OHIO DEPARTMENT OF HEALTH
DIVISION OF QUALITY ASSURANCE
CERTIFICATE OF NEED PROGRAM

Inter-County Transfer of Nursing Home Beds

Background

Since 1993 there has been a moratorium on the creation of new long term care beds. The moratorium, in combination with population shifts, has resulted in distortions in the distribution of nursing home beds. Some counties (primarily those with declining populations) have a very high number of unoccupied beds. Other counties (primarily those with growing populations) have very few unoccupied beds. Thus, someone needing nursing home care may not be able to be placed in the home of their choice. Population trends will amplify this situation.

ULTCB Recommendation #81

The Director of the Ohio Department of Health should convene a stakeholder group to review existing CON criteria, and consider the need for and impact of the movement of beds between counties.

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CON Study Committee

- Met during Summer 2008 and discussed ideas for allowing inter-county bed transfers
- Members: ODJFS, Aging, AOPHA, Academy of Nursing Homes, Ohio Health Care Association, State Independent Living Council

What is the New Law?
ORC 3702.593 (H.B.1)

- ODH shall accept CON applications which increase the numbers of beds in a nursing home if the proposed increase is attributable to the relocation of existing beds from a county with excess beds to a health care facility in a county with a need for beds

- ODH shall:
  1. Determine the long-term bed supply for each county
     - All licensed nursing home beds
     - All certified nursing home beds
     - All certified county home beds in operation on 7/1/93 & reported to ODH by 11/1/09
     - All unlicensed beds that are the subject of an approved CON
  2. Determine the state's long-term care bed occupancy rate
  3. Determine, for each county, the county's bed need by identifying the # of beds that would be needed to achieve a statewide occupancy rate of 90% using a projected population (using ODOD projections that are 5 years out) of those aged 65 and older
     a. Must be made by April 1, 2010, then April 1, 2012, and then every 4 years
     b. No bed need if occupancy rate in the county is less than 85%
     c. If a county's occupancy rate is greater than 90%, ODH may increase that county's bed need by 10%

- The "source facility" must surrender an additional 10% of the number of beds it is transferring to a "receiving facility".

- The first review period is 2 years beginning on July 1, 2010. Thereafter (2012, 2016, 2020 etc.), each review period is 4 years.

- Each 4 year review period consists of 2 phases:

  Phase 1 – ODH accepts applications to relocate beds from counties with excess to counties with need. Applications must be submitted during first July of the review period.

  Phase 2 – 10% of the beds transferred during Phase 1 shall be surrendered to ODH. ODH **may** re-distribute those beds per each county's bed need. This re-distribution is not required. If beds are not re-distributed in this phase, the beds are eliminated from the existing bed supply.

- ODH shall review inter-county CON applications in accordance with the following:
  1. The number of beds proposed to be relocated into a county shall not exceed that county's bed need.

2. The number of beds proposed to be relocated out of a county shall not create a bed need in that county. (After the relocation, the number of beds in the source county must exceed the county's bed need by 100 beds.) Further, after the relocation, the number of beds in the source facility's service area must be at least equal to the state bed need rate. "Service area" is defined as the census tract or the area within a 15 mile radius if not a HPSA.
3. ODH shall consider the existence of community resources serving the disabled or persons 65 or older that are demonstrably effective in providing alternatives to long-term care facility placement

❖ Each application submitted in Phase 1 is subject to **comparative review** in the event that the # of beds being removed from a county exceeds their excess capacity or in the event that the # of beds sought to be placed into a county exceeds the need of that county. In determining priority (preference), ODH shall consider:

- Will the beds be part of a continuing care retirement community?
- Will be beds serve an underserved population, such as those with low incomes, disabilities, or those who are in racial or ethnic minority groups?
- Will the project provide alternatives to institutional care (eg, residential care, independent living, respite care, etc.)?
- Will the facility's owner participate in Medicaid waiver programs?
- Will the project reduce alternatives to institutional care?
- Does the receiving facility have positive resident and family satisfaction surveys?
- Does the receiving facility have less than 50 beds?
- Is the receiving facility located within the service area of a hospital? Is it designed to accept patients for rehab after an in-patient hospital stay?
- Will the receiving facility become a nurse aide training and testing site?
- What is the CMS "Five Star" rating of the receiving facility?

Important Side Note
Contiguous County Bed Transfers

❖ In addition to the law described above, H.B. 1 also created ORC 3702.594 which allows an existing nursing home to increase its number of beds at any time if:

1. The increase is attributable solely to a relocation of licensed beds from an existing nursing home in a contiguous county
2. No more than 30 beds are proposed for relocation
3. After the relocations, beds must remain in the county from which the beds were relocated
4. The beds are proposed to be licensed as nursing home beds

❖ Since the effective date of 10/16/09, 10 applications involving 190 beds have been filed.