

PERSPECTIVE

Promoting Health Care Transparency and Competition



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By Kevin T. Kavanagh, MD

Kentucky's Certificate of Need Process Needs Overhauling

Kentucky has a healthcare system in crisis. This is a national problem, but, according to Time Magazine, south-eastern Kentucky has the dubious distinction of having the lowest life expectancy in the United States. The Fifth Congressional District has a shorter life expectancy than in Mexico and China. There is no doubt that both healthcare delivery systems and life styles play an important part. However, with the worsening economy, Kentucky has to revise its healthcare system.

Currently, our system is based upon the prevention of duplication rather than the fostering of competition. A certificate of need, or CON, is required to build major medical facilities or start major healthcare programs in the state.

A plethora of academic research studies on the CON have failed to show any significant lowering of healthcare costs. [One study by Conover](#) found higher costs in States with mature CON programs. In 2004, a [massive study by the Federal Trade Commission and Department of Justice](#) Stated:

"The Agencies believe that, on balance, CON programs are not successful in containing health care costs, and that they pose serious anti-competitive risks that usually outweigh their purported economic benefits."

The CON fosters both corruption and special legislation with institutions and corporations petitioning the State for permission to build facilities. In some

states, the granting of such requests has fostered corruption.

Most recently, the [criminal complaint against Governor Blagojevich](#) alleges that at least one member of the Illinois **Health Facilities Planning Board** "was soliciting bribes in exchange for board action." **Specifically, an out of state hospital corporation received a CON in exchange for a promise of a large campaign contribution. Special legislation and CON attorney's fees can add hundreds of thousands of dollars to the CON application process, dollars better spent on healthcare services.**

Kentucky also has major CON problems. **Metaphorically, it takes an "Act of Congress" to build an additional hospital in the State.** Our CON process for acute care facilities is [frozen with decronian regulations](#) making it impossible to build additional facilities. Bullitt County required a roundabout regulatory solution of shifting beds from one facility to another. The solution was specific for Bullitt County and is unlikely to help other parts of the State.

Jessamine County still does not have an acute care facility. It has an emergency room without an attached hospital. The facility can treat most nonemergencies but many true emergencies which require hospital care will still have to be transferred. Our healthcare system is based upon a scoop and run approach, not a stabilization and transfer system. The latter can cause life-threatening delays in treatment. One needs to be taken

*Summary
(Total Word Count 600)*

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Continued On Reverse Side

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quickly to a facility capable of treatment. Failure to do so was one of the purported causes of Princess Diana's death.

There is ample evidence that CONs do not reduce healthcare costs and once obtained, sometimes by a for-profit corporation, they can be bought and sold. For example, last November [Almost Family, Inc. acquired the CON](#) and home health license in a transaction to expand its

services in counties south of Louisville.

Optimally, the CON should be eliminated but if we cannot do this, **let's not just give it away.** CONs are valuable commodities. The State, not petitioners, should decide where CONs are needed; then should place them nationally up for bid. Monies raised could then be matched with Federal Medicaid funds to benefit all State facilities,

not just the one being given the CON.

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Addressing problems with Kentucky's CON, along with increasing the tobacco tax and requiring Medicaid non-payment for never events (preventable adverse medical outcomes) should substantially improve our healthcare system.

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Health Watch USA is a non-profit nonpartisan 501(C)3 organization which is dedicated for the promotion of high quality, affordable and accessible healthcare.

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