

DELAWARE HEALTH RESOURCES BOARD

Certificate of Public Review Application Kit

**State of Delaware
Delaware Health Care Commission
Delaware Health Resources Board
Herman M. Holloway Sr. Health and Social Services Campus
1901 North Dupont Highway Main Administration Building First Floor
New Castle, Delaware 19720**

Adopted: April 13, 1995
Effective: May 13, 1995
Updated: July 15, 1996
Updated: June 28, 1999
Updated: December 30, 1999
Updated: May 15, 2002
Updated: February 23, 2006
Updated: July 5, 2007
Updated: December 3, 2008
Updated: August 5, 2009
Updated: January 15, 2014
Updated: November 17, 2020

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GENERAL INSTRUCTIONS

PLEASE READ BEFORE PROCEEDING!

The Delaware Health Resources Board is required to comply with the State of Delaware Freedom of Information Act, 29 Del. C. § 10001, et seq. (“FOIA”). FOIA requires that the State of Delaware’s records are public records (unless otherwise declared by FOIA or other law to be exempt from disclosure) and are subject to inspection and copying by any person upon a written request. Once an application is received by the HRB the content of the application will likely become subject to FOIA’s public disclosure obligations. The HRB respects the applicant’s desire to protect its intellectual property, trade secrets, and confidential business information (collectively referred to herein as “confidential business information”).

In order to allow the State to assess its ability to protect an applicant’s confidential business information, applicants will be permitted to designate appropriate portions of their application as confidential business information. Applicants may submit portions of a proposal considered to be confidential business information in a separate document titled “Confidential Business Information”. The document must contain a letter from the applicant’s legal counsel describing the document, representing in good faith that the information in each document is not “public record” as defined by 29 Del. C. § 10002, and briefly stating the reasons that each document meets the said definitions.

An applicant’s allegation as to its confidential business information shall not be binding on the State. The State shall independently determine the validity of any applicant designation as set forth in this section. Any applicant submitting an application or using the procedures discussed herein expressly accepts the HRB’s absolute right and duty to independently assess the legal and factual validity of any information designated as confidential business information. Accordingly, applicants assume the risk that confidential business information included within a proposal may enter the public domain.

Application: Document Property Guidelines

To facilitate efficient and thorough review of Certificate of Public Review (CPR) applications, please limit application content to include only **required, relevant, and concise** information about the proposed project.

Strict page limits exist for each applicable section of the CPR Application (Attachment II of the CPR Application Kit). These page limits are as follows:

Background:	2 pages
Review Considerations:	10-15 pages
Statutory Criteria	
Guiding Principles	
Project-Specific Need Criteria	
Additional Considerations	
Financial Tables:	5 pages
Appendices:	≤10 pages

Additionally, CPR applications should adhere to the long-standing National Institutes of Health (NIH) guidelines pertaining to federal grant applications (please see below), which have been slightly adapted to meet the needs of Delaware-specific CPR applications. Specifically,

Use an Arial, Helvetica, Palatino Linotype, or Georgia typeface, a black font color, and a font size of 12 points. (A Symbol font may be used to insert Greek letters or special characters; the font size requirement still applies.)

Type density, including characters and spaces, must be no more than 15 characters per inch. Type may be no more than six lines per inch. Use standard paper size (8 ½" x 11). Use at least one inch margins (top, bottom, left, and right) for all pages. No information should appear in the margins.

If terms are not universally known, spell out the term the first time it is used and note the appropriate abbreviation in parentheses.

Use sub-headings, short paragraphs, and other techniques to make the application as easy to navigate as possible. Use bullets and numbered lists for effective organization. Indents and bold print add readability. Bolding highlights key concepts and allows reviewers to scan the pages and retrieve information quickly.

Be specific and informative, and avoid redundancies

Use diagrams, figures and tables, and include appropriate legends, to assist the reviewers to understand complex information. These should complement the text and be appropriately inserted. Make sure the figures and labels are readable in the size they will appear in the application.

For figures, graphs, diagrams, charts, tables, figure legends, and footnotes: You may use a smaller type size but it must be in a black font color, readily legible, and follow the font typeface requirement. Color can be used in figures; however, all text must be in a black font color, clear and legible. We suggest that you do not use a font size smaller than 9. We suggest the font Georgia for these sections, as it is the most legible at a smaller size.

(Source: National Institutes of Health Office of Extramural Research. 2016. *Grants & Funding: Writing Your Application*. http://grants.nih.gov/grants/writing_application.htm.)

This Application Kit is intended to provide potential applicants with a clear understanding of the nature, scope and depth of the preparation expected in conjunction with the filing of an application. Further, it is intended to gather and compile the information necessary for a timely, thorough and fair evaluation of the project proposed. Not all questions will be pertinent to all proposals. Such questions can be responded to by indicating "Not Applicable." Conversely, the applicant is encouraged to submit any information that will contribute to a clearer understanding of the proposal, even if not specifically requested in the application forms. To assist the applicant in preparing an application, this Application Kit (with the exception of Section B) is available in Word format.

It is felt that the application forms are largely self-explanatory. Potential applicants having any questions concerning the forms should contact the staff at the Delaware Health Care Commission/Delaware Health Resources Board at (302) 255-4750 or DHCC@delaware.gov.

Applicants unfamiliar with Delaware's Certificate of Public Review (CPR) program may want to review the statutory provisions that appear immediately following these General Instructions.

There are three distinct application forms as discussed below:

- Attachment I:* This is the Notice of Intent Form that precedes the filing of the actual application by at least 30 days. The information to be included is quite rudimentary. Its purpose is to allow for anticipation of various proposals so that preparatory measures can be undertaken as appropriate.
- Attachment II:* This is the Application itself. It cannot be filed less than 30 days from filing the Notice of Intent (Attachment I) unless the Delaware Health Resources Board agrees in writing to waive this requirement.
- Attachment III:* This form will be used very infrequently. It is used only in conjunction with a project required to remedy an emergency situation that threatens the safety of patients or the ability of the health facility to remain in operation.

All forms are to be submitted to the Delaware Health Care Commission/Delaware Health Resources Board at the following address:

**Delaware Health Care Commission
Delaware Health Resources Board
Herman M. Holloway Sr. Health and Social Services Campus
1901 North Dupont Highway Main Administration Building First Floor
New Castle, Delaware 19720**

Submissions are to include one of which shall have an original signature, plus an electronic version which can be sent via email.

Supporting Resources and Documents

The following are important resources and websites which may be of assistance to applicants during the preparation of a CPR proposal:

[Delaware Health Care Commission](#)

[Delaware Health Resources Board](#)

[Delaware Nursing Home Utilization Statistics](#)

[Delaware Population Consortium \(DPC\) Population Projections](#)

[Office of Health Facilities Licensing and Certification \(OHFLC\)](#)

TITLE 16

Health and Safety

Hospitals and Other Health Facilities

CHAPTER 93. HEALTH PLANNING AND RESOURCES MANAGEMENT

§ 9301 Purpose.

It is the purpose of this chapter to assure that there is continuing public scrutiny of certain health care developments which could negatively affect the quality of health care or threaten the ability of health care facilities to provide services to the medically indigent. This public scrutiny is to be focused on balancing concerns for cost, access and quality.

61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1; 70 Del. Laws, c. 446, § 1; 72 Del. Laws, c. 64, § 2.; § 9302 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning:

- (1) "Board" shall mean the Delaware Health Resources Board established pursuant to § 9303 of this title.
- (2) "Bureau" shall mean the Bureau of Health Planning and Resources Management within the Department of Health and Social Services.
- (3) "Certificate of Public Review" shall mean the written approval of an application to undertake an activity subject to review as described in § 9304 of this title.
- (4) "Health care facility" shall include hospital, nursing home, freestanding birthing center, freestanding surgical center, freestanding acute inpatient rehabilitation hospital, and freestanding emergency center, whether or not licensed or required to be licensed by the State, whether operated for profit or nonprofit and whether privately owned or operated or owned or operated by a unit of State or local government. The term also includes continual care communities and any other nontraditional, long-term care facilities identified by the Department of Health and Social Services or the Delaware Health Care Commission. The term does not include Christian Science sanatoriums operated or listed and certified by the First Church of Christ Scientist, Boston, Massachusetts. The term shall not include any physician's office, whether an individual or group practice, any independent clinical laboratory or any radiology laboratory. The term shall also not include the office of any other licensed health care provider, including, but not limited to, physical therapist, dentist, physician assistant, podiatrist, chiropractor, an independently practicing nurse or nurse

practitioner, optometrist, pharmacist or psychologist. The term also shall not include any dispensary or first aid station located within a business or industrial establishment maintained solely for the use of employees, provided that the facility does not contain inpatient beds, nor shall it apply to any first aid station or dispensary or infirmary offering non-acute services exclusively for use by students and employees of a school or university or by inmates and employees of a prison, provided that services delivered therein are not the substantial equivalent of hospital services in the same area or community. Further:

a. "Freestanding acute inpatient rehabilitation hospital" shall mean a facility that satisfies, or is expected by the person who will construct, develop or establish the facility to satisfy, the requirements of 42 C.F.R. § 412.23(b); provided that, if such facility is not paid under the prospective payment system specified in 42 C.F.R. § 412.1(a)(3) within 24 months after accepting its first patient, then it shall not be considered a freestanding acute inpatient rehabilitation hospital under this section.

b. "Freestanding birthing center" shall mean any facility licensed as such pursuant to Chapter 1 of this title and more particularly in the State Board of Health Regulations.

c. "Freestanding emergency center" shall mean any facility licensed as such pursuant to Chapter 1 of this title and more particularly § 52 of the State Board of Health Regulations.

d. "Freestanding surgical center" shall mean any facility licensed as such pursuant to Chapter 1 of this title and more particularly in the State Board of Health Regulations.

e. "Hospital" shall mean any nonfederal facility licensed as such pursuant to Chapter 10 of this title and more particularly § 50 of the State Board of Health Regulations.

f. "Nursing home" shall mean any nonfederal facility licensed as such pursuant to Chapter 11 of this title and more particularly § 57 (Skilled care) and § 58 (Intermediate care) of the State Board of Health Regulations.

(5) "Health services" shall mean clinically related (i.e., diagnostic, curative or rehabilitative) services provided in or through health care facilities.

(6) "Major medical equipment" shall mean a single unit of medical equipment or a single system of components with related functions which is used for the diagnosis or treatment of patients and which:

a. Entails a capital expenditure as set forth in this chapter which exceeds \$5,800,000 or some greater amount which has been designated by the Board following an annual adjustment for inflation using an annual inflation index determined by the United States Department of Labor, Bureau of Labor Statistics;

- b. Represents medical technology which is not yet available in Delaware; or
- c. Represents medical technology which has been designated by the Board as being subject to review.

The Board may exempt from review a capital expenditure used to acquire major medical equipment which represents medical technology which is not yet available in Delaware. A notice of intent filed pursuant to § 9305 of this title along with any other information deemed necessary by the Board shall provide the basis for exempting such a capital expenditure from review.

(7) "Person" shall mean an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies and insurance companies), a state or political subdivision or instrumentality (including a municipal corporation) of a state.

61 Del. Laws, c. 393, § 1; 65 Del. Laws, c. 69, § 2; 66 Del. Laws, c. 90, § 1; 68 Del. Laws, c. 29, §§ 1, 2; 69 Del. Laws, c. 251, § 1; 70 Del. Laws, c. 446, § 2; 72 Del. Laws, c. 64, §§ 1, 3-5; 75 Del. Laws, c. 192, §§ 1, 2; 79 Del. Laws, c. 50, § 1.; § 9303 Delaware Health Resources Board.

(a) There is hereby established a Delaware Health Resources Board to foster the cost-effective and efficient use of health care resources and the availability of and access to high quality and appropriate health care services.

(b) The Board shall consist of a Chair, a Vice Chair and 13 other members, all of which shall be appointed by the Governor. Appointments shall be for 3-year terms, provided that the terms of newly appointed members will be staggered so that no more than 5 appointments shall expire annually. The Governor may appoint members for terms of less than 3 years to ensure that the board members' terms expire on a staggered basis. The membership shall be representative of all counties in the State. In addition to the Chair and the Vice Chair, the membership shall consist of 1 representative of the Delaware Health Care Commission; 1 representative from the Department of Health and Social Services recommended by the Secretary of the Department of Health and Social Services; 1 representative of labor; 1 representative of the health insurance industry; 1 representative with knowledge and professional experience in health care administration; 1 representative licensed to practice medicine in Delaware; 1 representative with knowledge and professional experience in long-term care administration; 1 representative of a provider group other than hospitals, nursing homes or physicians; 1 representative involved in purchasing health care coverage on behalf of State employees; 1 other representative involved in purchasing health care coverage for employers with more than 200 employees; and 4 representatives of the public-at-large. Public members may include but not be limited to representative from business, educational and nonprofit organizations. The Chair shall be an at-large position and shall be appointed by and serve at the pleasure of the Governor. The Governor shall designate a Vice Chair from among the members of the Board who shall serve in this capacity at the pleasure of the Governor. The Delaware Healthcare

Association, the Medical Society of Delaware, the Delaware Health Care Facilities Association, the Delaware State Chamber of Commerce, and other interested organizations may submit nonbinding recommendations to aid the Governor in making appointments to the Board. Any vacancy shall be filled by the Governor for the balance of the unexpired term. A quorum shall consist of at least 50% of the membership. Members of the Board shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties, to the extent that funds are available and the expenditures are in accordance with state laws.

(c) The Board is an independent public instrumentality. For administrative and budgetary purposes only, the Board shall be placed within the Department of Health and Social Services, Office of the Secretary. The Delaware Health Resources Board shall function in cooperation with the Delaware Health Care Commission, as well as other state health policy activities. Staff support for the Board shall be provided by the Delaware Health Care Commission and the Office of the Secretary, Department of Health and Social Services.

(d) The duties and responsibilities of the Board shall include, but not be limited to, the following:

(1) Develop a Health Resources Management Plan which shall assess the supply of health care resources, particularly facilities and medical technologies, and the need for such resources. Essential aspects of the plan shall include a statement of principles to guide the allocation of resources, as well as rules and regulations which shall be formulated for use in reviewing Certificate of Public Review applications. Any revision of the Health Resources Management Plan shall be done in accordance with the provisions of the Administrative Procedures Act (Chapter 101 of Title 29). The Board shall also be required to conduct a public hearing. Also, prior to adoption, the plan or revision of the plan shall be submitted to the Delaware Health Care Commission for review and approval. Upon receiving written approval from the Commission, the plan or revision shall be submitted to the Secretary, Department of Health and Social Services. The plan or revision shall become effective upon the written approval of the Secretary;

(2) Review Certificate of Public Review applications filed pursuant to this chapter and make decisions on same. Decisions shall reflect the importance of assuring that health care developments do not negatively affect the quality of health care or threaten the ability of health care facilities to provide services to the medically indigent. Decisions can be conditional but the conditions must be related to the specific project in question;

(3) Gather and analyze data and information needed to carry out its responsibilities. Identify the kinds of data which are not available so that efforts can be made to assure that legitimate data needs can be met in the future;

(4) Address specific health care issues as requested by the Governor or the General Assembly;

(5) Adopt bylaws as necessary for conducting its affairs. Board members shall comply with the provisions of Chapter 58 of Title 29 (State Ethics Code) and the Board shall operate in accordance with Chapter 100 of Title 29 (Freedom of Information Act); and

(6) Coordinate activities with the Delaware Health Care Commission, the Department of Health and Social Services and other groups as appropriate.

(e) The Governor may at any time, after notice and hearing, remove any board member for gross inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office. A member shall be deemed in neglect of duty if they are absent from 3 consecutive board meetings without good cause or if they attend less than 50% of board meetings in a calendar year.

66 Del. Laws, c. 90, § 1; 68 Del. Laws, c. 29, §§ 3, 4; 69 Del. Laws, c. 251, § 1; 72 Del. Laws, c. 64, §§ 1, 6, 7; 75 Del. Laws, c. 192, §§ 3, 4; 78 Del. Laws, c. 394, § 1.; § 9304
Activities subject to review.

Any person must obtain a Certificate of Public Review prior to undertaking any of the following activities:

(1) The construction, development or other establishment of a health care facility or the acquisition of a nonprofit health care facility;

(2) Any expenditure by or on behalf of a health care facility in excess of \$5.8 million, or some greater amount which has been designated by the Board following an annual adjustment for inflation using an annual inflation index determined by the United States Department of Labor, Bureau of Labor Statistics, is a capital expenditure. A capital expenditure for purposes of constructing, developing or otherwise establishing a medical office building shall not be subject to review under this chapter. When a person makes an acquisition by or on behalf of a health care facility under lease or comparable arrangement, or through donation which would have required review if the acquisition had been by purchase, such acquisition shall be deemed a capital expenditure subject to review. The Board may exempt from review capital expenditures when determined to be necessary for maintaining the physical structure of a facility and not related to direct patient care. A notice of intent filed pursuant to § 9305 of this title, along with any other information deemed necessary by the Board, shall provide the basis for exempting such capital expenditures from review;

(3) A change in bed capacity of a health care facility which increases the total number of beds (or distributes beds among various categories, or relocates such beds from 1 physical facility or site to another) by more than 10 beds or more than 10 percent of total licensed bed capacity, whichever is less, over a 2-year period;

(4) The acquisition of major medical equipment, whether or not by a health care facility and whether or not the acquisition is through a capital expenditure, an operating expense or a donation. The replacement of major medical equipment

with similar equipment shall not be subject to review under this chapter. In the case of major medical equipment acquired by an entity outside of Delaware, the use of that major medical equipment within Delaware, whether or not on a mobile basis, is subject to review under this chapter. Major medical equipment which is acquired for use in a freestanding acute inpatient rehabilitation hospital, as defined in § 9302(4) of this title, a dispensary or first aid station located within a business or industrial establishment maintained solely for the use of employees or in a first aid station, dispensary or infirmary offering services exclusively for use by students and employees of a school or university or by inmates and employees of a prison is not subject to review.

(5) [Effective until Dec. 31, 2016]. Notwithstanding any other provision in this chapter to the contrary, any person who held, as of June 1, 2013, a certificate of public review issued by the Delaware Health Resources Board authorizing the construction of a 34-bed freestanding acute inpatient rehabilitation hospital in Middletown, Delaware, regardless of such certificate's date of expiration or whether the certificate has otherwise been challenged on appeal, shall not be required to obtain any additional certificate of public review pursuant to this chapter prior to the construction, development, or other establishment of freestanding acute inpatient rehabilitation hospital. Any acute inpatient rehabilitation hospital constructed, developed, or established pursuant to this section shall not have any license or authority to operate denied, revoked, or restricted on the grounds that a certificate of public review has not been obtained or has otherwise been challenged on appeal.

61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 68 Del. Laws, c. 29, §§ 5, 6; 69 Del. Laws, c. 251, § 1; 70 Del. Laws, c. 446, §§ 3-5; 72 Del. Laws, c. 64, §§ 1, 8-11; 75 Del. Laws, c. 192, §§ 5, 6; 76 Del. Laws, c. 87, § 1; 79 Del. Laws, c. 50, §§ 2, 3.; § 9305 Procedures for review.

Reviews under this chapter shall be conducted in accordance with the following procedures:

- (1) *Notices of intent.* — At least 30 days but not more than 180 days prior to submitting an application for review under this chapter, applicants shall submit to the Bureau a notice of intent in such form as may be determined by the Board to cover the scope and nature of the project. An application may be submitted less than 30 days from submitting the notice of intent only with the written approval of the Board. A notice of intent expires and is rendered invalid if no subsequent application for review is submitted to the Board within 180 days following the date on which the notice of intent is submitted.
- (2) *Applications for review.* — Application forms will be developed by the Board and may vary according to the nature of the application.
- (3) *Deadlines and time limitations.* — Upon receipt of an application under this chapter, the Bureau shall have a maximum of 15 business days to notify the applicant as to whether the application is considered complete. If complete, written notification in accordance with paragraph (4) of this section will be

provided. If incomplete, the applicant will be notified in writing of such determination and will be advised of what additional information is required to make the application complete. When the additional information is received, the Bureau again has a maximum of 15 business days to determine whether the application is complete. The same steps shall be taken as with the initial submission each time that additional information is required.

Except as provided below, the review of an application shall take no longer than 90 days from the date of notification as covered under paragraph (4) of this section. If a public hearing is requested under paragraph (6) of this section, the maximum review period will be extended to 120 days from the date of notification. Within 30 days from the date of notification (60 days if a public hearing is requested), the Board may extend the maximum review period up to 180 days from the date of notification. Such extensions shall be invoked only as necessary to allow the development of appropriate review criteria or other guidance when these are lacking or to facilitate the simultaneous review of similar applications. The maximum review period can also be extended as mutually agreed to in writing by the Board and the applicant.

In the case of a project required to remedy an emergency situation which threatens the safety of patients or the ability of the health facility to remain in operation, an abbreviated application shall be submitted in such format as the Board prescribes. As quickly as possible, but within 72 hours after receipt, the Board shall render a decision as to whether or not the project shall be treated as an emergency and whether or not the application shall be approved. The Chair or Vice Chair of the Board shall be authorized to render such decision and shall have discretion as to the decision making process.

(4) *Agency review; notification.* — Within 5 working days of determining that an application under this chapter is complete, the Bureau shall provide written notification of the beginning of a review. Such notification shall be sent directly to all health care facilities in the State and to others who request direct notification. A notice shall also appear in a newspaper of general circulation which shall serve as written notification to the general public. The date of notification is the date on which such notice appears in the newspaper. The notification shall identify the applicant, indicate the nature of the application, specify the period during which a public hearing in the course of the review as covered in subdivision (6) of this section may be requested, and indicate the manner in which notice will be provided of the time and place of any hearing so requested.

(5) *Findings.* — Upon completion of a review under this chapter, and within the time frames outlined in subdivision (3) of this section, the Bureau shall notify in writing the applicant and anyone else upon request as to the Board's decision, including the basis on which the decision was made. Decisions can be conditional, but the conditions must be related to the specific project in question.

(6) *Public hearing in the course of review.* — Within 10 days after the date of notification as described in subdivision (4) of this section, a public hearing in the

course of review may be requested in writing by any person. The Board shall provide for a public hearing if requested and shall provide notification of the time and place for such hearing in a newspaper of general circulation. The public hearing shall be held not less than 14 days after such notice appears in the newspaper. Fees shall not be imposed for such hearings. An opportunity must be provided for any person to present testimony.

(7) *Administrative reconsideration — Procedure for Board.* — Any person may, for a good cause shown, request in writing a public hearing for purposes of reconsideration of a Board decision rendered under subdivision (5) of this section. The Board may not impose fees for such a hearing. For purposes of this subdivision, a request for a public hearing shall be deemed by the Board to have shown good cause if it:

- a. Presents newly discovered, significant, relevant information not previously available or considered by the Board; and
- b. Demonstrates that there have been significant changes in factors or circumstances relied upon by the Board in reaching its decision; or
- c. Demonstrates that the Board has materially failed to follow its adopted procedures in reaching its decision.

A request for such a hearing must be received within 10 days of the decision. The hearing shall commence within 45 days of the request.

Notice of such public hearing shall be sent, not less than 15 days prior to the date of the hearing, to the person requesting the hearing and to the applicant, and shall be sent to others upon request. Following completion of the hearing, the Board shall, within 45 days, issue its written decision which shall set forth the findings of fact and conclusion of law upon which its decision is based.

(8) *Appeal — Applicant.* — A decision of the Board following review of an application pursuant to subdivision (5) of this section, an administrative reconsideration pursuant to subdivision (7) of this section, or the denial of a request for extension of a Certificate of Public Review pursuant to § 9307 of this title, may be appealed within 30 days to the Superior Court. Such appeal shall be on the record.

(9) *Access by public.* — The general public shall be provided access to all applications reviewed under this chapter and to all other written materials pertinent to any review of an application.

(10) *Filing fees.* — Within 5 working days of determining that an application under this chapter is complete, the Bureau shall notify the applicant of any filing fee due.

Filing fees shall be determined from the following table:

Capital Expenditures

Filing Fee

Less than \$500,000	\$100
\$500,000 to \$999,999	\$750
\$1,000,000 to \$4,999,999	\$3,000
\$5,000,000 to \$9,999,999	\$7,500
\$10,000,000 and over	\$10,000

Filing fees shall be due 30 days after the date of notification of the beginning of review as covered under subdivision (4) of this section. This due date may be extended up to 10 additional days at the discretion of the Bureau. Applications for which filing fees have not been paid within this time frame shall be considered to be withdrawn. All filing fees shall be deposited in the General Fund.

61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 68 Del. Laws, c. 29, § 7; 69 Del. Laws, c. 251, § 1; 72 Del. Laws, c. 64, § 1; 75 Del. Laws, c. 192, §§ 7, 8; 76 Del. Laws, c. 87, § 2.; § 9306 Review considerations.

In conducting reviews under this chapter, the Board shall consider as appropriate at least the following:

- (1) The relationship of the proposal to the Health Resources Management Plan adopted pursuant to § 9303 of this title. Prior to adoption of a Health Resources

Management Plan by the Board, the State health plan last in use by the Health Resources Management Council shall comprise such plan;

- (2) The need of the population for the proposed project;
- (3) The availability of less costly and/or more effective alternatives to the proposal, including alternatives involving the use of resources located outside the State;
- (4) The relationship of the proposal to the existing health care delivery system;
- (5) The immediate and long-term viability of the proposal in terms of the applicant's access to financial, management and other necessary resources;
- (6) The anticipated effect of the proposal on the costs of and charges for health care; and
- (7) The anticipated effect of the proposal on the quality of health care. 61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1.; § 9307 Period of effectiveness of Certificate of Public Review.

- (a) A Certificate of Public Review shall be valid for 1 year from the date such approval was granted.

(b) At least 30 days prior to the expiration of the Certificate of Public Review, the applicant shall inform the Board in writing of the project's status. The Board shall determine if sufficient progress has been made for the Certificate of Public Review to continue in effect. If sufficient progress has not been made, the applicant may request in writing, to the Board, that a 6-month extension be granted. The Board shall either allow the certificate to expire or grant such extension. A decision by the Board to deny an extension may be appealed pursuant to § 9305(8) of this title.

61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1; 72 Del. Laws, c. 64, § 1.;

§ 9308 Sanctions.

(a) Any person undertaking an activity subject to review as described in § 9304 of this title, without first being issued a Certificate of Public Review for that activity, shall have its license or other authority to operate denied, revoked or restricted as deemed appropriate by the responsible licensing or authorizing agency of the State and an order in writing to such effect shall be issued by that licensing or authorizing agency.

(b) In addition to subsection (a) of this section, the Board or any adversely affected health care facility may maintain a civil action in the Court of Chancery to restrain or prohibit any person from undertaking an activity subject to review as described in § 9304 of this title without first being issued a Certificate of Public Review.

(c) A person who willfully undertakes an activity subject to review as described in § 9304 of this title and who has not received a Certificate of Public Review for that activity shall be fined not less than \$500 nor more than \$2,500 for each offense and each day of a continuing violation after notice of violation shall be considered a separate offense. The Superior Court shall have jurisdiction over criminal violations under this subsection.

61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1; 72 Del. Laws, c. 64, § 1.;

§ 9309 Surrender, revocation and transfer of Certificate of Public Review.

(a) A Certificate of Public Review may be surrendered by the holder upon written notification to the Board and such surrender shall become effective immediately upon receipt of the Board.

(b) A Certificate of Public Review may be revoked by the Board in the case of misrepresentation in the Certificate of Public Review application, failure to comply with conditions established by the Board pursuant to § 9303(d)(2) of this title, failure to undertake the activity for which the Certificate of Public Review was granted in a timely manner or loss of license or other authority to operate. Prior to revoking a Certificate of Public Review, the Board shall provide written notice to the holder of the certificate stating its intent to revoke the certificate and providing the

holder at least 30 days to voluntarily surrender the certificate or to show good cause why the certificate should not be revoked. No Certificate of Public Review shall be revoked by the Board without first providing the holder of the certificate an opportunity for a hearing. The Board's decision to revoke a Certificate of Public Review may be appealed pursuant to § 9305(8) of this title.

(c) No Certificate of Public Review issued under this chapter, and no rights or privileges arising therefrom, shall be subject to transfer or assignment, directly or indirectly, except upon order or decision of the Board specifically approving the same, issued pursuant to application supported by a finding from the evidence that the public to be served will not be adversely affected thereby.

61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1; 72 Del. Laws, c. 64, §§ 1, 12.;

§ 9310 Immunity.

No member, officer or employee of the Board, the Bureau or health care facility shall be subject to, and such persons shall be immune from, any claim, suit, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken or performed, or recommendations made while discharging any duty or authority under this chapter, so long as such person acted in good faith, without malice, and within the scope of such person's duty or authority under this chapter or any other provisions of the Delaware law, federal law or regulations or duly adopted rules and regulations providing for the administration of this chapter, good faith being presumed until proven otherwise, with malice to be shown by the complainant.

61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1; 70 Del. Laws, c. 186, § 1.;

§ 9311 Charity care.

Any person subject to a CPR review pursuant to this chapter shall perform and accept within this State charity care to the extent required by the Board to those individuals who meet the criteria for rendering charity care established by the Board, and shall continue to provide charity care in each fiscal year as determined by the Board. The authority to enforce charity care requirements shall rest with the Department of Health and Social Services.

75 Del. Laws, c. 192, § 10; 76 Del. Laws, c. 87, § 3; 77 Del. Laws, c. 132, § 2.; §

9312 Charity care.

Transferred to § 9311 of this title by 77 Del. Laws, c. 132, § 2, effective July 8, 2009.

NOTICE OF INTENT (CERTIFICATE OF PUBLIC REVIEW)

1. Name of Applicant:

2. Address:

3. Telephone: Fax: Email:

4. Person to Contact:

5. Type of Ownership:

Public

Proprietary (Individual)

Private Non-profit

Proprietary (Partnership)

Proprietary (Corporation)

6. Anticipated Date of Filing Application:

7. Estimated Capital Expenditure: \$

8. Please attach a brief Narrative (one page or less if possible) which describes the project.

9. STATEMENT OF CERTIFICATION:

The statements and information provided herein are true and correct to the best of my knowledge and belief.

Signature of Chief Executive Officer

Date

(Attachment II)

CERTIFICATE OF PUBLIC REVIEW APPLICATION

The purpose of this application is to obtain the information necessary to make a determination of need pursuant to Title XVI, Chapter 93 of the Delaware Code. It is in the Applicant's interest to expand upon the issues raised to the point necessary to demonstrate that need for the proposed project does exist.

The application contains three (3) sections:

- A. Background Information
- B. Review Considerations
- C. Schedules

STATEMENT OF CERTIFICATION:

The statements and information provided in this Certificate of Public Review Application are true and correct to the best of my knowledge and belief.

Signature of Chief Executive Officer

Date

A. BACKGROUND INFORMATION

1. Name of Applicant:

2. Address:

3. Telephone: Fax: Email:

4. Person to Contact:

5. Please attach a list of all officers and members of the governing board. If applicable, please attach a list of all individuals, corporations or other organizations having at least a 10% equity interest in the applicant organization.

6. If the acquisition of real estate is involved, attach a copy of sales or lease agreement. If zoning changes are necessary, please provide documentation that the Applicant is in the process of obtaining all necessary waivers and clearances from zoning authorities.

7. Does the Applicant have a contract with Blue Cross and Blue Shield of Delaware?

Yes No

If not, do you intend to seek?

Yes No

8. Has the Applicant retained (or intend to retain) a firm that provides overall management services on a contract basis? Yes No

If “Yes”, please show the name of the firm, the services it provides, the terms of the contract, and the rationale for this relationship:

9. Please attach a Schedule of Implementation. (Use separate sheet.)
10. Please include a copy of most recent annual audited financial statements.
11. Does the Applicant have a long-range plan? () Yes () No If “Yes”, include copy with this application if not previously submitted.

B. REVIEW CONSIDERATIONS

Please provide a narrative describing the project in as much detail as the Applicant feels appropriate to a proper understanding of the need for the project. The narrative should be written with an understanding that the application will be evaluated on the basis of the following statutory criteria:

- The relationship of the proposal to the Health Resources Management Plan.
- The need of the population for the proposed project.
- The availability of less costly and/or more effective alternatives to the proposal including alternatives involving the use of resources located outside the State of Delaware.
- The relationship of the proposal to the existing health care delivery system.
- The immediate and long-term viability of the proposal in terms of the Applicant's access to financial, management and other necessary resources.
- The anticipated effect of the proposal on the costs of and charges for health care.
- The anticipated effect of the proposal on the quality of health care.

In the end though, the applicant should ensure that the project elements demonstrate financial viability, increase in availability and access and improve the quality of care, efficiency, appropriateness and adequacy of the service intended to be provided in the service area.

CONFORMITY OF PROJECT WITH REVIEW CRITERIA

1. The Health Resources Management Plan

- Please discuss the conformity of the project with the Health Resources Management Plan.

2. Need

- Population's need for proposed services. (Discuss in the narrative.)
- Please define the Applicant's service area and its population. (Include relevant patient origin data.)
- Summarize the relevant demographic data that contribute to a clearer understanding of the need for the service being proposed.
- Is need for the project evidenced by the extent of utilization of like and existing services in the service area?

- What utilization rates have the exiting providers been experiencing given their capacities?

3. Alternatives to the project

- Are there alternative providers of this service readily accessible to the user population? () Yes () No
If not, how is the population currently being served?
Include reference to specific providers that now offer the proposed service and include evidence that the impact of this project has been discussed with this provider(s).
- If “Yes”, please discuss in the narrative why this project does not duplicate these resources unnecessarily.
- Are these alternative providers more costly in the provision of the service?

4. Relationship to the existing health care delivery system

- What is the applicant’ s relationship to the existing heath care delivery system?
- What is the anticipated impact on existing providers on the health care system?
 - Has the Applicant established referral arrangements with other providers to ensure appropriate continuity of care, accessibility and related quality enhancing considerations? () Yes () No

If “Yes”, please name these providers and describe the nature of the arrangements.

5. Access to financial, management and other necessary resources

- Please demonstrate that you have resources, including health manpower, management personnel and funds for capital and operating expenditures to not only complete the project, but also keep it as a viable operation. Schedules 4, 7, 10,11,12,13 & 14 have been provided to assist you. These Schedules may also help you to assess the economic and financial viability of the project.

6. Effect of project on costs and charges of health care

Financial Impact (first full year of operations):

Estimated effect on annual operating expenses \$

Estimated effect on annual revenues \$

Estimated effect on individual charges \$

Please discuss the derivation of the above figures in the narrative.

Will the proposed project have an impact on the costs and charges of existing health services being provided within the health care system?

7. Project's effect on quality of health care

- Is the applicant certified by Medicare? ()Yes () No

- If not, do you intend to seek? ()Yes () No

- Is the applicant certified by Medicaid? ()Yes () No

- If not, do you intend to seek? ()Yes () No

- Is the Applicant accredited by the Joint Commission on the Accreditation of Healthcare Organizations or some other accrediting organization? () Yes () No

- If not, do you intend to seek? ()Yes () No

- If "Yes", and some other organization, please indicate the name of the accrediting organization:

Other Review Considerations

- A. Will the project offer economies and improvements in the delivery of the service? Please describe.

- B. Will the project foster competition to promote quality assurance and cost-effectiveness? Explain in the narrative.

- C. Please tell us your history in Delaware of providing health services to the Medicaid patients and the medically indigent. In the absence of a history, do you propose to provide health services to that population? If so, how do you intend to reach that population?
- D. In what way(s) do you believe your past and or proposed provision of services promote a continuum of care in the health care system.
- E. Will this project enhance the health status of the user population?

If “Yes”, please elaborate in the narrative. If possible, please cross-reference the demographic data mentioned above and reference any quantitative/qualitative information, including: improvements in accessibility, availability, new technology, advances in medical science, mortality data, morbidity data, and utilization rates of similar services elsewhere.

- F. Will this project enhance the efficiency with which the health care needs of the user population are being met? () Yes () No

If “Yes”, please discuss in the narrative. If possible, cross-reference the financial data in the Schedules and make reference to any quantitative/qualitative data information including ; improvements in operating costs, the services as an alternative to more costly alternative, improvements in the financial stability of the Applicant, , more cost-effective delivery modes, etc.

- G. Has a financial feasibility study been performed? () Yes () No If “Yes” please attach a copy.
- H. Has the Applicant evaluated alternative uses to which these monies, personnel and other resources could be used and has the Applicant concluded that the proposal in this Application is a cost-effective expenditure designed to meet the health care needs of the population being served? () Yes () No .

If “Yes”, please discuss the evaluative process in the narrative.

- I. Has the Applicant evaluated alternative ways to obtain the facility change that is needed?
() Yes () No

If “Yes”, please discuss in the narrative the evaluative process, the alternatives that were considered and the rationale for selecting this alternative.

- J. Does the Applicant intend to employ energy conservation principles in the design or other aspects of construction? () Yes () No

If “Yes”, please detail in the narrative the nature of the energy conservation program.

If “No”, please outline reasons for exclusion.

K. Will the proposed construction eliminate any architectural barriers to the handicapped?

Yes No

If "Yes", please discuss briefly in the narrative, the types of barriers to be eliminated.

L. Please attach a copy of any study or analysis which has been conducted and contributed to a decision to file this application.

C-Schedules

The schedules in Section-C should be completed where germane to the project being proposed or to the type of provider making application. The level of detail anticipated will vary from one type of provider to another.

Schedule 1 - PROJECT ELEMENTS

Use additional copies as needed.

A. Program Changes - (Please check where appropriate.)

Health Services Affected	New Service	Service Expansion	Merger	Closing Service

B. Facility Changes

Equipment and Functional Areas Affected	New Construction	Renovation	Lease	Purchase

Schedule 2 - OBJECTIVES OF THIS PROPOSAL

List the objectives of the program and facility changes proposed in this application in order of relative priority to the Applicant.

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

³ For the first full year of operation following project completion.

Schedule 4 - STATEMENT OF REVENUES AND EXPENSES

Please provide the following information for each of the past two fiscal years and for the first two years of full operation of the proposed service. Please attach assumptions on which projections are based. Base projections in current dollars (no provision for inflation).

REVENUE	Year	Year	Year	Year
Gross Patient Revenue				
Less: Contractual Adjustments				
Indigent Care				
Uncollectibles & Other				
Net Patient Revenue				
Other Operating Revenue				
Net Operating Revenue				
OPERATING EXPENSES				
Salaries and Wages				
Fringe Benefits				
Purchased Services				
a) Direct Patient Care				
b) All Others				
Energy Costs				
Supplies				
Depreciation				
Interest				
Other (Specify)				
TOTAL OPERATING EXPENSE				
Gain (loss) from operation				
Non-Operating Revenue				
Unrestricted Gifts				
Unrestricted Income from Investments				
Sale of Securities or Other Unrestricted Assets				
TOTAL NON-OPERATING REVENUE				

NET GAIN (LOSS)				

Schedule 5 - SOURCE OF REVENUE

(Most recent audited fiscal year.)

A. TOTAL OPERATIONS			
Source		Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Other Commercial Insurance			
Medicare			
Medicaid			
Self Pay			
Other			
TOTAL			
B. IN-PATIENT ROUTINE (IF AFFECTED BY PROJECT AND AVAILABLE)			
Source	Patient Days	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Other Commercial Insurance			
Medicare			
Medicaid			
Self Pay			
Other			
TOTAL			
C. IN-PATIENT ANCILLARY (IF AFFECTED BY PROJECT AND AVAILABLE)			
Source	Tests/Procedures	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Other Commercial Insurance			
Medicare			
Medicaid			
Self Pay			
Other			
TOTAL			

Schedule 5 - SOURCE OF REVENUE CONT'D

D. OUT-PATIENT ANCILLARY (IF AFFECTED BY PROJECT AND AVAILABLE)			
Source	Tests/Procedures	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Other Commercial Insurance			
Medicare			
Medicaid			
Self Pay			
Other			
TOTAL			
E. OTHER OUT-PATIENT SERVICES (IF AFFECTED BY PROJECT AND AVAILABLE)			
Source	Visits	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Other Commercial Insurance			
Medicare			
Medicaid			
Self Pay			
Other			
TOTAL			
F. EMERGENCY ROOM (IF AFFECTED BY PROJECT AND AVAILABLE)			
Source	Visits	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Other Commercial Insurance			
Medicare			
Medicaid			
Self Pay			
Other			
TOTAL			

Schedule 5 - SOURCE OF REVENUE CONT'D

G. HOME HEALTH CARE (IF AFFECTED BY PROJECT AND AVAILABLE)			
Source	Visits	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Other Commercial Insurance			
Medicare			
Medicaid			
Self Pay			
Other			
TOTAL			

SCHEDULE 6 - BED USE DATA

Please provide data below for three (3) most recent fiscal years, for services affected by the project.

Service	Year	Number of Beds	Percent Occupancy Rate	Number of Discharges	Number of Patient Days	Average Length of Stay
M/S						
OB						
PED						
ICU						
CCU						
PSYCH						
SNF/ICF						

SCHEDULE 6 - BED USE DATA (CONT'D)

Service	Year	Number of Beds	Percent Occupancy Rate	Number of Discharges	Number of Patient Days	Average Length of Stay
OTHER						
OTHER						
OTHER						
TOTAL						

--	--	--	--	--	--	--

* For first year of operation following completion of the Project and stated in current dollars. Do not include fringe benefits.

SCHEDULE 8 - LOCATION OF BEDS BY FLOOR/BUILDING

Affected Service	Location*	Present # of Beds	Additions	Deletions	Future # of Beds

* Please attach block diagrams identifying each building (or wing); label each (A, B, C, etc.). In Column 2 (Location) indicate where the beds are housed and the floor on which they are located (e.g., B-3). If a specific service (e.g., *M I S* beds) is located, for example, in four different locations there should be four separate entries.

SCHEDULE 10 - ESTIMATED CAPITAL EXPENDITURE

ITEM	DESCRIPTION	MINIMUM	MAXIMUM
1.1	Land Acquisition Costs		
2.2	Building Acquisition Costs		
2.3	Construction Contract (include bonding costs)		
	(a) Site Development		
	(b) Building Cost		
	(c) Sub-Total		
2.4	Fixed Equipment (not in contract)		
2.5	Movable Equipment		
2.6	Site Survey & Soil Investigations		
2.7	Architect/Engineering Fees		
	(a) Architect		
	(b) Engineering		
	(c) Construction Management		
	(d) On-Site Representative		
	(e) Planning		
	(f) Sub-Total		

2.8	Financing and Underwriting		
2.9	Construction Loan Interest (Interest Rate = %)		
2.10	Legal Fees (and other)		
2.11	Estimated Range of Capital Expenditure		

This Schedule should be filled out using cost estimates as of the date of Application, and should not include any provision for inflation.

The range should not exceed 20% (minimum - maximum).

There should be no allowances for contingencies.

If the proposed financing is to be used for start-up or other operating costs, please attach a brief narrative describing the extent of and rationale for this use.

SCHEDULE 12 - INDICATORS OF FINANCIAL FEASIBILITY

Please compute the following based upon most recent audited statement (please indicate year).

$$1. \quad \text{CURRENT RATIO} = \frac{\text{Current Assets}}{\text{Current Liabilities}} = \underline{\hspace{2cm}}$$

$$2. \quad \text{DEBT OF WORTH} = \frac{\text{Long Term Debt}}{\text{Total Assets}}$$

$$3. \quad \text{EQUITY RATIO} = \frac{\text{Total Net Worth}}{\text{Total Assets}} = \underline{\hspace{2cm}}$$

$$4. \quad \text{CASH FLOW} = \frac{\text{Net Patient Revenue}}{\text{Net Accounts Receivable}} = \underline{\hspace{2cm}}$$

$$5. \quad \text{DEBT RATIO} = \frac{\text{Bad Debts BAD}}{\text{Gross Patient Revenue}} = \underline{\hspace{2cm}}$$

$$\text{Gross Patient Revenue} \quad \underline{\hspace{2cm}}$$

SCHEDULE 13 -DEBT SERVICE COVERAGE

		Most recent 2 years		Projected*	
		19	19	19	19
(1)	Revenue minus expenses:				
(2)	Interest:				
(3)	Depreciation (annual):				
(4)	Cash available for debt service (total of 1, 2 &3):				
(5)	Total Debt Service				
(6)	Debt Service Coverage Ratio (4 divided by 5):				

* First two years impacted by debt service associated with this project.

If proposed borrowing is to include refinancing of all or part of the above, so indicate in space below.

SCHEDULE 15 - DETAILED EQUIPMENT LISTING

Please list each piece or related series of capital equipment in the table below. If the cost of individual or related series of equipment exceeds \$100,000, or constitutes a “new health service”, detail the use to which the equipment will be put in the attached narrative and attach the purchase/lease agreement, if available. If the equipment is a replacement and exceeds \$100,000, please explain why existing equipment is no longer adequate in attached narrative.

Item	Nature of the Equipment	Estimated Useful Life	Quantity	Price Each	Total Price	Total Lease Cost per Year
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						
14.						
15.						

* For example: for new beds -- 40 @ \$4,000.

DOCUMENTATION FOR APPROVAL OF “EMERGENCY SITUATION”

1. Name of Applicant:
2. Date of initial contact with the Delaware Health Care Commission/Delaware Health Resources Board
3. Please attach a brief statement describing the nature of the “Emergency Situation.”
4. Please attach a brief statement explaining how the “Emergency Situation” is proposed to be remedied, including the estimated capital cost involved.
5. Was an architect, engineer, or other consultant retained to assist the Applicant?
 Yes No

If “yes”, please include copies of reports, recommendations, etc., issued by these consultants.
6. What is the expected date of completion of any necessary repairs?
7. Will the Applicant be filing a subsequent application to undertake more extensive capital expenditures to resolve this situation?
 Yes No
8. STATEMENT OF AFFIRMATION:

The Signatory hereby affirms that the conditions affected by this Application represent an “Emergency Situation” which threatens the safety of patients and/or the ability of the health facility to remain in operation.

Signature of Chief Executive Officer

Date

E-1