

Futures Brief

The Futures Plan and the BISHCA Certificate of Need Process

Major Health Care Projects Require Regulatory Review by Vermont’s Department of Banking, Insurance, Securities and Health Care Administration (BISHCA)

Under Vermont statute, a Certificate of Need (CON) is required for construction, purchase or renovation by or on behalf of a hospital when the capital cost exceeds \$3,000,000.¹ Projected cost estimates of new inpatient facilities to replace the functions of the Vermont State Hospital place the project under the CON requirement.

Two Levels of Review are Required for Projects that Exceed Costs of \$20,000,000.²

CON (Phase I)

When project costs are anticipated to exceed \$20,000,000, applicants must secure a conceptual (Phase I) Certificate of Need *before* making expenditures for planning, architectural or engineering services for the project. The purpose of the Conceptual Certificate of Need is to provide opportunity for BISHCA review and public discussion of large scale projects before extensive planning occurs.

CON (Phase II)

The Phase Two Certificate of Need is intended to permit full BISHCA review and approval of completed project plans prior to their implementation.

The Futures Conceptual CON Application Focuses on Replacing the Inpatient Functions of Vermont State Hospital

The VDH Application proposes new inpatient capacity of 50 beds providing two new levels of inpatient care, “intensive care” and “specialized care.” This new capacity would offer more intensive programming than currently exists at Vermont State Hospital or in Designated Hospital³ psychiatric inpatient programs. Preliminary VDH planning assessments suggest the new inpatient programs should be created in three locations: Fletcher Allen Health Care in

¹ 18, V.S.A. §9431

² 18, V.S.A. §9431

³ A Designated Hospital is a general hospital with psychiatric inpatient services that is designated by the Commissioner of Health to provide treatment to individuals involuntarily committed to the Commissioner’s care and custody. Currently there are 5 Designated Hospitals in VT: Fletcher Allen Health Care, Central Vermont Hospital, Rutland Regional Medical Center, Springfield Hospital at Windham Center and Retreat Health Care.

Burlington and two other community hospitals. In addition the Futures Plan calls for an enhanced array of community based services.⁴

The CON Process Requires Multiple Stages of Notification, Information Collection, and Review

The CON process is designed to maximize public input into project oversight and planning, and to foster an integrated approach to health policy. The procedures are identical for Phase I and Phase II review. Key steps include: developing an application, identifying interested parties and a question and answer period. The Public Oversight Commission holds a public hearing and issues recommendations to the BISHCA Commissioner. The Commissioner reviews the record and makes the decision to either approve or deny the application.

Approval of a Conceptual CON application permits expenditures for detailed project planning. Upon completion of detailed plans, an application for a Certificate of Need (Phase II) to implement the project is submitted and the review process is repeated. Generally the BISHCA review process takes 9 to 24 months to complete.

There are 7 Major Criteria that Apply to the Certificates of Need Application

Vermont law requires applicants for a CON to prove, by a preponderance of the evidence, that their proposed projects meet the following criteria.⁵

Phase I CON Criteria include:

- The application is consistent with the Health Resource Allocation Plan.
- There is an identifiable, existing, or reasonably anticipated need for the proposed project which is appropriate for the applicant to provide.
- The project will improve the quality of health care in the state or provide greater access to health care for Vermont's residents, or both.
- The project will serve the public good.

Phase II CON Criteria include those above and:

- The cost of the project is reasonable, because:
 1. the applicant's financial condition will sustain any financial burden likely to result from completion of the project;
 2. the project will not result in an undue increase in the costs of medical care; and
 3. less expensive alternatives do not exist, would be unsatisfactory, or are not feasible or appropriate.
- The project will not have an undue adverse impact on any other existing services provided by the applicant.

⁴ See Futures Brief on Project Community Based Services.

⁵ 18 V.S.A. §9437 sets forth the Certificate of Need criteria.

- If the application is for the purchase or lease of new health care information technology, it conforms with the state's health information technology plan (upon the approval of the plan by the General Assembly).⁶

Status of the Futures Conceptual CON Application

The Conceptual Certificate of Need Application was filed with BISHCA on August 17, 2006. On November 13, 2006 BISHCA ruled the application complete. The Public Oversight Commission recommended on January 10, 2007 that a Conceptual CON be granted with a broad array of conditions that include: (1) evaluation of options for placing the primary inpatient program outside of Fletcher Allen Health Care and the Burlington campus, (2) more research and analysis of how other states approach replacing state hospitals, and (3) that there be a report of the implications for governance when implementing non-state operated models.

The Commissioner's ruling is expected by mid March 2007.

Next Steps

The next planning steps following approval of the Conceptual CON are to:

1. develop cost models for inpatient proposal options:
 - **integrated model** – new inpatient program that is integrated with a larger host hospital
 - **stand alone facility** – new inpatient program that is a stand-alone hospital
 - **multiple distributed (3 -16 bed) hospitals**
2. research experience of other states in replacing state hospitals;
3. conduct planning activities necessary to develop the CON Application
4. work with the Department of Corrections to estimate the inpatient mental health treatment requirements of the inmates of the state correctional system

⁶ 18 V.S.A. §9437