MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR NURSING HOME AND HOSPITAL LONG-TERM-CARE UNIT BEDS

(By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being sections 333.22215, 24.207, and 24.208 of the Michigan Compiled Laws.)

Section 1. Applicability

Sec. 1. (1) These standards are requirements for approval and delivery of services for all projects approved and certificates of need issued under Part 222 of the Code which involve nursing homes and hospital long-term-care units.

(2) A nursing home licensed under Part 217 and a hospital long-term-care unit (HLTCU) defined in Section 20106(6) are covered health facilities for purposes of Part 222 of the Code.

(3) The Department shall use sections 3, 4, 5, 6, 8, 9, 12, 13, and 14 of these standards, as applicable, in applying Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws.

(4) The Department shall use Section 7 of these standards, as applicable, in applying Section 22225(2)(a)(iii) of the Code, being Section 333.22225(2)(a)(iii) of the Michigan Compiled Laws.

(5) The Department shall use Section 11 of these standards, as applicable, in applying Section 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.

(6) The Department shall use Section 10(2) of these standards, as applicable, in applying Section 22230 of the Code, being Section 333.22230 of the Michigan Compiled Laws.

Section 2. Definitions

Sec. 2. (1) As used in these standards:

(a) "Acquisition of a new nursing home or HLTCU" means the issuance of a new nursing home (including HLTCU) license as the result of the acquisition (including purchase, lease, donation, or other comparable arrangement) of an existing licensed nursing home (including HLTCU) and which does not involve a change in bed capacity of that health facility.

(b) "ADC adjustment factor" means the factor by which the average daily census (ADC), derived during the bed need methodology calculation set forth in Section 3(2)(d) for each planning area, is divided. For planning areas with an ADC of less than 100, the ADC adjustment factor is 0.90 and for planning areas with an ADC of 100 or more, the ADC adjustment factor is 0.95.

(c) "Applicant's cash" means the total of the following items reported by the applicant on the "Source of Funds" form (form number T-150-G-11.04, or any subsequent replacement form): (i) unrestricted cash; (ii) designated funds; (iii) restricted funds; (iv) planned gifts, bequests, donations, and pledges; and (v) interest income during construction.

(d) "Average total proposed project cost per bed" or "A" is calculated by the Department by summing the "Total proposed project cost" of each qualifying project, and then dividing the sum by the total number of beds proposed by those qualifying projects. The total number of beds shall include new, replacement, and converted beds.

(e) "Base year" means 1987 or the most recent year for which verifiable data collected as part of the Michigan Department of Community Health Annual Survey of Long-Term-Care Facilities or other comparable MDCH survey instrument are available.

(f) "Certificate of Need Commission" or "Commission" means the commission created pursuant to

Section 22211 of the Code, being Section 333.22211 of the Michigan Compiled Laws.

(g) "Code" means Act No. 368 of the Public Acts of 1978, as amended, being Section 333.1101 et seq. of the Michigan Compiled Laws.

(h) "Comparative group" means the applications which have been grouped for the same type of project in the same planning area and which are being reviewed comparatively in accord with the CON rules.

(i) "Converted bed/space" means, for purposes of these standards, an existing bed or space in a health facility that is not currently licensed as a nursing home/HLTCU bed and is proposed to be licensed as a nursing home or HLTCU bed. An example is proposing to license a home for the aged bed as a nursing home bed.

(j) "Department" means the Michigan Department of Community Health (MDCH).

(k) "Department inventory of beds" means the current list, for each planning area maintained on a continuing basis by the Department: (i) licensed nursing home beds (including MR and MI beds) and (ii) nursing home beds approved by a valid CON issued under either former Part 221 or Part 222 of the Code which are not yet licensed. It does not include (a) nursing home beds approved from the statewide pool and (b) short-term nursing care program beds approved pursuant to Section 22210 of the Code, being Section 333.22210 of the Michigan Compiled Laws.

(l) "Existing nursing home beds" means, for a specific planning area, the total of all nursing home beds located within the planning area including: (i) licensed nursing home beds (including MR and MI beds), (ii) nursing home beds approved by a valid CON issued under either former Part 221 or Part 222 of the Code which are not yet licensed, (iii) proposed nursing home beds under appeal from a final Department decision made under former Part 221 or Part 222 or pending a hearing from a proposed decision issued under Part 222 of the Code, and (iv) proposed nursing home beds that are part of a completed application under Part 222 of the Code (other than the application or applications in the comparative group under review) which is pending final Department decision. The following exceptions to this definition exist: (a) the 174 licensed beds at the Pinecrest Medical Care Facility geographically located in Menominee County will be allocated to three planning areas as follows: 68 beds in the Menominee planning area, 53 beds in the Delta planning area, and 53 beds in the Dickinson planning area; (b) nursing home beds approved from the statewide pool are excluded; and (c) short-term nursing care program beds approved pursuant to Section 22210 of the Code, being Section 333.22210 of the Michigan Compiled Laws, are excluded.

(m) "Gross square feet" means the area of the building as measured by the outside building walls.

(n) "Health service area or HSA" means the geographic area established for a health systems agency pursuant to former Section 1511 of the Public Health Service Act and set forth in Section 14.

(o) "Hospital long-term-care unit" or "HLTCU" means a nursing care facility, owned and operated by and as part of a hospital, that provides organized nursing care and medical treatment to seven (7) or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

(p) "Licensed site" means either (i) in the case of a single site hospital or nursing home, the location of the health facility authorized by license and listed on that licensee's certificate of licensure or (ii) in the case of a hospital or nursing home with multiple sites, the location of each separate and distinct health facility as authorized by licensure.

(q) "Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 1396r-6 and1396r-8 to 1396v.

(r) "Medicaid eligible recipient" means a patient deemed eligible by the Michigan Department of Community Health, or its designated agent, to receive Medicaid reimbursement from the time of admission to a nursing home/HLTCU.

(s) "Metropolitan statistical area county" means a county located in a metropolitan statistical area as that term is defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information and regulatory affairs of the United States office of management and budget, 65 F.R. p. 82238 (December 27, 2000) and as shown in Appendix C.

(t) "MI beds" means nursing home beds in a nursing home licensed by the Department for the care of mentally ill patients.

(u) "Micropolitan statistical area county" means a county located in a micropolitan statistical area as that term is defined under the "standards for defining metropolitan and micropolitan statistical areas" by

the statistical policy office of the office of information and regulatory affairs of the United States office of management and budget, 65 F.R. p. 82238 (December 27, 2000) and as shown in Appendix C.

(v) "MR beds" means nursing home beds in a nursing home licensed by the Department for the care of mentally retarded patients.

(w) "Net usable area" means the usable floor area of a patient sleeping room excluding any vestibules (including door swings), toilet rooms, and built-in closets.

(x) "Nonrenewal or revocation of license for cause" means that the Department did not renew or revoked the nursing home's/HLTCU's license based on the nursing home's/HLTCU's failure to comply with state licensing standards.

(y) "Nonrenewal or termination of certification for cause" means the nursing home/HLTCU Medicare and/or Medicaid certification was terminated or not renewed based on the nursing home's/HLTCU's failure to comply with Medicare and/or Medicaid participation requirements.

(z) "Nursing home" means a nursing care facility, including a county medical care facility, but excluding a hospital or a facility created by Act No. 152 of the Public Acts of 1885, as amended, being sections 36.1 to 36.12 of the Michigan Compiled Laws, that provides organized nursing care and medical treatment to seven (7) or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

(aa) "Nursing home bed" means a bed in a health facility licensed under Part 217 of the Code or a licensed bed in a hospital long-term-care unit. The term does not include short-term nursing care program beds approved pursuant to Section 22210 of the Code being Section 333.22210 of the Michigan Compiled Laws or beds in health facilities listed in Section 22205(2) of the Code, being Section 333.22205(2) of the Michigan Compiled Laws.

(bb) "Occupancy rate" means the percentage which expresses the ratio of the actual number of patient days of care provided divided by the total number of patient days. Total patient days is calculated by summing the number of licensed and/or CON approved but not yet licensed beds and multiplying these beds by the number of days that they were licensed and/or CON approved but not yet licensed. This shall include nursing home beds approved from the statewide pool. Occupancy rates shall be calculated using verifiable data from either (i) the actual number of patient days of care for 12 continuous months of data from the MDCH Annual Survey of Long-Term-Care Facilities or other comparable MDCH survey instrument or (ii) the actual number of patient days of care for 4 continuous quarters of data as reported to the Department for purposes of compiling the "Staffing/Bed Utilization Ratios Report," whichever is the most recent available data.

(cc) "Planning area" means the geographic boundaries of each county in Michigan with the exception of: (i) Houghton and Keweenaw counties, which are combined to form one planning area and (ii) Wayne County which is divided into three planning areas. Section 13 identifies the three planning areas in Wayne County and the specific geographic area included in each.

(dd) "Planning year" means 1990 or the year in the future, at least Three (3) years but no more than seven (7) years, established by the CON Commission for which nursing home bed needs are developed. The planning year shall be a year for which official population projections, from the Department of Management and Budget or U.S. Census, data are available.

(ee) "Physically conforming beds," for purposes of Section 10(3), means beds which meet the maximum occupancy and minimum square footage requirements as specified in Section 483.70(d)(1) of the Code of Federal Regulations for Medicare certification (42 CFR) or any federal regulations for Medicare certification addressing maximum occupancy and minimum square footage requirements approved subsequent to the effective date of these standards.

(ff) "Qualifying project" means each application in a comparative group which has been reviewed individually and has been determined by the Department to have satisfied all of the requirements of Section 22225 of the Code, being Section 333.22225 of the Michigan Compiled Laws and all other applicable requirements for approval in the Code and these standards.

(gg) "Readmission" means the admission of a patient following a temporary absence from the same nursing home/HLTCU during which time the bed was held open or the patient had the option to return to the next available bed at the same nursing home/HLTCU.

(hh) "Replacement bed" means a nursing home bed with a valid license that meets all of the following conditions: (i) an equal or greater number of nursing home beds are currently licensed to the applicant at the licensed site at which the beds proposed for replacement are currently licensed, (ii) the

nursing home beds are proposed for replacement in new physical plant space being developed in new construction or in newly acquired space (purchase, lease, donation, etc.), and (iii) the nursing home beds to be replaced will be located in the replacement zone.

(ii) "Replacement zone" means a proposed licensed site that is,

(i) for a rural or micropolitan statistical area county, within the same planning area as the existing licensed site.

(ii) for a county that is not a rural or micropolitan statistical area county,

(A) within the same planning area as the existing licensed site and

(B) within a three-mile radius of the existing licensed site.

(jj) "Room plan changes" means any construction activities in patient rooms, including bathroom areas, which involve moving walls. This does not include cosmetic renovations such as wallpaper, painting, carpeting, or other activities associated with normal wear and tear.

(kk) "Rural county" means a county not located in a metropolitan statistical area or micropolitan statistical areas as those terms are defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information regulatory affairs of the United States office of management and budget, 65 F.R. p. 82238 (December 27, 2000) and as shown in Appendix C.

(ll) "Staffing/Bed Utilization Ratios Report" means the report issued by the Department on a quarterly basis.

(mm) "Total proposed project cost" means the total of all the items listed on the applicant's "Project Cost" form (form number T-150-G-11.02 or any subsequent replacement form) excluding the item "Pre-existing debt to be refinanced." For projects where existing beds/space are being converted to nursing home/HLTCU beds and the number of square feet of facility space to be allocated to the nursing home/HLTCU will increase, the imputed costs of the beds/space to be converted shall be determined based on a fair market value appraisal of the tangible assets to be converted. The imputed costs for the beds/space to be converted shall be entered on the "Project Cost" form on the line for "Construction Costs: Other."

(nn) "Total proposed project cost per bed" is determined by dividing the applicant's "Total proposed project cost" by the applicant's proposed number of beds. The total proposed number of beds shall include new, replacement, and converted beds.

(oo) "Use rate" means the number of nursing home and hospital long-term-care unit days of care per 1,000 population during a one-year period.

(pp) "Vestibule" means a small entrance hall or passageway, between a common corridor and a patient room, of sufficient width and length to allow a corridor entrance door to swing in without obstruction. A vestibule also may provide an adequate area to permit an attached toilet room door sufficient clear swing space so as not to impact on minimum patient room net usable area requirements.

(2) The definitions in Part 222 of the Code shall apply to these standards.

Section 3. Determination of needed nursing home bed supply

Sec. 3 (1)(a) The age specific use rates for the planning year shall be the actual statewide age specific nursing home use rates using data from the base year.

(b) The age cohorts for each planning area shall be: (i) age 0 - 64 years, (ii) age 65 - 74 years, (iii) age 75 - 84 years, and (iv) age 85 and older.

(c) Until the base year is changed by the Commission in accord with Section 4(3) and Section 5, the use rates for the base year for each corresponding age cohort, established in accord with subsection (1)(b), are set forth in Appendix A.

(2) The number of nursing home beds needed in a planning area shall be determined by the following formula:

(a) Determine the population for the planning year for each separate planning area in the age cohorts established in subsection (1)(b).

(b) Multiply each population age cohort by the corresponding use rate established in Appendix A.

(c) Sum the patient days resulting from the calculations performed in subsection (b). The resultant figure is the total patient days.

(d) Divide the total patient days obtained in subsection (c) by 365 (or 366 for leap years) to obtain the projected average daily census (ADC).

(e) The following shall be known as the ADC adjustment factor. (i) If the ADC determined in subsection (d) is less than 100, divide the ADC by 0.90. (ii) If the ADC determined in subsection (d) is 100 or greater, divide the ADC by 0.95.

(f) The number determined in subsection (e) represents the number of nursing home beds needed in a planning area for the planning year.

Section 4. Bed need

Sec. 4. (1) For purposes of these standards, until otherwise changed by the Commission, the bed need numbers shown in Appendix B and incorporated as part of these standards shall apply to project applications subject to review under these standards, except where a specific CON standard states otherwise.

(2) The Commission may direct the Department to apply the bed need methodology in Section 3.

(3) The Commission shall designate the base year and the planning year that shall be utilized in applying the methodology pursuant to subsection (2).

(4) When directed by the Commission to apply the methodology pursuant to subsection (2), the effective date of the bed need numbers shall be established by the Commission.

(5) New bed need numbers established by subsections (2) and (3) shall supersede the bed need numbers shown in Appendix B and shall be included as an amended appendix to these standards.

(6) Modifications made by the Commission pursuant to this section shall not require ad hoc advisory committee action, a public hearing, or submittal of the standard to the Legislature and the Governor in order to become effective.

Section 5. Modification of the age specific use rates by changing the base year.

Sec. 5. (1) The Commission may modify the base year based on data obtained from the Michigan Department of Community Health Annual Survey of Long-Term-Care Facilities or other comparable MDCH survey instrument presented to the Commission by the Department. The Department shall calculate use rates for each of the age cohorts set forth in Section 3(1)(b) and biennially present the revised use rates based on 1989 information, or the most recent base year information available biennially after 1989, to the CON Commission.

(2) The Commission shall establish the effective date of the modifications made pursuant to subsection (1).

(3) Modifications made by the Commission pursuant to subsection (1) shall not require ad hoc advisory committee action, a public hearing, or submittal of the standard to the Legislature and the Governor in order to become effective.

Section 6. Requirements for approval - applicants proposing to increase beds in a planning area or replace beds outside a replacement zone

Sec. 6. (a) An applicant proposing to increase the number of nursing home beds in a planning area must demonstrate that the proposed increase, if approved, will not result in the total number of existing nursing home beds in that planning area exceeding the needed nursing home bed supply set forth in Appendix B. An applicant may request and be approved for up to a maximum of 20 beds if, when the total number of "existing nursing home beds" is subtracted from the bed need for the planning area set forth in Appendix B, the difference is equal to or more than 1 and equal to or less than 20.
This subsection is not applicable to projects seeking approval for beds from the statewide pool of beds.

(b) An applicant proposing to replace existing licensed nursing home beds in the same planning area, but outside the replacement zone, must demonstrate each of the following: (i) the total number of existing nursing home beds in that planning area is equal to or less than the needed nursing home bed supply set forth in Appendix B and (ii) the number of beds to be replaced is equal to or less than the number of currently licensed beds at the health facility at which the beds proposed for replacement are currently located. This subsection is not applicable to projects seeking approval for beds from the statewide pool of beds.

(c) An exception to the number of beds that may be approved pursuant to subsection (a) or (b) shall be made if the requirements set forth in both (i) and (ii) are met. The number of beds that may be approved in excess of the bed need for each planning area identified in Appendix B is set forth in subsection (iii).

(i) The applicant requesting additional nursing home/HLTCU beds has experienced an occupancy rate, at the nursing home/HLTCU at which the additional beds are proposed, of at least 97% for each of the 12 most recent continuous quarters for which verifiable data are available to the Department on its "Staffing/Bed Utilization Ratios Report."

(ii) The occupancy rate for all nursing homes/HLTCUs in the planning area, including nursing home beds approved from the statewide pool, has been at least 97% for each of the 12 most recent continuous quarters for which verifiable data are available to the Department on its "Staffing/Bed Utilization Ratios Report."

(iii) The number of beds that may be approved pursuant to this subsection shall be the number of beds necessary to reduce the occupancy rate for the planning area in which the additional beds are proposed to the ADC adjustment factor for that planning area as shown in Appendix B. The number of beds shall be calculated by (1) dividing the actual number of patient days of care provided during the most recent 12-month period for which verifiable data are available to the Department provided by all nursing home (including HLTCU) beds in the planning area, including patient days of care provided in beds approved from the statewide pool of beds and dividing that result by 365 (or 366 for leap years); (2) dividing the result of step (1) by the ADC adjustment factor for the planning area in which the beds are proposed to be added; (3) rounding the result of step (2) up to the next whole number; and (4) subtracting the total number of beds in the planning area including beds approved from the statewide pool of beds from the result of step (3). If the number of beds necessary to reduce the planning area occupancy rate to the ADC adjustment factor for that planning area is equal to or more than 20, the number of beds that may be approved pursuant to this subsection shall be up to that number of beds. If the number of beds necessary to reduce the planning area occupancy rate to the ADC adjustment factor for that planning area is less than 20, the number of additional beds that may be approved shall be that number of beds or up to a maximum of 20 beds.

Section 7. Requirements for projects involving new construction or renovation

Sec. 7. (1) For projects involving new construction or renovation, an applicant shall demonstrate each of the following, as applicable:

(a) For projects involving the new construction of patient rooms, or room plan changes, the patient rooms shall be constructed or renovated to be consistent with the following minimum square feet of net usable area:

Room Type	Net Usable Area Minimum Sq. Ft.
One person	100
Two person	160
Three person	240
Four person	320

(b) For proposed projects involving construction of an entire facility (whether new or replacement), the proposed total gross square footage of the facility shall be no less than 200 gross square feet per bed and no more than 450 gross square feet per bed.

(2) An applicant proposing a project involving new construction or renovation shall demonstrate that a plan of correction for cited code deficiencies including life and fire safety (if any) for the applicant health facility has been submitted to and approved by the Department of Consumer and Industry Services, Division of Licensing and Certification.

Section 8. Requirements for approval -- replacement beds

Sec. 8. An applicant proposing replacement beds shall not be required to be in compliance with the needed nursing home bed supply set forth in Appendix B if the applicant demonstrates all of the following:

(a) the project proposes to replace an equal or lesser number of beds currently licensed to the applicant at the licensed site at which the proposed replacement beds are currently located~~;~~,

(b) the proposed licensed site is in the replacement zone, and

(c) the applicant meets all other applicable CON review standards and agrees and assures to comply with all applicable project delivery requirements.

Section 9. Requirements for approval -- acquisition of a new nursing home or HLTCU

Sec. 9. An applicant proposing to acquire a new nursing home or HLTCU shall not be required to be in compliance with the needed nursing home bed supply set forth in Appendix B for the planning area in which the nursing home or HLTCU subject to the proposed acquisition is located if the applicant demonstrates that all of the following are met:

(a) the acquisition will not result in a change in bed capacity,

(b) the licensed site does not change as a result of the acquisition, and

(c) the project is limited solely to the acquisition of a nursing home or HLTCU with a valid license.

Section 10. Review standards for comparative review

Sec. 10 (1) Any application subject to comparative review, under Section 22229 of the Code, being Section 333.22229 of the Michigan Compiled Laws, or under these standards, shall be grouped and reviewed comparatively with other applications in accordance with the CON rules.

(2) The degree to which each application in a comparative group meets the criterion set forth in Section 22230 of the Code, being Section 333.22230 of the Michigan Compiled Laws, shall be determined based on the sum of points awarded under subsections (a), (b), and (c).

(a) A qualifying project will be awarded points, in accord with the schedule set forth below, based on the nursing home's/HLTCU's proposed percentage of the nursing home's/HLTCU's patient days of care to be reimbursed by Medicaid (calculated using total patient days for all existing and proposed beds at the facility) for the second 12 months of operation following project completion, and annually for at least seven years thereafter.

Proposed Percentage of Medicaid Patient Days	Points Awarded
0	0
1 - 19	1
20 - 39	2
40 - 59	3
60 - 100	4

(b) A qualifying project will be awarded points, in accord with the schedule set forth below, based on the nursing home's/HLTCU's proposed percentage, for the second 12 months of operation following project completion and annually for at least seven years thereafter, of all of the nursing home's/HLTCU's newly admitted patients (not including readmissions) that will be Medicaid recipients or Medicaid eligible recipients.

Proposed Percentage of Medicaid Admissions	Points Awarded
0	0
1 - 5	1
6 - 15	2
16 - 30	3
31 - 100	4

(c) A qualifying project will be awarded Three points if, within six months of beginning operation and for at least seven years thereafter, 100 percent (100%) of the licensed nursing home beds at the facility (both existing and proposed) will be Medicaid certified.

(3) A qualifying project will be awarded points, in accord with the schedule set forth below, based on its proposed participation in the Medicare program within six months of beginning operation and annually for at least seven years thereafter, including both physically conforming existing and proposed beds.

Proposed Participation	Points Awarded
No Medicare certification of any physically conforming existing and proposed beds.	0
Medicare certification of at least one (1) bed but less than 100% of all physically conforming existing and proposed beds.	1
Medicare certification of 100% of all physically conforming existing and proposed beds.	2

(4) A qualifying project will have points deducted based on the applicant's record of compliance with

applicable federal and state safety and operating standards for any nursing home/HLTCU owned and/or operated by the applicant in Michigan. Points shall be deducted in accord with the schedule set forth below if, following the effective date of these standards, the records which are maintained by the Department document (a) any nonrenewal or revocation of license for cause and/or (b) nonrenewal or termination for cause of either Medicare or Medicaid certification of any Michigan nursing home/HLTCU owned and/or operated by the applicant.

Nursing home/HLTCU Compliance Action	Points Deducted
Nonrenewal or revocation of license	2
Nonrenewal or termination of:	
certification-Medicare	2
certification-Medicaid	2

(5) A qualifying project will be awarded two points if, following project completion, the applicant will provide either directly or through contractual relationships, as part of its living or housing arrangements, a home for the aged, an adult foster care home, or independent housing located on the same site or in the same planning area.

(6) A qualifying project will be awarded points based on the applicant's "Total proposed project cost per bed," in accord with the schedule set forth below, (where "A" represents "Average total proposed project cost per bed"):

Range of "Total proposed project cost per bed"	Points Awarded
0 to (A minus $3000)	5
(A minus $2999) to (A minus $1000)	4
(A minus $999) to (A plus $1000)	3
(A plus $1001) to (A plus $5000)	2
(A plus $5001) to (A plus $11,000)	1
Above (A plus $11,000)	0

(7) A qualifying project will be awarded points based on the proposed percentage of the "Applicant's cash" to be applied toward funding the "Total proposed project cost" in accord with the schedule set forth below:

Percentage "Applicant's Cash"	Points Awarded
Over 20 percent	5
15.1 to 20 percent	4
10.1 to 15 percent	3
5.1 to 10 percent	2
1.1 to 5 percent	1
0 to 1 percent	0

(8) qualifying project will be awarded points for the following financing category:

Financing Category	Points Awarded
Interest only payments after the period of construction	0
Payment of principal and interest after the period of construction, according to an amortization schedule	2

(9) No points will be awarded to an applicant under specific subsections of Section 10 if information presented in Section 10 is inconsistent with related information provided in other portions of the CON application.

(10) The standards set forth in this section are assigned the weights listed below, with a weight of "1" being important, a weight of "2" being more important, and a weight of "3" being very important. The points awarded to an applicant in each of the subsections shall be multiplied by the applicable weight set forth below to determine the total number of points awarded to each applicant for each subsection.

Subsection	Weight
2(a)	3
2(b)	3
2(c)	3
3	1
4	2
5	1
6	2
7	2
8	1

(11) The Department shall approve those qualifying projects which, taken together, do not exceed the need as defined in Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws, and which have the highest number of points when the results of subsections (2) through (10) are totaled. If two or more qualifying projects are determined to have an identical number of points, then the Department shall approve those qualifying projects which, taken together, do not exceed the need, as defined in Section 22225(1), in the order in which the applications were received by the Department, based on the date and time stamp placed on the application for CON form (form T-150-G-1.01 or any subsequent replacement form) by the Health Facilities Section, CON, when the application is filed.

Section 11. Project delivery requirements -- terms of approval for all applicants

Sec. 11. (1) An applicant shall agree that, if approved, the project shall be delivered in compliance with the following terms of CON approval:

(a) Compliance with these standards, including the requirements of Section 10.

(b) Compliance with Section 22230 of the Code shall be based on the nursing home's/HLTCU's actual Medicaid participation within the time periods specified in these standards. Compliance with Section 10(2)(a) of these standards shall be determined by comparing the nursing home's/HLTCU's actual patient days reimbursed by Medicaid, as a percentage of the total patient days, with the applicable schedule set forth in Section 10(2)(a) for which the applicant had been awarded points in the comparative review process. Compliance with Section 10(2)(b) shall be determined by comparing the actual number of

Medicaid recipients and Medicaid eligible recipients who were newly admitted, as a percentage of all patients newly admitted to the nursing home/HLTCU, with the applicable schedule set forth in Section 10(2)(b) for which the applicant had been awarded points in the comparative review process. If any of the following occurs, an applicant shall be required to be in compliance with the range in the schedule immediately below the range for which points had been awarded in Section 10(2)(a) or (b), instead of the range of points for which points had been awarded in the comparative review in order to be found in compliance with Section 22230 of the Code: (i) the average percentage of Medicaid recipients in all nursing homes/HLTCUs in the planning area decreased by at least 10 percent between the second 12 months of operation after project completion and the most recent 12-month period for which data are available, (ii) the actual rate of increase in the Medicaid program per diem reimbursement to the applicant nursing home/HLTCU is less than the annual inflation index for nursing homes/HLTCUs as defined in any current approved Michigan State Plan submitted under Title XIX of the Social Security Act which contains an annual inflation index, or (iii) the actual percentage of the nursing home's/HLTCU's patient days reimbursed by Medicaid (calculated using total patient days for all existing and proposed nursing home beds at the facility) exceeds the statewide average plus 10 percent of the patient days reimbursed by Medicaid for the most recent year for which data are available from the Michigan Department of Community Health [subsection (iii) is applicable only to Section 10(2)(a)]. In evaluating subsection (ii), the Department shall rely on both the annual inflation index and the actual rate increases in per diem reimbursement to the applicant nursing home/HLTCU and/or all nursing homes/HLTCUs in the HSA provided to the Department by the Michigan Department of Community Health.

(c) For projects involving the acquisition of a nursing home/HLTCU, the applicant shall agree to maintain the nursing home's/HLTCU's level of Medicaid participation (patient days and new admissions) for the time periods specified in these standards, within the ranges set forth in Section 10(2)(a) and (b) for which the seller or other previous owner/lessee had been awarded points in a comparative review.

(d) Compliance with applicable operating standards.

(e) Compliance with the following quality assurance standards:

(i) For projects involving replacement beds, the current patients of the facility/beds being replaced shall be admitted to the replacement beds when the replacement beds are licensed, to the extent that those patients desire to transfer to the replacement facility/beds.

(ii) The applicant will assure compliance with Section 20201 of the Code, being Section 333.20201 of the Michigan Compiled Laws.

(iii) The applicant shall participate in a data collection network established and administered by the Department or its designee. The data may include, but is not limited to, annual budget and cost information; operating schedules; and demographic, diagnostic, morbidity, and mortality information, as well as the volume of care provided to patients from all payor sources. The applicant shall provide the required data on an individual basis for each licensed site, in a format established by the Department, and in a mutually agreed upon media. The Department may elect to verify the data through on-site review of appropriate records.

(iv) The applicant shall provide the Department with a notice stating the date the beds are placed in operation and such notice shall be submitted to the Department consistent with applicable statute and promulgated rules.

(f) The applicant, to assure appropriate utilization by all segments of the Michigan population, shall:

(i) not deny services to any individual based on ability to pay or source of payment.

(ii) maintain information by source of payment to indicate the volume of care from each payor and non-payor source provided annually.

(iii) provide services to any individual based on clinical indications of need for the services.

(2) The agreements and assurances required by this section shall be in the form of a certification authorized by the governing body of the applicant or its authorized agent.

Section 12. Department inventory of beds

Sec. 12. The Department shall maintain, and provide on request, a listing of the Department Inventory of Beds for each planning area.

Section 13. Wayne County planning areas

Sec. 13. (1) For purposes of these standards the cities and/or townships in Wayne County are assigned to the planning areas as follows:

Planning Area 84/Northwest Wayne

Canton Township, Dearborn, Dearborn Heights, Garden City, Inkster, Livonia, Northville (part), Northville Township, Plymouth, Plymouth Township, Redford Township, Wayne, Westland

Planning area 85/Southwest Wayne

Allen Park, Belleville, Brownstown Township, Ecorse, Flat Rock, Gibraltar, Grosse Ile Township, Huron Township, Lincoln Park, Melvindale, River Rouge, Riverview, Rockwood, Romulus, Southgate, Sumpter Township, Taylor, Trenton, Van Buren Township, Woodhaven, Wyandotte

Planning area 86/Detroit

Detroit, Grosse Pointe, Grosse Pointe Township, Grosse Pointe Farms, Grosse Pointe Park, Grosse Pointe Woods, Hamtramck, Harper Woods, Highland Park

(2) A map showing the planning areas as listed in subsection (1) shall be available from the Department.

Section 14. Health Service Areas

Sec. 14. Counties assigned to each of the HSAs are as follows:

HSA	COUNTIES		
1	Livingston	Monroe	St. Clair
	Macomb	Oakland	Washtenaw
	Wayne		
2	Clinton	Hillsdale	Jackson
	Eaton	Ingham	Lenawee
3	Barry	Calhoun	St. Joseph
	Berrien	Cass	Van Buren
	Branch	Kalamazoo	
4	Allegan	Mason	Newaygo
	Ionia	Mecosta	Oceana
	Kent	Montcalm	Osceola
	Lake	Muskegon	Ottawa
5	Genesee	Lapeer	Shiawassee
6	Arenac	Huron	Roscommon
	Bay	Iosco	Saginaw
	Clare	Isabella	Sanilac
	Gladwin	Midland	Tuscola
	Gratiot	Ogemaw	
7	Alcona	Crawford	Missaukee
	Alpena	Emmet	Montmorency
	Antrim	Gd Traverse	Oscoda
	Benzie	Kalkaska	Otsego
	Charlevoix	Leelanau	Presque Isle
	Cheboygan	Manistee	Wexford
8	Alger	Gogebic	Mackinac
	Baraga	Houghton	Marquette
	Chippewa	Iron	Menominee
	Delta	Keweenaw	Ontonagon
	Dickinson	Luce	Schoolcraft

Section 15. Effect on prior CON review standards, comparative reviews

Sec. 15. (1) These CON review standards supersede and replace the CON Standards for Nursing Home and Hospital Long-Term-Care Unit Beds approved by the CON Commission on March 20, 2001 and effective on May 10, 2001.

(2) Projects reviewed under these standards, involving a change in bed capacity, shall be subject to comparative review except for replacement beds being replaced within the replacement zone.

(3) Projects reviewed under these standards that relate solely to the acquisition of a new nursing home or HLTCU shall not be subject to comparative review.

APPENDIX A

CON REVIEW STANDARDS
FOR NURSING HOME AND HOSPITAL LONG-TERM-CARE UNIT BEDS

The use rate per 1000 population for each age cohort, for purposes of these standards, until otherwise changed by the Commission, is as follows.

(i) age 0 - 64: 209 days of care

(ii) age 65 - 74: 4,165 days of care

(iii) age 75 - 84: 19,459 days of care

(iv) age 85 +: 54,908 days of care

APPENDIX B

CON REVIEW STANDARDS
FOR NURSING HOME AND HOSPITAL LONG-TERM-CARE UNIT BEDS

The bed need numbers, for purposes of these standards, until otherwise changed by the Commission, are as follows:

Planning Area	Bed Need	Department Inventory *	ADC Adjustment Factor
ALCONA	102	106	0.90
ALGER	70	106	0.90
ALLEGAN	474	565	0.95
ALPENA	203	208	0.95
ANTRIM	134	113	0.95
ARENAC	106	148	0.90
BARAGA	72	87	0.90
BARRY	262	252	0.95
BAY	638	668	0.95
BENZIE	93	102	0.90
BERRIEN	965	899	0.95
BRANCH	241	283	0.95
CALHOUN	805	850	0.95
CASS	272	222	0.95
CHARLEVOIX	134	134	0.95
CHEBOYGAN	154	162	0.95
CHIPPEWA	193	173	0.95
CLARE	173	200	0.95
CLINTON	251	251	0.95
CRAWFORD	85	160	0.90
DELTA	260	292	0.95
DICKINSON	230	256	0.95
EATON	431	444	0.95
EMMET	167	230	0.95
GENESEE	1,951	1,951	0.95
GLADWIN	150	180	0.95
GOGEBIC	195	221	0.95
GD. TRAVERSE	368	552	0.95
GRATIOT	272	556	0.95

* Department Inventory shown is as of August 26, 2003. Applicants must contact the Department to obtain the current number of beds in the Department Inventory of Beds. Note the figures in the Bed Inventory Column do not reflect any data regarding applications for beds under appeal or pending a final Department decision.

Planning Area	Bed Need	Department Inventory *	ADC Adjustment Factor
HILLSDALE	262	262	0.95
HOUGHTON/KEWEENAW	314	335	0.95
HURON	278	313	0.95
INGHAM	1,180	1,028	0.95
IONIA	275	248	0.95
IOSCO	193	243	0.95
IRON	150	149	0.95
ISABELLA	214	309	0.95
JACKSON	828	847	0.95
KALAMAZOO	1,120	1,154	0.95
KALKASKA	76	88	0.90
KENT	2,566	2,495	0.95
LAKE	78	89	0.90
LAPEER	291	292	0.95
LEELANAU	111	110	0.90
LENAWEE	497	497	0.95
LIVINGSTON	421	475	0.95
LUCE	46	61	0.90
MACKINAC	81	79	0.90
MACOMB	3,636	3,933	0.95
MANISTEE	170	221	0.95
MARQUETTE	361	441	0.95
MASON	197	202	0.95
MECOSTA	184	232	0.95
MENOMINEE	197	179	0.95
MIDLAND	338	414	0.95
MISSAUKEE	81	95	0.90
MONROE	619	595	0.95
MONTCALM	285	202	0.95
MONTMORENCY	89	104	0.90
MUSKEGON	904	917	0.95
NEWAYGO	222	245	0.95

* Department Inventory shown is as of August 26, 2003. Applicants must contact the Department to obtain the current number of beds in the Department Inventory of Beds. Note the figures in the Bed Inventory Column do not reflect any data regarding applications for beds under appeal or pending a final Department decision.

Planning Area	Bed Need	Department Inventory *	ADC Adjustment Factor
OAKLAND	5,241	5,189	0.95
OCEANA	130	113	0.95
OGEMAW	131	233	0.95
ONTONAGON	76	110	0.90
OSCEOLA	118	54	0.95
OSCODA	69	90	0.90
OTSEGO	111	154	0.90
OTTAWA	874	796	0.95
PRESQUE ISLE	111	126	0.95
ROSCOMMON	171	179	0.95
SAGINAW	1,156	1,175	0.95
ST. CLAIR	789	722	0.95
ST. JOSEPH	355	369	0.95
SANILAC	269	287	0.95
SCHOOLCRAFT	72	75	0.90
SHIAWASSEE	350	327	0.95
TUSCOLA	292	293	0.95
VAN BUREN	411	424	0.95
WASHTENAW	1,032	1,285	0.95
WEXFORD	161	209	0.95
NW WAYNE	3,166	3,153	0.95
SW WAYNE	1,818	2,028	0.95
DETROIT	6,297	5,983	0.95

* Department Inventory shown is as of August 26, 2003. Applicants must contact the Department to obtain the current number of beds in the Department Inventory of Beds. Note the figures in the Bed Inventory Column do not reflect any data regarding applications for beds under appeal or pending a final Department decision.

CON REVIEW STANDARDS
FOR NURSING HOME AND HOSPITAL LONG-TERM-CARE UNIT BEDS

Rural Michigan counties are as follows:

Alcona	Hillsdale	Ogemaw
Alger	Huron	Ontonagon
Antrim	Iosco	Osceola
Arenac	Iron	Oscoda
Baraga	Lake	Otsego
Charlevoix	Luce	Presque Isle
Cheboygan	Mackinac	Roscommon
Clare	Manistee	Sanilac
Crawford	Mason	Schoolcraft
Emmet	Montcalm	Tuscola
Gladwin	Montmorency	
Gogebic	Oceana	

Micropolitan statistical area Michigan counties are as follows:

Allegan	Gratiot	Mecosta
Alpena	Houghton	Menominee
Benzie	Isabella	Midland
Branch	Kalkaska	Missaukee
Chippewa	Keweenaw	St. Joseph
Delta	Leelanau	Shiawassee
Dickinson	Lenawee	Wexford
Grand Traverse	Marquette	

Metropolitan statistical area Michigan counties are as follows:

Barry	Ionia	Newaygo
Bay	Jackson	Oakland
Berrien	Kalamazoo	Ottawa
Calhoun	Kent	Saginaw
Cass	Lapeer	St. Clair
Clinton	Livingston	Van Buren
Eaton	Macomb	Washtenaw
Genesee	Monroe	Wayne
Ingham	Muskegon	

Source:

65 F.R., p. 82238 (December 27, 2000)
Statistical Policy Office
Office of Information and Regulatory Affairs
United States Office of Management and Budget

MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

CON REVIEW STANDARDS
FOR NURSING HOME AND HOSPITAL LONG-TERM CARE UNIT BEDS
--ADDENDUM FOR SPECIAL POPULATION GROUPS

(By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being sections 333.22215, 24.207 and 24.208 of the Michigan Compiled Laws.)

Section 1. Applicability; definitions

Sec. 1. (1) This addendum supplements the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds and shall be used for determining the need for projects established to better meet the needs of special population groups within the long-term care and nursing home populations.

(2) Except as provided in sections 2, 3 and 6 of this addendum, these standards supplement, and do not supersede, the requirements and terms of approval required by the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds.

(3) The definitions which apply to the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds shall apply to these standards.

(4) For purposes of this addendum, the following terms are defined:
(a) "Hospice" means a health care program licensed under Part 214 of the Code, being Section 333.21401 et seq.
(b) "Infection control program," for purposes of Section 4(7), means a program that will reduce the risk of the introduction of communicable diseases into a ventilator-dependent unit, provide an active and ongoing surveillance program to detect the presence of communicable diseases in a ventilator-dependent unit, and respond to the presence of communicable diseases within a ventilator-dependent unit so as to minimize the spread of a communicable disease.
(c) "Licensed hospital" for purposes of Section 3(6) of this addendum, means either:
(i) a hospital licensed under Part 215 of the Code; or
(ii) a psychiatric hospital or unit licensed pursuant to Act 258 of the Public Acts of 1974, as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws.
(d) "Organized program," for purposes of sections 3(8) and 4(7), means a program operated by an applicant at the location at which the proposed nursing home beds will be operated that is consistent with the requirements of Section 4(7)(a) through (e), except Section 4(7)(c)(iv).
(e) "Private residence" for purposes of Section 3(6) of this addendum, means a setting other than:
(i) a licensed hospital; or
(ii) a nursing home including a nursing home or part of a nursing home approved pursuant to Section 3(6).
(f) "Ventilator-dependent patient," for purposes of sections 3(8) and 4(7), means a patient who does not require acute inpatient hospital services and either:
(i) requires mechanical ventilatory assistance for a minimum of 6 hours each day; or
(ii) is being weaned from ventilatory dependency.

Section 2. Requirements for approval -- applicants proposing to increase nursing home beds -- special use exceptions

Sec. 2. A project to increase nursing home beds in a planning area which, if approved, would otherwise cause the total number of nursing home beds in that planning area to exceed the needed nursing home bed supply or cause an increase in an existing excess as determined under the applicable

CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds, may nevertheless be approved pursuant to Section 3 of this addendum.

Section 3. Statewide pool for the needs of special population groups within the long-term care and nursing home populations

Sec. 3. (1) A statewide pool of additional nursing home beds of 2.0% of the beds needed in the state through application of the bed need methodology in the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds is established to better meet the needs of special population groups within the long-term care and nursing home populations. Beds in the pool shall be allocated in accordance with subsections 3(a), 4(a), 5(a), and 6(a).

(2) Increases in nursing home beds approved under this addendum for special population groups shall not cause planning areas currently showing an unmet bed need to have that need reduced or planning areas showing a current surplus of beds to have that surplus increased.

(3)(a) The CON Commission determines there is a need for beds for religious needs for specialized services within the long-term care and nursing home populations and sets aside 302 beds from the total statewide pool established in subsection (1) to address this need. Those needs are defined as being met by those applications meeting the requirements of subsection (3)(b) or (c).

(b) An applicant proposing nursing home beds allocated under this subsection due to migration of the patient population shall demonstrate with credible documentation to the satisfaction of the Department each of the following:

(i) The applicant is currently licensed to operate a nursing home in Michigan and the application is for replacement and/or relocation of an existing licensed facility.

(ii) The number of beds proposed for replacement must be equal to or less than the licensed capacity of the applicant's existing nursing home on the date on which the CON application is filed.

(iii) The facility to be replaced does not meet licensing or certification standards for health facilities as determined by the Department.

(iv) The applicant is a part of, closely affiliated with, controlled, sanctioned or supported by a recognized religious organization, denomination or federation as evidenced by documentation of its federal tax exempt status as a religious corporation, fund, or foundation under Section 501(c)(3) of the United States Internal Revenue Code.

(v) The applicant's patient population includes a majority of members of the religious organization or denomination represented by the sponsoring organization.

(vi) The applicant's existing services and/or operations are tailored to meet certain special needs of a specific religion, denomination or order, including unique dietary requirements, or other unique religious needs regarding ceremony, ritual, and organization which cannot be satisfactorily met in a secular setting.

(vii) The replacement project responds to demographic changes, verifiable by the Department, which have decreased the representation of members of the religious organization or denomination in the planning area of the facility to be replaced and which have increased the representation of the members of the religious organization or denomination in the planning area of the replacement facility.

(viii) An applicant proposing replacement beds shall not be required to be in compliance with Section 8 (b) of the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds, or any subsequent standard approved which requires the proposed new licensed site to be in the replacement zone.

(c) An applicant proposing to add nursing home beds allocated under this subsection for a project other than described in subsection (b) shall demonstrate, with credible documentation to the satisfaction of the Department, each of the following:

(i) The applicant is a part of, closely affiliated with, controlled, sanctioned or supported by a recognized religious organization, denomination or federation as evidenced by documentation of its federal tax exempt status as a religious corporation, fund, or foundation under Section 501(c)(3) of the United States Internal Revenue Code.

(ii) The applicant's proposed patient population includes a majority of members of the religious organization or denomination represented by the sponsoring organization.

(iii) The applicant's proposed services and/or operations are tailored to meet certain special needs of a specific religion, denomination, or order, including unique dietary requirements, or other unique religious needs regarding ceremony, ritual, and organization which cannot be satisfactorily met in a secular setting.

(4)(a) The CON Commission determines there is a need for beds for applications designed to determine the efficiency and effectiveness of specialized programs for the care and treatment of persons with Alzheimer's disease as compared to serving these needs in general nursing home unit(s) and designed to study the relationship between the needs of Alzheimer's disease patients and those of other non-specialized nursing home patients. The CON Commission sets aside 300 beds from the total statewide pool established in subsection (1) to address this need. Those needs are defined as being met by those applications meeting the requirements of subsection (4).

(b) An applicant proposing to add nursing home beds allocated under this subsection shall demonstrate with credible documentation to the satisfaction of the Department each of the following:

(i) The beds are part of a specialized program for Alzheimer's disease which will admit and treat only patients which require long-term nursing care and have been appropriately classified as a patient on the Global Deterioration Scale (GDS) for age-associated cognitive decline and Alzheimer's disease as a level 4 (when accompanied by continuous nursing needs), 5, or 6.

(ii) The specialized program will participate in the state registry for Alzheimer's disease.

(iii) The specialized program shall be attached or geographically adjacent to a licensed nursing home and be no larger than 20 beds in size.

(iv) The proposed Alzheimer's unit shall have direct access to a secure outdoor or indoor area at the health facility, appropriate for unsupervised activity.

(v) The Alzheimer's unit shall have within the unit or immediately adjacent to it a day/dining area which is solely for the use of the Alzheimer's unit patients.

(vi) The physical environment of the Alzheimer's unit shall be designed to minimize noise and light reflections to promote visual and spatial orientation.

(vii) Staff will be specially trained in Alzheimer's disease treatment.

(viii) If the applicant has operated a specialized program and has demonstrated an occupancy rate of at least 97 percent in the Alzheimer’s specialized unit(s) for the most recent, continuous 24-month period prior to submitting its application to the department, it may request up to an additional 20 beds but cannot exceed a total of 40 beds awarded from the statewide pool established in subsection (1).

(A) The specialized unit(s) shall be no larger than 20 beds.

(B) An applicant shall not be awarded more than a total of 40 beds.

(c) Beds approved under this subsection shall not be converted to non-specialized non-Alzheimer's long-term care services without a CON for nursing home and hospital long-term care unit beds under the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds.

(5)(a) The CON Commission determines there is a need for beds for the health needs for skilled nursing care services within the long-term care and nursing home populations and sets aside 257 beds from the total statewide pool established in subsection (1) to address this need. Those needs are defined as being met by those applications meeting the requirements of subsection (5).

(b) An applicant proposing to add nursing home beds allocated under this subsection shall demonstrate with credible documentation to the satisfaction of the Department each of the following:

(i) The planning area in which the beds will be located shall have a population density of less than 28 individuals per square mile based on the 1990 U.S. Census figures as set forth in Appendix A.

(ii) An application for beds from the special statewide pool of beds shall not be approved if any application for beds in that planning area has been approved from the special statewide pool of beds under Section 3(5).

(iii) The average occupancy rate for the planning area in which the beds will be located shall have been at least 95% for each of the three most recent years for which the Department has either: annual survey data; or data reported to the Department for purposes of compiling the "Staffing/Bed Utilization Ratios Report," whichever is the most recent data available. In determining the average occupancy rate for the planning area, the first six months of occupancy for any newly opened facility or newly opened part

of a facility in that period shall be excluded.

(iv) An application shall not be approved if it proposes more than 40 beds.

(v) All beds approved pursuant to this subsection shall be dually certified for Medicare and Medicaid.

(6)(a) The CON Commission determines there is a need for beds for patients requiring both hospice and long-term nursing care services within the long-term care and nursing home populations and sets aside 100 beds from the total statewide pool established in subsection (1) to address this need. Those needs are defined as being met by those applications meeting the requirements of subsection (6).

(b) An applicant proposing to add nursing home beds allocated under this subsection shall demonstrate, with credible documentation to the satisfaction of the department, each of the following:

(i) An applicant shall be a hospice certified by Medicare pursuant to the Code of Federal Regulations, Title 42, Chapter iv, Subpart B (Medicare programs), Part 418 and shall have been a Medicare certified hospice for at least 24 continuous months prior to the date an application is submitted to the Department.

(ii) An applicant shall demonstrate that, during the most recent 12 month period prior to the date an application is submitted to the Department for which verifiable data are available to the Department, at least 64% of the total number of hospice days of care provided to all of the clients of the applicant hospice were provided in a private residence.

(iii) An application shall propose 30 beds or less.

(iv) An applicant for beds from the special statewide pool of beds shall not be approved if any application for beds in that same planning area has been approved from the special statewide pool of beds under Section 3(6).

(v) An applicant shall submit, at the time an application is submitted to the Department, a study which documents, to the satisfaction of the Department, that both (A) and (B) have been contacted regarding the availability of either beds or space for acquisition (whether through purchase, lease or other comparable arrangement) for use by the proposed project, and that either: (1) beds or space are not available for acquisition; or (2) if beds or space are available for acquisition, the capital costs of developing the beds or space in the acquired space for use by the proposed project are higher than the applicant's proposed project costs.

(A) Each licensed hospital in the planning area.

(B) Each licensed nursing home or hospital long-term care unit in the planning area.

If an applicant does not receive a response from (A) or (B) within 30 days of the date of contact, an applicant shall demonstrate that contact was made by 1 certified mail return receipt for each organization contacted. The requirements of this subdivision shall not apply to nursing homes or hospital long-term care units that either:

(1) Have not been cited by the Department's Division of Licensing and Certification for 1 or more level a deficiencies during the 12 months prior to the date an application is submitted to the Department.

(2) Have been granted, by the Department, a waiver of 1 or more physical plant licensure requirements.

(7)(a) The number of beds set aside from the total statewide pool established in subsection (1) for a special population group shall be reduced if there has been no CON activity for that special population group during at least 6 consecutive application periods.

(b) The number of beds in a special population group shall be reduced to the total number of beds for which a valid CON has been issued for that special population group.

(c) The number of beds reduced from a special population group pursuant to this subsection shall revert to the total statewide pool established in subsection (1).

(d) The Department shall notify the Commission of the date when action to reduce the number of beds set aside for a special population group has become effective and shall identify the number of beds that reverted to the total statewide pool established in subsection (1).

(e) For purposes of this subsection, "application period" means the period of time from one designated application date to the next subsequent designated application date.

(f) For purposes of this subsection, "CON activity" means one or more of the following:

(i) CON applications for beds for a special population group have been submitted to the Department for which either a proposed or final decision has not yet been issued by the Department.

(ii) Administrative hearings or appeals to court of decisions issued on CON applications for beds for a special population group are pending resolution.

(iii) An approved CON for beds for each special population group has expired for lack of appropriate action by an applicant to implement an approved CON.

(8)(a) The CON Commission determines there is a need for beds for ventilator-dependent patients within the long-term care and nursing home populations and sets aside 0 beds from the total statewide pool established in subsection (1) to address this need. Those needs are defined as being met by those applications meeting the requirements of subsection (8). By setting aside these beds from the total statewide pool, the Commission's action applies only to applicants seeking approval of nursing home beds pursuant to this subsection and does not preclude the care of ventilator-dependent patients in units of hospitals, hospital long-term care units, nursing homes, or other health care settings in compliance with applicable statutory or certification requirements.

(b) An applicant proposing to add nursing home beds allocated under this subsection shall demonstrate, with credible documentation to the satisfaction of the Department, each of the following:

(i) An applicant has an organized program for caring for ventilator-dependent patients in licensed hospital beds, and has been recognized by the Department or the Michigan Department of Social Services as having provided an organized program for caring for ventilator-dependent patients for at least 30 continuous months prior to the date on which an application under this subsection is submitted to the Department.

(ii) An application proposes no more than 15 beds that will be licensed as nursing home beds under Part 217 of the Code.

(iii) The proposed unit will be located in a hospital licensed under Part 215 of the Code.

(iv) An applicant for beds from this special statewide pool of beds shall not be approved if any application for beds in the same county has been approved from the special statewide pool of beds under Section 3(8).

(v) The proposed unit will serve only ventilator-dependent patients.

(vi) An applicant shall delicense a number of licensed hospital beds equal to or than greater than the number of beds proposed pursuant to this subsection.

(vii) All beds approved pursuant to this subsection shall be dually certified for Medicare and Medicaid.

Section 4. Project delivery requirements -- terms of approval for all applicants seeking approval under Section 3

Sec. 4. (1) An applicant shall agree that if approved, the services shall be delivered in compliance with the terms of approval required by the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds.

(2) In addition to the terms of approval required by the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds, an applicant for beds under Section 3(3)(b) shall agree that, if approved, the services provided by the specialized long-term care beds shall be delivered in compliance with the following terms of CON approval:

(a) The applicant shall submit a resolution of its governing body certifying that it shall cease operations as a licensed health care facility at the existing licensed site, and that the license of the existing site which is replaced under Section 3(3) shall be surrendered to the Department concurrently with the licensure of a replacement facility approved under Section 3(3)(b).

(b) The applicant shall document, at the end of the third year following initiation of beds approved pursuant to Section 3 (3)(b), an annual average occupancy rate of 95 percent or more. If this occupancy rate has not been met, the applicant shall delicense a number of beds necessary to result in a 95 percent occupancy based upon its average daily census for the third full year of operation.

(c) When opening, the replacement facility shall admit the current patients of the facility being replaced to the extent those patients desire to transfer to the replacement facility.

(3) In addition to the terms of approval required by the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds, an applicant for beds under Section 3(3)(c) shall agree that, if approved, the services provided by the specialized long-term care beds shall be delivered in compliance

with the following term of CON approval:

(a) The applicant shall document, at the end of the third year following initiation of beds approved pursuant to Section 3 (3)(c) an annual average occupancy rate of 95 percent or more. If this occupancy rate has not been met, the applicant shall delicense a number of beds necessary to result in a 95 percent occupancy based upon its average daily census for the third full year of operation.

(4) In addition to the terms of approval required by the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds, an applicant for beds under Section 3 (4) shall agree that if approved:

(a) The services provided by the specialized Alzheimer's disease beds shall be delivered in compliance with the requirements for approval in subsections 3(4)(a) and (b); and

(b) All beds approved pursuant to that subsection shall be certified for Medicaid.

(5) In addition to the terms of approval required by the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds, an applicant for beds under Section 3(5) shall agree that if approved, all beds approved pursuant to that subsection shall be dually certified for Medicare and Medicaid.

(6) In addition to the terms of approval required by the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds, an applicant for beds under Section 3(6) shall agree that, if approved, all beds approved pursuant to that subsection shall be operated in accordance with the following CON terms of approval.

(a) An applicant shall maintain Medicare certification of the hospice program and shall establish and maintain the ability to provide, either directly or through contractual arrangements, hospice services as outlined in the Code of Federal Regulations, Title 42, Chapter IV, Subpart B, Part 418, hospice care.

(b) The proposed project shall be designed to promote a home-like atmosphere that includes accommodations for family members to have overnight stays and participate in family meals at the applicant facility.

(c) An applicant approved for nursing home beds pursuant to Section 3(6) shall not refuse to admit a patient solely on the basis that he/she is HIV positive, has AIDS or has AIDS related complex.

(d) An applicant shall make accommodations to serve patients that are HIV positive, have AIDS or have AIDS related complex in nursing home beds approved pursuant to Section 3(6).

(e) An applicant shall make accommodations to serve children and adolescents as well as adults in nursing home beds approved pursuant to Section 3(6).

(f) Nursing home beds approved pursuant to Section 3(6) shall only be used to provide services to individuals suffering from a disease or condition with a terminal prognosis in accordance with Section 21417 of the Code, being Section 333.21417 of the Michigan Compiled Laws.

(g) An applicant shall agree that the nursing home beds approved pursuant to Section 3(6) of these standards shall not be used to serve individuals not meeting the provisions of Section 21417 of the Code, being Section 333.21417 of the Michigan Compiled Laws, unless a separate CON is requested and approved pursuant to applicable CON review standards.

(h) An applicant shall be licensed as a hospice program under Part 214 of the Code, being Section 333.21401 et seq. of the Michigan Compiled Laws.

(i) An applicant shall agree that at least 64% of the total number of hospice days of care provided by the applicant hospice to all of its clients will be provided in a private residence.

(j) An applicant shall annually provide data to determine the efficiency and effectiveness of providing, in a nursing home or hospital long-term care unit, room and board services to hospice clients that would otherwise be treated in a private residence if a capable primary caregiver was available. An applicant shall, at a minimum, provide data to the Department on a calendar year basis for each of the following:

(i) The number of hospice patients and associated days of care for general inpatient and respite inpatient hospice care;

(ii) The number of hospice patients and associated days of care for hospice routine and continuous home care not provided in a nursing home or hospital long-term care unit; and

(iii) The number of hospice patients and associated days of care for hospice room and board in a nursing home.

(iv) The total number of hospice clients and associated days of care served by the applicant hospice which shall be the sum of subdivisions (i), (ii), and (iii).
These data shall be considered when revisions to these standards are considered. The Department shall annually report to the Commission a summary of the data collected pursuant to this requirement. At a minimum, the summary shall report the occupancy rate and average length of stay for each applicant approved pursuant to Section 3(6) of this addendum.

(7) In addition to the terms of approval required by the CON review standards for nursing home and hospital long-term care unit beds, an applicant for beds under Section 3(8) shall agree that, if approved, all beds approved pursuant to that subsection shall be operated in accordance with the following CON terms of approval.

(a) An applicant shall staff the proposed ventilator-dependent unit with employees that have been trained in the care and treatment of ventilator-dependent patients and includes at least the following:

(i) a medical director with specialized knowledge, training, and skills in the care of ventilator-dependent patients.

(ii) a program director that is a registered nurse.

(b) An applicant shall make provisions, either directly or through contractual arrangements, for at least the following services:

(i) respiratory therapy.

(ii) occupational and physical therapy.

(iii) psychological services.

(iv) family and patient teaching activities.

(c) An applicant shall establish and maintain written policies and procedures for each of the following:

(i) patient admission criteria that describe minimum and maximum characteristics for patients appropriate for admission to the ventilator-dependent unit. At a minimum, the criteria shall address the amount of mechanical ventilatory dependency, the required medical stability, and the need for ancillary services.

(ii) The transfer of patients requiring care at other health care facilities.

(iii) Upon admission and periodically thereafter, a comprehensive needs assessment, a treatment plan, and a discharge plan that at a minimum addresses the care needs of a patient following discharge.

(iv) Patient rights and responsibilities in accordance with Sections 20201 and 20202 of the Code, being Sections 333.20201 and 333.20202 of the Michigan Compiled Laws.

(v) The type of ventilatory equipment to be used on the unit and provisions for back-up equipment.

(d) An applicant shall establish and maintain an organized infection control program that has written policies for each of the following:

(i) use of intravenous infusion apparatus, including skin preparation, monitoring skin site, and frequency of tube changes.

(ii) placement and care of urinary catheters.

(iii) care and use of thermometers.

(iv) care and use of tracheostomy devices.

(v) employee personal hygiene.

(vi) aseptic technique.

(vii) care and use of respiratory therapy and related equipment.

(viii) isolation techniques and procedures.

(e) An applicant shall establish a multi-disciplinary infection control committee that meets on at least a monthly basis and includes the director of nursing, the ventilator-dependent unit program director, and representatives from administration, dietary, housekeeping, maintenance, and respiratory therapy. This subsection does not require a separate committee, if an applicant organization has a standing infection control committee and that committee's charge is amended to include a specific focus on the ventilator-dependent unit.

(f) The proposed ventilator-dependent unit shall have barrier-free access to an outdoor area in the immediate vicinity of the unit.

(g) An applicant shall agree that all beds approved pursuant to Section 3(8) will be dually certified for Medicare and Medicaid reimbursement.

(h) An applicant approved for beds pursuant to Section 3(8) shall agree that the beds will not be

used to service individuals that are not ventilator-dependent unless a separate CON is requested and approved by the Department pursuant to applicable CON review standards.

(i) An applicant approved for beds pursuant to Section 3(8) shall provide data to the Department that evaluates the cost efficiencies that result from providing services to ventilator-dependent patients in a hospital.

Section 5. Comparative reviews, effect on prior CON review standards

Sec. 5. (1) Projects proposed under Section 3(3) shall be considered a distinct category and shall be subject to comparative review on a statewide basis.

(2) Projects proposed under Section 3(4) shall be considered a distinct category and shall be subject to comparative review on a statewide basis.

(3) Projects proposed under Section 3(5) shall be considered a distinct category and shall be subject to comparative review on a statewide basis.

(4) Projects proposed under Section 3(6) shall be considered a distinct category and shall be subject to comparative review on a statewide basis.

(5) Projects proposed under section 3(8) shall be considered a distinct category and shall be subject to comparative review on a statewide basis.

(6) These CON review standards supercede and replace the CON Review Standards for Nursing Home and Long-term Care Unit Beds--Addendum for Special Population Groups approved by the Commission on March 20, 2001 and effective on May 10, 2001.

Section 6. Acquisition of nursing home or hospital long-term care unit beds approved pursuant to this addendum.

Sec. 6. (1) An applicant proposing to acquire nursing home or hospital long-term care unit beds approved pursuant to Section 3(3)(b) or (c) of this addendum shall demonstrate that it is in compliance with the requirements of Section 3(3)(b)(iv), (v) and (vi) of this addendum.

(2) An applicant proposing to acquire nursing home or hospital long-term care unit beds approved pursuant to Section 3(4) of this addendum shall demonstrate that it is in compliance with the requirements of Section 3(4)(b)(i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) of this addendum.

(3) An applicant proposing to acquire nursing home or hospital long-term care unit beds approved pursuant to Section 3(6) of this addendum shall demonstrate that it is in compliance with the requirements of Section 3(6)(b)(i) and (ii) of this addendum.

(4) An applicant proposing to acquire beds approved pursuant to Section 3(8) of this Addendum shall demonstrate that it is in compliance with the requirements of Section 3(8) of this Addendum.

(5) An applicant proposing to acquire nursing home or hospital long-term care unit beds approved pursuant to this addendum shall agree to all applicable project delivery requirements set forth in Section 4 of this addendum.

CON REVIEW STANDARDS
FOR NURSING HOME AND HOSPITAL LONG-TERM CARE UNIT BEDS
--ADDENDUM FOR SPECIAL POPULATION GROUPS

Michigan nursing home planning areas with a population density of less than 28 individuals per square mile based on 1990 U.S. Census figures.

Planning Area	Population Density per Square Mile
Luce	6.4
Ontonagon	6.8
Schoolcraft	7.1
Baraga	8.8
Alger	9.8
Mackinac	10.4
Iron	11.3
Oscoda	13.8
Alcona	14.9
Lake	15.1
Montmorency	16.2
Gogebic	16.3
Presque Isle	21.0
Missaukee	21.5
Chippewa	21.8
Crawford	21.9
Menominee	23.8
Houghton/Keweenaw	23.9
Kalkaska	24.0

Source: Michigan Department of Management and Budget and the U.S. Bureau of the Census