

# ARKANSAS REGISTER

## Transmittal Sheet



W. J. "Bill" McCuen  
Secretary of State  
State Capitol Rm. 010  
Little Rock, Arkansas 72201-1094

For Office Use Only: Effective Date 10/23/91 Code Number 079.00.91--003

Name of Agency Health Services Agency

Department n/a

Contact Person Orson Berry

Statutory Authority for Promulgating Rules Act 593 of 1987, as amended

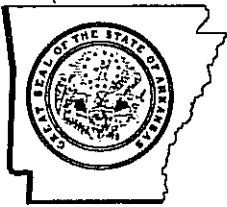
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	Reviewed by Legislative Council . . . . .	Oct. 3, 1991
	Adopted by State Agency . . . . .	August 27, 1991

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with Act 434 of 1967 As Amended.

BY W. J. "BILL" McCuen Signature  
LITTLE ROCK, ARKANSAS  
SECRETARY OF STATE  
Agency Director  
91 OCT -3 AM 10:15  
AR. REGISTER DIV.  
Title  
FILED  
October 3, 1991  
Date

044,00.91-003



# ARKANSAS HEALTH SERVICES AGENCY

4815 WEST MARKHAM STREET • LITTLE ROCK, ARKANSAS 72205-3867 • (501) 661-2509

Bill Clinton - Governor  
Orson Berry - Director

October 2, 1989

Mr. Rick Heann  
Arkansas Register  
Secretary of State's Office  
State Capitol Building, Room 010  
Little Rock, Arkansas

Re: Rule Filing

Dear Mr. Heann:

Attached is a copy of a rule on criteria and standards for nursing home beds for inclusion in the Arkansas Register. An Arkansas Register Transmittal Sheet is also attached.

If you have questions or need additional information, please let us know.

Sincerely,

Orson Berry

Attachments

FILED  
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W.J. BILLY McQUEEN  
SECRETARY OF STATE  
LITTLE ROCK, ARKANSAS  
BY \_\_\_\_\_

NURSING HOME METHODOLOGY

I. POPULATION BASED METHODOLOGY (POPULATION TO 1996)

If a "need" is projected for additional nursing home beds in a county (based on the Commission's previously adopted formula) then the following would apply.

A. Applicants will be favored in the following ranked order:

\*Review Cycle

- Nov. 1, 1991            1. Applicants whose facility had a 96.0% occupancy rate or greater for the previous calendar year. These applicants would be eligible for 10% increase in their licensed capacity or 10 beds whichever is greater.
- Nov. 1, 1991            2. Applicants who proposed to replace pre-1965 facilities.\* These applicants would be eligible for a 20% increase in their licensed capacity.
- Feb. 1, 1992            3. Applicants who have a facility proposing to expand to 70 beds would be eligible to expand to 70 beds. Applicant facilities with less than 70 and more than 60 licensed beds would be eligible for a 10 bed increase.

\*(A "pre-1965 facility" is one which had 50% of its beds licensed before Jan. 1, 1965)

B. If a county's overall occupancy is below 94.5% for the previous calendar year then approval would not exceed 10% of the licensed beds or "need" whichever is less. If the county occupancy rate exceeds 94.5% then, full "need" could be approved.

\*First review cycle in which to apply.

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C. The Commission may exceed the above referenced 10% of licensed beds in order to:

1. Approve all applicants addressing priorities.

Feb. 1, 1992

2. Approve one new 70 bed facility in a county where, after the referenced priorities are met, there remains an unmet need of 50 or more beds. This would also apply in a county with a "need" of 50 or more beds and no application proposing to address the priorities referenced in "I-A".

In either situation preference will be given to applicants proposing to construct a new facility over:

- a. applicants proposing an expansion and not addressing a priority, and
- b. application requests in excess of what is allowed under the priority regarding "Pre-65" facilities (I.,A.,2) ie. a 20% increase in beds.

Feb. 1, 1992 Applicants qualifying under I.A-1 who also propose to add more than 10% or 10 beds will have a preference (for up to 35 beds) over applicants proposing a new facility.

D. The Commission may exceed "need" or 10% of licensed beds:

1. When those figures are less than 10 beds in order to approve one applicant for a 10 bed increase (ie. the 10 beds would not be spread over 2 or more applicants), and

Feb. 1, 1992

2. In order to approve one new 70 new facility in a county where, after the referenced priorities are met, there remains an unmet need of 50 or more beds. This would also apply in a county with a "need" of 50 or more beds and no application proposing to address the priorities referenced in "I-A".

## II. UTILIZATION BASED

- Nov. 1, 1991
- A. Nursing homes may add up to 10% of their licensed capacity or 10 beds whichever is greater, if the facility has:
    - 1. a 96% or greater occupancy during the previous calendar year,
    - 2. no approved but unlicensed beds, and
    - 3. is located in a county without a Population Based "need".
  - B. Nursing homes with less than 60 licensed beds could be approved to expand to 70 beds, if the facility has:
    - 1. 96.0% or greater occupancy during the previous calendar year,
    - 2. no approved but unlicensed beds, and
    - 3. is located in a county without a Population Based "need"

## III. REPLACEMENT OF OLDER FACILITIES

- Nov. 1, 1991
- A. There will be a one time statewide allotment of 250 beds to encourage replacement of older facilities. Qualified applicant's would be facilities which had 50% of their present beds licensed before Jan. 1, 1965 and would propose to replace their existing facility. Each applicant would be approved for up to a 20% increase of their present licensed capacity within a statewide limit of 250 beds.
    - 1. Priorities for review:
      - a. facilities under 70 beds shall be a priority, regardless of occupancy.
  - B. Larger facilities (over 140 beds) may apply and receive the 20% increase if the 140+ bed facility is replaced by 2 or more facilities each 140 beds or less, but not less than 70 beds per facility.

- C. Qualified applicants may apply under the 10% criterion (96.0% O.R.) and the 20% criterion (Pre-1965) or the Population Based criterion and the 20% criterion (Pre-1965) but the criteria cannot be combined to increase existing licensure by more than 20% except in the case of facilities expanding up to 70 beds.

#### IV. UNFAVORABLE REVIEW

NO application will be approved that:

- A. does not agree to eliminate all three 3 or more bed wards in the applicant facility. A facility may have one (1) ward only in order to comply with specific regulations for intensive care wards, said regulations to be promulgated by the Office of Long Term Care of the Arkansas Department of Human Services.
- B. does not include a sprinkler system under regulations promulgated by the Office of Long Term Care of the Arkansas Department of Human Services. (This applies new facilities only),
- C. is for an applicant home with current life threatening compliance issues that could not be corrected by the proposed construction, or
- D. Any nursing home found out of compliance by the Office of Long Term Care in the following areas in either of its last two annual surveys:
1. Residents Rights
  2. Quality of Care
  3. Quality of Life
  4. Behavior (Admissions, discharges, restraints)

- NOTE: - Occupancy data will be based on the official record of the Office of Long Term Care, DHS.
- Any facility applying for additional beds because of a 96% occupancy rate will not be approved for the 10% increase if the facility presently has approved but unlicensed beds or in the last month of the previous calendar year had approved but unlicensed beds.
- The preferred bed size is a range from 70 to 140 beds. Any deviation will require special consideration by the Commission.

## V. Lifecare Nursing Facility

A duly licensed nursing facility owned and operated by a lifecare center\* as A.C. A 23-93-103(6) and utilized exclusively by bona fide residents of the lifecare center, complying with statutory provisions governing lifecare centers, may increase its bed size every two (2) years by twenty percent (20%) up to a total of seventy (70) beds provided it files an application for a Permit of Approval with the Arkansas Health Services Agency to be approved by the Arkansas Health Services Commission and complies with all statutory and regulatory provisions of the Health Facilities Act pertaining to the addition of new beds, and provided it has been ninety percent (90) occupied over the previous calendar year at the time of the application and has not admitted and agrees not to admit any resident who is not a bona fide resident of the lifecare center.

However, beds in such a facility shall not be counted when computing any bed need for a county because beds in a duly licensed nursing facility in a Lifecare Center are not available to the public, and the bona fide residents of such a facility not be counted in the population of the county.

\*Lifecare centers will be designated as such by the appropriate state agency which will not be the Health Services Agency or the Health Services Commission.

### POPULATION BASED FORMULA

This methodology projects nursing home bed need using the 1996 estimated population in four age groups (see below) of a service area (county). This method is based on a study commissioned by the Arkansas Health Care Association which estimated the following nursing home bed need by age group:

AGE GROUP	BEDS PER 1000 POPULATION
Below 65	1.53
65 to 74	16.30
75 to 84	59.40
85 and above	153.10

NOTE: The projection for a county represents the number of patients estimated to need beds. Since all nursing home cannot be expected to operate at 100% occupancy year round, additional beds are added to the projection to allow for patient fluctuation ie. the projection represents 95% of the beds needed.