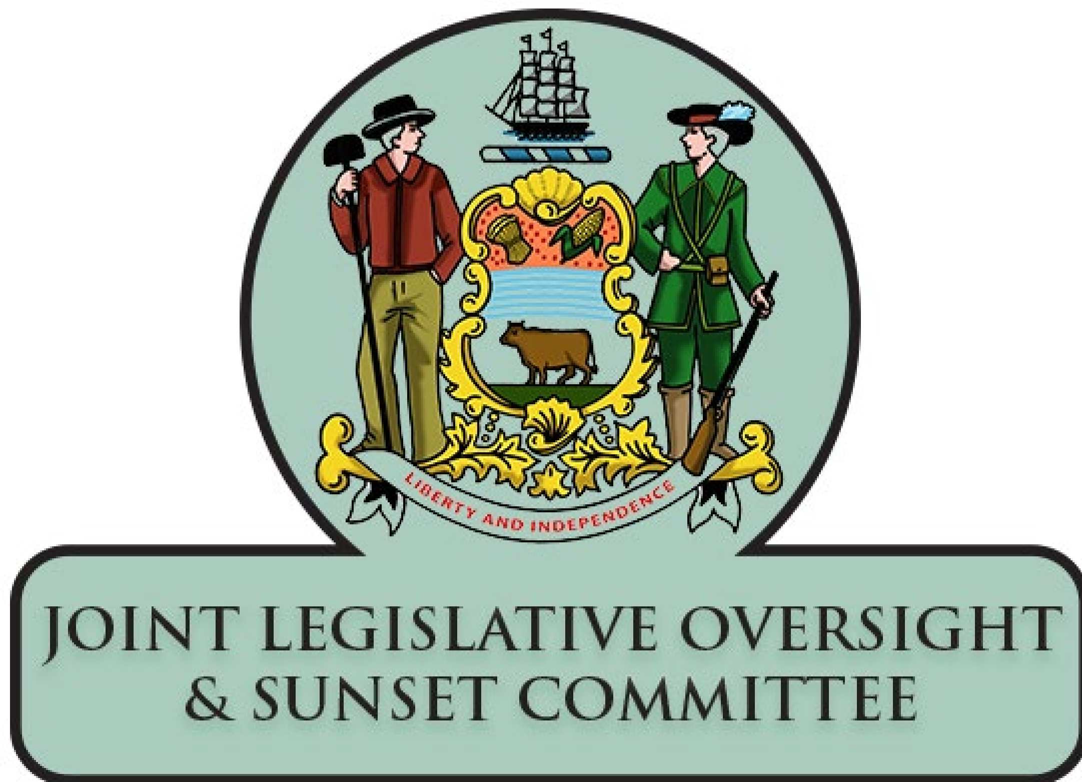
Staff Recommendations and Findings
Delaware Health Resources Board

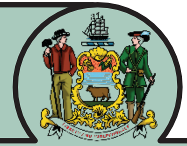
151st General Assembly, 1st session



Respectfully submitted to the
Joint Legislative Oversight and Sunset Committee
March 2021

FACT SHEET

March 2021 JLOSC Review of HRB



Joint Legislative Oversight & Sunset Committee

JLOSC Staff Findings in Health Resources Board (“HRB”) Review

#1 → Thirty-four states and the District of Columbia currently have CON laws. In the 16 states without, there are still regulations and licensing processes in place to evaluate health planning and resource development.

#2 → HRB would function better as an advisory board with stronger administrative support and a program director making determinations based on adequate research and advisory opinions.

#3 → Conflicts of interest among board members negatively impact the review process.

#4 → CPR application review committees are not efficient and slow the review process.

#5 → The Board has had 2 long-standing vacancies and attendance issues; board membership should be reevaluated.

#6 → Two recommendations from the 2012 JLOSC review were never fully implemented.

#7 → HRB lacks sufficient independent data to review applications.

#8 → There is a section of the HRMP that should be codified. There are additional areas of the HRB statute to improve such as Board structure, activities subject to review, fees, quorum.

#9 → The HRMP, CPR application kit, and bylaws should be reviewed and revised. Charity care and CPR follow up reporting schedules should be published on the Board’s website.

Review Timeframes of Complete CPR Applications 2014-2020

Timeframe between completed CPR application and Board decision	Total HRB CPR Application Decisions
Under 90 days	6
91 - 120 days	14
121 - 180 days	8
Over 180 days	2

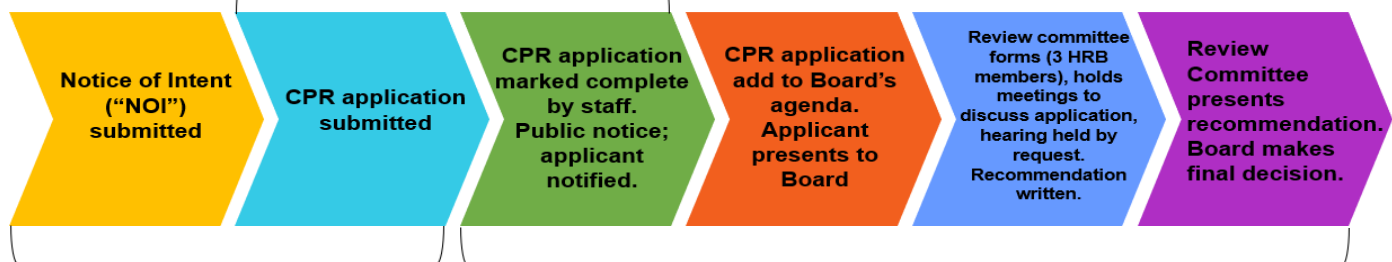
Received CPR Application Totals 2014-2020

Year	Total Complete CPR Applications Received	Board Determined CPR Not Required	Withdrew by Applicant	Pending HRB Review	Total HRB Decisions	Breakdown of Total HRB Decisions: **Approved**	Breakdown of Total HRB Decisions: **Denied**
2020	8			2	6	6	
2019	5		1		4	3	1
2018	8				8	8	
2017	5				5	5	
2016	3				3	3	
2015	4	1			3	2	1
2014	1				1	1	
7 years	**34**	**1**	**1**	**2**	**30**	**28**	**2**

93% approval rating on application decisions 2014 - 2020.

HRB Certificate of Public Review Application Process

15 Business Days — Maximum time to notify applicant if the application is deemed complete. Complete applications receive notice. Applicants are notified in writing when an application is incomplete.



30 Days — Minimum time period between submitting NOI and application. Applicant cannot take more than 180 days to submit a completed application. Applicant must get permission from Board to submit application less than 30 days after NOI.

90 Days — Maximum review period, with exceptions for requested public hearing (120 days max) or if mutually acceptable to HRB and applicant (up to 180 days max).

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The Joint Legislative Oversight & Sunset Committee ("JLOSC") is a bipartisan 10-member legislative body which performs periodic legislative review of boards or commissions. The purpose of the oversight and sunset review is to determine genuine public need and if the entity is effectively performing. The Division of Research is a nonpartisan and confidential reference bureau for the General Assembly and provides many services including staff support for JLOSC.

Special thanks: We appreciate the assistance provided by Delaware Health Care Commission staff in conducting this review.

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PREFACE

This is a staff findings and recommendation report drafted by JLOSC staff regarding the sunset and oversight review ("review") of the Delaware Health Resources Board ("HRB"). Recommendations are not final until discussed and adopted by JLOSC.

JLOSC selected HRB for review on June 6, 2019. JLOSC staff completed a review of HRB, which included a performance evaluation of the entity. During the review process HRB supplied information by completing a performance review questionnaire. JLOSC analysts completed and released draft and final reports in March and June of 2020.[1] The Committee held a public presentation meeting on March 11, 2020 and received public comment.

On March 12, 2020, Governor John Carney issued a state of emergency due to the public health threat of COVID-19. Governor Carney released numerous modifications to further protect the public throughout March, April, May, and June 2020. In March 2020, the General Assembly announced the postponement of its legislative session and closed Legislative Hall to the public amid the spread of COVID-19.

The spread and growing concern regarding COVID-19 postponed the remainder of JLOSC's meetings, which shortened the 2020 review cycle. Prior to the state of emergency, JLOSC held meetings for entities held over from 2019 and 2 of 4 public presentation hearings for the entities under 2020 review.

Due to the shortened JLOSC review cycle and modified legislative session, the JLOSC chairs issued a statement on May 22, 2020, explaining that the 2020 review process would continue in 2021 and all entities under review in 2020 were considered held over. During the period of holdover, entities under review were requested to submit holdover updates.[2] JLOSC analysts focused on additional research pertaining to entity performance and drafted recommendations for each entity. This report contains their compiled findings and recommendations from all research conducted.

JLOSC analysts drafted the following report using information and research presented in prior JLOSC reports and is part of a review process that began in July of 2019. Additional research completed after the release of the June 2020 JLOSC Final Report is noted in this report as it pertains to staff findings and recommendations. Based on the review, the Committee must determine if genuine public need exists for the entity. In the following report, Recommendation 1 encompasses this statutory obligation. Once public need is determined, the Committee evaluates how well the entity is performing and considers recommendations for improvement. The overall objective is to improve and strengthen an entity under review found to be performing a statutorily recognized need.

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[1] 2020 reports can be accessed on the Committee's website, https://legis.delaware.gov/Committee/Sunset, see Appendix A for fact sheet summary.
[2] See Appendix B-D for HRB Holdover Updates.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

To conduct a performance evaluation as required under JLOSC statute and based on the following criteria[3]:

1. If the agency is a licensing agency, the extent to which the agency has permitted qualified applicants to be licensed.
2. The extent to which the agency has served the public interests.
3. The extent to which the agency has recommended statutory changes, and whether those changes directly benefit the public or whether those changes primarily benefit the agency or other entities and are of only indirect benefit to the public.
4. Review the implementation of recommendations contained in the final reports presented to the General Assembly and the Governor during previous legislative sessions.

Scope

Except where noted, this review covers an 8-year period, from the conclusion of the last JLOSC review in May of 2012 through December of 2020. This JLOSC review did not weigh the pros and cons of the need for the Certificate of Public Review ("CPR") program but instead focused on researching other state Certificate of Need ("CON") programs which provided improvement ideas for Delaware's process.

JLOSC Statutory Criteria #1

If the agency is a licensing agency, the extent to which the agency has permitted qualified applicants to be licensed.

Methodology for JLOSC Statutory Criteria #1

HRB is not a licensing agency but does receive, review, and render decisions regarding CON applications under their established CPR process. HRB established the Health Resources Management Plan ("HRMP") to guide the board through the CPR process. JLOSC analysts reviewed CPR processes used by HRB to evaluate applications.

JLOSC Statutory Criteria #2

The extent to which the agency has served the public interests.

Methodology for JLOSC Statutory Criteria #2

The State of Delaware established HRB to provide cost-effective and efficient use of health care resources and ensure Delawareans have access to high quality and appropriate health care services. To gather feedback from HRB members and the public, JLOSC staff conducted 2 surveys via SurveyMonkey. The surveys were open during the period of September 24, 2020 through October 30, 2020. The public survey link was placed on the JLOSC website, distributed through the Division of Research's Twitter account, and emailed out to all individuals who had submitted public comments in March of 2020. The public survey collected a total of 189 responses. The HRB member survey link was distributed to all 13 members, 7 members participated. A summary of survey information is provided in Appendix E and F for public comment purposes.

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[3] 29 *Del. C.* § 10209.

As described in the fieldwork section of this report, this review explored the 6 main duties and responsibilities listed by HRB statute[4]:

1. Develop and maintain an adequate HRMP to assess the need and supply of health care resources, particularly facilities and medical technologies.
2. Review filed CPR applications and make decisions that 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 HRB's responsibilities.
    - Identify the types of data not available so that efforts can assure that legitimate data needs are met in the future.
4. Address specific health care issues at the request of the Governor or the General Assembly.
5. Adopt bylaws as necessary for conducting HRB's affairs.
    - HRB members must comply with the State Ethics Code and the Freedom of Information Act ("FOIA").
6. Coordinate activities with the Delaware Health Care Commission ("DHCC"), Department of Health and Social Services ("DHSS"), and other groups as appropriate.

JLOSC Statutory Criteria #3

The extent to which the agency has recommended statutory changes, and whether those changes directly benefit the public or primarily benefit the agency or other entities and are of only indirect benefit to the public.

Methodology for JLOSC Statutory Criteria #3

This review took a closer look at recommendations provided by HRB in their completed performance review questionnaire. Information relevant to these recommendations was explored as described in the fieldwork listed in this section. For quick reference, HRB provided the following 5 recommendations:

1. Evaluate the purpose and need of the CPR process, the activities subject to review and the seven review criteria. Consider whether the CPR process in Delaware supports the current health care delivery system and interest in health care innovation and transformation.

2. Appoint members to fill vacancies on the HRB.

[4] 16 *Del. C.* § 9303.

3. Evaluate the size and composition of the HRB to determine if 15 members is an appropriate number and the correct representation. The Board member involved in purchasing health care coverage for employers with more than 200 employees has not been filled for several years.

4. Provide clarity for the definition of a quorum pursuant to 16 *Del. C.* § 9303. Currently the statute reads "A quorum shall consist of at least 50% of the membership. This can be interpreted to mean 50% of the current filled positions or 50% of the statutory composition of the Board.

5. Review and update the filing costs for capital expenditures. Pursuant to 16 *Del. C.* § 9305, application filing fees shall be deposited into the general fund. A percentage of the filling fees should be allocated to the Delaware Health Care Commission for operational costs and additional staff support for the Delaware Health Care Commission.

JLOSC Statutory Criteria #4

Review the implementation of recommendations contained in the final reports presented to the General Assembly and the Governor during previous legislative sessions.

Methodology for JLOSC Statutory Criteria #4

This is the fourth JLOSC review of HRB. Common themes from past reviews include size of board membership, conflicts of interest, program structure, and overall need for the program. This review reexamined those past themes as well as the implementation of JLOSC recommendations from the 2012 review of HRB.

Fieldwork completed

- Reviewed all information supplied by HRB staff as outlined in JLOSC Draft and Final Reports.[5]
- Reviewed 7 years of submitted CPR applications.
  - **Scope of application review was January 15, 2014 – November 1, 2020** since the HRMP and application kit were both updated on January 15, 2014, which applied recommendations after conclusion of JLOSC's review in May of 2012.
    - Reviewed spreadsheet of applications received and selected 18 complete application files for further review.
    - Identified types of applications received.
    - Reviewed application processing time periods.
    - Reviewed CPR review committee compositions and processes.
      - CPR review committees are HRB subcommittees comprised of HRB members.
    - Reviewed resources used by the Board during CPR processes.
    - Reviewed access to outside materials.
- Reviewed HRMP, application kit, and website.
- Reviewed all available public documents with relation to transparency of the Board's decision-making process.
- Reviewed HRB statute, regulations, and bylaws.
- Reviewed overall HRB performance.
- Reviewed internal controls used to monitor approved projects and charity care.

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[5] 2020 reports can be accessed on the Committee's website, https://legis.delaware.gov/Committee/Sunset

- Reviewed board member size, quorum trends, and composition.
- Reviewed the board's process for resolving conflicts of interest.
- Reviewed board member training opportunities.
- Surveyed current board members to determine:
    - Areas of expertise.
    - Comfort level in reviewing applications.
    - Measures that affect their overall ability to review applications.
    - Areas of desired training.
    - Comfort level in understanding, handling, and resolving conflicts of interest.
    - Areas of desired improvement, including additional research.
    - Overall satisfaction in board service.
- Surveyed the public to gather opinions and experiences with CPR process, solicited feedback for improvement areas.
- Reviewed national CON trends, latest research regarding state usage of CON processes.
    - Conducted research on state implementation of CON laws.

Review Background

Review of the Delaware Health Resources Board began in July of 2019, entity's management completed and returned a performance review questionnaire, and JLOSC reviewed a draft report, completed by analysts, at the entity's presentation hearing on March 12, 2020. Performance review planning began in August of 2020.

Background Research Synopsis

During the 1960s and 1970s the federal government saw a need for comprehensive health planning. This led to the creation of the National Health Planning and Resources Development Act of 1975, which required all 50 states to convene oversight agencies and Certificate of Need ("CON") programs to provide a review of proposed new health facilities, services, and major capital expenditures.

Delaware established its CON program in 1978 but, by 1987, the federal government repealed the National Health Planning and Resources Development Act and all its associated funding. This prompted Delaware to create a 15-member Health Resources Management Council ("Council") to oversee the CON program. Since its creation, JLOSC reviews have resulted in numerous changes. The CON process evolved into the Certificate of Public Review ("CPR") program and the Council changed to the Health Resources Board.

This 2020 review marks the fourth review conducted by JLOSC of the state's CON process and its associated Board.[6] Prior to this review, the program received 5 different sunset dates with the final sunset removal date occurring in 2009. The dollar amount threshold that triggers the CPR process increased numerous times and the activities reviewed have decreased over the years. Common themes from all 4 reviews include size of board membership, conflicts of interest, and the structure and overall need for the program.

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[6] See Appendix A for summary of prior JLOSC reviews.

STAFF RECOMMENDATIONS AND FINDINGS

The Division of Research provides staff support for JLOSC. Division of Research staff compiled the following findings and recommendations after completion of a performance evaluation which included thorough research and analysis outlined in the Objectives, Scope, and Methodology section of this report. The performance evaluation was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the evaluation to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our evaluation objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our evaluation objectives. Fieldwork procedures utilized while developing the findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.

The recommendations contained in this report are not final until adopted by JLOSC. Under §10213(a), Title 29, the Committee must first determine whether there is a genuine public need for an entity under review. To meet this requirement, the Committee may select to continue or terminate the entity under review. JLOSC meets publically to review and discuss findings, where the Committee is free to modify, reject, or create brand new recommendations.

The JLOSC statute authorizes the Committee to recommend 1 or more of the following:

- Continuation of the entity as is.
- Termination of the entity.
- Termination of any program within the entity.
- Consolidation, merger, or transfer of the entity or the entity's functions to another entity.
- Termination of the entity unless certain conditions are met or modifications are made, by legislation or otherwise within a specified period.
- Budget appropriation limits for the entity.
- Legislation which the Committee considers necessary to carry out its decision to continue or terminate the entity.

The information contained in this report, along with previously published reports[7], assist the Committee in conducting a review of the entity and meeting its statutory requirements under Chapter 102, Title 29, which includes background information and an introductory analysis of the information submitted by the entity under review, together with preliminary evaluations and recommendations arising from the information in the draft report. Information supporting staff recommendations can be found in the section titled "Staff Findings."

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[7] Draft and final reports accessible on the Committee's website, https://legis.delaware.gov/Committee/Sunset

STAFF RECOMMENDATIONS

Recommendation #1, Option 1 – continue HRB

After review and analysis, JLOSC staff recommends option 1, continue the Delaware Health Resources Board, subject to any further recommendations that JLOSC adopts.

Continue or Terminate (standard JLOSC recommendation)

Option 1: The Delaware Health Resources Board shall continue, subject to any further recommendations that JLOSC adopts.

- OR -

Option 2: The Delaware Health Resources Board is terminated, and the Committee will sponsor legislation to implement this recommendation.

Recommendation #2 – Restructure HRB to Advisory Capacity

Restructure the Health Resources Board as an advisory board assisting the applicable department charged with review of Certificate of Public Review applications.

Under this recommendation, JLOSC will sponsor legislation restructuring HRB to an advisory capacity. JLOSC staff recognizes this would be a large change and note that an advisory HRB may fit better in another department within DHSS such as the Office of Health Facilities Licensing and Certification. To draft the required legislation, JLOSC staff would work closely with HRB and DHSS staff to ensure proper composition and placement. Any draft legislation formed from the adoption of this recommendation would be presented to JLOSC for review, discussion, and approval.

Recommendation #3 – Statute Revisions

JLOSC should consider sponsoring a bill to apply technical corrections to the governing statute of HRB, Chapter 93, Title 16, and using this review as a guide, applying revisions to sections covering topics such as:

- **Board composition.**
- **Quorum requirements.**
- **Activities subject to review.**[8]
- **Procedures for review.**
- **Review considerations.**
- **Charity Care.**

JLOSC and HRB administrative staff will work together to develop statutory revisions. JLOSC staff will engage stakeholders as necessary.

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[8] Includes revision under 16 Del. C. § 9304 (1) adopted by JLOSC in recommendation 6 from previous 2012 review.

Recommendation #4 – Utilization Survey, Utilization Survey Form Requirements.

JLOSC should consider sponsoring a bill to require health care facilities to complete a utilization survey form on an annual basis to build and maintain utilization statistics. HRB will collect annual utilization information, compile a report, and make it available to the public on their website.

Other states have similar requirements for the purpose of maintaining accurate utilization statistics to review CON applications. HRB currently requires former CPR applicants to submit annual charity care reports.

Recommendation #4, Option 1 – Conducting a State-wide Health Care Facility Utilization Study.

On a biennial basis, HRB will conduct or contract for a state-wide health care facility utilization study. Such study will include an assessment of:

- **Current availability and utilization of acute hospital care.**
- **Hospital emergency care.**
- **Specialty hospital care.**
- **Outpatient surgical care.**
- **Primary care and clinic care; geographic areas and subpopulations that may be underserved or have reduced access to specific types of health care services.**
- **Other factors that the agency deems pertinent to health care facility utilization.**
- **Unmet needs of persons at risk and vulnerable populations as determined by the executive director.**
- **Projection of future demand for health care services and the impact that technology may have on the demand, capacity or need for such services, and recommendations for the expansion, reduction or modification of health care facilities or services.**

Recommendation #5 – Release from Review.

HRB is released from review upon enactment of legislation restructuring to advisory capacity, making technical corrections, and statute modifications listed under Recommendations 2 and 3.

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STAFF FINDINGS

Finding #1

Thirty-four states and the District of Columbia currently have CON laws. In the 16 states without, there are still regulations and licensing processes in place to evaluate health planning and resource development.

Some examples of regulation requirements from non-CON states include:

- The Louisiana Department of Health administers a facility need review ("FNR") process, which it does not consider a CON requirement. Some research classifies Louisiana as a CON state but upon further analysis it's no different from other non-CON state requirements for health care facility licensure.
- New Hampshire repealed its CON program in 2016 and now has a specialized licensure process for certain health facility projects including establishing cardiac catherization, open heart surgery, and megavoltage radiation therapy services.
- Arizona has certificate of necessity for ambulance services and the process works like CON laws in other states for health care facilities.
- Wisconsin maintains certain approval processes for long-term care, hospitals, psychiatric, chemical dependency, and nursing home beds.
- The State of California licenses and certifies over 30 types of health care facilities and the California Department of Public Health regulates more than 11,000 health care facilities. There are also requirements after initial licensure to report changes such as change of beds, location, ownership, name, and service.
- The State of Pennsylvania licenses and regulates health care facilities such as hospitals, home care agencies, kidney dialysis centers, birth centers, nursing homes, and rural health clinics.
- Minnesota maintains approval processes that function similarly to CON, called a "public interest review process" and was established by the state's legislature in 2004 for hospitals seeking exceptions to the hospital bed moratorium law. Minnesota also has a local system needs plan for intermediate care facilities to provide counties the ability to evaluate and regulate its service system to best support the needs of persons with developmental disabilities. Some research classifies Minnesota as a CON state but upon further analysis it's just supplying an appeal process to the state's hospital bed moratorium law.
- Colorado has letter of intent submission requirements as part of their health facilities licensing. They also review an applicant's ability to operate and maintain a licensed facility, known as a fitness review process. Colorado requires all licensees to provide access or copies of reports such as staffing reports, census data, statistical information as required for the Department to perform regulatory oversight duties.

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Finding #2

HRB would function better as an advisory board with stronger administrative support and a program director making determinations based on adequate research and advisory opinions.

Currently HRB is a decision-making board with a known history of quorum and conflict of interest issues. Information supplied in 2020 JLOSC Draft and Final reports show 2 long-standing vacancies; the vice-chair position has been vacant since October of 2015 and a representative involved in purchasing health care coverage for employers with more than 200 employees has been vacant since October of 2012.

In 2019, 3 HRB members attended 57% of meetings, barely meeting the 50% requirement. In 2020, there was 1 member who only attended 33% and 2 members attended 55% of total meetings held.[9] The board has made 30 decisions in the past 7 years, approving all but 2 applications reviewed.

Additionally, out of 34 states and the District of Columbia with CON laws, 17 states render CON application decisions by agency alone without a board, 5 states and the District of Columbia implement the use of an advisory board for additional assistance, and 1 state only uses a decision-making board for certain applications. Only 11 states (including Delaware) rely on a decision-making board for CON application decisions.

Moving HRB to advisory capacity has several additional benefits such as decreased meeting requirements, leading to a workload reduction for the volunteer board members. This would also remove the practice of board review committees which are particularly taxing to the members who consistently volunteer to participate. The agency could also decrease the meeting space it must secure (outside of the current pandemic) which translates into cost savings. In 2019, HRB spent $7,267.05 on meeting facility costs, the 2nd largest expenditure reported in the performance review questionnaire.

Lastly, HRB as an advisory board may have better placement under the Office of Health Facilities Licensing and Certification as there seems to be a lot of overlap in program areas. Assessing the fit of moving the board was not within the scope of this review but would be part of JLOSC staff discussions with HRB and DHSS staff.

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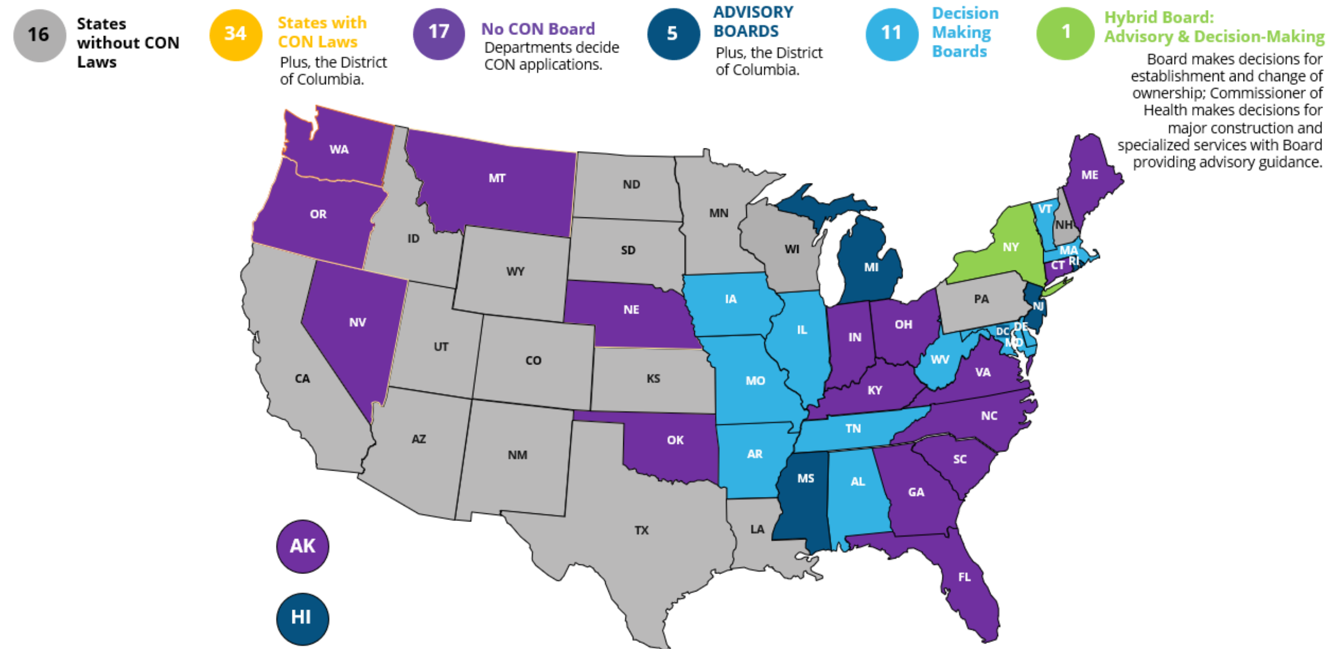
[9] 29 *Del. C.* § 9303 (e) The Governor may at any time, after notice and hearing, remove any board member for gross inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office. A member shall be deemed in neglect of duty if they are absent from 3 consecutive board meetings without good cause **or if they attend less than 50% of board meetings in a calendar year.**



Finding #3

Conflicts of interest among board members negatively impact the review process.

JLOSC reviewed HRB and its predecessor in 1993, 2005, and 2012.[10] During each review a top issue discovered involved conflicts of interest among board members.

The last review of HRB conducted by JLOSC in 2012 addressed conflicts of interest in Recommendation #9 which stated:

> The Delaware Health Resources Board shall review, and revise as needed, the conflict of interest definition enumerated in the bylaws. The Board shall develop guidelines for members to use when identifying and evaluating potential conflicts of interest. Additionally, the Board shall provide its members with the opportunity to participate in a Public Integrity Commission training session no less than once per year.

HRB staff encourages board members to contact the Public Integrity Commission's ("PIC") Counsel with questions or issues regarding conflicts of interest. To date there has been only 1 training session provided to the board on February 28, 2013 with a presentation conducted by PIC. Of the 12 board members present at that training only 2 remain appointed. Although it was not a formal training session, there was an advisory opinion meeting held on October 1, 2015 at the request of 4 HRB members with only 2 currently remaining appointed. The purpose of this meeting was to receive general guidance regarding circumstances which would require a recusal from voting as a HRB member.

Based on information received from the initial performance review questionnaire and other fieldwork completed, there is no evidence of training for new board members or any ongoing training opportunities. Additionally, HRB members who participated in the JLOSC HRB survey expressed interest in more training opportunities.

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[10] Summary of past HRB reviews provided in JLOSC Final Report, page 297, https://legis.delaware.gov/Committee/Sunset/JLOSC_FInalReports

The entity also noted that recusals due to conflicts of interest was particularly challenging to the Board in their completed performance review questionnaire:

> The board consist[s] of 15 members, all appointed by the Governor. When rendering a decision on a CPR application, a quorum of 8 voting members is needed. If a board member recuses, it does not count towards a quorum. Many of the board members need to recuse during the CPR process due to conflicts of interest. As a result, the board often does not have enough voting members available to render a decision. CPR applications that need to be brought to a vote are sometimes not heard in a timely manner and/or statutory deadlines are missed because of recusals. This can cause an inconvenience and negative impact for applicant and result with the Board not meeting statutory deadlines.

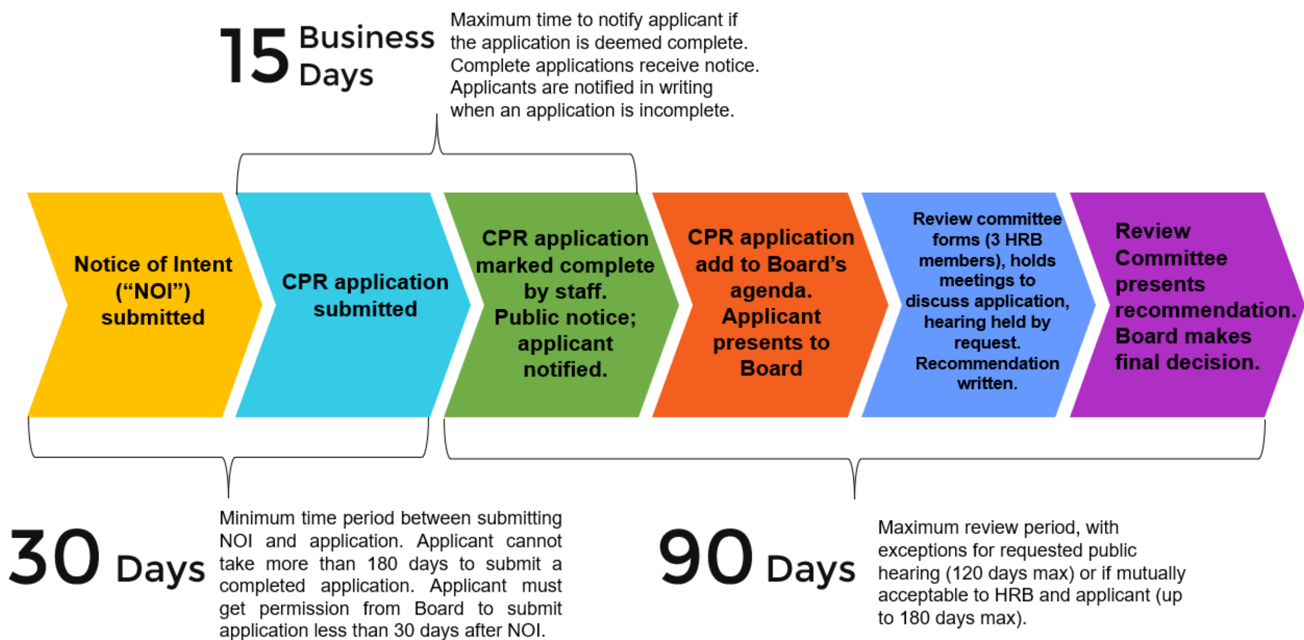
The Board has made 30 decisions in the past 7 years, approving all but 2 applications reviewed. Board members recuse themselves from various applications; however, this information was not always clear or even present in the meeting minutes of the board's final vote. For example, 1 application denied by HRB was discussed during the August 15, 2019 meeting. Minutes from this meeting only identified 2 board member recusals from the Beebe Freestanding Emergency Department CPR application when 5 members in total had recused from that application. It was later determined by JLOSC staff that 3 of these recused members did not attend the meeting at all.

Additionally, meeting minutes only record votes as, "There was a voice vote, one abstaining, and no opposing. Motion carried." The meeting minutes did not record the names of Board members voting or abstaining, and it was often difficult to find the information. This is only 1 example of the disconnect between recusals and the vote recorded in the meeting minutes. JLOSC staff recommends HRB correct the format for future minutes, as to remain compliant with Delaware's Freedom of Information Act [11]

Additionally, quorum issues delayed the Beebe Freestanding Emergency Department CPR application from full board review because lack of quorum cancelled the July 25, 2019 meeting. From the time staff determined the Beebe application complete on January 14, 2019 to final board decision on August 15, 2019, took a total of 213 days. HRB typically meets once per month unless there is a lack of new business to conduct. This has occurred 4 times over the past 2 years. In 2019 and 2020, HRB held 16 meetings, and cancelled 4 meetings due to lack of quorum.

JLOSC staff completed additional research pertaining to how states with CON laws implement their programs. Half of the states, 17 in-total, review applications in house and make CON application decisions without a board. The other half use a board for the CON review process however, that varies; 11 (including Delaware) use decision making boards, 5 states and the District of Columbia use advisory boards with the department deciding applications, and New York uses a hybrid model with a board reviewing and making decisions on applications for establishment and change of ownership, while the board is advisory for major construction and specialized services and the Commissioner of Health makes final decisions. A state department decides CON applications in 22 states, this includes the 5 states with advisory boards since the state department renders the final determination.

[11] 29 *Del. C.* § 10004.
Analyst Note: HRB staff started to implement these changes in 2021 minutes.



Finding #4

CPR application review committees are not efficient and slow the review process.

HRB received 32 applications and rendered decisions on 30 applications from January 15, 2014 through December 1, 2020.[12] After an application is determined by staff to be complete, the applicant is notified, and public notices are published. The applicant appears on a meeting agenda and provides a presentation to the Board regarding the application. After the presentation, the Board is free to ask questions and the Chair calls for volunteers for the review committee. At meetings there are rarely questions from HRB for the applicant and it is rare that 3 members volunteer right away for the review committee.

After the meeting, HRB staff emails the Board asking for volunteers to serve on the review committee. This process does not often go smoothly as evidenced by meetings where the Board Chair or staff are reminding members that they need review committee members. Additionally, there was an application for Comprehensive Care Capital in 2020 that ended up moving forward with a review committee of only 2 members. In recent meetings a HRB member expressed frustration with the review committee process citing that the same members routinely volunteer and there are members on the Board that never serve on review committees. This has caused an inequitable distribution of work amongst the appointed members. Other members added to this conversation stating that in the past review committees were assigned by the Board Chair and all board members rotated in serving. The Board's Chair expressed that attention would be on the topic and the hope was for all members to volunteer. It seems the process has become a little more fluid since these conversations, but the process is still time consuming and reviews could be conducted without the process.

Once the review committee is finally secured, then another round of emails is initiated by HRB staff trying to schedule a review committee meeting. Even though the review committee is only 3

[12] Two applications were still pending HRB review.

members, the whole scheduling process continues to be difficult resulting in long review times. Out of 30 applications decided by HRB between 2014 and 2020, the average time between a completed application and Board decision is 117 days. The statute's guideline is 90 days for this timeframe but permits exceptions for applications with a requested public hearing (120 days max) or if mutually acceptable to HRB and applicant (up to 180 days max). There are 2 applications during this timeframe that have taken more than 180 days, additional timeframe data is provided in the chart below. It's important to note that this chart does not indicate which applications required public hearings and is provided as a general idea of review timeframes.

Review Timeframes of Complete CPR Applications 2014-2020	
Timeframe between completed CPR application and Board decision	**Total HRB CPR Application Decisions**
Under 90 days	6
91 - 120 days	14
121 - 180 days	8
Over 180 days	2

The following 2 charts provide HRB workload data regarding received CPR applications and notices of intent over a 7-year period.

Received CPR Application Totals 2014-2020							
Year	Total Complete CPR Applications Received	Board Determined CPR Not Required	Withdrew by Applicant	Pending HRB Review	Total HRB Decisions	Breakdown of Total HRB Decisions: **Approved**	Breakdown of Total HRB Decisions: **Denied**
2020	8			2	6	6	
2019	5		1		4	3	1
2018	8				8	8	
2017	5				5	5	
2016	3				3	3	
2015	4	1			3	2	1
2014	1				1	1	
7 years	**34**	**1**	**1**	**2**	**30**	**28**	**2**
93% approval rating on application decisions 2014 - 2020.							

Notice of Intent (NOI) Received		CPR Applications Received		Applications Determined Complete	
Year	Total	Year	Total	Year	Total
2020	4*	2020	3	2020	4
2019	14	2019	9	2019	9
2018	9	2018	4	2018	4
2017	10	2017	8	2017	9
2016	3	2016	2	2016	0
2015	7	2015	8	2015	7
2014	5	2014	1	2014	1
TOTAL	**48**	**TOTAL**	**35**	**TOTAL**	**34**

*2020 - 1 NOI received the Board determined was an exempt request

Review committees often require multiple meetings to review applications. Looking at the last 10 CPR applications decided by HRB between 2019 and 2020, only 3 review committees completed their work in 1 meeting as shown in the chart below.

HRB Decided CPR Applications and Review Committee Meetings

Applicant	Project	Capital Expenditure Amount	Year	Board Review Status	Complete Application to Board Decision (in days)	Review Committee Members	Total Review Committee Meetings
Bayhealth	Freestanding Emergency Department	$10,200,000.00	2020	Approved	206	Leighann Hinkle, Dr. Elizabeth Brown, and Pamela Price	3 + 1 pubic hearing
Nemours A.I. duPont Hospital	Cardiac Cath Lab	$6,100,000.00	2020	Approved	93	Edwin Barlow, Julia O'Hanlon, and Theodore "Ted" Becker	2
Cadia Pike Creek	52 skilled nursing bed expansion	$12,000,000.00	2020	Approved	147	Leighann Hinkle, Pamela Price, and Margaret Strine	2
Beebe Healthcare	12 room fit out Specialty Surgical Hospital	$3,200,000.00	2020	Approved	147	Cheryl Heiks, Pamela Price, and Edwin Barlow	1
Post Acute Medical	34 bed inpatient rehab facility	$17,000,000.00	2020	Approved	134	Theodore Becker, Carolyn Morris, and John Walsh	2
Comprehensive Care Capital	Acquisition of Churchman Village, Parkview Nursing and Harbor Healthcare	$67,000,000.00	2020	Approved	120	Pamela Price and Julia O'Hanlon	1
Exceptional Care for Children	22 bed Bridge Unit	$10,000,000.00	2019	Approved	104	Theodore Becker Chair, Pamela Price, and Edwin Barlow	1
Peninsula Regional Health System	Affiliation with Nanticoke Health System	$0.00	2019	Approved	101	Mark Thomson Chair, Yrene Waldron, and Dennis Klima	2
Beebe Healthcare	**Freestanding Emergency Department**	**$23,000,000.00**	**2019**	**Denied**	213	Carolyn Morris, Leighann Hinkle, and John Walsh	2 + 1 public hearing
MeadowWood Behavioral Health	20 bed expansion	$5,000,000.00	2019	Approved	129	Theodore Becker, Dennis Klima, and Yrene Waldron	3 + 1 public hearing

The review committee process does not permit dialogue between the review committee and the applicant. Review committee minutes from August 27, 2013 and September 13, 2013 detail the Board Deputy Attorney General's determination that the review committee discussions and deliberations were considered a closed record and nothing more could be added. Any questions that the review committee needed to ask the applicant were relayed to the applicant in writing after the meeting through the board's administrative support.

It does not appear that this 2013 determination was ever re-reviewed. The practice of prohibiting dialogue with the applicant during a review committee meeting requires additional meeting scheduling. This is historically difficult due to varying schedules, as it typical of any volunteer board. Under the current review process, the review committee must meet prior to the full board meeting to finalize their decision, which can often delay decisions to the next full board meeting.

The review committee process should be eliminated. While bylaws allow HRB to form subcommittees, this should only occur on an as-needed basis. HRB already receives a formal presentation from the applicant and Board members should ask all necessary questions at that time. Public hearings should take place in front of the full board so that all members benefit from hearing the public comments firsthand. Board staff should present a summary of findings and relevant research to HRB at decision meetings to aid in deliberations.

Finding #5

The Board has had 2 long-standing vacancies and attendance issues; board membership should be reevaluated.

Information supplied in JLOSC Draft and Final reports show 2 long-standing vacancies; the vice-chair member has been vacant since October of 2015 and a representative involved in purchasing health care coverage for employers with more than 200 employees vacant since October of 2012. The board has made 30 decisions in the past 7 years, approving all but 2 applications reviewed.

It should be considered to reduce the Board's composition from 15 members to 5 or 7. Representation should also be reviewed, from the JLOSC public presentation meeting for HRB held on March 11, 2020, there was heavy discussion regarding adding a health economist member. Other states with CON boards have been observed to include health economist members.

Reducing membership should assist with quorum issues. HRB has members currently serving that are showing patterns of attendance issues. Per statute 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."

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The following charts show attendance trends for 2019 and 2020. While the reasons for meeting absence are not known, this data illustrates current Board member makeup and how attendance trends affect meeting quorums.

Shaded areas indicate that a meeting was not held.
X indicates member was absent.
NA indicates member was not a member of the board, see the notes column for additional info.

DELAWARE HEALTH RESOURCES BOARD MEETING ATTENDANCE 2019

MEMBER NAME	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total Absences	Notes:
BRETT FALLON, CHAIR											X	X	2	
LYNN MORRISON	X					X			X		NA	NA	3	left board in Oct 2019
LEIGHANN HINKLE	X								X				2	
MARGARET STRINE	NA	NA				NA		NA					0	appointed 9/30/2019
D.R. VINCENT LOBO	X							X				X	3	Attended 57% of meetings
MARK THOMPSON								X			X	X	3	Attended 57% of meetings
PAMELA PRICE	NA	NA				NA			X				1	appointed 7/31/2019
JOHN WALSH													0	
MICHAEL HACKENDORN	X	X				X							3	Attended 57% of meetings
JULIA O'HANLON	X					X							2	
CAROLYN MORRIS	X												1	left board in Jan 2020
EDWIN BARLOW													0	
TED BECKER												X	1	
CHERYL HEIKS	NA	NA				NA		NA	NA				0	appointed 10/07/2019

March meeting cancelled - no new business to conduct.
April meeting cancelled - no new business to conduct.
May meeting cancelled - no quorum.
July meeting cancelled - no quorum.
October meeting cancelled - no quorum.

DELAWARE HEALTH RESOURCES BOARD MEETING ATTENDANCE 2020

MEMBER NAME	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total Absences	Notes:
BRETT FALLON, CHAIR													0	
LEIGHANN HINKLE												X	1	
MARGARET STRINE								X					1	
D.R. VINCENT LOBO	X												1	
MARK THOMPSON			X	X				X	X	X		X	6	Attended 33% of meetings.
PAMELA PRICE													0	
JOHN WALSH								X	X	X	X		4	Attended 55% of meetings.
MICHAEL HACKENDORN										X	X	X	3	
JULIA O'HANLON				X		X		X				X	4	Attended 55% of meetings.
ELIZABETH BROWN, M,D.	NA		X						X			X	3	appointed 02/27/2020
CHERYL HEIKS													0	
EDWIN BARLOW													0	
TED BECKER									X				1	

February meeting cancelled - no quorum.
May meeting cancelled - no business to conduct
July meeting cancelled - no business to conduct

Finding #6

Two recommendations from the 2012 JLOSC review were never fully implemented.

Throughout each JLOSC review process the discussion continued weighing the need for the Certificate of Public Review "CPR" process (known nationally as Certificate of Need "CON") in Delaware. Recommendations 6 and 8 adopted by JLOSC in 2012, modified the statute regarding for-profit acquisitions and required HRB to conduct a comprehensive review of 16 Del. C. c. 93 and the CPR program.

> JLOSC 2012 Recommendation #6: Amend 16 *Del. C.* § 9304 (1) to clarify that only for-profit acquisitions of a nonprofit health care facility are subject to the Certificate of Public Review process. Not-for-profit acquisitions of another nonprofit health care facility would not require a review.[13]

> JLOSC 2012 Recommendation #8: The Delaware Health Resources Board, with assistance provided by DHSS and the Delaware Health Care Commission, shall conduct a comprehensive review of 16 Del. C. c. 93 and the Certificate of Public Review program. The focus of this government efficiency review should be aimed at streamlining operations, increasing efficiency, simplifying the application process, and updating the categories for review. This review shall include, but is not limited to, the following: activities subject to a review; criteria considered during a review; procedures to review; timelines/deadlines for a review; feasibility of quarterly Board meetings; documents used by the Board; application fees and fee structure; strengthening the charity care requirements; consider publishing the list of equipment triggering a review through the regulatory process; consider adding assisted living communities to CPR process; consider IT capabilities and an increased online presence. The Delaware Health Resources Board shall report the key findings identified and make recommendations to the Joint Sunset Committee by January 1, 2013.[14]

The scope of this JLOSC review did not weigh the pros and cons of the need for the CPR program but instead focused on researching other state CON programs which provided improvement ideas for Delaware's process.

Finding #7

HRB lacks sufficient independent data to review applications.

Many states maintain large databases of utilization statistics. One technique used to build a database could involve requiring past CPR recipients to submit utilization reports, like the current HRB charity care reporting requirements. States such as Florida, Georgia, Kentucky, and Hawaii require submission of completed utilization forms, frequencies can vary between quarterly, annual, and biennial reporting requirements.

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[13] Non-compliance note from JLOSC Performance Review Questionnaire: 16 Del. C. § 9304 (1) currently states: "The construction, development or other establishment of a health care facility or the acquisition of a nonprofit health care facility is subject to the CPR process". This is not in compliance with recommendation 6 and would require a statutory amendment.

[14] Non-compliance note from JLOSC Performance Review Questionnaire: According to the Board's by-laws, regular meetings of the Board will be held every two months. However, the Board may need to meet more frequently to conduct business. The HRMP has a charity care policy to include the intent, define services, eligibility and charity care guidelines, a formal charity care plan, annual reporting requirements and an enforcement clause, During the HRMP revision process, the Board discussed reviewing legislative changes during Phase 2 of the HRMP revision process.

Currently, HRB only consistently maintains data on nursing home bed utilization on an annual basis. Nursing home beds only make up a small portion of overall applications that are received and reviewed by HRB. After a 7-year hiatus, a 2019 report on assisted living and rest residential utilization statistics was completed even though HRB does not require CPR applications for either activity. The 2012 JLOSC Final Report did mention reviewing activities under the CPR process and suggested considering the addition of assisted living facilities. Caution should be exercised before adding more review activities. The findings included in this review call for the removal, not addition of, review activities.

This review observed HRB relying heavily on data supplied by applicants and is recommended for HRB to explore methods to collect and maintain their own data, such as requiring annual utilization reports from past CPR recipients.

The HRB review and approval of a Bayhealth application for a freestanding emergency department on the corner of Route 9 and Hudson Road in Harbeson, Delaware, Sussex County, provides a recent observed example of lacking independent data.

For background, this application approval was less than 1 year after both Bayhealth and Beebe applied for freestanding emergency departments in similar areas. In August of 2019 HRB denied the application for Beebe citing that emergency services were available in the proposed areas, proposal was not in alignment with Delaware's initiative to lower health care costs, less costly alternatives were available, and the proposal would negatively impact the existing health care system.

Bayhealth withdrew their first application for a freestanding emergency department around the time HRB denied Beebe's application and in November of 2019 Bayhealth submitted another application for a freestanding emergency department in the same location as their withdrawn application. This application had a difference in that they partnered with Intuitive Health to propose the construction of a hybrid model, providing both emergency department and walk-in services. According to Intuitive Health's website they, "… pioneered the concept of the retail-based combined ER and urgent care service."

During the public hearing on July 28, 2020 it was explained that this hybrid model was first operated in Texas and Bayhealth was not aware of anyone on the east coast operating this model.

In Bayhealth's application they stated that this hybrid model would be a first for Delaware and that it was used in southwestern markets, specifically Intuitive Health operated hybrid models in states such as Texas, New Mexico, and Indiana. **Worth noting, Texas, New Mexico, and all states in the southwestern region, except for Nevada (limited capacity), do not have CON laws.** Indiana is a CON state that only reviews nursing homes that are transferring beds from another county. Nevada is a CON state in limited capacity, only reviews new health care facilities in rural areas that cost over $2 million dollars.

JLOSC staff cannot find any public evidence that the review committee or HRB questioned this brand-new hybrid emergency department model in depth. During the first review of emergency department applications, when both Beebe and Bayhealth applications were reviewed together, the Board's epidemiologist Dr. Allison Shevock attended the first review committee meeting on March 28, 2019. Dr. Shevock provided the review committee a presentation on freestanding emergency departments but did not cover anything on a hybrid model because that model was not on Bayhealth's earlier application. Dr. Shevock does not appear to be consulted

about the hybrid emergency department model during the 2020 Bayhealth CPR review. Additionally, the review committee recommended the denial of Bayhealth's hybrid freestanding emergency department application but HRB voted to approve, and notably without robust meeting discussion that would have been expected for a Board disagreeing with its review committee's recommendation.

Finding #8

There is a section of the HRMP that should be codified. There are additional areas of the HRB statute to improve such as Board structure, activities subject to review, fees, quorum.
In reviewing HRMP, section B covering acute care hospitals states: "In 2009, Delaware's HRB placed a moratorium on new construction of acute care hospitals. No additional hospitals offering acute care beds shall be established in the state unless or until the moratorium is rescinded." In a review of all other state CON programs, moratoriums are covered in state code, known as moratorium laws.[15] It is unclear why HRB's moratorium was never presented to the legislature to be adopted into the Board's code, but this is an area that should be codified if HRB is continuing this moratorium. Additionally, this moratorium information is absent on the HRB's website.

The review process identified additional revision areas within the governing statute of HRB. As mentioned in finding #4 of this report, 1 recommendation from the previous 2012 JLOSC review remains unchanged in the statute:

> JLOSC 2012 Review, Recommendation #6: Amend 16 *Del. C.* § 9304 (1) to clarify that only for-profit acquisitions of a nonprofit health care facility are subject to the Certificate of Public Review process. Not-for-profit acquisitions of another nonprofit health care facility would not require a review.

Additionally, in the "challenges" section of the initial performance review questionnaire HRB staff advised of known issues involving board vacancies (including the Board's vice chair), recusals, and quorum requirements.[16] HRB staff also identified the following as areas for improvement, and all can be resolved by statutory revisions provided in JLOSC staff recommendation #3.

1. Evaluate the purpose and need of the CPR process, activities subject to review, and the 7 review criteria items in place.
    - Consider whether the CPR process in Delaware supports the current health care delivery system and interest in health care innovation and transformation.
2. Fill HRB vacancies.[17]
3. Evaluate the size and composition of the HRB to determine if 15 members is an appropriate number and the correct representatives are part of the Board.
    - The representative involved in purchasing health care coverage for employers with more than 200 employees has been vacant since 2012.
4. Provide clarity for the statutory definition of a quorum.[18] Currently the statute reads "A quorum shall consist of at least 50% of the membership. This can be interpreted to mean 50% of the current filled positions or 50% of the composition of the Board.

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[15] Example: Minnesota letter regarding hospital bed moratorium law, https://www.health.state.mn.us/data/economics/moratorium/docs/commltr2015.pdf
[16] 2020 JLOSC Final Report page 295, https://legis.delaware.gov/Committee/Sunset/JLOSC_FInalReports
[17] Analyst Note: Could be resolved by reevaluating board member composition discussed in Finding #5 of this report.
[18] 16 *Del. C.*§ 9303.

5. Review and update the filing costs for capital expenditures.[19] Application filing fees are deposited into the General Fund; HRB would like a percentage of the filing fees allocated to the DHCC for operational costs and additional staff support.

Activities currently subject to HRB review in the statute as follows:

§ 9304. Activities subject to review [Effective Dec. 31, 2020].

(a) 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 healthcare 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.

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[19] 16 *Del. C.* § 9305.

CPR Applications with HRB Decisions, 2014-2020					
Applicant	**Project**	**Capital Expenditure Amount**	**Year**	**Status**	**Complete Application to Board Decision (in days)***
Bayhealth	Freestanding Emergency Department	$10,200,000.00	2020	Approved	206
Nemours A.I. duPont Hospital	Cardiac Cath Lab	$6,100,000.00	2020	Approved	93
Cadia Pike Creek	52 skilled nursing bed expansion	$12,000,000.00	2020	Approved	147
Beebe Healthcare	12 room fit out Specialty Surgical Hospital	$3,200,000.00	2020	Approved	147
Post Acute Medical	34 bed inpatient rehab facility	$17,000,000.00	2020	Approved	134
Comprehensive Care Capital	Acquisition of Churchman Village, Parkview Nursing and Harbor Healthcare	$67,000,000.00	2020	Approved	120
Exceptional Care for Children	22 bed Bridge Unit	$10,000,000.00	2019	Approved	104
Peninsula Regional Health System	Affiliation with Nanticoke Health System	$0.00	2019	Approved	101
Beebe Healthcare	**Freestanding Emergency Department**	**$23,000,000.00**	**2019**	**Denied**	213
MeadowWood Behavioral Health	20 bed expansion	$5,000,000.00	2019	Approved	129
Beebe Healthcare	Specialty Surgical Hospital	$152,000,000.00	2018	Approved	115
Beebe Healthcare	Freestanding Emergency Department	$22,000,000.00	2018	Approved	79
Beebe Healthcare	Oncology Center	$22,000,000.00	2018	Approved	97
MeadowWood Behavioral Health	7 bed expansion	$200,000.00	2018	Approved	107
Dover Behavioral Health	16 bed expansion	$4,409,685.00	2018	Approved	119
Christiana Care Health Care Center	Renovation and Consolidation	$7,500,000.00	2018	Approved	83
Christiana Care PMRI Facility	Renovation and Consolidation	$8,200,000.00	2018	Approved	83
The Birth Center-Women's Holistic Healthcare	Relocation of birth center to Newark, DE	$40,000.00	2018	Approved	107
Nationwide Healthcare LLC	150 bed skilled nursing facility	$6,000,000.00	2017	Approved	125
Christiana Care	Interventional Structural Heart Lab	$3,500,000.00	2017	Approved	90
Christiana Care	6 Bed Expansion Inpatient Psychiatric Unit	$8,300,000.00	2017	Approved	83
First State Surgery Center	Expansion of Surgery Center	$1,000,000.00	2017	Approved	91
Cataract and Laser Center	Relocation of Surgery Center	$30,000.00	2017	Approved	104
Bayhealth Medical Center	Replacement Hospital Milford DE	$268,000,000.00	2016	Approved	178
Christiana Care	Women and Children's Transformation Center	$250,000,000.00	2016	Approved	126
Nemours Alfred I duPont Hospital	Purchase PET Scanner	$5,500,000.00	2016	Approved	133
Post Acute Medical LLC	34 bed inpatient rehabilitation center	$14,000,000.00	2015	Approved	91
Sun Behavioral Health	90 bed inpatient behavioral health facility	$18,000,000.00	2015	Approved	101
First State Orthopaedics	**Free Standing Surgery Center**	**$4,000,000.00**	**2015**	**Denied**	114
Saint Francis Healthcare*	Lease Positron Emission Tomography ("PET") Scanner	$0.00	2015	Board determined CPR not required, no capital expenditur e	7*
Genesis HealthCare	Purchase Franciscan Care Center	$7,500,000.00	2014	Approved	83
TOTAL		**$955,679,685**			**3496**

*Saint Francis Healthcare information is only provided in this chart because the applicant submitted a complete application, however HRB determined that CPR review was not required, so it is not considered as an approval or denial and not included in the 30 applications decided by HRB over the 7 year period, and is omitted from the grand total of review totals.

When evaluating what types of projects trigger a CPR review, consideration should be given to increasing the bed expansion threshold, increasing the capital expenditure amount, and adding clarity on leasing versus purchasing equipment such as PET scanners. Some states only regulate nursing home facilities under their CON laws. In 2019, Florida modified its CON laws to only regulate hospices, skilled nursing facilities, intermediate care facilities for the developmentally disabled, and the establishment of new Class II, III, IV hospitals. In 2016, New Hampshire repealed its CON program and changed to a specialized licensure process for certain health facility projects that include establishing cardiac catherization, open heart surgery, and megavoltage radiation therapy services.

The filing fee structure in use today are the same fees used since its implementation in 1987. Additionally, the filing fees have always deposited into the State's General Fund. The 2012 JLOSC Final Report cited research showing that revenue from Delaware's CPR application filing significantly lags in comparison to other states. Since the fee evaluation, HRB reviewed a couple proposals to revise the filing fees; the last proposal was reviewed in 2010; HRB took no action although it agreed that the fee amount and structure should be revised to cover the cost of operations, including staff positions and contractual needs.

Filing fees should be used to support the CPR process and be allocated to the agency tasked with program oversight. Filing fees should support independent research needed to adequately review CPR applications. In states with CON programs, filing fees range from a minimum of $200 and maximum of $300,000.

Filing Fees

Capital Expenditures	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

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JLOSC Staff 50 State Survey

state	Health Outcomes Rank**	Overall Rank 2020 Scorecard on State Health System Performance*	CON Laws?	board	Board role	size of board	CON App fee	2019 Capital Expenditure Threshold
Alabama	48	40	Y	Y	Decision Making	9	$22,828	$5.99M
Alaska	11	32	Y	N	None		$2,500+	$1.5M
Arizona	29	33	N					
Arkansas	47	42	Y	Y	Decision Making	9	$3,000	$1M
California	5	19	N					
Colorado	9	6	N					
Connecticut	3	5	Y	N	None		$500	$2M
Delaware	35	24	Y	Y	Decision Making	15	$100 - $10,000	$5.8M
District of Columbia	not ranked by report	16	Y	Y	Advisory	12	$5,000 - $300,000	$2M - $3.5M
Florida	27	41	Y	N	None		$10,000 - $50,000	
Georgia	37	46	Y	N	None		$1,000 - $50,000	$10M
Hawaii	1	1	Y	Y	Advisory	varies, 3 total	$200 plus percentage	$4M
Idaho	14	21	N					
Illinois	28	25	Y	Y	Decision Making	9	$2,500	$13.7M
Indiana	36	38	Y	N	None		$5,000	
Iowa	15	4	Y	Y	Decision Making	5	max $21,000	$1.5M
Kansas	26	34	N					
Kentucky	46	39	Y	N	None		$1,000 - $25,000	$3.3M
Louisiana	50	44	N					
Maine	23	31	Y	N	None		$5,000 - $250,000	$12M
Maryland	8	14	Y	Y	Decision Making	15	could not determine	$50M or 25% of annual global budgeted revenue
Massachusetts	2	2	Y	Y	Decision Making	14	$500 or 0.2% of the Total Value of the Proposed Project, whichever is greater.	$19.2M
Michigan	40	27	Y	Y	Advisory	11	$3,000 - 15,000	$3.3M
Minnesota	7	3	N					
Mississippi	49	51	Y	Y	Advisory	11	$500 - $25,000	$1.5 - $10M
Missouri	38	48	Y	Y	Decision Making	9	not provided	$1M
Montana	41	18	Y	N	None		$500 or 0.3% of the project's capital expenditure, whichever is greater	$1.5M
Nebraska	20	20	Y	N	None		$1,000	
Nevada	30	49	Y	N	None		$9,500	
New Hampshire	17	11	N					
New Jersey	4	16	Y	Y	Advisory	13	$7500 +	$2M
New Mexico	31	30	N					
New York	10	10	Y	Y	Hybrid	25	$500-3,000	$15M - $30M
North Carolina	31	36	Y	N	None		$5,000	$2M
North Dakota	16	13	N					
Ohio	39	28	Y	N	None		max $20,000	
Oklahoma	43	50	Y	N	None		$1,500 - $10,000	$1M
Oregon	19	23	Y	N	None		$5,000 - $90,900	
Pennsylvania	34	21	N					
Rhode Island	18	15	Y	Y	Advisory	12	$500 - $25,309	$2.5M - $5.9M
South Carolina	42	37	Y	N	None		$500 - $7,000	$2M
South Dakota	24	29	N					
Tennessee	44	44	Y	Y	Decision Making	11	$15,000 - $95,000	
Texas	22	42	N					
Utah	6	9	N					
Vermont	12	6	Y	Y	Decision Making	5	$250 - $20,000	$3M
Virginia	21	25	Y	N	None		$1,000 - $20,000	$20M
Washington	13	8	Y	N	None		$1,347 - $46,253	
West Virginia	45	47	Y	Y	Decision Making	5	$1,500 - $35,000	$5.5M
Wisconsin	33	11	N					
Wyoming	25	35	N					

JLOSC Staff 50 State Survey Information
**Data for health outcomes provided by America's Health Rankings, United Health Foundation, December 2020.[20] Health Outcomes Rank data based on behavioral health, mortality, and physical health statistics.

*Data from the 2020 Scorecard on State Health System Performance, the Commonwealth Fund, September 2020.[21] Overall Rank 2020 Scorecard data based on access and affordability, prevention and treatment, avoidable use and cost, healthy lives, and income disparity.

JLOSC Staff 50 State Survey compiled by JLOSC staff using individual state websites, as well as National Conference of State Legislatures ("NCSL") and National Academy for State Health Policy ("NASHP") data.

Note on NCSL data: NCSL classifies Louisiana as a CON state. JLOSC staff and NASHP analysis classify Louisiana as a non-CON law state.

Note on NASHP data: NASHP classifies Minnesota as a CON state. JLOSC staff and NCSL analysis classify Minnesota as a non-CON law state.

JLOSC Staff 50 State Survey Additional Research Findings
Connecticut repealed its Health Care Reform Review Board effective July 1, 1995.

Florida changed CON laws in July of 2019, general hospitals including acute care facilities, long-term care facilities, and rural hospitals are no longer subject to CON approval.

Georgia has an independent Governor appointed panel to review appeals.

Hawaii uses 3 advisory boards in standard CON review process. CON process is streamlined and website is easy to navigate.

Illinois no longer requires long term care facilities to submit CON for the discontinuation or a change of ownership of a long-term care facility, change effective in 2018.

Indiana enacted a new CON law in 2018 that only requires reviews for nursing homes that are transferring care beds from a county with excessive supply.

Louisiana Department of Health administers a facility need review ("FNR") process, which it does not consider a certificate of need requirement.

Maryland CON staff writes a full report with recommendations to Commissioners, application fee was not available online, could not reach office.

Massachusetts uses the term Determination of Need ("DoN") for its health planning program.

Michigan's CON advisory board does not make application decisions but determines application criteria used by the agency and has the responsibility to develop, approve, disapprove, or revise CON review standards which are used by the CON program section to review CON applications.

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[20] https://assets.americashealthrankings.org/app/uploads/annual20-rev-complete.pdf
[21] https://2020scorecard.commonwealthfund.org/

The advisory board evaluates the review standards for modification on a 3-year rotating schedule and has the authority to make recommendations to revise the list of services subject to CON review.

Minnesota does not have a CON program; it maintains various approval processes that function similarly to CON. A public interest review process was established in 2004 for hospitals seeking to appeal the state's hospital bed moratorium law.

Mississippi CON advisory board does not review applications but provides policy direction and appoints a State Health Officer to operate the agency charged with CON review. The Board also approves the State Health Plan and all Rules and Regulations of the agency.

Nebraska CON laws only applies to rehabilitation and long-term care beds, current moratorium on new applications with few exceptions.

Nevada limited CON laws, only apply to new health care facilities in rural areas that cost over $2 million dollars. The director of Primary Care Office makes all decisions, public hearings held by the department to receive public comments.

New Hampshire repealed its certificate of need program in 2016 and switched to a specialized licensure process for certain health facility projects, including establishing cardiac catherization, open heart surgery and megavoltage radiation therapy services.

New Jersey's State Health Planning Board is advisory only, is not involved in expedited reviews. Deputy Commissioner of Health Systems makes all final determinations in either application.

Ohio amended CON laws in 2019, now in limited capacity, only reviews long-term care beds and nursing home facilities.

Oklahoma limited CON laws, only applies to long-term care facilities, psychiatric and chemical dependency facilities.

Tennessee uses a consent calendar for reviews, decision making board includes 3 government officials, 3 consumers, and 5 specified health representatives.

Vermont decision making board consist of 5 state employees, 1 chair & 4 members, membership is nominated by a committee (composed of two gubernatorial appointments, two state senators, two House members, one Senate President appointment, and one House Speaker appointment) and appointed by the governor.

West Virginia's decision making board is limited to 5 members, no more than 3 of the same party, 1 health economist, 1 human services/business administrator, 1 health care administrator, 1 provider, 1 consumer All appointments are made by the governor with the advice and consent of the Senate.

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Finding #9

The HRMP, CPR application kit, and bylaws should be reviewed and revised. Charity care and CPR follow up reporting schedules should be published on the Board's website.

The HRMP is a document that guides the review process and establishes common review standards. The last revision occurred on September 11, 2017. The HRMP includes 10 application process steps. Several items are missing from this section such as the applicant's presentation to the board, the formation of subcommittees (known as review committees), and the review committee process. The HRMP document should be user friendly and the public would benefit from document revision and a streamline of content.

The HRMP includes a section on charity care reporting procedures and requirements but it is unclear how diligent HRB is in enforcing the requirements. There isn't a formal reporting schedule on the website and charity care reports appear randomly on agendas. The website should also include a list of approved CPR applications and their required status reporting date.

The last several sections cover acute care, obstetric care (hospital-based), nursing home care, freestanding surgery center ("FSSC"), and the acquisition of major medical equipment. **Missing are sections covering freestanding emergency departments, inpatient rehabilitation facilities, and acquisition of health care facilities, which are 3 application areas approved by HRB over the past 7 years.** A March 28, 2019 review committee specifically stated that HRMP did not have the mathematical criteria for addressing the need for freestanding emergency departments. A NOI was received by HRB and announced at their December 17, 2020 meeting that Beebe intends to submit a CPR application for a hybrid freestanding emergency department before May 31, 2021.

The CPR application kit last revision date was October 2, 2017. The application kit is provided on the Board's website in PDF format and it would be helpful to applicants if the form was converted to a fillable PDF. The code on pages 7-17 of the application kit are outdated and appear to be the version last updated in June of 2013. The HRB statute was last revised in June of 2016.

A common question heard during review committee meetings regarded applicant participation with the Delaware Health Information Network ("DHIN"). DHIN participation is noted in HRMP but absent from the CPR application kit. This is an example of a question that would be helpful to include on the CPR application to save time in review. There has been at least 1 instance where the review committee could not determine from the CPR application if the applicant participated in DHIN and the question had to be emailed to the applicant and required another review committee meeting to be scheduled. The contents of the CPR application kit should be in line with HRMP contents.

The last revision date of HRB bylaws was October 13, 2016. The JLOSC Draft and Final Reports highlighted inconsistencies between HRB operations and bylaws regarding quorum and HRB member recusals. HRB listed recusals in the completed performance review questionnaire as a challenge; "If a member recuses themselves from voting, that member does not count towards a quorum." However, bylaws define a meeting quorum as 8 members and a voting quorum as a majority of members who are present at the meeting and able to vote.

> The disqualification of a member from voting or a member abstaining from voting shall not affect the quorum. All matters, except as provided for in Article VI of these bylaws, shall be decided by a majority of the members present and voting. Members who abstain from voting on a particular matter are considered "present and voting" for purposes of determining a majority."

It was stated at a November 14, 2019 HRB meeting that, "recusals are not counted as a quorum because it is best practice for the Board member to leave the meeting if recusing from a Board matter. It was noted that the recusal process adheres to the Public Integrity Commission's procedures."

Lastly, bylaws permit HRB to create committees or task forces to assist in conducting HRB business. Article V of HRB bylaws state:

> Committee, Task Forces
> Section 1. Appointment of Committees or Task Forces -- The Board may create such committees, task forces, or such other work or study groups at any time as may be appropriate to assist in the conduct of the affairs of the Board. Such committees or task forces shall be appointed by the Chair and may include in their membership persons other than members of the Board. Such committees or task forces shall operate [in] accordance with Title 29, Chapter 100 of the Delaware Code (Freedom of Information Act).

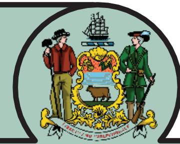
Absent from the bylaws is any information regarding review committees and how they operate. This report recommends the discontinuation of review committees, however, if they continue, they should be added in detail to the bylaws. Currently the only information on review committees sits on the HRB website.

Staff Recommendations and Findings
Delaware Health Resources Board

APPENDICES

FACT SHEET

March 3, 2020 JLOSC Review of HRB



Joint Legislative Oversight & Sunset Committee

Health Resources Board ("HRB") Duties

- Reviewing CPR applications.
- Developing and maintaining a Health Resources Management Plan ("HRMP").
  - Last updated in September 2017.
  - Assesses the supply of health care resources.
  - Outlines process for reviewing CPR applications.
- Identifying and gathering types of data and information needed to carry out responsibilities.
- Address specific health care issues requested by the Governor and General Assembly.

Certificate of Public Review ("CPR") Process

- CPR required for the following 4 activities: *
  - Construction or development of a health care facility.
  - Capital expenditure more than $5.8M.
  - Change in bed capacity by more than 10 beds or 10% of total licensed bed capacity in 2-year period.
  - Acquisition of major medical equipment.
- Applicant files "Notice of Intent."
  - Once application is complete review begins.
  - Filing fees due 30 days after review notification.
- Overview presentation at HRB meeting.
  - Review Committee selected for review.
- Board reviews Review Committee's recommendation and makes final decision based on 7 items of statutorily mandated CPR criteria.

*See HRMP for full details.

Opportunities for Improvement

- Evaluate Certificate of Public Review process and determine if it supports Delaware's current health care delivery system and interest in health care innovation and transformation.
- Evaluate the activities subject to review and the current 7 items of statutorily mandated CPR criteria.
- Review the Board's size and composition, consider adding clarity to the statutory definition of quorum.
- Review and update filing costs for capital expenditures. Consider allocating filing fees to DHCC.

HISTORY OF THE HEALTH RESOURCES BOARD & PRIOR JLOSC REVIEWS

1970

1975 – NHPRDA ACT
National Health Planning and Resources Development Act required states to form Certificate of Need ("CON") programs.

1978 – Delaware CON
CON program established in DE.

1980

1987 – NHPRDA Repealed
Fed pulls associated funding. DE forms 15 member Health Resources Management Council ("Council") to oversee DE CON program.

1990

1991 – Council Expands
Increases to 18 members to review CON apps and adopt by-laws.

1993 – JLOSC Review Final Report
Recommended to sunset the Council and to develop a comprehensive health planning process.

1994 – HRB Created
21 members, review CON apps. CON process sunset date June 30, 1996.

1996 – CON Sunset Date Extended
3-year phase out of CON process, sunset date extended to June 30, 1999.

1999 – CON Process Changes to CPR
Certificate of Public Review (CPR) replaces CON. CPR sunset date June 30, 2002.

2000

2002 – CPR Sunset Date Extended
CPR sunset date June 30, 2005.

2005 – JLOSC Review Final Report
CPR sunset date June 30, 2009. Added notice of intent expirations and provisions for charity care policy. Increased the public-at-large representation from 9 to 10 members.

2009 – Removed Sunset Date
HRB CPR Program continues.

2010

2012 – JLOSC Review Final Report
Reduce membership to 15. Relocation of admin. duties to DHCC under DHSS. Public hearing required when modifying the HRMP.

July Update

Use this form to report all updates that have occurred from the submission of the performance review questionnaire on October 16, 2019 to present date.

- Changes to administrative staff or board membership (includes chair or other officer changes).
    - Carolyn Morris resigned from the Board effective January 29, 2020 as the Representative of Delaware Department of Health and Social Services.
    - Elizabeth Brown, MD was appointed effective February 27, 2020 as the Representative of Delaware Department of Health and Social Services.
- Updates to rules, policies, budget appropriations, or reporting requirements.
    - None
- Information regarding new complaints, appeals, audits.
    - None
- Any planned or submitted rule, by-law, or policy changes.
    - None
- Information regarding new challenges, goals or ideas for improvement.
    - None
- Information regarding COVID-19 impact

  Provide a short summary of impact to entity.
    - At this point in time, we have not seen a direct impact. During COVID, organizations have continued to submit CPR applications to HRB, and the board has continued to meet and review the applications.

  Outline any operational adaptations.
  - If you feel operations will permanently change due to COVID-19, explain and identify any needed legislative changes.
    - Since March 2020, with restrictions placed on convening large meetings, all HRB meetings are now being conducted virtually. We have identified both pros and cons for this meeting format.

      Pros:
      1. Quorum seems slightly easier to achieve because members of the board do not need to travel to an in-person meeting.

      Cons:
      1. Technical challenges with conducting virtual meetings
      2. Conducting virtual meetings are lengthier meetings than in-person meetings because of the amount of time it takes for roll call and recording member votes.
    - The HRB has held three virtual meetings on the following dates due to COVID-19.
      1. March 26, 2020
      2. April 23, 2020
      3. June 25, 2020
    - May and July meetings were not scheduled due to no new business to conduct for those months.

UPDATE REPORTING

Due September 30, 2020 2020 Holdover Update

Joint Legislative Oversight & Sunset Committee

SEPTEMBER UPDATE

Use this form to report all updates that have occurred between August and September 2020.

- Changes to administrative staff or board membership (includes chair or other officer changes).
  - Annie Cordo is the new Deputy Attorney General representing the Health Resources Board effective August 27, 2020. She has replaced Joanna Suder.
- Updates to rules, policies, budget appropriations, or reporting requirements.
  - None
- Information regarding new complaints, appeals, audits.
  - None
- Any planned or submitted rule, by-law, or policy changes.
  - None
- Information regarding new challenges, goals or ideas for improvement.
  - None
- Information regarding COVID-19 impact

  Provide a short summary of impact to entity.
  - At this point in time, we have not seen a direct impact. During COVID, organizations have continued to submit CPR applications to HRB, and the board has continued to meet and review the applications.

  Outline any operational adaptations.
  - If you feel operations will permanently change due to COVID-19, explain and identify any needed legislative changes.
    - Since March 2020, with restrictions placed on convening large meetings, all HRB meetings are now being conducted virtually. We have identified both pros and cons for this meeting format.

      Pros:
      1. Quorum seems slightly easier to achieve because members of the board do not need to travel to an in-person meeting.

      Cons:
      1. Technical challenges with conducting virtual meetings
      2. Conducting virtual meetings are lengthier meetings than in-person meetings because of the amount of time it takes for roll call and recording member votes.
    - The HRB has held five virtual meetings on the following dates due to COVID-19.
      1. March 26, 2020
      2. April 23, 2020
      3. June 25, 2020
      4. August 27, 2020
      5. September 24, 2020
    - May and July meetings were not scheduled due to no new business to conduct for those months.

DECEMBER UPDATE

Use this form to report all updates that have occurred between October and December 2020.

- Changes to administrative staff or board membership (includes chair or other officer changes).
  - None
- Updates to rules, policies, budget appropriations, or reporting requirements.
  - None
- Information regarding new complaints, appeals, audits.
  - None
- Any planned or submitted rule, by-law, or policy changes.
  - None
- Information regarding new challenges, goals or ideas for improvement.
  - None
- Information regarding COVID-19 impact

  Provide a short summary of impact to entity.
  - At this point in time, we have not seen a direct impact. During COVID, organizations have continued to submit CPR applications to HRB, and the board has continued to meet and review the applications.

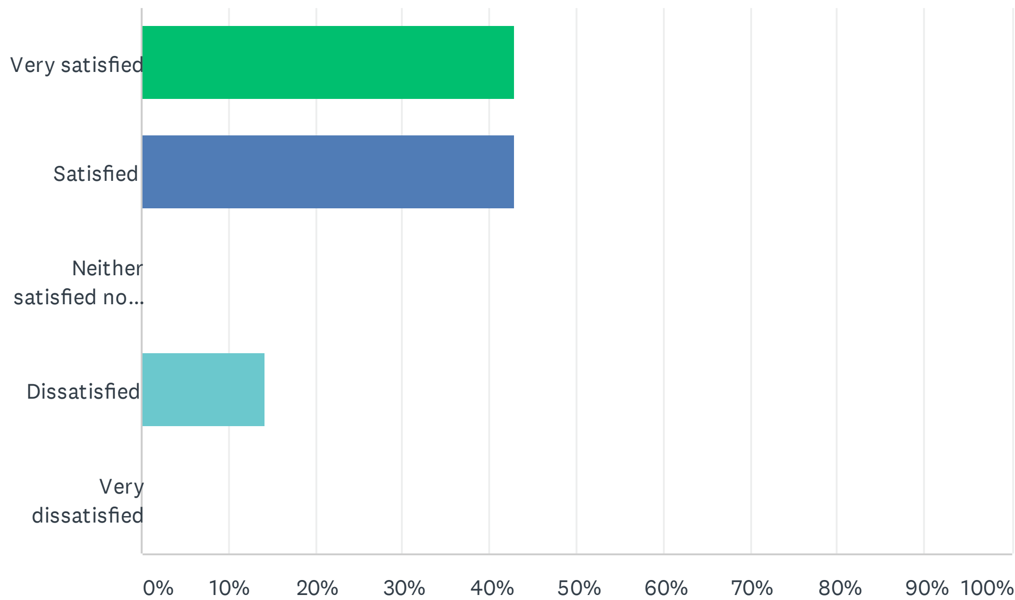
  Outline any operational adaptations.
  - If you feel operations will permanently change due to COVID-19, explain and identify any needed legislative changes.
    - Since March 2020, with restrictions placed on convening large meetings, all HRB meetings are now being conducted virtually. We have identified both pros and cons for this meeting format.

      Pros:
      1. Quorum seems slightly easier to achieve because members of the board do not need to travel to an in-person meeting.

      Cons:
      1. Technical challenges with conducting virtual meetings
      2. Conducting virtual meetings are lengthier meetings than in-person meetings because of the amount of time it takes for roll call and recording member votes.
    - The HRB has held seven virtual meetings on the following dates due to COVID-19.
      1. March 26, 2020
      2. April 23, 2020
      3. June 25, 2020
      4. August 27, 2020
      5. September 24, 2020
      6. October 22, 2020
      7. November 19, 2020
    - May and July meetings were not scheduled due to no new business to conduct for those months.

Q1 Please rate your level of satisfaction regarding the communications and materials you receive from board staff.

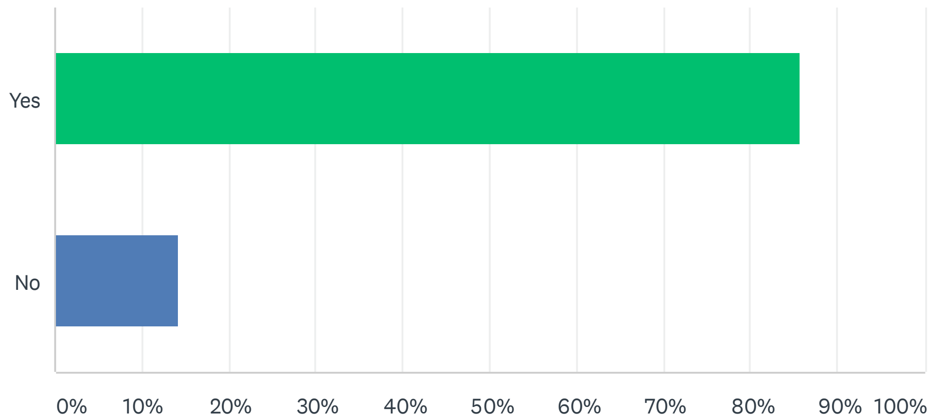
Answered: 7 Skipped: 0



ANSWER CHOICES	RESPONSES	
Very satisfied	42.86%	3
Satisfied	42.86%	3
Neither satisfied nor dissatisfied	0.00%	0
Dissatisfied	14.29%	1
Very dissatisfied	0.00%	0
Total Respondents: 7		

Q2 Do you feel more independent data, analysis, or research on Certificate of Review applications from board staff or another source (other than the applicant) would better assist in your review process?

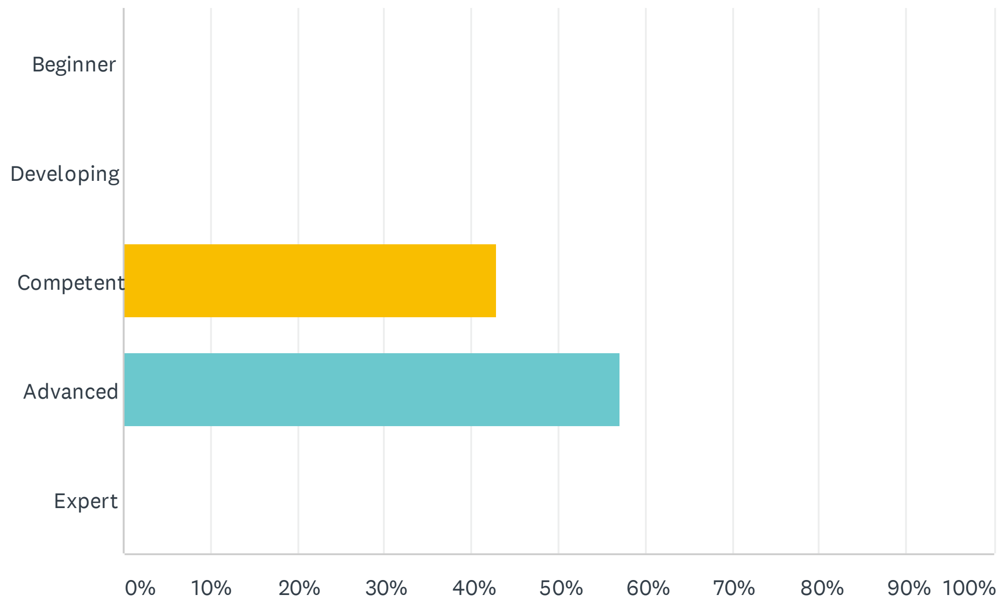
Answered: 7 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	85.71%	6
No	14.29%	1
Total Respondents: 7		

Q3 Please rate your proficiency level in understanding the material contained in the Health Resources Management Plan ("HRMP") and applying its included review criteria to Certificate of Public Review applications.

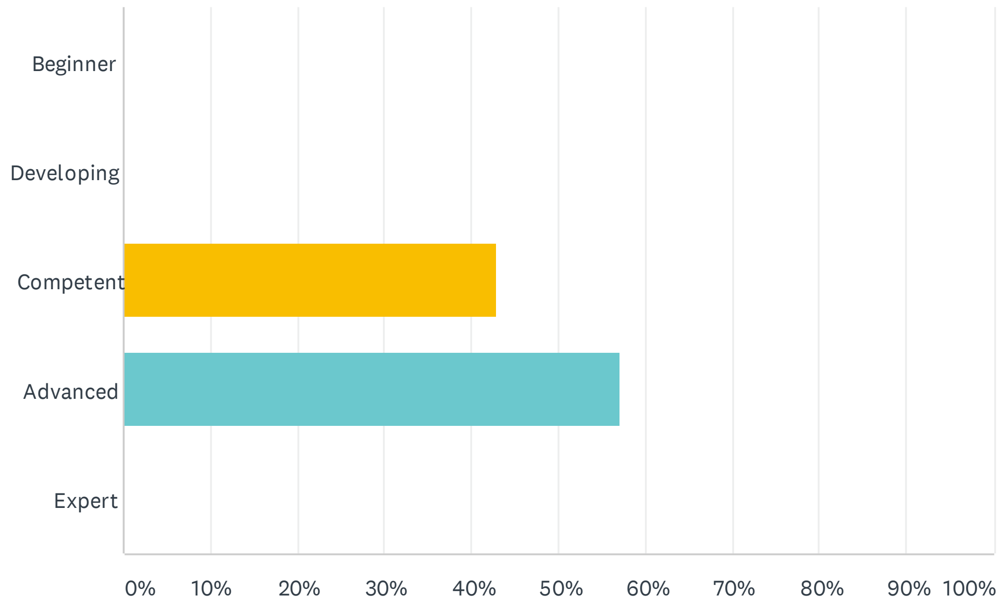
Answered: 7 Skipped: 0



ANSWER CHOICES	RESPONSES	
Beginner	0.00%	0
Developing	0.00%	0
Competent	42.86%	3
Advanced	57.14%	4
Expert	0.00%	0
Total Respondents: 7		

Q4 Please rate your proficiency level on the topic of healthcare policy.

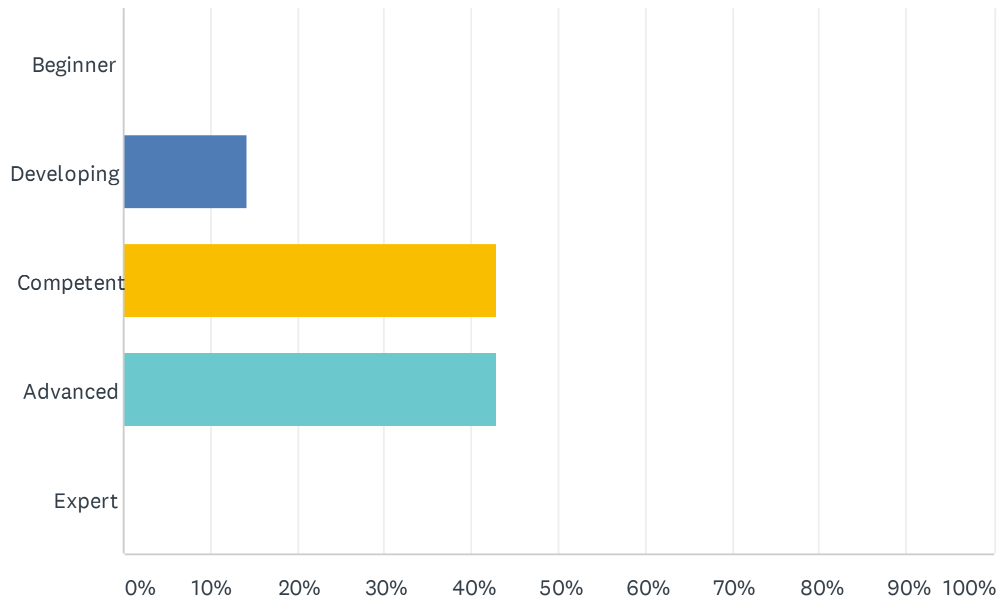
Answered: 7 Skipped: 0



ANSWER CHOICES	RESPONSES	
Beginner	0.00%	0
Developing	0.00%	0
Competent	42.86%	3
Advanced	57.14%	4
Expert	0.00%	0
Total Respondents: 7		

Q5 Please rate your proficiency level on the topic of healthcare model design.

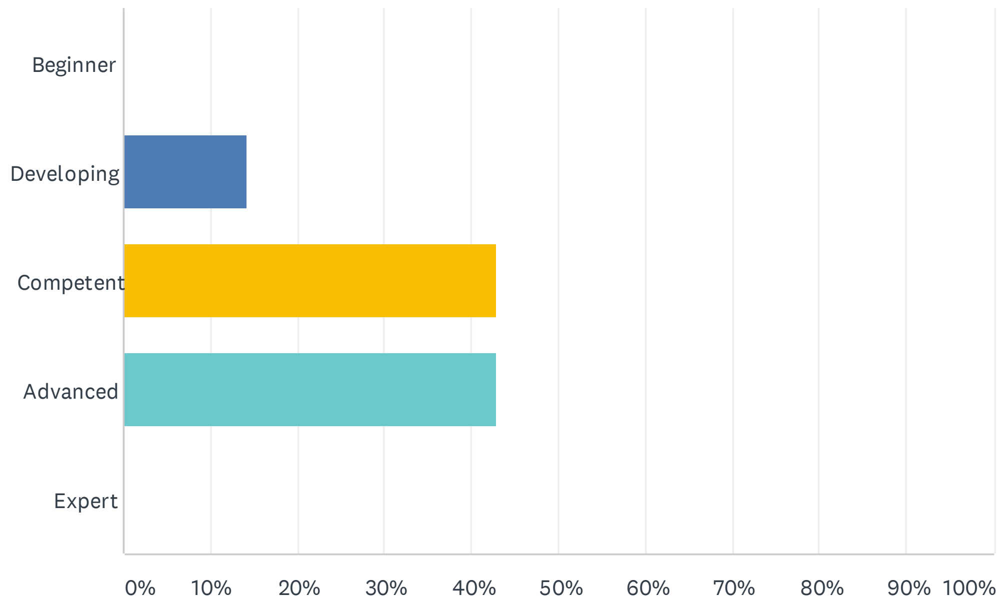
Answered: 7 Skipped: 0



ANSWER CHOICES	RESPONSES	
Beginner	0.00%	0
Developing	14.29%	1
Competent	42.86%	3
Advanced	42.86%	3
Expert	0.00%	0
Total Respondents: 7		

Q6 Please rate your proficiency level on the topic of healthcare cost and market analysis.

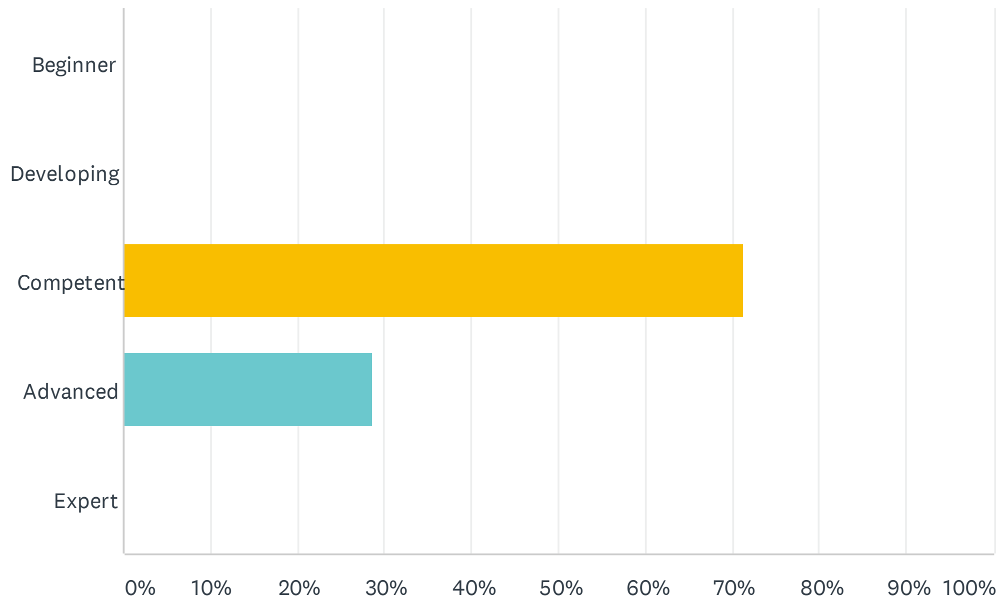
Answered: 7 Skipped: 0



ANSWER CHOICES	RESPONSES	
Beginner	0.00%	0
Developing	14.29%	1
Competent	42.86%	3
Advanced	42.86%	3
Expert	0.00%	0
Total Respondents: 7		

Q7 Please rate your proficiency level on the topic of statewide healthcare cost reduction initiatives.

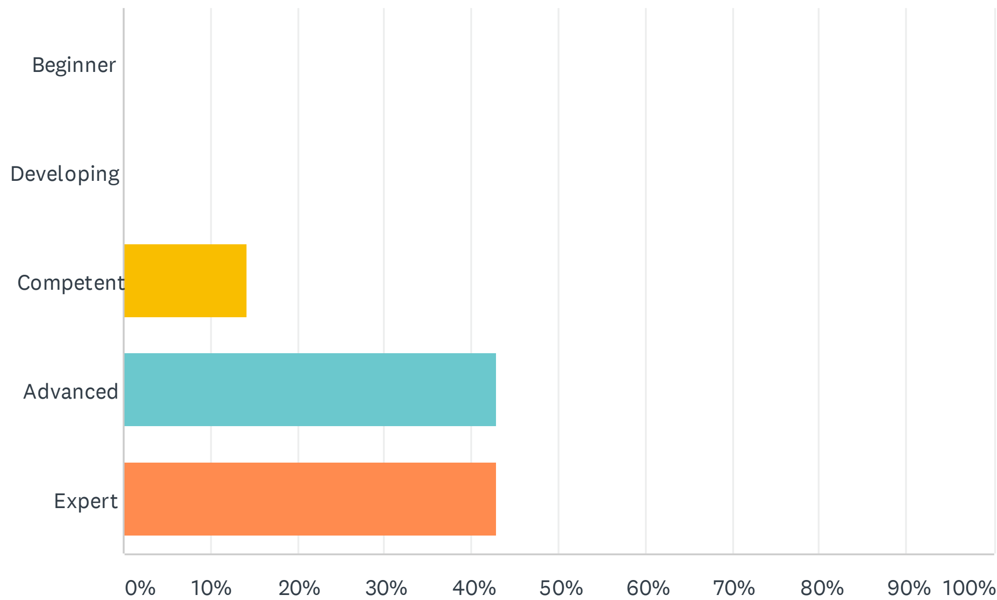
Answered: 7 Skipped: 0



ANSWER CHOICES	RESPONSES	
Beginner	0.00%	0
Developing	0.00%	0
Competent	71.43%	5
Advanced	28.57%	2
Expert	0.00%	0
Total Respondents: 7		

Q8 Please rate your proficiency level on the topic of ethics, which include handling conflicts of interest.

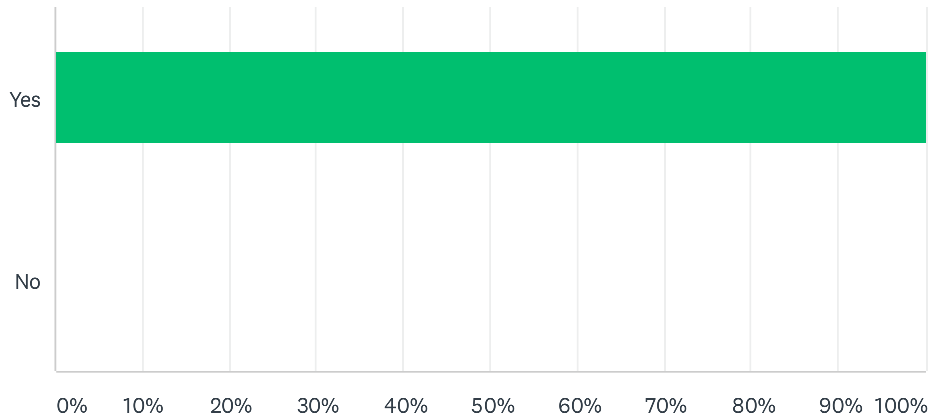
Answered: 7 Skipped: 0



ANSWER CHOICES	RESPONSES	
Beginner	0.00%	0
Developing	0.00%	0
Competent	14.29%	1
Advanced	42.86%	3
Expert	42.86%	3
Total Respondents: 7		

Q9 Do you feel additional training would be beneficial to board members?

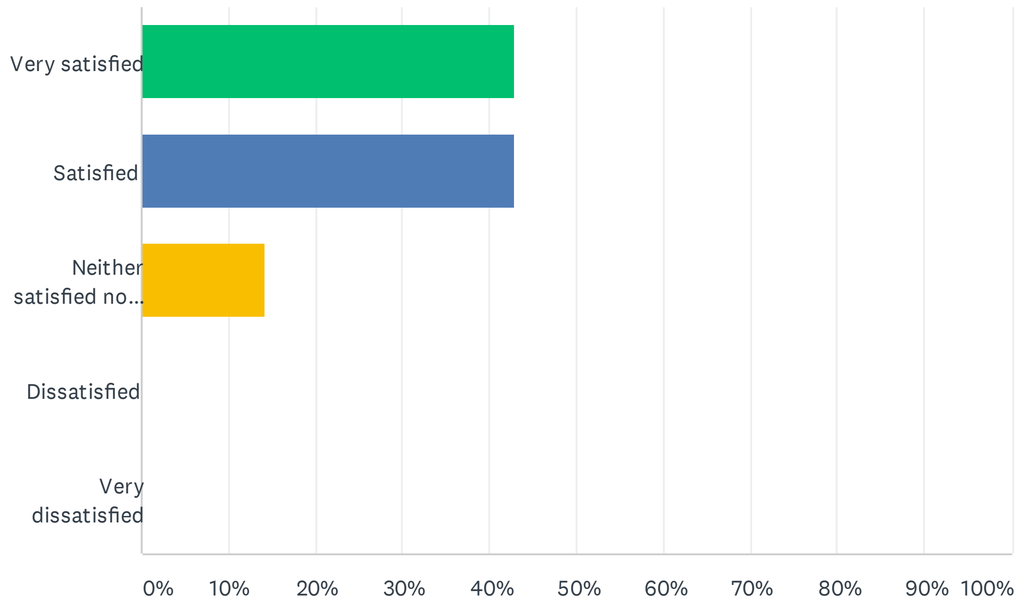
Answered: 7 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	100.00%	7
No	0.00%	0
Total Respondents: 7		

Q10 Please rate your overall satisfaction in serving on this board.

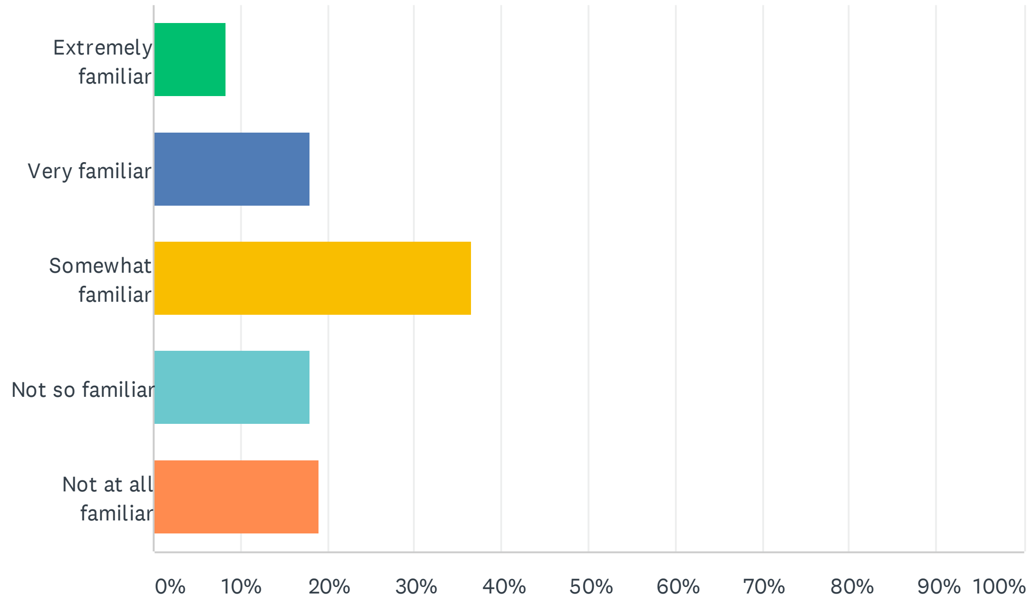
Answered: 7 Skipped: 0



ANSWER CHOICES	RESPONSES	
Very satisfied	42.86%	3
Satisfied	42.86%	3
Neither satisfied nor dissatisfied	14.29%	1
Dissatisfied	0.00%	0
Very dissatisfied	0.00%	0
Total Respondents: 7		

Q1 Please rate your familiarity with the Delaware Health Resources Board.

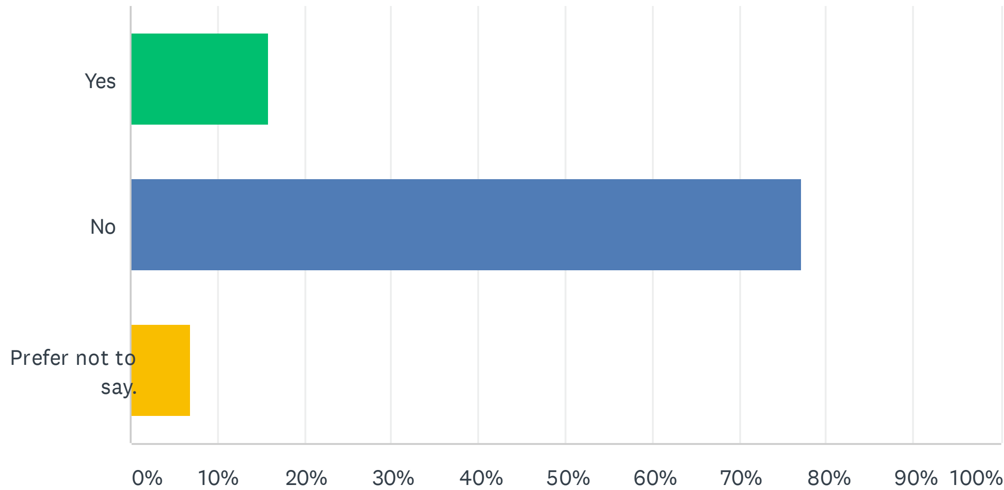
Answered: 189 Skipped: 0



ANSWER CHOICES	RESPONSES	
Extremely familiar	8.47%	16
Very familiar	17.99%	34
Somewhat familiar	36.51%	69
Not so familiar	17.99%	34
Not at all familiar	19.05%	36
Total Respondents: 189		

Q2 Do you have direct experience in the Certificate of Public Review process, either as an applicant or helping an applicant? Note: Experience in the Certificate of Public Review process is not needed to complete this survey.

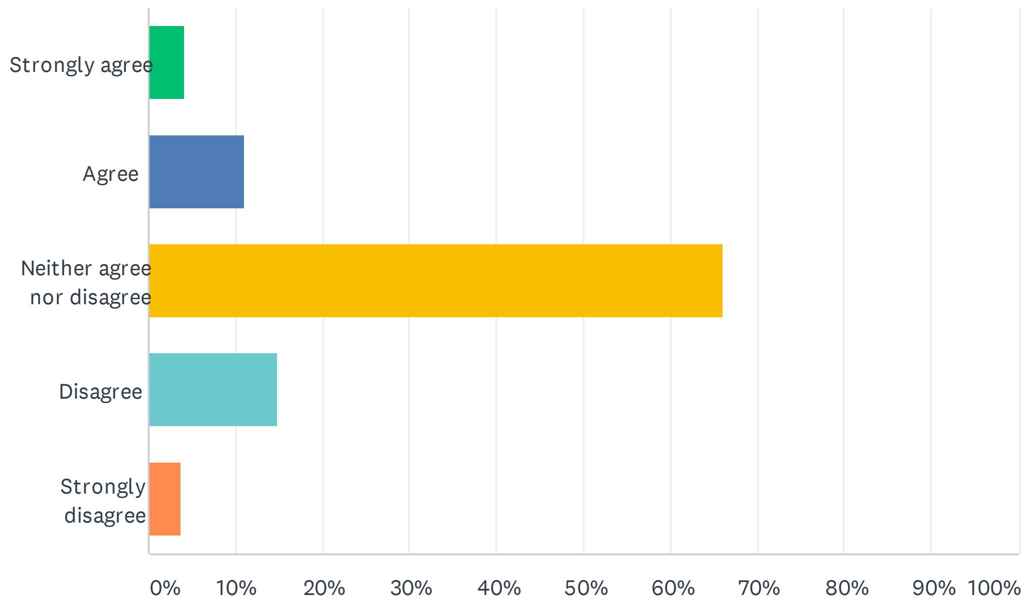
Answered: 188 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	15.96%	30
No	77.13%	145
Prefer not to say.	6.91%	13
TOTAL		188

Q3 Do you feel the Delaware Health Resources Board website is easy to navigate and understand?

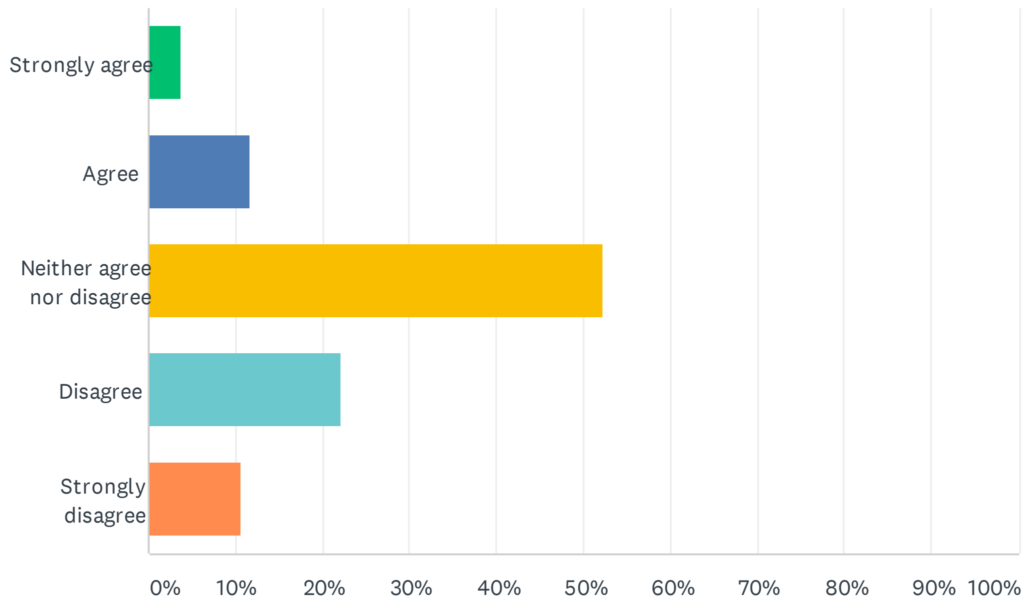
Answered: 189 Skipped: 0



ANSWER CHOICES	RESPONSES	
Strongly agree	4.23%	8
Agree	11.11%	21
Neither agree nor disagree	66.14%	125
Disagree	14.81%	28
Strongly disagree	3.70%	7
Total Respondents: 189		

Q4 Do you feel the Certificate of Public Review application process is easy to navigate and understand?

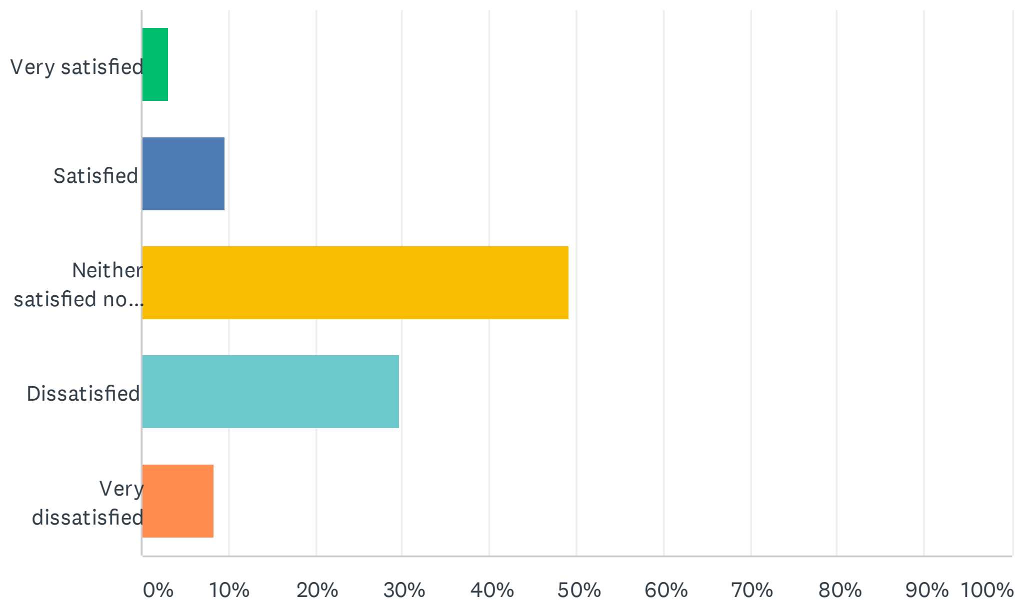
Answered: 189 Skipped: 0



ANSWER CHOICES	RESPONSES	
Strongly agree	3.70%	7
Agree	11.64%	22
Neither agree nor disagree	52.38%	99
Disagree	22.22%	42
Strongly disagree	10.58%	20
Total Respondents: 189		

Q5 Overall, how would you rate your satisfaction level with the review time-frame of the Certificate of Public Review application process?

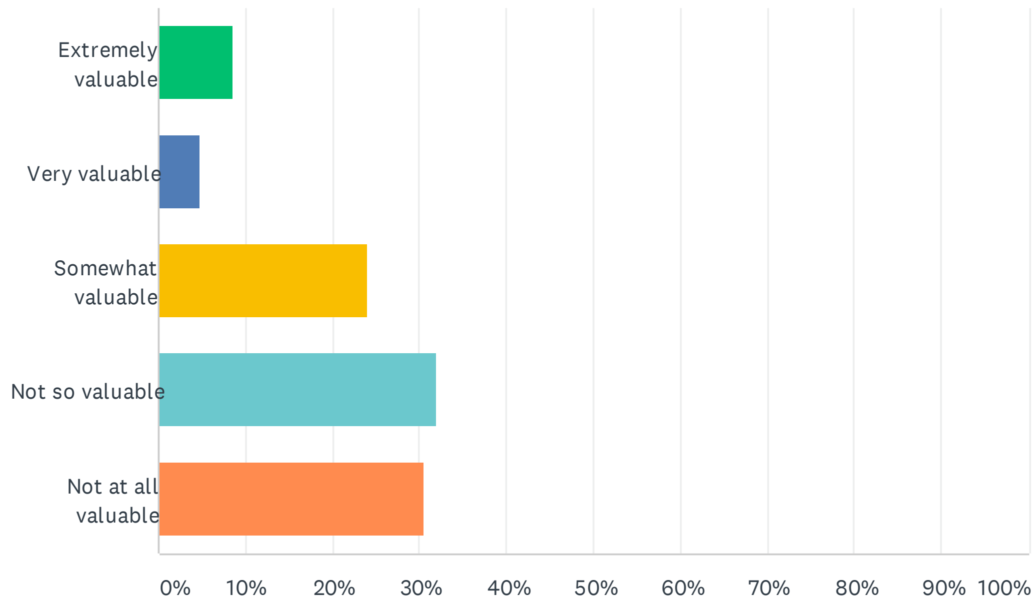
Answered: 189 Skipped: 0



ANSWER CHOICES	RESPONSES	
Very satisfied	3.17%	6
Satisfied	9.52%	18
Neither satisfied nor dissatisfied	49.21%	93
Dissatisfied	29.63%	56
Very dissatisfied	8.47%	16
Total Respondents: 189		

Q6 How would you rate the overall value of the Certificate of Public Review process in Delaware?

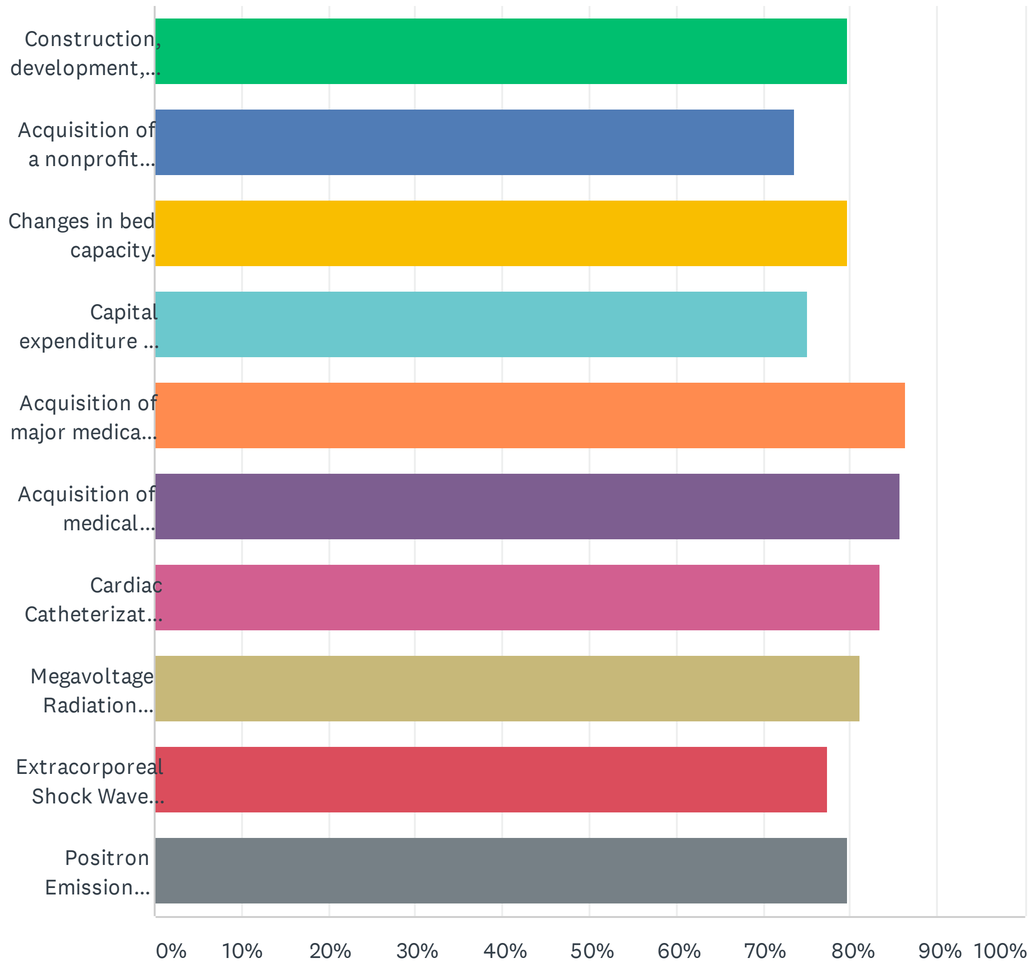
Answered: 187   Skipped: 2



ANSWER CHOICES	RESPONSES	
Extremely valuable	8.56%	16
Very valuable	4.81%	9
Somewhat valuable	24.06%	45
Not so valuable	32.09%	60
Not at all valuable	30.48%	57
Total Respondents: 187		

Q7 Do you believe any of the following listed activities should not fall under the Certificate of Public Review process? Check all that apply. Skip this question if you feel all items should continue review under the Certificate of Public Review process.

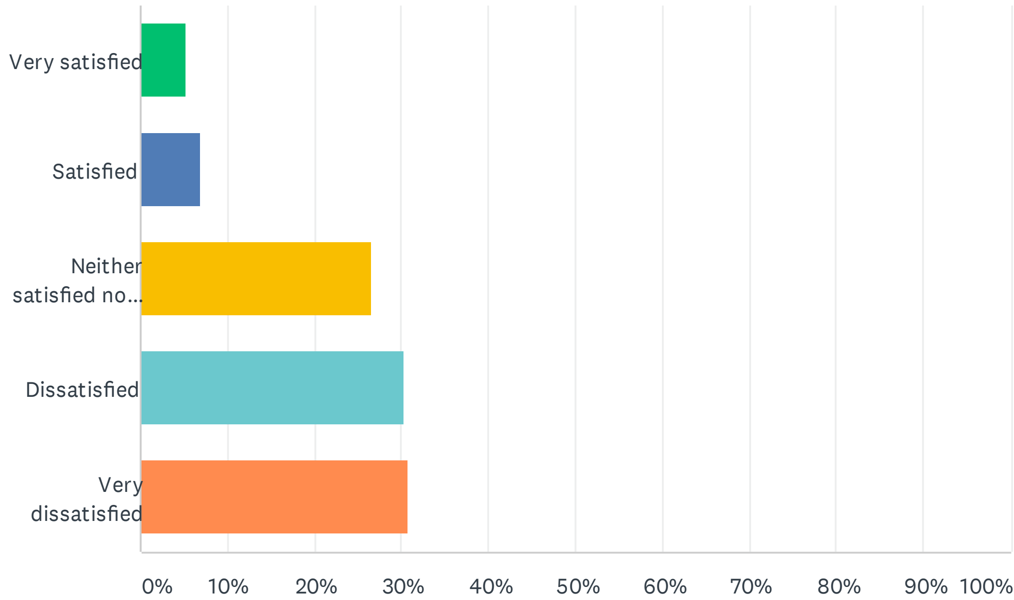
Answered: 133   Skipped: 56



ANSWER CHOICES	RESPONSES	
Construction, development, or other establishment of a health-care facility.	79.70%	106
Acquisition of a nonprofit health-care facility.	73.68%	98
Changes in bed capacity.	79.70%	106
Capital expenditure in excess of $5.8 million by or on behalf of a health care facility (not including a medical office building or physical structure of a facility not directly related to patient care).	75.19%	100
Acquisition of major medical equipment.	86.47%	115
Acquisition of medical technology which is not yet available in Delaware.	85.71%	114
Cardiac Catheterization.	83.46%	111
Megavoltage Radiation Therapy.	81.20%	108
Extracorporeal Shock Wave Lithotripsy (ESWL).	77.44%	103
Positron Emission Tomography (PET).	79.70%	106
Total Respondents: 133		

Q8 How would you rate your satisfaction level regarding the ability of the Health Resources Board to provide a cost-effective and efficient use of health care resources?

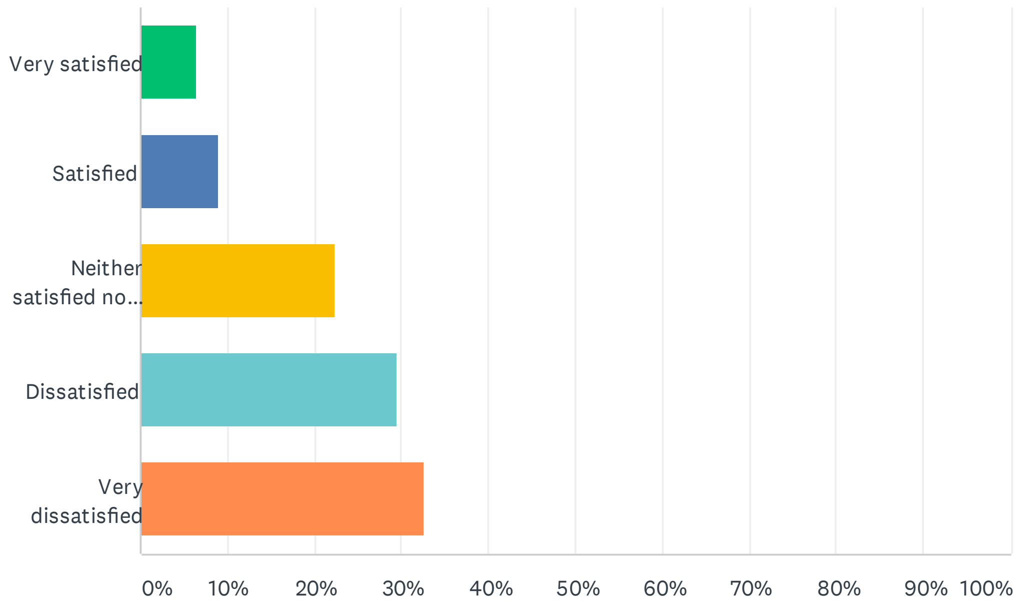
Answered: 188 Skipped: 1



ANSWER CHOICES	RESPONSES	
Very satisfied	5.32%	10
Satisfied	6.91%	13
Neither satisfied nor dissatisfied	26.60%	50
Dissatisfied	30.32%	57
Very dissatisfied	30.85%	58
TOTAL		188

Q9 How would you rate your satisfaction level regarding the ability of the Health Resources Board to ensure that Delawareans have access to high quality and appropriate health care services?

Answered: 187 Skipped: 2



ANSWER CHOICES	RESPONSES	
Very satisfied	6.42%	12
Satisfied	9.09%	17
Neither satisfied nor dissatisfied	22.46%	42
Dissatisfied	29.41%	55
Very dissatisfied	32.62%	61
TOTAL		187

Q10 Do you have any general improvement suggestions for the Delaware Health Resources Board or the Certificate of Public Review process in particular? You may also use this space to share any additional comments with JLOSC analysts. If you need more space, additional written public comments can be submitted to JLOSC analysts at Sunset@Delaware.gov. Indicate in your email if you wish to remain anonymous.

Answered: 95 Skipped: 94