

Illinois Health Facilities and Services Review Board

LONG TERM CARE ADVISORY SUBCOMMITTEE MEETING

A G E N D A

(M-316) –**DRAFT** (per 2 IAC 1925.240)

Agenda will be posted no later than

9 AM Friday, June 20, 2014

at the

Health Facilities and Services Review Board Springfield Office

and

www.hfsrb.illinois.gov

Tuesday, June 24, 2014

10AM – 2PM

Bolingbrook Golf Club

2001 Rodeo Drive

Bolingbrook, Illinois 60490

CALL TO ORDER: Tuesday, June 24, 2014 - 10:00 A.M.

Note: Public Participation will be allowed after each agenda item

1. Roll Call
2. Approval of Agenda
3. Approval of April 30, 2014 Meeting Transcript
4. Update - Revisions to the LTC CON Application
5. LTC Bed Buy/Sell Program
 - Follow-up - UIC Study
 - Ohio LTC Bed Buying/Selling/Exchange Program
 - Major Decision Points
6. Other Business
7. Next Meeting
8. Adjournment

FOR TRANSCRIPTS OF THIS MEETING CONTACT:

Health Facilities and Services Review Board

525 West Jefferson Street, 2nd Floor

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TRANSCRIPT SUMMARY
APRIL 30, 2014
Meeting

I. CALL TO ORDER

II. ROLL CALL

Members Present: Bill Bell; Dale Galassie; William Casper; Paul Corpstein; Cece Credille; Neyna Johnson; Tim Phillippe; Carolyn Handler; David Raikes; Mike Scavotto; Greg Will; and Terry Sullivan

HFSRB/IDPH Staff: Courtney Avery; Frank Urso; Claire Burman; Catherine Clarke; Ann Guild; Bill Dart

Also Present: Charles Foley; John Kniery; John Florina; Anthony Lo Sasso; Coady Wing; and Tamara Konetzka

III. APPROVAL OF AGENDA

Motion to accept: Tim Phillippe

Second: Mike Scavotto

Action: Approved

IV. APPROVAL OF MINUTES (April 30, 2014 Meeting)

Motion to accept: Terry Sullivan

Seconded: William Casper

Action: Approved

V. STATE OF ILLINOIS ETHICS TRAINING

Frank Urso, HFSRB General Counsel, reported that the LTC Subcommittee had achieved 100% compliance with the Illinois Ethics Training requirements,

VI. BED BUY/SELL PRESENTATION

The University of Illinois at Chicago research team, selected to conduct a study concerning the development of a LTC bed buy/sell policy in Illinois. The research team provided a brief overview of the analysis. The highest recommendation of the study was for the development and implementation of an "open market" LTC bed buy/sell program which excluded any involvement from HFSRB.

Discussion followed regarding the final study and its findings/recommendations. The Subcommittee did not agree with the recommended elimination of HFSRB.

The Subcommittee members offered various comments/questions related to:

- topics they wished to see included in the UIC report
- need for resolution of mixed goals of the Subcommittee members
- concerns with how the development of a buy/sell program would address different affected parties

TRANSCRIPT SUMMARY

APRIL 30, 2014

Meeting

- the development of a final report for HFSRB, including the presentation and scheduling of the presentation.

Motion to recommend the development of a LTC bed buy/sell program to HFSRB: Tim Phillippe

Seconded: Mike Scavotto

The Subcommittee discussed defining the parameters of the recommendation. It was suggested that the motion be in the form of a straw poll in order to "move things along".

Motion amended to recommend the development of an LTC buy/sell program with the possibility of an open market approach and limited regulation; Tim Phillippe

Seconded: Terry Sullivan

Action: Approved [In Favor: (9); Opposed: (1); and Abstained (1)]

VII. Update – LTC Application Recommendations

Mike Scavotto presented the recommendations of the LTC Application Workgroup concerning revisions to the CON application for LTC, as well as proposed rule changes.

Motion to accept amended LTC application, as well as the recommended revisions to 77

Ill. Adm Code 1125: Terry Sullivan

Seconded: Tim Phillippe

Action: Approved

VIII. Election of Vice Chair - LTC Advisory Subcommittee

Motion to approve Bill Bell, Regulatory Director, Illinois Health Care Association, as the Vice Chair of the LTC Advisory Subcommittee: Terry Sullivan

Seconded: Mike Scavotto

Action: Approved

IX. NEXT MEETING

The next meeting of the LTC Advisory Subcommittee is scheduled for Tuesday, June 24, 2014 from 10:00 am to 2:00 pm at the Bolingbrook Golf Club, 2001 Rodeo Drive, Bolingbrook, IL.

X. ADJOURNMENT

Motion to adjourn: Carolyn Handler

Seconded: David Raikes

Action: Approved

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Discussion Framework for Illinois Buy/Sell Program for Long Term Care Beds Preliminary Questions

Purpose of Document: To guide discussion regarding the details of a potential buy/sell program. While these questions may be interdependent, the Subcommittee will be asked to discuss individual questions. These questions should be considered a guide and Subcommittee members may raise additional questions for the group to consider. After our discussion and debate, staff can then put a “straw man” document together so Subcommittee members can view parameters as a whole to see if the components work together. Ultimately, this could be the basis for a recommendation to the Health Facilities and Services Review Board.

Geography

1. Should buy/sell transactions be limited to transactions within a planning area, between contiguous political boundaries (i.e. counties), or within a specified travel time or distance? Alternatively, should statewide transactions be allowed? Note that the consultant report suggested a statewide approach. Discussions of the Long Term Care Advisory Subcommittee have suggested support for a statewide approach as well.

Moratorium

1. Should a buy/sell program be established in conjunction with a moratorium on new long-term care beds? Note that there are currently only a few planning areas with a bed need. Previous discussions of the Subcommittee seemed to suggest that a moratorium is not necessary.

Seller Requirements

1. How many beds can be sold?
 - Should the sale be allowed if it creates a need in the planning area?
 - Should the sale be allowed if the facility will be above 90% occupancy after the transaction?
 - Should any other measure of occupancy be considered for a limit (i.e. a different percent, peak occupancy, other)?
 - Should the sale be limited to some percent of licensed beds?
 - Should there be a minimum number of beds sold per facility?

- Should beds be empty for a specified period of time before they can be sold?
 - Should occupied beds be excluded to prevent transfer of residents to other facilities?
 - Can long term care beds licensed under the Hospital Licensing Act sell beds?
 - How should the HFSRB consider access to services for residents based on payer?
2. How often can beds be sold?
 3. Should the use of the funds from the sale be limited? Note that previous discussions have suggested that the funds should be used to improve the facility for the benefit of residents or to reduce debt service.
 4. Should a seller be prohibited from adding beds either through the 20 bed/10% rule or by permit for a period of time after the transaction?
 5. Should a seller be prohibited from selling beds recently added either through the 10 bed/10% rule or by permit?
 6. Should a seller be prohibited from selling beds again until a specified period of time has passed?

Buyer Requirements

1. Should there be a limit on the number of beds that can be purchased?
2. Should a facility be limited to purchasing only the number of beds needed for the immediate contemplated expansion?
3. Should purchased beds be limited to use in or in an addition to an existing facility or on an existing campus? Can purchased beds be used to build a new facility at a different location?
4. How should a facility justify the need for new beds?
5. What criteria should be used to assess whether the purchase and use of additional beds is financially feasible and that costs are reasonable?
6. Should there be a requirement to maintain payer mix?

7. Should there be a requirement to add Medicaid-certified beds?
8. Should the purchase of beds be tied to quality measures and if so, how?
9. Are there resident satisfaction measures that should be considered?
10. Should buyers be required to document that they are establishing “innovative” programs or services or serving special clinical populations?
How would you define innovation?
11. Should buyers be required to have relationships with other providers (both institutional and community based) in their service area?
12. Should a buyer be prohibited from adding more beds through an additional purchase, the 20 bed/10% rule, or by permit for a period of time after the transaction or after project completion?

Pilot

1. Should a buy/sell program begin as a pilot?
2. Should the number of applicants be limited? Note that previous discussion suggested that the first phase be limited to 25 applicants.
3. How often should the opportunity to purchase beds be made available?
4. Should applicants be required to apply by a date certain and then evaluated against each other?
5. How should the HFSRB evaluate the pilot?

Program Mechanics

1. How can the existing CON review process be streamlined to accommodate a buy/sell program?
2. How should post permit requirements be structured?
3. What transparency provisions should be in place?
4. What role should the Board play in ensuring that bed additions become operational?
5. What role should the Board play in ensuring that both buyer and seller follow through with what they indicate they will do in their permits?

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**ILLINOIS – SALE OF LONG-TERM CARE BEDS
POINTS OF CONSIDERATION**

**FOR DISCUSSION
PURPOSES ONLY**

Purposes:

- a. Allows redistribution of excess beds to areas with bed need;
- b. Encourages downsizing;
- c. Provides for expansion of individual facilities without increasing beds in the system; and
- d. Provides access to capital to modernize and upgrade older facilities; and
- e. A specified portion (NOT 100%) of the funds gained by selling LTC beds can used to reduce debt.

HFSRB Parameters:

- a. Must comply with the most recent HFSRB Bed Need Determination for LTC as stated in the HFSRB Annual Bed Inventory;
- b. Must be reviewed under CON rules to determine if the sales transaction is compliant with the purposes and goals of HFSRB and all applicable CON review criteria and standards.
- c. Sec. 2 of the Act - Purpose of the Act requires:
 - 1. A person establishing, constructing or modifying a health care facility, as defined in the Act, to have the **qualifications, background, character and financial resources** to adequately provide a proper service for the community [Background of the Applicant] plus [Financial & Economic Feasibility];
 - 2. Projects that promote, through the process of comprehensive health planning, the **orderly and economic development** of health care facilities in the State of Illinois that **avoid unnecessary duplication** of such facilities;
 - 3. Projects that promote planning for and development of health care facilities needed for comprehensive health care **especially in areas where the health planning process has identified unmet needs** [i.e. HFSRB Bed Need Determination by Planning Area] and [HFSRB Occupancy Standard for LTC beds];

Points of Consideration:

- a. **IMPLEMENTATION**
 - 1. Once the sale of beds is approved, and appropriate rules have been written and adopted, this activity could initially take place as a **pilot program** in one specific Planning Area or group of Planning Areas with a high population density.

**ILLINOIS – SALE OF LONG-TERM CARE BEDS
POINTS OF CONSIDERATION**

2. The opportunity to submit CON applications for the sale/purchase of LTC beds will be limited to HFSRB-specified time periods occurring 1-2X/year.

b. DISTANCE:

1. Beds can be sold **only** from an existing skilled nursing facility with an excess of LTC beds to an existing skilled nursing facility with need of LTC beds, per the HFSRB Bed Need Determination:

- a. Statewide
- b. Within the same Planning Area
- c. Within specified travel distance
- d. Other?

c. SELLER REQUIREMENTS:

1. Beds can be sold **only** from an existing skilled nursing facility with an excess of LTC beds as recognized in the HFSRB Annual Bed Inventory.
2. The Seller can sell **only** the number of beds in excess of the HFSRB 90% occupancy standard [the number necessary to reduce the facility's occupancy to the HFSRB 90% occupancy standard].
3. The Seller must provide a detailed explanation of how the money obtained from the sale of the excess LTC beds will be used to improve the Seller's facility. No later than two years after the sale of the beds, the Seller will submit documentation verifying that the funds from the bed sale have been committed by legal contract and/or used to improve the Seller's facility as stated in the application.
4. Seller **cannot** sell any occupied beds. Only the sale of historically documented (over the latest 3-year period), unoccupied, excess beds is allowed.
5. The Seller will document the current status of the licensed beds.

d. BUYER REQUIREMENTS:

1. Beds can be sold **only** from an existing skilled nursing facility with an excess of LTC beds as recognized in the HFSRB Annual Bed Inventory.
2. The Buyer can purchase only the number of beds needed to accommodate the number of persons on a documented list of service requests or inquiries .
3. The Buyer can purchase the number of beds estimated by documented historical trends over the latest 3-year period at the Buyer's facility.
4. Beds **cannot** be used to establish a new category of service (ie.using purchased beds to add skilled nursing to an existing assisted living facility) or to establish a new SNF.
5. Buyer must document that specified funds are available and committed for the operation of the purchased beds (including construction of necessary new space,

**ILLINOIS – SALE OF LONG-TERM CARE BEDS
POINTS OF CONSIDERATION**

staffing, housekeeping, food services, and all others), as required by IDPH and a recognized accreditation agency, for a period of three years.

- 6. The applicant documents the impact of the project costs and charges on both a per

diem and an aggregate basis. This documentation shall include portrayal of all costs, including any costs of acquiring the existing beds, and of how the costs will be recovered and a demonstration that the costs are reasonable when compared to the benefits of relocation.

- 7. Other

e. SELLER AND BUYER REQUIREMENTS:

- 1. Both the Seller and Buyer must comply with **ALL** of the “Background of the Applicant” requirements.
- 2. Price per beds to be determined, as well as a cap on the total amount.
- 3. Cap on total number of beds that can be sold/purchased in a specific timeframe?

f. REVIEW PROCESS:

- 1. Substantive review (120 calendar days)
- 2. Expedited review (60 calendar days)
- 3. Other

g. MORATORIUM:

- 1. Full moratorium
- 2. Partial moratorium
- 3. No moratorium
- 4. Other

h. IF NO BEDS ARE AVAILABLE TO PURCHASE:

- 1. Apply for a CON permit to expand LTC beds
- 2. Utilize 20 bed/10% bed allowance once every two years, per the Act.
- 3. Other

i. 20 BEDS/10% BED ALLOWANCE:

- 1. Retain “20 bed/10% every 2-year” bed allowance
- 2. Amend “20 bed/10% every 2-year” bed allowance
- 3. Eliminate “20 bed/10%” bed allowance
- 4. Other?

j. LICENSURE:

- 1. Beds will lose license when sold
- 2. Beds must be re-licensed when purchased
- 3. To be determined...

**ILLINOIS – SALE OF LONG-TERM CARE BEDS
POINTS OF CONSIDERATION**

k. ACCESS:

1. The relocation of the existing or approved beds will not impair the access of the Population served or proposed to be served by the existing facility or the existing or approved beds to quality LTC, particularly in the case of medically-underserved populations, including consideration of:
 - A. Geographic access; and
 - B. Availability of Medicaid-certified LTC beds
2. Requirement that a certain number of purchased beds be or become Medicaid-certified.

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**Illinois Health Facilities and Services Review Board
LTC ADVISORY SUBCOMMITTEE**

Follow-up to IHCA Comments Re: Final UIC Bed-Market/Buy-Sell

There are additional Ohio components included as we understand it that IHCA would like included in the UIC report. This certainly is not inclusive of all the details of the Ohio program, but these may be critical program components for consideration in Illinois:

1. State-wide access changes require application for buy- sell in a finite period of specified months in 2010, 2012, and every four years thereafter. It was moved to four years because it takes minimally two years to have approval and construction of a new facility. This specified time period is a critical component of the program and allows for a CON process as well as market equalization.
2. The state of Ohio also allows for transfer of beds within a county for an owner but they cannot transfer more than 30 beds to an existing facility. An owner cannot transfer beds to build a new facility.
3. In the years with allowing state-wide access changes, owners can also move beds within a planning area. For example, an owner could “pool” beds from counties with excess beds to a county with a need and build a new building. This process of “pooling” may in part explain some of the yearly variation in average sale price as illustrated on page 18 of the report. IHCA would like to request confirmation of the sales price as it may be higher than what is reported if beds pooled by owners would lower the price to the number in the graph on page 18. The sale price in this report is understated.
 - The prices stated in the UIC report are not verified by the Ohio CON agency.
 - Ms. Kenney believes that UIC used price figures that include “inter-county” transfers, which have “no cost”, and therefore lower the average price.
 - Chris Kenney’s figures (not including inter-county transactions) indicate:
 - 1999-2008: Prices averaged \$17,305/bed)
 - 2009-2012: Prices averaged \$16,090/bed)
4. Ohio required owners in 2012 to “give” 10% of excess beds back to the state so the state could create a pool of beds to serve underserved areas where there might not be movement of beds. So for example, if an owner bought 132 beds, they would build 120 beds, with 12 back to the state. The moratorium process then still allows for overall beds not to be increased, but access is addressed.
 - This requirement originated in the Governor’s Office to address the problem of excess LTC beds.
5. There is a moratorium on beds, but no moratorium on transactions. Transactions are reviewed through a CON process.

- A moratorium was established in July 1993.
- The only way to obtain LTC beds in Ohio is through the buy/sell/exchange program, due to the moratorium.
- The CON review for the buy/sell/exchange activity takes an average of 9 months.
- The Seller keeps the license for the beds being sold until the CON permit is obtained. After the CON is approved, the beds are de-licensed by the Seller and then licensed by the Buyer.

6. And finally, Ohio utilizes a bed per 1000 formula to determine need.

- The Ohio LTC bed need was reduced from 53 beds/1,000 age 65+ to 46 beds/1,000 age 65+

Information related to need for LTC Medicaid beds:

- Ohio developed the "One Bed, All Bed Rule" to address the concern about the need for LTC Medicaid beds. The policy requires that all LTC beds must be Medicaid certified.
- At first, the all-Medicaid facilities filled up too quickly.
- As a result, the requirement was revised so that facilities that reached 80% Medicaid occupancy were not required fill any additional Medicaid beds. This percentage was later dropped to 25% Medicaid.

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Frequently Asked Questions (as of 1/21/2014)

- 1. Recent revisions have been made in the Ohio Administrative Code to be more consistent with laws passed by the General Assembly that affect CON application and review. Some of the changes are:**
 - a.** The CON fee has been increased from 0.9% of the capital cost of the project to 1.5%. The minimum fee has increased from \$3000 to \$5000. The maximum fee remains \$20,000.
 - b.** Reviewable activities now include an addition to a long term care facility costing more than \$2 million. An addition is any increase in the square footage of a facility either by construction or by the use of another building.
 - c.** New rule 3701-12-08 establishes the CON application and completeness process for all CON applications except those filed under ORC 3702.593 which is the application filing period occurring every four years for the relocation of long term care beds to under-bedded counties.
 - d.** New rule 3701-12-09 establishes the CON application and completeness process for applications filed under 3702.593. A separate rule was deemed necessary due to the unique requirements of the inter-county relocation of beds which takes place only every 4 years.
 - e.** The provisions for pre-decision objections and public hearings have been removed. The appeal provision for an approved CON remains unchanged.
 - f.** An opportunity for written comments has been added. After an application has been declared complete, the director will consider properly filed comments filed within 30 days. The director will not normally respond to written comments; however, comments will become part of the application file.
 - g.** A new rule, 3702-12-24, establishes reporting requirements for facilities having beds that were re-categorized from hospital beds to skilled nursing beds

under ORC 3702.521. Reporting requirements are substantially reduced.

- h.** New rule 3702-12-10 establishes the process for filing a replacement CON application in accordance with ORC 3702.526.
- i.** New rule 3702-12-12 establishes the process for filing a revised CON application to change a project site in accordance with ORC 3702.522.
- j.** Reference to the "State Health Resources Plan" is no longer required.
- k.** Written notice of the activity is no longer required to be provided to the chief executive of the municipality where the activity will take place, the state senator and the state representative for the area.
- l.** The concept of "bed tracking numbers" has been introduced via a new rule. Intended to be an organized and more reliable method of accounting for the existing long term care beds and their locations, the department will implement a tracking system sometime in the near future. Impact on the provider community is expected to be minimal. Further information will be provided at the appropriate time.
- m.** A maximum of 30 long term care beds may be relocated from a contiguous county to a nursing home during a 5-year monitoring period under ORC 3702.594.

2. What activities require Certificate of Need (CON) approval in Ohio?

Briefly, reviewable activities include the development of new long term care facilities (including the re-opening of a facility not currently providing care), replacement of existing long term care facilities, increases in the capacity of a long term care facility, the relocation of long term care beds to another site, the renovation and/or addition to a long term care facility with a capital cost of more than \$2 Million and any change related to a granted CON application within 5 years including a

cost overrun of 110% of the approved cost. Specific language defining activities that require CON approval is found in Ohio Administrative Code 3701-12-05.

3. Is there a moratorium on new long term care beds?

Essentially, yes. No new long term care beds may be licensed or certified in Ohio. An increase in long term care bed capacity, or the development of a new long term care facility can only be accomplished by relocating existing long term care beds from an existing long term care facility.

4. Can long term care beds be relocated across county lines?

Under some circumstances, yes. Section 3702.594 of the ORC can authorize the relocation of up to 30 beds from a licensed nursing home to another licensed nursing home in a contiguous county. Beds may also be relocated from an "over bedded county" to an "under bedded" county at certain times. The next opportunity for this type of long term care bed relocation will be in July 2016. The inter-county relocation of beds is regulated by section 3702.593 of the ORC.

5. Is Certificate of Need approval required for a change of ownership of a long term care facility?

Generally, no. If the facility has been the subject of a CON application within the previous 5 years, the owner, operator or the CON holder should contact the program as such changes must be in accordance with the approved application.

6. Is there a Certificate of Need requirement for activities other than those that involve long term care beds?

Certificate of Need approval is only required for activities that

include long term care facilities or long term care beds. There are some hospitals, however, that have a part that has some long term care beds. In those cases, CON approval would be required if the activity involves the long term care beds. Recent revisions to the CON administrative rules have removed the remaining language that referred to non-long term care issues.

7. Is Certificate of Need approval required for the development of hospital services such as cardiac surgery?

No, only long term care beds and facilities are subject to CON approval.

8. Where can I find information to help determine if a CON is required?

The CON rules are found in chapter 3701-12 of the Ohio Administrative Code (OAC) which can be found on the CON Webpage. Staff members are also available by telephone during business hours to answer most questions. Anyone who is not sure if CON approval is required for a specific activity may request a reviewability ruling from the Director of Health by sending a written request that includes a description of the activity. A request for more information may be made by the department but a reply is generally sent within 45 days.

9. How long is the CON process and how much does it cost?

The process of CON review and approval generally ranges from 3-9 months. The cost is 1.5% of the project cost with a minimum of \$5,000 and a maximum of \$20,000. The correct fee must accompany the application and is not refundable.

10. Where can information be found about CON projects that have been done in my county?

There is a summary of all projects in Ohio on the CON Webpage that includes projects back into the 1990's. Click on "Pending Applications and CON Decisions". Contact the program at 614-466-3325 if assistance is needed.

11. How can I obtain a copy of a CON application that has been filed?

The Ohio Department of Health will provide copies of applications in response to a public records request. There is a charge for copying in some circumstances. Contact the program at 614-466-3325 for assistance.

12. What constitutes "Commencement of Construction"?

Commencement of construction means the placement of any structural foundation element that becomes an integral part of the structure. A structural foundation element includes, but is not limited to footings, piers, grade beams, and infrastructure items such as pilings and caissons. The acts of surveying, staking, soil testing, demolition of existing structures, delivery of materials, establishment or connection of utility services, elimination or removal of a safety or sanitary hazard from the site, and site preparation, including site grading, site filling, or clearing, are not considered commencement of construction.

13. Can Residential Care Beds be converted to long term care beds?

Residential Care Beds cannot be converted, however, long term care beds may be relocated into space currently occupied by Residential Care Beds. In most cases CON approval is required and the space must meet current long term care licensure requirements.

14. What final documents are required to implement a CON project so that the licensure of our long term care

beds can take place?

This depends on the type of the project. At a minimum, a "Sponsor's Affidavit of Compliance" and an occupancy permit are required. The affidavit form is available on the CON Webpage. Staff members of the CON program send requests to the contact person listed on the CON application when documents are expected. The holder of the CON must provide the program with a schedule of the availability of the necessary documents. The CON project file will remain open until any licensure or certification requirements that are part of the approved application are met.

15. Can a facility "de-license" long term care beds that are going to be relocated through a CON filing?

Yes, once the CON is approved. At that time, the source facility may request that the beds be removed from its licensed/certified capacity and be placed in approved bed status. Once a bed is placed in approved status, it cannot change status except as provided in the associated CON.

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OHIO - Certificate of Need: Important Dates

- 1947 – Congress passes the “Hill Burton Act” providing funds to re-vitalize the health care delivery system and restore the infrastructure left unattended during WW II
- 1964 - New York becomes the first state to begin determining whether there is a need for any new hospital or nursing home before it was approved for construction
- 1965 - Medicare enacted
- 1974 - “Health Planning Resources Development Act” requires states to adopt a plan for the development of health services
- By 1975—20 more states had developed CON programs including Ohio
- 1986 - Federal requirement for CON repealed
- 1993 - Ohio legislature places a moratorium on licensed nursing home beds...ODH may no longer add beds, redistribute beds across county lines or determine the need for additional beds
- 1995 – Ohio legislature enacts Senate Bill 50 which begins the phase-out of the CON requirement for non-long term care services; creates registration, licensure and quality rules in its place

OHIO - Certificate of Need: Rationale

- **Milton Roemer:** In an environment that is funded by a third party, supply may induce its own demand
- Provided for the organized distribution of federal funds
- Cost containment response to increasing Medicare costs
- Attempted to avoid duplication of services
- Coordinated the planning of new services and construction
- Structured a process to provide services where needed
- Attempted to select providers offering the most value, highest quality

Ohio CON Law Until 1995 Covered:

- New/Relocated Health Care Facility
- Solid Organ Transplant Service
- Cardiac Catheterization Service
- Medical Equipment, cost >\$1 Million
- Capital Expenditure, cost >\$2 Million
- Change in bed capacity or re-categorization of beds
- Lithotripsy service
- Radiation Therapy service
- New Health Service, annual operating cost >\$750,000

Ohio CON Review Considered:

- Costs, methods and types of construction
- Operational and Financial feasibility
- Effect of the project on charges, payment rates and costs
- Impact on service area
- Impact on existing providers of similar service
- Public input
- Special health care needs of the service area
- Ability to meet the needs of medically underserved
- Alternatives to the project
- Need for the project

Ohio CON Today:

- Ohio CON is limited to long term care services
 - Development of a new nursing home
 - Replacement of a nursing home
 - Relocation of nursing home beds
 - Renovation of a nursing home including an addition, cost >\$2 Million
 - Increase in capacity (through relocation of beds from another site)
 - Change in service from an approved CON within 5 years

Ohio CON Today: ORC 3702.592

- Authorizes the review of CON applications for:
 - The relocation of long term care beds within a county
 - The replacement of a long term care facility
 - An increase in capacity of a facility using existing beds in the same county
 - The majority of CONs filed regarding long term care beds are filed under this section

Ohio CON Today: ORC 3702.593

- Authorizes the review of applications for:
 - Relocation of long term care beds from a county with a projected excess to a county with a projected need
 - Formula to determine need is based on:
 - projected population over age 65 at least 5 years out
 - Statewide and county occupancy rates
 - Calculated bed need rate to target a 90% occupancy
 - Excess must be greater than 100
 - No increase if occupancy is less than 85% even if need is projected
 - Bed need is determined every 4 years after the first cycle of 2 years
 - 10% of beds must be surrendered
 - The formula was developed by the ODH with collaboration by the industry
 - Validation of the formula was conducted by the Scripps Gerontology Center at Miami University specifically by Dr. Shahla Mehdizadeh and Dr. Robert Applebaum

Ohio CON Today: ORC 3702.593 con't

- The formula is designed only to allow a the re-distribution of beds to meet the need for long term care in counties where there may be a shortage of beds due to increasing population of the over-age-65 age cohort
- The Ohio Department of Development is the resource for population projections
- Based on projections for 2025 the statewide occupancy rate could be as high as 97%
- At a 97% occupancy rate, the current excess would vanish and access to care could be an issue in some counties
 - 2010 filing:
 - 14 applications-xx new facilities
 - Xx beds-xx beds surrendered
 - 2012 filing:
 - 14 applications-xx new facilities
 - Xx beds-xx beds surrendered
 - 20 counties need a total of 2968 beds
 - 24 counties have an excess total of 8202
 - The remaining counties either have an occupancy rate <85% or have no need based on population >65 years

Ohio CON Today: ORC 3702.594

- Authorizes the review of applications for:
 - Relocation of long term care beds from a contiguous county
 - Must be from an existing, licensed nursing home to another licensed nursing home
 - Maximum of 30 beds within a 5-year monitoring period
 - Enacted in 2009 and applications may be filed at any time
 - 74 applications filed to date to relocate 1156 beds
 - No requirement for a bed need
 - No requirement for a bed supply left in the source county
 - Since enactment, 85 only beds were relocated to counties (5) with a projected need