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Certificate of Need (RIGL Chapter 23-15)

Summary of the Statutory Review and Decision Process

Letter of Intent form:

<http://www.health.ri.gov/applications/healthsystems/LetterOfIntent.doc>

Certificate of Need Application Form:

<http://www.health.ri.gov/applications/healthsystems/CertificateOfNeed.doc>

Certificate of Need Rules and Regulations:

<http://sos.ri.gov/documents/archives/regdocs/released/pdf/DOH/5342.pdf>

Purpose

The Certificate of Need (CON) program is designed to prevent unnecessary duplication of expensive medical services and equipment. The CON process is a two-step process that consists of a Letter of Intent (LOI) and the CON application. The LOI must be filed at least 45 days prior to filing a CON application.

Proposals Subject to the CON Review

A CON is required for, but may not be limited to, the following activities:

- A. construction, development or establishment of a new healthcare facility (including, freestanding ambulatory surgical centers, home care providers, home nursing care providers, hospitals, nursing facilities, hospice providers, inpatient rehabilitation centers, multi-practice physician ambulatory surgery centers, multi-practice podiatry ambulatory surgery centers, etc.)
- B. a capital expenditure for:
 - 1. health care equipment in excess of \$2,250,000 (tertiary or specialty care services such as full body MRI, CT, etc. require CON review regardless of cost)
 - 2. construction or renovation of a health care facility in excess of \$5,250,000
 - 3. an acquisition by or on behalf of a health care facility or HMO by lease or donation

4. acquisition of an existing health care facility, if the services or the bed capacity of the facility will be changed, in the following ways:
 - a. change in bed capacity which increases the total number of beds.
 - b. change in bed capacity which redistributes beds among discrete services (e.g., obstetrics, pediatrics, medical, surgical) or levels of care (e.g., intensive coronary, special, post acute, skilled nursing, intermediate, rehabilitative) or relocates beds from one physical facility or site to another by ten (10) beds or 10%, whichever is less, in any two year period
 - c. the addition of a health service not provided in or through the facility throughout the previous twelve (12) months
 - d. the termination of a health service provided in or through the facility
- C. any capital expenditure which results in an increase in bed capacity of a hospital and inpatient rehabilitation centers (including drug and/or alcohol abuse treatment centers).
- D. any capital expenditure which results in an increase in bed capacity of a nursing facility in excess of 10 beds or 10% of facility's licensed bed capacity, which ever is greater, and for which the related capital expenditures do not exceed \$2,000,000
- E. the offering of a new health service with annualized costs in excess of \$1,500,000
- F. predevelopment activities not part of a proposal, but which cost in excess of \$5,250,000
- G. establishment of an additional inpatient premise of an existing inpatient health care facility
- H. tertiary or specialty care services: full body MRI, CT, cardiac catheterization, positron emission tomography, linear accelerators, open heart surgery, organ transplantation, and neonatal intensive care services. Also, expansion of an existing tertiary or specialty care service involving capital and/or operating expenses for additional equipment or facilities is reviewable

HEALTH's CON Statutory Criteria for Review and Decision

See section 9.12 of the Rules and Regulations:

<http://sos.ri.gov/documents/archives/regdocs/released/pdf/DOH/5342.pdf>

CON Application and Review Process:

- **Phase One: Completeness Review**
 - HEALTH reviews the CON application and determines whether the application is complete. If the application is complete, HEALTH will accept it for review. Otherwise, a deficiency letter will be sent to applicants in cases where the application is deemed incomplete.
 - If the application is determined to be incomplete, HEALTH requests the application to be resubmitted with all the additional information incorporated into the resubmitted application. If the application as resubmitted is complete, HEALTH will accept it for review.

- **Phase Two: Criteria Review by the Health Services Council**
 - When the application is determined by HEALTH to be complete, the Health Services Council (HSC) reviews the application.
 - The HSC is a statutory advisory council appointed by the Governor, Speaker of the House and President of the Senate
 - HEALTH provides staff support to the HSC
 - Public Process:
 - The public has at the minimum the opportunity to comment on the application during the comment period as well as at any point during the course of the review. All HSC meetings are open to the public.
 - CON application and review is a public, non-confidential process
 - The Statute provides that the entire CON application and record is made public. The public may request to view the application and HEALTH may post the application on its website.
 - Based on a review of the application in consideration of the CON criteria, the HSC makes an advisory recommendation to the Director of HEALTH to:
 - approve the application,
 - reject the application, or
 - approve the application with conditions
 - The process of HSC review and decision may take up to 120 days after initiation of review.
- **Phase Three: Decision**
 - The Director makes a decision on the application considering the CON review criteria and the HSC's advisory recommendation.

The information provided herein is not a formal interpretation or legal analysis of the general statute or rules and regulation issued by HEALTH.