

**HB**

**407**

### **Certificate of Need Decisions- 1996-2001**

- October 6, 1997- Providence Medical Center-Heart Center CON approved.
- August 8, 1997-Bartlett Hospital CON approved.
- January 22, 1997-Providence Medical Center Pediatric Services CON approved.
- November 12, 1996-Providence Heart Center CON approved.
- September 20, 1996-Providence Seward Medical Center CON approved.
- December 18, 1998- South Peninsula Hospital CON approved
- November 18, 1998-Alaska Regional Hospital CON approved
- September 21, 1998- Alaska Regional Hospital-Open MRI CON approved.
- August 18, 1998- St. Ann's Care Center CON approved
- November 16, 1999- South Peninsula Hospital CON approved.
- October 8, 1999-Providence CON approved.
- May 6, 1999- Fairbanks Memorial Hospital CON approved.
- May 6, 1999- Valley Hospital CON approved.
- April 20, 1999- South Peninsula Hospital CON approved.
- February 18, 1999- Central Peninsula Hospital CON approved.
- August 8, 2000- Alaska Regional Hospital CON approved.
- June 20, 2001-Ketchikan General Hospital CON approved
- April 19, 2001- Bartlett Hospital CON approved.
- January 29, 2001- Providence Medical Center-PET Scanner- CON approved.

### **Summary**

**Total approved hospital CON applications = 19, or 100%**

**Total hospital applications rejected = 0**

**Total approved non-hospital applications = 0**

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### Certificate of Need Decisions - 1996-1997:

October 6, 1997 - The Providence Alaska Medical Center application to modify the Heart Center certificate of need was approved. The certificate authorizes remodeling and addition of space to operating rooms #5 and #6 and addition of a family waiting area. New lighting, HVAC equipment, perfusion and hemotherm equipment will be added as well. The project was approved to spend \$1.6 million with a completion date of 12/31/1997.

August 8, 1997 - Bartlett Regional Hospital's certificate of need application for expansion and renovation was approved as requested. The project will expand outpatient surgery, the recovery area, and Cardiopulmonary Rehabilitation; add an endoscopy room; and expand and renovate space used for EEG Sleep Lab services, the Chaplaincy Program, and Video Conferencing. In addition, new parking will be added as well as a new building to house business and administration offices, meeting rooms and the hyperbaric chamber. The application was approved to expend a total of \$6,777,300 and the approved completion date of the project is June 30, 2000. Phase I construction is planned to start in June, 1997, with Phase III completed by November, 1998.

July 22, 1997 - Valley Hospital withdrew their Certificate of Need application to build a 60 bed long-term care facility. The application was withdrawn due to concerns about the amount of Medicaid funding that would be available for the new project. The project was expected to cost \$6.7 million and would have been attached to Valley Hospital in Palmer.

January 22, 1997 - The Providence Alaska Medical Center certificate of need for capital improvement of pediatric services was approved at a total project cost of \$7 million. The project must be completed by October 31, 1998. Approximately 20,000 sq. ft. of space in the North and South Towers will be remodeled to consolidate pediatric services; allow development of family centered care, and to improve overall patient care, access, and visibility into patient rooms. Coordination between inpatient services, ancillary and support services, and subspecialty clinics will be facilitated by relocating services to one area. Patient room sizes will be increased to accommodate visiting family members. The total number of licensed beds for the facility will not increase although the number of pediatric beds will increase from 29 to 32 to accommodate semi-annual outbreaks of upper respiratory virus infections.

November 12, 1996 - The certificate of need application to reconfigure and expand the Providence Heart Center was approved. The proposed project will add a second dedicated cardiac catheterization laboratory, a pre/post care unit and would increase the efficiency of patient flow and work processes. The total proposed capital cost approved was \$2.7 million if a refurbished bi-plane lab can be purchased or \$3.5 million if a new lab has to be purchased. The approved completion date for the project is December 31, 1997.

September 20, 1996 - The newly named "Providence Seward Medical Center" application to modify the active 1995 CON was approved. The application is to build a new 6-bed, 16,000 sq. ft facility and demolish the old hospital building at a total cost of \$7.5 million. The construction must be completed by December 31, 1998. The facility will operated as a Rural Primary Care Hospital.

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### Letters of Intent - 1996-7:

July, 1997 - Providence Hospital submitted a letter of intent to upgrade cooling plant capacity and air supply at a cost of \$2.1 million to begin in . The department determined that no certificate of need was required because the project is routine replacement of chillers and that the rebuilding of the supply fans was a routine maintenance activity.

**March 7, 1997** - The Alaska Kidney Foundation submitted a letter of intent to develop a hemodialysis (ESRD) facility to serve the Mat-Su Valley. The facility would initially operate four hemodialysis machines and include a waiting and reception area and support areas. The total cost of the project is estimated to be approximately \$150,000 and the facility construction completed by November 1, 1997. A determination was made that a certificate of need was not required because the cost of the project is below the \$1 million threshold required in AS 18.07.031.

**February 7, 1997** - Charter North submitted a letter of intent to transfer operations from the current management company to a joint venture known as Charter Behavioral Health System, L.L.C. or . The activity was determined not to require a certificate of need because there was no construction involved.

**March 4, 1997** - Ketchikan General Hospital submitted a letter of intent regarding changes to the approved certificate of need. It was determined that no modification was needed because there was no change in the scope of the project, no change in the time line for completing the project, and no increase in the cost of the project (there was a reduction in the total cost of the project).

**September 12, 1996** - Valley Hospital submitted a letter of intent to purchase a computer system at a cost of \$1.7 million. A determination was made that no CON is required because the expenditure is considered a routine replacement according to 7 AAC 07.130(3). The current hardware purchased in 1983, and the software are obsolete and are fully depreciated with no book value. The new computers and software are replacing this system.

**July 22, 1996** - Alaska Psychiatric Hospital submitted a letter of intent requesting a modification of the Certificate of Need approved in 1993. A determination letter was sent to API confirming that either a modification of the approved CON or a new CON would be needed, as soon as final plans are developed. Status: No determination can be made until the final plans have developed.

**April 17, 1996** - Pacific Cataract and Laser Institute (PCLI) submitted a letter of intent to construct an ophthalmology surgery center in Anchorage. A 6,400 sq. ft facility will be leased and one surgical suite equipped for cataract surgery and a second suite for an excimer laser. The project was determined not to require a certificate of need because the cost of \$902,000 is below the \$1 million threshold.

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*Last Update: October 24, 2000*

### Certificate of Need Reviews - 1998

**December 18, 1998** - South Peninsula Hospital's certificate of need application to remodel and expand Emergency services, Diagnostic Imaging, Surgery, Pharmacy, Acute Care Nursing, Central Sterile Processing, Physical Therapy, laboratory, and to add 10 long-term care beds was partially approved. The project proposed adding 21,600 square feet of new construction and renovation of 14,265 square feet at a total cost of \$9,238,756. Construction is planned to start in June of 1999, with completion by June 2002. The acute side of the project including purchase of a Spiral CAT scanner was approved at a cost of \$6,333,756. However a decision was delayed on whether to approve the ten new nursing beds and related space (costing \$2,967,000) while additional information is gathered on the need for additional beds.

**December 9, 1998** - Valley Hospital submitted a certificate of need application to remodel and expand a variety of departments at the hospital in Palmer and the West Valley campus in Wasilla. The \$10 million project includes expansion of the Medical/Surgical area, Emergency Room and OB; consolidation of ancillary services at the West Valley Campus; construction of a new entryway and construction of a new administration building. If approved, the project is planned to be completed by July, 2000. The department has 20 days (to December 27, 1998) to review the application for completeness.

**December 1, 1998** - (Sale of stock in a non-profit health care corporation) A determination was made that the \$10 million buyout of the Alaska Kidney Center stock by Renal Care Group, Inc. of Delaware, would not require a certificate of need because there is no construction involved and no change in services to be offered.

**November 18, 1998** - Alaska Regional Hospital, Anchorage, was approved to expand the open-heart/trauma surgery area at a cost of \$1.3 million with the condition that shelled-in space for a second open-heart surgery suite may not be converted from storage for 5 years. The approved project completion date is December 31, 1999.

**September 21, 1998** - A certificate of need application from Alaska Regional Hospital for an open-architecture MRI was approved to spend \$1.3 million with a completion date of June 15, 1999.

**August 24, 1998** - A decision was made to deny the extension of time for Fairbanks Surgery Center, Inc. to complete the project to build an ambulatory surgery center in Fairbanks. The project had originally been approved in September 1995 to build a 5,400-sq. ft. freestanding ambulatory surgery facility, with two surgery suites, one procedure room, and ancillary support areas at a cost of \$2,894,606. The project was to be completed by December 31, 1997. The extension was denied due to lack of progress.

**August 18, 1998** - St. Ann's Care Center, Juneau, was approved to construct an \$18.5 million replacement facility that will be located adjacent to Bartlett Memorial Hospital. The project will include an adult day care center and a 10 bed assisted living area. The approved completion date for the project is August 31, 2002.

#### Appeals:

**September 22, 1998** - Fairbanks Surgery Center, Inc. filed an appeal of the decision to deny their application to extend the completion date of a certificate of need to build a freestanding surgery center in Fairbanks. The request for appeal has been accepted and the hearing is in process.

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### Letter of Intent (LOI) Determinations - 1998

October 28, 1998 – A determination was made that Alaska Psychiatric Institute is required to submit a modification of the certificate of need that will expire on December 31, 1998. The proposed project has been reduced from a \$64 million, 114-bed facility to 54 beds costing \$50.8 million. The project is expected to be complete by January 2003.\*

October 14, 1998 – A determination was made that a certificate of need is required for a new facility proposed by HEALTHSOUTH. The proposed facility would cost from \$14 to \$15 million and would be built on land leased from Alaska Pacific University (Anchorage). The project would consolidate diagnostic, rehabilitation, and ambulatory surgery services in one building. If approved, the applicant plans to complete construction by October 1999. The letter of intent expires October 14, 1999.\*

October 7, 1998 – A determination was made that Providence Alaska Medical Center's plans to add 148,000 square feet to the facility would require a certificate of need. The project includes a 7-floor tower with four floors of clinical space for Maternity and Neonatal Intensive Care and 3-floors of medical office space. Other activities will remodel/expand emergency and surgical services. The proposed \$80 million construction is planned to start in 1999 and be completed by 2003. The letter of intent will expire on October 7, 1999.\*

October 5, 1998 – Tanana Valley Clinic submitted a letter of intent to build an ambulatory surgery center in Fairbanks. The letter of intent was declared incomplete and additional information requested.\*

September 28, 1998 – Fairbanks Memorial Hospital submitted a letter of intent to construct a new outpatient surgery suite and two procedure rooms in Fairbanks. The letter of intent was declared incomplete and additional information requested.\*

September 14, 1998 – A determination was made that a certificate of need was not required for a joint project between Central Peninsula Hospital and the Kenai Borough to build a clinic in Kenai.

September 9, 1998 – A determination was made that the Bartlett Regional Hospital certificate of need did not need to be modified for additional renovation, because the \$600,000 cost was below the expenditure amount (15% plus inflation) that would trigger a modification.

September 1, 1998 – A determination was made that a certificate of need is not required for the \$1.3 million upgrade of Alaska Regional Hospital's existing MRI. The project is considered a routine replacement. The project will not increase MRI capacity, will solve year 2000 computer problems and replaces a MRI that is outdated and fully depreciated. The project would be completed by February 1999.

July 14, 1998: Providence Health System in Alaska submitted a letter of intent to construct a new employee parking structure costing \$8.2 million. A determination was made that the project did not require a certificate of need because a parking structure does not directly dispense health care and therefore does not constitute "construction of a health care facility" within the meaning of AS 18.07.031.

June 24, 1998 – A determination was made that the Alaska Kidney Foundation did not need to submit a letter of intent for the sale of their facility, however, the potential buyers, Renal Care Group, Inc., must submit a letter of intent.

June 3, 1998 – A determination was made that the Greater Fairbanks Community Hospital Foundation is not a health care facility as defined by AS 18.07.111(9) and therefore, a certificate of need is not required to build a freestanding facility and purchase equipment. The 3,000-sq. ft. facility, linear accelerator and simulator are projected to cost \$2.5 million and would be completed by November 1999.

May 11, 1998 – A determination was made that the \$10 million project to remodel and expand Valley Hospital (Palmer) and the West Valley medical campus (Wasilla) requires a certificate of need application. The project involves

**Certificate of Need Decisions -1999**

**December 30, 1999:** The three certificate of need applications to provide additional outpatient surgery services in Fairbanks from Fairbanks Ambulatory Surgery Center (Dr. David McGuire), Tanana Valley Clinic, and Fairbanks Memorial Hospital were all denied due to lack of need. Two new surgery suites will not be needed until sometime between 2004 to 2007. The three projects are estimated to cost \$5.5 million, \$4.2 million, and \$1.3 million respectively. Tanana Valley Clinic and Fairbanks Ambulatory Surgery Center have appealed the decision.

**Nov. 16, 1999** - South Peninsula Hospital's certificate of need application to remodel and expand was approved for 5 nursing beds and remodel and expansion of Emergency Services, Diagnostic Imaging, Surgery, Pharmacy, Acute Care Nursing, Central Sterile Processing, Physical Therapy, Laboratory. The applicant had requested 10 beds. The project will add 21,600 approved square feet of new construction and renovation of 14,265 square feet at a total approved cost of \$9,238,756. Construction is planned to start in June of 1999, with completion by June 2002. The approved completion date is Jan. 31, 2003.

**October 8, 1999** - The Providence CON application to remodel and reconfigure 35,000 square feet of space and add 25,000 square feet of space in the North Tower for the ER, general surgery, open-heart surgery, endoscopy, radiology and laboratory was partially approved. The proposed expansion would add three general surgery suites and one open-heart surgery suite, additional pre-operative and post-operative/recovery bays, a fourth endoscopy room with fluoroscopy capabilities, and 15 new patient treatment bays and support areas for the ER. The project was approved with the following conditions: the addition of the operating suite that is proposed for open heart surgery use shall not be dedicated for this purpose or used exclusively for this purpose until November 18, 2003. The expenditure of \$25,000,000 for this project is approved with a completion date of November 18, 2003.

**June 28, 1999** - The Department has accepted a request from the Alaska Psychiatric Institute to withdraw their application to modify the API 2000 certificate of need. The project proposed replacing the existing facility with a 54 bed facility at a cost of \$50,868,000 by the end of April, 2002. The decision to withdraw the CON was based on a need to allow more time for planning the new facility and looking at alternatives.

**May 6, 1999** - The Fairbanks Memorial Hospital certificate of need for the expansion and relocation of the Mental Health Unit was approved. The project will move the Mental Health Unit from the current location on the second floor of the facility to the fourth floor of the central tower and will increase the number of mental health beds from 9 to 20 beds. Conditions of approval are that the applicant may spend \$3,388,000 on the project which must be completed by August 31, 2000 and the

total number of licensed acute care beds will be reduced from 166 beds to 162 beds.

**May 6, 1999** - The Valley Hospital certificate of need to remodel and expand at the hospital in Palmer and the West Valley campus in Wasilla was approved. The project includes expansion of the Medical/Surgical area, Emergency Room and OB; consolidation of ancillary services at the West Valley Campus; and construction of a new entryway at both sites. Conditions of approval are: the applicant may spend \$16,434,000 (\$10 million for construction and \$6.4 million in interest) and must be completed by July 30, 2001. The facility will be licensed for 36 beds including 24 Medical/Surgical (4 swing), 4 ICU beds, and 8 OB beds.

**April 20, 1999** - South Peninsula Hospital's certificate of need application to remodel and expand was approved with the exception of 10 nursing beds requested. Activities approved include remodel and expansion of Emergency Services, Diagnostic Imaging, Surgery, Pharmacy, Acute Care Nursing, Central Sterile Processing, Physical Therapy, Laboratory, and to add 10 long-term care beds was partially approved. The project will add 21,600 square feet of new construction and renovation of 14,265 square feet at a total approved cost of \$9,238,756. Construction is planned to start in June of 1999, with completion by June 2002. The approved completion date is January 31, 2003.

**February 18, 1999** - The \$1.4 million Central Peninsula Hospital certificate of need application for an MRI was approved by the Commissioner. The project must be completed by December 31, 1999.

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### Certificate of Need Appeals

**September 22, 1998 - October 26, 1999** - Fairbanks Surgery Center, Inc. (FSC) filed an appeal of the decision to deny their modification application to extend the completion date of a certificate of need to build a freestanding surgery center in Fairbanks. The project had originally been approved in September 1995 to build a 5,400-sq. ft. freestanding ambulatory surgery facility, with two surgery suites, one procedure room, and ancillary support areas at a cost of \$2,894,606. The extension was denied due to lack of progress and reduced need. The Department's motion for summary judgment that it had a reasonable basis for denying the modification application because there was not a continuing need for two additional surgery suites in the Fairbanks area was granted.

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### Public Meeting/Public Comment Results

**July 30, 1999:** The Department of Health and Social Services scheduled a public meeting to accept testimony in regard to three CON applications, one each from

Fairbanks Ambulatory Surgery Center (Dr. David McGuire), Tanana Valley Clinic, and Fairbanks Memorial Hospital. A public meeting was held on July 30, 1999, from 6 to 8 PM at the Fairbanks City Council Chambers, 800 Cushman Street, Fairbanks, Alaska. Nearly 150 people attended and 27 gave public testimony. Written public comments concerning these applications were submitted to the Department up until August 9, 1999.

**June 2, 1999:** The Department of Health and Social Services held a public meeting to receive comments on this project on Wednesday, June 2, 1999, from 6:00 p.m. to 8:00 p.m., at the University of Alaska Anchorage campus, Commons building, Room 106, 3700 Sharon Gagnon Lane, in Anchorage. Seven individuals participated in the public meeting. Written comments concerning this application were received from three individuals. The comments were all in support of the project.

**April 2, 1999 -** The 30-day comment period passed and a public meeting was not requested for the Fairbanks Memorial Hospital Mental Health expansion. Written comments concerning this application were submitted with the application and by two additional agencies involved in the provision of mental health services in Alaska. All of the comments submitted to the Department were in support of the project.

**March 4, 1999 -** A public meeting was held to receive comments on the Valley Hospital certificate of need application on Thursday, March 4, 1999, from 6:00 p.m. to 8:00 p.m. at the Palmer Train Depot at the corner of Alaska Street and Evergreen in Palmer. Eighteen people attended the hearing and 6 spoke. All comments were in favor of the project. No written comments were received during the 30-day public comment period that ended on March 16, 1999.

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### Letters of Intent (LOI) and Determinations - 1999

**November 3, 1999 -** Peninsula Internal Medicine, PC in Soldotna submitted a letter of intent for a medical office building that included one endoscopy suite. A determination was made that this project could not be considered a health care facility for the purposes of the certificate of need program and therefore a certificate of need was not required. The cost of the facility was given as \$684,954 and was complete at the time of submission of the letter of intent except for the installation of equipment.

**October 14, 1999 -** HEALTHSOUTH submitted a letter of intent on October 14, 1998 for a \$14-15 million integrated Medical Plaza. The 68,000 sq. ft project was to be built on property leased from Alaska Pacific University and included a 22,000 sq. ft. ambulatory surgery center, MRI capabilities and diagnostic, and physical therapy services. A determination was made that a CON was required. The LOI expired on Oct. 14, 1999 because no CON was submitted.

**August 19, 1999** - Alaska Regional Hospital submitted a letter of intent for a \$22 million project to upgrade the hospital. Areas to be remodeled included a Doctor's lounge and conference area; second floor lobby and admitting; radiology; surgery; women's services and labor and delivery. No decision has been made on whether a certificate of need is required, additional information has been requested and the Department is awaiting its submission.

**July 19, 1999** - Providence submitted a letter of intent to replace Cardiac Catheterization Laboratory #2. The activity would be replaced by a bi-plane unit and they would transition all 3 existing Cardiac Catheterization labs to cineless technology which is a change from filming of procedures to CD-Rom technology. The total project cost is estimated at \$1.5 million with a completion date planned for January 2000. No determination has been made due to further information was requested but has not been received yet.

**July 19, 1999** - Providence Alaska Medical Center submitted a letter of intent was received for expansion of the Pharmacy Department. The total project is expected to cost \$590,000 and the planned date of completion is August 1999. A determination was made that a certificate of need was not required because the project cost was under the \$1 million threshold.

**June 8, 1999** - Providence submitted a letter of intent for construction of a medical office building and an outpatient clinic and training program for the Alaska Family Practice Residency Project. A determination was made that the project did not require a certificate of need application because the project was for construction of a medical office building and therefore not a "health care facility." According to AS 18.07.111(9)(B), the definition of a health care facility excludes "the offices of private physicians or dentists."

**June 7, 1999** - A letter of intent was received from Providence for a new 500 space employee parking structure costing \$8.2 million. The construction to be completed by July 1999. A determination was made that no CON was needed because it was not a health care facility.

**March 10, 1999** - Tanana Valley Clinic submitted a new letter of intent to build an ambulatory surgery center at their clinic on Noble Street in Fairbanks. The project includes one surgery suite, and two procedure rooms and is projected to cost \$1,650,000. The proposed completion date is early in the year 2000. A determination was made that the project will require a certificate of need. The applicant may submit a certificate of need at any time between May 9, 1999 and March 10, 2000.

**February 16, 1999** - A determination was made that Sitka Community Hospital did not need to submit a certificate of need to convert two acute care beds into two long-term care beds. The proposed project is expected to cost \$61,533 for the

conversion and reconfiguration of other areas in order to accommodate this conversion. The project is expected to be complete by July 1, 1999. A certificate of need was not required because the project will cost less than \$1 million.

**February 11, 1999** - Tanana Valley Clinic withdrew a letter of intent to build an ambulatory surgery center in Fairbanks.

**February 8, 1999** - Fairbanks Memorial Hospital submitted a letter of intent for an ambulatory surgery center in Fairbanks. The 8,500 sq. ft. facility would cost a total of \$3.75 million including equipment. If approved, the project is planned to be completed by January of 2000.

**January 12, 1999** - Charter North Submitted an letter of intent for a 74 bed psychiatric acute care hospital that would primarily serve children and adolescents. The project would cost \$25 million and be completed by the summer of 2001. The project developed as a means of replacing the existing facility should it be sold to the state of Alaska as a replacement for the Alaska Psychiatric Institute. A determination was made that a CON is required. If a CON is not received the letter of intent will expire January 21, 2000.

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***Last Update: October 24, 2000***

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### Certificate of Need Reviews - 2000

**November 1, 2000** - On July 31, 2000, Bartlett Regional Hospital submitted a certificate of need for a \$51.4 million project (including interest). The project plans addition of 12 acute beds; re-configuration of all acute patient rooms to "semi-private," renovation of the OB, Mental Health, CCU and Emergency Departments; and addition of a new Hemodialysis Unit and Women's Diagnostic Health Center. The certificate of need application was declared incomplete and additional information requested. The additional information was submitted and the application has been declared complete. The Department has 90 days (until January 29, 2001) to complete the review and send a written analysis and recommendations to the Commissioner. Check the Public meeting schedule below for information on the dates for public comment and the public meeting.

**August 8, 2000** - The Alaska Regional Hospital certificate of need for a \$13.5 million expansion and remodeling was approved with the condition that the existing surgery suite adjacent to the open-heart surgery room will not be dedicated to open-heart surgery until October 2003. The project included addition of 16,042-sq. ft. of new space and renovation of 21,345-sq. ft. of space, construction of a 3-story atrium entry and lobby, addition of pre and post-operative spaces and an additional general surgery suite. The pre/post operative staging will include holding areas, family waiting areas, reception, consultation rooms, offices and a relocation of endoscopy suites. Three additional inpatient holding beds, 13 additional pre-op/secondary recovery beds, and 7 new phase II recovery beds will be added. Several surgery suites will be resized and expanded resulting in the elimination of one surgery suite. Three existing surgery suites and the two procedure rooms are undersized according to American Institute of Architects standards for hospitals and medical facilities. This project will fix problems of access and under-sized surgery suites. Alaska Regional has 10 existing surgery suites which will increase to 11 through this project. The approved completion date is winter, 2002.

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### Public Comment

**Juneau - November 22, 2000** - A public meeting has been scheduled to receive comments on the Bartlett Regional Hospital \$51 million project. The meeting will be held on Wednesday, November 22, 2000, from 6:00 p.m. to 8:00 p.m., at the Valley Library, 9105 Mendenhall Mall Road, Suite 190, Juneau, Alaska (in the Mendenhall Mall).

**Juneau - November 3 - December 3, 2000** - The written comment period for the Bartlett Regional Hospital \$51 million project has been scheduled from now until December 3, 2000. Written comments must be received at the Facilities and Planning office by this date or they will not be considered.

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### Progress Reports - 2000

**October 3, 2000** - St. Ann's Care Center (Juneau) - The CON was issued 8/19/98. The approved cost is \$18.5 million. The project is fully obligated and a construction contract was signed with Triplette Construction 3/30/99. Expenditures to as of 9/29/2000: \$5.4 million. The anticipated completion date remains the same: April, 2001. Footings and foundation are completed, framing and exterior finish is 75% complete and the total building is 40% complete. No variations in scope are expected. The final project cost is within the approved limits and there are no changes in

services or programs.

**June 14, 2000** - South Peninsula Hospital (Homer) - The CON was issued 12/10/98 and 11/10/99. The approved cost is \$9.3 million. The project is not fully obligated. Phase I is fully obligated and 80% complete with finish work in progress. Phase II is in the final design stage and is planned to go out to bid Spring/Summer of 2001. Phase III is in the concept design stage. Total costs to date: \$6.0 million. Construction starting and completion dates are expected to be close to approved CON. (Phase I-12/2000; Phase II - 6/2001-5/2002; Phase III - 5/2001-6/2002. The scope of the approved project has not changed and the projected final cost will be within the approved limits.

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### Appeals - 2000

On December 30, 1999, certificate of need applications to build new ambulatory surgery suites in Fairbanks were denied to Fairbanks Ambulatory Surgery Center, Inc. (FASC) Tanana Valley Clinic (TVC) and Fairbanks Memorial Hospital. FASC and TVC appealed the decisions and their appeals were accepted and consolidated since the two applicants submitted competing proposals. David Leonard of Fairbanks was appointed as the hearing officer. In July, a pre-hearing conference was held and the FASC on July. At that time, FASC chose to withdraw their appeal. The TVC appeal is continuing with a hearing scheduled for March, 2001 in Fairbanks.

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### Letters of Intent - 2000

**December 26, 2000** - Sitka Community Hospital submitted a letter of intent to convert unused space to 5 nursing home beds. The project is expected to cost \$12,500 and is planned to start March 1, 2001 and be completed by April 15, 2001. A determination was made that a certificate of need is required because according to AS 18.20.020, conversion of space to nursing home beds requires a certificate of need regardless of the cost. A certificate of need may be submitted at any time between February 26, 2001 and December 28, 2001.

**November 20, 2000** - The Alaska Radiological Pharmacy in Anchorage submitted a letter of intent to purchase and install a Cyclotron in order to produce tracer medicines in Anchorage. The \$1.7 million facility would serve Positron Emission Tomography (PET) scan facilities in the state and construction plans call for the project to be completed by June 2001. The Department determined that a certificate of need is not required for this project because it is not considered a health care facility.

**November 20, 2000** - The Alaska Radiological Pharmacy in Anchorage submitted a letter of intent to purchase and install a Cyclotron in order to produce tracer medicines in Anchorage. The \$1.7 million facility would serve Positron Emission Tomography (PET) scan facilities in the state and construction plans call for the project to be completed by June 2001. The Department determined that a certificate of need is not required for this project because it is not considered a health care facility.

**November 1, 2000** - A letter of intent was received from Providence Alaska Medical Center for purchase of Positron Emission Tomography (PET) scanner. The estimated cost of the proposed equipment and renovation is \$2.8 million dollars. The Department determined that a certificate of need is required for this project because the cost is over the \$1 million threshold and the the project adds a new service to a health care facility. After the 60-day waiting period is completed, Providence may submit a certificate of need application at any time between January 1, 2001 and November 1, 2001.

**October 26, 2000** - A letter of intent was received from Dr. Bradley Cruz, MD, for construction of a freestanding Positron Emission Tomography (PET) facility in Anchorage. The estimated cost of the project is \$3.9 million for equipment, lab, land and the building. A determination was made that the project will not require a certificate of need because the project is to be run by a group of physicians and is not one of the activities defined as a "health care facility" under AS 18.07.111 (9).

**October 10, 2000** - A letter of intent was received from Architects Alaska for renovation and expansion of the ultrasound area at Providence Alaska Medical Center. The project involves remodeling the existing space and expanding into the vacated Cardiac Cath Lab #1, expansion of the staff work area, addition of a second ultrasound room and the addition of two toilet rooms. The estimated cost of the project is \$200,000 and the proposed construction starting and completion dates are October 15, 2000 and December 1, 2000 respectively. A determination was made that a certificate of need is not required because the project is under the \$1 million threshold.

**October 4, 2000** - A determination was made that the letter of intent submitted by Fairbanks Memorial Hospital for leased MRI equipment did not require a certificate of need because the \$1.3 million project was determined to be an operating lease, not a capital lease based on information supplied by the independent auditors Ernst & Young.

**August 15, 2000** - On April 24, 2000, a letter of intent was submitted for renovation of the Bartlett Regional Hospital Dietary Department. The \$2.2 million project would expand the department by 1,968 square feet remove asbestos, and remodel an area that has changed little since it was originally built in 1977. The new dietary area will provide services for the Bartlett Regional Hospital, the new St. Ann's Care Center, and Juneau Regional Rehabilitation Hospital. A determination was made that a certificate of need was not required because although the total project cost is over the \$1 million threshold, a majority (60% or \$1,313,084) of the activity is for routine replacement and maintenance of an area that is 23 years old. The portion of the project that is new construction and expansion consists of 40% of the total, and therefore, the cost of new construction is under the \$1 million threshold (\$909,556) and no certificate of need is required.

**August 7, 2000** - Valdez Community Hospital submitted a letter of intent for a replacement facility located on the current hospital campus. Plans for the proposed \$25 million facility include 15 acute beds and 20 nursing beds with construction starting in the spring of 2002 and occupancy in 2004. The department determined that a certificate of need is required because the project is for the construction of a health care facility that costs over \$1 million. An application may be submitted at any time between October 7, 2000 and August 7, 2001.

**June 6, 2000** - Valley Hospital submitted a letter of intent for the lease of a \$1.3 million Phillips Intera 1.0 tesla MRI to replace the existing 7 year-old Toshiba MRI. Based on information provided by Deloitte and Touche, independent auditors, the project is considered an operating lease, not a "capital expenditure," and therefore, the \$1 million threshold does not apply and a certificate of need is not required.

**June 6, 2000** - Central Peninsula Hospital submitted a letter of intent for the purchase and installation of a of a spiral CT scanner and digital upgrade of one radiographic room. Although cost of these activities was valued at \$1.8 million, the project was determined to be a routine replacement. As a result, the \$1 million threshold does not apply and a certificate of need is not required.

**May 4, 2000** - HEALTHSOUTH submitted a letter of intent for construction of a new freestanding outpatient surgery facility to replace the existing Alaska Surgery Center in Anchorage. It was determined that a certificate of need is not required based on a new section of law passed (AS 18.07.031 (c)) which allows a person who is operating an existing ambulatory surgical facility to relocate the services of that facility to a new site in the same community without obtaining a certificate of need as long as the number of categories of health services provided at the new site stays the same and as long as the former site is no longer used for ambulatory surgery.

**April 27, 2000** - A determination was made that Central Peninsula Hospital did not need a certificate of need for their portion of the cost of construction of the new Kenai Health clinic even though the cost is estimated to be \$1.5 to \$2 million. The activity was determined to be for construction of a "clinic," and therefore a certificate of need is not required, since no plans currently existed to add services that would cause the facility to be defined as a "health care facility"

**April 7, 2000** - A determination was made that Providence Extended Care Center did not require a certificate of need for construction a \$316,906 "Great Room" to the South Two Care Nursing Unit. The "Great Room" would be used for dining, activities/life enrichment, special occasions, social gatherings, family visiting and a supplemental nursing station. A certificate of need was not required because the project costs under the \$1 million threshold and is for new construction and not conversion of a nursing home.

**March 31, 2000**- A determination was made that a certificate of need was not required for the replacement of equipment in Cardiac Cath Lab #1 at Providence Alaska Medical Center (PAMC). The letter of intent submitted by Architects Alaska described the project as relocation of the break room and elimination of the darkroom to add space for Cardiac Catheterization Laboratory #1. On December 8, 1999, a determination was made that the purchase of new Cardiac Cath equipment for Lab #1 was considered a routine replacement and no certificate of need was required since the old equipment would be disposed of. This remodeling project is expected to cost \$541,000.

**March 30, 2000**- It was determined that the purchase of equipment and construction of a laser eye surgery center in Anchorage for LASIK Vision (Alaska) Inc. would not require a certificate of need because the project would not be licensed as a "health care facility" because it will not meet the AIA guidelines for an ambulatory surgery center. Although the project will cost an estimated \$1.2 million, this type of service does not need certification and licensing. LASIK stands for "laser-assisted in situ keratomileusis," which is the most commonly performed refractive vision correction procedure. This type of surgery offers the convenience of a reduced need for corrective lenses using a microkeratome instrument and an excimer laser to reshape the cornea.

**March 28, 2000** - ECI/Hyer, Inc. submitted a letter of intent for construction of an addition and remodeling of the Southcentral Foundation Clinic in Anchorage. The project will cost \$19 million. A determination was made that this project will not require a certificate of need because it is a clinic and does not meet the definition of "health care facility." The Southcentral Foundation Clinic offers a variety of programs including Pediatrics, Women's Health, Mental Health, and Family Health.

**March 13, 2000** - A determination was made the relocation of the entrance, two exam rooms, triage and waiting rooms for the Providence Alaska Medical Center Emergency Department in Anchorage will not require a certificate of need. A certificate of need was not required because the project cost \$276,871, which was under the \$1 million threshold.

**February 17, 2000** - Bartlett Regional Hospital submitted a letter of intent for a \$40 million remodeling and expansion project in Juneau. A determination was made that this project will require a certificate of need because it costs more than \$1 million and it is for construction of a health care facility. If approved the start up date for construction is January 2001 with a completion date of January 2004. A certificate of need application may be submitted at any time between April 3, 2000 and February 2, 2001.

**February 9, 2000** - The Mary Conrad Center (Anchorage) submitted a letter of intent to convert one bed from assisted living to long-term care. Although there was no cost involved in this conversion, new certificate of need laws would now require a certificate of need approval. However, a review of documents submitted by the facility and information from Department files showed that this specific bed had been "grandfathered in" since 1991 by an agreement between the Department of Health and Social Services the Mary Conrad Center. As a result, a certificate of need was not required and conversion allowed.

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*Last Update: November 1, 2000*

## Certificate of Need Applications and Review Results - 2001

**September 24** - Providence Alaska Medical Center submitted a request to modify the North Tower certificate of need. The application has been declared complete and the Department has until January 14, 2002 to complete the review and analysis and submit it to the Commissioner.

**September 12** - The Providence Alaska Medical Center (Anchorage) certificate of need application submitted on June 20th was declared complete after additional information was received. The application is for construction of a 60-bed child/adolescent Mental Health facility with an estimated cost of \$25 million. If approved, construction is planned to begin in March 2002 with services implemented in the Fall of 2004. The application review and analysis is in process and must be completed and submitted to the Commissioner's office by December 12, 2001.

**July 23** - Valdez Community Hospital submitted a certificate of need application to build a 68,444 sq. ft. replacement Hospital. The proposed facility will have a total of 21-beds, all private rooms. The bed configuration is nine acute beds, one psych holding, one CCU holding and observation, one labor/delivery/postpartum and ten long-term care beds. The estimated cost of the project is \$24.1 million. If approved, construction is planned to begin in June 2002 and be completed by June of 2004. The application has been declared complete and the Department has until January 8, 2002, to complete the application and submit the review and analysis to the Commissioner. Information on the public meeting and public comment period schedule are listed in the next section below.

**June 20** - Ketchikan General Hospital submitted a certificate of need application to purchase a Phillips Gyroscan Intera Omni 1.0 Tesla Magnetic Resonance Imaging System and to remodel 1,653 square foot of space to house the equipment. The MRI System will be fitted with a step-up gradient that will allow it to perform like a 1.5 Tesla scanner except scans will be slower. The total cost of the project is estimated to be \$1,182,720. The project was approved as requested on November 6, 2001.

**April 19** - The Bartlett Regional Hospital certificate of need was approved, with the following conditions: addition of the five new Medical/Surgical beds is not approved, however, the four isolation beds requested may be built by converting existing beds; two additional Emergency Department exam rooms may be added; the \$800,000 "Healing Garden" is not considered a "health care facility" and therefore a certificate of need is not required for that portion of the project; and eight Critical Care Unit beds are approved. Bartlett is approved for a total of 63 licensed beds and may expend up to \$39,200,000 for construction with an approved project completion date of December 31, 2007.

**March 12** - Sitka Community Hospital submitted a certificate of need application for conversion of existing underutilized space into 5 additional long-term care beds, an activity room, and expansion of the dining room. Currently, Sitka Community Hospital has a total of 25 beds - 10 long-term care and 15 acute beds. The total project is estimated to cost \$13,500 and if approved will begin offering the expanded services by July 15, 2001. The application was checked for completion and additional information requested. Additional information was received and on April 18th and the application declared complete. The review and analysis has been submitted to the Commissioner's office.

**January 29** - Providence Alaska Medical Center (Anchorage) submitted a certificate of need application to purchase and install a Positron Emission Tomography (PET) scanner. A PET scanner is a diagnostic tool that measures metabolic function. Its ability to create images of biological disease processes is helpful in early detection and treatment of cancer, heart disease and neurology. New uses are being developed. There are currently no PET scanners in Alaska, which requires travel out of state to access the service. The project will cost \$3.2 million and construction is planned to begin in March 2001, and be completed by June 2001. The application was approved as requested by the Commissioner on May 17, 2001 and the applicant has until December 31, 2002 to complete the project.

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### Public Comment

**Valdez:** A written public comment period ended November 20, 2001. A public comment meeting was held on Saturday evening, November 10, 2001 from 6:30 p.m. to 8:00 p.m. in the City Council Chambers, 212 Chenega, Valdez.

**Anchorage:** A public meeting for a 60-bed adolescent/child psychiatric facility proposed by Providence Alaska Medical Center was held on October 2, 2001.

**Ketchikan:** A public meeting to receive comments on the Ketchikan General Hospital certificate of need application for an MRI was held on Thursday, August 16, 2001, at Ketchikan General Hospital and written comments submitted until August 30, 2001. Twelve people attended the public meeting and six provided comments. No written comments were received.

**Sitka:** Public meetings to receive comments on the Sitka Community Hospital certificate of need application were held on Monday, May 21, 2001.

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### Progress Reports - 2001

Progress reports are due every 6 months for a project.

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### Appeals - 2001

Juneau Urgent Care submitted an appeal of the Bartlett Regional Hospital Certificate of Need approval. Urgent Care is appealing the approval of the two additional Emergency Department Exam Rooms and the denial of 5 new medical/surgical beds. The appeal was denied due to lack of good cause.

On December 30, 1999, certificate of need applications to build new ambulatory surgery suites in Fairbanks were denied to Fairbanks Ambulatory Surgery Center, Inc. (FASC) Tanana Valley Clinic (TVC) and Fairbanks Memorial Hospital. FASC and TVC appealed the decisions and their appeals were accepted and consolidated since the two applicants submitted competing proposals. David Leonard of Fairbanks was appointed as the hearing officer. In July, a pre-hearing conference was held and the FASC on July. At that time, FASC chose to withdraw their appeal. The TVC appeal has also been withdrawn.

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### Letters of Intent - 2001

**November 13** - The Alaska Heart Institute submitted a letter of intent to purchase and install a cardiac catheterization laboratory at their medical offices at Providence Alaska Medical Center. A determination was made that the project

will not require a certificate of need because it is not for a health care facility (as defined by certificate of need law) and the cost of \$550,000 is under the \$1 million threshold that triggers a certificate of need review.

**November 8** A letter of intent was received from North Star Behavioral Systems, LLC and additional information requested before a determination is made. The project is for a 12-18 bed psychiatric specialty hospital and a 72-90 bed residential facility to be built in Wasilla.

**October 15** - The Anchorage Fracture and Orthopedic Clinic submitted a letter of intent for a project to install a GE Lunar E-Scan unit (MRI) at their physicians' offices located at 3260 Providence Drive, Suite 200, Anchorage. A determination was made that a certificate of need is not required because the equipment, service contract and anticipated construction is \$626,000, which is under the \$1 million threshold required to trigger a certificate of need and the equipment will be located in a private physicians' office, which is not considered a "health care facility" for the purpose of the certificate of need program.

**July 30:** North Star Behavioral Health Systems, LLC submitted a letter of intent regarding the purchase of 74-bed North Star Behavioral Health Hospital and the 34-bed North Star Residential Treatment Center in Anchorage currently owned by Charter North Behavioral Health Systems, Inc. and Columbia Behavioral Health system, LLC. Although the cost of the project is over the \$1 million threshold, there is no construction, no alteration of bed capacity, and no addition or elimination of a category of health services. As a result, it was determined that a certificate of need was not required for this project.

**June 28** - A determination was made that the Providence Alaska Medical Center North Tower Certificate of Need, approved in 1999 at a cost of \$25 million, is required to submit a modification to the certificate. A modification is needed because the scope of the project has changed due to the Laboratory relocation that was not included in the original application and the cost of the project has increased to \$31,133,260 which is over the 15% plus the inflation rate allowed in 07 AAC 07.095(a). The modification will be limited to Laboratory relocation portion of the project only, since this was the part that raised the cost over the allowable amount and was the only piece not included in the original application. The variation in scope has been determined to be minimal and an expedited review as provided for in 7 AAC 07.065 will be allowed. The applicant may submit a modification at any time between June 29, 2001 and June 28, 2002.

**June 25** - Providence Alaska Medical Center submitted a letter of intent to remodel the existing Maternity Center at a cost of \$3 million. A determination was made that the project does not require a certificate of need because no new services are being planned, there is no expansion of square footage, no new beds will be added and most of the remodeling is being done to replace interior furnishings that are worn out, depreciated out and have reached the end of their useful lives. Therefore, under 7 AAC 07.130(3) this project is considered a routine replacement.

**May 9** - Alaska Psychiatric Institute submitted a letter of intent for a 72-bed, 80,000 sq. ft. replacement facility costing an estimated \$50,344,000. The facility includes a 10-bed forensic unit. A determination was made that a certificate of need is required because the project is for construction of a health care facility and the cost is over \$1 million. A certificate of need application may be submitted at any time between July 9, 2001 and May 10, 2002. The applicant requested an expedited review which has been granted because the application is for the reissuance of a previously granted certificate of need. Once the application is declared complete, the review process will be completed in 50 days.

**May 1** - The Alaska Spine Center, LLC, submitted a letter of intent for a 2-suite, 4,192 sq. ft. ambulatory surgery center costing an estimated \$638,079. A determination was made that a certificate of need is not required because the project cost is under \$1 million. The facility will be located within the new Lake Otis Medical Building at 4100 Lake Otis Parkway in Anchorage but is a separate entity from the HealthSouth Alaska Surgery Center which is located within the same building.

**April 3** - Ketchikan General Hospital submitted a letter of intent to purchase a MRI scanner which will be housed in the existing hospital. Extensive remodeling will need to be done to fit the equipment into the facility. The purchase price of the scanner is \$780,680, room prep is estimated at \$218,000 bringing the total estimated cost to \$998,680 with no contingency fund. The hospital's best estimate for the total project cost is \$1,100,000. The projected service implementation date is the end of September 2001. A determination was made that a certificate of need is required and that a certificate of need application may be submitted at any time between June 3, 2001 and April 3, 2002.

**March 26** - The Maniilaq Association submitted a letter of intent to build a 15-bed long-term care addition to the Maniilaq Health Center. If approved, the planning and architecture for the 8,400 sq. ft. addition would begin in 2002 with construction completed by 2003. The estimated cost of the skilled nursing wing is approximately \$6 million and additional physical therapy, occupational therapy and administration space will cost an additional \$4 million. The applicant has been notified that a certificate of need is required and that an application may be submitted between May 28, 2001 and March 28, 2002. A pre-application conference was held on April 16th at the Health Center.

**March 26** - Providence Health System submitted a letter of intent to add three "Great Rooms" to three nursing units at Providence Extended Care Center. The project will add 6,600 square feet of space to the facility at a total cost of \$981,000. A determination was made that a certificate of need is not required because the project costs under the \$1 million threshold, is new construction and not a conversion, and therefore, the AS 18.07.031(b) relating to nursing homes does not apply under this citation.

**February 20** - The Alaska Urological Association submitted a letter of intent for an endoscopy center to be built at the Alaska Medical Plaza at 1200 Airport Heights Drive in Anchorage. The two suite facility was projected to cost \$720,000, however, the cost estimate for the project was incomplete and additional information requested before a determination was made. No new information was received and a follow-up call on May 29th indicated the project had been abandoned.

**February 9** - Providence Alaska Medical Center submitted a letter of intent to develop a 60 Bed Inpatient facility for child and adolescent psychiatry. The proposed project is expected to cost about \$20 million. Planning and design will begin June 2001. If approved, the facility is expected to be operational by December 2002. The applicant has been notified that a certificate of need is required and may submit an application at any time between April 14, 2001 and February 9, 2002.

**January 17** - Providence Alaska Medical Center (PAMC) submitted a letter of intent for a project to replace the interventional radiology Digital Subtraction Angiography (DSA) room and associated equipment. A determination was made that this project is a "routine replacement" according to 7 AAC 07.130(3) and therefore a certificate of need is not required. The determination was based on the fact that the equipment in the DSA room is nearly 20 years old and has had limited use due to poor quality imaging since 1998 and the proposed new equipment is not a change in service but the replacement will up-grade existing technology. The applicant states that a rebuilt equipment would cost \$530,000 and a new equipment \$800,000 which might make the cost under the \$1 million threshold. The total cost is estimated to range from \$950,000 to \$1.2 million, part of the \$400,000 cost of room reconfiguration and construction will likely be for some asbestos abatement which is considered routine maintenance. The proposed project, known as Special Procedures Room 4, is expected to begin remodeling in January 2001 and will be completed and operational by July 2001.

*Last Update: August 20, 2001*

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**JOINT HOUSE AND SENATE HEALTH COMMITTEES  
HEARINGS ON CERTIFICATE OF NEED LAWS  
(STATE OF GEORGIA)**

**TESTIMONY OF DAVID A. COOK  
DIRECTOR OF GOVERNMENT RELATIONS  
MEDICAL ASSOCIATION OF GEORGIA**

September 2, 1997

Thank you Chairman Middleton and Chairman Childers for holding these hearings on this most important issue and for providing me with the opportunity to speak to you and the Committee members from the physicians' perspective. My name is David Cook and I represent the Medical Association of Georgia comprised of some 8,200 Georgia physicians.

The Medical Association of Georgia supports substantial reform of Georgia's Certificate of Need laws. Our position is based on a fundamental premise: that competition in a free and fair market is the best way to achieve quality health services at the lowest possible cost.

Certificate of Need laws were enacted in 1979 to restrain the cost of hospital and other health care services by regulating the number of facilities that may be built and the type of services that may be offered. In general, these government-sanctioned barriers have not been effective in restraining costs or even hospital investments. Because those with certificates are the only players in the market, they are not pressured to deliver high quality care at the lowest price. Basic economic principles indicate that artificial barriers on competition increase costs.

The fact that Certificate of Need laws have not worked is confirmed in the various studies already mentioned. Further evidence of the dissatisfaction with CON regulations is seen in the national trend to repeal such laws. Perhaps the strongest evidence that CON regulations are not working is found in the testimony you just heard: that Georgia's hospitals are operating at 55% excess capacity. It is rare that artificial restraints on competition benefit the consumers, our patients.

Even if you believe that Certificate of Need laws were appropriate two decades ago, the reasons underpinning enactment of the laws are no longer relevant in today's health care market. Let me give you three examples of how dramatically the health care market has changed in the past 20 years.

First, CON laws were enacted at a time when there was very little competition in the health care market. The same cannot be said of today's healthcare marketplace where competition is fierce.

Second, dramatic changes in reimbursement methodologies have turned provider incentives upside down. In 1979, hospitals were paid on a "cost plus" basis. This guaranteed that hospitals would be paid for every service provided and encouraged overutilization of services. The more the better. Today, hospitals are paid by "Diagnostic Related Groups" (DRG's) which is a set sum for the diagnosed condition regardless of the number of tests or procedures performed. The fewer the services the better.

Finally, we are in the midst of redefining "quality" as it relates to health care. Where hospitals

once measured quality by the number of procedures performed or the availability of the latest technology, quality is now being measured by outcomes achieved.

In sum, the health care market is not what it was in 1979.

The Medical Association of Georgia supports repeal of certificate of need laws except in a few narrow areas that deserve special consideration. The first is in the area of long term care facilities. Unlike many other areas of health care, Medicaid currently pays 80%+ of all nursing home services making this area very nearly a mini "single payor" system. As a result, nursing homes have not historically faced the same kind of competition that hospitals face. Thus, market forces will not work and a different strategy, including the possibility of retaining CON for nursing homes, should be considered.

We also appreciate the important role that caring for the indigent population has in this debate. I would like to take this opportunity to remind you that physicians, not hospitals; treat and care for patients. It is the physician that is called at 3:00 in the morning to come to the hospital to treat the patient. It is the physician who provides his services, often free of charge.

In a recent survey conducted by the Medical Association of Georgia, our members said that they incurred, on average, \$50,000 in charity care (care for which there was no expectation of compensation) per year and some \$91,000 in bad debt (services for which there is an expectation of compensation but an inability to collect) per year.

Recent reductions in Medicare and Medicaid reimbursement rates have exacerbated the problem. In FY 1996, the Governor proposed, and the General Assembly agreed, to cut Medicaid's physician reimbursement rates by some \$21.5 million per year. Last year (FY 97), physicians suffered an additional \$7 million in cuts. That is an annual reduction of \$29 million in payments to Georgia physicians for the same level of services previously provided. **Physicians' services, which account for the smallest percentage (17%) of provider expenditures, took a whopping 36% of all cuts to Medicaid providers.**

In addition, the Balanced Budget Act of 1997 will squeeze some \$5.8 billion from physician Medicare services over the next five years. The real kicker is that Medicaid reimbursement rates are tied to Medicare rates. (Currently Medicaid pays physicians 87% of the Medicare reimbursement rate known as RBRVS). Since Medicaid reimbursement rates for physician services are directly tied to Medicare rates, the new cuts in Medicare will result in even further reductions in Medicaid reimbursement rates.

Traditionally, physicians have shifted the costs of providing indigent care to the private sector. With the onslaught of managed care, physicians are becoming less able to shift these costs to private payors. Hospitals have an Indigent Care Trust Fund to help defray the costs of indigent patients, but physicians have no similar funding mechanism. The problem of providing physician services to indigents has now reached crisis proportions.

Thus, when looking at the question of indigent care, I would urge you to keep in mind who actually provides the care and treatment of indigent patients. I would also suggest that if the market continues to ratchet down physician reimbursements, some accommodation will be necessary to assure continued care for the indigent population.

On a final note, I want to underscore the points made by Dr. Tedesco and Dr. Skelton related

to Graduate Medical Education. Prior to this year, Graduate Medical Education was funded through Medicare. Recent federal legislation has changed this and new sources of funding are necessary to continue training doctors. The Senate is currently considering ways to continue funding medical education here in Georgia.

But the problem is not only with access to funds. Medical education, by definition, requires access to patients. It has been said that it is easier to obtain a certificate of need if you can demonstrate a contribution to medical education in Georgia. It has also been said that concentration of specific types of services makes it easier to train residents. Yet these CON solutions do not address a real problem: that is, managed care companies are driving patients from teaching institutions because they do not provide the cheapest care. A more realistic approach would be to require all managed care companies to make some commitment to medical education, whether in the form of monetary contributions, a guaranteed supply of patients, or both.

I know I have used the time allotted and so I'll stop here and answer any questions you or the committee may have. Once again, I thank you for the opportunity to appear before you.

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**Web Posted By . . .**

STEPHEN S. HELLMAN

## **Problems with the existing Alaska State Certificate of Need Law:**

1. **It does not work** – 30 years of academic study can't find any evidence it works;
2. **It raises costs** through protection of inefficient producers, erecting barriers to entry by more efficient providers and adding millions in administrative costs;
3. **It is easily circumvented** – many hospitals get completely around the law by leasing equipment rather than buying it or use a captive foundation to build facilities, then lease them back to the hospital to escape review;
4. It's subject to **cronyism** and **manipulation** and does not serve the public interest;
5. **100%** of all **hospital CON applications approved** from 1996 – 2001, while **0%** of non-hospitals were successful – why continue a program that OK's every hospital request and denies every request by someone who wants to compete with hospitals?
6. Despite what hospitals tell you, there is **no evidence** that CON protection results in more charity care: when researchers have looked for it, they never found it;
7. **CON limits the free choice** of consumers, **prevents a free market** in health care, and makes **monopoly hospitals** less responsive to community needs;
8. If the current CON law is eliminated, the financial worst case is that Medicaid pays about the same, but all other payers, State employees and individual patients get a sizable reduction in health care costs – **that's a good outcome!**

## DAVID A. MCGUIRE, M.D.

*Orthopedic Surgery*DIPLOMAT OF THE AMERICAN BOARD  
OF ORTHOPAEDIC SURGERY4048 LAUREL STREET  
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March 19, 2002

PHONE 907-562-4142  
FAX 907-563-8824Representative Kevin Meyer  
State Capitol, Room 110  
Juneau, AK 99801-1182

Dear Representative Meyer,

The Alaska Department of Health and Social Services Certificate of Need program functions in a way that allows agencies it regulates to control its processes. Evidence of Applicant or an Applicant challenger's ability to manipulate the state is illustrated below:

## I. Operating Room Capacity Manipulation

A. The Review document<sup>1</sup>, page 5:

"If no suites are dedicated to ambulatory surgery, there is no need for one additional suite, or a total of 6 operating suites by the year 2000. FMHDC does not plan to have all their suites used for both inpatient and outpatient surgery. The application outlines plans to have 3 dedicated ambulatory surgery suites, 3 inpatient surgery suites."

B. The letter<sup>2</sup> states:

"A Certificate of Need for the construction and renovation of an ambulatory services center at Fairbanks Memorial Hospital/Denali Center has been approved with the following conditions: All ambulatory services are approved as requested except completion of the sixth surgery suite. The sixth surgery suite is conditionally approved unless the competing proposal from the Fairbanks Surgery Center is deemed more appropriate pursuant to the provisions of AS 18.07.041. In order for the competing proposal to be considered by the State Agency, a CON application must be submitted by June 28, 1995. If the proposal is submitted but not declared complete by July 28, 1995, the sixth surgery suite at FMHDC may be completed as planned."

## C. Three years later, Susan McClaine called and spoke with D. Pierce on May 5, 1998 to acknowledge that FMH had made a change in the way they allocated surgery suites for the purposes of minutes of use utilization calculation.

D. The AKDHSS on 5/29/98<sup>3</sup> documented recognition of that change in operating room suite designation.

"Due to the need to adapt operating schedules to the needs of physicians, Fairbanks Memorial Hospital chose not to dedicate three surgery suites to ambulatory surgery. At the present time, all six suites are used for both ambulatory surgery and inpatient surgery."

## E. The timing of this notification to Pierce's office by this FMH's employee, coincidentally occurred during the review process of Dr. Odom's second Certificate of Need extension request.

## F. The justification made by the hospital and accepted by AKDHSS was that, "Due to the need to adapt operating schedules to the needs of physicians, FMH chose not to dedicate three surgery suites to ambulatory surgery".

G. FMH apparently no longer felt compelled to maintain a split designation of three of each type of operating suite at the time their 6<sup>th</sup> suite was added.

<sup>1</sup> State of Alaska, Review of Ambulatory Care Services CON, FMH&DC, June 19, 1995.

<sup>2</sup> A letter to James Gingrich, CEO at FMH, from Karen Perdue, AKDHSS, June 20, 1995 that accompanied FMH's 1995 granted Certificate of Need.

<sup>3</sup> AKDHSS review of FSCI CON modification of 5/29/98 p 3, paragraph 4

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- H. Since there is no evidence of state enforcement of constraints placed on FMH's 1995 Certificate and because the number of surgery minutes had grown over a three-year period to obviate the previous tenor of the requirement to split-designate surgery suites, FMH opted in 1998 to change their surgery suite designation *from* 3 inpatient & 3 outpatient *to* 6 non-designated suites.
- I. It benefited FMH directly to redesignate all surgery suites to a non-designated status. This benefit occurred because it added, on paper, an additional 76,200 minutes to FMH's *actual* capacity in minutes.
- J. This "additional" surgery availability allowed the AKDHSS to decline Dr. Odom's request based on the projection of FMH's newly increased capacity.
- K. In this way the % *Excess Capacity* was increased from 3% to 15% in 1998 by a telephone call and the stroke of a pen.

II. During the course of the Fairbanks Ambulatory Surgery Center's (FASC) CON application in 1998-99, the AKDHSS hired a consulting firm Medical Services Research Group (MSRG), to assist with the evaluation of the competing applications between FASC, Tanana Valley Clinic (TVC), and Fairbanks Memorial Hospital (FMH). FMH submitted an application, and by inflating the cost of the construction to above \$1 million, were permitted to participate in the "competition" which also allowed them to contribute data that the state would base its decision on.

III. Copies of the draft report submitted to the AKSHSS by MSRG, indicated that TVC should be chosen to build a center. This section was omitted in the final report given to AKDHSS, most likely at the request of AKDHSS. The draft was obtained through freedom of information act request after the final decision was rendered.

IV. During the course of the review of the competing applications, AKDHSS did not follow its own rules in its instructions to the MSRG about the data to be collected. The following examples occurred during the data acquisition and assessment:

- A. Non-standardized comparisons
  - 1. costs of construction differed significantly for similar work from one applicant to another
  - 2. room rates vs. global fees were compared (the hospital adds itemized expenses to room rates). The use of room rates artificially deflates what is actually charge for services when compared with global fees.
- B. Misuse of standards -- Alaska uses the Washington method for calculating room capacity -- MSRG subtracted 10% from the Washington method
- C. FMH claimed they were open 60 hours per week but didn't have the staffing nor the schedule to support it. Combining the surgery capacity of 60 hrs. per week with the Washington method minus 10 % produced a capacity that exceeded demand just enough that no added supply was required.

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D. Misrepresent data –

1. age groups of >45 were compared against age groups >65
2. use growth rate A vs. growth rate B based on supplied hospital data A vs. hospital data B – See V. below

V. During June through September, 1999 we had indicated on a number of occasions that FMH's data they were supplying to the AKDHSS for the "their application" were faulty.

A. On October 11, 1999, AKDHSS provided to FASC, FMH's "latest" *Surgical Count, Growth and Projections*.

1. These data had been submitted to MSRSG on September 9, 1999, in response to the evidence that we had provided to AKDHSS that recently "corrected" data they supplied were still faulty.
2. AKDHSS didn't receive the updated numbers from FMH. They found out from the contractor, MSRSG, that previously corrected data and projection numbers were faulty and that there were newly submitted numbers.

B. This one-month lapse in data distribution caused *old* projections made by TVC and FASC on their applications to be compared with FMH's "corrected" or *new* projections. Nothing matched for the comparison process.

C. FASC was assured by FMH personnel the "previously" corrected numbers released at the time of the public hearing were absolutely correct.

D. FMH not only submitted corrections and updated numbers only to MSRSG, but they changed the time period of the growth report and projections.

1. This change in the number of past years reported included years into the average from the late 80's when Fairbanks and the north slope lost a large percentage of their population subsequent to the price of oil falling to \$8.
2. This method "justified" their reduced population projections to a point that supported their contention that no new capacity was required and would remain this way for a longer period of time.

E. Population growth in their service area since then has not proven them correct.

VI. The state of Alaska is incapable of objectively assessing competing certificates of need for a multitude of reasons:

- A. Lack of objective accurate data. Data the AKDHSS uses to determine need for a CON application is supplied by the applicant or the applicant's potential competitor. AKDHSS has no mechanism to determine if the data is valid or reliable.
- B. Governor Knowles in 1995 introduced HB 259, "An Act providing for a statewide data reporting system for health care facilities; establishing civil penalties for failure to report required data to that system; establishing the Alaska Health Care Facility Data Reporting System Advisory Council; and providing for an effective date."

Rcp. Meyer

03/19/02

Page 4

- C. This bill died because of a huge hospital association opposition, particularly the non-profit institutions. (Imagine that...)
- D. Were it in place, the state would have the data on hand to complete a CON application assessment internally and possibly obviate the need to spend nearly \$50,000 on outside consultants, as they did in Fairbanks in 1999.

VII. In 2000, we applied to the AKDHSS for a CON to move the existing Alaska Surgery Center to its current location.

- A. ASC was to be a lease occupant in the building and would be adding no additional surgery suites.
- B. We were initially told by AKDHSS that we would not have to submit a CON application but would need to convey these terms in letter of intent in order to receive a determination letter delineating non-CON requirement status.
- C. After submitting the requested letter of intent as outlined for us by AKDHSS, they informed us that we would have to submit a CON application.

VIII. Oncology and AKDHSS – *on the other hand*

A. This facility (that incidentally didn't have to apply for a CON)

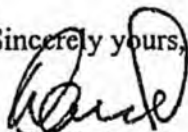
June 3, 1998 – A determination was made that the Greater Fairbanks Community Hospital Foundation is not a health care facility as defined by AS 18.07.111(9) and therefore, a certificate of need *is not required* to build a freestanding facility and purchase equipment.<sup>4</sup> The 3,000-sq. ft. facility, linear accelerator and simulator are projected to cost \$2.5 million and would be completed by November 1999.

B. Is run by this facility

May 6, 1999 - The Fairbanks Memorial Hospital certificate of need for the expansion and relocation of the Mental Health Unit *was approved*. The project will move the Mental Health Unit from the current location on the second floor of the facility to the fourth floor of the central tower and will increase the number of mental health beds from 9 to 20 beds. Conditions of approval are that the applicant may spend \$3,388,000 on the project, which must be completed by August 31, 2000 and the total number of licensed acute care beds will be reduced from 166 beds to 162 beds.<sup>5</sup>

The Alaskan CON program, run by the AKDHSS, consistently makes decisions and operates in a capricious and arbitrary fashion at the expense of many for the benefit of a few. I can't think of any other single program that so successfully and consistently wastes the citizens of Alaska's money and time.

Sincerely yours,



David A. McGuire, MD

DAM/thm

<sup>4</sup> <http://www.hss.state.ak.us/das/facilities/certofneed/AnnualReports/98Activity.htm>

<sup>5</sup> <http://www.hss.state.ak.us/das/facilities/certofneed/AnnualReports/99Activity.htm>

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 407  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Health & Social Services  
 Title: RELATING TO CERTIFICATES OF NEED BRU: Medical Assistance  
 Component: Medicaid Services  
 Sponsor: COGHILL  
 Requestor: HOUSE (CRA) Component Number: 2077

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	732.0	30,223.7	35,361.7	41,373.2	48,406.6	56,235.7
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>732.0</b>	<b>30,223.7</b>	<b>35,361.7</b>	<b>41,373.2</b>	<b>48,406.6</b>	<b>56,235.7</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( 0 )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts	426.5	17,613.5	20,605.2	24,108.2	28,206.5	32,768.5
1003 GF Match	305.5	12,610.2	14,756.5	17,265.0	20,200.1	23,467.2
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--do not abbreviate)						
<b>TOTAL</b>	<b>732.0</b>	<b>30,223.7</b>	<b>35,361.7</b>	<b>41,373.2</b>	<b>48,406.6</b>	<b>56,235.7</b>

Estimate of any current year (FY2002) cost: \_\_\_\_\_

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill would exempt from Certificate of Need (CON) any facility construction, alteration or addition of health services if the activity occurs in any community with a population in excess of 55,000 (Anchorage, Fairbanks or Mat-Su). The bill would eliminate 2/3 of the current CON reviews and allow extensive construction to occur in the most urban areas of the state, where there is already significant capacity of health care services and a number of CONs filed. This fiscal note assumes that all the CONs on file will be built.

The Medicaid Rate Advisory Committee estimates that a hospital capital expenditure of \$10 million amortized over 15 years at a Medicaid utilization rate of 20% will result in \$150.0 annual operating cost for the Medicaid Program.

Prepared by: Nancy Weller Phone 465-3355  
 Division: Medical Assistance Date/Time 02/28/2002  
 Approved by: Elmer A. Lindstrom, Deputy Commissioner Date 03/04/2002  
 Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

BILL NO. HB 407

ANALYSIS CONTINUATION

Nursing Facilities in the state average 80% occupancy, and a 20 bed nursing home will cost Medicaid an additional \$2.5 million annually. There are currently pending 165 nursing home beds, and 44 acute psychiatric beds.

What is not reflected here are all of the other projects unknown to the Department that may be build if there are no controls on new beds or services. Unrestrained construction of these facilities could cost the state \$30 to \$50 million in new funds every year in Medicaid costs.

Potential New Beds if CON is Exempted for Anchorage, Mat-Su, and Fairbanks

Nursing Home Beds:

Location	Facility	No of Beds	Cost Per Bed Day	Annual Cost
Fairbanks	Denali Center	15 NH Beds	\$ 345.49	\$ 1,607,824
Mat-Su	Valley Hospital	60 NH Beds	\$ 389.46	\$ 7,249,798
Anchorage	Mary Conrad	20 NH Beds	\$ 248.52	\$ 1,542,067
Anchorage	Providence	40 NH Beds	\$ 251.28	\$ 3,118,385
Chugiak	Chugiak Sen Ctr	30 NH Beds	\$ 389.46	\$ 3,624,899

Psych Beds:

Anchorage	Providence	26 Beds	\$ 1,584.00	\$ 8,845,848
Mat-Su	North Star	18 Beds	\$ 525.00	\$ 4,234,913
Total		165 NH; 44 Psych		\$ 30,223,733

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Room 102

## REPRESENTATIVE JOHN COGHILL

Date: March 7, 2002

To: Representative Kevin Meyer, Co-Chair, House CRA Committee  
Representative Carl Morgan, Co-Chair, House CRA Committee

From: Representative John Coghill 

Re: HB 407 Certificate of Need

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I am requesting that HB 407, "An Act Relating to the Certificate of Need Program" be heard by the House Community & Regional Affairs Committee at your earliest convenience. I have attached relevant backup information for the committee.

Thank you for your consideration.

**JOINT HOUSE AND SENATE HEALTH COMMITTEES  
HEARINGS ON CERTIFICATE OF NEED LAWS  
(STATE OF GEORGIA)**

**TESTIMONY OF DAVID A. COOK  
DIRECTOR OF GOVERNMENT RELATIONS  
MEDICAL ASSOCIATION OF GEORGIA**

**September 2, 1997**

I thank you Chairman Middleton and Chairman Childers for holding these hearings on this most important issue and for providing me with the opportunity to speak to you and the Committee members from the physicians' perspective. My name is David Cook and I represent the Medical Association of Georgia comprised of some 8,200 Georgia physicians.

The Medical Association of Georgia supports substantial reform of Georgia's Certificate of Need laws. Our position is based on a fundamental premise: that competition in a free and fair market is the best way to achieve quality health services at the lowest possible cost.

Certificate of Need laws were enacted in 1979 to restrain the cost of hospital and other health care services by regulating the number of facilities that may be built and the type of services that may be offered. In general, these government-sanctioned barriers have not been effective in restraining costs or even hospital investments. Because those with certificates are the only players in the market, they are not pressured to deliver high quality care at the lowest price. Basic economic principles indicate that artificial barriers on competition increase costs.

The fact that Certificate of Need laws have not worked is confirmed in the various studies already mentioned. Further evidence of the dissatisfaction with CON regulations is seen in the national trend to repeal such laws. Perhaps the strongest evidence that CON regulations are not working is found in the testimony you just heard: that Georgia's hospitals are operating at 55% excess capacity. It is rare that artificial restraints on competition benefit the consumers, our patients.

Even if you believe that Certificate of Need laws were appropriate two decades ago, the reasons underpinning enactment of the laws are no longer relevant in today's health care market. Let me give you three examples of how dramatically the health care market has changed in the past 20 years.

First, CON laws were enacted at a time when there was very little competition in the health care market. The same cannot be said of today's healthcare marketplace where competition is fierce.

Second, dramatic changes in reimbursement methodologies have turned provider incentives upside down. In 1979, hospitals were paid on a "cost plus" basis. This guaranteed that hospitals would be paid for every service provided and encouraged overutilization of services. The more the better. Today, hospitals are paid by "Diagnostic Related Groups" (DRG's) which is a set sum for the diagnosed condition regardless of the number of tests or procedures performed. The fewer the services the better.

Finally, we are in the midst of redefining "quality" as it relates to health care. Where hospitals

once measured quality by the number of procedures performed or the availability of the latest technology, quality is now being measured by outcomes achieved.

In sum, the health care market is not what it was in 1979.

The Medicaid Association of Georgia supports repeal of certificate of need laws except in a few narrow areas that deserve special consideration. The first is in the area of long term care facilities. Unlike many other areas of health care, Medicaid currently pays 80%+ of all nursing home services making this area very nearly a mini "single payor" system. As a result, nursing homes have not historically faced the same kind of competition that hospitals face. Thus, market forces will not work and a different strategy, including the possibility of retaining CON for nursing homes, should be considered.

We also appreciate the important role that caring for the indigent population has in this debate. I would like to take this opportunity to remind you that physicians, not hospitals, treat and care for patients. It is the physician that is called at 3:00 in the morning to come to the hospital to treat the patient. It is the physician who provides his services, often free of charge.

In a recent survey conducted by the Medical Association of Georgia, our members said that they incurred, on average, \$50,000 in charity care (care for which there was no expectation of compensation) per year and some \$91,000 in bad debt (services for which there is an expectation of compensation but an inability to collect) per year.

Recent reductions in Medicare and Medicaid reimbursement rates have exacerbated the problem. In FY 1996, the Governor proposed, and the General Assembly agreed, to cut Medicaid's physician reimbursement rates by some \$21.5 million per year. Last year (FY 97), physicians suffered an additional \$7 million in cuts. That is an annual reduction of \$29 million in payments to Georgia physicians for the same level of services previously provided. **Physicians' services, which account for the smallest percentage (17%) of provider expenditures, took a whopping 36% of all cuts to Medicaid providers.**

In addition, the Balanced Budget Act of 1997 will squeeze some \$5.8 billion from physician Medicare services over the next five years. The real kicker is that Medicaid reimbursement rates are tied to Medicare rates. (Currently Medicaid pays physicians 87% of the Medicare reimbursement rate known as RBRVS). Since Medicaid reimbursement rates for physician services are directly tied to Medicare rates, the new cuts in Medicare will result in even further reductions in Medicaid reimbursement rates.

Traditionally, physicians have shifted the costs of providing indigent care to the private sector. With the onslaught of managed care, physicians are becoming less able to shift these costs to private payors. Hospitals have an Indigent Care Trust Fund to help defray the costs of indigent patients, but physicians have no similar funding mechanism. The problem of providing physician services to indigents has now reached crisis proportions.

Thus, when looking at the question of indigent care, I would urge you to keep in mind who actually provides the care and treatment of indigent patients. I would also suggest that if the market continues to ratchet down physician reimbursements, some accommodation will be necessary to assure continued care for the indigent population.

On a final note, I want to underscore the points made by Dr. Tedesco and Dr. Skelton related

to Graduate Medical Education. Prior to this year, Graduate Medical Education was funded through Medicare. Recent federal legislation has changed this and new sources of funding are necessary to continue training doctors. The Senate is currently considering ways to continue funding medical education here in Georgia.

But the problem is not only with access to funds. Medical education, by definition, requires access to patients. It has been said that it is easier to obtain a certificate of need if you can demonstrate a contribution to medical education in Georgia. It has also been said that concentration of specific types of services makes it easier to train residents. Yet these CON solutions do not address a real problem: that is, managed care companies are driving patients from teaching institutions because they do not provide the cheapest care. A more realistic approach would be to require all managed care companies to make some commitment to medical education, whether in the form of monetary contributions, a guaranteed supply of patients, or both.

I know I have used the time allotted and so I'll stop here and answer any questions you or the committee may have. Once again, I thank you for the opportunity to appear before you.

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## REPRESENTATIVE JOHN COGHILL

### HB 407 Certificate of Need *Sponsor Statement*

In trying to preserve the free enterprise system, I will do all that I can to protect our open market and the consumer's choice. This bill is an attempt to do this in the world of health care.

Under the current state statutes, if a health care provider in Fairbanks or the Mat-Su Borough wanted to build or supply services over \$1 million dollars worth, they would have to obtain a Certificate of Need. In applying for that certificate of need they would have to prove to the government that a proposal would not adversely affect other health care facilities. This puts the government in charge of who can deliver health care in any area. I would rather see the customer and the health care providers have a greater choice in the market dynamics.

I don't believe that by eliminating the CON requirement for larger Alaskan communities there will be large influx of new medical facilities. This may have been true when the federal government subsidized CON programs, but the federal CON law was repealed in 1996. Since the repeal of the federal law, 14 states have repealed CON's. Another ten states have eliminated CON requirements for acute care facilities and additional nine states do not require CON's for ambulatory surgical centers.

More ambulatory surgical centers in Fairbanks would not, in my opinion, mean less business for existing facilities. It could mean however, more choices in providers and that fewer Fairbanksans may have to travel to Anchorage or the lower forty-eight for a medical procedure.

According to the attached *Heartland* article, in 1996 the Federal Trade Commission estimated that CON regulations increased the cost of hospital care nationwide by more than \$1.3 billion annually.

This legislation will encourage competition in the larger Alaskan communities where the population would support competition while protecting the fragile balance of health care services in the smaller Alaskan communities.

Table 1-2  
COMPARISON OF NUMBER AND SCOPE OF HEALTH CARE FACILITIES & SERVICES COVERED IN STATES WITH CON PROGRAMS

RANK <sup>1</sup>	STATE <sup>2</sup>	Acute Care	Air Ambulance	Amb Surg Ctrs	Burn Care	Business Cmptrs	Cardiac Cath.	CT Scanners	Gamma Knives	Home Health	ICF/MR	Lithotripsy	Long Term Care	Med Off Bldg	Mobile HiTech	MRI Scans	Neo-nl Int Care	Obstetric Svcs	Open Heart Svcs	Organ Transplant	PET Scans	Psychiatric Svcs	Rad Therapy	Rehab	Renal Dialysis	Res Care Fac	Subacute	Substance Abuse	Swing Beds	Ultrasound	Capital Threshold	Other Services <sup>3</sup>								
31.2	ME	X	X	X	X		X	X	X		X	X	X		X	X	X	X	X	X	X	X	X	X			X	X	X	X										
30.8	WV	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X								
27.6	GA	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X			X				X	X								
27.5	CT	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X			X	X	X	X	X									
27.0	AK	X	X	X	X		X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X									
22.5	VT	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X			X	X		X									
21.0	MO	X		X			X		X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X									
20.9	SC	X		X			X		X	X	X	X	X		X	X	X	X	X		X	X	X	X			X	X			X									
19.8	MS	X		X			X		X	X	X	X	X		X	X		X		X	X	X	X	X	X	X	X	X	X	X	X									
18.4	NC	X	X	X	X		X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X								
18.4	IL	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X								
17.1	NJ	X			X		X		X	X	X	X	X		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X								
16.2	KY	X		X			X		X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X								
16.1	DC	X		X			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X							
15.3	MD	X		X	X		X			X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X							
15.2	MI	X	X	X			X	X	X			X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X							
15.2	RI	X		X			X	X	X			X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X							
15.0	HI	X	X	X	X		X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X							
13.6	TN	X		X			X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X							
13.2	NY	X		X	X		X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X							
12.6	WA	X		X	X				X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X							
12.0	AL	X		X			X		X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X							
11.7	NH	X		X			X	X			X	X	X		X	X		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X							
8.4	AR								X	X		X														X	X	X	X	X	X	X	X							
8.4	FL	X			X				X	X		X					X		X	X	X	X				X	X	X	X	X	X	X	X	X						
8.1	IA			X			X			X		X							X	X	X	X	X										X	X						
8.0	VA	X		X			X	X	X		X	X	X		X	X	X	X	X	X	X	X	X	X				X					X	X						
7.0	OK								X	X		X									X							X					X	X						
6.3	MT			X					X	X		X												X				X	X				X	X						
5.1	MA		X	X					X			X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X						
4.9	NV	X		X					X			X												X			X	X						X	X					
4.8	DE	X		X			X					X	X								X		X											X	X					
4.4	WI								X			X															X								X	X				
1.0	OH											X																							X	X				
0.6	OR											X																								X	X			
0.6	NE											X												X													X	X		
0.4	LA										X		X																									X	X	

This chart is adapted from the American Health Planning Association's annual graphic, last updated in AHPA's 2000 Directory of Health Planning Policy & Regulatory Agencies (11<sup>th</sup> ed.), which compares the "National Relative Scope and Reviewability Threshold of CON Regulated Services" among the states. The 2000 version of AHPA's graphic contained some errors with regard to Maryland's services, which have been corrected in Staff's adaptation. Consequently, the "severity" index as calculated according to several factors, including number of services regulated and level of capital review threshold, may not precisely reflect Maryland's "weight" or "severity" according to AHPA's formula, compared to other CON states. However, the chart's relative position of Maryland's CON program--which does not cover a significant number of health care facilities and services regulated by many other states--would still be in the middle range of CON programs, nationwide.

\*\* Any capital expenditure for LTC

<sup>1</sup> No. of services x weight as determined by the Missouri CON Program.  
<sup>2</sup> Including the District of Columbia.  
<sup>3</sup> Services in addition to those most often CON-regulated.



Source: "An Analysis and Evaluation of Certificate of Need Regulation in Maryland", Phase I Final Report to the Maryland General Assembly; January 1, 12001. Barbara G. McLean, Interim Executive Director.



## January/February 1996: Health Care

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### Ending the CON Game

by Michael D Tanner

Last year's defeat of the Clinton health care plan was a major blow for the idea of central planning in health care. But the idea that government bureaucrats should manipulate the medical marketplace persists. Nowhere is that more apparent than in state Certificate-of-Need programs.

Certificate-of-Need (CON) is a program under which health care providers must obtain state regulatory approval before they can make capital expenditures or offer new services. CON was originally imposed on the states by Congress as part of the 1974 National Health Planning and Resources Development Act. That law required every state to adopt CON procedures or lose federal health funding. Eventually, every state except Louisiana complied. Congress realized the failure of CON and repealed the requirement in 1982. Since then, 12 states have repealed CON programs and 17 others have removed CON requirements for hospitals.

Certificate-of-Need is based on the dubious economic theory that increased supply and competition will increase prices. At one time, there might have been some justification for the idea. At the time CON was developed, federal Medicare and Medicaid reimbursement policies, traditionally a driving force behind health care price increases, were based on a "cost-plus" calculation, meaning that providers could recover their full costs--no matter how high. That virtually eliminated price-based competition from the medical marketplace. However, Medicare and Medicaid no longer reimburse on a "cost-plus" basis. Since 1983, the government has reimbursed on a fixed-price basis (the DRG system). In addition, other third-party payers have become increasingly sensitive to health care costs. As a result, price competition among providers has increased dramatically.

Today, there is no evidence that CON reduces medical costs. In fact, there is considerable evidence that CON increases the cost of health care. It does so in three ways:

#### *1) Administrative costs*

The CON program itself imposes substantial costs on both health care providers and the government. Since its inception, federal and state governments have spent more than \$1 billion administering the program. For providers, preparing and defending a CON application can be a time-consuming and expensive process. Needless to say, the extra cost is later passed along to consumers.

## 2) *Lack of competition*

CON requirements erect barriers to market entry, thereby reducing competition among health care providers. In effect, existing providers are granted a monopoly. Providers frequently attempt to use the CON process to obstruct would-be competitors. The impact of entry barriers is made even worse because the new provider seeking to enter the market is often more innovative and cost-effective than are established providers. Some health care economists estimate that CON barriers to market entry increase hospital costs by as much as 5 percent.

## 3) *Shortages*

Where CON requirements have produced a shortage of a particular health care service, prices for those services that are available are certain to rise. At the same time, consumers may be forced to shift to alternative services that are often more expensive. For example, a shortage of nursing home beds may lead to longer stays in acute care hospital facilities.

The Federal Trade Commission estimates that CON regulations increase the cost of hospital care nationwide by more than \$1.3 billion annually.

Certificate-of-Need programs also reduce access to health care for those who need it most. In particular, public hospitals serving the inner-city poor often lack the legal and political resources necessary to compete for technology in a CON environment. There is even evidence that CON restrictions may ultimately lead to higher patient mortality.

It is time to realize that Soviet-style central planning is as big a failure in health care as in all other aspects of the economy. States should repeal their CON requirements.

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