

1 MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES

2
3 CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR HOSPITAL BEDS

4
5 (By authority conferred on the CON Commission by sections 22215 and 22217 of Act No. 368 of the
6 Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as
7 amended, being sections 333.22215, 333.22217, 24.207, and 24.208 of the Michigan Compiled Laws.)
8

9 **Section 1. Applicability**

10
11 Sec. 1. (1) These standards are requirements for approval under Part 222 of the Code that involve
12 (a) beginning operation of a new hospital or (b) replacing beds in a hospital or physically relocating
13 hospital beds from one licensed site to another geographic location or (c) increasing licensed beds in a
14 hospital licensed under Part 215 or (d) acquiring a hospital. Pursuant to Part 222 of the Code, a hospital
15 licensed under Part 215 is a covered health facility. The Department shall use these standards in
16 applying Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws and
17 Section 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.
18

19 (2) An increase in licensed hospital beds is a change in bed capacity for purposes of Part 222 of the
20 Code.
21

22 (3) The physical relocation of hospital beds from a licensed site to another geographic location is a
23 change in bed capacity for purposes of Part 222 of the Code.
24

25 (4) An increase in hospital beds certified for long-term care is a change in bed capacity for purposes
26 of Part 222 of the Code and shall be subject to and reviewed under the CON Review Standards for Long-
27 Term-Care Services.
28

29 **Section 2. Definitions**

30
31 Sec. 2. (1) As used in these standards:

32 (a) "Acquiring a hospital" means the issuance of a new hospital license as the result of the
33 acquisition (including purchase, lease, donation, or other comparable arrangements) of a licensed and
34 operating hospital and which does not involve a change in bed capacity.

35 (b) "Adjusted patient days" means the number of patient days when calculated as follows:

36 (i) Combine all pediatric patient days of care and obstetrics patient days of care provided during the
37 period of time under consideration and multiply that number by 1.1.

38 (ii) Add the number of non-pediatric and non-obstetric patient days of care, excluding psychiatric
39 patient days, provided during the same period of time to the product obtained in (i) above. This is the
40 number of adjusted patient days for the applicable period.

41 (c) "Alcohol and substance abuse hospital" means a licensed hospital within a long-term (acute) care
42 (LTAC) hospital that exclusively provides inpatient medical detoxification and medical stabilization and
43 related outpatient services for persons who have a primary diagnosis of substance dependence covered
44 by DRGs 433 - 437.

45 (d) "Average adjusted occupancy rate" shall be calculated as follows:

46 (i) Calculate the number of adjusted patient days during the most recent, consecutive 36-month
47 period, as of the date of the application, for which verifiable data are available to the Department.

48 (ii) Calculate the total licensed bed days for the same 36-month period as in (i) above by multiplying
49 the total licensed beds by the number of days they were licensed.

50 (iii) Divide the number of adjusted patient days calculated in (i) above by the total licensed bed days
51 calculated in (ii) above, then multiply the result by 100.

52 (d) "Base year" means the most recent year that final MIDB data is available to the Department.

53 (e) "Certificate of Need Commission" or "Commission" means the Commission created pursuant to
54 Section 22211 of the code, being Section 333.22211 of the Michigan Compiled Laws.

55 (f) "Close a hospital" means an applicant will demonstrate to the satisfaction of the Department that
56 a hospital licensed under Part 215, and whose licensed capacity for the most recent 24 months prior to
57 submission of the application was at least 80 percent for acute care beds, will close and surrender its
58 acute care hospital license upon completion of the proposed project.

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

61 (h) "Common ownership or control" means a hospital that is owned by, is under common control of,
62 or has a common parent as the applicant hospital.

63 (i) "Compare group" means the applications that have been grouped for the same type of project in
64 the same hospital group and are being reviewed comparatively in accordance with the CON rules.

65 (j) "Department" means the Michigan Department of Health and Human Services (MDHHS).

66 (k) "Department inventory of beds" means the current list maintained for each hospital group on a
67 continuing basis by the Department of (i) licensed hospital beds and (ii) hospital beds approved by a valid
68 CON issued under either Part 221 or Part 222 of the Code that are not yet licensed. The term does not
69 include hospital beds certified for long-term-care in hospital long-term care units.

70 (l) "Disproportionate share hospital payments" means the most recent payments to hospitals in the
71 special pool for non-state government-owned or operated hospitals to assure funding for costs incurred
72 by public facilities providing inpatient hospital services which serve a disproportionate number of low-
73 income patients with special needs as calculated by the Medical Services Administration within the
74 Department.

75 (m) "Excluded hospitals" means hospitals in the following categories:
76 (i) Critical access hospitals designated by CMS pursuant to 42 CFR 485.606
77 (ii) Hospitals located in rural or micropolitan statistical area counties
78 (iii) LTAC and Inpatient Rehabilitation Facility (IRF) hospitals
79 (iv) Sole community hospitals designated by CMS pursuant to 42 CFR 412.92
80 (v) Hospitals with 25 or fewer licensed beds

81 (n) "Existing hospital beds" means, for a specific hospital group, the total of all of the following: (i)
82 hospital beds licensed by the Department of Licensing and Regulatory Affairs (LARA) or its successor; (ii)
83 hospital beds with valid CON approval but not yet licensed; (iii) proposed hospital beds under appeal from
84 a final decision of the Department; and (iv) proposed hospital beds that are part of a completed
85 application under Part 222 (other than the application under review) for which a proposed decision has
86 been issued and which is pending final Department decision.

87 (o) "Gross hospital revenues" means the hospital's revenues as stated on the most recent Medicare
88 and Michigan Medicaid forms filed with the Medical Services Administration within the Department.

89 (p) "Health service area" or "HSA" means the groups of counties listed in Appendix A.

90 (q) "Hospital bed" means a bed within the licensed bed complement at a licensed site of a hospital
91 licensed under Part 215 of the Code, excluding (i) hospital beds certified for long-term care as defined in
92 **Section 20106(6) of the Code, and (ii) unlicensed newborn bassinets, AND (iii) UNLICENSED BEDS.**

93 (r) "Hospital" means a hospital as defined in Section 20106(5) of the Code being Section
94 333.20106(5) of the Michigan Compiled Laws and licensed under Part 215 of the Code. The term does
95 not include a hospital or hospital unit licensed or operated by the Department of Mental Health.

96 (s) "Hospital group" means a cluster or grouping of hospitals based on geographic proximity and
97 hospital utilization patterns. The list of hospital groups and the hospitals assigned to each hospital group
98 will be posted on the State of Michigan CON web site and will be updated pursuant to Section 3.

99 (t) "Hospital long-term-care unit" or "HLTCU" means a nursing care unit, owned or operated by and
100 as part of a hospital, licensed by the Department, and providing organized nursing care and medical
101 treatment to 7 or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

102 (u) "Host hospital" means a licensed and operating hospital, which delicenss hospital beds, and
103 which leases patient care space and other space within the physical plant of the host hospital, to allow an
104 LTAC hospital, IRF hospital, or alcohol and substance abuse hospital, to begin operation.

105 (v) "Inpatient Rehabilitation Facility bed" or "IRF bed" means a licensed hospital bed within an IRF
106 hospital or unit that has been approved to participate in the Title XVIII (Medicare) program as a
107 prospective payment system (PPS) exempt Inpatient Rehabilitation Hospital in accordance with 42 CFR
108 Part 412 Subpart P.

109 (w) "Inpatient Rehabilitation Facility hospital" or "IRF hospital" means a hospital that has been
110 approved to participate in the Title XVIII (Medicare) program as a prospective payment system (PPS)
111 exempt Inpatient Rehabilitation Hospital in accordance with 42 CFR Part 412 Subpart P.

112 (x) "Licensed site" means the location of the facility authorized by license and listed on that
113 licensee's certificate of licensure.

114 (y) "Limited access area" means those underserved areas with a patient day demand that meets or
115 exceeds the state-wide average of patient days used per 50,000 residents in the base year and as
116 identified on the State of Michigan CON web site. Limited access areas shall be redetermined when a
117 new hospital has been approved or an existing hospital closes.

118 (z) "Long-term (acute) care hospital" or "LTAC hospital" means a hospital has been approved to
119 participate in the Title XVIII (Medicare) program as a prospective payment system (PPS) exempt hospital
120 in accordance with 42 CFR Part 412 Subpart O.

121 (aa) "Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 1396 to 1396g
122 and 1396i to 1396u.

123 (bb) "Medicaid volume" means the number of Medicaid recipients served at the hospital as stated on
124 the most recent Medicare and Michigan Medicaid forms filed with the Medical Services Administration
125 within the Department.

126 (cc) "Michigan Inpatient Data Base" or "MIDB" means the data base compiled by the Michigan Health
127 and Hospital Association or successor organization. The data base consists of inpatient discharge
128 records from all Michigan hospitals and Michigan residents discharged from hospitals in border states for
129 a specific calendar year.

130 (dd) "New beds in a hospital" means hospital beds that meet at least one of the following: (i) are not
131 currently licensed as hospital beds, (ii) are currently licensed hospital beds at a licensed site in one
132 hospital group which are proposed for relocation in a different hospital group as determined by the
133 Department pursuant to Section 3 of these standards, (iii) are currently licensed hospital beds at a
134 licensed site in one hospital group which are proposed for relocation to another geographic site which is
135 in the same hospital group as determined by the Department, but which are not in the replacement zone,
136 or (iv) are currently licensed hospital beds that are proposed to be licensed as part of a new hospital in
137 accordance with Section 6(2) of these standards.

138 (ee) "New hospital" means one of the following: (i) the establishment of a new facility that shall be
139 issued a new hospital license, (ii) for currently licensed beds, the establishment of a new licensed site that
140 is not in the same hospital group as the currently licensed beds, (iii) currently licensed hospital beds at a
141 licensed site in one hospital group which are proposed for relocation to another geographic site which is
142 in the same hospital group as determined by the Department, but which are not in the replacement zone,
143 or (iv) currently licensed hospital beds that are proposed to be licensed as part of a new hospital in
144 accordance with section 6(2) of these standards.

145 (ff) "Obstetrics patient days of care" means inpatient days of care for patients in the applicant's
146 Michigan Inpatient Data Base data ages 15 through 44 with DRGs 370 through 375 (obstetrical
147 discharges).

148 (gg) "Overbedded hospital group" means a hospital group in which the total number of existing
149 hospital beds in that hospital group exceeds the hospital group needed hospital bed supply.

150 (hh) "Pediatric patient days of care" means inpatient days of care for patients in the applicant's
151 Michigan Inpatient Data Base data ages 0 through 14 excluding normal newborns.

152 (ii) "Planning year" means five years beyond the base year for which hospital bed need is developed.

153 (jj) "Qualifying project" means each application in a comparative group which has been reviewed
154 individually and has been determined by the Department to have satisfied all of the requirements of
155 Section 22225 of the code, being section 333.22225 of the Michigan Compiled Laws and all other
156 applicable requirements for approval in the Code or these Standards.

157 (kk) "Relocate existing licensed hospital beds" for purposes of sections 6(3) and 8 of these standards,
158 means a change in the location of existing hospital beds from the existing licensed hospital site to a
159 different existing licensed hospital site within the same hospital group or HSA. This definition does not
160 apply to projects involving replacement beds in a hospital governed by Section 7 of these standards.

161 (ll) "Remaining patient days of care" means total inpatient days of care in the applicant's Michigan
162 Inpatient Data Base data minus obstetrics patient days of care and pediatric patient days of care.

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

165 (nn) "Replace beds" means a change in the location of the licensed hospital, the replacement of a
166 portion of the licensed beds at the same licensed site, or the one-time replacement of less than 50% of
167 the licensed beds to a new site within 250 yards of the building on the licensed site containing more than
168 50% of the licensed beds, which may include a new site across a highway(s) or street(s) as defined in
169 MCL 257.20 and excludes a new site across a limited access highway as defined in MCL 257.26. The
170 hospital beds will be in new physical plant space being developed in new construction or in newly
171 acquired space (purchase, lease, donation, etc.) within the replacement zone.

172 (oo) "Replace IRF beds" means a change in the location of all IRF beds from an existing site to a new
173 site within the replacement zone for IRF beds.

174 (pp) "Replacement zone" means a proposed licensed site that is (i) in the same hospital group as the
175 existing licensed site as determined by the Department in accord with Section 3 of these standards and
176 (ii) on the same site, on a contiguous site, or on a site within 2 miles (5 miles for IRF beds) of the existing
177 licensed site if the existing licensed site is located in a county with a population of 200,000 or more, or on
178 a site within 5 miles (10 miles for IRF beds) of the existing licensed site if the existing licensed site is
179 located in a county with a population of less than 200,000.

180 (qq) "Uncompensated care volume" means the hospital's uncompensated care volume as stated on
181 the most recent Medicare and Michigan Medicaid forms filed with the Medical Services Administration
182 within the Department.

183 (rr) "Underserved area" means those geographic areas not within 30 minute drive time of an existing
184 licensed acute care hospital with 24 hour/7 days a week emergency room services utilizing the most
185 direct route using the lowest speed limits posted as defined by the Michigan Department of
186 Transportation (MDOT).

187 (ss) "Use rate" means the number of days of inpatient care per 1,000 population during a one-year
188 period.

189 (tt) "VERIFIABLE DATA" MEANS DATA (INPATIENT PATIENT DAYS) FROM THE MOST RECENT
190 ANNUAL SURVEY OR MORE RECENT DATA THAT CAN BE VALIDATED BY THE DEPARTMENT.

191
192 (2) The definitions in Part 222 shall apply to these standards.
193

194 **Section 3. Hospital groups**

195
196 Sec. 3. Each existing hospital is assigned to a hospital group pursuant to subsection (1).
197

198 (1) These hospital groups and the assignments of hospitals to hospital groups shall be updated by
199 the Department every five years or at the direction of the Commission. The methodology described in
200 "New Methodology for Defining Hospital Groups" by Paul I. Delamater, Ashton M. Shortridge, and Joseph
201 P. Messina, 2011 shall be used as follows:

202 (a) For each hospital, calculate the patient day commitment index (%C – a mathematical
203 computation where the numerator is the number of inpatient hospital days from a specific geographic
204 area provided by a specified hospital and the denominator is the total number of patient days provided by
205 the specified hospital using MIDB data) for all Michigan zip codes using the summed patient days from
206 the most recent three years of MIDB data. Include only those zip codes found in each year of the most
207 recent three years of MIDB data. Arrange observations in an origin-destination table such that each
208 hospital is an origin (row) and each zip code is a destination (column) and include only hospitals with
209 inpatient records in the MIDB.

210 (b) For each hospital, calculate the road distance to all other hospitals. Arrange observations in an
211 origin-destination table such that each hospital is an origin (row) and each hospital is also a destination
212 (column).

213 (c) Rescale the road distance origin-destination table by dividing every entry in the road distance
214 origin-destination table by the maximum distance between any two hospitals.

215 (d) Append the road distance origin-destination table to the %C origin-destination table (by hospital)
216 to create the input data matrix for the clustering algorithm.

217 (e) Group hospitals into clusters using the k-means clustering algorithm with initial cluster centers
218 provided by a wards hierarchical clustering method. Iterate over all cluster solutions from 2 to the number
219 of hospitals (n) minus 1.

220 (i) For each cluster solution, record the group membership of each hospital, the cluster center
221 location for each of the clusters, the r^2 value for the overall cluster solution, the number of single hospital
222 clusters, and the maximum number of hospitals in any cluster.

223 (ii) "k-means clustering algorithm" means a method for partitioning observations into a user-specified
224 number of groups. It is a standard algorithm with a long history of use in academic and applied
225 research. The approach identifies groups of observations such that the sum of squares from points to the
226 assigned cluster centers is minimized, i.e., observations in a cluster are more similar to one another than
227 they are to other clusters. Several k-means implementations have been proposed; the bed need
228 methodology uses the widely-adopted Hartigan-Wong algorithm. Any clustering or data mining text will
229 discuss k-means; one example is B.S. Everitt, S. Landau, M. Leese, & D. Stahl (2011) Cluster Analysis,
230 5th Edition. Wiley, 346 p.

231 (iii) "Wards hierarchical clustering method" means a method for clustering observations into groups.
232 This method uses a binary tree structure to sequentially group data observations into clusters, seeking to
233 minimize overall within-group variance. In the bed need methodology, this method is used to identify the
234 starting cluster locations for k-means. Any clustering text will discuss hierarchical cluster analysis,
235 including Ward's method; one example is: G. Gan, C. Ma, & J. Wu (2007) Data Clustering: Theory,
236 Algorithms, and Applications (Asa-Siam Series on Statistics and Applied Probability). Society for Industrial
237 and Applied Mathematics (Siam), 466 p.

238 (f) Calculate the incremental F score (F_{inc}) for each cluster solution (i) between 3 and $n-1$ letting:

239 $r_i^2 = r^2$ of solution i

240 $r_{i-1}^2 = r^2$ of solution i-1

241 $k_i =$ number of clusters in solution i

242 $k_{i-1} =$ number of clusters in solution i-1

243 $n =$ total number of hospitals

244 where:
$$F_{inc,i} = \frac{\left(\frac{r_i^2 - r_{i-1}^2}{k_i - k_{i-1}} \right)}{\left(\frac{1 - r_i^2}{n - (k_i - 1)} \right)}$$

245 (g) Select candidate solutions by finding those with peak values in f_{inc} scores such that $f_{inc,i}$ is greater
246 than both $f_{inc,i-1}$ and $f_{inc,i+1}$.

247 (h) Remove all candidate solutions in which the largest single cluster contains more than 20
248 hospitals.

249 (i) Identify the minimum number of single hospital clusters from the remaining candidate solutions.
250 Remove all candidate solutions containing a greater number of single hospital clusters than the identified
251 minimum.

252 (j) From the remaining candidate solutions, choose the solution with the largest number of clusters

253 (k). This solution (k clusters) is the resulting number and configuration of the hospital groups.

254 (k) Rename hospital groups as follows:

255 (i) For each hospital group, identify the HSA in which the maximum number of hospitals are located.
256 In case of a tie, use the HSA number that is lower.

257 (ii) For each hospital group, sum the number of current licensed hospital beds for all hospitals.

258 (iii) Order the groups from 1 to k by first sorting by HSA number, then sorting within each HSA by the
259 sum of beds in each hospital group. The hospital group name is then created by appending number in
260 which it is ordered to "hg" (e.g., hg1, hg2, ... hgk).

261 (iv) Hospitals that do not have patient records in the MIDB - identified in subsection (1)(a) - are
262 designated as "ng" for non-groupable hospitals.

263

264 (2) For an application involving a proposed new licensed site for a hospital (whether new or
265 replacement), the proposed new licensed site shall be assigned to an existing hospital group utilizing the

266 methodology described in "A Methodology for Defining Hospital Groups" by Paul L. Delamater, Ashton M.
267 Shortridge, and Joseph P. Messina, 2011 as follows:

268 (a) Calculate the road distance from proposed new site (s) to all existing hospitals, resulting in a list
269 of n observations (s_n).

270 (b) Rescale s_n by dividing each observation by the maximum road distance between any two
271 hospitals identified in subsection (1)(c).

272 (c) For each hospital group, subset the cluster center location identified in subsection (1)(e)(i) to only
273 the entries corresponding to the road distance between hospitals. For each hospital group, the result is a
274 list of n observations that define each hospital group's central location in relative road distance.

275 (d) Calculate the distance ($d_{k,s}$) between the proposed new site and each existing hospital group

276 where: $d_{k,s} = \sqrt{(HG_{k,1} - s_1)^2 + (HG_{k,2} - s_2)^2 + (HG_{k,3} - s_3)^2 + \dots + (HG_{k,n} - s_n)^2}$

277 (e) Assign the proposed new site to the closest hospital group (HG k) by selecting the minimum value
278 of $d_{k,s}$.

279 (f) If there is only a single applicant, then the assignment procedure is complete. If there are
280 additional applicants, then steps (a) – (e) must be repeated until all applicants have been assigned to an
281 existing hospital group.

282
283 (3) The Department shall amend the hospital groups to reflect: (a) approved new licensed site(s)
284 assigned to a specific hospital group; (b) hospital closures; and (c) licensure action(s) as appropriate.
285

286 (4) As directed by the Commission, new hospital group assignments established according to
287 subsection (1) shall supersede the previous subarea/hospital group assignments and shall be posted on
288 the State of Michigan CON web site effective on the date determined by the Commission.
289

290 **Section 4. Determination of the needed hospital bed supply**

291
292 Sec. 4. (1) The determination of the needed hospital bed supply for a hospital group for a planning
293 year shall be made using the MIDB and the methodology detailed in "New Methodology for Determining
294 Needed Hospital Bed Supply" by Paul L. Delamater, Ashton M. Shortridge, and Joseph P. Messina, 2011
295 as follows:

296 (a) All hospital discharges for normal newborns (DRG 391 prior to 2008, DRG 795 thereafter) and
297 psychiatric patients (ICD-9-CM codes 290 through 319, see Appendix D for ICD-10-CM Codes, as a
298 principal diagnosis) will be excluded.

299 (b) For each county, compile the monthly patient days used by county residents for the previous five
300 years (base year plus previous four years). Compile the monthly patient days used by non-Michigan
301 residents in Michigan hospitals for the previous five years as an "out-of-state" unit. The out-of-state
302 patient days unit is considered an additional county thereafter. Patient days are to be assigned to the
303 month in which the patient was discharged. For patient records with an unknown county of residence,
304 assign patient days to the county of the hospital where the patient received service.

305 (c) For each county, calculate the monthly patient days for all months in the planning year. For each
306 county, construct an ordinary least squares linear regression model using monthly patient days as the
307 dependent variable and months (1-60) as the independent variable. If the linear regression model is
308 significant at a 90% confidence level (F-score, two tailed p value ≤ 0.1), predict patient days for months
309 109-120 using the model coefficients. If the linear regression model is not significant at a 90% confidence
310 level (F-score, two tailed p value > 0.1), calculate the predicted monthly patient day demand in the
311 planning year by finding the monthly average of the three previous years (months 25-60).

312 (d) For each county, calculate the predicted yearly patient day demand in the planning year. For
313 counties with a significant regression model, sum the monthly predicted patient days for the planning
314 year. For counties with a non-significant regression model, multiply the three year monthly average by
315 12.

316 (e) For each county, calculate the base year patient day commitment index (%c) to each hospital
317 group. Specifically, divide the base year patient days from each county to each hospital group by the
318 total number of base year patient days from each county.

- 319 (f) For each county, allocate the planning year patient days to the hospital groups by multiplying the
320 planning year patient days by the %c to each hospital group from subsection (e).
321 (g) For each hospital group, sum the planning year patient days allocated from each county.
322 (h) For each hospital group, calculate the average daily census (ADC) for the planning year by
323 dividing the planning year patient days by 365. Round each ADC value up to the nearest whole number.
324 (i) For each hospital group, select the appropriate occupancy rate from the occupancy table in
325 Appendix C.
326 (j) For each hospital group, calculate the planning year bed need by dividing the planning year ADC
327 by the appropriate occupancy rate. Round each bed need value up to the nearest whole number.
328

329 (2) The determination of the needed hospital bed supply for a limited access area shall be made
330 using the MIDB and the methodology detailed in "A Methodology for Determining Needed Hospital Bed
331 Supply" by Paul L. Delamater, Ashton M. Shortridge, And Joseph P. Messina, 2011 as follows:

332 (a) All hospital discharges for normal newborns (DRG 391 prior to 2008, DRG 795 thereafter) and
333 psychiatric patients (ICD-9-CM codes 290 through 319, see Appendix D for ICD-10-CM Codes, as a
334 principal diagnosis) will be excluded.

335 (b) Calculate the average patient day use rate of Michigan residents. Sum total patient days of
336 Michigan residents in the base year and divide by estimated base year population for the state
337 (population data available from US Census Bureau).

338 (c) Calculate the minimum number of patient days for designation of a limited access area by
339 multiplying the average patient day use rate by 50,000. Round up to the nearest whole number.

340 (d) Follow steps outlined in Section 4(1)(b) – (d) to predict planning year patient days for each
341 underserved area. Round up to the nearest whole number. The patient days for each underserved area
342 are defined as the sum of the zip codes corresponding to each underserved area.

343 (e) For each underserved area, compare the planning year patient days to the minimum number of
344 patient days for designation of a limited access area calculated in (c). Any underserved area with a
345 planning year patient day demand greater than or equal to the minimum is designated as a limited access
346 area.

347 (f) For each limited access area, calculate the planning year bed need using the steps outlined in
348 Section 4(1)(h) – (j). For these steps, use the planning year patient days for each limited access area.
349

350 **Section 5. Bed Need**

351
352 Sec. 5. (1) The bed-need numbers shall apply to projects subject to review under these standards,
353 except where a specific CON review standard states otherwise.
354

355 (2) The Department shall re-calculate the acute care bed need methodology in Section 4 every two
356 years, or as directed by the Commission.
357

358 (3) The effective date of the bed-need numbers shall be established by the Commission.
359

360 (4) New bed-need numbers established by subsections (2) and (3) shall supersede previous bed-
361 need numbers and shall be posted on the State of Michigan CON web site as part of the hospital bed
362 inventory.
363

364 (5) Modifications made by the Commission pursuant to this section shall not require standard
365 advisory committee action, a public hearing, or submittal of the standard to the legislature and the
366 governor in order to become effective.
367

368 **Section 6. Requirements for approval -- new beds in a hospital**

369
370 Sec. 6. (1) An applicant proposing new beds in a hospital, except an applicant meeting the
371 requirements of subsection 2, 3, 4, or 5 shall demonstrate that it meets all of the following:

372 (a) The new beds in a hospital shall result in a hospital of at least 200 beds in a metropolitan
373 statistical area county or 25 beds in a rural or micropolitan statistical area county. This subsection may
374 be waived by the Department if the Department determines, in its sole discretion, that a smaller hospital is
375 necessary or appropriate to assure access to health-care services.

376 (b) The total number of existing hospital beds in the hospital group to which the new beds will be
377 assigned does not currently exceed the needed hospital bed supply. The Department shall determine the
378 hospital group to which the beds will be assigned in accord with Section 3 of these standards.

379 (c) Approval of the proposed new beds in a hospital shall not result in the total number of existing
380 hospital beds, in the hospital group to which the new beds will be assigned, exceeding the needed
381 hospital bed supply. The Department shall determine the hospital group to which the beds will be
382 assigned in accord with Section 3 of these standards.

383

384 (2) An applicant proposing to begin operation as a new LTAC hospital, IRF hospital or alcohol and
385 substance abuse hospital within an existing licensed, host hospital shall demonstrate that it meets all of
386 the requirements of this subsection:

387 (a) If the LTAC or IRF hospital applicant described in this subsection does not meet the Title XVIII
388 requirements of the Social Security Act for exemption from PPS as an LTAC or IRF hospital within 12
389 months after beginning operation, then it may apply for a six-month extension in accordance with
390 R325.9403 of the CON rules. If the applicant fails to meet the Title XVIII requirements for PPS exemption
391 as an LTAC or IRF hospital within the 12 or 18-month period, then the CON granted pursuant to this
392 section shall expire automatically.

393 (b) The patient care space and other space to establish the new hospital is being obtained through a
394 lease arrangement and renewal of a lease between the applicant and the host hospital. The initial,
395 renewed, or any subsequent lease shall specify at least all of the following:

396 (i) That the host hospital shall delicense the same number of hospital beds proposed by the
397 applicant for licensure in the new hospital or any subsequent application to add additional beds.

398 (ii) That the proposed new beds shall be for use in space currently licensed as part of the host
399 hospital.

400 (iii) That upon non-renewal and/or termination of the lease, upon termination of the license issued
401 under Part 215 of the act to the applicant for the new hospital, or upon noncompliance with the project
402 delivery requirements or any other applicable requirements of these standards, the beds licensed as part
403 of the new hospital must be disposed of by one of the following means:

404 (A) Relicensure of the beds to the host hospital. The host hospital must obtain a CON to acquire the
405 LTAC or IRF hospital. In the event that the host hospital applies for a CON to acquire the LTAC or IRF
406 hospital [including the beds leased by the host hospital to the LTAC or IRF hospital] within six months
407 following the termination of the lease with the LTAC or IRF hospital, it shall not be required to be in
408 compliance with the hospital bed supply if the host hospital proposes to add the beds of the LTAC or IRF
409 hospital to the host hospital's medical/surgical licensed capacity and the application meets all other
410 applicable project delivery requirements. The beds must be used for general medical/surgical purposes.
411 Such an application shall not be subject to comparative review and shall be processed under the
412 procedures for non-substantive review (as this will not be considered an increase in the number of beds
413 originally licensed to the applicant at the host hospital);

414 (B) Delicensure of the hospital beds; or

415 (C) Acquisition by another entity that obtains a CON to acquire the new hospital in its entirety and
416 that entity must meet and shall stipulate to the requirements specified in Section 6(2).

417 (c) The applicant or the current licensee of the new hospital shall not apply, initially or subsequently,
418 for CON approval to initiate any other CON covered clinical services; provided, however, that this section
419 is not intended, and shall not be construed in a manner which would prevent the licensee from contracting
420 and/or billing for medically necessary covered clinical services required by its patients under
421 arrangements with its host hospital or any other CON approved provider of covered clinical services.

422 (d) The new licensed hospital shall remain within the host hospital.

423 (e) The new hospital shall be assigned to the same hospital group as the host hospital.

424 (f) The proposed project to begin operation of a new hospital, under this subsection, shall constitute
425 a change in bed capacity under Section 1(2) of these standards.

426 (g) The lease will not result in an increase in the number of licensed hospital beds in the hospital
427 group.
428 (h) Applications proposing a new hospital under this subsection shall not be subject to comparative
429 review.
430

431 (3) An applicant proposing to add new hospital beds, as the receiving licensed hospital under Section
432 8, shall demonstrate that it meets all of the requirements of this subsection and shall not be required to be
433 in compliance with the needed hospital bed supply if the application meets all other applicable CON
434 review standards and agrees and assures to comply with all applicable project delivery requirements.

435 (a) The approval of the proposed new hospital beds shall not result in an increase in the number of
436 licensed hospital beds as follows:

437 (i) In the hospital group pursuant to Section 8(2)(a), or

438 (ii) in the HSA pursuant to Section 8(2)(b).

439 (b) Where the source hospital was subject to Section 8(3)(b), the receiving hospital shall have an
440 average adjusted occupancy rate of 40 percent or above.

441 (c) Where the source hospital was subject to Section 8(3)(b), the addition of the proposed new
442 hospital beds at the receiving hospital shall not exceed the number determined by the following
443 calculation:

444 (i) As of the date of the application, calculate the adjusted patient days for the most recent,
445 consecutive 36-month period where verifiable data is available to the Department, and divide by .40.

446 (ii) Divide the result of subsection (i) by 1095 (or 1096, if the 36-month period includes a leap year)
447 and round up to next whole number or 25, whichever is larger. This is the maximum number of beds that
448 can be licensed at the receiving hospital.

449 (iii) Subtract the receiving hospital's total number of licensed beds and approved beds from the result
450 of subsection (ii). This is the maximum number of beds that can be added to the receiving hospital.

451 (d) Where the source hospital was subject to Section 8(3)(b), the receiving hospital's average
452 adjusted occupancy rate must not be less than 40 percent after the addition of the proposed new hospital
453 beds.

454 (e) Subsection (3)(b), (c), and (d) shall not apply to excluded hospitals.

455 (f) The proposed project to add new hospital beds, under this subsection, shall constitute a change
456 in bed capacity under Section 1(2) of these standards.

457 (g) Applicants proposing to add new hospital beds under this subsection shall not be subject to
458 comparative review.
459

460 (4) An applicant may apply for the addition of new beds if all of the following subsections are met.
461 Further, an applicant proposing new beds at an existing licensed hospital site shall not be required to be
462 in compliance with the needed hospital bed supply if the application meets all other applicable CON
463 review standards and agrees and assures to comply with all applicable project delivery requirements.

464 (a) The beds are being added at the existing licensed hospital site or are being replaced to a new
465 IRF hospital site being created under Section 7(6) as part of the same CON application.

466 (b) The hospital at the existing licensed hospital site has operated at an adjusted occupancy rate of
467 80 percent or above for the previous, consecutive 24 months based on its licensed and approved hospital
468 bed capacity. The adjusted occupancy rate shall be calculated as follows:

469 (i) Calculate the number of adjusted patient days during the most recent, consecutive 24-month
470 period for which verifiable data are available to the Department.

471 (ii) Divide the number calculated in (i) above by the total possible patient days [licensed and
472 approved hospital beds multiplied by 730 (or 731 if including a leap year)]. This is the adjusted
473 occupancy rate.

474 (c) The number of beds that may be approved pursuant to this subsection shall be the number of
475 beds necessary to reduce the adjusted occupancy rate for the hospital to 75 percent. The number of
476 beds shall be calculated as follows:

477 (i) Divide the number of adjusted patient days calculated in subsection (b)(i) by .75 to determine
478 licensed bed days at 75 percent occupancy.

479 (ii) Divide the result of step (i) by 730 (or 731 if including a leap year) and round the result up to the
480 next whole number.

481 (iii) Subtract the number of licensed and approved hospital beds as documented on the "Department
482 Inventory of Beds" from the result of step (ii) and round the result up to the next whole number to
483 determine the maximum number of beds that may be approved pursuant to this subsection.

484 (d) A licensed acute care hospital that has relocated its beds, after the effective date of these
485 standards, shall not be approved for hospital beds under this subsection for five years from the effective
486 date of the relocation of beds.

487 (e) Applicants proposing to add new hospital beds under this subsection shall not be subject to
488 comparative review.

489 (5) An applicant proposing a new hospital in a limited access area shall not be required to be in
490 compliance with the needed hospital bed supply if the application meets all other applicable CON review
491 standards, agrees and assures to comply with all applicable project delivery requirements, and all of the
492 following subsections are met.

493 (a) The proposed new hospital, unless a critical access hospital, shall have 24 hour/7 days a week
494 emergency services, obstetrical services, surgical services, and licensed acute care beds.

495 (b) The Department shall assign the proposed new hospital to an existing hospital group based on
496 the current market use patterns of existing hospital groups.

497 (c) Approval of the proposed new beds in a hospital in a limited access area shall not exceed the bed
498 need for the limited access area as determined by the bed need methodology in Section 4 and as set
499 forth on the State of Michigan CON web site.

500 (d) The new beds in a hospital in a limited access area shall result in a hospital of at least 100 beds
501 in a metropolitan statistical area county or 50 beds in a rural or micropolitan statistical area county. If the
502 bed need for a limited access area, as shown on the State of Michigan CON web site, is less, then that
503 will be the minimum number of beds for a new hospital under this provision. If an applicant for new beds
504 in a hospital under this provision simultaneously applies for status as a critical access hospital, the
505 minimum hospital size shall be that number allowed under state/federal critical access hospital
506 designation.

507 (e) Applicants proposing to create a new hospital under this subsection shall not be approved, for a
508 period of five years after beginning operation of the facility, of the following covered clinical services: (i)
509 open heart surgery, (ii) therapeutic cardiac catheterization, (iii) fixed positron emission tomography (PET)
510 services, (iv) all transplant services, (v) neonatal intensive care services/beds, and (vi) fixed urinary
511 extracorporeal shock wave lithotripsy (UESWL) services.

512 (f) Applicants proposing to add new hospital beds under this subsection shall be prohibited from
513 relocating the new hospital beds for a period of 10 years after beginning operation of the facility.

514 (g) An applicant proposing to add a new hospital pursuant to this subsection shall locate the new
515 hospital as follows:

516 (i) In a metropolitan statistical area county, an applicant proposing to add a new hospital pursuant to
517 this subsection shall locate the new hospital within the limited access area and serve a population of
518 50,000 or more inside the limited access area and within 30 minutes drive time from the proposed new
519 hospital.

520 (ii) In a rural or micropolitan statistical area county, an applicant proposing to add a new hospital
521 pursuant to this subsection shall locate the new hospital within the limited access area and serve a
522 population of 50,000 or more inside the limited access area and within 60 minutes drive time from the
523 proposed new hospital.

524 **Section 7. Requirements for approval to replace beds**

525 **Section 7. (1)** If the application involves the development of a new licensed site, an applicant proposing to
526 replace beds in a hospital within the replacement zone shall demonstrate that the new beds in a hospital
527 shall result in a hospital of at least 200 beds in a metropolitan statistical area county or 25 beds in a rural
528 or micropolitan statistical area county. This subsection may be waived by the Department if the
529 Department determines, in its sole discretion, that a smaller hospital is necessary or appropriate to assure
530 access to health-care services.
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(2) The applicant shall specify whether the proposed project is to replace the licensed hospital to a new site, to replace all licensed IRF beds to a new site, to replace a portion of the licensed beds at the existing licensed site, or the one-time replacement of less than 50% of the licensed beds to a new site within 250 yards of the building on the licensed site containing more than 50% of the licensed beds, which may include a new site across a highway(s) or street(s) as defined in MCL 257.20 and excludes a new site across a limited access highway as defined in MCL 257.26.

(3) The applicant shall demonstrate that the new licensed site is in the replacement zone.

(4) The applicant shall comply with the following requirements, as applicable:

(a) The applicant's hospital shall have an average adjusted occupancy rate of 40 percent or above.

(b) If the applicant hospital does not have an average adjusted occupancy rate of 40 percent or above, then the applicant hospital shall reduce the appropriate number of licensed beds to achieve an average adjusted occupancy rate of 60 percent or above. The applicant hospital shall not exceed the number of beds calculated as follows:

(i) As of the date of the application, calculate the number of adjusted patient days during the most recent, consecutive 36-month period where verifiable data is available to the Department, and divide by .60.

(ii) Divide the result of subsection (i) above by 1095 (or 1096 if the 36-month period includes a leap year) and round up to the next whole number or 25, whichever is larger. This is the maximum number of beds that can be licensed at the licensed hospital site after the replacement.

(c) Subsection (4)(a) and (b) shall not apply to excluded hospitals.

(5) An applicant proposing replacement beds in the replacement zone shall not be required to be in compliance with the needed hospital bed supply if the application meets all other applicable CON review standards and agrees and assures to comply with all applicable project delivery requirements.

(6) If the application involves the development of a new licensed IRF hospital site, an applicant proposing to replace IRF beds within the replacement zone shall demonstrate that it meets all of the requirements of this subsection:

(a) The new license created by the proposed project shall only be utilized for inpatient rehabilitation beds.

(b) The applicant hospital has demonstrated, at the time of the CON filing, it is operating under high occupancy as governed by Section 6(4) of these standards.

(c) The applicant has demonstrated, at the time of CON filing, that the beds to be replaced are either IRF beds that meet the Title XVIII requirements of the Social Security Act for exemption from PPS as an IRF hospital, or high occupancy beds being requested under Section 6(4) as part of the same CON application.

(d) The new IRF hospital will have at least 40 IRF beds if located in a county with a population of 200,000 or more; or at least 25 IRF beds if located in a county with a population of less than 200,000.

(e) As part of the phasing of the replacement of IRF beds to the new site, the applicant may retain, for 36-months from the time of activation of the new site, up to eight IRF beds at the existing hospital site. Any IRF beds at the existing site that have not been transitioned to the new site within the 36-month time period shall not be utilized for inpatient rehabilitation and shall revert back to acute medical-surgical hospital beds.

(f) The proposed project to begin operation of a new site, under this subsection, shall constitute a change in bed capacity under Section 1(2) of these standards.

(g) The existing hospital site shall delicense the same number of IRF beds proposed by the applicant for licensure in the new IRF hospital.

(h) Applicants proposing a new IRF hospital under this subsection shall not be subject to comparative review.

(i) The new IRF hospital shall be assigned to the same hospital group as the hospital where the IRF beds originated.

- 587 (j) If the IRF hospital approved under this subsection ceases operation as an IRF hospital, the beds
588 licensed as part of the new IRF hospital must be disposed of by one of the following means:
589 (i) relocate the replaced IRF beds back to the site of origin;
590 (ii) relocate all IRF beds approved under high occupancy to the site of origin in subsection (i) if they
591 are to be utilized as an IRF bed; or
592 (iii) delicense any IRF beds approved under high occupancy if they are not to be utilized as an IRF
593 bed.

594
595 **Section 8. Requirements for approval of an applicant proposing to relocate existing licensed**
596 **hospital beds**

597
598 Sec. 8. (1) The proposed project to relocate beds, under this section, shall constitute a change in
599 bed capacity under Section 1(3) of these standards.

600
601 (2) Any existing licensed acute care hospital (source hospital) may relocate all or a portion of its beds
602 to another existing licensed acute care hospital as follows:

- 603 (a) The licensed acute care hospitals are located within the same hospital group, or
604 (b) the licensed acute care hospitals are located within the same HSA if the receiving hospital meets
605 the requirements of Section 6(4)(b) of these standards.

606
607 (3) The applicant shall comply with the following requirements, as applicable:
608 (a) The source hospital shall have an average adjusted occupancy rate of 40 percent or above.
609 (b) If the source hospital does not have an average adjusted occupancy rate of 40 percent or above,
610 then the source hospital shall reduce the appropriate number of licensed beds to achieve an average
611 adjusted occupancy rate of 60 percent or above upon completion of the relocation(s). The source
612 hospital shall not exceed the number of beds calculated as follows:

- 613 (i) As of the date of the application, calculate the number of adjusted patient days during the most
614 recent, consecutive 36-month period where verifiable data is available to the Department, and divide by
615 .60.
616 (ii) Divide the result of subsection (i) by 1095 (or 1096 if the 36-month period includes a leap year)
617 and round up to the next whole number or 25, whichever is larger. This is the maximum number of beds
618 that can be licensed at the source hospital site after the relocation.
619 (c) Subsections (3)(a) and (b) shall not apply to excluded hospitals.

620
621 (4) A source hospital shall apply for multiple relocations on the same application date, and the
622 applications can be combined to meet the criteria of (3)(b) above. A separate application shall be
623 submitted for each proposed relocation.

624
625 (5) The hospital from which the beds are being relocated, and the hospital receiving the beds, shall
626 not require any ownership relationship.

627
628 (6) The relocated beds shall be licensed to the receiving hospital and will be counted in the inventory
629 for the applicable hospital group.

630
631 (7) The relocation of beds under this section shall not be subject to a mileage limitation.

632
633 **Section 9. Project delivery requirements terms of approval for all applicants**

634
635 Sec. 9. An applicant shall agree that, if approved, the project shall be delivered in compliance with the
636 following terms of CON approval:

- 637
638 (1) Compliance with these standards.
639
640 (2) Compliance with the following quality assurance standards:

- 641 (a) The applicant shall assure compliance with Section 20201 of the Code, being Section 333.20201
642 of the Michigan Compiled Laws.
643
- 644 (3) Compliance with the following access to care requirements:
645 (a) An applicant shall participate in Medicaid at least 12 consecutive months within the first two years
646 of operation and continue to participate annually thereafter.
647 (b) The applicant, to assure appropriate utilization by all segments of the Michigan population, shall:
648 (i) Not deny services to any individual based on ability to pay or source of payment.
649 (ii) Maintain information by source of payment to indicate the volume of care from each payor and
650 non-payor source provided annually.
651 (iii) Provide services to any individual based on clinical indications of need for the services.
652
- 653 (4) Compliance with the following monitoring and reporting requirements:
654 (a) An applicant approved pursuant to Section 6(4) must achieve a minimum occupancy of 75
655 percent over the last 12-month period in the three years after the new beds are put into operation, and for
656 each subsequent calendar year, or the number of new licensed beds shall be reduced to achieve a
657 minimum of 75 percent average annual occupancy for the revised licensed bed complement.
658 (b) The applicant must submit documentation acceptable and reasonable to the Department, within
659 30 days after the completion of the 3-year period, to substantiate the occupancy rate for the last 12-month
660 period after the new beds are put into operation and for each subsequent calendar year, within 30 days
661 after the end of the year.
662 (c) The applicant shall participate in a data collection system established and administered by the
663 Department or its designee. The data may include, but is not limited to, annual budget and cost
664 information, operating schedules, through-put schedules, and demographic, morbidity, and mortality
665 information, as well as the volume of care provided to patients from all payor sources. The applicant shall
666 provide the required data on a separate basis for each licensed site; in a format established by the
667 Department, and in a mutually agreed upon media. The Department may elect to verify the data through
668 on-site review of appropriate records.
669 (d) The applicant shall participate and submit data to the Michigan Inpatient Data Base (MIDB). The
670 data shall be submitted to the Department or its designee.
671 (e) The applicant shall provide the Department with timely notice of the proposed project
672 implementation consistent with applicable statute and promulgated rules.
673
- 674 (5) An applicant approved for the replacement of IRF beds under Section 7(6) to a new non-
675 contiguous site shall be in compliance with the following:
676 (a) The replaced IRF beds shall maintain their PPS exempt inpatient rehabilitation hospital status.
677 (b) The new license created by the proposed project will only be utilized for inpatient rehabilitation
678 beds.
679
- 680 (6) The agreements and assurances required by this section shall be in the form of a certification
681 agreed to by the applicant or its authorized agent.
682

683 **Section 10. Department inventory of beds**

684
685 Sec. 10. The Department shall maintain and provide on request a listing of the Department inventory
686 of beds for each hospital group.
687

688 **Section 11. Effect on prior planning policies; comparative reviews**

689
690 Sec. 11. (1) These CON review standards supersede and replace the CON standards for hospital
691 beds approved by the CON Commission on December 11, 2014JUNE 14, 2018 and effective March 20,
692 2015NOVEMBER 28, 2018.
693

694 (2) Projects reviewed under these standards shall be subject to comparative review except those
 695 projects meeting the requirements of Section 7 involving the replacement of beds in a hospital within the
 696 replacement zone and projects involving acquisition (including purchase, lease, donation or comparable
 697 arrangements) of a hospital.

698 **Section 12. Additional requirements for applications included in comparative reviews**

699 Sec. 12. (1) Any application for hospital beds, that is subject to comparative review under Section
 700 22229 of the Code, being Section 333.22229 of the Michigan Compiled Laws, or under these standards
 701 shall be grouped and reviewed comparatively with other same type of applications (limited access area or
 702 non-limited access area) in accordance with the CON rules.
 703
 704

705 (2) Each application in a comparative review group shall be individually reviewed to determine
 706 whether the application is a qualifying project. If the Department determines that two or more competing
 707 applications are qualifying projects, it shall conduct a comparative review. The Department shall approve
 708 those qualifying projects which, when taken together, do not exceed the need, as defined in Section
 709 22225(1) of the Code, and which have the highest number of points when the results of subsection (3)
 710 are totaled. If two or more qualifying projects are determined to have an identical number of points, then
 711 the Department shall approve those qualifying projects that, when taken together, do not exceed the need
 712 in the order in which the applications were received by the Department based on the date and time stamp
 713 placed on the applications by the department in accordance with rule 325.9123.
 714

715 (3)(a) A qualifying project will be awarded points based on the applicant’s CMS Star Ratings via
 716 Hospital Compare as of the date of application as follows:
 717

718 A qualifying project will be awarded points based on the applicant’s quality of care as measured by the
 719 overall Star Ratings available through CMS’ Hospital Compare. For purposes of evaluating this criterion,
 720 an average shall be calculated based on the overall Star Ratings of the applicant and all currently
 721 licensed Michigan hospitals under common ownership or control with the applicant that are located in the
 722 same health service area as the proposed hospital beds. Applicants shall be ranked in order according to
 723 this calculated overall Star Rating average.
 724
 725

STAR RATING	POINTS AWARDED
Applicant with highest average star rating	20 points
All other applicants	Applicant’s average Star Rating divided by the highest applicant’s Star Rating, then multiplied by 15
Example: The highest applicant has an average Star Rating of 3.4	20 points
Applicant with Star Rating of 3.1	$(3.1 \div 3.4) \times 15 = 13.7$ is 14 points
Applicant with Star Rating of 3.0	$(3.0 \div 3.4) \times 15 = 13.2$ is 13 points

726 For purposes of evaluating this criterion, applicants shall submit the overall CMS Star Rating available at
 727 the time of the submission of the CON application for the applicant and each currently licensed hospital
 728 under common ownership or control located in the same health service area as the proposed hospital
 729 beds. Where an applicant proposes to close a hospital(s) as part of its application, data from the
 730 hospital(s) to be closed shall be excluded from this calculation. Star Ratings shall be rounded to the
 731 nearest 1/10, and points awarded shall be rounded to the nearest whole number, i.e. numbers ending in
 732 .5 or higher, round up, and numbers ending in .4 or lower, round down.
 733

734 (b) A qualifying project will be awarded points based on the ranking of the applicant’s uninsured days
 735 as measured as a percentage of total days as set forth in the following table. The applicant’s uninsured
 736 percentage will be the cumulative of all uninsured inpatient med/surg and uninsured inpatient rehab days
 737 divided by the cumulative of all inpatient med/surg and inpatient rehab days at all currently licensed

738 Michigan hospitals under common ownership or control with the applicant that are located in the same
 739 health service area as the proposed hospital beds. For purposes of evaluating this criterion, an applicant
 740 shall submit the most recent reviewed and accepted Medicaid Cost Report for each currently licensed
 741 hospital under common ownership or control within the same health service area. If a hospital under
 742 common ownership or control with the applicant has not filed a MEDICAID Cost Report, then the related
 743 applicant shall receive a score of zero.
 744

UNINSURED DAYS	POINTS AWARDED
Applicant with highest percent of uninsured days	10 points
All other applicants	Applicant's percent of uninsured days divided by the highest applicant's percent of uninsured days, then multiplied by 7
Example: The highest applicant has 5.3% uninsured days	10 points
Applicant with 5.0% days	$(5.0 \div 5.3) \times 7 = 6.6$ is 7 points
Applicant with 3.0% days	$(3.0 \div 5.3) \times 7 = 4.0$ is 4 points

745
 746 Where an applicant proposes to close a hospital(s) as part of its application, data from the hospital(s) to
 747 be closed shall be excluded from this calculation. Percentages of days shall be rounded to the nearest
 748 1/10 (e.g. 5.3%), and points awarded shall be rounded to the nearest whole number, i.e. numbers ending
 749 in .5 or higher, round up, and numbers ending in .4 or lower, round down.

750 (c) A qualifying project will be awarded points based on the ranking of the applicant's Medicaid days
 751 as measured as a percentage of total days as set forth in the following table. For purposes of scoring, the
 752 applicant's Medicaid percentage will be the cumulative of all Title XIX and Healthy Michigan inpatient
 753 med/surg and inpatient rehab days divided by the cumulative of all inpatient med/surg and inpatient rehab
 754 days at all currently licensed Michigan hospitals under common ownership or control with the applicant
 755 that are located in the same health service area as the proposed hospital beds. For purposes of
 756 evaluating this criterion, an applicant shall submit the most recent reviewed and accepted Medicaid Cost
 757 Report for each currently licensed hospital under common ownership or control within the same health
 758 service area. If a hospital under common ownership or control with the applicant has not filed a
 759 MEDICAID Cost Report, then the related applicant shall receive a score of zero.
 760

MEDICAID DAYS	POINTS AWARDED
Applicant with highest percent of Medicaid days	20 points
All other applicants	Applicant's percent of Medicaid days divided by the highest applicant's percent of Medicaid days, then multiplied by 15
Example: the highest applicant has 15.3% Medicaid days	20 points
Applicant with 15.0% days	$(15.0 \div 15.3) \times 15 = 14.7$ is 15 points
Applicant with 12.2% days	$(12.2 \div 15.3) \times 15 = 12.0$ is 12 points

761
 762 Where an applicant proposes to close a hospital(s) as part of its application, data from the hospital(s) to
 763 be closed shall be excluded from this calculation. Percentages of days shall be rounded to the nearest
 764 1/10 (e.g. 5.3%), and points awarded shall be rounded to the nearest whole number, i.e. numbers ending
 765 in .5 or higher, round up, and numbers ending in .4 or lower, round down.

766 (d) A qualifying project shall be awarded points as set forth in the following table in accordance with
 767 its impact on inpatient capacity. If an applicant proposes to close a hospital(s), points shall only be
 768 awarded if (i) closure of that hospital(s) does not create a bed need in any hospital group as a result of its
 769 closing; (ii) the applicant stipulates that the hospital beds to be closed shall not be transferred to another
 770 location or facility; and (iii) the utilization (as defined by the average daily census over the previous 24-
 771 month period prior to the date that the application is submitted) of the hospital to be closed is at least

772 equal to 50 percent of the size of the proposed hospital (as defined by the number of proposed new
 773 licensed beds).

<u>Impact on Capacity</u>	<u>Points Awarded</u>
Closure of hospital(s)	15 pts
Closure of hospital(s) which creates a bed need	5 pts

780 (e) A qualifying project will be awarded points based on the applicant's total project costs per hospital
 781 bed. For purposes of this criterion, total project costs shall be defined as the total costs for construction
 782 and renovation, site work, architectural/engineering and consulting fees, contingencies, fixed equipment,
 783 construction management and permits. The proposed project must include space for inpatient care, and,
 784 if not already available at the proposed site, space to provide 24 hour/7 days a week surgical, emergency
 785 and imaging services. Points shall be awarded in accordance with the table below:
 786

COST PER BED	POINTS AWARDED
Applicant with lowest cost per bed	15 points
All other applicants	The lowest cost per bed in the compare group divided by the applicant's cost per bed, then multiplied by 10
Example: the lowest cost applicant has \$698,000 per bed	15 points
Applicant with \$710,000 per bed	$(\$698,000 \div 710,000) \times 10 = 9.8$ is 10 points
Applicant with \$975,000 per bed	$(\$698,000 \div 975,000) \times 10 = 7.2$ is 7 points

787
 788 Points shall not be awarded under this section for any project that proposes to add beds at a leased
 789 facility. Costs shall be rounded to the nearest whole dollar, and points awarded shall be rounded to the
 790 nearest whole number, i.e. numbers ending in .5 or higher, round up, and numbers ending in .4 or lower,
 791 round down.

792 (f) A qualifying project will be awarded points based on the percentage of the applicant's historical
 793 market share of inpatient days of the population in an area which will be defined as that area
 794 circumscribed by the proposed hospital locations defined by all of the applicants in the comparative
 795 review process under consideration. This area will include any zip code completely within the area as
 796 well as any zip code which touches, or is touched by, the lines that define the area included within the
 797 figure that is defined by the geometric area resulting from connecting the proposed locations. In the case
 798 of two locations or one location or if the exercise in geometric definition does not include at least ten zip
 799 codes, the market area will be defined by the zip codes within the county (or counties) that includes the
 800 proposed site (or sites). Market share used for the calculation shall be the cumulative of the market
 801 area's patient days served by the applicant and all currently licensed Michigan hospitals under common
 802 ownership and control divided by the market area's total patient days for the 12-month period most
 803 recently available through the Michigan inpatient database.
 804

MARKET SHARE	POINTS AWARDED
Applicant with highest market share	10 pts
All other applicants	Applicant's market share divided by the highest applicant's market share in the compare group, then multiplied by 7
Example: the highest applicant has 22.5% of population	10 points
Applicant with 20.0% market share	$(20.0 \div 22.5) \times 7 = 6.2$ is 6 points

Applicant with 15.6% market share	$(15.6 \div 22.5) \times 7 = 4.9$ is 5 points
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805
806 For purposes of evaluating this criterion, an applicant shall submit patient days by zip code for each
807 currently licensed Michigan hospital under common ownership or control using the most recent 12-
808 months of data available through the MIDB at the time of the submission of the CON application. Where
809 an applicant proposes to close a hospital(s) as part of its application, data from the hospital(s) to be
810 closed shall be excluded from this calculation. Market share percentages shall be rounded to the nearest
811 1/10 (e.g. 5.3%), and points awarded shall be rounded to the nearest whole number, i.e. numbers ending
812 in .5 or higher, round up, and numbers ending in .4 or lower, round down.

813
814 (4) If the comparative review group involves a limited access area, each qualifying project will be
815 awarded points based on the percentage of the limited access area's population within a 30-minute travel
816 time of the proposed hospital site if in a metropolitan statistical area county, or within 60 minutes travel
817 time if in a rural or micropolitan statistical area county as set forth in the following table.
818

% OF POPULATION WITHIN 30 (OR 60) MINUTE TRAVEL TIME OF PROPOSED SITE	POINTS AWARDED
Applicant with highest percent of population	10 pts
All other applicants	Applicant's percentage of population divided by the highest applicant's percentage of population, then multiplied by 7
Example: The highest applicant has 22.5% percent of population	10 points
Applicant with 20.0% percent of population	$(20.0 \div 22.5) \times 7 = 6.2$ is 6 points
Applicant with 15.6% percent of population	$(15.6 \div 22.5) \times 7 = 4.9$ is 5 points

819
820 Percentages of population shall be rounded to the nearest 1/10 (e.g. 21.2%) and points awarded shall be
821 rounded to the nearest whole number, i.e. numbers ending in .5 or higher, round up, and numbers ending
822 in .4 or lower, round down.

823
824 **Section 13. Requirements for approval -- acquisition of an existing hospital or renew the lease of**
825 **an existing hospital**

826
827 Sec. 13. An applicant proposing to acquire an existing hospital or renew the lease of an existing
828 hospital must meet the following as applicable:

829
830 (1) An applicant proposing to acquire a hospital shall not be required to be in compliance with the
831 needed hospital bed supply for the hospital group in which the hospital subject to the proposed
832 acquisition is assigned if the applicant demonstrates that all of the following are met:
833 (a) the acquisition will not result in a change in bed capacity,
834 (b) the licensed site does not change as a result of the acquisition,
835 (c) the project is limited solely to the acquisition of a hospital with a valid license, and
836 (d) if the application is to acquire a hospital, which was proposed in a prior application to be
837 established as an LTAC or IRF hospital and which received CON approval, the applicant also must meet
838 the requirements of Section 6(2). Those hospitals that received such prior approval are so identified on
839 the Department inventory of beds.

840
841 (2) The applicant shall comply with the following requirements, as applicable:

- 842 (a) The existing licensed hospital shall have an average adjusted occupancy rate of 40 percent or
843 above.
- 844 (b) If the existing licensed hospital does not have an average adjusted occupancy rate of 40 percent
845 or above, the applicant shall agree to all of the following:
- 846 (i) The hospital to be acquired will achieve an annual adjusted occupancy of at least 40% during any
847 consecutive 12-month period by the end of the third year of operation after completion of the acquisition.
848 Annual adjusted occupancy shall be calculated as follows:
- 849 (a) Calculate the number of adjusted patient days during the most recent, consecutive 12-month
850 period for which verifiable data is available to the Department.
- 851 (b) Divide the number of adjusted patient days calculated in (a) above by 365 (or 366 if a leap year).
- 852 (c) If the hospital to be acquired does not achieve an annual adjusted occupancy of at least 40
853 percent, as calculated in (b) above, during any consecutive 12-month period by the end of the third year
854 of operation after completion of the acquisition, the applicant shall relinquish sufficient beds at the existing
855 hospital to raise its adjusted occupancy to 60 percent. The revised number of licensed beds at the
856 hospital shall be calculated as follows:
- 857 (i) Calculate the number of adjusted patient days during the most recent, consecutive 12-month
858 period where verifiable data is available to the Department, and divide by .60.
- 859 (ii) Divide the result of subsection (i) above by 365 (or 366 if the 12-month period includes a leap
860 year) and round up to the next whole number or 25, whichever is larger. This is the maximum number of
861 beds that can be licensed at the existing licensed hospital site after acquisition.
- 862 (d) Subsection (2) shall not apply to excluded hospitals or to those applicants applying under Section
863 13(3).
- 864
- 865 (3) An applicant proposing to renew the lease for an existing hospital shall not be required to be in
866 compliance with the needed hospital bed supply for the hospital group in which the hospital is located, if
867 all of the following requirements are met:
- 868 (a) The lease renewal will not result in a change in bed capacity.
- 869 (b) The licensed site does not change as a result of the lease renewal.
- 870
- 871 (4) Section 13(3) does not apply to renewal of lease for LTAC hospital, IRF hospital or alcohol and
872 substance abuse hospital within an existing licensed, host hospital under Section 6(2).
- 873

874 **Section 14. Requirements for approval – all applicants**

875

876 Sec. 14. (1) An applicant shall provide verification of Medicaid participation. An applicant that is a
877 new provider not currently enrolled in Medicaid shall certify that proof of Medicaid participation will be
878 provided to the Department within six (6) months from the offering of services if a CON is approved.

879

880 (2) The applicant certifies all outstanding debt obligations owed to the State of Michigan for Quality
881 Assurance Assessment Program (QAAP) or Civil Monetary Penalties (CMP) have been paid in full.

882

883 (3) The applicant certifies that the health facility for the proposed project has not been cited for a
884 state or federal code deficiency within the 12 months prior to the submission of the application. If a state
885 code deficiency has been issued, the applicant shall certify that a plan of correction for cited state
886 deficiencies at the health facility has been submitted and approved by the Bureau of Community and
887 Health Systems within LARA. If a federal code deficiency has been issued, the applicant shall certify that
888 a plan of correction for cited federal deficiencies at the health facility has been submitted and approved by
889 the Centers for Medicare and Medicaid Services. If code deficiencies include any unresolved deficiencies
890 still outstanding with LARA or the Centers for Medicare and Medicaid Services that are the basis for the
891 denial, suspension, or revocation of an applicant's health facility license, poses an immediate jeopardy to
892 the health and safety of patients, or meets a federal conditional deficiency level, the proposed project
893 cannot be approved without approval from the Bureau of Community and Health Systems or, if
894 applicable, the Centers for Medicare and Medicaid Services.

895

896 (4) The applicant certifies that the requirements for hospitals found in the Minimum Design Standards
897 for Health Care Facilities of Michigan, referenced in Section 20145 (6) of the Public Health Code, Act 368
898 of 1978, as amended, or any future versions, and are published by LARA, will be met when the
899 architectural blueprints are submitted for review and approval by LARA.

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Counties assigned to each health service area are as follows:

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

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OCCUPANCY RATE TABLE

HOSPITAL GROUP PROJECTED BED ADC		OCCUPANCY RATE	ADJUSTED BED RANGE	
ADC_LOW	ADC_HIGH		BEDS_LOW	BED S_HIGH
30	31	60%	50	52
32	35	61%	53	58
36	39	62%	59	53
40	45	63%	64	72
46	50	64%	72	79
51	58	65%	79	90
59	67	66%	90	102
68	77	67%	102	115
78	88	68%	115	130
89	101	69%	129	147
102	117	70%	146	168
118	134	71%	167	189
135	154	72%	188	214
155	176	73%	213	242
177	204	74%	240	276
205	258	75%	274	344
259	327	76%	341	431
328	424	77%	426	551
425	561	78%	545	720
562	760	79%	712	963
761	895	80%	952	1119

ICD-9-CM TO ICD-10-CM Code Translation

ICD-9 CODE	Description	ICD-10 Code	Description
290 through 319	Psychiatric Patients	F01.50-F99	Mental, Behavioral, and Neurodevelopmental Disorders

"ICD-9-CM Code" means the disease codes and nomenclature found in the International Classification of Diseases - 9th Revision - Clinical Modification, prepared by the Commission on Professional and Hospital Activities for the U.S. National Center for Health Statistics.

"ICD-10-CM Code" means the disease codes and nomenclature found in the International Classification of Diseases - 10th Revision - Clinical Modification, National Center for Health Statistics.