

**ADMINISTRATIVE STREAMLINING:
TARGETING THE SCOPE OF CON TO ADVANCE
ACCESS, COST-EFFECTIVENESS, QUALITY, AND HEALTHY COMMUNITIES**

2012 PROPOSALS TO HEALTH PLANNING COMMITTEE

Options	Pros	Cons	Legislation/Regulation Required
<p>Eliminate CON process for construction projects by established providers that do <u>not</u> involve:</p> <ul style="list-style-type: none"> • additions of beds, • new extension sites, • expanded ED capacity, • major medical equipment; • major new service, • facility replacement or relocation; or • new CHHA service area. <p>Shift these construction projects to licensure/certification process.</p>	<p>Would reduce workload of DHFP and permit faster processing of remaining CONs.</p> <p>Construction projects that do not add beds, major medical equipment or services are not appropriate for a need review – they do not drive up utilization and are generally approved.</p> <p>Construction projects would still be subject to licensure/certification reviews and inspections to assure patient/public safety through compliance with life safety code, FGI Guidelines, etc.</p>	<p>Would eliminate CON process’ restraint on construction costs and quality of debt incurred.</p> <p>However, in managed care environment, state/local governments, employers, and public will rely on managed care plans to contain capital spending through reimbursement and provider panel decisions.</p>	<p>Yes – changes in law and regulation are required.</p>
<p>Revise process to facilitate the integrated provision of physical and behavioral health care services (co-location/co-licensure/multi-agency licensure)</p>	<p>Would promote access to array of services for people with mental illness, addictions, and developmental disabilities.</p>	<p>Raises reimbursement issues.</p> <p>Raises issues related to agency authority and</p>	<p>Yes.</p>

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	<p>Would improve care coordination and outcomes.</p> <p>May reduce administrative costs.</p>	<p>accountability.</p> <p>Requires investment in staff training for providers and regulators.</p>	
<p>Streamline process for amendments to approved CONs based on cost – process administratively</p>	<p>Would eliminate procedural step when project costs increase.</p>	<p>None.</p>	<p>Requires change in regulation</p>
<p>Shift to professional certification and/or non-DOH independent reviews for certain architectural/engineering reviews and physical plant inspections. Initiate retrospective audits to promote compliance.</p>	<p>Reduces timeframes for certification/licensure process.</p> <p>The State has limited resources to hire additional staff, and even if resources were available, it has been difficult to recruit architects and engineers to DOH.</p> <p>DOH is currently using professional certification for certain projects.</p> <p>Would allow allocation of staff to high priority projects and federal survey work.</p>	<p>Eliminates regulatory check on unsafe design and construction (e.g., fire safety, infection control).</p> <p>Federal surveys require that inspector be state agency or its agent.</p> <p>If facility is constructed in a manner that is not compliant with the code, modification after construction to achieve compliance is very costly.</p>	<p>Not for architectural reviews of administrative and limited review projects and full review projects up to \$15M.</p> <p>May require regulation change for inspections.</p>
<p>Create a process for updating CON reviews of technology acquisitions to account for (1) a given type of equipment becoming standard of care; and (2) emergence of new</p>	<p>Would facilitate the development of regulations that are aligned with state-of-the-art equipment.</p>	<p>Would require investment of staff and Council resources.</p> <p>Standard of care difficult</p>	<p>Requires change in regulation.</p>

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types of equipment.		to determine; often a matter of gradual professional consensus.	
Create timelines for reviews.	Would create measurable targets for completion of reviews.	<p>Difficult to create timelines given diversity among projects. Difficult to gauge whether targets have been met, given time spent waiting for information from applicants.</p> <p>Without a significant increase in staffing, would foster expectations of date-specific approval that could not be met, adding to applicants' frustration.</p>	No.

2012 Other Suggestions

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Reduce number of services that are certified/licensed.	Eliminates certain administrative processes that do not add much value (Project is under way.)	Some certifications drive reimbursement; some are necessary for quality purposes.	None required for most services.
Overhaul Character & Competence – Update to address complexity of health care organizations; Reduce 10-year look-back and change taint provisions	C&C review requires updating based on complexity of healthcare organizations. 10-year look-back encourages operators without health care experience. Would expedite reviews.	Setting C&C standards with sufficient specificity to provide transparency and predictability, and sufficient flexibility to accommodate individual circumstances is difficult. Reducing 10-year lookback and modifying taint provisions will raise concerns that sub-standard operators will be permitted to enter or expand in New York. Substantial reduction of lookback could effectively eliminate taint for certain categories of providers due to schedule of federal surveys.	Yes both.
Eliminate CON review of primary care clinics. Retain certification/licensure of these	These services are not capital intensive, do not drive up costs, and are not supply sensitive.	Entry of new providers into markets raises competitive concerns	Changes in legislation and regulations would be

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clinics.	Elimination of CON requirements may enhance primary care development.	among existing providers.	needed.
Eliminate CON review of dialysis facilities. Retain certification/licensure of these facilities.	Dialysis is not supply-sensitive.	Would eliminate DOH ability to influence the location of dialysis facilities to ensure that they are accessible. Would facilitate market domination by chain operators, leading to access issues of dominant operator exits market.	Change in statute and regulation would be required.
Reexamine scope of limited reviews to assure focus on certification/licensure criteria (i.e., physical plant and program) for most projects.	If steps can be eliminated, process will be accelerated.	Limited review applications to decertify certain services should be subject to a public need review.	Change in regulations related to addition of services may be needed.
Shift architectural review from the CON phase of projects and focus on the certification phase (e.g., compliance with FGI Guidelines and Life Safety Code).	Would accelerate final decision on need and financial feasibility.	Would interfere with early identification of egress or other safety problems. Would also eliminate review of scale of building, appropriateness of the site, and efficiency of design from CON review, all of which bear on project financial feasibility.	Change in regulation required.

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		If new site is necessary after architectural review, the need determination may be affected, as may financial feasibility.	
Develop statewide list of documentation requirements for physical plant surveys and statewide criteria for determining whether a pre-opening, post-opening, or no survey is required	Consistency. (This project is under way.)	Would discourage flexibility in the case of unique projects.	No.
Clarify physical plant guidelines for primary care services in behavioral health clinics.	Supports integration of physical and behavioral health services. (This project is under way.)	Could weaken infection control standards.	No.

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Create a new process for major, multi-phase projects. Present entire project to PHHPC from inception. Assign single project coordinator.	Provides PHHPC with a context for the project. Provides continuity.	Project may evolve over time into something different from what was presented. Will take time away from projects that are poised to move forward.	Yes.

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Technical Advisory Group on architecture/engineering;	Could provide panel of objective experts to resolve disagreements concerning design standards and code interpretation.	Would require investment of staff resources. Would take staff away from reviewing submitted applications.	No.
Provide Pre-Submission Conference for Major Architectural Issues	Would promote early resolution of potential problems.	Would require investment of staff resources. Would take staff away from reviewing submitted applications.	No.
Permit administrative conversion of limited life to indefinite certification, if provider demonstrates satisfactory record of compliance, meets high quality standards and has satisfied conditions	Would eliminate step in process.	None.	Regulatory change needed.
Established provider merging with another provider should not have to file new Schedule 2As for board members.	Would streamline establishment process. (Existing policy for Art.28 hosp/DTCs mergers).	Would reduce regulatory oversight on expansions of substandard providers.	Not for Art. 28 facilities.
Issue solicitations for beds/services in short supply or when there is a high level of interest in developing a particular type of bed/service.	Would support more effective planning. Would allow for competitive review of applications and promote high	Solicitations, in the absence of financial support, are useful only for services and locations that are desirable based on	No.

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	<p>quality care.</p>	<p>both public need and market factors.</p> <p>Would require commitment of staff resources to identify gaps in resources statewide and administer solicitation.</p>	
<p>Implement a batching schedule by service/bed/equipment type.</p>	<p>Would support more effective planning.</p> <p>Would allow for competitive review of applications and promote high quality care, in comparison with the first-come-first-served approach.</p> <p>Would complement deadlines for completion of reviews.</p>	<p>Batching would limit flexibility of providers to submit applications on their own schedules.</p> <p>Challenging to implement.</p> <p>Encourages frivolous applications that are submitted for competitive purposes.</p>	<p>Regulation is needed.</p>
<p>Strengthen local input/planning</p>	<p>Would support sound CON decisions.</p> <p>Would result in applications more reflective of actual public need.</p> <p>Would support linkages to population health.</p>	<p>Requires funding.</p>	<p>Depends on role of planning.</p>

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<p>Allow nursing homes to establish part-time clinics; allow established dialysis providers to add sites in nursing homes via administrative review. <i>(This proposal was clarified by the proponent after submission.)</i></p>	<p>Co-location is already permitted under specified conditions. Can improve access to services for nursing home residents.</p>	<p>Raises federal and Medicaid compliance issues.</p>	<p>Regulations.</p>