

NURSING HOME SERVICES

12 VAC 5-360-30. Accessibility.

A. Travel time. Nursing home beds should be accessible within a 45 minute driving time, under normal conditions, to 90 percent of all Virginians. Preference will be given in the review of competing applications to proposed nursing home facilities which substantively improve geographic access and reduce travel time to nursing home services within a planning district.

B. Access to highway system. Nursing home facilities should be linked by paved roads to a state or federal highway and should be accessible by public transportation, when such systems exist in an area. ~~In urban areas, preference will be given in the review of competing applications to proposed nursing facilities which are fully accessible by private and public modes of transportation.~~

C. Financial. Nursing home services should be accessible to all persons in need of such services without regard to their ability to pay or the payment source. Preference will be given in the review of competing applications to proposed nursing facilities which will be accessible to all persons in need of such services without regard to their ability to pay or the payment source and can demonstrate a record of such accessibility.

D. Distribution of beds. Preference will be given in the review of competing applications to

NURSING HOME SERVICES

proposals which correct any maldistribution of beds within a planning district.

12 VAC 5-360-40. Availability.

A. Need for additional nursing home beds. No planning district will be considered to have a need for additional nursing home facility beds unless: (i) the resulting number of licensed and approved bed need forecast for nursing home beds in that planning district (see subsection C of this section) exceeds the current inventory of [non-federal] licensed and authorized beds in that planning district; and (ii) the estimated average annual occupancy of all existing non-federal Medicaid-certified nursing facility beds in the planning district was at least 95% for the most recent three years for which bed utilization has been reported to the department.(The bed inventory and utilization of the Virginia Veterans Care Center will be excluded from consideration in the determination of nursing home facility bed need.)

No planning district will be considered to have a need for additional nursing home beds if there are uncompleted nursing facility beds authorized for the planning district that will be Medicaid-certified beds.

B. Expansion of existing nursing facilities. Proposals for the expansion of existing nursing facilities should not be approved unless the facility has operated for at least three years and average annual

NURSING HOME SERVICES

occupancy of the facility's existing beds was at least 95% in the most recent year for which bed utilization has been reported to the department.

Exceptions to this standard will be considered for facilities that have operated at less than 95% average annual occupancy in the most recent year for which bed utilization has been reported to the department when the facility can demonstrate that it has a rehabilitative or other specialized care focus which results in a relatively short average length of stay and, consequently, cannot achieve an average annual occupancy rate of 95%.

Preference will be given in the review of competing applications to proposals which involve the expansion of free-standing nursing home facilities of 60 or fewer beds when such facilities can demonstrate substantial compliance with the standards of the State Medical Facilities Plan.

In a case where no competing applicant is a freestanding nursing home facility with 60 or fewer beds or where free-standing nursing homes of 60 or fewer and 61 to 90 beds are competing, preference will also be given in the review of competing applications to proposals which involve the expansion of freestanding nursing home facilities of 90 or fewer beds when such facilities can demonstrate substantial compliance with the standards of the State Medical Facilities Plan.

C. Bed need forecasting method. The number of nursing home facility beds forecast to be needed in

NURSING HOME SERVICES

a given planning district will be computed as follows:

$$\text{PDBN} = (\text{UR64} * \text{PP64}) + (\text{UR69} * \text{PP69}) + (\text{UR74} * \text{PP74}) + (\text{UR79} * \text{PP79}) + (\text{UR84} * \text{PP84}) + (\text{UR85+} * \text{PP85+})$$

where:

PDBN = Planning district bed need

UR64 = The nursing home bed use rate of the population aged 0 to 64 in the planning district as determined in the most recent nursing home patient origin study authorized by the department.

PP64 = The population aged 0 to 64 projected for the planning district three years from the current year as most recently published by the Virginia Employment Commission.

UR69 = The nursing home bed use rate of the population aged 65 to 69 in the planning district as determined in the most recent nursing home patient origin study authorized by the department.

PP69 = The population aged 65 to 69 projected for the planning district three years from the

NURSING HOME SERVICES

current year as most recently published by the Virginia Employment Commission.

UR74 = The nursing home bed use rate of the population aged 70 to 74 in the planning district as determined in the most recent nursing home patient origin study authorized by the department.

PP74 = The population aged 70 to 74 projected for the planning district three years from the current year as most recently published by the Virginia Employment Commission.

UR79 = The nursing home bed use rate of the population aged 75 to 79 in the planning district as determined in the most recent nursing home patient origin study authorized by the department.

PP79 = The population aged 75 to 79 projected for the planning district three years from the current year as most recently published by the Virginia Employment Commission.

UR84 = The nursing home bed use rate of the population aged 80 to 84 in the planning district as determined in the most recent nursing home patient origin study authorized by the department.

PP84 = The population aged 80 to 84 projected for the planning district three years from the current year as most recently published by the Virginia Employment Commission.

UR85+ = The nursing home bed use rate of the population aged 85 and older in the planning

NURSING HOME SERVICES

district as determined in the most recent nursing home patient origin study authorized by the department.

PP85+ = The population aged 85 and older projected for the planning district three years from the current year as most recently published by the Virginia Employment Commission.

Planning district bed need forecasts will be rounded as follows:

Planning District Bed Need

(from above method)	Rounded Bed Need
1 - 29	0
30 - 44	30
45 - 84	60
85 - 104	90

NURSING HOME SERVICES

105 - 184	120
185+	240

except in the case of a planning district which has two or more nursing facilities, has had an average annual occupancy rate of nursing home facility beds in excess of 95% for the most recent three years for which bed utilization has been reported to the department, and has a forecasted bed need of 15 to 29 beds. In such a case, the bed need for this planning district will be rounded to 30.

D. Minimum size of new nursing home facilities. No new freestanding nursing home facilities of less than 120 beds should be authorized. Consideration will be given to the authorization of new freestanding facilities with fewer than 120 nursing home facility beds when ~~these beds~~ such facilities are combined with adult care residence facilities proposed for development in a rural area and can be justified on the basis of a lack of local demand for a larger facility and a maldistribution of nursing home facility beds within the planning district.

E. Continuing Care Retirement Communities. Proposals for the development of new nursing home facilities or the expansion of existing facilities by Continuing Care Retirement communities will be

NURSING HOME SERVICES

considered in accordance with the following standards:

1. The total number of new or additional beds plus any existing nursing home facility beds operated by the continuing care provider does not exceed exceed 20% of the continuing care provider's total existing or planned independent living and adult care residence population;
2. The proposed beds are necessary to meet existing or reasonably anticipated obligations to provide care to present or prospective residents of the continuing care facility pursuant to continuing care contracts meeting the requirements of 38.2-4905 of the Code of Virginia;
3. The applicant agrees in writing not to seek certification for the use of such new or additional beds by persons eligible to receive medical assistance services pursuant to Title XIX of the United States Social Security Act;
4. The applicant agrees in writing to obtain, prior to admission of every resident of the Continuing Care Retirement Community, the resident's written acknowledgment that the provider does not serve recipients of medical assistance services and that,

NURSING HOME SERVICES

in the event such resident becomes a medical assistance services recipient who is eligible for nursing facility placement, such resident shall not be eligible for placement in the provider's nursing facility unit;

5. The applicant agrees in writing that only continuing care contract holders who have resided in the Continuing Care Retirement Community as independent living residents or adult care residents and are holders of standard continuing care contracts will be admitted to the nursing home facility beds after the first three years of operation.

I certify that this regulation is full, true, and correctly dated.

E. Anne Peterson, M.D., M.P.H.
Acting State Health Commissioner