

1 MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES

2  
3 **CERTIFICATE OF NEED (CON) REVIEW STANDARDS**  
4 **FOR NURSING HOME AND HOSPITAL LONG-TERM-CARE UNIT (HLTCU) BEDS**  
5

6 (By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of  
7 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being  
8 sections 333.22215, 24.207, and 24.208 of the Michigan Compiled Laws.)  
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10 **Section 1. Applicability**

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12 Sec. 1. (1) These standards are requirements for approval under Part 222 of the Code that involve  
13 a) beginning operation of a new nursing home/HLTCU, (b) replacing beds in a nursing home/HLTCU or  
14 physically relocating nursing home/HLTCU beds from one licensed site to another geographic location,  
15 (c) increasing licensed beds in a nursing home/HLTCU licensed under Part 217 and a HLTCU defined in  
16 Section 20106(6), or (d) acquiring a nursing home/HLTCU. Pursuant to the Code, a nursing  
17 home/HLTCU is a covered health facility. The Department shall use these standards in applying Section  
18 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws and Section  
19 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.  
20

21 (2) An increase in licensed nursing home/HLTCU beds is a change in bed capacity for purposes of  
22 Part 222 of the Code.  
23

24 (3) The physical relocation of nursing home/HLTCU beds from a licensed site to another geographic  
25 location is a change in bed capacity for purposes of Part 222 of the Code.  
26

27 **Section 2. Definitions**

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

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

34 (b) "ADC adjustment factor" means the factor by which the average daily census (ADC), derived  
35 during the bed need methodology calculation set forth in Section 3(2)(d) for each planning area, is  
36 divided. The ADC adjustment factor is 0.90 for all planning areas.

37 (c) "Applicant's cash" means the total unrestricted cash, designated funds, and restricted funds  
38 reported by the applicant as the source of funds in the application. If the project includes space lease  
39 costs, the applicant's cash includes the contribution designated for the project from the landlord.

40 (d) "Base year" means 1987 or the most recent year for which verifiable data collected as part of  
41 the Michigan Department of Health and Human Services Annual Survey of Long-Term-Care Facilities or  
42 other comparable MDHHS survey instrument are available.

43 (e) "Certificate of Need Commission" or "Commission" means the commission created pursuant to  
44 Section 22211 of the Code, being Section 333.22211 of the Michigan Compiled Laws.

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

47 (g) "Common ownership or control" means a nursing home, regardless of the state in which it is  
48 located, that is owned by, is under common control of, or has a common parent as the applicant nursing  
49 home pursuant to the definition of common ownership or control utilized by the Department of Licensing  
50 and Regulatory Affairs (LARA), Bureau of Health Care Services.

- 51 (h) "Comparative group" means the applications which have been grouped for the same type of  
52 project in the same planning area or statewide special pool group and which are being reviewed  
53 comparatively in accordance with the CON rules.
- 54 (i) "Converted space" means existing space in a health facility that is not currently licensed as part  
55 of the nursing home/HLTCU and is proposed to be licensed as nursing home or HLTCU space. An  
56 example is proposing to license home for the aged space as nursing home space.
- 57 (j) "Department" means the Michigan Department of Health and Human Services (MDHHS).
- 58 (k) "Department inventory of beds" means the current list, for each planning area maintained on a  
59 continuing basis by the Department: (i) licensed nursing home beds and (ii) nursing home beds approved  
60 by a valid CON issued under Part 222 of the Code which are not yet licensed. It does not include (a)  
61 nursing home beds approved from the statewide pool and (b) short-term nursing care program beds  
62 approved pursuant to Section 22210 of the Code, being Section 333.22210 of the Michigan Compiled  
63 Laws.
- 64 (l) "Existing nursing home beds" means, for a specific planning area, the total of all nursing home  
65 beds located within the planning area including: (i) licensed nursing home beds, (ii) nursing home beds  
66 approved by a valid CON issued under Part 222 of the Code which are not yet licensed, (iii) proposed  
67 nursing home beds under appeal from a final Department decision made under Part 222 or pending a  
68 hearing from a proposed decision issued under Part 222 of the Code, and (iv) proposed nursing home  
69 beds that are part of a completed application under Part 222 of the Code which is pending final  
70 Department decision. (a) Nursing home beds approved from the statewide pool are excluded; and (b)  
71 short-term nursing care program beds approved pursuant to Section 22210 of the Code, being Section  
72 333.22210 of the Michigan Compiled Laws, are excluded.
- 73 (m) "Health service area" or "HSA" means the geographic area established for a health systems  
74 agency pursuant to former Section 1511 of the Public Health Service Act and set forth in Appendix A.
- 75 (n) "Hospital long-term-care unit" or "HLTCU" means a nursing care facility, owned and operated  
76 by and as part of a hospital, that provides organized nursing care and medical treatment to seven (7) or  
77 more unrelated individuals suffering or recovering from illness, injury, or infirmity.
- 78 (o) "Licensed only facility" means a licensed nursing home that is not certified for Medicare or  
79 Medicaid.
- 80 (p) "Licensed site" means the location of the health facility authorized by license and listed on that  
81 licensee's certificate of licensure.
- 82 (q) "Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 1396 to 1396g  
83 and 1396i to 1396u.
- 84 (r) "New design model" means a nursing home/HLTCU built in accordance with specified design  
85 requirements as identified in the applicable sections.
- 86 (s) "Nursing home" means a nursing care facility, including a county medical care facility, but  
87 excluding a hospital or a facility created by Act No. 152 of the Public Acts of 1885, as amended, being  
88 sections 36.1 to 36.12 of the Michigan Compiled Laws, that provides organized nursing care and medical  
89 treatment to seven (7) or more unrelated individuals suffering or recovering from illness, injury, or  
90 infirmity. This term applies to the licensee only and not the real property owner if different than the  
91 licensee.
- 92 (t) "Nursing home bed" means a bed in a health facility licensed under Part 217 of the Code or a  
93 licensed bed in a hospital long-term-care unit. The term does not include short-term nursing care  
94 program beds approved pursuant to Section 22210 of the Code being Section 333.22210 of the Michigan  
95 Compiled Laws or beds in health facilities listed in Section 22205(2) of the Code, being Section  
96 333.22205(2) of the Michigan Compiled Laws.
- 97 (u) "Occupancy rate" means the percentage which expresses the ratio of the actual number of  
98 patient days of care provided divided by the total number of patient days. Total patient days is calculated  
99 by summing the number of licensed and/or CON approved but not yet licensed beds and multiplying  
100 these beds by the number of days that they were licensed and/or CON approved but not yet licensed.

101 This shall include nursing home beds approved from the statewide pool. Occupancy rates shall be  
102 calculated using verifiable data from the actual number of patient days of care for 12 continuous months  
103 of data from the CON Annual Survey or other comparable MDHHS survey instrument.

104 (v) "Planning area" means the geographic boundaries of each county in Michigan with the  
105 exception of: (i) Houghton and Keweenaw counties, which are combined to form one planning area and  
106 (ii) Wayne County which is divided into three planning areas. Section 12 identifies the three planning  
107 areas in Wayne County and the specific geographic area included in each.

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

112 (x) "Proposed licensed site" means the physical location and address (or legal description of  
113 property) of the proposed project or within 250 yards of the physical location and address (or legal  
114 description of property) and within the same planning area of the proposed project that will be authorized  
115 by license and will be listed on that licensee's certificate of licensure.

116 (y) "Relocation of existing nursing home/HLTCU beds" means a change in the location of existing  
117 nursing home/HLTCU beds from the licensed site to a different existing licensed site within the planning  
118 area.

119 (z) "Renewal of lease" means execution of a lease between the licensee and a real property owner  
120 in which the total lease costs exceed the capital expenditure threshold.

121 (aa) "Replacement bed" means a change in the location of the licensed nursing home/HLTCU, the  
122 replacement of a portion of the licensed beds at the same licensed site, or the replacement of a portion of  
123 the licensed beds pursuant to the new model design. The nursing home/HLTCU beds will be in new  
124 physical plant space being developed in new construction or in newly acquired space (purchase, lease,  
125 donation, etc.) within the replacement zone.

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

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

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

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

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

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

134  
135 (2) The definitions in Part 222 of the Code shall apply to these standards.  
136

### 137 **Section 3. Determination of needed nursing home bed supply**

138  
139 Sec. 3 (1)(a) The age specific use rates for the planning year shall be the actual statewide age  
140 specific nursing home use rates using data from the base year.

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

143 (c) Until the base year is changed by the Commission in accord with Section 4(3) and Section 5,  
144 the use rates for the base year per 1000 population for each corresponding age cohort, established in  
145 accord with subsection (1)(b), are posted on the State of Michigan CON web site.  
146

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

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

151 (b) Multiply each population age cohort by the corresponding use rate which is posted on the State  
152 of Michigan CON web site.

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

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

157 (e) Divide the ADC determined in subsection (d) by 0.90.

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

#### 160 **Section 4. Bed need**

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162  
163 Sec. 4. (1) The bed need numbers shall apply to project applications subject to review under these  
164 standards, except where a specific CON standard states otherwise.

165  
166 (2) The Department shall apply the bed need methodology in Section 3 on a biennial basis.

167  
168 (3) The base year and the planning year that shall be utilized in applying the methodology pursuant  
169 to subsection (2) shall be set according to the most recent data available to the Department.

170  
171 (4) The effective date of the bed need numbers shall be established by the Commission.

172  
173 (5) New bed need numbers established by subsections (2) and (3) shall supersede previous bed  
174 need numbers and shall be posted on the state of Michigan CON web site as part of the Nursing  
175 Home/HLTCU Bed Inventory.

176  
177 (6) Modifications made by the Commission pursuant to this section shall not require standard  
178 advisory committee action, a public hearing, or submittal of the standard to the Legislature and the  
179 Governor in order to become effective.

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

181  
182  
183 Sec. 5. (1) The base year shall be modified based on data obtained from the Department and  
184 presented to the Commission. The Department shall calculate use rates for each of the age cohorts set  
185 forth in Section 3(1)(b) and biennially present the revised use rates based on 2006 information, or the  
186 most recent base year information available biennially after 2006, to the CON Commission.

187  
188 (2) The Commission shall establish the effective date of the modifications made pursuant to  
189 subsection (1).

190  
191 (3) Modifications made by the Commission pursuant to subsection (1) shall not require standard  
192 advisory committee action, a public hearing, or submittal of the standard to the Legislature and the  
193 Governor in order to become effective.

#### 194 **Section 6. Requirements for approval to increase beds in a planning area**

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196  
197 Sec. 6. An applicant proposing to increase the number of nursing home beds in a planning area  
198 must meet the following as applicable:

200 (1) An applicant proposing to increase the number of nursing home beds in a planning area by  
201 beginning operation of a new nursing home/HLTCU or increasing the number of beds to an existing  
202 licensed nursing home/HLTCU shall demonstrate the following:

203 (a) At the time of application, the applicant, as identified in the table, shall provide a report  
204 demonstrating that it does not meet any of the following conditions in 14%, but not more than five, of its  
205 nursing homes/HLTCUs:  
206

<b>Type of Applicant</b>	<b>Reporting Requirement</b>
Applicant with only Michigan nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with 10 or more Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with fewer than 10 Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan and out of state nursing homes/HLTCUs under common ownership or control

207  
208 (i) A state enforcement action resulting in a license revocation, reduced license capacity, or  
209 receivership within the last three years, or from the change of ownership date if the facility has come  
210 under common ownership or control within 24 months of the date of the application.

211 (ii) A filing for bankruptcy within the last three years, or from the change of ownership date if the  
212 facility has come under common ownership or control within 24 months of the date of the application.

213 (iii) Termination of a Medical Assistance Provider Enrollment and Trading Partner Agreement  
214 initiated by the Department or licensing and certification agency in another state, within the last three  
215 years, or from the change of ownership date if the facility has come under common ownership or control  
216 within 24 months of the date of the application.

217 (iv) A number of citations at Level D or above, excluding life safety code citations, on the scope and  
218 severity grid on two consecutive standard surveys that exceeds twice the statewide average, calculated  
219 from the quarter in which the standard survey was completed, in the state in which the nursing  
220 home/HLTCU is located. For licensed only facilities, a number of citations at two times the average of all  
221 licensed only facilities on the last two licensing surveys. However, if the facility has come under common  
222 ownership or control within 24 months of the date of the application, the first two licensing surveys as of  
223 the change of ownership date, shall be excluded.

224 (v) Currently listed as a special focus nursing home by the Center for Medicare and Medicaid  
225 services.

226 (vi) Delinquent debt obligation to the State of Michigan including, but not limited to, Quality  
227 Assurance Assessment Program (QAAP), Preadmission Screening and Annual Resident Review  
228 (PASARR) or Civil Monetary Penalties (CMP).

229 (b) The applicant certifies that the requirements found in the Minimum Design Standards for Health  
230 Care Facilities of Michigan, referenced in Section 20145 (6) of the Public Health Code, Act 368 of 1978,  
231 as amended and are published by the Department, will be met when the architectural blueprints are  
232 submitted for review and approval by the Department.

233 (c) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has  
234 been submitted and approved by the Bureau of Health Care Services within LARA. Code deficiencies  
235 include any unresolved deficiencies still outstanding with LARA.

236 (d) The proposed increase, if approved, will not result in the total number of existing nursing home  
237 beds in that planning area exceeding the needed nursing home bed supply, unless one of the following is  
238 met:

239 (i) An applicant may request and be approved for up to a maximum of 20 beds if, when the total  
240 number of "existing nursing home beds" is subtracted from the bed need for the planning area, the

241 difference is equal to or more than 1 and equal to or less than 20. This subsection is not applicable to  
242 projects seeking approval for beds from the statewide pool of beds.

243 (ii) An applicant may request and be approved for up to a maximum of 20 beds if the following  
244 requirements are met:

245 (A) The applicant facility has experienced an average occupancy rate of 92% for the most recent  
246 12 consecutive months and 90% or above for the prior 12 months as verifiable by the Department as of  
247 the date an application is submitted to the Department.

248 (B) The applicant facility has not decreased the number of licensed beds within the 24 months  
249 preceding the application date.

250 (C) The applicant facility shall propose no more than two beds per resident room and shall  
251 eliminate all three and/or four bed wards within the existing facility, if applicable, as part of the proposed  
252 project.

253 (D) The applicant facility shall certify the new beds for both Medicare and Medicaid.

254 (E) The applicant facility shall not relocate any beds from the facility or replace a portion of beds to  
255 a new site pursuant to Section 7(3)(d), following CON approval and for at least 24 months from the date  
256 of the licensure of the new beds at the facility.

257 **(e) THE APPLICANT SHALL DEMONSTRATE THAT THE PLANNING AREA FOR THE**  
258 **PROPOSED PROJECT HAS AN OCCUPANCY RATE OF 85% OR MORE AS PUBLISHED BY THE**  
259 **DEPARTMENT IN THE MOST RECENT CON ANNUAL SURVEY REPORTS.**

260  
261 (2) An applicant proposing to increase the number of nursing home beds in a planning area by  
262 beginning operation of a new nursing home/HLTCU or increasing the number of beds to an existing  
263 licensed nursing home/HLTCU pursuant to the new design model shall demonstrate the following:

264 (a) At the time of application, the applicant, as identified in the table, shall provide a report  
265 demonstrating that it does not meet any of the following conditions in 14%, but not more than five, of its  
266 nursing homes/HLTCUs:

267

Type of Applicant	Reporting Requirement
Applicant with only Michigan nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with 10 or more Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with fewer than 10 Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan and out of state nursing homes/HLTCUs under common ownership or control

268

269 (i) A state enforcement action resulting in a license revocation, reduced license capacity, or  
270 receivership within the last three years, or from the change of ownership date if the facility has come  
271 under common ownership or control within 24 months of the date of the application.

272 (ii) A filing for bankruptcy within the last three years, or from the change of ownership date if the  
273 facility has come under common ownership or control within 24 months of the date of the application.

274 (iii) Termination of a Medical Assistance Provider Enrollment and Trading Partner Agreement  
275 initiated by the Department or licensing and certification agency in another state, within the last three  
276 years, or from the change of ownership date if the facility has come under common ownership or control  
277 within 24 months of the date of the application.

278 (iv) A number of citations at Level D or above, excluding life safety code citations, on the scope and  
279 severity grid on two consecutive standard surveys that exceeds twice the statewide average, calculated  
280 from the quarter in which the standard survey was completed, in the state in which the nursing  
281 home/HLTCU is located. For licensed only facilities, a number of citations at two times the average of all

282 licensed only facilities on the last two licensing surveys. However, if the facility has come under common  
283 ownership or control within 24 months of the date of the application, the first two licensing surveys as of  
284 the change of ownership date, shall be excluded.

285 (v) Currently listed as a special focus nursing home by the Center for Medicare and Medicaid  
286 Services.

287 (vi) Delinquent debt obligation to the State of Michigan including, but not limited to, Quality  
288 Assurance Assessment Program (QAAP), Preadmission Screening and Annual Resident Review  
289 (PASARR) or Civil Monetary Penalties (CMP).

290 (b) The proposed project results in no more than 100 beds per new design model and meets the  
291 following design standards:

292 (i) For inpatient facilities that are not limited to group resident housing of 10 beds or less, the  
293 construction standards shall be those applicable to nursing homes in the document entitled Minimum  
294 Design Standards for Health Care Facilities in Michigan and incorporated by reference in Section  
295 20145(6) of the Public Health Code, being Section 333.20145(6) of the Michigan Compiled Laws or any  
296 future versions.

297 (ii) For small resident housing units of 10 beds or less that are supported by a central support  
298 inpatient facility, the construction standards shall be those applicable to hospice residences providing an  
299 inpatient level of care, except that:

300 (A) at least 100% of all resident sleeping rooms shall meet barrier free requirements;

301 (B) electronic nurse call systems shall be required in all facilities;

302 (C) handrails shall be required on both sides of patient corridors; and

303 (D) ceiling heights shall be a minimum of 7 feet 10 inches.

304 (iii) The proposed project shall comply with applicable life safety code requirements and shall be  
305 fully sprinkled and air conditioned.

306 (iv) The Department may waive construction requirements for new design model projects if  
307 authorized by law.

308 (c) The proposed project shall include at least 80% single occupancy resident rooms with an  
309 adjoining toilet room containing a sink, water closet, and bathing facility and serving no more than two  
310 residents in both the central support inpatient facility and any supported small resident housing units.

311 (d) The proposed increase, if approved, will not result in the total number of existing nursing home  
312 beds in that planning area exceeding the needed nursing home bed supply, unless the following is met:

313 (i) An approved project involves replacement of a portion of the beds of an existing facility at a  
314 geographic location within the replacement zone that is not physically connected to the current licensed  
315 site. If a portion of the beds are replaced at a location that is not the current licensed site, a separate  
316 license shall be issued to the facility at the new location.

317 (e) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has  
318 been submitted and approved by the Bureau of Health Care Services within LARA. Code deficiencies  
319 include any unresolved deficiencies still outstanding with LARA.

320 (f) THE APPLICANT SHALL DEMONSTRATE THAT THE PLANNING AREA FOR THE  
321 PROPOSED PROJECT HAS AN OCCUPANCY RATE OF 85% OR MORE AS PUBLISHED BY THE  
322 DEPARTMENT IN THE MOST RECENT CON ANNUAL SURVEY REPORTS.

323

## 324 Section 7. Requirements for approval to replace beds

325

326 Sec. 7. An applicant proposing to replace beds must meet the following as applicable.

327

328 (1) An applicant proposing to replace beds within the replacement zone shall not be required to be  
329 in compliance with the needed nursing home bed supply if all of the following requirements are met:

330 (a) At the time of application, the applicant, as identified in the table, shall provide a report  
 331 demonstrating that it does not meet any of the following conditions in 14%, but not more than five, of its  
 332 nursing homes/HLTCUs:  
 333

Type of Applicant	Reporting Requirement
Applicant with only Michigan nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with 10 or more Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with fewer than 10 Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan and out of state nursing homes/HLTCUs under common ownership or control

- 334  
 335 (i) A state enforcement action resulting in a license revocation, reduced license capacity, or  
 336 receivership within the last three years, or from the change of ownership date if the facility has come  
 337 under common ownership or control within 24 months of the date of the application.  
 338 (ii) A filing for bankruptcy within the last three years, or from the change of ownership date if the  
 339 facility has come under common ownership or control within 24 months of the date of the application.  
 340 (iii) Termination of a Medical Assistance Provider Enrollment and Trading Partner Agreement  
 341 initiated by the Department or licensing and certification agency in another state, within the last three  
 342 years, or from the change of ownership date if the facility has come under common ownership or control  
 343 within 24 months of the date of the application.  
 344 (iv) A number of citations at Level D or above, excluding life safety code citations, on the scope and  
 345 severity grid on two consecutive standard surveys that exceeds twice the statewide average, calculated  
 346 from the quarter in which the standard survey was completed, in the state in which the nursing  
 347 home/HLTCU is located. For licensed only facilities, a number of citations at two times the average of all  
 348 licensed only facilities on the last two licensing surveys. However, if the facility has come under common  
 349 ownership or control within 24 months of the date of the application, the first two licensing surveys as of  
 350 the change of ownership date, shall be excluded.  
 351 (v) Currently listed as a special focus nursing home by the Center for Medicare and Medicaid  
 352 Services.  
 353 (vi) Delinquent debt obligation to the State of Michigan including, but not limited to, Quality  
 354 Assurance Assessment Program (QAAP), Preadmission Screening and Annual Resident Review  
 355 (PASARR) or Civil Monetary Penalties (CMP).  
 356 (b) The proposed project is either to replace the licensed nursing home/HLTCU to a new proposed  
 357 licensed site or replace a portion of the licensed beds at the existing licensed site.  
 358 (c) The proposed licensed site is within the replacement zone.  
 359 (d) The applicant certifies that the requirements found in the Minimum Design Standards for Health  
 360 Care Facilities of Michigan, referenced in Section 20145 (6) of the Public Health Code, Act 368 of 1978,  
 361 as amended and are published by the Department, will be met when the architectural blueprints are  
 362 submitted for review and approval by the Department.  
 363 (e) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has  
 364 been submitted and approved by the Bureau of Health Care Services within LARA. Code deficiencies  
 365 include any unresolved deficiencies still outstanding with LARA.  
 366  
 367 (2) An applicant proposing to replace a licensed nursing home/HLTCU outside the replacement  
 368 zone shall demonstrate all of the following:



369 (a) At the time of application, the applicant, as identified in the table, shall provide a report  
 370 demonstrating that it does not meet any of the following conditions in 14%, but not more than five, of its  
 371 nursing homes/HLTCUs:  
 372

Type of Applicant	Reporting Requirement
Applicant with only Michigan nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with 10 or more Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with fewer than 10 Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan and out of state nursing homes/HLTCUs under common ownership or control

- 373 (i) A state enforcement action resulting in a license revocation, reduced license capacity, or  
 374 receivership within the last three years, or from the change of ownership date if the facility has come  
 375 under common ownership or control within 24 months of the date of the application.  
 376  
 377 (ii) A filing for bankruptcy within the last three years, or from the change of ownership date if the  
 378 facility has come under common ownership or control within 24 months of the date of the application.  
 379 (iii) Termination of a Medical Assistance Provider Enrollment and Trading Partner Agreement  
 380 initiated by the Department or licensing and certification agency in another state, within the last three  
 381 years, or from the change of ownership date if the facility has come under common ownership or control  
 382 within 24 months of the date of the application.  
 383 (iv) A number of citations at Level D or above, excluding life safety code citations, on the scope and  
 384 severity grid on two consecutive standard surveys that exceeds twice the statewide average, calculated  
 385 from the quarter in which the standard survey was completed, in the state in which the nursing  
 386 home/HLTCU is located. For licensed only facilities, a number of citations at two times the average of all  
 387 licensed only facilities on the last two licensing surveys. However, if the facility has come under common  
 388 ownership or control within 24 months of the date of the application, the first two licensing surveys as of  
 389 the change of ownership date, shall be excluded.  
 390 (v) Currently listed as a special focus nursing home by the Center for Medicare and Medicaid  
 391 Services.  
 392 (vi) Delinquent debt obligation to the State of Michigan including, but not limited to, Quality  
 393 Assurance Assessment Program (QAAP), Preadmission Screening and Annual Resident Review  
 394 (PASARR) or Civil Monetary Penalties (CMP).  
 395 (b) The total number of existing nursing home beds in that planning area is equal to or less than  
 396 the needed nursing home bed supply.  
 397 (c) The number of beds to be replaced is equal to or less than the number of currently licensed  
 398 beds at the nursing home/HLTCU at which the beds proposed for replacement are currently located.  
 399 (d) The applicant certifies that the requirements found in the Minimum Design Standards for Health  
 400 Care Facilities of Michigan, referenced in Section 20145 (6) of the Public Health Code, Act 368 of 1978,  
 401 as amended and are published by the Department, will be met when the architectural blueprints are  
 402 submitted for review and approval by the Department.  
 403 (e) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has  
 404 been submitted and approved by the Bureau of Health Care Services within LARA. Code deficiencies  
 405 include any unresolved deficiencies still outstanding with LARA.  
 406  
 407 (3) An applicant proposing to replace beds with a new design model shall not be required to be in  
 408 compliance with the needed nursing home bed supply if all of the following requirements are met:

409 (a) The proposed project results in no more than 100 beds per new design model and meets the  
410 following design standards:

411 (i) For inpatient facilities that are not limited to group resident housing of 10 beds or less, the  
412 construction standards shall be those applicable to nursing homes in the document entitled Minimum  
413 Design Standards for Health Care Facilities in Michigan and incorporated by reference in Section  
414 20145(6) of the Public Health Code, being Section 333.20145(6) of the Michigan Compiled Laws or any  
415 future versions.

416 (ii) For small resident housing units of 10 beds or less that are supported by a central support  
417 inpatient facility, the construction standards shall be those applicable to hospice residences providing an  
418 inpatient level of care, except that:

419 (a) at least 100% of all resident sleeping rooms shall meet barrier free requirements;

420 (b) electronic nurse call systems shall be required in all facilities;

421 (c) handrails shall be required on both sides of patient corridors; and

422 (d) ceiling heights shall be a minimum of 7 feet 10 inches.

423 (iii) The proposed project shall comply with applicable life safety code requirements and shall be  
424 fully sprinkled and air conditioned.

425 (iv) The Department may waive construction requirements for new design model projects if  
426 authorized by law.

427 (b) The proposed project shall include at least 80% single occupancy resident rooms with an  
428 adjoining toilet room containing a sink, water closet, and bathing facility and serving no more than two  
429 residents in both the central support inpatient facility and any supported small resident housing units. If  
430 the proposed project is for replacement/renovation of an existing facility and utilizes only a portion of its  
431 currently licensed beds, the remaining rooms at the existing facility shall not exceed double occupancy.

432 (c) The proposed project shall be within the replacement zone unless the applicant demonstrates  
433 all of the following:

434 (i) the proposed licensed site for the replacement beds is in the same planning area,

435 (ii) the applicant shall provide a signed affidavit or resolution from its governing body or authorized  
436 agent stating that the proposed licensed site will continue to provide service to the same market, and

437 (iii) the current patients of the facility/beds being replaced shall be admitted to the replacement  
438 beds when the replacement beds are licensed, to the extent that those patients desire to transfer to the  
439 replacement facility/beds.

440 (d) An approved project may involve replacement of a portion of the beds of an existing facility at a  
441 geographic location within the replacement zone that is not physically connected to the current licensed  
442 site. If a portion of the beds are replaced at a location that is not the current licensed site, a separate  
443 license shall be issued to the facility at the new location. If beds have been added pursuant to Section  
444 6(1)(d)(ii), then the applicant facility shall not relocate any beds from the facility or replace a portion of  
445 beds to a new site following CON approval and for at least 24 months from the date of the licensure of the  
446 new beds at the facility.

447 (e) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has  
448 been submitted and approved by the Bureau of Health Care Services within LARA. Code deficiencies  
449 include any unresolved deficiencies still outstanding with LARA.

## 451 **Section 8. Requirements for approval to relocate existing nursing home/HLTCU beds**

452  
453 Sec. 8. (1) An applicant proposing to relocate existing nursing home/HLTCU beds shall not be  
454 required to be in compliance with the needed nursing home bed supply if all of the following requirements  
455 are met:

456 (a) There shall not be any ownership relationship requirements between the nursing home/HLTCU  
457 from which the beds are being relocated and the nursing home/HLTCU receiving the beds.

458 (b) The relocated beds shall be placed in the same planning area.

459 (c) The relocated beds shall be licensed to the receiving nursing home/HLTCU and will be counted  
460 in the inventory for the applicable planning area.

461 (d) At the time of transfer to the receiving facility, patients in beds to be relocated must be given  
462 the choice of remaining in another bed in the nursing home/HLTCU from which the beds are being  
463 transferred or to the receiving nursing home/HLTCU. Patients shall not be involuntary discharged to  
464 create a vacant bed.

465 (e) Relocation of beds shall not increase the rooms with three (3) or more bed wards in the  
466 receiving facility.

467 (f) If beds have been added pursuant to Section 6(1)(d)(ii), then the applicant facility shall not  
468 relocate any beds from the facility or replace a portion of beds to a new site following con approval and  
469 for at least 24 months from the date of the licensure of the new beds at the facility.

470  
471 (2) An applicant proposing to add new nursing home/HLTCU beds, as the receiving existing  
472 nursing home/HLTCU under subsection (1), shall not be required to be in compliance with the needed  
473 nursing home bed supply if all of the following requirements are met:

474 (a) At the time of application, the applicant, as identified in the table, shall provide a report  
475 demonstrating that it does not meet any of the following conditions in 14%, but not more than five, of its  
476 nursing homes/HLTCUs:  
477

Type of Applicant	Reporting Requirement
Applicant with only Michigan nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with 10 or more Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with fewer than 10 Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan and out of state nursing homes/HLTCUs under common ownership or control

478 (i) A state enforcement action resulting in a license revocation, reduced license capacity, or  
479 receivership within the last three years, or from the change of ownership date if the facility has come  
480 under common ownership or control within 24 months of the date of the application.

481 (ii) A filing for bankruptcy within the last three years, or from the change of ownership date if the  
482 facility has come under common ownership or control within 24 months of the date of the application.

483 (iii) Termination of a Medical Assistance Provider Enrollment and Trading Partner Agreement  
484 initiated by the Department or licensing and certification agency in another state, within the last three  
485 years, or from the change of ownership date if the facility has come under common ownership or control  
486 within 24 months of the date of the application.

487 (iv) A number of citations at Level D or above, excluding life safety code citations, on the scope and  
488 severity grid on two consecutive standard surveys that exceeds twice the statewide average, calculated  
489 from the quarter in which the standard survey was completed, in the state in which the nursing  
490 home/HLTCU is located. For licensed only facilities, a number of citations at two times the average of all  
491 licensed only facilities on the last two licensing surveys. However, if the facility has come under common  
492 ownership or control within 24 months of the date of the application, the first two licensing surveys as of  
493 the change of ownership date, shall be excluded.

494 (v) Currently listed as a special focus nursing home by the Center for Medicare and Medicaid  
495 Services.

496 (vi) Delinquent debt obligation to the State of Michigan including, but not limited to, Quality  
497 Assurance Assessment Program (QAAP), Preadmission Screening and Annual Resident Review  
498 (PASARR) or Civil Monetary Penalties (CMP).  
499

500 (b) The approval of the proposed new nursing home/HLTCU beds shall not result in an increase in  
501 the number of nursing home beds in the planning area.

502 (c) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has  
503 been submitted and approved by the Bureau of Health Care Services within LARA. Code deficiencies  
504 include any unresolved deficiencies still outstanding with LARA.

505  
506 **Section 9. Requirements for approval to acquire an existing nursing home/HLTCU or renew the**  
507 **lease of an existing nursing home/HLTCU**  
508

509 Sec. 9. An applicant proposing to acquire an existing nursing home/HLTCU or renew the lease of an  
510 existing nursing home/HLTCU must meet the following as applicable:

511  
512 (1) An applicant proposing to acquire an existing nursing home/HLTCU shall not be required to be  
513 in compliance with the needed nursing home bed supply for the planning area in which the nursing home  
514 or HLTCU is located if all of the following requirements are met:

515 (a) At the time of application, the applicant, as identified in the table, shall provide a report  
516 demonstrating that it does not meet any of the following conditions in 14%, but not more than five, of its  
517 nursing homes/HLTCUs:  
518

Type of Applicant	Reporting Requirement
Applicant with only Michigan nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with 10 or more Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with fewer than 10 Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan and out of state nursing homes/HLTCUs under common ownership or control

519  
520 (i) A state enforcement action resulting in a license revocation, reduced license capacity, or  
521 receivership within the last three years, or from the change of ownership date if the facility has come  
522 under common ownership or control within 24 months of the date of the application.

523 (ii) A filing for bankruptcy within the last three years, or from the change of ownership date if the  
524 facility has come under common ownership or control within 24 months of the date of the application.

525 (iii) termination of a Medical Assistance Provider Enrollment and Trading Partner Agreement  
526 initiated by the Department or licensing and certification agency in another state, within the last three  
527 years, or from the change of ownership date if the facility has come under common ownership or control  
528 within 24 months of the date of the application.

529 (iv) A number of citations at Level D or above, excluding life safety code citations, on the scope and  
530 severity grid on two consecutive standard surveys that exceeds twice the statewide average, calculated  
531 from the quarter in which the standard survey was completed, in the state in which the nursing  
532 home/HLTCU is located. For licensed only facilities, a number of citations at two times the average of all  
533 licensed only facilities on the last two licensing surveys. However, if the facility has come under common  
534 ownership or control within 24 months of the date of the application, the first two licensing surveys as of  
535 the change of ownership date, shall be excluded.

536 (v) Currently listed as a special focus nursing home by the Center for Medicare and Medicaid  
537 Services.

538 (vi) Delinquent debt obligation to the state of Michigan including, but not limited to, quality  
539 assurance assessment program (QAAP), Preadmission Screening and Annual Resident Review  
540 (PASARR) or civil monetary penalties (CMP).

- 541 (b) The acquisition will not result in a change in bed capacity.  
 542 (c) The licensed site does not change as a result of the acquisition.  
 543 (d) The project is limited solely to the acquisition of a nursing home/HLTCU with a valid license.  
 544 (e) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has  
 545 been submitted and approved by the Bureau of Health Care Services within LARA. Code deficiencies  
 546 include any unresolved deficiencies still outstanding with the Department, and  
 547 (f) The applicant shall participate in a quality improvement program, approved by the Department,  
 548 for five years and provide an annual report to the Michigan State Long-Term-Care Ombudsman, Bureau  
 549 of Health Care Services within LARA, and shall post the annual report in the facility if the facility being  
 550 acquired has met any of conditions in subsections (a)(i), (ii), (iii), (iv), (v), or (vi).  
 551 (g) If the applicant is a new entity with no prior NH-HLTCU history, the applicant shall submit proof  
 552 that:  
 553 (i) The nursing home/HLTCU to be acquired is no longer listed as a special focus nursing home by  
 554 the Center for Medicare and Medicaid Services, or the applicant shall participate in a quality improvement  
 555 program, approved by the Department, for five years and provide an annual report to the Michigan State  
 556 Long-Term-Care Ombudsman, Bureau of Health Care Services within LARA, and shall post the annual  
 557 report in the facility; and  
 558 (ii) All delinquent debt obligations to the State of Michigan including, but not limited to, QAAP,  
 559 PASARR or CMPs have been paid.  
 560  
 561 (2) An applicant proposing to acquire an existing nursing home/HLTCU approved pursuant to the  
 562 new design model shall demonstrate the following:  
 563 (a) At the time of application, the applicant, as identified in the table, shall provide a report  
 564 demonstrating that it does not meet any of the following conditions in 14%, but not more than five, of its  
 565 nursing homes/HLTCUs:  
 566

Type of Applicant	Reporting Requirement
Applicant with only Michigan nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with 10 or more Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with fewer than 10 Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan and out of state nursing homes/HLTCUs under common ownership or control

- 567 (i) A state enforcement action resulting in a license revocation, reduced license capacity, or  
 568 receivership within the last three years, or from the change of ownership date if the facility has come  
 569 under common ownership or control within 24 months of the date of the application.  
 570 (ii) A filing for bankruptcy within the last three years, or from the change of ownership date if the  
 571 facility has come under common ownership or control within 24 months of the date of the application.  
 572 (iii) Termination of a Medical Assistance Provider Enrollment and Trading Partner Agreement  
 573 initiated by the Department or licensing and certification agency in another state, within the last three  
 574 years, or from the change of ownership date if the facility has come under common ownership or control  
 575 within 24 months of the date of the application.  
 576 (iv) A number of citations at level D or above, excluding life safety code citations, on the scope and  
 577 severity grid on two consecutive standard surveys that exceeds twice the statewide average, calculated  
 578 from the quarter in which the standard survey was completed, in the state in which the nursing  
 579 home/HLTCU is located. For licensed only facilities, a number of citations at two times the average of all  
 580 licensed only facilities on the last two licensing surveys. However, if the facility has come under common  
 581

582 ownership or control within 24 months of the date of the application, the first two licensing surveys as of  
583 the change of ownership date, shall be excluded.

584 (v) Currently listed as a special focus nursing home by the Center for Medicare and Medicaid  
585 Services.

586 (vi) Delinquent debt obligation to the State of Michigan including, but not limited to, Quality  
587 Assurance Assessment Program (QAAP), Preadmission Screening and Annual Resident Review  
588 (PASARR) or Civil Monetary Penalties (CMP).

589 (b) An applicant will continue to operate the existing nursing home/HLTCU pursuant to the new  
590 design model requirements.

591 (c) The applicant shall participate in a quality improvement program, approved by the Department,  
592 for five years and provide an annual report to the Michigan State Long-Term-Care Ombudsman, Bureau  
593 of Health of Health Care Services within LARA, and shall post the annual report in the facility if the facility  
594 being acquired has met any of conditions in subsections (a)(i), (ii), (iii), (iv), (v), or (vi).

595 (d) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has  
596 been submitted and approved by the Bureau of Health Care Services within LARA. Code deficiencies  
597 include any unresolved deficiencies still outstanding with LARA.

598 (e) If the applicant is a new entity with no prior NH-HLTCU history, the applicant shall submit proof  
599 that:

600 (i) The nursing home/HLTCU to be acquired is no longer listed as a special focus nursing home by  
601 the Center for Medicare and Medicaid Services, or the applicant shall participate in a quality improvement  
602 program, approved by the Department, for five years and provide an annual report to the Michigan State  
603 Long-Term-Care Ombudsman, Bureau of Health Care Services within LARA, and shall post the annual  
604 report in the facility; and

605 (ii) All delinquent debt obligations to the State of Michigan including, but not limited to, QAAP,  
606 PASARR OR CMPs have been paid.

607  
608 (3) An applicant proposing to renew the lease for an existing nursing home/HLTCU shall not be  
609 required to be in compliance with the needed nursing home bed supply for the planning area in which the  
610 nursing home/HLTCU is located, if all of the following requirements are met:

611 (a) The lease renewal will not result in a change in bed capacity.

612 (b) The licensed site does not change as a result of the lease renewal.

613 (c) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has  
614 been submitted and approved by the Bureau of Health Care Services within LARA. Code deficiencies  
615 include any unresolved deficiencies still outstanding with LARA.

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## 617 **Section 10. Review standards for comparative review**

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

622

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

626 (a) A qualifying project will be awarded points as follows:

627 (i) For an existing nursing home/HLTCU, the current percentage of patient days of care  
628 reimbursed by Medicaid for the most recent 12 months of operation.

629 (ii) For a new nursing home/HLTCU, the proposed percentage of patient days of care to be  
630 reimbursed by Medicaid in the second 12 months of operation following project completion.

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Percentage of Medicaid Patient Days (calculated using total patient days for all existing and proposed beds at the facility)	Points Awarded	
	Existing	Proposed
50 – 69%	4	3
70 – 100%	8	7

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(b) A qualifying project will be awarded 10 points if all beds in the proposed project will be dually certified for both Medicare and Medicaid services by the second 12 months of operation.

(3) A qualifying project will have 15 points deducted if the applicant has any of the following at the time the application is submitted:

- (a) has been a special focus nursing home/HLTCU within the last three (3) years;
- (b) has had more than eight (8) substandard quality of care citations; immediate harm citations, and/or immediate jeopardy citations in the three (3) most recent standard survey cycles (includes intervening abbreviated surveys, standard surveys, and revisits);
- (c) has had an involuntary termination or voluntary termination at the threat of a medical assistance provider enrollment and trading partner agreement within the last three (3) years;
- (d) has had a state enforcement action resulting in a reduction in license capacity or a ban on admissions within the last three (3) years; or
- (e) has any delinquent debt obligation to the state of Michigan including, but not limited to, quality assurance assessment program (QAAP), civil monetary penalties (CMP), Medicaid level of care determination (LOCD), or preadmission screening and annual resident review (PASARR).

(4) A qualifying project will be awarded three (3) points if the applicant provides documentation that it participates or if it proposes to participate in a culture change model, which contains person centered care, ongoing staff training, and measurements of outcomes. An additional five (5) points will be awarded if the culture change model, either currently used or proposed, is a model approved by the Department.

(5) 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 as follows:

Percentage "Applicant's Cash"	Points Awarded
Over 20%	5
10 – 20%	3
5 – 9%	2

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(6) A qualifying project will be awarded four (4) points if the entire existing and proposed nursing home/HLTCU is fully equipped with air conditioning. Fully equipped with air conditioning means meeting the design temperatures in table 6b of the minimum design standards for health care facilities in Michigan and capable of maintaining a temperature of 71 – 81 degrees for the resident unit corridors.

- (7) A qualifying project will be awarded six (6) or four (4) points based on only one of the following:
  - (a) Six (6) points if the proposed project has 100% rooms with dedicated toilet room containing a sink, water closet, and bathing facility or
  - (b) Four (4) points if the proposed project has 80% private rooms with dedicated toilet room containing a sink, water closet and bathing facility.

670 (8) A qualifying project will be awarded 10 points if it results in a nursing home/HLTCU with 150 or  
671 fewer beds in total.

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673 (9) A qualifying project will be awarded five (5) points if the proposed beds will be housed in new  
674 construction.

675  
676 (10) A qualifying project will be awarded 10 points if the entire existing nursing home/HLTCU and its  
677 proposed project will have no more than double occupancy rooms at completion of the project.

678  
679 (11) A qualifying project will be awarded two (2) points if the existing or proposed nursing  
680 home/HLTCU is on or readily accessible to an existing or proposed public transportation route.

681  
682 (12) A qualifying project will be awarded points for technological innovation as follows:  
683



INNOVATIONS	Points Awarded
The proposed project will have wireless nurse call/paging system including wireless devices carried by direct care staff	1
Wireless internet with resident access to related equipment/device in entire facility	1
An integrated electronic medical records system with point-of-service access capability (including wireless devices) for all disciplines including pharmacy, physician, nursing, and therapy services at the entire existing and proposed nursing home/HLTCU	4
The proposed project will have a backup generator supporting all functions with an on-site or piped-in fuel supply and be capable of providing at least 48 hours of service at full load	4

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(13) A qualifying project will be awarded three (3) points if the proposed project includes bariatric rooms as follows: project using 0 – 49 beds will result in at least one (1) bariatric room or project using 50 or more beds will result in at least two (2) bariatric rooms. Bariatric room means the creation of patient room(s) included as part of the CON project, and identified on the architectural schematics, that are designed to accommodate the needs of bariatric patients weighing over 350 pounds. The bariatric patient rooms shall have a larger entrance width for the room and bathroom to accommodate over-sized equipment, and shall include a minimum of a bariatric bed, bariatric toilet, bariatric wheelchair, and a device to assist resident movement (such as a portable or build in lift). If an in-room shower is not included in the bariatric patient room, the main/central shower room that is located on the same floor as the bariatric patient room(s) shall include at least one (1) shower stall that has an opening width and depth that is larger than minimum MI code requirements.

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(14) Submission of conflicting information in this section may result in a lower point award. If an application contains conflicting information which could result in a different point value being awarded in this section, the Department will award points based on the lower point value that could be awarded from the conflicting information. For example, if submitted information would result in 6 points being awarded, but other conflicting information would result in 12 points being awarded, then 6 points will be awarded. If the conflicting information does not affect the point value, the Department will award points accordingly. For example, if submitted information would result in 12 points being awarded and other conflicting information would also result in 12 points being awarded, then 12 points will be awarded.

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(15) The Department shall approve those qualifying projects which, when 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 (12) 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, when 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 on the application when the application is filed.

### **Section 11. Project delivery requirements and terms of approval**

717 Sec. 11. An applicant shall agree that, if approved, the nursing home/HLTCU services shall be  
718 delivered in compliance with the following terms of approval:  
719

720 (1) Compliance with these standards, including the requirements of Section 10. If an applicant is  
721 awarded beds pursuant to Section 10 and representations made in that section, the Department shall  
722 monitor compliance with those statements and representations and shall determine actions for non-  
723 compliance.  
724

725 (2) Compliance with the following applicable quality assurance standards:

726 (a) Compliance with Section 22230 of the Code shall be based on the nursing home's/HLTCU's  
727 actual Medicaid participation within the time periods specified in these standards. Compliance with  
728 Section 10(2)(a) of these standards shall be determined by comparing the nursing home's/HLTCU's  
729 actual patient days reimbursed by Medicaid, as a percentage of the total patient days, with the applicable  
730 schedule set forth in Section 10(2)(a) for which the applicant had been awarded points in the comparative  
731 review process. If any of the following occurs, an applicant shall be required to be in compliance with the  
732 range in the schedule immediately below the range for which points had been awarded in Section  
733 10(2)(a), instead of the range of points for which points had been awarded in the comparative review in  
734 order to be found in compliance with Section 22230 of the Code: (i) the average percentage of Medicaid  
735 recipients in all nursing homes/HLTCUs in the planning area decreased by at least 10 percent between  
736 the second 12 months of operation after project completion and the most recent 12-month period for  
737 which data are available, (ii) the actual rate of increase in the Medicaid program per diem reimbursement  
738 to the applicant nursing home/HLTCU is less than the annual inflation index for nursing homes/HLTCUs  
739 as defined in any current approved Michigan State Plan submitted under Title XIX of the Social Security  
740 Act which contains an annual inflation index, or (iii) the actual percentage of the nursing home's/HLTCU's  
741 patient days reimbursed by Medicaid (calculated using total patient days for all existing and proposed  
742 nursing home beds at the facility) exceeds the statewide average plus 10 percent of the patient days  
743 reimbursed by Medicaid for the most recent year for which data are available from the Michigan  
744 Department of Health and Human Services [subsection (iii) is applicable only to Section 10(2)(a)]. In  
745 evaluating subsection (ii), the Department shall rely on both the annual inflation index and the actual rate  
746 increases in per diem reimbursement to the applicant nursing home/HLTCU and/or all nursing  
747 homes/HLTCUs in the HSA.

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

752 (c) For projects involving replacement of an existing nursing home/HLTCU, the current patients of  
753 the facility/beds being replaced shall be admitted to the replacement beds when the replacement beds  
754 are licensed, to the extent that those patients desire to transfer to the replacement facility/beds.

755 (d) The applicant will assure compliance with Section 20201 of the Code, being Section 333.20201  
756 of the Michigan Compiled Laws.  
757

758 (3) Compliance with the following access to care requirements:

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

- 761 (i) not deny services to any individual based on payor source.  
762 (ii) maintain information by source of payment to indicate the volume of care from each payor and  
763 non-payor source provided annually.  
764 (iii) provide services to any individual based on clinical indications of need for the services.  
765

766 (4) Compliance with the following monitoring and reporting requirements:

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

774 (b) The applicant shall provide the Department with timely notice of the proposed project  
775 implementation consistent with applicable statute and promulgated rules.

776  
777 (5) An applicant shall agree that, if approved, and material discrepancies are later determined  
778 within the reporting of the ownership and citation history of the applicant facility and all nursing homes  
779 under common ownership and control that would have resulted in a denial of the application, shall  
780 surrender the CON. This does not preclude an applicant from reapplying with corrected information at a  
781 later date.

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783 (6) The agreements and assurances required by this section shall be in the form of a certification  
784 agreed to by the applicant or its authorized agent.

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#### 786 **Section 12. Department inventory of beds**

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788 Sec. 12. The Department shall maintain a listing of the Department Inventory of Beds for each  
789 planning area.

790

#### 791 **Section 13. Wayne County planning areas**

792

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

795

##### 796 Planning Area 84/Northwest Wayne

797

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

800

##### 801 Planning area 85/Southwest Wayne

802

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

806

##### 807 Planning area 86/Detroit

808

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

811

#### 812 **Section 14. Effect on prior CON review standards, comparative reviews**

813

814 Sec. 14. (1) These CON review standards supersede and replace the CON Standards for Nursing  
815 Home and Hospital Long-Term-Care Unit (HLTCU) Beds approved by the CON Commission on  
816 December 11, 2014 JUNE 15, 2017 and effective on March 20, 2015 SEPTEMBER 21, 2017.

817  
818 (2) Projects reviewed under these standards involving a change in bed capacity shall be subject to  
819 comparative review except as follows:  
820 (a) replacement of an existing nursing home/HLTCU being replaced in the replacement zone;  
821 (b) replacement of an existing nursing home/HLTCU pursuant to Section 7(3) and within the same  
822 planning area as the existing licensed site;  
823 (c) relocation of existing nursing home/HLTCU beds; or  
824 (d) an increase in beds pursuant to Section 6(1)(d)(ii).  
825  
826 (3) Projects reviewed under these standards that relate solely to the acquisition of an existing  
827 nursing home/HLTCU or the renewal of a lease shall not be subject to comparative review.  
828  
829

**APPENDIX A**

830  
831 Counties assigned to each of the HSAs are as follows:  
832

833	<b>HSA</b>	<b>COUNTIES</b>		
834				
835	1	Livingston	Monroe	St. Clair
836		Macomb	Oakland	Washtenaw
837		Wayne		
838				
839	2	Clinton	Hillsdale	Jackson
840		Eaton	Ingham	Lenawee
841				
842	3	Barry	Calhoun	St. Joseph
843		Berrien	Cass	Van Buren
844		Branch	Kalamazoo	
845				
846	4	Allegan	Mason	Newaygo
847		Ionia	Mecosta	Oceana
848		Kent	Montcalm	Osceola
849		Lake	Muskegon	Ottawa
850				
851	5	Genesee	Lapeer	Shiawassee
852				
853	6	Arenac	Huron	Roscommon
854		Bay	Iosco	Saginaw
855		Clare	Isabella	Sanilac
856		Gladwin	Midland	Tuscola
857		Gratiot	Ogemaw	
858				
859	7	Alcona	Crawford	Missaukee
860		Alpena	Emmet	Montmorency
861		Antrim	Gd Traverse	Oscoda
862		Benzie	Kalkaska	Otsego
863		Charlevoix	Leelanau	Presque Isle
864		Cheboygan	Manistee	Wexford
865				
866	8	Alger	Gogebic	Mackinac
867		Baraga	Houghton	Marquette
868		Chippewa	Iron	Menominee
869		Delta	Keweenaw	Ontonagon
870		Dickinson	Luce	Schoolcraft

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Rural Michigan counties are as follows:

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

Micropolitan statistical area Michigan counties are as follows:

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

Metropolitan statistical area Michigan counties are as follows:

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

Source:

75 F.R., p. 37245 (June 28, 2010)  
Statistical Policy Office  
Office of Information and Regulatory Affairs  
United States Office of Management and Budget

926 **MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
927  
928 **CON REVIEW STANDARDS**  
929 **FOR NURSING HOME AND HOSPITAL LONG-TERM CARE UNIT BEDS**  
930 **--ADDENDUM FOR SPECIAL POPULATION GROUPS**  
931

932 (By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of  
933 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being  
934 sections 333.22215, 24.207 and 24.208 of the Michigan Compiled Laws.)  
935

936 **Section 1. Applicability; definitions**  
937

938 Sec. 1. (1) This addendum supplements the CON Review Standards for Nursing Home and  
939 Hospital Long-term Care Unit Beds and shall be used for determining the need for projects established to  
940 better meet the needs of special population groups within the long-term care and nursing home  
941 populations.  
942

943 (2) Except as provided in sections 2, 3, 4, 5, 6, 7, and 8 of this addendum, these standards  
944 supplement, and do not supersede, the requirements and terms of approval required by the CON Review  
945 Standards for Nursing Home and Hospital Long-term Care Unit Beds.  
946

947 (3) The definitions which apply to the CON Review Standards for Nursing Home and Hospital  
948 Long-term Care Unit Beds shall apply to these standards.  
949

950 (4) For purposes of this addendum, the following terms are defined:

951 (a) "Bariatric patient" means a patient weighting over 350 pounds.

952 (b) "Bariatric room" means the creation of patient room(s) included as part of the CON project, and  
953 identified on the architectural schematics, that are designed to accommodate the needs of bariatric  
954 patients weighing over 350 pounds. The bariatric patient rooms shall have a larger entrance width for the  
955 room and bathroom to accommodate over-sized equipment, and shall include a minimum of a bariatric  
956 bed, bariatric toilet, bariatric wheelchair, and a device to assist resident movement (such as a portable or  
957 build in lift). If an in-room shower is not included in the bariatric patient room, the main/central shower  
958 room that is located on the same floor as the bariatric patient room(s) shall include at least one (1)  
959 shower stall that has an opening width and depth that is larger than minimum MI Code requirements.

960 (c) "Behavioral patient" means an individual that exhibits a history of chronic behavior  
961 management problems such as aggressive behavior that puts self or others at risk for harm, or an altered  
962 state of consciousness, including paranoia, delusions, and acute confusion.

963 (d) "Infection control program," means a program that will reduce the risk of the introduction of  
964 communicable diseases into a ventilator-dependent unit, provide an active and ongoing surveillance  
965 program to detect the presence of communicable diseases in a ventilator-dependent unit, and respond to  
966 the presence of communicable diseases within a ventilator-dependent unit so as to minimize the spread  
967 of a communicable disease.

968 (e) "Licensed hospital" means either a hospital licensed under Part 215 of the Code; or  
969 a psychiatric hospital or unit licensed pursuant to Act 258 of the Public Acts of 1974, as amended, being  
970 sections 330.1001 to 330.2106 of the Michigan Compiled Laws.

971 (f) "Private residence", means a setting other than a licensed hospital; or a nursing home including  
972 a nursing home or part of a nursing home approved pursuant to Section 6.

973 (g) "Traumatic brain injury (TBI)/spinal cord injury (SCI) patient" means an individual with TBI or  
974 SCI that is acquired or due to a traumatic insult to the brain and its related parts that is not of a  
975 degenerative or congenital nature. These impairments may be either temporary or permanent and cause  
976 partial or total functional disability or psychosocial adjustment.

977 (h) "Ventilator-dependent patient," means an individual who requires mechanical ventilatory  
978 assistance.

979  
980 **Section 2. Requirements for approval -- applicants proposing to increase nursing home beds --**  
981 **special use exceptions**

982  
983 Sec. 2. A project to increase nursing home beds in a planning area which, if approved, would  
984 otherwise cause the total number of nursing home beds in that planning area to exceed the needed  
985 nursing home bed supply or cause an increase in an existing excess as determined under the applicable  
986 CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds, may nevertheless be  
987 approved pursuant to this addendum.

988  
989 **Section 3. Statewide pool for the needs of special population groups within the long-term care**  
990 **and nursing home populations**

991  
992 Sec. 3. (1) A statewide pool of additional nursing home beds of 1,958 beds needed in the state is  
993 established to better meet the needs of special population groups within the long-term care and nursing  
994 home populations. Beds in the pool shall be allocated as follows:

995 (a) These categories shall be allocated 1,039 beds and distributed as follows and shall be  
996 reduced/redistributed in accordance with subsection (c):

997 (i) TBI/SCI beds will be allocated 400 beds.

998 (ii) Behavioral beds will be allocated 400 beds.

999 (iii)Bariatric beds will be allocated 60 beds.

1000 (iv) Ventilator-dependent beds will be allocated 179 beds.

1001 (b) The following historical categories have been allocated 919 beds. Additional beds shall not be  
1002 allocated to these categories. If the beds within any of these categories are delicensed, the beds shall be  
1003 eliminated and not be returned to the statewide pool for special population groups.

1004 (i) Alzheimer's disease has 384 beds.

1005 (ii) Health care needs for skilled nursing care has 173 beds.

1006 (iii) Religious has 292 beds.

1007 (iv) Hospice beds has 70 beds.

1008 (c) The Commission may adjust/redistribute the number of beds available in the statewide pool for  
1009 the needs of special population groups in subsection (1)(a) concurrent with the biennial recalculation of  
1010 the statewide nursing home and hospital long-term care unit bed need. Modifying the number of beds  
1011 available in the statewide pool for the needs of special population groups in subsection (1)(a) pursuant to  
1012 this section shall not require a public hearing or submittal of the standard to the Legislature and the  
1013 Governor in order to become effective.

1014 (d) By setting aside these beds from the total statewide pool, the Commission's action applies only  
1015 to applicants seeking approval of nursing home beds pursuant to sections 4, 5, 6, and 7. It does not  
1016 preclude the care of these patients in units of hospitals, hospital long-term care units, nursing homes, or  
1017 other health care settings in compliance with applicable statutory or certification requirements.

1018  
1019 (2) Increases in nursing home beds approved under this addendum for special population groups  
1020 shall not cause planning areas currently showing an unmet bed need to have that need reduced or  
1021 planning areas showing a current surplus of beds to have that surplus increased.

1022  
1023 **Section 4. Requirements for approval for beds from the statewide pool for special population**  
1024 **groups allocated to TBI/SCI patients**

1025  
1026 Sec. 4. The CON Commission determines there is a need for beds for applications designed to  
1027 determine the efficiency and effectiveness of specialized programs for the care and treatment of TBI/SCI  
1028 patients as compared to serving these needs in general nursing home unit(s).



- 1029  
1030 (1) An applicant proposing to begin operation of a new nursing home/HLTCU or add beds to an  
1031 existing nursing home/HLTCU under this section shall demonstrate with credible documentation to the  
1032 satisfaction of the Department each of the following:  
1033 (a) The beds will be operated as part of a specialized program exclusively for TBI/SCI patients. At  
1034 the time an application is submitted, the applicant shall demonstrate that it operates:  
1035 (i) A continuum of outpatient treatment, rehabilitative care, and support services for TBI/SCI  
1036 patients; and  
1037 (ii) A transitional living program or contracts with an organization that operates a transitional living  
1038 program and rehabilitative care for TBI/SCI patients.  
1039 (b) The applicant shall submit evidence of accreditation of its existing outpatient and/or residential  
1040 programs by the Commission on Accreditation of Rehabilitation Facilities (CARF) or another nationally-  
1041 recognized accreditation organization for rehabilitative care and services.  
1042 (c) Within 24-months of accepting its first patient, the applicant shall obtain CARF or another  
1043 nationally-recognized accreditation organization for the nursing home beds proposed under this  
1044 subsection.  
1045 (d) A floor plan for the proposed physical plant space to house the nursing home beds allocated  
1046 under this subsection that provides for:  
1047 (i) Individual units consisting of 20 beds or less per unit, not to be more than 40 beds per facility.  
1048 (ii) Day/dining area within, or immediately adjacent to, the unit(s), which is solely for the use of  
1049 TBI/SCI patients.  
1050 (iii) Direct access to a secure outdoor or indoor area at the facility appropriate for supervised  
1051 activity.  
1052 (e) The applicant proposes programs to promote a culture within the facility that is appropriate for  
1053 TBI/SCI patients of various ages.  
1054  
1055 (2) Beds approved under this subsection shall not be converted to or utilized as general nursing  
1056 home use without a CON for nursing home and hospital long-term care unit beds under the CON review  
1057 standards for nursing home and hospital long-term care unit beds and shall not be offered to individuals  
1058 other than TBI/SCI patients.

1059  
1060 **Section 5. Requirements for approval for beds from the statewide pool for special population**  
1061 **groups allocated to behavioral patients**

1062  
1063 Sec. 5. The CON Commission determines there is a need for beds for applications designed to  
1064 determine the efficiency and effectiveness of specialized programs for the care and treatment of  
1065 behavioral patients as compared to serving these needs in general nursing home unit(s).

- 1066 (1) An applicant proposing to begin operation of a new nursing home/HLTCU or add beds to an  
1067 existing nursing home/HLTCU under this section shall demonstrate with credible documentation to the  
1068 satisfaction of the Department each of the following:  
1069 (a) Individual units shall consist of 20 beds or less per unit.  
1070 (b) The facility shall not be awarded more than 40 beds.  
1071 (c) The proposed unit shall have direct access to a secure outdoor or indoor area for supervised  
1072 activity.  
1073 (d) The unit shall have within the unit or immediately adjacent to it a day/dining area which is solely  
1074 for the use of the behavioral patients.  
1075 (e) The physical environment of the unit shall be designed to minimize noise and light reflections to  
1076 promote visual and spatial orientation.  
1077 (f) Staff will be specially trained in treatment of behavioral patients.  
1078

1079 (2) Beds approved under this subsection shall not be converted to or utilized as general nursing  
1080 home use without a CON for nursing home and hospital long-term care unit beds under the CON Review  
1081 Standards for Nursing Home and Hospital Long-term Care Unit Beds.

1082  
1083 (3) All beds approved pursuant to this subsection shall be dually certified for Medicare and  
1084 Medicaid.

1085  
1086 **Section 6. Requirements for approval for beds from the statewide pool for special population**  
1087 **groups allocated to bariatric patients**  
1088

1089 Sec. 6. The CON Commission determines there is a need for beds for applications designed to  
1090 determine the efficiency and effectiveness of specialized programs for the care and treatment of bariatric  
1091 patients as compared to serving these needs in general nursing home unit(s).

1092  
1093 (1) An applicant proposing to begin operation of a new nursing home/HLTCU or add beds to an  
1094 existing nursing home/HLTCU under this section shall demonstrate, with credible documentation to the  
1095 satisfaction of the Department, each of the following:

- 1096 (a) The facility shall not be awarded more than 10 beds.  
1097 (b) The facility may place beds throughout the facility for a flexible and seamless inclusive resident  
1098 design.  
1099 (c) The proposed beds shall have adequate access to an outdoor or indoor area for activities with  
1100 appropriate equipment.  
1101 (d) The physical environment of any unit containing bariatric beds shall be designed to facilitate  
1102 visitors.  
1103 (e) The unit/beds shall have available specialty equipment to assist staff in providing care.  
1104 (f) The beds shall be located on a ground floor and emergency egress will not require stairways or  
1105 elevators to exit.  
1106 (g) The beds shall be established in either single or double occupancy rooms, there shall be no  
1107 rooms with more than two beds.

1108  
1109 (2) Beds approved under this subsection shall not be converted to or utilized for general nursing  
1110 home use without a CON for nursing home and hospital long-term care unit beds.

1111  
1112 (3) All beds approved pursuant to this subsection shall be dually certified for Medicare and  
1113 Medicaid.

1114  
1115 **Section 7. Requirements for approval for beds from the statewide pool for special population**  
1116 **groups allocated to ventilator-dependent patients**  
1117

1118 Sec. 7. The CON Commission determines there is a need for beds for ventilator-dependent patients  
1119 within the long-term care and nursing home populations

1120  
1121 (1) An applicant proposing to begin operation of a new nursing home/HLTCU or add beds to an  
1122 existing nursing home/HLTCU under this section shall demonstrate, with credible documentation to the  
1123 satisfaction of the Department, each of the following:

- 1124 (a) An applicant proposes a program for caring for ventilator-dependent patients in licensed  
1125 nursing home beds.  
1126 (b) An application proposes no more than 40 beds that will be licensed as nursing home beds.  
1127 (c) The proposed unit will serve only ventilator-dependent patients.

1128  
1129 (2) All beds approved pursuant to this subsection shall be dually certified for Medicare and  
1130 Medicaid.

1131  
1132  
1133  
1134  
1135

(3) Beds approved under this subsection shall not be converted to or utilized for general nursing home use without a CON for nursing home and hospital long-term care unit beds.

1136 **Section 8. Acquisition of nursing home/HLTCU beds approved pursuant to this addendum**  
1137

1138 Sec. 8. (1) An applicant proposing to acquire nursing home/HLTCU beds from the statewide pool  
1139 for special population groups allocated to religious shall meet the following:

1140 (a) The applicant is a part of, closely affiliated with, controlled, sanctioned or supported by a  
1141 recognized religious organization, denomination or federation as evidenced by documentation of its  
1142 federal tax exempt status as a religious corporation, fund, or foundation under section 501(c)(3) of the  
1143 United States Internal Revenue Code.

1144 (b) The applicant's patient population includes a majority of members of the religious organization  
1145 or denomination represented by the sponsoring organization.

1146 (c) The applicant's existing services and/or operations are tailored to meet certain special needs of  
1147 a specific religion, denomination or order, including unique dietary requirements, or other unique religious  
1148 needs regarding ceremony, ritual, and organization which cannot be satisfactorily met in a secular setting.

1149 (d) All beds approved pursuant to this subsection shall be dually certified for Medicare and  
1150 Medicaid.

1151  
1152 (2) An applicant proposing to acquire nursing home/HLTCU beds from the statewide pool for  
1153 special population groups allocated to TBI/SCI shall meet the following:

1154 (a) The beds will be operated as part of a specialized program exclusively for TBI/SCI patients. At  
1155 the time an application is submitted, the applicant shall demonstrate that it operates:

1156 (i) a continuum of outpatient treatment, rehabilitative care, and support services for TBI/SCI  
1157 patients; and

1158 (ii) a transitional living program or contracts with an organization that operates a transitional living  
1159 program and rehabilitative care for TBI/SCI patients.

1160 (b) The applicant shall submit evidence of accreditation of its existing outpatient and/or residential  
1161 programs by the Commission on Accreditation of Rehabilitation Facilities (CARF) or another nationally-  
1162 recognized accreditation organization for rehabilitative care and services.

1163 (c) Within 24-months of accepting its first patient, the applicant shall obtain CARF or another  
1164 nationally-recognized accreditation organization for the nursing home beds proposed under this  
1165 subsection.

1166 (d) A floor plan for the proposed physical plant space to house the nursing home beds allocated  
1167 under this subsection that provides for:

1168 (i) Individual units consisting of 20 beds or less per unit, not to be more than 40 beds per facility.

1169 (ii) Day/dining area within, or immediately adjacent to, the unit(s), which is solely for the use of  
1170 TBI/SCI patients.

1171 (iii) Direct access to a secure outdoor or indoor area at the facility appropriate for supervised  
1172 activity.

1173 (e) The applicant proposes programs to promote a culture within the facility that is appropriate for  
1174 TBI/SCI patients of various ages.

1175  
1176 (3) An applicant proposing to acquire nursing home/HLTCU beds from the statewide pool for  
1177 special population groups allocated to Alzheimer's disease shall meet the following:

1178 (a) The beds are part of a specialized program for Alzheimer's disease which will admit and treat  
1179 only patients which require long-term nursing care and have been appropriately classified as a patient on  
1180 the Global Deterioration Scale (GDS) for age-associated cognitive decline and Alzheimer's disease as a  
1181 level 4 (when accompanied by continuous nursing needs), 5, or 6.

1182 (b) The specialized program will participate in the state registry for Alzheimer's disease.

1183 (c) The specialized program shall be attached or geographically adjacent to a licensed nursing  
1184 home and be no larger than 20 beds in size.

1185 (d) The proposed Alzheimer's unit shall have direct access to a secure outdoor or indoor area at  
1186 the health facility, appropriate for unsupervised activity.

- 1187 (e) The Alzheimer's unit shall have within the unit or immediately adjacent to it a day/dining area  
1188 which is solely for the use of the Alzheimer's unit patients.
- 1189 (f) The physical environment of the Alzheimer's unit shall be designed to minimize noise and light  
1190 reflections to promote visual and spatial orientation.
- 1191 (g) Staff will be specially trained in Alzheimer's disease treatment.
- 1192 (h) All beds approved pursuant to this subsection shall be dually certified for Medicare and  
1193 Medicaid.
- 1194
- 1195 (4) An applicant proposing to acquire nursing home/HLTCU beds from the statewide pool for  
1196 special population groups allocated to behavioral patients shall meet the following:
- 1197 (a) Individual units shall consist of 20 beds or less per unit.
- 1198 (b) The facility shall not be awarded more than 40 beds.
- 1199 (c) The proposed unit shall have direct access to a secure outdoor or indoor area for supervised  
1200 activity.
- 1201 (d) The unit shall have within the unit or immediately adjacent to it a day/dining area which is solely  
1202 for the use of the behavioral patients.
- 1203 (e) The physical environment of the unit shall be designed to minimize noise and light reflections to  
1204 promote visual and spatial orientation.
- 1205 (f) Staff will be specially trained in treatment of behavioral patients.
- 1206 (g) All beds approved pursuant to this subsection shall be dually certified for Medicare and  
1207 Medicaid.
- 1208
- 1209 (5) An applicant proposing to acquire nursing home/HLTCU beds from the statewide pool for  
1210 special population groups allocated to hospice shall meet the following:
- 1211 (a) An applicant shall be a hospice certified by Medicare pursuant to the code of Federal  
1212 Regulations, Title 42, Chapter IV, Subpart B (Medicare Programs), Part 418 and shall have been a  
1213 Medicare certified hospice for at least 24 continuous months prior to the date an application is submitted  
1214 to the Department.
- 1215 (b) An applicant shall demonstrate that, during the most recent 12-month period prior to the date  
1216 an application is submitted to the Department for which verifiable data are available to the Department, at  
1217 least 64% of the total number of hospice days of care provided to all of the clients of the applicant hospice  
1218 were provided in a private residence.
- 1219 (c) All beds approved pursuant to this subsection shall be dually certified for Medicare and  
1220 Medicaid.
- 1221
- 1222 (6) An applicant proposing to acquire nursing home/HLTCU beds from the statewide pool for  
1223 special population groups allocated to bariatric patients shall meet the following:
- 1224 (a) The facility shall not be awarded more than 10 beds.
- 1225 (b) The facility may place beds throughout the facility for a flexible and seamless inclusive resident  
1226 design.
- 1227 (c) The proposed beds shall have adequate access to an outdoor or indoor area for activities with  
1228 appropriate equipment.
- 1229 (d) The physical environment of any unit containing bariatric beds shall be designed to facilitate  
1230 visitors.
- 1231 (e) The beds shall have available specialty equipment to assist staff in providing care.
- 1232 (f) The beds shall be located on a ground floor and emergency egress will not require stairways or  
1233 elevators to exit.
- 1234 (g) Beds approved under this subsection shall not be converted to or utilized as general nursing  
1235 home use without a CON for nursing home and hospital long-term care unit beds under the CON review  
1236 standards.
- 1237 (h) All beds approved pursuant to this subsection shall be dually certified for Medicare and  
1238 Medicaid.

- 1239  
1240 (7) An applicant proposing to acquire nursing home/HLTCU beds from the statewide pool for  
1241 special population groups allocated to ventilator-dependent patients shall meet the following:  
1242 (a) An applicant proposes a program for caring for ventilator-dependent patients in licensed  
1243 nursing home beds.  
1244 (b) An application proposes no more than 40 beds that will be licensed as nursing home beds.  
1245 (c) The proposed unit will serve only ventilator-dependent patients.  
1246 (d) All beds approved pursuant to this subsection shall be dually certified for Medicare and  
1247 Medicaid.

1248  
1249 **Section 9. Project delivery requirements -- terms of approval for all applicants seeking approval**  
1250 **under Section 3(1) of this addendum**

1251  
1252 Sec. 9. (1) An applicant shall agree that if approved, the services shall be delivered in compliance  
1253 with the terms of approval required by the CON Review Standards for Nursing Home and Hospital Long-  
1254 term Care Unit Beds.

1255  
1256 (2) An applicant for beds from the statewide pool for special population groups allocated to  
1257 religious shall agree that, if approved, the services provided by the specialized long-term care beds shall  
1258 be delivered in compliance with the following term of CON approval:

1259 (a) The applicant shall document, at the end of the third year following initiation of beds approved  
1260 an annual average occupancy rate of 95 percent or more. If this occupancy rate has not been met, the  
1261 applicant shall delicense a number of beds necessary to result in a 95 percent occupancy based upon its  
1262 average daily census for the third full year of operation.

1263 (3) An applicant for beds from the statewide pool for special population groups allocated to  
1264 Alzheimer's disease shall agree that if approved:

1265  
1266 (a) The beds are part of a specialized program for Alzheimer's disease which will admit and treat  
1267 only patients which require long-term nursing care and have been appropriately classified as a patient on  
1268 the Global Deterioration Scale (GDS) for age-associated cognitive decline and Alzheimer's disease as a  
1269 level 4 (when accompanied by continuous nursing needs), 5, or 6.

1270 (b) The specialized program will participate in the state registry for Alzheimer's disease.

1271 (c) The specialized program shall be attached or geographically adjacent to a licensed nursing  
1272 home and be no larger than 20 beds in size.

1273 (d) The proposed Alzheimer's unit shall have direct access to a secure outdoor or indoor area at  
1274 the health facility, appropriate for unsupervised activity.

1275 (e) The Alzheimer's unit shall have within the unit or immediately adjacent to it a day/dining area  
1276 which is solely for the use of the Alzheimer's unit patients.

1277 (f) The physical environment of the Alzheimer's unit shall be designed to minimize noise and light  
1278 reflections to promote visual and spatial orientation.

1279 (g) Staff will be specially trained in Alzheimer's disease treatment.

1280  
1281 (4) An applicant for beds from the statewide pool for special population groups allocated to hospice  
1282 shall agree that, if approved, all beds approved pursuant to that subsection shall be operated in  
1283 accordance with the following CON terms of approval.

1284 (a) An applicant shall maintain Medicare certification of the hospice program and shall establish  
1285 and maintain the ability to provide, either directly or through contractual arrangements, hospice services  
1286 as outlined in the Code of Federal Regulations, Title 42, Chapter IV, Subpart B, Part 418, hospice care.

1287 (b) The proposed project shall be designed to promote a home-like atmosphere that includes  
1288 accommodations for family members to have overnight stays and participate in family meals at the  
1289 applicant facility.

- 1290 (c) An applicant shall not refuse to admit a patient solely on the basis that he/she is HIV positive,  
1291 has AIDS or has AIDS related complex.
- 1292 (d) An applicant shall make accommodations to serve patients that are HIV positive, have AIDS or  
1293 have AIDS related complex in nursing home beds.
- 1294 (e) An applicant shall make accommodations to serve children and adolescents as well as adults in  
1295 nursing home beds.
- 1296 (f) Nursing home beds shall only be used to provide services to individuals suffering from a  
1297 disease or condition with a terminal prognosis in accordance with Section 21417 of the Code, being  
1298 Section 333.21417 of the Michigan Compiled Laws.
- 1299 (g) An applicant shall agree that the nursing home beds shall not be used to serve individuals not  
1300 meeting the provisions of Section 21417 of the Code, being Section 333.21417 of the Michigan Compiled  
1301 Laws, unless a separate CON is requested and approved pursuant to applicable CON review standards.
- 1302 (h) An applicant shall be licensed as a hospice program under Part 214 of the Code, being Section  
1303 333.21401 et seq. of the Michigan Compiled Laws.
- 1304 (i) An applicant shall agree that at least 64% of the total number of hospice days of care provided  
1305 by the applicant hospice to all of its clients will be provided in a private residence.
- 1306
- 1307 (5) An applicant for beds from the statewide pool for special population groups allocated to  
1308 ventilator-dependent patients shall agree that, if approved, all beds approved pursuant to that subsection  
1309 shall be operated in accordance with the following CON terms of approval.
- 1310 (a) An applicant shall staff the proposed ventilator-dependent unit with employees that have been  
1311 trained in the care and treatment of ventilator-dependent patients and includes at least the following:
- 1312 (i) A medical director with specialized knowledge, training, and skills in the care of ventilator-  
1313 dependent patients.
- 1314 (ii) A program director that is a registered nurse.
- 1315 (b) An applicant shall make provisions, either directly or through contractual arrangements, for at  
1316 least the following services:
- 1317 (i) respiratory therapy.
- 1318 (ii) occupational and physical therapy.
- 1319 (iii) psychological services.
- 1320 (iv) family and patient teaching activities.
- 1321 (c) An applicant shall establish and maintain written policies and procedures for each of the  
1322 following:
- 1323 (i) Patient admission criteria that describe minimum and maximum characteristics for patients  
1324 appropriate for admission to the ventilator-dependent unit. At a minimum, the criteria shall address the  
1325 amount of mechanical ventilatory dependency, the required medical stability, and the need for ancillary  
1326 services.
- 1327 (ii) The transfer of patients requiring care at other health care facilities.
- 1328 (iii) Upon admission and periodically thereafter, a comprehensive needs assessment, a treatment  
1329 plan, and a discharge plan that at a minimum addresses the care needs of a patient following discharge.
- 1330 (iv) Patient rights and responsibilities in accordance with Sections 20201 and 20202 of the Code,  
1331 being Sections 333.20201 and 333.20202 of the Michigan Compiled Laws.
- 1332 (v) The type of ventilatory equipment to be used on the unit and provisions for back-up equipment.
- 1333 (d) An applicant shall establish and maintain an organized infection control program that has  
1334 written policies for each of the following:
- 1335 (i) use of intravenous infusion apparatus, including skin preparation, monitoring skin site, and  
1336 frequency of tube changes.
- 1337 (ii) placement and care of urinary catheters.
- 1338 (iii) care and use of thermometers.
- 1339 (iv) care and use of tracheostomy devices.
- 1340 (v) employee personal hygiene.
- 1341 (vi) aseptic technique.

- 1342 (vii) care and use of respiratory therapy and related equipment.  
1343 (viii) isolation techniques and procedures.
- 1344 (e) An applicant shall establish a multi-disciplinary infection control committee that meets on at  
1345 least a monthly basis and includes the director of nursing, the ventilator-dependent unit program director,  
1346 and representatives from administration, dietary, housekeeping, maintenance, and respiratory therapy.  
1347 This subsection does not require a separate committee, if an applicant organization has a standing  
1348 infection control committee and that committee's charge is amended to include a specific focus on the  
1349 ventilator-dependent unit.
- 1350 (f) The proposed ventilator-dependent unit shall have barrier-free access to an outdoor area in the  
1351 immediate vicinity of the unit.
- 1352 (g) An applicant shall agree that the beds will not be used to service individuals that are not  
1353 ventilator-dependent unless a separate CON is requested and approved by the Department pursuant to  
1354 applicable CON review standards.
- 1355 (h) An applicant shall provide data to the Department that evaluates the cost efficiencies that result  
1356 from providing services to ventilator-dependent patients in a hospital.
- 1357
- 1358 (6) An applicant for beds from the statewide pool for special population groups allocated to TBI/SCI  
1359 patients shall agree that if approved:
- 1360 (a) An applicant shall staff the proposed unit for TBI/SCI patients with employees that have been  
1361 trained in the care and treatment of such individuals and includes at least the following:
- 1362 (i) A medical director with specialized knowledge, training, and skills in the care of TBI/SCI  
1363 patients.
- 1364 (ii) A program director that is a registered nurse.
- 1365 (iii) Other professional disciplines required for a multi-disciplinary team approach to care.
- 1366 (b) An applicant shall establish and maintain written policies and procedures for each of the  
1367 following:
- 1368 (i) Patient admission criteria that describe minimum and maximum characteristics for patients  
1369 appropriate for admission to the unit for TBI/SCI patients. At a minimum, the criteria shall address the  
1370 required medical stability and the need for ancillary services, including dialysis services.
- 1371 (ii) The transfer of patients requiring care at other health care facilities, including a transfer  
1372 agreement with one or more acute-care hospitals in the region to provide emergency medical treatment to  
1373 any patient who requires such care.
- 1374 (iii) Upon admission and periodically thereafter, a comprehensive needs assessment, a treatment  
1375 plan, and a discharge plan that at a minimum addresses the care needs of a patient following discharge,  
1376 including support services to be provided by transitional living programs or other outpatient programs or  
1377 services offered as part of a continuum of care to TBI patients by the applicant.
- 1378 (iv) Utilization review, which shall consider the rehabilitation necessity for the service, quality of  
1379 patient care, rates of utilization and other considerations generally accepted as appropriate for review.
- 1380 (v) Quality assurance and assessment program to assure that services furnished to TBI/SCI  
1381 patients meet professional recognized standards of health care for providers of such services and that  
1382 such services were reasonable and medically appropriate to the clinical condition of the TBI patient  
1383 receiving such services.
- 1384
- 1385 (7) An applicant for beds from the statewide pool for special population groups allocated to  
1386 behavioral patients shall agree that if approved:
- 1387 (a) An applicant shall staff the proposed unit for behavioral patients with employees that have been  
1388 trained in the care and treatment of such individuals and includes at least the following:
- 1389 (i) A medical director with specialized knowledge, training, and skills in the care of behavioral  
1390 patients.
- 1391 (ii) A program director that is a registered nurse.
- 1392 (iii) Other professional disciplines required for a multi-disciplinary team approach to care.



- 1393 (b) An applicant shall establish and maintain written policies and procedures for each of the  
1394 following:
- 1395 (i) Patient admission criteria that describe minimum and maximum characteristics for patients  
1396 appropriate for admission to the unit for behavioral patients.
  - 1397 (ii) The transfer of patients requiring care at other health care facilities, including a transfer  
1398 agreement with one or more acute-care hospitals in the region to provide emergency medical treatment to  
1399 any patient who requires such care.
  - 1400 (iii) Utilization review, which shall consider the rehabilitation necessity for the service, quality of  
1401 patient care, rates of utilization and other considerations generally accepted as appropriate for review.
  - 1402 (iv) quality assurance and assessment program to assure that services furnished to behavioral  
1403 patients meet professional recognized standards of health care for providers of such services and that  
1404 such services were reasonable and medically appropriate to the clinical condition of the behavioral patient  
1405 receiving such services.
  - 1406 (v) Orientation and annual education/competencies for all staff, which shall include care guidelines,  
1407 specialized communication, and patient safety.
- 1408
- 1409 (8) An applicant for beds from the statewide pool for special population groups allocated to  
1410 bariatric patients shall agree that if approved:
- 1411 (a) The facility shall not be awarded more than 10 beds.
  - 1412 (b) The facility may place beds throughout the facility for a flexible and seamless inclusive resident  
1413 design.
  - 1414 (c) The proposed beds shall have adequate access to an outdoor or indoor area for activities with  
1415 appropriate equipment.
  - 1416 (d) The physical environment of any unit containing bariatric beds shall be designed to facilitate  
1417 visitors.
  - 1418 (e) The beds shall have available specialty equipment to assist staff in providing care.
  - 1419 (f) The beds shall be located on a ground floor and emergency egress will not require stairways or  
1420 elevators to exit.
  - 1421 (g) The beds shall be established in either single or double occupancy rooms. There shall be no  
1422 rooms with more than two beds.
  - 1423 (h) All beds approved pursuant to this subsection shall be dually certified for Medicare and  
1424 Medicaid.

1425  
1426 **Section 10. Comparative reviews, effect on prior CON review standards**

1427  
1428 Sec. 10. (1) Projects proposed under Section 4 shall be considered a distinct category and shall be  
1429 subject to comparative review on a statewide basis.

1430  
1431 (2) Projects proposed under Section 5 shall be considered a distinct category and shall be subject  
1432 to comparative review on a statewide basis.

1433  
1434 (3) Projects proposed under Section 6 shall be considered a distinct category and shall be subject  
1435 to comparative review on a statewide basis.

1436  
1437 (4) Projects proposed under Section 7 shall be considered a distinct category and shall be subject  
1438 to comparative review on a statewide basis.

1439  
1440 (5) These CON review standards supercede and replace the CON Review Standards for Nursing  
1441 Home and Long-term Care Unit Beds--Addendum for Special Population Groups approved by the  
1442 Commission on December 11, 2014 and effective on March 20, 2015.

1443