

## Memo

To: Members, House Health Policy Committee  
From: Adam Carlson, Senior Director, Government and Political Affairs  
Date: Jul. 13, 2020  
Re: **Senate Bills 669, 671, and 674**

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Certificate of Need (CON) is a state regulatory program intended to balance cost, quality and access issues to ensure that only needed healthcare services and facilities are developed in Michigan. The 11-member, governor-appointed state CON Commission meets five times per year to review standards that regulate covered healthcare services, beds, new construction and renovation. Proposed changes to the standards receive a public hearing, and, if approved by the CON Commission, are forwarded to the legislature and executive branch for final approval before taking effect. The CON Commission utilizes advisory committees, public work groups, and expert testimony to obtain recommendations on the merits of proposed changes to regulated services and facilities. The MHA has long supported Michigan's CON program as an effective means to advance competing goals of cost containment, patient access and quality of care. **The MHA is supportive in concept of Senate Bills (SBs) 669 and 671 and is opposed to SB 674 as written.**

### *SB 669: Covered Capital Expenditures*

**The MHA supports SB 669 in concept.** In addition to establishing standards for covered clinical services, Michigan's CON program requires a CON for covered capital expenditures by a health facility. A covered capital expenditure includes any construction or renovation involving a health facility that exceeds \$3,325,000 and does not relate to a covered clinical service. The regulation is intended to prevent unnecessary construction or renovation at healthcare facilities that could ultimately lead to increased costs for patients.

Michigan first enacted a capital expenditure threshold to qualify for Medicaid reimbursement under the 1974 National Health Planning and Resource Development Act. That act required healthcare facilities to obtain a CON to qualify for federal Medicaid dollars. It was repealed in 1986, and many states have since have raised or repealed the capital expenditure threshold for certain healthcare facilities. As the cost of construction has risen rapidly in recent years, the threshold for covered capital expenditures has become a burdensome requirement for hospitals. Therefore, the MHA supports increasing the threshold for covered capital expenditures.

### *SB 671: Changes to the CON Commission*

**The MHA supports SB 671 to increase the number of members on the CON Commission.** The makeup of Michigan's CON Commission was designed to foster collaboration among stakeholders and bring together experts with experience in different areas of the healthcare sector. The commission consists of 11 members appointed by the governor with the advice and consent of the senate. Current statute stipulates that the governor shall not appoint more than six members from the same major political party and that at least five members shall be appointed from another major political party. Maintaining a bipartisan commission with senate confirmation helps insulate the commission from political pressure and ensure that decisions are being made in the best interest of patients.

**Brian Peters, Chief Executive Officer**

These proposed changes would amend the statute to also include two individuals representing the general public, bringing the total number of commission members to 13. Currently, the commission consists of members representing hospitals, physicians, surgeons, medical schools, nursing homes, nurses, insurers and labor unions. The MHA supports adding two additional members to represent the general public on the commission as this will help strengthen the commission and provide additional input to create consensus.

*SB: 674: Air Ambulance Services*

**The MHA is opposed to SB 674 as written, which removes air ambulance services from CON without appropriate safeguards for patients in state regulation.** Air ambulance services are helicopters or airplanes used to transport patients in emergency situations in which a traditional ground ambulance cannot reach a patient quickly enough. Availability of air ambulances is crucial to saving lives, with more than 550,000 patients being air transported annually<sup>1</sup>.

The legislation does not consider pending state rules that could govern the flight of air ambulance services in the state of Michigan. Without state rules or regulations in place, there are no protections for patients in relation to the types of devices or lifesaving gear that must be included in order to be designated as an air ambulance. If language is included to directly point to state standards or regulations that ensure a minimum level of service for patient care, the MHA would be supportive of this bill.

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<sup>1</sup> [https://www.michigan.gov/documents/difs/Air\\_Ambulance\\_Insurance\\_482626\\_7.pdf](https://www.michigan.gov/documents/difs/Air_Ambulance_Insurance_482626_7.pdf)