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Jeanne M. Lambrew, Ph.D.
Commissioner

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Senator Geoff Gratwick, Chair
Representative Patty Hymanson, Chair
Joint Standing Committee on Health and Human Services
#100 State House Station
Augusta, Maine 04333-0100

Dear Senator Gratwick, Representative Hymanson, and Members of the Joint Standing Committee on Health and Human Services:

Please find attached a report from the Division of Licensing and Certification within the Department of Health and Human Services in response to Resolve 2019, Ch. 66 (LD 439): *Resolve, Directing the Commissioner of Health and Human Services to Convene aa Task Force to Study the Need for Long-term Acute Care Hospitals*.

The Department has not taken any position on the recommendations made by the working group. It should be noted that the Legislature did not provide any resources to the Department for the convening, research, and writing of this report.

This report was developed earlier this year but delayed in finalization and transmission due to the Administration's focus on responding to the COVID-19 pandemic. We appreciate your patience.

Sincerely,

Jeanne M. Lambrew, Ph.D.
Commissioner

JML/klv

Attachment

Report to the Legislature Pursuant to Resolve 2019, Ch. 69 (LD 892)

Introduction and Background

Resolve 2019, Ch. 69 (LD 439 – *Resolve, Directing the Commissioner of Health and Human Services to Convene a Task Force to Study the Need for Long-term Acute Care Hospitals*) requires the Department of Health and Human Services (DHHS) to establish a taskforce of stakeholders to develop:

1. "An estimate of the patient population in the State needing services provided by long-term acute care hospitals and where that patient population is receiving care now;
2. "An analysis of the financial impact of the lack of long-term acute care beds on patients, families and facilities in the State;
3. "An evaluation of the best locations in the State for long-term acute care beds; and
4. "An evaluation of the options available regarding the number of long-term acute care beds in the State, including an estimate of the costs to establish a long-term acute care hospital in the State and designating existing beds as long-term acute care beds."

A Long-Term Care Hospital (LTCH) is a hospital that meets all of the requirements of an Acute Care Hospital under 42 CFR Part 482; a LTCH specializes in the care and treatment of patients with serious medical conditions that require hospital level of care with an average length of stay greater than 25 days. An important distinction is that the patients admitted into a LTCH must be patients with complex medical conditions requiring specialized acute hospital care and not patients that have been in the hospital longer than 25 days due to placement issues.

A Long-Term Care Hospital can be a free-standing hospital, or it can be located within an existing acute care hospital in accordance with the Centers for Medicare and Medicaid Services (CMS) regulatory requirements at 42 C.F.R §412.22(e) for a co-located hospital. Co-located hospitals must have separate governing bodies, be separately licensed and separately certified by CMS, and there are some restrictions regarding the ability to share services and space which are outlined in the CMS regulations.

Any Maine hospital can, if it so chooses, open and create a LTCH either as a free-standing hospital or as a co-located hospital.

A CMS-certified LTCH is reimbursed at a higher rate under a special CMS Prospective Payment System (PPS) which bases the payment rate on a Diagnosis-Related Group (DRG) that is substantially different than a standard hospital DRG. Where the standard hospital reimbursement is based on a primary diagnosis DRG, the LTCH rate considers the different patient resources, multiple diagnoses and costs associated with long term acute hospital care.

Workgroup Composition and Recommendations:

As directed, a work group was established that consisted of, agency staff, the Maine Long Term Care Ombudsman Program, the Maine Hospital Association, as well as the Division of Licensing & Certification. The group was charged to evaluate the need for long-term acute care beds in the State. The evaluation included the following:

1) **An estimate of the patient population in the State needing services provided by long-term acute care hospitals and where that patient population is receiving care now.**

The workgroup reviewed MaineCare payment data for 2018 and 2019 and Maine Health Data Organization data for all hospital inpatients with a length of stay that exceeded 25 days.

The work group was unable to fully isolate the patients that would have met LTCH admission criteria from the patient population that had exceed a 25-day length of stay for all patients who had a length of stay greater than 25 days. However, the workgroup was able to make some reasonable conclusions regarding the patients who were sent to out of state hospitals based on the data obtained.

The work group was able to identify that the number of patients needing hospital care for greater than 25 days was predominately the patients residing in the following 5 Counties:

	2018	**2019**
Cumberland	231	215
Penobscot	189	175
Kennebec	119	129
York	95	109
Androscoggin	98	104
Sum of these 5 counties	732	732
All others combined	445	399

The data reviewed denoted that the majority of these patients are currently being treated in Maine hospitals. Of note is that while the majority of these patients are being kept in Maine for treatment, the rate of reimbursement and the inability of the hospital's to turn over these beds has been identified as an area of concern for the hospitals that will require a more in depth (clinical case study/chart analysis) to fully determine the magnitude of the impact on bed availability. The workgroup identified 108 patients or 9.9% of patients with an inpatient stay greater than 25 days were treated at out of state hospitals and of those Maine patients treated in out of state hospitals only 57 or 4.6% of all patients with an inpatient hospital stay greater than 25 days were treated in an out of state Long Term Care Hospital.

Number of Maine residents with hospital inpatient stay greater than 25 days

	2018	2018 Avg LOS (days)	2019	2019 Avg LOS (days)
Maine Hospital	1129	60	1138	52
Out of State Hospital & LTCH	108	60	88	56
Out of State LTCH only	57	Not Available	15	Not Available

LOS = length of stay

Based on Maine hospitals self-reporting of average inpatient daily census (part of the hospital licensure process) we know that all Maine hospitals (excluding Critical Access Hospitals) have an average daily inpatient census of 1989 patients which would equate to 726,102 total hospital inpatient days a year. Based on this, we deduce the following for 2018:

	Total number of inpatients with hospital stay > 25 days	Average days as inpatient	Total inpatient census days	Percent of total Maine hospital inpatient census days (726,102)
Maine hospitals	1129	60	67,740	10.7%
Out of State all hospitals	108	60	6,480	0.89%
Out of State LTCH	57	60	3,420	0.47%

These tables demonstrate that a total of less than 1% of all Maine resident's inpatient hospital census days (excluding Critical Access Hospitals) have occurred in an out-of-state hospital.

2) **An analysis of the financial impact of the lack of long-term acute care beds on patients, families and facilities in the State;**

The work group was unable to come up with a meaningful analysis to address this question due to the number variables on patients and families within the State of Maine. The consensus of the work group was that the lack long-term acute care beds does have a potential to negatively impact the ability of a hospital to continue to accept patients. Additionally, the hospitals that are currently doing this work would have to undergo significant expense to establish a LTCH in order to obtain the higher reimbursement associated with this designation. On average, the cost associated with building a new hospital can be expect at 2 million per inpatient bed.

A current hospital that chose to establish a LTCH either as an affiliated LTCH hospital in a separate location or as a co-located hospital would require a Certificate of Need review and analysis as CMS requires the LTCH in each model be able to meet all regulatory requirements of a hospital independent of each other and have complete separate governing bodies.

3) **An evaluation of the best locations in the State for long-term acute care beds:**

The work group determined that the data reviewed would indicate the best geographically location for a LTCH would be in one of the Counties with the highest patient base: Cumberland, Penobscot, or Kennebec.

4) **An evaluation of the options available regarding the number of long-term acute care beds in the State, including an estimate of the costs to establish a long-term acute care hospital in the State and designating existing beds as long-term acute care beds:**

The work group does not recommend that the State of Maine undertake the task of creating and operating a LTCH as there is not enough solid data to support that there is an unmet need that is unable to be met by current providers.

The estimated the costs associated with building a new LTCH would be approximately $2 million per inpatient bed. While there have been over 1,000 people a year who have had hospital inpatient stays greater than 25 days paid for by MaineCare, we are unable to determine with any level of accuracy how many of those inpatients met the criteria for LTCH admission. The consensus of the work group was that while transfer of some patients in a hospital for extended periods to a LTCH could help with increasing acute care hospital bed availability, it would not address the majority of hospital inpatients that hospitals are unable to discharge due to other complexities such as refusal of facilities to accept patients who no longer require hospital level of care for various reasons.

The designation of a Long-Term Care Hospital is a Federal designation issued by the Centers for Medicare & Medicaid Services (CMS) and any hospital in Maine can apply for this designation currently.

There would be an increase to MaineCare expenditures should a LTCH be established by an existing hospital or health care corporation. The workgroup is unable to establish a reasonable cost estimate for any increase in MaineCare costs as it will be dependent on many variables including hospital size, and the method of reimbursement. The Centers for Medicare and Medicaid Services has established 2 rates of reimbursement for Long Term Care Hospitals, the standard LTCH PPS method, and the lower site-neutral LTCH PPS method.

Recommendations:
The work group puts forth the following recommendations:

1. Conduct and fund a comprehensive study utilizing a Request for Proposal (RFP) to conduct a retrospective 2-year study and analysis of all Maine residents who had a length of stay in a Maine or New England hospital that exceeded 25 days and who met the CMS admission criteria for admission into a CMS Certified LTCH. This should include a thorough comparison of the costs paid for the hospitalization and a comparison to each of the applicable CMS payment methodologies currently in place (and an analysis of the impact this would have on the MaineCare system). This would establish a solid factual basis for the extent of the need for a LTCH that the workgroup did not have the funds or ability to complete.

2. Conduct and fund a comprehensive study utilizing a Request for Proposal (RFP) to conduct a retrospective 2-year study and analysis of all patients who had a length of stay in a Maine hospital that exceeded 25 days. The study should include clinical case reviews to determine what (if any) obstacles were impeding the hospital's ability to discharge these patients. Establish a task force to review the results of this study to determine what (if any) legislative, program, reimbursement, or regulatory changes are needed.