in determining utilization of acute care beds, only acute care bed days of care shall be counted. For hospitals designated by the Centers for Medicare & Medicaid Services as Critical Access Hospitals, in determining utilization of acute care beds, only acute care bed days of care **and** swing bed days (i.e., nursing home facility days of care) shall be counted in determining utilization of acute care beds.*

Any hospital proposing replacement of acute care beds must clearly demonstrate the need for maintaining the acute care bed capacity proposed within the application. Additionally, if the hospital is a Critical Access Hospital and swing bed days are proposed to be counted in determining utilization of acute care beds, the hospital shall also propose to remain a Critical Access Hospital and must demonstrate the need for maintaining the swing bed capacity proposed within the application. If the Critical Access Hospital does not propose to remain a Critical Access Hospital, only acute care bed days of care shall be counted in determining utilization of acute care beds and the hospital must clearly demonstrate the need for maintaining the acute care bed capacity proposed within the application.

Facility Average Daily Census	Target Occupancy of Licensed Acute Care Beds
1-99	66.7%
100-200	71.4%
Greater than 200	75.2%

In other words, this policy establishes that CON must evaluate acute care bed utilization according to specific occupancy thresholds when considering proposals to construct new space for existing beds. The first version of the Policy appeared in the *1997 SMFP*. Over time, the Policy has evolved to include updated occupancy thresholds, specific requirements for Critical Access Hospitals, and a condition that applicants must demonstrate the need to maintain the proposed acute care bed capacity, as shown above.

Almost two decades after the Policy’s implementation in 1997, the North Carolina Certificate of Need Statute first included G.S. §131E-184(g) in the *2014 SMFP* (Appendix D). This statutory provision states:

(g) The Department shall exempt from certificate of need review any capital expenditure that exceeds the two million dollar (\$2,000,000) threshold set forth in G.S. 131E-176(16)b. if all of the following conditions are met:

- (1) The sole purpose of the capital expenditure is to renovate, replace on the same site, or expand the entirety or a portion of an existing health service facility that is located on the main campus.*
- (2) The capital expenditure does not result in (i) a change in bed capacity as defined in G.S. 131E-176(5) or (ii) the addition of a health service facility or any other new institutional health service facility or any other new institutional health service other than that allowed in G.S. 131E-176(16)b.*
- (3) The licensed health service facility proposing to incur the capital expenditure shall provide prior written notice to the Department along with supporting documentation to demonstrate that it meets the exemption criteria of this subsection.*

As shown in Table 1, during FY 2020, 11 hospitals had licensed acute care beds located on more than one campus.

Table 1. Acute Care Beds in Multi-campus Hospitals, FY 2020

County	Hospital (Non-main Campus)	Licensed Beds, Main Campus	Licensed Beds, Non- Main Campus	Total Licensed Beds	% Non- main Campus Beds of Total Beds
Burke	Carolinas HealthCare System Blue Ridge (Valdese)*	162	131	293	44.7%
Cleveland	Atrium Health Cleveland (Atrium Health Kings Mountain)	241	47	288	16.3%
Forsyth	Novant Health Forsyth Medical Center (Clemmons)	779	36	865	4.2%
Forsyth	Novant Health Forsyth Medical Center (Kernersville)	779	50	865	5.8%
Guilford	Cone Health (Wesley Long)	579	175	754	4.8%
Guilford	Cone Health (Women's Hospital)**	579	134	754	17.8%
Harnett	Betsy Johnson Hospital (Central Harnett)	87	44	131	33.6%
Johnston	Johnston Health (Clayton)	129	50	179	27.9%
Mecklenburg	Novant Health Presbyterian (Charlotte Orthopedic)	471	48	519	9.2%
Mecklenburg	Carolinas Medical Center (Atrium Health - Mercy)	859	196	1,055	18.6%
New Hanover	New Hanover Regional Medical Center (NHRMC Orthopedic)	603	75	678	11.1%
Orange	University of North Carolina Hospitals (Hillsborough)	734	83	817	10.2%
Wake	WakeMed (WakeMed North)	567	61	628	9.7%

Source: 2021 Hospital License Renewal Applications

* The acute care beds located on Carolinas HealthCare System Blue Ridge’s Valdese campus have not been operational since FY 2016.

** Cone Health’s Women’s Hospital campus closed February 24, 2020.

The Petitioner emphasizes that the removal of Policy AC-5 would not result in the exemption of projects to construct new space using existing acute care beds on a satellite or “non-main” campus from CON requirements. The Petitioner also suggests alternate language for the Policy, in the

event that the SHCC deems its deletion inappropriate. In the Petitioner's view, revising the first sentence of the Policy using the language below would be more consistent with the general statute described above:

Proposals to construct new space for either partial or total replacement of acute care beds under the same hospital license on either a new campus location or an existing campus location that does not have any acute care beds, regardless of the current location of the acute care beds to be replaced, shall be evaluated against the utilization of the total number of acute care beds under the applicant's hospital license in relation to utilization targets found below.

OR

Proposals to construct new space for either partial or total replacement of acute care beds on a campus other than the "main campus" (as that term is defined in N.C. Gen. Stat. §131E-176(14n)), regardless of the current location of the acute care beds to be replaced, shall be evaluated against the utilization of the total number of acute care beds under the applicant's hospital license in relation to utilization targets found below.

Analysis:

The Agency notes that Policy AC-5 refers to beds that are already licensed by the associated hospital as replacement beds, and a need determination within a hospital's service area is not required to build replacement facilities anywhere within the service area. The Agency agrees with the Petitioner's assertion that upon the enactment of G.S. §131E-184(g), hospitals could build replacement facilities on the main campus without regard to CON or Policy AC-5, but hospital projects using existing acute care beds to populate satellite campuses remained subject to both the Policy and CON review.

The Petitioner claims that requiring facilities to attain a specific level of utilization to develop a second satellite campus places a burden on the main campuses of hospitals, and notes this could create an unnecessary hurdle to develop services in areas of high population growth. Agency staff examined acute days of care (DOC) and utilization across multi-campus hospitals with acute care beds. Based on these data, there are six hospitals where the great majority of DOC are being provided on the main campuses, but the utilization thresholds outlined in Policy AC-5 would not be met. Further, two of these hospitals are in Harnett and Johnston counties - areas of high population growth (Table 2).

Table 2. Utilization of Acute Care Beds, Multi-campus Hospitals, FY 2020

County	Hospital (Non-main Campus)	% Main Campus DOC of Total DOC	% Utilization, Main Campus Beds	% Utilization, Non-main Campus Beds	% Utilization, all Beds	Annual Population Growth Rates (FY 2016 - 2020)
Burke	Carolinas HealthCare System Blue Ridge (Valdese)*	100.0%	32.5%	0.0%	18.0%	2.0%
Harnett	Betsy Johnson (Central Harnett)	68.3%	42.7%	39.2%	41.6%	5.0%
Cleveland	Atrium Health Cleveland (Atrium Health Kings Mountain)	93.0%	45.7%	17.6%	41.1%	2.5%
Johnston	Johnston Health (Clayton)	75.5%	56.3%	47.2%	53.8%	9.5%
Guilford	Cone Health (Wesley Long)	73.0%	58.5%	54.5%	61.6%	2.9%
Guilford	Cone Health (Women's Hospital)**	73.0%	58.5%	22.6%	61.6%	2.9%
					Statewide	3.4%

Source: 2021 Hospital License Renewal Applications

* The acute care beds located on Carolinas HealthCare System Blue Ridge’s Valdese campus have not been operational since FY 2016.

** Cone Health’s Women’s Hospital campus closed February 24, 2020.

Agency Recommendation:

Blue Ridge HealthCare Hospitals has petitioned to remove Policy AC-5 from the 2023 SMFP. The Agency presumes the request is to remove the Policy from all future SMFPs. It is apparent that the application of Policy AC-5 combined with the enactment of G.S. §131E-184(g) creates a disadvantage for hospitals that are seeking to use replacement beds on non-main campuses. Further, the CON review process would still apply to projects using replacement beds on non-main campuses. In the absence of a compelling reason to consider the movement of a facility’s already-developed beds to a replacement facility on a satellite campus differently from how replacement facilities on main campuses are considered, the Agency finds Policy AC-5 an unnecessary obstacle for ensuring access to acute care. The Agency also notes that the alternate Policy language offered by the Petitioner would not address the restrictions the Policy places on hospitals with satellite campuses that may wish to construct new space using replacement beds. Given the available information and comments submitted by the March 16, 2022 deadline, and in consideration of the factors discussed above, the Agency recommends approval of the Petition to remove Policy AC-5: Replacement of Acute Care Bed Capacity (“Policy AC-5”) from the SMFP.