

Health Care “As a System” at the Community Level

This approach builds on the precedents of the ADA in addressing disparities in health care and in health status for racial and ethnic minorities as well as for persons with disabilities. It proposes a framework for applying nondiscrimination principles to health care delivery at a geographical level by incorporating nondiscrimination standards into existing health care regulations such as licensing, quality assurance, accreditation, conditions of participation, and certificate of need in order to make the health care delivery system function “as a system” at the community or regional levels. The strategy consists of applying nondiscrimination standards to publicly accountable mechanisms to: (1) remove obstacles to equal access and quality within health care provider entities; (2) increase coordination among all components of the health care delivery system to increase efficiency, effectiveness, and equity; and (3) overcome inequalities in social determinants of health at the community and regional levels that have a major impact on health.

By linking nondiscrimination principles to community health planning mechanisms, it should be possible to improve quality, increase access, and contain costs, serving the total population in a geographical area in the most efficient, effective, and equitable way. Attached is a one-page summary of a civil rights strategy for transforming the health care delivery system that I presented to a session on “Civil Rights and Health Care” sponsored by the Community Health Planning and Policy Development section of the American Public Health Association in 2007.

INSTITUTE OF SOCIAL MEDICINE & COMMUNITY HEALTH

“CIVIL RIGHTS STRATEGY FOR TRANSFORMING HEALTH CARE DELIVERY”

Aim: Create a system of public accountability by using Title VI of the Civil Rights Act of 1964 to reduce health disparities by requiring changes in the health care delivery system that have a disparate impact on racial and ethnic minorities.

Means: Extend the protections for equal access that persons with disabilities have under the ADA to racial and ethnic minorities under Title VI.

- A. add the concept of "reasonable accommodation"
- B. broaden the concept of "public accommodation"
- C. extend the concept of "program accessibility" in Title II of the ADA to nondiscrimination standards that can be applied to the entire health care delivery system "as a system" at the community level
- D. incorporate principles of nondiscrimination as interpreted by the Courts into health care regulations such as licensing, quality assurance, accreditation, conditions of participation, and certificate of need
 - a. circumvents legal obstacles that the Courts have imposed to block a private right of action unless there is grounds for "intentional discrimination"
 - b. apply nondiscrimination standards to mechanisms of accountability to identify and reduce disparities in health care and in health status

Strategy: Regulate health care delivery system "as a system" at the community level

- A. Address inefficiencies, ineffectiveness, and inequities in health care delivery system at the community level through a Certificate of Need (CON) type process coordinated by local health department and regional Health Systems Agency (HSA)
- B. Utilize regulatory authority through licensing, quality assurance, accreditation, and conditions of participation to promote community benefit obligations and strengthen functioning of health care delivery system "as a system" at the community level
- C. Coordinate through a consensus building publicly accountable process the interface of health care delivery system and social determinants of health
- D. Capture surplus in health care delivery system and redirect to expand health care coverage, and/or address social determinants of health
- E. Utilize funding and regulatory authority at the state and federal levels to reduce disparities in health care and health status at the community and/or regional levels in the most efficient, effective, and equitable way

Goals:

- A. Overcome fragmentation in health care delivery that undermines public accountability
- B. Provide health care to the total population within a geographical area in the most efficient, effective, and equitable way (universal design)