



Public Comment on Draft Recommendations of the Certificate of Need Task Force

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December 15, 2016

Universal Health Care Foundation of Connecticut appreciates the opportunity to comment on the Draft Recommendation of the Certificate of Need (CON) Task Force, released on December 5, 2016.

We offer comments to address core issues in our statewide health system by thinking outside the confines of the CON box. We also address hospital and health system transactions under the CON program.

We speak from experience of participating in at least five recent CON processes and public hearings, the experience of communities and stakeholders affected by past CON approvals of hospital transactions, and the process of the Health Care Cabinet Cost Containment Study and Recommendations.

Consider Recommendations Outside of the CON Program

The CON Task Force's charge from the Governor is broad, and the Task Force should consider bold, creative ideas for the challenges our state's health care system faces. We want to specifically point out that the Task Force has been asked to "deliver recommendations on how to improve the existing CON programs and *address any identified challenges or gaps in the state's regulation of health care services and facilities*" (emphasis added, see page 2 of Draft Recommendations).

One of the major limitations of the CON program is that it only influences the state health care landscape at the point of a transaction. While recent changes to the CON program have strengthened the Office of Health Care Access' (OHCA) oversight of hospital transactions, there is no way to apply new statutes that address the present and future challenges of the health care system to past CON approvals of hospital transactions.

The proposed goals of the CON program are to improve access, improve quality and contain cost, by utilizing planning to address health equity, unmet need, and underserved populations (page 2, Drafted Recommendations).

We urge the CON Task Force to consider how "gaps in the state's regulation of health care services and facilities" impact the proposed goals of the CON, as well as how those gaps impact access, quality, and prices (so in turn affordability, which deeply impacts access) at the state level. We offer a perspective of "out of the box" thinking, or rather, outside of the CON program thinking. We believe that the Governor's charge is broad enough to welcome recommendations that ultimately accomplish the same goals, with or without the existence of a CON transaction.

Ideas for consideration:

- State-level standards for:
 - Community Health Needs Assessments and subsequent Implementation Plans that bring community members to the table in meaningful engagement, with hospital and health system accountability to the Plan.
 - How community benefit dollars are spent, including directing a percentage to community building activities that invest in social determinants of health.

- A way to monitor hospital price increases and price variations in the state, across payers, with triggers for limiting both.
 - Note that the recent *Recommended Health Care Cost Containment Strategies: Health Care Cabinet Report in Response to PA 15-146* recommends the creation of an Office of Health Strategy (OHS) that could work with OHCA on this, or take the lead on this work. OHS is also tasked with studying provider rate setting, which could be informed by this information on hospital price increases and price variation.
- Requiring health system boards to have a certain percentage of voting community representation.
- Stronger penalties for violations of statutes and CON conditions, including fines that are significant enough to prompt corrective action by the hospital or health system.
- Leverage the existing Consumer Advisory Board (CAB, under the State Innovation Model – SIM) to also serve as an advisory board to the Department of Public Health and OHCA. The CAB can raise issues with access, quality, and affordability in real-time. DPH and OHCA should also have the power to correct these issues.

Recent experience informs these additional recommendations:

- Ensure that statutes and orders are applied consistently to all entities seeking approval under the CON program. It is important that all hospitals play by the same rules, are held to the same standards, and have to follow the same process in any dealings with the state.
 - Our concerns stem from the recent approval of the CON for Yale New Haven Health Systems Corporation’s acquisition of L+M Corporation, despite a moratorium in place for hospital transactions meeting a certain threshold.
- Place a moratorium of at least five years on non-profit to for-profit hospital conversions, in light of three such conversions taking place in the state this year, to have the opportunity to see the impact these conversions have on access to critical services, quality and affordability (cost and price) of services.
 - We further suggest that after the three-year monitoring period put in place by OHCA’s CON conditions, a public report be produced to assess the performance of these converted hospital. Ideally, this report would have a follow up conducted a year or two after the monitoring period end, which would provide important information on whether to continue or lift such a moratorium.
- Hospitals and health systems should be held accountable to demonstrated robust public consultation and input.
- The public, particularly communities and other stakeholders of the affected hospital, should have the ability to challenge CON Determinations.
 - Our suggestion comes from the fact that, despite community outcry, the change from a Critical Care Unit to a Progressive Care Unit at Windham Memorial Community Hospital was determined to not require a CON.

Ensuring a high-quality, accessible, affordable, and accountable health care system in the state requires planning, coordination and creative solutions.

Universal Health Care Foundation of Connecticut (UHCF) is an independent, nonprofit foundation working to shape our state's health care system to provide quality, accessible, affordable care and promote good health for all state residents. We work with a diverse array of partner organizations, as well as with individual consumers from throughout Connecticut.