

STATE OF MICHIGAN  
DEPARTMENT OF COMMUNITY HEALTH  
CERTIFICATE OF NEED

PUBLIC HEARING ON REVIEW STANDARDS FOR:  
MAGNETIC RESONANCE IMAGING (MRI) SERVICES  
NURSING HOMES/HLTCU BEDS

BEFORE NATALIE KELLOGG, DEPARTMENTAL TECHNICIAN TO CON  
201 Townsend Street, Lansing, Michigan  
Tuesday, October 26, 2010, 9:00 a.m.

Also present:

Tania Rodriguez

RECORDED BY:

Karen J. Reid, CER 5157

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Adjournment

Lansing, Michigan

Tuesday, October 26, 2010 - 9:04 a.m.

**MS. KELLOGG:** Good morning. I'm Natalie Kellogg, Departmental Technician to the Certificate of Need Commission from the CON Health Policy Section of the Department of Community Health. Chairperson Ed Goldman has directed the department to conduct today's hearing.

Please be sure that you have completed the sign-in log. Copies of the standards and comment cards can be found on the back table with the sign-in log. A comment card needs to be completed and provided to me if you wish to give testimony.

The proposed CON Review Standards for MRI Services are being reviewed and modified to include the following:

Under Section 4, added language that allows for a lower replacement volume for an MRI unit initiated pursuant to Section 3(2)(b)(ii) or 3(2)(b)(iii). The volumes are 4,000 and 3,000 MRI adjusted procedures, respectively, and it is the only fixed MRI unit at the current site.

Under Section 12, added language that allows for a lower maintenance volume for an MRI unit initiated pursuant to Section 3(2)(b)(ii) or 3(2)(b)(iii). The volumes are 4,000 and 3,000 MRI adjusted procedures, respectively, and it is the only fixed MRI unit at the current site.

Other technical changes for clarity and consistency.

The proposed CON Review Standards for Nursing Home/Hospital Long Term Care Unit Beds and Addendum for Special Population Groups are being reviewed and modified to include the following:

Under Section 1, modified the language consistent with recent changes in other CON Review Standards.

Under Section 2, removed unnecessary definitions.

Under Section 10(2), revised to provide greater emphasis on Medicaid participation.

Under Section 10(3), revised to give a higher weight for Medicare participation versus licensed-only beds.

Under Section 10(4), revised to deduct points from providers with a negative track record of compliance with state and federal regulations.

Under Section 10(5), revised and added points for culture change models.

Under Section 10(6), reduced the number of categories to receive points for applicant's cash.

Under Section 10(7), added HLTCU and revised points.

Added Section 10(8) to award points for air conditioning.

Under Section 10(9), revised by giving more points for private rooms with adjoining sink, toilet and shower to encourage a more home-like environment.

Added Section 10(10) to award points for projects that result in small nursing homes/HLTCU's.

Added Section 10(11) to award points for providing audited financial statements to assure financial viability of the applicant and project.

Added Section 10(12) to award points to encourage new construction to house new beds.

Added Section 10(13) to award points for not operating any three- or four-bed wards.

Added Section 10(14) to award points if the existing or proposed Nursing Home/HLTCU is on or readily accessible to an existing or proposed public transportation route.

Added Section 10(15) to award points for technological innovation.

Under Section 10(16) modified the language consistent with recent changes in other CON Review Standards.

Other technical changes.

If you wish to speak on the proposed MRI or Nursing Home/HLTCU Bed Standards, please provide your comment card to me. Additionally, if you have written testimony, please provide a copy, as well. Just as a reminder, all cellular telephones and pagers need to be turned off or set to vibrate during the hearing.

As indicated on the Notice of Public Hearing, written testimony may be provided to the Department via our Web site at [www.michigan.gov/con](http://www.michigan.gov/con) through Tuesday, November 2nd, 2010 at 5:00 o'clock p.m.

Today is Tuesday, October 26th. We will begin the hearing by taking testimony on MRI and then Nursing Home/HLTCU Beds and will continue until all testimony has been given, at which time we will adjourn. Does anyone have testimony on MRI? Okay.

We'll go ahead to Nursing Home Beds. We will now hear testimony from Andrew Ball on Nursing Home and Hospital Long Term Care Units.

**MR. BALL:** Andy Ball on behalf of HCR Manor Care, HCR Manor Care on behalf of its operating counties in Michigan. HCR submits the following comments and proposed revisions to the CON Review Standards for Nursing Home and Hospital Long Term Care Unit Beds. HCR Manor Care is a national long-term care provider with 28 nursing home facilities in Michigan. HCR commends the CON Commission and department for its willingness to reexamine the comparative review criteria in the current CON Standards. These criteria provide an opportunity for the commission to raise the bar for new nursing homes in Michigan and to incorporate standards that incentivize quality of care, innovation and investment in technological improvements, specifically Section 10(4) beginning line 682. Although HCR agrees that the point deduction approach is a good policy, it is troubling that an applicant with high Medicaid utilization but a poor operating history

would still outscore an applicant with lower Medicaid utilization and none of the quality concerns listed in this section. Why would the commission wish to reward low quality operators with more beds simply because they participate in Medicaid? This language sends the wrong message that there are differential quality standards in Michigan for high Medicaid versus low Medicaid facilities. The points deducted for triggering these quality conditions should significantly disfavor an applicant with a poor operating history so that they would never be the winning applicant. Accordingly, the points deducted under Section 10(4) should be increased to 25 points.

Section 10(5) beginning line 709. As we noted at the commission meeting, HCR embraces culture change in all of its facilities. However, all of the current department approved culture change programs focus on traditional nursing homes serving long-term residents. At least one department approved culture change program should exist for organizations like HCR, which serve a higher percentage of high acuity post-hospitalization patients that are admitted on a short-term stay basis to receive specialized rehabilitative care.

Section 10(6) beginning line 716. HCR disagrees with the revisions to the points awarded for the applicant willing to put 20 percent or more cash into the proposed project. High debt projects cost the State of Michigan additional money, because the Michigan Medicaid program reimburses interest incurred on debt as part of reimbursable property tax interest expense leased costs. In this challenging fiscal environment the commission should be promoting policies that reduce the cost of the Michigan Medicaid program, not policies that maintain high Medicaid costs or that increase such costs. Numerous national studies over the past ten years have shown a direct correlation between underfunded nursing homes and poor quality. An applicant with the ability to fund a project is more likely to implement a successful CON application in a timely

manner. Thus, including ten points or more for 20 percent cash is good policy for quality reasons and will ensure that financially fit applicants are favored.

For the same reason, HCR supports language in Section 10(11) beginning line 735 that awards points for audited financial statements, although this should be consistent with current MDCH policy also allowing an applicant to submit the audited financial statements of a corporate affiliate that will fund all or a portion of the proposed project.

The commission would further strengthen the financial fitness requirements in comparative review if additional points were rewarded for positive cash flow. Michigan Standards should include at least basic financial review criteria to the department so the department can evaluate the applicant's ability to successfully implement the proposed project. Also these requirements would simply mirror what commercial lenders require to fund a proposed project once a CON is awarded.

Audited financial statements and percentage of cash are straightforward criteria that could have considerable -- that should have considerable point allocations, with at least ten points for the submission of audited financial statements demonstrating positive cash flow. If the comparative review criteria seeks to reward the gold standard project, then it seems that the most financially fit application should be favored in the points.

Section 10(8) beginning line 727. The commission should consider language that will improve the nursing home environments for the most residents possible. Although private rooms are desirable, they are expensive to build and expensive for private-pay residents to occupy, which means that seniors exhaust their private resources more quickly before qualifying for government benefits/Medicaid. Medicare and Medicaid do not pay for private rooms without special approval.

By having showers in all resident rooms, residents would be spared the indignity of being wrapped in a sheet and wheeled down the public hallway. HCR believes the additional financial commitment to build in-room showers is well worth the investment and urges the commission to award ten points for applicants proposing construction of showers in all semi-private and private rooms in the proposed project. This model would benefit all residents in the facility, not just those that could afford a private room.

Section 10(15) beginning line 748. HCR commends the department and commission for including new criteria to reward proposed technology features that would enhance the functionality of the facility and provide life enrichment for residents. This language is progressive and consistent with national trends towards electronic health records. However, given there is a direct increase in capital costs associated with these improvements, the total points awarded under this section should be increased to eight points, with such divisions of these points among the full category as determined by the commission.

HCR also noted the need for technical correction in the proposed language as follows:

Line 747 to 748. To avoid penalizing applicants that have already eliminated three- or four-bed wards or that have never had them, the language should restore the phrase "all proposed." The point of this language should be to award points if the nursing home does not have three- or four-bed wards once the CON is implemented.

**MS. KELLOGG:** Thank you. We will now hear testimony from Pat Anderson on Nursing Home and Hospital Long Term Care Unit Beds.

**MS. ANDERSON:** Good morning. Thank you. It is tough to say. We just say HLTCU; it's quicker. I'm Pat Anderson, representing the Health Care Association of Michigan. We will submit written testimony. I don't have it for you today, but we will submit it before the deadline.

I just wanted to comment on a couple things. One, I want to thank the department again for the work groups over the summer and listening to a lot of our suggestions and concerns and having a good dialogue. I think it really helped in making these standards much better for the Nursing Homes and Hospital Long Term Care Units.

A couple things we have on concerns, though, about what the current standards are. One, I want to thank them again for the technology piece. I think that's a great movement forward. It's kind of a personal thing of mine, too, to move that forward. But I do agree with the comments from HCR that more points should be awarded to those categories. They do, especially electronic health records and the pager systems and that, have significant capital costs associated with them.

We have a couple other comments on minor things. The other one area is we continue to not support the requirement for audited financial statements in Section 11 of -- Section 10, paragraph 11; that audited financial statements tend to favor those who are large corporations that are on the stock exchange, and that small companies really don't normally have them. And I do not believe financial statements -- audited financial statements really ensure any more viability of a product.

With those comments, we will submit our written comments with a few other things. And thank you for this opportunity.

**MS. KELLOGG:** Thank you. Is there anyone else that wishes to speak? Okay. If there are no further comments, we'll go ahead and adjourn the meeting. Thank you.

(Hearing concluded at 9:18 a.m.)