Public Interest Review

EVALUATION OF A PROPOSED EXPANSION IN LICENSED HOSPITAL BED CAPACITY IN GRAND MARAIS, MINNESOTA

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Public Interest Review: Evaluation of a Proposed Expansion in Licensed Hospital Bed Capacity in Grand Marais, Minnesota

Minnesota Department of Health
Health Economics Program
PO Box 64882
St. Paul, MN 551164-0882
651-201-4520
health.hep@state.mn.us
www.health.state.mn.us

As requested by Minnesota Statute 3.197: The preparation of this report cost approximately $8,198.44. As required by Minnesota Statutes, section 144.552, paragraph (a), item (2), the applicant bore that cost.

Contents

Overview of the public interest review process

Since 1984, Minnesota law has prohibited the construction of new hospitals or expansion of bed capacity at existing hospitals without specific authorization from the Legislature.[1] As originally enacted, the law included specific exceptions to the moratorium on new hospital capacity. More exceptions were added over time, and the statute currently includes 30 exceptions.

In 2004, the Minnesota State Legislature established a procedure for reviewing proposals for exceptions to the hospital moratorium statute.[2] Under this law, hospitals that seek an exception to the moratorium must submit a plan to the Minnesota Department of Health (MDH) for the completion of a "public interest review." The purpose of the public interest review was to provide an assessment to the Legislature regarding whether the additional beds were in the public interest. The Legislature could then consider the report in their final determination of whether to grant an exception.

In conducting a public interest review, Minnesota Statutes, section 144.552 directs MDH to consider all relevant factors but, at a minimum, the following five specific ones:

- **Factor 1**: Whether the new hospital or hospital beds are needed to provide timely access to care or access to new or improved services;
- **Factor 2**: The financial impact of the new hospital or hospital beds on existing acute-care hospitals that have emergency departments in the region;
- **Factor 3**: How the new hospital or hospital beds will affect the ability of existing hospitals in the region to maintain existing staff;
- **Factor 4**: The extent to which the new hospital or hospital beds will provide services to nonpaying or low-income patients relative to the level of services provided to these groups by existing hospitals in the region; and
- **Factor 5**: The views of affected parties.

Authority to approve exceptions to the hospital moratorium still rests with the Legislature.

This document and additional information about the proposal under review for an exception to the hospital construction moratorium, as well as documents related to other reviews by the Department, are available online: (https://www.health.state.mn.us/data/economics/moratorium/index.html).

[1] Minnesota Statutes, section 144.551.

[2] Minnesota Statutes, section 144.552.

The Proposal for Expansion in Licensed Hospital Bed Capacity

On September 1, 2021, North Shore Health Hospital and Care Center in Grand Marais, Minnesota (hereafter North Shore Health) submitted a plan to MDH that would increase licensed hospital bed capacity by nine beds to be used in the Medicare swing bed program for hospitals with skilled nursing facility (nursing home) beds. This expansion would bring the hospital from 16 licensed beds to 25, the maximum number of beds allowed for North Shore Health under their federal designation as a Critical Access Hospital.[3]

The plan submitted was described as a 'rearrangement' of licensed beds where the number of nursing home beds operated by North Shore Health would decrease from 37 to 20 beds, while the number of licensed hospital beds would increase by nine beds. Furthermore, the plan noted that the hospital-based services would remain unchanged.

In the subsequent discussion, MDH confirmed that a public interest review was necessary[4], and on February 28, 2022, MDH published an official notice in the *Minnesota State Register* that the proposal from North Shore Health to increase licensed bed capacity by nine beds was subject to the public interest review law.

North Shore Health Service Profile

The North Shore Health offers an array of health care services including ambulance services, an emergency department, home health services, a 16-bed medical surgical unit, and a 37-bed skilled nursing facility. Specific diagnostic and therapeutic services at the facility in Grand Marais include computed tomography (CT) scanning, magnetic resonance imaging (MRI) scanning, colonoscopy, bone density (DEXA) scanning, digital mammography, ultrasound, electrocardiogram (EKG), physical and occupational therapy, cardiac rehabilitation, chemotherapy, palliative care, laboratory services, and social services.

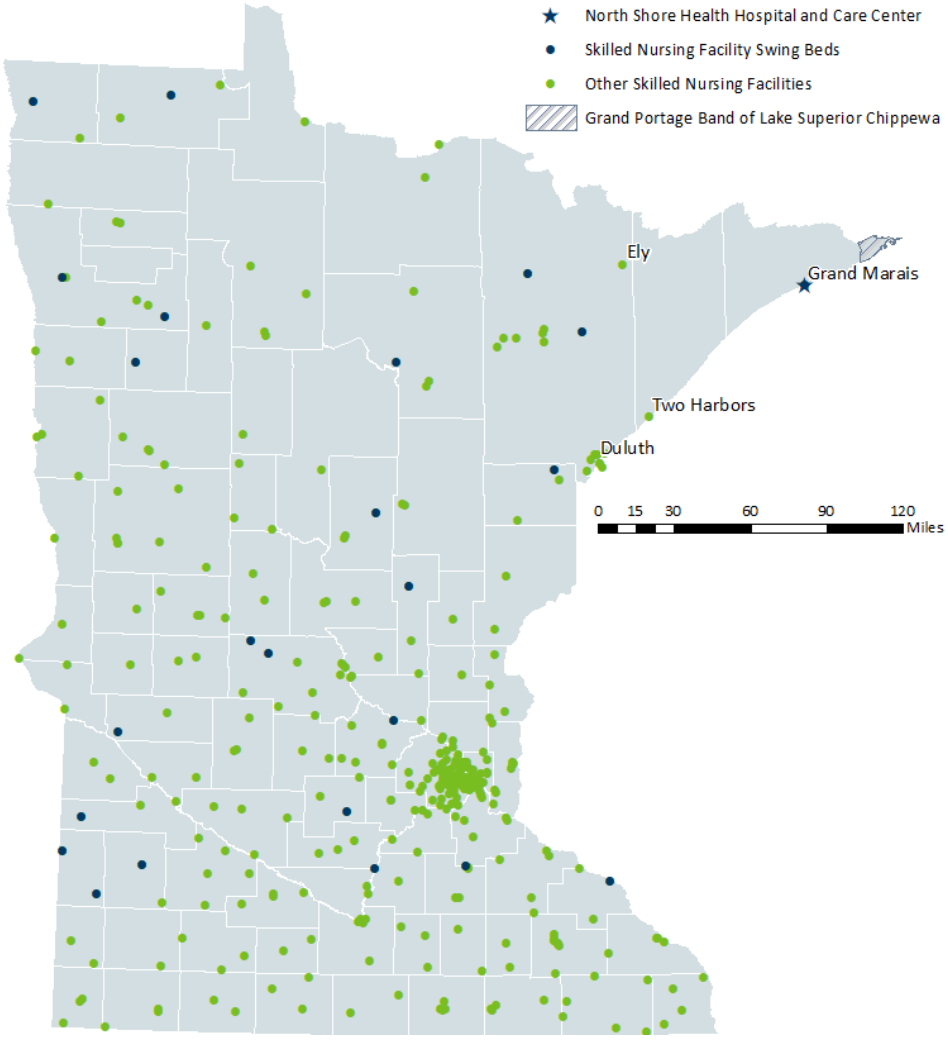
North Shore Health is the only provider of acute inpatient services and long-term care services in Cook County. This rural county is in the Arrowhead Region of Northeastern Minnesota. The nearest hospital and publicly accessible nursing home are 84 miles away in Two Harbors, Minnesota as shown in Figure

[3] This designation enables a hospital to receive cost-based reimbursement from Medicare. There are currently 76 hospitals in Minnesota are designated as Critical Access Hospitals. Under current rules, hospitals must to be at least 35 driving miles from the next closest hospital in order to qualify for this designation. Federal rules also allow 10 additional beds beyond the 25-bed maximum for inpatient mental health services.

[4] It was initially unclear whether the proposed change was already exempted from provisions of the hospital bed moratorium by an existing exception specific to Critical Access Hospitals [Minnesota Statutes, section 144.551 subdivision 1 (2) (b) (19)].

1, making the facility one of the most geographically remote in the state.[5] This facility is also a resource for the nearby Grand Portage Band of Lake Superior Chippewa.

Figure 1. Skilled Nursing Facilities (Nursing Homes) in Minnesota



Source: MDH Health Care Provider Directory

Cook County is designated by the federal government as a 'Medically Underserved Area/Population' (MUA/P) which is determined based on a combination of the following factors: the ratio of primary care physicians per 1,000 population; infant mortality rate; percentage of the population with incomes below the poverty level; and percentage of the population aged 65 or older. In addition, Cook County, and certain health care providers within the county, are also designated as a 'Health Professional Shortage Area' (HPSA), or facility HPSA, for having a shortage of primary care, dental care, and mental health care providers by the federal government. HPSAs identify geographic areas, specific populations, or facilities that require additional primary care, dental, or mental health care providers.

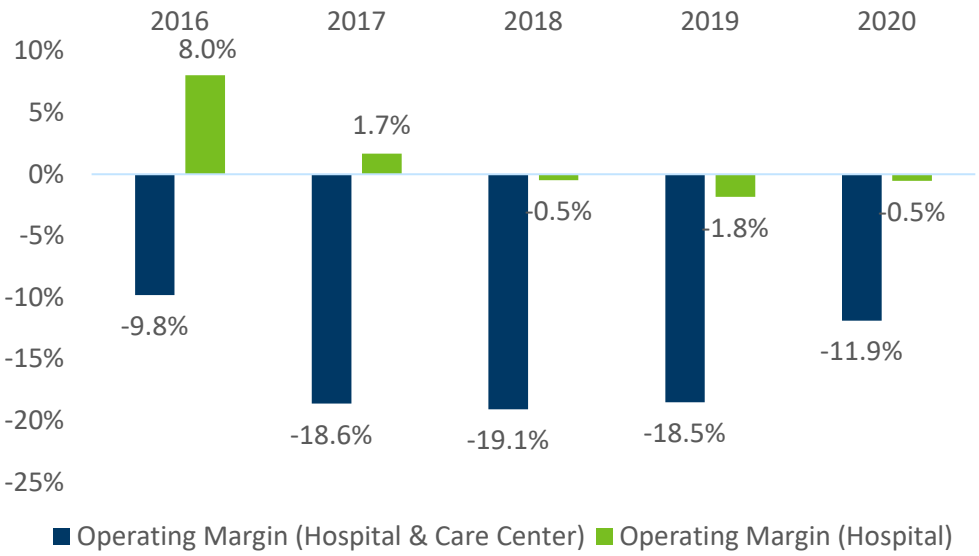
[5] The Silver Bay Veteran's Home is 50 miles away, but care is limited to Veterans and their spouses.

Both MUA/P and HPSA designations are used by the federal government and the State of Minnesota for resource distribution in various federal and state programs.[6]

The North Shore Health hospital and nursing home has been providing care for the community for about 60 years as a government-owned hospital district, with taxing authority since 1990. North Shore Health contracts with St. Luke's Regional Care System, located in Duluth, to operate and manage the facility and has done so for nearly 11 years. It is also part of Wilderness Health, a non-profit collaborative of independent providers in Northeast Minnesota and Northwest Wisconsin.

North Shore Health noted in the materials submitted to MDH that financial losses from the operations of the nursing home for more than a dozen years required a change in revenue structure for reimbursement to cover costs and ultimately maintain services. Figure 2 shows that when the attached nursing home financials are included, the institutional operating margin falls dramatically; in addition, the hospital itself has been running negative margins for the past few years.

Figure 2. North Shore Health Operating Margin, 2016-2020



Source: MDH analysis of Hospital Annual Reports and Medicare Cost Reports from North Shore Health. The operating margins for the hospital and care center exclude revenue and expenses for ambulance and home health care services.

[6] For more information on shortage designations, please visit the following Minnesota Department of Health website: https://www.health.state.mn.us/facilities/underserved/designation.html.

Assessment of Proposal

In this section, we assess the proposal from North Shore Health to add nine licensed hospital beds relative to the five factors specified in the public interest review section of the law [Minnesota Statutes, section 144.552(c)].

Factor 1: Are the hospital beds needed to provide timely access to care or access to new or improved services?

While the plan submitted by North Shore Health would formally increase licensed bed capacity, the stated purpose is not to add capacity for new hospital-based care or services. Rather, North Shore Health would use the additional nine beds to deliver certain care for Medicare patients under a swing bed agreement with the Centers for Medicare and Medicaid Services (CMS), instead of through existing skilled nursing facility beds. At the same time, the skilled nursing facility (SNF) capacity would be reduced to 20 beds (from currently 37 SNF beds), resulting in 11 fewer total beds across inpatient and SNF services. CMS reimburses swing bed days at a higher rate than SNF days, making this change financially desirable to North Shore Health.

Under the swing bed agreement, a hospital can use swing beds, as needed, to provide skilled-nursing care for patients that have a qualified three-day inpatient stay.[7] Medicare Part A (the hospital portion of the insurance program) covers post-hospital extended care services in swing beds and hospitals are paid based on 101 percent of reasonable cost, rather than at skilled nursing facility rates. North Shore Health, like other Critical Access Hospitals, must comply with several participation requirements[8] to participate in this program, listed below.

Hospital Swing Bed Requirements

- Residents' rights
- Admission, transfer, and discharge rights
- Freedom from abuse, neglect, and exploitation
- Patient activities
- Social services
- Comprehensive assessment, comprehensive care plan, and discharge planning requirements
- Specialized rehabilitative services
- Dental services
- Nutrition

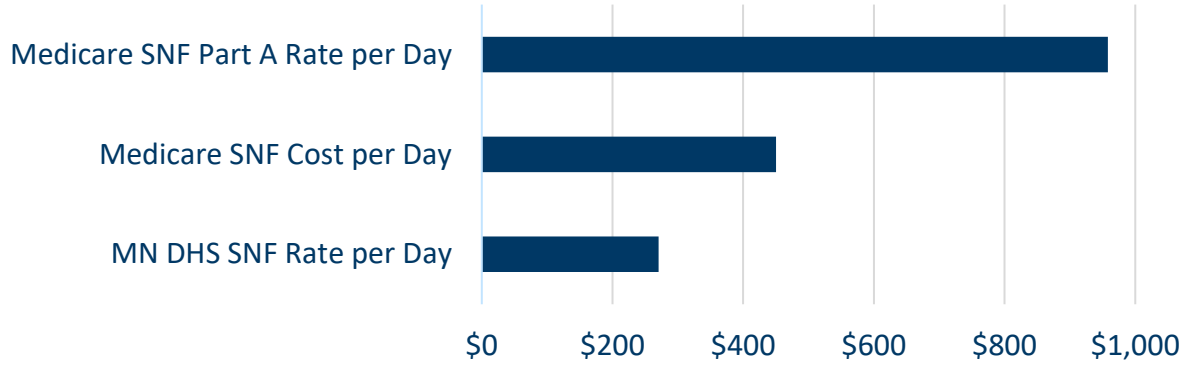
[7] CMS waived the three-day stay requirement and the limit on the number of swing beds during the COVID-19 Public Health Emergency.

[8] 42 CFR Section 485.645(d) (1–8)

Though the proposed change is not intended to enhance available care capacity directly, it is intended to maintain critical services that have not been financially self-sustaining. North Shore Health noted in application materials submitted to MDH that this change would result in a net increase in reimbursement (all attributed to the federal Medicare program) by roughly $800,000 in 2020 after also reducing the number of nursing home beds. If these nine beds were in use during 2020, they would have been available for more than 3,000 bed days and could have generated up to $2.6 million in revenue that year.[9]

Figure 3 illustrates the difference between payment rates per day for skilled nursing facility (SNF) services from the Medicare Swing Bed programs, Medicare SNF, and the Minnesota Department of Human Services (MN DHS) in 2020.[10] There is a two to three-and-a-half-fold difference in the daily reimbursement for Medicare part A skilled nursing facility care in swing beds compared to the same services delivered in SNF beds paid for by either Medicare or MN DHS. By shifting the reimbursement model for certain patients with long-term care needs to the Medicare swing bed program, North Shore Health is looking to preserve long-term care capacity for communities with high rates of elderly patients.

Figure 3. Comparison of Skilled Nursing Facility (SNF) Reimbursement Rate per Day for Medicare and Minnesota Department of Human Services (DHS) in 2020



Source: MDH analysis of Medicare Cost Report from North Shore Health for 2020 and the Minnesota Department of Human Services, Nursing Facility Rate Payment Overview February 4, 2021, Presentation to the Minnesota Senate Committee on Human Services Financial Reform and Policy.

[9] This assumes an occupancy rate akin to what was reported to MDH on average from 2016 to 2020 for two swing beds as well as a similar proportion of Medicare and Medicaid reimbursed swing bed patient days from those years. The estimated cost is based on reported figures for Medicare Cost Reports of 442 skilled nursing facility days and a settlement of $423,202.

[10] Medicare covers up to 100 skilled nursing facility days following a qualifying hospital stay. In total, Medicare covers about 12 percent of all skilled nursing facility costs each year. The MN DHS figure was accessed online April 11, 2022 at https://www.senate.mn/committees/2021-2022/3096_Committee_on_Human_Services_Reform_Finance_and_Policy/DHS%20SNF%20Overview%20Senate%20HSR%202_4_2021.pdf

Cook County and Lake County, the service area of North Shore Health, have substantially higher rates of senior residents than the state of Minnesota as a whole, with residents ages 65 years and older accounting for 29.3 percent and 26.8 percent of the population, respectively. In contrast, statewide, residents 65 years or older account for just 16.3 percent of all residents. Cook County alone has approximately 1,650 residents ages 65 and older, whose long-term care needs would be served by just 20 nursing home beds and nine swing beds at North Shore Health. This would mean a ratio of about 57 senior residents per available bed under the proposed change to 29 beds for Cook County. There are approximately 36 senior residents per nursing home bed statewide.

Factors 2, 3, and 5: Potential financial and staffing impacts on existing acute care hospitals in the region and views of affected parties

We do not anticipate that the proposal would have any meaningful impact on surrounding hospitals in the geographic region, whether or not they operate an emergency room. There are two primary reasons why the proposal is unlikely to affect the financial position or staffing of other facilities:

1. The remoteness of the facility means that the primary service area minimally overlaps with other facilities.
2. As noted earlier, the proposal doesn't create new care capacity – it just shifts some long-term care patients from SNF beds into licensed hospital beds. Even if the beds were used to treat acute patients who could not have been served in long-term care settings, the impact would be diminishingly small.

That the proposal would likely not affect other facilities is born out, in part, by letters of support submitted by the nearest hospital, Lake View Memorial Hospital, and Sawtooth Mountain Clinic, a local federally qualified community health center.

Factor 4: To what extent will the new hospital or hospital beds provide services to nonpaying or low-income patients relative to the level of services provided to these groups at existing hospitals in the region?

Since the nine new beds on the hospital license are intended to be used for skilled nursing care for the Medicare program, these beds are unlikely to be used for uninsured patients, yet we expect that the beds will provide care to low-income patients. North Shore Health has operated about two swing beds, on average, for the past five years according to hospital annual reports. Although this is a Medicare program, hospitals report reimbursement for swing bed services also through the Medicaid program that serves those who are presumably eligible for both forms of coverage due to eligibility for disability and/or income qualifications.

North Shore Health has historically reported to MDH that about nine percent of swing bed patient days were funded through Medical Assistance (Medicaid). This proportion is higher than other nearby Critical Access hospitals such as Lake View Memorial Hospital in Two Harbors and Ely-Bloomenson

Community Hospital in Ely. Cook County has a higher proportion of senior residents with income levels at or below federal poverty guidelines than the statewide average.[11]

North Shore Health hospital averaged approximately $251,000 per year in uncompensated care[12] from 2016-2020. This represents 2.1% of their operating revenue over the same period, and approximately $15,700 per year per bed. This is high, relative to averages across the state, where uncompensated care representing just 0.4% of hospital operating revenue and amounted to an average of $816 per year per bed.

Discussion and Finding

When policymakers enacted the hospital moratorium in Minnesota in 1984, they were concerned about excess capacity in the state's hospital system, its impact on the financial health of the hospital industry, and its possible impact on overall health care costs.[13] As we note throughout the review, the North Shore Health proposal does not appear to raise the type of concerns the moratorium aims to manage. The proposed change:

- Does not add new inpatient bed capacity as the beds would be used for skilled nursing care;
- Though it aims to raise reimbursement through shifts in licensing, it does not substantially add costs to the system or duplicate existing care capacity. The changes in financing should be limited to the federal Medicare program.
- Because of its modest footprint, the proposal is unlikely to affect other health care providers, something that comments in support of the proposal from nearby hospital providers underscored.

Furthermore, the proposal aims to protect existing care capacity in rural Minnesota:

- Rural hospitals, particularly remote ones as North Shore Health, are key to the local health care fabric and economic engine in communities. However, given the greater reliance on public program revenue and the limited ability to deliver many higher-profitability services, such as surgical procedures, rural hospital financials can be volatile. In the case of North Shore Health, the provision

[11] The American Community Survey (ACS) 5-year estimates from 2014-19 estimated there were 124 senior residents of Cook County in poverty, about 8.6% of the senior population. Lake County had an estimated 131 senior residents in poverty, approximately 5% of all seniors in the county. The state of Minnesota as a whole had an estimated 59,700 senior residents in poverty, or 7.2% of the population, in the same time period.

[12] Uncompensated care is the combination of charity care and bad debt amounts that are adjusted to reflect costs of providing services.

[13] "Hospital and Nursing Home System Growth: Moratoria, Certificate of Need, and Other Alternatives," Minnesota Senate Research Report, by Dave Giel and Michael Scandrett, January 1986.

of skilled nursing care further affects the facilities' financials. As noted elsewhere, hospitals under financial distress are at greater risk for closing or discontinuing services.[14]

- Given the remoteness of North Shore Health, the facility plays a particularly key role across a broad geographic area in the provision of skilled nursing facility care. Loss of all or part of that long-term care capacity due to financial challenges could worsen access to care for patients in the region with chronic care, palliative care, and rehabilitative care needs.
- Finally, given the efficiencies associated with hospital-based skilled nursing facility care, loss of that care capacity or parts of it may negatively affect operational systems, such as staffing and administration[15], as well as some patient outcomes.[16]

For these reasons, MDH finds that **the North Shore Health proposal to increase licensed bed capacity is in the public interest.**

[14] Bai, G., Yehia, F., Chen, W., & Anderson, G. F. (2020). Varying Trends In The Financial Viability Of US Rural Hospitals, 2011–17: Study examines the financial viability of 1,004 US rural hospitals that had consistent rural status in 2011–17. *Health Affairs*, *39*(6), 942-948.

[15] White, E. M., Kosar, C. M., Rahman, M., & Mor, V. (2020). Trends In Hospitals and Skilled Nursing Facilities Sharing Medical Providers, 2008-16. *Health Affairs (Project Hope)*, *39*(8), 1312–1320. https://doi.org/10.1377/hlthaff.2019.01502, and White, C., & Seagrave, S. (2005).

[16] What happens when hospital-based skilled nursing facilities close? A propensity score analysis. *Health Services Research*, 40(6 Pt 1), 1883–1897. https://doi.org/10.1111/j.1475-6773.2005.00434.x