



North Carolina Health Care Update: Is it Time for a New Hospital Player in Charlotte? Where are the Needs?

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North Carolina's largest city, Charlotte, could be the proposed site for North Carolina's newest hospital. The Healthcare Planning and Certificate of Need Section has revealed a unique combination of "Need Determinations" which could allow a new market entrant to file 2019 (or perhaps 2020) CON applications for acute care beds and operating rooms, the essential components of a hospital, for Mecklenburg County. Could the time be right for an out-of-state provider to enter the Mecklenburg hospital market? Or, will a provider from elsewhere in our State vie for the chance to open Charlotte's newest hospital?

According to the first reports from our state's health planners, in 2019 (and possibly 2020), selected North Carolina markets will need more acute care beds, more operating rooms, more assisted living beds, and more hospice agencies and beds. In addition, state planners believe certain areas of the state need additional child/adolescent chemical dependency treatment beds and more child/adolescent psychiatric inpatient beds as well as more psychiatric beds for adults.

In the months remaining in calendar year 2019, applicants have not only the opportunity to seek CON approval for a new hospital in Charlotte (October) but also openings to seek CON approvals for MRI scanners, operating rooms and other health care capabilities in various markets.

In 2020, in Forsyth, Gaston, Hoke, Mecklenburg, Moore and New Hanover, the state is expected to identify needs for new acute care beds, as well as new operating rooms in both Forsyth and Mecklenburg Counties.

Assisted living beds (termed adult care home beds by regulators) are likely to be shown as needed only in Gates, Pamlico, Surry and Tyrell Counties. Nursing home beds are not likely to appear as needed anywhere in the state. As in prior years, the limited need determinations for assisted living beds and nursing home beds will put the focus on acquisition opportunities. Under North Carolina's CON law, the acquisition of an existing health service facility, such as an assisted living or nursing facility, can be exempted from CON Review upon prior written notice. Opportunities abound for providers to acquire

and refurbish facilities or relocate long-term care beds within various North Carolina counties or, in some instances, across county lines.

Two counties, Cumberland and Rowan, are expected to show a need for a new hospice home care office. Cumberland County is likely to show a need for eight new hospice inpatient beds.

Child/adolescent psychiatric inpatient beds are likely to be shown as needed across several areas of the state, with each area likely to show a need of seven to 10 beds. Adult psychiatric inpatient beds are likely to show as a need in the Sandhills Center area (4 beds). Child/adolescent chemical dependency beds are expected to appear as a need in both the Central Region (17 beds) and the Western Region (2 beds).

Between now and July 24, 2019, North Carolina's State Health Coordinating Council will consider petitions from those who believe that unique or special attributes of a geographic area or institution give rise to resource requirements that differ from what will be reflected through application of the standard state health planning process. In other words, the state is ready now to hear from those who believe that distinctive characteristics in a particular area or at a specific facility call for the development of new health care facilities or services. If exceptional circumstances or unusual factors – either in a community or in a provider's organization – give rise to a need for new health care resources, an opportunity exists to put those facts before those who regulate health care development in our state. The opportunity is a limited time offer: the state will accept no petitions after five o'clock p.m. on July 24.

For those who do perceive further needs for new capabilities in our state, the option for push-back is offered through the state's petitioning process. A petition, commonly referred to as a special need or adjusted need petition, must effectively describe how unique or special attributes give rise to needs that are not reflected through the standard health planning process. Beyond the parameters described below, the requirements of a petition are not defined in hard-and-fast terms. In other words, unlike the CON application process, no particular thresholds or specified performance standards are mandated in this context. The petition must explain how area residents will be adversely affected if the adjusted need is not recognized; the petition must also show that the recognition of the adjusted need will not create an unnecessary duplication of existing health resources in the area. Petitioners must explain how the adjusted need will be consistent with the state's basic planning principles centered on safety and quality, access and value.

A series of summer public hearings will be held in locations across the state to discuss petitions for adjusted need determinations. The state will conduct a public hearing in Greensboro on July 10, in Wilmington on July 12, in Concord on July 16, in Asheville on July 19, in Greenville on July 23 and in Raleigh on July 24. Now is the time for those interested in petitioning to define their proposals to take advantage of the opportunity to educate the decision-makers through the summer Public Hearing process. The deadline for petition submissions is 5:00 p.m. on July 24, 2019.

For more information, please contact Joy Heath at (919) 981-4001 or jheath@williamsmullen.com, or Anderson Shackelford at (919) 981-4312 or ashackelford@williamsmullen.com.

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