



THE STATE  
*of* **ALASKA**  
GOVERNOR BILL WALKER

**Department of  
Health and Social Services**

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February 12, 2018

The Honorable Mia Costello, Chair  
Senate Labor and Commerce Committee  
State Capitol Room 504  
Juneau AK, 99801

Dear Senator Costello:

During the February 6, 2018, hearing on Senate Bill 62 Repeal Certificate of Need Program, questions were raised and responses sought by the Department of Health and Social Services. On February 9, 2018, we received an email from your office asking Commissioner Davidson additional questions. Please accept the following in response to each of these questions.

**1. What are the fees charged for processing Certificate of Need applications/How much does each application cost the applicant?**

The fee to apply for a Certificate of Need (CON) for a project valued at or below \$2,500,000 is \$2,500. For a project valued at more than \$2,500,000, the CON application fee is one tenth of a percent of the estimated cost of the project, up to a maximum fee of \$75,000 (7 AAC 07.079). Please note that there is no cost or charge when an entity requests a determination as to whether a CON is needed for a particular project.

**2. How much does each application cost the Department?**

The Certificate of Need program operates on a small budget. In state fiscal year 2017, program costs were \$164,000. These costs include salary and fringe benefits for the sole program staff member, plus travel and material costs to support the community/ public meetings held for each application. Given the unique nature of each project, the overall cost to the state for each application varies with the complexity and location of the project.

**3. In the last five years how many applications did the department receive for a CON? What were the decisions?**

**ALASKA CERTIFICATE OF NEED  
APPLICATION AND DETERMINATION REQUESTS  
2013-2017**

	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
No. of CON Applications Received	6	2	0	2	4
No. of CON Applications Approved*	4	1	0	1	4
No. of CON Applications Denied	2	1	0	0	0
No. of Determination Requests Received	4	8	10	8	4

\*Note: In 2016, two projects that had each submitted a CON application merged into one project, reducing the need for a CON application decision from two applications to one application

**4. What are the timelines for processing a Certificate of Need application?**

The timeline for processing a CON application is as follows:

- Upon receipt of application: CON program has 30 days to determine whether the application is complete. Once the application is deemed complete, the CON process unfolds as follow:
  - Day 1: Department notifies applicant that the application is complete and submits public notice that a complete application has been received
  - Within 60 days of determining the application is complete: CON program completes analysis of the project, fiscal impact to the Medicaid program and current services available in the community. A public meeting allowing local community members to provide comment on the project is also held during this time. After completion of these items, a recommendation to approve, approve in part or deny the application is then sent to the Commissioner of the Department of Health and Social Services (DHSS)
  - Within 45 days of receiving the CON program recommendation: DHSS Commissioner makes final decision on the application
- Maximum number of days for the CON program to process a complete CON application: 105 days

**5. Does the Administration have a formal position on this legislation? What is the reasoning behind the position?**

The Administration does not have a formal position on this legislation and will withhold judgment on the bill until it has completed its passage through the Legislature and is transmitted to the Governor. In the meantime the department is committed to working with stakeholders to identify improvements that will enhance the Certificate of Need program.

**6. What are the strengths and weaknesses of the Certificate of Need program?**

**Strengths:**

- CON is a mechanism to help ensure appropriate allocation of health care resources, access to care, maintain quality and assist in controlling health care capital spending.
- In smaller communities with stable populations, new providers may take services away from existing providers. Without CON, mid-size and larger hospitals may raise rates to

maintain financial stability if their profitable cost centers are impacted by free-standing facilities.

- CON enables hospitals across the state to continue to provide essential safety net services to their communities. Emergency services, trauma care, and perinatal services are all examples of services that lose money due to a lower volume of patients served and a higher level of resources needed to sustain them.
- CON prevents duplication of health care facilities and services by those who do not offer the full spectrum of essential community services. Applicants must demonstrate how their projects relate to relevant development plans, including local, regional, or state plans, and they must demonstrate need using current and projected trends for the area including population, area growth, current utilization, and service trends.
- CON helps contain costs. Capital costs for health care facilities are included in many Medicaid payment rates. The higher costs associated with new buildings and services will be built into Medicaid rates. Unneeded capital expenditures cause Medicaid to pay higher costs.
- Medicaid enrollees account for 80% of Alaska nursing facility residents. All new nursing facility costs as well as additions and modifications to existing facilities are included in the cost-based rates the Medicaid program pays to these providers. Without CON, it would be difficult to control the growth of nursing facilities.
- CON provides an opportunity for the public to review the costs of projects and provides the local community a voice in the development of health care services.

#### Weaknesses

- The CON statute may not address changes to the methods of delivering health care services timely.
- Alaska CON regulations have not been revised for several years. The Department is committed to reviewing existing regulations to evaluate potential weaknesses and develop modifications to improve the program
- The CON program relies on self-reported costs for new projects. If an applicant under reports the costs and number of services to be delivered under the proposed project to avoid the CON process, excess service capacity will develop in that community, potentially affecting quality of care for patients

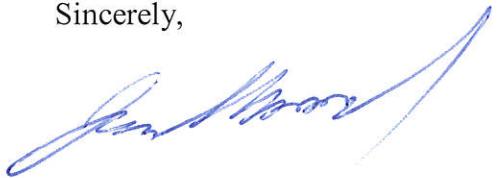
#### **7. What improvements are needed to Alaska's Certificate of Need program?**

As noted above, Alaska CON regulations have not been revised for several years; the Department plans to gather information from stakeholders in the coming months to make regulatory changes or seek statutory improvements as needed.

During this process, the department will be reviewing each of the formulas for determining need and the availability of services within a given community; the dollar value of projects that should be subject to CON requirements; and the provider and facility types that will be evaluated under the CON process.

Thank you for the opportunity to respond to the questions posed by the members of the Senate Labor and Commerce Committee. Should additional questions arise, please feel free to contact Donna Steward, Executive Director of the Office of Rate Review, at (907) 334-2447.

Sincerely,



Jon Sherwood  
Deputy Commissioner

CC: Valerie Nurr'araaluk Davidson, Commissioner  
Darwin Peterson, Legislative Director, Office of Governor Bill Walker