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Consumer and Provider Protection Act Senate Study Committee (SR 561) – Hearing #3
November 9, 2015
Testimony by Dr. Deep J. Shah, MD, MSc

Introduction

- I am a senior medical resident at Emory University School of Medicine with a background in health policy. I am here today on behalf of the GA chapter of the American College of Physicians (ACP) to suggest policy measures that will protect patients from the consequences of health insurance plans further shrinking their provider networks.
- GA ACP is a diverse group of 2,500 physicians. All of our members are internists, and most are primary care doctors. We work in an array of settings – community, private practice, academic, and non-profit – in every region of Georgia. We share a single mission: to deliver the best possible care to our patients.
- Before going any further, let me tell you about a patient I began seeing in my clinic earlier this year. Robert, a 30-year-old furniture mover, suffers from an abnormal heart rhythm: an arrhythmia that can kill him, as it almost did two years ago. We suspect that it's an inherited disease, but no one can say for sure. For now, he is stable, but the reality is that he needs care from several doctors in different systems, some of whom are either out-of-network or listed by his plan in a cost-prohibitive tier.
- And in this last respect, Robert's situation is not unique. We hope this testimony gives the committee insight into how our state can protect patients like him as health insurance plans limit their networks to keep costs down.

Background

- The issue of narrow networks must be considered within the dramatically changing landscape of health care in Georgia and the United States.
- In the 1980s and 1990s, health maintenance organizations popularized the concept of enrolling patients in smaller networks. While today's versions are different in several important ways, the logic is the same: by contracting with fewer doctors and hospitals, who are willing to accept lower payments in exchange for more volume, we may be able to bend the cost curve and incur savings. In theory, the savings incurred are passed along to beneficiaries. Of note, supporters of narrow networks may describe them as "high value:" the idea is that fewer options steer patients to a chosen group of providers who operate in harmony to deliver high-value care, like those operating as part of an accountable care organization or clinically integrated network. But the jury is still out on whether care delivered through narrow networks is higher value than traditional arrangements.
- Tiered networks are a related mechanism to direct patients towards an insurer's preferred providers. A health insurance company stratifies doctors, hospitals, pharmacies, and others into specific groups, and patients are incentivized to receive care from the lowest cost among them. These plans must be examined in the context of contemporary cost-saving strategies, including high deductibles and out-of-pocket expenses that deter patients from higher tiers. Quality and convenience are secondary to cost in these

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scenarios. Employers, particularly those who are self-insured, may offer plans with tiered networks and accompanying reference prices to push costs down.

- Now, I would like to focus the committee's attention on three unique challenges facing Georgia to paint a fuller picture of the health care environment here.

1. First, we have a physician shortage that is only going to get worse for the foreseeable future. A 2013 workforce report by the American Association of Medical Colleges ranks Georgia 44th in number of practicing primary care physicians (PCPs) per 100,000 patients (68.5 PCPs / 100,000 patients).[1] From 2000 to 2010, the 14.5% increase in the number of PCPs did not keep pace with Georgia's 18.3% population growth.[2] The evidence shows that we do not have enough doctors in Georgia. How will we create a favorable climate to retain and attract more doctors in order to provide patients with easy access to primary care and the full range of medical specialties and services?
2. The second point dovetails with the physician shortage: namely, that shortage is not equal throughout the state. Patients living in rural Georgia lack sufficient access to doctors and hospitals. As many in this chamber are aware, last week, Hutcheson Medical Center in Fort Oglethorpe announced plans to shut down – the fifth rural Georgia hospital to close in the past two years.[3] A Georgia Board for Physician Workforce study examining data from 2010 and 2011 discovered that six Georgia counties had no family medicine physician, 31 no general internal medicine physician, and 66 no general surgeon.[4] Finally, an astounding half of our state's 159 counties did not have a practicing psychiatrist.[5] How will we ensure broad, inclusive networks are easily accessible to patients living in every part of Georgia?
3. Third, the Georgia health insurance market is undergoing unprecedented consolidation. Soon, patients may receive care in a state dominated by three large commercial insurance companies: Anthem, Aetna, and United. If we add Kaiser to the list, the number rises to four. It remains unknown how much strength providers will have to advocate for patients in a more concentrated market. However, combined with the rise in high-deductible health plans and other cost-sharing measures, how will patients—regardless of geography, complexity of disease, and socioeconomic factors—access the care that they want and need?

- As narrow networks become more common, these three trends—a statewide physician shortage, poor access to care in rural Georgia, and consolidation in the local health insurance market—are particularly concerning and deserve the committee's attention.

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[1] Erikson Clese. 2013 State Physician Workforce Data Book. Washington, DC: American Association of Medical Colleges (AAMC), November 2013. Accessed November 7, 2015 at https://www.aamc.org/download/362168/data/2013statephysicianworkforcedatabook.pdf

[2] Tucker C, Jeffrey C, Culp C, and Dever GE. Georgia Physician and Physician Assistant Professions Data Book 2010/2011. Atlanta: Georgia Board for Physician Workforce, 2013. Accessed November 4, 2015 at https://gbpw.georgia.gov/sites/gbpw.georgia.gov/files/related_files/document/2010-2011%20Physician%20and%20Physician%20Assistant%20Data%20Book.pdf

[3] Miller A. Another rural hospital going out of business. *Georgia Health News*, November 6, 2016. Accessed November 6, 2015 at http://www.georgiahealthnews.com/2015/11/rural-hospital-business/

[4] Tucker, 2013.

[5] Druss B and Walker E. Assessing North Georgia's Community Psychiatric Workforce Needs. Department of Health Policy and Management Rollins School of Public Health, Emory University, 2013 qtd. in McDonald W. Workforce Shortage in Mental Health Care. Atlanta: 2013 Georgia Assembly Joint Study Committee on Mental Health Access, November 4, 2013, accessed November 4, 2015 at http://www.house.ga.gov/Documents/CommitteeDocuments/2013/MentalHealthAccess/McDonald%20Psychiatry%20Presentation%2011%204.pdf

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Strategies to Protect Patients

- ACP wishes to highlight four essential features of a patient-centered health care system that may guide the committee in protecting patients.[6]
- Georgians in every part of the state deserve timely, convenient access to high-quality providers spanning the full range of medical specialties as well as essential facilities including hospitals, labs, and imaging centers, among others.
- Specifically, patients should be able to:

1. Access the physicians and hospitals of their choice without unreasonable restrictions;
2. Receive medically necessary medications and services;
3. Obtain swift decisions when appealing insurance plan decisions; and
4. Have accurate, up-to-date information about the benefits covered by their health plans and the participating clinicians and hospitals contracted with the plans.

<u>Access the physicians and hospitals of their choice without unreasonable restrictions</u>

- First, patients should be able to access the physicians and hospitals of their choice without unreasonable restrictions. This begs the question of what *is* an adequate network? Currently, there is no widely accepted definition of a sufficient network, though the National Association of Insurance Commissioners has proposed a reasonable one to guide policymaking. We support its criteria.
- To critics, narrow networks may be more accurately described as inadequate networks – this term conveys concern that restricted networks carry significant potential to harm patient access to high quality, cost-effective care.
- A critical challenge in guaranteeing sufficient access is that the trade-off between level of coverage (that is, the cost of premiums compared to deductibles and out-of-pocket expenses) and network adequacy is difficult for most patients to assess, particularly during enrollment when cost is heavily weighted.[7] This may lead to patient dissatisfaction in later years.
- The state may intervene through several avenues to ensure sufficient access and choice:
  - First, in the spirit of Georgia's "Any Willing Provider" statute passed in 1976, patients may benefit from state laws strengthening the idea that any provider willing to meet reasonable standards of care and quality set by the insurance carrier should be able to care for a plan's beneficiaries.[8]

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[6] Cooke, M. ACP Letter to Kathleen Sebelius. Washington, DC: American College of Physicians, February 11, 2014. Accessed November 8, 2015 at https://www.acponline.org/acp_policy/letters/sebelius_letter_snhc_2014.pdf

[7] Polsky D, Weiner J. The Skinny on Narrow Networks in Health Insurance Marketplace Plans. Philadelphia, PA: The Leonard Davis Institute of Health Economics at the University of Pennsylvania / Robert Wood Johnson Foundation, June 2015. Accessed November 8, 2015 at http://ldi.upenn.edu/file/11285/download?token=WenHjkGm

[8] Noble, A. Health Insurers and Access to Health Care Providers: Any Willing Providers. Washington, DC: National Conference of State Legislatures, November 5, 2015. Accessed November 4, 2015 at http://www.ncsl.org/research/health/any-willing-or-authorized-providers.aspx **This testimony draws heavily from a 2014 letter written by Molly Cooke on behalf of ACP to Kathleen Sebelius, former U.S. Secretary of Health and Human Services. Several sentences are copied directly from her letter (cited on page 4). This testimony should not be viewed as an original work; rather, it is a state application of her framework described in the letter.**

  - Next, the state should ensure a transparent and cooperative process for developing networks of physicians and hospitals, as well as straightforward paths for providers to appeal exclusion – with review by the Office of the Insurance Commissioner (OIC). In the same vein, ACP advocates for doctors and hospitals having several months to challenge being dropped from an existing plan. This is necessary to maintain continuity of care.
  - Finally, the OIC should maintain oversight of plans to prevent and, if necessary, remedy network access problems. Patients and physicians would benefit from having direct access to the OIC for reporting concerns. Currently, there is minimal federal or state oversight over unfairly narrow networks for all plan types (including HMOs, POS, EPOs, PPOs), as well as out-of-network fees and other costs.[9]
- It is worth mentioning that federal regulation of network adequacy is falling short, as evidenced by emerging data on marketplace plans under the Affordable Care Act (ACA). A June 2015 report by the University of Pennsylvania and the Robert Wood Johnson Foundation examining federally facilitated ACA marketplaces determined that, last year, Georgia's marketplace offered the highest percentage of narrow network plans in the entire nation. 83% of Obamacare plans offered in our state were defined as narrow or very narrow.[10] Across the country, 15% of federal marketplace plans completely lacked in-network physicians for at least one specialty.[11]
- We mention this data only because it is the most recent, well-evidenced example of how narrow networks may unreasonably limit patients' access to physicians and hospitals of their choice. In addition, trends in the private commercial health insurance marketplace mirror those of the public marketplace.[12] And most importantly, it furthers the case for regulation at the state level of private health insurance plans.
- Finally, in examining health network adequacy, we advise augmenting current formulas by adding factors such as patient-to-physician ratios, use of out-of-network clinicians and hospitals, and standards that are specifically relevant for urban, suburban, and rural areas. These criteria should protect patients enrolled in any type of health plan.

<u>Receive medically-necessary medications and services</u>

- The second guiding principle is that patients should be able to access any medically necessary medication or service.

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[9] Barber C et al. Ensuring Consumers' Access to Care: Network Adequacy State Insurance Survey Findings and Recommendations for Regulatory Reforms in a Changing Insurance Market. Lansing, MI: Health Management Associates, November 2014. Accessed November 4, 2015 at http://naic.org/documents/committees_conliaison_network_adequacy_report.pdf

[10] Polsky, 2015.

[To quantify network size, the authors took into account size, representation of provider types, and geography. In terms of sufficient provider representation, the fraction of providers included was determined categorized by a "t-shirt size:" x-small (less than 10%), small (10%-25%), medium (25%-40%), large (40%-60%), and x-large (more than 60%)].

[11] Dorner SC, Jacobs DB, Sommers BD. Adequacy of Outpatient Specialty Care Access in Marketplace Plans Under the Affordable Care Act. JAMA 2015;314:1749-50.

[12] Increasing Consumer Choice in Coverage and Care: Implications for Hospitals. Washington, DC: American Hospital Association / Avalere, June 2014. Accessed November 8, 2015 at http://www.aha.org/research/reports/tw/14june-tw-consumerchc.pdf

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- ACP recommends that commercial insurance carriers be held to the highest standards in terms of: enabling physicians to access real-time patient enrollment verification, patient cost-sharing responsibility, and claims processing.
- If the desired provider or hospital is out of network for a medically necessary therapy, patients and their doctors should be able to pursue care in a timely manner without fear of the patient receiving a large out-of-network bill or the provider not being fairly compensated.
- Furthermore, the burden should be on providers and insurance companies—not patients—to cooperate in order to link patients with care that is local and affordable.

Obtain swift decisions when appealing insurance plan decisions

- Third, in the event that a medically necessary medication or service is unavailable in-network or was already rendered and charged as "out-of-network," patients and providers should be able to easily engage a patient-centered appeals process to manage this claim as if it were in-network.
- Receiving approval should be a smooth process without causing unnecessary stress or administrative burden for patients or providers. Access to such a process – which should rarely be needed if networks are appropriately designed in the first place – is essential to a functional, fair system.

Have accurate, up-to-date information about the benefits covered by their health plans and the participating clinicians and hospitals contracted with the plans

- Fourth and finally, patients should have accurate, up-to-date information about the benefits covered by their health plans and the participating clinicians and hospitals contracted with the plans. Despite calls to make plan information and directories more consumer-friendly, patients continue to receive inaccurate information about their plans' provider networks and the costs associated with out-of-network care.[13]
- ACP advocates that health insurers be required to establish 24/7 "health care provider hotlines" to connect patients, physicians, hospitals, and other providers to insurance company representatives, including medical directors, who are available to answer questions regarding patient enrollment verification, patient cost-sharing responsibility, claims processing, and several other cost-related issues.
- A corresponding online tool that is easy to navigate would be a natural and expected pairing with the hotline.
- Finally, if significant network modifications are made, patients should be able to quickly switch to another plan without financial repercussions.

[13] Bauman N, Bello J, Coe E, and Lamb L. Hospital networks: Evolution of the configurations on the 2015 exchanges. New York: McKinsey and Company, April 2015. Accessed November 4, 2015 at http://healthcare.mckinsey.com/2015-hospital-networks

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Conclusion

- In summary, these four principles should guide the committee in its charge to protect patients in this time of unpredictability and change in health care. Because there is one thing that we *can* predict: without deliberate policy intervention to protect patients, they are at high risk of diminished access to high-value, quality, comprehensive, convenient care.
- Patients should be able to:

    1. *Access the physicians and hospitals of their choice without unreasonable restrictions;*
    2. *Receive medically-necessary medications and services;*
    3. *Obtain swift decisions when appealing insurance plan decisions; and*
    4. *Have accurate, up-to-date information about the benefits covered by their health plans and the clinicians and hospitals contracted with the plans.*

- I will conclude on a personal note. I moved back to Georgia intending to practice primary care. This is my home, and I have always envisioned a life taking care of the friends and neighbors who I grew up with. But we need to give thousands of my colleagues across this country reason to move here and practice in our wonderful state.
- Doctors like me are uncompromising: we want to use our talent and training to take care of patients to the best of our ability. To accomplish this, the business, policy, and regulatory environments must be patient-centered, free of unreasonable restrictions limiting access to care.
- I am confident that, working together, we can cultivate this ecosystem, grow the ranks of Georgia's health care professionals, and ultimately deliver the best possible care to our patients and loved ones.
- Thank you for the committee's time and attention. Please let me know if I may provide additional information or clarification.

Respectfully Submitted,

Deep Shah, MD

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