

## Notice of Proposed Rule

### AGENCY FOR HEALTH CARE ADMINISTRATION

#### Certificate of Need

RULE NO: RULE TITLE

59C-1.0355: Hospice Programs

PURPOSE AND EFFECT: Proposed rule updated to reflect changes to the hospice rule as currently defined in 59C F.A.C.

SUMMARY: Changes are to the dates of material incorporated by reference in the rule as adopted July 21, 2009, and the clarification of the web site of the publications.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: [408.034\(3\)](#), [\(5\)](#), [408.15\(8\)](#)

LAW IMPLEMENTED: [408.034\(3\)](#), [408.035](#), [408.036\(1\)\(d\)](#), [408.043\(2\)](#), [400.606\(4\)](#), [\(5\) FS](#)

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: December 7, 2009, 1:00pm

PLACE: Agency for Health Care Administration, Building 3, Conference Room B, 2727 Mahan Drive, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Calvin J. Vice, Sr., PhD

THE FULL TEXT OF THE PROPOSED RULE IS:

#### **59C-1.0355 Hospice Programs**

(1) – (3) No Changes

(4) Criteria for Determination of Need for a New Hospice Program.

(a) Numeric Need for a New Hospice Program. Numeric need for an additional hospice program is demonstrated if the projected number of unserved patients who would elect a hospice program is 350 or greater. The net need for a new hospice program in a service area is calculated as follows:

$$(HPH) - (HP) > 350$$

where:

(HPH) is the projected number of patients electing a hospice program in the service area during the 12 month period beginning at the planning horizon. (HPH) is the sum of  $(U65C \times P1) + (65C \times P2) + (U65NC \times P3) + (65NC \times P4)$

where:

U65C is the projected number of service area resident cancer deaths under age 65, and P1 is the projected proportion of U65C electing a hospice program.

65C is the projected number of service area resident cancer deaths age 65 and over, and P2 is the projected proportion of 65C electing a hospice program.

U65NC is the projected number of service area resident deaths under age 65 from all causes except cancer, and P3 is the projected proportion of U65NC electing a hospice program.

65NC is the projected number of service area resident deaths age 65 and over from all causes except cancer, and P4 is the projected proportion of 65NC electing a hospice program.

The projections of U65C, 65C, U65NC, and 65NC for a service area are calculated as follows:

$$U65C = (u65c/CT) \times PT$$

$$\begin{aligned}
65C &= (65c/CT) \times PT \\
U65NC &= (u65nc/CT) \times PT \\
65NC &= (65nc/CT) \times PT
\end{aligned}$$

where:

u65c, 65c, u65nc, and 65nc are the service area's current number of resident cancer deaths under age 65, cancer deaths age 65 and over, deaths under age 65 from all causes except cancer, and deaths age 65 and over from all causes except cancer.

CT is the service area's current total of resident deaths, excluding deaths with age unknown, and is the sum of u65c, 65c, u65nc, and 65nc.

PT is the service area's projected total of resident deaths for the 12-month period beginning at the planning horizon.

"Current" deaths means the number of deaths during the most recent calendar year for which data are available from the Department of Health Office of Vital Statistics at least 3 months prior to publication of the fixed need pool.

"Projected" deaths means the number derived by first calculating a 3-year average resident death rate, which is the sum of the service area resident deaths for the three most recent calendar years available from the Department of Health Office of Vital Statistics at least 3 months prior to publication of the fixed need pool, divided by the sum of the July 1 estimates of the service area population for the same 3 years. The resulting average death rate is then multiplied by the projected total population for the service area at the mid-point of the 12-month period which begins with the applicable planning horizon. Population estimates for each year will be the most recent population estimates from the Office of the Governor at least 3 months prior to publication of the fixed need pool. The following materials are incorporated by reference within this rule; Department of Health Office of Vital Statistics Florida Vital Statistics Annual Report 2008 ~~2007~~, Deaths, and the Office of the Governor Florida Population Estimates And Projections by AHCA District 2000 To 2020, released September, 2009 ~~2008~~. These publications are available on the Agency website at [http://ahca.myflorida.com/MCHQ/CON\\_FA/Publications/index.shtml](http://ahca.myflorida.com/MCHQ/CON_FA/Publications/index.shtml).

The projected values of P1, P2, P3, and P4 are equal to current statewide proportions calculated as follows:

$$P1 = (Hu65c/Tu65c)$$

$$P2 = (H65c/T65c)$$

$$P3 = (Hu65nc/Tu65nc)$$

$$P4 = (H65nc/T65nc)$$

where:

Hu65c, H65c, Hu65nc, and H65nc are the current 12-month statewide total admissions of hospice cancer patients under age 65, hospice cancer patients age 65 and over, hospice patients under age 65 admitted with all other diagnoses, and hospice patients age 65 and over admitted with all other diagnoses. The current totals are derived from reports submitted under subsection (8) of this rule.

Tu65c, T65c, Tu65nc, and T65nc are the current 12-month statewide total resident deaths for the four categories used above.

(HP) is the number of patients admitted to hospice programs serving an area during the most recent 12-month period ending on June 30 or December 31. The number is derived from reports submitted under subsection (8) of this rule.

350 is the targeted minimum 12-month total of patients admitted to a hospice program.

(4)(b) – (9) No changes.

NAME OF PERSON ORIGINATING PROPOSED RULE: Calvin J. Vice, Sr., PhD

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas W. Arnold

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2009