

Notice of Public Hearing

Pursuant to Section 22215 of Public Act 306 of 1969, as amended, the Michigan Department of Health and Human Services (MDHHS) will hold a hearing on Certificate of Need (CON) Review Standards.

Date: Wednesday, July 10, 2024

Time: 9:30 a.m.

Topic: Public Hearing for Hospital Beds, Surgical Services, and Bone Marrow Transplant (BMT), Review Standards.

Location: South Grand Building
333 S. Grand Avenue, 1st Floor
Conference Room 1A
Lansing, MI 48933

Virtual: **Members of the public may attend virtually**
Feel free to join from your PC, Mac, Linux, iOS or Android:
<https://us06web.zoom.us/j/84558375225?pwd=LLDXceYbOsdmxiT7XwMZPbaqWn0uSl.1>

Or by Telephone:
USA (216) 706-7005
USA (866) 434-5269 (US Toll Free)
Conference code: 729478



CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR HOSPITAL BED [RURAL EMERGENCY HOSPITAL (REH)]

The proposed language changes include the following:

1. Section 2(1)(n)(vi): Added to "Excluded hospital" definition to include hospitals designation defined under MCL Section 333.21501(1)(i):

(n) "Excluded hospitals" means hospitals in the following categories:

(vi) HOSPITALS AS DEFINED UNDER MCL SECTION 333.21501(1)(i) AND HAVE BEEN APPROVED UNDER MCL SECTION 333.21551 TO DELICENSE 100% OF THEIR LICENSED BEDS.

2. Section 6(3)(h): Included language that requires hospitals defined under Section 2(1)(n)(vi) of the standards to relicense beds before applying for additional beds:

(h) HOSPITALS DEFINED UNDER SECTION 2(1)(n)(vi) OF THIS STANDARD SHALL NOT APPLY FOR ADDITIONAL BEDS UNDER SECTION 6(3) UNTIL THE RECEIVING HOSPITAL HAS RELICENSED THE BEDS AS REQUIRED IN MCL SECTION 333.21551(7).

3. Section 9(9): Project delivery requirements added for hospitals defined under section 2(1)(n)(vi) of the standards:

(9) A HOSPITAL DEFINED UNDER MCL SECTION 333.21501(1)(i) SHALL ALSO MEET THE FOLLOWING REQUIREMENTS:

(a) THE HOSPITAL MUST NOTIFY THE DEPARTMENT OF THE DESIGNATION ACQUIRED AS REQUIRED IN MCL SECTION 333.21513(h).

(b) IF THE HOSPITAL CEASES TO MEET THE REQUIREMENTS OF MCL SECTION 333.21551 OR DECIDES TO PERMANENTLY DELICENSE BEDS AS PART OF MCL SECTION 333.21551 THEY MUST NOTIFY THE DEPARTMENT FOR BED INVENTORY PURPOSES.

(c) THE HOSPITAL WILL CONTINUE TO BE IN COMPLIANCE WITH THE REQUIREMENTS LISTED IN MCL SECTION 333.21551, AS APPLICABLE.



CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR SURGICAL SERVICES

The proposed language changes include the following:

1. Section 2(1): Modified/added definitions as follows:

(a) "Ambulatory surgical center" or "ASC" means any distinct entity certified by Medicare as an ASC under the provisions of Title 42, Part 416 that operates exclusively for the purpose of providing surgical services IN A CON-APPROVED OPERATING ROOM to patients not requiring hospitalization, AND DEFINED AS A HEALTH FACILITY FOR PURPOSES OF PART 222 OF THE CODE.

(e) "CRITICAL ACCESS HOSPITAL" OR "CAH" MEANS A HOSPITAL DESIGNATED BY CMS PURSUANT TO 42 CFR 485.606.

(h) "DEDICATED DIALYSIS ACCESS CENTER" MEANS AN FSOE OR ASC USED EXCLUSIVELY FOR DIALYSIS ACCESS CASES.

(k) "DIALYSIS ACCESS" MEANS THE PHYSICAL CONDUIT BEING USED TO ACCESS THE PATIENT IN ORDER TO PROVIDE DIALYSIS.

(l) "DIALYSIS ACCESS CASE" MEANS A SINGLE VISIT TO AN OPERATING ROOM DURING THE PERFORMANCE OF ONE OR MORE PROCEDURES FOR A PATIENT TO ESTABLISH OR MAINTAIN DIALYSIS ACCESS FOR THE PURPOSE OF PROVIDING HEMODIALYSIS OR PERITONEAL DIALYSIS FOR THE TREATMENT OF ADVANCED CHRONIC KIDNEY DISEASE, END STAGE RENAL DISEASE OR OTHER QUALIFYING CONDITION REQUIRING DIALYSIS. THESE PROCEDURES MAY INCLUDE VENOGRAPHY, FLUOROSCOPIC GUIDANCE OF CENTRAL VENOUS DIALYSIS ACCESS DEVICES, VASCULAR CATHETER PLACEMENT, REPAIR, REMOVAL, AND REPLACEMENT, VASCULAR CATHETER THROMBOLYSIS, REMOVAL OF OBSTRUCTIONS, FISTULAGRAMS, ANGIOPLASTY, ANGIOGRAM, STENT PLACEMENT, PERCUTANEOUS THROMBECTOMY, PERCUTANEOUS FISTULA CREATION, PERCUTANEOUS PERITONEAL DIALYSIS CATHETER PLACEMENT, REPAIR, REMOVAL, AND REPLACEMENT.

(mq) "Freestanding surgical outpatient facility" or "FSOF" means a health facility licensed under Part 208 of the Code. AND PROVIDES OUTPATIENT SURGICAL SERVICES IN A CON-APPROVED OPERATING ROOM. It does not include a surgical outpatient facility owned and operated as a part of a licensed hospital site. A freestanding surgical outpatient facility is a health facility for purposes of Part 222 of the Code.

(v) "MEDICARE DEPENDENT HOSPITAL" OR "MDH" MEANS A HOSPITAL DESIGNED BY CMS PURSUANT TO 42 CFR 412.108.

(vaa) "Procedure room" means a room in a surgical facility constructed and equipped to perform surgical procedures and not located on a sterile corridor. PROCEDURES CONDUCTED IN PROCEDURE ROOMS ARE NOT CONSIDERED SURGICAL CASES.

(cc) "SOLE COMMUNITY HOSPITAL" OR "SCH" MEANS A HOSPITAL DESIGNATED BY CMS PURSUANT TO 42 CFR 412.92.

(yee) "Surgical case" means a single visit to an operating room during which one or more surgical procedures are performed. IN A CON-APPROVED OPERATING ROOM.

2. Section 3: Added language for Dialysis Access Cases:

(2)(b) In an FSOF or ASC that is or will be used exclusively for endoscopy, or cystoscopy, OR DIALYSIS ACCESS cases all rooms in which endoscopy, or cystoscopy, OR DIALYSIS ACCESS cases are or will be performed.

(2)(c) In an FSOF or ASC that is not or will not be used exclusively for endoscopy, or cystoscopy OR DIALYSIS ACCESS cases all operating rooms in which surgery is or will be performed, excluding any operating rooms used exclusively for endoscopy, or cystoscopy, OR DIALYSIS ACCESS cases.

(3)(b) In an FSOF or ASC that is or will be used exclusively for endoscopy, or cystoscopy, OR DIALYSIS ACCESS cases, all endoscopy, or cystoscopy, OR DIALYSIS ACCESS cases, or hours of use, performed in the operating rooms identified in subsection (2)(b).

(3)(c) In an FSOF or ASC that is not or will not be used exclusively for endoscopy, or cystoscopy, OR DIALYSIS ACCESS cases, all surgical cases, or hours of use, performed in the operating rooms identified in subsection (2)(c). Cases, or hours of use, performed in any operating room used exclusively for endoscopy, or cystoscopy, OR DIALYSIS ACCESS cases, shall be excluded.

3. Section 4: Modified/added language for rural access hospitals and dialysis access centers:

(2) Subsection (1) shall not apply if the proposed project involves the initiation of a surgical service with 1 or 2 operating rooms at a licensed hospital THAT IS A CRITICAL ACCESS HOSPITAL, SOLE COMMUNITY HOSPITAL, OR MEDICARE DEPENDENT HOSPITAL, OR A LICENSED HOSPITAL site located in a rural or micropolitan statistical area county that does not offer surgical services as of the date an application is submitted to the Department.

(4) AN APPLICANT PROPOSING TO INITIATE A DEDICATED DIALYSIS ACCESS CENTER SHALL ONLY USE DIALYSIS ACCESS CASES IN ACCORDANCE WITH SECTION 11 (1)(e).

4. Section 5: Revised to improve clarity around requirements, added language for ownership and volume requirements for applicants proposing to relocate an existing surgical service or operating room, and language for rural hospital access:

Sec. 5. To replace a surgical service or one or more operating rooms, means:

(i) ~~the~~ THE development of new space (whether through new construction, purchase, lease or similar arrangement) to house one or more operating rooms operated by an applicant at the same site as the operating room(s) to be replaced;

(ii) ~~This also includes designating~~ DESIGNATING an OR as a dedicated endoscopy or cystoscopy OR;

(iii) ~~The term also includes relocating~~ RELOCATING an existing surgical facility WITH ~~or~~ one or more operating rooms to a new geographic location of ~~an~~ THAT existing surgical facility; or

(iv) RELOCATING one or more operating rooms OF AN EXISTING SURGICAL FACILITY to a different GEOGRAPHIC location currently offering surgical services AS ANOTHER EXISTING SURGICAL FACILITY.

(v) The term does not include the renovation of an existing surgical service or one or more operating rooms.

(vi) An applicant requesting to replace an existing surgical service shall demonstrate each of the following, as applicable to the proposed project.

(1) An applicant proposing to replace shall demonstrate:

(a) All existing operating rooms in the existing surgical facility have performed an average of at least THE FOLLOWING, UTILIZING THE MOST RECENT 12 MONTHS OF DATA WHICH IS VERIFIABLE BY THE DEPARTMENT:

(i) 1,042 surgical cases per year per operating room, for which verifiable data is available to the Department, or

(ii) 1,125 hours of use in a facility that performs only outpatient surgery, per year per operating room 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:

(iv) A licensed hospital that provides both inpatient and outpatient surgery may use a weighted average of INPATIENT hours of use (~~inpatient surgical volume~~) and OUTPATIENT 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:

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

~~(i) 1,042 surgical cases per year per operating room in the second twelve months of operation, and annually thereafter, or~~

~~(ii) 1,125 hours of use in a 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. (For example: Using 375 inpatient hours and 844 outpatient hours would equate to $375/1,500 + 844/1,125 = 0.25 + 0.75 = 1.00$ 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 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 cases divided by 1,042. (For example: Using 375 inpatient hours and 785 outpatient cases would equate to $375/1,500 + 785/1,042 = 0.25 + 0.75 = 1.00$ OR.)~~

(2) An applicant proposing to replace one or more operating rooms at a licensed hospital and is located in a rural or micropolitan county or the applicant is located in a city, village, or township with a population of not more than 12,000 and in a county with a population of not more than 110,000 as defined by the most recent federal decennial census OR THE APPLICANT IS A CRITICAL ACCESS HOSPITAL, SOLE COMMUNITY HOSPITAL, OR MEDICARE DEPENDENT HOSPITAL shall demonstrate each of the following:

(a) The applicant has ~~three, four, or five ORs~~ LESS THAN SIX ORS at the licensed hospital.

(b) All existing operating rooms have performed an average of at least ONE OF THE FOLLOWING UTILIZING THE MOST RECENT 12 MONTHS OF DATA VERIFIABLE BY THE DEPARTMENT:

(i) ~~839 surgical cases per year per operating room for which verifiable data is available to the Department, or~~

(ii) ~~1,200 906 hours of use per year per operating room for which verifiable data is available to the Department.~~

(c) All operating rooms, ~~existing and replaced, are projected to perform an average of at least:~~

~~(i) 839 surgical cases per year per operating room in the second twelve months of operation, and annually thereafter, or~~

~~(ii) 1,200 906 hours of use per year per operating room in the second twelve months of operation, and annually thereafter.~~

(3) Subsections (1) and (2) shall not apply if the proposed project involves replacing one or more operating rooms at the same licensed hospital site IS A CRITICAL ACCESS HOSPITAL, SOLE COMMUNITY HOSPITAL, OR MEDICARE DEPENDENT HOSPITAL, OR if the surgical facility is located in a rural or micropolitan statistical area county and has one or two operating rooms.

(6)(b) All existing operating rooms in the surgical facility from which one or more ORs are proposed to be relocated have performed an average of at least ONE OF THE FOLLOWING UTILIZING THE MOST RECENT 12 MONTHS OF DATA VERIFIABLE BY THE DEPARTMENT:

(i) 1,042 surgical cases ~~per year~~ per operating room ~~for which verifiable data is available to the Department~~, or

(ii) 1,125 hours of use in a facility that performs only outpatient surgery ~~per year~~ per operating room ~~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:

(iv) A licensed hospital that provides both inpatient and outpatient surgery may use a weighted average of INPATIENT hours of use (~~inpatient surgical volume~~) and OUTPATIENT 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:

(v) AN EXISTING SURGICAL FACILITY APPLICANT THAT IS PROPOSING TO RELOCATE ONE OR MORE OPERATING ROOMS TO ANOTHER EXISTING SURGICAL FACILITY IS NOT REQUIRED TO MEET SUBSECTIONS 5(6)(B)(I)-(IV).

(vi) THE RELOCATED OPERATING ROOMS SHALL BE LICENSED TO THE RECEIVING EXISTING SURGICAL FACILITY AND THE APPLICANT SHALL AGREE TO DECREASE THEIR TOTAL NUMBER OF OPERATING ROOMS, AS APPLICABLE.

(6)(c) All operating rooms, existing and relocated, AT THE RECEIVING EXISTING SURGICAL FACILITY, are projected to perform an average of at least THE FOLLOWING IN THE SECOND TWELVE MONTHS OF OPERATIONS:

(i) 1,042 surgical cases ~~per year~~ per operating room ~~in the second twelve months of operation~~ or

(ii) 1,125 hours of use in a 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 SURGICAL hours divided by 1,125. (For example: Using 375 inpatient hours and 844 outpatient hours would equate to $375/1,500 + 844/1,125 = 0.25 + 0.75 = 1.00$ OR.) or

(iv) A licensed hospital that provides both inpatient and outpatient surgery may use a weighted average of INPATIENT hours of use (~~inpatient surgical volume~~) and OUTPATIENT surgical cases, (~~outpatient surgical volume~~) as billed by the facility, ~~per year per operating room in the second twelve months of operation~~, and annually thereafter and calculated as follows:

(d) THE EXISTING SURGICAL SERVICE FROM WHICH THE OPERATING ROOMS ARE BEING RELOCATED, AND THE EXISTING SURGICAL SERVICE RECEIVING THE OPERATING ROOMS, SHALL NOT REQUIRE ANY OWNERSHIP RELATIONSHIP.

(7) Subsection (6) shall not apply if the proposed project involves relocating one or two operating rooms within a 20-mile radius if the surgical facility IS A CRITICAL ACCESS HOSPITAL, SOLE COMMUNITY HOSPITAL, OR MEDICARE DEPENDENT HOSPITAL, OR is located in a rural or micropolitan statistical area county.

(8) An applicant proposing to relocate AN EXISTING SURGICAL SERVICE OR one or more operating rooms from one licensed hospital site to another licensed hospital site and is located in a rural or micropolitan county or the applicant is located in a city, village, or township with a population of not more than 12,000 and in a county with a population of not more than 110,000 as defined by the most recent federal decennial census OR THE APPLICANT IS A CRITICAL ACCESS HOSPITAL, SOLE COMMUNITY HOSPITAL, OR MEDICARE DEPENDENT HOSPITAL, shall demonstrate each of the following:

(a) The applicant has ~~three, four, or five ORs~~ LESS THAN SIX ORS at the licensed hospital FROM WHICH ONE OR MORE OPERATING ROOMS ARE PROPOSED TO BE RELOCATED.

(b) All existing operating rooms have performed an average of at least ONE OF THE FOLLOWING UTILIZING THE MOST RECENT 12 MONTHS OF DATA THAT IS VERIFIABLE BY THE DEPARTMENT:

(i) 839 surgical cases ~~per year per operating room for which verifiable data is available to the Department~~, or

(ii) ~~1,200~~ 906 hours of use ~~per year~~ per operating room for which verifiable data is available to the Department.

(iii) AN EXISTING LICENSED HOSPITAL THAT IS PROPOSING TO RELOCATE ONE OR MORE OPERATING ROOMS TO ANOTHER EXISTING

LICENSED HOSPITAL IS NOT REQUIRED TO MEET SUBSECTIONS 5(8)(b)(i)-(ii),

(iv) THE RELOCATED OPERATING ROOMS SHALL BE LICENSED TO THE RECEIVING EXISTING LICENSED HOSPITAL AND THE APPLICANT SHALL AGREE TO DECREASE THEIR TOTAL NUMBER OF OPERATING ROOMS, AS APPLICABLE.

(c) All operating rooms, existing and relocated, AT THE RECEIVING LICENSED HOSPITAL are projected to perform an average of at least THE FOLLOWING IN THE SECOND TWELVE MONTHS OF OPERATIONS:

(i) 839 surgical cases per year per operating room in the second twelve months of operation or

(ii) 1,200 906 hours of use per year per operating room. in the second twelve months of operation,

(d) THE EXISTING LICENSED HOSPITAL FROM WHICH THE OPERATING ROOMS ARE BEING RELOCATED, AND THE EXISTING LICENSED HOSPITAL RECEIVING THE OPERATING ROOMS, SHALL NOT REQUIRE ANY OWNERSHIP RELATIONSHIP.

(9) An applicant shall demonstrate that it meets the requirements of Section 11(2) for the number of surgical cases, or hours of use, projected under subsections (1), (2), (6), and (8).

5. Section 6: Modified/added language to include existing operating rooms, clarify expansion volume, access for rural hospitals, clarity for dedicated dialysis access centers adding additional operating rooms, and technical edits:

(1) An applicant shall demonstrate the following:

(a) All existing operating rooms in the existing surgical facility have performed an average of at least ONE OF THE FOLLOWING UTILIZING THE MOST RECENT 12 MONTHS OF DATA THAT IS VERIFIABLE BY THE DEPARTMENT:

(i) 1,216 surgical cases per year per operating room for which verifiable data is available to the Department, or

(ii) 1,313 hours of use in a facility that performs only outpatient surgery per year per operating room 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:

(iv) A licensed hospital that provides both inpatient and outpatient surgery may use a weighted average of INPATIENT hours of use (~~inpatient surgical volume~~) and OUTPATIENT 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:

(v) ALL EXPANSION VOLUME UNDER THIS SUBSECTION MUST BE BASED ON EXISTING SURGICAL CASES AND/OR HOURS PERFORMED IN EXISTING OPERATING ROOMS, NOT PROPOSED, PROJECTED CASES BASED ON A TREND OF INCREASED VOLUME AT A FACILITY.

(b) All proposed operating rooms, INCLUDING EXISTING OPERATING ROOMS, are projected to perform an average of at least THE FOLLOWING IN THE SECOND TWELVE MONTHS OF OPERATIONS:

(i) 1,042 surgical cases ~~per year per operating room in the second twelve months of operation~~, or

(ii) 1,125 hours of use in a facility that performs only outpatient surgery ~~per year per operating room in the second twelve months of operation~~, 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 calculated as follows:

(iv) A licensed hospital that provides both inpatient and outpatient surgery may use a weighted average of INPATIENT hours of use (~~inpatient surgical volume~~) and OUTPATIENT surgical cases, (~~outpatient surgical volume~~) as billed by the facility, ~~per year per operating room in the second twelve months of operation~~, and calculated as follows:

(c) AN APPLICANT WHOSE EXISTING OPERATING ROOMS IN THE EXISTING SURGICAL FACILITY HAVE PERFORMED AN AVERAGE OF AT LEAST 1650 SURGICAL CASES OR 1750 HOURS OF USE PER OPERATING ROOM IN THE PREVIOUS 12 MONTHS FOR WHICH VERIFIABLE DATA IS AVAILABLE SHALL QUALIFY TO ADD ONE (1) ADDITIONAL OPERATING ROOM AND SHALL NOT BE SUBJECT TO SUBSECTIONS (a) OR (b) ABOVE.

(2) An applicant proposing to add one or more operating rooms at a licensed hospital ~~and is located in a rural or micropolitan county or the applicant is located~~ in a city, village, or township with a population of not more than 12,000 and in a county with a population of not more than 110,000 as defined by the most recent federal decennial census, OR THE APPLICANT IS A CRITICAL ACCESS HOSPITAL, SOLE COMMUNITY HOSPITAL, OR MEDICARE DEPENDENT HOSPITAL, shall demonstrate each of the following:

(a) The applicant has ~~two, three, or four ORs~~ LESS THAN SIX ORS at the licensed hospital.

(b) All existing operating rooms have performed an average of at least ONE OF THE FOLLOWING UTILIZING THE MOST RECENT 12 MONTHS OF DATA VERIFIABLE BY THE DEPARTMENT:

(i) 979 surgical cases ~~per year per operating room for which verifiable data is available to the Department,~~ or

(ii) ~~1,400~~ 1,057 hours of use ~~per year per operating room for which verifiable data is available to the Department.~~

(c) All proposed operating rooms, INCLUDING EXISTING OPERATING ROOMS, are projected to perform an average of at least THE FOLLOWING IN THE SECOND TWELVE MONTHS OF OPERATIONS:

(i) 839 surgical cases ~~per year per operating room in the second twelve months of operation,~~ or

(ii) 1,200 906 hours of use ~~per year per operating room in the second twelve months of operation.~~

(5) FOR AN APPLICANT PROPOSING TO ADD ONE OR MORE OPERATING ROOMS TO A DEDICATED DIALYSIS ACCESS CENTER THAT APPLICANT SHALL ONLY USE DIALYSIS ACCESS CASES SUBJECT TO SECTION 11 (1)(e).

6. Section 9: Modified/added language for clarity that an individual physician's Medicaid enrollment is not sufficient for the facility's Medicaid enrollment:

Sec. 9. An applicant shall provide Verification of THE FACILITY'S Medicaid participation. An applicant that is a new provider not currently enrolled in Medicaid shall certify that proof of Medicaid participation will be provided to the Department within six (6) months from the offering of services if a CON is approved. AN INDIVIDUAL PHYSICIAN'S NATIONAL PROVIDER IDENTIFIER (NPI) NUMBER SHALL NOT SUFFICE AS PROOF OF A FACILITY'S MEDICAID PARTICIPATION.

7. Section 10: Modified/added language for rural hospital access and technical edits:

(2)(b) For purposes of evaluating subsection (a), the Department shall consider it prima facie evidence as to compliance with the applicable requirements if an applicant surgical facility is accredited by the Joint Commission on the Accreditation of Healthcare Organizations, ~~the American Osteopathic Hospital Association,~~ or the Accreditation Association for Ambulatory Health Care, or certified by Medicare as an ambulatory surgical center.

(4)(b) Existing operating rooms, located in a rural or micropolitan county, or within a city, village, or township with a population of not more than 12,000 and in a county with a population of not more than 110,000 as defined by the most recent Federal decennial census OR THE FACILITY IS A CRITICAL ACCESS HOSPITAL, SOLE COMMUNITY HOSPITAL, OR MEDICARE DEPENDENT HOSPITAL in a surgical service that has ~~three, four, or five~~ OR'S LESS THAN 6 OR's shall perform an average of at least:

(ii) ~~1,200~~ 906 hours of use per year per operating room verifiable by the Department.

(4)(c) The applicant shall participate in a data collection System established and administered by the Department. The data may include, but is not limited to, hours of use of operating rooms, annual budget and cost information, operating schedules, and demographic, diagnostic, morbidity and mortality information, as well as the volume of care provided to patients from all payer sources. An applicant shall provide the required data on a separate basis for each licensed or certified site, in a format established by the department, and in a mutually agreed upon media. The Department may elect to verify the data through on-site review of appropriate records. MINIMUM VOLUME REQUIREMENTS SHALL NOT APPLY IF THE LICENSED HOSPITAL HAS LESS THAN 3 ORS AND IS A CRITICAL ACCESS HOSPITAL, SOLE COMMUNITY HOSPITAL, OR MEDICARE DEPENDENT HOSPITAL, OR IS LOCATED IN A RURAL OR MICROPOLITAN COUNTY.

(4)(e) THE APPLICANT SHALL PROVIDE NOTICE TO THE DEPARTMENT OF ANY PLANNED DECREASE OR DISCONTINUATION OF SERVICE(S) NO LATER THAN 30 DAYS AFTER THE PLANNED DECREASE OR DISCONTINUATION OF THE SERVICE(S).

8. Section 11: Added language clarifying "reasonable projections" and project delivery requirements for dialysis access centers:

(1)(a) The applicant shall include a description of the data source(s) used as well as an assessment of the accuracy of these data used to make the projections. THE PROJECTIONS MUST USE MOST RECENT 12 MONTHS OF DATA VERIFIABLE BY THE DEPARTMENT. IF THE APPLICANT IS NOT UTILIZING ANNUAL SURVEY DATA, THEN THEY MUST PROVIDE A DETAILED LIST OF SURGICAL CASES FOR EACH COMMITTING FACILITY. Based on this documentation, the Department shall determine if the projections are reasonable.

(1)(c) AN APPLICANT COMMITTING CASES FROM A HOSPITAL TO AN FSOE OR ASC APPLICATION, SHALL NOT UTILIZE INPATIENT CASE COMMITMENTS (OR HOURS OF USE) IN THE CON APPLICATION FOR PROJECTIONS.

(1)(d) THE DEPARTMENT SHALL ACCEPT PROJECTIONS THAT INCLUDE APPLYING A SPECIFIED PERCENTAGE OF PROJECTED FUTURE GROWTH IF THAT PERCENTAGE IS LESS THAN OR EQUAL TO THE AVERAGE ANNUAL PERCENTAGE OF GROWTH SEEN AT THE APPLICANT'S FACILITY OVER THE PREVIOUS 5 YEARS.

(1)(e) IF AN APPLICANT IS APPLYING FOR A DEDICATED DIALYSIS ACCESS CENTER, THAT APPLICANT SHALL ONLY USE DIALYSIS ACCESS CASES FOR PROJECTED VOLUME. FOR THE PURPOSES TO INITIATE OR EXPAND SURGICAL SERVICES FOR A DEDICATED DIALYSIS ACCESS CENTER, AN APPLICANT MAY USE DIALYSIS ACCESS CASES THAT WERE PERFORMED OUTSIDE OF AN OR AS LONG AS THE DIALYSIS ACCESS CASES WERE PERFORMED IN A FACILITY CERTIFIED BY THE JOINT COMMISSION FOR DIALYSIS ACCESS CASES.

(1)(f) AN APPLICANT FACILITY THAT IS NOT OR WILL NOT BE USED EXCLUSIVELY FOR DIALYSIS ACCESS CASES SHALL NOT UTILIZE ANY DIALYSIS ACCESS CASES PERFORMED AT A DEDICATED DIALYSIS ACCESS CENTER IN THE CON APPLICATION FOR PROJECTIONS.

9. Section 12: Technical edits including:

Sec. 12. Proposed projects reviewed under these standards shall not be subject to comparative review. These CON review standards ~~supersede~~ supersede and replace the CON Review Standards for Surgical Facilities approved by the CON Commission on ~~September 25, 2014~~ September 21, 2017 and effective on ~~December 22, 2014~~ November 17, 2017.



CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR BONE MARROW TRANSPLANT (BMT)

The proposed language changes include the following:

1. Updated the Title:

MICHIGAN DEPARTMENT OF ~~COMMUNITY~~ HEALTH AND HUMAN SERVICES

2. Section 2(i): Updated outdated definition:

“Department” means the Michigan Department of ~~Community~~ Health AND HUMAN SERVICES (MDGHHS)

3. Section 7(4): Added subsection to require a notification to the Department at least 30 days prior to a planned decrease or discontinuation of services:

(j) THE APPLICANT SHALL PROVIDE NOTICE TO THE DEPARTMENT OF ANY PLANNED DECREASE OR DISCONTINUATION OF SERVICE(S) NO LATER THAN 30 DAYS AFTER THE PLANNED DECREASE OR DISCONTINUATION OF THE SERVICE(S).



Oral comments may be presented during the hearing on Wednesday, July 10, 2024, or submitted in writing by sending an email to the following email address: MDHHS-ConWebTeam@michigan.gov. If your comment is in written form, please provide a copy to [Katherine Tucker, Justin Easter, or Marcus Connolly] at the conclusion of your testimony.

Please submit written comments no later than Friday, July 19, 2024.

If you have any questions or concerns, please contact Katherine Tucker, Justin Easter, or Marcus Connolly at MDHHS-ConWebTeam@michigan.gov.