

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED AMENDMENT

19 CSR 60-50.700 Post-Decision Activity. The committee is amending sections (1) and (2), subsections (4)(A) and (7)(B), adding new sections (8)-(11), deleting section (9) and renumbering as needed.

PURPOSE: The committee is amending this rule to define what is acceptable for aboveground construction, add budget requirements for cost overrun requests, add owner, operator and site change requirements, add Applicant Identification form to rule.

(1) Applicants who have been granted a Certificate of Need (CON) or a Non-Applicability CON letter shall file reports by mail or email with the Missouri Health Facilities Review Committee (committee), using Periodic Progress Report (Form MO 580-1871), **included herein**. A report shall be filed within ten (10) days following the end of each six (6)-month period after CON approval, or issuance of a Non-Applicability CON letter, until the project is complete which includes the licensing of all new beds, installation of equipment and/or completion of renovations. All Periodic Progress Reports must contain a complete and accurate accounting of all expenditures for the report period. Final project costs with third-party verification must be provided on a Periodic Progress Report (Form MO 580-1871), **included herein**.

(2) Applicants who have been granted a CON and fail to incur a capital expenditure within six (6) months may request an extension of six (6) months by submitting a written request to the committee outlining the reasons for the failure, with a listing of the actions to be taken within the requested extension period to insure compliance. The Certificate of Need Program (CONP) staff on behalf of the committee will analyze the request and grant an extension, if appropriate. Applicants may request additional extensions by submitting a completed Request for Extension (Form MO 580-1872), **included herein**, and must provide financial information plus other documentation describing delays.

(4) A CON shall be subject to forfeiture for failure to—

(A) Incur a project-specific capital expenditure within twelve (12) months after the date the CON was issued through initiation of project aboveground construction **by any of the following: installation of structural support; installation of structural steel; installation of framing; establishing foundations and a wall** or lease/purchase of the proposed equipment since a capital expenditure, according to generally accepted accounting principles, must be applied to a capital asset; or

(7) Cost overrun review procedures implement the CON statute section 197.315.7, RSMo. Immediately upon discovery that a project's actual costs would exceed approved project costs by more than ten percent (10%), the applicant shall apply for approval of the cost variance. A nonrefundable fee in the amount of one-tenth of one percent (0.1%) of the additional project cost above the approved amount made payable to "Missouri Health Facilities Review Committee" shall be required. The information requirements for a cost overrun review are required as follows:

(B) Provide a Proposed Project Budget (Form MO 580-1863), **included herein, and budget detail including all methods and assumptions used. Documentation of costs may be requested.**

(8) Applicants may request a project owner change. The information requirements for an owner change review are required as follows:

- (A) Reason for owner change;**
- (B) Statement as to whether or not the proposed owner is an affiliate of the current owner, and explanation of relationship;**
- (C) Evidence that the existing owner agrees to the change. This can be a statement or a contract;**
- (D) Documentation that the proposed owner owns the site, or has an executed option to purchase or lease the real property;**
- (E) Documentation that the proposed owner(s) is registered to do business in Missouri;**
- (F) Documentation that sufficient financing would be available to assure completion of the project;**
- (G) Provide a complete and signed Applicant Identification and Certification (Form MO 580-1861), included herein, with the proposed owner listed.**

(9) Applicants may request a project operator change. The information requirements for an operator change review are required as follows:

- (A) Reason for operator change;**
- (B) Statement as to whether or not the proposed operator is an affiliate of the current operator, and explanation of relationship;**
- (C) Evidence that the existing operator agrees to the change. This can be a statement or a contract;**
- (D) Documentation that the proposed operator(s) is registered to do business in Missouri;**
- (E) The proposed operator must provide a brief explanation of their ability and experience operating a long-term care facility;**
 - (I) State if the license of the proposed operator or any affiliate of the proposed operator has been revoked within the previous five (5) years and;**
 - (II) If the license of the proposed operator or any affiliate of the proposed operator has been revoked within the previous five (5) years, provide the name and address of the facility whose license was revoked;**
 - (III) State if the Medicare and/or Medicaid certification of any facility owned or operated by the proposed operator or any affiliate of the proposed operator has been revoked within the previous five (5) years and;**
 - (IV) If the Medicare and/or Medicaid certification of any facility owned or operated by the proposed operator or any affiliate of the proposed operator has been revoked within the previous five (5) years, provide the name and address of the facility whose Medicare and/or Medicaid certification was revoked; and**
- (F) Provide a complete and signed Applicant Identification and Certification (Form MO 580-1861), included herein, with the proposed operator listed.**

(10) Applicants may request a project site change. The information requirements for a site change review are required as follows:

- (A) Reason for site change;**
- (B) Documentation the proposed site is within fifteen (15) miles as the crow flies of the existing site;**
- (C) Documentation that the owner owns the site, or has an executed option to purchase or lease the real property;**
- (D) Documentation of the cost of the proposed site;**
- (E) A legible street or road map showing the exact location of the facility or health service, and a copy of the site plan showing the relation of the project to existing structures and boundaries;**

(F) Statement as to whether or not the project cost would change. If the project cost would change, submit a revised proposed budget and fee if applicable;

(G) Provide the population-based long-term care bed need methodology for the fifteen (15)-mile radius of the proposed site;

(H) Provide a complete and signed Applicant Identification and Certification (Form MO 580-1861), included herein, with the proposed site listed;

(I) List of any additional changes to the project as originally presented to the committee, such as:

- 1. Decrease in the number of beds. If a decrease, how many beds would be licensed?**
- 2. Change to the building structure(s). If there would be a change, a description of the change(s), the total square footage, and revised schematics of the proposed building(s) with all use of space marked;**
- 3. The timeline of events for the project, from site change approval through project completion;**

(J) Statement of how consumers were made aware of the proposed site change. All feedback received from consumers regarding the proposed site;

(K) Documentation that sufficient financing would be available to assure completion of the project.

(11) Any applicant who requests an owner, operator or site change or cost overrun must still comply with sections (1) and (2) of this rule.

(12) At any time during the process from Letter of Intent to project completion, the applicant is responsible for notifying the committee of any change in the designated contact person. If a change is necessary, the applicant must file a Contact Person Correction (Form MO 580-1870), **included herein.**

[(9) The following forms cited in this rule are incorporated by reference and published by the Certificate of Need Program (CONP), December 13, 2019, and may be downloaded from <http://health.mo.gov/information/boards/certificateofneed/forms.php>, obtained by emailing a written request to CONP@health.mo.gov, or acquire in person at the CONP Office, 3418 Knipp Drive, Suite F, Jefferson City, Missouri, 65102 (573) 751-6403. This rule does not include any later amendments or additions.

(A) Periodic Progress Report (Form MO 580-1871).

(B) Extension Request (Form MO 580-1872).

(C) Proposed Project Budget (Form MO 580-1863).

(D) Contact Person Correction (Form MO 580-1870).]

*AUTHORITY: section 197.320, RSMo 2016. * Original rule filed June 2, 1994, effective Nov. 30, 1994. Emergency rescission and rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Rescinded and readopted: Filed Aug. 29, 1997, effective March 30, 1998. Amended: Filed Oct. 19, 1999, effective April 30, 2000. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expired June 29, 2002. Rescinded and readopted: Filed Dec. 14, 2001, effective June 30, 2002. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expired June 29, 2003. Amended: Filed June 9, 2003, effective Nov. 30, 2003. Emergency amendment filed Aug. 14, 2006, effective Aug. 28, 2006, expired Feb. 23, 2007. Amended: Filed Aug. 14, 2006, effective March 30, 2007. Amended: Filed Oct. 1, 2010, effective May 30, 2011. Amended: Filed Aug. 9, 2019, effective March 30, 2020.*

**Original authority: 197.320, RSMo 1979, amended 1993, 1995, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Health Facilities Review Committee, 3418 Knipp Drive, Suite F, Jefferson City, MO 65109 or via e-mail at CONP@health.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*



Certificate of Need Program

APPLICANT IDENTIFICATION AND CERTIFICATION

The information provided must match the **Letter of Intent** for this project, without exception.

1. Project Location *(Attach additional pages as necessary to identify multiple project sites.)*

Title of Proposed Project	Project Number
Project Address <i>(Street/City/State/Zip Code)</i>	County

2. Applicant Identification *(Information must agree with previously submitted Letter of Intent.)*

List All Owner(s): <i>(List corporate entity.)</i>	Address (Street/City/State/Zip Code)	Telephone Number

List All Operator(s): <i>(List entity to be licensed or certified.)</i>	Address (Street/City/State/Zip Code)	Telephone Number

3. Ownership *(Check applicable category.)*

<input type="checkbox"/> Nonprofit Corporation	<input type="checkbox"/> Individual	<input type="checkbox"/> City	<input type="checkbox"/> District
<input type="checkbox"/> Partnership	<input type="checkbox"/> Corporation	<input type="checkbox"/> County	<input type="checkbox"/> Other _____

4. Certification

In submitting this project application, the applicant understands that:

- (A) The review will be made as to the community need for the proposed beds or equipment in this application;
- (B) In determining community need, the Missouri Health Facilities Review Committee (Committee) will consider all similar beds or equipment within the service area;
- (C) The issuance of a Certificate of Need (CON) by the Committee depends on conformance with its Rules and CON statute;
- (D) A CON shall be subject to forfeiture for failure to incur an expenditure on any approved project six (6) months after the date of issuance, unless obligated or extended by the Committee for an additional six (6) months;
- (E) Notification will be provided to the CON Program staff if and when the project is abandoned; and
- (F) A CON, if issued, may not be transferred, relocated, or modified except with the consent of the Committee.

We certify the information and date in this application as accurate to the best of our knowledge and belief by our representative's signature below:

5. Authorized Contact Person *(Attach a Contact Person Correction Form if different from the Letter of Intent.)*

Name of Contact Person	Title	
Telephone Number	Fax Number	E-mail Address
Signature of Contact Person		Date of Signature



Certificate of Need Program

PROPOSED PROJECT BUDGET

Description

Dollars

COSTS:*

(Fill in every line, even if the amount is "\$0".)

Table with 2 columns: Description and Dollars. Rows include: 1. New Construction Costs, 2. Renovation Costs, 3. Subtotal Construction Costs, 4. Architectural/Engineering Fees, 5. Other Equipment, 6. Major Medical Equipment, 7. Land Acquisition Costs, 8. Consultants' Fees/Legal Fees, 9. Interest During Construction, 10. Other Costs, 11. Subtotal Non-Construction Costs, 12. Total Project Development Costs.

FINANCING:

Table with 2 columns: Description and Dollars. Rows include: 13. Unrestricted Funds, 14. Bonds, 15. Loans, 16. Other Methods, 17. Total Project Financing.

Table with 2 columns: Description and Dollars. Rows include: 18. New Construction Total Square Footage, 19. New Construction Costs Per Square Foot, 20. Renovated Space Total Square Footage, 21. Renovated Space Costs Per Square Foot.

* Attach additional page(s) detailing how each line item was determined, including all methods and assumptions used. Provide documentation of all major costs.

** These amounts should be the same.

*** Capitalizable items to be recognized as capital expenditures after project completion.

**** Include as Other Costs the following: other costs of financing; the value of existing lands, buildings and equipment not previously used for health care services, such as a renovated house converted to residential care, determined by original cost, fair market value, or appraised value; or the fair market value of any leased equipment or building, or the cost of beds to be purchased.

***** Divide new construction costs by total new construction square footage.

***** Divide renovation costs by total renovation square footage.



Certificate of Need Program

CONTACT PERSON CORRECTION

		Date
Project Name:		Project Number:
<i>Please type or print legibly the <u>current</u> "Contact Person" information below:</i>		
Contact Person (Name/Association)		Title
Telephone Number	E-mail Address	
<i>Please type or print legibly the <u>corrected</u> "Contact Person" information below:</i>		
Contact Person (Name/Association)		Title
Address (Street/City/State/Zip Code)		
Telephone Number	Fax Number	E-mail Address
Corrected Contact Person (Signature Required)		Date
Applicant (Print or Type Name)		
Applicant (Signature Required)		Date



PERIODIC PROGRESS REPORT

Instructions for Completion (see attached blank forms)

- Purpose:** To gather uniform data regarding the progress and compliance of approved Certificate of Need (CON) projects in accordance with §197.300 to §197.366 RSMo; and to provide data to develop, implement and manage a database for project tracking, monitoring, notification and follow-up.
- Used by:** Missouri Health Facilities Review Committee, CON Program Staff, and Project Contact Person.
- General:** Periodic Progress Reports (PPRs) must provide all requested data and information in a complete, concise and legible manner. Each PPR must indicate if it is an Intermediate or Final Report. PPRs which are incomplete, illegible and/or contain mathematical discrepancies may be returned to the Contact Person for appropriate corrective action.
- Project ID:** Any changes in this information must be brought to the attention of the CON Program Staff immediately upon occurrence.
- Add'l. Info.:** *Additional information MUST be attached to **substantiate** answers to the individual questions. All final PPRs must include documentation which substantiates all claims and expenditures.*

Individual Questions:

- Have capital expenditures been incurred for the proposed construction and/or medical equipment?** A capital expenditure shall be deemed to have occurred if the applicant has at least one or more of the following:
 - **Construction expenditures** assignable to a capital asset in accordance with generally accepted accounting principles and which are not chargeable to pre-development or operating costs, which may be documented by a signed AIA construction contract with starting and ending dates; and above-ground construction;
 - **Purchase Orders (POs)** which are signed and which include the date of purchase, delivery, installation and operational date; or
 - **Acquisition** of medical equipment or property by lease, transfer, or purchase which has been authorized by the applicant and includes the date of the lease, the annual cost, cost and date of buy-out; purchase date, delivery installation and operational dates; and transfer date, current value, installation and operational date.

If the answer to this question is “Yes,” then attach copies of the appropriate signed construction contract (include pictures of construction activity), purchase order, or lease agreement (with original signatures).

If capital expenditure or expenditure for medical equipment has not been incurred, provide a detailed explanation and include the steps being taken to correct the situation within the time constraints of §197.315.9 RSMo. Indicate the nature, costs and the date that a capital expenditure will be incurred.
- Are the expenditures for this reporting period/project-to-date included?**

List all project expenditures, by category, incurred during the reported period and project-to-date on the **Project Budget/Expenditures** form.
- Are the projected final costs within the limits approved?** *(Self-explanatory)*

Using current costs and expenditures, extrapolate final project costs to the project completion date. If total costs will exceed those approved by the Committee by more than 10%, specify and explain the area and category involved. Also, indicate the estimated filing date for your cost-overrun application.
- Are there any changes in the services or programs as approved in the application?** *(Explain any changes)*
- Has the project contact person changed?**

If “Yes,” enclose a new CON Contact Person Correction Form.
- Percentage of Construction or installation complete.**

(If the expenditures and construction/installation are both 100% complete, provide a final report.)



PERIODIC PROGRESS REPORT

Type of Progress Report:

- Intermediate
- Final

All applicants granted a Certificate of Need (CON) by the Missouri Health Facilities Review Committee are required to submit periodic progress reports until such time as the project is complete (§197.315 (8) RSMo). These reports **must** be filed with the CON Program staff after the end of **each six (6) month reporting period** following the issuance of a CON.

Name of Project	Report Period
Address	Project Number
	Date CON Issued
Project Description	Approved Cost

- Yes **1. Have capital expenditures been incurred for the proposed construction through aboveground construction, renovations or lease/purchase of the proposed equipment?**
 No

_____ Date aboveground construction or renovations commenced, or equipment purchased. Provide documentation (i.e. photos, copy of AIA contract and/or purchase order).

- Yes ***2. Are the expenditures for this reporting period/project to-date included?**
 No

_____ % Percent of the total approved project amount that has been expended to date.

- Yes **3. Are the projected final costs within the limits approved?**
 No *If "No" and costs are above 10% of approved amount, then submit a cost over-run application.*
 \$ _____ Estimated final project cost
- Yes **4. Are there any changes in the services or programs as approved in the application?**
 No *If "Yes" explain in detail and provide replacement pages for the approved application.*
- Yes **5. Has the project contact person changed?**
 No *If "Yes," enclose a new Contact Person Correction Form (MO 580-1870).*
- *6. Construction or installation is _____% complete. (Not the same as expenditures to-date.)**

If Items 2 and 6 are both 100% complete, signify this as the **Final Report and submit documentation of final costs.*

Describe the status and progress of the project to-date. Clearly explain expenditures, delays, changes in project progress, or lack of progress. (Use additional pages as needed.)



Certificate of Need Program

PERIODIC PROGRESS REPORT

Project Budget/Expenditures		Report Period: _____ to _____	
Description	Application	This Period	Project to-date
1. General Construction Costs	0	0	0
2. Renovation Costs	0	0	0
3. Subtotal Construction Costs	\$0	\$0	\$0
4. Architectural/Engineering Fees	0	0	0
5. Other Equipment (not in construction contract)	0	0	0
6. Major Medical Equipment	0	0	0
7. Land Acquisition Costs	0	0	0
8. Consultants' Fees/Legal Fees	0	0	0
9. Interest During Construction	0	0	0
10. Other Costs	0	0	0
11. Subtotal Non-construction Costs	\$0	\$0	\$0
12. TOTAL Project Development Costs	\$0	\$0	\$0
Square footage of New Construction	0	0	0
Square footage of Renovation	0	0	0
Total square footage for Project	0	0	0
Costs per square foot: New Construction	0	0	0
Costs per square foot: Renovation	0	0	0
Name of Contact Person		Title	
Telephone Number	Fax Number	E-mail Address	

Certificate of Need Request for Extension

To request a six-month extension to incur a capital expenditure or above-ground construction, complete this form in its entirety. Also submit a completed Periodic Progress Report with this form if it is due at this time. Send this information by email to CONP@health.mo.gov (preferred), fax at 573-751-7894, or mail to CONP, P.O. Box 570, Jefferson City, MO 65102. Request for extensions must be received in adequate time to allow for processing prior to the meeting for which a decision is scheduled.

Date:		
Project #:	Project Name:	
Project Title/Description:		
1. Briefly explain why a capital expenditure will not be incurred by the current deadline.		
2. Briefly state the reason(s) for the extension request.		
3. What steps have been completed for the project to date and when were they completed?		
<u>Date Completed</u>	<u>Step Completed</u>	
4. What steps are needed in order incur a capital expenditure (above ground construction or equipment lease/purchase) for the project, and when will they be completed?		
<u>Anticipated Completion Date</u>	<u>Step to be Completed</u>	
5. What are the steps that will take place after the capital expenditure to complete the project and when do you anticipate that they will be completed?		
<u>Anticipated Completion Date</u>	<u>Step to be Completed</u>	
6. Are planning and/or zoning matters complete, and is the site approved? <input type="checkbox"/> Yes <input type="checkbox"/> No If "no", explain.		
7. Has financing been secured for the project? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If financing has been acquired and documentation was not previously provided, attach a copy of the letter from the lender or 3rd party documentation.</i> Are financing contingencies complete? <input type="checkbox"/> Yes <input type="checkbox"/> No Is financing available for immediate disbursement for the project? <input type="checkbox"/> Yes <input type="checkbox"/> No If the answer is "no" to any of the above questions, explain. Give specifics of any and all existing financing problems and the reason(s) for their occurrence.		
8. Are there any new equity partners for the project as originally presented to the committee? <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes", explain.		
9. Explain any and all restructuring of the project as originally presented to the committee.		
10. Describe any anticipated situation(s) or problems not previously addressed that may prevent the project from incurring a capital expenditure by the end of the requested extension, should the extension be granted.		
11. If this extension is granted, do you anticipate that additional six-month extensions will be necessary? <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes", how many would be needed? _____ Explain why additional extensions would be needed.		
Signature	Printed Name	Date