

Certificate of Need Regulatory Reform

Public Health and Health
Planning Council
Educational Session
May 9, 2024

Certificate of Need (CON)

- New York's Certificate of Need program (CON), together with other programs and policies, promotes the alignment of health care resources with community health needs.
- The program is targeted appropriately at projects that may affect access to essential services, unnecessarily drive up costs and/or raise significant quality or cost-effectiveness concerns.

Types of projects requiring CON

- Establishment or transfer of ownership
- Addition of beds or services
- Decertification of beds or services
- Conversion of beds/relocation of facilities
- Acquisition of major medical equipment
- Capital expenditures greater than the minimum cost thresholds

2024 State of the State Address

To alleviate strain on both providers and the State, the Department of Health will make necessary updates to the State's CON program, such as raising the financial thresholds that qualify a project for more detailed review and streamlining the application and approval processes, including for now-routine services.

Goals of CON streamlining

- Refine the process to be responsive to the changing health care environment.
- Focus Department and Public Health and Health Planning Council resources on issues and projects with the greatest impact.
- Make the process as expeditious as possible within the parameters of the statutory authority.

Project Cost Thresholds

- **Construction only-** establishment applications not impacted
- Last raised 2017-Regulatory Modernization Initiative (RMI)
- Construction cost escalation

710.1 Review Level Cost Thresholds

Review Level	Prior to 2017	Current
Nothing	N/A	Non-clinical projects with project cost up to \$6 million.
Notice	Required for non-clinical Projects regardless of cost	Required for non-clinical projects greater than \$6 million

Review Level	Prior to 2017	Current
<p>Limited</p>	<p>\$6 million or less</p>	<p>Hospitals: \$15 million or less All Others: \$6 million or less</p>
<p>Admin</p>	<p>Hospitals: Greater than \$6 million but not exceeding the greater of \$15 million or 10% of a facility's operating costs not to exceed \$50 million (\$500 million operating costs)</p> <p>All Others: Greater than \$6 million but not exceeding the greater of \$15 million or 10% of a facility's operating costs not to exceed \$25 million (\$250 million operating costs)</p>	<p>Hospitals: Greater than \$15 million but not exceeding the greater of \$30 million or 10% of a facility's operating costs not to exceed \$100 million (\$1 billion operating costs)</p> <p>All Others: Greater than \$6 million but not exceeding the greater of \$15 million or 10% of a facility's operating costs not to exceed \$25 million (\$250 million operating costs)</p>

Review Level	Prior to 2017	Current
Full	<p>Hospitals: Greater than the greater of \$15 million or 10% of a facility's operating costs not to exceed \$25 million (\$250 million operating costs)</p> <p>All Others: Greater than the greater of \$15 million or 10% of a facility's operating costs not to exceed \$25 million (\$250 million operating costs)</p>	<p>Hospitals: Greater than the greater of \$30 million or 10% of a facility's operating costs not to exceed \$100 million (\$1 billion operating costs)</p> <p>All Others: Greater than the greater of \$15 million or 10% of a facility's operating costs not to exceed \$25 million (\$250 million operating costs)</p>

The Monetary thresholds alone do not determine Certificate of Need (CON) review level for construction projects.

10 NYCRR Section 710.1

10 NYCRR Section 710.1 delineates the criteria by which projects are assigned a review level based upon specific circumstances of the project.

Framework questions/topics

What projects or actions should be subject to what level of review?

Full review -PHHPC review

Administrative review

Limited review

Health Equity Impact Assessment (HEIA)

Q. How do monetary thresholds impacting the Certificate Of Need (CON) level of review impact the Health Equity Impact Assessment (HEIA) requirement for projects?

A. Section 2802-b of the PHL requires a HEIA to be filed with a Certificate of Need application for projects that meet the criteria for specific types of transactions at Article 28 facilities across New York State. **The level of review is not relevant.**

710.1 Full Review level Examples (regardless of cost)

- Addition of beds
- Hospital bed conversion to a bed category not already existing in the facility;
- Addition of, decertification of, or changes in method of delivery of, the following services;
 - *Therapeutic radiology (Linear Accelerators)*
 - *Bone marrow transplant services*
 - *Burn care*
 - *AIDS centers*
 - *Addition of Percutaneous Cardiac Intervention (PCI) services to a hospital without existing cardiac surgery*
- Relocation of cardiac catheterization services within a hospital network.

Other Reform Opportunities

- Eliminate Obsolete language
- Projects funded with Statewide Health Care Facility Transformation Dollars
- Current PHHPC Policy- extension clinics, single to multi-specialty ASC.(Full review not required under 710.1)

Discussion and Next Steps