

BRIEFING MEMO

Houlton Regional Hospital

Emergency Department and Nuclear Medicine Construction/Renovation

DATE: November 4, 2008

TO: Brenda M. Harvey, Commissioner, DHHS

THROUGH: Catherine Cobb, Director, Division of Licensing and Regulatory Services

FROM: Phyllis Powell, Manager, Certificate of Need Unit
Steven R. Keaten, Healthcare Financial Analyst
Larry Carbonneau, Healthcare Financial Analyst

SUBJECT: Proposal by Houlton Regional Hospital to renovate and redesign its existing Emergency Department, Nuclear Medicine, Radiology, and Cardio/Pulmonary Rehabilitation space in at an estimated capital cost of \$4,016,240.

ISSUE ACTIVATED BY: The referenced proposal requires Certificate of Need approval as defined in "The Maine Certificate of Need Act of 2002," 22 MRSA Section 326 et seq., as amended.

REGISTERED AFFECTED PARTIES: NONE

I. BACKGROUND:

- Holton Regional Hospital, a Critical Access Hospital, is a not-for-profit corporation located at 20 Hartford Street, Houlton, Maine. It is licensed for 25 acute care and 28 long term care beds. Its primary service area is Southern Aroostook County. This hospital serves a mostly rural population of 20,000.
- The Division of Licensing and Regulatory Services, Medical Facilities Unit, confirms that Houlton Regional Hospital is a general hospital licensed in the State of Maine and is MaineCare and Medicare certified. This hospital is not accredited by the Joint Commission.
- The hospital plans to fund a portion of the project using an estimated \$1 million of equity with the balance financed by the issuance of tax-exempt bonds through the Maine Health and Higher Educational Facilities Authority (MHHEFA) amortized over 30 years.
- The hospital has not undertaken any CON projects for several years. In December 2005 they received a Not-Subject-To-Review (NSTR) determination to expand the rural health clinic at a capital cost of \$700,777. In January 2006 they received a NSTR determination for a joint venture with NEHE-MRI, L.L.C. to provide MRI services at a capital cost of \$1,180,000.

III. HIGHLIGHTS:

Letter of Intent dated	December 12, 2007
Subject to CON review letter issued	December 17, 2007
Technical Assistance Meeting held	February 6, 2008
Application filed and certified complete	March 21, 2008
Application placed in review cycle	March 21, 2008
Public informational meeting held	April 15, 2008
Public hearing held	June 17, 2008
Record closed	July 17, 2008

Preliminary analysis released
Preliminary analysis published in newspapers
Record closed

September 19, 2008
September 26, 2008
October 10, 2008

IV. PUBLIC COMMENTS RECEIVED IN RESPONSE TO THE PRELIMINARY ANALYSIS:

Public comments were received relative to this application as follows:

1) On May 13, 2008 a request for Public Hearing was submitted by Mary McCready (citizen). This letter was signed by 31 people. The letter questioned why the hospital decided to spend money on this project rather than spending the money to become a Tier 1 hospital.

2)MSEA Local 1989 posted and distributed a flyer stating: “At the public hearing listed below, please urge Houlton Regional Hospital to make the improvements necessary to become a Tier 1 hospital”. They also state, in this flyer: “MSEA-SEIU members who use Houlton Regional currently are ineligible for \$200/\$400 deductible waivers available to MSEA-SEIU members whose hospitals secured the Tier 1 designation” (not dated).

3) A Public Hearing was held June 17, 2008. Three individuals spoke at this hearing. No one spoke in opposition, rather those who spoke also wanted other improvements, including Tier 1 status. One respondent (Sharon Swimm) knew of 150 members that were affected. (CONU believes this number to be much greater as other insured state employees under the plan were not considered such as state retirees, Maine State Police and other bargaining units considered as employees under the plan not attributed to MSEA/SEIU members). It is unclear how many total state employees and retirees live within Houlton Regional Hospital’s service area but a projection by CONU with help from the Bureau of Insurance conservatively estimated 5 % of HRH’s insurance revenues are attributable to the plan.

4) According to the transcript of the Public Hearing, hospital staff present at the meeting explained that they are working toward Tier 1 status and would continue to do so. Barriers are the cost and that the requirements for Tier 1 status change over time. They also stated that the priorities targeted in this application are “patient access, infection control, patient safety, and patient privacy.”

5) CONU released a Preliminary Analysis on September 19, 2008. In this analysis there was a condition mandating that Houlton Regional Hospital attain Tier 1 status prior to this project becoming operational. A letter of support for the project and the condition to become a Tier 1 hospital was received on October 10, 2008. This letter was signed by 43 citizens.

V. CONU ANALYSIS/HOUTON REGIONAL HOSPITAL RESPONSE TO PRELIMINARY ANALYSIS

Applicants Response

The applicant, Houlton Regional Hospital, submitted a written response to the preliminary analysis dated October 10, 2008. In that response HRH speaks against the condition specified in the preliminary analysis that HRH must become a Tier 1 Hospital under the qualifications of the Maine State Health Insurance Plan before this project can become operational. The reasons given by the applicant is Tier 1 status is (i) unrelated to this project, (ii) arbitrary and capricious, and (iii) discriminatory. The applicant states that this project is a project that relates to patient safety and privacy in the ED and Nuclear Medicine space. Tier 1 status bears no rational relationship to the needs sought to be addressed by the project. The Tier 1 initiative (i) is a voluntary program, (ii) is not required by any CON regulation or statute, and (iii) has never been a condition imposed on any other CON applicant. It is discriminatory

against non-state employee patients that would lose out of care if this project was not able to go forward due to Tier 1 status.

The applicant states to achieve Tier 1 status HRH would currently have to satisfy two remaining requirements: (i) acquisition and implementation of a physician order entry system, as part of Houlton's existing electronic medical records system, and (ii) implementation of an after-hours, off site medication review system. The applicant feels its existing process for reviewing medication errors is exceptionally safe, reliable and efficient. Given in the past 20 months, HRH reports that only 2 errors that might have been prevented by pharmacist review of medication orders after hours. HRH is reluctant to undertake the major cost of implementing medication review process just because Tier 1 requires the prescribed process. In addition, HRH states Tier 1 status can change from year to year that would require HRH to comply with Tier 1 status or risk civil fines from CONU and loss of reimbursement.

CONU Response

Tier 1 hospital status is something new within the last couple years for employees that are insured under the Maine State Employee Health Insurance Program. To CONU's knowledge no Certificate of Need has been issue to a hospital facility that was not deemed to be Tier 1 status since it was developed. As of October 1, 2008 a review of Tier 1 approved hospitals in Maine included 27 of the 39 acute care hospitals including 8 critical care hospitals. It would not be arbitrary and capricious to attach a condition upon approval of a CON as the Commissioner has the authority under CON rules to attach conditions. Such a condition would improve access to quality care. As a critical access hospital, HRH gets an advantage on reimbursement of expenses that would allow it not to bear the costs to implement this condition. It is not known whether other patients insured by other insurance companies also require similar quality measures. Therefore HRH did not make its case that it would be discriminatory towards other insured patients.

In the preliminary, CONU made the following determinations:

- CONU determined in the preliminary analysis that the Commissioner find that the applicant is fit, willing and able to provide services at the proper standard of care.
- CONU determined in the preliminary analysis that the Commissioner find that HRH has met its burden to show that the proposed project demonstrates economic feasibility.
- CONU determined in the preliminary analysis that the Commissioner find that HRH has met its burden to show that the proposed project demonstrates economic feasibility. CONU determined in the preliminary analysis that the Commissioner find that HRH, subject to all recommended conditions, will meet its burden and will demonstrate that the proposed project meets the public need.
- CONU determined in the preliminary analysis that the Commission find that HRH has met its burden by demonstrating that the proposed project is consistent with the orderly and economic development of health facilities and health resources for the State.

- CONU determined in the preliminary analysis that the applicant has satisfied a few of the State health Plan priorities and that the Commissioner find that the applicant has met its burden to show that this project is consistent with the State Health Plan. The priorities satisfied are:
 1. This project will directly and unambiguously protect patient safety.

2. This project does consolidate some services.
 3. The applicant is in the process of implementing an electronic medical records system.
 4. The impact for regional insurance premiums is less than 0.5 %.
- CONU determined in the preliminary analysis that Commissioner find that HRH has met its burden, subject to the conditions for approval, that this project will ensure high quality outcomes and will not negatively affect the quality of care delivered by existing services providers.
 - CONU determined in the preliminary analysis that the Commissioner find that HRH has met its burden to demonstrate that inappropriate increases in Service Utilization will not occur.
 - CONU determined in the preliminary analysis that the Commissioner find that HRH has met its burden to demonstrate that there are sufficient funds in the Capital Investment Fund (CIF) to fund this project.
 - CONU determined in the preliminary analysis that the Commissioner approve the application subject to the following conditions:
 - 1) The applicant must submit an implementation plan to meet the requirements for a Tier One Hospital that are in effect as of the date of the Commissioner's decision. This plan is to be submitted prior to commencement of construction.
 - 2) The applicant must report for the first three full years of operation the following statistics: The hospital infection rates, slip and fall rates, ED elopement rates and ED departures against medical advice rates.
 - 3) The applicant will be required to state a firm commitment to introduce green technologies wherever possible when constructing the project.
 - 4) The applicant will be required to include negative pressure capabilities as comments on by Dora Mills, MD (MeCDC/DHHS).

CONU recommends to the Commissioner that all conditions of approval stand, with one exception. CONU recommends that HRH submit an implementation plan to meet the requirements for a Tier 1 hospital that are in effect as of the date of the commissioner's decision.

VII. RECOMMENDATION:

The Certificate of Need Unit recommends this proposal be **Approved subject to the following conditions.**

1. The applicant submit an implementation plan to meet the requirements for a Tier 1 hospital that are in effect as of the date of the commissioner's decision. This plan is to be submitted prior to commencement of construction.
2. The applicant must report for the first three full years of operation the following statistics: The number of hospital infection rates, slip and fall rates, ED elopements rates and ED departures against medical advice rates.
3. The applicant will be required to state a firm commitment to introduce green technologies wherever possible when constructing this project.
4. The applicant will be required to include negative pressure capabilities as comments on by Dora Mills, MD (Maine CDC/DHHS)

<u>Capital Costs</u>	
\$ 3,851,886	Capital costs as Approved
<u>\$ 192,950</u>	Contingency
\$ 4,044,836	Total Approved Capital Costs
<u>Incremental 3rd Year Costs</u>	
\$ 392,569	Approved Incremental Costs
<u>Capital Investment Fund</u>	
\$ 322,855	Approved CIF FYE 2008