MARYLAND HEALTH CARE COMMISSION

Certificate of Need Task Force

September 8, 2005

Recap/Follow-up of August 25, 2005 Task Force Meeting

Issue	Task Force Recommendation
State Health Plan Acute Inpatient Services Chapter	•Revise acute care hospital standards used for CON review •Staff draft recommendation for updating SHP for Task Force consideration •Eliminate prohibition against shell space for acute care hospital projects
Licensure of Acute Care Hospital Beds and MSGA Bed Need	•Adopt the 71.4% average annual occupancy rate assumption implied by the 140% rule as the occupancy standard in acute care bed need projections for all services
Ambulatory Surgical Services Chapter	•Staff draft recommendation for Task Force consideration
Guiding Principles for the Maryland CON Program	•Circulate revised draft for Task Force review and comment
CON Review Process Completeness Review and Re-docketing	•Require two conferences in the review of any CON application: application review conference; and project status conference •Allow for changes in a project that bring it in closer conformance with the staff's or Reviewer's analysis, without penalizing such changes by adding more process or time to the review
Interested Parties	•No changes recommended in rules governing designation of interested parties

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Draft for Discussion

Principles to Guide the CON Program

Maryland's Certificate of Need program should:

- respond to its residents' needs for health care services, including hospital, long term care, ambulatory surgery, and specialized services,
- promote the quality and safety of these services,
- promote improved access to these services by underserved populations, and
- promote the affordability of health care available to Maryland residents.

Certificate of Need should be applied only in situations where unrestricted competition through normal market forces is likely to result in:

- significantly higher or unnecessary costs to the system,
- decreased access to care by vulnerable populations or less populous regions of the state, or
- a diminution of the quality or safety of patient care.

The Certificate of Need program should be:

- procedurally clear, consistent, and timely;
- flexible enough to accommodate unique situations, whether of provider mission, geography and demographics, or technological advances; and
- specific to Maryland's unique policy and regulatory framework.

The State Health Plan standards, review criteria, and associated data used to conduct Certificate of Need reviews should be kept current, and regularly updated.

State Health Plan

Because of its importance in guiding the CON review process, the Task Force recommends that the Commission undertake a comprehensive revision of the State Health Plan. The update and revision of the State Health Plan should involve technical advisory groups to obtain expertise on factors influencing the availability, access, cost, and quality of services. The review of each chapter of the State Health Plan should:

- Eliminate obsolete and duplicative CON review standards;
- Streamline documentation requirements; and
- Identify those types of projects eligible for review based on a limited set of standards.

Certificate of Need Task Force Report
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State Health Plan (Continued)

Acute Inpatient Services (COMAR 10.24.10)

- The revision of the Acute Inpatient Services chapter of the State Health Plan should eliminate obsolete and redundant standards, including: .06A(2) Utilization Review Control Programs; .06A(3) Travel Time; .06A(4) Information Regarding Charges; .06A(5) Charity Care Policy; .06A(6) Compliance with Quality Standards; .06A(7) Transfer and Referral Agreements; .06A(8) Outpatient Services; .06A(9) Interpreters; .06A(10) In-Service Education; .06A(11) Overnight Accommodations; .06A(12)Required Social Services; .06A(19) Minimum Size for Pediatric Unit; .06A(20) Admission to Non-Pediatric Beds; .06A(21) Required Services When Providing Critical Care; .06A(22)Average Length of Stay for Critical Care Units; .06A(23) Waiver of Standards for Proposals Responding to the Needs of AIDS Patients; .06B(1) Compliance with System Standards; .06B(2) Duplication of Services and Adverse Impact; .06B(4) Burden of Proof Regarding Need; .06B(5)Discussion with Other Providers; .06B(9) Maximum Square Footage; .06C(2) Compliance with System Standards; .06C(3) Conditions for Approval; and, .06C(5) Maximum Square Footage-Renovations.

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State Health Plan (continued)

Ambulatory Surgical Services (COMAR 10.24.11)

- The revision of the Ambulatory Surgical Services chapter should consider the implications of defining the exemption from CON regulation for establishment of single operating room ambulatory surgical facilities as an exemption for a single room for the provision of invasive procedures within a practitioners office, whether the room is a sterile operating room or a non-sterile "procedure room." This will require consideration of definitions of the terms "operating room" and "procedure room" and revised and expanded definitions of "full" and "optimal capacity" for different categories of surgical room.

Other State Health Plan recommendations made by the Task Force include:

- The Commission should use the 71.4% occupancy rate assumption implied by the Office of Health Care Quality's statutory 140% licensing rule as the occupancy rate standard in acute care bed need projections for all services.
- The Commission should eliminate the prohibition against shell space for acute care hospital capital projects.

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Scope of CON Coverage

The Task Force recommends that the requirement for CON be eliminated for the following:

- Closure of health care facilities
- Clinical information technology
- Home health agencies
- Burn care services

The Task Force discussed elimination or modification of the scope of CON coverage of hospice, obstetric, open heart surgery, organ transplant, and neonatal intensive care unit (NICU) services. No change in the scope of regulation for these services is recommended.

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CON Review Process

- Increase the statutory capital expenditure review threshold from $1.25 to $10.0 million (maintain the annual adjustment for inflation)

- Modify the completeness review and project review process by requiring two conferences as a standard feature of the review of any CON application: (1) An Application Review Conference ("ARC") between staff and the applicant, which can be face-to-face or by phone conference, scheduled within the approximate time frame at which the staff currently issue completeness questions; and, (2) A Project Status Conference ("PSC") between any appointed Reviewer, the staff, the applicant, and any interested parties, in person or by phone.

- Modify the project review process by allowing for changes in a project, addressed in the PSC, that bring it in closer conformance with the State Health Plan, based on staff or the Reviewer's analysis, without penalizing such changes by adding more process or time to the review.

- The Task Force reviewed the regulations governing designation of interested parties in CON reviews and recommended no changes.

Other Certificate of Need Review Process and State Health Plan Issues

CON Review Process

- Streamlined ("Fast Track") CON Review Process
  - Renovation Projects/New Construction Projects with No New Services/Beds
  - Staff Report in 60 Days/Commission Decision in 90 Days or Project Deemed Approved
- CON Application Form and Filing
  - Develop Electronic Application
  - Website Access to Applications and Filings
- Require Site Visits and Local Hearings on All Major CON Projects
  - Require Decision-Makers to Visit Location of Proposed Projects
  - Require Commission to Conduct Local Hearings on All Contested Projects
- Eliminate Scheduled CON Reviews
  - Allow Applicants to File Applications As They Need To

Other Certificate of Need Review Process and State Health Plan Issues

State Health Plan

- Emergency Department/Outpatient Services
  - Increase Focus on Outpatient Services at Acute Care Hospitals
  - Request Authority to Regulate Cardiac Catheterization Labs
- Freestanding Birthing Centers