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Eliminate CON, embrace competition

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Summary
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Kentucky's health-care Certificate of Need (CON) law gives existing hospitals cartel-like control that keeps prices high … and the competition out.

Sixteen other states have dropped an unhealthy policy while several others are moving in that direction. Kentucky's doctors have diagnosed the condition as being as harmful to Kentucky's health-care system as chain-smoking is to a heart patient. Even the federal government has rejected the practice as the wrong prescription for serving citizens' health-care needs.

Yet the state of Kentucky continues to require that communities obtain a Certificate of Need (CON) – government's permission slip – before building new acute-care hospitals or diagnostic centers.

Some CON proponents argue that restrictions on the free market are necessary to hold down health-care costs by preventing too many hospitals from being built. Yet even the federal government, which initially endorsed such interference in the free market, concluded that CON requirements not only failed to hold down costs, but were creating a whole new set of problems.

A growing mountain of evidence shows that rather than restraining the cost of health care, CON policies simply serve to protect existing facilities from facing competition. Even worse, they often generate a higher price tag for badly needed treatments of serious illnesses.

For example, a study by the Washington Policy Center found that CON laws had driven up the cost of kidney dialysis treatments. Dialysis providers seeking state permission to open new facilities were opposed by rival companies, who fought approval of certificates of need as a way of limiting competition in their region. The Puget Sound Business Journal reported that the effect of stifling competition has increased the price of kidney dialysis by 330 percent to 500 percent.

A government policy limiting competition offers the wrong prescription. Usually such programs are promoted as being beneficial for the greatest number of people who most need quality health care but will not be able to afford it if competition is allowed. Yet CON regulations have not proven healthy for ill patients needing kidney dialysis in the state of Washington.

Kentuckians also are feeling the sting of the CON needle as it injects a government solution containing a paralyzing effect on the availability of health-care services.

A CON request by officials in Jessamine County, which has a vibrant and growing economy, to build a new $32-million hospital in their area was recently turned down. Instead, the county was approved for two urgent-

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care centers, despite the fact that both centers combined will cost $48 million – significantly more than the hospital's price tag.

To add to the absurdity, ambulances won't be allowed to stop at these new facilities because laws require that they speed past them, across county lines to an acute-care hospital – since there is no such nearby facility at which to stop.

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Either state officials were having a bad math day when they considered the request, or perhaps they did not understand the implications to the health of citizens or maintaining the growth of Jessamine County.

Granting a CON for an acute-care hospital would improve access to services. Denying it is another clear example that any health-care savings a CON produces is often related to the setting of barriers and decreasing access and not through the lowering of costs. After all, a dead patient arriving at an emergency room costs less than one that's still alive!

This is the kind of silliness that happens when government fails to consider the consequences of limiting competition in the name of "protecting" its constituents.

About the only entities receiving "protection" under the current system are existing monopolies, including standing for-profit hospitals which can more easily expand and offer services under less-rigid CON requirements. This ensures that only a certain number of facilities will be built while also protecting their market share and ensuring beds at new competing facilities are never established.

Such a policy has a particularly negative effect on a state like Kentucky with its many rural communities, many of which already struggle to provide specialized care and life-saving services. In fact, according to SEC filings, many for-profit hospitals – which are being granted virtual cartel-like control in states with CON requirements – "target" rural markets because of "their favorable demographic and economic trends and competitive conditions."

However, competition is what has made this nation great. And no matter how big corporations become, economy of size does not take place when a monopoly exists. Without market pressures, prices increase and quality may even decrease.

At the very least, most clear-thinking Kentuckians must scratch their heads and wonder: How can such a policy be promoted as holding down costs and increasing access for those in need of hospitalization? Many are certainly diagnosing the policy of restricting competition as being unfair … like offering a sick patient the wrong medicine.

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