

## **Proposed Recommendations Facility Based Capacity**

In order to accurately analyze the future of access, capacity, and unmet needs for Ohioans impacted by the long term care delivery system, it is necessary to examine facility based capacity and related issues. Recommendations contained in this document seek to improve the balance of long term care services and supports options for consumers, while ensuring access to quality facilities throughout the State of Ohio.

The Certificate of Need ( CON ) Program was implemented to ensure the public access to quality, long-term care services by requiring review and approval of activities involving long-term care beds. (note that while “long term care beds” is a term of art in CON law, they are referred to as nursing facility or NF beds in the recommendations that follow.) Activities that require Certificate of Need review and approval include:

- The development of a new or replacement of an existing long-term care facility through the relocation of existing beds within the same county.
- The renovation of a long-term care facility with a capital expenditure of \$2 million or more.
- The relocation of existing long-term care beds from one site to another within the same county.

The current capacity of long-term care beds in Ohio is, in part, the result of a bed need formula contained in Rule 3701-12-23 of the Administrative Code. The bed need formula was initially developed in the 1980's and was applied biennially through June 30, 1993 to identify the bed need or excess for each county. During that time, a CON could be granted for the addition of new long-term care beds within a county where a bed need was identified. Since July 1, 1993, the Director of Health has been statutorily prohibited from projecting the need for long-term care beds and from accepting for review any CON application for an increase in long-term care beds that is not attributable to the relocation of existing beds within a county. The current moratorium on new long-term care beds is due to expire on June 30, 2009 (although historically it is renewed in each biennial budget).

### **Boundaries**

The recommendations that follow are limited to an analysis of issues affecting nursing facilities. The “Futures” initiative currently underway in the Ohio Department of Mental Retardation and Developmental disabilities will address issues related to ICF-MR capacity while issues related to assisted living facilities were addressed in another subcommittee.

## Recommendations

*Recommendation 1: The current number of nursing facility beds in Ohio should serve as an overall cap for nursing facility beds.*

*Recommendation 2: The Certificate of Need Program should be maintained, recognizing that it is a valuable process.*

*Recommendation 3: Therefore, the Director of the Ohio Department of Health should convene a stakeholder group to review and make recommendations in these areas identified below. The stakeholder group shall include representatives of nursing facilities, a long-term care ombudsman, the Ohio Department of Health, the Ohio Department of Job and Family Services, the Ohio Department of Aging, and other advocacy groups.*

- The Capacity group identified a need to address specific areas in detail. However, time constraints placed on the group prohibited a thorough evaluation of these areas.

*Recommendation 3A: The stakeholder group shall consider interim modifications to the existing certificate of need process for nursing facility beds for inclusion in the SFY2010-2011 biennial budget.*

- The stakeholder group shall review existing certificate of need criteria to identify those criteria where additional guidance can be provided in determining a project's need, quality, feasibility and impact. Recommendations should include specific changes to the statutory and rule language to enhance the review of certificate of need applications where necessary.
- The stakeholder group shall consider the need for and impact of the movement of beds among counties. In the event that the stakeholder group determines that the ability to move nursing facility beds among counties will have a positive impact on Ohio's delivery system for long-term care services and supports, they shall provide recommendations for criteria governing the review of these projects. These criteria should ensure access to long-term care services for all populations, including the inner city population, indigent, and rural communities.
- The stakeholder group shall consider criteria governing the review of projects moving beds within a county. These criteria should ensure access to long-term care services for all populations, including the inner city population, indigent, and rural communities,

*Recommendation 3B: The stakeholder group shall make recommendations to the Director of Health regarding long-term modifications to the certificate of*

*need program as Ohio moves towards a balanced delivery system for long term services and supports.*

- The stakeholder group shall consider whether the state should have and be able to utilize a long-term care bed need formula. If the stakeholder group determines that a bed need formula should be utilized, they shall recommend any necessary changes to the existing bed need formula or the factors to be included in a new bed need formula. If the stakeholder group recommends implementing a revised or new bed need formula, they shall recommend strategies to address areas of bed need and bed excess identified by the formula within the current cap.

Recommendation 3C: The stakeholder group shall explore the feasibility and appropriateness of implementing nursing facility bed buyback and/or conversion programs. If the group recommends implementing bed buyback and/or conversion programs, they shall recommend criteria to comparatively evaluate proposals. Key criteria include the following elements.

- A defined application deadline and a process for comparative review of proposals should be specified.
- Bed conversion projects should be given a preference over bed buy-back projects.
- Consider access to nursing facility beds for all populations; and
- For conversion programs, the criteria must include consideration of necessary physical plant modifications, services to be offered, duplication of services, existing capacity of alternatives, and competition.

*Recommendation 4: Develop and implement an education strategy to ensure nursing facility staff is knowledgeable about long-term care services and supports available in their communities. This will allow the nursing facility staff to be active participants in supporting their residents who choose to return to community settings. (Note that this recommendation will ultimately be incorporated into the structure education recommendations; however, I left it here for now so that the concept would be put before the full committee so that the education theme is seen as recurring throughout multiple groups.)*