

Proposed Repeal of Remaining Certificate of Need Rules for Diagnostic Centers

Public Hearing: October 6, 2016

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- Disagree with hospital objection to the proposed repeal of diagnostic center rules.
- The CON Diagnostic Center rules are antiquated. The practice of medicine has evolved significantly since the rules were codified in September 1, 1993. Diagnostic testing has been on a steady progression towards the outpatient setting; and in fact, repeal of these rules serves the public interest of improving access and reducing cost, without any reduction in quality of care.
- The Diagnostic Center rules have long been considered by the Agency and by providers to be problematic in CON application reviews; the proposed rules repeal is an appropriate and necessary solution to a long-standing problem.
- Repeal of the remaining diagnostic center rules will not diminish the Agency's ability to fully evaluate a CON application's conformity to statutory review criteria. Both the existing Acute Care/Medical Equipment form, and the proposed updated Acute Care/Medical Equipment form (effective January 1, 2017) adequately request all information necessary for the Agency to appropriately conduct its review.
- The Diagnostic Center rules are cumbersome and request information that is typically not publicly available.
- The Diagnostic Center rules are anti-competitive. They create a built-in conflict of interest, by enabling a CON applicant's opponent to thwart competition via submission of unverifiable data during the CON public comment period. Specifically, via opposing comments, a competing provider can use the Diagnostic Center performance standards rule to submit any equipment utilization or capacity figure of its choice without risk of independent verification or opportunity for refutation. Pinnacle Health Services recently experienced exactly this scenario when attempting to replace its medical diagnostic equipment.
- In the case of replacing existing medical diagnostic equipment already in use (i.e. no net increase in inventory/capacity within a service area) the remaining Diagnostic Center rules are completely unnecessary. Utilization of other similar equipment is not relevant in such CON reviews.
- For these reasons, it is necessary and appropriate to repeal the remaining diagnostic center rules.