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**2013 – 2015**  
**STATE HEALTH PLAN**  
(April 2013)

**CERTIFICATE OF NEED**  
**REVIEW STANDARDS**

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**Kentucky Cabinet for Health and Family Services**

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# Purpose, Authority and Technical Notes

## Purpose

The purpose of this document, which shall be referred to as the 2013 - 2015 State Health Plan (“Plan”), is to set forth the review criteria that shall be used when reviewing applications for certificates of need for consistency with plans pursuant to KRS 216B.040; and for determining whether a substantial change to a health service has occurred pursuant to KRS 216B.015(29) and KRS 216B.061(1)(d).

## Authority

KRS 216B.015(28) defines the “State Health Plan” to mean the document prepared triennially, updated annually and approved by the governor.

KRS 216B.040(2)(a)2. requires the Cabinet for Health and Family Services (“Cabinet”) to establish criteria for the issuance and denial of certificates of need and limits review to five considerations. The first consideration is "consistency with plans" which requires that "each proposal approved by the Cabinet shall be consistent with the State Health Plan, and shall be subject to biennial budget authorizations and limitations, and with consideration given to the proposal's impact on health care costs in the Commonwealth.”

## Technical Notes

1. Unless otherwise noted, Area Development Districts ("ADDs") as defined by KRS 147A.050 are the geographic areas for reviewing all applications for certificate of need.
2. Where the geographic area for review of an application is the county of the proposed facility or service and all contiguous counties, a county not located within Kentucky shall not be considered.
3. Where applicable, an applicant shall set forth its plan for care of patients without private insurance coverage and its plan for care of medically underserved populations within the applicant’s proposed service area.
4. In reviewing applications for certificates of need, the latest published version of the Cabinet *Inventory of Kentucky Health Facilities, Health Services, and Major Medical Equipment* and published utilization reports shall be used. Published utilization reports shall be available from the Office of Health Policy at 275 East Main St., Frankfort, Kentucky, 40621, (502) 564-9592 and at Web Site: <http://chfs.ky.gov/ohp/dhppd/dataresgal.htm>. Additions of equipment or services by existing licensed facilities which do not require certificate of need approval shall be included in the inventory of existing and newly approved facilities and services when the facilities and services become operational. Facilities which make these additions shall notify the Office of Health Policy within ten (10) days of an addition by completing

OHP-Form 10A, Notice of Addition or Establishment of a Health Service or Equipment, incorporated by reference in 900 KAR 6:055.

5. All Magnetic Resonance Imaging Units in operation within the Commonwealth shall be disclosed to the Cabinet for Health and Family Services for publication in the *Kentucky Annual Magnetic Resonance Imaging Services Report*. Health Services that are provided in private offices and clinics of physicians, dentists, and other practitioners of the healing arts which are exempt from certificate of need requirements pursuant to KRS 216B.020(2)(a) shall not be included in the Cabinet's *Inventory of Health Facilities, Health Services, and Major Medical Equipment*. In addition, utilization of these services shall not be considered when determining consistency with this Plan but may be used by the applicant to address review criteria required by 900 KAR 6:070, Section 2(2) through (6).
6. Facilities owned or operated by the Commonwealth of Kentucky shall not be included in the inventory or need calculations of licensed or approved psychiatric or long-term care beds.
7. All certificate of need decisions shall be made using that version of the Plan in effect on the date of the decision, regardless of when the letter of intent or application was filed, or public hearing held.
8. Applications which have been granted nonsubstantive review status shall not be reviewed for consistency with this Plan.
9. The *Inventory of Kentucky Health Facilities, Health Services, and Major Medical Equipment* shall be available from the Office of Health Policy at 275 East Main St., Frankfort, Kentucky, 40621, (502) 564-9592 and at Web Site: <http://chfs.ky.gov/ohp/con>.
10. If more than one provider applies for certificate of need approval to establish or expand a healthcare facility or service in the same service area, a comparative hearing on the applications may be held.
11. All population estimates or projections for use with any criteria contained within this Plan shall pertain only to the population within the Commonwealth of Kentucky and shall be obtained from the Kentucky State Data Center each May 1<sup>st</sup>. This data shall be available from the Office of Health Policy at 275 East Main St., Frankfort, Kentucky, 40621, (502) 564-9589 or (502) 564-9592 and at Web Site: <http://chfs.ky.gov/ohp/con>.
12. Applications to establish a service utilizing a hybrid diagnostic unit such as PET/MRI Scanner must document consistency with all applicable individual review criteria contained within this Plan.
13. For the purposes of this plan, the terms "child", "adolescent" and "pediatric" refer to individuals younger than eighteen (18) years of age. An "adult" is an individual eighteen (18) years of age or older and a "geriatric" patient is sixty-five (65) years of age or older.

## I. Acute Care

For purposes of this Plan, “Acute care” is defined as those medical or surgical services provided by an acute care hospital for the diagnosis or the immediate and continuous treatment for more than twenty-four (24) hours to individuals suffering from illness, disease, or injury.

### A. Acute Care Hospital

#### Definitions

An “Acute Care Hospital” is defined as a facility providing medical or surgical services to all individuals that seek care and treatment, regardless of the individual’s ability to pay for services. Acute care hospitals are capable of providing care on an immediate and emergent basis through an established Emergency Department as well as continuous treatment on its premises for more than twenty-four (24) hours. The facilities are licensed by the Kentucky Office of Inspector General, Division of Health Care pursuant to 902 KAR 20:016. For the purposes of this section, the term acute care hospital shall not include critical access hospitals which are licensed by the Kentucky Office of Inspector General pursuant to 906 KAR 1:110.

A “Specialty Hospital” is defined as a facility offering limited, specialized medical or surgical services. These facilities are distinguishable from acute care hospitals because they do not provide an Emergency Department on a twenty-four (24) hour basis or are incapable of satisfying one or more requirements for licensure pursuant to 902 KAR 20:016.

With regard to acute care hospitals, the “Planning Area” shall be comprised of the county of the proposed facility and all contiguous counties.

The “Adjusted Revenue” is defined as the case mix adjusted net revenue per adjusted admission. The applicant shall utilize the most recent Medicare Cost Report data to calculate the following formula:

$$\text{Adjusted Revenue} = (\text{Total Net Revenue}/\text{ADJ Admissions})/\text{MCMI}$$

Where:

Total Net Revenue = TGR - Contractual/Charity Allowances

TGR = Total Gross Revenue, which is:  
Inpatient Gross Revenue + Outpatient Gross Revenue

IGR = Inpatient Gross Revenue

OGR = Outpatient Gross Revenue

ADJ Admissions = Adjusted Admissions = (TGR/IGR) • IA

IA = Inpatient Admissions

MCFI = Medicare Case Mix Index

### **Review Criteria**

An application to establish a new acute care hospital shall be consistent with this Plan if the following criteria are met:

1. The applicant shall demonstrate that sufficient need for the proposed facility exists and that the establishment of the proposed facility would not result in the unnecessary duplication of services by documenting one or more of the following:
  - a. The overall occupancy of existing acute care beds in existing licensed acute care hospitals located in the planning area exceeds eighty (80) percent according to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*;
  - b. The adjusted revenue of each licensed acute care hospital located within the planning area exceeded one-hundred and fifty (150) percent of the state mean adjusted revenue, for acute care hospitals, during each of the previous three (3) fiscal years; or
  - c. All licensed acute care hospitals located within the planning area have experienced one or more of the following:
    - i. Final termination of their Medicare or Medicaid provider agreements;
    - ii. Final revocation of the hospital license issued by the Cabinet for Health and Family Services, Office of Inspector General; or
    - iii. Final revocation of their hospital accreditations by the Joint Commission on Accreditation of Healthcare Organizations;
2. The applicant shall demonstrate the ability to provide safe, efficient and quality care and treatment to all individuals seeking medical or surgical services by documenting the following:
  - a. The individual(s) responsible for the operation, management, and day-to-day control of the proposed facility has a documented history of providing healthcare services in conformity with federal and state standards. Moreover, no individual has had any license or certification denied, revoked, or involuntarily terminated, or has been excluded from participation in Medicare or Medicaid, or been convicted of fraud or abuse of these programs;

- b. Written policies or protocols that implement measures to assure quality control with respect to the life, health, and safety of individuals seeking care and treatment at the proposed facility. These include documented plans of action that not only serve to prevent, but also identify, diagnose, control, and treat injuries or problems including the following:
  - i. Acute myocardial infarctions sustained after arrival at the proposed facility;
  - ii. Hospital-acquired infections;
  - iii. Medication errors;
  - iv. Hospital-acquired pneumonia;
  - v. Death in low mortality Diagnosis Related Groups;
  - vi. Re-admittance within twenty-four (24) hours of discharge;
  - vii. Foreign objects not removed during surgical procedures;
  - viii. Post-operative respiratory failure;
  - ix. Post-operative sepsis;
  - x. Decubitus ulcers;
  - xi. Adverse reactions to the administration of medications or transfusions;  
and
  - xii. Injuries sustained as a result of falls on the proposed facility's premises;
- c. Written policies or protocols that implement measures to assure the proper use and utilization of all equipment to be maintained on the proposed facility's property which would be used in the care and treatment of potential patients;
- d. The applicant must identify the licensed physicians that would provide care and treatment to patients at the proposed facility. The applicant must further demonstrate that the retention of these individuals would not adversely affect the clinical care and treatment offered at other licensed acute care hospitals located within the planning area; and
- e. The applicant must demonstrate that it has identified and would retain trained, experienced, or licensed personnel to provide efficient and effective clinical care and treatment to the proposed facility's patients. The applicant must further

demonstrate that the retention of these individuals would not adversely affect the clinical care and treatment offered at other licensed acute care hospitals located within the planning area;

3. The applicant shall demonstrate the ability to provide cost-effective services by documenting the following:
  - a. The proposed facility's payor mix would be comparable to all other licensed acute care hospitals located within the planning area; and
  - b. A written business plan through which the economic performance and financial strength of the proposed facility would be comparable to the existing acute care hospitals located within the planning area. Specifically, the applicant must document that its adjusted revenue would not exceed one-hundred and fifty (150) percent of the state mean adjusted revenue;
4. The applicant shall demonstrate that the proposed facility would increase access to twenty-four (24) hour acute care and treatment by documenting the following:
  - a. The proposed facility would provide care on an immediate and emergent basis through an established Emergency Department; and
  - b. The proposed facility would provide emergency services to all individuals that seek care and treatment there, regardless of the individual's ability to pay for services;
5. The applicant shall demonstrate both its intention as well as its ability to provide the same or substantially similar clinical services offered by the existing acute care hospitals located within the planning area;
6. The maximum number of acute care beds that may be approved for the purpose of constructing or establishing a new acute care hospital shall be based on volume projected five (5) years from the filing of the application. Approval will be based on the higher of:
  - a. The applicant's credible forecast of future utilization; or
  - b. A regression analysis projection of patient day trends over a five (5) year timeframe;
7. The applicant shall obtain certificate of need approval for each service it proposes to offer by satisfying the review criteria for each service set forth within this Plan; and
8. No application for a specialty hospital shall be consistent with this Plan.

## B. Acute Care Beds

### Definition

An “acute care bed” is defined as a hospital bed licensed by the Cabinet for Health and Family Services, Office of Inspector General. A hospital utilizes acute care beds in providing medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and non-surgical.

A “special purpose acute care bed” includes, but is not limited to, an Intensive Care Unit bed, Cardiac Care Unit bed, Neonatal Level II, Level III, or Level IV bed and Obstetrics bed.

### Review Criteria

An application to add additional acute care beds to an existing licensed hospital shall be consistent with this Plan if the following criteria are met:

1. The hospital can document that transfer or conversion of special purpose acute care beds to acute care beds is not feasible because occupancy in the special purpose acute care beds is greater than sixty-five (65) percent or if the occupancy is less than sixty-five (65) percent, the transfer of beds would be insufficient to meet the hospital’s total additional acute care bed need;
2. The hospital can document that:
  - a. Its acute care occupancy rate has been higher than the target occupancy rate set forth in Table 1 below according to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*; or

**Table 1**  
**Facility Target Acute Care Bed Occupancy Rates**

Number of Licensed beds per Facility	Facility Target Acute Care Bed Occupancy Percentage
1-50	60%
51 – 100	65%
101 – 200	70%
201 and above	75%

- b. Its utilization of acute care beds has reached functional capacity for the prior twelve (12) months. In calculating functional capacity, consideration shall be given to the percentage of licensed acute care beds, psychiatric beds, or chemical dependency beds currently operational as well as other factors affecting the utilization at the hospital including the mix of private and semi-private rooms, patient matching limitations such as gender or the need for isolation beds required

to address emergency patient needs, and limits created by special purpose acute care bed units; and

3. The maximum number of acute care beds that may be approved will be based on volume projected five (5) years from the date on which the hospital filed its application for additional acute care beds. Approval will be based on the higher of:
  - a. The applicant's reasonable forecast of future utilization; or
  - b. A regression analysis projection of patient day trends over a five (5) year timeframe.

## C. Comprehensive Physical Rehabilitation Beds

### Definition

For purposes of this Plan there shall be one category of rehabilitation beds called "comprehensive physical rehabilitation beds" which may be located in free-standing facilities or as units in acute care hospitals that provide therapy and training for rehabilitation. The facilities offer a range of services that may include occupational therapy, physical therapy, and speech therapy to aid in the restoration of an individual to normal or near normal function after a disabling disease or injury.

### Review Criteria

An application for comprehensive physical rehabilitation beds shall be consistent with this Plan if the following criteria are met:

1. An applicant that does not have existing licensed or certificate of need approved comprehensive physical rehabilitation beds and is proposing to establish those beds shall demonstrate that the overall occupancy for comprehensive physical rehabilitation beds in the ADD exceeds seventy-five (75) percent as computed from the most recent published edition of the *Kentucky Annual Hospital Utilization and Services Report*;
2. Applicants proposing to expand the number of existing licensed comprehensive physical rehabilitation beds shall demonstrate that the occupancy of the existing comprehensive physical rehabilitation beds in the applicant's facility exceeds seventy-five (75) percent as computed from the most recent published edition of the *Kentucky Annual Hospital Utilization and Services Report*;
3. If criterion (1) or (2) is met, the maximum number of beds that may be approved in the ADD shall be computed by the following formula:

$$N = [((PD \div P) \times PP) \div (365 \times 0.75)] - (LB + AB)$$

Where:

N	=	Need for Comprehensive Physical Rehabilitation Beds in the ADD.
PD	=	The number of inpatient days in comprehensive physical rehabilitation beds statewide as reported in the most recently published data.
P	=	Estimated population in the Commonwealth for the period used to derive patient days.
PP	=	Projected plan year population for the ADD.
0.75	=	The desired average annual occupancy rate for comprehensive physical rehabilitation beds in the ADD.
LB	=	Existing licensed comprehensive physical rehabilitation beds in the ADD.
AB	=	The number of comprehensive physical rehabilitation beds in the ADD for which a certificate of need has been granted;

4. The Cabinet may approve more rehabilitation beds than indicated by the need formula to allow for the presence of hospitals that provide a higher intensity of rehabilitation services than provided by most rehabilitation hospitals due to the in-migration of out-of-state patients or a high percentage of patient referrals for specialized services from other ADDs;
5. Notwithstanding criteria 1, 2 and 3, an applicant proposing to establish a comprehensive physical rehabilitation unit, within an existing acute care hospital with an existing licensed acute care bed inventory of at least one-hundred (100) beds, shall be consistent with the Plan if the following criteria are met:
  - a. There are no other licensed or certificate of need authorized comprehensive physical rehabilitation beds in the proposed ADD; or
  - b. There are no other licensed or certificate of need authorized comprehensive physical rehabilitation beds within forty-five (45) highway miles of the proposed site;
6. The maximum number of comprehensive physical rehabilitation beds that may be approved pursuant to criteria 5 will be based on volume projected five (5) years from the date on which the hospital filed its application for the beds. Approval will be based on the higher of:
  - a. The applicant's reasonable forecast of future utilization; or
  - b. A regression analysis of patient day trends over a five (5) year timeframe; and
7. The minimum size for a new freestanding rehabilitation hospital shall be forty (40) beds and the minimum size for a new rehabilitation unit in an acute care hospital shall be ten (10) beds.

## D. Special Care Neonatal Beds

### Definition

“Special Care Neonatal beds” are licensed acute care beds located in hospital neonatal units that provide care and treatment of newborn infants through the age of twenty-eight (28) days, and longer if necessary.

### Review Criteria

An application for Level II special care neonatal beds shall be consistent with this Plan if the following criteria are met:

1. Approval of the application does not cause the number of Level II beds to exceed the following calculation:

**Maximum number of Level II beds in the ADD= (Total annual ADD births for the plan year ÷ 1000) • 4;**

2. The number of Level II beds in a facility shall be eight (8) per unit except in those cases where population distribution and access to Level II services justify a smaller unit. In no case shall a unit be smaller than four (4) beds;
3. No new Level II program shall be approved in an ADD unless the overall utilization of existing providers of Level II services in the ADD is at least seventy (70) percent as computed from the most recently published inventory and utilization data;
4. No additional beds will be approved for an existing unit unless the utilization in this unit is at least seventy (70) percent as computed from the most recently published inventory and utilization data;
5. The application documents consistency with the most recent published edition of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists *Guidelines for Perinatal Care*;
6. In addition to the above criteria, an application for Level II special care neonatal care beds must document the ability to provide:
  - a. All services required of a Level I basic care neonatal bed;
  - b. Care only for stable or moderately ill newborn infants who are born at  $\geq 32$  weeks gestation or who weigh  $\geq 1500$  grams at birth with problems that are expected to resolve rapidly and who would not be anticipated to need subspecialty-level services on an urgent basis;
  - c. Ventilation limited to an interim basis until the infant's condition either soon improves or the infant can be transferred to a higher-level facility. Delivery of continuous positive airway pressure shall be readily available by experienced

personnel, and mechanical ventilation can be provided for a brief duration (less than 24 hours);

- d. Policies and procedures to ensure that care is provided by obstetricians and neonatologists who are continuously available on site or able to be present on the unit within 30 minutes to provide ongoing care as well as to address emergencies;
  - e. Policies and procedures to ensure the appropriate equipment (e.g., portable x-ray equipment, blood gas analyzer) are continuously available;
  - f. Policies and procedures to ensure personnel that have specialized training in neonatal care including specialized nurses, respiratory therapists, radiology technicians, and laboratory technicians shall be staffing the unit at all times; and
  - g. Policies and procedures, including transfer agreements, to ensure referral to a higher level of care occurs for all infants born at < 32 weeks gestation or who weigh < 1,500 grams at birth or when needed for pediatric surgical or medical subspecialty intervention;
7. Notwithstanding criteria 6b, 6c, and 6g above, an applicant for Level II special care neonatal care beds that will provide care for stable or moderately ill newborn infants who are born at  $\geq 28$  weeks gestation, or who weigh  $\geq 1200$  grams at birth, or require ventilation for  $> 24$  hours must document the ability to:
- a. Establish a collaborative relationship through a written affiliation agreement, which shall be submitted to and approved by the Cabinet, with at least one provider who is located within the Commonwealth or in a contiguous state who meets Level IV criteria in the most recent published edition of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists *Guidelines for Perinatal Care* and agrees to participate in the collaborative relationship as described in criteria i through v of this item, for the purposes of consultation, clinical expertise, education and training, and maternal and neonatal transfer. The affiliation agreement with a facility who meets Level IV criteria in the most recent published edition of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists *Guidelines for Perinatal Care* does not preclude the ability of the Level II facility to transfer a sick infant to a different facility if that facility is an appropriate higher level of care. The affiliation agreement shall specify the mutual responsibility for at least the following:
    - i. Provision of consultation by the facility that provides Level IV services to the applicant for any infant born or anticipated to be born at the Level II facility at < 32 weeks, < 1500 grams, or requiring ventilation for  $> 24$  hours to determine the most appropriate level of care for that infant;

- ii. Provision of education and training for perinatal health professionals of the applicant by the facility that provides Level IV services;
- iii. The joint development of guidelines for the provision and receipt of consultation between the parties for perinatal, neonatal, and other specialty disciplines as necessary;
- iv. The provision of consultation by the facility that provides Level IV services in the development, review, or revision of the applicant's protocols, policies, and procedures related to:
  - (a) Maternal and neonatal patient referral and transport, including the process used by the referring facility to identify patients requiring transfer to a higher level of care;
  - (b) The care of the high risk obstetric and neonatal patients;
  - (c) The joint review of these policies at least every two years;
  - (d) Joint development of guidelines for transferring a patient back to the referral facility when care needs can be adequately met by the referring facility; and
  - (e) Annual joint review of patient outcomes, including all deaths, complications, adverse outcomes [Very Low Birth Weight (VLBW), Bronchopulmonary Dysplasia (BPD), Retinopathy of Prematurity (ROP), Intraventricular Hemorrhage (IVH)] and patients requiring transfer to higher levels of care, with the development collaboratively of a plan of correction for areas where performance falls below expected levels; and agreement to allow technical assistance, including chart review, by the facility that provides Level IV services; and
- v. Policies, which at a minimum, include the following requirements for the Level II to transfer to a higher level of care:
  - (a) All premature infants <28 weeks or <1200 grams;
  - (b) Patients needing pediatric surgery evaluation or treatment;
  - (c) Patients needing pediatric subspecialty evaluation or treatment, such as pediatric neurosurgery or cardiac consultation, catheterization, or cardiac surgery;
  - (d) Patients needing pediatric multiple subspecialty care or pediatric subspecialty care not available on site;

- (e) Anticipated or possible need for high frequency ventilation, nitric oxide, or extracorporeal membrane oxygenation (ECMO); and
  - (f) Patients anticipated to need total body cooling or brain cooling;
- b. Participate in the Vermont Oxford Network (VON), including the Kentucky State VON Report, to ensure the capability to collect data and assess outcomes within the Level II facility and to compare with other levels; and include a review of the hospital's data as part of the annual joint review of patient outcomes conducted in collaboration with the hospital's affiliated provider of Level IV services;
  - c. Demonstrate readily available pediatric ophthalmology services and an organized program for the monitoring, treatment, and follow-up of retinopathy of prematurity; and
  - d. Obtain consultation, on a 24 hour basis, from a maternal-fetal medicine specialist regarding management of high risk obstetric patients; and
8. Notwithstanding criterion 1 above, if the most recently published inventory and utilization data indicates that the occupancy of the applicant's existing Level II special care neonatal beds was seventy (70) percent or greater, an application to designate up to four (4) additional acute care beds as Level II special care neonatal beds shall be consistent with this plan.

An application for Level III special care neonatal beds shall be consistent with this Plan if:

1. Approval of the application does not cause the number of Level III beds in the Commonwealth to exceed the following calculation:  
  
**(Total annual state births for the plan year ÷ 1000) • 1 = Maximum number of Level III beds in the state;**
2. The application documents consistency with the most recent published edition of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists *Guidelines for Perinatal Care*;
3. In addition to the above criteria, an application for Level III special care neonatal care beds must document its ability to provide:
  - a. All services required of a Level II special care neonatal care bed;
  - b. Neonatologists and personnel that have specialized training in neonatal care, including neonatal nurses, respiratory therapists, radiology technicians, and laboratory technicians that are on-site and available 24 hours per day;
  - c. Equipment that is continuously available to provide life support for as long as needed;

- d. Advanced respiratory support and physiologic monitoring equipment, laboratory and imaging facilities, nutrition and pharmacy support with pediatric expertise;
- e. Ongoing assisted ventilation for periods longer than 24 hours, which may include conventional ventilation, high-frequency ventilation, and inhaled nitric oxide;
- f. Maternal-fetal medicine specialists and a broad range of pediatric medical subspecialists and pediatric surgical specialists that are readily accessible on site or by prearranged consultative agreements using telemedicine or telephonic consultation. If provided by prearranged consultative agreements, explain the details of the prearrangement;
- g. Readily available pediatric ophthalmology services in the Level III facility and an organized program for the monitoring, treatment, and follow-up of retinopathy of prematurity;
- h. The policies and procedures in place to ensure that all complex surgical procedures performed in newborn infants are performed by pediatric surgical specialists (including anesthesiologists with pediatric expertise). The capability to perform major surgery may be on site if pediatric surgical and anesthesia specialists are available, or by arrangement with a closely related institution, ideally in close geographic proximity. If capability is at a related institution, explain in detail arrangements that ensure the availability of transport services to quickly and safely transfer infants requiring this subspecialty intervention;
- i. The capability to perform advanced imaging with interpretation on an urgent basis, including computed tomography, magnetic resonance imaging, and echocardiography;
- j. Documentation of the facility's participation in the Vermont Oxford Network (VON), including the Kentucky State VON Report, to ensure the capability to collect data and assess outcomes within their facility and to compare with other levels; and include a review of the hospital's data as part of the annual joint review of patient outcomes conducted in collaboration with the hospital's affiliated provider of Level IV services; and
- k. A collaborative relationship through a written affiliation agreement, which shall be submitted to and be approved by the Cabinet, with at least one provider who is located within the Commonwealth or in a contiguous state who meets Level IV criteria in the most recent published edition of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists *Guidelines for Perinatal Care* and agrees to participate in the collaborative relationship as described in criteria i through iv of this item for the purposes of consultation, clinical expertise, education and training, and maternal and neonatal transfer. The affiliation agreement with a facility who meets Level IV criteria in

the most recent published edition of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists *Guidelines for Perinatal Care* does not preclude the ability of the Level III facility to transfer a sick infant to a different facility if that facility is an appropriate higher level of care. The affiliation agreement shall specify the mutual responsibility for at least the following:

- i. Detailed explanation of any prearranged consultative agreements for pediatric medical subspecialists not available on site;
  - ii. Assurance that, when pediatric surgeons are not available on site, infants needing surgery are transferred to a site where all complex surgical procedures performed on newborn infants are performed by pediatric surgical specialists (including anesthesiologists with pediatric expertise);
  - iii. Assurance that referral to a higher level of care will occur for all infants requiring subspecialty intervention or surgical repair of complex conditions (e.g., congenital cardiac malformations that require cardiopulmonary bypass with or without ECMO); and
  - iv. Assurance of the availability of transport services to quickly and safely transfer infants requiring these subspecialty interventions to higher level facilities or children's hospitals;
4. Notwithstanding the above criterion 1, if the most recently published inventory and utilization data indicates that the occupancy of the applicant's existing Level III special care neonatal beds was seventy (70) percent or greater, an application to designate up to two (2) additional Level II neonatal beds as Level III special care neonatal beds shall be consistent with this plan; and
5. Notwithstanding the above criteria 1 and 4, applications proposing to convert up to fifty percent (50%) of existing Level II special care neonatal beds, as published in the November 2012 Certificate of Need Inventory of Health Facilities and Services, to Level III special neonatal beds shall be consistent with the State Health Plan if the hospital:
- a. Is licensed for a minimum of sixteen (16) neonatal Level II beds;
  - b. Has a minimum of 1,500 Medicaid neonatal Level II patient days per year;
  - c. Has a gestational age lower limit of twenty-seven (27) weeks; and
  - d. Has a full-time perinatologist on staff.

An application for Level IV special care neonatal beds shall be consistent with this Plan if the application:

1. Requests to convert a specified number of existing Level III special care neonatal beds to Level IV special care neonatal beds and the applicant is:
  - a. An academic medical center with a pediatric and neonatal training program that is accredited by the American College of Graduate Medical Education, or
  - b. Is a children's hospital with a pediatric and neonatal training program that is accredited by the American College of Graduate Medical Education;
2. Documents the ability to provide all services required of a Level III special care neonatal care bed;
3. Documents the ability to provide pediatric medical subspecialists and pediatric surgical services within the institution, including anesthesiologists with pediatric expertise, as well as pediatric surgical subspecialists. These pediatric surgical subspecialist services, at a minimum, must include the ability to provide surgical repair of complex conditions;
4. Documents policies and procedures to facilitate transport systems and provide outreach education in their catchment area;
5. Documents capability to collect data on long-term outcomes to evaluate both the effectiveness of delivery of perinatal health services and the safety and efficacy of new therapies;
6. Documents consent to enter into collaborative relationships through written affiliation agreements with Level II neonatal facilities caring for stable or moderately ill newborn infants who are born at  $\geq 28$  weeks gestation or who weigh  $\geq 1,200$  grams at birth. An affiliation agreement shall specify the mutual responsibility for at least the following:
  - a. Provision of education and training opportunities by the Level IV facility for perinatal health professionals of the applicant;
  - b. The joint development of guidelines for the provision and receipt of consultation between the parties for perinatal, neonatal, and other specialty disciplines as necessary; and
  - c. The provision of consultation by the Level IV facility to the Level II facility in the development, review, or revision of the Level II facility's protocols, policies, and procedures related to:
    - i. Maternal and neonatal patient referral and transport, including the process used by the Level II facility to identify patients requiring transfer to a higher level of care;

- ii. The care of the high risk obstetric and neonatal patients;
  - iii. The joint review of these polices at least every two years; and
  - iv. Joint development of guidelines for transferring a patient back to the referral facility when care needs can be adequately met by the referring facility;
- 7. Documents consent to enter into a collaborative relationship through a written affiliation agreement with Level III neonatal facilities for the purposes of consultation, clinical expertise, education and training, and maternal and neonatal transfer; and
- 8. Documents commitment to:
  - a. Participate in the Vermont Oxford Network (VON), including the Kentucky State VON Report, to ensure the capability to collect data and assess outcomes within the Level IV facility and to compare with other levels; and to provide an annual report, which does not identify specific hospitals, to the Cabinet on aggregate statewide outcomes and trends based on the Kentucky State VON Report;
  - b. Establish a mortality and morbidity conference between Level III and Level IV facilities at least annually to review outcome data and identify opportunities for improvement;
  - c. Take the leadership role in establishing joint reviews with affiliated hospitals of patient outcomes, including all deaths, complications, adverse outcomes (VLBW, BPD, ROP, IVH) and patients requiring transfer to higher levels of care, at least annually;
  - d. Develop collaboratively with the affiliate facility a plan of correction for areas where performance falls below expected levels; and
  - e. Provide technical assistance, including chart review if needed, to assure areas of low performance show improvement.

## **E. Open Heart Surgery Program**

### **Definition**

Open heart surgery is any surgical procedure involving the heart, performed to correct acquired or congenital defects, to replace diseased valves, to open or bypass blocked vessels, or to graft a prosthesis or a transplant in place. In open-heart procedures, the heart chambers are open and fully visible and blood is detoured around the surgical field by a heart-lung bypass machine unless the procedure involved is a minimally invasive coronary artery bypass graft, in which case a heart-lung machine might not be used, but must still be available in the operating room on a stand-by basis.

A “case” is defined as the entire episode of treatment in the operating room regardless of the number of procedures performed.

### **Review Criteria**

An application for an open heart surgery program shall be consistent with this Plan if the following criteria are met:

1. For adult open heart surgery, there is not an existing or approved open heart surgery program in the ADD or the following criteria are met:
  - a. According to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*, every open heart surgery program in the ADD performed at least four hundred (400) adult open-heart surgeries;
  - b. According to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*, every open heart surgery program within a fifty (50) mile radius of the proposed site performed at least four hundred (400) adult open-heart surgeries;
  - c. Every open heart surgery program in the ADD that is not listed in the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report* performed at least three hundred (300) adult open-heart surgeries in the past twelve (12) months;
  - d. Every open-heart surgery program that is within a fifty (50) mile radius of the proposed site and is not listed in the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report* performed at least three hundred (300) adult open heart surgeries in the past twelve (12) months;
  - e. The applicant shall document that at least four hundred (400) adult open-heart procedures will be performed during the third year of operation. These projections must consider historical number of diagnostic cardiac catheterization procedures performed at the applicant hospital, the Kentucky statewide ratio of open heart surgeries to diagnostic catheterization procedures as calculated in the

latest published inventory and utilization data, and documentation of the number of diagnostic catheterization patients referred for open heart surgery from the applicant hospital during the most recent twelve (12) month period;

- f. The applicant shall document that the approval of the proposed program will not cause any existing program in the ADD or any other open heart surgery program within a fifty (50) mile radius of the proposed site to fall below four hundred (400) cases annually when considering historical trends in utilization, referral patterns for these services to existing providers, and commonality of medical staffs;
  - g. The applicant shall demonstrate that the projected number of therapeutic cardiac catheterization procedures will reach at least three hundred-fifty (350) by the third year of operation of the open heart surgery program. These projections must consider historical diagnostic cardiac catheterization procedures at the applicant hospital, the Kentucky statewide ratio of therapeutic catheterizations to diagnostic catheterizations and documentation of the historical number of diagnostic cardiac catheterization patients referred from the applicant hospital for therapeutic cardiac catheterization during the most recent twelve (12) month period;
  - h. The applicant shall document that the most recently published *Guidelines for Coronary Artery Bypass Graft Surgery* adopted by the American College of Cardiology and the American Heart Association will be followed; and
  - i. The applicant must identify the surgeon who will be the primary attending surgeon in the open heart service. Further, the applicant must also provide information regarding this individual's background and experience concerning open heart surgery, and this individual's availability to care for open heart patients in the event of emergencies; and
2. For pediatric open heart surgery:
- a. Only pediatric teaching facilities shall be approved for pediatric open heart surgery;
  - b. According to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*, every existing pediatric program in the state shall be performing, and shall be projected to continue to perform, at least one hundred-fifty (150) pediatric open-heart surgeries per year; and
  - c. The applicant shall document that at least one hundred (100) pediatric open-heart procedures will be performed during the third year of operation.

## **F. Organ Transplant Program**

### **Definition**

Transplant procedures involve the transfer of an organ or tissue from one person to another, or from one body part to another, to replace a diseased structure, to restore function, or to change appearance. Skin and kidneys are among the more commonly transplanted structures; others include hearts, livers, lungs, pancreas, cartilage, bone marrow, corneal tissue, portions of blood vessels and tendons.

### **Review Criteria**

An application for an organ transplant program shall be consistent with this Plan if the following criteria are met:

1. The applicant documents that the number of transplants being performed by comparable transplant programs in the Commonwealth are sufficient for consistency with nationally accepted volume and quality standards for each type of transplant program; the record of medical outcomes by those programs; and the impact on need for additional transplant programs in Kentucky resulting from the existence of transplant programs in nearby cities of bordering states that are customarily and significantly used by Kentucky residents;
2. The applicant documents that it has the ability to meet nationally accepted volume and quality standards, as well as those factors that impact patient care and overall cost, quality and outcomes of service delivery, including demographic and epidemiological factors;
3. For pediatric programs, the pediatric program shall be provided in a pediatric teaching facility which has the availability of physician specialty support and specialized ancillary support services; and
4. The applicant demonstrates that organ allocation for patients awaiting transplantation shall be performed in accordance with federally mandated guidelines.

## II. Mental Health Care

### A. Psychiatric Beds

#### Definition

“Allocated psychiatric beds” are those beds licensed as general psychiatric beds and designated by the licensee for use as adult psychiatric beds or child or adolescent psychiatric beds at the discretion of the licensee.

“Psychiatric beds” are those licensed beds which are located in psychiatric hospitals or as units in an acute care hospital or a critical access hospital and are used for treatment of inpatients that require psychiatric or mental health care, including medical care and treatment of mental, emotional, and behavioral disorders.

#### Review Criteria

An application for psychiatric beds shall be consistent with this Plan if the following criteria are met:

1. Licensed and approved adult and geriatric psychiatric beds in an ADD shall not exceed 0.2 beds per 1,000 geographic adult and geriatric population for the plan year. Licensed and approved children or adolescent psychiatric beds in an ADD shall not exceed 0.2 beds per 1,000 geographic child and adolescent population for the plan year. Statewide psychiatric care facilities operated or contracted by the Commonwealth shall not be counted in the existing bed count;
2. Any existing acute care facility or psychiatric hospital proposing the addition of adult psychiatric beds shall exceed the target occupancy rates shown in Table 1 below for its licensed and allocated adult psychiatric care beds for the most recent twelve (12) month period reported in the most recently published edition of the *Kentucky Annual Hospital Utilization and Services Report* unless all the proposed additional psychiatric care beds are being converted from licensed acute care beds;

**Table 1**

**Facility Target Psychiatric Bed Occupancy Rates**

# Beds in Facility	Target Occupancy
1-50	60%
51-100	65%
101-200	70%
201 and above	75%

3. No additional adult psychiatric beds shall be approved for purposes of establishing a new facility or a new unit unless occupancy for each facility with licensed and allocated adult psychiatric beds in the ADD exceeds the target occupancy rates shown in Table 1 according to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*;
4. Any existing acute care facility or psychiatric hospital proposing the addition of child or adolescent psychiatric beds shall exceed the target occupancy rates shown in Table 1 above for its licensed and allocated child or adolescent psychiatric care beds for the most recent twelve (12) month period reported in the most recently published edition of the *Kentucky Annual Hospital Utilization and Services Report* unless all the proposed additional psychiatric care beds are being converted from licensed acute care beds;
5. No additional child or adolescent psychiatric beds shall be approved for purposes of establishing a new facility or a new unit unless occupancy for each facility with licensed and allocated child or adolescent psychiatric beds in the ADD exceeds the target occupancy rates shown in Table 1 according to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*;
6. If the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report* indicates that the occupancy for existing psychiatric beds for an applicant's facility was seventy (70) percent or greater, an application to convert acute care beds to psychiatric beds shall be consistent with this Plan if the application meets either of the following conditions:
  - a. The applicant meets the review criteria in Sections 1, 2, and 3 above, or 1, 4, and 5 above; or
  - b. The applicant has existing licensed acute care beds and psychiatric beds, and:
    - i. All of the proposed psychiatric beds are being converted from licensed acute care beds;
    - ii. The occupancy of acute care beds is less than seventy (70) percent in the latest published utilization and inventory data; and
    - iii. The additional psychiatric beds will be converted and implemented on-site at the applicant's existing licensed acute care facility;
7. If the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report* indicates that the occupancy for existing psychiatric beds for an applicant's facility was seventy (70) percent or greater, an application to convert chemical dependency beds to psychiatric beds shall be consistent with this plan if the application meets either of the following conditions:
  - a. The applicant meets the review criteria in Sections 1, 2, and 3 above, or 1, 4 and 5 above; or

- b. The applicant has existing licensed chemical dependency beds and psychiatric beds; and:
  - i. All of the proposed psychiatric beds are being converted from licensed chemical dependency beds;
  - ii. The conversion will not impede access to appropriate care for patients needing treatment for abuse or addiction to chemical substances such as alcohol or drugs; and
  - iii. The additional psychiatric beds will be converted and implemented on site at the applicant's existing licensed acute care or chemical dependency facility;
  
- 8. Notwithstanding the above criteria, an application to add psychiatric beds to an existing licensed psychiatric unit or psychiatric hospital shall be consistent with this Plan if the applicant demonstrates that its utilization of its existing psychiatric beds has reached functional capacity for the prior twelve (12) month period. In calculating functional capacity consideration shall be given to the following:
  - a. The percentage of licensed acute care beds, psychiatric beds or chemical dependency beds currently operational;
  - b. The type and level of psychiatric care being provided at the applicant's facility;
  - c. The historical performance as it relates to the utilization of psychiatric beds; and
  - d. The availability of other providers of psychiatric services in the ADD; and
  
- 9. The maximum number of psychiatric care beds that may be approved shall be based on volume projected five (5) years from the filing of the application. Approval will be based on the higher of:
  - a. The applicant's credible forecast of future utilization; or
  - b. A regression analysis projection of patient day trends over a five (5) year timeframe.

### **Psychiatric Services for Children and Adolescents**

In addition to the above criteria, an application for child or adolescent psychiatric beds shall be consistent with this Plan if the following criteria are met:

1. The applicant shall provide clear descriptions of which evidence-based practices will be utilized and how they will meet the clinical needs of the proposed population to be served;
2. New hospital psychiatric beds for children or adolescents shall focus on short-term (under thirty days) crisis stabilization. Small, specialized programs are preferred over larger programs;
3. A facility proposing to provide inpatient psychiatric care for children twelve (12) years of age and younger shall have on staff a board-eligible or board-certified child psychiatrist who maintains responsibility for admissions and treatment. For the purposes of this section, a board-eligible child psychiatrist is a doctor of psychiatry who has been board-certified in general psychiatry by the American Board of Psychiatry and Neurology and has completed a two (2) year fellowship in child psychiatry; and
4. An application for new psychiatric beds for children or adolescents shall include all of the following:
  - a. The specific number of beds proposed for each age group;
  - b. An inventory of current services in the ADD;
  - c. Clear admission and discharge criteria consistent with a short-stay program and least restrictive treatment;
  - d. Linkage agreements with other child and adolescent serving agencies in the proposed service areas, including all regional interagency councils (RIACs), community mental health centers, the Department for Community Based Services, and major referring school systems. These agreements shall demonstrate a commitment by these agencies and the hospital to joint treatment and discharge planning as appropriate;
  - e. Documentation of linkage agreements for the provision for case management services when necessary after discharge. (Case managers are not required to be on the hospital's staff, but shall be closely involved in cases from treatment planning onward); and
  - f. Documentation of the policies and procedures to ensure a case manager will be identified and an appointment scheduled as part of the discharge planning process; and in the case of a child, the case manager shall be involved in the discharge planning process.

### **Geriatric Psychiatric Services**

An application to establish non-Medicaid inpatient geriatric psychiatric programs in an existing licensed acute care or critical access hospital located in a county that has no existing inpatient

geriatric psychiatric program shall be considered consistent with this Plan if the following conditions are met:

1. If the applicant is an acute care hospital, the occupancy of acute care beds in the applicant's facility is less than seventy (70) percent according to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*;
2. If the applicant is an acute care hospital, all of the proposed psychiatric beds are being converted from licensed acute care beds;
3. All of the psychiatric beds will be implemented on-site at the applicant's existing licensed facility;
4. All of the psychiatric beds shall be dedicated exclusively to the treatment of geriatric patients, aged sixty-five (65) or older;
5. The applicant establishes distinct admission and discharge criteria for admitting only those patients who have both mental and physical conditions who would be excluded from treatment in a regular adult psychiatric unit;
6. The staff of the unit shall include a multidisciplinary team of specialists involving psychiatry and internal medicine with specialization in the treatment of geriatrics and nursing personnel specially trained in psychiatric and medical geriatric patient care; and
7. The applicant agrees in writing not to seek Medicaid certification for the geriatric psychiatric beds.

## **B. Psychiatric Residential Treatment Facility**

### **Definition**

“Psychiatric residential treatment facility” (PRTF) means either a licensed:

Level I community-based, and home-like facility with a maximum of nine (9) beds which provides inpatient psychiatric residential treatment to residents age six (6) to twenty-one (21) years who have an emotional disability or severe emotional disability as defined in KRS 200.503, with an age range of no greater than five (5) years at the time of admission in a living unit; or

Level II home-like facility that provides twenty-four (24) hour inpatient psychiatric residential treatment and rehabilitation to persons who:

1. Are ages four (4) to twenty-one (21) years, with an age range of no greater than five (5) years at the time of admission to the facility;
2. Have a severe emotional disability as defined by KRS 200.503 in addition to severe and persistent aggressive behaviors, intellectual disability, sexually acting out behaviors, or development disability; and
3. Do not meet the medically necessity criteria for an acute care hospital or a psychiatric hospital and whose treatment needs cannot be met in an ambulatory care setting, Level I psychiatric residential treatment facility, or other less restrictive environment.

“Specialty Program” means a program offered by a Level II psychiatric residential treatment facility to treat a person who has a severe emotional disability as defined by KRS 200.503 in addition to severe and persistent aggressive behaviors, intellectual disability, sexually acting out behaviors, or development disability.

### **Review Criteria**

#### **Level I PRTF**

An application to establish a PRTF or expand an existing PRTF shall be consistent with this Plan if the following criteria are met:

1. Approval of the application does not cause the total number of Level I PRTF beds to exceed three hundred and fifteen (315) beds statewide;
2. The applicant shall document the need for additional Level I PRTF services and its ability to provide those services by demonstrating the following:
  - a. An analysis of the number and characteristics of persons ages six (6) to twenty-one (21) in the proposed service area who require this level of care;

- b. The defined geographic service area that the proposed facility will serve;
  - c. The anticipated average length of stay, average daily census, and occupancy rate;
  - d. The projected payor mix of the patients;
  - e. The anticipated referral sources including the projected number of DCBS children in state custody who would be admitted; and
  - f. Clear admission and discharge criteria with specific descriptions of any special defining characteristics of the population that is proposed to be served, including age, sex, developmental status, legal status, and diagnostic characteristics;
3. The applicant shall include an inventory of all types of treatment oriented residential programs including other Level I PRTFs that serve children ages six (6) to twenty-one (21) in the proposed service area and how the proposed facility or additional beds fit into the array of current services;
  4. The applicant shall clearly describe the treatment planning and the discharge planning process, including how the family or legal guardian would be included in the treatment and discharge process. For children in state custody, describe how the Department for Community Based Services (DCBS) staff will be included in the treatment and discharge planning process. For children who attain age 21 that need to be transitioned to the adult system, describe the transition and discharge planning process to the adult system;
  5. The applicant shall provide clear descriptions of which evidence based clinical practices will be utilized and how they will meet the clinical needs of the proposed population to be served;
  6. Applicants shall describe the types and qualification of personnel required to provide services, including certification specific to the programs being proposed, and a detailed description of the availability of qualified staff;
  7. The applicant shall provide a description of the proposed facility, physical layout, description of individual unit sizes and proximity to other programs and facilities that might be housed on the same campus or in close proximity, either operated by the same applicant or other organizations or demonstrating clearly defined relationships;
  8. The applicant shall provide a description of how the proposed Level I PRTF's individual living units and program spaces will provide a safe environment and be community based and home-like in physical appearance and structure, but also in terms of family visitation policies and contact with significant adults in their lives;
  9. Applications to establish a Level I PRTF shall include formal written agreements of cooperation that identify the nature and extent of the proposed working relationship

between the facility and the following agencies, organizations, or entities located in the primary service area of the proposed facility:

- a. Regional interagency council for services to children with an emotional disability created under KRS 200.509;
  - b. Community board for mental health or individuals with an intellectual disability established under KRS 210.380;
  - c. The Department for Community Based Services;
  - d. Local school districts in the county where the PRTF is located;
  - e. At least one psychiatric hospital; and
  - f. Linkages with other child and adolescent serving agencies in the proposed service area; and
10. Priority shall be given to applicants that demonstrate the capacity to provide or have access to a full array of other community-based services, and applicants that demonstrate the adoption of system of care principles and the wraparound process which include family driven and youth guided programming and treatment.

### **Level II PRTF**

An application to establish a Level II PRTF or expand an existing Level II PRTF shall be consistent with this Plan if the following criteria are met:

1. Approval of the application does not cause the total number of Level II PRTF beds to exceed one hundred forty-five (145) beds statewide;
2. The application to establish a Level II PRTF does not exceed fifty (50) Level II PRTF beds;
3. Approval of the application to expand an existing Level II PRTF does not cause the existing Level II PRTF to exceed fifty (50) Level II PRTF beds in a facility;
4. The applicant shall:
  - a. Fully describe the specific Specialty Program to be provided and the target population to be served in the proposed Level II PRTF, including each specific age and gender;
  - b. Specify the defined geographic service area that the proposed facility will serve;

- c. Indicate the specific number of beds proposed for each age group and specific Specialty Program, based on diagnoses, that the Level II PRTF is proposing to offer;
  - d. Document the anticipated average length of stay, average daily census, and occupancy for each age group and Specialty Program;
  - e. Document the projected payor mix of the patients, including Medicaid and DCBS children in state custody;
  - f. Document the need for Level II PRTF beds requested, based on historical patient data from patients that have been sent out of state or other substantiated data to demonstrate the need for Level II PRTF services and the number of beds and type of specialty program services proposed; and
  - g. Clear admission and discharge criteria for each Specialty Program listed above, including age, sex, developmental status, legal status, and diagnostic characteristics;
5. The applicant shall include an inventory of Level II PRTFs that serve children ages four (4) to twenty-one (21) in the proposed service area and how the proposed facility or additional beds will fit into the array of current services;
  6. The number of beds requested for each specialized program shall be calculated using an annual average occupancy rate of 75 percent;
  7. The applicant shall document that the facility or program shall not refuse to admit a patient who meets the medical necessity criteria and facility criteria for Level II PRTF services;
  8. The applicant shall clearly describe the treatment planning and the discharge planning process, including how the family or legal guardian would be included in the treatment and discharge process. For children in state custody, describe how the Department for Community Based Services (DCBS) staff will be included in the treatment and discharge planning process. For children who attain age 21 that need to be transitioned to the adult system, describe the transition and discharge planning process to the adult system;
  9. The applicant shall provide clear descriptions of which evidence based clinical practices will be utilized and how they will meet the clinical needs of the proposed specialty population to be served and how staff will be trained and supervised, and how accuracy to the evidence based practice will be monitored;
  10. Applicants shall describe the types and qualification of personnel required to provide services, including certification specific to the programs being proposed, and a detailed description of the availability of qualified staff and how the facility will immediately obtain additional staff as may be needed to ensure the safety of patients;

11. The applicant shall provide a description of the proposed facility, physical layout, description of individual unit sizes and proximity to other programs and facilities that might be housed on the same campus or in close proximity, either operated by the same applicant or other organizations or demonstrating clearly defined relationships;
12. The applicant shall provide a description of how the proposed Level II PRTF's individual living units and program spaces will provide a safe environment and be home-like in physical appearance and structure, but also in terms of family visitation policies and contact with significant adults in their lives;
13. Applications to establish a Level II PRTF shall include formal written agreements of cooperation that identify the nature and extent of the proposed working relationship between the facility and the following agencies, organizations, or entities located in the primary service area of the proposed facility:
  - a. Regional interagency council for services to children with an emotional disability created under KRS 200.509;
  - b. Community board for mental health or individuals with an intellectual disability established under KRS 210.380;
  - c. The Department for Community Based Services;
  - d. Local school districts in the county where the PRTF is located;
  - e. At least one psychiatric hospital, if the applicant is not a psychiatric hospital or an acute care hospital that provides inpatient psychiatric services for adolescents or children; and
  - f. Linkages with other child and adolescent serving agencies in the proposed service area;
14. In approving Level II PRTF applications, consideration shall be given to the geographic location and specialty program offered by the proposed facility to ensure that Level II PRTF specialty programs are provided in different geographic areas of the State; and
15. Priority shall be given to applicants that demonstrate the capacity to provide or have access to a full array of other community-based services, and applicants that demonstrate the adoption of system of care principles and the wraparound process which include family driven and youth guided programming and treatment.

### **III. Long-Term Care**

#### **A. Nursing Facility Beds**

##### **Definition**

“Nursing Facility Bed” includes long-term care beds licensed as Alzheimer beds, intermediate care beds, skilled nursing beds, nursing facility beds, and nursing home beds.

Nursing Facility Beds do not include personal care beds, nursing home beds established under the continuing care retirement community (CCRC) provisions of this Plan, or long-term care beds located in state or federally-operated facilities.

##### **Need Assessment for Nursing Facility Beds**

The need for additional nursing facility beds in each county shall be calculated as follows:

$$A = B - C$$

Where:

A = The net county NF bed need.

B = The number of patients from the applicant’s proposed county of location who found NF bed placement in a noncontiguous county as reported in the most recently published *Kentucky Annual Long-Term Care Services Report*.

C = The average number of empty beds in the county of application and all counties contiguous to the county of application. The average number of empty beds for a county shall be calculated by multiplying the number of non-state owned and non-CCRC licensed NF beds times the occupancy percentage for the county as reported in the most recently published *Kentucky Annual Long-Term Care Services Report*.

##### **Review Criteria**

An application for nursing facility beds shall be consistent with this Plan if the following criteria are met:

1. The number of nursing facility beds being applied for is equal to or less than the net county NF bed need;
2. Any approval shall give preference to conversion of personal care beds and acute care beds to nursing facility beds so long as the conversions are more cost effective than new construction; and

3. Notwithstanding the above criteria, an application submitted by an existing facility that has met the emergency circumstances provision as outlined in 900 KAR 6:080, Section 2, and has received notice from the Office of Health Policy that an emergency exists shall be consistent with this Plan only if the application is restricted to the limited purpose of alleviating the emergency.
4. Notwithstanding the above criteria, an application submitted to transfer or relocate existing certificate of need approved nursing facility beds shall be consistent with this plan if the following criteria are met:
  - a. The selling or transferring entity has a certificate of need or licensed nursing facility bed inventory of at least 250 beds;
  - b. The proposed relocation is within the same Area Development District in a county which had an increase in the age 65 and over population of >50% from 2000-2010 and is projected to experience >75% increase in the age 65 and over population from 2010-2020; and
  - c. The selling or transferring entity does not propose to sell or transfer more than fifty (50) percent of its certificate of need approved or licensed nursing facility beds.

## **B. Home Health Service**

### **Definitions**

"Home Health Services" refers to a combination of health care and social services provided to individuals in their homes or in other community and homelike settings pursuant to 902 KAR 20:081.

"To establish a home health service" means to establish a parent home health agency or a subunit as defined by Medicare in a county where the applicant is not currently licensed to serve.

"To expand a home health service" means to add to the applicant's existing service area a county or counties which are contiguous to the applicant's existing service area provided that the expansion does not involve the establishment of a parent home health agency or subunit as defined by Medicare.

### **Summary of Need Criteria**

The need for home health services is determined on a county-by-county basis by applying target rates estimating the number of individuals per 1,000 population expected to require home health services. Age cohort target rates are calculated for the plan year and are based on the average number of unduplicated patients served statewide in each age cohort for the most recent two calendar years in the *Kentucky Annual Home Health Services Report*. Age cohort rates are applied to the plan year county population projections to determine expected need for home health services. The number of additional patient services needed in a county is then determined by subtracting the average number of unduplicated patients served in the county for the most recent two calendar years, as reported in the *Kentucky Annual Home Health Services Report*, from projected need.

The inventory for patients expected to be served will be adjusted by the addition of two hundred-fifty (250) patients for each certificate of need approved to establish a new agency or subunit in a specific county, by one hundred twenty-five (125) patients for each application approved to expand a home health service to a specific county, and by fifty (50) patients for each application approved for a hospital to establish an agency to solely serve the county in which the hospital is located. The respective number of patients will be removed from the inventory for patients to be served when the latest edition of the *Kentucky Annual Home Health Services Report* indicates that the agency has served patients in the approved county. The inventory for patients expected to be served will not be adjusted to reflect certificate of need approvals which were restricted to the limited purpose of alleviating an emergency.

### **Review Criteria**

1. An application to establish a home health service shall be consistent with this Plan if there is a projected need for at least two hundred-fifty (250) additional patients needing home health care services in the county for which the application is made as shown in the most recent edition of the *Kentucky Annual Home Health Services Report*;

2. An application to expand a home health service currently licensed in Kentucky shall be consistent with the Plan if there is a projected need for at least one hundred twenty-five (125) additional patients needing home health care services in the county for which the application is made as shown in the most recent edition of the *Kentucky Annual Home Health Services Report*; and
3. Notwithstanding Criterion 1 and 2, an application submitted by an existing agency that has met the emergency circumstances provision as outlined in 900 KAR 6:080, Section 2, and has received notice from the Office of Health Policy that an emergency exists shall be consistent with this Plan only if the application is restricted to the limited purpose of alleviating the emergency.

## C. Hospice Service

### Definition

“Hospice Services” provide symptom relieving care and supportive services through an interdisciplinary approach that addresses the physical, spiritual, social, and economic needs of terminally ill patients and their families. Services include home care, inpatient care, bereavement services, counseling, and education. Emphasis is placed on symptom control and pain control for the terminally ill person, support for the patient before death, and support for the family before and after death.

### Need Assessment for Hospice Services

The need for additional Hospice Services shall be calculated on a county-by-county basis as follows:

$$\text{HPR} = \frac{(\text{Year (n) Admissions} * 0.50) + (\text{Year (n-1) Admissions} * 0.30) + (\text{Year (n-2) Admissions} * 0.20)}{(\text{Year (n) Deaths} * 0.50) + (\text{Year (n-1) Deaths} * 0.30) + (\text{Year (n-2) Deaths} * 0.20)}$$

Where:

HPR	=	Hospice Penetration Rate
Year (n)	=	Year of the most recently published report
Year (n-1)	=	Year of the second most recently published report
Year (n-2)	=	Year of third most recently published report
Admissions	=	Unduplicated hospice admissions utilizing data published in the three (3) most recent editions of the <i>Kentucky Annual Hospice Services Report</i> .
Deaths	=	Deaths from all causes (excluding deaths resulting from suicide, homicide, or unintentional injuries) as reported in the three (3) most recent editions of the Kentucky Department for Public Health, <i>Vital Statistics Report</i>

### Review Criteria

An application to establish or expand hospice services shall be consistent with this Plan if:

1. a. The hospice penetration rate in the proposed county is less than eighty (80) percent of the median hospice penetration rate statewide; and the proposed county is located in an ADD where the mean hospice penetration rate of the counties within the ADD is less than eighty (80) percent of the median hospice penetration rate statewide;

- b. Each approved hospice agency in the proposed county has been operational for at least thirty six (36) months; and
  - c. Only one (1) application may be approved in each county during any batching cycle; and
2. Notwithstanding the above criterion, an application to establish or expand hospice services into an individual county shall be consistent with this plan if the applicant documents the existence of at least one of the following conditions:
- a. Absence of services by a hospice certified for Medicaid and Medicare in the proposed county, and evidence that the applicant will provide Medicaid and Medicare-certified hospice services in the county; or
  - b. Absence of services by a hospice in the proposed county that serves patients regardless of the patient's ability to pay, and evidence that the applicant will provide services for patients regardless of ability to pay.

## **D. Residential Hospice Facility**

### **Definition**

A “Residential Hospice Facility” is licensed pursuant to 902 KAR 20:380 and provides residential care for terminally-ill patients that includes skilled nursing care for the management of pain and acute and chronic symptoms.

### **Review Criteria**

No application to establish a residential hospice facility shall be approved under this Plan.

## **E. Adult Day Health Care Program**

### **Definition**

“Adult Day Health” is the provision of outpatient health care services that meet the health care needs of patients in conformance with physician’s orders and without which would cause the patient and patient’s health to meet the criteria for nursing home level of care.

### **Review Criteria**

An application for an Adult Day Health Care Program shall be consistent with this Plan if the following criteria are met:

1. The applicant documents that the following services will be provided:
  - a. One (1) meal per day including special diets;
  - b. Snacks as appropriate;
  - c. Daily on-site nursing services and supervision provided by an RN or LPN including administration of medications and treatments as ordered by the patient’s physician;
  - d. Regularly scheduled activities specific to the patient’s age and care plan;
  - e. Routine services required to meet daily personal care and health care needs; and
  - f. Equipment essential to the provision of Adult Day Health Care Services and incidental supplies necessary to provide Adult Day Health Care services;
2. The applicant documents the capacity of providing necessary transfer and referral services if a patient’s needs become such that a different level of care would be more beneficial; and
3. The applicant demonstrates the ability to maintain appropriate medical records and follow accepted universal precaution practices.

## **F. Intermediate Care Facility for Individuals with an Intellectual Disability**

### **Definition**

“Intermediate Care Facilities for Individuals with an Intellectual Disability (“ICF/IID”)” provide services for all age groups on a twenty-four (24) hour basis, seven (7) days a week, in an establishment with permanent facilities including resident beds for persons whose mental or physical condition requires developmental nursing services along with a planned program of active treatment. The facility provides special programs as indicated by individual care plans to maximize the resident's mental, physical, and social development in accordance with the normalization principle.

### **Review Criteria**

No application for a new ICF/IID shall be consistent with this Plan unless it is limited to a transfer of ICF/IID beds from an existing ICF/IID facility to the proposed ICF/IID facility. No application to increase the number of beds at an existing ICF/IID facility shall be consistent with the Plan unless the increase in beds is accomplished by transferring beds from an existing ICF/IID facility.

## **IV. Diagnostic and Therapeutic Equipment and Procedures**

### **A. Cardiac Catheterization Service**

#### **Definition**

“Cardiac Catheterization” is a diagnostic or therapeutic procedure in which a catheter is introduced into a large vein or artery, usually of an arm or a leg, and threaded through the circulatory system to the heart. To determine the number of cardiac catheterization procedures performed, each administrative claims record submitted pursuant to KRS 216.2920 – 2929 and 900 KAR 7:030 is examined to determine if it contains procedure codes indicating diagnostic catheterization or therapeutic catheterizations as defined below. Inpatient Hospital Discharge records are examined for ICD-9 Procedure codes as published in the most recent Professional Edition ICD-9-CM Manual for Hospitals Volume 3, while Outpatient Services Records are examined for CPT Procedure codes as published in the most recent Professional Edition Current Procedural Terminology Manual. As published in the *Annual Administrative Claims Data Report – Cardiac Catheterization*, diagnostic includes a count of the number of administrative claims records where the record included a Diagnostic Code regardless of the presence of any additional Therapeutic code. Therapeutic includes a count of the number of administrative claims records where the record included a Therapeutic Code regardless of the presence of any additional Diagnostic code.

“Diagnostic” cardiac catheterization means providing diagnostic only cardiac catheterizations on an organized, regular basis, in a laboratory. The term includes, but is not limited to: the intra coronary administration of drugs; left heart catheterization; right heart catheterization; coronary angiography; diagnostic electrophysiology studies; and cardiac biopsies (echo-guided or fluoroscopic).

“Therapeutic” cardiac catheterization means a classification of invasive procedures in which a slender tube is passed into a peripheral vein or artery, through the blood vessels, and into the heart to treat and resolve anatomical or physiological problems in the heart. These procedures are intended primarily for the treatment of cardiac disease. The term includes percutaneous coronary intervention (PCI), percutaneous transluminal coronary angioplasty (PCTA), atherectomy, and stent. The use of clot-dissolving infusion drugs approved by the FDA such as Streptokinase and TPA does not constitute the provision of therapeutic cardiac catheterization.

With regard to cardiac catheterization services, the term “Laboratory” means each dedicated room within a fixed-site facility which is individually equipped and staffed for the purposes of performing cardiac catheterizations.

With regard to cardiac catheterization services, the “Planning Area” shall be comprised of the county of the proposed cardiac catheterization program and all contiguous counties.

## Review Criteria

An application proposing to provide cardiac catheterization services shall be consistent with this Plan if the following criteria are met:

1. For applicants proposing fixed site diagnostic cardiac catheterization only:
  - a. The applicant is licensed by the Kentucky Office of Inspector General, Division of Health Care as an acute care hospital pursuant to 902 KAR 20:016;
  - b. According to the most recent edition of the *Kentucky Annual Administrative Claims Data Report – Cardiac Catheterization*, each existing fixed-site diagnostic laboratory in the planning area shall have performed at least two hundred and fifty (250) adult diagnostic procedures in the last twelve (12) month reporting period. Each existing fixed-site comprehensive laboratory (diagnostic and therapeutic) shall have performed at least five hundred and fifty (550) adult procedures in the last twelve month reporting period;
  - c. The total projected number of adult diagnostic catheterizations in the planning area shall exceed the total existing adult procedures by at least two hundred and fifty (250) procedures by the end of the third year of operation.
    - i. The total projected number of adult procedures will be based on the adult diagnostic cardiac catheterization use rate for the Commonwealth of Kentucky for the most recent twelve (12) month period for which data are published in the *Administrative Claims Data Report – Cardiac Catheterization* applied to the projected planning area population three (3) years in the future from the date the application was filed; and
    - ii. The number of diagnostic cardiac catheterization procedures performed by existing programs, according to the most recent edition of the *Kentucky Annual Administrative Claims Data Report – Cardiac Catheterization*, will be subtracted from the total projected diagnostic procedures for the planning area. If there are approved fixed-site laboratories not included in the most recently published *Kentucky Annual Administrative Claims Data Report – Cardiac Catheterization*, an additional two hundred and fifty (250) procedures will be subtracted from the total for each; and
  - d. The applicant has established a cardiology program as evidenced by the availability of at least two (2) board certified cardiologists with medical staff privileges at the applicant’s hospital;
2. For applicants proposing to expand their existing diagnostic cardiac catheterization service to also provide primary (i.e. emergency) and elective Percutaneous Coronary Intervention (PCI) services on a two (2) year trial basis:
  - a. The applicant shall be an existing acute care hospital;

- b. The applicant must have performed, according to the most recent edition of the *Kentucky Annual Administrative Claims Data Report – Cardiac Catheterization*, an average of at least three hundred (300) annual diagnostic cardiac catheterization procedures during the previous two (2) years;
- c. The applicant’s primary PCI services will be available on a continuous twenty four (24) hour per day basis;
- d. The applicant’s staff involved in providing PCI, including interventional cardiologists, nurses, and technicians, must have a current advanced cardiac life support (ACLS) certification;
- e. The applicant’s catheterization laboratory must be optimally equipped;
- f. Case selection must be rigorous and limited to patients with acute myocardial infarction (defined as both ongoing chest pain and ST-segment elevation or new left bundle branch block on the electrocardiogram), unstable angina, and angina that is refractory to medical treatment;
- g. The applicant must establish an ongoing program of outcomes analysis and formalized periodic case review;
- h. The applicant shall have an agreement with an ACLS-capable ambulance service stating that the service will respond to a call from that facility in no greater than thirty (30) minutes and meet all American College of Cardiology (ACC) requirements for transporting heart patients and provide evidence that EMS or air transport has the capability to transport a patient with a balloon pump;
- i. There must be an image transfer system in place between the applicant’s hospital and the backup cardiac surgical facility with capabilities for immediate consultation between the applicant’s cardiologist and the surgical facility’s cardiothoracic surgeon or interventional cardiologist;
- j. The applicant’s program director, whether located on-site or based at a facility with a comprehensive cardiac surgical program, must have performed at least five hundred (500) career PCI procedures over a life time, have performed a minimum of 150 PCI procedures in the previous year, and be board certified by the American Board of Internal Medicine in interventional cardiology;
- k. The applicant’s cardiologist on-site must be board certified by the American Board of Internal Medicine in interventional cardiology;
- l. The applicant must participate in the American College of Cardiology National Cardiovascular Data Registry (ACC-NCDR) quality measurement program;

- m. The application shall contain a current, signed collaboration agreement with a tertiary hospital that has an active comprehensive cardiac surgical program (including open heart surgery) within the facility. This agreement shall commit the tertiary hospital to the following actions:
    - i. Provide continuous twenty-four (24) hours per day availability of consultation to the physician and nursing staff of the applicant's participating hospital in the care of patients that are candidates for or have received primary or elective angioplasty;
    - ii. Develop and participate in a joint performance improvement program, with the participant hospital, which includes all disciplines (i.e., physicians, nurses and technicians from the staffs of both the applicant's participating hospital and the collaborating tertiary hospital) providing patient care and focusing on patient outcomes;
    - iii. Develop and participate in joint in-service education programs for all staff (including physicians, nurses and technicians) at the collaborating hospital. The in-service education programs will be based upon needs identified in the processes of staff evaluation and the performance improvement program; and
    - iv. Collaborate with the applicant's participating hospital to undergo peer review of the first one hundred and fifty (150) therapeutic cardiac catheterization procedures in collaboration with the tertiary hospital through the Joint Performance Improvement Committee. A peer review shall be conducted for all patients who were either transferred to the tertiary hospital or experienced an adverse outcome as defined by the ACC; and
  - n. The applicant documents that at the conclusion of the two (2) year trial period, an outside consultant, approved by the Cabinet, will verify that the quality of the applicant's cardiac catheterization program's risk-adjusted statistics are comparable to those reported in contemporary national data registries and will also conclude that their outcomes are within two (2) standard deviations of the national means for both years of the trial;
3. At the conclusion of the two (2) year trial, a hospital that was previously approved to expand its existing diagnostic cardiac catheterization service to also provide primary (i.e. emergency) or elective Percutaneous Coronary Intervention (PCI) cardiac catheterization services on a two (2) year trial basis and has successfully completed the two (2) year trial in accordance with 900 KAR 6:120 – Certificate of Need pilot projects, shall have the trial status removed from its certificate of need upon submission of the following information to the Cabinet:
- a. Documentation that an outside consultant, approved by the Cabinet, has verified that the quality of the hospital's cardiac catheterization program's risk-adjusted

statistics are comparable to those reported in contemporary national data registries and also concluded that its outcomes are within two (2) standard deviations of the national means for both years of the trial;

- b. Documentation of evidence that the hospital will maintain a signed collaboration agreement with a tertiary hospital that has an active comprehensive cardiac surgical program (including open heart surgery) within the facility. This agreement shall address the tertiary hospitals responsibility for consultation, education and training, and performance improvement; and
    - c. Documentation that the hospital will provide at least 200 annual therapeutic catheterizations by the end of the first year of operation after the conclusion of the two (2) year trial and annually thereafter based on the hospital's credible forecast of future utilization;
4. A hospital that has obtained certificate of need approval prior to the effective date of this Plan to provide primary PCI services on a two (2) year trial basis shall be permitted to also provide elective PCI services on a two (2) year trial basis under its existing certificate of need and without obtaining additional, separate certificate of need approval. A hospital which qualifies to provide elective PCI under this provision shall be required to meet the requirements of criteria 3 in order to continue the provision of these services at the conclusion of the trial period for elective PCI;
5. For applicants proposing mobile adult diagnostic cardiac catheterization services only:
  - a. According to the most recent edition of the *Kentucky Annual Administrative Claims Data Report – Cardiac Catheterization*, each existing fixed-site diagnostic laboratory located within fifty (50) highway miles of the proposed laboratory shall have performed at least two hundred and fifty (250) diagnostic procedures in the last twelve (12) month reporting period. Each existing comprehensive laboratory (diagnostic and therapeutic) within fifty (50) highway miles of the proposed laboratory shall have performed at least five hundred and fifty (550) procedures in the last twelve (12) month reporting period. Each existing mobile diagnostic cardiac catheterization service located within fifty (50) highway miles of the proposed laboratory shall have performed at that location a number of procedures based on the ratio of hours in operation at that location in proportion to the required two hundred and fifty (250) diagnostic procedures annually;
  - b. There is not a newly approved cardiac catheterization laboratory in the service area which was not operational as of the date of the most recently published data; and
  - c. There is not a newly approved cardiac catheterization laboratory in the service area that began operating subsequent to the date of the most recently published

*Kentucky Annual Administrative Claims Data Report – Cardiac Catheterization* that did not perform the number of diagnostic or comprehensive procedures as set forth in item a. of this section;

6. For applicants proposing a pediatric cardiac catheterization laboratory, the facility shall also offer a pediatric cardiac surgical program and a Level IV neonatal intensive care unit;
7. No application to establish a mobile cardiac catheterization service shall be approved under this plan;
8. For all cardiac catheterization laboratories, the applicant shall maintain a utilization review program (including record keeping) relating to medical necessity, quality, mortality, morbidity, number of cardiac catheterizations that require repetition due to inability to read the data, and other considerations generally accepted as appropriate for review;
9. For all cardiac catheterization laboratories, the applicant shall document that the most recent national guidelines as established by the Ad Hoc Task Force on Cardiac Catheterization of the American College of Cardiology/American Heart Association and published in ACC/AHA Guidelines for Cardiac Catheterization and Cardiac Catheterization Laboratories will be followed. This report sets guidelines for administration, space, equipment, personnel, and working arrangements for diagnostic and therapeutic cardiac catheterization laboratories; and
10. For a cardiac catheterization laboratory that provides therapeutic catheterizations, the applicant shall also document that:
  - a. Training for percutaneous transluminal coronary angioplasty (PTCA) will follow the guidelines set forth in the Bethesda Conference on Adult Cardiology Training (Journal of the American College of Cardiology, 1986; 7: 1191-218), as revised, which require extra training beyond the two years for clinical cardiology; and
  - b. Each physician is projected to perform at least seventy-five (75) successful angioplasties per year with acceptable mortality and morbidity in patients who warrant the procedure.

## **B. Magnetic Resonance Imaging Equipment**

### **Definitions**

“Magnetic Resonance Imaging” (“MRI”) means a diagnostic imaging modality which utilizes magnetic resonance, an interaction between atoms and electromagnetic fields, to produce images of internal body structures.

An MRI “procedure” is defined as an MRI diagnostic scan or combination of scans performed on a single patient in a single session.

“Qualified Academic Medical Center” means each:

- (a) Institution of higher education which operates an accredited medical school in the Commonwealth of Kentucky,
- (b) Institution, organization or other entity which directly or indirectly owns or is under common control or ownership with an accredited medical school; or
- (c) Organization or other person which is qualified under Section 501(c)(3) of the Internal Revenue Code as a result of supporting or operating in support of any institution, organization, or other person of a type or types referenced in part (a) or (b) of this sentence.

### **Review Criteria**

An application to establish an MRI service shall be consistent with this Plan if the following criteria are met:

1. An applicant proposing to provide fixed-site MRI services shall demonstrate that sufficient need exists for that unit to perform a minimum of two thousand, five hundred (2,500) procedures per year by the end of the second year of operation;
2. An applicant proposing to provide mobile MRI services shall demonstrate that sufficient need exists for that unit to perform a minimum of one thousand, eight hundred-fifty (1,850) procedures, within the Commonwealth, per year by the end of the second year of operation;
3. Notwithstanding criteria 1, 2, or 5, an application to establish MRI services shall be consistent with this Plan if:
  - a. The proposed unit shall be used under formalized, written agreements with a qualified academic medical center and that as a result of teaching services provided there would be additional time spent with each patient during the performance of the MRI procedure which would prevent the provider from performing the requisite minimum number of procedures for that type of MRI unit;
  - b. The proposed unit shall be used solely for pediatric patients or patients that require full sedation in order for the procedure to be performed; or

- c. The proposed unit shall be used primarily during intraoperative procedures;
4. The applicant shall certify and be capable of demonstrating that the proposed equipment to be used in conjunction with the procedures is safe and effective including the following:
  - a. The United States Food and Drug Administration (FDA) has certified the proposed equipment for clinical use;
  - b. The physical setting at which the procedures are to be performed conforms to applicable federal standards, manufacturer's specifications and licensing agencies' requirements;
  - c. Only qualified, trained personnel shall be allowed to operate the equipment;
  - d. A licensed, board certified radiologist or other licensed physician demonstrating experience and training in the provision of MRI services shall supervise all non-employee personnel and interpret all scans performed;
  - e. If the equipment is to be leased or otherwise acquired on a contractual basis, the lease or contract does not require that a specific minimum number of procedures be performed;
  - f. The procedures are medically necessary and will not unnecessarily duplicate other services; and
  - g. Sufficient protocols exist to address any emergencies associated with the provision of the proposed services;
5. The applicant demonstrates that its ability to provide at least two thousand, five hundred (2,500) procedures per year from a fixed-site MRI or to provide at least one thousand, eight hundred-fifty (1,850) procedures per year from a mobile MRI unit does not result in unnecessary duplication of services. Specifically, the applicant must demonstrate that the procedures it proposes to perform would be in addition to the lesser of:
  - a. The procedures performed by each existing licensed provider in the proposed county as reported in the most recent edition of the *Kentucky Annual Magnetic Resonance Imaging Services Report*;
  - b. Two thousand, five hundred (2,500) procedures per year by each existing certificate of need approved or licensed fixed-site MRI provider in the proposed county; or
  - c. One thousand, eight hundred-fifty (1,850) procedures per year by each existing certificate of need approved or licensed mobile MRI provider in the proposed county; and

6. Notwithstanding criterion 1, 2, 3, & 5, applications proposing to establish MRI services shall be considered consistent with this Plan if the applicant is an existing licensed acute care hospital that is not providing MRI services at its existing campus. The establishment of these services shall be limited to the applicant's existing hospital campus.

## **C. Megavoltage Radiation Equipment**

### **Definition**

“Megavoltage Radiation Equipment” is used in the treatment of cancer. For the purposes of this plan, megavoltage radiation equipment includes units such as linear accelerators that operate at two or more megavolts and deliver external radiation.

A “Megavoltage Radiation Therapy Program” is defined as a licensed or certificate of need approved service utilizing one or more megavoltage radiation units at a single location by a single owner.

With regard to megavoltage radiation equipment, the “Planning Area” shall be comprised of the county of the proposed megavoltage radiation therapy program and all contiguous counties.

### **Review Criteria**

An application for megavoltage radiation therapy services shall be consistent with this Plan if the following criteria are met:

1. a. The number of procedures performed in the proposed planning area averages at least eight thousand (8,000) per existing megavoltage radiation therapy program, as reported in the latest edition of the *Kentucky Annual Megavoltage Radiation Services Report*; and
- b. The applicant shall demonstrate that sufficient need exists for that program to perform a minimum of six thousand (6,000) annual procedures by the end of the second year of operation; and
2. Notwithstanding the above criteria, an application proposing to establish a megavoltage radiation therapy program limited to image-guided robotic linear accelerator-based stereotactic radiosurgery shall be required to demonstrate only that sufficient need exists for that program to perform a minimum of one thousand (1,000) annual procedures by the end of the second year of operation.

## **D. Positron Emission Tomography Equipment**

### **Definition**

“Positron Emission Tomography” (PET) scans combine nuclear scanning with chemical analysis to enable physicians to observe how organs work. Positrons are positively charged electrons that are produced spontaneously as certain radioactive substances (for example, radioactive glucose) decompose. The type of radioactive substance used for a particular PET scan varies, based on the medical condition for which a patient is being tested. During a PET scan, the radioactive material is introduced into the patient’s body (usually by injection) and is detected by a sophisticated camera that obtains sectional views through a patient’s body.

A “PET Procedure” is defined as a PET diagnostic scan or combination of scans performed on a single patient in a single session.

A “PET Program” is defined as a licensed or certificate of need approved service utilizing one or more PET units at a single location by a single owner.

A “mobile PET Scanner” means a PET scanner and transporting equipment that is moved to provide services at two or more host facilities.

With regard to PET equipment, the “Planning Area” shall be comprised of the county of the proposed PET program and all contiguous counties.

### **Review Criteria**

An application for PET services shall be consistent with this Plan if the following criteria are met:

1. Applicants proposing to establish a fixed-site PET unit must project a minimum of at least nine hundred (900) procedures in the first full year of operation and one thousand, two hundred (1,200) procedures per year by the second full year of service and annually thereafter;
2. Applicants proposing to establish or expand a mobile PET service must project a minimum of at least five hundred-forty (540) mobile procedures within the Commonwealth in the first full year of service and at least seven hundred-twenty (720) procedures within the Commonwealth per year by the second full year of service and annually thereafter;
3. The application shall document a projection of need for the PET unit which shall include demographic patterns, including analysis of applicable population-based health status factors, estimated utilization by patient clinical diagnoses category (ICD-9), and documentation demonstrating that the applicant is providing or has referral arrangements with other medical providers that offer comprehensive cancer and cardiac diagnostic and treatment services; and

4. Approval of the application does not cause the number of licensed or certificate of need approved fixed-site PET programs to exceed one (1) per one hundred-thousand (100,000) population in the proposed planning area.

## **E. New Technology**

### **Definition**

“New Technology” includes new technological equipment or services not previously provided in the Commonwealth and not otherwise covered in the Plan that involve a capital expenditure that exceeds the capital expenditure minimum or equipment that exceeds the major medical equipment minimum, and has an annual operating cost greater than \$500,000, or new technology where the medical literature indicates that certain utilization levels or procedural volumes are necessary to achieve desirable patient outcomes.

### **Review Criteria**

Preference shall be given to proposals that involve multi-institutional arrangements by contract, agreement, ownership, or other means between two (2) or more agencies to coordinate services, share support services, or provide services on a geographically integrated basis. A party to a multi-institutional arrangement shall not establish its own service or participate in another arrangement for the service until the original service is operating at sufficient capacity for adequate efficiency and quality of care. If the projected use of the new service includes expected referrals from others, the referring parties shall be included in the multi-institutional arrangement, if possible.

Preference shall be given to proposals that place the new technology in a medical school or other teaching or research facility. New technology designed or proposed for pediatric use shall be approved only in pediatric teaching facilities which have the availability of physician specialty support and specialized ancillary support services.

An application for new technology shall be consistent with the Plan if the following criteria are met:

1. The applicant shall document that the proposed new technology is efficacious;
2. The applicant shall document that the equipment is certified for its proposed use by the United States Food and Drug Administration (FDA);
3. Before acquiring new technological equipment, applicants shall have complementary diagnostic and treatment services available to support the new program;
4. In cases where specific professional standards have not yet been formulated, applicants shall demonstrate that personnel who will staff the new technology are qualified and adequately trained. The applicant shall specify how personnel will be trained in the use of the specific equipment and safety procedures to follow in the event of an emergency. The institution providing the new services shall document its plan for providing continuing education for referring physicians and institutions in the use of the new technology; and

5. Applicants acquiring new technological equipment shall report utilization and demographic data necessary to evaluate the technology and to facilitate state planning.

## V. Miscellaneous Services

### A. Ambulance Service

#### Definition

An “Ambulance Service” includes Class I, II, III, or VI ground ambulances. Class I ground ambulance services provide basic life support or advanced life support services to all patients for both emergencies and scheduled ambulance transportation which is medically necessary. Class II ground ambulance services provide only basic life support services but do not provide initial response to the general population with medical emergencies and which are limited to providing scheduled ambulance transportation which is medically necessary. Class III ground ambulance services provide mobile intensive care services at or above the level of advanced life support to patients with critical illnesses or injuries who must be transported between hospitals in vehicles with specialized equipment as an extension of hospital-level care. Class VI are those services that provide advanced life support (ALS) medical first response without patient transport. These ambulance classes are set forth in KRS 311A.030.

#### Review Criteria

An application for ground ambulance services shall be consistent with this Plan if the following criteria are met:

1. The applicant shall document that the appropriate local legislative body (fiscal court, city council, or both if applicable) has been given notice of the applicant’s intent to obtain a certificate of need. The notice shall describe the scope of service and proposed service area. For purposes of this requirement, the term “appropriate local legislative body” refers only to those legislative bodies that are currently licensed to provide ambulance services in the applicant’s proposed service area;
2. In the event of competing applications to add services in the same service area, preference shall be given to an application proposing the higher level of service. If multiple providers propose ALS services, then preference shall be given to the applicant who most thoroughly documents need for the service and presents ability to meet the need; and
3. Applications to provide only Class II or Class III services shall be accompanied by documentation (e.g., charts depicting response times of existing service, number of runs during the previous year, and comparable supportive data) that the need for scheduled or critical care inter-facility transportation is not being met by the existing emergency or other Class II or III ground ambulance services. In the presence of this evidence, priority shall be given to a competing application, if any, for the addition of vehicles, expansion of service areas, or comparable modifications that would allow an existing emergency ambulance service provider to meet any unmet need for critical care interfacility or scheduled ambulance services.

## B. Ambulatory Surgical Center

### Definition

An “Ambulatory Surgery Center” (“ASC”) is a free standing or hospital based health facility where scheduled procedures which are billed as surgical procedures, to include cystoscopy procedures, are performed, and which meet the licensure requirements of the Cabinet for Health and Family Services, Office of Inspector General.

### Review Criteria

An application for outpatient surgical services which will result in the establishment of an additional licensed ASC shall be consistent with the Plan if the following criteria are met:

1. Overall inpatient and outpatient surgical utilization in hospitals and ASCs is at least eighty-five (85) percent in the planning area as computed from the most recent editions of the *Kentucky Annual Ambulatory Surgical Services Report* and the *Kentucky Annual Hospital Utilization and Services Report*. With regard to ambulatory surgical services, the planning area shall be comprised of the county of the proposal and all contiguous counties;
2. Inpatient and outpatient surgical utilization is computed using an average 2.0 hours (including cleanup time) per inpatient surgery and 1.2 hours (including cleanup time) per outpatient surgery, and 2,205 potential surgical hours per year as follows:

$$\frac{(\text{Total inpatient operations} * x 2.0) + (\text{Total outpatient operations} * x 1.2)}{(\text{Existing and Approved Hospital Operating Rooms}^{**} + \text{ASC Operating Rooms}^{**}) x 2,205}$$

\* Shall not include pain procedures performed in a procedure room as reported in the *Kentucky Annual Ambulatory Surgical Services Report* and the *Kentucky Annual Hospital Utilization and Services Report*.

\*\* Shall not include Cystoscopy rooms as reported in the *Kentucky Annual Ambulatory Surgical Services Report* and the *Kentucky Annual Hospital Utilization and Services Report*.

Applicants proposing outpatient surgical services may use actual documented surgical time to calculate institution-specific utilization rates. Outpatient operations are the sum of all hospital outpatient and ambulatory surgical center operations;

3. All new ASCs shall be located within twenty (20) minutes normal driving time of at least one (1) acute care hospital and the applicant shall have a transfer agreement for the proposed center in place with at least one (1) acute care hospital which is located within twenty (20) minutes normal driving time of the center; and
4. Overall surgical utilization in the planning area notwithstanding, an application to establish an ASC limited to a specific type of procedure shall be consistent with this Plan if the following conditions are met:

- a. The applicant documents that patients are not receiving the specific type of surgical procedures (as identified by procedure codes) proposed by the applicant at facilities in the planning area; and
- b. The application contains an explanation of why the unmet need for the specific type of surgical procedure has not been reasonably addressed by providers in the planning area.

## **C. Chemical Dependency Treatment Beds**

### **Definition**

“Chemical dependency” treatment beds are licensed beds used in the treatment of patients suffering from abuse or addiction to chemical substances such as alcohol or drugs.

### **Review Criteria**

An application for chemical dependency treatment beds shall be consistent with this Plan if the following criteria are met:

1. The number of chemical dependency treatment beds in an ADD shall not exceed a maximum rate of 11.4 beds per 100,000 geographic population for the plan year;
2. Consideration shall be given to the availability of acute care or psychiatric beds designated for use as chemical dependency treatment beds, as well as the availability of KRS Chapter 222 program beds;
3. Applications to develop hospital-based units using existing space shall be given priority over applications requiring new construction; and
4. In ADDs with a rate below the maximum for chemical dependency treatment beds, all or a portion of the bed quota for contiguous ADDs may be used if the applicant demonstrates that:
  - a. The proposed facility will be available and accessible to the population or a portion of the population of the contiguous ADDs;
  - b. Linkage agreements have been made with appropriate providers in the contiguous ADDs; and
  - c. Letters of support have been obtained from any licensed chemical dependency treatment providers in the contiguous ADD.

## **D. Outpatient Health Care Center**

### **Definition**

An “Outpatient Health Care Center” is a public or private provider-based institution with permanent facilities on a single campus, that is under the supervision of an organized medical staff and that is comprised of components for the provision of primary care, ambulatory surgery, twenty-four (24) hour emergency care, and radiologic and magnetic resonance imaging.

### **Review Criteria**

An application for a certificate of need to establish an Outpatient Health Care Center shall be consistent with this Plan if the health facility:

1. Shall provide primary care services, twenty-four (24) hour emergency services, diagnostic imaging including magnetic resonance imaging services, ambulatory surgical services, and other outpatient services necessary to serve the needs of the residents of a county if there are no review criteria for those other outpatient services in the state health plan; and
2. Shall be located in a county that has no hospital, that has a population of sixty thousand (60,000) or more persons, and that also is a medically underserved area as determined by the Secretary of the Federal Department for Health and Human Services.

No more than one (1) Outpatient Health Care Center that meets the criteria in Paragraphs 1 and 2 above shall be established in each county.

## **E. Private Duty Nursing Service**

### **Definition**

A “Private Duty Nursing Service” is an entity that provides licensed nursing care to patients in his or her home for a continuous block of time, in increments of at least four hours, in which the private duty nursing service supervises nursing care provided by agency personnel.

### **Review Criteria**

An application to establish a private duty nursing service shall be consistent with this Plan only if an application:

1. Proposes to establish or expand private duty nursing services into a county that does not have a licensed or certificate of need authorized private duty nursing service provider or a licensed or certificate of need approved home health agency that offers private duty nursing services as a component of its array of services;
2. Is submitted by an existing agency that has met the emergency circumstances provision as outlined in 900 KAR 6:080, Section 2, and has received notice from the Office of Health Policy that an emergency exists, if the application is restricted to the limited purpose of alleviating the emergency;
3. Notwithstanding the above criteria, an application proposes to establish private duty nursing services in, or expand private duty nursing services into, a county only for the provision of those services to pediatric patients (i.e. people under age 18) and the application demonstrates that the proposed service is not currently provided by another licensed home health agency or private duty nursing service provider; and
4. Notwithstanding the above criteria, an application proposes to establish private duty nursing services in, or expand private duty nursing services into, a county only for the provision of Model II Waiver services to Medicaid recipients and the application demonstrates that the proposed service is not currently provided by another licensed home health agency or private duty nursing service provider.