

8:33H-1.19 Prioritization criteria and recommended features for the approval of nursing home projects

(a) In the case where two or more applications propose to meet a limited nursing home bed need in a particular county, these applications shall be reviewed in competition with each other using the prioritization criteria contained herein.

(b) Preference shall be given to the Certificate of Need approval of those projects that receive the greatest number of points using the criteria enumerated below. Each criterion shall count for one point, except that the criteria at (b)1 and 2 below shall count for two points each. In this manner, the maximum possible score shall be 15. The criteria are as follows:

1. The applicant documents a commitment to occupy 55 percent or more of the facility's total long-term care bed complement with Medicaid-eligible patients within one year of licensure. This proportion shall include at least 45 percent occupancy of the total bed complement by direct-admission Medicaid-eligible patients and at least 10 percent occupancy by patients who convert from private pay status to Medicaid eligibility during their stay in the facility. Applicants may propose to accept higher percentages of Medicaid patients than those stated herein, however, no greater priority shall be given to applicants for such a commitment;

2. The applicant demonstrates a commitment to admit and maintain Medicaid-eligible "heavy care" or acuity patients in at least 20 percent of the proposed new beds (that is, patients who do not require specialized care, as it is defined in N.J.A.C. 8:33H-1.2, but who routinely require more than the 2.5 hours per day minimum amount of nursing care required in N.J.A.C. 8:39). In order to meet this criterion, the applicant is required to provide documentation from area hospital discharge planners or other appropriate resources to show that there is a need of the magnitude that would warrant 20 percent of the proposed beds being dedicated for heavy care;

3. Above and beyond meeting the requirements in N.J.A.C. 8:33-1.14, the applicant has a track record for consistently high quality patient care in nursing facilities owned or operated by the applicant, as demonstrated by a satisfactory record of compliance with licensure standards during the three year period prior to application submission and submission of an affidavit to that effect;

4. The applicant successfully operates at least one facility that is licensed for both residential health care and long-term care beds, and the facility has maintained an annual occupancy rate of at least 85 percent in its licensed residential health care beds during the most recent calendar year;

5. The facility will include a separate and distinct unit for young adult patients. The size of this unit should be

proportionate to the county's need, taking into consideration the projected need for placements for individuals age 20 to 64 in accordance with the placement methodology in N.J.A.C. 8:33H-1.5, and the existence of other long-term care resources that are available for young adults in the area;

6. Within one year of licensure, the facility will be staffed with one or more full-time equivalent physician, or clinical nurse specialists who have received a master's degree in geriatric nursing or a related clinical field from a program accredited by the National League for Nursing;

7. The facility will provide tuition reimbursement and/or a career ladder program for facility personnel. The program and employee participation criteria shall be described in detail in the application. The facility will provide documentation to the Department of Health on an annual basis to show that one or more employees have received college or training school tuition reimbursement each year as part of this program;

8. The project will result in the elimination of life safety code waivers at an existing facility;

9. The project entails the conversion of excess acute care hospital bed capacity to long-term care, in accordance with the requirements in N.J.A.C. 8:33H-1.13(i);

10. The applicant has a track record of implementing long-term care projects in New Jersey in an especially timely manner (that is, long-term care construction projects owned, operated, or managed by the applicant have been licensed within four years of Certificate of Need issuance);

11. The applicant has no more than one other Certificate of Need approved but not yet licensed long-term care facility in New Jersey at the time that the current application is accepted for processing;

12. Above and beyond meeting the requirements in N.J.A.C. 8:33H-1.14, the applicant has a track record for high quality patient care in nursing facilities owned or operated by the applicant in New Jersey, as demonstrated by compliance with five or more advisory standards contained in N.J.A.C. 8:39 at the time of the most recent annual licensing survey. Advisory standards which will be taken into consideration are: access to care, patient assessment and care plans, pharmacy, infection control and sanitation, patient activities, dietary services, medical services, nurse staffing, physical environment, and quality assurance. Substantial compliance refers to compliance with at least 65 percent of the components of each of the five advisory standards; and

13. The facility will promote not only a high quality of nursing and medical care but also a high quality of life for residents. Factors deemed to promote a high quality of life include, but are not limited to, the following:

i. Physical space inside the facility in excess of minimum construction requirements, designed for pa-

tients to meet privately with family and significant others;

ii. Year-round, easy access to protected, landscaped outdoor areas that are furnished with outdoor seating and tables; and

iii. Strategies to address the needs of patients with Alzheimer's Disease and related dementias, including, but not limited to, wandering tracks, behavior management programs, family support groups, and ongoing special activities.

(c) In the event that an applicant receives Certificate of Need approval for proposing to meet any or all of the prioritization criteria in (b) above, the specified criteria shall be included as conditions of Certificate of Need approval. Failure to comply with the conditions may result in licensure fines or other penalties.

(d) In the case where an applicant states a commitment to meet any or all of the prioritization criteria in (b) above, the applicant shall provide documentation that the costs of meeting the specified criteria have been factored into the applicant's financial feasibility analysis, in accordance with N.J.A.C. 8:33H-1.16.

(e) In Local Advisory Board regions where there is a need for specialized long-term care beds, priority shall be given to the approval of Certificate of Need applications for projects which are in compliance with all applicable requirements of this chapter and which meet the greatest number of the following criteria:

1. The facility will be centrally located in a geographically accessible location which is conveniently reached by public and private transportation by residents of all parts of the LAB region;

2. The facility has the physical space, bed capacity and architectural layout to accommodate an addition of specialized care beds in a timely manner in the future, should there be a need for more beds in accordance with N.J.A.C. 8:33H-1.7; and

3. The applicant documents a commitment to occupy 55 percent or more of the facility's specialized care bed complement with Medicaid-eligible patients within one year of licensure. This proportion shall include at least 45 percent occupancy by direct-admission Medicaid-eligible patients and at least 10 percent occupancy by patients who convert from private pay status to Medicaid eligibility during their stay in the facility. Applicants may propose to accept higher percentages of Medicaid patients than those stated herein, however, no greater priority shall be given to applicants for such a commitment.

Law Review and Journal Commentaries

Certificates of Need—Appeals. P.R. Chenoweth, 138 N.J.L.J. No. 14, 72 (1994).

Case Notes

There is right to "on the merits" assessment of proposals. In re Certificate of Need Application of Arnold Walter Nursing Home, 277 N.J.Super. 472, 649 A.2d 1319 (A.D.1994).

Health Commissioner has obligation to provide fuller explanation for rejecting appraisals than mere statement that prioritization criteria outweigh recommendations. In re Certificate of Need Application of Arnold Walter Nursing Home, 277 N.J.Super. 472, 649 A.2d 1319 (A.D.1994).

Rationale for denial of application for certificate of need was insufficient. In re Certificate of Need Application of Arnold Walter Nursing Home, 277 N.J.Super. 472, 649 A.2d 1319 (A.D.1994).

Denial of Certificate of Need for construction of new long-term care facility was not arbitrary and capricious. In Matter of Application of Mediplex of Voorhees for Certificate of Need. 93 N.J.A.R.2d (HLT) 37.

8:33H-1.20 Relationship between licensure and certificate of need requirements

The provisions of N.J.A.C. 8:39, Licensing Standards for Long-Term Care Facilities, N.J.A.C. 8:43, Manual of Standards for Licensure of Residential Health Care Facilities, and N.J.A.C. 8:36, Standards for Licensure of Assisted Living Residences and Comprehensive Personal Care Homes, are hereby incorporated by reference. Applicants receiving certificate of need approval under the provisions of this chapter shall comply with all applicable licensing requirements of N.J.A.C. 8:39, N.J.A.C. 8:36, and N.J.A.C. 8:43.

Amended and Recodified by R.1993 d.671, effective December 20, 1993.

See: 25 N.J.R. 3719(a), 25 N.J.R. 6031(a).