

(e) Applicants shall describe nurse staffing patterns which shall include, at a minimum, one registered nurse on each nursing care unit, 24 hours per day. Priority shall be given to approving applications that provide documentation of a commitment to promoting high quality, specialized rehabilitation nursing. Applicants shall submit a detailed, specific plan for the recruitment, retention, and inservice education of nursing staff, including a description of any incentives that shall be provided by the hospital for the purpose of encouraging the facility's registered nurses to earn master's degrees from programs accredited by the National League of Nursing and/or to receive certification from the Association of Rehabilitation Nurses (or, in the case of pediatric facilities, from the National Board of Pediatric Nurse Practitioners and Associates or the American Nurses Association).

8:33M-2.3 Minimum size of facilities

(a) To promote the efficient use of resources, the minimum size for a new, freestanding rehabilitation hospital shall be 60 beds.

(b) The minimum size for a non-freestanding rehabilitation hospital that is located within another type of licensed health care facility shall be 30 beds.

1. An exception to the 30 bed minimum size for a non-freestanding rehabilitation hospital will be made by the Department, under the following circumstance, provided that all other applicable requirements of this chapter are met:

i. An existing, non-freestanding rehabilitation hospital proposes renovations or improvements in its physical plant that are necessary to meet minimum State and Federal Life Safety Code requirements and no change in the rehabilitation hospital's bed complement is proposed or necessary; or

ii. In regions where there is a need for fewer than 30 adult or pediatric rehabilitation beds, as documented by the need methodologies described in N.J.A.C. 8:33M-2.4(c), the Department of Health and Senior Services may give consideration to approving applications that will improve access to high quality, cost efficient comprehensive rehabilitation services. Under no circumstance shall an application proposing a total complement of fewer than 20 comprehensive rehabilitation beds for either pediatric or adult patients be approved.

(c) Rehabilitation hospitals proposing to treat both pediatric and adult patients shall include a minimum of 30 beds for pediatric patients and 30 beds for adult patients, unless an exception is granted for a smaller number of pediatric or adult beds, as described above in (b)1ii above. Pediatric and adult rehabilitation beds shall not be combined to achieve the minimum bed complement.

8:33M-2.4 Requirements for expansion and new construction

(a) Certificate of need applications for new rehabilitation hospitals or for bed additions to existing rehabilitation hospitals shall be filed for full review with the Department in accordance with the provisions of N.J.A.C. 8:33, the Certificate of Need Policy Manual, in response to a call for applications which is issued by the Commissioner (see N.J.A.C. 8:33-4.1).

(b) To promote the efficient provision of comprehensive rehabilitation, services shall be provided by rehabilitation hospitals on a regional basis. The applicant shall identify the proposed region for any new or expanding rehabilitation hospital and shall provide documentation of how the facility will assure access to comprehensive rehabilitation for the population residing throughout that region.

(c) New comprehensive rehabilitation beds shall be approved only in regions where there is a documented projected bed need.

1. Need projections shall be computed for that year which is four years from the time that a certificate of need application is accepted for processing.

2. For the purpose of computing bed need, the Department shall maintain separate inventories of approved pediatric and adult comprehensive rehabilitation beds for each region identified in (b) above, and these beds shall be subtracted from the projected number of beds needed in each respective region. Approved comprehensive rehabilitation beds shall include those that are authorized and licensed as described in N.J.A.C. 8:33M-1.1(e) and all comprehensive rehabilitation beds that receive certificate of need approval.

3. Need projections shall be computed using the most recent available data from licensed rehabilitation hospitals, both freestanding and non-freestanding, in accordance with N.J.A.C. 8:33M-1.1(b), and the New Jersey Department of Labor (population projections).

i. Rehabilitation hospitals, both freestanding and non-freestanding, shall submit utilization data to the Department of Health and Senior Services for each calendar year on an annual basis, or more frequently if requested by the Department of Health and Senior Services. Data shall include a breakdown of the number of patients and patient days for the reporting period, according to the age and county of residence of patients.

ii. In the event that a licensed rehabilitation hospital does not provide the utilization data in (c)3i above in a timely manner, as directly specified by the Department, the Department shall exclude that facility's beds from the inventory used in calculating Statewide utilization rates and bed need for the region.

4. The need for adult comprehensive rehabilitation beds shall be calculated in the following manner, using New Jersey Department of Labor demographic statistics.

i. STEP 1: For each county, for the age groups 20 to 44, 45 to 64, 65 to 74, and 75 and over, the number of county residents who actually occupied licensed comprehensive rehabilitation beds in facilities located in New Jersey during the time period for which the most recent data are available shall be divided by the concurrent, age-specific population of the respective county;

ii. STEP 2: For the State as a whole, for the age groups 20 to 44, 45 to 64, 65 to 74, and 75 and over, the total number of New Jersey residents who actually occupied licensed comprehensive rehabilitation beds in facilities located in New Jersey shall be divided by the total population for the specified age groups for the concurrent year;

iii. STEP 3: A minimum acceptable rate of patients per population shall be set for each group identified in (c)4i above. The set minimum figure shall be that rate which is 20 percent less than the Statewide average rate computed for each age group, in accordance with (c)4ii above;

iv. STEP 4: In order to project the number of patients expected to need inpatient comprehensive rehabilitation care in the target year, the rate of patients for each age group for each county, as computed in (c)4i above, shall be multiplied by the age-specific, county-specific population that is projected for the target year. However, if the age-specific, county-specific rate of comprehensive rehabilitation bed utilization computed in accordance with (c)4i above is below the applicable minimum rate computed in accordance with (c)4iii above, then this minimum acceptable rate shall be substituted for the actual age-specific, county-specific rate;

v. STEP 5: Using the most recent data available to the Department of Health, the Statewide average length of stay in licensed comprehensive rehabilitation beds for the age groups 20 to 44, 45 to 64, 65 to 74, and 75 and over, shall be computed by dividing the total number of New Jersey comprehensive rehabilitation patient days utilized by each age group during the reporting period in question by the total number of New Jersey rehabilitation patients for each respective age group;

vi. STEP 6: In order to project the number of patient days expected in the target year, the age-specific, county-specific projected number of patients computed in accordance with (c)4iv above shall be multiplied by the age-specific, Statewide average length of stay computed in accordance with (c)4v above;

vii. STEP 7: The projected number of patient days for all age groups, computed in accordance with (c)4vi above, shall be summed for each county. In order to allow for 85 percent occupancy of comprehensive rehabilitation beds in the target year, the projected number of patient days for each county shall then be divided by 0.85;

viii. STEP 8: The projected number of patient days for each county, computed in accordance with (c)4vii above, shall be divided by 365 to yield the projected number of comprehensive rehabilitation beds needed by county residents in the target year. The projected number of beds needed by each region shall then be computed by summing the number of comprehensive rehabilitation beds required for each of the counties in that region;

ix. STEP 9: In order to take into account those comprehensive rehabilitation beds in New Jersey rehabilitation hospitals which are utilized by non-New Jersey residents and by patients whose residency is unknown, the number of patient days utilized by non-New Jersey residents and by patients of unknown origin at all rehabilitation hospitals located in each region during the most recent year for which data are available shall be summed. The latter number, computed for each region, shall then be divided by $(365 \times .85)$. The resulting, region-specific number of beds shall then be added to the number of beds needed in each particular region, computed in accordance with (c)4viii above; and

x. STEP 10: To arrive at the net number of beds needed in each local advisory board region in the target year, the inventory of approved comprehensive rehabilitation beds in each region, determined in accordance with (c)2 above, shall be subtracted from the respective region's bed need, computed in accordance with (c)4viii and ix above.

5. To compute the need for rehabilitation beds for pediatric patients, the most recent available pediatric rehabilitation hospital discharge abstract data shall be analyzed in relation to population data for the corresponding year, in order to determine the total, Statewide rate of inpatient rehabilitation days for each of four pediatric population age groups. The four age groups are: zero to four years, five to nine, 10 to 14, and 15 to 19. For any year in which there is a disparity between the total, reported number of inpatient pediatric rehabilitation days based upon discharge abstract data and the total number of inpatient pediatric rehabilitation days reported by the Department's Center for Health Statistics in its annual report of inpatient utilization data, the aforementioned rates for each group shall be uniformly adjusted to take into account the actual total number of inpatient rehabilitation days provided to pediatric patients. The rates for each group shall then be multiplied by the population projections for each of the age groups in each of the regions for the targeted year. The projected number of inpatient days shall then be adjusted (that is, divided) by a factor of .85 to allow for 85 percent occupancy of the beds. The latter, adjusted figure shall then be divided by 365 to yield the total number of pediatric beds needed in each region for the targeted year. Pediatric comprehensive rehabilitation beds that are part of the Department's inventory as described in (c)2 above shall then be subtracted from the total number of pediatric beds needed in each region for the targeted year, to yield the net bed need.

(d) In regions where there is no net projected bed need according to the methodologies described in (c) above, the Department may give consideration to approving certificate of need applications for small numbers of additional comprehensive rehabilitation beds to be located at the site of existing rehabilitation hospitals with high occupancy rates.

1. In order to receive consideration for approval in accordance with paragraph (d) above, rehabilitation hospitals shall be in compliance with all other applicable requirements of this chapter and shall submit documentation, to the satisfaction of the Department of Health and Senior Services, that patients' average length of stay in the licensed comprehensive rehabilitation beds does not exceed the Statewide average for a comparable patient population.

2. The maximum number of beds that may be added in accordance with paragraph (d) above shall be the difference between a facility's total, licensed comprehensive rehabilitation bed complement and that number which results from multiplying the facility's total, licensed comprehensive rehabilitation bed complement by the annual occupancy rate in those beds for the 12 month period prior to filing the application, and dividing this product by .85. The formula for this calculation shall be as follows:

$$\begin{array}{rcl} \text{Maximum} & & \text{Licensed} \\ \text{Comprehensive} & = & \text{Comprehensive} \times \\ \text{Rehab Bed} & & \text{Rehab Bed} \quad \text{Rate in Licensed} \\ \text{Addition} & & \text{Complement} \quad \text{Comprehensive} \\ & & \text{Rehab Beds} \\ & & \text{Rehab Beds} \\ & & \text{Complement} \end{array} \begin{array}{l} \text{Annual Occupancy} \\ \text{Rate in Licensed} \\ \text{Comprehensive} \\ \text{Rehab Beds} \\ \text{Rehab Beds} \\ \text{Rehab Bed} \\ \text{Complement} \end{array} \begin{array}{l} \text{Licensed} \\ \text{Comprehensive} \\ \text{Rehab Bed} \\ \text{Complement} \end{array}$$

3. In no case shall the bed increase approved in accordance with paragraph (d) above exceed the difference between a facility's total, licensed comprehensive rehabilitation bed complement and that number which results from multiplying the facility's total, licensed comprehensive rehabilitation bed complement by an occupancy rate of 100 percent and dividing this product by .85.

4. In order to receive consideration for approval in accordance with paragraph (d) above, the applicant shall submit documentation, to the satisfaction of the Department of Health and Senior Services, that the facility has established and maintained ongoing referral arrangements and transfer agreements with other licensed rehabilitation hospitals in the region that have available bed capacity (that is, facilities with annual occupancy below 85 percent), for the purpose of promoting the most efficient utilization of the region's available rehabilitation hospital resources. The applicant need only submit this documentation with respect to those facilities that have been in compliance with the Department of Health and Senior Services' licensing requirements during the 12-month period prior to application submission.

(e) In regions where there is a net, projected bed need according to the methodologies described in (c) above, applicants proposing bed additions at existing rehabilitation hospitals in the service area shall provide evidence of an occupancy rate of at least 85 percent for the calendar year prior to submission of the certificate of need application. Bed additions at existing facilities with less than 85 percent occupancy of the comprehensive rehabilitation bed complement shall not be approved.

1. In the case where a hospital's occupancy rate is less than 85 percent, an exception may be made if the applicant is able to provide compelling documentation, to the satisfaction of the Department of Health and Senior Services, that the hospital will be able to achieve an 85 percent occupancy rate within one year of project implementation (that is, after the bed addition has been licensed). Compelling documentation shall include a detailed description of specific factors that have prevented the facility from achieving at least 85 percent occupancy, along with a description of how obstacles to the desired occupancy level will be eliminated.

(f) To assure continuity of care for comprehensive rehabilitation patients, applicants shall submit documentation of existing or anticipated transfer agreements and referral arrangements with acute care hospitals, home health agencies, long term care facilities, and residential facilities (for example, residential health care facilities) throughout the proposed service area.

(g) Applicants shall submit a copy of proposed educational program materials pertaining to the care of HIV-infected patients, including documentation regarding how universal precautions (see N.J.A.C. 8:39-19.4(a)1) shall be instituted in the proposed or existing rehabilitation hospital, to be used in training all health care staff. In addition, the applicant shall agree, as a condition of certificate of need approval, to enter into and maintain a formal affiliation with the Department's AIDS Division to assure follow-up and case management of patients who may be HIV-infected.

(h) The applicant's prior record of providing quality care, as determined by the Department's Division of Health Facilities Evaluation, shall be taken into consideration during the certificate of need review. Applicants with a record of licensure violations or deficiencies pertaining to patient care during the 12-month period prior to submission of the certificate of need application shall not be approved for bed additions nor for the construction of new rehabilitation hospitals.

8:33M-2.5 Patient admission and discharge policies

(a) Admission criteria and policies shall be developed by the facility and submitted as part of the certificate of need application. Patients in non-freestanding facilities shall be admitted separately into the rehabilitation hospital for statistical and cost accountability purposes.

(b) Admission policies shall be in writing, and shall, at a minimum, address each of the following:

1. Patient eligibility characteristics or factors specific to recognized rehabilitation diagnoses/conditions that will be treated at the facility. These diagnoses/conditions shall be consistent with the scope and intensity of services that the facility intends to provide;

2. Screening to assure that treatment in the facility will result in demonstrably increased functional abilities and an improved quality of life after discharge from the institution, to an extent that would not generally be possible with treatment available from other types of health care facilities. Only patients who are capable of engaging in and benefiting from this level of treatment shall be admitted;

3. Nondiscrimination against patients on the basis of payment sources for care;

4. Nondiscrimination against patients who are known to be, or who are suspected of being, HIV-positive. As a condition of certificate of need approval, the facility shall agree to treat patients who meet the admission criteria for the facility and are HIV-positive; and

5. For those individuals who are deemed ineligible for admission to the facility, a description of how patients will be recommended for a more appropriate level of care.

(c) Discharge criteria shall be developed by the applicant and included as a part of the certificate of need application.

(d) The applicant shall submit documentation of a plan to provide job placement opportunities and referrals for those patients who desire employment after discharge from the facility.

(e) For each patient who is discharged from the hospital, the facility shall collect, and shall report annually to the Department of Health and Senior Services, the following data: patient's age, county of residence, referral source, length of stay, principal, and secondary diagnoses, functional impairments on admission and discharge, payment source, discharge status and destination, and post-discharge service needs.

(f) The applicant shall submit documentation of the referral process that will be implemented to assure that patients will receive appropriate follow-up care after discharge from the facility. The facility shall establish and maintain a plan to assure that needed outpatient services will be arranged for patients residing within each county in the facility's service area.

8:33M-2.6 Accessibility of care for Medicaid, Medicare, and medically indigent patients

(a) On an annual basis, a minimum of five percent of the total patient days within a facility's adult comprehensive rehabilitation beds shall be utilized by Medicaid patients. This requirement shall be met within one year of license issuance for a rehabilitation hospital and shall be maintained thereafter.

(b) On an annual basis, a minimum of 35 percent of the total patient days within a facility's adult comprehensive rehabilitation beds shall be utilized by Medicare patients. This requirement shall be met within one year of project completion and/or license issuance for a rehabilitation hospital and shall be maintained thereafter.

(c) On an annual basis, a minimum of 40 percent of the total patient days within a facility's pediatric comprehensive rehabilitation beds shall be utilized by Medicaid-eligible patients. This requirement shall be met within one year of project completion and/or license issuance for a rehabilitation hospital and shall be maintained thereafter.

(d) On an annual basis, a minimum of three percent of the total patient days within a facility's comprehensive rehabilitation beds shall be provided in the form of free and/or part-pay care to medically indigent patients. This requirement shall be met within one year of project completion and/or license issuance for a rehabilitation hospital and shall be maintained thereafter.

(e) The applicant shall provide documentation that written policies shall be maintained and enforced by the facility, stating that no patient will be discharged prior to completion of treatment as a result of the inability to pay for care.

(f) The Department shall give priority to the approval of certificate of need applications for rehabilitation hospitals that have at least a three year prior history of complying with the applicable requirements specified in (a), (b) and (c) above.

(g) The applicant for a certificate of need shall provide documentation, to the satisfaction of the Department of Health and Senior Services, of strategies that will be implemented by the rehabilitation hospital in order to promote and assure access to care for Medicaid-eligible patients who reside throughout the facility's service region.

8:33M-2.7 Financial feasibility and cost effectiveness

(a) Applicants for a certificate of need shall demonstrate the financial feasibility of proposed projects. A study shall be submitted by the applicant analyzing the feasibility of the project under the reimbursement rules in effect at the time of the CN call. A project may be determined financially feasible where the applicant can demonstrate to the satisfaction of the Department that there will be a net positive income in the calendar or fiscal years that are two and five years beyond project completion. The Department will use, at a minimum, the following factors in determining financial feasibility:

1. Project cost;
2. Projected budget; and
3. Positive income (that is, income exceeding expenses).

(b) Financial projections submitted as part of the certificate of need application shall provide evidence that income generated by operation of the proposed facility will be sufficient to cover the cost of service to the percentage of Medicaid, Medicare, and medically indigent patients specified in the application, or in accordance with N.J.A.C. 8:33M-2.5, whichever amount is greater.

(c) Financing of hospital construction, modernization/renovation, or major movable equipment projects shall require that at least 15 percent of the total project costs, including all financing and carrying costs, shall be available and applied in the form of equity, in accordance with N.J.A.C. 8:33-2.15.

(d) All projects involving long-term financing of capital construction costs shall demonstrate use of the least costly form of financing available.

(e) An applicant for a certificate of need for additional comprehensive rehabilitation beds shall submit documentation that appropriate alternatives to inpatient care which could minimize the ALOs such as home health care or outpatient services, have been considered and that the project as proposed will encourage the use of lower cost outpatient rehabilitative services, where such services are appropriate to meet patients' needs for care.

(f) Applicants for comprehensive rehabilitation beds that are proposed to be located within long-term care facilities shall submit projected fee schedules for rehabilitation services and for long-term care services at the facility. Applications that propose a schedule of charges indicating that costs will be shifted from comprehensive rehabilitation patients to long-term care patients shall not be approved.

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8:33M-2.8 Geographical accessibility of facilities and siting considerations

(a) In service areas where there is a need for additional comprehensive rehabilitation beds, priority shall be given to approving applications in areas that will improve geographical accessibility for residents of the region. The evaluation of geographical accessibility shall include, but not be limited to, a consideration of the location of existing rehabilitation hospitals, population density of the service area, and driving time to existing and proposed rehabilitation hospitals in the service area.

(b) Where possible, each rehabilitation hospital shall be located in close proximity to public transportation routes.

(c) Documentation of the zoning status and the need for land use approvals for any site proposed for new construction shall be submitted by the applicant. Priority shall be given to the approval of certificate of need applications for projects located on sites that are likely to receive necessary zoning and land use approvals.