

MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

**CERTIFICATE OF NEED PROGRAM
ANNUAL ACTIVITY REPORT**

**October 1999 Through September 2000
(FY2000)**

Michigan Department
of Community Health



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EXECUTIVE SUMMARY

One of the Michigan Department of Community Health's (the "Department" or "MDCH") responsibilities under the Certificate of Need (CON) law is to publish an annual activity report. This is the Department's twelfth report, and it covers the period beginning October 1, 1999 through September 30, 2000 (FY2000). Data contained in this report may differ from prior reports due to updates subsequent to each report's publishing date.

Historical Overview

In 1974, Congress passed the National Health Planning and Resources Development Act (PL 93-641) that encouraged states to establish a CON program as a vehicle for health services planning. The law was repealed in 1986. During the 1980s, it became evident that the expectations and decisions of Michigan's CON program were unclear and unpredictable to many applicants. As a result, the CON Reform Act of 1988 was passed that created a systematic standards development system and reduced the number of services requiring a CON. Subsequent to these reforms, the number of CON applications has declined, fewer denials are appealed, fewer unnecessary or clearly inadequate applications are filed, and not a single decision has been overturned in court. The rest of this report describes recent trends and current activities of Michigan's CON program.

Administration

The Department of Community Health's Health Facilities Section (the "Section") of the Health Legislation and Policy Development, Department of Community Health, provides support for the CON Commission (the "Commission") and its ad hoc advisory committees. The Commission is responsible for setting review standards and designating the list of covered services. The ad hoc committees provide the Commission with expert advice pertaining to the standards.

The MDCH Health Facilities Section also manages all incoming applications and letters of intent, determining if CON is necessary and providing the necessary application materials.

Finally, the Audit Division of the Budget and Finance Administration reviews the financial components of CON applications.

CON Application Process

To apply for a CON, the following steps must be completed:

- ' Completion of a Letter of Intent
- ' Filing of application
- ' Review by the Health Facilities Section
- ' Issuance of proposed decision on the application that will become binding unless appealed or overturned by the MDCH director in the final decision.
- ' Issuance of the final approval or denial by the MDCH Director. If a proposed denial is appealed within 15 days of receipt of the proposed decision, the MDCH director will not issue a final decision.

Types of Reviews

There are three types of CON review: nonsubstantive (involving replacement of equipment or change in ownership not requiring a full review), substantive individual, and comparative (involving competitive applications for limited resources by two or more applicants). The administrative rules for the CON program establish time lines by which the Department must issue a proposed decision on each CON application. The proposed decision for a nonsubstantive review must be issued within 45 days of the date the review cycle begins, 120 days for substantive individual, and 150 days for comparative reviews.

In 2000, there were 105 applications for nonsubstantive review, 105 substantive individual, and 0 comparative, for a total of 210 CON review applications.

Proposed Decisions

In 2000, 153 applications for CON review were approved, five approved with conditions, and eight disapproved. Of the eight applications disapproved, three were approved upon appeal and final decision or reconsideration, four were confirmed as disapprovals, and one application is still in process.

Report

The following report presents detailed information about the nature of these CON applications and decisions. Note that the data presented in this report represents pass through--some applications were carried over from last fiscal year and others have been carried over into next fiscal year.

HISTORICAL OVERVIEW OF MICHIGAN'S CERTIFICATE OF NEED PROGRAM

In 1974, Congress passed the National Health Planning and Resources Development Act (PL 93-641) including funding incentives that encouraged states to establish a CON program. The purpose of the act was to facilitate recommendations for a national health planning policy. It encouraged state planning for health services, manpower, and facilities. And, it authorized financial assistance for the development of resources to implement that policy. Congress repealed PL 93-641 and certificate of need in 1986. At that time, federal funding of the program ceased and states became totally responsible for the cost of maintaining CON.

Michigan has had a state CON program since the early 1970s. During this period, the law has been amended several times. The goal of the program is to balance cost, quality, and access issues and ensure that only needed services are developed in Michigan. However, the program's ability to meet these goals was significantly diluted by the fact that most application denials were overturned in the courts. In order to address this, Michigan's CON Reform Act of 1988 was passed to develop a clear, systematic standards development system and reduce the number of services requiring a CON.

Prior to the 1988 CON Reform Act, the Department found that the program was not serving the needs of the state optimally. It became clear that many found the process for developing planning policies to be excessively unclear and unpredictable. To strengthen CON, the 1988 amendments established a specific process for developing and approving standards used in making CON decisions. The CON review standards establish how the need for a project must be demonstrated. Applicants know before filing an application what specific requirements must be met.

The CON Reform Act created the CON Commission. The CON Commission, whose membership is appointed by the Governor, is responsible for approving CON review standards. The Commission also has the authority to revise the list of covered clinical services subject to CON review. The day-to-day operations of the program, including making decisions on CON applications consistent with the review standards, are carried out by the Health Facilities Section of the Department of Community Health. In 1993, additional amendments required ad hoc committees to be appointed by the Commission to provide expert assistance in the formation of the review standards.

The standards development process has had the desired outcome. The CON program is now more predictable so that applicants reasonably can assess, before filing an application, whether a project will be approved. There are far fewer appeals of Department decisions, and to date, not a single decision under the reformed CON law has been overturned in court. Moreover, the 1988 amendments appear to have reduced the number of unnecessary applications, i.e., those involving projects for which a need cannot be demonstrated.

This development process now provides a public forum for balancing the competing goals of cost, quality, and access and involves organizations representing purchasers, payers, providers, consumers, and experts in the subject matter. The revised standards development process has resulted in CON review standards that are legally enforceable while assuring that standards can be revised promptly in response to the changing health-care environment.

The 1988 amendments also significantly reduced the types of projects subject to CON review. This resulted in a significant decrease in the number of decisions by the Department--from 383 in FY88 to 168 in FY2000. This 44 percent decrease reflects the intent of the CON Reform Act--reducing unnecessary review. Consequently, the Department's timeliness continues to fall well within the timelines required for issuing decisions on applications, particularly for applications reviewed on a nonsubstantive basis. In FY2000, the average number of days required to issue a nonsubstantive decision was 23 days, down 55 percent from 42 days in FY90.

Trends in CON activity in recent years are characterized in the balance of this report.

ADMINISTRATION OF THE CERTIFICATE OF NEED PROGRAM

Health Facilities Section, Health Legislation and Policy Development

Certificate of Need Commission Responsibilities

The Health Facilities Section provides professional and support staff assistance to the CON Commission and the ad hoc advisory committees in the development of new and revised standards. Staff support includes researching issues related to specific standards, preparing draft standards, and performing functions related to both Commission and committee meetings.

The CON Commission is a five-member body, appointed by the Governor and confirmed by the Senate, responsible for approving CON review standards used by the Department to make decisions on individual CON applications. The Commission also has the authority to revise the list of covered clinical services subject to CON review. Appendix I is a list of the current CON commissioners.

Pursuant to the 1993 amendments to the CON law, ad hoc advisory committees are appointed by and report to the CON Commission. The ad hoc advisory committees advise the Commission regarding creation of, or revisions to, the standards. The committees are composed of a majority of experts in the subject matter and include representatives of organizations of health-care providers, professionals, purchasers, consumers, and payers.

Certificate of Need Application Responsibilities

The Health Facilities Section has operational responsibility for the CON program. Staff members provide assistance to individual applicants prior to and throughout the CON process.

Health Facilities staff is responsible for reviewing all letters of intent (LOI) and CON applications as prescribed by the administrative rules. Based on the letter of intent, staff determines if a proposed project requires a CON. If a CON is required, staff sends the appropriate application forms to the applicant for completion and submission to the Department. The application review process includes the assessment of each application for compliance with all applicable statutory requirements and CON review standards and preparation of a report documenting the analysis and findings.

In addition to the application reviews, the Section also reviews requests for amendments to approved CONs as allowed by rules. Amendment requests involve a variety of circumstances including changes in the scope of an approved project, changes in how an approved project is financed, and authorization for cost overruns. The rules allow actual project costs to exceed approved costs by a specified amount due to the difficulty in estimating construction and other capital costs at the time an application is filed. Currently, no fee is charged for processing amendments.

The Section provides the Michigan State Hospital Finance Authority (MSHFA) with information when hospitals request financing through MSHFA—bond issues and Hospital Equipment Loan Program (HELP) loans. This involves advising MSHFA on whether a CON is required for the activities that will be financed through MSHFA or if a required CON has been obtained.

Audit Division, Budget and Finance Administration

In addition to the review conducted by the Health Facilities Section, the Audit Division, Bureau of Audit and Revenue Enhancement, Budget and Finance Administration, reviews the financial aspects of each application. The Audit Division also may become involved in the review of an amendment depending on the aspect of the amendment request.

CERTIFICATE OF NEED APPLICATION PROCESS

The following discussion briefly describes the steps an applicant follows in order to apply for a CON.

Letter of Intent. An applicant must file a letter of intent (LOI) with MDCH and the regional CON review agency, if any. The letter of intent is a form supplied by MDCH. MDCH provides an applicant with the necessary application forms based on the information contained in the LOI form.

Application. An applicant files the application forms with MDCH and the regional CON review agency, if any, on a designated application date. MDCH reviews an application to determine if it is complete. If not complete, additional information is requested. For nonsubstantive reviews, the application is deemed complete, or received, when the additional information has been provided. For substantive individual and comparative reviews in which additional information is requested, the application is deemed complete or received the first working day of the month following the receipt of the application. For nonsubstantive and substantive reviews, the review cycle starts after an application is deemed complete or received.

Review Types and Time Frames. There are three review types: nonsubstantive, substantive individual, and comparative. Nonsubstantive reviews that involve projects such as certain equipment replacements and changes in ownership do not require a full review. Substantive individual reviews involve projects that require a full review but do not involve a resource limited by a CON review standard. Comparative reviews involve situations where two or more applicants are competing for a resource limited by a CON review standard, such as hospital or nursing home beds. The maximum review time frames for each review type, from the date an application is deemed complete or received until a proposed decision is issued, are: 45 days for nonsubstantive, 120 for substantive individual, and 150 days for comparative reviews. The comparative review time frame includes an additional 30-day period for determining if a comparative review is necessary. Whenever this determination is made, the review cycle begins for comparative reviews.

Review Process. MDCH reviews the application. Each application is reviewed separately by the Health Facilities Section and the Audit Division. Each office completes a staff program report documenting its analysis and findings of compliance with the statutory review criteria, as set forth in Section 22225 of the CON law and the CON review standards.

Proposed Decision. The Department issues a proposed decision to the CON applicant within the required time frame. This decision is binding unless reversed by the Department director or, in the case of a denial, the decision is appealed as described below. In the case of a comparative review, a single decision is issued for all applications in the same comparative group.

Acceptance and Appeal of Decision. If the proposed decision is an approval, a final decision must be signed by the Director within five business days. If the proposed decision is a disapproval, an applicant may request a hearing within 15 days of receipt of the proposed decision. If a hearing is requested, the final decision is not issued by the MDCH director until after completion of the hearing. If no hearing is requested, the MDCH director issues the final decision.

TYPES OF CON REVIEWS

The Certificate of Need Administrative Rules (the "Rules") establish three types of project reviews: nonsubstantive, substantive individual, and comparative substantive. As discussed in the previous section, the Rules specify the time frames by which the Department must issue its proposed decision related to a CON application. The time allowed varies based on the type of review.

Nonsubstantive

Table 1 provides an analysis of nonsubstantive review decisions, by project type, issued beginning FY94 through FY2000. Nonsubstantive reviews involve projects that are subject to CON review but, based upon the department's determination, do not warrant a full review. The following describes some of the types of projects that potentially would be eligible for review on a nonsubstantive basis:

- ' acquisition of an existing health facility;
- ' replacement of existing licensed hospital or nursing home beds at the same licensed site;
- ' change of existing licensed hospital or nursing home beds from one licensed site to another licensed site in the same area and within the applicable replacement zone and which involves a capital expenditure of less than \$2,352,000;
- ' addition of host sites to an existing mobile equipment network, changing central services coordinators, or reconfiguring an existing mobile equipment network;
- ' replacement or upgrade of medical equipment associated with the provision of a covered clinical service if the project meets the volumes required by the CON review standards and associated construction and/or renovation costs are less than \$2,352,000;
- ' acquisition or relocation of an existing megavoltage radiation therapy service and/or unit, acquisition of an existing surgical service, or acquisition of an existing MRI service and/or unit.

The Administrative Rules allow the Department up to 45 days from the date an application is deemed complete to issue a proposed decision. In January 1991, MDCH established administrative procedures that shortened the internal review cycle for nonsubstantive projects to 30 days. Reviewing acquisitions and equipment replacements on a nonsubstantive basis allows an applicant to receive a decision in a timely fashion while still being required to meet current CON requirements, including quality assurance standards.

TABLE 1							
NONSUBSTANTIVE REVIEW FINAL DECISIONS: FY94 - FY2000							
PROJECT TYPE	FY94	FY95	FY96	FY97	FY98	FY99	FY2000
Facility Acquisition	62	66	73	95	67	40	33
Equipment Replacement/Relocate	21	24	29	45	39	62	54
Other*	11	13	33	20	10	7	5
TOTALS	94	103	135	160	116	109	92

*Replacement beds, swing beds, bed relocations, and construction and/or renovation.

Substantive Individual

Substantive individual review projects require a full review but do not involve a limitation on the number of beds or services. An example of a project reviewed on a substantive individual basis is the initiation of a covered clinical service such as open heart surgery. The Department must issue its proposed decision within 120 days of the date a substantive individual application is deemed complete or received.

Comparative

Comparative reviews involve situations where two or more applications are competing for a limited resource such as hospital beds, nursing home beds, or lithotripsy services. A proposed decision on a project that is subject to comparative review must be issued by the Department no later than 120 days after the review cycle begins. The review cycle begins when the determination is made that the project requires a comparative review. According to CON Administrative Rules, the Department has the additional 30 days to determine if, in aggregate, all of the applications submitted on a comparative window date exceed the current need, therefore, requiring a comparative review. A comparative window date is one of the three dates during the year on which projects potentially subject to comparative review must be filed. Those dates are February 1, June 1, and October 1 (or the first working day following any of those dates if it falls on a holiday or a weekend).

Section 22229 established the services that were subject to comparative review. Pursuant to Part 222, the CON Commission may, and has, changed the list of services reviewed on a comparative basis. **Figure 1** delineates services currently subject to comparative review.

Table 2 provides a historical overview of the average review time by review type. This table also includes a breakdown of applications potentially subject to comparative review and, consequently, filed on a comparative window date. In situations where no competing applications were filed on the same window date, a comparative review was not necessary, and the applications were reviewed on a substantive individual basis.

FIGURE 1: Services Currently Subject to Comparative Review
PET Scanning
Neonatal Intensive Care
Extracorporeal Shock Wave Lithotripsy (ESWL)
Hospital Beds
Hospital Beds for HIV Infected Individuals
Nursing Home Beds
Nursing Home Beds for Special Population Groups
Psychiatric Beds
Transplantations (excluding Pancreas)

TABLE 2														
Proposed decisions by review type and average number of days in review cycle, FY94-FY2000														
	FY94		FY95		FY96		FY97		FY98		FY99		FY2000	
REVIEW TYPE	Total Decisions	Avg. Days												
Nonsubstantive	92	22	99	23	131	23	153	24	105	27	101	27	70	23
Substantive Individual	54	110	73	112	60	99	83	115	40	114	44	113	37	118
Potential Comparative	10	119	5	115	15	111	10	119	11	110	1	57	1	120
Comparative	3	117	2	109	4	118	0	0	2	120	2	120	0	0
Totals*	159		179		210		246		158		148		108	

*Excludes projects extended during the review cycle even though the proposed decision on the extended project may have been issued during the FY.

Table 3 compares the number of applications submitted to the Department and the number of final decisions issued in the seven (7) most recent fiscal years.

TABLE 3							
Applications Submitted and Final Decisions							
	FY94	FY95	FY96	FY97	FY98	FY99	FY2000
Applications Submitted	191	284	226	253	208	219	210
Final Decisions	175	207	280	270	195	186	168

Note: Not all applications received in a given year receive a decision in that same fiscal year.

Figures 2 and 3 illustrate the changes in the project review types in terms of applications submitted and final decisions issued in the last seven (7) fiscal years.

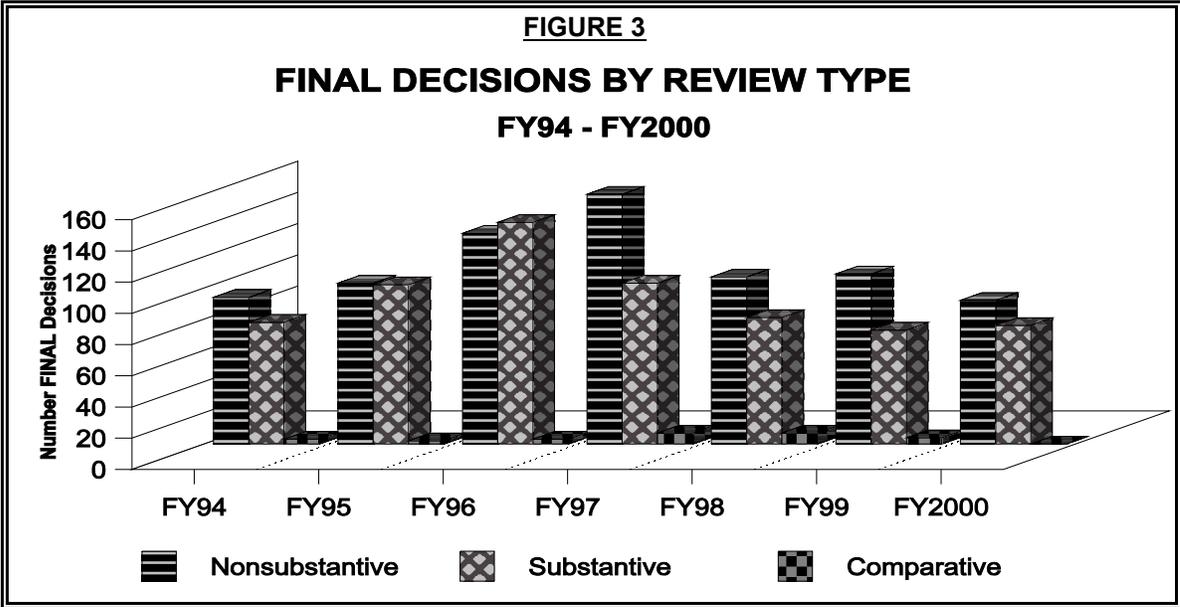
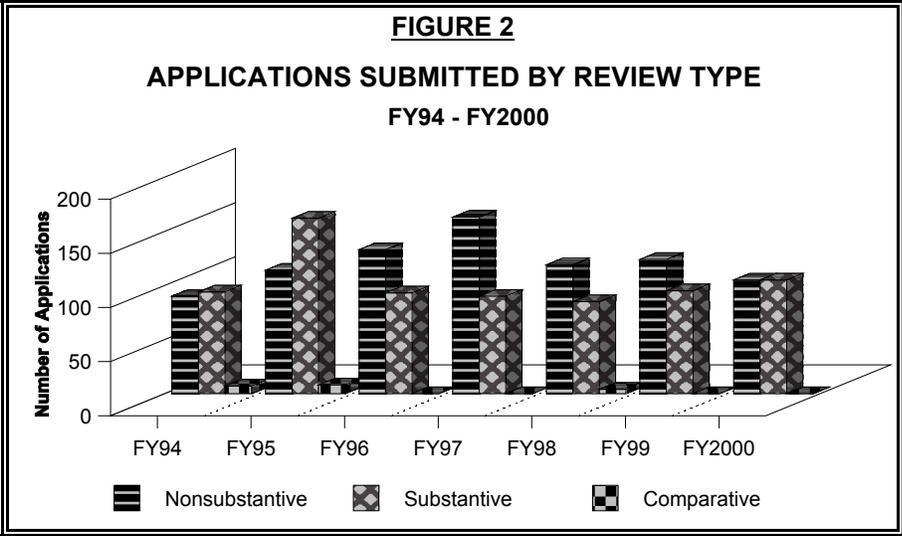


Table 4 provides data from FY94 through FY2000 on the number and percent of applications that were incomplete when submitted to the Department. Prior to actually reviewing an application, the Department examines each application to determine if all of the necessary information requested in response to the Letter of Intent has been received as well as if other information is needed to demonstrate compliance with applicable statutory requirements. This phase of the review process--the completeness review--involves approximately 30 days. The Department has up to 15 days to request additional information, and an applicant has up to 15 days to respond to the Department's request.

TABLE 4							
Incomplete Applications: FY94 - FY2000							
	FY94	FY95	FY96	FY97	FY98	FY99	FY2000
NONSUBSTANTIVE							
Complete	39	49	108	48	34	45	25
Incomplete	51	65	25	115	85	79	80
TOTALS	90	114	133	163	119	124	105
Percent Incomplete	57%	57%	19%	71%	71%	64%	76%
SUBSTANTIVE INDIVIDUAL							
Complete	8	6	43	15	3	1	1
Incomplete	86	156	50	75	82	94	104
TOTALS	94	162	93	90	85	95	105
Percent Incomplete	91%	96%	54%	83%	96%	99%	99%
COMPARATIVE							
Complete	0	0	0	0	0	0	0
Incomplete	7	8	0	0	4	0	0
TOTALS	7	8	0	0	4	0	0
Percent Incomplete	100%	100%	0%	0%	100%	0%	0%
ALL APPLICATIONS							
Complete	47	55	151	63	37	46	26
Incomplete	144	229	75	190	171	173	184
TOTALS	191	284	226	253	208	219	210
Percent Incomplete	75%	81%	33%	75%	82%	79%	88%

PROPOSED DECISIONS

Part 222 establishes a two-step decision-making process for CON applications that includes both a proposed decision and a final decision. After an application is deemed complete and reviewed by the Health Facilities Section and the Audit Division, a proposed decision is issued to the applicant and the MDCH director according to the time frames established in the Administrative Rules.

Table 5 compares the number of proposed decisions by decision type made from FY94 through FY2000.

TABLE 5					
COMPARISON OF PROPOSED DECISIONS BY DECISION TYPE: FY94 - FY2000					
	Approved	Approved With Conditions	Disapproved	Percent Disapproved	TOTAL
FY94	159	2	27	14%	188
FY95	199	0	17	8%	216
FY96	268	1	14	5%	283
FY97	259	0	9	3%	268
FY98	177	0	10	5%	187
FY99	180	5	4	2%	189
FY2000	153	5	8	5%	166

Table 6 analyzes the disposition of proposed disapprovals issued from FY94 through FY2000.

TABLE 6						
DISPOSITION OF PROPOSED DECISIONS TO DISAPPROVE						
AS OF SEPTEMBER 30, 2000						
	*Proposed Disapproval	Withdrawn	Final Disapproval	Final Approval	No Final Decision as of 9-30-00	
FY94	27	5	6	14	2	7%
FY95	17	7	2	6	2	12%
FY96	14	2	8	3	1	7%
FY97	9	0	4	2	3	33%
FY98	10	1	3	3	3	30%
FY99	4	0	2	2	0	0%
FY2000	8	0	4	3	1	13%
Totals	89	15	29	33	12	13%

Overall, 13 percent of the proposed decisions to disapprove issued from FY94 through FY2000 have not had a final decision issued as of September 30, 2000. The types of projects still pending final decisions include applications for new nursing home beds, psychiatric beds, special population nursing home beds, partial hospitalization psychiatric services, and bone marrow transplantation services. If a proposed decision is a disapproval, an applicant may request an administrative hearing that suspends the time frame for issuing a final decision. After a proposed disapproval is issued, an applicant may request that the Department reconsider its decision. The reconsideration process is an informal process that allows an applicant to submit new information in response to the areas of noncompliance identified by the Department's analysis of an application and the applicable statutory requirements. The majority of projects that have not received a final decision continue to pend because applicants are in the process of developing additional information to satisfy the requirements for approval.

FINAL DECISIONS

The Director of the Department of Community Health issues a final decision on a Certificate of Need application following either a proposed decision or the completion of a hearing, if requested, on a proposed decision. Pursuant to Section 22231(1), the Director may issue a decision to either approve an application, disapprove an application, or approve an application with conditions or stipulations. If an application is approved with conditions, the conditions must be explicit and must relate to the proposed project or the applicable provisions of Part 222. If approved with stipulations, the requirements must be germane to the proposed project and already agreed to by the applicant. The conditions must specify a time period within which the conditions shall be met, and that time period cannot exceed one year after the date the decision is rendered.

This section of the report provides a series of tables summarizing final decisions for each of the review thresholds for which a CON is required. It should be noted that the following tables will not equal the number of final decisions in **Table 3**, as many applications fall into more than one category.

Acquire, Begin Operation of, or Replace a Health Facility

Table 7 identifies applications reviewed under Section 22209(1)(a): "Acquire an existing health facility or begin operation of a health facility at a site that is not currently licensed for that type of health facility." Under Part 222, a health facility is defined as a general hospital, a hospital long-term care unit, psychiatric hospital or unit, a partial hospitalization psychiatric program, a nursing home, a freestanding surgical outpatient facility (FSOF), and a health maintenance organization under limited circumstances. This review category includes projects where a new or replacement health facility is proposed to be constructed or developed and projects involving the acquisition of an existing health facility through purchase or lease.

Change in Bed Capacity

Table 8 summarizes final decisions made on applications subject to review under Section 22209(1)(b): "Make a change in the bed capacity of a health facility." This category is defined to include an increase in the number of licensed hospital, nursing home, or psychiatric beds; a change in the licensed use; and the physical relocation of existing licensed beds from one geographic location to another without an increase in the total number of beds.

Covered Clinical Services

Table 9 includes projects reviewed under Section 22209(1)(c): "Initiate, replace, or expand a covered clinical service."

TABLE 7
SUMMARY OF FINAL DECISIONS
ACQUIRE, BEGIN OPERATION OF, OR REPLACE A HEALTH FACILITY
FY94 - FY2000

	FY94	FY95	FY96	FY97	FY98	FY99	FY2000
Type of Health Facility	<i>Approved</i>						
Hospital	16	11	13	24	13	11	3
Nursing Home/HLTCU	45	48	61	62	33	29	32
Psychiatric Hospital/Unit	3	5	4	13	7	2	3
Partial Hosp Psych Program	1	10	5	8	3	1	0
Freestanding Surg OP Facility	3	11	15	4	10	6	7
Total Approved	68	85	98	111	66	49	45
	<i>Disapproved</i>						
Hospital	0	0	1	0	0	0	0
Nursing Home/HLTCU	0	0	1	0	3	0	0
Psychiatric Hospital/Unit	0	0	0	0	0	0	0
Partial Hosp Psych Program	0	1	0	0	0	0	0
Freestanding Surg OP Facility	0	0	2	0	1	0	1
Total Disapproved	0	1	4	0	4	0	1

TABLE 8
SUMMARY OF FINAL DECISIONS FOR CHANGES IN BED CAPACITY
FY94 - FY2000

Type of Health Facility	FY94	FY95	FY96	FY97	FY98	FY99	FY2000
<i>Approved</i>							
Hospital	0	5	4	6	7	8	4
Nursing Home/HLTCU	13	10	18	25	13	10	5
Psychiatric Hospital/Unit	1	14	1	0	3	1	0
TOTAL APPROVED	14	29	23	31	23	19	9
<i>Disapproved</i>							
Hospital	0	0	0	0	0	0	0
Nursing Home/HLTCU	2	1	2	6	3	1	0
Psychiatric Hospital/Unit	0	1	0	0	0	0	0
TOTAL DISAPPROVED	2	2	2	6	3	1	0

TABLE 9
SUMMARY OF FINAL DECISIONS FOR COVERED CLINICAL SERVICES
FY94 - FY2000

Type of Covered Clinical Service	FY94	FY95	FY96	FY97	FY98	FY99	FY2000
<i>Approved</i>							
Open Heart Surgery	0	0	0	0	1	1	0
Extrarenal Transplants	1	2	1	1	1	0	0
Special Radiological (Includes Cardiac Cath) ¹	10	12	15	14	10	10	8
Megavoltage Radiation Therapy ¹	12	11	9	5	9	14	13
Specialized Inpatient Psychiatric	5	6	2	0	4	0	1
Partial Hospital Psychiatric	5	17	6	14	13	4	1
NICU	0	1	4	2	2	0	1
Surgical Facilities (ORs)	11	18	10	6	9	15	12
Air Ambulance ¹	3	0	2	1	0	3	0
PET Scanners ¹	0	0	0	0	0	0	1
CT Scanners ¹ Fixed	19	32	28	30	27	34	31
Mobile	0	2	2	1	1	0	0
Host	7	10	8	8	13	4	4
MRI ¹ Fixed	3	2	5	9	6	8	7
Mobile	1	2	5	8	2	2	3
Host	2	9	54	22	3	8	11
UESW Lithotripsy ¹ Fixed	0	0	0	0	0	0	2
Mobile	0	1	0	0	0	1	0
Host	0	0	0	0	1	9	13
Total Approved	79	125	151	121	102	113	108
<i>Disapproved</i>							
Open Heart Surgery	0	0	1	0	0	0	0
Extrarenal Transplants	0	0	0	0	0	0	0
Special Radiological (Includes Cardiac Cath) ¹	0	0	0	0	0	0	0
Megavoltage Radiation Therapy ¹	0	0	0	0	0	0	1
Specialized Inpatient Psychiatric	0	0	0	0	0	0	0
Partial Hospital Psychiatric	1	1	0	0	1	0	0
NICU	0	0	0	0	0	0	0
Surgical Facilities (ORs)	0	0	2	0	1	0	1
Air Ambulance ¹	0	0	0	0	0	0	1
PET Scanners ¹	0	0	0	0	0	0	0
CT Scanners ¹ Fixed	0	0	0	1	0	0	1
Mobile	0	0	0	0	0	0	0
Host	0	0	0	0	0	0	0
MRI ¹ Fixed	0	0	2	0	0	0	0
Mobile	0	0	0	0	0	0	0
Host	0	0	0	0	0	0	0
UESW Lithotripsy ¹ Fixed	0	0	0	0	0	0	0
Mobile	0	0	0	0	0	0	0
Host	0	0	0	0	0	0	0
Total Disapproved	1	1	5	1	2	0	4

¹ The number of decisions does not necessarily represent new capacity. Many applications involve replacement equipment or the addition of a host site to an existing mobile network.

Covered Capital Expenditures

Table 10 identifies the number of projects involving the fourth review threshold--a covered capital expenditure--listed by the type of health facility. Under Section 22209(1)(d), a person must obtain a CON for a covered capital expenditure. The capital expenditure threshold figures for clinical and nonclinical areas were increased, on January 1, 2000, to \$2,352,000 and \$3,528,000, respectively, pursuant to the requirements of Section 22221(g). In computing a capital expenditure, the cost of non-fixed medical equipment (any medical equipment not on the list of covered clinical services) is excluded. In July 1993, the definition of a covered capital expenditure was amended to eliminate projects limited solely to the acquisition of non-fixed, non-medical equipment (telephones, computers, etc.). Typical examples of covered capital expenditure projects include construction, renovation, or the addition of space to accommodate increases in patient service volumes.

TABLE 10							
SUMMARY OF FINAL DECISIONS FOR COVERED CAPITAL EXPENDITURES							
FY94 - FY2000							
Type of Health Facility	FY94	FY95	FY96	FY97	FY98	FY99	FY2000
<i>Approved</i>							
Hospital	21	15	22	21	18	9	15
Nursing Home/HLTCU	2	5	2	5	3	5	2
Psychiatric Hospital/Unit/PHP	0	0	0	0	0	0	2
FSOF	0	2	1	1	0	2	2
TOTALS	23	22	25	27	21	16	21
<i>Disapproved</i>							
Hospital	0	0	0	0	0	0	0
Nursing Home/HLTCU	0	0	0	0	0	1	0
Psychiatric Hospital/Unit/PHP	0	0	0	0	0	0	0
FSOF	0	0	0	0	0	0	0
TOTALS	0	0	0	0	0	1	0

Table 11 and Figure 4 provide summaries of FY2000 final decisions by decision type and review threshold.

TABLE 11							
FINAL DECISION TYPE BY SUMMARY OF THRESHOLDS							
FY94 - FY2000							
Decision Type	FY94	FY95	FY96	FY97	FY98	FY99	FY2000
Approved	184	261	297	290	212	197	183
Disapproved	3	4	11	7	9	2	5
Total Final Decisions	187	265	308	297	221	199	188

Note: Although there were 168 CON final decisions in FY2000, when analyzed by review threshold, there were 188 decisions since some applications involve more than one threshold.

The majority of final decisions involved nursing home change of ownership projects and projects involving covered clinical services. The applications for covered clinical services primarily involve equipment acquisitions, both new and replacement. Few projects for new facilities or beds were proposed. Since the capital expenditure threshold was increased to \$3,528,000 for non-clinical areas in 2000, fewer construction projects are subject to review. Many construction projects previously subject to review involved changes to health facilities within limited areas of the facility. Since the 1988 amendments, only capital expenditure projects involving major changes at health facilities are subject to review.

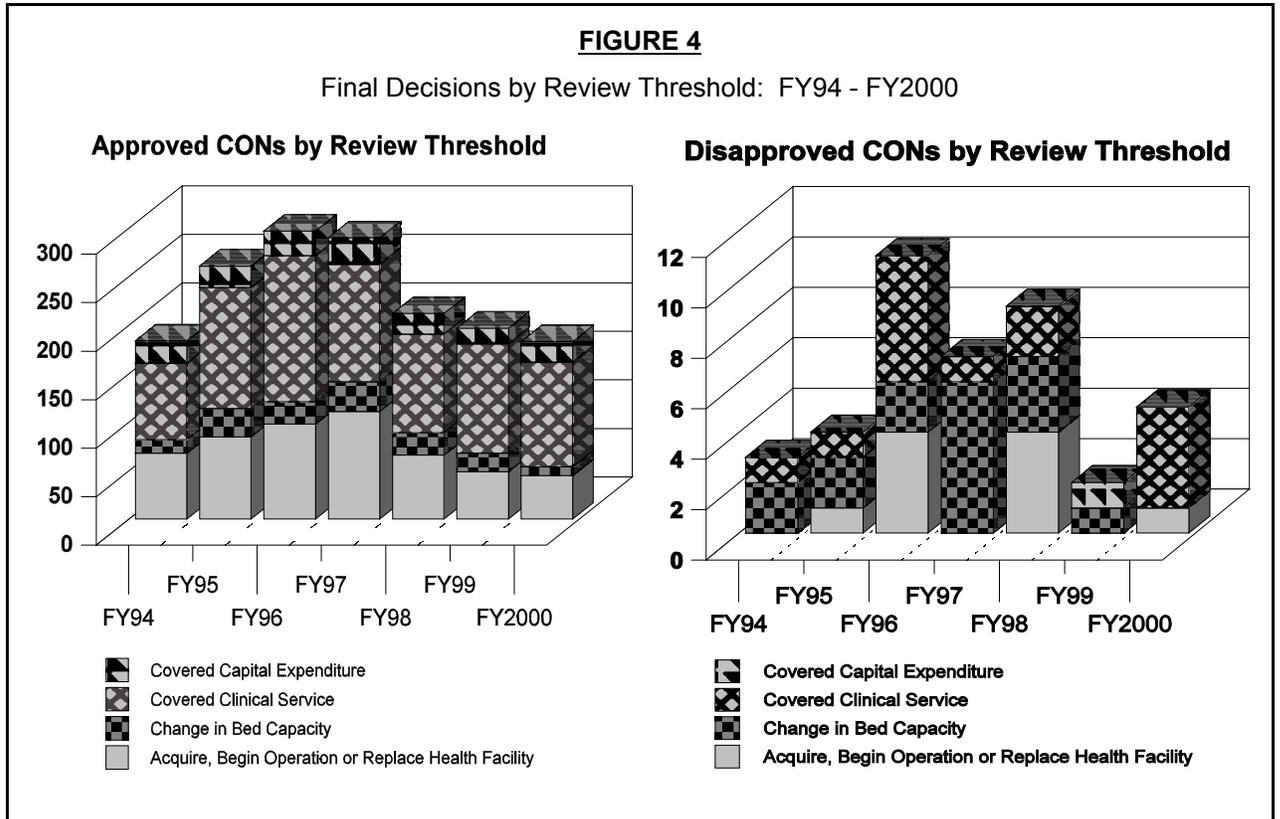
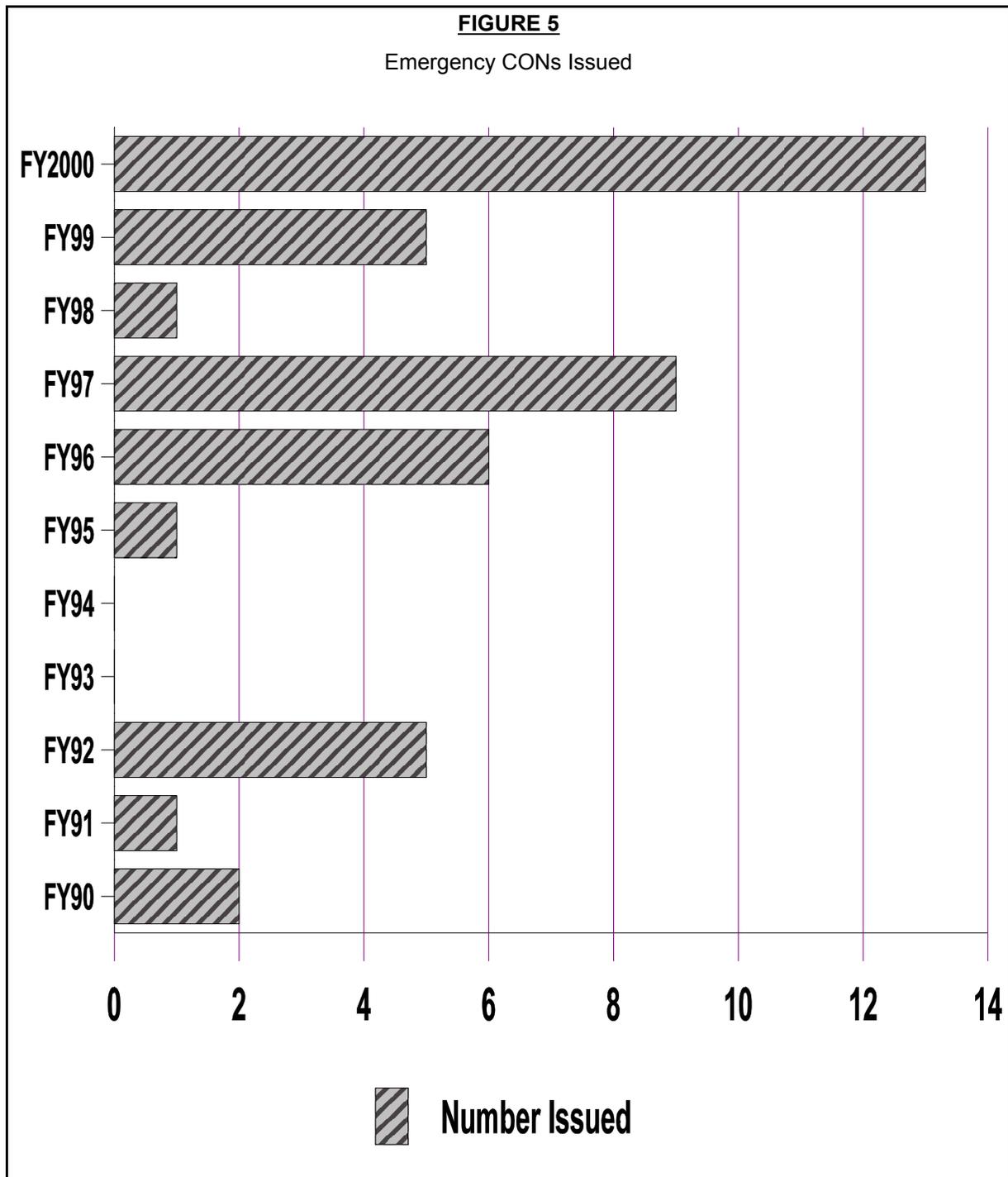


Table 12 provides a comparison of the total number of final decisions and total project costs by decision type.

TABLE 12				
COMPARISON OF FINAL DECISIONS BY DECISION TYPE: FY94 - FY2000				
	Approved	Approved With Conditions	Disapproved	TOTALS
Number of Final Decisions				
FY94	172	0	3	175
FY95	205	0	2	207
FY96	271	1	8	280
FY97	263	0	7	270
FY98	185	1	9	195
FY99	178	6	2	186
FY2000	153	11	4	168
Total Project Costs				
FY94	\$674,416,187	\$0	\$1,548,780	\$675,964,967
FY95	\$628,137,969	\$0	\$83,000	\$628,220,969
FY96	\$744,999,353	\$4,730,746	\$62,490,522	\$812,220,621
FY97	\$908,935,981	\$0	\$11,832,986	\$920,768,967
FY98	\$853,035,470	\$50,000	\$8,496,000	\$861,581,470
FY99	\$461,603,485	\$42,956,484	\$246,910	\$504,806,879
FY2000	\$467,085,573	\$16,666,330	\$5,818,762	\$489,570,665

EMERGENCY CERTIFICATES OF NEED

Figure 5 shows the number of emergency CONs issued from FY90 through FY2000. The Department is authorized by Section 22235 of the Public Health Code to issue emergency CONs.



AMENDMENTS

The CON Administrative Rules allow the Department to amend a Certificate of Need for projects less than 100 percent complete. The Department has the authority to decide when an amendment is appropriate or when the proposed change is significant enough to require a separate application. Typical reasons for requesting amendments to approved CONs include the following:

- **Cost overruns.** The Rules allow the actual cost of a project to exceed the approved amount by 15 percent of the first \$1 million and 10 percent of all costs over \$1 million. Fluctuations in construction costs can cause projects to exceed approved amounts.
- **Changes in the scope of a project.** An example is the addition of construction or renovation required by regulatory agencies to correct existing code violations that an applicant did not anticipate in planning the project.
- **Changes in financing.** Applicants may decide to pursue a financing alternative better than the financing that was approved in the CON.

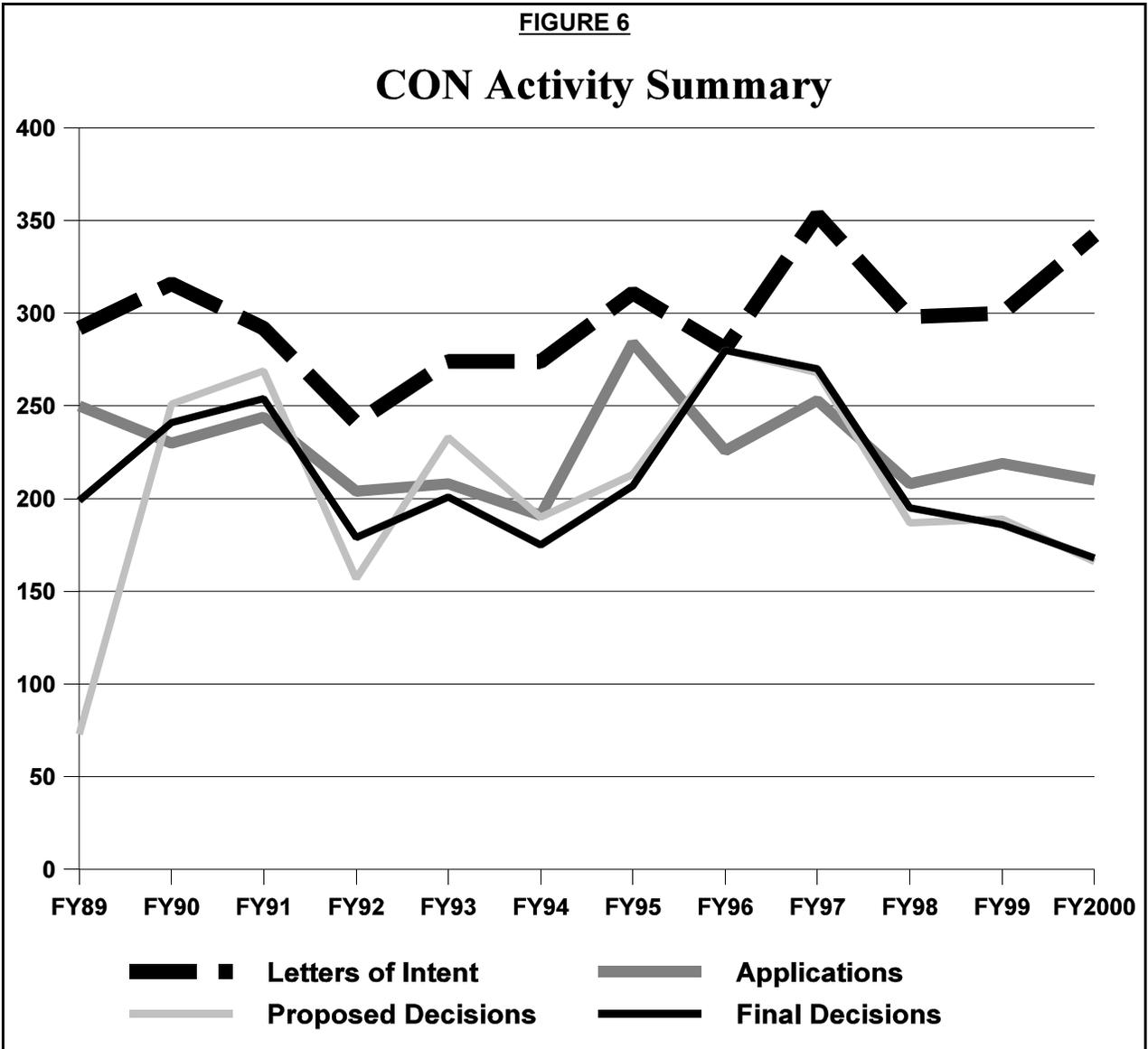
The revised Rules, effective March 27, 1996, state that the review period for a request to amend an approved Certificate of Need shall not be longer than the original review period for the application.

CON ACTIVITY COMPARISON

Table 13 provides a comparison of summary information from FY89 through FY2000 for various stages of the CON process. FY89 includes applications filed under both former Part 221 and Part 222. Data for FY90 through FY2000 involve applications filed under Part 222.

TABLE 13 - CON ACTIVITY COMPARISON: FY89 - FY99				
	Number of Applications	% Change From Previous Year	Total Project Costs	% Change From Previous Year
Letters of Intent Received				
FY89	292	--	\$708,735,000	--
FY90	316	+ 8%	\$797,762,000	+13%
FY91	292	- 8%	\$617,595,000	-23%
FY92	241	-17%	\$695,524,000	+13%
FY93	274	+14%	\$748,323,400	+ 7%
FY94	274	0	\$684,516,288	-9%
FY95	311	+13%	\$689,798,315	+1%
FY96	281	-10%	\$1,019,865,900	+47%
FY97	353	+26%	\$913,565,390	-10%
FY98	298	-16%	\$1,042,744,497	+14%
FY99	300	+1%	\$739,220,325	-29%
FY2000	342	+14%	\$1,275,193,745	+73%
Applications Submitted				
FY89	250	--	\$504,376,000	--
FY90	230	- 8%	\$726,137,000	+44%
FY91	244	+ 6%	\$559,735,000	-23%
FY92	204	-16%	\$656,354,000	+17%
FY93	208	+ 2%	\$532,216,165	-19%
FY94	191	-8%	\$704,246,506	+32%
FY95	284	+49%	\$646,868,787	-9%
FY96	226	-20%	\$730,757,081	+12%
FY97	253	+12%	\$922,377,877	+26%
FY98	208	-18%	\$867,808,689	-5%
FY99	219	+5%	\$629,980,505	-27%
FY2000	210	-4%	\$1,055,728,757	+68%
Proposed Decisions Issued				
FY89	73	--	\$156,145,120	--
FY90	251	+71%	\$783,929,885	+80%
FY91	269	+ 7%	\$671,075,416	+14%
FY92	157	-42%	\$568,181,635	-15%
FY93	233	+42%	\$511,848,569	-10%
FY94	190	-15%	\$701,789,302	+37%
FY95	213	+11%	\$616,779,248	-12%
FY96	280	+31%	\$785,953,431	+27%
FY97	268	-4%	\$940,933,978	+20%
FY98	187	-30%	\$804,960,578	-10%
FY99	189	+1%	\$496,393,126	-38%
FY2000	166	-12%	\$512,858,454	+3%
Final Decisions Issued				
FY89	199	--	\$330,617,000	--
FY90	241	+21%	\$716,849,000	+117%
FY91	255	+ 5%	\$674,373,000	- 6%
FY92	179	-30%	\$435,552,000	-35%
FY93	201	+12%	\$629,301,875	+44%
FY94	175	-14%	\$675,964,967	+7%
FY95	207	+18%	\$628,220,969	-7%
FY96	280	+35%	\$812,220,621	+29%
FY97	270	-4%	\$920,768,967	+13%
FY98	195	-28%	\$861,581,470	-6%
FY99	186	-5%	\$504,806,879	-41%
FY2000	168	-10%	\$489,570,665	-3%

Figure 6 illustrates overall Certificate of Need activity. Following the 1988 amendments, activity significantly decreased. However, since that time, activity has been relatively stable from FY90-FY2000 in terms of letters of intent, applications, proposed decisions, and final decisions.



CONS EXPIRED IN FY2000

Table 14 analyzes the number and types of CONS, by type of health facility, that expired from FY93 through FY2000. During FY2000, a total of seven (7) CONS were expired by the Department because the applicant did not implement the CON.

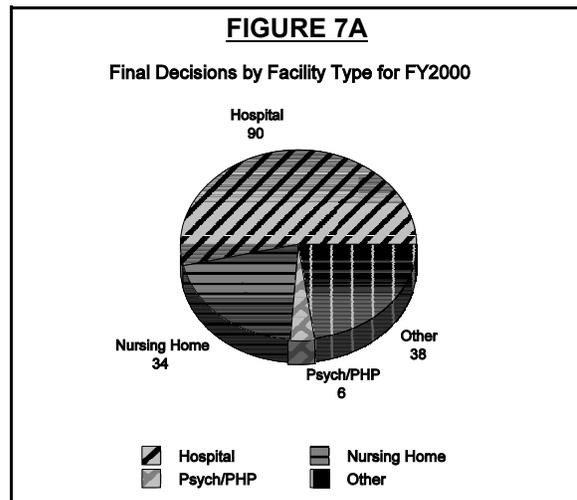
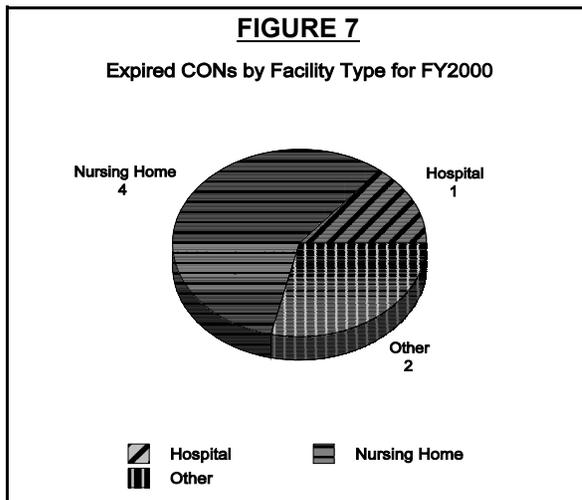
TABLE 14 SUMMARY OF EXPIRED CONS FY93 - FY2000								
	FY93	FY94	FY95	FY96	FY97	FY98	FY99	FY2000
FACILITY TYPE / PROJECT TYPE	Number of Expired CONS							
Hospital								
Add Additional CT Scanner		1			1			
Add/Relocate MRT						1	1	
Add Cardiac Cath							1	1
Mobile CT Scanners	1	1	2					
Replace/Upgrade 2 CT Scanners	1							
CT Scanner		1		1				
Host Site for Mobile MRI		1	1	2				
Mobile MRI Unit			1		3			
Pancreas Transplant Service	1							
Bone Marrow Transplant Service								
Liver Transplant Service				1	1			
Construction/Renovation	2	4	2					
Add/Renovate ORs		2		1	1			
Linear Accelerator	1			1	1			
AIDS Hospital								
Open Heart / Therapeutic Cardiac Cath		1		1	1			
Acquisitions			1				1	
Nursing Home								
Acquisitions	3	1	2		1		5	2
Replace Nursing Home						1		
Bed Additions	1	5						
New Nursing Homes		2		2	2	1	2	1
Addition of Special Population Beds	1				1			
Bed Replace/Relocate within Zone				1	1	2		1
Psychiatric Hospital/Partial Program								
New Partial Hospital Programs		3	2					
Add PHP						1		1
Relocate Partial Hospital Program	1							
Major Construction and Renovation	1							
Acquisition			1					
Addition of Psychiatric Beds								

Table 14 continued on next page.

TABLE 14 (Continued)								
SUMMARY OF EXPIRED CONS								
FY93 - FY2000								
	FY93	FY94	FY95	FY96	FY97	FY98	FY99	FY2000
FACILITY TYPE / PROJECT TYPE	Number of Expired CONS							
Other								
New FSOF		1	1	2			2	
Purchase FSOF								1
Add CT Scanner						1		
Host Site for Mobile CT Scanner		2						
Acquisition of MRT Unit			1		1			
Relocate MRT Unit		1	1			1		
CT Scanner Replacement	1							
TOTALS	14	26	15	12	14	8	11	7

The majority of CONS that expire involve nursing homes. As shown in **Table 14**, the types of projects that are never implemented vary significantly.

Figure 7 illustrates expired CONS by facility type for FY2000. For comparison, **Figure 7A** illustrates the number of final decisions by facility type.



ANALYSIS OF CON PROGRAM FEES AND COSTS

Section 20161(3) sets forth the fees to be collected for CON applications. The fees are based on total project costs and are set forth in **Table 15** below.

TABLE 15 CON APPLICATION FEES	
Total Project Costs	CON Application Fee
\$0 to 150,000	\$ 750
\$150,001 to 1,500,000	\$ 2,750
\$1,500,001 and above	\$ 4,250

Table 15A analyzes the number of applications according to which fee was assessed.

TABLE 15A NUMBER OF CON APPLICATIONS BY FEE: FY94 - FY2000							
CON Fee	FY94	FY95	FY96	FY97	FY98	FY99	FY2000
\$ 0	0	39	15	24	74	17	15
\$ 750	37	48	40	42	46	40	38
\$2,750	69	82	68	59	57	61	58
\$4,250	85	115	103	128	91	101	99
TOTALS	191	284	226	253	268	219	210

Note: No CON fees are required for the following: Emergency CONs, swing beds, and notices of approved MRI host sites switching routes or being added to another route.

Table 16 provides information on CON costs and source of funds for FY2000.

TABLE 16 CON PROGRAM COST AND REVENUE SOURCES: FY2000	
Program Cost	\$1,008,433
Application Fees	\$583,500
Fees % of Costs	58%

Source: MDCH Budget and Finance Administration

Section 22215(6) states “If the reports received under section 22221(f) indicate that the certificate of need application fees collected under section 20161(2) have not been within 10% of 1/2 the cost to the department of implementing this part, the commission shall make recommendations regarding the revision of those fees so that the certificate of need application fees collected equal approximately 1/2 of the cost to the department of implementing this part.” The following analysis identifies the fee revenues necessary to meet the statutory requirements.

FY2000 Total Costs	\$1,008,433
50% of Total Costs	\$504,217
Less FY2000 Fee Revenue	(\$583,500)
Excess Fee Revenue	\$79,284 DR

CERTIFICATE OF NEED COMMISSION ACTIVITY

During FY2000, the Certificate of Need Commission revised the review standards for magnetic resonance imaging (MRI) services, and megavoltage radiation therapy (MRT) services.

The revisions to the CON review standards for MRI services received final approval by the CON Commission on March 14, 2000 and were forwarded to the Governor and legislature. Neither the Governor nor the legislature took a negative action within 45 days; therefore, the revisions became effective April 28, 2000. The revised standard changes allowed for an exemption for the Upper Peninsula with regard to the 50-mile radius under Section 2(ff)(ii).

The revisions to the CON review standards for MRT services received final approval by the CON Commission on March 14, 2000 and were forwarded to the Governor and legislature. Neither the Governor nor the legislature took a negative action within 45 days; therefore, the revisions became effective April 28, 2000. The revised standard changes clarified the demonstration of need through the contribution of new cancer case data related to the initiation of MRT services.