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Maryland
Hospital
Association

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Commissioner Robert E. Nicolay
Chairman, MHCC CON Task Force
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Chairman Nicolay:

On behalf of the 69 members of the Maryland Hospital Association, this letter is written to share our comments on the Guiding Principles for the Maryland Certificate of Need Program working paper. We believe it is important to periodically reevaluate and revisit the underlying principles that should be used to guide the Maryland CON program.

In general, the draft principles provide a strong platform for the CON program in Maryland. There are, however, several areas that we believe also should be included and/or further articulated. Specifically:

Purpose of CON—The purpose of CON should not simply be focused on preventing negative consequences associated with an unregulated environment, but also should include a mechanism for "encouraging" certain positive behaviors.

Consequences of an Unregulated Environment—While the paper concludes that "the strengths of the CON process in addressing cost, quality, and access are substantial," those strengths are not articulated. The paper should include a discussion and examples of where market forces without a CON program did not work with regard to major capital investments—rehabilitation hospitals, for-profit psychiatric hospitals, today's niche hospitals for cardiac and orthopedic services, etc.

Access to Capital Issues—The fact that the bond rating agencies often look more favorably on projects located within a state that has a CON program should be recognized.

Retrospective Role of Licensure—The roles of a state licensure program and the state CON program should be clear and further defined. It should be recognized that licensure is limited since it is a retrospective review of compliance with established standards. As a result, in some instances it may be important to restrict entrance for quality of care purposes and not simply rely on an "after the fact" review.

CON Relationship with Hospital Rate Setting in Maryland—There is a need to recognize the role of the HSCRC in keeping hospital costs down in Maryland; i.e., it

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provides a significant check on hospital costs that does not exist in other CON states. This should translate into greater flexibility in what projects hospitals are allowed to undertake without a CON in Maryland.

We appreciate the opportunity to share these views. We look forward to continuing to work with you, the CON Task Force, the commission and staff as this process moves forward.

If you have questions or would like additional information, please contact me.

Sincerely,

Pegeen A. Townsend
Sr. Vice President, Legislative Policy

cc: Rex Cowdry, M.D., M.P.H.
Pamela Barclay