

March 28, 2018

## MEMORANDUM

### HFSRB Finalizes Rules Updating CON Regulations

The Health Facilities and Services Review Board (HFSRB) has adopted amendments to Parts 1100 and 1110 of their rules (see pp. 5410-5622 of the March 23 *Illinois Register*) updating certain sections of the Certificate of Need (CON) and Certificate of Exemption (COE) processes.

Part 1100, Narrative and Planning Policies, has been updated as it relates to the need assessment. When determining need, the “normal travel time” has been replaced with a “normal travel radius,” based on distance determinations. Normal travel radius varies based upon the county in which the applicant facility is located. The HFSRB contends that the change to a normal travel radius will create greater consistency as distance remains constant while travel time can vary depending on time of day or location. The travel radius for projects has been broken down into the following categories:

- Chicago Metropolitan Counties of Cook, DuPage, Kane, Lake and Will – 10 miles.
- Champaign, DeKalb, Grundy, Kankakee, Kendall, McHenry, Madison, Monroe, Peoria, Rock Island, St. Clair, Sangamon, Tazewell and Winnebago counties – 17 miles.
- All other counties – 21 miles.

Part 1110, Process, Classification Policies and Review Criteria, was repealed and replaced, allowing the HFSRB to clean out previously repealed sections. Note that as part of this initiative, the remaining subparts were renumbered and reorganized. While primarily a clean-up initiative, HFSRB did make substantive changes that help hospitals and other healthcare facilities going through the CON and COE process, including:

- Expanding the list of exceptions that an applicant can meet to still get a positive finding for size of project criteria to include projects involving existing space conversions that results in excess square footage;
- Removing the requirement that applicants provide letters of interest from prospective staff members when adding certain services such as Neonatal Intensive Care, Open Heart Surgery and In-Center Hemodialysis;
- Implementing the new normal travel radius determination;
- Moving the Background of Applicant requirement from the individual review criteria for each category of service to the General Requirements section; and
- Allowing facilities that are closing or ending a category of service to supply only copies of notification letters sent to other facilities instead of impact statements from other resources of that service in the area.

IHA generally supported these changes in a comment letter during the rulemaking process as an important step to reduce regulatory burden and clean up out-of-date measures from the Code. Additionally, IHA cautioned HFSRB to closely monitor the implementation of the new “normal travel radius” determination and be responsive to adjusting the mileage criteria in order to address unforeseen challenges that might come from this change.

Contact us for questions.

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