To: Long Term Care Sub-Committee, State of Illinois Facilities and Services Review Board
CC: Michael Waxman, Chairman
From: Tim Phillippe
Date: March 30, 2012
Re: Update on the Bed Need Work Group

Our Work Group met three times since the last meeting of the sub-committee. The major topics discussed at length were the issue of operational beds versus licensed beds and the concept of transferring licensed beds between facilities.

Operational Beds:

The issue of operational beds versus licensed beds was examined in detail by the Work Group. From a policy and consumer perspective, the situation is a challenge. Many licensed beds are not being utilized. Bob Green provided an excellent report listing the number of licensed beds and operational beds from various perspectives, such as beds set-up, peak beds used, and beds in use on December 31st. The presentation with this report provided the Work Group a much better understanding of this situation. This report demonstrated that a large number of licensed beds are not utilized during the year. However, as this information is drawn from an annual self-report questionnaire, it was difficult to decide how to best utilize the information in the certificate of need application process.

Eli Pick volunteered to present a brief initial proposal on an idea for addressing this situation. Below is his idea.

Eli Pick's proposal:
"The issue of excess licensed beds in the system poses many challenges for the planning process. While the formula establishes criteria for determining the number of licensed beds needed, it does not adequately address the availability of alternative services that are not accounted for, nor governed by the planning formula; and, as a result, occupancy has steadily declined from the planning target of 90%. The Long Term Care Questionnaire provides self-reported occupancy peaks, as well as census as of December 31st of the reporting year. However, staff, as well as subcommittee members, questions its reliability as a planning tool. In addition, there is concern that modification to the manner in which licensed beds are counted could have unintended adverse effects on availability of beds particularly for Medicaid-funded individuals throughout the state and particularly in specific planning areas.

New projects awarded by the Health Facilities and Services Review Board are required to achieve 90% occupancy of their licensed capacity within 24 months. I propose that failing to do so should have the licensed bed capacity reduced to 90% of the peak census. Although the 90% occupancy target is an existing requirement, there is no consequence of not achieving this outcome. As a result, projects retain licensed capacity despite not ever hitting occupancy targets. This adds an enforcement component to the planning process that is currently lacking, as well as providing a strategy to adjust the number of new licensed beds being added to the inventory based on utilization. This would be a first step in slowing the number of new beds being added to the inventory."

The discussion regarding this idea led to a very fruitful discussion of the concerns caused by any change like the one recommended. Additional information and discussion on this topic is needed. During the discussions, the following major concerns were identified.

1. How would the current rule, allowing a small expansion in bed capacity (10% or 20 beds) fit with a change?
2. What type of appeal process should be permitted to explain the reason for a census below 90% after a new facility opens?
3. Should the expectation for a new facility be lowered from 90% to 85% or lower? The high occupancy goal may not be reasonable at facilities with a significant number of short-stay residents.
4. What would be the affect on a provider's ability to gain financing? Would reducing the licensed bed capacity of a facility create a problem with banks?
5. What are other states doing to cope with a similar situation?

Bed Transfers:

The Work Group was asked to consider this additional topic. This process has been discussed by the provider associations in Illinois and rules permit this in some other states. Jason Speaks, Life Care Services, and Terry Sullivan, Illinois Healthcare Association, provided some history of the association's efforts in creating such a law in Illinois. Claire Burman provided an excellent summary of the processes used in other states. The states have very different rules and processes. Claire also provided an excellent summary of the issues that have occurred with this program in each state.

The Work Group agreed to begin the process of discussing the idea of bed transfers by examining two areas: the reasons why the program could be useful and the major topics involved in such a program. Below is Eli Pick's brief summary of some of the major advantages of such a program.

Eli Pick's Summary:
"Bed transfers or bed buying and selling adds a dimension to the existing system that currently doesn't exist in Illinois. This introduces new variables which require careful consideration. The advantages of enabling facilities to add beds to meet consumers' needs over and above the 10% or 20 beds rule provides a means for facilities to develop new, unique programs for consumers that are not currently being met. This is different than adding beds to serve an expanding number of existing residents/patients which the 10% or 20 beds rule satisfies. New programs require a minimum number to maintain integrity from quality of care, quality of life, and financial perspectives. This provides an alternative for facilities in planning areas that do not have a bed need, but have demand for services that are not being met by competing facilities, whether this be due to lack of Medicaid beds, poor quality, sponsor groups (ethnic, religious, service league), etc.

Facilities can downsize by converting excess capacity to capital and reinvest in modernizing the environment, furnishings, and equipment to be more competitive. Alternatively, facilities are either closed or sold. The process should remain subject to an expedited planning process, track where beds are, validate that buyers and sellers satisfy minimum requirements, etc. to maintain the integrity of the system. Proceeds of the sale of beds must be used to improve the facility and retire debt."

As the topic is very complex, the Work Group agreed to break the discussions down into separate areas/topics. Then each topic could be discussed individually in a focused discussion. The Work Group identified the major topics and voted on the level of priority. Below are the topics identified and the scores each topic received.

Buyer & Seller Restrictions	4 votes
Review Process	4 votes
How far can beds be relocated?	3 votes
Consumer Issues	2 votes
Moratorium/Change in Certificate of Need Process	2 votes
What if no one will sell?	1 vote
Innovation/Variances	1 vote
Uniqueness of Illinois	1 vote

Observations on Recent Work Group Meetings:

The information provided and the discussions have been very fruitful. Much has been learned about the issues. The information provided by the staff has facilitated informed discussions. Both topics are very complex, so any consideration of significant changes takes considerable time to be done well. Sub-committee members, staff, and individuals from the interested public have all participated well and provided useful viewpoints and information. Everyone is to be commended for the work they have done.

However, the meetings are much larger than originally planned. The last meeting involved 13 or more people. The size of the group makes it harder to accomplish work using a teleconference format. The Chairman and the sub-committee will need to determine the usefulness of this format for complex topics involving a large group.