

PETITION FOR AN ADJUSTED NEED DETERMINATION

Petition Regarding the Need Determination for Acute Care Beds in Durham County in the *2024 State Medical Facilities Plan*

PETITIONER

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STATEMENT OF THE PROPOSED CHANGE

UNC Hospitals respectfully requests that the State Health Coordinating Council (SHCC) increase the need determination for acute care beds in the Durham/Caswell/Warren service area in the *2024 State Medical Facilities Plan (SMFP)*, or at the very least retain the 38 beds determined to be needed as reflected in the proposed 2024 SMFP.

BACKGROUND

UNC Hospitals recognizes the challenges faced by the Agency and the SHCC in planning for the various need determinations in the *SMFP*, particularly in attempting to account for the impact of the COVID-19 pandemic on data, while also ensuring that the need determinations are sufficient and appropriate to meet the need of a growing, aging population. UNC Hospitals supports the standard methodology for acute care beds and the use of a thoughtful approach for determining need in the various service areas across the state. However, based upon the unique circumstances described in further detail below, UNC Hospitals requests that the SHCC consider allocating additional acute care beds in the Durham/Caswell/Warren service area, above the 38 beds in the *Proposed 2024 SMFP*, or at the very least retain the 38 beds determined to be needed as reflected in the proposed 2024 SMFP.

From the *2019 SMFP* to the *2023 SMFP*, 15 service areas in the state have had need determinations for acute care beds. As one might expect, these need determinations have not been uniform, but have been concentrated in the higher growth areas of the state, especially the Charlotte region and the Triangle. The table below shows these need determinations by service area, the total number of beds needed in each service area over this time period, and the rank of each service area in terms of the number of beds needed. Please note that this table does not include the need determinations in the *Proposed 2024 SMFP* because at the time this petition is under consideration, they are only draft needs and are subject to the final vote of the SHCC and enactment by the Governor.

Petition: Durham County Acute Care Beds

UNC Hospitals

2019-2023 Acute Care Bed Need Determinations by Service Area

<i>Service Area</i>	<i>2019 SMFP</i>	<i>2020 SMFP</i>	<i>2021 SMFP</i>	<i>2022 SMFP</i>	<i>2023 SMFP</i>	<i>Total Beds</i>	<i>Rank</i>
Mecklenburg	76	126	123	65	164	554	1
Gaston	33	64			48	145	2
Durham/Caswell/Warren	34		40	68	0	142	3
New Hanover		36	35		25	96	4
Wake				45	44	89	5
Cabarrus			22		65	87	6
Forsyth		68				68	7
Buncombe/Graham/Madison/Yancey				67		67	8
Pitt/Greene/Hyde/Tyrrell			63			63	9
Cumberland				29	20	49	10
Moore		25				25	11
Scotland					23	23	12
Union					21	21	13
Anson					7	7	14
Duplin					6	6	15
Total	143	319	283	274	423	1,442	

Source: 2019-2023 SMFPs

As shown, while Mecklenburg County accounts for a significant portion of the total beds allocated since 2019, the multicounty service area that includes Durham County ranks 3rd with 142 total additional acute care beds needed since 2019, with the next highest service area needing nearly 50 fewer beds over the same time period. On a more regional level, HSA III accounts for 807, or 56 percent, of the total beds; HSA IV, which includes Durham County, accounts for the second highest number with 231 or 16 percent of the total. Of note, 90 percent ($301 \div 336 = .895$) of the need determinations in the *Proposed 2024 SMFP* are for HSAs III and IV, indicating ongoing need in these areas. UNC Hospitals understands that the final need determinations are subject to data updates and adjustments and as such it urges the SHCC to consider the *SMFP* trends noted above and continue to find a need for additional acute care beds in the Durham/Caswell/Warren service area in the *2024 SMFP*, even if there are further data updates later this year, and to consider an increase based on the discussion below.

Petition: Durham County Acute Care Beds

UNC Hospitals

Page 3 of 5

REASON FOR THE PETITION

Of the 745 beds allocated from 2019 through 2021, Certificates of Need have been issued for all of them—with the sole exception of the 40 beds allocated to the Durham/Caswell service area in the 2021 SMFP. Similarly, of the 274 beds allocated in the 2022 SMFP, Certificates of Need have been issued for all of them—with the exception of the Durham/Caswell service area and the service area that includes Buncombe County. While several other service areas have placeholders for need determinations from previous years, the CONs have been issued and the projects are underway, developing the additional inpatient bed capacity needed for patients in those counties.

While UNC Hospitals recognizes and supports the standard methodology, including the placeholder for need determinations from previous years that have not yet been awarded, it also believes that the Durham service area would benefit from special consideration for additional beds. UNC Hospitals also understands that the SHCC does not and should not consider the details of the litigation involving CON reviews in determining whether placeholders should be used. However, it is clear that the Durham service area needs additional acute care beds, which often take many years to develop; yet, despite the allocation of 142 beds since 2019, 108 (or 76 percent), of those beds have not been awarded CONs to be developed because of pending litigation. The cumulative effect of these unawarded beds is that the need for the Durham service area is understated. As noted above, the Durham service area ranks third highest in the number of acute care beds allocated in the SMFP from 2019 to 2023; in contrast, it ranks 10th overall in number of beds for which CONs have been issued. In fact, the 108 beds that have yet to be awarded CONs is more than the total need determinations in any single service area from 2019 to 2023, except for Gaston and Mecklenburg counties, as shown in the table above.

As stated previously, UNC Hospitals supports the standard methodology, including Step 1c, which establishes a placeholder for need determinations under appeal. In particular, it did not petition for a change in the statewide methodology in the Spring; rather, it believes that several factors warrant consideration of an increase in the need determination in the Durham service area, including: the large number of beds for which approved CONs have not been issued; the number of years that have passed between allocations (i.e., three years between the 2021 SMFP and the 2024 SMFP); and, the size of the placeholders compared to the number of licensed beds in the county (108 beds is 8.3 percent of the total number of licensed beds in the county).

ADVERSE EFFECTS IF PETITION IS NOT APPROVED

UNC Hospitals recognizes that the *Proposed 2024 SMFP* includes a draft need determination for 38 acute care beds in the Durham/Caswell/Warren service areas, and it certainly supports that need, at a minimum. However, it also believes that the ongoing need for additional acute care beds in the service area merits consideration of a bed need larger than the 38 that are currently in the *Proposed 2024 SMFP*. If additional beds are not allocated now, the unmet need will continue for the foreseeable future, perhaps for several more years, which is not prudent for meeting the needs of patients seeking care in the service area. As such, considering the unique circumstances in the Durham service area, UNC Hospitals believes that additional acute care beds are needed and could be added in the 2024 SMFP.

ALTERNATIVES CONSIDERED

UNC Hospitals could have petitioned for a change in the statewide methodology; however, as stated previously, it believes the standard methodology is appropriate and that special circumstances exist in the Durham service area that warrant consideration of additional acute care beds. It also considered petitioning for a specific number of additional beds; however, it believes that should the Agency and the SHCC find merit in UNC Hospitals' petition, they are in the best position to determine how many additional beds to allocate. Finally, UNC Hospitals also recognizes that a third option would be to wait for the eventual resolution of the appeals of acute care bed reviews; however, that could take several more years and, in the meantime, the need for additional acute care beds in the Durham service area will continue to go unmet.

Please note that UNC Hospitals also recognizes that there are need determinations for acute care beds in contiguous service areas, including Orange and Wake counties. UNC Hospitals fully supports these need determinations and does not believe that those needs should impact this petition, nor does it believe that the SHCC's consideration of this petition specific to the Durham County service area should impact the draft need determinations in those service areas, regardless of the SHCC's action on this petition.

UNNECESSARY DUPLICATION

UNC Hospitals does not believe that increasing the need determination will result in unnecessary duplication. Even if litigation over Durham County beds is eventually resolved and projects for additional beds resulting from past reviews are authorized to move forward, any such development will not result in the development of unneeded capacity. This is particularly true given the growth in the service area and Durham County in particular, as well as the aging of the population and the number of years often needed to develop new acute care beds. In other words, this petition will provide a path to allow providers to keep pace with the rapidly growing and aging population of Durham County.

BASIC PRINCIPLES

Safety and Quality

UNC Hospitals believes that without a sufficient number of acute care beds in the service area, safety and quality for patients can be compromised, particularly as the need goes unmet for several years. Without the development of additional beds, existing resources caring for patients from the service area may be strained and insufficient to meet the growing needs of patients.

Access

The service area is unique in terms of the size of the unmet need for which approved CONs have yet to be issued, meaning that patients, particularly those in growing parts of the service area such as southern Durham County, may be forced to seek care outside their home county. While the SHCC does not determine the timing or outcome of CON reviews, allocating additional

Petition: Durham County Acute Care Beds

UNC Hospitals

Page 5 of 5

Durham County acute care beds in the *2024 SMFP* will help ensure that the needed beds are eventually developed and the needs of patients can be met.

Value

UNC Hospitals also believes that the allocation of additional beds will enhance value for patients in the service area. When the need for additional beds goes unmet, patient choice and competition is limited as existing resources are strained, which can increase the cost of care and decrease healthcare value.

CONCLUSION

UNC Hospitals believes that there is a need for additional acute care beds in the Durham/Caswell/Warren service area, for at least the 38 beds in the *Proposed 2024 SMFP* and potentially more. Given the unique circumstances in the service area, the number of previously-allocated beds for which approved CONs have not yet been issued, and the continued growth in the service area, UNC Hospitals requests that the SHCC consider allocating more than 38 additional acute care beds for the service area in the *2024 SMFP*. Further, if data updates later this year would result in a need for fewer beds or none at all, UNC Hospitals requests that the SHCC consider maintaining the current need determination of at least 38 beds.