

# Now & Next

## Healthcare Alert

July 18, 2025

### **NYS Ad Hoc Committee to recommend skilled nursing home reforms**

By Whitney Phelps and Philip Rosenberg

New York's PHHPC Ad Hoc Committee is set to reform nursing home Certificate of Need rules, focusing on owner standards, financial viability, and transparency in operations.



#### **What's the impact?**

- This Ad Hoc Committee will review and make recommendations about the current processes to review the character and competence of nursing home owners and operators and the financial viability of nursing home transactions.
- The Ad Hoc Committee's proposed recommendations will be available for public comment prior to submission to the PHHPC.

The New York State Public Health and Health Planning Council (PHHPC), which has the authority to adopt and amend rules regarding the establishment and transfer of ownership of hospitals, nursing homes, home care agencies, and hospices, has established an Ad Hoc Committee tasked with developing recommendations to reform the nursing home Certificate of Need (CON) process.

## Concerns regarding the CON application process

At the April 10, 2025, meeting, PHHPC council members [expressed significant concerns](#) regarding the CON application process for nursing homes, including, in particular, the standards applied to evaluate the character and competence of prospective owners. The council members also raised concerns about the financial viability of nursing homes—especially smaller ones—due to Medicaid underfunding and increased staffing ratio mandates of 3.5 hours per patient per day. The discussion also highlighted the decreasing pool of nonprofits operating nursing homes in the state.

At the June 18 PHHPC meeting, the council not only [further discussed these concerns](#) but also raised additional questions regarding the oversight of consulting agreements and related party transactions, especially those involving administrative or back-office functions, as such arrangements could potentially undermine direct operator control and accountability, thereby affecting both the quality of care and financial transparency. Finally, members identified the lack of continued oversight and quality assurance measures, such as requirements for external quality-of-care reviews or other forms of post-approval monitoring. PHHPC established an Ad Hoc Committee to recommend reforms to the CON process to address these concerns.

## NYS Ad Hoc Committee's goals

The Ad Hoc Committee is directed to consider the following:

- / The qualifications of proposed operators to determine how best to ensure they possess adequate and relevant experience
- / The sufficiency of financial resources to support both the short- and long-term financial sustainability of the entity, including post-transaction
- / Consulting arrangements and related party transactions, particularly those involving administrative and back-office functions
- / Approval conditions and other activities relevant to remove any uncertainty about an applicant (e.g., appointment of a third-party reviewer).

## Regulatory outlook for the nursing home CON process

The Ad Hoc Committee and, for that matter, PHHPC, cannot address the systematic financial challenges of nursing homes, the (in)adequacy of the Medicaid rates, or the reasons for the decrease in the number of nonprofit nursing homes. The NYS legislature will have to address those issues. However, the Ad Hoc Committee does provide an opportunity to update the CON application process and create more certainty and predictability for owners and operators looking to come to New York—including those with little or no experience. Hopefully this increased predictability will create opportunity for new and other qualified operators to expand

or come to New York through a more efficient process, positively impacting the supply of nursing home beds, especially in light of the aging population.

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