Wall Street Journal: Certifiably Needless Health-Care Meddling
Story Date: 1/11/2016

An important but overlooked debate is unfolding in several states: When governments restrict market forces in health care, who benefits? Legislative majorities in 36 states believe that consumers benefit, because restrictions help control health-care costs. But new research confirms what should be common sense: Preventing qualified health-care providers from freely plying their trade results in less access to care.

Most states enforce market restrictions through certificate-of-need programs, which mandate a lengthy, expensive application process before a health-care provider can open or expand a facility. The story goes: If hospitals or physicians could choose what services to provide, competition for patients would force providers to overinvest in equipment such as MRI machines—and the cost could be passed on to patients through higher medical bills.

More than 20 states restrict the technology needed for three highly demanded imaging services: MRI scans, CT scans and PET scans, which doctors rely on to diagnose and track tumors, injuries and more. Our new study for George Mason University's Mercatus Center shows how certificate-of-need laws make these critical scans harder for patients to get.

We found that patients in states with such restrictions have between 20% and 30% fewer options for providers of these scans than residents of other states. This leads to fewer scans, a drop of between 30% and 65%, depending on the type. Many patients choose to travel to receive care. Our study found that between 3% and 8% of patients seeking one of the three scans are forced to leave the state thanks to certificate-of-need laws.

These restrictions have largely failed to reduce costs, but they certainly reduce services. A 2011 study in the Journal of Health Care Finance found that certificate-of-need laws resulted in 48% fewer hospitals and 12% fewer hospital beds.

Many hospitals lend support to regulation of their industry, as such laws limit the number of industry competitors. South Carolina by 2018 will phase out its certificate-of-need law, which cost the state $2 million a year to run. But hospitals fought this decision with legal challenges for two years. During a tussle in Georgia last year, state hospital associations—after donating about $2 million to lawmakers, candidates and political-action committees—successfully stifled a cancer-treatment center's bid to expand capacity. What's best for patients is not the focus of these conversations.

Not all providers favor restrictions. The certificate-of-need application process—which includes an average fee of $32,000—burdens physician groups or solo practitioners more than large hospitals or systems. One survey by the Civitas Institute showed that practicing physicians report greater difficulties entering new markets; they cite certificate-of-need requirements as the primary reason. The result is that hospitals face less competition from small providers.

Large health-care organizations no doubt look out for the best interests of their patients. But here their reasoning doesn't hold up: The evidence is clear that certificate-of-need laws are harming, not helping. Patients want local, innovative and affordable health care—and only open competition, not government mandated scarcity, can deliver.

Mr. Stratmann is an economics professor at George Mason University, where Mr. Baker is a Ph.D. candidate.