LeadingAge™ New York

Public Health and Health Planning Council
Committee on Health Planning

Updating the RHCF Bed Need Methodology
Testimony

Presented By:
Dan Heim
Executive Vice President

September 24, 2015

• Sturman Conference Room, Wadsworth Center
NYS Department of Health
Empire State Plaza
Albany, New York

Introduction

I am Dan Heim, Executive Vice President of LeadingAge New York (LeadingAge NY). Thank you for the opportunity to appear before the Committee on Health Planning of the Public Health and Health Planning Council on the subject of 10 NYCRR Part 709.3, the residential health care facility (RHCF) bed need methodology.

Founded in 1961, LeadingAge New York is the only statewide organization representing the entire continuum of not-for-profit, mission-driven and public continuing care, including nursing homes, adult care facilities, assisted living programs, continuing care retirement communities, home and community-based services, adult day health care, senior housing, and managed long term care plans. LeadingAge New York's nearly 500 members serve an estimated 500,000 New Yorkers of all ages annually.

As Committee members are aware, the current RHCF bed need methodology is set to expire at the end of 2016, necessitating re-evaluation of this methodology and promulgation of conforming regulations. This re-evaluation comes at a time of unprecedented change in state and federal government policies, nursing home utilization patterns and demographic changes. We appreciate the lead time that the Committee and the Department of Health (DOH) have built into this process to ensure that there is a thorough review of the existing methodology, analysis of current utilization of nursing home services and ample consideration of the multitude of factors that are likely to influence nursing home bed need into the future.

With this background in mind, I plan to focus on the following areas in my testimony:

- Nursing home occupancy and capacity trends throughout New York State;
- The growing and changing role of short-stay nursing home care;
- Identification of other factors that should be considered in the evaluation of the nursing home bed need methodology;
- A demand model approach to estimating service need; and
- Key policy questions that should be considered.

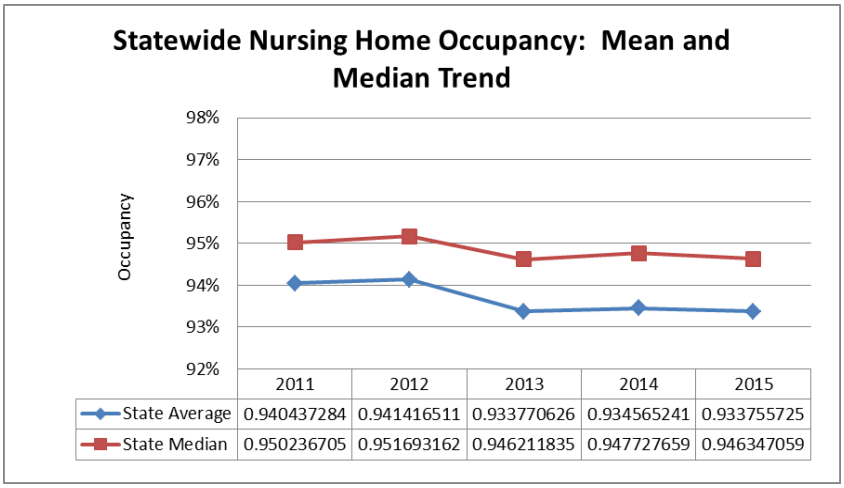
Nursing Home Occupancy and Capacity Trends

Occupancy

LeadingAge NY has analyzed the Nursing Home Weekly Bed Census data collected by DOH between 2011 and the present. The Department requires each nursing home to electronically file data on its licensed nursing home beds and availability by bed category on a weekly basis. The Nursing Home Weekly Bed Census data is the most recent data available on occupancy.

As shown in the figure below, statewide nursing home occupancy declined modestly during the period 2011-2015 (year-to-date). Average occupancy fell from 94 percent to 93.4 percent, a

decrease of about 0.7 percent. Median occupancy fell by approximately 0.4 percent during the same period.



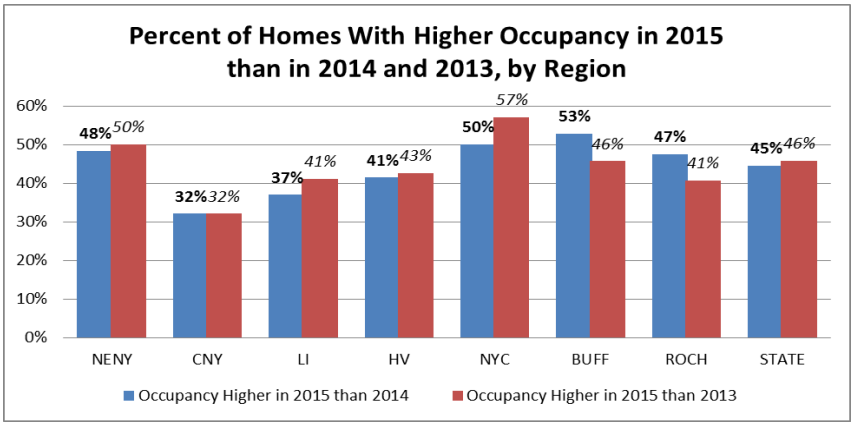
Average occupancy varied regionally, as shown in the figure below, with the Hudson Valley showing the lowest average occupancy year-to-date in 2015 (91.1 percent) and New York City showing the highest at 95 percent. The Rochester and New York City regions showed increases in average occupancy during the period; all other regions and the State as a whole experienced modest decreases.

	2011	2012	2013	2014	2015
BUFF	94.0%	94.2%	93.2%	93.0%	92.8%
ROCH	93.1%	92.9%	93.1%	94.0%	94.4%
CNY	94.5%	94.3%	93.1%	93.6%	92.2%
NENY	93.9%	93.9%	93.1%	92.8%	93.2%
HV	92.9%	92.3%	92.1%	91.7%	91.1%
NYC	94.9%	95.2%	93.9%	94.5%	95.0%
LI	92.9%	93.5%	93.6%	92.4%	91.9%
STATE	94.0%	94.1%	93.4%	93.5%	93.4%

Under the current 709.3 methodology, there is a rebuttable presumption that if the overall nursing home occupancy in a planning area is less than 97 percent, there is no unmet need for nursing home beds in that area. Based on our analysis of 2015 weekly census data through August, there were only 13 counties in which average nursing home occupancy was greater than 97 percent in one or more months of 2015, and only five counties at or above this level in August 2015.

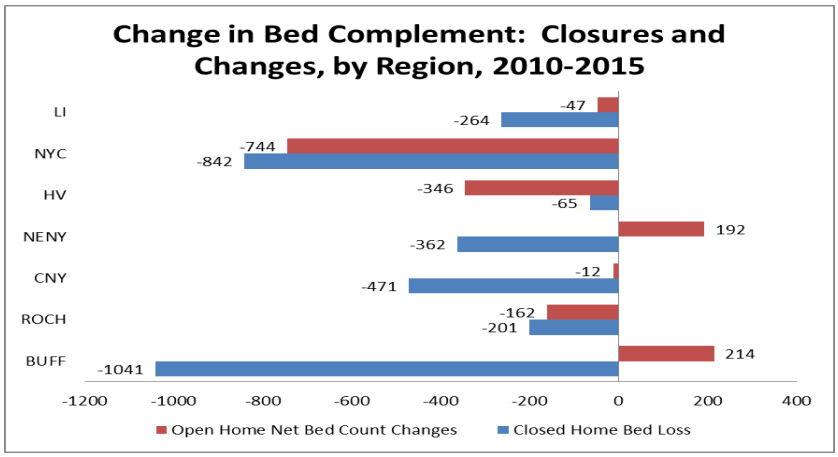
We also examined changes in occupancy at the facility level between 2013 and 2015 (year-to-date). Statewide, 45 percent of all homes have had a higher average occupancy in 2015 than in

2014; and 46 percent have seen higher occupancy in 2015 than in 2013. The figure below shows these comparisons by DOH region; regional differences in these trends are evident.



Nursing Home Capacity

Since 2010, 3,246 nursing home beds have been taken off line in the State due to nursing home closures. Another 905 beds have been reduced in facilities that remain in operation, for a total bed reduction of 4,151 beds or about 3.5 percent of total system capacity. As shown below, New York City experienced the largest net loss in total beds (1,586 beds) followed by the Buffalo region (827 beds).



Short-Stay Nursing Home Care

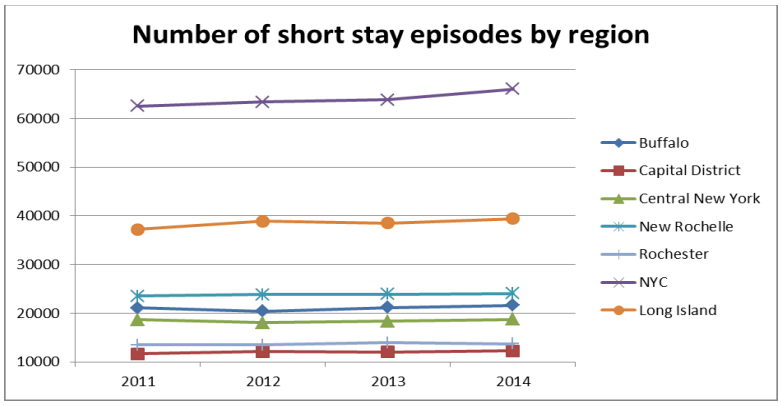
Traditionally, nursing homes were seen primarily as the service providers for individuals whose physical and cognitive needs require constant clinical oversight and assistance from nurses, aides and other caregivers. These long-term residents typically did not improve or stabilize to the point where they could take care of themselves and return to the community, and oftentimes resided in the facility for multi-year periods of time. Over the last several years, the

long-term resident population has increasingly become more multi-morbid, frail, functionally limited and likely to be suffering from Alzheimer's or other dementias.

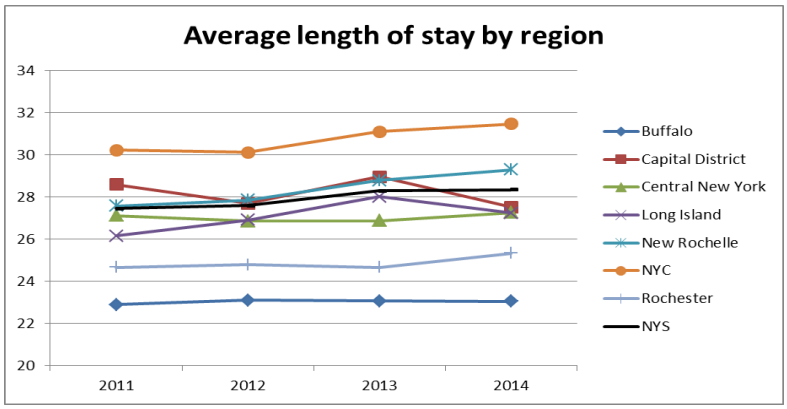
Increasingly, nursing homes are cost-effectively serving patients with injuries, acute illnesses or post-operative care needs to recover in an environment outside of a hospital. When these short-stay patients are admitted to the nursing home after a qualifying three-day minimum inpatient hospital stay, the Medicare Part A benefit covers the service. While post-orthopedic rehabilitative care may be the most prevalent short-stay service offered in the nursing home setting, facilities are increasingly serving patients with post-acute medical needs.

LeadingAge NY has analyzed nursing home resident assessment data (the Minimum Data Set or MDS) for the period 2011-14, and isolated those resident stays that are considered long-stays (i.e., greater than 100 days) under MDS coding rules. For New York State as a whole, we found that the total number of long-stay episodes declined from 118,068 in 2011 to 112,736 in 2014, for a decrease of 4.5 percent. During the same time period, the average length of stay (ALOS) in these episodes also fell from 341.7 days to 335.7 days, for a decrease of 1.7 percent. Regional variations in the number of long-stay episodes and the ALOS per episode were also evident.

We also reviewed MDS data over the same time period to examine the prevalence of short-stay episodes (i.e., 100 days or less) and ALOS within these episodes. For the State as a whole, the total number of short-stay episodes increased from 188,257 in 2011 to 195,847 in 2014, for an increase of 4 percent. During the same time period, the ALOS in these episodes modestly increased from 27.5 days to 28.3 days, for an increase of 3.2 percent. Regionally, the increase in the number of short-stay episodes between 2011 and 2014 ranged from 0.4 percent in Central NY to 5.8 percent on Long Island.



The change in short-stay ALOS ranged from a decrease of 3.7 percent in the Capital District to an increase of 6.3 percent in New Rochelle.



These data – which evidence decreasing ALOS and declining numbers of episodes in the long-stay population as well as steadily increasing numbers of short-stay episodes – demonstrate increased turnover of residents/patients in New York's nursing homes. Total annual short-stay episodes statewide now exceed total long-stay episodes by nearly 75 percent. We believe that increased resident turnover increases the likelihood of vacant bed days which in turn affects facility occupancy rates. However, we have not attempted to analyze the relationship between ALOS and occupancy to validate this assumption.

Further evidence of this phenomenon is provided from nursing home cost report data on payers and admission sources. As shown in the figure below, Medicare (which covers short-stay post-acute care) paid for 14 percent of all resident days in New York State in 2013. This represents a 10 percent increase since 2010. Of the statewide Medicare days in 2013, nearly 25 percent were covered by Medicare managed care plans. Medicare managed care penetration has increased significantly throughout the State since 2010. Statewide – and in all regions – Medicare admissions account for the majority of new admissions; approximately 90 percent of admissions come from the hospital; and admissions per bed average 2.2 per year with a regional range of between 1.7 and 3.1 per year.

2013 PAYER AND ADMISSION FIGURES

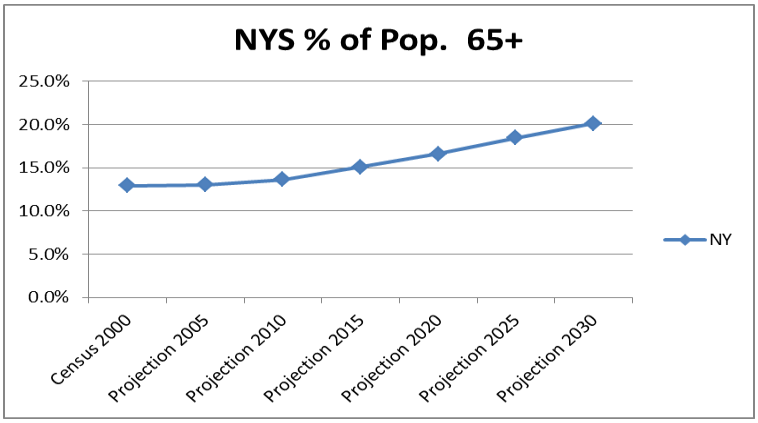
	Medicare as % of All Days	% of Medicare Days from Medicare Managed Care	Medicare Admits as % of All Admits	% Admits from Hospital	Admits per Bed per Year
BUFFALO	13.8%	51.0%	59.0%	91.2%	2.2
ROCHESTER	10.9%	52.5%	51.6%	91.3%	2.0
CENTRAL NY	11.8%	18.0%	61.2%	91.0%	1.8
NORTHEAST NY	10.5%	22.4%	52.7%	88.7%	1.7
HUDSON VALLEY	16.1%	8.7%	67.9%	91.3%	2.5
NEW YORK CITY	13.4%	26.3%	51.9%	92.3%	2.1
LONG ISLAND	19.6%	14.2%	65.6%	91.2%	3.1
STATEWIDE	14.0%	24.2%	58.4%	91.4%	2.2

Other Factors to Be Considered

We have identified a series of other factors that should be considered in the evaluation of the bed need methodology. These fall into the broad categories of demographic trends and government policies.

Demographic Trends

By 2030, 20.1 percent of the New York State population will be 65 or older. This compares to 19.3 percent for the U.S. as a whole. By 2050, one-fifth of the total U.S. population will be elderly (that is, 65 or older), up from 12 percent in 2000 and 8 percent in 1950. The number of people age 85 or older will grow the fastest over the next few decades, constituting 4 percent of the population by 2050, or ten times its share in 1950.



Other demographic factors that validate current demand and predict a growing need for nursing home and other long-term care (LTC) services include the following:

- Of New York's population aged 65+, 11.5 percent lives in poverty. These individuals drive demand for Medicaid-financed services such as nursing home care.
- Of all households in New York, 26.7 percent are inhabited by an individual aged 65 years or older, and 10.7 percent are comprised of a 65+ individual living alone. These percentages are higher than the respective U.S. averages.
- In New York, 34.2 percent of the non-institutionalized population aged 65+ has one or more disabilities.
- The caregiver ratio – which is the number of females aged 45-64 divided by the number of individuals aged 85 plus – was 6.9 to 1 in 2010 in New York State and is projected to decrease to 5.7 to 1 by 2030 and 4.5 to 1 in 2040. As this proxy for informal care falls, reliance on formal care systems will increase.

Government Policies

Over the past few years, New York has advanced a number of major Medicaid Redesign initiatives intended to align with the Institute for Healthcare Improvement's Triple Aim of providing better patient care, improved population health and lower health care costs. Initiatives that are underway which could significantly impact the delivery of nursing home care throughout the State include, but are not limited to:

- ***Mandatory Medicaid managed care enrollment for community-based LTC services:*** Medicaid managed care enrollment is now mandatory for all counties in the State for those individuals needing community-based LTC services for 120 days or more including personal care, home care, consumer-directed care and adult day health care. By providing care management to these individuals in the community, it is expected that usage of nursing home services could be further forestalled or perhaps even avoided.
- ***Transition of the nursing home population and benefit to Medicaid managed care:*** Medicaid recipients who will need permanent placement in nursing homes on or after January 2015 (downstate) and July 2015 (upstate) must join or remain in a managed care plan. Managed care plans will have strong incentives to serve their enrollees in the most cost-effective, clinically appropriate settings.
- ***Delivery system realignment:*** Under the federally funded Delivery System Reform Incentive Payment (DSRIP) program, Performing Provider Systems (PPSs) have been formed to create community-level collaborations on projects involving multiple physical health and behavioral health providers, including nursing homes and other LTC providers. The overall goal is to achieve a 25 percent reduction in avoidable hospital use over five years, while improving health care quality, access and service delivery. Because LTC recipients are frail and chronically ill, nursing homes are expected to play an integral role in the success of the PPS projects and are likely to initiate additional programs to serve their patients in place rather than sending them to the hospital.
- ***Value-based payment:*** New York State has received approval from the Centers for Medicare & Medicaid Services (CMS) for a plan to move Medicaid payments from traditional fee-for-service (FFS) methods to alternative payment arrangements such as bundling, risk sharing and capitation. Under the plan, 80-90 percent of all payments from Medicaid managed care plans to providers (including nursing homes) must be value-based rather than volume-based. CMS has also established value-based payment goals for Medicare FFS payments. These arrangements could affect the number and types of patients/residents that nursing homes serve in the future.
- ***Alternative settings:*** State legislation enacted in 2009 authorized the Commissioner of Health to add up to 6,000 Assisted Living Program (ALP) beds to the existing number of ALP beds in New York State over a seven-year period through January 2017. ALPs

provide supportive housing and home care services to individuals who are medically eligible for placement in a nursing home, but whose needs can be met in a less restrictive residential setting. In March 2015, the Department issued a solicitation for the remaining 3,400 ALP beds that have not yet been awarded.

The potential effects of these government policy initiatives should be considered in the review of the nursing home bed need methodology.

A Demand Model Approach to Need

In 2013, LeadingAge NY received grant funding from the NYS Health Foundation to develop a multi-faceted strategic action plan to ensure access to a range of high-quality LTC services in the Eastern Adirondacks. The demographic data and other information collected and analyzed were used to inform the development of a Long-Term Care Services Demand Model. The Model was used to estimate the demand for five types of LTC services in the region: (1) adult day health services; (2) ALP; (3) home health services; (4) personal care services; and (5) nursing home care (long-stay and short-stay).

The Model started with an estimate of the population and their use of services by age cohort and gender. For each of the services for which the Model creates estimates of future demand, a series of assumptions about factors such as how the incidence of poverty for those 65+ affects service needs, what changes may occur to funding for services, or how changes in preferences for community based services will occur, are tested with the Model. The Model estimates the services in the proper unit of measurement for each (i.e., claims, visits, beds, etc.).

The Model was not developed to provide forecasts of demand, but instead to make estimates under a set of specific assumptions. This approach involved deriving the proportion of each population group receiving each type of service based on historical data, making baseline estimates based on projected population growth, and adjusting the baseline estimates according to the assumed impact of a series of variables (demand determinants). Key demand determinants identified and used in the Model for this grant included the implementation of mandatory managed care, the growth of other care management programs, implementation of DSRIP, availability of informal caregivers and the number of older adults living alone.

The Model was developed to be flexible and extendable. Existing variables and their estimated impact can be adjusted and new variables can be added so that the Model is capable of producing estimates of demand under different scenarios.

LeadingAge NY has briefed DOH and other stakeholders on the Model. We would be pleased to provide further information on the Model and its development to the Department, and to explore the utility of using elements of the Model to inform the review of the nursing home need methodology.

Key Policy Questions

Among the key policy questions that should be considered in discussions on the bed need methodology, in addition to the ones already posed in this testimony and by DOH in the meeting notice, are the following:

1. DSRIP is underway at a regional level, and catchment areas for nursing homes most often do not correspond to planning area boundaries. Should the need methodology take these circumstances into account?

2. The voluntary nursing home rightsizing demonstration program has not been actively promoted since 2012. The program allows nursing homes to voluntarily convert beds to other programs and services such as assisted living, and also allows facilities to temporarily decertify beds for up to five years. With demographic changes and other factors suggesting the need for service alternatives to the nursing home and an increasing demand for nursing home services in the future, should this program be activated and perhaps modified?

3. In the 2010 revision to the methodology, public need determinations were extended to include renovations of nursing homes, the sale or transfer of nursing home beds between facilities, and nursing home changes of ownership. The results of this policy change should be thoroughly evaluated.

4. Should the Medicaid access requirements found in 709.3(m) be continued? For years now, the percentage of residents who are Medicaid recipients in New York's nursing homes has exceeded the corresponding national average and that of most other states. Furthermore, at a time when state policymakers are concerned about excessive reliance on Medicaid as the *de facto* payer for LTC, it may be counter-productive to have in place a regulation which effectively discourages maximizing alternative payment sources.

Conclusion

LeadingAge NY and its membership remain dedicated to ensuring that high quality nursing home care is available throughout New York State to individuals who need short-term post-acute care as well as LTC services. As always, we are available to provide additional information and support to the Committee and DOH on the nursing home bed need methodology. Thank you again for the opportunity to testify.