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# 2010 Report Certificate of Need Act



Maine Department of Health and Human Services  
Division of Licensing and Regulatory Services

February 2011

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## Introduction

The department is responsible to report annually on activities conducted pursuant to Maine's Certificate of Need Act (hereinafter CON Act). The requirements for this report may be found in 22 M.R.S.A. §343. The report must include information on any Certificate of Need (hereinafter CON) granted or denied, with additional information on any conditions attached, and any subsequent reviews conducted and/or approved. This report contains the required information for calendar year 2010.

The CON Act provides the framework for review of proposals by or on behalf of certain health care facilities and nursing homes involving expansion of plant and equipment, the provision of new services, transfers of ownership and control and other initiatives requiring a CON. Responsibility for activities under the CON Act rests within the Division of Licensing and Regulatory Services (hereinafter DLRS). Personnel in the Certificate of Need Unit (hereinafter CONU) consist of a Manager, three Health Care Financial Analysts, and administrative support staff.

The CON process is integrated with the priorities established in the State Health Plan and operates within constraints established by the Capital Investment Fund (hereinafter the CIF). The CIF acts as a limit on annual investment subject to review under the CON statute. For purposes of the CIF, investment is measured based on the third year incremental costs associated with an approved project. Both the State Health Plan priorities and the CIF are determined independently by the Governor's Office of Health Policy and Finance.

## I. Thresholds for Reviewability

The CON Act establishes a number of thresholds that trigger review. The thresholds in effect during 2010 were:

Table 1

<b>Category</b>	<b>Amount</b>
Major Medical Equipment	\$1,600,000
Replacement of Major Medical Equipment	\$2,000,000
Capital Expenditures	\$3,100,000
New Technology	\$1,600,000
Nursing Facility Capital Expenditures	\$718,958
New Health Service	
Capital Expenditure	\$140,098
3rd Year Incremental Operating Costs	\$509,449

To ensure that providers bring forth applicable projects for review, they may request a determination from the CONU whether a project requires a CON. A "not subject to review" determination is issued if the total projected costs fall below the applicable thresholds or does not otherwise require review. A "not subject to review" determination is only made once CONU is satisfied that it has determined all applicable terms and costs of the project. This requires that the provider submit a Letter of Intent with all the applicable information.

Another reason that CONU may issue a "not subject to review" determination is if the nature of the project itself does not require a CON. As in the case of the thresholds, the provider may obtain such a determination by filing a Letter of Intent, completely describing the nature of the project.

In 2010, CONU issued Thirty (30) "not subject to review" determinations.

## II. Limits on Investment

### Capital Investment Fund

The CIF was created by the Dirigo Health Act as a cost containment tool to limit approval of additional third year operating costs to the Maine health care system. The purpose is to ensure that increased costs remain balanced with Maine's ability to financially support the approved investments. The CIF was determined by the Governor's Office with review and comment by the Advisory Council for Health Systems Development and after public comment following a process set out in regulation and approved by the Legislature.

The CIF includes several categories of projects to enable hospital and non-hospital projects, both small and large, to be competitive in their own categories. Nursing facility projects are excluded from the CIF. Table 2 illustrates the limits on third year incremental operating costs during the three year CIF for 2010-2012.

Table 2

<b>Capital Investment Fund 2010-2012</b>			
	<b>Small</b>	<b>Large</b>	<b>Total</b>
<b>Non-Hospital</b>	<b>\$943,392</b>	<b>\$5,345,886</b>	<b>\$6,289,278</b>
<b>Hospital</b>	<b>\$6,603,741</b>	<b>\$37,421,200</b>	<b>\$44,024,941</b>
			<b>\$50,314,219</b>

The CONU tracks the cumulative status of debits against the CIF for all years through calendar year end 2010. The history of the CIF and the debits are found in Appendix A.

The 2010-2012 Maine State Health Plan established the Health Initiatives for System Savings Program (HISS) that can provide credits towards an applicant's future CIF charges for an approved CON application. The HISS program was established to further the goals of the State Health Plan while benefiting hospital providers who voluntarily engage in priority initiatives when no CON is required.

The amount of the credit will be based upon documented savings, generated by an applicant, through new or expanded activities identified as priorities in the State Health Plan. Additionally, HISS applicants could receive priority review by the CONU off-cycle. HISS eligible projects are those which create measurable, quantifiable savings that do not otherwise require a CON.

The process is as follows:

1. Healthcare providers may propose new or expanded activities that meet one or more of the following priorities of the State Health Plan:
  - Advances in telemedicine activities between hospitals and nursing facilities or between hospitals that improve access to medical care while reducing patient transfers and re-admissions.
  - Reduces avoidable and non-emergent emergency room use in the service area.
  - Creates lower cost alternatives to emergency room use through improved access to primary care with evening and weekend hours.
  - Addresses state-identified cost drivers, such as potentially avoidable hospital admissions, high variation service use, high cost outpatient services.
  - Creates measurable efficiencies for health systems that will drive down service use and cost for all payers or in ways that do not cost shift to other payers.
  - Redirects low volume, high cost services to create efficiencies for all payers or in ways that do not cost shift to other payers.
  - Achieves savings through applied use of health information technology.
2. The Healthcare Provider would propose the State Health Plan priority being addressed including:
  - The health care system that will be impacted, benchmarks, systems savings (must be measurable, quantifiable savings to all payers and consumers or in ways that do not cost shift to other payers or increase costs in other services); and
  - Expected service use and methodology for measuring savings and other outcomes including all assumptions. Savings must be generated within one year of approval. Projects shall, at a minimum, propose \$200,000 in systems savings (operating costs) and will receive a CIF credit, dollar for dollar on a future CON project. Savings must assure that all payers benefit so that no cost shifting or increase in other services results from the initiative. The credit will roll forward and will not expire.

3. The CONU will review the HISS proposal for demonstrated system savings and present a summary to the Advisory Council for Health Systems Development for review and comment on whether the project furthers the goals of the State Health Plan.
4. A credit in the amount of actual documented savings generated will be established for the healthcare provider or system. The amount of this HISS credit can be used by the healthcare provider or system to offset charges to the CIF on future projects. The CONU would report the results of the HISS program in the CON Annual Report.
5. After one year of implementation, the Advisory Council for Health Systems Development will evaluate the impact of the Health Initiative for Systems Saving, with respect to cost savings, access, and patient experience.

There were zero (0) HISS proposals during calendar year 2010 submitted to the CONU for review.



## MaineCare Funding Pool

Nursing facility projects are not subject to the CIF. In general, Maine law has required nursing facility projects to be approved only within available funds. In other words, a project increasing MaineCare costs must have an equal decrease in MaineCare costs elsewhere. This maintains MaineCare budget neutrality while allowing some projects above the nursing facility thresholds to proceed.

2007 amendments to the CON Act created a MaineCare funding pool for nursing facility projects. The pool consists of credits representing savings produced by de-licensing nursing facility beds on or after July 1, 2005. The CONU calculated the value of de-licensing transactions in this timeframe, and identified \$1,019,569 as available to the pool. This funding pool represents the MaineCare share of third year incremental operating costs for approved projects. As part of the budget process the legislature enacted deappropriations of \$300,000 in each of the fiscal years 2009-2011, inclusive. At the end of FY 2010, the MaineCare funding pool for nursing facilities had a funded balance of \$419,569.

The 2007 amendments creating the funding pool required that it be utilized for development of additional nursing facility beds in areas of the state where additional beds are necessary to meet community need. The Office of Elder Services engaged The Lewin Group to develop a model to predict needs throughout the state, as required by 22 M.R.S.A. §333-A. The Lewin methodology for estimating need for nursing home beds was completed in 2008. This model will serve as the proxy for determining need when CONU makes a recommendation to the Commissioner. No Requests for proposals were issued by the Office of Elder Services in 2010.

### III. Review Process

To distribute the work throughout the year, CONU reviews projects on various timelines based on established cycles. Only applications for large projects and small projects are on a cycle. Nursing facility projects and projects that will not debit against the CIF can be accepted off-cycle.

CON applications are also reviewed by other agencies. Input from the Maine Quality Forum and the Maine Center for Disease Control (MaineCDC) provides a perspective on how effectively each application addresses the priorities in the State Health Plan and will contribute to the improved health status of the population. The Bureau of Insurance calculates the impact of each project on statewide and regional health insurance premiums in order to advise the Commissioner on the impact to payers. Once a CON is approved, a subsequent review of the decision may be necessary if there is a significant change in financing for the project, the approved bed capacity, the approved services, the site or location or the design or type of construction.

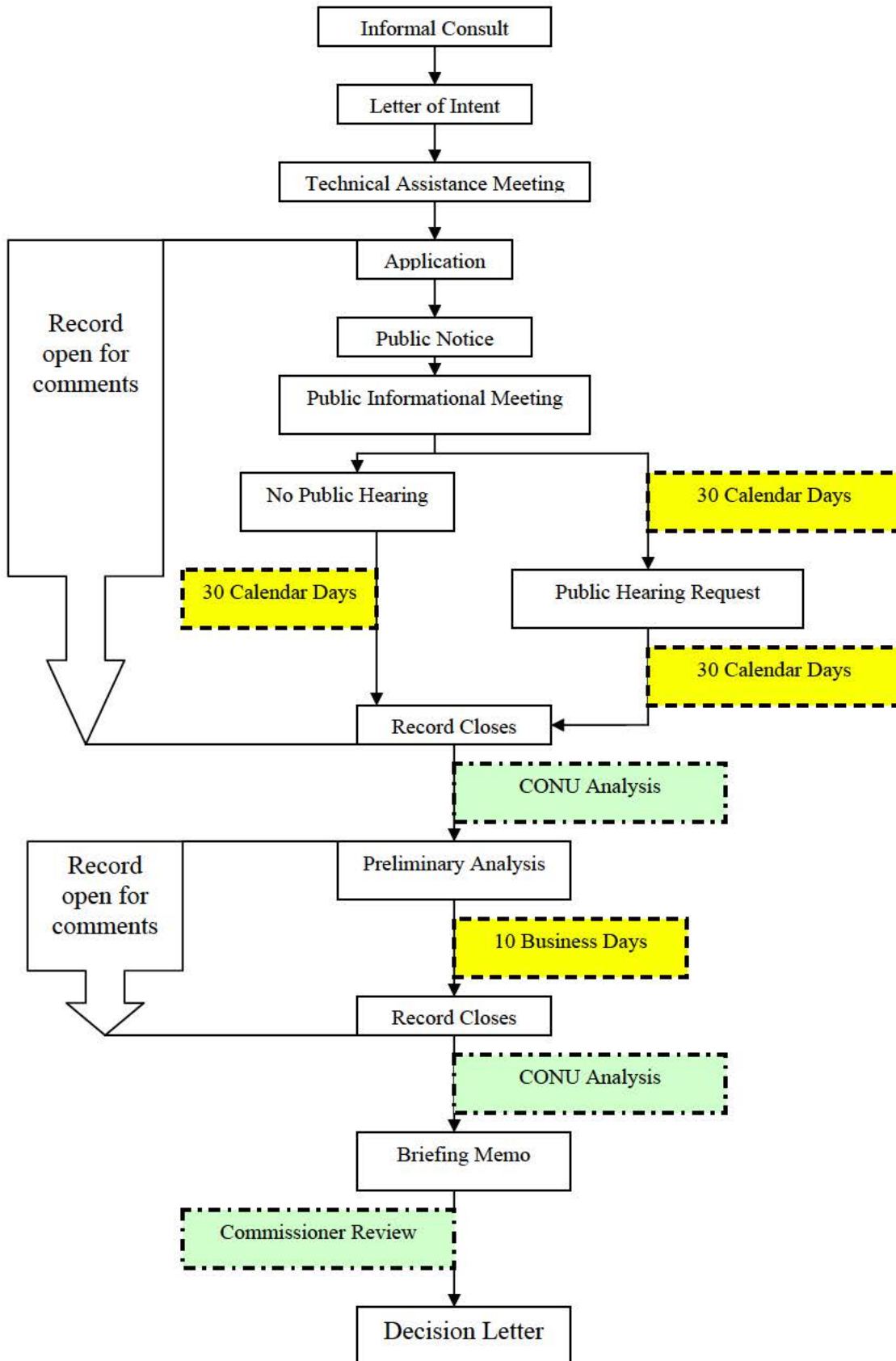
Except for emergency CON applications, there are regulatory and statutory timelines that govern this process as outlined in Table 3:

Table 3

	<b>Large Project Cycle</b>	<b>Small Project Cycle</b>	<b>Off-Cycle Projects</b>
Letter of Intent	October 1 <sup>st</sup>	January 1 <sup>st</sup>	Any time
Technical Assistance Meeting	Prior to Application	Prior to Application	Prior to Application
Application Due	December 21 <sup>st</sup>	March 21 <sup>st</sup>	After TA Meeting
Public Notice - Beginning of Review	Receipt of Application	Receipt of Application	Receipt of Application
Record Opens	Publication of Notice	Publication of Notice	Publication of Notice
Beginning of Review	January 1 <sup>st</sup>	April 1 <sup>st</sup>	Receipt of Application
Public Notice - Informational Meeting	5 Days After Application Received	5 Days After Application Received	5 Days After Application Received
Public Hearing	Must be requested within 30 days of Informational Meeting	Must be requested within 30 days of Informational Meeting	Must be requested within 30 days of Informational Meeting
Record Closes	30 Days after Informational or Public Hearing	30 Days after Informational or Public Hearing	30 Days after Informational or Public Hearing
Public Notice - Preliminary Analysis	Completion of Review	Completion of Review	Completion of Review
Record Reopens	Public Notice - Preliminary Analysis	Public Notice - Preliminary Analysis	Public Notice - Preliminary Analysis
Record Closes	10 Business Days from Public Notice - Preliminary Analysis	10 Business Days from Public Notice - Preliminary Analysis	10 Business Days from Public Notice - Preliminary Analysis
Final Decision	Made by Commissioner	Made by Commissioner	Made by Commissioner

During the review process, CONU considers information submitted from the applicant(s) as well as information and comments from the public. In order to provide adequate time for public comments and additional information to be

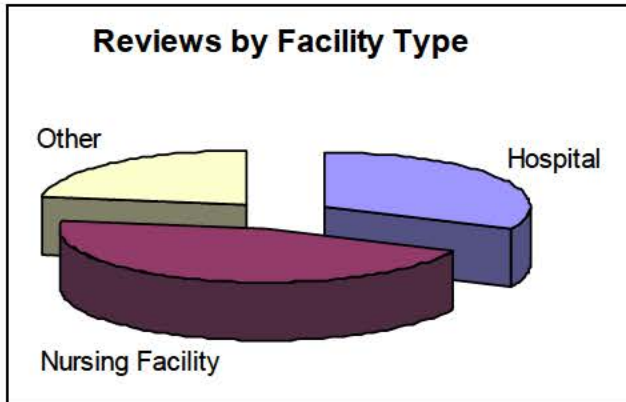
included as part of the official record, the record is considered "Open" during specific times. The flow chart below illustrates when the record is "Open".



Applicants for a CON are required to pay a nonrefundable fee for the review of each project. CONU also collects fees for copies of documents requested under the Freedom of Information Act (FOIA). In 2010, revenue from CON Review fees totaled **\$98,972.50** and revenue from FOIA requests totaled **\$2,398.00**. CON revenue is used to offset CONU expenditures.

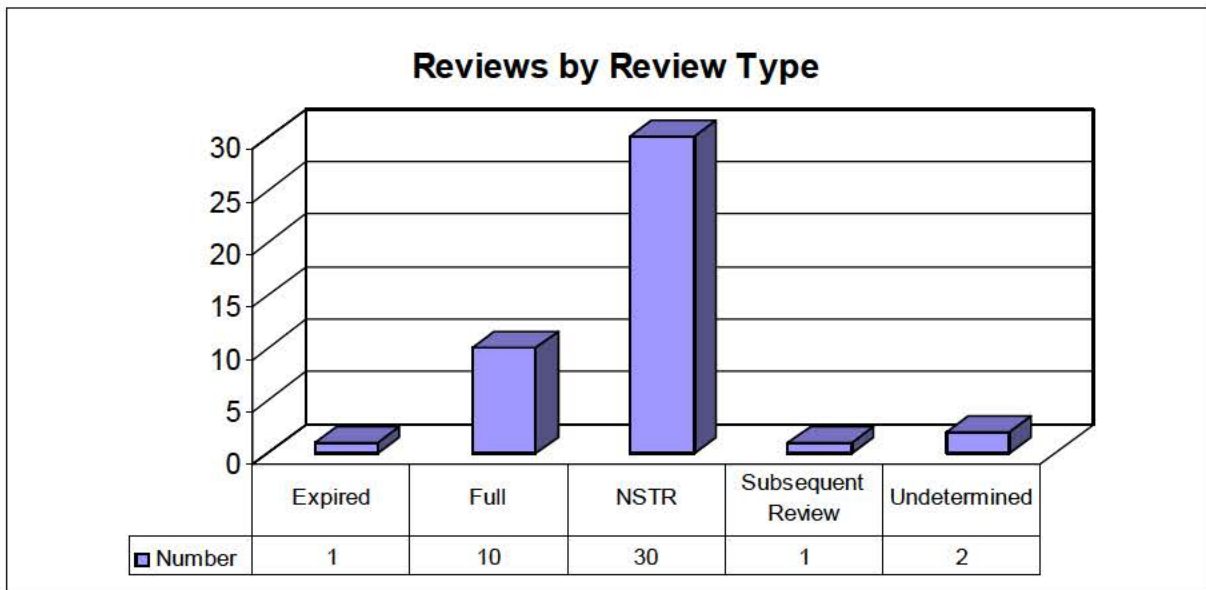
## IV. 2010 Project Review Record

CONU is responsible for reviewing Hospitals, Nursing Facilities and other health care facilities. The following chart and table illustrates the reviews by facility type that were active in 2010:



Facility Type	Number	Capital Cost
Hospital	14	\$ 451,392,045.00
Nursing Facility	20	\$ 28,280,070.00
Other	10	\$ 8,460,228.00
		<b>\$ 488,132,343.00</b>

The CON process includes several types of reviews. The following chart and table illustrates the number of reviews by review type that were active in 2010:



Review Type	Number	Capital Cost
Expired	1	\$ 0.00
Full	10	\$ 452,536,539.00
NSTR	30	\$ 26,595,804.00
Subsequent Review	1	\$ 0.00
Undetermined	2	\$ 9,000,000.00
		<b>\$ 488,132,343.00</b>

Table 4 is a brief description of the projects from 2010, including the decision status and a summary of any conditions applied to any approved projects. Appendix A reflects the status of all projects approved through CON since the inception of the CIF.

Table 4

<b>Applicant(s)</b>	<b>Status</b>	<b>Total Capital Expenditure</b>	<b>Conditions</b>
Amerigroup Corporation - Establish HMO in Maine	Not Subject to Review	n/a	
Auburn Residential Care Center - Family Transfer of Ownership	Not Subject to Review	\$0	
Bangor Nursing and Rehab Center - Master Transaction Agreement: Follow-up to 2001 approved Transfer of Ownership	Not Subject to Review	\$2,250,000	
Boston IVF - Infertility Service Extension	Not Subject to Review	\$300,000	
Casa - ICF/MR - Replacement Facility	Not Subject to Review	\$5,145,053	
Central Maine Medical Center - Replacement Linear Accelerator	Letter of Intent	\$6,000,000	
Central Maine Orthopaedics, PA - Physical Therapy Services (Providing previous service)	Letter of Intent	<\$140,098	
Chest Medicine Associates - Maine Sleep Center	Not Subject to Review	\$0	
Clover Manor - Renovate Facility	Not Subject to Review	\$891,000	
Coastal Eye Surgery Center - Pain Management with an Interventional Physiatrist	Not Subject to Review	\$105,000	
Coastal Eye Surgery Center - Gastrointestinal Endoscopy Service Addition	Not Subject to Review	\$110,000	
Down East Community Hospital - MRI Equipment Purchase	Not Subject to Review	\$930,310	
First Atlantic Healthcare - Transfer of Assets to Single LLC	Not Subject to Review	\$0	

<b>Applicant(s)</b>	<b>Status</b>	<b>Total Capital Expenditure</b>	<b>Conditions</b>
First Atlantic Healthcare - Stillwater Healthcare - Change in Corporate Structure	Not Subject to Review	\$0	
Forrest Hill - Increase number of licensed beds by 5	Not Subject to Review		
Franklin Community Health Network - Livermore Falls Medical Arts Center	Not Subject to Review	\$2,000,000	
Franklin Community Health Network - Relocating Franklin Health Farmington Family Practice and the Health Information Management Dept into the Franklin Medical Arts Center (MOB)	Not Subject to Review	\$1,600,000	
Franklin Memorial Hospital - Radiology Department Renovations	Not Subject to Review	\$600,000	
Freeport Nursing and Rehab Center - Family Transfer of Ownership	Letter of Intent	\$0	
Fresenius Medical Care - York County Dialysis Center - Renovations/expanding Facility	Not Subject to Review	\$1,200,175	
Genesis HealthCare - Springbrook Center - Conversion of Res Care Beds to NF	Letter of Intent	\$1,200,000	
Genesis HealthCare - Sedgewood Commons - Facility Updates	Not Subject to Review	\$917,852	
Genesis HealthCare - Marshwood Center - Facility Updates	Not Subject to Review	\$948,200	
Genesis HealthCare - Springbrook Center - Conversion of Res Care Beds to NF	Expired	\$0	
Genesis HealthCare - Cedar Ridge - Facility Updates	Not Subject to Review	\$886,775	
Genesis HealthCare - Sedgewood Facility - Emergency Roof Repairs	Not Subject to Review	\$200,000	
Genesis Healthcare of Maine - Proposed Implementation Outline	Not Subject to Review	\$0	

Applicant(s)	Status	Total Capital Expenditure	Conditions
Genesis Healthcare of Maine - Marshwood Center	Approved	\$426,420	<ol style="list-style-type: none"> <li>1. The applicant agrees not to enter into any agreement to sell the cash flow of the MaineCare Income stream from the RC beds until all of the MaineCare residents of the Marshwood RC unit have been relocated to MaineCare eligible beds in appropriate RC facilities.</li> <li>2. In the event there are not enough vacant MaineCare RC beds for all of the Marshwood MaineCare RC residents, a sufficient amount of the cash flow from these beds will be used to fund MaineCare beds for these residents.</li> <li>3. The applicant will relinquish to the State of Maine any remaining MaineCare income stream balance that is not used to relocate residents.</li> <li>4. The applicant will submit prior to implementation of this project, a plan that addresses quality metrics applicable to the Marshwood Center transitional care unit, including current metrics at the facility and future goals. The applicant will also submit annual progress reports for two years following implementation of this project in accomplishing these goals.</li> </ol>
Hicks Family Services, Inc. - Fryeburg Health Care Center, Inc. - Acquisition	Not Subject to Review	\$520,000	
Hicks Family Services, Inc. - Bridgton Health Care Center, Inc. - Acquisition	Not Subject to Review	\$1,405,000	
InSight-Premier Health, LLC - 16-Slice CT Scanner	Approved	\$500,000	<ol style="list-style-type: none"> <li>1. The certificate holder will be limited to providing CT services with a 16-slice CT scanner. The certificate holder may apply for a subsequent review to replace the machine at the end of the machines useful life.</li> <li>2. Following the first year of operations and annually thereafter, within 60 days of completion of each fiscal year of MIC, the applicant will submit a report to include the number of procedures performed and the entity's profit and loss statement prepared to report CT services for each operating year.</li> <li>3. The applicant will be limited to provide services at MIC for the service area as described in the application, namely the Southern Cumberland County service area.</li> <li>4. The applicant will be required to report the number of referrals for CT services from all Spectrum Medical Group physicians and/or owners of Insight, Insight Premier Health or related parties annually for a period not less than three years.</li> </ol>



<b>Applicant(s)</b>	<b>Status</b>	<b>Total Capital Expenditure</b>	<b>Conditions</b>
Maine Medical Center - Electrophysiology Equipment Replacement	Not Subject to Review	\$1,909,243	
Maine Medical Center - Additional Linear Accelerator	Withdrew	\$5,269,000	
Maine Medical Center - Bi-Plane Equipment Replacement Revision of 2009 NSTR	Not Subject to Review	\$2,215,000	
Maine Veterans' Homes - Construct a Physical & Occupational Therapy addition to the existing MVH NF at Bangor, ME	Approved	\$2,171,118	1. MVH shall present a plan to assure patient privacy.
MaineGeneral Medical Center - PT/OT Services, Diagnostic Imaging Services	Not Subject to Review	\$1,812,196	
MaineGeneral Medical Center - New Regional Hospital	Approved	\$332,930,050	<p>A-1. The applicant must demonstrate compliance with the CMS hospital Conditions of Participation (CoPs) and provider-based regulations at 42 CFR 413.65 or other regulations in force prior to operating the Waterville Emergency Department as a "Provider-based Off-campus Emergency Department".</p> <p>A-2. The applicant will attain Joint Commission accreditation for the "Provider-based Off-campus ED" in Waterville by the end of the 2nd full year of operation.</p> <p>B-1. Upon approval of this CON and annually thereafter, until the end of the 3rd full fiscal year of the new hospital operation, MGMC will report, using forms approved by the Department, the results of physician recruitment compared to recruitment goals.</p> <p>B-2. Upon the approval of this CON and annually thereafter, until the 3rd full fiscal year of the new hospital operation, MGMC will not modify its existing free care policy except in response to the impact of health care reform.</p>

Applicant(s)	Status	Total Capital Expenditure	Conditions
MaineGeneral Medical Center - New Regional Hospital (Continued)	Approved	\$332,930,050	<p>C-1. The applicant will demonstrate sufficient ED visits at both the Thayer and Augusta EDs to comply with the most recent guidelines published by the American College of Emergency Physicians. To support this demonstration, the applicant will provide quarterly utilization data for its emergency departments on forms approved by the Department. Failure by the applicant to demonstrate compliance with the guidelines for 4 consecutive quarters will trigger a subsequent review following approval pursuant to 22 M.R.S.A. §332(1). These reports shall begin upon approval of this CON and continue quarterly thereafter until completion of the 3rd full fiscal year of the new hospital operation.</p> <p>C-2. The applicant shall submit a revised description of the project to eliminate 34 medical/surgical beds and any shell space resulting from this removal, thereby eliminating excess capacity. However, I acknowledge that your current design for HVAC systems was intended to support these extra 34 beds, and so I do not require you to change that design. This will prevent disruption to hospital operations and patients if in the future you seek and are granted CON approval to add these 34 beds.</p> <p>C-3. The applicant will demonstrate sufficient inpatient bed stays per year at the new Augusta campus to attain effective occupancy according to the most recent guidelines published by the Health Care Advisory Board. The applicant will provide annual utilization data for its inpatient beds on forms approved by the Department. Failure by the applicant to demonstrate a sufficient number of bed stays per year, for 2 consecutive years, will trigger a subsequent review following approval pursuant to 22 M.R.S.A. §332(1). These reports shall begin upon the opening of the new Augusta hospital and continue annually until the completion of the 3rd fiscal year of the new hospital operation.</p>

Applicant(s)	Status	Total Capital Expenditure	Conditions
MaineGeneral Medical Center - New Regional Hospital (Continued)	Approved	\$332,930,050	<p>C-4. The applicant will demonstrate sufficient operating room utilization based upon the Health Care Advisory Board guidelines. The applicant will provide annual operating room utilization data on forms approved by the Department. Failure by the applicant to demonstrate sufficient operating room utilization, for 2 consecutive years, will trigger a subsequent review following approval pursuant to 22 M.R.S.A. §332 (1). These reports are required upon the opening of the new Augusta hospital and continue annually until completion of the 3rd full fiscal year of the new hospital operation.</p> <p>C-5. The applicant shall report annually, using forms approved by the Department, the utilization of all CT scanners at the Thayer and Augusta campuses beginning with the first fiscal year end after approval of this certificate until the end of the 3rd full fiscal year of the new hospital operation. In addition, the applicant shall be certified by the Joint Commission's Primary Stroke Center by the end of the 3rd full fiscal year of the new hospital operation. The applicant shall report no less than annually on the status of such certification.</p> <p>C-6. Upon the opening of the Augusta facility and continuing annually until the end of the 3rd full fiscal year of the new hospital operation, the applicant shall provide data and statistics regarding the project's impact on improving public health indicators on forms approved by the Department.</p> <p>C-7. This condition incorporates a condition included in the Harold Alfond Foundation grant award to MGMC dated May 3, 2010, namely that the applicant shall secure "timely federal and state approval, funding, and construction of the I-95 highway access to the new regional hospital site, with MaineGeneral's financial contribution to such access not to exceed Two Million Dollars". Additionally, if the I-95 highway interchange at exit 113 is not completed 6 months prior to the opening of the "Provider-based Off-campus ED", the applicant shall submit patient transportation and transfer protocols to assure patient safety and timely access to inpatient services, subject to Department approval.</p>

Applicant(s)	Status	Total Capital Expenditure	Conditions
MaineGeneral Medical Center - New Regional Hospital (Continued)	Approved	\$332,930,050	D-1. The applicant shall limit the cost of the project as follows: - Average of \$366/sq. ft. for hospital grade construction- Average of \$187/sq. ft. for all other construction.F-1. Upon the opening of the Augusta facility and annually thereafter, until the end of the 3rd full fiscal year of the new hospital operation, the applicant will report baseline data and measurable improvements in quality outcomes as a result of this project.
MaineHealth - HD Goodall Hospital Ownership change in Sanford, ME	Expired	\$0	
MaineHealth - Pen Bay Healthcare - Cooperative Agreement	Approved	\$94,226,246	<p>1. The Applicants shall provide to the Department any letter from the Department of United States of Justice or Federal Trade Commission indicating any of the following: 1) that the Department of Justice or Federal Trade Commission has granted a request for early termination of 30-day waiting period requirement of the Hart-Scott-Rodino Antitrust Improvement Act for closing on the MaineHealth/Pen Bay Healthcare transaction; or 2) that the Department of Justice or Federal Trade Commission has issued a second request for information under 15 U.S.C. § 18a(e)(2) concerning the MaineHealth/Pen Bay Healthcare transaction. Otherwise, the Applicant shall inform the Department if the 30 day waiting period contemplated by 15 U.S.C. § 18a(b)(1) has expired without early termination, or the issuance of a second request, by the Department of Justice or Federal Trade Commission.</p> <p>2. Carry out the conditions set forth in the Certificate of Public Advantage (COPA).</p> <p>3. Report cost savings attributable to this merger for a period of three years from merger date.</p> <p>4. Report improvements in quality outcomes as outlined in its application and as a result of this merger for a period of three years from the merger date.</p>
Miles Memorial Hospital - MRI Reconfiguration with InSight Premier	Not Subject to Review	<\$3,100,000	
New Hope Healthcare Systems, LLC - Acquire Caribou & Presque Isle Rehab & Nursing Centers	Expired	\$8,000,000	

Applicant(s)	Status	Total Capital Expenditure	Conditions
Northern Maine Medical Center - Replace Boiler Plant	Letter of Intent	\$3,000,000	
Rousseau Management, Inc. - Amenity Manor - Replacement Facility	Approved	\$7,813,705	<ol style="list-style-type: none"> <li>1. The applicant shall continue to operate the 37 nursing beds at the Montello Manor facility for a period of at least three years following the implementation of this project.</li> <li>2. The applicant shall present a plan that addresses quality metrics as presented in the STAR program, including current metrics at their facilities and their goals for all their facilities, as well as, annual progress reports for three years in accomplishing these goals.</li> <li>3. The applicant shall provide CONU with a final agreement detailing the operation of the 37 nursing beds at Montello Manor, which includes information on the delicensing of any beds.</li> <li>4. The applicant shall provide a copy of the management agreement between Rousseau Management, Inc and Horizons Living and Rehab Center, Inc., the operating company, no less than 90 days before occupancy of the facility.</li> </ol>
Saint Joseph's Manor - Replacement of Roof	Not Subject to Review	\$650,000	

Conditions may be attached to a project at the discretion of the Commissioner. CONU makes recommendations to the Commissioner if it concludes that conditions would further the purpose of the CON Act. Quite often these conditions require ongoing reporting by the CON holder to determine whether the goals of the project are met once it is implemented. Applicants are required to submit implementation reports and this adds qualitative measures specific to each project.

## V. Implementation Reports

Holders of a CON are required to submit written reports to the department according to 22 M.R.S.A. §350-C. These reports summarize the progress on projects and the applicant's compliance with any conditions related to the granted CON. Table 5 lists all of the conditions issued to a CON that the department was reviewing for compliance during 2010. Certain conditions are considered on-going conditions, where the applicant is required to report on compliance over a period of up to three years after the implementation of the project, these conditions are not reportable until after the project is completed or implemented. Other conditions require certain action(s) from the applicant(s) and are generally considered met in compliance once documentation is provided as described in the condition.

Table 5

<b>Hospitals:</b>				
<b>Applicant</b>	<b>Project Description</b>	<b>Number of Conditions</b>	<b>Conditions Ongoing</b>	<b>Conditions Met</b>
Calais Regional Hospital	Build replacement hospital facility	1	1	
Central Maine Medical Center	Relocate critical care unit	2		2
Central Maine Medical Center	Expand Emergency Department and Laboratory at campus in Lewiston, ME	3	3	
Covenant Health Systems	Transfer of sponsorship of St. Joseph Healthcare Foundation and St. Joseph Hospital in Bangor, ME	3	3	
Eastern Maine Healthcare Systems	Emergency CON to allow Eastern Maine Healthcare Systems to acquire control of Down East Community Hospital	2	2	
Eastern Maine Medical Center	Relocate and expand CancerCare of Maine to Brewer	6	1	5
Eastern Maine Medical Center	Build a co-generation power plant in Bangor	1		1
Eastern Maine Medical Center	Develop comprehensive outpatient Imaging Center	2	2	
Eastern Maine Medical Center	Purchase a surgical robot	2	1	1
Eastern Maine Medical Center	Construct 8 story inpatient tower at campus on State Street in Bangor, ME	5	1	4
Houlton Regional Hospital	Renovate existing Emergency Department, Nuclear Medicine, Radiology, and Cardio/Pulmonary rehabilitation space	4	3	1
Insight Premier Health, LLC	16 Slice CT Scanner at Marshwood Imaging Center	4	4	
Maine Medical Center	Obstetrical/Newborn/Neonatal facility	1		1
Maine Medical Center	Expansion/renovation of Emergency Department and CT Imaging Suite at Bramhall campus in Portland, ME	2	2	

<b>Applicant</b>	<b>Project Description</b>	<b>Number of Conditions</b>	<b>Conditions Ongoing</b>	<b>Conditions Met</b>
Maine Medical Center	Renovations to P6 Geriatric Psychiatry Inpatient Unit	3	3	
Maine Medical Center	Develop a Simulation Center	2	2	
MaineGeneral Medical Center	Expansion/renovation of Emergency Departments in Augusta, ME and Waterville, ME	4		4
MaineGeneral Medical Center	Renovate the OB/GYN Department at the Augusta, ME campus	1		1
Mid Coast Hospital	Expansion/renovation of Emergency Department and Medical Surgical Beds	4	3	1
Southern Maine Medical Center	Southern Maine Medical Center becoming a subsidiary of MaineHealth	3	2	1
St. Mary's Regional Medical Center	Expansion/renovation of Emergency Department	2		2
St. Mary's Regional Medical Center	Expansion/renovation of Operating Rooms, Central Sterile, Lab, and Pharmacy departments	3	3	
Waldo County Healthcare	Waldo County Healthcare becoming a subsidiary of MaineHealth	4	3	1
York Hospital	Expand Surgical Services Department	2	2	

### **Nursing Homes:**

<b>Applicant</b>	<b>Project Description</b>	<b>Number of Conditions</b>	<b>Conditions Ongoing</b>	<b>Conditions Met</b>
Amenity Manor	Replacement facility for Amenity Manor	4	4	
First Atlantic Healthcare	Purchase of Russell Park	2		2
First Atlantic Healthcare	Add seven nursing facility beds to Seaside Nursing and Rehabilitation Facility	1		1
First Atlantic Healthcare	Purchase nursing facility assets of Marshall's Nursing Services and United Limited Partnership	3	3	
First Atlantic Healthcare	Purchase assets of Katahdin Nursing Home in Millinocket, ME	1	1	
Genesis Healthcare	Addition of 16 Nursing Facility Beds at Marshwood Center in Lewiston, ME	4	4	
Kittery Commons	Moderate structure and ownership interests and construct a new nursing facility named Durgin Pines in Kittery	2	2	
Maine Veterans' Homes	Therapeutic Services Addition in Bangor, ME	1	1	

### **Other:**

<b>Applicant</b>	<b>Project Description</b>	<b>Number of Conditions</b>	<b>Conditions Ongoing</b>	<b>Conditions Met</b>
Coastal Eye Care, PA	Build Ophthalmologic Ambulatory Surgery Center	2	2	

## VI. Legislative Changes

The legislative changes affecting the CON Act, 22 M.R.S.A. Chapter 103-A include LD 1591 "An Act to Amend the Maine Certificate of Need Act of 2002 Concerning Right of Entry and Investigation". This was signed as emergency legislation by the Governor on March 26, 2010.

This was incorporated into the statutes governing certificate of need law by including the following new section:

### **22 §349-A. COMPLIANCE INVESTIGATION.**

To ensure compliance with this chapter or rules adopted under this chapter, the department may investigate a health care facility or other entity subject to this chapter when the department has a reasonable basis to suspect that a violation has occurred. The health care facility or other entity subject to this chapter may not interfere with or impede the investigation.

**1. Right of entry.** The department may enter and inspect the premises of a health care facility or other entity subject to this chapter with the permission of the owner or person in charge, or with an administrative inspection warrant issued pursuant to the Maine Rules of Civil Procedure, Rule 80E by the District Court authorizing entry and inspection, when the department has a reasonable basis to suspect that a provision of this chapter or a rule adopted under this chapter has been violated. The right of entry extends to any premises that the department has reason to believe is operated and maintained in violation of this chapter or rules adopted under this chapter. A letter of intent or an application for a certificate of need made pursuant to this chapter and rules adopted under this chapter constitutes permission for entry or inspection of the premises for which the certificate of need is sought in order to facilitate verification of the information submitted on or in connection with a letter of intent or an application for a certificate of need.

**2. Access to information.** The department, at any reasonable time, upon demand, has the right to inspect and copy books, accounts, papers, records and other documents or information, whether stored electronically, on paper or in other forms, including, but not limited to, documents and information regarding total capital expenditures and operating costs for a project, ownership or control of a health care facility or other entity subject to this chapter or health services provided, when the department has a reasonable basis to suspect that a provision of this chapter or a rule adopted under this chapter has been violated.

**3. Findings of fact.** Upon completion of an investigation pursuant to this section, the department shall prepare findings of fact and make a recommendation to the commissioner as to whether a provision of this



chapter or a rule adopted under this chapter has been violated. If the commissioner determines that a violation has occurred, the commissioner may pursue one or more of the remedies authorized under this Act.

**4. Rules.** The department may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

The Department of Health and Human Services (DHHS) does not discriminate on the basis of disability, race, color, creed, gender, age, sexual orientation, or national origin, in admission to, access to or operation of its programs, services, activities or its hiring or employment practices. This notice is provided as required by Title II of the Americans with Disabilities Act of 1990 and in accordance with the Civil Rights Acts of 1964 as amended, Section 504 of the Rehabilitation Act of 1973 as amended, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972 and the Maine Human Rights Act. Questions, concerns, complaints, or requests for additional information regarding civil rights may be forwarded to the DHHS' ADA Compliance/EEO Coordinator, State House Station #11, Augusta, Maine 04333, 207-287-4289 (V) or 207-287 3488 (V), TTY: 800-606-0215. Individuals who need auxiliary aids for effective communication in programs and services of DHHS are invited to make their needs and preferences known to the ADA Compliance/EEO Coordinator.

This notice is available in alternate formats, upon request.

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Appendix A

YEAR OF CIF	TOTAL CIF AMOUNT	LARGE PROJECT HOSPITAL	LARGE PROJECT NON-HOSPITAL	SMALL PROJECT HOSPITAL	SMALL PROJECT NON-HOSPITAL	APPROVED PROJECTS CREDITS
2005	\$ 6,582,172.00	\$ 5,183,461.00	\$ 740,494.00	\$ 575,940.00	\$ 82,277.00	
	\$ (790,002.00)	\$ (790,002.00)				EMMC (2005) Yr 1 of 1
	\$ (1,439,116.00)	\$ (1,439,116.00)				MGMC (2005) Yr 1 of 2
	\$ (1,310,000.00)	\$ (1,310,000.00)				SMMC (2005) Yr 1 of 2
	\$ (1,048,500.00)	\$ (1,048,500.00)				MMC (2005) Yr 1 of 2
	\$ (146,826.00)	\$ (146,826.00)				MGMC (Subsequent Review) (2005) Yr 1 of 2
	\$ (78,334.00)	\$ (78,334.00)				MMC (Subsequent Review) (2005) Yr 1 of 2
	\$ (43,000.00)	\$ (43,000.00)				SMMC(Subsequent Review) (2005) Yr 1 of 2
Balance	\$ 1,726,394.00	\$ 327,683.00	\$ 740,494.00	\$ 575,940.00	\$ 82,277.00	Balances
2006	\$ 9,237,929.00	\$ 7,274,869.00	\$ 1,039,267.00	\$ 808,319.00	\$ 115,474.00	
	\$ (1,439,115.00)	\$ (1,439,115.00)				MGMC (2005) Yr 2 of 2
	\$ (1,310,000.00)	\$ (1,310,000.00)				SMMC (2005) Yr 2 of 2
	\$ (1,048,500.00)	\$ (1,048,500.00)				MMC (2005) Yr 2 of 2
	\$ (146,826.00)	\$ (146,826.00)				MGMC (Subsequent Review)(2005) Yr 2 of 2
	\$ (78,333.00)	\$ (78,333.00)				MMC (Subsequent Review) (2005) Yr 2 of 2
	\$ (43,000.00)	\$ (43,000.00)				SMMC(Subsequent Review) (2005) Yr 2 of 2
	\$ (658,533.00)	\$ (658,533.00)				CMMC (2006) Yr 1 of 1
	\$ (1,527,391.00)	\$ (1,527,391.00)				EMMC (2006) Yr 1 of 3
	\$ (997,171.00)	\$ (997,171.00)				York Hospital (2006) Yr 1 of 1
	\$ (455,128.00)			\$ (455,128.00)		Maine Coast (2006) Yr 1 of 1
	\$ (200,641.00)			\$ (200,641.00)		MGMC (2006) Yr 1 of 1
	\$ (474,676.00)				\$ (474,676.00)	Coastal Eye Care (2006) Yr 1 of 1
	\$ (176,752.00)			\$ (176,752.00)		Rumford Hospital (2006) Yr 1 of 1
Balance	\$ 681,863.00	\$ 26,000.00	\$ 1,039,267.00	\$ (24,202.00)	\$ (359,202.00)	Balances
2007	\$ 9,983,624.00	\$ 7,862,104.00	\$ 1,123,158.00	\$ 873,567.00	\$ 124,795.00	
	\$ (1,527,391.00)	\$ (1,527,391.00)				EMMC (2006) Yr 2 of 3
	\$ (1,727,276.00)	\$ (1,727,276.00)				EMMC (2007) Yr 1 of 2
	\$ (1,419,266.00)	\$ (1,419,266.00)				MMC (2007) Yr 1 of 3
	\$ (1,608,996.00)	\$ (1,608,996.00)				St. Mary's (2007) Yr 1 of 1
	\$ (1,560,407.00)	\$ (1,560,407.00)				Mid Coast (2007) Yr 1 of 2
	\$ (319,544.00)			\$ (319,544.00)		EMMC (2007) Yr 1 of 1
Balance	\$ 1,820,744.00	\$ 18,768.00	\$ 1,123,158.00	\$ 554,023.00	\$ 124,795.00	
2008	\$ 11,989,322.00	\$ 9,633,797.00	\$ 1,247,043.00	\$ 969,922.00	\$ 138,560.00	
	\$ (1,527,391.00)	\$ (1,527,391.00)				EMMC (2006) Yr 3 of 3
	\$ (1,727,275.00)	\$ (1,727,275.00)				EMMC (2007) Yr 2 of 2
	\$ (1,419,266.00)	\$ (1,419,266.00)				MMC (2007) Yr 2 of 3
	\$ (1,560,406.00)	\$ (1,560,406.00)				Mid Coast (2007) Yr 2 of 2
	\$ (1,402,481.00)	\$ (1,402,481.00)				CMMC (2008) Yr 1 of 2
	\$ (1,811,240.00)	\$ (1,811,240.00)				EMMC (2008) Yr 1 of 9
	\$ (1,057,517.00)	\$ (1,057,517.00)				St. Mary's (2008) Yr 1 of 2
				\$ (322,855.00)		Houlton Regional Hospital (2008) Yr 1 of 1
				\$ 9,896.00		Maine Coast (Subsequent Review) (2006) Yr 1 of 1
	\$ (25,870.00)	\$ (25,870.00)				York Hospital (Subsequent Review) (2006) Yr 1 of 1
Balance	\$ 1,457,876.00	\$ (897,649.00)	\$ 1,247,043.00	\$ 656,963.00	\$ 138,560.00	
2009	\$ 14,038,024.00	\$ 10,440,780.00	\$ 1,491,540.00	\$ 1,842,491.00	\$ 263,213.00	
	\$ (1,419,266.00)	\$ (1,419,266.00)				MMC (2007) Yr 3 of 3
	\$ (1,402,480.00)	\$ (1,402,480.00)				CMMC (2008) Yr 2 of 2
	\$ (1,811,237.00)	\$ (1,811,237.00)				EMMC (2008) Yr 2 of 9
	\$ (1,057,517.00)	\$ (1,057,517.00)				St. Mary's (2008) Yr 2 of 2
	\$ (1,172,321.00)	\$ (1,172,321.00)				St. Joseph (2009) Yr 1 of 1
	\$ (315,255.00)			\$ (315,255.00)		MMC (2009) Yr 1 of 1
Balance	\$ 6,859,948.00	\$ 3,577,959.00	\$ 1,491,540.00	\$ 1,527,236.00	\$ 263,213.00	
2010-2012	\$ 50,314,219.00	\$ 37,421,200.00	\$ 5,345,886.00	\$ 6,603,741.00	\$ 943,392.00	
	\$ (24,105,321.00)	\$ (24,105,321.00)				MGMC (2010)
	\$ 26,208,898.00	\$ 13,315,879.00	\$ 5,345,886.00	\$ 6,603,741.00	\$ 943,392.00	