



Public Interest Review

**EVALUATION OF A PROPOSED RELOCATION OF LICENSED HOSPITAL BEDS
FROM GOLDEN VALLEY, MINNESOTA TO SAINT PAUL, MINNESOTA**

04/05/2024

Public Interest Review: Evaluation of a relocation of long-term acute care hospital beds from Golden Valley, Minnesota to Saint Paul, Minnesota

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Protecting, Maintaining and Improving the Health of All Minnesotans

April 5, 2024

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The Honorable Paul Utke, Ranking
Member, 2403 Minnesota Senate
Building

Human Services Committee

The Honorable John Hoffman, Chair,
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The Honorable Jim Abeler, Ranking
Member, 2207 Minnesota Senate
Building

Commerce and Consumer Protection Committee

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Health Finance & Policy Committee

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The Honorable Zack Stephenson, Chair,
449 State Office Building

The Honorable Tim O'Driscoll, Ranking
Member, 237 State Office Building

To the Honorable Chairs and Ranking Members:

Minnesota Statutes, section 144.552, requires that any organization seeking to obtain a hospital license submit a plan to the Minnesota Department of Health (MDH) for review and assessment as to whether it is in the public interest. On July 24, 2023, Select Medical Corporation submitted a letter of intent to *relocate* 26 beds from an existing hospital in Golden Valley, Minnesota to a new hospital, operated as a hospital-within-a-hospital, in Ramsey County to serve long-term acute care patients residing in the East Metro Area of the Twin Cities. Select Medical Corporation was then notified that as of December 15, 2023, the application submitted to MDH was complete for a review.

This letter accompanies MDH's report of our public interest review. We have concluded that **the relocation of hospital beds, as presented to MDH, is in the public interest.**

The finding is based on consideration and analysis of the statutory criteria of access to care, potential financial and staffing impact on other acute care hospitals, the extent to which the new hospital would serve nonpaying or low-income patients, and the views of affected parties.

In the conclusion to the review, MDH noted that for proposals that do not add capacity or only represent a modest change or reallocation of capacity in response to changing market conditions, the Minnesota Legislature may wish to consider establishing a standing exception in law, perhaps paired with a notification requirement. This would ease the regulatory burden and associated costs for hospital providers. It would also allow MDH, particularly when faced with multiple proposals in parallel, to give greater scrutiny and analysis to projects with the greatest potential to impact the hospital market, care delivery, and patient access.

If you have questions or concerns regarding this review, please contact Stefan Gildemeister, Minnesota's State Health Economist, at 651-201-3554 or stefan.gildemeister@state.mn.us

Sincerely,



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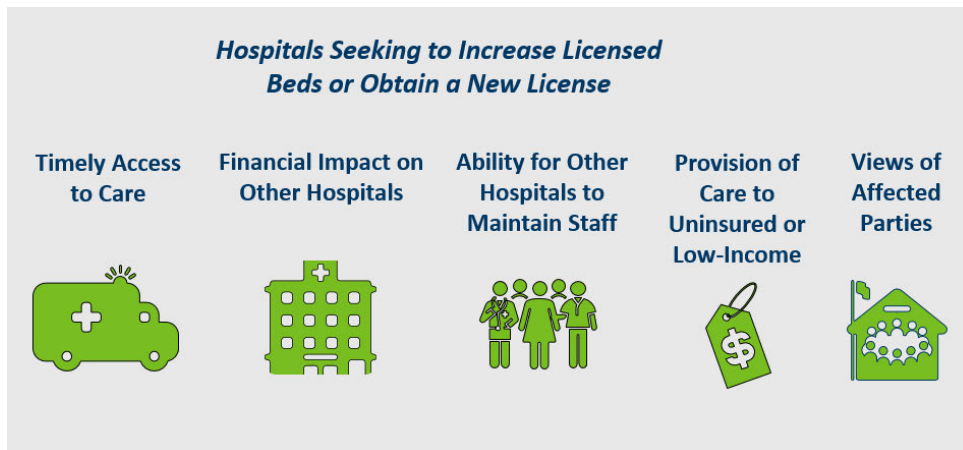
Introduction

The hospital public interest review process

Since 1984, Minnesota law has prohibited the construction of new hospitals, expansion of bed capacity at existing hospitals, relocation, or redistribution of beds 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 33 exceptions. Recently, the legislature enacted a temporary five-year exception for any expansion of mental health bed capacity or establishment of a new mental health hospital under certain conditions from August 1, 2022, to July 31, 2027.²

The Minnesota Legislature established a procedure for reviewing proposals for exceptions to the hospital moratorium statute to aid its deliberations and decision-making on proposed exceptions. Under this procedure, hospitals seeking an exception to the moratorium must submit a plan to the Minnesota Department of Health (MDH) for a “public interest review.” The purpose of the public interest review is to provide the legislature with an independent, evidence-driven assessment by MDH as to whether the additional beds are or are not in the public interest. In conducting a public interest review, Minnesota Statutes, section 144.552 directs MDH to consider all relevant factors, but—at a minimum—it must consider:

Figure 1: Public interest review general considerations



- Whether the new hospital or hospital beds are needed to provide timely access to care or access to new or improved services.

¹ Minnesota Statutes, section 144.551.

² Minnesota Statutes, section 144.551, subd. 1a.

- The financial impact of the new hospital or hospital beds on existing acute-care hospitals with emergency departments in the region.
- How the new hospital or hospital beds will affect the ability of existing hospitals in the region to maintain existing staff.
- 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.
- The views of affected parties.

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

Key milestones for this review

Organizations seeking to obtain a new hospital license must issue a letter of intent to MDH specifying the community in which the proposed hospital would be located and the number of beds.³ Once this letter of intent is received, MDH publishes a notice in the *Minnesota State Register* that includes the information received by the organization and a request that any other organization must notify MDH within 30 days if they are interested in seeking a hospital license that would serve the same or similar service area. If no other responses are received from this notice, MDH notifies the organization that it is required to submit a plan for public interest review.

The public interest review statute requires that any plan be submitted to the MDH no later than August 1 of the calendar year prior to the year when the exception would be considered by the legislature. The statute also specifies that MDH issue a finding within 150 days after notifying the organization that the application materials are complete for a review. When multiple plans are received, MDH is instructed by statute to review them in the order that they were received.⁴

On July 24, 2023, MDH received a letter from Select Medical Corporation (“Select Medical”) seeking a hospital license that would be formed by moving 26 existing licensed beds from Regency Hospital in Golden Valley to a location in Ramsey County. Afterward, MDH issued a notice in the *State Register*⁵ and no alternative plans were submitted during the 30-day period specified in Minnesota Statute. In the following months MDH communicated with the organization about necessary materials and on November 16, 2023, Select Medical submitted a

³ This requirement for new hospitals is found in Minnesota Statutes, section 144.553.

⁴ Another application for a public interest review was sent to MDH by Nobis IRF Holdings, LLC during 2023 before the plan submitted by Select Medical Corporation was considered complete.

⁵ To see the notice, please visit this website link (PDF): [Minnesota State Register Volume 48 Number 6 \(mn.gov\) https://mn.gov/admin/assets/SR48_06%20-%20Accessible_tcm36-586643.pdf](https://mn.gov/admin/assets/SR48_06%20-%20Accessible_tcm36-586643.pdf).

formal plan. Subsequently, MDH sent a notice that the application was considered complete on December 15, 2023.

Long-term acute care & the proposal

Long-term acute care (or LTAC) hospitals provide specialized inpatient acute care for patients recovering from critical illnesses. They serve the needs of patients no longer in need of intensive care unit (ICU) care, but too acute for other forms of post-acute care—including skilled nursing facilities, home health services, and rehabilitation facilities. Long-term acute care hospitals primarily serve patients recovering from cardiac failure, post-traumatic neurological damage, pulmonary and ventilator weaning, or medically complex infectious disease or wound care. To qualify as a long-term acute care hospital for Medicare payment, a facility must meet Medicare’s conditions of participation for acute care hospitals and have an average length of stay of at least 25 days for its Medicare patients.

The applicant

The Golden Valley location of Regency Hospital of Minneapolis was originally named Vencor Hospital and licensed as a for-profit long-term acute hospital in Minnesota in 1995, at the time as a part of Vencor Inc. It was later purchased by Kindred Hospitals in 2000, briefly renamed Kindred Hospital of Minnesota that year and Valley Hospital at Hidden Lakes, before ownership transferred to Select Medical Corporation in 2004. Regency Hospital is one of only two currently licensed for-profit hospitals in Minnesota and has 92 licensed beds.⁶ In 2022, the latest available data year, Regency reported to MDH that the daily census for this hospital during the previous 12 months ranged from 55 beds to 66 beds. This seems to indicate that there may be a surplus of LTAC beds at that location.

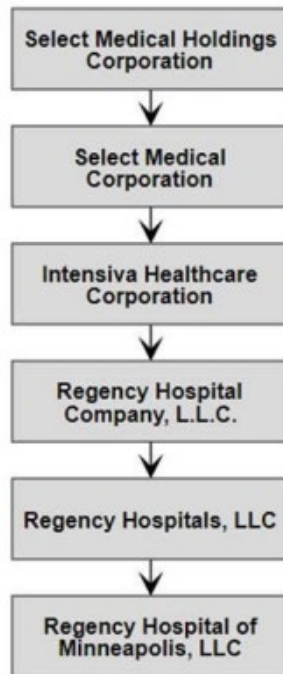
Select Medical, the parent company of Regency Hospital, currently has a network for 108 LTAC hospitals across 28 states and is itself a subsidiary of Select Medical Holdings Corporation, with multiple levels of ownership (Figure 1).⁷ Select Medical also offers outpatient rehabilitation services at 1,891 locations nationally,⁸ including 28 outpatient rehabilitation clinics and six occupational health centers in Minnesota. It also operates 37 inpatient rehabilitation facilities in the Eastern portion of the United States.

⁶ The other hospital is PrairieCare Brooklyn Park Hospital.

⁷ <https://www.health.state.mn.us/data/economics/moratorium/regency/docs/regencyapp.pdf>

⁸ In 2021, Select Medical reached a \$8.4 million fraud settlement⁸ with the United States Department of Justice for rehabilitation services related to false claims act allegations of medically unnecessary therapy services. The allegations include Select Medical knowingly establishing corporate policies to provide rehabilitation services that were not “reasonable, necessary, or skilled” at 12 skilled nursing facilities in New York and New Jersey from January 1, 2010 through March 31, 2016.

Figure 1: Hierarchy system for Select Medical Holdings Corporation and Regency Hospital of Minneapolis, LLC



Source: Applicant.

The project

As noted, Regency Hospital of Minneapolis currently operates a long-term care acute care hospital in Golden Valley, Minnesota in Hennepin County. Select Medical proposes to transfer 26 beds from that location to Regions Hospital in Saint Paul, to create a new “hospital within a hospital” to better serve residents in the East Metro area of the Twin Cities (primarily Ramsey County). The new beds would be operated by Regency Hospital. Select Medical would lease existing space and establish a purchase service agreement with Regions for ancillary services.

The projected expenditures for this project are estimated at \$11.5 million or about \$442,300 per bed. Compared with the four most recent proposals MDH has performed public interest reviews on, this investment is at the lower end:

- Nobis IRF Holdings, LLC to establish a new 60-bed rehabilitation hospital: \$714,200 per bed (August of 2023).
- Fairview Health Services & Acadia Healthcare to establish a freestanding 144-bed mental health hospital: \$486,100 per bed (April of 2022).
- Children’s Minnesota to establish a 22-bed mental health unit: \$445,000 per bed (June of 2022).

- PrairieCare’s 30-bed mental health unit expansion: \$600,000 per bed (September of 2021).

Evaluation according to statutory criteria

This section assesses the proposal from Select Medical to relocate 26 licensed hospital beds relative to the public interest criteria, focusing on each of the five factors specified by Minnesota Statutes, section 144.552 and listed above on page 1.

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 Select Medical would create an off-site location of the current hospital, the result would not increase bed capacity. Rather, Select Medical would reduce bed capacity at Regency Hospital location in Golden Valley by the same amount of the number of beds at the location in St. Paul. This would redistribute LTAC beds from the West Metro area to the East Metro area where a limited number of LTAC services are available.

Select Medical proposes that moving 26 of their its licensed LTAC beds to a “hospital-in-hospital” model within Regions Hospital will provide several benefits—, including better access for patients in Ramsey County, reduced pressure on Regions Hospital’s other acute care units, and greater continuity of care for patients who could transfer from short-term to long-term acute care within the same facility.

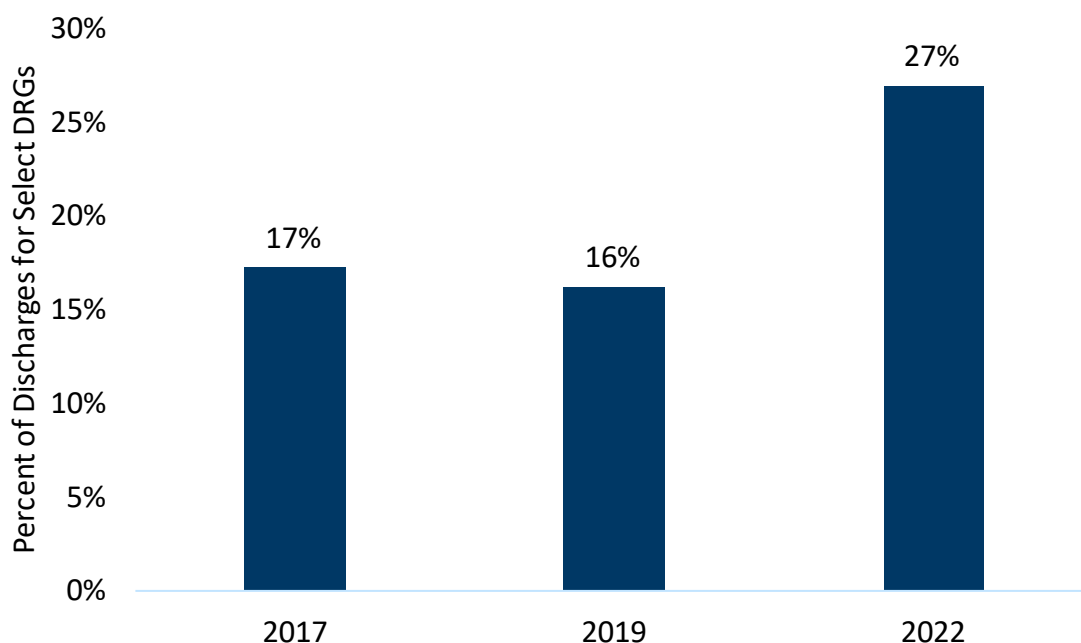
Other than Regency Hospital with 92 licensed beds, Minnesota has only one other long-term acute care hospital. Bethesda Hospital, located in Saint Paul, had 253 licensed beds in 2019, out of which 114 were LTAC beds. During the COVID-19 pandemic M Health Fairview, the owner of Bethesda Hospital, moved bed capacity to the former St. Joseph’s Hospital campus, reducing their available LTAC capacity to just 15 beds. Bethesda Hospital’s available beds have increased from 15 to 24 in 2022 but remain far below pre-pandemic levels and represent just a small fraction of the previous beds and admissions.

In 2019, Bethesda Hospital reported having a *minimum* daily census of 61 patients and a maximum daily census of 102 patients that received LTAC services during that year. The reduction in LTAC bed capacity resulted in the high possibility that patients who require long stays in the hospital must stay in hospital beds meant for short-term acute care hospitalizations. Figure 2 shows that the share of patients at non-LTAC hospitals in Minnesota with conditions treated by Regency Hospital⁹ went from 17% of hospital discharges in 2017 to 16% in 2019 and then up to 27% in 2022. This suggests that there may be a need to restore

⁹ Medicare Severity Diagnosis Related Groups (MS-DRGs) were selected based on the top 10 most frequent diagnosis related groups treated at Regency Hospital in 2022 as reported on the hospital annual report for that facility. These conditions include, for example, respiratory system diagnosis with ventilator support, pulmonary edema and respiratory failure, and other respiratory system operating room procedures with major complications.

some of the lost LTAC bed capacity. However, the increase in 2022 compared to previous years was directly related to patients recovering from COVID-19 complications that year. As such, it is unclear if this elevated level of long-stay, high needs patients at Minnesota hospitals has somewhat subsided by 2024.

Figure 2: Share of discharges at non-LTAC hospitals for patients typically treated in LTAC units; 2017, 2019, and 2022



Source: MDH Health Economics Program analysis of hospital discharge data for Minnesota hospitals.

Note: This analysis uses the set of Medicare Severity Diagnosis Related Groups with a length of stay of 25 days or greater typically treated in LTACH units.

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

Select Medical’s 26-bed relocation proposal does not increase its number of licensed beds. It only redistributes them, rendering negative financial impact on existing hospitals as unlikely. Moreover, this change happens in a market that accommodated significantly greater LTAC capacity before M Health Fairview’s decision to significantly contract its LTAC capacity.

Furthermore, Select Medical’s proposal is also intended to ease transitions of patients from other hospitals (primarily Regions) to LTAC beds in the new hospital-in-hospital. It should therefore assist Regions Hospital in more quickly making available hospital beds for acute patients, thereby benefiting the facility financially. To the extent that these beds will also be available to hospitals in the East Metro other than Regions, some benefit might accrue to the broader East Metro area. Finally, this hospital-in-hospital model should also enable greater sharing of resources with Regions, potentially benefitting both partners.

The proposal anticipates a need for nearly 70 full-time equivalent (FTE) staff to operate the hospital, including 22.4 FTE registered nurses, 15.8 certified nursing assistants, 9.2 respiratory therapists, other health professionals, management, and support staff. Another public interest review immediately preceding this review noted that there was an acute shortage of health care staff that is only expected to grow in the foreseeable future.¹⁰ While Select Medical stated that the relocation of beds would be negligible, filling new positions in a highly competitive workforce environment has the potential to affect staff recruitment and maintenance at other hospitals in the area. In response to questions about this topic, Select Medical noted that the proposed new satellite location would include a shared workforce with the Golden Valley location (including leadership and staffing pool) as well as seek to develop and attract new staff through a New Graduate program.

To assess views of the affected public—including individuals, organizations, hospitals, and other interested people—MDH took the following steps:

- Posting an official notice in the Minnesota State Register on August 7, 2023, and again on November 27, 2023, requesting public comments on the proposal.
- Sending letters to Minnesota hospitals on December 5, 2023, inviting feedback.
- Hosting a virtual public meeting on December 6, 2023, after issuing a press release, sending email notifications to Minnesota hospitals, and posting information on the MDH website.

MDH held a public hearing in conjunction with another public interest proposal.¹¹ Individuals did not specifically address the Select Medical proposal. The comments were more focused on the Nobis proposal to establish a freestanding rehab hospital and concerns over for-profit health care in Minnesota generally.¹²

One individual emailed MDH to ask questions about both proposals and to raise concerns that Regions Hospital is at capacity, might not serve patients on low or/and fixed incomes, and that the proposal would make recent staffing issues worse. Another individual submitted a comment indicating that the Regency capacity at the East Metro location would be easier for his family. Finally, HealthPartners, the parent organization of Regions Hospital, submitted a letter of support for the Select Medical proposal, highlighting the expectation for improved access to the specialized service in the East Metro, better continuity of care for patients, and ease of capacity pressure at Regions Hospital, all without the need for investments into a freestanding facility. MDH did not hear from other hospitals.

¹⁰ [Nobis Rehabilitation Partners - MN Dept. of Health \(state.mn.us\)](https://www.health.state.mn.us/data/economics/moratorium/nobis/index.html)
(<https://www.health.state.mn.us/data/economics/moratorium/nobis/index.html>).

¹¹ [Nobis Rehabilitation Partners - MN Dept. of Health \(state.mn.us\)](https://www.health.state.mn.us/data/economics/moratorium/nobis/index.html)
(<https://www.health.state.mn.us/data/economics/moratorium/nobis/index.html>).

¹² MDH received two written comments from individuals that appeared to be in reference to substance use disorder rehabilitation.

Factor 4: The extent to which the new hospital would provide services to nonpaying or low-income patients relative to the level of services provided to these groups at existing hospitals in the area

MDH anticipates that the proposed capacity provided by Select Medical will serve patients that are nonpaying or low-income. This is based on recent admissions data from the Regency Hospital Golden Valley and from Regions Hospital where the relocated beds would operate, as well new statutory requirements passed in Minnesota.

In 2022, Regency reported to MDH that 35.4% of admissions were covered by Minnesota health care programs that enroll low-income Minnesotans. This was above the 21.1% median share of admissions for these programs among all Twin Cities Metro area hospitals. Regions Hospital was also above this median in 2022 with 23.9% of admissions from Minnesota health care programs and was similarly above Metro Area median for self-pay (presumed uninsured) with 1.8% of admissions compared to the median of 1.3%.

To provide equitable care, Minnesota hospitals typically list official financial assistance policies on their websites that specify the support patients who are uninsured, underinsured, or otherwise unable to pay can be eligible for. The financial assistance programs (often called charity care or community care) require an application that typically includes information about income sources, assets, household size, and any other financial assistance (federal, state, county, city) programs available to patients—including whether eligibility was denied. Some hospitals have catastrophic assistance provisions for households or reduced payments if a patient is paying entirely out-of-pocket. Most hospitals list payment plans as options and some list third-party organizations that can work directly with patients to find the right kind of financial assistance.

It is also common for Minnesota hospitals to include policies on catastrophic coverage, special medical coverage, or self-pay options. While Select Medical does have a financial hardship policy on its website and shared additional information with MDH upon request,¹³ these details were not found on the Select Medical website for the general population like other Minnesota hospitals. One aspect of Select Medical’s policy that differs substantially from charity care policies elsewhere is that patients must submit a financial aid request *prior* to admission. Select Medical’s policy states¹⁴:

¹³ [RCH-Minneapolis-financial-assistance.pdf \(regencyhospital.com\) \(https://www.regencyhospital.com/-/media/project/selectmedical/inpatients/regency/files/rch-minneapolis-financial-assistance.pdf?rev=809879e3092741078365151794ed0bb5&t=20231121141009&hash=A7221AE5DC159724BB07561577FF24F1\)](https://www.regencyhospital.com/-/media/project/selectmedical/inpatients/regency/files/rch-minneapolis-financial-assistance.pdf?rev=809879e3092741078365151794ed0bb5&t=20231121141009&hash=A7221AE5DC159724BB07561577FF24F1)

¹⁴ [Regency Hospital of Minneapolis LLC Public Interest Review Application \(state.mn.us\) \(https://www.health.state.mn.us/data/economics/moratorium/regency/docs/regencyapp.pdf\)](https://www.health.state.mn.us/data/economics/moratorium/regency/docs/regencyapp.pdf)

“The patient’s ability to pay may be reviewed at any time during the course of treatment. Typically, the patient’s financial responsibility and ability to pay is determined *before* admission.” [emphasis added]

In other Minnesota hospitals, patients are generally able to apply within a year of service and, if their application is complete, will receive a response within 30 days. Patients and their families may not be able to complete an application for care before admission.

Nearly all Minnesota hospitals have signed on to financial assistance policies that are established in an agreement with the Minnesota Attorney General’s Office¹⁵ which include commitments such as offering a payment plan to patients, providing “a reasonable opportunity” for patients to apply for financial assistance, not charging an uninsured patient more than what a hospital’s largest insurer for those with health insurance would pay, and establishing a debt collections procedure.¹⁶ In its application, Select Medical did not indicate it would be signing on to the Attorney General’s Agreement on billing practices; Regency Hospital is not currently party to that agreement.

Independently of the collection and charity care policies in force at Select Medical, the 2023 Minnesota Legislature passed a law requiring hospitals to screen low-income and nonpaying patients *prior* to taking action to collect medical debt and assist patient’s in determining their eligibility for financial assistance.¹⁷ Patients must be screened within 30 days of receiving services and may decline financial assistance if they choose. The statute does not distinguish between for-profit and not-for-profit hospitals.

Under the provision, a hospital must also wait until screening for charity care eligibility is complete before proceeding with additional actions—including enrolling the patient in a payment plan, referring the patient to debt collections, or denying the patient health care services. The hospital must also post information about the charity care policies in specific locations which include areas where patients are admitted or registered, emergency departments, and financial services or billing departments that are accessible to patients. Furthermore, the full policy, a plain-language summary, and application form must be available on the hospital’s website, and both the summary and application “must be available in all languages spoken by more than five percent of the population in the hospital’s service area.”

¹⁵ [The Office of Minnesota Attorney General - Health Care \(state.mn.us\)](https://www.ag.state.mn.us/Consumer/Health/).
(<https://www.ag.state.mn.us/Consumer/Health/>)

¹⁶ [Attorney General Ellison protects Minnesotans from unfair billing and collections with extension of Hospital Agreement July 27, 2022 Press Release \(state.mn.us\)](https://www.ag.state.mn.us/Office/Communications/2022/07/27_HospitalAgreement.asp).
(https://www.ag.state.mn.us/Office/Communications/2022/07/27_HospitalAgreement.asp)

¹⁷ [Minnesota Statutes, section 144.587 \(state.mn.us\)](https://www.revisor.mn.gov/statutes/section/144.587).

Finding

After completing this public interest review, MDH finds that the proposed relocation of 26 LTAC hospital beds from Golden Valley, Minnesota to St. Paul, Minnesota **is in the public interest**. MDH has reached this conclusion based on the following considerations:

- Long-term acute care (LTAC) hospital beds treat the most chronically critically ill patients—often those with respiratory failure that require mechanical ventilation or multiple systems failure that need a high-level of sustained acute care. As described, the number of hospital beds dedicated to LTAC has contracted substantially and is limited to *just two locations* in the state.
- The proposed relocation of a share of these existing beds from one area of the Twin Cities to another that has seen a decline in available LTAC beds would improve geographic access to these services.
- Based on available information, there is a potential that staff could be drawn from existing hospitals; however, other hospitals did not raise staffing concerns about this proposal and the proposed relocation would rely, at least in part, on shared staffing from the other existing facility in the Metro area.
- This specific relocation would not have a meaningful impact on other hospitals in the region in terms of financial viability since the same number of beds would be reduced at the former location and there is only one other facility of this kind.
- As noted above, MDH did not receive comments from other hospitals that were in opposition to the proposal. This relocation is supported by Regions Hospital to “alleviate capacity pressures in our ICU, CCU, and surgical ICU ensuring more efficient use of those limited but critical service lines and availability for those that need them most.”
- MDH finds it highly likely that the relocated beds in the new “hospital within a hospital” will serve low-income patients based on the large proportion of state public program admissions at Regency Hospital in Golden Valley and at Regions Hospital in St. Paul, where these beds would be located. While there are some concerns over the lack of clear commitment to adopt financial assistance policies that align with those at other Minnesota facilities, legislation passed in 2023 and proposed legislation being deliberated has the potential to strengthen alignment across the industry.

Concluding Comments

The purpose of Minnesota’s hospital bed moratorium was to constrain hospital spending associated with the establishment of new facilities (e.g., unneeded investments in physical capacity), unnecessary duplication of services, and supply-driven demand (e.g., unnecessary hospital utilization brought upon by excess hospital capacity). By also limiting shifts of existing capacity, the moratorium seems to also aim at constraining investments resulting from redistribution of beds and the establishment of replacement capacity.

The proposal subject to this public interest review, however, appears to be in response to health care market changes. Moreover, it does not increase overall capacity. **For those kind circumstances, the Minnesota Legislature may wish to adopt a standing exception, perhaps paired with a notice requirement, or a streamlined review process.** This would ease the regulatory burden and associated costs for hospital providers. It would also allow MDH, particularly when faced with multiple proposals in parallel, to give greater scrutiny and analysis to projects with the greatest potential to impact the hospital market, care delivery, and patient access.

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