

TO: DAN LONG
COMMISSION ON GOVERNMENT FORECASTING AND ACCOUNTABILITY,
ILLINOIS
FROM: THE LEWIN GROUP
DATE: MARCH 2, 2007
SUBJ: CON AND NURSING HOMES

Per the commission's request made on Feb. 22, we submit this memorandum on whether the Illinois CON law should continue to cover nursing homes. There are at least two basic rationales for CON laws covering nursing homes.

First, CON laws are purported to contain Medicaid expenditures on nursing homes. Because Medicaid constitutes an important component of state expenditures and nursing homes constitute 16 percent of Medicaid expenditures,¹ containing expenditures on nursing homes is important to states' budgets. CON laws and moratoria on nursing home construction restrict the supply of nursing home beds. In 2002, 30 states had a CON program that covered nursing facilities, and 17 states had a construction moratorium for those facilities.² However, just as the national literature does not find that CON lessens total health care expenditures, it also does not find an impact on Medicaid nursing home expenditures.³

Second, CON laws are purported to stabilize the nursing home industry. Without a CON law or a moratorium, nursing homes might be vulnerable to new entrants in their geographic area, making it difficult for them to plan. According to this argument, a CON law gives them the security necessary to make investments.

Neither rationale is particularly convincing given the empirical evidence. On the other hand, there appears to be little harm in retaining CON's coverage of nursing homes, at least under present conditions given our previous recommendations. And, moreover, the use of moratoria and/or CON laws possibly makes the transition to home and community-based services more timely and efficacious.

In addition to the above, we would like to add a point of clarification. By "safety-net hospitals," we would include those hospitals in which safety-net services constitute a significant proportion of their services.

¹ Kaiser Commission on Medicaid and the Uninsured, "2004 State and National Medicaid Spending Data," <http://www.kff.org/medicaid/kcmu032406oth.cfm> (accessed March 1, 2007).

² Grabowski DC, et al. "Recent Trends in State Nursing Home Payment Policies," *Health Affairs* (June 16, 2004): W4-363-373. Note that some states had both a CON program and a moratorium.

³ See, for instance, one of the most recent articles on this topic: Grabowski DC, et al. "The Effects of CON Repeal on Medicaid Nursing Home and Long-Term Care Expenditures," *Inquiry* 40 (Summer 2003): 146-157.