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Health Care Reform that Makes Sense

By Michael Thompson

12/4/2015 – Momentum is building for the Virginia General Assembly to pass long-overdue changes to the Certificate of Public Need (COPN) law. Under the National Health Planning and Resources Development Act, 49 states implemented COPN laws in order to receive federal funding. This law was originally intended to control costs by requiring the State Health Commissioner to limit the supply of health care. However, according to the Mercatus Center at George Mason University this law has not succeeded in controlling costs. This federal law was repealed in 1987, and since then the number of states with COPN laws has been reduced to 36.

Many health care providers and facilities, and others who would otherwise like to serve Virginia patients, are beginning to advocate reforms to the COPN law. Reforms are needed because these restrictions under COPN are anti-competitive, limit patient choices, and forces patients to pay higher prices for services than they would otherwise. For instance, according to Virginia Health Information, in 2012 a Head/Brain CT Scan in a hospital cost roughly four times what it would have cost in a physician's office. However, because Virginia's COPN law prohibits a physician from offering the same service at a lower cost in a community, a patient may well have no choice but to pay significantly more.

The Virginia Hospital and Healthcare Association is currently spending a lot of money on a public relations campaign, arguing that hospitals are in financial trouble and need the COPN law in order to survive. They do so in part by saying that hospitals cannot afford to compete with other hospitals or other providers for the delivery of health care services that could happen as a result of COPN reform. However, the hospitals' own self-reported numbers continue to show that overall hospitals are doing well financially. As a recent study by the Thomas Jefferson Institute shows, hospital profits increased 10.7% from the numbers released in 2014 compared to 2013 and another 8.3% between 2014 and 2015. In every region of the state, the hospital industry as a whole is profitable.

As a *Richmond Times-Dispatch* editorial explained last month, “*The COPN system is an outdated response to a bygone problem that had been created by old federal reimbursement formulas. But big hospital chains have found (COPN laws) very handy when they want to stifle competition from upstarts who might provide better services at lower prices.*”

The hospital association and its allies that benefit from this anti-competitive law are opposed to real reform. They want to keep the law. It is easier to gain new patients and collect more revenues when they are legally protected as the only service provider in town.

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Ironically, the Hospital Association of Pennsylvania opposed a measure earlier this year that would have restored COPN laws in that state. The Pennsylvania COPN law expired in 1996. While the Virginia hospital association claims hospitals will be significantly harmed without COPN laws, the Hospital Association of Pennsylvania explains that COPN laws should not exist because there is no evidence that they contain costs and they result in a costly and cumbersome process. The COPN law results in unintended consequences, including preventing the appropriate availability of services in a community.

The Hospital Association of Pennsylvania testified, “In conclusion, hospitals believe that fair competition is essential in health care delivery, just as it is in health care coverage. Competition that enables choice by consumers in accessing health care fosters innovation and improvement in health care and is essential in advancing medical practice and technology.”

In the upcoming legislative session, the Virginia General Assembly has the distinct opportunity to not only enact reforms that will empower patients with more choices on where to receive care, but to also give more health care providers the opportunity to treat the patients they are trained to help.

Reforming Virginia’s COPN laws will increase access to care, do a better job of controlling health care costs, and encourage more innovative health care solutions. These reforms would also result in a healthier, pro-business free-enterprise health care system that is working well for many other states. And that might well help create jobs and spur economic growth. With any luck, the growing momentum for COPN reform will result in General Assembly action next year. Let’s hope that is the case.

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