

STATE OF MICHIGAN  
DEPARTMENT OF COMMUNITY HEALTH  
CERTIFICATE OF NEED

PUBLIC HEARING  
REVIEW STANDARDS FOR:

NURSING HOME AND HOSPITAL LONG-TERM-CARE UNIT (NH-HLTCU) BEDS

BEFORE BRENDA ROGERS, SPECIAL ASSISTANT TO C.O.N. COMMISSION

333 South Grand Avenue, Lansing, Michigan

Tuesday, February 11, 2020, 9:30 a.m.

Also Present: Beth Nagel  
Tania Rodriguez  
RECORDED BY: Marcy A. Klingshirn, CER 6924  
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1                   Lansing, Michigan

2                   Tuesday, February 11, 2020 - 9:30 a.m.

3                   MS. ROGERS: Good morning. I am Brenda Rogers,  
4 special assistant to the Certificate of Need Commission from  
5 the Office of Planning Division at the Michigan Department  
6 of Health and Human Services. Chairperson Chip Falahee has  
7 directed the Department to conduct today's hearing.

8                   Please be sure that you have completed the sign-in  
9 log -- and as I mentioned, it is going around. The comment  
10 cards can be found up here (indicating), so if you need one  
11 of those, feel free. A comment card needs to be completed  
12 and provided to me if you wish to give testimony.  
13 Additionally, if you have written testimony, please provide  
14 a copy, as well.

15                  Today, we are taking testimony on Nursing Home and  
16 Hospital Long-Term-Care Unit Beds CON review standards.

17                  A summary of the proposed changes for the  
18 standards can be found on the Notice of Public Hearing, and  
19 the complete set of proposed changes can be found in the  
20 draft language. The Notice of Public Hearing and the draft  
21 language for the standards can be found at  
22 [www.michigan.gov/con](http://www.michigan.gov/con) on the Meetings Page.

23                  As indicated on the Notice of Public Hearing,  
24 written testimony may be provided to the Department via an  
25 e-mail sent to [MDHHS-ConWebTeam@michigan.gov](mailto:MDHHS-ConWebTeam@michigan.gov) and will be

1 accepted until 5:00 p.m., Tuesday, February 18th, 2020.

2 Today is Tuesday, February 1st, 2020. It is --

3 REPORTER: It's not the 1st.

4 MS. ROGERS: Yeah, February 11th is what I meant.

5 Okay. It is currently 9:32 a.m. We will begin the hearing  
6 now. And we do have some comment cards, so we will start  
7 with Dalton Herbel, LeadingAge Michigan. And as I call you  
8 up, please come up to this chair here and you can provide  
9 your testimony from here. Thank you.

10 MR. DALTON HERBEL: Do I need to introduce myself?

11 MS. ROGERS: If you want to say anything more, go  
12 ahead.

13 DALTON HERBEL

14 MR. DALTON HERBEL: All right. My name is Dalton  
15 Herbel. I'm the director of public policy with LeadingAge  
16 Michigan, representing LeadingAge Michigan and following our  
17 previous comments made to the Commission. We support the  
18 added language requiring a planning area to have an  
19 occupancy rate of 85 percent or more in able to gain Nursing  
20 Home Beds.

21 MS. ROGERS: Okay. Thank you. Next I have Pat  
22 Anderson with HCAM.

23 PAT ANDERSON

24 MS. PAT ANDERSON: Good morning. I'm Pat Anderson  
25 with the Health Care Association of Michigan. Health Care

1 Association of Michigan represents more than 350 nursing  
2 facilities and hospital long-term care units across the  
3 state. HCAM supports the CON Commission's recommendation to  
4 change the standards to include a planning area occupancy  
5 threshold. This additional requirement in the standards  
6 recognizes the current operating environment for the nursing  
7 home and hospital units and the changes in the delivery of  
8 long-term care services.

9 The changes to the standards was a recommendation  
10 brought to the CON Commission from the Standard Advisory  
11 (SAC) Committee for the standards. The primary charge of  
12 the SAC is to review the bed need methodology. HCAM is an  
13 active participant on the SAC and the sub work group formed  
14 to develop an alternative methodology from the current  
15 method. The SAC unanimously supported this change to  
16 prevent the release of nearly 3,000 beds based on a  
17 inaccurate bed need methodology. Dr. Paul Delamater,  
18 consultant for CON, in his December 3rd, 2019 report to the  
19 SAC noted the significant flaws with the current methodology  
20 and the need to review and update the system.

21 As it stands, the SAC has until June 2020 to  
22 complete its work, then bring to the CON Commission a new  
23 methodology which will more accurately predict bed need for  
24 Michigan. Thank you for the opportunity to participate in  
25 this hearing.

1 MS. ROGERS: Thank you.

2 MS. PAT ANDERSON: I also sent it electronically,  
3 so you don't have to --

4 MS. ROGERS: All right. Thank you. Diana  
5 Prichard, Americans for Prosperity.

6 MS. DIANA PRICHARD: It's just Prichard  
7 (pronouncing).

8 MS. ROGERS: Prichard (pronouncing).

9 MS. DIANA PRICHARD: I'm not that --

10 MS. ROGERS: Okay. Thank you.

11 DIANA PRICHARD

12 MS. DIANA PRICHARD: Good morning. My name is  
13 Diana Prichard and I am the community engagement director  
14 for Americans for Prosperity of Michigan. I'd like to thank  
15 everyone for being here today and of course for the  
16 opportunity to speak.

17 I'm here today on behalf of AFP Michigan as a  
18 volunteer activist, as well as more than 3.2 million AFP  
19 activists across all 50 states. Our volunteers engage  
20 friends and neighbors on key issues and advocate for a  
21 patient centered health care system that lowers costs,  
22 increases choices, and improves access for millions of  
23 people.

24 Because the addition of an occupancy rate  
25 requirement to the nursing and long-term-care bed standard

1 will not accomplish these goals in Michigan, we oppose this  
2 addition and urge the Commission to reconsider. Current  
3 utilization rates are a flawed indicator of needed  
4 utilization. It fails to consider extenuating  
5 circumstances, especially our rapidly aging population.

6 According to the 2018 census, the state of  
7 Michigan had the 12th oldest population in the nation as  
8 measured by median age. Not only that, the median age is  
9 over 50 years in 21 of Michigan's 83 counties. While the  
10 current standards attempt to take population age  
11 demographics into consideration, the burden of an additional  
12 85 percent utilization rate would handicap that attempt  
13 marrying bed numbers to historical use statistics rather  
14 than the reality of a population that is quickly and  
15 constantly changing. This is supported by MDHHS's own  
16 admission at the last meeting of the Commission when they  
17 stated that the addition of this rule would drastically and  
18 immediately cut need in this state from 46 counties to just  
19 13.

20 It's not just about the quantity of care either.  
21 While data shows that CON states have fewer facilities and  
22 patients drive further to access care than they would in  
23 non-CON states, it also shows that CON requirements are  
24 detrimental to both quality and cost of care as well. CON  
25 states have higher mortality rates following heart attacks,

1 heart failure, and pneumonia and patients in states with  
2 four or more CON requirements or laws have higher  
3 readmission rates following heart attacks and heart failure,  
4 more post-surgery complications, and lower patient  
5 satisfaction levels overall, all the while also paying more  
6 for the services by both per patient and per procedure  
7 measures.

8           The result of all of this is that families are  
9 torn apart when elderly parents have to be placed in  
10 separate nursing care homes, patients who have to drive  
11 across state lines to find the care they need, take the  
12 economic and community benefits of their care needs with  
13 them, and the overall increase in stressors in day-to-day  
14 life make it difficult for families in Michigan to live and  
15 thrive in this state.

16           Not only that, it's not just detrimental at the  
17 patient level either. This requirement establishes a  
18 perverse incentive for incumbent facilities to over invest  
19 in and under utilize beds as a mean to prevent competitors  
20 from obtaining Certificate of Need approvals. With 56  
21 letters of intent submitted for beds available under the  
22 current need in 11 areas, it defies any and all rational  
23 thought for the Commission to unilaterally decide that this  
24 demand is not indicative of need.

25           While we may agree to disagree on the need for a



1 Certificate of Need Commission at all, if we accept that the  
2 mission of the Commission is to optimize access, quality,  
3 and affordability of care, the addition of the occupancy  
4 rate requirement of the nursing and long-term-care bed  
5 standards would be a reckless abandonment of their duty to  
6 the people of Michigan.

7 For that reason, we urge the Commission to  
8 reconsider this addition and to honor the standards that  
9 they voted to make active fewer than six months ago. Thank  
10 you again for your time and I'll be happy to answer any  
11 questions.

12 MS. ROGERS: Thank you. Renee Beniak, MCMCFC.

13 MS. RENEE BENIAK: Uh-huh (affirmative).

14 MS. ROGERS: And if you could come up here?

15 MS. RENEE BENIAK: I -- I -- doesn't say I wish to  
16 speak.

17 MS. ROGERS: Okay. Supports -- okay. Supports  
18 recommendations. All right. Does anybody else wish to  
19 provide testimony? Do you want to provide testimony?

20 MS. GRACE TERRY: Yes.

21 MS. ROGERS: Okay. If you could come up here,  
22 please?

23 GRACE TERRY

24 MS. GRACE TERRY: Good morning, ladies and  
25 gentlemen. My name is Grace Terry. I strongly oppose what

1 is being brought before us. I am a business owner. I care  
2 for aging adults in their home. I'm private duty care.  
3 This is a real miscarriage of justice for the people that  
4 are not able to be at home. I feel very strongly that  
5 having more government in place is not what needs to happen.  
6 This is a very difficult time for families and to have more  
7 restrictions on facilities which -- or communities, nursing  
8 homes, or assisted living communities is -- I strongly  
9 disagree with it. If you have any questions for me?

10 MS. ROGERS: Thank you.

11 MS. GRACE TERRY: Thank you.

12 MS. ROGERS: I think we have one more.

13 KIM JURINCIC

14 MS. KIM JURINCIC: Hi. My name is Kim Jurincic.  
15 In July of 2011 I had my first back surgery, a lumbar  
16 laminectomy. Since then I've had three total back  
17 surgeries, the most recent of those was in November of 2019.  
18 While I no longer have burning and numbness down my legs or  
19 calcium deposit compressing my spine, at age 53 years of age  
20 I know that none of us know what tomorrow will bring. There  
21 was a time during my most recent recovery when I couldn't  
22 walk out to the mailbox without being in intense pain. At  
23 any time in the near future I could need another surgery and  
24 afterwards, long-term-care. I have a six inch long scar on  
25 my back and an emotional and physical experience of these

1           surgeries will always be with me.

2                       When I heard that this rule was being proposed, I  
3 was shocked. This board is supposed to make health care  
4 easier to find, not harder. Limiting how many beds nursing  
5 homes are allowed, to have even more than we already do is  
6 the opposite of that. I know many friends and family who  
7 are in a similar circumstance to mine. As we get older and  
8 experience more health issues, we need more care and we all  
9 need nursing or long-term-care soon enough. If you all make  
10 this rule, it will take away from us the care we need. This  
11 is unacceptable. And thank you.

12                      MS. ROGERS: Thank you. Okay. Is there any  
13 further testimony from anyone? Would you like to provide  
14 testimony?

15                      UNIDENTIFIED SPEAKER: No. I'm -- thank you.

16                      MS. ROGERS: All right. Seeing no further  
17 testimony, we will adjourn at 9:43. Thank you.

18                      (Proceedings concluded at 9:43 a.m.)

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