**Section 1110.2930 Long Term Acute Care Hospital Bed Projects – Review Criteria**

a) Introduction

1) This Section applies to projects involving Long Term Acute Care Hospital (LTACH) services. Applicants proposing to establish, expand or modernize an LTACH category of service shall comply with the applicable subsections of this Section, as follows:

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| --- | --- |
| PROJECT TYPE | REQUIRED REVIEW CRITERIA |
| Establishment of Services or Facility | (b)(1) & (3) | − | Background of the Applicant |
|  | (c)(1)  | − | Planning Area Need – 77 Ill. Adm. Code 1100 (Formula Calculation ) |
|  | (c)(2)  | − | Planning Area Need – Service to Planning Area Residents |
|  | (c)(3)  | − | Planning Area Need – Service Demand − Establishment of Category of Service |
|  | (c)(5)  | − | Planning Area Need − Service Accessibility |
|  | (d)(1)  | − | Unnecessary Duplication of Services |
|  | (d)(2)  | − | Maldistribution |
|  | (d)(3)  | − | Impact of Project on Other Area Providers |
|  | (f)  | − | Staffing Availability  |
|  | (g)  | − | Performance Requirements |
|  | (h)  | − | Assurances |
| Expansion of Existing Services | (b)(1) & (3) | − | Background of the Applicant |
|  | (c)(2)  | − | Planning Area Need – Service to Planning Area Residents |
|  | (c)(4)  | − | Planning Area Need – Service Demand – Expansion of Category of Service |
|  | (f)  | − | Staffing Availability |
|  | (g)  | − | Performance Requirements |
|  | (h)  | − | Assurances |
| Category of Service Modernization | (e)(1)  | − | Deteriorated Facilities |
|  | (e)(2) & (3)  | − | Documentation |
|  | (e)(4)  | − | Occupancy |
|  | (g)  | − | Performance Requirements |

2) If the proposed project involves the replacement of a hospital or service on-site, the applicant shall comply with the requirements listed in subsection (a)(1) for "Category of Service Modernization" plus subsection (h) (Assurances).

3) If the proposed project involves the replacement of a hospital or service on a new site, the applicant shall comply with the requirements of subsection (a)(1) for "Establishment of ASTC Facility or Additional ASTC Service".

4) If the proposed project involves the replacement of a hospital or service (onsite or new site), the number of beds being replaced shall not exceed the number justified by historical occupancy rates for each of the latest two years, unless additional beds can be justified per the criteria for "Expansion of Existing Services".

5) If the proposed project involves the conversion of existing acute care beds to LTACH services, the applicant shall comply with the requirements of subsection (a)(1) for "Establishment of ASTC Facility or Additional ASTC Service", as well as requirements in subsection (c)(6) (Conversion of Existing General Acute Care Beds).

b) Background of Applicant – Review Criterion

1) An applicant must demonstrate that it is fit, willing and able, and has the qualifications, background and character to adequately provide a proper standard of health care service for the community. [20 ILCS 3960/6] In evaluating the qualifications, background and character of the applicant, HFSRB shall consider whether adverse action has been taken against the applicant, including corporate officers or directors, LLC members, partners, and owners of at least 5% of the proposed healthcare facility, or against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application. A health care facility is considered "owned or operated" by every person or entity that owns, directly or indirectly, an ownership interest. If any person or entity owns any option to acquire stock, the stock shall be considered to be owned by that person or entity (see 77 Ill. Adm. Code 1100 and 1130 for definitions of terms such as "adverse action", "ownership interest" and "principal shareholder").

2) Examples of facilities owned or operated by an applicant include:

A) The applicant, Partnership ABC, owns 60% of the shares of Corporation XYZ, which manages the Good Care Nursing Home under a management agreement. The applicant, Partnership ABC, owns or operates Good Care Nursing Home.

B) The applicant, Healthy Hospital, a corporation, is a subsidiary of Universal Health, the parent corporation of Healthcenter Ambulatory Surgical Treatment Center (ASTC), its wholly-owned subsidiary. The applicant, Healthy Hospital, owns and operates Healthcenter ASTC.

C) Dr. Wellcare is the applicant. His wife is the director of a corporation that owns a hospital. The applicant, Dr. Wellcare, owns or operates the hospital.

D) Drs. Faith, Hope and Charity own 40%, 35% and 10%, respectively, of the shares of Healthfair, Inc., a corporation, that is the applicant. Dr. Charity owns 45% and Drs. Well and Care each own 25% of the shares of XYZ Nursing Home, Inc. The applicant, Healthfair, Inc., owns and operates XYZ Nursing Home, Inc.

3) The applicant shall submit the following information:

A) A listing of all health care facilities currently owned and/or operated by the applicant in Illinois or elsewhere, including licensing, certification and accreditation identification numbers, as applicable;

B) A listing of all health care facilities currently owned and/or operated in Illinois, by any corporate officers or directors, LLC members, partners, or owners of at least 5% of the proposed health care facility;

C) A certified listing from the applicant of any adverse action taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application;

D) A certified listing of each applicant, corporate officer or director, LLC member, partner and owner of at least 5% of the proposed facility, identifying those individuals that have been cited, arrested, taken into custody, charged with, indicted, convicted or tried for, or pled guilty to:

i) the commission of any felony or misdemeanor or violation of the law, except for minor parking violations; or

ii) has been the subject of any juvenile delinquency or youthful offender proceeding;

E) Unless convictions have been expunged, all convictions shall be detailed in writing and any police or court records regarding any matters disclosed shall be submitted for HFSRB’s consideration;

F) A certified listing of each applicant, corporate officer or director, LLC member, partner and owner of at least 5% of the proposed facility who has been charged with fraudulent conduct or any act involving moral turpitude. Any such matter shall be disclosed in detail;

G) A certified listing of each applicant, corporate officer or director, LLC member, partner and owner of at least 5% of the proposed facility who has any unsatisfied judgments against him or her;

H) A certified listing of each applicant, corporate officer or director, LLC member, partner and owner of at least 5% of the proposed facility. Any matter shall be discussed in detail;

I) A certified listing of each applicant, corporate officer or director, LLC member, partner and owner of at least 5% of the proposed facility who is in default in the performance or discharge of any duty or obligation imposed by a judgment, decree, order, or directive of any court or governmental agency. Any matter shall be discussed in detail;

J) Authorization permitting HFSRB and IDPH access to any documents necessary to verify the information submitted, including, but not limited to: official records of IDPH or other State agencies; the licensing or certification records of other states, when applicable; and the records of nationally recognized accreditation organizations. Failure to provide the authorization shall constitute an abandonment or withdrawal of the application without any further action by HFSRB. Any fees paid will be forfeited.

4) If, during a given calendar year, an applicant submits more than one application for permit, the documentation provided with the prior applications may be utilized to fulfill the requirements of this subsection (b). In these instances, the applicant shall attest that the information has been previously provided, cite the project number of the prior application, and certify that no changes have occurred regarding the information that has been previously provided. The applicant is able to submit amendments to previously submitted information, as needed to update and/or clarify data.

5) The documentation for the "Background of the Applicant" is required one time per application, regardless of the number of categories of service involved in a proposed project.

c) Planning Area Need − Review Criterion

The applicant shall document that the number of LTACH beds to be established or added is necessary to serve the planning area's population, based on the following:

1) 77 Ill. Adm. Code 1100 (Formula Calculation)

A) The number of LTACH beds to be established is in conformance with the projected bed deficit specified in 77 Ill. Adm. Code 1100, as reflected in the latest updates to the Inventory.

B) The number of LTACH beds proposed shall not exceed the number of the projected deficit, to meet the health care needs of the population served, in compliance with the occupancy standard specified in 77 Ill. Adm. Code 1100.

2) Service to Planning Area Residents

A) Applicants proposing to establish or add beds shall document that the primary purpose of the project will be to provide necessary health care to the residents of the area in which the proposed project will be physically located (i.e., the planning or geographical service area, as applicable), for each category of service included in the project.

B) Applicants proposing to add beds to an existing LTACH service shall provide patient origin information for all admissions for the last 12-month period, verifying that at least 75% of admissions were residents of the area. For all other projects,

applicants shall document that at least 75% of the projected patient volume will be from residents of the area.

C) Applicants proposing to expand an existing LTACH service shall submit patient origin information by zip code, based upon the patient's legal residence (other than a health care facility).

3) Service Demand – Establishment of LTACH Service

The number of beds proposed to establish a new category of hospital bed service is necessary to accommodate the service demand experienced annually by the existing applicant facility over the latest two-year period, as evidenced by historical and projected referrals, or, if the applicant proposes to establish a new hospital, the applicant shall submit projected referrals. The applicant shall document subsection (c)(3)(A) and either subsection (c)(3)(B) or (C).

A) Historical Referrals

If the applicant is an existing facility, the applicant shall document the number of referrals to other facilities, for each proposed category of hospital service, for each of the latest two years. Documentation of the referrals shall include patient origin by zip code, name and specialty of referring physician, and name and location of the recipient hospital.

B) Projected Referrals

An applicant proposing to establish a category of service or establish a new hospital shall submit the following:

i) Physician referral letters that attest to the physician's total number of patients (by zip code of residence) who have received care at existing LTACH facilities located in the area or had a length of stay of over 25 days in a general acute care hospital and were considered to be LTACH candidates, annually over the latest two year period prior to submission of the application; and an estimate as to the number of patients that will be referred to the applicant's facility;

ii) An estimated number of patients the physician will refer annually to the applicant's facility within a 24-month period after project completion. The anticipated number of referrals cannot exceed the physician's documented historical caseload;

iii) Each referral letter shall contain the physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty; and

iv) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services.

C) Projected Service Demand − Based on Rapid Population Growth

If a projected demand for service is based upon rapid population growth in the applicant facility's existing market area (as experienced annually within the latest 24-month period), the projected service demand shall be determined as follows:

i) The applicant shall define the facility's market area based upon historical patient origin data by zip code or census tract;

ii) Population projections shall be produced, using, as a base, the population census or estimate for the most recent year, for county, incorporated place, township or community area, by the U.S. Census Bureau or IDPH;

iii) Projections shall be for a maximum period of 10 years from the date the application is submitted;

iv) Historical data used to calculate projections shall be for a number of years no less than the number of years projected;

v) Projections shall contain documentation of population changes in terms of births, deaths and net migration for a period of time equal to, or in excess of, the projection horizon;

vi) Projections shall be for total population and specified age groups for the applicant's market area, as defined by HFSRB, for each category of service in the application; and

vii) Documentation on projection methodology, data sources, assumptions and special adjustments shall be submitted to HFSRB.

D) Type of Patients

The applicant shall identify the type of patients that will be served by the project by providing the anticipated diagnosis (by DRG classification) for anticipated admissions to the facility. The applicant shall also indicate the types of service (e.g., ventilator care, etc.) to be provided by the project.

4) Service Demand – Expansion of Bed Category of Service

The number of beds to be added for each category of service is necessary to reduce the facility's experienced high occupancy and to meet a projected demand for service. The applicant shall document subsection (c)(4)(A) and either subsection (c)(4)(B) or (C):

A) Historical Service Demand

i) An average annual occupancy rate that has equaled or exceeded occupancy standards for the category of service, as specified in 77 Ill. Adm. Code 1100, for each of the latest two years.

ii) If patients have been referred to other facilities in order to receive the subject services, the applicant shall provide documentation of the referrals, including: patient origin by zip code; name and specialty of referring physician; and name and location of the recipient hospital, for each of the latest two years.

B) Projected Referrals

The applicant shall provide the following:

i) Physician referral letters that attest to the number of patients (by zip code of residence) that have received care at existing LTACH facilities located in the area or had a length of stay of over 25 days in a general acute care hospital and were considered to be LTACH candidates, during the 12-month period prior to submission of the application;

ii) An estimated number of patients the physician will refer annually to the applicant's facility within a 24-month period after project completion. The anticipated number of referrals cannot exceed the physician's documented historical caseload. The percentage of project referrals used to justify the proposed expansion cannot exceed the historical percentage of applicant market share, within a 24-month period after project completion;

iii) Each referral letter shall contain the physician's notarized

signature, the typed or printed name of the physician, the physician's office address and the physician's specialty; and

iv) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services.

C) Projected Service Demand – Based on Rapid Population Growth

If a projected demand for service is based upon rapid population growth in the applicant facility's existing market area (as experienced annually within the latest 24-month period), the projected service demand shall be determined as follows:

i) The applicant shall define the facility's market area based upon historical patient origin data by zip code or census tract;

ii) Population projections shall be produced, using, as a base, the population census or estimate for the most recent year, for county, incorporated place, township or community area, by the U.S. Census Bureau or IDPH;

iii) Projections shall be for a maximum period of 10 years from the date the application is submitted;

iv) Historical data used to calculate projections shall be for a number of years no less than the number of years projected;

v) Projections shall contain documentation of population changes in terms of births, deaths and net migration for a period of time equal to or in excess of the projection horizon;

vi) Projections shall be for total population and specified age groups for the applicant's market area, as defined by HFSRB, for each category of service in the application; and

vii) Documentation on projection methodology, data sources, assumptions and special adjustments shall be submitted to HFSRB.

5) Service Accessibility

The number of beds being established or added for each category of service is necessary to improve access for planning area residents. The applicant shall document the following:

A) Service Restrictions

The applicant shall document that at least one of the following factors exists in the planning area:

i) The absence of the proposed service within the planning area;

ii) Access limitations due to payor status of patients, including, but not limited to, individuals with health care coverage through Medicare, Medicaid, managed care or charity care;

iii) Restrictive admission policies of existing providers;

iv) The area population and existing care system exhibit indicators of medical care problems, such as an average family income level below the State average poverty level, high infant mortality, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;

v) For purposes of this subsection (c)(5) only, all services within the 45-minute normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.

B) Supporting Documentation

The applicant shall provide the following documentation, as applicable, concerning existing restrictions to service access:

i) The location and utilization of other planning area service providers;

ii) Patient location information by zip code;

iii) Independent time-travel studies;

iv) A certification of waiting times;

v) Scheduling or admission restrictions that exist in area providers;

vi) An assessment of area population characteristics that document that access problems exist;

vii) Most recently published IDPH Hospital Questionnaire.

6) Conversion of Existing General Acute Care Beds – Review Criterion

An applicant proposing to establish a Long-Term Acute Care Hospital category of service through the conversion of existing general acute care beds shall:

A) Address Section 1110.130 for discontinuation of categories of service;

B) Identify modifications in scope of services or elimination of clinical service areas, not covered in Section 1110.130 (e.g., Emergency Department Classification, Surgical Services, Outpatient Services, etc.);

C) Submit a statement as to whether the following clinical service areas are to be available to the general population (non-LTACH): operating rooms, surgical procedure rooms, diagnostic services, therapy services (physical, occupational, speech, respiratory) and other outpatient services; and

D) Document that changes in clinical service areas will not have an adverse impact upon the health care delivery system. An applicant shall document that a written request for information on any adverse impact was received by all hospitals within the 45-minute normal travel time, and that the request included a statement that a written response be provided to the applicant no later than 15 days after receipt. Failure by an existing facility to respond to the applicant's request for information within the prescribed 15-day response period shall constitute a non-rebuttable assumption that the existing facility will not be adversely impacted.

d) Unnecessary Duplication/Maldistribution − Review Criterion

1) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:

A) A list of all zip code areas that are located, in total or in part, within 45 minutes normal travel time of the project's site;

B) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois population); and

C) The names and locations of all existing or approved health care facilities located within 45 minutes normal travel time from the project site that provide the categories of bed service that are proposed by the project.

2) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the identified area (within the planning area) has an excess supply of facilities, beds and services characterized by such factors as, but not limited to:

A) A ratio of beds to population that exceeds one and one-half times the State average;

B) Historical utilization (for the latest 12-month period prior to submission of the application) for existing facilities and services that is below the occupancy standard established pursuant to 77 Ill. Adm. Code 1100; or

C) Insufficient population to provide the volume or caseload necessary to utilize the services proposed by the project at or above occupancy standards.

3) The applicant shall document that, within 24 months after project completion, the proposed project:

A) Will not lower the utilization of other area providers below the occupancy standards specified in 77 Ill. Adm. Code 1100; and

B) Will not lower, to a further extent, the utilization of other area hospitals that are currently (during the latest 12-month period) operating below the occupancy standards.

e) LTACH Modernization

1) If the project involves modernization of an LTACH category of service, the applicant shall document that the inpatient bed areas to be modernized are deteriorated or functionally obsolete and need to be replaced or modernized due to such factors as, but not limited to:

A) High cost of maintenance;

B) Non-compliance with licensing or life safety codes;

C) Changes in standards of care (e.g., private versus multiple

bed rooms); or

D) Additional space for diagnostic or therapeutic purposes.

2) Documentation shall include the most recent:

A) IDPH CMMS inspection reports; and

B) Joint Commission reports.

3) Other documentation shall include the following, as applicable

to the factors cited in the application:

A) Copies of maintenance reports;

B) Copies of citations for life safety code violations; and

C) Other pertinent reports and data.

4) Projects involving the replacement or modernization of a category of service or hospital shall meet or exceed the occupancy standards for the categories of service, as specified in 77 Ill. Adm. Code 1100.

f) Staffing Availability − Review Criterion

The applicant shall document that relevant clinical and professional staffing needs for the proposed project were considered and that licensure and Joint Commission staffing requirements can be met. In addition, the applicant shall document that necessary staffing is available by providing letters of interest from prospective staff members, completed applications for employment, or a narrative explanation of how the proposed staffing will be achieved.

g) Performance Requirements

1) Bed Capacity Minimum

An applicant shall document that the project will result in a facility capacity of at least 50 Long Term Acute Care Hospital beds located in an MSA and 25 Long Term Acute Care Hospital beds in a non-MSA.

2) Length of Stay

A) An applicant proposing to add beds to an existing service shall document that the average length of stay (ALOS) for the subject service is consistent with the planning area's 3-year ALOS.

B) Documentation shall consist of the 3-year ALOS for all hospitals

within the planning area (as reported in the Annual Hospital Questionnaire).

C) An applicant whose existing services have an ALOS exceeding 125% of the ALOS for area providers shall document that the severity or type of illness treated at the applicant facility is significantly higher than the planning area average. Documentation shall be provided from CMMS or other objective records.

D) An applicant whose existing services have an ALOS lower than the planning area ALOS shall submit an explanation as to the reasons for the divergence.

3) Be certified by Medicare as a Long-Term Acute Care Hospital within 12 months after the date of project completion.

h) Assurances

The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that, within 30 months of operation after the project completion, the applicant will achieve and maintain the occupancy standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal.

(Source: Amended at 38 Ill. Reg. 8861, effective April 15, 2014)