Senate Bill 795 – An Act Establishing the Office of Health Strategy and Improving the Certificate of Need Program

The Department of Public Health (DPH) provides the following information in support of Senate Bill 795. This bill would modify the Certificate of Need (CON) program operated by the Department’s Office of Health Care Access (OHCA) by incorporating the program into a new Office of Health Strategy. In addition, it will streamline and strengthen many of OHCA’s current functions in the areas of: CON review; OHCA’s enforcement and monitoring authority pertaining to health care mergers and acquisitions; and statewide health care facilities and services planning.

In February 2016, the Governor signed Executive Order No. 51, and later it amended as No. 51A, which established a Certificate of Need (CON) Task Force to review and analyze the state’s CON process and programs. A seventeen-member task force began meeting in April 2016 on a monthly basis, to discuss and consider the merits of the current CON program. A final report was issued to the Governor on January 15, 2017.

This bill would modify the current functions of OHCA to increase access and promote health equity through identification of unmet needs and recommendations to address them. OHCA will have an increased focus on statewide health care facilities and service planning. Changes to the planning effort would include:

- Making recommendations to decrease unmet health care needs; adopt clinical best practices into licensure requirements or other ongoing monitoring efforts to enhance quality of care; and implement new policies and actions to the office’s programs to promote health equity;
- Identify areas that are underserved or have reduced access to specific types of health care services within the plan;
- Develop guidance for hospitals, hospital systems, and other health care facilities regarding the incorporation of the statewide health care facilities services plan into their long-range planning efforts; and
• Facilitate communication regarding advances in health care or changes that may affect future health planning.

Additionally, this bill would make revisions to the CON review process as follows:
• Update the application criteria to revise the guidelines to reflect program goals and planning efforts;
• Streamline the application process to include increased public input and participation and allow for a subject matter expert review of an application;
• Remove the current requirement for a CON review on certain equipment acquisitions, with the exception of scanners;
• Provide a health care facility seeking to acquire a scanner with the opportunity to undergo an expedited CON review, if they can demonstrate that they are serving Medicaid clients and not engaging in self-referral practices;
• Limit CON review of new health care facilities to hospitals, freestanding emergency departments, and outpatient surgical facilities only;
• Include all entities that are covered under the hospital system umbrella in the CON review for termination of services by hospitals;
• Require OHCA to apply CON review to both the reduction of hospital and hospital system services and the relocation of health care facilities to ensure the protection of underserved populations; and
• Require OHCA to apply more a stringent review of all hospital mergers and acquisitions, including hospital or hospital system acquisitions of other health care facilities or large group practices.

This bill would also enhance OHCA’s enforcement and monitoring authority as they relate to health care mergers and acquisitions by:
• Lowering the threshold needed to enforce penalties from “willful” to “negligent;”
• Allowing OHCA to impose civil penalties on applicants who are not compliant with the conditions of a CON decision;
• Allowing OHCA to take actions against entities who are in violation of a CON decision; and
• Requiring a facility to engage in non-compliance monitoring for conditions placed on a transfer of ownership application, with adherence to strict standards for financial independence between the monitor and the applicant.

The bill also creates a new Office of Health Strategy (OHS) to align state health care planning activities and functions and streamline accountability for the implementation of health care reform strategies. The OHS would consolidate oversight of the All-Payers Claim Database (APCD), the State Innovation Model (SIM) Initiative and related successor initiatives, the Office of Health Care Access (OHCA), and the state’s health information technology initiatives into one agency that is administratively supported by the Department of Public Health.
Thank you for your consideration of this information. This bill, through the restructuring of health planning functions into one single agency and modernization of our health care regulation and oversight, is an important step in ensuring that our state’s health care delivery systems are responsive to the needs of our residents and we urge its passage.