

**STATE OF NEW HAMPSHIRE  
HEALTH SERVICES PLANNING  
AND REVIEW BOARD**

**PERFORMANCE AUDIT REPORT  
JANUARY 1998**

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HEALTH SERVICES PLANNING  
AND REVIEW BOARD**

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TO THE FISCAL COMMITTEE OF THE GENERAL COURT:

We have conducted a compliance audit of the State of New Hampshire Health Services Planning and Review Board to address the recommendation made to you by the Legislative Performance Audit and Oversight Committee. This audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to provide a reasonable basis for our findings and conclusions. Accordingly, we have performed such procedures as we considered necessary in the circumstances.

The objective of our audit was to determine whether the board operated in accordance with State laws and its own administrative rules during the audit period of March 1993 through September 1997.

This report is the result of our evaluation of the information noted above and is intended for the information of the management of the Health Services Planning and Review Board and the Fiscal Committee of the General Court. This restriction is not intended to limit the distribution of this report, which upon acceptance by the Fiscal Committee is a matter of public record.

*Office of Legislative Budget Assistant*  
OFFICE OF LEGISLATIVE BUDGET ASSISTANT

January 1998

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STATE OF NEW HAMPSHIRE  
HEALTH SERVICES PLANNING AND REVIEW BOARD

RECOMMENDATION SUMMARY

| OBSERVATION NUMBER | PAGE | LEGISLATIVE ACTION REQUIRED | RECOMMENDATION   | AGENCY RESPONSE |
|--------------------|------|-----------------------------|--|-----------------|
| 1                  | 14   | NO                          | Comply with State law by submitting timely statements of financial interests with the Secretary of State.                                      | --              |
| 2                  | 16   | NO                          | Award CONs in accordance with State law; develop standards when required.  | Do Not Concur   |
| 3                  | 17   | NO                          | Stop accepting and approving abbreviated CON applications. Seek to change rules if necessary.  | Concur in Part  |
| 4                  | 20   | NO                          | Amend administrative rules to reflect statute. Ensure sufficient oversight of financial matters.   | Concur in Part  |
| 5                  | 21   | NO                          | Adopt and apply an appropriate inflation index to capital expenditure thresholds. Ensure requests for applications contain correct thresholds. | Concur          |
| 6                  | 24   | NO                          | Amend rules to accurately reflect approved project reporting timelines. Track and enforce report filing.                                       | Concur          |
| 7                  | 26   | NO                          | Ensure staff adhere to and document notice requirements within CON files.  | Concur in Part  |
| 8                  | 27   | NO                          | Retain and appropriately file required audio tapes.  | Concur          |

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## TABLE OF CONTENTS

|   |    |
|---|----|
| <b>TRANSMITTAL LETTER</b> .....   | i  |
| <b>SUMMARY</b> .....  | 1  |
| <b>RECOMMENDATION SUMMARY</b> .....   | 5  |
| <b>1. INTRODUCTION</b> .....  | 7  |
| <b>1.1 Overview</b> .....   | 7  |
| <b>1.2 Scope, Objective, and Methodology</b> .....                              | 11 |
| <b>1.3 Report Outline</b> .....   | 12 |
| <b>2. COMPLIANCE ISSUES</b> .....   | 13 |
| <b>2.1 Board Actions and Decisions</b> .....                                    | 13 |
| Observation No. 1 Statements of Financial Interests Not Filed.....              | 14 |
| Observation No. 2 Certificates of Need Awarded Without Required Standards.....  | 16 |
| Observation No. 3 Abbreviated Applications Accepted.....                        | 17 |
| <b>2.2 Financial-Related Issues</b> .....                                       | 19 |
| Observation No. 4 Health Care Providers Overbilled.....                         | 20 |
| Observation No. 5 Thresholds Not Adjusted.....                                  | 21 |
| <b>2.3 Files and Required Documentation Issues</b> .....                        | 23 |
| Observation No. 6 Implementation Reports Not Filed.....                         | 24 |
| Observation No. 7 Notices Not In Docketed Files.....                            | 26 |
| Observation No. 8 Tape Recordings of Pre-Hearing Conferences Not Available..... | 27 |
| <b>3. CONCLUSION</b> .....  | 29 |
| <b>OTHER ISSUES AND CONCERNS</b> .....  | 31 |



**TABLE OF CONTENTS (Continued)**

**APPENDIX A - SURVEY OF HEALTH CARE PROVIDERS..... A-1**

**APPENDIX B - DEPARTMENT RESPONSE ..... B-1**

**LIST OF FIGURES**

FIGURE 1 Board Revenues and Expenditures..... 2  
FIGURE 2 Average Board Expenditures by Type ..... 2  
FIGURE 3 Certificate of Need Applications ..... 3  
FIGURE 4 Board and Department Relationship to Staff..... 9

**LIST OF TABLES**

TABLE 1 HSPRB Statements of Financial Interests..... 14  
TABLE 2 Value of Questioned Certificates of Need ..... 16  
TABLE 3 Value of Abbreviated Applications..... 18  
TABLE 4 Calculation of Overbilling ..... 20  
TABLE 5 Acute Care Thresholds ..... 22  
TABLE 6 Report Status ..... 25

**ABBREVIATIONS**

CON Certificate of Need  
DHHS Department of Health and Human Services  
HSPRB Health Services Planning and Review Board  
RSA Revised Statutes Annotated

# STATE OF NEW HAMPSHIRE HEALTH SERVICES PLANNING AND REVIEW BOARD

## 1. INTRODUCTION

### 1.1 Overview

#### Certificate of Need Programs

In the 1970s, health care providers passed through costs of new buildings and equipment to health care payers: governments, insurance companies, and consumers. In the National Health Planning and Resources Development Act of 1974 (P.L. 93-641), the federal government funded the creation of state agencies to contain health care costs through certificate of need (CON) programs. By effectively managing costly building projects and equipment acquisitions, it was hoped state agencies would control the growth of health care capital expenditures and prevent the buildup of excessive patient service capacity. In the mid-1980s, the federal government repealed this act and ended federal funding for these state agencies.

According to a November 1997 survey by the Missouri CON program, 13 states do not have a CON program. New Hampshire was one of 37 states and the District of Columbia with a certificate of need program regulating at least one category of health care service. This survey places New Hampshire's program slightly below average for the number of health services it reviews. New Hampshire's program covers 13 out of the survey's 29 categories. Maine and Connecticut each have the highest number of services (27) subject to certificate of need program review; Indiana and Louisiana each have only two health care services regulated by their programs.

There has been much debate throughout the country on the merits of certificate of need programs. The debate centers around whether to allow market forces to determine the distribution and cost of health care services, or to supplement or supplant market forces by a regulatory scheme based on certain public policy presumptions or needs. A number of studies have questioned if any cost savings have resulted from certificate of need programs. In fact, some studies conclude certificate of need programs increased health care costs. Opponents believe these programs are no longer necessary because health care providers typically are paid a flat amount based on a patient's diagnosis. Thus, providers no longer can pass increased overhead costs on to payers. However, supporters of CON programs point to more equitable allocation of health care services throughout a state as reason to keep certificate programs. For the nursing home sector, others conclude states can control their Medicaid expenditures by restricting the supply of nursing home beds. They claim that a nursing home bed built is a nursing home bed filled.

#### Health Services Planning and Review Board

The General Court established the certificate of need program in 1979. RSA 151-C regulates all newly proposed institutional health services by creating a system that

## 1. INTRODUCTION (Continued)

### 1.1 Overview (Continued)

seeks to: avoid unnecessary duplication of health services, contain or minimize increases in the cost of delivering services, and promote rational allocation of health care resources in New Hampshire.

The program was originally administered by the State Office of Health Planning assisted by the Health Systems Agency. In 1983, the General Court established the Health Services Planning and Review Board to administer the CON program. In 1994, the Legislature reduced the number of government and industry members on the board, reducing the total membership from 11 to seven.

The board currently is composed of:

- The Commissioner of the Department of Health and Human Services (DHHS) or designee;
- A representative of health care insurers;
- Three consumers from different regions of the State who have no involvement in health care services; and
- Two providers of health care services regulated by the board (one provider is nominated by the New Hampshire Hospital Association and the other by the New Hampshire Health Care Association).

The governor appoints one board member as chairman. The commissioner or designee is the only permanent member; the other six members serve staggered three-year terms.

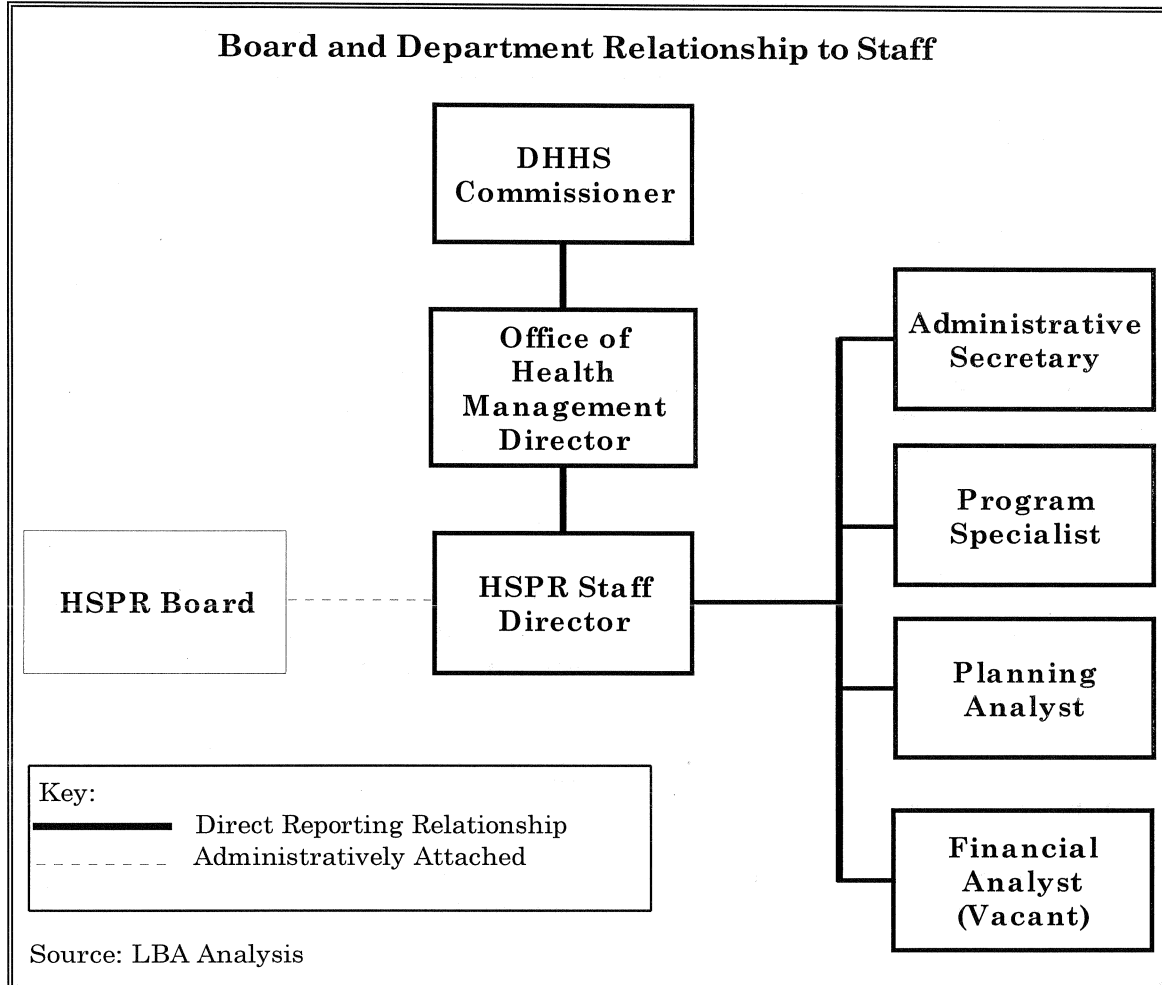
By State law the board is administratively attached to DHHS, but is required to execute its responsibilities independent of the department. However, the commissioner of DHHS sets the board's agenda, provides space, and supplies staff to support the work of the board. As shown in Figure 4, page 9, the board's staff is headed by a director who acts as liaison between the commissioner and the board. Several board members found this arrangement problematic. They feel this structure inhibits the board's ability to perform its required duties effectively. Some also noted the loss of institutional knowledge due to recent staff turnover further impedes effective operation.

Health care providers responding to our survey found the staff to be courteous, fair, and knowledgeable about the CON process (Appendix A). Most board members were also satisfied with staff performance. However, many board members recommended its staff become independent of DHHS. Currently, staff report directly to DHHS.

## 1. INTRODUCTION (Continued)

### 1.1 Overview (Continued)

FIGURE 4



The board is required by State law to examine certain health care projects that meet the following criteria:

- Acute care capital expenditures over an annually adjusted threshold (starting at \$1,500,000 in 1995);
- Other health care facility<sup>1</sup> capital expenditures over an annually adjusted threshold (starting at \$1,000,000 in 1995);
- Medical equipment over \$400,000;

<sup>1</sup> Other health care facilities would include nursing homes, ambulatory surgical facilities, rehabilitation hospitals, and psychiatric hospitals.

## 1. INTRODUCTION (Continued)

### 1.1 Overview (Continued)

- Transfer of ownership of an existing health care facility; or
- Any new health service that can be developed or offered.

Threshold levels are important; a low threshold may subject more projects to review. The results of the 1997 Missouri CON survey positioned New Hampshire's \$1.5 million reviewability capital threshold as average compared to the range of \$500,000 (Maine, Arkansas, Oklahoma) to \$9,048,071 (Massachusetts). Out of 37 states as well as the District of Columbia, 23 (60.5 percent) have capital thresholds between \$1 million and \$2 million. However, New Hampshire's reviewability threshold for equipment is low compared to other states. Only three (11.5 percent) of 25 states plus the District of Columbia that subject equipment to CON reviews have thresholds equal to or less than New Hampshire's \$400,000. A majority of the states have an equipment threshold of \$1,000,000 or more.

#### The Certificate of Need Process

The prerequisite for any certificate of need is a standard developed according to statute including the following criteria: financial feasibility, availability of resources, accessibility to underserved populations, and quality of care. Requests to the board for standard development may result in one of the following:

- The adoption of a standard as an administrative rule; allocating a service by number, type, and location;
- A statement that the service, being in the best interests of the state, is not subject to review nor to certificate of need procedures; or
- If no standard or statement on competition is provided by the board within 180 days, the proposed service is not required to obtain a certificate of need and is not subject to regulation under RSA 151-C.

If a standard identifies a need for additional health services, the board must issue a request for applications.

All applications undergo a 60 day completeness review by the staff. Completed applications usually enter a 90 calendar day formal review period, but for applications meeting specified exception criteria, the review period may be extended once for an additional 30 calendar days. The board must then decide whether to award any or all applicants a certificate of need. Should the board fail to render a decision, the application is denied. State law allows denied applicants to request reconsideration by the board. Applicants may then appeal to the New Hampshire Supreme Court.

## 1. INTRODUCTION (Continued)

### 1.1 Overview (Continued)

For each project receiving a certificate, the board must track progress. This ensures each project remains in compliance with conditions of its certificate of need. Approved projects must commence and be completed within statutorily established timelines. Pending possible extensions, a project that does not meet a time limit can have its certificate of need withdrawn. Furthermore, fines may be imposed for noncompliance with certificate conditions and application statements.

### 1.2 Scope, Objective, And Methodology

We performed our audit of the Health Services Planning and Review Board consistent with recommendations made to the Fiscal Committee by the Legislative Performance Audit and Oversight Committee. This compliance audit was performed in accordance with generally accepted governmental auditing standards and accordingly included such procedures as we considered necessary in the circumstances.

#### Scope and Objective

This report examines and describes the board's compliance with State law and administrative rules. The scope of our audit was to review board actions started and completed between March 1993 and September 1997. We observed NH Code of Administrative Rules (He-Hea 100 – 500) governing most board decisions were revised on March 10, 1993. Staff indicated that these were substantial revisions, therefore we only reviewed those decisions governed by current rules.

#### Methodology

To obtain background information and develop an overall understanding of certificate of need programs in general and New Hampshire's in particular, we reviewed journal articles, newspaper articles, Supreme Court decisions, research papers, administrative rules, and State laws. To conduct our compliance audit we:

- 1) Reviewed board decisions for compliance with relevant administrative rules and State laws;
- 2) Reviewed a sample of 636 applications to verify they were not subject to board review as previously determined by HSPRB staff;
- 3) Conducted a survey of health care providers including company chief executive officers, chief financial officers, attorneys, consultants, and others who had business before the board between 1993 and 1997;

## **1. INTRODUCTION (Continued)**

### **1.2 Scope, Objective, And Methodology (Continued)**

- 4) Reviewed board activities regarding general compliance issues not covered by the file review such as filing of statements of financial interests and collection of annual fees; and
- 5) Interviewed board members, past and present staff, DHHS officials, and officials of professional associations to aid in our understanding of the board's operations.

### **1.3 Report Outline**

Chapter 2 presents our observations and recommendations organized into three areas: Board Actions and Decisions, Financial-Related Issues, and Files and Required Documentation Issues. Chapter 3 contains our conclusion, followed by a section identifying other issues and concerns.

**STATE OF NEW HAMPSHIRE  
HEALTH SERVICES PLANNING AND REVIEW BOARD**

**2. COMPLIANCE ISSUES**

As previously indicated, the Health Services Planning and Review Board is responsible for (1) developing and reviewing standards of need for New Hampshire's health care system, (2) soliciting and reviewing applications for certificates of need, and (3) issuing and monitoring certificates of need.

Furthermore, the board is required to oversee certain financial-related activities. One requirement is to collect annual fees from applicable private health care providers in the State. In addition, the board issues requests for applications for the construction, development, expansion, or alteration of various types of health care facilities, such as acute care facilities, nursing homes, and other facilities. When applications are submitted, the board is required to review proposed projects for facilities that exceed capital expenditure thresholds of \$1.5 million for acute care facilities or \$1 million for other facilities. The board is required annually to adjust the thresholds for inflation.

Our fieldwork and analyses indicate the board has not substantially complied with applicable statutes and its own rules in the above areas. Interviews with various board members and staff, and file reviews indicate the board was aware it did not always comply with statutes and administrative rules. Some board members said that despite noncompliance with State laws and administrative rules, their decisions were in the best interests of consumers and the State.

**2.1 Board Actions and Decisions**

The Legislature codified in RSA 151-C its "compelling interest in working with the health care delivery system to set standards relative to the size, type, level, quality, and affordability of health care services offered in New Hampshire." This statute frames the Health Services Planning and Review Board's duties and governs its decision making, including board actions or decisions involving: (1) voting on CON applications, (2) accepting certificate of need applications, and (3) developing standards by which interested health care providers can apply to provide health care services to the marketplace. If the board adheres to its legislative requirements, certificate of need applicants receive equal treatment in undertaking to provide necessary, affordable, and quality health care services.

Additionally, board members must comply with RSA 21-G:5-a, which prohibits any member from performing official duties until that member files a statement of financial interests with the Secretary of State.

Our review of the board's actions in the above areas for the audit period, including interviews with HSPR board members and former and current staff, disclosed several instances of board non-compliance with applicable statutes and administrative rules:



## 2. COMPLIANCE ISSUES (Continued)

### 2.1 Board Actions and Decisions (Continued)

- Allowing board members to perform their official duties without first filing statements of financial interests;
- Awarding six certificates of need in the absence of developed standards, which is specifically disallowed by statute and a decision of the New Hampshire Supreme Court; and
- Directing applicants to submit, and subsequently accepting, abbreviated certificate of need applications.

#### Observation No. 1

#### *Statements of Financial Interests Not Filed*

Effective July 1, 1994, RSA 21-G:5-a required every member of a board, commission, advisory committee, board of directors, or authority of an executive branch agency to file a statement of financial interests with the Secretary of State by July 1 of each year. This statute applies to all members, regardless of whether they receive compensation for the performance of their duties.

Of 21 financial interests statements required to be filed during the audit period, five (24 percent) were not filed. Thirteen statements (62 percent) were filed, on average, 23 days late. Eleven of these late statements were filed within two weeks after the July 1 deadline; two, however, were 72 and 73 days late respectively. The statute prohibits members from performing official duties until a financial interests statement is filed. Thus, of the seven member board, two members in FY 1996, and three members in FY 1997, were ineligible to perform their official duties for the fiscal year. Table 1 summarizes the above:

TABLE 1

| HSPRB Statements of Financial Interests |         |         |         |        |
|---|---------|---------|---------|--------|
| Statements as of July 1 <sup>st</sup>   | FY 1996 | FY 1997 | FY 1998 | Totals |
| Filed Timely                            | 1       | 2       | 0       | 3      |
| Filed Late                              | 4       | 2       | 7       | 13     |
| Not Filed                               | 2       | 3       | 0       | 5      |

Source: Statements Filed at the Office of the Secretary of State

Because certain members were not eligible to perform official duties pursuant to RSA 21-G:5-a, votes taken during the audit period could be called into question. By noting the date of votes and members who had not filed financial interests statements, we identified board decisions made by fewer than four eligible members. Board rules allow an adjudicative proceeding of the board to proceed only if a quorum of the board members are present and eligible to sit at such proceeding

## 2. COMPLIANCE ISSUES (Continued)

### 2.1 Board Actions and Decisions (Continued)

#### Observation No. 1: Statements of Financial Interests Not Filed (Continued)

(He-Hea 402.03(a)). Allowing members to serve prior to their filing statements of financial interests has the potential to unnecessarily subject board decisions to challenges.

The Department of Justice attorney responsible for the distribution of statements of financial interests stated the department does not know the legal impact of ineligible members voting because violations of RSA 21-G:5-a have not been challenged. The attorney further stated members not filing statements or filing in an untimely manner could affect a board's ability to take action.

The vote adopting the rules redefining board members' eligibility to vote was taken with only three eligible members. It is possible that all votes taken after November 23, 1995 were done so without properly adopted rules.

#### RECOMMENDATION:

**The board should:**

- **Seek competent legal advice on the status of actions taken by ineligible members; and**
- **Develop policies and procedures to ensure members properly file their statements of financial interests. The chairman should bar any member from performing duties until a statement is filed with the Secretary of State.**

#### AUDITEE RESPONSE:

*The HSPR Board CANNOT RESPOND to this observation. The LBA is suggesting that the Board make an interpretation of law on a complex and confusing statute which can only be resolved through the Attorney General's Office or the NH Legislature. The Board has referred this observation to the Attorney General's Office for interpretation.*

*In a December 24 response from legal counsel to the Board, the Attorney General advises that the votes made by the Board are not affected by the lack of filing Statements of Financial Interest unless a party preserved an objection to the process and pursued that objection in a motion for reconsideration and an appeal to the New Hampshire Supreme Court. Therefore, the Attorney General has advised that all votes taken and recorded by the Board are valid. Furthermore, under the advisement of the Attorney General, the Chair should ensure that each member has filed the required forms by July 1, prior to taking action of any vote.*

## 2. COMPLIANCE ISSUES (Continued)

### 2.1 Board Actions and Decisions (Continued)

#### **Observation No. 1: Statements of Financial Interests Not Filed (Continued)**

*Regarding the quorum issue, the Attorney General has indicated that RSA 151-C:9 contemplates votes in which fewer than a majority of members will be eligible and overrides any general majority quorum requirement.*

#### **Observation No. 2**

#### ***Certificates of Need Awarded Without Required Standards***

As a result of our review of 24 certificates granted during the audit period, we identified six (25 percent) that were awarded in the absence of developed standards. All six were granted in 1997, with a reported total dollar value of \$11,608,864. Table 2 summarizes the reported dollar value of these projects. State law prohibits the board from awarding a certificate of need unless there is a standard delineating a need for health services and outlining criteria to be met by anyone proposing to provide a service (RSA 151-C:4, II). When a previous board decision was reversed by the New Hampshire Supreme Court, the Court stated, "A general assessment of need cannot give the board authority to grant a CON to fill it. The need *must* be identified in a standard developed pursuant to RSA 151-C:5 or :6 (emphasis added)." [Appeal of Nashua Brookside Hospital (1993) 138 NH 105, 636 A2d 57]

**TABLE 2**

| <b>Value of Questioned Certificates of Need</b> |                     |
|---|---------------------|
| <b>Certificate of Need Issued For:</b>          | <b>Amount</b>       |
| Constructing Residential Living Facility        | \$ 2,040,960        |
| Transferring Nursing Home Beds                  | 1,530,570           |
| Renovating Rehabilitation Facility              | 6,401,284           |
| Purchasing New Equipment                        | 572,000             |
| Offering New Service                            | 1,000,000           |
| Offering New Level of Service                   | 64,050              |
| <b>Total</b>                                    | <b>\$11,608,864</b> |
| Source: HSPRB Files                             |                     |

In two of the six cases, the accompanying staff analysis indicated the board did not develop any administrative rules for standards of review for the proposed service. According to one of these analyses, the lack of clear rules also precluded other interested entities from participating in the process because no general request for applications was announced and no standard of need was established. Some board members acknowledged that standards were not applied in several cases. They further commented they believed their actions were in the best interests of consumers and the State.

## 2. COMPLIANCE ISSUES (Continued)

### 2.1 Board Actions and Decisions (Continued)

#### Observation No. 2: Certificates of Need Awarded Without Required Standards (Continued)

##### RECOMMENDATION:

The board should:

- Ensure certificates of need are awarded in accordance with the State law and develop standards when they are required; and
- Seek competent legal advice regarding the status of certificates awarded without established standards.

##### AUDITEE RESPONSE:

*The HSPR Board **DOES NOT CONCUR** with the above identified observation. The Board acknowledges that it might have mischaracterized its actions as a Certificate of Need approval when it intended to apply the general principles of the statute to a project of substantive capital cost. The Board's inaction could have an adverse impact on both the corporation offering the venture and the healthcare system of the state (Medicare/Medicaid). The Board believes the intent of its governing Statute allows members to apply their best judgment to the proposals in the interest of consumers and the State. This belief, however, is subject to the final opinion of the Attorney General's Office regarding this interpretation of the Statute.*

*In the previously identified response from legal counsel to the Board, the Attorney General advises that none of the identified CONs is invalid as long as notice was given to the public in accordance with the Board's rules and principles of due process.*

#### Observation No. 3

##### ***Abbreviated Applications Accepted***

As a result of our review of 27 certificate of need files and board minutes, we identified five files (18.5 percent) where the board allowed applicants to submit abbreviated, incomplete applications. All five projects submitted with incomplete applications were approved by the board. Table 3 on page 18 shows the reported total dollar value of these projects was \$8,092,479. Additionally, we noted 11 applications were approved from October 1995 to the end of the audit period. These 11 include the five (45.5 percent) abbreviated applications.

## 2. COMPLIANCE ISSUES (Continued)

### 2.1 Board Actions and Decisions (Continued)

#### Observation No. 3: Abbreviated Applications Accepted (Continued)

TABLE 3

| Value of Abbreviated Applications        |                    |
|--|--------------------|
| Abbreviated Application Project Type     | Project Amount     |
| Transferring Nursing Home Beds           | \$2,948,949        |
| Constructing Residential Living Facility | 2,040,960          |
| Transferring Nursing Home Beds           | 1,530,570          |
| Purchasing New Equipment                 | 572,000            |
| Offering New Service                     | 1,000,000          |
| <b>Total</b>                             | <b>\$8,092,479</b> |
| Source: HSPRB Files                      |                    |

Accepting and approving incomplete applications violates the board's administrative rules. While any member of the public may submit a CON request by filing an application with the board, each application must be comprised of five completed components:

- Section I - Identification data;
- Section II - Purpose and scope of the project;
- Section III - Criteria applicable to the project (i.e. standards);
- Section IV - Project components (such as location, population served, compliance with laws, letters of support, and costs); and
- An appendix of supporting material.

In four of the five cases with abbreviated applications, the board or staff directed applicants to submit abbreviated applications, and in three of these cases applicants were required to submit only Section I and Section IV (Parts F - construction costs and methods and G - financial feasibility) data. Subsequent staff analysis of one of these applications stated (1) the staff was "unable to examine the impact on patient charges after the completion of the project" because the applicant was not required to submit certain information, and (2) it was likely the applicant would "request higher Medicaid reimbursement to compensate for the proposed capital development."

When asked about requesting and accepting abbreviated applications, several board members acknowledged this practice, and commented they believed their actions were in the best interests of the consumers and the State. One member concluded

## 2. COMPLIANCE ISSUES (Continued)

### 2.1 Board Actions and Decisions (Continued)

#### Observation No. 3: Abbreviated Applications Accepted (Continued)

there was little benefit in documenting the need for renovating facilities when no new beds were added.

#### RECOMMENDATION:

**Under the current administrative rules, the board should stop accepting and approving abbreviated certificate of need applications. If the board feels this practice is useful, it should propose changes to its administrative rules.**

#### AUDITEE RESPONSE:

*The HSPR Board **CONCURS IN PART** with this observation. The Board feels justified in its action although its intent regarding “abbreviated applications” could have been clearer. In essence, requestors submitted proposals to determine whether a Certificate of Need was required for the proposed projects. The Board feels it has the authority to review projects of this type to ensure proper financial feasibility on behalf of the requestor, and feels that these proposals did not offer new services or programs which would warrant a general Request for Applications (RFA). The Board believes the intent of its governing Statute allows members to exercise their best judgment to the proposals in the interest of the consumers and the State.*

### 2.2 Financial-Related Issues

The board is responsible for overseeing certain financial-related activities. One requirement is to collect annual fees from applicable health care providers. We noted the applicable administrative rule was not consistent with its corresponding statute. State law directs the board to recover administrative costs by collecting the lesser of \$500,000 or the board’s actual expenditures. However, administrative rules require the fee total be the amount budgeted for the administration of the Health Services Planning and Review Board. Our analysis showed the board collected \$264,541 more than allowed by statute during the audit period. Board members we interviewed indicated there was no board oversight of fee billing.

The board also must issue requests for applications for the construction, development, expansion, or alteration of various types of health care facilities, such as acute care facilities, nursing homes, and others. The board is required to review proposed projects for which capital expenditures exceed thresholds of either \$1.5 million for acute care facilities or \$1 million for other facilities. State statute requires the board annually adjust both capital expenditure thresholds by “an appropriate inflation index.” However, our analysis showed from 1995 through

## 2. COMPLIANCE ISSUES (Continued)

### 2.2 Financial-Related Issues (Continued)

1997, published threshold amounts were static and board rules do not allow yearly compounding of the thresholds, contradicting legislative intent.

#### Observation No. 4

#### ***Health Care Providers Overbilled***

We found health care providers have been overbilled by the board during our audit period. As shown in Table 4 below, the board collected \$264,541 more in annual fees than the law allowed between fiscal years 1993 and 1996. State law specifies the board can collect an amount equal to actual expenditures or \$500,000, whichever is less (RSA 151-C:15, D). However, administrative rules do not coincide with the statute. The rules state the total amount for the annual fee shall be the amount listed in the budget established for the health services planning and review component of the division of public health services (He-Hea 501.01(c)(11)). Revenue in excess of expenditures is lapsed into the State's general fund.

We found health care providers have been overbilled by the board during our audit period. As shown in Table 4

TABLE 4

| Calculation of Overbilling |                          |                      |                   |
|----------------------------|--------------------------|----------------------|-------------------|
| Fiscal Year                | Actual Revenue Collected | Related Expenditures | Amount Overbilled |
| 1993                       | \$ 487,543               | \$ 383,205           | \$104,338         |
| 1994                       | 494,974                  | 415,649              | 79,325            |
| 1995                       | 494,686                  | 458,744              | 35,942            |
| 1996                       | 500,236                  | 455,300              | 44,936            |
| <b>Totals</b>              | <b>\$1,977,439</b>       | <b>\$1,712,898</b>   | <b>\$264,541</b>  |

Source: LBA Analysis of Statements of Appropriation

Board members stated they had no knowledge of this practice because budgetary matters were left to staff and DHHS. The statute states the board shall exercise its powers, duties, functions, and responsibilities independently of the department. The board is required to submit budget requests and required reports through the department (RSA 151-C:3, VI). In addition, RSA 21-G:10 requires the department to include the board's budget requests, as submitted and without changes, in the department's budget. Staff have corrected the overbilling practice starting in fiscal year 1997.

#### **RECOMMENDATION:**

The board should:

- Seek amendment to the administrative rule to reflect the statute;

## 2. COMPLIANCE ISSUES (Continued)

### 2.2 Financial-Related Issues (Continued)

#### Observation No. 4: Health Care Providers Overbilled (Continued)

- Take a more active role in overseeing its financial matters, including adopting its budget and submitting it through the department; and
- Seek competent legal advice on what action the board should take regarding the overbilling of annual fees.

#### AUDITEE RESPONSE:

*The HSPR Board **CONCURS IN PART** with the above referenced observation. The statute and corresponding administrative rule do not agree, and therefore concurrence could be sought by either one. Nevertheless, the Board recognizes that the administrative rule should be changed to reflect the requirements of the statute, and anticipates that it will commence rule making to amend the affected rule He-Hea 501.01 (c) no later than the end of the first quarter 1998. Additionally for the recommendation that the Board take a more active role in overseeing financial matters, including adopting its budget, etc., the Board **DOES NOT CONCUR**. The Board does not disagree that it could or should take a more active role in financial matters, however the Board points out that it has no legal authority over the final acceptance of its budget as this is by legislation an operating function of the Department of Health and Human Services, through which the Board operates as an administratively attached independent authority.*

#### Observation No. 5

##### **Thresholds Not Adjusted**

We examined the requests for applications for acute care facilities, which the board issued annually by rule (He-Hea 1004.01). For the last three years we noted the board used a static capital expenditure threshold in acute care requests for applications instead of an adjusted threshold as required by State law (RSA 151-C: 5, II(a) and (f)). While our review did not indicate any applicant was unnecessarily subjected to review, the publication of inaccurately adjusted thresholds could have served as a barrier to applicants who might have otherwise pursued a project.

The board has not adopted an “appropriate inflation index” as required by statute (RSA 151-C:5, II (a) and (f)). Instead the board adopted a fixed rate of 1.75 percent (He-Hea 405.01(b)(1) and (2)) which may misstate actual inflation for construction and health care related costs. This allows inflation to reduce the threshold in real dollars and does not account for inflation rates that might fall below 1.75 percent. Possible effects include applicants being unnecessarily subjected to review and applicants not pursuing a project because it would have inappropriately been reviewed by the board. In responding to this issue, some board members suggested



## 2. COMPLIANCE ISSUES (Continued)

### 2.2 Financial-Related Issues (Continued)

#### **Observation No. 5: Thresholds Not Adjusted (Continued)**

that a general construction cost inflation index might be appropriate in adjusting thresholds.

The rules adopted by the board (He-Hea 405.01(b)) state, "The threshold amount of: (1) \$1,500,000 listed for acute care hospitals in RSA 151-C:5, II(a), shall be adjusted by multiplying the \$1,500,000 by 1.0175. (2) \$1,000,000 listed for nursing homes, ambulatory surgical facilities, physical rehabilitation hospitals, psychiatric hospitals, substance abuse hospitals and other health care facilities in RSA 151-C:5, II(f), shall be adjusted by multiplying the \$1,000,000 by 1.0175." In other words, the same threshold must be adjusted by the same amount each year resulting in the exact same number being the "adjusted threshold" each year. No compounding of thresholds can occur under the rules as they are written. This seems to contradict the intent of the legislation.

The rules were not changed in 1995 when the governing legislation (RSA 151-C) was revised. The effect of this revision was to reset threshold levels, but this is not reflected by the rule. The rules require that the threshold figures in RSA 151-C:5, II (a) and (f), be adjusted starting January 1, 1993, and every January 1st thereafter (He-Hea 405.01 (a)).

We summarized in Table 5 the acute care thresholds as (1) stated in the requests for applications, (2) adjusted under statute, and (3) the board's rules required:

**TABLE 5**

| <b>Acute Care Thresholds</b>         |  |  |   |
|--------------------------------------|--|--|---|
| <b>Request for Applications Year</b> | <b>Published Request for Applications Threshold Amount</b> | <b>LBA Calculated Amount Under Statute Using Board's Rate of 1.75%</b> | <b>LBA Calculated Amount Under Rule</b> |
| 1993                                 | \$1,526,250  | \$1,526,250  | \$1,526,250                             |
| 1994                                 | \$1,552,500  | \$1,552,959  | \$1,526,250                             |
| 1995                                 | \$1,500,000  | \$1,526,250  | \$1,526,250                             |
| 1996                                 | \$1,500,000  | \$1,552,959  | \$1,526,250                             |
| 1997                                 | \$1,500,000  | \$1,580,136  | \$1,526,250                             |

Source: LBA Analysis of State Law, Rules, and Requests for Applications

## 2. COMPLIANCE ISSUES (Continued)

### 2.2 Financial-Related Issues (Continued)

#### Observation No. 5: Thresholds Not Adjusted (Continued)

##### RECOMMENDATION:

The board should:

- Seek amendment to its rules by adopting an appropriate inflation index, clarifying the method of compounding the threshold to reflect this requirement, and adopting new language to start the threshold adjustment in 1995 as required; and
- Ensure each request for applications contains the correct threshold.

##### AUDITEE RESPONSE:

*The HSPR Board **CONCURS** with this observation and expects rulemaking to commence on the affected rule He-Hea 405.01 no later than the end of the first quarter 1998. Additionally, for the recommendation that the Board ensure each RFA contains the correct threshold, proper identification of the appropriate threshold shall begin with the release of the next RFA, which is unknown at this time.*

### 2.3 Files and Required Documentation Issues

By rule the board is required to keep all materials related to a certificate of need project in a docketed file. Such materials can consist of public and other notices, audio tapes, and reports from CON awardees (He-Hea 205.04(f)). For example, statute requires applicants who are awarded a certificate to submit under specified timelines periodic implementation reports regarding the commencement and progress of approved health care projects; each report should be kept in the docketed file. Furthermore, RSA 151-C requires the board provide notice of evidentiary proceedings, hearings, and application completeness to the following: the public, affected persons, and applicants. Notice is to follow prescribed formats and timelines. The board is also required to make available to the public audio tape records of certain hearings and conferences with applicants.

We examined the above areas and found evidence of the following:

- Certificate of need recipients generally do not file implementation reports; the board does little tracking of reports, and has not sought to impose fines on offenders;
- Copies of notice for proceedings, hearings, and completeness were lacking in numerous files; where notice was found, the content often was not in accordance with administrative rules and State law; and

## 2. COMPLIANCE ISSUES (Continued)

### 2.3 Files and Required Documentation Issues (Continued)

- Audio tapes of pre-hearing conferences were not found in two cases.

#### Observation No. 6

#### ***Implementation Reports Not Filed***

We identified four deficiencies concerning filing implementation and commencement reports by certificate of need recipients. Some recipients did not file reports at all while others did not file in a timely manner. The board did not track or enforce these requirements and administrative rules are not consistent with State law. The statute requires projects to be commenced and completed within certain timelines. If a recipient fails to commence or complete a project within these timelines, the certificate expires; fines also may be imposed (RSA 151-C:12, I, VI). All recipients of a certificate of need must file a report at least semi-annually during the development stage and annually once the project has commenced. This assures compliance with the application and conditions outlined in the certificate. Reports are also required for the first five years after the project is completed (RSA 151-C:12, V). The rules state that an initial report shall be filed 30 days after project commencement. Subsequent reports shall be filed semi-annually thereafter until the project is completed and becomes operational. Reports shall be filed annually for the subsequent five years after the project is completed and becomes operational (He-Hea 403.03).

Administrative rules do not reflect accurately the requirements of the statute. The rules require a commencement report 30 days after construction begins, semi-annual reports thereafter until completion, and annual reports for five years after completion of the project. State law calls for a semi-annual report during development, and an annual report during construction and for five years after completion. The rules do not address semi-annual reports during development and differ with the statute on the time frame of reports during the construction phase.

Our analysis of the 27 docketed files showed 17 should have had annual or semi-annual implementation reports and 15 should have had commencement reports. Our findings are summarized in Table 6 on page 25.

In instances where timeliness of annual implementation reports was an issue, we found the reports ranged from 35 to 348 days late; the average was over 154 days. In the single instance where timeliness was an issue for semi-annual implementation reports, the report was 11 days late. Where timeliness was an issue in commencement reports, we found reports were from one to 159 days late; the average was over 38 days. Staff has stated the office had recently begun tracking implementation and development reports for more current certificates. They were unsure if board members were briefed on lateness or non-filing of implementation and development reports. We did note in some cases the staff had sent reminder notices to certificate holders, to little or no avail.

**2. COMPLIANCE ISSUES (Continued)**

**2.3 Files and Required Documentation Issues (Continued)**

**Observation No. 6: Implementation Reports Not Filed (Continued)**

**TABLE 6**

| <b>Report Status</b>  |                                   |                                    |
|---|-----------------------------------|------------------------------------|
| <i>Part I: Status of Implementation Reports in the Docketed Files</i> |                                   |                                    |
|   | <b>Number of Files Applicable</b> | <b>Percent of Files Applicable</b> |
| Reports filed properly  | 2                                 | 12%                                |
| No reports in file  | 8                                 | 47%                                |
| Untimely reports  | 4                                 | 23%                                |
| Missing some reports  | 2                                 | 12%                                |
| Untimely and missing reports  | 1                                 | 6%                                 |
| <b>Total</b>  | <b>17</b>                         | <b>100%</b>                        |
| <i>Part II: Status of Commencement Reports in Docketed Files</i>      |                                   |                                    |
|   | <b>Number of Files Applicable</b> | <b>Percent of Files Applicable</b> |
| Reports filed properly  | 1                                 | 7%                                 |
| No reports in file  | 6                                 | 40%                                |
| Untimely reports  | 7                                 | 46%                                |
| Content not as required   | 1                                 | 7%                                 |
| <b>Total</b>  | <b>15</b>                         | <b>100%</b>                        |
| Source: LBA Analysis of HSPRB Files                                   |                                   |                                    |

**RECOMMENDATION:**

The board should seek amendment to its rules to:

- Accurately reflect the legislative intent with respect to reporting timelines; and
- Implement policies and procedures to track and enforce the filing of these reports for all certificate holders, past and present.

**AUDITEE RESPONSE:**

*The HSPR Board CONCURS with this observation and anticipates that rulemaking to amend the affected rule He-Hea 403.03 will commence no later than the end of the first quarter 1998. Such rulemaking will correct the rule to accurately reflect the requirements of the Statute. Additionally, for the recommendation that the Board implement policy and procedure to track and enforce the filing of implementation reports, the Board agrees that it should improve administrative procedures to ensure timely reporting and will discuss methods of reporting with staff. The Board's opinion, however, is that the imposition of a fine or invalidation of a Certificate of*

## 2. COMPLIANCE ISSUES (Continued)

### 2.3 Files and Required Documentation Issues (Continued)

#### Observation No. 6: Implementation Reports Not Filed (Continued)

*Need should be reserved for those instances where an applicant has purposefully avoided reporting to conceal cost overruns or failure to complete the approved project.*

#### Observation No. 7

##### **Notices Not in Docketed Files**

During our review of 27 certificate of need files, we found the documentation of notice for evidentiary proceedings, hearings, and application completeness was inconsistent. We could not always find where the board provided notice to the public, affected persons, and applicants; where notices were complete; and where notices were timely. Because board rules require all material related to a project be kept in a docketed file, there should have been substantially more evidence that required notice was made (He-Hea 205.04(f)).

The board is required by State law and rule to provide notice of its actions in a number of circumstances (RSA 151-C:8, I and VI(a), He-Hea 205.03, and He-Hea 205.04(b) and (c)). In numerous files notice was not present. In many cases when notice was present, some content stipulated by statute and rule was missing. Furthermore, some notices were not filed in a timely manner.

Properly documenting that notice was given is very important. It provides evidence that individuals and groups with an interest in the proceedings were informed of board actions and provided an opportunity to participate. If proper notice is challenged under RSA 151-C:8 VI, the board should be able to provide documentation of proper notice. Failure to do so could be grounds for reversing board's decisions, defeating the board's jurisdiction, or adversely affecting the board's proceedings.

Staff familiar with the notice process reported that they are aware of the importance of this issue. They stated that they have made substantial efforts to ensure all groups requiring notice receive it in a timely manner. We do not dispute this; we simply question the adequacy of their record keeping.

#### **RECOMMENDATION:**

**The board should implement policies and procedures to ensure staff follows through on notice requirements and documents its efforts within the docketed file.**

## 2. COMPLIANCE ISSUES (Continued)

### 2.3 Files and Required Documentation Issues (Continued)

#### Observation No. 7: Notices Not in Docketed Files (Continued)

##### AUDITEE RESPONSE:

*The HSPR Board **CONCURS IN PART** with this observation. The Board concurs to the extent that documentation of adequate notice might not be found in all docketed files, and that administrative changes can be made to ensure notices and documents are properly filed. The Board has no reason to believe, however, that proper notice was not given. Furthermore, the Board thinks it inappropriate to suggest that absence of documentation could lead to improper legal foundation of Board decisions. Additionally, for the recommendation that Board oversight of staff might be considered, the Board states that staff cannot be criticized for its work during recent personnel turnover and resulting Department of Health & Human Services reorganization. As a result, the Board has no direct authority over staff assigned due to legislation and therefore could do little to assist them with daily office operations. However, the Board wishes to express its confidence in the staff, sometimes at less than full complement, for the professional discharge of its duties.*

#### Observation No. 8

##### ***Tape Recordings of Pre-Hearing Conferences Not Available***

conferences as required (He-Hea 205.06(e)). The required tapes in two of ten cases were not found.

During our audit, we attempted to ascertain whether the board retained audio tapes of pre-hearing

##### RECOMMENDATION:

**The board should ensure that the tapes are retained in the docketed file as required by rule (He-Hea 205.04(f)), or place a notice in each file directing interested parties to their location.**

##### AUDITEE RESPONSE:

*The HSPR Board **CONCURS** with this observation and has directed staff to place all tapes of pre-hearing conferences in each docketed file as required.*

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**STATE OF NEW HAMPSHIRE  
HEALTH SERVICES PLANNING AND REVIEW BOARD**

**3. CONCLUSION**

Our compliance audit of the Health Services Planning and Review Board found significant noncompliance with State laws and administrative rules. The failure of some board members to file financial interests statements, the lack of required standards, the acceptance of incomplete applications, and the questionable notice practices may leave many board decisions unnecessarily vulnerable to challenge. In addition, the board overbilled health care providers, did not properly adjust capital expenditure threshold levels, did not collect required implementation reports that monitor awarded certificates of need, and did not properly maintain all necessary material in its files.

If our recommendations are implemented, we believe they will make the certificate of need process fairer for all health care providers and lessen the board's exposure to criticism. Many of our findings emphasize the need for board members to increase their understanding of regulatory, administrative, and budgetary matters.



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**STATE OF NEW HAMPSHIRE  
HEALTH SERVICES PLANNING AND REVIEW BOARD**

**OTHER ISSUES AND CONCERNS**

In this section we present additional issues discovered during our audit. Although we did not develop these issues into formal observations, we consider them noteworthy. The General Court and the Health Services Planning and Review Board may consider these issues for further action or study; therefore, we have included suggestions where appropriate.

**Board Pays for DHHS Data Collection Contract**

Since 1995, State law (RSA 126:25, I) has required certain health care facilities to submit financial, bed, patient, and other data annually to the Department of Health and Human Services. Previously, the board held this responsibility and annual fees were used to pay a contractor to collect data. Responsibility for funding the contract was not transferred to DHHS. The \$100,000 annual cost continues to be passed onto the health care facilities assessed annual fees by the board.

The board may wish to review this situation and determine if it is still responsible for paying for this contract.

**Certain Applications Not Subject to Fees**

State law allows applications to be submitted without an application fee if there is no current request for applications for that service. In addition, certain applicants are not required to pay an annual fee. This allows some applications to be reviewed by the board free of charge. We noted at least three of the 27 certificate of need applications submitted during our audit period fell into this category.

The General Court may wish to review this situation for possible action.

**Certain Activities Not Governed by Rule or Statute**

We noted several activities that the board's staff undertakes for which there is no formal guidance. These include (1) the process for determining which projects are not subject to review, (2) the holding of technical assistance meetings, and (3) the format, content, and use of staff analyses.

The board may wish to develop rules governing these procedures to ensure consistent and equitable treatment of applicants.

## **OTHER ISSUES AND CONCERNS (Continued)**

### **Irreconcilable Time Limits**

In our file review, we noted that time limits specified in the administrative rules did not correspond to State law. The statute allows 60 days for a completeness review but the administrative rules allow the deadline to be exceeded by at least 22 days. In addition, staff indicated that they “stop the clock” on applications when they are mailed or otherwise delayed, providing additional obstacles to meeting time limits.

The board may wish to revise its rules reconciling time limits to the statute.

## APPENDIX A

### SURVEY OF HEALTH CARE PROVIDERS

#### NOTES:

1. Responses are in **BOLD**.
  2. Comments that are exactly as the respondent stated are indicated by quotes. Responses edited to protect the identity of respondents are not quoted.
  3. Totals may not add to 100 percent due to rounding.
  4. Most of the open-ended comments came from surveys that were more negative than positive which may tend to skew a reader's impression of the results.
  5. We sent surveys to 48 participants in the certificate of need process. We received 26 responses (54.2 percent).
- 

According to Health Services Planning and Review Board records, you were involved with the following certificate of need application(s) as an owner, operator, lawyer, or intervenor:

- 1) To the best of your knowledge, did the Health Services Planning and Review Board follow its own rules and State laws in reviewing the certificate of need application(s) listed above?

**Yes 84.6%      No 11.5%      Don't Know 3.9%**

If "No" please explain and if possible cite relevant state laws (RSA) and administrative rules.

- **Our claims include conflict of interest and no determination of need.**
- **Prehearing conference minutes were not accurate and led to dispute.**
- **Board lacks a clear set of rules for determining which projects are exempt from the dollar thresholds.**
- **"...it did appear the Board lacked the appreciation of its own rules and lacked the judgment to obtain legal advice when valid legal issues were raised."**

- 2) Do you believe the standard(s) of need by which each application was judged are reasonable?

**Yes 80.8%      No 11.5%      Don't Know 7.7%**

If "No" please explain.

- **Psychiatric standard was given to Board by existing Psychiatric Hospitals.**

## Survey of Health Care Providers (Continued)

- The Board redefined need to mean "customer convenience".
  - We "...do not believe Health Services Planning and Review Board complied with its standard for nursing facility CONs..." in one case.
  - "...Board members have based their votes on considerations not reflected in the record."
- 3) Based on your experience with the board, its members, and its staff please answer the following questions.

| Do you agree that:                                     | Strongly Agree | Agree | Undecided | Disagree | Strongly Disagree | No Opinion |
|--|----------------|-------|-----------|----------|-------------------|------------|
| Board actions are timely?                              | 26.9%          | 53.8% | 3.9%      | 7.7%     | 3.9%              | 3.9%       |
| Board actions are objective?                           | 30.8%          | 46.1% | 3.9%      | 0%       | 11.5%             | 7.7%       |
| Board members are courteous?                           | 42.3%          | 42.3% | 3.9%      | 0%       | 7.7%              | 3.9%       |
| Board members are objective?                           | 26.9%          | 46.1% | 7.7%      | 0%       | 11.5%             | 7.7%       |
| Board members are knowledgeable about the CON process? | 34.6%          | 38.5% | 11.5%     | 3.9%     | 3.9%              | 7.7%       |
| Board staff are courteous?                             | 50.0%          | 42.3% | 0%        | 0%       | 0%                | 7.7%       |
| Board staff are fair?                                  | 50.0%          | 42.3% | 0%        | 0%       | 0%                | 7.7%       |
| Board staff are knowledgeable about the CON process?   | 57.7%          | 34.6% | 0%        | 0%       | 0%                | 7.7%       |

If you would like to elaborate on any of your answers, please feel free to use the back of this page.

- Board members are knowledgeable about the CON process? **"To the degree expected of a sitting Board member"**
- Board staff knowledgeable about the CON process? **"Not a strength of Staff"**
- **"Answers above relative to Board actions and members do not apply to all Board members. A few are felt to be politically motivated and often display behavior which is rude and arrogant."**
- **"The entire process creates a challenge when compounded by the complexities of design, planning, bidding and financing a project. CON delays become very costly particularly when you are in a cycle with a contentious project."**
- **"It would be appropriate to have a Board that does not find it necessary to have its members recuse themselves except in very rare"**

## Survey of Health Care Providers (Continued)

circumstances and not have members who are politicians with regional constituencies.”

- There has been criticism of the Board for refusing to allow opposition voices to present their side. There is a tendency to rush through testimony.
- There is a perception that the Hitchcock Clinic receives favorable treatment.

4) Should the certificate of need application process be changed?

Yes 27%      No 54%      Don't Know 19%

If “Yes” please explain.

- “Perhaps streamline application questions to reduce redundancy, and give sample answers or guidelines for the type of information being sought in response to some of the questions.”
- “The Certificate of Need application process described in RSA 151-C does not need to be changed. However, the Board should be required to strictly comply with the statutory process.”
- “Codify an abbreviated process for non-competitive CON applications”
- “The review process is far too long. The fundamental purpose of CON review should be reevaluated and restated. Board unclear in its direction. Staff report seems to serve little purpose, have limited if any value to Board. The financial thresholds should be increased, particularly \$1.5 (million) on acute care. Physician owned health delivery facilities should be subject to the same review as acute care hospitals.”
- “Legislature should consider Sunset Action & allow for a market driven Hlth System”
- “With very few exceptions (large capital items, nursing home beds) there is no longer a need for certificate of need process”
- “Projects should be unbundled if market areas do not overlap.”
- “Projects that clearly don't compete with one another should be evaluated in their own merit.” On two occasions small projects were delayed due to controversy over an unrelated project elsewhere in the state.
- “Eliminate the CON process. Let the market prevail.”

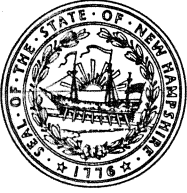
## Survey of Health Care Providers (Continued)

5) Should the standard of need process be changed?

Yes 27%      No 54%      Don't Know 19%

If "Yes" please explain.

- "There is confusion over what qualifies as a "new inpatient service."
- "Standards should be updated to reflect changes in medical practice, the delivery of healthcare services, and advancements in technology. Standards should demonstrate need. Standards based on volume thresholds do not demonstrate need. Standards do not support the legal objectives for CON review stated in RSA 151."
- "Legislature should consider Sunset Action & allow for a market driven Hlth System."
- "With very few exceptions (large capital items, nursing home beds) there is no longer a need for certificate of need process"
- "Authorizations should be correlated more to need."
- "Yes. Probably since Subacute care and assisted living are redefining the person whom a SNF (skilled nursing facility) serves. The transfer agreements with other SNFs requirement is anticompetitive since you need your competitors' cooperation to get a CON. This should be eliminated - or force their cooperation."
- "Competitive projects should be evaluated on whether or not they could reasonably be competitive within their respective geographic area. Presently all proposed (acute care) projects in NH are viewed as competing."
- "The Acute Care Facilities standard does not need to be changed."



STATE OF NEW HAMPSHIRE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF HEALTH MANAGEMENT  
*PUBLIC HEALTH SERVICES*

Terry L. Morton  
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January 21, 1998

Catherine A. Provencher, CPA  
Director, Audit Division  
Office of Legislative Budget Assistant  
107 North Main Street  
Room 102  
Concord, NH 03301-4906

Dear Ms. Provencher:

We thank you for the opportunity to comment on the observations and other concerns presented in the Office of the Legislative Budget Assistant's (OLBA) Performance Audit Report of the Health Services Planning and Review (HSPR) Board.

First of all, the Department wishes to recognize the OLBA, more specifically the staff of the Audit Division, for their tireless, insightful and competent analyses of the functions of the staff who support the HSPR Board. On several occasions Audit Division staff made suggestions to strengthen and make more efficient our office procedures. The HSPR program has benefited from this interaction.

Although the general scope of the performance audit was limited to the actions and decisions of the HSPR Board, the observations of the Audit Report make reference to the activities and responsibilities of the Department staff who administratively support the HSPR Board. The HSPR Board's responses to these observations include necessary staff actions to remediate and clarify certain office functions. The Department assures the OLBA that its staff shall provide whatever assistance is necessary in carrying out the HSPR Board's plan for corrective action.

Again, we would like to thank the OLBA Audit Division for their efforts to improve the certificate of need process and to allow us to respond to the HSPR Performance Audit Report.

Sincerely,

William R. Bolton, Jr.  
Chief, Health Services  
Planning & Review

Kathleen G. Sgambati  
Acting Director  
Office of Health Management



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**PERFORMANCE AUDITS  
ISSUED BY  
OFFICE OF LEGISLATIVE BUDGET ASSISTANT**

| <u>NAME OF REPORT</u>   | <u>DATE</u>   |
|---|---------------|
| <u>Review of the Indigent Defense Program</u>   | January 1989  |
| <u>Hazardous Waste Management Program</u>   | June 1989     |
| <u>Mental Health Services System</u>  | January 1990  |
| <u>Department of Administrative Services, Division of Plant and Property Management, State Procurement and Property Management Services</u> | June 1990     |
| <u>Developmental Services System</u>  | April 1991    |
| <u>Prison Expansion</u>   | April 1992    |
| <u>Workers' Compensation Program for State Employees</u>  | January 1993  |
| <u>Child Settlement Program</u>   | March 1993    |
| <u>Property and Casualty Loss Control Program</u>   | November 1993 |
| <u>State Liquor Commission</u>  | July 1994     |
| <u>Managed Care Programs for Workers' Compensation</u>  | November 1995 |
| <u>Multiple DWI Offender Program</u>  | December 1995 |
| <u>Child Support Services</u>   | December 1995 |
| <u>Job Opportunities and Basic Skills Training Program</u>  | May 1997      |
| <u>Economic Development Programs</u>  | October 1997  |

Copies of the above reports may be received by request from:

State of New Hampshire  
Office of Legislative Budget Assistant  
107 North Main Street, Room 102  
Concord, New Hampshire 03301-4906  
(603) 271-2785

