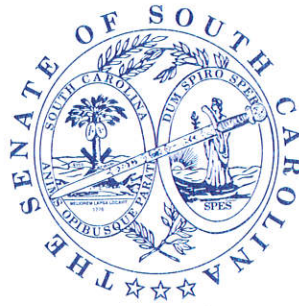


SENATOR WES CLIMER
SENATORIAL DISTRICT 15
YORK COUNTY

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FAMILY & VETERANS' SERVICES
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July 16, 2021

Mr. Powell:

As the General Assembly prepares to discuss the future of the Department of Health & Environmental Control's Certificate of Need Program, we the undersigned request that the Legislative Audit Council review the following:


- What impact has the South Carolina CON statute and accompanying regulations had on availability (supply) and access to healthcare in South Carolina?
- What quality metrics does CON staff/DHEC use to evaluate health facilities and "ensure high quality services"? How do these quality metrics or other evidence of quality services factor into CON decisions?
- How does DHEC prioritize the various and, at times, competing goals of the CON program? For example, is cost containment the most important goal or can quality considerations overcome potential new costs in the state? Has DHEC ever approved the construction of a new health facility that would provide duplicative services to an existing facility in order to improve the quality of services for local residents?
- What factors does DHEC use to evaluate costs and over what period of time are these costs projected? Does CON staff/DHEC evaluate overall value of care – i.e. the impacts of higher quality care that keep patients healthier longer and reduce long-term costs? Or does DHEC employ a more static analysis of the volume of procedures and services?
- Again, citing the statute, how does DHEC determine the point in which the duplication of health care facilities or services becomes "unnecessary" duplication? Does DHEC solicit input from the general public and residents when making this determination? What justification is there for limiting the supply of services that cannot be overutilized like NICU beds or radiation therapy services?
- Does an analysis of CON laws as they are manifested in South Carolina seem to justify their existence for services like home health agencies that do not require a large amount of capital to open? Does the \$600,000 threshold for the equipment project cost or the \$2 million threshold for services as prescribed in the South Carolina Health Plan seem realistic in 2021? When is the last time these thresholds were updated?

- Did South Carolina CON laws present barriers/hurdles during the pandemic? Why then would the Governor have suspended certain CON restrictions during the pandemic? What has been the response of federal agencies (pre-COVID) when asked to review South Carolina CON statutes and pending repeal legislation?
- For each of the five broad CON categories: hospital beds, beds outside of hospitals, equipment, facilities/construction, and services, what is the average length of time a CON application actually takes (DHEC regulations notwithstanding) to receive a determination? What is the average length of time for the appeals process in each of the five categories? Which CON category accounts for the highest percentage of CONs approved, denied, or decisions that are appealed?
- What role do incumbent providers play in the CON application process? Over the last three years, what percentage of CON applications that were approved involved an objection from an incumbent provider during the application process? What percentage of CON applications that were denied involved an objection from an incumbent provider over the last three years?
- Among the approved CON applications despite objections from incumbent providers, how many resulted in closures or reduction of services for the incumbents? Does DHEC evaluate claims made during the application process following CON decisions or does DHEC's role end following the completion of the application process?
- Do CON application fees cover the cost of administering the CON program, including the appeals process, for the state?
- What is the opportunity cost for healthcare services not provided due to expenditures for litigation or length of litigation of CON applications filed? What is the opportunity cost for lost healthcare services due to CON applications that were never filed due to the reluctance of new providers to bear the cost and delay of the CON process as it currently exists?
- What happens when a provider is granted a CON to expand its facility or services, but the investment or project is never completed? Is there any audit mechanism that DHEC uses to assess unused CONs to assure that the public need is being met? Can DHEC revoke the certificate and allocate it to another provider without restarting the CON process? Can the recipient transfer or sell the CON to another provider? Or does the recipient hold onto that certificate and effectively block other providers from filling the public need?
- Do incumbent providers need to notify DHEC of any reduction of services, beds, or closures that would impact the availability of care in communities? Has this information ever been used to review previously denied CONs for the same service area to "best serve the public need?"

- How are CONs treated when an existing provider is purchased or merged by another provider? Are the CONs transferred to the purchaser? Or does the new owner have to reapply for a CON?
- What parties are responsible for approving or denying CON applications? Are responsible parties appointed? If so, by whom? Does DHEC have procedures for addressing potential conflicts of interest for CON applications? How does the state's procedures for parties responsible for ruling on CON applications compare to the CON process in states like Tennessee, Georgia, and Florida?

I appreciate your assistance in this matter. Please do not hesitate to call upon me if you have any questions.

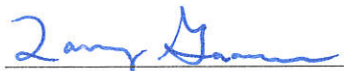
Respectfully submitted:



Senator Harvey S. Peeler, Jr.



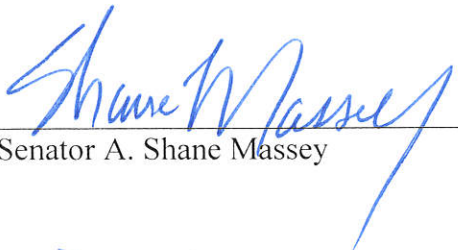
Senator Wes Climer



Senator Larry Grooms



Senator George E. "Chip" Campsen



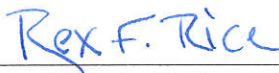
Senator A. Shane Massey



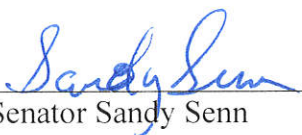
Senator Tom Davis



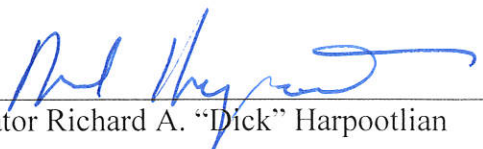
Senator Ross Turner



Senator Rex F. Rice



Senator Sandy Senn



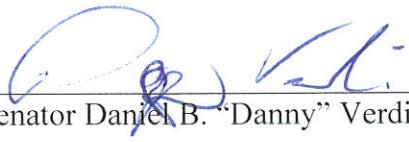
Senator Richard A. "Dick" Harpootlian



Senator Dwight A. Loftis



Senator Penry Gustafson



Senator Daniel B. "Danny" Verdin, III
