

**MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES
(MDHHS)
CERTIFICATE OF NEED (CON) COMMISSION MEETING**

Thursday, December 5, 2019

South Grand Building
333 S. Grand Ave
1st Floor, Grand Conference Room
Lansing, MI 48933

DRAFT MEETING MINUTES

I. Call to Order

Chairperson Falahee called the meeting to order at 9:35 a.m.

A. Members Present:

James B. Falahee, Jr., JD, Chairperson
Thomas Mittelbrun, Vice-Chairperson
Denise Brooks-Williams
Lindsey Dood
Tressa Gardner, DO
Debra Guido-Allen, RN
Robert Hughes
Melanie LaLonde
Amy McKenzie, MD
Stewart Wang, MD
Melisa Oca, MD

B. Members Absent:

None.

C. Department of Attorney General Staff:

Carl Hammaker

D. Michigan Department of Health and Human Services Staff Present:

Tulika Bhattacharya
Beth Nagel
Tania Rodriguez

II. Review of Agenda

Motion by Commissioner Guido-Allen, seconded by Commissioner Lalonde to approve the agenda as presented. Motion carried.

III. Declaration of Conflicts of Interests

None.

IV. Review of Minutes of September 19, 2019

Motion by Commissioner Brooks-Williams, seconded by Commissioner Guido-Allen to approve the minutes as presented. Motion carried.

V. Hospital Beds – Set Effective Date of New Hospital Groups (*Written Report from Ashton Shortridge, et al.*)

Ms. Nagel gave an overview of the new Hospital Group calculations (Attachment A).

A. Public Comment

None.

B. Commission Discussion

None.

C. Commission Action

Motion by Commissioner Mittlebrun, seconded by Commissioner Gardner to set January 2, 2020 as the effective date on the new hospital group calculations. Motion carried in a vote of 11 - Yes, 0 - No, and 0 - Abstained.

VI. Nursing Home/Hospital Long-Term Care Unit Beds (NH/HLTC) – Effective Date of New Bed Need Numbers

Commissioner Falahee gave an overview of the correspondence (Attachment B) received by the Commission.

A. Public Comment

1. Melissa Samuels – Health Care Association of Michigan (HCAM)
2. Don Haney – Thornapple Manor
3. David Walker – Spectrum Health

B. Commission Discussion

Discussion followed.

C. Commission Action

Motion by Commissioner Guido-Allen, seconded by Commissioner Dood to rescind the November 1, 2019 effective date for the Nursing Home bed need set at the September 19, 2019 CON Commission meeting and revert to the Nursing Home bed need that was in effect on October 31, 2019. Motion failed in a vote of 3 - Yes, 8 - No, and 0 - Abstained.

VII. Computed Tomography (CT) Scanner Services (*Written Interim Report Only*)

Commissioner Falahee noted the written report available in the Commission binder. (Attachment C).

VIII. Legislative Update

Commissioner Falahee gave an overview of Legislative activity.

IX. Administrative Update

A. Planning & Access to Care Section Update

Ms. Nagel provided an update on the Public Comment period for those standards up for review in 2020 and noted that the Neonatal Intensive Care Unit workgroup and the Nursing Home Standard Advisory Committee will meet for the first time in December 2019.

B. CON Evaluation Section Update

Ms. Bhattacharya provided an update on the following items:

1. Compliance Report (Attachment D)
2. Quarterly Performance Measures (Attachment E)

X. Legal Activity Report

Mr. Hammaker provided an update on the CON legal activity (Attachment F).

XV. Future Meeting Dates: January 30, 2020 (Special Commission Meeting), March 19, 2020, June 18, 2020, September 17, 2020, and December 10, 2020

XVI. Public Comment

None.

XVII. Review of Commission Work Plan

Ms. Nagel provided an overview of the changes to the Work Plan including actions taken at today's meeting (Attachment G).

A. Commission Discussion

None.

B. Commission Action

Motion by Commissioner Brooks-Williams, seconded by Commissioner Guido-Allen to accept the Work Plan as presented with updates from today's meeting. Motion carried in a vote of 11 - Yes, 0 - No, and 0 - Abstained.

XVIII. Adjournment

Motion by Commissioner Hughes, seconded by Commissioner Gardner to adjourn the meeting at 10:40 a.m. Motion Carried in a vote of 11 - Yes, 0 - No, and 0 - Abstained.

Hospital Groups Update 2019

Jonnell C. Sanciangco and Ashton M. Shortridge

Department of Geography, Environment, and Spatial Sciences

November 21, 2019

Executive Summary

The Hospital Groups (HGs) for acute-care facilities were updated in September 2019. This update utilizes 166 facilities, down from 168 facilities in the Bed Need report submitted in 2018. The HGs resulted from the 2019 update were not similar to the prior HGs. The number of groups is reduced from 33 to 30, wherein three groups were removed (HGs 3, 13, and 16). Thirteen out of the 30 HGs do not change (HGs 5, 6, 7, 8, 9, 11, 18, 19, 21, 24, 25, 26, and 27), while the remaining 17 groups have seen some changes. These changes were as follows (see Appendix 1 for more details):

- **HG 1:** Increased from 17 hospitals to 19 hospitals; 6 hospitals moved to different group(s), 8 new hospitals added
- **HG 2:** The same number of hospitals (11); 2 hospitals moved to different group(s), 2 hospitals added
- **HG 4:** The same number of hospitals (8); 1 hospital added from HG 1 (Facility ID: 820070), 1 hospital becomes NG (Facility ID: 820130)
- **HG 10:** Increased from 5 hospitals to 7 hospitals; 2 hospitals added from old HG 13
- **HG 12:** Increased from 3 hospitals to 5 hospitals; 2 hospitals added from old HG 13
- **HG 14:** Increased from 7 hospitals to 9 hospitals; 2 hospitals added from old HG 16
- **HG 15:** Increased from 5 hospitals to 6 hospitals; 1 hospital added from old HG 16
- **HG 17:** Decreased from 6 hospitals to 5 hospitals; 1 hospital moved to the new HG 22
- **HG 20:** Decreased from 11 hospitals to 9 hospitals; 2 hospitals moved to a different group(s)
- **HG 22:** Increased from 3 hospitals to 4 hospitals; 1 hospital moved to a different group, 2 hospitals added
- **HG 23:** Increased from 3 hospitals to 4 hospitals; 1 hospital added from old HG 22
- **HG 28:** The same number of hospitals (3); 1 hospital moved to a new group, 1 hospital added
- **HG 29:** Decreased from 3 hospitals to 2 hospitals; 1 hospital moved to the new HG 28
- **HG 30:** Decreased from 4 hospitals to 3 hospitals; 1 hospital moved to a new group
- **HG 31:** Increased from 2 hospitals to 3 hospitals; 1 hospital added from old HG 32
- **HG 32:** The same number of hospitals (2); 1 hospital moved to a new group, 1 hospital added
- **HG 33:** The same number of hospitals (1); 1 hospital added from HG 30, 1 hospital moved to the new HG 25
- **NG:** Increased from 6 hospitals to 13 hospitals; 7 hospitals added (3 from old HG 1, 1 from each old HGs 2, 3, 4, and 20)

If these new HGs are adopted, there will be some effect on the number of beds needed for the 2021 planning year (Table 1). Overall, these new grouping will reduce the statewide bed need from 18,718 to 18,567 beds, a decrease of 151 beds. The greatest effect is seen in HG 1, where the bed need for 2021 increased by 1,531 beds. For other HGs that have seen changes in hospital composition, the changes in bed need range from a decline of 167 beds (HG 20) to a surplus of 231 beds (HG 22). No change in bed need was seen in HGs that do not change, except for HG 5 and HG 25 that shows a decline of 4 and 3 beds, respectively. This difference is due to the reduced number of facilities from the latest Bed Need report in 2018: this updated HGs utilized 166 facilities, down from 168 facilities from the latest Bed Need report.

Table 1. Comparison between the projected 2021 bed needs using current and updated HGs.

HG	Beds 2018	Bed Need 2021 (Current HG)	Bed Need 2021 (Updated HG)	Difference (Updated Minus Current)
1	4,070	2,964	4,495	1,531
2	3,507	2,827	2,765	-62
3	2,030	1,687	0	-1,687
4	1,973	1,292	1,400	108
5	1,788	1,287	1,283	-4
6	375	259	259	0
7	1,086	802	802	0
8	389	306	306	0
9	113	64	64	0
10	899	770	802	32
11	417	319	319	0
12	316	184	198	14
13	237	63	0	-63
14	1,842	1,409	1,544	135
15	462	322	338	16
16	311	170	0	-170
17	237	129	62	-67
18	143	79	79	0
19	1,441	1,279	1,279	0
20	1,708	1,147	980	-167
21	188	47	47	0
22	192	59	290	231
23	160	63	69	6
24	550	426	426	0
25	227	181	184	3
26	124	84	84	0
27	102	64	64	0
28	314	255	267	12
29	89	50	12	-38
30	111	50	37	-13
31	107	69	72	3
32	23	7	25	18
33	15	4	15	11
State		18,718	18,567	-151

Appendix 1. Hospitals listed by their new (updated) 2019 HG with their “old” groupings. The hospitals that changed groups are highlighted.

HG 1		HG 2012
500060	MCLAREN MACOMB	3
500070	ST. JOHN MACOMB OAKLAND HOSP - WARREN	3
500110	HENRY FORD MACOMB HOSPITAL	3
500111	SSH - MACOMB	3
630080	ST. JOHN MACOMB OAKLAND HOSP-MADISON HTS	1
630130	PROVIDENCE HOSPITAL AND MEDICAL CENTER	1
630160	BEAUMONT HOSPITAL - TROY	2
820030	BEAUMONT HOSPITAL - GROSSE POINTE	3
820276	SSH - GROSSE POINTE	3
830080	CHILDREN'S HOSPITAL OF MICHIGAN	1
830190	HENRY FORD HOSPITAL	1
830220	HARPER UNIVERSITY HOSPITAL	1
830240	HUTZEL WOMEN'S HOSPITAL	1
830410	REHABILITATION INSTITUTE	1
830420	ASCENSION ST. JOHN HOSPITAL	3
830450	SINAI-GRACE HOSPITAL	1
830500	DETROIT RECEIVING HOSPITAL	1
830520	KARMANOS CANCER CENTER	1
830523	SELECT SPECIALTY HOSPITAL - NW DETROIT,	1

HG 2		HG 2012
630014	HURON VALLEY-SINAI HOSPITAL	2
630030	BEAUMONT HOSPITAL - ROYAL OAK	2
630050	BEAUMONT HOSPITAL - FARMINGTON HILLS	1
630070	ASCENSION CRITTENTON HOSPITAL	2
630110	PONTIAC GENERAL HOSPITAL	2
630120	MCLAREN OAKLAND	2
630140	ST. JOSEPH MERCY OAKLAND HOSPITAL	2
630172	SSH - PONTIAC	2
630176	HENRY FORD WEST BLOOMFIELD HOSPITAL	2
630177	PROVIDENCE MEDICAL CENTER	2
820190	ST. MARY MERCY LIVONIA HOSPITAL	1

HG 3		HG 2012
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HG 4		HG 2012
580030	PROMEDICA MONROE REGIONAL HOSPITAL	4
820010	BEAUMONT HOSPITAL - WAYNE	4
820120	BEAUMONT HOSPITAL - DEARBORN	4
820170	BEAUMONT HOSPITAL - TRENTON	4
820230	HENRY FORD WYANDOTTE HOSPITAL	4
820250	BEAUMONT HOSPITAL - TAYLOR	4
820070	GARDEN CITY HOSPITAL	4
820272	SSH - DOWNRIVER	4

HG 5		HG 2012
470020	ST. JOSEPH MERCY LIVINGSTON HOSPITAL	5
810030	ST. JOSEPH MERCY ANN ARBOR HOSPITAL	5
810060	UNIVERSITY OF MICHIGAN HEALTH SYSTEM	5
810080	ST. JOSEPH MERCY CHELSEA	5
810081	SELECT SPECIALTY HOSPITAL - ANN ARBOR	5

HG 6		HG 2012
740010	LAKE HURON MEDICAL CENTER	6
740020	MCLAREN PORT HURON	6
740030	ASCENSION RIVER DISTRICT HOSPITAL	6

HG 7		HG 2012
190011	SPARROW CLINTON HOSPITAL	7
230021	EATON RAPIDS MEDICAL CENTER	7
230022	HAYES GREEN BEACH MEMORIAL HOSPITAL	7
330010	MCLAREN ORTHOPEDIC HOSPITAL	7
330020	MCLAREN - GREATER LANSING	7
330050	SPARROW HEALTH SYSTEM - ST. LAWRENCE CAM	7
330060	EDWARD W SPARROW HOSPITAL	7
330061	SPARROW SPECIALTY HOSPITAL	7

HG 8		HG 2012
380010	HENRY FORD ALLEGIANCE HEALTH	8
380051	HENRY FORD ALLEGIANCE SPECIALTY HOSPITAL	8

HG 9		HG 2012
460020	EMMA L. BIXBY MEDICAL CENTER	9
460052	HERRICK MEDICAL CENTER	9

HG 10		HG 2012
30031	BORGESS-PIPP HOSPITAL	10
30032	ALLEGAN GENERAL HOSPITAL	10
390010	BORGESS MEDICAL CENTER	10
390020	BRONSON METHODIST HOSPITAL	10
750010	STURGIS HOSPITAL, INC.	13
750020	THREE RIVERS HEALTH	13
800041	BRONSON LAKEVIEW HOSPITAL	10

HG 11		HG 2012
120010	COMMUNITY HEALTH CENTER OF BRANCH COUNTY	11
130031	BRONSON BATTLE CREEK HOSPITAL	11
130080	OAKLAWN HOSPITAL	11
130112	SELECT SPECIALTY - BATTLE CREEK	11
300010	HILLSDALE COMMUNITY HEALTH CENTER	11

HG 12		HG 2012
110040	LAKELAND COMMUNITY HOSPITAL WATERVLIET	13
110050	LAKELAND HOSPITAL, ST. JOSEPH	12
110070	LAKELAND HOSPITAL, NILES	12
140010	BORGESS-LEE MEMORIAL HOSPITAL	12
800020	SOUTH HAVEN COMMUNITY HOSPITAL	13

HG 13		HG 2012
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HG 14		HG 2012
80010	PENNOCK HOSPITAL	14
410010	SPECTRUM HEALTH BLODGETT HOSPITAL	14
410040	SPECTRUM HEALTH BUTTERWORTH HOSPITAL	14
410060	METROPOLITAN HOSPITAL	14
410070	MARY FREE BED REHABILITATION HOSPITAL	14
410080	MERCY HEALTH SAINT MARY'S	14
410090	SPECTRUM HEALTH KENT COMMUNITY HOSPITAL	14

700020	HOLLAND HOSPITAL	16
700030	SPECTRUM HEALTH ZEELAND COMMUNITY HOSPIT	16

HG 15		HG 2012
610010	MERCY HEALTH MUSKEGON - HACKLEY CAMPUS	15
610020	MERCY HEALTH MUSKEGON - MERCY CAMPUS	15
610051	GREAT LAKES SPECIALTY HOSPITAL	15
620010	SPECTRUM HEALTH GERBER MEMORIAL	15
640021	MERCY HEALTH PARTNERS, LAKESHORE CAMPUS	15
700010	NORTH OTTAWA COMMUNITY HOSPITAL	16

HG 16		HG 2012
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HG 17		HG 2012
340021	SPARROW IONIA HOSPITAL	17
590010	SPARROW CARSON HOSPITAL	17
590030	SHERIDAN COMMUNITY HOSPITAL	17
590060	SPECTRUM HEALTH UNITED HOSPITAL	17
590201	SPECTRUM HEALTH KELSEY HOSPITAL	17

HG 18		HG 2012
540030	SPECTRUM HEALTH BIG RAPIDS	18
670021	SPECTRUM HEALTH REED CITY HOSPITAL	18
840010	MUNSON HEALTHCARE CADILLAC HOSPITAL	18

HG 19		HG 2012
250040	HURLEY MEDICAL CENTER	19
250050	MCLAREN FLINT	19
250071	SSH - FLINT	19
250072	GENESYS REGIONAL MEDICAL CENTER	19
440010	MCLAREN-LAPEER REGION	19
780010	MEMORIAL HEALTHCARE	19

HG 20		HG 2012
90010	MCLAREN BAY SPECIAL CARE HOSPITAL	20
90020	BAY REGIONAL MEDICAL CENTER (WEST CAMPUS)	20

90050	MCLAREN BAY REGION	20
730020	COVENANT MEDICAL CENTER - COOPER	20
730030	COVENANT MEDICAL CENTER - N MICHIGAN	20
730050	ASCENSION ST. MARY'S HOSPITAL	20
730061	COVENANT MEDICAL CENTER - HARRISON	20
730062	SSH - SAGINAW	20
790032	CARO COMMUNITY HOSPITAL	20

HG 21		HG 2012
320020	HURON MEMORIAL HOSPITAL	21
320030	SCHEURER HOSPITAL	21
320040	HARBOR BEACH COMMUNITY HOSPITAL	21
760010	DECKERVILLE COMMUNITY HOSPITAL	21
760030	MCKENZIE MEMORIAL HOSPITAL	21
760041	MARLETTE REGIONAL HOSPITAL	21
790031	HILLS & DALES GENERAL HOSPITAL	21

HG 22		HG 2012
180010	MIDMICHIGAN MEDICAL CENTER CLARE	22
290010	MIDMICHIGAN MEDICAL CENTER- GRATIOT	17
370010	MCLAREN - CENTRAL MICHIGAN	22
560020	MIDMICHIGAN MEDICAL CENTER-MIDLAND	20

HG 23		HG 2012
60020	ASCENSION STANDISH HOSPITAL	23
260011	MIDMICHIGAN MEDICAL CENTER - GLADWIN	22
350010	ASCENSION ST. JOSEPH HOSPITAL	23
650010	WEST BRANCH REGIONAL MEDICAL CENTER	23

HG 24		HG 2012
200020	MUNSON HEALTHCARE GRAYLING HOSPITAL	24
280010	MUNSON MEDICAL CENTER	24
400020	KALKASKA MEMORIAL HEALTH CENTER	24
690020	OTSEGO MEMORIAL HOSPITAL	24

HG 25		HG 2012
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150021	MUNSON HEALTHCARECHARLEVOIX HOSPITAL	25
240030	MCLAREN NORTHERN MICHIGAN HOSPITAL	25
490030	MACKINAC STRAITS HEALTH SYSTEM, INC.	33

HG 26		HG 2012
40010	MIDMICHIGAN MEDICAL CENTER - ALPENA	26

HG 27		HG 2012
100020	PAUL OLIVER MEMORIAL HOSPITAL	27
510020	MUNSON HEALTHCARE MANISTEE HOSPITAL	27
530010	SPECTRUM HEALTH LUDINGTON HOSPITAL	27

HG 28		HG 2012
220020	DICKINSON COUNTY HEALTHCARE SYSTEM	29
520050	UP HEALTH SYSTEM-MARQUETTE	28
520051	UP HEALTH SYSTEM-BELL	28

HG 29		HG 2012
70020	BARAGA COUNTY MEMORIAL HOSPITAL	29
360021	ASPIRUS IRON RIVER	29

HG 30		HG 2012
310020	PORTAGE HOSPITAL, LLC	30
310021	ASPIRUS KEWEENAW HOSPITAL	30
660020	ASPIRUS ONTONAGON HOSPITAL	30

HG 31		HG 2012
170020	CHIPPEWA COUNTY WAR MEMORIAL HOSPITAL	31
480020	HELEN NEWBERRY JOY HOSPITAL	31
770010	SCHOOLCRAFT MEMORIAL HOSPITAL	32

HG 32		HG 2012
20010	MUNISING MEMORIAL HOSPITAL	32
210010	ST. FRANCIS HOSPITAL	28

HG 33		HG 2012
270022	ASPIRUS IRONWOOD HOSPITAL	30

NO HG		HG 2012
410002	SELECT SPECIALTY HOSPITAL - SPECTRUM HEALTH	
470010	ASCENSION BRIGHTON CENTER FOR RECOVERY	NG
500080	HENRY FORD MACOMB HOSPITAL - MT. CLEMENS	NG
500100	SOUTHEAST MICHIGAN SURGICAL HOSPITAL	NG
630002	PIONEER SPECIALTY HOSPITAL	2
630013	SURGEONS CHOICE MEDICAL CENTER	1
630150	STRAITH HOSPITAL FOR SPECIAL SURGERY	1
730060	HEALTHSOURCE SAGINAW, INC.	NG
810010	FOREST HEALTH MEDICAL CENTER, LLC	NG
820001	VIBRA HOSPITAL OF SE MICHIGAN - TAYLOR CAMPUS	4
820040	HENRY FORD COTTAGE HOSPITAL	3
820130	VIBRA OF SOUTHEASTERN MICHIGAN	NG
830002	VIBRA HOSPITAL OF SE MICHIGAN	1

December 2, 2019

VIA EMAIL (FalaheeJ@Bronsonhg.org)

James Falahee, Chair
Michigan Department of Health and Human Services
Certificate of Need Commission
5th Floor South Grand Building
333 South Grand Avenue
Lansing, MI 48933

Re: NH/HLTCU Bed Need Numbers

Dear Chairman Falahee:

Following up on our recent conversation, I want to again thank you for your efforts in establishing a Standard Advisory Committee (SAC) to look into, among other things, the methodology used to calculate the Nursing Home and Hospital Long-Term Care Unit (NH/HLTCU) bed need in the state. This is a very important issue for the Michigan long-term care industry, and we genuinely appreciate your leading the effort to form the SAC.

As we have discussed, HCAM and others in the long-term care industry remain deeply concerned about the proposed NH/HLTCU bed increase at a time when the state-wide occupancy rate is 80.6 percent. We believe it is clear that this influx of new beds will have a significant negative financial impact on providers in the state, as well as the Michigan Medicaid program. Indeed, these concerns regarding the bed-need methodology and the effects of adding what we believe to be unneeded beds are the reasons the SAC was formed.

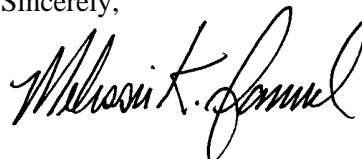
Having taken this vitally important step of establishing the SAC, we are now asking that the CON Commission give the SAC time to complete its work. The SAC's first meeting is scheduled for mid-December, and future meetings are already planned. HCAM has gathered data to support the SAC in carrying out its primary charge. Adding beds for development now undermines the work of the SAC to review and update the bed need methodology. Once unneeded beds enter the stream, the consequences of being over-bedded will follow, and we may be unable to undo the resulting negative impact.

As you are aware, we are asking that the decision to set the November 1, 2019 effective date be revisited at the Commission's December 5, 2019 meeting. We have spoken to a number of Commissioners to inform them of our concerns. In order to provide the SAC the time to effectively address these issues, we believe that action is needed at the Commission's December 5 meeting to rescind the November 1, 2019 effective date of the bed-need numbers. This is within the Commission's authority to set the effective date and would result in the reinstatement of the numbers that existed on October 31, 2019 (which would then need to be published by the Department of Health and Human Services).

Further, we believe it would be prudent to postpone setting an effective date for the bed-need numbers, as the Commission has done in the past, while the SAC reviews the bed-need methodology. We expect motion(s) along these lines to be made at the Commission's December meeting, and we ask for your support.

We thank you for your commitment to address this very serious issue, and we hope you appreciate how important this is to the long-term care industry. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Melissa K. Samuel". The signature is written in a cursive style with a large, looping initial "M".

Melissa K. Samuel

Cc: Carl Hammaker
Rolf Goffman Martin Lang LLP

COMPUTED TOMOGRAPHY (CT) SERVICES WORKGROUP INTERIM REPORT #2

The CT services workgroup, as charged by the Certificate of Need Commission, had its second meeting on October 3rd, 2019:

- I. The meeting was called to order at 9:37 AM.

- II. **Charge 2.** Dedicated pediatric CT scanner requirements and definition:

Brief presentation by Steve Szelag, University of Michigan Hospitals, on dedicated pediatric CT. The issue is not maintenance volume by U of M's one dedicated pediatric scanner, which is well above threshold, but rather the required pediatric/adult ratio, currently 70/30. Adjusting the ratio was considered too broad. Changing the age in the PEDIATRIC STANDARD ONLY (18 to 21) was a consideration. After considerable discussion, the workgroup felt there is not a problem with the pediatric CT CON standard. There may, however, be an issue with the pediatric/adult ratio for pediatric MRI. The workgroup conclusion was to make no change, as the current standard works well for the two dedicated pediatric CT scanners in the state. The MRI issue was outside the scope of the charge. Mr. Szelag will take this back to leadership for possible further discussion at the next meeting.

- III. **Charge 3.** Review maintenance volume requirements:

Analysis of the data was presented by David Walker, Spectrum Health, with assistance of Jennifer Groseclose. In summary: Hospital based CT scanner are reaching maintenance volume, while ~62% of freestanding CT scanners are not. The

workgroup felt addition analysis is needed to determine reasonable CT scanner throughput (studies per hour) with a mixture of studies from the 6 categories used for computation of CTEs. The maintenance volume could then be computed using reasonable hours of operation. CT scanners which are geographically isolated due to distance would be excluded. It is anticipated there will be a number of scanner which will continue to be out of compliance with respect to maintenance volume, although considerable fewer than present. Further analysis and collection of this data will be undertaken by Arlene Elliott and Melissa Cupp, as below.

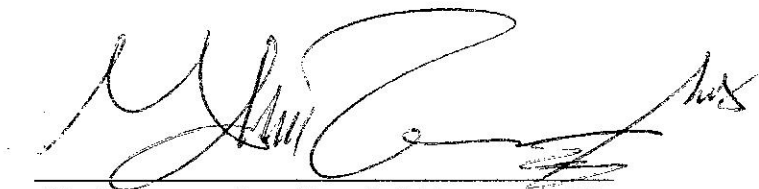
IV. **Charge 1.** Freestanding ED CT maintenance exemption:

24-hour freestanding ED CT scanner exemption from maintenance volume on first scanner was addressed by Patrick O'Donovan from Beaumont Hospital. This does not involve a change to initiation of a new CON, only maintenance volume. There was discussion regarding the general concept of a freestanding ED with CT capability. Many conditions that would be diagnosed by CT would require transport to a hospital and are time sensitive/emergent. The discussion of this charge was deferred, pending discussion of charge #3, review of maintenance volume requirements.

V. Assignments:

1. Evaluate CT study scan times to estimate the number of CT equivalents (CTEs) that can reasonably be produced per hour. Then extrapolate to a reasonable day (8, 9..., 12 hours) and estimate the expected number of CTEs for maintenance. Will be undertaken by Arlene Elliott (with input from other workgroup members).
2. Evaluate geographic considerations for purpose of excluding scanners, where access is limited, on the basis of distance from other available scanners. Will be undertaken by Melissa Cupp.

VI. Meeting Adjourn at 11:35 AM.
Next Meeting Scheduled for November 7th, 2019.

A handwritten signature in black ink, appearing to read 'G. Remes, MD', written over a horizontal line.

Chairperson Geoffrey M. Remes, MD
Submitted: 10/3/2019

COMPUTED TOMOGRAPHY (CT) SERVICES WORKGROUP INTERIM REPORT #3

The CT services workgroup, as charged by the Certificate of Need Commission, had its third meeting on November 7th, 2019. Due to personal medical issues (previously scheduled surgery) the chairperson was unable to attend. David A. Walker II, a workgroup member representing Spectrum Health, kindly agreed to chair. Below is Mr. Walker's summary of the meeting:

Executive Summary

- The Department will contact the MSU Geography Department to get population density data by county. This may be used to develop a new minimum volume for CT services in counties that are not densely populated. They will report back at the January 23 meeting.
- Milan Gandhi of Northland Radiology will review and report back on possible solutions to the low volume mobile services.
- Spectrum Health, DMC, Sparrow, and Munson Healthcare will explore internal data related to "Gown procedures." Procedures, that take an extraordinary amount of time, such as biopsies, sterile procedures, anything that is not reported to the state under current scan categories (head, body, bundled).
- The Department will pull Annual Survey data related to scan type and send to Melissa Reitz and Lisa Brown to calculate the statewide percentage of each scan type. This will be used to calculate a reasonable amount of time a machine should operate to "justify its existence" and determine an appropriate minimum volume.
- University of Michigan's clinical experts were unable to attend the 11.7.19 meeting, therefore, further discussion of the Dedicated Pediatric CT Scanners definition and requirements was tabled until the January 23 meeting.
- The review of freestanding EDs being exempt from maintenance volume was tabled and will be reconsidered once we have more data related to CT equivalents and time.

The direction the workgroup appears to be headed in is that there should be:

1. A geographical consideration for certain CT services and a lower minimum volume (point one above);
2. A lower minimum volume for freestanding sites (point four above);
3. A new weighting for "Gown procedures" (point three above).

Summary

Discussion of Charge 3:

The workgroup began with a review and discussion on Melissa Reitz's report on fixed CT scanner services and distance. Melissa analyzed data, provided by the Department, showing CT services north of Clare and the driving and aerial radius distance between services. Given the concern over geographic access, the group discussed ways to determine if a service was "geographically significant":

1. Based on a mileage distance, such as 20 miles
2. If the service was the only service in a county
3. Based on population density

The workgroup also discussed volume requirements for "geographically significant" services, including:

1. Exempting from minimum volume
2. An added adjustment factor (such as 1.4)
3. A lower minimum volume

The workgroup seemed to learn towards the population density option with a lower volume. The Department will connect with the Michigan State University Geography Department to get population density by county data and determine if there is a methodology or "magic number" that is used for rural areas. This data will be brought back to the January 23 meeting.

Milan Gandhi of Northland Radiology raised the issue that all our conversation was focused on fixed CT scanner services and wanted to know how we proposed to fix the minimum volume concern for mobile services. He volunteered to develop some possible solutions.

Next, Arlene Elliot presented on the survey she helped coordinate related to CT scan times. In sum, the survey tried to demonstrate seven scan types and the relative weights and how much time a scanner is tied up to determine what a reasonable volume should be.

A representative from the DMC asked about procedures that take an extraordinary amount of time, such as biopsies, sterile procedures, anything that is not reported to the state under current scan categories (head, body, bundled). They referred to this as anything that would require the donning of a gown, prompting the term "Gown procedure" to be introduced.

Spectrum Health, DMC, Munson Healthcare, and Sparrow Health System volunteered to pull data on these type of procedures and report back to the workgroup. This may lead to the creation of a new "weight" for a prolonged scan.

The workgroup believed more data was needed before being able to determine an appropriate volume requirement. The discussion led to reviewing the statewide percentage of scan type and determine an appropriate time/weighting to apply to each type. This will be used to determine a volume that should justify a scanner's existence. The Department will pull this data and send to Melissa Reitz and Lisa Brown to analyze.

Discussion on Charge 2:

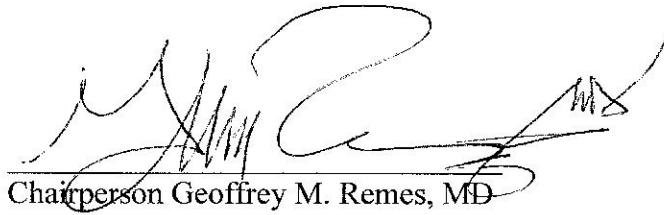
The clinical experts from the University of Michigan were unable to attend the 11.7.19 meeting so the workgroup tabled discussion of Charge 2 until the January 23 meeting.

Discussion on Charge 1:

The workgroup tabled the discussion on Charge 1 until the data pertaining to Charge 3 related to time, weightings, and minimum volume can be analyzed. If this data suggest that freestanding facilities should be subject to a lower minimum volume, it will address the concerns of freestanding EDs with one CT scanner.

Meeting Adjourned

Next Meeting Scheduled for January 23rd, 2020.

A handwritten signature in black ink, appearing to read 'G. Remes, MD', written over a horizontal line.

Chairperson Geoffrey M. Remes, MD
Submitted: 11/21/2019

CERTIFICATE OF NEED
4th Quarter Compliance Report to the CON Commission
 October 1, 2018 through September 30, 2019 (FY 2019)

This report is to update the Commission on Department activities to monitor compliance of all Certificates of Need recipients as required by Section 22247 of the Public Health Code.

MCL 333.22247

(1) The department shall monitor compliance with all certificates of need issued under this part and shall investigate allegations of noncompliance with a certificate of need or this part.

(2) If the department determines that the recipient of a certificate of need under this part is not in compliance with the terms of the certificate of need or that a person is in violation of this part or the rules promulgated under this part, the department shall do 1 or more of the following:

(a) Revoke or suspend the certificate of need.

(b) Impose a civil fine of not more than the amount of the billings for the services provided in violation of this part.

(c) Take any action authorized under this article for a violation of this article or a rule promulgated under this article, including, but not limited to, issuance of a compliance order under section 20162(5), whether or not the person is licensed under this article.

(d) Request enforcement action under section 22253.

(e) Take any other enforcement action authorized by this code.

(f) Publicize or report the violation or enforcement action, or both, to any person.

(g) Take any other action as determined appropriate by the department.

(3) A person shall not charge to, or collect from, another person or otherwise recover costs for services provided or for equipment or facilities that are acquired in violation of this part. If a person has violated this subsection, in addition to the sanctions provided under subsection (2), the person shall, upon request of the person from whom the charges were collected, refund those charges, either directly or through a credit on a subsequent bill.

Activity Report

Follow Up: In accordance with Administrative Rules 325.9403 and 325.9417, the Department tracks approved Certificates of Need to determine if proposed projects have been implemented in accordance with Part 222. By rule, applicants are required to either implement a project within one year of approval or execute an enforceable contract to purchase the covered equipment or start construction, as applicable. In addition, an applicant must install the equipment or start construction within two years of approval.

Activity	4 th Quarter	Year-to-Date
Approved projects requiring 1-year follow up	74	305
Approved projects contacted on or before anniversary date	44	189
Approved projects completed on or before 1-year follow up	59%	
CON approvals expired	14	55
Total follow up correspondence sent	200	853
Total approved projects still ongoing	283	

Compliance: In accordance with Section 22247 and Rule 9419, the Department performs compliance checks on approved and operational Certificates of Need to determine if projects have been implemented, or if other applicable requirements have been met, in accordance with Part 222 of the Code.

- ProMedica Monroe Cancer Center – The Department became aware that ProMedica Monroe Cancer Center’s previous lease term for the fixed Megavoltage Radiation Therapy (MRT) unit had expired and ProMedica Monroe Cancer Center was operating on a month-to-month lease arrangement from June of 2016 through December of 2019 without CON approval. The facility was required to submit a written corrective action plan establishing a process to ensure that CON covered services, equipment, and lease renewal projects needing approval are properly approved and should involve management level education about the CON process and requirements. In addition, the facility was required to pay a civil fine of \$500.
- The Department has completed statewide compliance reviews for Magnetic Resonance Imaging (MRI) and Positron Emission Tomography (PET) scanner services utilizing the most recent CON Annual Survey and MRI Utilization List data. After evaluating the annual survey data, review standards’ requirements, and responses to additional questionnaire, the Department has identified the CON approved facilities for compliance investigations. The Department recently completed compliance conference calls with each of these identified facilities and is in the process of finalizing settlements agreements and other compliance action plans with each of these identified facilities. The detailed finding of the statewide compliance reviews will be reported to the CON Commission in a separate report at a later date.

CERTIFICATE OF NEED
4th Quarter Program Activity Report to the CON Commission
 October 1, 2018 through September 30, 2019 (FY 2019)

This quarterly report is designed to assist the CON Commission in monitoring and assessing the operations and effectiveness of the CON Program Section in accordance with Section 22215(1)(e) of the Public Health Code, 1978 PA 368.

Measures

Administrative Rule R325.9201 requires the Department to process a Letter of Intent within 15 days upon receipt of a Letter of Intent.

Activity	4 th Quarter		Year-to-Date	
	No.	Percent	No.	Percent
Letters of Intent Received	120	N/A	365	N/A
Letters of Intent Processed within 15 days	120	100%	363	99%
Letters of Intent Processed Online	120	100%	365	100%

Administrative Rule R325.9201 requires the Department to request additional information from an applicant within 15 days upon receipt of an application, if additional information is needed.

Activity	4 th Quarter		Year-to-Date	
	No.	Percent	No.	Percent
Applications Received	50	N/A	210	N/A
Applications Processed within 15 Days	50	100%	210	100%
Applications Incomplete/More Information Needed	40	80%	129	61%
Applications Filed Online*	50	100%	197	94%
Application Fees Received Online*	11	22%	62	30%

* Number/percent is for only those applications eligible to be filed online, potential comparative and comparative applications are not eligible to be filed online, and emergency applications have no fee.

Administrative rules R325.9206 and R325.9207 require the Department to issue a proposed decision for completed applications within 45 days for nonsubstantive, 120 days for substantive, and 150 days for comparative reviews.

Activity	4 th Quarter		Year-to-Date	
	Issued on Time	Percent	Issued on Time	Percent
Nonsubstantive Applications	26	100%	123	100%
Substantive Applications	17	100%	98	100%
Comparative Applications	0	100%	4	100%

Note: Data in this table may not total/correlate with application received table because receive and processed dates may carry over into next month/next quarter.

Program Activity Report to CON Commission
 FY 2019 – 4th Quarter
 Page 2 of 2

Measures – continued

Administrative Rule R325.9227 requires the Department to determine if an emergency application will be reviewed pursuant to Section 22235 of the Public Health Code within 10 working days upon receipt of the emergency application request.

Activity	4 th Quarter		Year-to-Date	
	Issued on Time	Percent	Issued on Time	Percent
Emergency Applications Received	0	N/A	0	N/A
Decisions Issued within 10 workings Days	0	N/A	0	N/A

Administrative Rule R325.9413 requires the Department to process amendment requests within the same review period as the original application.

Activity	4 th Quarter		Year-to-Date	
	Issued on Time	Percent	Issued on Time	Percent
Amendments	20	100%	90	100%

Section 22231(10) of the Public Health Code requires the Department to issue a refund of the application fee, upon written request, if the Director exceeds the time set forth in this section for a final decision for other than good cause as determined by the Commission.

Activity	4 th Quarter	Year-to-Date
Refunds Issued Pursuant to Section 22231	0	0

Other Measures

Activity	4 th Quarter		Year-to-Date	
	No.	Percent	No.	Percent
FOIA Requests Received	46	N/A	305	N/A
FOIA Requests Processed on Time *	46	100%	305	100%
Number of Applications Viewed Onsite	0	N/A	0	N/A

FOIA – Freedom of Information Act.

*Request processed within 5 days or an extension filed.

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERALDANA NESSEL
ATTORNEY GENERAL

M E M O R A N D U M

November 26, 2019

TO: James Falahee
CON Commission Chair

FROM: Carl J. Hammaker, III *CJK*
Assistant Attorney General
Corporate Oversight Division

CC: Elizabeth Nagel
Joseph E. Potchen

RE: Legal Report for the September 19, 2019 Commission Meeting

We currently representing DHHS in two pending cases in the Michigan Office of Administrative Hearings and Rules.

- 1) *Regency at East Ann Arbor, LLC v Michigan Department of Health and Human Services*; MOAHR Docket No.: 18-010742

On October 5, 2018, the Department issued a proposed decision to disapprove CON Application No. 18-0050 to begin operation of a new nursing home, Regency at East Ann Arbor. Regency at East Ann Arbor appealed. Motions for Summary Disposition are due January 24, 2020.

- 2) *Beaumont Hospital – Oxford, v Department of Health and Human Services*; MOAHR Docket No.: 19-010768

On September 30, 2019, the Department issued a proposed decision to disapprove CON Application No. 19-0018 to initiate a new hospital in Limited Access Area #6 by William Beaumont Hospital. Beaumont appealed the disapproval. The matter is set for a status conference January 28, 2020.

In addition, we are representing DHHS in two additional Court actions relating to Beaumont's CON Application.

[Addressee]

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[Date]

- 1) *William Beaumont Hospital v Certificate of Need Commission and Department of Health and Human Services*; Case No. 19-000183-Mz

In the Court of Claims, Beaumont filed a request for declaratory judgment related to the interpretation of Section 6(5)(g)(i) of the Hospital Bed Review Standards and injunctive relief preventing the Commission from adopting new Standards related to Limited Access Areas while Beaumont's administrative appeal is pending. A response is due December 3, 2019.

- 2) *William Beaumont Hospital v Michigan Department of Health and Human Services*; Case No. 19-000836-AA

In the Ingham Circuit Court, Beaumont filed an appeal of the Department's October 18, 2019 denial of a request for declaratory ruling on the interpretation of Section 6(5)(g)(i) of the Hospital Bed Review Standards and a request for declaratory judgment. A response is due December 3, 2019.

In addition to these cases, we continue to work with MDHHS staff to assist in developing standards and providing legal advice on various matters.

CJH/

Draft Certificate of Need (CON) Commission Work Plan

	2019						2020						Attachment G
	July	August	September	October	November	December	January	February	March	April	May	June	
Commission Meetings			Meeting			Meeting	Special Meeting		Meeting			Meeting	
Cardiac Catheterization Services				Public Comment Period			Discussion/ Report						
Computed Tomography (CT) Scanner Services		CT Workgroup Mtg.	Interim Report to Commission	CT Workgroup Mtg.	CT Workgroup Mtg.	Interim Report to Commission	CT Workgroup Mtg.	CT Workgroup Mtg.	Report/Draft Language Presented/ Potential Proposed Action	Public Hearing		Report/ Final Action	
Hospital Beds			Discussion of LAAs	Public Comment Period		Report/ Discussion of LAAs	Discussion/ Report						
Megavoltage Radiation Therapy (MRT) Services/Units				Public Comment Period			Discussion/ Report						
Neonatal Intensive Care Services/Beds (NICU)	SAC Nomination & Selection Period					NICU Workgroup Mtg.	NICU Workgroup Mtg.	NICU Workgroup Mtg.	NICU Workgroup Mtg.	NICU Workgroup Mtg.	NICU Workgroup Mtg.	Report/Draft Language Presented/ Potential Proposed Action	
Nursing Home and HLTCU Beds and Addendum (NH-HLTCU)	SAC Nomination & Selection Period					NH-HLTCU SAC Mtg.	NH-HLTCU SAC Mtg.	NH-HLTCU SAC Mtg.	NH-HLTCU SAC Mtg.	NH-HLTCU SAC Mtg.	NH-HLTCU SAC Mtg.	NH-HLTCU SAC Mtg.	
Open Heart Surgery (OHS) Services				Public Comment Period			Discussion/ Report						
Positron Emission Tomography (PET) Scanner Services				Public Comment Period			Discussion/ Report						
Surgical Services				Public Comment Period			Discussion/ Report						
New Medical Technology Standing Committee	Department Monitoring	Department Monitoring	Department Monitoring	Department Monitoring	Department Monitoring	Department Monitoring	Department Monitoring	Department Monitoring	Department Monitoring	Department Monitoring	Department Monitoring	Department Monitoring	

The CON Commission may revise this work plan at each meeting. For information about the CON Commission work plan or how to be notified of CON Commission meetings, contact the Michigan Department of Health and Human Services (MDHHS) at, 517-335-6708 or www.michigan.gov/con.

Attachment G

SCHEDULE FOR UPDATING CERTIFICATE OF NEED (CON) STANDARDS EVERY THREE YEARS*

Standards	Effective Date	Next Scheduled Update**
Air Ambulance Services	June 2, 2014	2022
Bone Marrow Transplantation Services	September 29, 2014	2021
Cardiac Catheterization Services	December 26, 2018	2020
Computed Tomography (CT) Scanner Services	December 9, 2016	2019
Heart/Lung and Liver Transplantation Services	September 28, 2012	2021
Hospital Beds	November 28, 2018	2020
Magnetic Resonance Imaging (MRI) Services	October 21, 2016	2021
Megavoltage Radiation Therapy (MRT) Services/Units	September 12, 2019	2020
Neonatal Intensive Care Services/Beds (NICU)	December 9, 2016	2019
Nursing Home and Hospital Long-Term Care Unit Beds and Addendum for Special Population Groups	March 20, 2015	2019
Open Heart Surgery Services	December 26, 2018	2020
Positron Emission Tomography (PET) Scanner Services	September 14, 2015	2020
Psychiatric Beds and Services	November 12, 2019	2021
Surgical Services	November 17, 2017	2020
Urinary Extracorporeal Shock Wave Lithotripsy Services/Units	November 12, 2019	2022

*Pursuant to MCL 333.22215 (1)(m): "In addition to subdivision (b), review and, if necessary, revise each set of certificate of need review standards at least every 3 years."

**A Public Comment Period will be held in October prior to the review year to determine what, if any, changes need to be made for each standard scheduled for review. If it is determined that changes are necessary, then the standards can be deferred to a standard advisory committee (SAC), workgroup, or the Department for further review and recommendation to the CON Commission. If no changes are determined, then the standards are scheduled for review in another three years.