Health Care in Kentucky

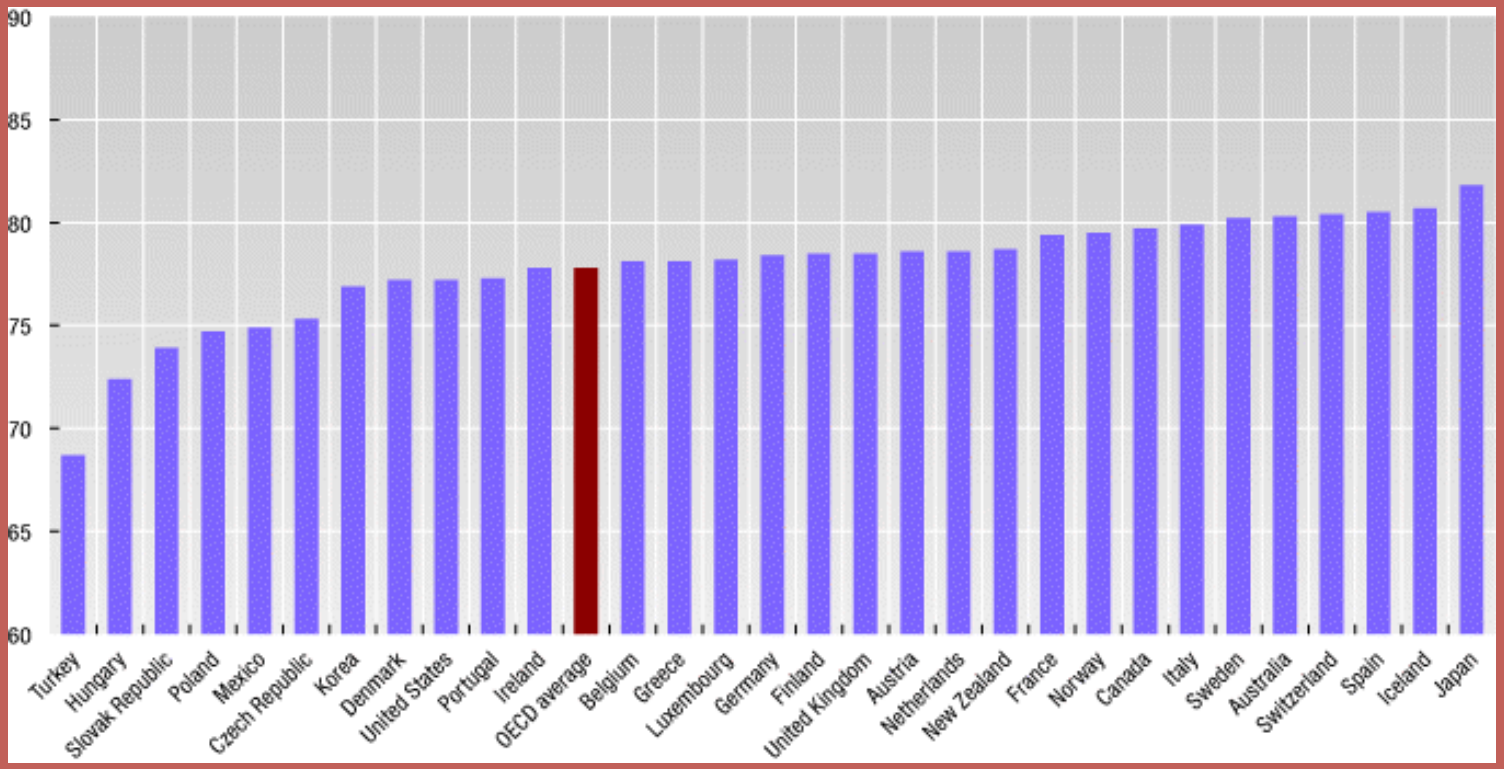
Consumer Driven Health Care

Kevin T. Kavanagh, MD
Board Chairman Health Watch USA
April 17, 2007

www.healthwatchusa.org

US Life Expectancy

- The United States doesn't even rank in the Top 10 nations for life expectancy. In fact, we were below average.



2006 annual report of 30 Industrialized & European Nations by the Organisation for Economic Co-Operation and Development. (Year 2003)

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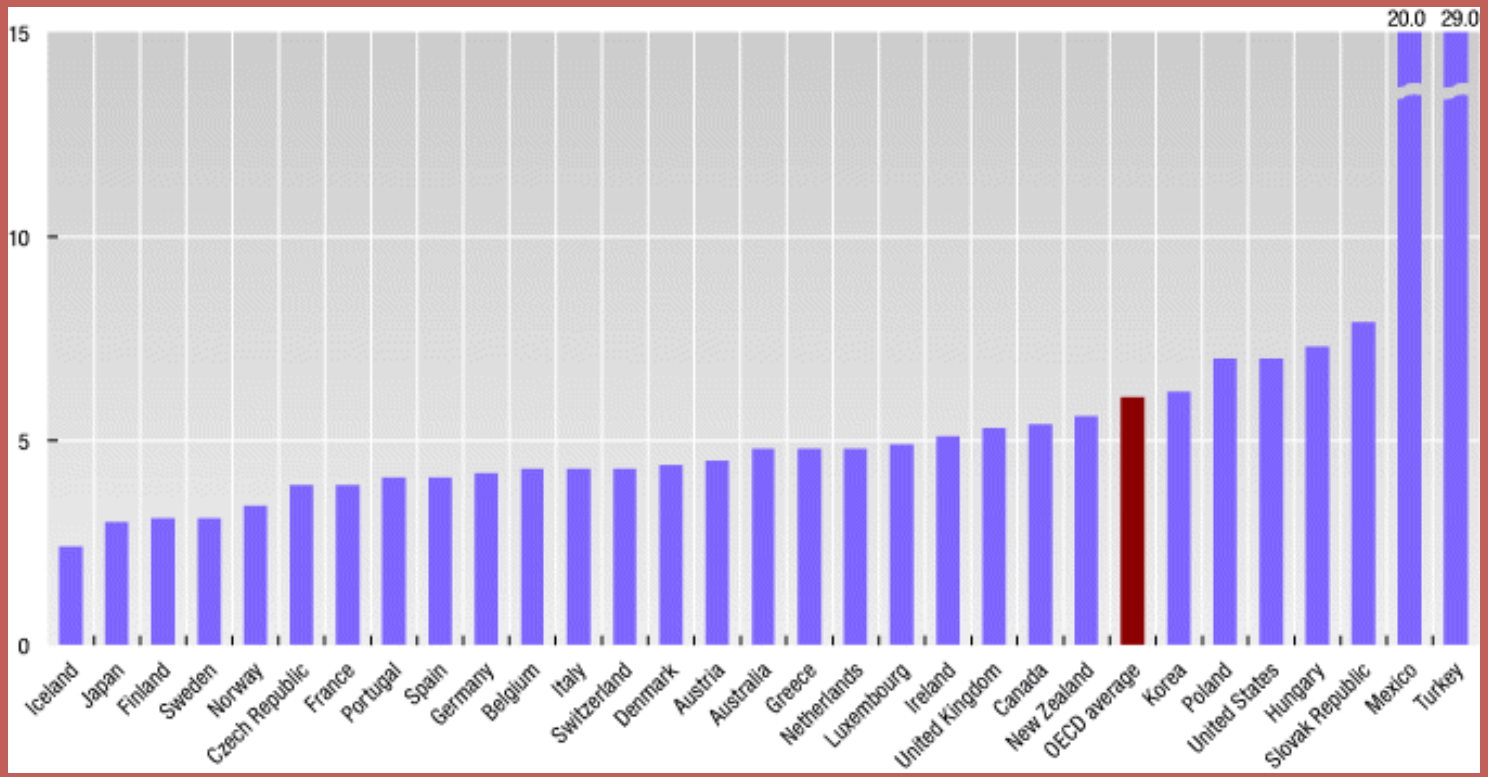
US Infant Mortality

- The United States has a below average infant mortality.



2006 annual report of 30 Industrialized & European Nations by the Organisation for Economic Co-Operation and Development. (Year 2003 or latest year available)

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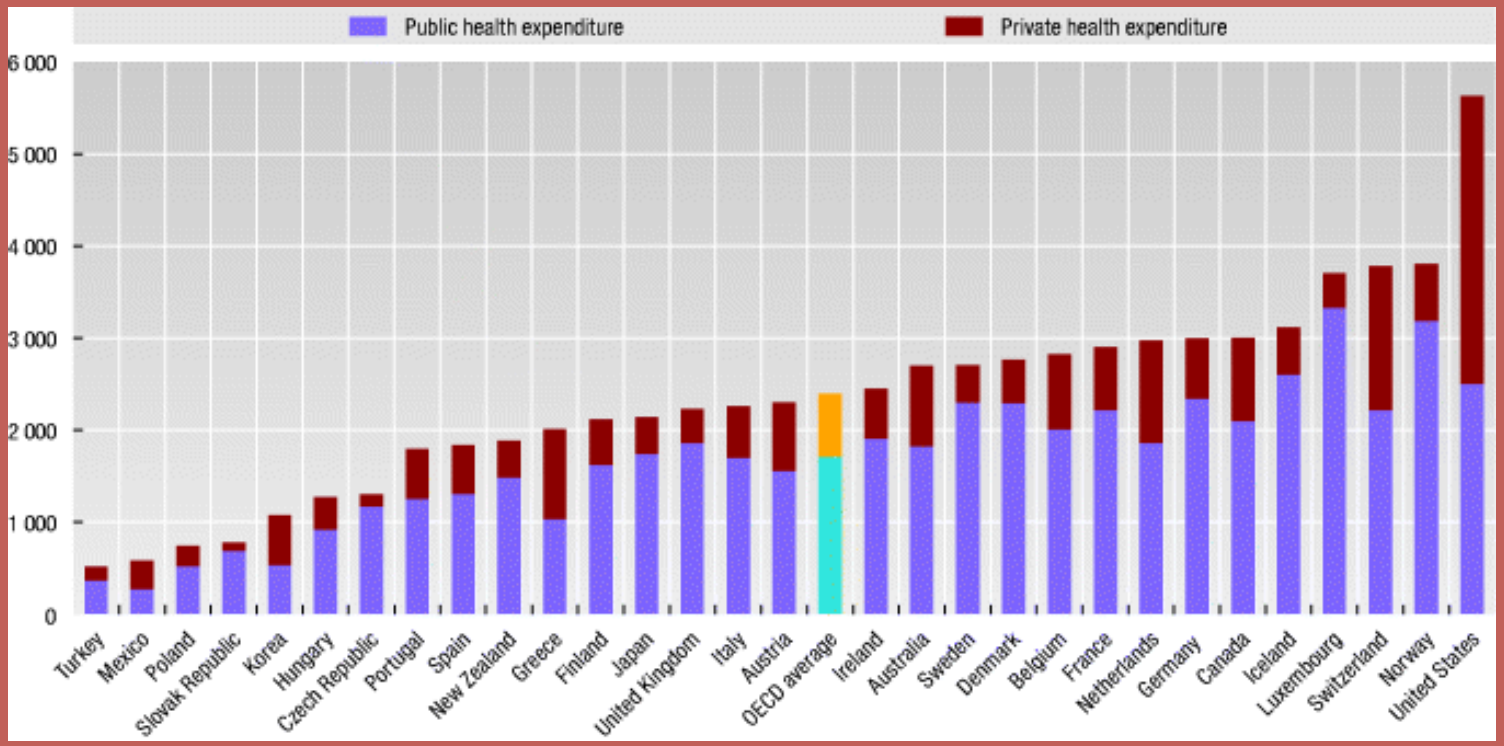
US Health Care Expenditures

- US spends the most per capita in health care, 48% more than the next highest OECD Nation.



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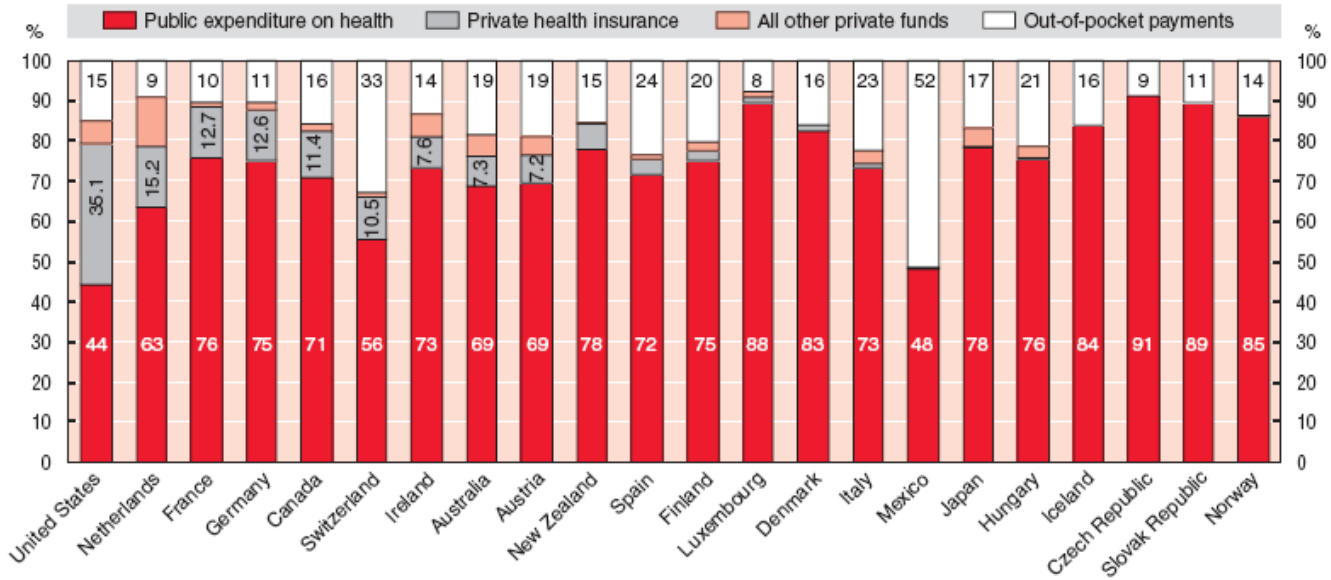
US Private Insurance Expenditures

- Private insurance in the United States is an expensive line item comprising about 35 percent of total health-care spending, which is more than twice the amount than the next-highest country.

Figure 1. **Health expenditure by source of health financing, 2000**



Note: Countries are ranked by decreasing size of private health insurance.
Source: *OECD Health Data*, 2003, 2nd Edition.

Sept. 2004 Policy Brief: Private Health Insurance Expenditures in OPEDC Countries.

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US Health Care Expenditures

- Despite being the richest country, the United States spends the largest percentage of its Gross Domestic Product on Health Care, spending 36% more than the next highest countries of Switzerland and Germany. (**US 2006 Chartbook, Page 30**)
- A corresponding skyrocketing rate in private insurance premiums has taken place. The average cost of family coverage is over $11,000 per year. (**Kaiser Family Foundation**)
- Since 2000, premiums for family coverage have increased 87%, the dollar amount the average worker pays has increased correspondingly while the inflation rate has increased only 18% and the average wage only 20%. (**Kaiser Family Foundation**)

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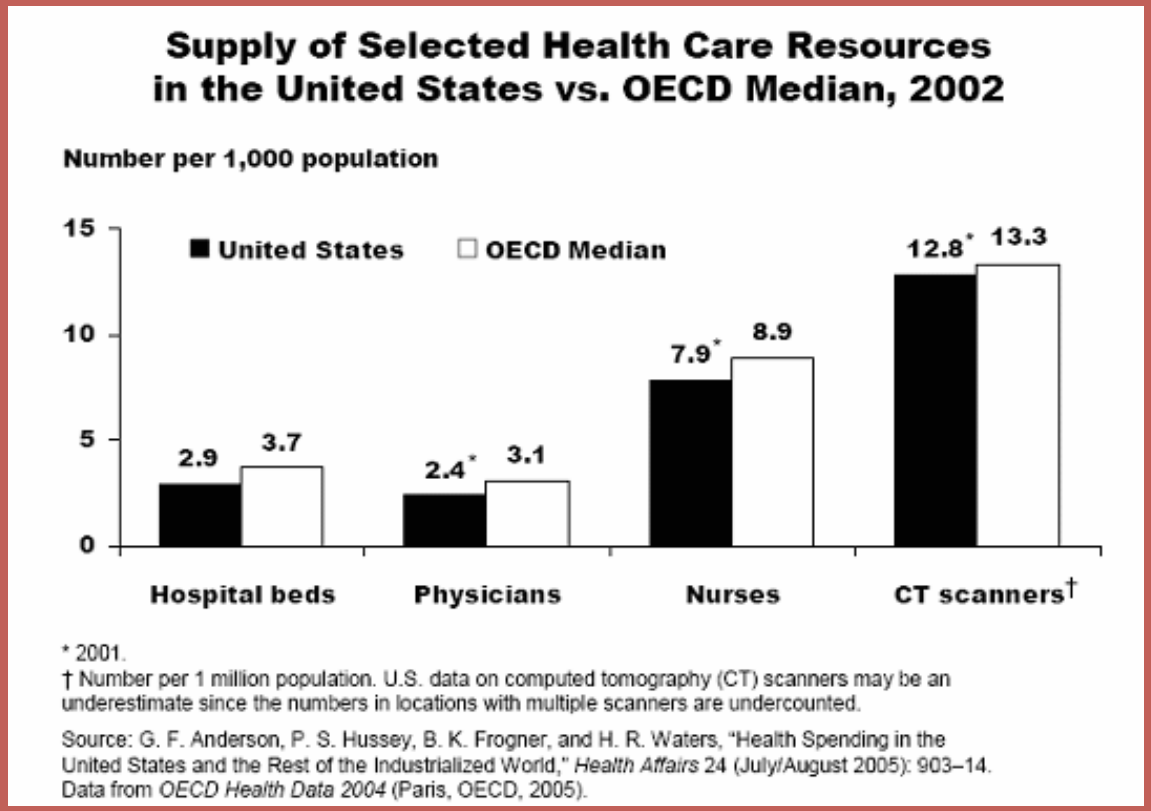
Despite all of the $$$

- Japan, has the longest life expectancy of 81.8 years. In 2002, Japan had more than seven times the CT scanners per capita as the United States but spends 60 percent less per capita on health care than the USA.



The Commonwealth Fund: Health Affairs July/Aug 2005. Health Spending in the United States and the Rest of the Industrial World.

All information in this slide presentation is the express opinion of Health Watch USA.

Low Value of US Health Care

- The Commonwealth Fund summarized a detailed study of OECD Data by Gerard Anderson. The study found that the major factor in increased US health care spending was higher prices.

Anderson, GF, et. al. Health Spending in the United States and the Rest of the Industrialized World. In the Literature, Commonwealth Fund July/Aug 2005, 24(4):903-14.

Kentucky's Current System

- Health care costs are controlled by limiting competition with the certificate of need.
- In Kentucky as in some other states, a Certificate of Need (CON) is needed before a new healthcare facility is allowed to open.
- Costly duplications in health care are prevented and the consumer benefits.

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Certificate of Need - Kentucky

By Statue the Purpose of the CON is as follows:

- Therefore, it is the purpose of this chapter to fully authorize and empower the Cabinet for Health and Family Services to perform any certificate-of-need function and other statutory functions necessary to improve the quality and increase access to health-care facilities, services, and providers, and to create a cost efficient health-care delivery system for the citizens of the Commonwealth. (KRS 216B.010)

Certificate of Need

However, it is an antiquated system

- The concept of Certificate of Need in many states started in 1974 when congress enacted the National Health Planning and Resources Development Act. The Act mandated the formation of CON legislation and tied this to participation to Medicaid and Medicare.
- At that time, the Federal Government was reimbursing on a cost - plus basis.

Certificate of Need

- In 1987, the Federal Mandate for CON was repealed and because of continued rising medical cost the federal government switched to a system of payment based upon the patient's diagnosis or DRG.

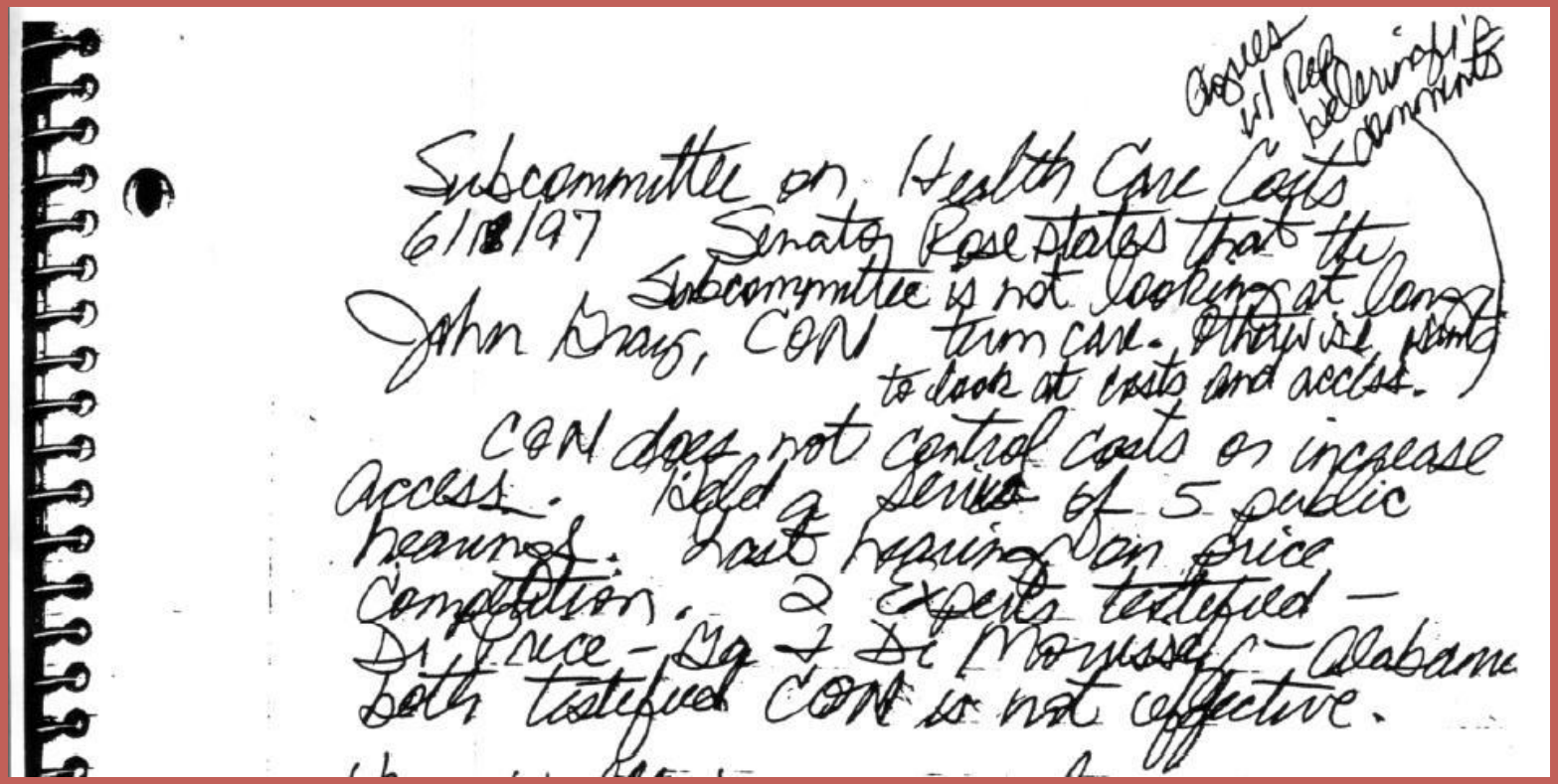
- In other words, the CON was created by Federal Government intervention on free enterprise. It did not work, they abandoned it and the states were left with the mess to clean up.

Certificate of Need

- At its peak, all states except Louisiana had a CON law. By 2005, 14 states had dropped their CON laws and two others (Ohio and Nebraska) regulate only long-term care and/or rehabilitation facilities.

CON in Kentucky – Costs & Access

Kentucky Subcommittee on Health Care Costs – June 1997
LRC Staff Notes of Meeting – Top of Page 1



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CON in Kentucky – Costs & Access

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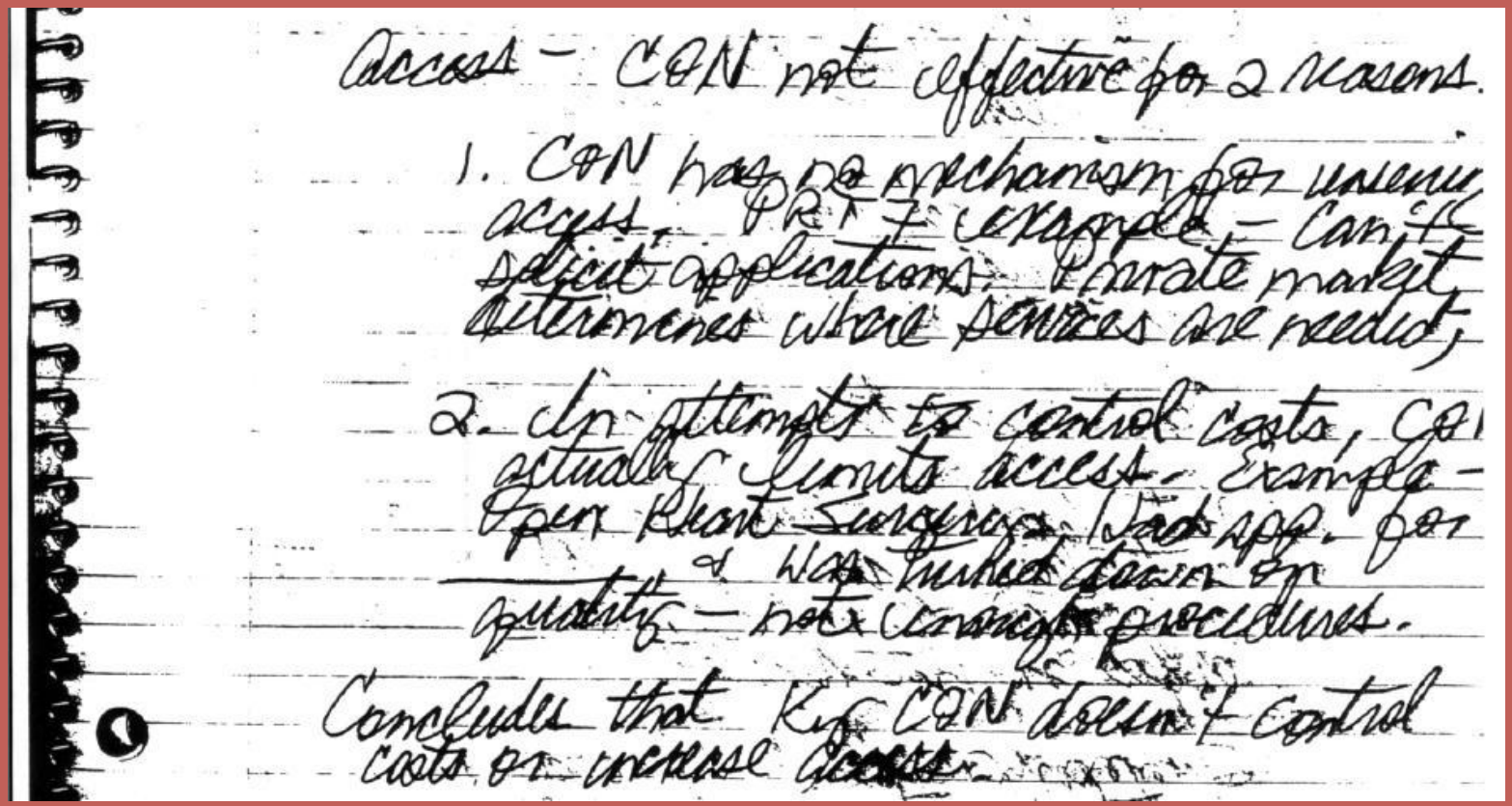
Access – CON not effective for 2 reasons.

1. CON has no mechanism for insure access. PRI + expands – can't deficit applications. Private market determines where services are needed,

2. In attempt to control costs, CON actually limits access – example – Open Heart Surgeries. Had app. for & was turned down on quality – not cost of procedures.

Concludes that Ky CON doesn't control costs or increase access.

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CON in Kentucky Costs

- Kentucky's hospitals have the 17th highest total gross charge to cost ratio in the United States. 232.90% (IHSP: 2003-2004 Economic Data).

From Institute of Socio-Economic Policy, Third Annual IHSP 200, 2005

CON in Kentucky Access

- The CON is for protection (of) Medicaid so access is limited and it more likely causes those with CON to charge more in under-served areas. They have a monopoly on the provided services.

State Senator Tom Buford - Oct 2, 2006

Certificate of Need

- At the time of CON adoption, publicly held for-profit hospitals were not common place. The CON was enacted under the assumption that a non-profit facility would return savings to the consumer.

- The medical health care industry has changed.

Iron Triangle Of Health Care

- Cost
- Quality
- Access

General wisdom is that to increase the performance of one of these factors will decrease the performance of the other two. Kentucky has taken a new approach to this concept. It's Certificate of Need law makes the triangle smaller.

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A Call For Change

- Dept. Health and Human Services' Secretary Mike Leavitt calls for support of the four "cornerstone" actions of the recent Presidential Executive Order calling for the interoperable health IT; transparency of quality; transparency of price; and incentives for high-value health care…

  - - February 5, 2007

- Endorsed by Major US Business: 3M, GE, Microsoft, Cisco, Caterpillar, Wal-Mart, Intel, McDonalds, and 250 other major industries.

Consumer-Driven Health Care

What is Needed:

- Competition
- Meaningful Transparency in
  - Quality
  - Prices

Without Transparency Free Enterprise and Competition Cannot Exist !!

All information in this slide presentation is the express opinion of Health Watch USA.

Consumer-Driven Health Care

The goal is to obtain a high VALUE in health care

Value = Quality + Price

Quality CON - Government Oversight System

- In Kentucky, there are little regulations regarding hospital quality assurance. KRS 216B.155 calls for facilities to develop of these standards. However, no regulations have been written.

- There are no State Regulations to protect health care whistleblowers. A statue KRS 216B.165 was enacted in 1998 but no regulations have been written and no penalties exist.

Quality CON - Government Oversight System

- The CON has done very little to enforce the role of quality in reducing the rate of cost increases.
  (A report on the Certificate of Need in Kentucky 1997, Subcommittee on Health Care Access and Cost Oversight.)

- On Nov. 29, 2005 the Fletcher Administration proposed the following CON criterion:

  "A documented history of uncorrected quality control problems which threaten the life, health and safety of the hospital's patients. Examples may include higher than normal rates of preventable hospitalization, medication errors, or hospital acquired infections".

All information in this slide presentation is the express opinion of Health Watch USA.

Quality CON - Government Oversight System

- In the Final Regulation adopted in January 2006 the quality criterion was removed. Here are the quality criteria we now have:

- All licensed acute care hospitals located within the planning area have experienced one or more of the following:
  - i. Final termination of their Medicare or Medicaid provider agreement;
  - ii. Final revocation of the their hospital license issued by the Cabinet for Health and Family Services' Office of Inspector General; or
  - iii. Final revocation of their hospital accreditation by the Joint Commission on Accreditation of Healthcare Organizations.

Quality CON - Government Oversight System

- Since the planning area is all adjacent counties. The quality CON criteria will never be met.
- All hospitals except one could close in Lexington and this criterion would not be met. Actually, they all could close and the Criterion still would not be met.
- I call this the “Existing Hospital Protection Clause.” A similar clause can be found with all criterion.

Quality Transparency CDHC

Nurses – The Nurse is the Hospital

- The Nurse is the Hospital. We need to know how many patients hospital nurses are responsible for and if they are overworked.

- If a nurse takes care of eight or more patients on a general medical or surgical floor a dangerous situation may exist.

Quality Transparency CDHC

Nurses – The Nurse is the Hospital

- **Aiken, L.H., et. al. (JAMA, 2002)** studied surgical patients and found that for each additional patient that a nurse is responsible for, the overall hospital death rate increased by 7%. Thus, if a nurse is responsible for four patients and the care load is doubled, there is a 31% increase in the patient death rate. In patients who had complications, this rate is even higher.

Quality Transparency CDHC

Nurses – The Nurse is the Hospital

- **Needleman J., et. al. (NEJM, 2002)** found that the higher the proportion of care provided by registered nurses the shorter the length of stay in the hospital, the lower the rate of urinary tract infections and upper gastrointestinal bleeding, and the lower the rate of pneumonia, shock, cardiac arrest and "failure to rescue".

Quality Transparency CDHC

Acquired Hospital Infections

- As of January 2007, only two states post hospital infection rates: Pennsylvania and Florida.
- The state of Florida has the most comprehensive website: www.floridacomparecare.com

This parameter is related to wound care, bathing and hygiene, cleaning rooms and timely administration of antibiotics.

Quality Transparency CDHC

Skin Pressure Sores and Ulcers: Reported by the State of Florida but excludes high-risk patients.

- Cases of decubitus ulcer per 1,000 discharges with a length of stay of 5 or more days. Excludes patients with spina bifidia or anoxic brain damage. Excludes patients with ICD-9-CM procedure code for debridement or pedicle graft before or on the same day as the major operating room procedure. Excludes patients with a diagnosis of hemiplegia, paraplegia, or quadriplegia, patients in MDC 9, obstetrical patients in MDC 14, and *patients admitted from a long-term care facility or transferred from an acute care facility*. Excludes patients with decubitus ulcer in the principal diagnosis field. Ages 18 years and older.

Quality Transparency CDHC

Skin Care

- It makes little sense to exclude the patients that are at risk to develop sores.
- There are also problems with relying on self reporting.

Quality Transparency CDHC

Skin Care

- To avoid these two pitfalls, the monitoring by nursing homes of new and progressive bed sores and ulcers in residents returning from hospitalization should also be performed.

Quality Transparency CDHC

Other parameters reported by the State of Florida:

- Incidence of blood clots and emboli (related to ambulation, anti-embolic stockings and medications)
- Incidence of hip fractures (related to patient falls)
- Incidence of pneumothorax (air around lungs)

Price CON - Government Oversight System

- Our system assumes that healthcare savings created by the CON will be passed onto the patient.

From Institute of Socio-Economic Policy, Third Annual IHSP 200, 2005

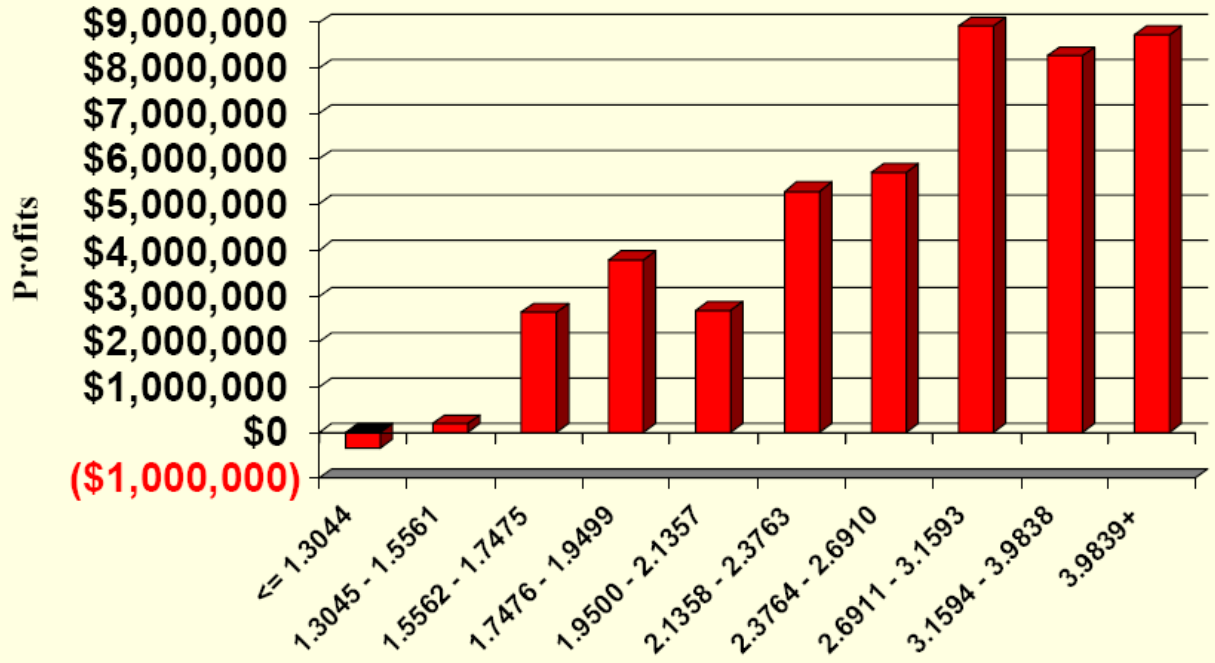
Price CON - Government Oversight System

- A series of studies in the 1970's, 1980's and 1990's failed to show that the CON controlled hospital costs. (Michael A Morrisey, PHD, Lister Hill Center for Health Policy, University of Alabama at Birmingham.)

- The latest was published in 1998 (Conover and Sloan) who found that mature CON programs resulted "in a slight (2%) reduction in hospital bed supply but higher costs per day and per admission, along with higher hospital profits." There was not a significant effect on total per capita spending and it was "doubtful" there was any effect on quality.

Price CON - Government Oversight System

Higher Hospital Charge to Cost Ratios and Higher Profits



From Institute of Socio-Economic Policy, Third Annual IHSP 200, 2005

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Price CON - Government Oversight System

Report on Certificate of Need in Kentucky – June 12, 1997
Subcommittee on Health Care Access and Cost Oversight

- When Kentucky looks at its increase in the volume of outpatient services and costs, particularly outpatient surgeries, it seems evident that the CON process has fallen short (of) its intended purpose.

- As managed care continues to develop in Kentucky and works to promote competition and cost containment, the usefulness of CON for certain services will be limited at best.

Price CON - Government Oversight System

- The CON laws were enacted before publicly held for-profit hospitals were common place. I believe they assumed the facilities were non-profit and would pass on their savings to the consumer.
- Hospitals in CON states have one of the few state sanctioned monopolies found in US industry and there is no oversight of charges.
- Power companies have monopolies but their charges must be approved by the Public Service Commission.
- Kentucky has 14 For-Profit Acute Care Hospitals. All but two are the only acute care hospital providers in their counties, after the sale of Good Samaritan to UK.

Price CON - Government Oversight System

Table 12: Average Total Charges as a % of Total Costs by Hospital Type 2003/2004	Number	Charge to Cost Ratio
Proprietary, Corporation	686	365.81%
Proprietary, Partners	38	277.96%
Voluntary Nonprofit	580	256.96%
Proprietary, Individual	6	250.54%
Proprietary, Other	49	247.50%
National Average		244.37%
Voluntary Nonprofit	1953	227.00%
Government (Federal, City, County Etc.)	910	180.48%

From Institute of Socio-Economic Policy, Third Annual IHSP 200, 2005

Price CON - Government Oversight System

- SEC 10-K (Community Health Systems Corporation filed For Fiscal Year December 31, 2005) : **View Report**

- We target hospitals in growing, non-urban healthcare markets because of their favorable demographic and economic trends and competitive conditions. Because non-urban service areas have smaller populations, there are generally fewer hospitals and other healthcare service providers in these communities and generally a lower level of managed care presence in these markets. We believe that smaller populations support less direct competition for hospital-based services. Also, we believe that non-urban communities generally view the local hospital as an integral part of the community.

Price CON - Government Oversight System

- “Private for-profit hospitals result in higher payments for care than private not-for-profit hospitals. Evidence strongly supports a policy of not-for-profit health care delivery at the hospital level.”

  --Devereaux, PJ, et al. Canadian Medical Association Journal June 8, 2004: 170 (12).

Price is NOT the Whole Story

Value = Price + Quality

Thus, price is only part of the equation.

Studies on quality versus type of hospital corporation have been mixed.

Problems with Oversight

Hospital Profitability

- Hospital charges are often justified by citing the hospital's profit or net revenues as reported on the Medicare Cost Report G-3 Worksheet.
- Data on many financial websites which store Medicare Cost Report Data use this figure.
- However, we consider this a fudge number since large hospital corporations can legally just about list any figure they want.

Problems with Oversight

Hospital Profitability

- Here's how it is done:

  Follow the source of the numbers on the G-3 Worksheet. After jumping through four pages in the Medicare Cost Report, it can be seen that on Worksheet A-8-1, a hospital reports both the Medicare Allowed Home Office Expense and the expense they would like to have or the Declared Home Office Expense. It is the Declared Home Office Expense that is used to calculate the fudge number listed as Net Income on Worksheet G-3.

Problems with Oversight

Hospital Profitability

- In non-competitive markets don’t expect excess profits to be returned to the consumer as opposed to the stockholder, employees or “reserve funds”.

- The chief operational officer of a large metropolitan hospital said in 2003, when Phyllis Griekspoor of the Wichita Eagle confronted him with his facility's large profit margin as compared to other hospitals:

  "Why would we penalize ourselves for our own efficiency? The real question is: Why can't other hospitals lower their costs?"

Price Kentucky's Attempt to Fix System

- Original Proposed CON Criterion – Nov. 05
  A historically and significantly higher **negotiated rate** for providing identical services at similar licensed hospitals.

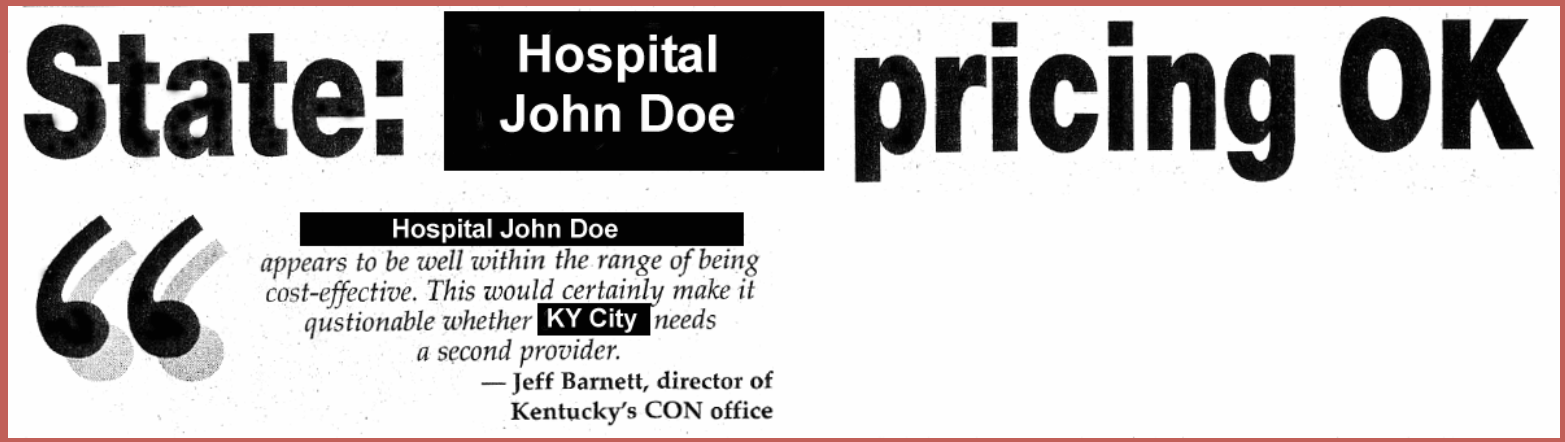
- Adopted CON Criterion – Jan. 06
  The adjusted revenue of each licensed acute care hospital located within the planning area exceeded one-hundred and fifty (150%) of the state mean **adjusted revenue**, for acute care hospitals, during each of the previous three (3) fiscal years.

Price Kentucky's Attempt to Fix System

- The Key is switching the terms of "negotiated rate" to "revenues".
- Revenues are averaged out by Medicaid and Medicare Payments.
- If a hospital has 75% of their patients with Medicare and Medicaid, we estimate the private sector would have to pay 3 times above the state mean before this criterion is met.
- Even so, there is also the "Existing Hospital Protection Clause" were the CON is not granted unless all hospitals in all surrounding counties also meet the criterion.

Price Kentucky's Attempt to Fix System

- Revenues should not be used to judge the ability of a hospital to provide cost-effective care.
- To do so is not in the best interest of the citizens of Kentucky. Below is an example where the community was concerned about high hospital cost and the State used Revenue not Prices in its analysis. July 2, 2006



State: Hospital John Doe pricing OK

"Hospital John Doe *appears to be well within the range of being cost-effective. This would certainly make it questionable whether* KY City *needs a second provider.*"

— Jeff Barnett, director of Kentucky's CON office

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Price Transparency CDHC

- Need to know what the insurance contract price is. The consumer needs to know what THEY will pay.
- The dynamics are changing with consumer-driven health care (health savings accounts).

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Price Transparency CDHC

- Prior to consumer-driven health care it was advantageous to the insurance company to keep prices hidden.
  - The patient did not care, he was not paying the bill
  - The insurance company did not want other hospitals to know how much they were paying.

Price

- With consumer-driven health care, it is now advantageous to the insurance company to disclose prices.
  - The consumer is in the driver's seat. The consumer is paying the bill.
  - If the consumer knows other hospitals charge less, the hospitals which charge more will lose business.

Competition Prevented by the CON

- A scorpion and a frog were at the edge of a quiet stream about to be engulfed by a raging fire.
- The frog stated: Hop on my back and I'll take you to safety to the other side of the stream.
- The frog swam with the scorpion on his back, and in the middle of the stream the scorpion stung him.
- As the frog was dying in the middle of the stream he stated. "Why did you sting me? We are both going to die now."
- The Scorpion replied: "I couldn't help myself, it's just my nature."

Competition Prevented by the CON

- The premise behind Kentucky's current health care system is that corporations will pass on their savings gained from state granted monopolies to the consumer and not to stockholders or officeholders.
- This is an honor system. Since in healthcare there is no Public Service Commission.
- Without competition a scenario of high prices and low quality can occur.

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Competition Prevented by the CON

- The profits can be enormous. In a rural Kentucky setting, hospitals have earned tens of millions of dollars in a single year.

- In a setting of high income, where a few years' profits garnered from a state sanctioned monopoly can pay for the start-up costs of another facility, consumers will benefit from duplication.

Competition Prevented by the CON

- In July 2004, a massive study by the Federal Trade Commission and Department of Justice compiled from 27 days of testimony from 250 panelists along with independent research concluded that:

  “States should decrease barriers to entry into provider markets.“

  "States with Certificate of Need programs should reconsider whether these programs best serve their citizens' health care needs," it said. "The Agencies believe that, on balance, CON programs are not successful in containing health care costs, and that they pose serious anti-competitive risks that usually outweigh their purported economic benefits."

Competition

Click on Video to View

Moderator: So your point would be that like the KEA unions would know, if this were to pass, would then have a responsibility to try to basically market themselves.

Governor: Absolutely, competition is good no matter where it is.

- Here is what Governor Fletcher has to say when asked about competition for Unions. Shouldn't employers also have competition in the health care industry? Jan 14, 2006

Requires Windows Media Player to View Movie.

Posted with permission of WKYT TV, Lexington, KY.

Competition

- In the 2007 session, the Kentucky Legislature introduced a bill to “strip consumers of protections against unjustifiable rate increases” and that this removal will provide “benefits of monopoly pricing while effectively freeing (utilities) from regulatory oversight and enables the utilities to shift all their risk onto consumers”.

  -- *Lexington Herald Leader Op-Ed Feb 22, 2006*

- There is not a “Public Service Commission” for hospitals. Currently, the CON grants the benefits of monopoly pricing without effective public protections.

Competition

- The airline industry could have argued in 1978 against deregulation by purporting that competition will cause fares to increase because the duplication of services with their over 200 million dollar a piece jumbo jets.

Luckily, this fell on deaf ears and the airline industry is now a large and growing one providing excellent quality at an affordable price. I do not know if airline executives are laughing at the hospital administrator's absurd argument of the horrors caused by a possible second MRI scanner coming into town or are crying as they sign the checks of their employee's health care bills.

Competition – Where it Works

- Plastic Surgery
- No better example than Lasik Surgery

  Not covered by private insurance. Started with a few providers and a cost of several thousand dollars. Now there are many providers, increased technology and cost has dropped to several hundred dollars.

Competition

- The advertisement states that he has:

  “Increased Competition”

  "Lowered Healthcare costs for Kentuckians".

- Marty Ryall, Fletcher's campaign manager, said the administration made it easier for hospitals to expand, which will help drive down costs of care. "Hospital construction will lead to lower health costs and more competition in the future," Ryall said. *-- Lexington Herald Leader April 1, 2007*

Competition – Not Increased

- In Kentucky, there has been consolidation of health care corporations without entry of new providers into the market.
- While Jessamine County strives to obtain approval for a hospital, Lexington has gone from 4 major hospital providers to 3.
- Consolidation has also happened in the health insurance industry, going from 4 major providers to 3 with the sale of CHA to Humana.

Case Study - Jessamine County

- Nicholasville is the 13th largest city in Kentucky. There are approximately100 acute care hospitals in Kentucky; and Jessamine County is the only densely populated county without a hospital.
- Jessamine County is growing and has an excellent economy. Nicholasville grew 40% from 1990 to 2000.
- It is surrounded by counties with major universities one of which even has a medical school.
- Jessamine County (Nicholasville) has not been approved for an acute care hospital.

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Medical Tourism

- According to **American Medical News**, sixteen foreign hospitals are accredited by the Joint Commission, the largest Hospital Accrediting Agency in the United States.

- Everywhere from Italy, India, Rio de Janeiro, Singapore to the Bahamas.
  The savings are huge.

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Medical Tourism

- The savings are huge. A hospital in Thailand is offering an average savings of:
  - 76% on a heart bypass.
  - 86% on a vascular bypass and shunt.
  - 69% on a liver transplant.
- How many of us have seen the mason jars in local stores of families trying to desperately raise money for a liver transplant so their child would live. Now the bar is much lower.

Medical Tourism – Somerset, KY

- Head of a small business needed three cervical disks repaired and a lower back operation.
- Searched the internet and found a large medical center in Germany who put in four artificial articulating joints. These are not available in the USA.
- Total Cost of trip, 3 weeks in Germany at a 4 star hotel and medical costs – $56,000. Anthem Blue Cross paid the entire bill.

Conclusion

- It is stated that the health care industry does not respond to the same market forces as other businesses. But what else is to be expected when State sanctioned monopolies all but assure customers and meaningful price and quality information is hidden from patients?
- The KY Certificate of Need should be abolished. The veil of secrecy should be lifted off of prices and quality so effective competition can take place.
- It is estimated that we have 6 years to correct the system before the Government enacts a single payer system. -- Mark Lamberth (KAHU)