



THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

June 23, 2017

Mr. Ben Steffen
Executive Director, Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Mr. Steffen:

Under the All-Payer Model agreement, the State is moving to a population-based approach that addresses total health care spending. The model directly impacts hospitals, and indirectly impacts physicians and other health care providers, since ultimately all health care providers share responsibility for managing growth in health care spending per capita. The All-Payer Model focuses on the “Triple Aim” of health care, which calls for reduced costs, enhanced quality and patient experience, and improved health. The model, therefore, calls for dramatic changes in health care delivery and spending, and the Certificate of Need (CON) program must also recognize these changes.

We are well aware that the Maryland Health Care Commission (MHCC) has authority over CON, including the drafting of the State Health Plan, which regulates health care services provided in Maryland. CON approval is required to establish certain health care services or for health care capital spending in excess of a defined threshold.

We believe it is time to study specific elements of CON. Such a study is required for the following two important reasons. Maryland’s All-Payer Model, under the State’s agreement with the federal Centers for Medicare and Medicaid Services, is fundamentally changing the health care delivery landscape in our State. At the same time, the CON application and approval process is complicated and may be an administrative burden, particularly for hospitals.

We request that MHCC undertake a comprehensive and thorough review of the CON application requirements and processes in the State, focusing on the following:

- (1) an examination of the major policy issues that the State should explore to ensure that CON laws and regulations, particularly the capital approval CON requirements, reflect the dynamic and evolving health care delivery system;

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- (2) a review of approaches other states with similar delivery models have taken to determine appropriate capacity;
- (3) recommended revisions to the enabling statutes relating to capital approval processes;
- (4) recommended revisions to the State Health Plan, including:
 - a. creating incentives to reduce unnecessary utilization;
 - b. eliminating, consolidating, or revising individual chapters of the State Health Plan;
 - c. developing criteria used that determine service need in the context of Maryland's All-Payer Model; and
 - d. an understanding that any criteria are clear, unambiguous, and appropriately applied;
- (5) a consideration of what MHCC flexibility, either through legislative or regulatory changes, may be needed to streamline the CON approval process;
- (6) in consultation with the Health Services Cost Review Commission and the Maryland Department of Health, identify areas of regulatory duplication regarding the hospital capital funding process, and other areas of hospital regulation; and
- (7) any other related matters as deemed necessary in the study.

We urge that as MHCC conducts its study staff should gather perspectives and views from a range of stakeholders, including:

- (1) MHCC commissioners;
- (2) the Maryland Department of Health; and
- (3) representatives of the following groups:
 - a. hospitals and health systems;
 - b. physicians;
 - c. post-acute service providers;
 - d. ambulatory surgical facilities;

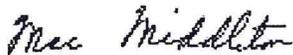
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- e. behavioral health and substance abuse treatment providers;
- f. employers;
- g. health care carriers;
- h. health care consumers; and
- i. local health departments and public health experts.

It is our hope that the study propose legislative and regulatory recommendations that the State should undertake to adapt the CON process to today's health care environment. The recommendations should be reasonable, actionable, and executable. The study should begin as soon as possible with an interim report completed no later than May 1, 2018, and a final report completed and submitted to the Senate Finance and the House Health and Government Operations committees no later than December 1, 2018.

Thank you for your consideration of this important matter. If you have any questions please contact Linda Stahr or David Smulski.

Very truly yours,



Thomas McLain Middleton
Senate Co-chair



Shane E. Pendergrass
House Co-chair

TMM:SEP/DAS/nb

cc: Members, Senate Finance Committee
Members, House Health and Government Operations Committee

2018 MHCC CON Modernization Task Force

Member	Industry	Title/Role/Affiliation
Ellen Cooper	Consumer Representative	Former Chief of Antitrust Division, Maryland OAG
Lou Grimmel	Nursing Homes	CEO, Lorien Health Care
Regina Bodnar	Hospice	Executive Director, Carroll Hospice
Andrea Hyatt	Freestanding Ambulatory Surgery	Director of ASC Operations for University of Maryland Faculty Physicians
Anne Horton	Home Health	LHC Health Care Group
Ben Lowentritt	Physicians	Urologist, Chesapeake Urology
Brett McCone	Hospitals	Vice President MHA
Mark Meade	Business	Principal Consulting Underwriters, LLC
Andrew Solberg	CON Consultant	ALS Healthcare Consultant Services
Barry Rosen	External Counsel	Chairman & CEO Gordon Feinblatt
Frances Phillips (Co-Chair)	Public Health	Acting Health Officer Anne Arundel Co.
	MHCC Commissioners	
Randolph Sergent (Co-Chair)		SVP & General Counsel CareFirst
Elizabeth Hafey		Miles and Stockbridge
Jeff Metz		President and Administrator of Egle Nursing and Rehab Center
Michael O'Grady		Senior Fellow at NORC and Principal at O'Grady Consulting
	HSCRC Commissioner	
Adam Kane		SVP, Real Estate Acquisition and Corporate Affairs, Erickson Living

Meeting Schedule

All meetings are at MHCC's Offices at 4160 Patterson Avenue, Room 100, Baltimore MD

January 22, 2018	9:00-11:00
February 23, 2018	9:00-11:00
March 23, 2018	9:00-11:00
April 20, 2018	9:00-11:00
May 11, 2018	9:00-11:00



MARYLAND HEALTH CARE COMMISSION

4160 PATTERSON AVENUE – BALTIMORE, MARYLAND 21215
TELEPHONE: 410-764-3460 FAX: 410-358-1236

January 4, 2018

Overview of the CON Modernization Task Force

The Chairs of the Senate Finance Committee and the Health and Government Operations Committee have asked the Maryland Health Care Commission (MHCC) to develop recommendations for modernizing Maryland's health facility planning and CON programs in light of Maryland's implementation of the global budgets under the All-Payer Model and the proposed migration to the Total Cost of Care Demonstration in 2019. The Chairs asked MHCC to submit an interim report in May 2018 and a final report in December 2018. The Commission supports this review and further believes that we should consider changes in our health planning and Certificate of Need (CON) authority across all categories of services at the same time.

Over the past several months, the MHCC has developed a comprehensive, constructive, and inclusive plan for responding to the Chairs' request. The Commission will develop recommendations for the Committees through a two phase process using a Task Force composed of four Commissioners, experts from the industries subject to health planning, a CON consultant, a legal counsel to applicants, and representatives from business, consumers, and public health. The Task Force will be co-chaired by Commissioner Randolph Sergent and Acting Health Officer for Anne Arundel County Frances Phillips.

The Commission has asked that the Task Force conduct its work in two phases. In Phase One, the Task Force will focus on the examination of issues and problems with existing health planning and CON programs. The interim report in May will identify issues and problems, and also highlight the range of potential solutions. In Phase Two, the Task Force will focus on assessing potential solutions in detail and developing recommendations that the General Assembly Committees may consider. The Commission plans to expand the Task Force in Phase Two, as it seeks to develop broad consensus for the recommendations. The final report will provide a roadmap for aligning the health planning and the CON programs with the Total Cost of Care Demonstration planned for launch in 2019. Both the interim and final reports will be developed by the Task Force and then submitted to the full MHCC for approval and transmission to the Committees.

The staff, in consultation with the co-chairs and Chairman Moffit, have developed a structured questionnaire to highlight questions and issues that the Commission wants stakeholders to address in their comments. Questions include known or potential problems with current health planning and CON programs, as well as questions concerning possible changes to address specific issues. The structured questionnaire has been tailored to reflect possible specific

changes that are most pertinent to particular categories of health care facility projects subject to CON regulation. MHCC has emphasized that the questionnaire is not intended to limit or channel comments and all stakeholders should feel free to comment on any range of issues, problems, and solutions they wish to offer. Responses from the regulated provider categories are due later this month. Responses to the questionnaires will be synthesized by the staff and will serve as starting points for Task Force discussions. The staff, in consultation with the co-chairs, is developing a work plan that will be distributed approximately one week prior to the first meeting. A webpage has been created for the CON Modernization Task Force at: https://mhcc.maryland.gov/mhcc/pages/home/workgroups/workgroups_con_modernization.aspx. That webpage already includes the questionnaires for the respective provider categories.