

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

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AUTHORITY: Authorized by Section 12 of and implementing the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Adopted at 35 Ill. Reg. 17019, effective, October 7, 2011; amended at 42 Ill. Reg. _____, effective _____.

SUBPART A: AUTHORITY

Section 1125.110 Statutory Authority

- a) This Part is promulgated by authority granted to the Illinois Health Facilities and Services Review Board under the Illinois Health Facilities Planning Act [20 ILCS 3960].
- b) After the effective date of this Part, all applications in the review process and all projects for which permits or exemptions have been issued, but have not yet been completed, shall be subject to this Part.

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- c) The HFSRB rules in effect on the date of alleged violation of the Act or rules shall be applicable concerning all considerations and issues of compliance with HFSRB requirements.
- d) Advisory Subcommittee
 - 1) The Long-term Care Facility Advisory Subcommittee is created by the Act to:
 - A) *Develop and recommend to the Board a separate set of rules and guidelines for long-term care that recognizes that nursing homes are a different business line and service model from other regulated facilities; and*
 - B) *Provide continuous review and commentary on policies and procedures relative to long-term care and the review of related projects.*
 - 2) *The Subcommittee shall be provided a reasonable and timely opportunity to review and comment on any review, revision, or updating of the criteria, standards, procedures, and rules used to evaluate project applications as provided under Section 12.3 of the Act prior to approval by the Board and promulgation of related rules.*
 - 3) *The Subcommittee shall evaluate, and make recommendations to the State Board regarding, the buying, selling, and exchange of beds between long-term care facilities within a specified geographic area or drive time.* [20 ILCS 3960/12(15)]

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART B: PLANNING POLICIES

Section 1125.210 General Long-Term Nursing Care Category of Service

- a) Planning Areas
The 95 general long-term nursing care planning areas are located within the 11 Health Services Areas (HSAs).

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- 1) HSA 1: Planning areas are Boone, Carroll, DeKalb, Jo Daviess, Lee, Ogle, Stephenson, Whiteside and Winnebago Counties.
- 2) HSA 2: Planning areas are Bureau/Putnam, Henderson/Warren, Marshall/Stark, Fulton, Knox, LaSalle, McDonough, Peoria, Tazewell and Woodford Counties.
- 3) HSA 3: Planning areas are Brown/Schuyler, Calhoun/Pike, Morgan/Scott, Adams, Cass, Christian, Greene, Hancock, Jersey, Logan, Macoupin, Mason, Menard, Montgomery and Sangamon Counties.
- 4) HSA 4: Planning areas are Coles/Cumberland, Champaign, Clark, DeWitt, Douglas, Edgar, Ford, Iroquois, Livingston, McLean, Macon, Moultrie, Piatt, Shelby and Vermilion Counties.
- 5) HSA 5: Planning areas are Alexander/Pulaski, Edwards/Wabash, Gallatin/Hamilton/Saline, Johnson/Massac, Hardin/Pope, Bond, Clay, Crawford, Effingham, Fayette, Franklin, Jackson, Jasper, Jefferson, Lawrence, Marion, Perry, Randolph, Richland, Union, Washington, Wayne, White and Williamson Counties.
- 6) HSA 6: Planning Areas
 - A) 6A: City of Chicago Community Areas Rogers Park, West Ridge, Uptown, Lincoln Square, Edgewater, Edison Park, Norwood Park, Jefferson Park, Forest Glen, North Park, Albany Park, Portage Park, Irving Park and Avondale.
 - B) 6B: City of Chicago Community Areas North Center, Lakeview, Lincoln Park, Near North Side, Loop, Logan Square, West Town, Near West Side, Lower West Side, West Garfield Park, East Garfield Park, North Lawndale, South Lawndale, O'Hare, Dunning, Montclare, Belmont Cragin, Hermosa, Humboldt Park and Austin.
 - C) 6C: City of Chicago Community Areas Near North Side, Armour Square, Douglas, Oakland, Fuller Park, Grand Boulevard, Kenwood, Washington Park, Hyde Park, Woodlawn, South Shore, Chatham, Avalon Park, South Chicago, Burnside, Calumet Heights, Roseland, Pullman, South Deering, East Side, West

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Pullman, Riverdale, Hegewisch, Garfield Ridge, Archer Heights, Brighton Park, McKinley Park, Bridgeport, New City, West Elson, Gage Park, Clearing, West Lawn, Chicago Lawn, West Englewood, Englewood, Greater Grand Crossing, Ashburn, Auburn Gresham, Beverly, Washington Heights, Mount Greenwood and Morgan Park.

- 7) HSA 7: Planning Areas
 - A) 7A: Cook County Townships of Barrington, Palatine, Wheeling, Hanover, Schaumburg and Elk Grove.
 - B) 7B: Cook County Townships of Northfield, New Trier, Evanston, Niles and Maine.
 - C) 7C: DuPage County.
 - D) 7D: Cook County Townships of Norwood Park, Leyden, Proviso, River Forest, Oak Park, Riverside, Berwyn and Cicero.
 - E) 7E: Cook County Townships of Lyons, Lemont, Palos, Orland, Stickney, Worth, Calumet, Bremen, Thornton, Rich and Bloom.
 - 8) HSA 8: Planning areas are Kane, Lake and McHenry Counties.
 - 9) HSA 9: Planning areas are Grundy, Kankakee, Kendall and Will Counties.
 - 10) HSA 10: Planning areas are Henry, Mercer and Rock Island Counties.
 - 11) HSA 11: Planning areas are Clinton, Madison, Monroe and St. Clair Counties.
- b) Age Groups
For general long-term nursing care, age groups of 0-64, 65-74, and 75 and over.
 - c) Utilization Target
Facilities providing a general long-term nursing care service should operate those beds at a minimum annual average occupancy of 90% or higher.

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- d) **Bed Capacity**
General long-term nursing care bed capacity is the licensed capacity for facilities subject to the Nursing Home Care Act and the total number of LTC beds for a facility as determined in the HFSRB Inventory for facilities not subject to the Nursing Home Care Act.
- e) **Need Determination**
The following methodology is utilized to determine the projected number of nursing care beds needed in a planning area:
- 1) Establish minimum and maximum planning area use rates for the 0-64, the 65-74, and the 75 and over age groups as follows:
 - A) Divide the HSA's base year experienced nursing care patient days for each age group by the base year population estimate for each age group to determine the HSA experienced use rate for each age group;
 - B) the minimum planning area use rate for each age group is 60% of the HSA experienced use rate for each age group, and the maximum planning area use rate for each age group is 160% of the HSA experienced use rate for each age group;
 - 2) Divide the planning area's base year experienced nursing care patient days for each age group by the base year population estimate for each group to determine the planning area experienced use rate for each age group;
 - 3) Determine the planning area's population projection, which is ~~510~~ years from the base year; the use rate for each age group is as follows:
 - A) If the experienced use rate for an age group is below the minimum use rate, the minimum use rate is the projected use rate for that age group;
 - B) If the experienced use rate for an age group is above the maximum use rate, the maximum use rate is the projected use rate for that age group;

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- C) If the experienced use rate for an age group is above the minimum use rate and below the maximum use rate, the experienced use rate for the age group is the projected use rate for that age group;
- 4) Multiply each age group's projected use rate times the projected population for the age group to determine the projected patient days for each age group;
- 5) Total the projected patient days for the age groups to determine the planning area's total projected patient days;
- 6) Divide the planning area's total projected patient days by the number of days in the projected year to obtain the projected average daily census;
- 7) Divide the projected average daily census by .90 (90% occupancy factor) to obtain the projected planning area bed need;
- 8) Subtract the number of existing beds in the planning area from the projected planning area bed need to determine the projected number of excess (surplus) beds or the projected need for additional (deficit) beds in an area.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART D: GENERAL LONG-TERM CARE – REVIEW CRITERIA

Section 1125.520 Background of the Applicant – Review Criterion

All applicants shall comply with the requirements of this Section, as follows:

- a) 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 LTC service for the community.* [20 ILCS 3960/6] In evaluating the qualifications, background and character of the applicant, HFSRB shall consider whether adverse ~~actions have~~~~action has~~ been taken against the applicant, or against any LTC facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application. An LTC 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

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option to acquire stock, the stock shall be considered to be owned by that person or entity. (See Section 1125.140 for the definition of "adverse action".)

- b) Examples of Facilities Owned or Operated by an Applicant
- 1) The applicant, Partnership ABC, owns 60% of the shares of Corporation XYZ that manages the Good Care Nursing Home under a management agreement. The applicant, Partnership ABC, owns or operates Good Care Nursing Home.
 - 2) The applicant, Healthy LTC, a corporation, is a subsidiary of Universal Health, the parent corporation of Healthcenter Services, its wholly-owned subsidiary. The applicant, Healthy LTC, owns and operates Healthcenter Services.
 - 3) Dr. Wellcare is the applicant. His wife is the director of a corporation that owns an LTC. The applicant, Dr. Wellcare, owns or operates the LTC.
 - 4) Drs. Faith, Hope and Charity own 40%, 35% and 10%, respectively, of the shares of Healthfair, Inc., a corporation, which 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.
- c) The applicant shall submit the following information:
- 1) A listing of all LTC facilities currently owned and/or operated by the applicant, including licensing, certification and accreditation identification numbers, as applicable;
 - 2) 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; and
 - 3) 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

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authorization shall constitute an abandonment or withdrawal of the application without any further action by HFSRB.

- d) 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 information requirements of this Section. 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.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1125.570 Service Accessibility

The number of beds being established or added for each category of service is necessary to improve access for planning area residents.

- a) **Service Restrictions**
The applicant shall document that at least one of the following factors exists in the planning area, as applicable:
- 1) The absence of the proposed service within the planning area;
 - 2) Access limitations due to payor status of patients/residents, including, but not limited to, individuals with LTC coverage through Medicare, Medicaid, managed care or charity care;
 - 3) Restrictive admission policies of existing providers;
 - 4) 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, 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;
 - 5) For purposes of this Section 1125.570 only, all services within the established radii outlined in 77 Ill. Adm. Code 1100.510(d)~~the 45-minute~~

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~~normal travel time~~ meet or exceed the occupancy standard specified in Section 1125.210(c).

- b) Supporting Documentation
The applicant shall provide the following documentation, as applicable, concerning existing restrictions to service access:
- 1) The location and utilization of other planning area service providers;
 - 2) Patient/resident location information by zip code;
 - 3) Independent time-travel studies;
 - 4) Certification of a waiting list;
 - 5) Admission restrictions that exist in area providers;
 - 6) An assessment of area population characteristics that document that access problems exist;
 - 7) Most recently published IDPH Long Term Care Facilities Inventory and Data (see www.hfsrb.illinois.gov).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1125.580 Unnecessary Duplication/Maldistribution

- a) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:
- 1) A list of all zip code areas that are located, in total or in part, within the established radii outlined in 77 Ill. Adm. Code 1100.510(d)~~30 minutes~~ ~~normal travel time~~ of the project's site;
 - 2) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois); and
 - 3) The names and locations of all existing or approved LTC facilities located within the established radii outlined in 77 Ill. Adm. Code 1100.510(d) of

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~~30 minutes normal travel time from~~ the project site that provide the categories of bed service that are proposed by the project.

- b) 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:
 - 1) A ratio of beds to population that exceeds one and one-half times the State average;
 - 2) 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 Section 1125.210(c); or
 - 3) Insufficient population to provide the volume or caseload necessary to utilize the services proposed by the project at or above occupancy standards.

- c) The applicant shall document that, within 24 months after project completion, the proposed project:
 - 1) Will not lower the utilization of other area providers below the occupancy standards specified in Section 1125.210(c); and
 - 2) Will not lower, to a further extent, the utilization of other area facilities that are currently (during the latest 12-month period) operating below the occupancy standards.

(Source: Amended at 42 Ill. Reg. _____, effective _____)