

**MICHIGAN DEPARTMENT OF COMMUNITY HEALTH
CERTIFICATE OF NEED (CON) COMMISSION MEETING**

Tuesday, March 21, 2006

Capitol View Building
201 Townsend Street
MDCH Conference Center
Lansing, Michigan 48913

DRAFT MINUTES

I. Call To Order.

Chairperson Hagenow called the meeting to order at 10:09 a.m.

A. Members Present:

Norma Hagenow, Chairperson
Edward B. Goldman, Vice-Chairperson
Peter Ajluni, DO (via teleconference from 10:20 a.m. to 12:00 noon)
Roger G. Andrzejewski
Bradley N. Cory
James Delaney
Dorothy E. Deremo
James E. Maitland (via teleconference from 10:17 a.m. to 3:40 p.m.)
Michael A. Sandler, MD
Renee Turner-Bailey (absent from 1:15 p.m. to 2:30 p.m.)
Michael W. Young, DO

B. Members Absent:

None.

C. Department of Attorney General Staff:

Ronald J. Styka

D. Michigan Department of Community Health Staff Present:

Lakshmi Amarnath
Jan Christensen (arrived at 11:20 a.m.)
Tom Freebury
William Hart
John Hubinger
Matt Jordan
Joette Laseur
Bruce Matkovich
Andrea Moore
Brenda Rogers

II. Introduction of CON Policy Staff.

Mr. Hart introduced the CON Policy Staff of the Department:

Irma Lopez, Manager
Brenda Roger, Department Specialist
Matthew Jordan, Department Analyst
Andrea Moore, Department Technician

III. Review of Agenda.

Motion by Commissioner Sandler, seconded by Commissioner Delaney, to accept the Agenda as presented. Motion Carried.

IV. Declaration of Conflicts of Interest.

No conflicts were noted. Potential issues were noted for Commissioner Sandler on BMT and for Commissioner Goldman on Dental CT Scanners and BMT.

V. Review of Minutes of December 13, 2005.

Motion by Commissioner Cory, seconded by Commissioner Delaney, to accept the Minutes of December 13, 2005, as presented. Motion Carried.

VI. CON Review Standards for Surgical Services – Part 2 (Attachment A).

A. Discussion.

Ms. Rogers gave an overview of the proposed changes and the status.

B. Public Comment.

Cheryl Miller, Trinity Health
Robert Meeker, Spectrum Health
Dr. Walter Whitehouse, Jr., St. Joseph Mercy Ann Arbor
Mark Mailloux, University of Michigan Health System
Larry Horwitz, Economic Alliance of Michigan
Laura Appel, Michigan Hospital Association
Elizabeth Palazzolo, Henry Ford Health System
Penny Crissman, Crittenton Hospital
Cheryl Miller, Trinity Health

C. Commission Final Action.

Motion by Commissioner Sandler, seconded by Commissioner Ajluni, to accept the proposed language as final and move the Standards to the Governor and Joint Legislative Committee for the 45-day review period.

Discussion followed.

Public Comment.

Larry Horwitz, Economic Alliance for Michigan
Patrick O'Donovan, Beaumont Hospitals

Motion Failed.

Motion by Commissioner Maitland, seconded by Commissioner Sandler, to accept the proposed language with the proposed amendment (Attachment A) as final language and to move the Standards to the Governor and Joint Legislative Committee for the 45-day review period. Motion Carried.

Lunch Break from 12:00 noon to 12:47 p.m.

VII. Public Comment on Open Heart.

Dr. Mark Lester, St. Mary's of Michigan

Commissioner Maitland noted for the record that it is not within the scope of the Commission to place a moratorium on a covered service.

VIII. Bone Marrow Transplantation (BMT) Services, Heart/Lung and Liver Transplantation Services, Magnetic Resonance Imaging (MRI) Services, Pancreas Transplantation Services, and Psychiatric Beds and Services – Follow up from January 31, 2006 Public Hearing.

A. Discussion.

Ms. Rogers provided an overview of the public comments received and the departmental recommendations for the Standards. Discussion followed.

B. Public Comment.

William Blaul, Karmanos Cancer Hospital
Patrick O'Donovan, Beaumont Hospital
Dr. Adil Akhtar, Beaumont Hospital
Dr. Paul Adams, Genesys/Hurley Cancer Institute
Barbara Jackson, Economic Alliance for Michigan
Elizabeth Palazzolo, Henry Ford Health System
Robert Meeker, Spectrum Health
Mark Hutchinson, St. Mary's Mercy Health System
Andrew Richner, Northern Imaging Associates
James Flickema, Northern Michigan Hospital
Michael Herbert, Wayne State University
Larry Horwitz, Economic Alliance of Michigan

C. Commission Action.

Motion by Commissioner Goldman, seconded by Commissioner Sandler, to move the Heart/Lung and Liver Transplants Standards and the Pancreas Transplant Standards to review again in 2009 on the Workplan. Motion Carried.

Motion by Commissioner Goldman, seconded by Commissioner Maitland, to establish a Workgroup for BMT with Commissioner Maitland as Liaison, to establish a Workgroup for Psych Beds with the Liaison to be determined, and to establish a Workgroup for MRI with Commissioner Sandler as Liaison. Motion Carried.

IX. Computed Tomography (CT) Scanner Services – Dental Scanners.

A. Discussion.

Commissioner Sandler gave an overview of the issue and recommended establishing a Workgroup.

B. Public Comment.

Edward Marandola, Imaging Services
Predrag Sukovic, Xoran Technology
Sharon Brooks, University of Michigan School of Dentistry
Larry Horwitz, Economic Alliance of Michigan

C. Commission Action.

Motion by Commissioner Sandler, seconded by Commissioner Cory to establish a Workgroup to review Dental CT Scanners. Motion Carried.

X. Hospital Beds – Long-Term (Acute) Care Hospitals (LTACHs).

Commissioner Goldman gave an update. The next meeting is scheduled for March 27, 2006.

XI. Nursing Home and Hospital Long-Term Care Unit Beds.

Commissioner Cory gave an oral update. Discussion followed.

XII. Hospital Bed Need Numbers Pursuant to Section 5(2) & (3) of the CON review Standards for Hospital Beds.

Mr. Nash gave an update on the status of the numbers.

XIII. Redistribution of Beds for Nursing Home Special Population Groups.

A. Discussion.

Commissioner Cory provided an overview of the recommendation for redistribution of the Special Population Beds.

B. Public Comment.

Pat Anderson, HCAM
Dan Abrahamson, Ashley Care Center
Dave Herbel, MSHA
Donald Hall, MI County Medical Care Facility Council

C. Commission Action.

Motion by Commissioner Cory, seconded by Commissioner Delaney to accept the Department's Recommendation for the Redistribution of the Special Population Beds. Motion Carried.

XIV. New Medical Technology.

A. Report.

Mr. Jordan reported no new medical technology.

B. Standing New Medical Technology Advisory Committee.

i. Discussion.

Mr. Jordan provided an overview. Discussion followed.

ii. Commission Action.

Motion by Commissioner Turner-Bailey, seconded by Commissioner Delaney to establish a New Medical Technology Advisory Committee with the membership as recommended. Commissioner Hagenow will be able to appoint members and a Commissioner Liaison. Motion Carried.

XV. Commission/Department Responsibilities.

Commissioner Goldman gave an overview.

XVI. Legislative Report.

Mr. Hart reported no current legislative activity.

XVII. Compliance Report.

Mr. Hart gave an overview of the Department's compliance activities. Discussion followed.

XVIII. CON Program Update.

A. FY2005 CON Annual Activity Report.

Mr. Horvath provided a copy of the report to the Commissioners.

B. On-line Application System and Web Site.

Mr. Horvath provided an overview of the new on-line application system.

C. Quarterly Performance Measures.

Mr. Horvath provided an overview of the quarterly performance measures.

XIX. Administrative Update.

Mr. Hart provided an overview.

XX. Future Meeting Dates.

June 21, 2006
September 19, 2006
December 12, 2006

XXI. Public Comment.

None.

XXII. Review of Commission Work Plan.

Ms. Rogers provided the following updates:

BMT will have a Workgroup with Commissioner Maitland as Liaison
Psych Beds will have a Workgroup with the Liaison to be determined
MRI will have a Workgroup with Commissioner Sandler as Liaison
Dental CT Scanners will have a Workgroup with Commissioner Sandler as Liaison
Establish a New Medical Technology Advisory Committee with the Liaison to be determined
Cardiac Catheterization will have a SAC in the fall and the Department will draft the Charge for consideration at the June Meeting.
Open Heart will have a SAC in the fall and the Department will draft the Charge for consideration at the June Meeting.

Motion by Commissioner Cory, seconded by Commissioner Delaney to accept the Workplan as proposed. Motion Carried.

XXIII. Election of Officers.

Motion by Commissioner Cory, seconded by Commissioner Turner-Bailey to nominate and elect Commissioner Hagenow as Chairperson and Commissioner Goldman as Vice Chairperson.
Motion Carried.

XXIV. Adjournment.

Motion by Commissioner Deremo, seconded by Commissioner Goldman to adjourn the meeting at 3:40 p.m. Motion Carried.

**AMENDMENT FOR SURGICAL SERVICES – PART 2
FOR CON COMMISSION CONSIDERATION/ACTION ON MARCH 21, 2006**

The language changes below, shown in *italics*, is being proposed based on a 70% utilization rate instead of 65% for expansion. Chairperson Hagenow has asked the Department to prepare this language for your consideration/action.

Section 5. Requirements for approval for surgical services proposing to expand an existing surgical service

Sec. 5. (1) An applicant proposing to add one or more operating rooms at an existing surgical service shall demonstrate each of the following:

(a) all existing operating rooms in the existing surgical facility have performed an average of at least:

(i) *4,200*1,128 (*1,216*) surgical cases PER YEAR PER OPERATING ROOM FOR WHICH VERIFIABLE DATA IS AVAILABLE TO THE DEPARTMENT, or

(ii) *in a hospital, 1,600*1,219 (*1,313*) hours of use or *in an FSOF or ASC, 1,800 hours of use* FACILITY THAT PERFORMS ONLY OUTPATIENT SURGERY per year per operating room for ~~the most recent 12 month period for~~ which verifiable data is available to the Department, OR

(III) A LICENSED HOSPITAL THAT PROVIDES BOTH INPATIENT AND OUTPATIENT SURGERY MAY USE A WEIGHTED AVERAGE OF INPATIENT HOURS OF USE AND OUTPATIENT HOURS OF USE AS BILLED BY THE FACILITY PER YEAR PER OPERATING ROOM FOR WHICH VERIFIABLE DATA IS AVAILABLE TO THE DEPARTMENT AND CALCULATED AS FOLLOWS:

(A) THE NUMBER OF OPERATING ROOMS SHALL BE THE SUM OF THE INPATIENT HOURS OF USE DIVIDED BY 1,625 (*1,750*) PLUS THE OUTPATIENT HOURS DIVIDED BY 1,219 (*1,313*). (FOR EXAMPLE: USING 410 (*438*) INPATIENT HOURS AND 915 (*985*) OUTPATIENT HOURS WOULD EQUATE TO $410/1,625$ ($438/1,750$) + $915/1,219$ ($985/1,313$) = $0.25 + 0.75 = 1.00$ OR.) OR

(IV) A LICENSED HOSPITAL THAT PROVIDES BOTH INPATIENT AND OUTPATIENT SURGERY MAY USE A WEIGHTED AVERAGE OF HOURS OF USE (INPATIENT SURGICAL VOLUME) AND SURGICAL CASES (OUTPATIENT SURGICAL VOLUME) AS BILLED BY THE FACILITY PER YEAR PER OPERATING ROOM FOR WHICH VERIFIABLE DATA IS AVAILABLE TO THE DEPARTMENT AND CALCULATED AS FOLLOWS:

(A) THE NUMBER OF OPERATING ROOMS SHALL BE THE SUM OF THE INPATIENT HOURS OF USE DIVIDED BY 1,625 (*1,750*) PLUS THE OUTPATIENT CASES DIVIDED BY 1,128 (*1,216*). (FOR EXAMPLE: USING 410 (*438*) INPATIENT HOURS AND 850 (*912*) OUTPATIENT CASES WOULD EQUATE TO $410/1,625$ ($438/1,750$) + $850/1,128$ ($912/1,216$) = $0.25 + 0.75 = 1.00$ OR.)

(b) All ~~PROPOSED~~ operating rooms, ~~existing and proposed~~, are projected to perform an average of at least:

(i) *4,200*1,042 surgical cases PER YEAR PER OPERATING ROOM IN THE SECOND TWELVE MONTHS OF OPERATION, AND ANNUALLY THEREAFTER, or

(ii) *in a hospital, 1,600*1,125 hours of use or *in an FSOF OR ASC, 1,800 hours of use* FACILITY THAT PERFORMS ONLY OUTPATIENT SURGERY per year per operating room in the second twelve months of operation, and annually thereafter, OR

(III) A LICENSED HOSPITAL THAT PROVIDES BOTH INPATIENT AND OUTPATIENT SURGERY MAY USE A WEIGHTED AVERAGE OF INPATIENT HOURS OF USE AND OUTPATIENT HOURS OF USE AS BILLED BY THE FACILITY PER YEAR PER OPERATING ROOM IN THE SECOND TWELVE MONTHS OF OPERATION, AND ANNUALLY THEREAFTER AND CALCULATED AS FOLLOWS:

(A) THE NUMBER OF OPERATING ROOMS SHALL BE THE SUM OF THE INPATIENT HOURS OF USE DIVIDED BY 1,500 PLUS THE OUTPATIENT HOURS DIVIDED BY 1,125.

54 **(FOR EXAMPLE: USING 375 INPATIENT HOURS AND 844 OUTPATIENT HOURS WOULD**
 55 **EQUATE TO $375/1,500 + 844/1,125 = 0.25 + 0.75 = 1.00$ OR.), OR**

56 (IV) A LICENSED HOSPITAL THAT PROVIDES BOTH INPATIENT AND OUTPATIENT
 57 SURGERY MAY USE A WEIGHTED AVERAGE OF HOURS OF USE (INPATIENT SURGICAL
 58 VOLUME) AND SURGICAL CASES (OUTPATIENT SURGICAL VOLUME) AS BILLED BY THE
 59 FACILITY PER YEAR PER OPERATING ROOM IN THE SECOND TWELVE MONTHS OF
 60 OPERATION, AND ANNUALLY THEREAFTER AND CALCULATED AS FOLLOWS:

61 (A) THE NUMBER OF OPERATING ROOMS SHALL BE THE SUM OF THE INPATIENT
 62 HOURS OF USE DIVIDED BY 1,500 PLUS THE OUTPATIENT CASES DIVIDED BY 1,042.
 63 (FOR EXAMPLE: USING 375 INPATIENT HOURS AND 785 OUTPATIENT CASES WOULD
 64 EQUATE TO $375/1,500 + 785/1,042 = 0.25 + 0.75 = 1.00$ OR.)

65
 66 (2) AN APPLICANT PROPOSING TO ADD ONE OR MORE OPERATING ROOMS AT A
 67 LICENSED HOSPITAL AND IS LOCATED IN A RURAL OR MICROPOLITAN COUNTY OR THE
 68 APPLICANT IS LOCATED IN A CITY, VILLAGE, OR TOWNSHIP WITH A POPULATION OF NOT
 69 MORE THAN 12,000 AND IN A COUNTY WITH A POPULATION OF NOT MORE THAN 110,000
 70 AS DEFINED BY THE MOST RECENT FEDERAL DECENNIAL CENSUS SHALL
 71 DEMONSTRATE EACH OF THE FOLLOWING:

72 (A) THE APPLICANT HAS **TWO, THREE, OR FOUR ORS** AT THE LICENSED HOSPITAL.

73 (B) ALL EXISTING OPERATING ROOMS HAVE PERFORMED AN AVERAGE OF AT
 74 LEAST:

75 (I) 909 (979) SURGICAL CASES PER YEAR PER OPERATING ROOM FOR WHICH
 76 VERIFIABLE DATA IS AVAILABLE TO THE DEPARTMENT, OR

77 (II) 1,300 (1,400) HOURS OF USE PER YEAR PER OPERATING ROOM FOR WHICH
 78 VERIFIABLE DATA IS AVAILABLE TO THE DEPARTMENT.

79 (C) ALL PROPOSED OPERATING ROOMS ARE PROJECTED TO PERFORM AN AVERAGE
 80 OF AT LEAST:

81 (I) 839 SURGICAL CASES PER YEAR PER OPERATING ROOM IN THE SECOND
 82 TWELVE MONTHS OF OPERATION, AND ANNUALLY THEREAFTER, OR

83 (II) 1,200 HOURS OF USE PER YEAR PER OPERATING ROOM IN THE SECOND TWELVE
 84 MONTHS OF OPERATION, AND ANNUALLY THEREAFTER.

85
 86 (3) Subsections (1) and (2) shall not apply if the proposed project involves adding a second
 87 operating room in a licensed hospital site located in a rural OR MICROPOLITAN STATISTICAL
 88 AREA county that currently has only one operating room.

89
 90 (34) An applicant shall demonstrate that it meets the requirements of Section 4011(2) for the
 91 number of surgical cases, or hours of use, projected under subsection (1).

92