

Certificate of Need Workgroup

Thursday, January 16, 2014 – 9:30am
Capitol View Building
201 Townsend Street, Lansing, MI 48913

AGENDA

9:30am	I.	Call to order Quick introductions of any new attendees Approval of the December 18, 2013 minutes Review and approval of the agenda	Chair
9:35am	II.	Presentation and discussion of comparative review criteria grid and policies supporting the criteria	Dept. Staff
9:55am	III.	Discussion and recommendations related to Comparative review. NOTE: <u>Section 6</u> and <u>10</u> as it relates to recommendations will be considered in this discussion. Delegation to a subgroup will also be considered as an option to expedite this charge	All
10:55am	IV.	Discussion and preliminary recommendations regarding the other 3 CON charges: #2 (Section 7 of the standards) #3 (Section 8 of the standards) #4- addition of 130 beds to the special pool for Hospice #5-technical changes	All
11:25am	V.	Summary of next steps and any homework or subgroup assignments	All
11:30am	VI.	Adjourn Next scheduled meeting: Thursday, February 13, 2014 9:30am – 11:30am Capital View Building	Chair

Certificate of Need NH/HLTCU Workgroup

Summary of December 18, 2013 Meeting

I.	Call to order Introductions of attendees Introductions of Department staff Other introductions “Ground Rules” for the workgroup Contract information of group members
	<p>Chair, Karen Messick, called the meeting to order shortly after 9:30 am. Attendees, including Department staff, provided brief introductions. See separate attendance sheet for participants.</p> <p>Ms. Messick summarized the “Ground Rules” for the Workgroup as follows:</p> <ul style="list-style-type: none">• Workgroup to propose recommendations on five charges approved by the CON Commission and dated 1/29/2013 with a report from the Chair to the CON Commission in late winter/early spring (March 2014 and/or June 2014 CON Commission meeting).• Issues not expressly covered by the approved charges will be placed in a “parking lot” to be raised with the CON Commission as appropriate.• No attendance requirement for participants but issues will not be reconsidered once addressed.• Sub-groups may be formed to study specific issues that arise with respect to the five charges. <p>Ms. Messick reviewed the agenda and it was approved by consensus.</p>
II.	Review of the five Workgroup charges Additional discussion or comments
	Ms. Messick reviewed the five charges to the Workgroup with comments by the participants as briefly summarized below.
	1. Modifications to the comparative (review) criteria of the Standards (Section 10)

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- Current criteria do not distinguish between competing applicants in a material way.
- Criteria should be more forward-looking with more emphasis on technology (how should EMR/EHR be addressed) and collaboration (due to proposed changes in payment and potential payment bundling/ICO/Care Bridge concepts).
- There are “philosophical” issues as to whether the criteria should (a) favor new vs. existing facilities or operators; or (b) impose a “point deduction” system vs. “point earning” approach.
- It was observed that some criteria should be required for all applicants vs. limited to comparative review applicants. There was consensus that the Workgroup could recommend modifications to other sections that arise from review of comparative criteria, i.e., general eligibility/ “base-line” requirements to be added to Section 6.
- MDCH commented that the current Standards include baseline quality requirements so that an existing entity may be ineligible to be an applicant, which counter-balances to some extent bias under the comparative review criteria in favor of existing operators. There was discussion as to the current definition of “ownership or control interest” under the quality criteria.
- Certain interpretational issues (currently addressed via MDCH policy) should be clarified, e.g., what constitutes an applicant’s “cash.”
- There was discussion as to the difficulty of enforcing promises made by applicants in comparative review applications once the application is approved and the project is implemented.
- There was discussion as to the generic “buckets” of issues that should be addressed in the comparative review criteria: quality, financial health of applicant, technology, other(?).
- Consensus that criteria should be “differentiators” – for example, culture change should not be a “check off.” MDCH will provide information as to what points/categories historically have differentiated comparative review applications, i.e., what are the typical tie-breakers.
- Questions arose as to whether dual eligible and managed care payment methodologies/requirements should be addressed in criteria.
- There was discussion as to how CON standards interplay with other regulatory frameworks applicable to NH operators, e.g., statutory CON requirements, licensure, Medicare/Medicaid certification. What can CON do and what are its policy limitations? CON needs to be consistent with other regulatory or reimbursement frameworks and with criteria that can be applied consistently and with predictable outcomes.

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	<ul style="list-style-type: none">• There was a suggestion to develop a grid that lists the current comparative review criteria and the policies supporting those criteria. MDCH will prepare and circulate prior to next meeting on 1/16/2014.
	2. Elimination of the relocation criteria restricting Nursing Home facilities to move no more than 50% of their licensed beds to another Nursing Home facility to make it consistent with hospital long-term-care units
	<ul style="list-style-type: none">• Current Standards limit relocation of NH beds (except HLTCU beds) from an existing facility to (i) only 50% of the licensed beds at the donor site; and (ii) relocation only once every seven (7) years.• Members suggested that the current language is unnecessarily restrictive as those concepts are not in the relocation standards for either acute-care hospital beds or inpatient psychiatric beds.• There was consensus that relocation projects are useful in fine-tuning the distribution of beds within the planning area.• While neutral as to the 50% restriction, MDCH pointed out that (i) there are differences between freestanding nursing homes and HLTCUs that may support different policies; (ii) some nursing homes may close if the 50% restriction is eliminated; and (iii) it has been a policy to promote smaller nursing homes given data suggesting higher quality in “right-sized” buildings. If the 50% restriction is eliminated, it could result in consolidation of beds at a single, much larger facility.• Concerns were expressed as to resident choice and potential consolidation of beds at a lower quality facility.• There was consensus that the 50% and 7-year restrictions were arbitrarily selected and without any valid studies or other scientific support as to potential consequences (positive or negative).• With respect to the maximum size of a facility, the idea as to a maximum of 150 beds in the comparative review criteria could be added to Section 6 and apply to all applicants to address concern.
	3. Elimination of the replacement language regarding the three mile radius requirement under Section 8(3)(c)(i)
	<ul style="list-style-type: none">• Comments regarding “relocation” were interwoven with discussion of “replacement” of beds, the three-mile replacement zone and the new design model replacement option.

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	<ul style="list-style-type: none"> • There was some discussion as to Wayne County, which is currently divided into three separate planning areas for NH/HLTCU Beds (Detroit, NW Wayne and SW Wayne) and how the current replacement and relocation language has impacted those planning areas. • Participants observed that it is difficult to find property to build new facilities in the Detroit planning area and that it is difficult to place nursing home patients in certain areas of that planning area. • MDCH noted that although anecdotally that may be true, overall occupancy of the Wayne County planning areas is relatively low: NW Wayne at 72.6%, SW Wayne at 76.0% and Detroit at 75.9%. • Participants commented that the issue is not more beds but better facilities and better distribution of facilities within Detroit. • Comments were made as to whether a regional needs assessment may be appropriate to better understand the need for long-term care services, with consideration of non-institutional services/placement (home and community based waiver programs and assisted living facilities). • It was noted that if the CON Commission addressed charges 2 (relocation) and 3 (replacement) it would decrease the need for comparative review applications. The point was made that there may be sufficient NH beds already but that the existing beds are not distributed efficiently. • As part of the replacement requirement, the maximum number of beds per facility should be considered.
	4. Addition of 130 beds to the Special Pool for Hospice. (Note: There are no beds to re-allocate at this time.)
	<ul style="list-style-type: none"> • No material discussion except that this issue may be addressed most effectively by a sub-group given that non-hospices may have limited input.
	5. Any necessary technical or other changes, e.g., updates or modifications consistent with other CON review standards and the Public Health Code, as well as definitional and other updates for consistency and efficiency when processing applications.
	<ul style="list-style-type: none"> • No material discussion except there was consensus that, if discussions regarding charges 1 – 4 raised other issues outside of the specific Sections described therein, this charge provides sufficient latitude for these issues to be addressed.

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Summary of December 18, 2013 Meeting

III.	Discussion and recommendations: next steps
	<ul style="list-style-type: none">• See Item II above.• The Chair urged participants to familiarize themselves with the Standards before the next meeting including the comparative review criteria in Section 10, which will be a high priority for the Workgroup.
IV.	Finalization of next steps and expectations for next meeting: January 16, 2014, 9:30 am
	Ms. Messick indicated that in addition to the next meeting on January 16, 2014, a meeting would be scheduled in February. Additional meetings would be based on need.
V.	Adjourn
	The meeting was adjourned at 11:31 am.

Prepared and respectfully submitted by Phyllis Adams, Dykema Gossett

Relates to a New Facility	Relates to an Existing Facility	Criteria	Points Deducted	Points Awarded		Percentage of Applications Scoring Points*	# of Applications Scoring points*	Policy Addressed		
				Max	Min			Access	Cost	Quality
	X	The current percentage of Medicaid patient days of care reimbursed for the most recent 12 months 10(2)(a)(i)		10	6**	39.10%	9	X	X	
X		The proposed percentage of Medicaid patient days of care to be reimbursed by the second 12 months after project completion 10(2)(a)(ii)		5	3**	60.90%	14	X	X	
	X	Percentage of the licensed nursing home beds are Medicaid for the most recent 12 months 10(2)(b)(i)		9	4**	39.10%	9	X		X
X		Percentage of the proposed licensed nursing home beds to be Medicaid certified by the second 12 months after project completion 10(2)(b)(ii)		7	2**	60.90%	14	X		X
X	X	Participation level in the Medicare program for the most recent 12 months 10(3)		3	1	100%	23			
X	X	Currently as identified by the Centers for Medicare and Medicaid Services been a Special focus NH-LTCU 10(4)(a)	15			0%	0			X
X	X	Has within the last 3 years as identified by the Centers for Medicare and Medicaid Services been a Special focus NH-LTCU 10(4)(b)	15			0%	0			X
X	X	Has had more than 8 substandard quality of care citations; immediate harm citations, and/or immediate jeopardy citation in the 3 most recent survey cycles 10(4)(c)	15			0%	0			X
X	X	Has had an involuntary termination or voluntary termination at the threat of a medical assistance provider enrollment & trading partner agreement within the last 3 years 10(4)(d)	15			0%	0			X
X	X	Has had a state enforcement action resulting in a reduction in license capacity or a ban on admissions within the last 3 years 10(4)(e)	15			0%	0			X
	X	Has any outstanding debt obligation to the state of Michigan for quality assurance assessment program (QAAP), civil monetary penalties (CMP), Medicaid level of care determination (LOCD), or preadmission screening and annual resident review (PASARR) 10(4)(f)	15			0%	0	X	X	X
X	X	Participation in a cultural change model, which contains person centered care, ongoing staff training , and measurements of outcomes 10(5)		15	0	95.70%	22	X	X	X
X	X	The proposed percentage of the "Applicant's cash" to be applied towards funding the total proposed project cost 10(6)		5	0	73.90%	17			
X	X	Equipped with sprinklers 10(7)		5	0	100%	23		X	X
X	X	Equipped with air conditioning 10(8)		5	0	100%	23		X	X
Facility Design:										
X	X	100% private rooms with adjoining sink, toilet. And shower 10(9)		10	0	91.30%	21		X	X
X	X	Nursing Home/HLTCU with a 150 or fewer beds 10(10)		10	0	91.30%	21	X	X	X
X	X	Provides audited financial statements 10(11)		5	0	56.50%	13		X	X
X	X	Proposed beds are housed in new construction 10(12)		5	0	100%	23	X		
	X	Existing nursing home/HLTCU eliminates all of its 3-and 4-bed wards 10(13)		5	0	21.70%	5		X	X
X	X	On or readily accessible public transportation route 10(14)		5	0	82.60%	19	X	X	X
Technology Feature:										
X	X	Electronic health record and computer point -of-service entry capability (including wireless tablets); Wireless nurse call/paging system including wireless devices carried by direct care staff 10(15)		4	0	100%	23		X	X

* Data comes from proposed decisions in March 2011 through December 2013. There were a total of 23 applications scored, of which 12 were for a new Nursing Home and 11 were to add beds to an existing Nursing Home.

** An applicant could score 0

11-0028	11-0024	11-0022	11-0023	11-0057	11-0054	11-0053	11-0029	12-0146	12-0143	11-0055	11-0042
10	10	0	0	10	0	0	0	0	0	0	10
0	0	3	3	0	5	3	5	3	5	3	0
9	9	0	0	9	0	0	0	0	0	0	9
0	0	7	7	0	7	7	7	7	7	7	0
3	3	3	3	3	3	3	3	3	3	3	3
No point deducted											
10	10	10	10	15	10	10	10	0	10	5	10
10	10	0	0	4	4	10	10	2	5	4	10
5	5	5	5	5	5	5	5	5	5	5	5
5	5	5	5	5	5	5	5	5	5	5	5
10	10	10	10	10	10	10	10	3	10	0	10
10	10	10	10	10	10	10	10	10	10	10	0
5	5	0	0	5	5	5	0	5	0	5	5
5	5	5	5	5	5	5	5	5	5	5	5
10	10	0	0	0	0	0	0	0	0	0	10
5	5	5	5	5	5	5	5	0	5	5	0
4	4	4	4	4	4	4	4	2	4	3	4
101	101	67	67	90	78	82	79	50	74	60	86

CON Comparative Reviews							
CON Proposed Decisions: Start Date : '11-MAR-2011' and End Date : '31-DEC-2013'							
CON No	Facility No	Facility Name	Project Description	Proposed Decision	Proposed Dec Date	Scored /Not Scored	Summary
110036	564011	MidMichigan Stratford Village	Add 20 NH Beds [PA-56]	APPROVED	9/26/2011	Not Scored	Both applications were able to receive full number of requested beds.
110008	564020	Brittany Manor	Add 20 NH Beds [PA-56] & Repl Beds in New Space	APPROVED	9/26/2011	Not Scored	Both applications were able to receive full number of requested beds.
110021	474022	Livingston Care Center, L L C	New NH with 82 Beds [PA-47]	CONDITIONAL APPROVAL	9/27/2011	Scored	
110044	474031	Medilodge of Livingston	New Design Model NH with 82 Beds [PA-47]	DISAPPROVED	9/27/2011	Scored	
110032	744040	Medilodge of St. Clair	Add 22 NH Beds [PA-74] (CC Appeal)	DISAPPROVED	9/27/2011	Scored	
110034	744063	Regency on the Lake-For Gratiot, LLC	Add 22 NH Beds [PA-74] (CC Appeal)	CONDITIONAL APPROVAL	9/27/2011	Scored	
110042	814090	Northfield Place	Add 79 NH Beds [PA-81] & Replace 16 Existing	CONDITIONAL APPROVAL	9/27/2011	Scored	
110055	814142	Washtenaw Health Campus	New NH with 60 Beds [PA-81]	DISAPPROVED	9/27/2011	Scored	
110039	584030	Mercy Memorial Nursing Center	Add 30 NH Beds [PA-58]	DISAPPROVED	9/28/2011	Scored	
110030	584040	Medilodge of Monroe	Add 46 NH Beds [PA-58]	CONDITIONAL APPROVAL	9/28/2011	Scored	
110018	584050	Fountain View of Monroe	Add 31 NH Beds [PA-58]	DISAPPROVED	9/28/2011	Scored	
110028	634290	Bloomfield Orchard Villa	Add 96 NH Beds [PA-63] & Repl Beds (CC Appeal)	CONDITIONAL APPROVAL	9/28/2011	Scored	
110024	634520	The Manor of Farmington Hills	Add 44 NH Beds & Repl Existing [PA-63] (CC Appeal)	CONDITIONAL APPROVAL	9/28/2011	Scored	
110033	634589	REGENCY ON THE LAKE-NOVI, L. L. C.	New NH with 145 Beds [PA-63]	DISAPPROVED	9/28/2011	Scored	
110022	634604	Senior Community at Providence Park	Add 75 NH Beds [PA-63]	APPROVED	9/28/2011	Scored	
110023	634605	Senior Community of Auburn Hills	Add 70 NH Beds [PA-63]	APPROVED	9/28/2011	Scored	
110043	634606	MediLodge of Clarkston	New NH w/100 Beds Design Model [PA-63]	DISAPPROVED	9/28/2011	Scored	
110045	634607	Medilodge of Oxford	New Design Model NH w/100 Beds [PA-63]	DISAPPROVED	9/28/2011	Scored	
110041	634608	Medilodge at Square Lake	New NH w/85 Beds Design Model [PA-63]	DISAPPROVED	9/28/2011	Scored	
110053	703515	Spectrum Health Rehabilitation and Nursing Center - Zeeland	New HLTCU with 70 Beds [PA-70] @Zeeland Comm Hosp	DISAPPROVED	9/28/2011	Scored	
110057	704100	North Ottawa Care Center	Add 45 NH Beds [PA-70]	APPROVED	9/28/2011	Scored	
110029	704144	Grand Haven Care Center, LLC	New NH with 70 Beds [PA-70]	DISAPPROVED	9/28/2011	Scored	
110054	704148	North Ottawa Care Center South	New 25 Bed NH [PA-70]	APPROVED	9/28/2011	Scored	
110314	504120	St. Mary's nursing & Rehab Center	Add 49 NH Beds in New Construction [PA-50]	APPROVED	3/28/2012	Not Scored	11-0314 was withdrawn, so there were enough beds available in the bed pool.

CON Comparative Reviews							
CON Proposed Decisions: Start Date : '11-MAR-2011' and End Date : '31-DEC-2013'							
CON No	Facility No	Facility Name	Project Description	Proposed Decision	Proposed Dec Date	Scored /Not Scored	Summary
110306	504257	Lakeside Manor Nursing & Rehabilitation Center	New NH w/66 Beds [PA-50] [Reconsideration Appr]	DISAPPROVED	3/28/2012	Not Scored	11-0314 was withdrawn, so there were enough beds available in the bed pool.
110312	504258	Shelby Township Care Center	New NH with 116 Beds [PA-50] [Reconsideration Appr]	DISAPPROVED	3/28/2012	Not Scored	11-0314 was withdrawn, so there were enough beds available in the bed pool.
120119	504014	SHELBY NURSING CENTER	Add 20 NH Beds [PA-50] [Reconsideration Appr]	DISAPPROVED	11/29/2012	Not Scored	12-0144 was withdrawn, so 12-0119 was not reviewed on a comparative basis.
120144	504120	St. Mary's nursing & Rehab Center	Add 28 & Replace 12 NH Beds in New Const [PA-50]	DISAPPROVED	11/29/2012	Not Scored	12-0144 was withdrawn, so 12-0119 was not reviewed on a comparative basis.
120145	634003	Oakland Health Campus	New NH w/50Beds [PA-63] [Reconsideration Appr]	DISAPPROVED	11/29/2012	Not Scored	12-0116 was withdrawn, so 12-0145 was not reviewed on a comparative basis.
120116	634290	Bloomfield Orchard Villa	Replace NH Outside Zone [PA-63]	DISAPPROVED	11/29/2012	Not Scored	12-0116 was withdrawn, so 12-0145 was not reviewed on a comparative basis.
120146	704001	Hudsonville Health Campus	New NH with 48 beds [PA-70]	DISAPPROVED	11/29/2012	Scored	
120143	704144	Grand Haven Care Center, LLC	New NH with 48 Beds [PA-70]	APPROVED	11/29/2012	Scored	
120314	634005	Regency at Troy	New NH with 112 Beds [PA-63] [Reconsideration Appr]	DISAPPROVED	4/1/2013	Not Scored	12-0313 and 12-0310 were withdrawn, so 12-0314 was not reviewed on a comparative basis
120313	634589	REGENCY ON THE LAKE-NOVI, L. L. C.	New NH with 145 Beds [PA-63]	DISAPPROVED	4/1/2013	Not Scored	12-0313 and 12-0310 were withdrawn, so 12-0314 was not reviewed on a comparative basis
120310	638510	Regency at Waterford	Add 30 NH Beds [PA-63]	DISAPPROVED	4/1/2013	Not Scored	12-0313 and 12-0310 were withdrawn, so 12-0314 was not reviewed on a comparative basis
130160	704002	Waterford Rehab Center III	New NH with 40 Beds [PA-70]	DISAPPROVED	11/25/2013	Not Scored	Both 13-0160 and 13-0179 are non-qualifying projects, so no comparative scoring was done.
130179	704003	Regency at Grand Haven, LLC	New NH with 125 Beds [PA-70]	DISAPPROVED	11/25/2013	Not Scored	Both 13-0160 and 13-0179 are non-qualifying projects, so no comparative scoring was done.
130165	504005	WOS Skilled Nursing	New NH with 70 Beds [PA-50]	DISAPPROVED	11/26/2013	Not Scored	Both 13-0165 and 13-0171 are non-qualifying projects, so no comparative scoring was done.
130171	504006	Fountainbleu	New NH with 100 Beds [PA-50]	DISAPPROVED	11/26/2013	Not Scored	Both 13-0165 and 13-0171 are non-qualifying projects, so no comparative scoring was done.
Total Decisions for Comparative: 39			Total Number of Compare Groups: 14				
Applications Not Scored in Section 10			16				
Applications Scored in Section 10			23				