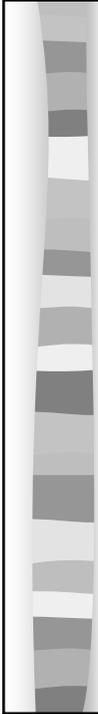
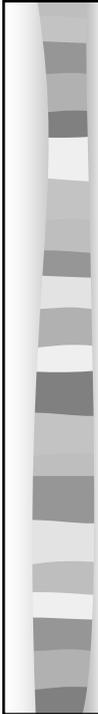


New York State Department of Health CON Program



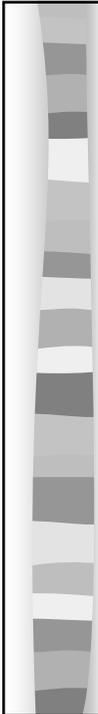
Certificate of Need (CON) Program

- **Authorizes the establishment and construction of:**
 - **Hospitals**
 - **Nursing Homes**
 - **Clinics**
 - **Home Health Agencies**
 - **High Technology Specialty Services**
 - **Hospice**



■ **Reviews Proposed Facilities and Services for:**

- **Public Need**
- **Financial Feasibility**
- **Character and Competence of Owners and Operators**

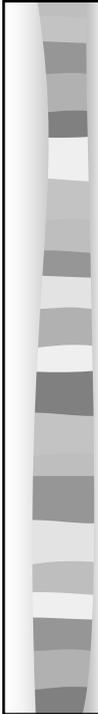


MAJOR ELEMENTS OF CON REVIEW

Public Need

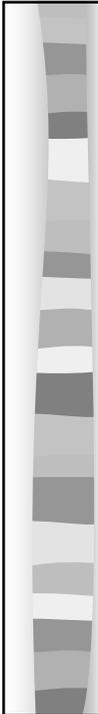
■ **Determination of public need is based on:**

- **Population demographics**
- **Use of existing services**
 - Bed occupancy
 - Volume of services/procedures
- **Epidemiology of selected diseases and conditions**
- **Access**
 - Travel time
 - Insurance status of population



Financial Feasibility

- Projected revenues**
- Current financial status**
- Capacity to retire debt**



Character and Competence

- Experience and past performance of proposed owners/operators - “substantially consistent high level of care.”**
- Record of violations, if any.**

Types of Review

Administrative CON Review

- Commissioner approval only
- In general, clinical projects \$3 million to \$10 million

Full CON Review

- PHC or SHRPC approval, or both
- New facilities , new beds and high tech services
- >\$10 million

Types of Review (cont'd)

■ **Limited Review**

- Smaller clinical projects (<\$3 million)
- Non-clinical projects <\$10 million
- Architectural and Engineering Compliance
- Program Compliance
- No public need review

Pending CON Changes

■ Raise Monetary Thresholds

■ Clinical Projects

- Raise CON administrative review threshold from \$3 Million to \$6 million**
- Raise full CON review threshold from \$10 million to \$15 million**

Pending CON Changes

■ Nonclinical Projects

- Raise nonclinical review threshold from \$10 million to \$15 million**
- Nonclinical projects >\$15 million Administrative CON review only (no more full CON review).**

CON Construction Projects

- **Require State Hospital Review and Planning Council (SHRPC) review**
- **Recommendation to the Commissioner of Health**

Construction

“Construction” means the erection, building, or substantial acquisition, alteration, reconstruction, improvement, extension or modification of a health care facility, including its equipment; the inspection and supervision thereof; and the studies, surveys, designs, plans, working drawings, specifications, procedures and other actions necessary thereto.

--New York Public Health Law Section 2801

CON Establishment Process

All establishment actions require approval by the Public Health Council.

- **The creation of a new health care facility**
- **A change of ownership of 10 percent or more**

Establishment Actions (cont'd.)

- **A reorganization of the corporate sponsorship of an existing facility which results in a new corporate entity**
- **A change in the governance of an existing facility which allows substantive participation in the operation of the facility by another corporate entity.**

The Commission on Health Care Facilities in the 21st Century

**The New York State Department of Health
(NYSDOH)**

1

The Commission on Health Care Facilities in the 21st Century

- **Established by the Governor and the State Legislature in 2005**
- **'The Berger Commission' or 'The Commission.'**

2

What, Why and the Goals of The Commission

- **To conduct an independent review of health care capacity and resources in New York State.**
- **To ensure an appropriate supply of hospitals and nursing homes at the local and regional levels.**
- **To reduce excess bed capacity in favor of ambulatory and community-based care.**
- **To “rightsize” the health care system.**

3

The Commission’s Recommendations

- **A total of 57 mandatory recommendations, effective January 1, 2007.**
- **Affected 81 acute care and long-term care facilities.**
 - **57 hospitals (one-quarter of total in state)**
 - **24 nursing homes (4 percent of total in state)**

4

The Commission's Recommendations

The recommendations were to ...

- Close,
- Downsize,
- Consolidate,
- Convert, or
- Restructure

facilities within each region.

5

Targeted Bed Reduction

Acute Care

- Eliminated 4,200 hospital inpatient beds (7 percent of statewide capacity) through
 - 9 facility closures
 - 48 downsizings reconfigurations, affiliations, conversions, mergers.

6

Targeted Bed Reduction

- **Long-term Care**
 - **Eliminated 3,000 nursing home beds (2.6 percent of statewide capacity)**
 - **Closure of 7 nursing homes**
 - **17 downsizings, reconfigurations, conversions, affiliations.**
 - **Established more than 1,000 new non-institutional slots**

7

Funding for Rightsizing

- **Healthcare Efficiency and Affordability Law for New Yorkers (HEAL NY)**
- **\$1 billion over five years**
 - **75% bonding authority**
 - **25% capital appropriations**
- **\$1 billion from Federal-State Health Reform Partnership (F-SHRP). One-for-one match.**

8

HEAL NY

- **\$1.8 billion let to date**
 - **\$1 billion for capital restructuring**
 - **\$550 million for Commission mandates**
 - **\$219 million for HIT infrastructure**
 - **\$7 million for local/regional health planning**
- **380 contracts**

Certificate of Need Health Care Financial Review

Charles Abel
NYS Department of Health
Division of Health Facility Planning

Why is there a Financial Review?

- Ensure the delivery of high quality healthcare products and services in a cost effective manner
- Capital is a pass-through for Medicaid services

Financial Review Principles

- Capital costs, operating costs, and debt obligations need to be reasonable, necessary and in the public interest

What does the financial review entail?

Capability

- Does the applicant have the means to complete the project?
 - Balance sheet
 - Net worth
 - Ability to borrow

What does the financial review entail? (cont)

Feasibility

- Has the applicant demonstrated the ability to operate in a financially viable manner?
 - Historical operating performance
 - Reasonableness of budgets
 - Ability to sustain operations
 - Ability to retire debt

Details-Are costs reasonable?

- Proposed construction cost
 - cost per square foot metrics
- Lease rental
 - arm's length vs. non-arm's length leases
- Operating budget
 - Efficiency, conservative
- Financing structure
 - necessary, reasonable and in the public interest

Acceptable financing structure – components

- Hospitals
 - Capital financing must be asset-backed – mortgage term must be supported by asset lives
 - Reimbursable – level debt service on new money CON projects
 - refinancing
 - non-CON equipment - >\$250,000
 - Working capital financing - generally, 5 year term or less

Acceptable financing structure – components (cont.)

- Hospitals
 - Long-term financing issues: principal deferrals, creative amortization, balloons, long term financing of operating expenses, working capital, routine capital budget items, short life equipment and future CONs

Acceptable financing structure – components (cont.)

- Nursing Homes
 - Maximum 30 year mortgage
 - Acquisition financing – non-reimbursed
 - minimum 10 year term
 - guarantee any balloon

Credit Enhancement

- FHA insured
- Bond insurance – cost effective
- Letter of credit – take-out terms; evergreen provision (no balloons)

Supporting Documentation

- Business Plan
- Financial Feasibility Study
- Consistency with DOH and Commission Goals and Objectives

CON Financing Contingencies

- Mortgage/Loan commitment
- Bond Resolution
- PACB approval - TELP funding
- DASNY/Lender consent

Approval process – sequence

- Criteria for contingency satisfaction – principal and terms should be consistent with CON approvals
 - DASNY – interagency process agreement
 - IDA – inducement resolution, sources and uses, amortization
 - Other – mortgage/bank loan commitment

Financings without CON projects

- DOH Commissioner (designee) approval required for reimbursement.

Criteria for Refinancing

- Hospitals
 - Co-terminous maturities
 - Maturity extension proposals
 - Business plan – justification – use of savings
 - Extended maturity limited to 120% of remaining AHA depreciable life
 - Asset life analysis
 - Medicaid “Hold Harmless” agreement – Board Resolution

Criteria for Refinancing (cont.)

- Nursing Homes
 - No extension of maturity in order to be reimbursed
 - Savings