



April 24, 2025

Dr. James V. McDonald, M.D., M.P.H.
Commissioner of Health
New York State Department of Health
Submitted to Katherine Ceroalo via regsqna@health.ny.gov

Re: I.D. No. HLT-08-25-00002-P, Approval of Medical Facility Construction

Dear Dr. McDonald:

On behalf of the Suburban Hospital Alliance of New York State, which represents hospitals and health systems on Long Island and in the Hudson Valley, I thank you for the opportunity to comment on the proposed regulations to update and streamline the Certificate of Need (CON) review process for health facility construction projects.

Construction and renovation are essential to the growth of hospitals and health systems, both to modernize outdated facilities and to meet the increased care needs of New York's aging population. The CON process also should adapt to changing demands, advances in technology and clinical care, and increasing construction and acquisition costs, while limiting unnecessary administrative burden for providers and the Department. We appreciate the Department's diligence in addressing many of our members' concerns in the proposed amendments.

Project Cost Thresholds

The proposed rule would increase the cost thresholds for construction, addition or replacement projects from \$15 million for a general hospital to \$30 million and for all other facilities from \$6 million to \$8 million. It also raises the total project cost that triggers a Full Review, from \$30 million to \$60 million for a general hospital and from \$15 million to \$20 million for all other facilities. The Commissioner would be authorized to give administrative approval for Department-recommended projects, without Public Health and Health Planning Council (PHHPC) review, for projects with an expected cost up to \$60 million (currently \$30 million) for general hospitals and \$20 million (currently \$15 million) for all other projects. If the total project cost does not exceed 10 percent of total operating costs of the facility, up to \$150 million for hospitals (currently \$100 million) and \$30 million (currently \$25 million) for all other facilities, the project may be eligible for Administrative Review only. Finally, projects may be eligible for Limited Review if costs do not exceed \$30 million for hospitals and \$8 million for all other facilities. The Suburban Hospital Alliance supports all these increased project cost thresholds.

The DOH also proposes to accept a written certification by a licensed architect or engineer that the project meets the requirements of state code for Full Review projects that do not exceed \$30 million, an increase from the current \$15 million threshold. We support this proposal as well.

Construction costs have increased significantly in recent years; the CON regulations should have a mechanism to keep up with what can be sudden changes in the market. For example, the implementation of new tariffs proposed by the federal government could have a sharp impact on

construction supplies. The Suburban Hospital Alliance recommends that the proposal be amended to allow for an annual adjustment of the cost thresholds that are tied to an external inflationary measure, such as the Consumer Price Index or Producer Price Index for Construction Materials.

Addition and conversion of beds

The Department proposes to amend the review level criteria with respect to the addition and conversion of beds. The addition and conversion of beds totaling more than 10 percent of current licensed beds would continue to require a Full Review. However, the addition of beds not exceeding 10 percent of licensed beds and the conversion of existing beds that do not establish a higher level of care would only be subject to Administrative Review if the project meets the cost criteria. The proposal goes further to remove from the categorical Administrative Review requirements changes to cardiac catheterization service, correction of patient safety deficiencies, ordinary repairs and maintenance, energy conservation or facility modernization that does not substantively change capacity or service offerings or impact community need, the addition of certain equipment, emergency room expansion or modernization, acquisition of MRIs or CT scanners, replacement of a cobalt unit with a LINAC in approved facilities, addition of ventilator dependent services and the Swing Bed Demonstration program.

The Suburban Hospital Alliance supports these proposed changes, which would meaningfully streamline the review process. These would allow healthcare institutions to more expeditiously make needed upgrades, modernize equipment and respond to changes in patient needs and volumes.

State grant-funded projects

The proposal would make projects funded primarily with competitively awarded state grant dollars subject only to Administrative Review. We support this proposal, as such projects have already been thoroughly vetted by the Department in the course of the grant review process. Such projects should receive expedited consideration.

Streamlining projects requiring a Full Review

The Department proposes significant streamlining of the kinds of projects that categorically require a Full Review. Only adult or pediatric cardiac surgery and certain organ transplants would be categorically subject to this requirement if the regulation is finalized as proposed. Currently a much longer list of services, including changes to or addition of certain therapeutic radiology and cardiac cath services, burns care, and AIDS centers, require a Full Review. Such projects would instead default to the applicable project cost thresholds and other requirements to determine the level of required review. The Suburban Hospital Alliance supports these reforms.

Projects that do not require a CON

The regulation would no longer require a CON filing for the addition or renovation of a patient examination room in or adjacent to previously certified space. It also raises the cost threshold from \$6 million to \$12 million for nonclinical infrastructure projects that do not require a CON. We support these proposed changes, which have no impact on patient safety but will reduce regulatory burden on healthcare providers.

Regulatory relief is critical to ensuring the more efficient utilization of healthcare resources. The proposed regulation makes steps toward that goal and modernizes CON requirements to more appropriately reflect current market conditions and provider operations. We appreciate the

Department's efforts and thank you again for the opportunity to comment. If you have any questions, please do not hesitate to contact me at wdarwell@sha-nys.org or (631) 435-3000.

Sincerely,

/s/ *Wendy D. Darwell*

Wendy D. Darwell
President and Chief Executive Officer