



January 15, 2018

Paul Parker
Director, Center for Health Care Facilities Planning & Development
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Mr. Parker:

On behalf of Bon Secours Baltimore Health System, we appreciate the opportunity to provide the Maryland Health Care Commission input on the potential reform of health planning and certificate of need (CON) programs. As outlined below, we recommend that the CON regulation of hospital capital projects be reformed to better align with the current healthcare landscape and the goals set forth in Maryland's new All Payer Model.

The Impact of CON Regulation on Hospital Competition and Innovation

The public and healthcare delivery system benefits from appropriate competition among hospitals. Generally, competition results in higher quality of services and lower costs. Additionally, it promotes innovation which results in advanced technologies and efficient methods of care delivery. Competition enables consumer choice and in conjunction with natural market forces, eliminates substandard services. The current CON program limits the abovementioned benefits through restrictive market entry.

In order to enhance competition, CON regulation should be reformed with consideration of deregulation where appropriate. However, a balance between state regulation and market forces should be maintained to achieve optimal performance in delivering and financing healthcare.

Although the aim is to control excessive capital investments that increase costs, CON regulation also limits investments in new medical technology. This is without necessity, as Maryland's financial structure functions as an effective method of cost containment.

Scope of CON Regulation

The scope of CON should be reformed to the extent that public need, cost effectiveness, and impact on smaller competing health systems are not negatively affected. There is opportunity to deregulate certain hospital projects and/or expand the categories of exemption review. Such projects should be identified and analyzed in the context of total healthcare spending, considering parity between HSCRC regulated and unregulated facilities. Furthermore, MHCC should study the potential impact of shifting the focus of CON regulation from capital expenditure thresholds to hospital revenues. To

maintain consistent with the aim of the All Payer Model, emphasis should include impact on operational expenditures as well.

Maryland's rate regulation should not include capital spending growth targets; such mandates could result in unintended consequences that contradict the goals of CON. Budgeting and planning are business decisions that should remain in the discretion of individual hospitals and health systems.

Project Review Process

The steps of the project review process should remain largely intact, including the letter of intent, completeness review, and the ability for interested and participating entities to comment. However the process should be streamlined to decrease the overall length of time to CON approval. This may be achieved in several ways such as simplifying the application form, reducing time cycles within individual steps, and adopting abbreviated reviews for specified projects.

Specifically, the application form should be re-evaluated and modified to only include the most pertinent information. Ideally, a condensed application should warrant a reduced timeline for completeness review. Moreover, the application process should be automated and posted online in real time. As a result, the cycle for commentary should also decrease. In terms of abbreviated review, MHCC should consider processes in states that have successfully implemented similar timelines for projects that are non-comparative or deemed to result in unsubstantial change.

As completion timelines vary by project, MHCC should maintain the flexibility in allowing for extension for good cause.

The State Health Plan for Facilities and Services

Overall, State Health Plan regulations for hospitals provide appropriate guidance for decision making. The strength in these regulations lie in the flexibility granted to MHCC to facilitate decision making on a case by case basis. On the other hand, improvements should be made to provide guidance that is more explicit, data driven, and consistent with current healthcare trends. For example, methodologies for volume capacity and criteria for CON review should align with population health efforts. Ultimately, examining need from a broader perspective also allows for a more comprehensive evaluation of CON projects.

When developing the State Health Plan, MHCC should increase efforts to solicit input from other industries.

Alternatives to CON Regulation for Capital Project

The benefits of CON, such as quality assurance can be achieved through alternative regulatory mechanisms and monitoring tools. MHCC should study the alternatives implemented by states



without CON, such as Pennsylvania and New Hampshire to understand the effectiveness of public reporting and expanded licensure requirements.

Duplication of Responsibilities by MHCC, HSCRC, and the MDH

Charity and uncompensated care, as well as financial assistance policies are overseen by the HSCRC and therefore, it is unnecessary for the MHCC to duplicate regulation efforts in these areas.

Conclusion

In conclusion, CON regulation should be reformed to decrease the administrative burden on applicants, streamline the project review process, and better align with the evolving healthcare landscape. MHCC will benefit from utilizing other states' deregulation efforts and review processes as a model for CON reform. However, it is crucial for the state to consider the benefits of CON regulation and ensure that any modifications do not disproportionately affect smaller hospitals and providers.

We appreciate your consideration of our input and the agency's effort to enhance healthcare planning. Please reach out should you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dr. Samuel L. Ross".

Dr. Samuel L. Ross,
Chief Executive Officer