



2022 N.C. CON Filing Opportunities & the All-Important Petition Process

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North Carolina planners have given providers their first looks at the health care capabilities the State will likely identify as needed in the 2022 State Medical Facilities Plan (SMFP). As expected in the wake of COVID-19, need determinations arising from the standard methodologies are limited, placing a renewed emphasis on use of the Summer Petition process to identify health care needs.

2020 Need Determinations (So Far)

Highlights from the committee reports to-date indicate the State is poised to accept 2022 Certificate of Need (CON) Applications for:

- New MRI Scanners in Mecklenburg, Pasquotank/Camden/Currituck/Perquimans, Pitt/Greene/Hyde/Tyrell, and Stanly;
- A New Hospice Home Care Agency in Cumberland County;
- A Child/Adolescent Chemical Dependency Bed in the Western Region;
- A Child/Adolescent Psychiatric Bed in the Partners Behavioral Health area; and
- Child/Adolescent and Adult Psychiatric Beds in the Sandhills Center area.

The Acute Care Services Committee is set to meet later this month to review data on Acute Care Services, Operating Rooms, Other Acute Care Services, Inpatient Rehabilitation Services and End Stage Renal Disease.

At its May meeting, the Technology & Equipment Committee deferred action on both the proposed update to Policy TE-3 (to allow MRI scanners to operate in a diagnostic center or an independent diagnostic testing facility (IDTF)) and the pending Petition regarding existing and approved specialized breast MRI scanners.

Need Determinations are subject to change during the planning process and, importantly, may be

modified based on Petitions for adjusted Need Determinations.

Petitions for Adjustments to Need Determinations

The Petition process will be front and center this year. This process allows interested parties to affect the content of the SMFP by seeking changes in the need determinations for various health care projects. As described below, providers can advocate for approval of Petitions during the summer Public Hearings which, this year, will all be conducted via WebEx. *See Schedule below.*

In evaluating whether a need exists for new health care capabilities, state health planners have long applied policies and standard methodologies to analyze population growth, utilization trends and other factors. If the application of these methodologies results in a finding of "no need," no proposals can be approved for the facilities or services at issue. When application of the standard policies and methodologies fails to account for market realities or other special circumstances, the planning process provides a Petition process to highlight those unique considerations. Successful Petitions can effectively change the landscape by creating an opening for project proposals that otherwise would not have been a possibility under the SMFP.

The deadline for Petitions for adjustments to need determinations for the 2022 SMFP is 5:00 p.m. on July 28, 2021. A provider who perceives a need for new capabilities in its Service Area despite a finding of "no need" may pursue a petition for an adjustment to an identified need determination, commonly referred to as a Special Need or Adjusted Need Petition. To be successful, Adjusted Need Petitions must effectively describe how unique or special attributes give rise to a need that is not reflected through the standard health planning process. While the requirements of an Adjusted Need Petition are not defined in hard-and-fast terms, the Petition must explain how area residents will be adversely affected if the adjusted need is not recognized. The Petition must also illustrate that the adjusted need will not unnecessarily duplicate existing health resources in the area and will be consistent with the SMFP Basic Principles of Safety & Quality, Access, and Value.

More detailed information on the Petition process is included in the 2021 SMFP.

Key Dates

<p>July 28, 2021</p> <p>5:00 p.m.</p>	<p>Those who believe unique or special attributes of a geographic area or institution give rise to resource requirements that differ from those provided by application of the standard planning procedures and policies may petition for an adjustment to the need determination in the Proposed SMFP.</p> <p>Petitions should be delivered to Healthcare Planning early in the Public Review and Comment Period and, if possible, but no later than the deadline of 5:00 p.m. on July 28, 2021.</p>
<p>Aug. 11, 2021</p> <p>5:00 p.m.</p>	<p>Deadline for receipt by Healthcare Planning of any comments on petitions submitted by the July 28 deadline and all comments regarding other issues related to the Proposed 2022 SMFP.</p>

Summer Public Hearings via WebEx

Petitioners are afforded the opportunity to offer remarks on their petitions in one or more public hearings held throughout the month of July. The schedule for the summer public hearings has now been released:

<p>Public Hearings Regarding Need Determinations in the Proposed 2022 SMFP</p>		
<p>Instructions for attending ALL July WebEx public hearings</p>		
<p>Thursday</p>	<p>July 8, 2021</p>	<p>1:30 - 2:30 p.m.</p>
<p>Monday</p>	<p>July 12, 2021</p>	<p>1:30 - 2:30 p.m.</p>
<p>Wednesday</p>	<p>July 14, 2021</p>	<p>1:30 - 2:30 p.m.</p>

Tuesday	July 20, 2021	1:30 - 2:30 p.m.
Monday	July 26, 2021	1:30 - 2:30 p.m.
Wednesday	July 28, 2021	1:30 - 2:30 p.m.

Those offering oral remarks at a public hearing must email their remarks to DHSR.SMFP.Petitions-Comments@dhhs.nc.gov, preferably before the public hearing. Electronic media may not be used in presentations at public hearings. Individuals with disabilities needing assistance to participate in the public hearings are asked to notify Healthcare Planning in advance to arrange reasonable accommodations.

For more information, please contact Williams Mullen Health Care Partner Joy Heath at jheath@williamsmullen.com.

Related People

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