

Deregulation in New Jersey

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For a period of about six years, community health planning experienced a rebirth in New Jersey. It began with the appointment in April 1990 of the Governor's Commission on Health Care Costs, who issued a remarkably comprehensive report embodying some 90 recommendations for major change in the state's health care system. Many of its recommendations were enacted into law as the Health Care Cost Reduction Act of 1991 which was primarily aimed to improve access to health care while containing costs. The new law required the creation of a comprehensive State Health Plan, a State Health Planning Board, and Local Advisory Boards (LABs).

A state appropriation of \$3 million per year funded six LABs beginning in 1992. These LABs were given organizational structures and roles very much like the five Health Systems Agencies (HSAs) the state had until federal funding ended in 1986, but five of the six LABs were sponsored by, or affiliated with, a college or university.

In 1997, funding was reduced to \$2 million and the six LABs were consolidated into three. On June 30, 1998, all LAB funding was eliminated.

During their tenure, the LABs, like the HSAs, endeavored to increase the accountability of the health care system in its use of the state's resources by providing a degree of public process and oversight. Their major contribution was in providing technical assistance at a community level to local public health officers and community based organizations. As a mediator between the community and the Department of Health (DOH), they introduced community perspective and participation into the state's Certificate of Need (CON) process, and greatly facilitated the development in the state of a seamless continuum of long term care services. As research organizations, they identified unmet needs among under-served minority populations.

Certificate of Need

On June 30, 1998, Governor Christie Whitman signed the "Certificate of Need Reform Bill of 1998," beginning the process of narrowing the scope of the state's CON process over the next three years. In recent years, the state's hospital industry has lobbied for deregulation and for parity with the insurance industry (HMOs), arguing that DOH licensure provisions would be adequate safeguards. With a pro-business Republican legislature and governor, its arguments found increased favor as legislators looked to market competition to secure economic benefits for their state. Even so, legislators exercised concern for quality of care, realizing that CON has helped maintain volume, competence, and efficiency of specialized health care services since its inception in 1971.

The following services are no longer subject to CON:

- Residential health care facilities ;
- Capital improvements and renovations;
- Addition of medical/surgical, adult intensive care, and adult critical care beds;
- Replacement of major movable equipment;
- Inpatient ORs;
- Alternate Family Care;
- Hospital-based sub-acute care;
- Ambulatory care facilities;
- CORFs;
- Special child health;
- New technology (not currently under CON or licensure);
- Transfer of ownership of LTC facilities;
- Additions to vehicles or hours of operation of MICUs;
- MRI; and
- Acute renal dialysis (chronic has not been under CON).

The threshold for the acquisition of new major movable equipment and for construction of a health care facility was increased from \$1 million to \$2 million.

The following services presently under CON will be removed no later than April 2000, giving DOH up to 20 months in which to establish licensing requirements:

- Lithotripter;
- Hyperbaric chambers;
- PET scanners;
- Residential drug and alcohol services;
- Ambulatory surgical facilities;
- Basic pediatric and maternity services and birth centers, including addition of basic beds in hospitals; and
- Linear accelerators

Under the law, a CON Study Commission will be empaneled to consider further deregulation of the following services:

- Nursing homes;
- Home health agencies;
- Assisted living residences and programs;
- Comprehensive rehabilitation services;
- Trauma services;
- Transfer of ownership of an existing general acute care hospital;
- New general acute care hospitals;
- Special hospitals;
- Children's hospitals
- Organ banks;
- Cardiac surgery and cardiac catheterization;
- MICU's;

- Organ and bone marrow transplantation, including stem cell;
- Burn centers;
- Specialized perinatal and pediatric services, including maternal and child health consortia, pediatric intensive care and neonatal intermediate and intensive care;

Any other health care services and facilities subject to CON that are not already exempted or scheduled for exemption.

The Study Commission shall review services to determine the impact of their removal from under CON on urban hospitals, access to care by state residents, quality of care, services that are delivered on a statewide or regional basis, and Medicaid. The Commission must issue its report within 20 months, including specific recommendations to the governor and the legislature regarding those services that should continue to be subject to CON requirements. The Commission will have 15 members only one of whom will be a consumer, and will be chaired by the DOH commissioner.

In recent years, efforts to reduce CON have been opposed by many urban hospitals which have always offered most of the highly specialized services. Without the cost shifting made possible by well-insured suburban patients, the state would have to subsidize coverage for the uninsured and other medically underserved urban populations.

With the demise of the state's LABs, the only quasi-public body left which can conduct a public hearing during the course of a CON review is the State Health Planning Board. However, the new law provides that only in the case of a CON application to close a facility or eliminate a service, the Board will conduct at least one public hearing within 30 days.

As in other states, deregulation in New Jersey is being marketed to the media as "reform," but really amounts to elimination of what little public process remains from prior years when government's role was to ensure provider accountability and consumer protection. At this time, all of New Jersey's hospitals are still not-for-profit, but that is soon likely to change.