



**TESTIMONY OF JOSEPH ADILETTA, PRESIDENT & CEO, DAY KIMBALL HEALTHCARE  
SUBMITTED TO THE CERTIFICATE OF NEED TASKFORCE  
THURSDAY, DECEMBER 15, 2016**

Day Kimball Healthcare appreciates the opportunity to submit comments and perspective on the draft recommendations made by the Certificate of Need (CON) Taskforce in its December 5, 2016 document. As an independent, nonprofit community hospital and healthcare system serving rural northeast Connecticut, Day Kimball Healthcare is acutely aware of the importance of ensuring access to high quality, safe and efficient healthcare services for all residents in our state.

The intention of the Certificate of Need process is to safeguard that access for the public while preventing unnecessary duplication of services and providing for the delivery of healthcare resources in a financially responsible manner. These are goals that Day Kimball Healthcare strives to fulfill within our own organization in the interest of the communities we serve and we support efforts that will strengthen fulfillment of those goals across the rest of our state as well.

Given our unique perspective as a small, independent community healthcare system, we ask that the Taskforce address the following key principles in evaluating any proposed changes to the CON process:

- The CON program must not discriminate against any specific type of provider and must treat all providers equally.
- The CON program must strive to ensure that all providers treat underserved populations, Medicaid recipients, and indigent persons.
- The CON program is not the regulatory vehicle to be used to analyze and investigate the cost of healthcare. The Lt. Governor's Healthcare Cabinet is the appropriate group to develop recommendations with respect to the cost of healthcare.

We also ask that the Taskforce give strong consideration to the following points regarding the specific proposals contained in its December 5, 2016 draft recommendations:

**Actions Subject to Certificate of Need**

**Acquiring Equipment**

- The CON program should maintain a review of all scanners, new technology, and non-hospital-based linear accelerators.
- The CON program should be modified to create an expedited procedure both in process and timeline for the review of the acquisition of new imaging equipment.
- The CON program should clarify that the current exemption applies to the replacement of equipment previously acquired through the CON process, including any scanner currently in operation that will be replaced by any other type of scanner.
- The CON program should expand the current exemption applied to the replacement of scanners to all equipment previously approved through CON, with notice to the Office of Health Care Access (OHCA).

**Initiating Services/Increasing Capacity**

- The CON program should maintain review of (1) New Hospitals; (2) New Specialty Hospitals; (3) New Freestanding Emergency Departments; (4) New Outpatient Surgical Facilities; (5) New cardiac services; and add (6) required review of two or more operating rooms in a three-year period.

#### Terminating Services

- The CON program should review terminations of (1) Hospital Emergency Departments; (2) Select hospital Inpatient Services; and (3) Hospital Mental Health/Substance Abuse Services.
- With respect to the termination of hospital outpatient services, the CON program should be modified to allow for the termination of certain outpatient services without CON review, such as physical or occupational therapy, sleep labs, diagnostic services, and/or multiple locations.
- The CON program should also review the termination of mental health/substance abuse services being proposed by entities other than hospitals.

#### Reduction of Services

- The CON program should not be modified to require CON review for the reduction of services.

#### Relocation of Services

- The CON program should allow the relocation of services within a reasonable geographic area without a CON review but with notice to OHCA.
- The CON program should allow for the relocation of services to an area with unmet needs through a state health planning process without a CON review but with notice to OHCA.

#### Transfer of Ownership

- The CON program should not have an inherent bias against any type of provider. It must treat all providers equally, and require the review of the transfer of ownership of a healthcare facility or certain large practices by any acquirer (e.g., a hospital, a hospital system, insurer, investor, and any other entity seeking to acquire ownership or control of such healthcare facility or certain large group practice.)

#### Conversions

- The CON program should maintain its current requirements for hospital conversions.

### **CON Application Review Criteria (OHCA CON Guidelines and Principles)**

#### Application Criteria for Acquiring Equipment

- The first application criteria should be modified to assess whether the proposed project will serve Medicaid patients.

#### Application for Reducing or Terminating Services

- The CON program should not be modified to require CON review for the reduction of services.

### **CON Decision-Making Process**

#### Organization: Who Reviews Applications, Renders Decisions, and Provides Public Input – Opportunities for Consumer Participation in the CON Process

- With respect to the Subject Matter Experts Panel, the proposal needs to be more specific to ensure that the panel members are serving as consultants or advisors, and that their comments are advisory only. The proposal needs to be more specific as to how the expert for a specific application will be selected and clarify that the panel comprises a list of approved persons from whom OHCA may choose to seek expert advice, but that OHCA is not required to do so.
- The proposal should be modified to allow the applicant, upon request, to have input into the selection of the expert and to comment on the expert's review.

#### Appeals Process: Mechanism through Which the Public Can Appeal a CON Decision

- The CON program should not be modified to allow intervenors to appeal a CON decision. This would be a significant departure from the existing administrative process and may be legally problematic.
- The CON program should not be modified to allow the public at large to appeal a CON decision. This would be a significant departure from the existing administrative process and may be legally problematic.

Transparency: Methods of Informing the Public about Pending Applications and Consumer Access to Information

- The proposal would require the applicant to state that it has made reasonable efforts to expand public notification. The proposal should be modified to indicate there will be no adverse impact on the applicant if the applicant is not able to carry out the expanded notification due to factors beyond its control (e.g., Town hall won't allow copies to be placed at a site or removes them).

#### **CON Application Process**

- The proposal for creating an expedited process should expand to cover the acquisition of imaging equipment.
- The proposal for creating an expedited process should expand to cover mental health and substance abuse facilities if they commit to serving Medicaid and other underserved populations.
- The proposal should be modified to require that all applications for terminations be handled through an expedited process of no more than 60 days.

#### **CON Post-Approval Compliance Mechanism**

- With respect to proposal 1, "willful" should not be removed from CGS 19a-653 (a) – lowering the threshold would unfairly punish healthcare facilities that are acting in good faith to comply.

#### **CON Evaluation Methods**

- The CON program should be expanded to allow OHCA the ability to consider the quality of services, provided such review is based on generally accepted, nationally recognized clinical best practices and guidelines.

We thank you again for the opportunity to provide insight into this important process and we look forward to working with the Lieutenant Governor and the rest of the Taskforce members. Thank you for your consideration.