Missouri Health Facilities Review Committee

The Missouri CON Rulebook

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If there is a discrepancy between this document and the CON Statute, this document is subordinated and the Statute takes precedence.

Preface

What is the CON Rulebook intended to do?

- *The Missouri CON Rulebook* is a reference guide which includes the Certificate of Need (CON) Statute, CON Rules, calendars, and listings of the members of the Missouri Health Facilities Review Committee (Committee) and Certificate of Need Program (CONP) staff.

- The Rulebook is a "recipe book" for the construction of a Letter of Intent (LOI) and a CON application package. It includes the informational requirements, the outline format, the Community Need Criteria and Standards, and the CON forms.

Have statutory changes modified the review process?

- The 2003 legislative session ended with no CON legislation being passed.

- The Committee previously adopted a policy statement called "Missouri CON Review after 2002" (see page 4)

When should questions be asked?

- Before an LOI is submitted.
- During a pre-application conference.
- During the review cycle.

What are the Certificate of Need Foundations?

- **MISSION:** To achieve the highest level of health for Missourians through cost containment, reasonable access, and public accountability

- **GOALS:**
  - Review proposed health care services;
  - Address community need;
  - Manage health costs;
  - Promote economic value;
  - Negotiate competing interests;
  - Prevent unnecessary duplications; and
  - Disseminate health-related information to interested and affected parties.

We encourage you to contact the CONP staff early in your planning process so we can answer any questions you may have about the review process or provide technical assistance. We trust that this revised Rulebook will be easier to read and understand, and will help you as you develop your LOI and CON application packages.

Thomas R. Piper, Director
Certificate of Need Program

Missouri CON Review after 2002

Missouri CON Review after 2002

Under the existing Certificate of Need (CON) law, the long term care (LTC) "moratorium" restrains the growth of skilled nursing facility (SNF), intermediate care facility (ICF) and residential care facility (RCF) I or II beds in LTC facilities under 90% occupancy until December 31, 2002. The affected statutes are as follows (emphasis added):

*"197.305(6) "**Expenditure minimum**" shall mean:*
*(a) **For beds in existing or proposed health care facilities licensed pursuant to chapter 198, RSMo**, and long-term care beds in a hospital as described in subdivision (3) of subsection 1 of section 198.012, RSMo, **six hundred thousand dollars** in the case of capital expenditures, or four hundred thousand dollars in the case of major medical equipment, provided, **however, that prior to January 1, 2003**, the expenditure minimum for beds in such a facility and long-term care beds in a hospital described in section 198.012, RSMo, **shall be zero**, subject to the provisions of subsection 7 of section 197.318;*
*(b) **For beds or equipment in a long-term care hospital** meeting the requirements described in 42 C.F.R., section 412.23(e), the expenditure minimum **shall be zero**; and*
*(c) **For health care facilities, new institutional health services or beds not described in paragraph (a) or (b)** of this subdivision **one million dollars** in the case of capital expenditures, excluding major medical equipment, and one million dollars in the case of medical equipment;*

*197.305(10) "**New institutional health service**":*
*(a) The development of a new health care facility costing in excess of the applicable **expenditure minimum**;*
*(c) Any capital expenditure by or on behalf of a health care facility in excess of the **expenditure minimum**;*
*(e) **Any change in licensed bed capacity** of a health care facility which increases the total number of beds by more than ten or more than ten percent of total bed capacity, whichever is less, over a two-year period;*

*197.317.1. After **July 1, 1983, no certificate of need shall be issued** for the following:*
(1) Additional residential care facility I, residential care facility II, intermediate care facility or skilled nursing facility beds above the number then licensed by this state;
*(3) The reallocation of intermediate care facility or skilled nursing facility beds of existing licensed beds by transfer or sale of licensed beds between a hospital licensed pursuant to this chapter or a nursing care facility licensed pursuant to chapter 198, RSMo . . . However, **after January 1, 2003**, nothing in this section shall prohibit the Missouri health facilities review committee from issuing a certificate of need for additional beds in existing health care facilities or for new beds in new health care facilities or for the reallocation of licensed beds, provided that **no construction shall begin prior to January 1, 2004** . . .*

197.318.
*1. The provisions of **section 197.317 shall not apply** to a residential care facility I, residential care facility II, intermediate care facility or skilled nursing facility . . .*
*3. **There shall be no expenditure minimum** for facilities, beds, or services referred to in subdivisions (1), (2) and (3) of section 197.317. The provisions of this subsection **shall expire January 1, 2003**."*

Effective January 1, 2003, health services which **no longer require review** would include:

- any hospital, nursing home or RCF wishing to add up to 10 RCF, ICF or SNF beds, or 10% of that facility's existing capacity (whichever is less), at a cost of less than $600,000;
- any new nursing home or RCF to be established at a cost of less than $600,000; and
- any nursing home or RCF renovation, replacement or expansion which does not increase its number of beds and costs less than $1,000,000.

CON will continue to review the following "health care facilities" and "medical equipment":

- any new nursing home and RCF costing over $600,000;
- additional long term care beds (certified as RCF, ICF or SNF) in an RCF, nursing home, or acute care hospital costing $600,000 or more up to 10 beds or 10% of that facility's existing capacity;
- specialized long term acute care beds or hospitals at any cost;
- new hospitals (any licensed hospital that wasn't previously licensed at a specific location) costing $1,000,000 or more; and
- major medical equipment costing $1,000,000 or more acquired for use in any location.

Occupancy will no longer be used to determine need (only population ratios and financial feasibility). Through the "non-applicability review process," prospective applicants will continue to be assisted in determining whether CON review is required for their proposals. As always, if an application is needed, staff assistance will to be provided in the preparation and submission of necessary CON materials.

*This clarification is proposed for issuance by the **Missouri Health Facilities Review Committee** at their July 29, 2002, meeting.*

CON Rules

19 CSR 60-50.200 Purpose and Structure

(1) The Certificate of Need (CON) statute, sections 197.300–197.366, RSMo became effective September 28, 1979, except those sections which were not effective until October 1, 1980 or later. CON had its origin in the federal Public Law 93-641, 1974, and was initially intended to address issues of need, cost, and distribution of health services, as well as other factors which impact the health of the population.

(2) The purpose of the CON statute is to achieve the highest level of health for Missourians through cost containment, reasonable access, and public accountability. The goals are to:

(A) Review proposed health care services;
(B) Contain health costs;
(C) Promote economic value;
(D) Negotiate competing interests;
(E) Prevent unnecessary duplication; and
(F) Disseminate health-related information to interested and affected parties.

(3) The CON statute is administered by the nine (9)-member Missouri Health Facilities Review Committee (committee). Five (5) members are appointed by the governor, two (2) by the president pro tem of the senate, and two (2) by the speaker of the house, each serving two (2)-year terms or until replaced.

(4) On behalf of the committee, the CON Program provides technical and administrative services as shown in Rule 19 CSR 60-50.900.

19 CSR 60-50.300 Definitions for the Certificate of Need Process

(1) **Applicant** means all owner(s) and operator(s) of any new institutional health service.

(2) **By or on behalf of a health care facility** includes any expenditures made by the facility itself as well as capital expenditures made by other persons that assist the facility in offering services to its patients/residents.

(3) **Cost** means—

(A) Price paid or to be paid by the applicant for a new institutional health service to acquire, purchase or develop a health care facility or major medical equipment; or

(B) Fair market value of the health care facility or major medical equipment as determined by the current selling price at the date of the application as quoted by builders or architects for similar facilities or normal suppliers of the requested equipment.

(4) **Construction of a new hospital** means the establishment of a newly-licensed facility at a specific location under the Hospital Licensing Law, section 197.020.2, RSMo, as the result of building, renovation, modernization, and/or conversion of any structure not licensed as a hospital.

(5) **Expedited application** means a shorter than full application and review period as defined in 19 CSR 60-50.420 and 19 CSR 60-50.430 for any long-term care expansion or replacement as defined in section 197.318.8-10, long-term care renovation and modernization, or the replacement of any major medical equipment as defined in section (11) of this rule which holds a Certificate of Need (CON) previously granted by the Missouri Health Facilities Review Committee (committee). Applications for replacement of major medical equipment not previously approved by the committee should apply for a full review.

(6) **Full review** means the complete analytical period for applications as described in 19 CSR 60-50.420 and 19 CSR 60-50.430 for the development of health care facilities and acquisition of major medical equipment.

(7) **Generally accepted accounting principles** pertaining to capital expenditures include, but are not limited to—

(A) Expenditures related to acquisition or construction of capital assets;

(B) Capital assets are investments in property, plant and equipment used for the production of other goods and services approved by the committee; and

(C) Land is not considered a capital asset until actually converted for that purpose with commencement of aboveground construction approved by the committee.

(8) **Health care facility** means those described in section 197.366, RSMo.

(9) **Health care facility expenditure** includes the capital value of new construction or renovation costs, architectural/engineering fees, equipment not in the construction contract, land acquisition costs, consultants'/legal fees, interest during construction, predevelopment costs as defined in section 197.305(13), RSMo, in excess of one hundred fifty thousand dollars ($150,000), any existing land and building converted to medical use for the first time, and any other capitalizable costs as listed on the "Proposed Project Budget" form MO 580-1863.

(10) **Health maintenance organizations** means entities as defined in section 354.400(10), RSMo, except for activities directly related to the provision of insurance only.

(11) **Interested party** means any licensed health care provider or other affected person who has expressed an interest in the Certificate of Need (CON) process or a CON application.

(12) **Major medical equipment** means any piece of equipment and collection of functionally related devices acquired to operate the equipment and additional related costs such as software, shielding, and installation, with an aggregate cost of one (1) million dollars or more, when the equipment is intended to provide the following services:

(A) Cardiac Catheterization;
(B) CT (Computed Tomography);
(C) Gamma Knife;
(D) Hemodialysis;
(E) Lithotripsy;
(F) MRI (Magnetic Resonance Imaging);
(G) PET (Positron Emission Tomography);
(H) Linear Accelerator;
(I) Open Heart Surgery;
(J) EBCT (Electron Beam Computed Tomography);
(K) PET/CT (Positron Emission Tomography/Computed Tomography); or
(L) Evolving Technology.

(13) **Nonsubstantive project** includes, but is not limited to, at least one (1) of the following situations:

(A) An expenditure which is required solely to meet federal or state requirements or involves predevelopment costs or the development of a health maintenance organization;

(B) The construction or modification of nonpatient care services, including parking facilities, sprinkler systems, heating or air-conditioning equipment, fire doors, food service equipment, building maintenance, administrative equipment, telephone systems, energy conservation measures, land acquisition, medical office buildings, and other projects or functions of a similar nature; or

(C) Expenditures for construction, equipment, or both, due to an act of God or a normal consequence of maintenance, but not replacement, of health care facilities, beds, or equipment.

(14) **Offer**, when used in connection with health services, means that the applicant asserts having the capability and the means to provide and operate the specified health services.

(15) **Predevelopment costs** mean expenditures as defined in section 197.305(13), RSMo, including consulting, legal, architectural, engineering, financial and other activities directly related to the proposed project, but excluding the application fee for submission of the application for the proposed project.

(16) **Related organization** means an organization that is associated or affiliated with, has control over or is controlled by, or has any direct financial interest in, the organization applying for a project including, without limitation, an underwriter, guarantor, parent organization, joint venturer, partner or general partner.

(17) **Service area** means a geographic region appropriate to the proposed service, documented by the applicant and approved by the committee. For long-term care projects, the fifteen (15)-mile radius calculation must be used.

(18) The most current version of Form MO 580-1863 may be obtained by mailing a written request to the Certificate of Need Program (CONP), 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the form from the CONP web site at **www.dhss.state.mo.us/con**.

19 CSR 60-50.400 Letter of Intent Process

(1) Applicants shall submit a Letter of Intent (LOI) package to begin the Certificate of Need (CON) review process at least thirty (30) days prior to the submission of the CON application and will remain valid in accordance with the following time frames:

(A) For full reviews, expedited equipment replacements, expedited long-term care (LTC) renovation or modernization reviews and expedited LTC facility replacement reviews, an LOI is valid for six (6) months;

(B) For expedited LTC bed expansion reviews in accordance with section 197.318.8, a LOI is valid for twenty-four (24) months; and

(C) For non-applicability reviews, an LOI is valid for six (6) months.

(2) Once filed, an LOI may be amended, except for project address, not later than ten (10) days in advance of the CON application filing, or it may be withdrawn at any time without prejudice.

(3) A LTC bed expansion or replacement as defined in these rules includes all of the provisions pursuant to section 197.318.8 through 197.318.10, RSMo, requiring a CON application, but allowing shortened information requirements and review time frames. When an LOI for an LTC bed expansion, except replacement(s), is filed, the CONP staff shall immediately request certification for that facility of average licensed bed occupancy and final Class 1 patient care deficiencies for the most recent six (6) consecutive calendar quarters by the Division of Health Standards and Licensure (DHSL), Department of Health and Senior Services, through an LTC Facility Expansion Certification (Form MO 580-2351) to verify compliance with occupancy and deficiency requirements pursuant to section 197.318.8, RSMo. Occupancy data shall be taken from the DHSL's most recently published Quarterly Survey of Hospital and Nursing Home (or Residential Care Facility) Bed Utilization reports. For LTC bed expansions or replacements, the sellers and purchasers shall be defined as the owner(s) and operator(s) of the respective facilities, which includes building, land, and license. On the Purchase Agreement (Form MO 580-2352), both the owner(s) and operator(s) of the purchasing and selling facilities should sign.

(4) The Certificate of Need Program (CONP) staff, as an agent of the Missouri Health Facilities Review Committee (committee), will review LOIs according to the following provisions:

(A) Major medical equipment is reviewed as an expenditure on the basis of cost, regardless of owners or operators, or location (mobile or stationary);

(B) The CONP staff shall test the LOI for applicability in accordance with statutory provisions for expenditure minimums, exemptions, and exceptions;

(C) If the test verifies that a statutory exception or exemption is met on a proposed project, or is below all applicable expenditure minimums, the committee Chair may issue a Non-Applicability CON letter indicating the application review process is complete; otherwise, the CONP staff shall add the proposal to a list of Non-Applicability proposals to be considered at the next regularly scheduled committee meeting;

(D) If an exception or exemption is not met, and if the proposal is above any applicable expenditure minimum, then a CON application will be required for the proposed project;

(E) A Non-Applicability CON letter will be valid subject to the following conditions:

1. Any change in the project scope, including change in type of service, cost, operator, ownership, or site, could void the effectiveness of the letter and require a new review; and
2. Final audited project costs must be provided on a Periodic Progress Report (Form MO 580-1871);

(F) A CON application must be made if:

1. The project involves the development of a new health care facility costing in excess of one (1) million dollars;
2. The project involves the acquisition or replacement of major medical equipment in any setting not licensed under Chapter 198, RSMo, costing in excess of one (1) million dollars;
3. The project involves the acquisition or replacement of major medical equipment for a health care facility licensed under Chapter 198, RSMo, costing in excess of four hundred thousand dollars ($400,000);
4. The project involves the acquisition of any equipment or beds in a long-term care hospital meeting the requirements found in 42 CFR section 412.23(e) at any cost;
5. The project involves a capital expenditure, but not additional beds, by or on behalf of an existing health care facility licensed under Chapter 198, RSMo, costing in excess of one (1) million dollars; or
6. Prior to January 1, 2003, the project involves additional long-term care (licensed or certified residential care facility I or II, intermediate care facility, or skilled nursing facility) beds or LTC bed expansions or replacements as defined in section (3) above of this Rule, regardless of cost, with certain exemptions and exceptions.

(5) For an LTC bed expansion proposal pursuant to section 197.318.8(1)(e), RSMo, the CONP Staff shall request occupancy verification by the DHSL who shall also provide a copy to the applicant.

(6) Nonsubstantive projects are waived from review by the authority of section 197.330.1(8), RSMo, and any projects seeking such a determination shall submit information through the LOI process; those meeting the nonsubstantive definition shall be posted for review on the CON web site at least twenty (20) days in advance of the committee meeting when they are scheduled to be confirmed by the committee.

(7) The most current version of Forms MO 580-2351, MO 580-2352, and MO 580-1871 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the forms from the CONP web site at **www.dhss.state.mo.us/con**.

19 CSR 60-50.410 Letter of Intent Package

(1) The Letter of Intent (LOI) (Form MO 580-1860) shall be completed as follows:

(A) **Project Information**: sufficient information to identify the intended service, such as construction, renovation, new or replacement equipment, and address or plat map identifying a specific site rather than a general area (county designation alone is not sufficient);

(B) **Applicant Identification**: the full legal name of all owner(s) and operator(s) which compose the applicant(s) who, singly or jointly, propose to develop, offer, lease or operate a new institutional health service within Missouri; provide the corporate entity, not individual names, of the corporate board of directors or the facility administrator;

(C) **Type of Review**: the applicant shall indicate if the review is for a full review, expedited review or a non-applicability review;

(D) **Project Description**: information which provides details of the number of beds to be added, deleted, or replaced, square footage of new construction and/or renovation, services affected and equipment to be acquired. If a replacement project, information which provides details of the facilities or equipment to be replaced, including name, location, distance from the current site, and its final disposition;

(E) **Estimated Project Cost**: total proposed expenditures necessary to achieve the application's objectives – not required for long-term care (LTC) bed expansions pursuant to section 197.318.8(1), RSMo;

(F) **Authorized Contact Person Identification**: the full name, title, address (including association), telephone number, e-mail, and fax number; and

(G) **Applicability**: Item 7 of the LOI must be filled out by applicants requesting a non-applicability review to provide the reason and rationale for the exemption or exception being sought.

(2) If a non-applicability review is sought, applicants shall submit the following additional information:

(A) Proposed Expenditures (Form MO 580-2375) including information which details all methods and assumptions used to estimate project costs;

(B) Schematic drawings and evidence of site control, with appropriate documentation; and

(C) In addition to the above information, for exceptions or exemptions, documentation of other provisions in compliance with the Certificate of Need (CON) statute, as described in sections (3) through (6) below of this Rule.

(3) If an exemption is sought for a RCF I or II pursuant to section 197.312, RSMo, applicants shall submit documentation that this facility had previously been owned or operated for or, on behalf of St. Louis City.

(4) If an exemption is sought pursuant to section 197.314(1), RSMo, for a sixty (60)-bed stand-alone facility designed and operated exclusively for the care of residents with Alzheimer's disease or dementia and located in a tax increment financing district established prior to 1990 within any county of the first classification with a charter form of government containing a city with a population of over three hundred fifty thousand (350,000) and which district also has within its boundaries a skilled nursing facility (SNF), applicants shall submit documentation that the health care facility would meet all of these provisions.

(5) The LOI must have an original signature for the contact person until the Certificate of Need Program (CONP), when technically ready, shall allow for submission of electronic signatures.

(6) The most current version of Forms MO 580-1860 and MO 580-2375 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the forms from the CONP web site at **www.dhss.state.mo.us/con**.

19 CSR 60-50.420 Review Process

(1) The Certificate of Need (CON) filing deadlines are as follows:

(A) For full applications, at least seventy-one (71) days prior to each Missouri Health Facilities Review Committee (committee) meeting;

(B) For expedited equipment replacement applications, expedited long-term care (LTC) facility renovation or modernization applications, and expedited LTC bed expansions and replacements pursuant to section 197.318.8 through 197.318.10, RSMo, the tenth day of each month, or the next business day thereafter if that day is a holiday or weekend;

(C) For non-applicability reviews, the Letter of Intent (LOI) filing may occur at any time.

(2) A CON application filing that does not substantially conform with the LOI, including any change in owner(s), operator(s), scope of services, or location, shall not be considered a CON application and shall be subject to the following provisions:

(A) The Certificate of Need Program (CONP) staff shall return any nonconforming submission; or

(B) The committee may issue an automatic denial unless the applicant withdraws the attempted application.

(3) All filings must occur at the principal office of the committee during regular business hours. The CONP staff, as an agent of the committee, shall provide notification of applications received through publication of the Application Review Schedule (schedule), as follows:

(A) For full applications the schedule shall include the filing date of the application, a brief description of the proposed service, the time and place for filing comments and requests for a public hearing, and the tentative date of the meeting at which the application is scheduled for review. Publication of the schedule shall occur on the next business day after the filing deadline. The publication of the schedule is conducted through the following actions:

1. The schedule shall be submitted to the secretary of state's office for publication in the next regularly scheduled *Missouri Register*;
2. A press release about the CON application schedule shall be sent to all newspapers of general circulation in Missouri as supplied by the Department of Health and Senior Services (DHSS), Office of Public Information;
3. The schedule shall be posted on the CON web site; and
4. The schedule shall be mailed to all affected persons who have registered with the CONP staff as having an interest in such CON applications.

(B) For expedited applications the schedule shall include the filing date of the application, a brief description of the proposed service, including the name and location of all participating facilities, the time and place for filing comments and requests for a public hearing, and the tentative decision date for the application. Publication of the schedule shall occur on the next business day after the filing deadline. The publication of the schedule is conducted through the following actions:

1. The schedule shall be submitted to the secretary of state's office for publication in the next regularly scheduled *Missouri Register*; and
2. The schedule shall be posted on the CON web site.

(C) For non-applicability reviews, the listing of non-applicability letters to be confirmed shall be posted on the CON web site at least twenty (20) days prior to each scheduled meeting of the committee where confirmation is to take place.

(4) When an application for a full review is filed pursuant to section 197.318.1, RSMo, the CONP staff shall immediately request certification of licensed and available bed occupancy and deficiencies for each of the most recent four (4) consecutive calendar quarters in the county and fifteen (15)-mile radius by the DHSS.

(5) The CONP staff shall review CON applications relative to the Criteria and Standards in the order filed.

(6) The CONP staff shall notify the applicant in writing regarding the completeness of a full CON application within fifteen (15) calendar days of filing or within five (5) working days for an expedited application.

(7) Verbal information or testimony shall not be considered part of the application.

(8) Subject to statutory time constraints, the CONP staff shall send its written analysis to the committee as follows:

(A) For full CON applications, the CONP staff shall send the analysis twenty (20) days in advance of the first committee meeting following the seventieth day after the CON application is filed. The written analysis of the CONP staff shall be sent to the applicant no less than fifteen (15) days before the meeting.

(B) For expedited applications which meet all statutory and rules requirements and which have no opposition, the CONP staff shall send its written analysis to the committee and the applicant within two (2) working days following the expiration of the thirty (30)-day public notice waiting period or the date upon which any required additional information is received, whichever is later.

(C) For expedited applications which do not meet all statutory and rules requirements or those which have opposition, they will be considered at the earliest scheduled committee meeting where the written analysis by the CONP staff can be sent to the committee and the applicant at least seven (7) days in advance.

(9) See rule 19 CSR 60-50.600 for a description of the CON decision process.

(10) An applicant may withdraw an application without prejudice by written notice at any time prior to the committee's decision. Later submission of the same application or an amended application shall be handled as a new application with a new fee.

(11) In addition to using the Community Need Criteria and Standards as guidelines, the Committee may also consider other factors to include, but not be limited to, the number of patients requiring treatment, the changing complexity of treatment, unique obstacles to access, competitive financial considerations, or the specialized nature of the service.

19 CSR 60-50.430 Application Package

(1) A Certificate of Need (CON) application package shall be accompanied by an application fee which shall be a nonrefundable minimum amount of one thousand dollars ($1000) or one-tenth of one percent (0.1%), which may be rounded up to the nearest dollar, of the total project cost, whichever is greater, made payable to the "Missouri Health Facilities Review Committee."

(2) A written application package consisting of an original and eleven (11) bound copies (comb or three (3)-ring binder) shall be prepared and organized as follows:

(A) The **CON Applicant's Completeness Checklists and Table of Contents** should be used as follows:

1. Include at the front of the application;
2. Check the appropriate "done" boxes to assure completeness of the application;
3. Number all pages of the application sequentially and indicate the page numbers in the appropriate blanks;
4. Check the appropriate "n/a" box if an item in the Review Criteria is "not applicable" to the proposal; and
5. Restate (preferably in bold type) and answer all items in the Review Criteria.

(B) The **Application Package** should use one of the following CON Applicant's Completeness Checklists and Table of Contents appropriate to the proposed project, as follows:

1. New Hospital Application (Form MO 580-2501);
2. New or Additional Long-Term Care (LTC) Beds Application (Form MO 580-2502) [**Editor's Note**: use this form for Residential Care, Intermediate Care, and Skilled Nursing Facilities, and Long Term Care Hospitals];
3. New or Additional Long-Term Care Hospital (LTCH) Beds Application (use Form MO 580-2502);
4. New or Additional Equipment Application (Form MO 580-2503);
5. Expedited LTC Bed Replacement/Expansion Application (Form MO 580-2504);
6. Expedited LTC Renovation/Modernization Application (Form MO 580-2505); or
7. Expedited Equipment Replacement Application (Form MO 580-2506).

(C) The application should be formatted into Dividers using the following outline:

1. Divider I. Application Summary;
2. Divider II. Proposal Description;
3. Divider III. Community Need Criteria and Standards; and
4. Divider IV. Financial Feasibility (only if required for full applications).

(D) **Support Information** should be included at the end of each divider section to which it pertains, and should be referenced in the divider narrative. For applicants anticipating having multiple applications in a year, master file copies of such things as maps, population data (if applicable), board memberships, IRS Form 990, or audited financial statements may be submitted once, and then referred to in subsequent applications, as long as the information remains current.

(E) The application package should document the need or meet the additional information requirements in 19 CSR 60-50.450(4–6) for the proposal by addressing the applicable **Community Need Criteria and Standards** using the standards in 19 CSR 60-50.440 through 19 CSR 60-50.460 plus providing additional documentation to substantiate why any proposed alternative Criteria and Standards should be used.

(3) An **Application Summary** shall be composed of the completed forms in the following order:

(A) Applicant Identification and Certification (Form MO 580-1861). Additional specific information about board membership may be requested, if needed;

(B) A completed Representative Registration (Form MO 580-1869) for the contact person and any others as required by section 197.326(1), RSMo; and

(C) A detailed Proposed Project Budget (Form MO 580-1863), with an attachment which details how each line item was determined including all methods and assumptions used.

(4) The **Proposal Description** shall include documents which:

(A) Provide a complete detailed description and scope of the project, and identify all the institutional services or programs which will be directly affected by this proposal;

(B) Describe the developmental details including:

1. A legible city or county map showing the exact location of the facility or health service, and a copy of the site plan showing the relation of the project to existing structures and boundaries;
2. Preliminary schematics for the project that specify the functional assignment of all space which will fit on an eight and one-half inch by eleven inch (8 1/2" x 11") format (not required for replacement equipment projects). The Certificate of Need Program (CONP) staff may request submission of an electronic version of the schematics, when appropriate. The function for each space, before and after construction or renovation, shall be clearly identified and all space shall be assigned;
3. Evidence of submission of architectural plans to the Division of Senior Services and Regulation, Department of Health and Senior Services, for long-term care projects and other facilities (not required for replacement equipment projects);
4. For long-term care proposals, existing and proposed gross square footage for the entire facility and for each institutional service or program directly affected by the project. If the project involves relocation, identify what will go into vacated space;
5. Documentation of ownership of the project site, or that the site is available through a signed option to purchase or lease; and
6. Proposals which include major and other medical equipment should include an equipment list with prices and documentation in the form of bid quotes, purchase orders, catalog prices, or other sources to substantiate the proposed equipment costs;

(C) Proposals for new hospitals, new or additional long-term care (LTC) beds, or new major medical equipment must define the community to be served:

1. Describe the service area(s) population using year 2005 populations and projections which are consistent with those provided by the Bureau of Health Data Analysis which can be obtained by contacting:

   Chief, Bureau of Health Data Analysis
   Center for Health Information Management and Evaluation (CHIME)
   Department of Health and Senior Services
   P.O. Box 570, Jefferson City, MO 65102
   Telephone: (573) 751-6278

   There will be a charge for any of the information requested, and seven to fourteen (7–14) days should be allowed for a response from the CHIME. Information requests should be made to CHIME such that the response is received at least two (2) weeks before it is needed for incorporation into the CON application; and

2. Use the maps and population data received from CHIME with the CON Applicant's Population Determination Method to determine the estimated population, as follows:

   A. Utilize all of the population for zip codes entirely within the fifteen (15)-mile radius for LTC beds or geographic service area for hospitals and major medical equipment;
   B. Reference a state highway map (or a map of greater detail) to verify population centers (see Bureau of Health Data Analysis information) within each zip code overlapped by the fifteen (15)-mile radius or geographic service area;

C. Categorize population centers as either "in" or "out" of the fifteen (15)-mile radius or geographic service area and remove the population data from each affected zip code categorized as "out";

D. Estimate, to the nearest ten percent (10%), the portion of the zip code area that is within the fifteen (15)-mile radius or geographic service area by "eyeballing" the portion of the area in the radius (if less than five percent (5%), exclude the entire zip code);

E. Multiply the remaining zip code population (total population less the population centers) by the percentage determined in (4)(C)2.D. (due to numerous complexities, population centers will not be utilized to adjust overlapped zip code populations in Jackson, St. Louis, and St. Charles Counties or St. Louis City; instead, the total population within the zip code will be considered uniform and multiplied by the percentage determined in (4)(C)2.D;

F. Add back the population center(s) "inside" the radius or region for zip codes overlapped; and

G. The sum of the estimated zip codes, plus those entirely within the radius, will equal the total population within the fifteen (15)-mile radius or geographic service area; and

3. Provide other statistics, such as studies, patient origin or discharge data, Hospital Industry Data Institute's information, or consultants' reports, to document the size and validity of any proposed user-defined "geographic service area";

(D) Identify specific community problems or unmet needs which the proposed or expanded service is designed to remedy or meet;

(E) Provide historical utilization for each existing service affected by the proposal for each of the past three (3) years;

(F) Provide utilization projections through at least three (3) years beyond the completion of the project for all proposed and existing services directly affected by the project;

(G) If an alternative methodology is added, specify the method used to make need forecasts and describe in detail whether projected utilizations will vary from past trends; and

(H) Provide the current and proposed number of licensed beds by type for projects which would result in a change in the licensed bed complement of the LTC facility.

(5) Document that consumer needs and preferences have been included in planning this project. Describe how consumers have had an opportunity to provide input into this specific project, and include in this section all petitions, letters of acknowledgement, support or opposition received.

(6) The most current version of Forms MO 580-2501, MO 580-2502, MO 580-2503, MO 580-2504, MO 580-2505, MO 580-1861, MO 580-1869, and MO 580-1863 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the forms from the CONP web site at **www.dhss.state.mo.us/con**.

19 CSR 60-50.440 Criteria and Standards for Equipment and New Hospitals

(1) For **new units or services** in the service area, use the following methodologies:

(A) The **population-based need formula** should be [**Unmet need = (R x P) – U**], where:

P = Year 2005 population in the service area(s);
U = Number of service units in the service area(s); and
R = Community need rate of one (1) unit per population listed as follows:

1. Magnetic resonance imaging unit 100,000
2. Positron emission tomography unit 500,000
3. Lithotripsy unit 1,000,000
4. Linear accelerator unit 100,000
5. Adult cardiac catheterization lab 50,000
6. Pediatric cardiac catheterization lab 50,000
7. Adult open heart surgery rooms 100,000
8. Pediatric open heart surgery rooms 100,000
9. All general surgery 10,000
10. Gamma knife 7,500,000
11. Excimer laser 500,000

(B) The **minimum annual utilization** for all other providers in the service area should achieve at least the following community need rates as follows:

1. Magnetic resonance imaging procedures 2,000
2. Positron emission tomography procedures 1,000
3. Lithotripsy treatments 1,000
4. Linear accelerator treatments 3,500
5. Adult cardiac catheterization procedures *(include coronary angioplasties)* 500
6. Pediatric cardiac catheterization procedures 250
7. Adult open heart surgery operations 200
8. Pediatric open heart surgery operations 100
9. All general surgery 750
10. Gamma knife treatments 200
11. Hemodialysis treatments 200
12. Excimer laser procedures 1,800

(C) **Long-term care hospitals** (such as a hospital-within-a-hospital or long-term acute care hospital) should comply with the standards as described in 42 CFR, section 412.23(e), and bed need requirements should meet the applicable population-based bed need and utilization standards in 19 CSR 60-50.450;

(D) Alternate methodologies may be provided.

(2) For **additional units or services**, the applicant's **optimal annual utilization** should achieve at least the following community need rates as follows:

(A) Magnetic resonance imaging procedures 3,000
(B) Positron emission tomography procedures 1,000
(C) Lithotripsy treatments 1,000
(D) Linear accelerator treatments 6,000
(E) Adult cardiac catheterization procedures 750
(F) Pediatric cardiac catheterization procedures 375
(G) Adult open heart surgery operations 300
(H) Pediatric open heart surgery operations 150
(I) All other general surgery 1,125
(J) Gamma knife treatments 200
(K) Hemodialysis treatments 200
(L) Excimer laser procedures 3,600

(3) For **replacement equipment**, utilization standards are not used, but rather the following questions should be answered:

(A) What is the financial rationale for the replacement?

(B) How has the existing unit exceeded its useful life in accordance with American Hospital Association guidelines?

(C) How does the replacement unit affect quality of care compared to the existing unit?

(D) Is the existing unit in constant need of repair?

(E) Has the current lease on the existing unit expired?

(F) What technological advances will the new unit include?

(G) How will patient satisfaction be improved?

(H) How will the new unit improve outcomes and/or clinical improvements?

(I) What impact will the new unit have on utilization and operational efficiencies?

(J) How will the new unit add additional capabilities?

(K) By what percentage will this replacement increase patient charges?

(4) For the **construction of a new hospital**, the following questions should be answered:

(A) What methodology was utilized to determine the need for the proposed hospital?

(B) Provide evidence that the current occupancy of other hospitals in the proposed service area exceeds eighty (80)%.

(C) What impact would the proposed hospital have on utilization of other hospitals in the service area?

(D) What is the unmet need according to the following population-based bed need formula using (**Unmet Need = [R x P] – U**), where:

P = Year 2005 population in the service area;
U = Number of beds in the service area; and
R = Community need rate of one (1) bed per population as follows:

1. Medical/surgical bed.....570
2. Pediatric bed.....8,330
3. Psychiatric bed.....2,080
4. Substance abuse/chemical dependency bed.....20,000
5. Inpatient rehabilitation bed.....9,090
6. Obstetric bed.....5,880

19 CSR 60-50.450 Criteria and Standards for Long-Term Care

(1) All additional long-term care (LTC) beds in nursing homes, hospitals, and residential care facilities (RCF), and beds in long-term acute hospitals are subject to the LTC bed minimum occupancy requirements (MOR) pursuant to sections 197.317 and 197.318(1), RSMo, with certain exemptions and exceptions pursuant to sections 197.305(7) and 197.312, RSMo, and LTC bed expansions and replacements pursuant to sections 197.318.8 through 197.318.10, RSMo.

(2) The MOR for additional LTC beds pursuant to section 197.318.1, RSMo, shall be met if the average occupancy for all licensed and available LTC beds located within the county and within fifteen (15) miles of the proposed site exceeded ninety percent (90%) during at least each of the most recent four (4) consecutive calendar quarters at the time of application filing as reported in the Division of Health Standards and Licensure (DHSL), Department of Health and Senior Services, Quarterly Survey of Hospital and Nursing Home (or Residential Care Facility) Bed Utilization and certified through a written finding by the DHSL, in which case the following population-based long-term care bed need methodology for the fifteen (15)-mile radius shall be used to determine the maximum size of the need:

(A) Approval of additional intermediate care facility/skilled nursing facility (ICF/SNF) beds will be based on a service area need determined to be fifty-three (53) beds per one thousand (1,000) population age sixty-five (65) and older minus the current supply of ICF/SNF beds shown in the Inventory of Hospital and Nursing Home ICF/SNF Beds as provided by the Certificate of Need Program (CONP) which includes licensed and Certificate of Need (CON)-approved beds; and

(B) Approval of additional RCF beds will be based on a service area need determined to be sixteen (16) beds per one thousand (1,000) population age sixty-five (65) and older minus the current supply of RCF beds shown in the Inventory of Residential Care Facility Beds as provided by the CONP which includes licensed and CON-approved beds.

(3) Replacement Chapter 198 beds qualify for an exception to the LTC bed MOR plus shortened information requirements and review time frames if an applicant proposes to:

(A) Relocate RCF beds within a six (6)-mile radius pursuant to section 197.318.8(4), RSMo;

(B) Replace one-half (1/2) of its licensed beds within a thirty (30)-mile radius pursuant to section 197.318.9, RSMo; or

(C) Replace a facility in its entirety within a fifteen (15)-mile radius pursuant to section 197.318.10, RSMo, under the following conditions:

1. The existing facility's beds shall be replaced at only one (1) site;
2. The existing facility and the proposed facility shall have the same owner(s), regardless of corporate structure; and
3. The owner(s) shall stipulate in writing that the existing facility's beds to be replaced will not be used later to provide long-term care services; or if the facility is operated under a lease, both the lessee and the owner of the existing facility shall stipulate the same in writing.

(4) LTC bed expansions involving a Chapter 198 facility qualify for an exception to the LTC bed MOR. In addition to the shortened information requirements and review time frames, applicants shall also submit the following information:

(A) If an effort to purchase has been successful pursuant to section 197.318.8(1), RSMo, a Purchase Agreement (Form MO 580-2352) between the selling and purchasing facilities, and a copy of the selling facility's reissued license verifying the surrender of the beds sold; or

(B) If an effort to purchase has been unsuccessful pursuant to section 197.318.8(1), RSMo, a Purchase Agreement (Form MO 580-2352) between the selling and purchasing facilities which documents the “effort(s) to purchase” LTC beds.

(5) An exception to the LTC bed MOR and CON application filing fee will be recognized for any proposed facility which is designed and operated exclusively for persons with acquired human immunodeficiency syndrome (AIDS).

(6) An exception to the LTC bed MOR will be recognized for a proposed LTC facility where at least ninety-five percent (95%) of the patients require kosher diets pursuant to section 197.318.5, RSMo.

(7) Any newly-licensed Chapter 198 facility established as a result of the Alzheimer's and dementia demonstration projects pursuant to Chapter 198, RSMo, or aging-in-place pilot projects pursuant to Chapter 198, RSMo, as implemented by the DHSL, may be licensed by the DHSL until the completion of each project. If a demonstration or pilot project receives a successful evaluation from the DHSL and a qualified Missouri school or university, and meets the DHSL standards for licensure, this will ensure continued licensure without a new CON.

(8) For LTC renovation or modernization projects which do not include increasing the number of beds, the applicant should document the following, if applicable:

(A) The proposed project is needed to comply with current facility code requirements of local, state or federal governments;

(B) The proposed project is needed to meet requirements for licensure, certification or accreditation, which if not undertaken, could result in a loss of accreditation or certification;

(C) Operational efficiencies will be attained through reconfiguration of space and functions;

(D) The methodologies used for determining need;

(E) The rationale for the reallocation of space and functions; and

(F) The benefits to the facility because of its age or condition.

(9) The most current version of Form MO 580-2352 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the form from the CONP web site at **www.dhss.state.mo.us/con**.

19 CSR 60-50.460 Criteria and Standards for Evolving Technology

(1) For evolving technology not currently available in the state or not in general usage in the state, the following shall be documented:

(A) The medical effects shall be described and documented in published scientific literature;

(B) The degree to which the objectives of the technology have been met in practice;

(C) Any side effects, contraindications or environmental exposures;

(D) The relationships, if any, to existing preventive, diagnostic, therapeutic or management technologies and the effects on the existing technologies;

(E) Food and Drug Administration approval;

(F) The need methodology used by this proposal in order to assess efficacy and cost impact of the proposal; and

(G) Explain the degree of partnership, if any, with other institutions for the joint use of and financing of the evolving technology.

19 CSR 60-50.470 Criteria and Standards for Financial Feasibility

(1) Proposals for any new hospital, nursing home, or residential care facility construction must include documentation that the proposed costs per square foot are reasonable when compared to the latest "RS Means Construction Cost Data" available from Certificate of Need Program (CONP). Any proposal with costs in excess of the three-fourths (3/4) percentile must include justification for the higher costs).

(2) Document that sufficient financing will be available to assure completion of the project by providing a letter from a financial institution saying it is willing to finance the project, or an auditor's statement that unrestricted funds are available for the project.

(3) Document financial feasibility by including:

(A) The Service-Specific Revenues and Expenses (Form MO 580-1865) for each revenue generating service affected by the project for the past three (3) years projected through three (3) years beyond project completion;

(B) The Detailed Institutional Cash Flows (Form MO 580-1866) for the past three (3) years projected through three (3) years beyond project completion; and

(C) For existing services, a copy of the latest available audited financial statements or the most recent Internal Revenue Service (IRS) 990 Form or similar IRS filing for facilities not having individual audited financial statements.

(4) Show how the proposed service will be affordable to the population in the proposed service area:

(A) Document how the proposal would impact current patient charges, and disclose the method for deriving charges for this service, including both direct and indirect components of the charge; and

(B) Demonstrate that the proposed service will be responsive to the needs of the medically indigent through such mechanisms as fee waivers, reduced charges, sliding fee scales or structured payments.

(5) The most current version of Forms MO 580-1865 and MO 580-1866 may be obtained by mailing a written request to the Certificate of Need Program (CONP), 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the forms from the CONP web site at **www.dhss.state.mo.us/con**.

19 CSR 60-50.500 Additional Information

(1) Additional information requested by the Missouri Health Facilities Review Committee (committee) shall be submitted within the time frame specified by the committee.

(2) If an application is determined to be incomplete, the applicant shall be notified within fifteen (15) calendar days after filing (five [5] working days in the case of an expedited application). The applicant's written response shall be received within fifteen (15) calendar days after receipt of notification.

(3) Information submitted by interested parties should be received at the committee's principal office at least thirty (30) calendar days before the scheduled meeting of the committee.

(4) Copies of any additional information sent directly to the committee by applicants or interested parties should also be sent to the Certificate of Need Program (CONP) for file copies.

(5) When a request in writing is filed by any affected person within thirty (30) calendar days from the date of publication of the Application Review Schedule, the committee or CONP staff shall hold a

public hearing on any application under the following conditions:

(A) The hearing may be conducted in the city of the proposed project if monetarily feasible;

(B) The CONP staff will present the introductions and orientation for the public hearing;

(C) The applicant may have up to fifteen (15) minutes for an applicant presentation at the public hearing;

(D) Any person may present written testimony and up to five (5) minutes of verbal testimony at the public hearing; and

(E) The testimony shall become a part of the record of the review.

19 CSR 60-50.600 Certificate of Need Decisions

(1) Decisions on full Certificate of Need (CON) applications and contested expedited applications shall be subject to the following:

(A) Parliamentary procedures for all meetings shall follow *Robert's Rules of Order*, newly revised 1990 edition, 9th edition.

(B) The Certificate of Need Program's analysis becomes the findings of fact for the Missouri Health Facilities Review Committee (committee) decision except to the extent that it is expressly rejected, amended or replaced by the committee in which case the minutes of the committee will contain the changes and become the amended findings of fact of the committee. The committee's final vote becomes conclusion of law.

(C) A final decision is rendered on any application after each committee member present is given the opportunity to vote and the chair announces the passage or defeat of the motion on the floor. The chair or acting chair shall vote only in case of a tie.

(2) Decisions on expedited CON applications shall be subject to the following:

(A) In the case of qualifying expedited review applications, committee members will receive a ballot in addition to the written analysis. Members may vote either to approve the application or to have it placed on the next formal meeting agenda for consideration.

(B) Ballots may be returned to the CON office by either mail, e-mail, or fax, but must be received within ten (10) days from the date they were mailed to committee members.

(C) A final decision to approve the application will be rendered if all ballots received by the cut-off date (at least five (5) ballots are required) signifying a vote to approve the project. If the vote is not unanimous, the application will be subject to the provisions of section (1) of this rule.

(3) The Committee shall make a decision on an application within one hundred-thirty (130) calendar days after the date the application is filed, and subsequently notify the applicant by providing either a legal certificate or denial letter.

19 CSR 60-50.700 Post-Decision Activity

(1) Applicants who have been granted a Certificate of Need (CON) or a Non-Applicability CON letter shall file reports with the Missouri Health Facilities Review Committee (Committee), using Periodic Progress Report (Form MO 580-1871). A report shall be filed by the end of each six (6)-month period after CON approval, or issuance of a Non-Applicability CON letter, until project construction and/or expenditures are complete. All Periodic Progress Reports must contain a complete and accurate accounting of all expenditures for the report period.

(2) Applicants who have been granted a CON and fail to incur a capital expenditure within six (6) months may request an extension of six (6) months by submitting a letter to the Committee outlining the reasons for the failure, with a listing of the actions to be taken within the requested extension period to insure compliance. The Certificate of Need Program (CONP) staff on behalf of the Committee will analyze the request and grant an extension, if appropriate. Applicants who request additional extensions must provide additional financial information or other information, if requested by the CONP staff.

(3) For those long-term care proposals receiving a CON in 2003 for which no construction can begin prior to January 1, 2004, such proposals shall not be subject to forfeiture until July 1, 2004, at which time reporting requirements shall commence. Applicants may request an extension of six (6) months for such proposals.

(4) A Non-Applicability CON letter is valid for six (6) months from the date of issuance. Failure to incur a capital expenditure or purchase the proposed equipment within that timeframe shall result in the Non-Applicability CON letter becoming null and void. The applicant may request one (1) six (6)-month extension unless otherwise constrained by statutory changes.

(5) A CON shall be subject to forfeiture for failure to:

(A) Incur a project-specific capital expenditure within twelve (12) months after the date the CON was issued through initiation of project above-ground construction or lease/purchase of the proposed equipment since a capital expenditure, according to generally accepted accounting principles, must be applied to a capital asset; or

(B) File the required Periodic Progress Report.

(6) If the CONP staff finds that a CON may be subject to forfeiture:

(A) Not less than thirty (30) calendar days prior to a Committee meeting, the CONP shall notify the applicant in writing of the possible forfeiture, the reasons for it, and its placement on the Committee agenda for action; and

(B) After receipt of the notice of possible forfeiture, the applicant may submit information to the Committee within ten (10) calendar days to show compliance with this rule or other good cause as to why the CON shall not be forfeited.

(7) If the Committee forfeits a CON or a Non-Applicability CON letter becomes null and void, CONP staff shall notify all affected state agencies of this action.

(8) Cost overrun review procedures implement the CON statute section 197.315.7, RSMo. Immediately upon discovery that a project's actual costs would exceed approved project costs by more than ten percent (10%), an applicant shall apply for approval of the cost variance. A nonrefundable fee in the amount of one-tenth of one percent (0.1%) of the additional project cost above the approved amount made payable to "Missouri Health Facilities Review Committee" shall be required. The original and eleven (11) copies of the information requirements for a cost overrun review are required as follows:

(A) Amount and justification for cost overrun shall document:

1. Why and how the approved project costs would be exceeded, including a detailed listing of the areas involved;
2. Any changes that have occurred in the scope of the project as originally approved; and
3. The alternatives to incurring this overrun that were considered and why this particular approach was selected; and

(B) Provide a Proposed Project Budget (Form MO 580-1863).

(9) At any time during the process from Letter of Intent to project completion, the applicant is responsible for notifying the Committee of any change in the designated contact person. If a change is necessary, the applicant must file a Contact Person Correction (Form MO 580-1870).

(10) The most current version of Forms MO 580-1871, MO 580-1863, and MO 580-1870 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the forms from the CONP web site at **www.dhss.state.mo.us/con**.

19 CSR 60-50.800 Meeting Procedures

(1) The regular meetings of the Missouri Health Facilities Review Committee (committee) to consider Certificate of Need (CON) applications shall be held approximately every eight (8) weeks according to a schedule adopted by the committee before the beginning of each calendar year and modified periodically to reflect changes. A copy of this calendar may be obtained from the CON Program (CONP) staff.

(2) The original and eleven (11) copies of all new information not previously in the application or requests for the addition of agenda items shall be received by the CONP staff at least thirty (30) calendar days before the scheduled meeting with one (1) exception. An applicant shall have no less than fifteen (15) days to respond to the findings of the staff and adverse information received from other parties. An applicant should respond in writing to an inquiry from a committee member at any time, and the response shall be provided to the committee for consideration.

(3) Any committee member may request that an item be added to the agenda up to forty-eight (48) hours before the scheduled meeting, exclusive of weekends and holidays when the principal office is closed.

(4) The tentative agenda for each committee meeting shall be released at least twenty (20) calendar days before each meeting.

(5) The committee may give the applicant and interested parties an opportunity to make brief presentations at the meeting according to the Missouri Health Facilities Review Committee Meeting Format and Missouri Health Facilities Review Committee Meeting Protocol. The applicant and interested parties shall conform to the following procedures:

(A) The applicant's presentation shall be a key points summary based on the written application and shall not exceed ten (10) minutes inclusive of all presenters with five (5) minutes additional time for summation;

(B) Others in support or opposition to the applicant's project (such as political representatives, citizens of the community and other providers) shall be categorized as unrelated parties and shall appear after the applicant’s presentation;

(C) Regardless of the number of presenters involved in the presentation, individual presentations by unrelated parties in support of, neutral, or in opposition to the applicant's project shall not exceed three (3) minutes each;

(D) No new material shall be introduced with the exception of materials or information provided in response to the CONP staff or at the request of a committee member;

(E) Rebuttals by applicants of presentations by interested parties are generally allowed;

(F) All presenters shall complete and sign a Representative Registration (Form MO 580-1869) and give it to the sign-in coordinator prior to speaking;

(G) The reserved area in the hearing room may be used by an applicant only during the applicant's presentation and then vacated for the next group (individuals waiting to present shall remain clear of the podium and staff areas until specifically called by the chairman); and

(H) Prescribed time limits shall be monitored by the timekeeper, and presenters shall observe the timekeeper's indications of lapsed time to ensure that each presenter has an opportunity to present within the allotted time.

(6) Additional meetings of the committee may be held periodically. These meetings may include educational workshops for members to gain knowledge, meetings with organizations for cooperative purposes, discussion of rules, seeking legal advice from counsel, and other issues.

(7) The most current version of Form MO 580-1869 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the form from the CONP web site at **www.dhss.state.mo.us/con**.

19 CSR 60-50.900 Administration

(1) The role of the Missouri Health Facilities Review Committee (committee) includes the following:

(A) Make specific decisions about applications, applicability and administrative matters;

(B) Make policy decisions to include the development of rules; and

(C) Oversee operations of the Certificate of Need Program (CONP) staff.

(2) The role of the CONP staff includes the following:

(A) Act as an agent of the Committee; and

(B) Perform administrative tasks.

(3) The CONP staff shall be staffed as follows:

(A) The committee shall employ a CONP director and additional staff to perform the duties assigned to it by law;

(B) The committee shall designate the CONP director, or his/her designee, to perform any administrative functions that may be required of the committee by law; and

(C) The CONP staff shall be housed at the principal office of the committee.

(4) The committee shall maintain its principal office in Jefferson City where the CONP staff will:

(A) Accept letters of intent, applications and any other written communication related to the conduct of the CONP;

(B) Accept service of legal process;

(C) Maintain its records; and

(D) Post all notices required by law.

(5) The CONP staff shall provide technical assistance to potential applicants.

(6) The committee and CONP staff shall publish quarterly reports containing the status of reviews being conducted, the reviews completed since the last report, and the decisions made, plus an annual summary of activities for the past calendar year.

Certificate of Need Program

LETTER OF INTENT

1. Project Information *(attach additional pages as necessary to identify multiple project sites.)*

Title of Proposed Project	County

Project Address *(Street/City/State/Zip Code or plat map, if no address)*

2. Applicant Identification *(attach additional pages as necessary to list all owners and operators)*

List All Owner(s): *(list corporate entity)*	Address (Street/City/State/Zip Code)	Telephone Number

List All Operator(s): *(list entity to be licensed or certified)*	Address (Street/City/State/Zip Code)	Telephone Number

3. Type of Review

Full Review:

- ☐ New Hospital
- ☐ New/Add LTC Beds
- ☐ New/Add LTCH Beds/eqpt
- ☐ New/Additional Equipment
- ☐ Replacement Equipment not prevously approved

Expedited Review:

- ☐ 6-mile RCF Replacement
- ☐ 15-mile LTC Replacement
- ☐ 30-mile LTC Replacement
- ☐ LTC Bed Expansion
- ☐ LTC Renov./Modernization
- ☐ Equipment Replacement

Non-Applicability Review:
*(See **7. Applicability** on next page)*

4. Project Description *(information should be brief but sufficient to understand scope of project)*

Project description to include the number of long-term care beds to be added, deleted or replaced, square footage of new construction and/or renovation, services affected, and major medical equipment to be acquired or replaced. If applying for a non-applicability review, also complete the next page of this form.

Legend: LTC = Long-Term Care; LTCH = Long-Term Care Hospital; RCF = Residential Care Facility

5. Estimated Project Cost: $ _____

6. Authorized Contact Person Identification *(only one per project, regardless of number of owners/operators)*

Name of Contact Person	Title

Contact Person Address *(Company/Street/City/State/Zip Code)*

Telephone Number	Fax Number	E-mail Address

Signature of Contact Person	Date of Signature

MO 580-1860 (06-03)

Certificate of Need Program

LETTER OF INTENT

7. Applicability *(check the box below to indicate the rationale for the exemption or waiver being sought)*

☐ If proposed expenditures are **less than the minimums** in §197.305(6), then attach a Proposed Expenditures form and all necessary supporting documentation to illustrate how those amounts were determined, such as schematic drawings, equipment quotes, and contractor estimates.

☐ §197.305(10)(e) for additional long term care beds in the same category (certified as RCF, ICF or SNF) in a RCF, nursing home, or acute care hospital costing less than $600,000, and are 10 beds or 10% of that facility's existing capacity, whichever is less.

If the proposal meets one of the **exemptions** or **exceptions** below, then check the appropriate box, explain how the proposal qualifies, and attach detailed documentation substantiating compliance with the statutory provisions as set out in Rule 19 CSR 60-50.410:

☐ §197.312 for an RCF previously owned and operated by the city of St. Louis; or

☐ §197.314(1) for a long term care facility in a tax increment financing (TIF) district with a skilled nursing facility (SNF);

☐ If the proposal meets the definition of **"nonsubstantive projects"** in §197.305(11) and 19 CSR 60-50.300(12) for a **waiver** from review, complete both pages of this form as the first step in the process, and provide the rationale as to why the proposal should be deemed to be "nonsubstantive" in the space below.

Explain the rationale for the exemption, exception, or waiver being sought:

Certificate of Need Program

PROPOSED EXPENDITURES

CAPITAL COSTS:

Dollars
(fill in every line even if the amount is "0")

Description

1. New Construction Costs $ _____
2. Renovation Costs _____
3. Architectural/Engineering Fees _____
4. Equipment (not in construction contract) _____
5. Land Acquisition Costs _____
6. Consultants' Fees/Legal Fees _____
7. Interest During Construction (net of interest earned) _____
8. Other Costs _____

9. Total Capital Costs (sum of #1 thru # 8) $ _____

MEDICAL EQUIPMENT COSTS:

Dollars
(fill in every line even if the amount is "0")

Description

10. Equipment (fixed and movable) $ _____
11. Shielding (if not included in equipment bid quote) _____
12. Installation (if not included in equipment bid quote) _____
13. Software (if not included in equipment bid quote) _____
14. Other _____

15. Total Medical Equipment Costs (sum of #10 thru #14) $ _____

MO 580-2375 (12-01)

LTC Facility Expansion
CERTIFICATION by the Division of Senior Services and Regulation, DHSS

Part I: Facility Information

Name of Facility: _____

Address (no PO Box): _____

City, State, Zip, County: _____

Number and Type of Beds: _____ ☐ RCF ☐ ICF/SNF *(check RCF for residential care facility or ICF/SNF for intermediate care and skilled nursing facility)*

Owner(s): _____

Operator(s): _____

Project Number: _____ Date LOI Filed: _____

Part II: Quarterly RCF/ICF/SNF Bed Occupancy Rate

Occupancy statistics for this facility for the most recent six consecutive calendar quarters prior to the LOI date shown above:
(circle appropriate quarter, insert the Calendar Year (CY), and complete information below)

Qtr 1 2 3 4 CY____: ____% **Qtr 1 2 3 4 CY____: ____%** **Qtr 1 2 3 4 CY____: ____%**

Qtr 1 2 3 4 CY____: ____% **Qtr 1 2 3 4 CY____: ____%** **Qtr 1 2 3 4 CY____: ____%**

Six-quarter average: _____%

☐ Yes ☐ No For expansion through the **purchase** of beds, based on the Division of Health Standards and Licensure's (DHSL) Quarterly Survey Data, the 90% bed occupancy requirement has been met.

☐ Yes ☐ No For expansion through the **addition** of beds, based on the DHSL's Quarterly Survey Data, the 92% bed occupancy requirement has been met for under 40 LTC beds, or 93% for 40 bed or more LTC beds (see above).

Part III: Deficiencies

☐ Yes ☐ No For expansion through the **purchase** or **addition** of beds, based on the DHSL's annual facility survey, the above-named facility has not had any final Class I patient care deficiencies during the past 18 months.

Part IV: Certification of Information

Statement: The above information is an accurate representation of the findings by the DHSL in accordance with appropriate CON rules.

Signature: _____

Title/Date: _____ _____

MO 580-2351 (06-03)

Certificate of Need Program

PURCHASE AGREEMENT

Part I: Purchasing Facility Information

Name of Facility: _____

Address (no PO Box): _____

City, State, Zip, County: _____ ____ _____ _____

Number/Type Licensed Beds: _____ ☐ RCF ☐ ICF/SNF *(check RCF for residential care facility or ICF/SNF for intermediate care and skilled nursing facility)*

Owner(s): _____

Operator(s): _____

Part II: Selling Facility Information

Name of Facility: _____

Address (no PO Box): _____

City, State, Zip, County: _____ ____ _____ _____

Number/Type Licensed Beds: _____ ☐ RCF ☐ ICF/SNF *(check RCF for residential care facility or ICF/SNF for intermediate care and skilled nursing facility)*

Owner(s): _____

Operator(s): _____

Part III: Value of Consideration

Monetary Value of Purchase: $_____ No./Type Beds: _____

Terms of Purchase: _____

(add more pages as necessary to describe the sale)

Part IV: Certification of Information

☐ Yes ☐ No The above Purchaser and Seller have agreed to these purchase terms.

Purchaser Signature: _____

Title/Date: _____ _____

Seller(s) Signature(s): Owner(s): _____ _____

Operator(s): _____ _____

Title/Date: _____ _____

MO 580-2352 (06-03)

Certificate of Need Program

NEW HOSPITAL APPLICATION

Applicant's Completeness Checklist and Table of Contents

Project Name: _____ Project No.: _____

Project Description: _____

Done Page N/A Description of CON Rulebook Contents

Divider I. Application Summary:

- ☐ ____ ☐ 1. Applicant Identification and Certification (Form MO 580-1861).
- ☐ ____ ☐ 2. Representative Registration (Form MO 580-1869).
- ☐ ____ ☐ 3. Proposed Project Budget (Form MO 580-1863) and detail sheet.

Divider II. Proposal Description:

- ☐ ____ ☐ 1. Provide a complete detailed project description.
- ☐ ____ ☐ 2. Provide a legible city or county map showing the exact location of the proposed facility.
- ☐ ____ ☐ 3. Provide a site plan for the proposed project.
- ☐ ____ ☐ 4. Provide preliminary schematic drawings for the proposed project.
- ☐ ____ ☐ 5. Provide evidence that architectural plans have been submitted to the Department of Health and Senior Services.
- ☐ ____ ☐ 6. Provide the proposed gross square footage.
- ☐ ____ ☐ 7. Document ownership of the project site, or provide an option to purchase.
- ☐ ____ ☐ 8. Define the community to be served.
- ☐ ____ ☐ 9. Provide utilization estimates for the first three years of operation.
- ☐ ____ ☐ 10. Provide the methods and assumptions used to project utilization.
- ☐ ____ ☐ 11. Provide the proposed number of licensed beds by medical specialty.
- ☐ ____ ☐ 12. Document that consumer needs and preferences have been included in planning this project and describe how consumers had an opportunity to provide input.
- ☐ ____ ☐ 13. Provide copies of any petitions, letters of support or opposition received.

Divider III. Community Need Criteria and Standards:

- ☐ ____ ☐ 1. Document the methodology utilized to determine the need for the proposed hospital.
- ☐ ____ ☐ 2. Document that the current occupancy of other hospitals in the proposed geographic service area exceeds 80%.
- ☐ ____ ☐ 3. Discuss the impact the proposed hospital would have on utilization of other hospitals in the geographic service area.
- ☐ ____ ☐ 4. Document the unmet need in the geographic service area for each type of bed being proposed according to the population-based formula.

Divider IV. Financial Feasibility Review Criteria & Standards:

- ☐ ____ ☐ 1. Document that the proposed costs per square foot are reasonable when compared to the latest RS Means Construction Cost data for new hospital construction.
- ☐ ____ ☐ 2. Document that sufficient financing is available by providing a letter from a financial institution or an auditor's statement indicating that sufficient funds are available.
- ☐ ____ ☐ 3. Provide Service-Specific Revenues and Expenses (Form MO 580-1865) projected through three (3) years beyond project completion.
- ☐ ____ ☐ 4. Provide Detailed Institutional Cash Flows (Form MO 580-1866) projected through three (3) years beyond project completion.
- ☐ ____ ☐ 5. Document how patient charges were derived.
- ☐ ____ ☐ 6. Document responsiveness to the needs of the medically indigent.

MO 580-2501 (06-03)

Certificate of Need Program

NEW OR ADDITIONAL LONG TERM CARE BED APPLICATION*

Applicant's Completeness Checklist and Table of Contents

Project Name _____ No. _____

Project Description _____

Done Page N/A Description of CON Rulebook Contents

Divider I. Application Summary:

- ❑ ____ ❑ 1. Applicant Identification and Certification (Form MO 580-1861)
- ❑ ____ ❑ 2. Representative Registration (Form MO 580-1869)
- ❑ ____ ❑ 3. Proposed Project Budget (Form MO 580-1863) and detail sheet

Divider II. Proposal Description:

- ❑ ____ ❑ 1. Provide a complete detailed project description
- ❑ ____ ❑ 2. Provide a legible city or county map showing the exact location of the proposed facility
- ❑ ____ ❑ 3. Provide a site plan for the proposed project
- ❑ ____ ❑ 4. Provide preliminary schematic drawings for the proposed project
- ❑ ____ ❑ 5. Provide evidence that architectural plans have been submitted to the DHSS
- ❑ ____ ❑ 6. Provide the proposed gross square footage
- ❑ ____ ❑ 7. Document ownership of the project site, or provide an option to purchase
- ❑ ____ ❑ 8. Define the community to be served
- ❑ ____ ❑ 9. Provide 2005 Population projections for the 15-mile radius service area
- ❑ ____ ❑ 10. Identify specific community problems or unmet needs the proposal would address
- ❑ ____ ❑ 11. Provide historical utilization for each of the past three years and utilization projections through the first three years of operation of the new LTC beds
- ❑ ____ ❑ 12. Provide the methods and assumptions used to project utilization
- ❑ ____ ❑ 13. Document that consumer needs and preferences have been included in planning this project and describe how consumers had an opportunity to provide input
- ❑ ____ ❑ 14. Provide copies of any petitions, letters of support or opposition received

Divider III. Service Specific Criteria and Standards:

- ❑ ____ ❑ 1. For ICF/SNF beds, address the population-based bed need methodology of fifty-three (53) beds per one thousand (1,000) population age sixty-five (65) and older
- ❑ ____ ❑ 2. For RCF beds, address the population-based bed need methodology of sixteen (16) beds per one thousand (1,000) population age sixty-five (65) and older
- ❑ ____ ❑ 3. Document any alternate need methodology used to determine the need for additional beds such as LTCH, Alzheimer's, mental health or other specialty beds
- ❑ ____ ❑ 4. For any proposed facility which is designed and operated exclusively for persons with acquired human immunodeficiency syndrome (AIDS) provide information to justify the need for the type of beds being proposed

Divider IV. Financial Feasibility Review Criteria & Standards:

- ❑ ____ ❑ 1. Document that the proposed costs per square foot are reasonable when compared to the latest "RS Means Construction Cost data"
- ❑ ____ ❑ 2. Document that sufficient financing is available by providing a letter from a financial institution or an auditors statement indicating that sufficient funds are available
- ❑ ____ ❑ 3. Provide Service-Specific Revenues and Expenses (Form MO 580-1865) projected through three (3) years beyond project completion
- ❑ ____ ❑ 4. Provide Detailed Institutional Cash Flows (Form MO 580-1866) projected through three (3) years beyond project completion
- ❑ ____ ❑ 5. Document how patient charges were derived
- ❑ ____ ❑ 6. Document responsiveness to the needs of the medically indigent

** Use for RCF, ICF/SNF and LTCH beds*

MO 580-2502 (06-03)

Certificate of Need Program

NEW OR ADDITIONAL EQUIPMENT APPLICATION

Applicant's Completeness Checklist and Table of Contents

Project Name: _____ Project No.: _____

Project Description: _____

Done Page N/A Description of CON Rulebook Contents

Divider I. Application Summary:

❑ ____ ❑ 1. Applicant Identification and Certification (Form MO 580-1861).
❑ ____ ❑ 2. Representative Registration (Form MO 580-1869).
❑ ____ ❑ 3. Proposed Project Budget (Form MO 580-1863) and detail sheet.

Divider II. Proposal Description:

❑ ____ ❑ 1. Provide a complete detailed project description and include equipment bid quotes.
❑ ____ ❑ 2. Provide a legible city or county map showing the exact location of the project.
❑ ____ ❑ 3. Define the community to be served.
❑ ____ ❑ 4. Provide 2005 Population projections for the 15-mile radius service area.
❑ ____ ❑ 5. Provide other statistics to document the size and validity of any user-defined geographic service area.
❑ ____ ❑ 6. Identify specific community problems or unmet needs the proposal would address.
❑ ____ ❑ 7. Provide historical utilization for each of the past three years and utilization projections through the first three years of operation of the new equipment.
❑ ____ ❑ 8. Provide the methods and assumptions used to project utilization.
❑ ____ ❑ 9. Document that consumer needs and preferences have been included in planning this project and describe how consumers had an opportunity to provide input.
❑ ____ ❑ 10. Provide copies of any petitions, letters of support or opposition received.

Divider III. Community Need Criteria and Standards:

❑ ____ ❑ 1. For new units address the need formula for the 15-mile radius and any proposed geographic service area.
❑ ____ ❑ 2. For new units, address the minimum annual utilization standard for the 15-mile radius and any proposed geographic service area.
❑ ____ ❑ 3. For any new unit where specific need and utilization standards are not listed provide the methodology for determining need.
❑ ____ ❑ 4. For additional units, document compliance with the optimal utilization standard, and if not achieved, provide documentation to justify the additional unit.
5. For evolving technology address the following:
❑ ____ ❑ – Medical effects as described and documented in published scientific literature;
❑ ____ ❑ – The degree to which the objectives of the technology have been met in practice;
❑ ____ ❑ – Any side effects, contraindications or environmental exposures;
❑ ____ ❑ – The relationships, if any, to existing preventive, diagnostic, therapeutic or management technologies and the effects on the existing technologies;
❑ ____ ❑ – Food and Drug Administration approval;
❑ ____ ❑ – The need methodology used by this proposal in order to assess efficacy and cost impact of the proposal; and
❑ ____ ❑ – The degree of partnership, if any, with other institutions for joint use and financing.

Divider IV. Financial Feasibility Review Criteria & Standards:

❑ ____ ❑ 1. Document that sufficient financing is available by providing a letter from a financial institution or an auditor's statement indicating that sufficient funds are available.
❑ ____ ❑ 2. Provide Service-Specific Revenues and Expenses (Form MO 580-1865) projected through three (3) years beyond project completion.
❑ ____ ❑ 3. Provide Detailed Institutional Cash Flows (Form MO 580-1866) projected through three (3) years beyond project completion.
❑ ____ ❑ 4. Document how patient charges were derived.
❑ ____ ❑ 5. Document responsiveness to the needs of the medically indigent.

MO 580-2503 (01-03)

Certificate of Need Program

EXPEDITED LTC BED REPLACEMENT/EXPANSION APPLICATION

Applicant's Completeness Checklist and Table of Contents

Project Name: _____ Project No.: _____

Project Description: _____

Done Page N/A Description of CON Rulebook Contents

Divider I. Application Summary:

☐ ____ ☐ 1. Applicant Identification and Certification (Form MO 580-1861).
☐ ____ ☐ 2. Representative Registration (Form MO 580-1869).
☐ ____ ☐ 3. Proposed Project Budget (Form MO 580-1863) and detail sheet.

Divider II. Proposal Description:

☐ ____ ☐ 1. Provide a complete detailed project description.
☐ ____ ☐ 2. Provide preliminary schematic drawings for the proposed project.
☐ ____ ☐ 3. Provide the existing and proposed gross square footage.
☐ ____ ☐ 4. Document ownership of the project site.

Divider III. Community Need Criteria and Standards:

1. If the proposal is to relocate RCF beds within 6-mile radius in accordance with §197.318.8(4) provide the following:
   - ☐ ____ ☐ – Documentation that all facilities involved are under the same licensure ownership or control;
   - ☐ ____ ☐ – Documentation that all facilities involved are within the 6-mile limit; and
   - ☐ ____ ☐ – Documentation that all owners and operators of the facility from which the beds are being transferred are aware of the proposal and consent to it.
2. If the proposal is to replace one-half of a qualifying licensed facility's beds within a 30-mile radius in accordance with §197.318.9 provide the following:
   - ☐ ____ ☐ – Documentation that the facility has only been operating 50% of its licensed capacity with every resident residing in a private room and all vacant beds have been reported to the Division of Health Standards and Licensure as unavailable for occupancy for at least the most recent four consecutive calendar quarters;
   - ☐ ____ ☐ – Documentation that the replacement beds shall be built to private room specifications and only used for single occupancy; and
   - ☐ ____ ☐ – Documentation that the existing and proposed facilities have the same owner or owners, and that the owner or owners stipulate that the beds to be replaced shall not be used later for long term care; if the existing facility is being operated under a lease, both the lessee and owner shall stipulate the same.
3. If the proposal is to replace a facility in its entirety at a single site within a 15-mile radius in accordance with §197.318.10 provide the following:
   - ☐ ____ ☐ – Documentation that all facilities involved are within the 15-mile limit; and
   - ☐ ____ ☐ – Documentation that the existing facility and the proposed facility have the same owner or owners with a written stipulation that the facility to be replaced will not be used later for long term care.
4. If the proposal is to expand under provisions of §197.318.1 and the effort to purchase has been successful provide:
   - ☐ ____ ☐ – Purchase Agreement Form(s) (MO 580-2532); and
   - ☐ ____ ☐ – A copy of the selling facility's reissued licensed verifying surrender of beds sold.
5. If the proposal is to expand under provisions of §197.318.1 and effort(s) to purchase have been unsuccessful, provide Purchase Agreement Form(s) (MO 580-2532) verifying unsuccessful effort(s) to purchase. ☐ ____ ☐

MO 580-2504 (01-02)

Certificate of Need Program

EXPEDITED LTC RENOVATION/MODERNIZATION APPLICATION

Applicant's Completeness Checklist and Table of Contents

Project Name:_____ Project No.: _____

Project Description: _____

Done Page N/A Description of CON Rulebook Contents

Divider I. Application Summary:

❑ ____ ❑ 1. Applicant Identification and Certification (Form MO 580-1861).
❑ ____ ❑ 2. Representative Registration (Form MO 580-1869).
❑ ____ ❑ 3. Proposed Project Budget (Form MO 580-1863) and detail sheet.

Divider II. Proposal Description:

❑ ____ ❑ 1. Provide a complete detailed project description.
❑ ____ ❑ 2. Provide preliminary schematic drawings for the proposed project.
❑ ____ ❑ 3. Provide the existing and proposed gross square footage.
❑ ____ ❑ 4. Document ownership of the project site.

Divider III. Community Need Criteria and Standards:

❑ ____ ❑ 1. Indicate whether the proposed project is needed to comply with current facility code requirements of local, state or federal governments.
❑ ____ ❑ 2. Indicate whether the proposed project is needed to meet requirements for licensure, certification or accreditation, which if not undertaken, could result in a loss of accreditation or certification.
❑ ____ ❑ 3. Describe any operational efficiencies to be attained through reconfiguration of space and functions.
❑ ____ ❑ 4. Describe the methodologies used for determining need.
❑ ____ ❑ 5. Provide the rationale for the reallocation of space and functions.

MO 580-2505 (01-02)

Certificate of Need Program

EXPEDITED EQUIPMENT REPLACEMENT APPLICATION

Applicant's Completeness Checklist and Table of Contents

Project Name: _____ Project No.: _____

Project Description: _____

Done Page N/A Description of CON Rulebook Contents

Divider I. Application Summary:

❑ ____ ❑ 1. Applicant Identification and Certification (Form MO 580-1861).
❑ ____ ❑ 2. Representative Registration (Form MO 580-1869).
❑ ____ ❑ 3. Proposed Project Budget (Form MO 580-1863) and detail sheet.

Divider II. Proposal Description:

❑ ____ ❑ 1. Provide a complete detailed project description.
❑ ____ ❑ 2. Provide a listing with itemized costs of the medical equipment to be acquired.
❑ ____ ❑ 3. Provide bid quotes for the proposed equipment.

Divider III. Community Need Criteria and Standards:

❑ ____ ❑ 1. Describe the financial rationale for the proposed replacement equipment.
❑ ____ ❑ 2. Document if the existing equipment has exceeded its useful life.
❑ ____ ❑ 3. Describe the effect the replacement unit would have on quality of care.
❑ ____ ❑ 4. Document if the existing equipment is in constant need of repair.
❑ ____ ❑ 5. Document if the lease on the current equipment has expired.
❑ ____ ❑ 6. Describe the technological advances provided by the new unit.
❑ ____ ❑ 7. Describe how patient satisfaction would be improved.
❑ ____ ❑ 8. Describe how patient outcomes would be improved.
❑ ____ ❑ 9. Describe what impact the new unit would have on utiliztion.
❑ ____ ❑ 10. Describe any new capabilities that the new unit would provide.
❑ ____ ❑ 11. By what percent will this replacement increase patient charges?

(If full review for replacement equipment not previously approved, also complete Divider IV below)

Divider IV. Financial Feasibility Review Criteria & Standards:

❑ ____ ❑ 1. Document that sufficient financing is available by providing a letter from a financial institution or an auditor's statement indicating that sufficient funds are available.
❑ ____ ❑ 2. Provide Service-Specific Revenues and Expenses (Form MO 580-1865) projected through three (3) years beyond project completion.
❑ ____ ❑ 3. Provide Detailed Institutional Cash Flows (Form MO 580-1866) projected through three (3) years beyond project completion.
❑ ____ ❑ 4. Document how patient charges were derived.
❑ ____ ❑ 5. Document responsiveness to the needs of the medically indigent.

MO 580-2506 (04-02)

Certificate of Need Program

APPLICANT IDENTIFICATION AND CERTIFICATION

*(must match the **Letter of Intent** for this project, without exception)*

1. Project Location *(attach additional pages as necessary to identify multiple project sites.)*

Title of Proposed Project	Project Number
Project Address (Street/City/State/Zip Code)	County

2. Applicant Identification *(information must agree with previously submitted Letter of Intent)*

List All Owner(s): *(list corporate entity)*	Address (Street/City/State/Zip Code)	Telephone Number

List All Operator(s): *(list entity to be licensed or certified)*	Address (Street/City/State/Zip Code)	Telephone Number

3. Ownership *(Check applicable category)*

☐ Nonprofit Corporation ☐ Individual ☐ City ☐ District

☐ Partnership ☐ Corporation ☐ County ☐ Other: _____

4. Certification:

In submitting this project application, the applicant understands that:

(A) The review will be made as to the community need for the proposed beds or equipment in this application;
(B) In determining community need, the Missouri Health Facilities Review Committee (Committee) will consider all similar beds or equipment within the proposed service area;
(C) The issuance of a Certificate of Need (CON) by the Committee depends on conformance with its Rules and CON statute;
(D) A CON shall be subject to forfeiture for failure to incur an expenditure on any approved project six (6) months after the date of issuance, unless obligated or extended by the Committee for an additional six (6) months;
(E) Notification will be provided to the CON Program staff if and when the project is abandoned; and
(F) A CON, if issued, may not be transferred, relocated, or modified except with the consent of the Committee.

We certify the information and data in this application as accurate to the best of our knowledge and belief by our representative's signature below:

5. Authorized Contact Person *(attach a Contact Person Correction Form if different from the Letter of Intent)*

Name of Contact Person		Title
Telephone Number	Fax Number	E-mail Address
Signature of Contact Person		Date of Signature

MO 580-1861 (05-02)

Certificate of Need Program

REPRESENTATIVE REGISTRATION

*(A registration form must be completed for **each** project represented)*

Project Name	Number

(Please type or print legibly)

Name of Representative	Title

Firm/Corporation/Association of Representative (may be different from below, e.g., law firm, consultant, other)	Telephone Number

Address (Street/City/State/Zip Code)

Who's interests are being represented?
(If more than one, submit a separate Representative Registration Form for each.)

Name of Individual/Agency/Corporation/Organization being Represented	Telephone Number

Address (Street/City/State/Zip Code)

Check one. Do you:

- ☐ Support
- ☐ Oppose
- ☐ Neutral

Relationship to Project:

- ☐ None
- ☐ Employee
- ☐ Legal Counsel
- ☐ Consultant
- ☐ Lobbyist
- ☐ Other *(explain)*:

Other information:

I attest that to the best of my belief and knowledge the testimony and information presented by me is truthful, represents factual information, and is in compliance with §197.326.1 RSMo which says: *Any person who is paid either as part of his normal employment or as a lobbyist to support or oppose any project before the health facilities review committee shall register as a lobbyist pursuant to chapter 105 RSMo, and shall also register with the staff of the health facilities review committee for every project in which such person has an interest and indicate whether such person supports or opposes the named project. The registration shall also include the names and addresses of any person, firm, corporation or association that the person registering represents in relation to the named project. Any person violating the provisions of this subsection shall be subject to the penalties specified in §105.478, RSMo.*

Original Signature	Date

MO 580-1869 (11-01)

Certificate of Need Program

PROPOSED PROJECT BUDGET

Description	**Dollars** *(fill in every line even if the amount is "0")*
COSTS:*	
1. New Construction Costs ***	$_____
2. Renovation Costs ***	_____
3. Subtotal Construction Costs (#1 plus #2)	$_____
4. Architectural/Engineering Fees	$_____
5. Other Equipment (not in construction contract)	_____
6. Major Medical Equipment	_____
7. Land Acquisition Costs ***	_____
8. Consultants' Fees/Legal Fees ***	_____
9. Interest During Construction (net of interest earned) ***	_____
10. Other Costs ****	_____
11. Subtotal Non-Construction Costs (sum of #4 through #10)	$_____
12. Total Project Development Costs (#3 plus #11)	$_____
FINANCING:	
13. Unrestricted Funds	$_____
14. Bonds	_____
15. Loans	_____
16. Other Methods (specify)	$_____
17. Total Project Financing (sum of #13 through #16)	$_____
18. New Construction Total Square Footage	_____
19. New Construction Costs Per Square Foot *****	$_____
20. Renovated Space Total Square Footage	_____
21. Renovated Space Costs Per Square Foot ******	$_____

* *Attach additional page(s) to provide details of how each line item was determined, including all methods and assumptions used.*

** *These amounts should be the same.*

*** *Capitalizable items to be recognized as capital expenditures after project completion.*

**** *Include as Other Costs the following: other costs of financing; the value of existing lands, buildings and equipment not previously used for health care services, such as a renovated house converted to residential care, determined by original cost, current book value, or appraised value; or the fair market value of any leased equipment or building, or the cost of beds to be purchased.*

***** *Divide new construction costs by total new construction square footage.*

****** *Divide renovation costs by total renovation square footage.*

MO 580-1863 (01-02)

Certificate of Need Program

SERVICE-SPECIFIC REVENUES AND EXPENSES

Historical Financial Data for Latest Three Years plus Projections Through Three Years Beyond Project Completion

(Use an individual form for each affected service with a sufficient number of copies of this form to cover entire period, and fill in the years in the appropriate blanks.)	Year _____	_____	_____
Amount of Utilization:*			
Revenue:			
Average Charge**			
Gross Revenue			
Revenue Deductions			
Operating Revenue			
Other Revenue			
TOTAL REVENUE			
Expenses:			
Direct Expense			
Salaries			
Fees			
Supplies			
Other			
TOTAL DIRECT			
Indirect Expense			
Depreciation			
Interest***			
Overhead****			
TOTAL INDIRECT			
TOTAL EXPENSE			
NET INCOME (LOSS):			

* Utilization will be measured in "patient days" in nursing home or hospital beds, "procedures" for equipment, or other appropriate units of measure specific to the service affected.

** Indicate how the average charge/procedure was calculated.

*** Only on long term debt, not construction.

**** Indicate how overhead was calculated.

MO 580-1865 (12-99)

Certificate of Need Program

DETAILED INSTITUTIONAL CASH FLOWS

Historical Financial Data for Latest Three Years plus Projections Through Three Years Beyond Project Completion

(Use a sufficient number of copies of this form to cover entire period, and fill in the years in the appropriate blanks.)	Year		
	_____	_____	_____
Net Cash Flows from Operating Activities and Nonoperating Gains and Losses:			
Net Income			
Depreciation and Amortization			
Provision for Bad Debts			
Net Change in Assets and Liabilities			
Other (specify)			
Net Cash Provided by Operating Activities and Nonoperating Gains			
Cash Flows from Investing Activities:			
Purchases of Property and Equipment			
Proceeds from Disposition of Property			
Proceeds from Disposition of Equipment			
Increase in Assets Whose Use is Limited			
Decrease (Increase) in Investments			
Decrease (Increase) in Notes Receivable			
Other (specify)			
Net Cash Used in Investing Activities			
Cash Flows from Financing Activities:			
Issuance of Long-term Debt			
Defeasance of Long-term Debt			
Payments on Long-term Debt			
Payments on Capital Leases			
Fund Balance Transfers			
Other (specify)			
Net Cash Used in Financing Activities			
Increase (Decrease) in Cash and Cash Equivalents			
Cash and Cash Equivalents, Beginning of Year			
CASH AND CASH EQUIVALENTS, END OF YEAR			

MO 580-1866 (12-99)

Certificate of Need Program

CONTACT PERSON CORRECTION

Date

Is the "Contact Person" information below correct? ☐ **Yes** ☐ **No *(correct below)***

Project Name	Project Number
Contact Person *(Name/Association)*	Title
Address (Street/City/State/Zip Code	

Telephone Number	Fax Number	Email Address

INSTRUCTIONS TO THE APPLICANT:

- According to recent information in the Certificate of Need Records, the individual listed above is the "Contact Person " for this project who will be the primary representative responsible for all monitoring and reporting related to this project.
- If this information is correct, check "Yes" in the box above.
- If this information IS NOT correct, check "No" in the box above, and enter the correct information in the appropriate spaces provided below.
- **In either case, the applicant must sign at the bottom of this form to certify that this response is true and accurate as of the date posted above**.

Please type or print legibly corrected "Contact Person" information below:

Contact Person *(Name)*	Title
Address (Street/City/State/Zip Code	

Telephone Number	Fax Number	E-mail Address

Applicant *(Print or Type Name)*

Applicant *(Signature)*	Date

MO 580-1870 (11-01)

Certificate of Need Program

PERIODIC PROGRESS REPORT

Instructions for Completion (see attached blank forms)

Purpose: To gather uniform data regarding the progress and compliance of approved Certificate of Need (CON) projects in accordance with §197.300 to §197.366 RSMo; and to provide data to develop, implement and manage a database for project tracking, monitoring, notification and follow-up.

Used by: Missouri Health Facilities Review Committee, CON Program Staff, and Project Contact Person.

General: Periodic Progress Reports (PPRs) must provide all requested data and information in a complete, concise and legible manner. Each PPR must indicate if it is an Intermediate or Final Report. PPRs which are incomplete, illegible and/or contain mathematical discrepancies may be returned to the Contact Person for appropriate corrective action.

Project ID: Any changes in this information must be brought to the attention of the CON Program Staff immediately upon occurrence.

Add'l. Info.: *Additional information MUST be attached to **substantiate** answers to the individual questions. All final PPRs must include documentation which substantiates all claims and expenditures.*

Individual Questions:

1. **Have capital expenditures been incurred for the proposed construction and/or medical equipment?** A capital expenditure shall be deemed to have occurred if the applicant has at least one or more of the following:

   - **Construction expenditures** assignable to a capital asset in accordance with generally accepted accounting principles and which are not chargeble to pre-development or operating costs, which may be documented by a signed AIA construction contract with starting and ending dates; and above-ground construction;
   - **Purchase Orders (POs)** which are signed and which include the date of purchase, delivery, installation and operational date; or
   - **Acquisition** of medical equipment or property by lease, transfer, or purchase which has been authorized by the applicant and includes the date of the lease, the annual cost, cost and date of buy-out; purchase date, delivery installation and operational dates; and transfer date, current value, installation and operational date.

   If the answer to this question is "Yes," then attach copies of the appropriate signed construction contract (include pictures of construction activity), purchase order, or lease agreement (with original signatures).

   If capital expenditure or expenditure for medical equipment has not been incurred, provide a detailed explanation and include the steps being taken to correct the situation within the time constraints of §197.315.9 RSMo. Indicate the nature, costs and the date that a capital expenditure will be incurred.

2. **Are the expenditures for this reporting period/project-to-date included?**

   List all project expenditures, by category, incurred during the reported period and project-to-date on the **Project Budget/Expenditures** form.

3. **Are the projected final costs within the limits approved?** *(Self-explanatory)*

   Using current costs and expenditures, extrapolate final project costs to the project completion date. If total costs will exceed those approved by the Committee by more than 10%, specify and explain the area and category involved. Also, indicate the estimated filing date for your cost-overrun application.

4. **Are there changes in the services or programs approved?** *(Explain any changes)*

5. **Has the project contact person changed?** If "Yes," enclose a new CON Contact Person Correction Form.

6. **Construction or installation is _____ % complete.**

   *(If the project expenditures and construction are both 100% complete, provide a **final** project budget and expenditure report.)*

MO 580-1871 (01-02)

Certificate of Need Program

PERIODIC PROGRESS REPORT

Type of Progress Report:
☐ Intermediate
☐ Final

All applicants granted a Certificate of Need (CON) by the Missouri Health Facilities Review Committee are required to submit periodic progress reports until such time as the project is complete (§197.315 (8) RSMo). These reports **must** be filed with the CON Program staff after the end of **each six (6) month reporting period** following the issuance of a CON.

Name of Project	Report Period
	Project Number
Address	
	Date CON Issued
Project Description	
	Approved Cost

☐ Yes
☐ No

1. Capital expenditures have been incurred for above-ground construction and/or medical equipment.

_____ Date construction started or equipment purchased. Provide copy of AIA contract and/or purchase order.

☐ Yes
☐ No

***2. Expenditures for this reporting period and project-to-date are included.**

_____ % of the total approved project amount that has been expended to date.

☐ Yes
☐ No

3. There are changes in the final costs of the project.

If "Yes," explain in detail and provide replacement pages for the approved application.

$ _____ Estimated final project cost

☐ Yes
☐ No

4. There any changes in the services or programs approved scope of the project.

If "Yes" explain in detail and provide replacement pages for the approved application.

☐ Yes
☐ No

5. The project contact person changed.

If "Yes," enclose a new Contact Person Correction Form (MO 580-1870).

***6. _____ % of the construction or installation is complete.**
_____ % of the installation is complete.

If Items 2 and 6 are both 100% complete, signify this as the **Final Report and submit documentation of final costs.*

Description of progress to date. Clearly explain expenditures, delays, changes in project progress, or lack of progress, of the approved project *(use additional pages as needed):*

MO 580-1871 (10-01)

Certificate of Need Program

PERIODIC PROGRESS REPORT

Project Budget/Expenditures	Report Period: _____ to_____		
Description	**Application**	**This Period**	**Project-to-date**
1. General Construction Costs			
2. Site Work			
3. Subtotal Construction Costs			
4. Architectural/Engineering Fees			
5. Fixed Equipment			
6. Movable Equipment			
7. Land Acquisition			
8. Consultants' Fees/Legal Fees			
9. Interest During Construction			
10. Other Costs			
11. Subtotal Non-construction Costs			
12. TOTAL Project Development Costs			
Square footage: New Construction			
Renovated Space			
Total Project			
Costs per square foot: New Construction			
Renovated Space			

Name of Contact Person	Title	
Telephone Number	Fax Number	E-mail Address

MO 580-1871 (10-01)

Certificate of Need Program

INFORMATION REQUEST FORM

Name *(please type or print)*	Title
Organization	Telephone Number
	Fax Number
Address *(Street/City/State/Zip Code)*	E-mail address

I request the following and agree to pay charges as billed by the Certificate of Need Program:

Check Item Needed	Quantity	Cost/Item	Total
☐ Certificate of Need Rulebook	_____	$10.00	_____
☐ Hosp & NH ICF/SNF Occup. and Bed Need Summary by County	_____	$1.00	_____
☐ Six-Qtr Occupancy of Hosp & NH Lic. & Available ICF/SNF Beds	_____	$4.00	_____
☐ Six-Qtr Occupancy of ICF and SNF Licensed Beds	_____	$4.00	_____
☐ RCF Occupancy and Bed Need Summary By County	_____	$1.00	_____
☐ Six-Qtr Occupancy of RCF Licensed and Available Beds	_____	$4.00	_____
☐ Six-Qtr Occupancy of RCF Licensed Beds	_____	$4.00	_____
☐ Inventory of Hospital Beds in Missouri	_____	$3.00	_____
☐ Special Computer and File Searches *(1 hour minimum charge)*	_____	$25.00/hour*	_____
☐ Certificate of Need educational and performance handouts	_____	(no charge)	$0.00
☐ Copies of Other Materials *(Please specify in the blanks below)*	_____	10¢/page	_____
_____		**Subtotal = $**	_____
_____			
_____		Shipping and Handling Fee**	$3.00
_____			

* *Charge will be assessed **after** search and added to final bill.*

** *If delivered by regular mail (**waived** if items picked up at CONP Office), or billed at actual cost if shipped by courier or other method of delivery.*

*** *A check made payable to "**Missouri Health Facilities Review Committee**" **must** accompany all out-of-state requests.*

Total due: $_____***

Signature *(signature is required to process request)*	Date

Mail (with prepayment if required), e-mail or fax request form to:

Certificate of Need Program
915G Leslie Boulevard
Jefferson City, MO 65101

Phone: 573-751-6403 Fax: 573-751-7894 E-mail: mocon@mchsi.com

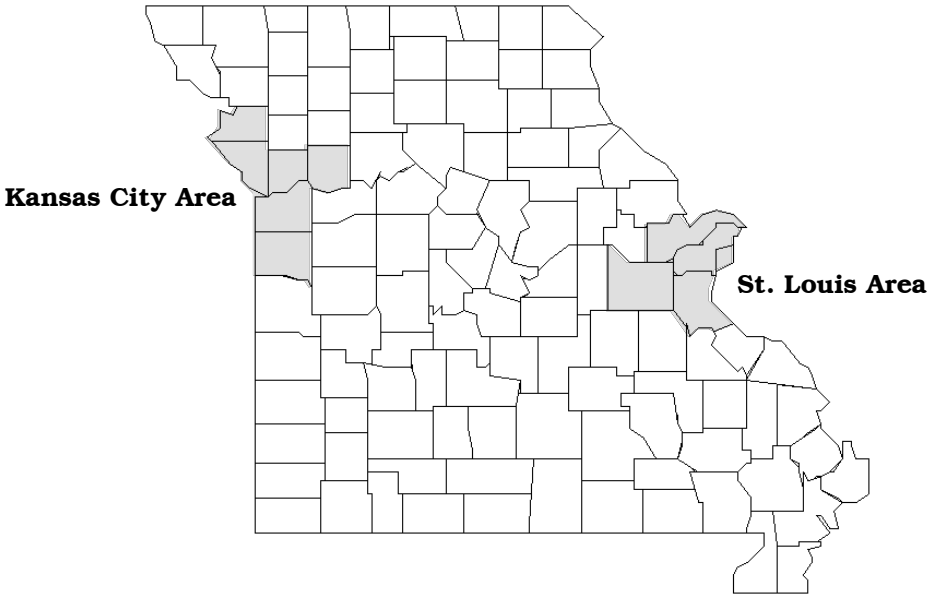
For electronic versions for some of the above, go to CON web site at: **www.dhss.mo.gov/con**

RS Means Cost Data

RS Means Cost Data Percentile Limits
Total New Construction Project Costs*

Source: 2004 RS Means Building Construction Cost Data

Type of Facility	Percentile	St. Louis	Kansas City	Outstate	National
HOSPITAL					
Cost Per Sq. Ft.	**3/4**	**$253.47**	**$252.96**	**$225.18**	**$248.00**
	Median	163.52	163.20	145.28	160.00
Cost Per Bed	**3/4**	**$177,317**	**$176,970**	**$157,538**	**$173,500**
	Median	110,887	110,670	98,518	108,500
NURSING HOME AND RESIDENTIAL CARE FACILITY					
Cost Per Sq. Ft.	**3/4**	**$124.68**	**$124.44**	**$110.78**	**$122.00**
	Median	105.27	105.06	93.52	103.00
Cost Per Bed	**3/4**	**$59,787**	**$59,670**	**$53,118**	**$58,500**
	Median	45,990	45,900	40,860	45,000



* Renovation costs should not exceed 70% of total new construction project costs

Certificate of Need Statute

197.300. Citation of law.- Sections 197.300 to 197.366 shall be known as the "Missouri Certificate of Need Law".

(L. 1979 H.B. 222 § 1, A.L. 1996 H.B. 1362)

Effective 7-12-96

197.305. Definitions.– As used in sections 197.300 to 197.366, the following terms mean:

(1) "**Affected persons**", the person proposing the development of a new institutional health service, the public to be served, and health care facilities within the service area in which the proposed new health care service is to be developed;

(2) "**Agency**", the certificate of need program of the Missouri department of health;

(3) "**Capital expenditure**", an expenditure by or on behalf of a health care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance;

(4) "**Certificate of need**", a written certificate issued by the committee setting forth the committee's affirmative finding that a proposed project sufficiently satisfies the criteria prescribed for such projects by sections 197.300 to 197.366;

(5) "**Develop**", to undertake those activities which on their completion will result in the offering of a new institutional health service or the incurring of a financial obligation in relation to the offering of such a service;

(6) "**Expenditure minimum**" shall mean:

(a) For beds in existing or proposed health care facilities licensed pursuant to chapter 198, RSMo, and long-term care beds in a hospital as described in subdivision (3) of subsection 1 of section 198.012, RSMo, six hundred thousand dollars in the case of capital expenditures, or four hundred thousand dollars in the case of major medical equipment, provided, however, that prior to January 1, 2003, the expenditure minimum for beds in such a facility and long-term care beds in a hospital described in section 198.012, RSMo, shall be zero, subject to the provisions of subsection 7 of section 197.318;

(b) For beds or equipment in a long-term care hospital meeting the requirements described in 42 C.F.R., section 412.23(e), the expenditure minimum shall be zero; and

(c) For health care facilities, new institutional health services or beds not described in paragraph (a) or (b) of this subdivision one million dollars in the case of capital expenditures, excluding major medical equipment, and one million dollars in the case of medical equipment;

(7) "**Health care facilities**", hospitals, health maintenance organizations, tuberculosis hospitals, psychiatric hospitals, intermediate care facilities, skilled nursing facilities, residential care facilities I and II, kidney disease treatment centers, including free standing hemodialysis units, diagnostic imaging centers, radiation therapy centers and ambulatory surgical facilities, but excluding the private offices of physicians, dentists and other practitioners of the healing arts, and Christian Science sanatoriums, also known as Christian Science Nursing facilities listed and certified by the Commission for Accreditation of Christian Science Nursing Organization/Facilities, Inc., and facilities of not for profit corporations in existence on October 1, 1980, subject either to the provisions and regulations of section 302 of the Labor-Management Relations Act, 29 U.S.C. 186 or the Labor-Management Reporting and Disclosure Act, 29 U.S.C. 401-538, and any residential care facility I or residential care facility II operated by a religious organization qualified pursuant to section 501(c)(3) of the federal Internal Revenue Code, as amended, which does not require the expenditure of public funds for purchase or operation, with a total licensed bed capacity of one hundred beds or fewer;

(8) "**Health service area**", a geographic region appropriate for the effective planning and development of health services, determined on the basis of factors including population and the availability of resources, consisting of a population of not less than five hundred thousand or more than three million;

(9) "**Major medical equipment**", medical equipment used for the provision of medical and other health services;

(10) "**New institutional health service**":

(a) The development of a new health care facility costing in excess of the applicable expenditure minimum;

(b) The acquisition, including acquisition by lease, of any health care facility, or major medical equipment costing in excess of the expenditure minimum;

(c) Any capital expenditure by or on behalf of a health care facility in excess of the expenditure minimum;

(d) Predevelopment activities as defined in subdivision (13) hereof costing in excess of one hundred fifty thousand dollars;

(e) Any change in licensed bed capacity of a health care facility which increases the total

number of beds by more than ten or more than ten percent of total bed capacity, whichever is less, over a two-year period;

(f) Health services, excluding home health services, which are offered in a health care facility and which were not offered on a regular basis in such health care facility within the twelve-month period prior to the time such services would be offered;

(g) A reallocation by an existing health care facility of licensed beds among major types of service or reallocation of licensed beds from one physical facility or site to another by more than ten beds or more than ten percent of total licensed bed capacity, whichever is less, over a two-year period;

(11) "**Nonsubstantive projects**", projects which do not involve the addition, replacement, modernization or conversion of beds or the provision of a new health service but which include a capital expenditure which exceeds the expenditure minimum and are due to an act of God or a normal consequence of maintaining health care services, facility or equipment;

(12) "**Person**", any individual, trust, estate, partnership, corporation, including associations and joint stock companies, state or political subdivision or instrumentality thereof, including a municipal corporation;

(13) "**Predevelopment activities**", expenditures for architectural designs, plans, working drawings and specifications, and any arrangement or commitment made for financing; but excluding submission of an application for a certificate of need.

(L. 1979 H.B. 222 § 2, A.L. 1982 S.B. 481, A.L. 1983 H.B. 825, A.L. 1994 H.B. 1408, A.L. 1996 H.B. 905 and H.B. 1362, A.L. 1997 S.B. 373, A.L. 1998 S.B. 963, A.L. 1999 S.B. 326)

Effective 7-1-99

CROSS REFERENCE:
Health care facilities, definition, effective after December 31, 2001, RSMo 197.366

(1995) Acquisition cost for major medical equipment for purposes of minimum expenditure necessary to subject expenditure to certificate of need law, refers to cost to hospital and not original purchase price. Cost of land and construction costs for building were attributable to separate commercial enterprise and not made by, or on behalf of, health care facility where hospital leased space for outpatient radiation therapy services. SSM Health Care v. Missouri Health Facilities Review Committee, 894 S.W.2d 674 (Mo. en banc).

197.310. Review committee, members, terms, compensation, duties.–1. The "Missouri Health Facilities Review Committee" is hereby established. The agency shall provide clerical and administrative support to the committee. The committee may employ additional staff as it deems necessary.

2. The committee shall be composed of:

(1) Two members of the senate appointed by the president pro tem, who shall be from different political parties; and

(2) Two members of the house of representatives appointed by the speaker, who shall be from different political parties; and

(3) Five members appointed by the governor with the advice and consent of the senate, not more than three of whom shall be from the same political party.

3. No business of this committee shall be performed without a majority of the full body.

4. The members shall be appointed as soon as possible after September 28, 1979. One of the senate members, one of the house members and three of the members appointed by the governor shall serve until January 1, 1981, and the remaining members shall serve until January 1, 1982. All subsequent members shall be appointed in the manner provided in subsection 2 of this section and shall serve terms of two years.

5. The committee shall elect a chairman at its first meeting which shall be called by the governor. The committee shall meet upon the call of the chairman or the governor.

6. The committee shall review and approve or disapprove all applications for a certificate of need made under sections 197.300 to 197.366. It shall issue reasonable rules and regulations governing the submission, review and disposition of applications.

7. Members of the committee shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

8. Notwithstanding the provisions of subsection 4 of section 610.025*, RSMo, the proceedings and records of the facilities review committee shall be subject to the provisions of chapter 610, RSMo.

(L. 1979 H.B. 222 § 3, A.L. 1999 S.B. 326)

Effective 7-1-99

*Section 610.025 was repealed by S.B. 2, 1987.

197.311. Political contributions to committee members by applicants prohibited.– No member of the Missouri health facilities review committee may accept a political donation from any applicant for a license.

(L. 1994 H.B. 1408 § 1)

Effective 6-3-94

197.312. Certificate of need not required for St. Louis residential care facilities I and II – certain other facilities, certificate not required.– A certificate of need shall not be required for any institution previously owned and operated for or in behalf of a city not within a county which chooses to be licensed as a facility defined under subdivision (15) or (16) of section 198.006, RSMo, for a facility of ninety beds or less that is owned or operated by a not for profit corporation which is exempt from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, which is controlled directly by a religious organization and which has received approval by the division of aging of plans for construction of such facility by August 1, 1995, and is licensed by the division of aging by July 1, 1996, as a facility defined under subdivision (15) or (16) of section 198.006, RSMo, or for a facility, serving exclusively mentally ill, homeless persons, of sixteen beds or less that is owned or operated by a not for profit corporation which is exempt from federal income tax which is described in section 501(c)(3) of the Internal Revenue Code of 1986, which is controlled directly by a religious organization and which has received approval by the division of aging of plans for construction of such facility by May 1, 1996, and is licensed by the division of aging by July 1, 1996, as a facility defined under subdivisions (15) or (16) of section 198.006, RSMo, or a residential care facility II located in a city not within a county operated by a not for profit corporation which is exempt from federal income tax which is described in section 501(c)(3) of the Internal Revenue Code of 1986, which is controlled directly by a religious organization and which is licensed for one hundred beds or less on or before August 28, 1997.

(L. 1995 S.B. 108 § 1 subsec. 5, A.L. 1996 H.B. 1362)

Effective 7-12-96

197.313.–(Repealed L. 1999 S.B. 326 § A)

Effective 7-1-99

197.314. Inapplicability of sections to dementia care units in certain counties (including Jackson County) and to certain not for profit corporations.–

1. The provisions of 197.300 to 197.366 shall not apply to any sixty-bed stand-alone facility designed and operated exclusively for the care of residents with Alzheimer's disease or dementia and located in a tax increment financing district established prior to 1990 within any county of the first classification with a charter form of government containing a city with a population of over three hundred fifty thousand and which district also has within its boundaries a skilled nursing facility.

2. The provisions of sections 197.300 to 197.366 shall not apply, as hereinafterstated, to a skilled nursing facility that is owned or operated by a not for profit corporation which was created by a special act of the Missouri general assembly, is exempt from federal income tax as an organization described in section 501 (c)(3) of the Internal Revenue Code of 1986, is owned by a religious organization and is to be operated as part of a continuing care retirement community offering independent living, residential care and skilled care. This exemption shall authorize no more than twenty additional skilled nursing beds at each of two facilities which do not have any skilled nursing beds as of January 1, 1999.

(L. 1999 S.B. 326 §§ 12, 13)

197.315. Certificate of need granted, when-forfeiture, grounds-application for certificate, fee-certificate not required, when.–

1. Any person who proposes to develop or offer a new institutional health service within the state must obtain a certificate of need from the committee prior to the time such services are offered.

2. Only those new institutional health services which are found by the committee to be needed shall be granted a certificate of need. Only those new institutional health services which are granted certificates of need shall be offered or developed within the state. No expenditures for new institutional health services in excess of the applicable expenditure minimum shall be made by any person unless a certificate of need has been granted.

3. After October 1, 1980, no state agency charged by statute to license or certify health care facilities shall issue a license to or certify any such facility, or distinct part of such facility, that is developed without obtaining a certificate of need.

4. If any person proposes to develop any new institutional health care service without a certificate of need as required by sections 197.300 to 197.366, the committee shall notify the attorney general, and he shall apply for an injunction or other appropriate legal action in any court of this state against that person.

5. After October 1, 1980, no agency of state government may appropriate or grant funds to or make payment of any funds to any person or health care facility which has not first obtained every certificate of need required pursuant to sections 197.300 to 197.366.

6. A certificate of need shall be issued only for the premises and persons named in the application and is not transferable except by consent of the committee.

7. Project cost increases, due to changes in the project application as approved or due to project

change orders, exceeding the initial estimate by more than ten percent shall not be incurred without consent of the committee.

8. Periodic reports to the committee shall be required of any applicant who has been granted a certificate of need until the project has been completed. The committee may order the forfeiture of the certificate of need upon failure of the applicant to file any such report.

9. A certificate of need shall be subject to forfeiture for failure to incur a capital expenditure on any approved project within six months after the date of the order. The applicant may request an extension from the committee of not more than six additional months based upon substantial expenditure made.

10. Each application for a certificate of need must be accompanied by an application fee. The time of filing commences with the receipt of the application and the application fee. The application fee is one thousand dollars, or one-tenth of one percent of the total cost of the proposed project, whichever is greater. All application fees shall be deposited in the state treasury. Because of the loss of federal funds, the general assembly will appropriate funds to the Missouri health facilities review committee.

11. In determining whether a certificate of need should be granted, no consideration shall be given to the facilities or equipment of any other health care facility located more than a fifteen-mile radius from the applying facility.

12. When a nursing facility shifts from a skilled to an* intermediate level of nursing care, it may return to the higher level of care if it meets the licensure requirements, without obtaining a certificate of need.

13. In no event shall a certificate of need be denied because the applicant refuses to provide abortion services or information.

14. A certificate of need shall not be required for the transfer of ownership of an existing and operational health facility in its entirety.

15. A certificate of need may be granted to a facility for an expansion, an addition of services, a new institutional service, or for a new hospital facility which provides for something less than that which was sought in the application.

16. The provisions of this section shall not apply to facilities operated by the state, and appropriation of funds to such facilities by the general assembly shall be deemed in compliance with this section, and such facilities shall be deemed to have received an appropriate certificate of need without payment of any fee or charge.

17. Notwithstanding other provisions of this section, a certificate of need may be issued after July 1, 1983, for an intermediate care facility operated exclusively for the mentally retarded.

18. To assure the safe, appropriate, and cost-effective transfer of new medical technology throughout the state, a certificate of need shall not be required for the purchase and operation of research equipment that is to be used in a clinical trial that has received written approval from a duly constituted institutional review board of an accredited school of medicine or osteopathy located in Missouri to establish its safety and efficacy and does not increase the bed complement of the institution in which the equipment is to be located. After the clinical trial has been completed, a certificate of need must be obtained for continued use in such facility.

(L. 1979 H.B. 222 § 4, A.L. 1982 S.B. 481, A.L. 1983 H.B. 825, A.L. 1987 S.B. 1, A. L. 1999 S.B. 326)

Effective 7-1-99

*Word "a" appears in original rolls.

197.316. Certificate of need not required for nursing homes treating only AIDS patients-violations, penalties.–

1. The provisions of subsection 10 of section 197.315 and sections 197.317 and 197.318 shall not apply to facilities which are licensed pursuant to the provisions of chapter 198, RSMo, which are designed and operated exclusively for the care and treatment of persons with acquired human immunodeficiency syndrome, AIDS.

2. If a facility is granted a certificate of need and is found to be exempt from the provisions of subsection 10 of section 197.315 and sections 197.317 and 197.318 pursuant to the provisions of subsection 1 of this section, then only AIDS patients shall be residents of such facility and no others.

3. Any facility that violates the provisions of subsection 2 of this section shall be liable for a fine of one hundred dollars per resident per day for each such violation.

4. The attorney general shall, upon request of the department of health, bring an action in a circuit court of competent jurisdiction for violationof this section.

(L. 1995 S.B. 108 § 1 subsecs. 1 to 4, A.L. 1999 S.B. 326)

Effective 7-1-99

197.317. Certificate not to be issued for certain facilities-utilization of demographic data.–

1. After July 1, 1983, no certificate of need shall be issued for the following:

(1) Additional residential care facility I, residential care facility II, intermediate care facility or skilled nursing facility beds above the number then licensed by this state;

(2) Beds in a licensed hospital to be reallocated on a temporary or permanent basis to nursing care or beds in a long-term care hospital meeting the requirements described in 42 C.F.R., section 412.23(e), excepting those which are not subject to a certificate of need pursuant to paragraphs (e) and (g) of subdivision (10) of section 197.305; nor

(3) The reallocation of intermediate care facility or skilled nursing facility beds of existing licensed beds by transfer or sale of licensed beds between a hospital licensed pursuant to this chapter or a nursing care facility licensed pursuant to chapter 198, RSMo; except for beds in counties in which there is no existing nursing care facility. No certificate of need shall be issued for the reallocation of existing residential care facility I or II, or intermediate care facilities operated exclusively for the mentally retarded to intermediate care or skilled nursing facilities or beds. However, after January 1, 2003, nothing in this section shall prohibit the Missouri health facilities review committee from issuing a certificate of need for additional beds in existing health care facilities or for new beds in new health care facilities or for the reallocation of licensed beds, provided that no construction shall begin prior to January 1, 2004. The provisions of subsections 16 and 17 of section 197.315 shall apply to the provisions of this section.

2. The health facilities review committee shall utilize demographic data from the office of social and economic data analysis, or its successor organization, at the University of Missouri as their source of information in considering applications for new institutional long-term care facilities.

(L. 1986 S.B. 553 & 775 § 5, A.L. 1987 S.B. 1, A.L. 1990 H.B. 1725, A.L. 1994 H.B. 1408, A.L. 1996 H.B. 1362, A.L. 1999 S.B. 326)

Effective 7-1-99

197.318. Certification ineligibility not to apply, when-department certification of no need final-ethnic and religious composition of residents may be considered-no expenditure minimum, expiration date-licensed and available, defined-review of letters of intent-application of law in pending court cases-expansion procedures.–

1. The provisions of section 197.317 shall not apply to a residential care facility I, residential care facility II, intermediate care facility or skilled nursing facility only where the department of social services has first determined that there presently exists a need for additional beds of that classification because the average occupancy of all licensed and available residential care facility I, residential care facility II, intermediate care facility and skilled nursing facility beds exceeds ninety percent for at least four consecutive calendar quarters, in a particular county, and within a fifteen-mile radius of the proposed facility, and the facility otherwise appears to qualify for a certificate of need. The department's certification that there is no need for additional beds shall serve as the final determination and decision of the committee. In determining ninety percent occupancy, residential care facility I and II shall be one separate classification and intermediate care and skilled nursing facilities are another separate classification.

2. The Missouri health facilities review committee may, for any facility certified to it by the department, consider the predominant ethnic or religious composition of the residents to be served by that facility in considering whether to grant a certificate of need.

*3. There shall be no expenditure minimum for facilities, beds, or services referred to in subdivisions (1), (2) and (3) of section 197.317. The provisions of this subsection shall expire January 1, 2003.

4. As used in this section, the term "**licensed and available**" means beds which are actually in place and for which a license has been issued.

5. The provisions of section 197.317 shall not apply to any facility where at least ninety-five percent of the patients require diets meeting the dietary standards defined by section 196.165, RSMo.

6. The committee shall review all letters of intent and applications for long-term care hospital beds meeting the requirements described in 42 C.F.R., section 412.23(e) under its criteria and standards for long-term care beds.

7. Sections 197.300 to 197.366 shall not be construed to apply to litigation pending in state court on or before April 1, 1996, in which the Missouri health facilities review committee is a defendant in an action concerning the application of sections 197.300 to 197.366 to long-term care hospital beds meeting the requirements described in 42 C.F.R., section 412.23(e).

8. Notwithstanding any other provisions of this chapter to the contrary:

(1) A facility licensed pursuant to chapter 198, RSMo, may increase its licensed bed capacity by:

(a) Submitting a letter of intent to expand to the division of aging and the health facilities review committee;

(b) Certification from the division of aging that the facility:

a. Has no patient care class I deficiencies within the last eighteen months; and

b. Has maintained a ninety-percent average occupancy rate for the previous six quarters;

(c) Has made an effort to purchase beds for eighteen months following the date the letter of intent to expand is submitted pursuant to paragraph (a) of this subdivision. For purposes of this paragraph, an "**effort to purchase**" means a copy certified by the offeror as an offer to purchase beds from another licensed facility in the same licensure category; and

(d) If an agreement is reached by the selling and purchasing entities, the health facilities review committee shall issue a certificate of need for the expansion of the purchaser facility upon surrender of the seller's license; or

(e) If no agreement is reached by the selling and purchasing entities, the health facilities review committee shall permit an expansion for:

a. A facility with more than forty beds may expand its licensed bed capacity within the same licensure category by twenty-five percent or thirty beds, whichever is greater, if that same licensure category in such facility has experienced an average occupancy of ninety-three percent or greater over the previous six quarters;

b. A facility with fewer than forty beds may expand its licensed bed capacity within the same licensure category by twenty-five percent or ten beds, whichever is greater, if that same licensure category in such facility has experienced an average occupancy of ninety-two percent or greater over the previous six quarters;

c. A facility adding beds pursuant to subparagraphs a. or b. of this paragraph shall not expand by more than fifty percent of its then licensed bed capacity in the qualifying licensure category;

(2) Any beds sold shall, for five years from the date of relicensure by the purchaser, remain unlicensed and unused for any long-term care service in the selling facility, whether they do or do not require a license;

(3) The beds purchased shall, for two years from the date of purchase, remain in the bed inventory attributed to the selling facility and be considered by the department of social services as licensed and available for purposes of this section;

(4) Any residential care facility licensed pursuant to chapter 198, RSMo, may relocate any portion of such facility's current licensed beds to any other facility to be licensed within the same licensure category if both facilities are under the same licensure ownership or control, and are located within six miles of each other;

(5) A facility licensed pursuant to chapter 198, RSMo, may transfer or sell individual long-term licensed beds to facilities qualifying pursuant to paragraphs (a) and (b) of subdivision (1) of this subsection. Any facility which transfers or sells licensed beds shall not expand its licensed bed capacity in that licensure category for a period of five years from the date the licensure is relinquished.

9. Any existing licensed and operating health care facility offering long-term care services may replace one-half of its licensed beds at the same site or a site not more than thirty miles from its current location if, for at least the most recent four consecutive calendar quarters, the facility operates only fifty percent of its then licensed capacity with every resident residing in a private room. In such case:

(1) The facility shall report to the division of aging vacant beds as unavailable for occupancy for at least the most recent four consecutive calendar quarters;

(2) The replacement beds shall be built to private room specifications and only used for single occupancy; and

(3) The existing facility and proposed facility shall have the same owner or owners, regardless of corporate or business structure, and such owner or owners shall stipulate in writing that the existing facility beds to be replaced will not later be used to provide long-term care services. If the facility is being operated under a lease, both the lessee and the owner of the existing facility shall stipulate the same in writing.

10. Nothing in this section shall prohibit a health care facility licensed pursuant to chapter 198, RSMo, from being replaced in its entirety within fifteen miles of its existing site so long as the existing facility and proposed or replacement facility have the same owner or owners regardless of corporate or business structure and the health care facility being replaced remains unlicensed and unused for any long-term care services whether they do or do not require a license from the date of licensure of the replacement facility.

(L. 1986 S.B. 553 & 775 § 6, A.L. 1992 S.B. 573 & 634, A.L. 1994 H.B. 1408, A.L. 1996 S.B. 575, A.L. 1996 H.B. 1362, A.L. 1997 S.B. 373, A.L. 1999 S.B. 326)

Effective 7-1-99

*Subsection 3 expires 1-1-2003

197.319.–(Repealed L. 1995 S.B. 108 § A)

Effective 5-12-95

197.320. Rules and regulations.– The committee shall have the power to promulgate reasonable rules, regulations, criteria and standards in conformity with this section and chapter 536, RSMo, to meet the objectives of sections 197.300 to 197.366 including the power to establish criteria and standards to review new types of equipment or service. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 197.300 to 197.366 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

(L. 1979 H.B. 222 § 5, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3, A.L. 1999 S.B. 326)

Effective 7-1-99

197.325. Submission of applications.– Any person who proposes to develop or offer a new institutional health service shall submit a letter of intent to the committee at least thirty days prior to the filing of the application.

(L. 1979 H.B. 222 § 6, A.L. 1999 S.B. 326)

Effective 7-1-99

197.326. Lobbyist and interest registration required, when, contents, penalty-general assembly member prohibited from accepting contributions, when-certain persons may not offer gifts, when, penalty.–

1. Any person who is paid either as part of his normal employment or as a lobbyist to support or oppose any project before the health facilities review committee shall register as a lobbyist pursuant to chapter 105, RSMo, and shall also register with the staff of the health facilities review committee for every project in which such person has an interest and indicate whether such person supports or opposes the named project. The registration shall also include the names and addresses of any person, firm, corporation or association that the person registering represents in relation to the named project. Any person violating the provisions of this subsection shall be subject to the penalties specified in section 105.478, RSMo.

2. A member of the general assembly who also serves as a member of the health facilities review committee is prohibited from soliciting or accepting campaign contributions from an applicant or person speaking for an applicant or any opponent to any application or persons speaking for any opponent while such application is pending before the health facilities review committee.

3. Any person regulated by chapter 197 or 198, RSMo, and any officer, attorney, agent and employee thereof, shall not offer to any committee member or to any person employed as staff to the committee, any office, appointment or position, or any present, gift, entertainment or gratuity of any kind or any campaign contribution while such application is pending before the health facilities review committee. Any person guilty of knowingly violating the provisions of this section shall be punished as follows: For the first offense, such person is guilty of a class B misdemeanor; and for the second and subsequent offenses, such person is guilty of a class D felony.

(L. 1992 S.B. 573 & 634)

197.327. Certificate issued for additional beds for medicaid patients, use for nonmedicaid patients, penalty- procedure to collect.–

1. If a facility is granted a certificate of need pursuant to sections 197.300 to 197.365 based on an application stating a need for additional medicaid beds, such beds shall be used for medicaid patients and no other.

2. Any person who violates the provisions of subsection 1 of this section shall be liable to the state for civil penalties of one hundred dollars for every day of such violation. Each nonmedicaid patient placed in a medicaid bed shall constitute a separate violation.

3. The attorney general shall, upon the request of the department, bring an action in a circuit court of competent jurisdiction to recover the civil penalty. The department may bring such an action itself. The civil action may be brought in the circuit court of Cole County or, at the option of the director, in another county which has venue of an action against the person under other provisions of law.

(L. 1988 H.B. 1368)

197.330. Duties of review committee.–

1. The committee shall:

(1) Notify the applicant within fifteen days of the date of filing of an application as to the completeness of such application;

(2) Provide written notification to affected persons located within this state at the beginning of a review. This notification may be given through publication of the review schedule in all newspapers of general circulation in the area to be served;

(3) Hold public hearings on all applications when a request in writing is filed by any affected person within thirty days from the date of publication of the notification of review;

(4) Within one hundred days of the filing of any application for a certificate of need, issue in writing its findings of fact, conclusions of law, and its approval or denial of the certificate of need; provided, that the committee may grant an extension of not more than thirty days on its own initiative or upon the written request of any affected person;

(5) Cause to be served upon the applicant, the respective health system agency, and any affected person who has filed his prior request in writing, a copy of the aforesaid findings, conclusions and decisions;

(6) Consider the needs and circumstances of institutions providing training programs for health personnel;

(7) Provide for the availability, based on demonstrated need, of both medical and osteopathic facilities and services to protect the freedom of patient choice; and

(8) Establish by regulation procedures to review, or grant a waiver from review, nonsubstantive projects.

The term "**filed**" or "**filing**" as used in this section shall mean delivery to the staff of the health facilities review committee the document or documents the applicant believes constitute an application.

2. Failure by the committee to issue a written decision on an application for a certificate of need within the time required by this section shall constitute approval of and final administrative action on the application, and is subject to appeal pursuant to section 197.335 only on the question of approval by operation of law.

(L. 1979 H.B. 222 § 7, A.L. 1986 S.B. 553 & 775, A.L. 1987 H.B. 384 Revision, A.L. 1999 S.B. 326)

Effective 7-1-99

197.335. Appeals, venue.- Within thirty days of the decision of the committee, the applicant may file an appeal to be heard de novo by the administrative hearing commissioner, the circuit court of Cole County or the circuit court in the county within which such health care service or facility is proposed to be developed.

(L. 1979 H.B. 222 § 8, A.L. 1986 S.B. 553 & 775, A.L. 1987 H.B. 384 Revision, A.L. 1999 S.B. 326)

Effective 7-1-99

197.340. Notices to committee.– Any health facility providing a health service must notify the committee of any discontinuance of any previously provided health care service, a decrease in the number of licensed beds by ten percent or more, or the change in licensure category for any such facility.

(L. 1979 H.B. 222 § 9)

Effective 10-1-80

197.345. Actions taken prior to October 1, 1980, not affected.– Any health facility with a project for facilities or services for which a binding construction or purchase contract has been executed prior to October 1, 1980, or health care facility which has commenced operations prior to October 1, 1980, shall be deemed to have received a certificate of need, except that such certificate of need shall be subject to forfeiture under the provisions of subsections 8 and 9 of section 197.315

(L. 1979 H.B. 222 § 10)

197.350.–(Repealed L. 1999 S.B. 326 § A)

Effective 7-1-99

197.355. Certificate required before funds may be appropriated.- The legislature may not appropriate any money for capital expenditures for health care facilities until a certificate of need has been issued for such expenditures.

(L. 1979 H.B. 222 § 12)

Effective 10-1-80

197.357. Reimbursement for project cost-overrun in excess of ten percent, eligible when–requirements.– For the purposes of reimbursement under section 208.152, RSMo, project costs for new institutional health services in excess of ten percent of the initial project estimate whether or not approval was obtained under subsection 7 of section 197.315 shall not be eligible for reimbursement for the first three years that a facility receives payment for services provided under section 208.152, RSMo. The initial estimate shall be that amount for which the original certificate of need was obtained or, in the case of facilities for

which a binding construction or purchase contract was executed prior to October 1, 1980, the amount of that contract. Reimbursement for these excess costs after the first three years shall not be made until a certificate of need has been granted for the excess project costs. The provisions of this section shall apply only to facilities which file an application for a certificate of need or make application for cost-overrun review of their original application or waiver after August 13, 1982.

(L. 1982 H.B. 1086)

197.360.–(Repealed L. 1999 S.B. 326 § A)

Effective 7-1-99

197.365.–(Repealed L. 1999 S.B. 326 § A)

Effective 7-1-99

197.366. Health care facilities, definition, effective after December 31, 2001.– The provisions of subdivision (8) of section 197.305 to the contrary notwithstanding, after December 31, 2001, the term "**health care facilities**" in section 197.300 to 197.366 shall mean:

(1) Facilities licensed under chapter 198, RSMo;

(2) Long-term care beds in a hospital as described in subdivision (3) of subsection 1 of section 198.012, RSMo;

(3) Long-term care hospitals or beds in a long-term care hospital meeting the requirements described in 42 C.F.R., section 412.23(e); and

(4) Construction of a new hospital as defined in chapter 197.

(L. 1996 H.B. 1362)

Effective 7-12-96

CROSS REFERENCE:
Health care facilities defined until December 31, 2001, RSMo 197.305

197.367. Licensed bed limitation imposed, when.– Upon application for renewal by any residential care facility I or II which on the effective date of this act* has been licensed for more than five years, is licensed for more than fifty beds and fails to maintain for any calendar year its occupancy level above thirty percent of its then licensed beds, the division of aging shall license only fifty beds for such facility.

(L. 1999 S.B. 326 § 8)

*"This act" (S.B. 326, 1999) contained more than one effective date.

EDITOR'S NOTE:

The text of the Certificate of Need statute as it appears in this version of the CON Rulebook is for purposes of illustration and convenience as part of the CON Rulebook. If there are any discrepancies between this document and the actual statutes, this document is subordinated and the actual chapter 197, RSMo takes precedence.

Other Applicable State Statutes

Section 105.478. Penalty. —
Any person guilty of knowingly violating any of the provisions of sections 105.450 to 105.498 shall be punished as follows:
(1) For the first offense, such person is guilty of a class B misdemeanor;
(2) For the second and subsequent offenses, such person is guilty of a class D felony.

Section 197.020. Definitions. —
2. "Hospital" means a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than twenty-four consecutive hours in any week of three or more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical conditions; or a place devoted primarily to provide for not less than twenty-four consecutive hours in any week medical or nursing care for three or more nonrelated individuals. The term "hospital" does not include convalescent, nursing, shelter or boarding homes as defined in chapter 198, RSMo.

Section 198.006. Definitions. —
(8) "Intermediate care facility", any premises, other than a residential care facility I, residential care facility II, or skilled nursing facility, which is utilized by its owner, operator, or manager to provide twenty-four hour accommodation, board, personal care, and basic health and nursing care serives under the daily supervision of a licensed nurse and under the direction of a licensed physician to three or more residents dependent for care and supervision and who are not related within the fourth degree of consanquinity or affinity to the owner, operator or manager of the facility;

(15) "Residential care facility I", any premises, other than a residential care facility II, intermediate care facility, or skilled nursing facility, which is utilized by its owner, operator or manager to provide twenty-four hour care to three or more residents, who are not related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility and who need or are provided with shelter, board, and with protective oversight, which may include storage and distribution or administration of medications and care during short-term illness or recuperation;

(16) "Residential care facility II", any premises, other than a residential care facility I, an intermediate care facility, or a skilled nursing facility, which is utilized by its owner, operator or manager to provide twenty-four hour accommodation, board, and care to three or more residents who are not related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility, and who need or are provided with supervision of diets, assistance in personal care, storage and distribution or administration of medications, supervision of health care under the direction of a licensed physician, and protective oversight, including care during short-term illness or recuperation;

(17) "Skilled nursing facility", any premises, other than a residential care facility I, a residential care facility II, or an intermediate care facility, which is utilized by its owner, operator or manager to provide for twenty-four hour accommodation, board and skilled nursing care and treatment services to at least three residents who are not related within the fourth degree of consanguinity or affinity to the owner, operator or manager of the facility. Skilled nursing care and treatment services are those services commonly performed by or under the supervision of a registered professional nurse forindividuals requiring twenty-four hours a day care by licensed nursing personnel including acts of observation, care and counsel of the aged, ill, injured or infirm, the administration of medications and treatments as prescribed by a licensed physician or dentist, and other nursing functions requiring substantial specialized judgment and skill;

Section 354.400. Definitions. —
(10). "Health maintenance organization", any person which undertakes to provide or arrange for basic and supplemental health care services to enrollees on a prepaid basis, or which meets the requirements of section 1301 of the United States Public Health Service Act;

Other Applicable Federal Statutes

42 CFR Section 412.23(e). —
Long-term care hospitals. A long-term care hospital must meet the requirements of paragraphs (e)(1) or (e)(2) of this section, and, where applicable, the additional requirements Sec. 412.22(e).

(1) The hospital must have a provider agreement under part 489 of this chapter to participate as a hospital and an average inpatient length of stay greater than 25 days as calculated `under paragraph (e)(3) of this section.

(2) For cost reporting periods beginning on or after August 5, 1997, a hospital that was first excluded from the prospective payment system under this section in 1986 must have an average inpatient length of stay of greater than 20 days, as calculated under paragraph (e)(3) of this section, and must demonstrate that at least 80 percent of its annual Medicare inpatient discharges in the 12-month cost reporting period ending in fiscal year 1997 have a principal diagnosis that reflects a finding of neoplastic disease as defined in paragraph (f)(1)(iv) of this section.

26 CFR Section 501(c)(3). —
Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Who's Who in CON

Missouri Health Facilities Review Committee Members

Name	Address
H. Bruce Nethington, Chair	St. Louis
Milamari A. Cunningham, M.D., Vice-Chair	Columbia
Catherine L. Davis	Kansas City
Dorothy V. Fauntleroy	Kansas City
Marion S. Pierson, M.D.	Kansas City
Senator Mary Groves Bland	Kansas City
Senator Dan Clemens	Marshfield
Representative Larry Crawford	California
Representative Thomas A. Villa	St. Louis

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Thomas R. Piper, Program Director

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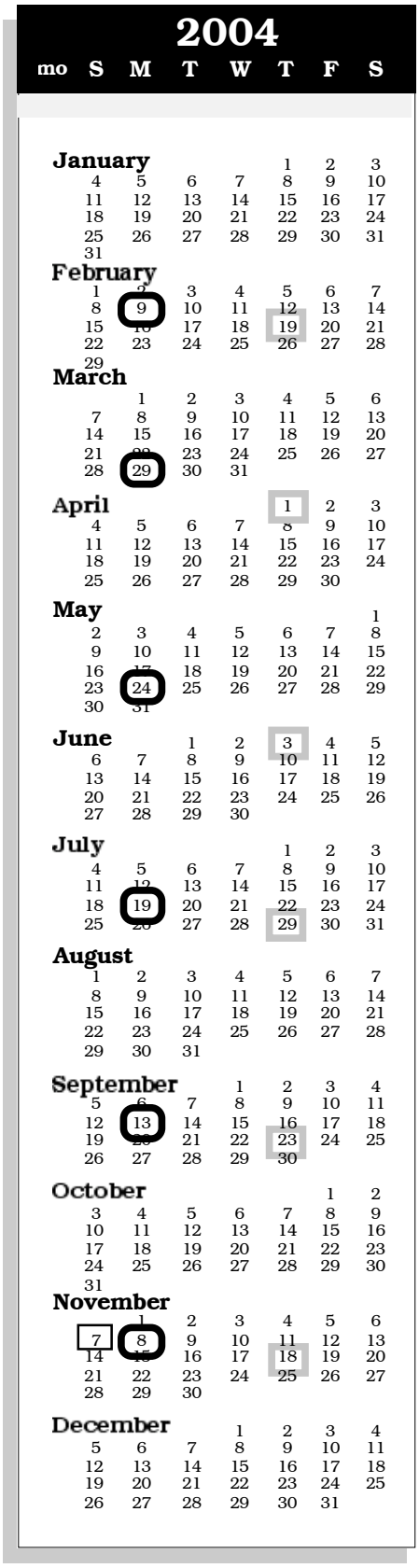
Telephone Number: (573) 751-6403 Fax Number: (573) 751-7894

E-mail Address: mocon@mchsi.com
Web Site Address: www.dhss.state.mo.us/con

MHFRC Meeting Calendar



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Approved 2004 MHFRC Meeting Calendar

Certificate of Need & Administrative Meetings

February 9.....Jefferson City

March 29.....Jefferson City

May 24.....Jefferson City

July 19.....Jefferson City

September 13.....Jefferson City

November 8.....Jefferson City

January 24, 2005.....Jefferson City

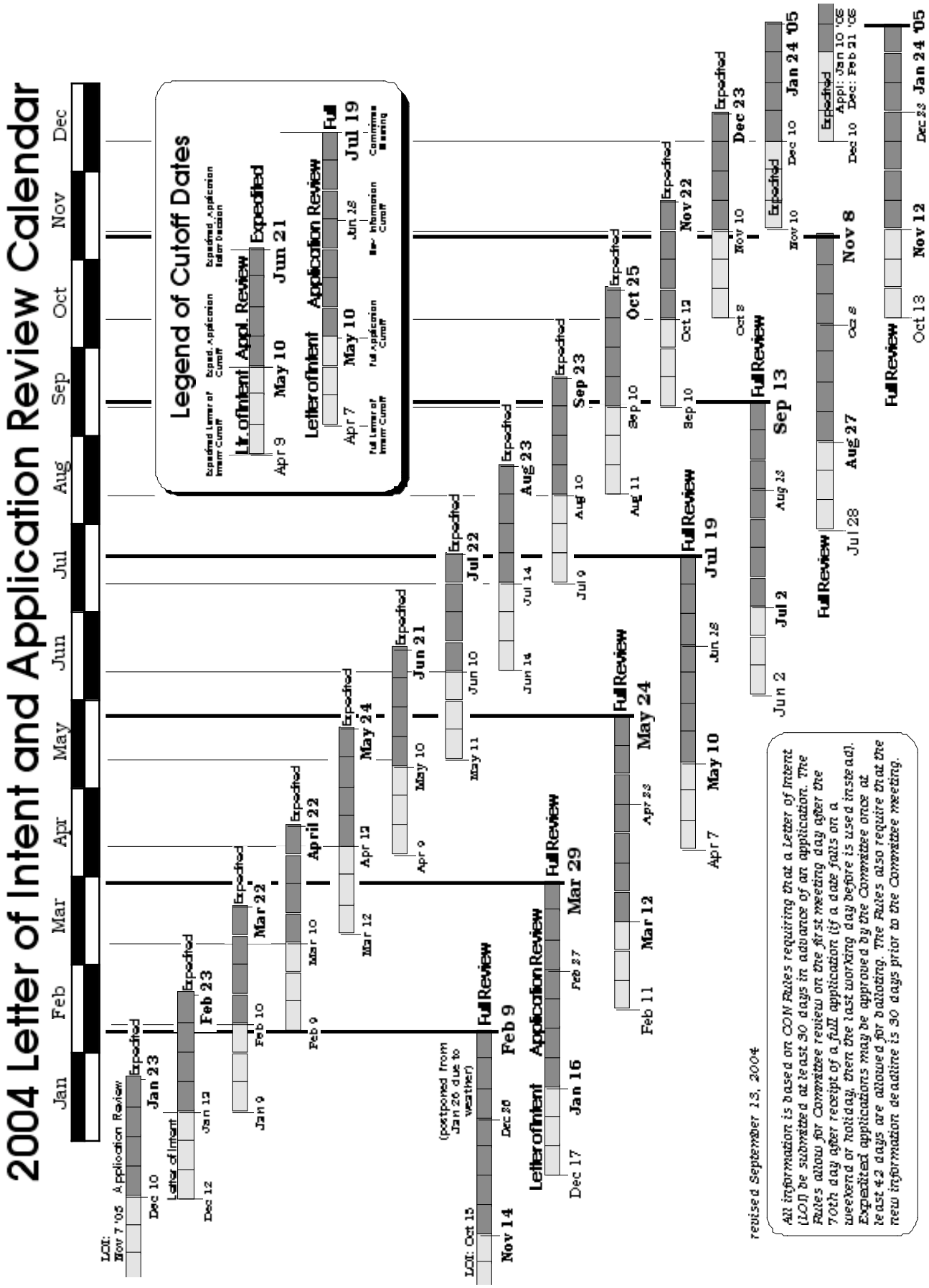
Legislative Workshop

November 7.....Jefferson City

- Administrative Meetings
- CON Meetings
- Committee Workshop
- Round Table Meetings (state agencies info exchange)

approval date: September 13, 2004

CON Review Calendar



MHFRC Meeting Format

Missouri Health Facilities Review Committee

MEETING FORMAT

Time	Function	Activities and Condition
10 minutes	Staff Presentation	Presentation of staff analysis concentrating on need, financial feasibility, special needs, and cost effectiveness.
As needed	Committee Questions	Staff responds to Committee questions.
10 minutes	Applicant Presentation	Presentation of application concentrating on need, financial feasibility, special needs, and cost effectiveness. No introduction of new material and no distribution of additional papers.
As needed	Committee Questions	Applicant responds to Committee questions.
3 minutes per person	Presentations by affected parties **supporting** the project.	Individual presenters provide *supportive* information relevant to need, special needs, financial feasibility, cost effectiveness and how the proposal affects presenter. (*One spokesman per group preferred.)*
As needed	Committee Questions	Affected parties respond to Committee questions.
3 minutes per person	Presentations by affected parties **neutral** to the project.	Individual presenters provide information relevant to need, special needs, and cost effectiveness.
As needed	Committee Questions	Affected parties respond to Committee questions.
3 minutes per person	Presentations by affected parties **opposing** the project.	Individual presenters provide *alternative* 5 minutes information relevant to need, special needs, financial feasibility, cost effectiveness and how the proposal affects presenter. (*One spokesman per group preferred.)*
As needed	Committee Questions	Affected parties respond to Committee questions.
5 minutes	Applicant Rebuttal	Clarification of issues and key points.
5 minutes	Staff Summary	Summary of key points and recommendations.
As needed	Committee	Discuss and decide to: • Approve based on information in application; • Conditionally approve application as modified; • Deny based on finding of no need; or • Defer to the next meeting.

MHFRC Meeting Protocol

Missouri Health Facilities Review Committee

MEETING PROTOCOL

Presenter Information

- REPRESENTATIVE REGISTRATION FORM
  All presenters must complete and sign a **"Representative Registration Form"** and give the completed form to the Sign-In Coordinator **prior to speaking**. This form is available on a table near the entrance to the meeting chamber.

- APPLICANT PRESENTATION OF "KEY POINTS" AND SUMMATION
  The applicant's presentation should be a "key points summary" **based on the written application and should not exceed 10 minutes** inclusive of all presenters with 5 minutes additional time for summation before the staff wrap-up.

- WRITTEN APPLICATION REMINDER
  Applicants are reminded that **no new material** beyond the written applications is to be introduced, and no materials or additional papers are to be distributed at the meeting.

- AFFECTED PARTIES PRESENTATIONS
  All "affected parties" presentations are limited to 3 minutes per person.

- APPLICANT SUMMATION
  The summation is intended to recap the key points made by the applcant. Rebuttals of "affected parties" presentations by applicants are generally discouraged and will not normally be entertained from the floor.

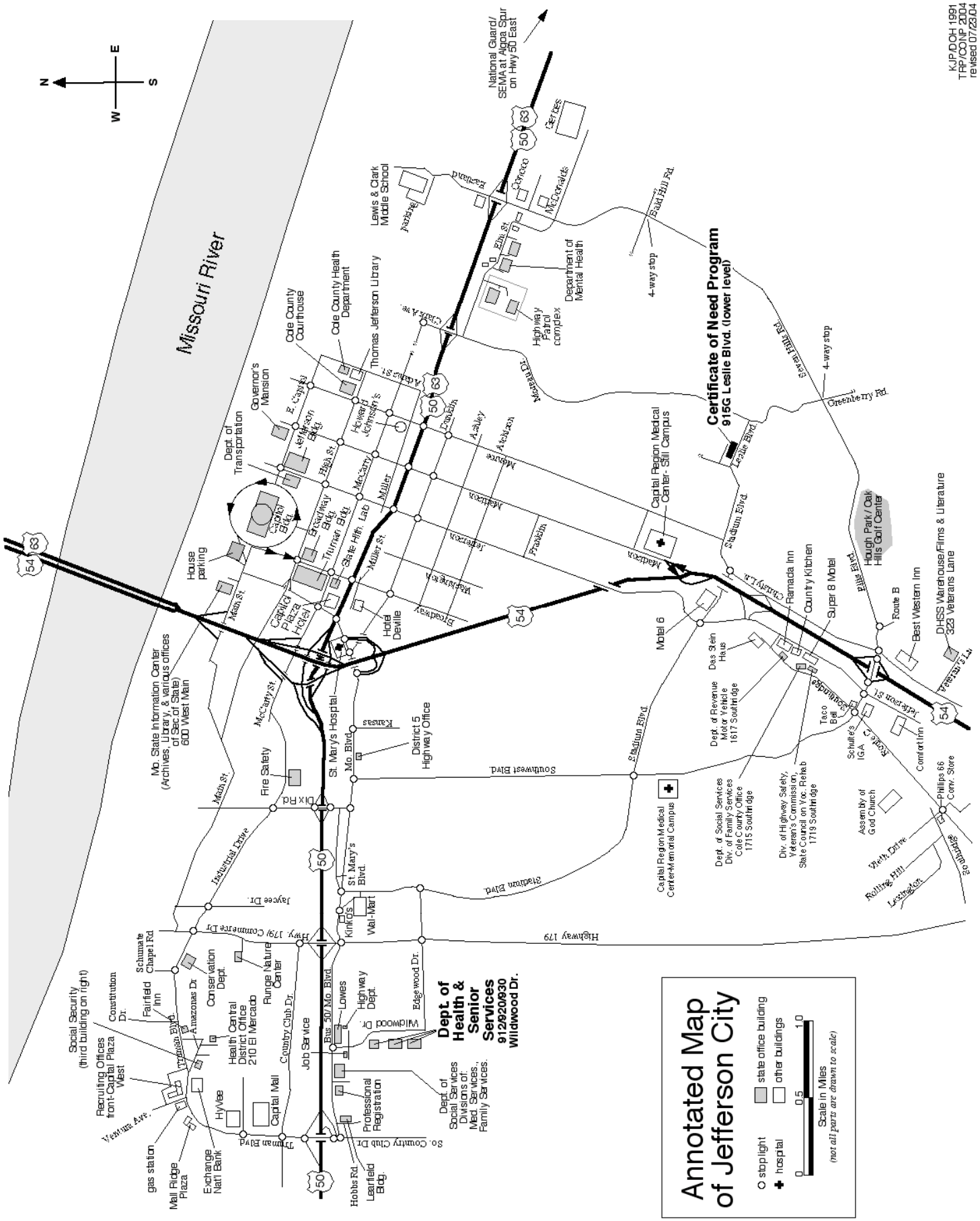
General Information

- RESERVED AREA
  Reserved Area is to be used by the applicant and supporters during the applicant's presentation only and then vacated for the next group.

- PRESENTATION AREA
  Individuals waiting to present shall remain clear of the presentation area until specifically called by name or upon "open call" by the chairman.

- TIME MONITOR
  Prescribed time limits will be monitored by the Time Keeper. Presenters shall observe the Time Keeper's indications of lapsed time to ensure each presenter has an opportunity to present within the allotted time.

CON Program Office Location


Missouri River
N
S
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W
Annotated Map of Jefferson City
stop light
hospital
state office building
other buildings
Scale in Miles
(not all parts are drawn to scale)
Dept. of Health & Senior Services
912/920/930 Wildwood Dr.
Certificate of Need Program
915G Leslie Blvd. (lower level)
Dept. of Social Services Divisions of: Med. Services, Family Services.
Mo. State Information Center (Archives, Library, & various offices of Sec. of State) 600 West Main
Capitol Bldg.
Capitol Plaza Hotel
Governor's Mansion
Dept. of Transportation
Cole County Courthouse
Cole County Health Department
Thomas Jefferson Library
Lewis & Clark Middle School
National Guard/ SEMA at Algoa Spur on Hwy 50 East
Department of Mental Health
Highway Patrol complex
Capital Region Medical Center- Stil Campus
Capital Region Medical Center-Memorial Campus
St. Mary's Hospital
District 5 Highway Office
Fire Safety
Hotel Deville
Motel 6
Das Stein Haus
Ramada Inn
County Kitchen
Super 8 Motel
Hough Park / Oak Hills Golf Center
Route B
Best Western Inn
DHSS Warehouse/Films & Literature 323 Veterans Lane
Dept. of Revenue Motor Vehicle 1617 Southridge
Dept. of Social Services Div. of Family Services Cole County Office 1715 Southridge
Div. of Highway Safety, Veteran's Commission, State Council on Voc. Rehab 1719 Southridge
Taco Bell
Schulte's IGA
Comfort Inn
Phillips 66 Conv. Store
Assembly of God Church
Kinko's
Wal-Mart
Lowes
Highway Dept.
Conservation Dept.
Runge Nature Center
Health Central District Office 210 El Mercado
Country Club Dr.
Job Service
Capital Mall
HyVee
Professional Registration
Learfield Bldg.
Hobbs Rd.
Exchange Nat'l Bank
Mall Ridge Plaza
gas station
Recruiting Offices front-Capital Plaza West
Social Security (third building on right)
Constitution Dr.
Fairfield Inn
Amazonas Dr.
Schumate Chapel Rd.
Industrial Drive
Jaycee Dr.
Hwy. 179/ Commerce Dr.
Highway 179
Southwest Blvd.
Stadium Blvd.
Edgewood Dr.
Wildwood Dr.
Bus. 50/ Mo. Blvd.
Truman Blvd.
Wattman Ave.
So. Country Club Dr.
Dix Rd.
Main St.
McCarty St.
Mo. Blvd.
St. Mary's Blvd.
Kansas
Madison
Monroe
Jefferson
Adams
Lafayette
Franklin
Miller St.
High St.
Broadway Bldg.
Truman Bldg.
State Hist. Lab
Jefferson Bldg.
Howard Johnson's
Ashley
Atchison
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Cherry St.
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Leslie Blvd.
Greenberry Rd.
Bald Hill Rd.
Elm St.
Chestnut St.
Rolling Hill
Wells Drive
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Missouri Counties

prepared on behalf of the Missouri Health Facilities Review Committee
by the Certificate of Need Program
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Telephone: (573) 751-6403; Fax: (573) 751-7894

E-Mail Address: mocon@mchsi.com
Web Site Address: http://www.dhss.state.mo.us/con

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P.O. Box 570, Jefferson City, MO 65102
Telephone: (573) 751-6014

Hearing-impaired citizens may contact the department by phone through Missouri Relay (800) 735-2966.
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