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Agriculture and Consumer Affairs
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Appropriations:
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Human Development, DBHDD, and
Public Health Subcommittee, Vice-
Chairman

**Minority response to the "Report of the Senate Study Committee on Certificate of Need Reform
(SR 1063)."**

Statement

The Senate Study Committee on Certificate of Need Reform was established by the General Assembly during the 2018 regular session to assess the certificate of need program and identify appropriate legislative recommendations. Members of the study committee feel the study committee report requires further examination as outlined in this respectfully submitted report.

The certificate of need program originated under federal guidance in 1974. Currently, the certificate of need program operates as a health planning component in 36 states plus Puerto Rico, the U.S. Virgin Islands, and the District of Columbia. Most recently, Indiana enacted a certificate of need statute that became effective on July 1, 2018.

Given the complexity of healthcare finance models, healthcare regulations, and geographic disparities there are many factors that contribute to distress in our health networks. One of many effects of the certificate of need program is to preserve rural hospital viability by limiting regional duplication of services, thereby, allowing hospitals to maintain varied revenue streams that offset uncompensated care losses.

Modernization of the certificate of need regulations must duly consider the varied geographic realities of the state and diverse population needs. Updates to the current certificate of need program require due diligence and stakeholder participation to reduce the risk of negative unintended consequences. This is especially true in Georgia's numerous fragile rural health delivery systems.

The stability of our health infrastructure relies on a measured response that encourages healthy competition and patient choice while balancing the needs of vulnerable hospitals in underserved parts of the state.

It is incumbent upon the leaders of the state to broadly consider updates to the state health planning and development policy in accordance with the needs of the citizens in a manner that does not favor targeted interests. Updating and eliminating as much of the regulatory burden and costs should be considered in every facet of Certificate of Need law and in its enforcement.

Response to Recommendations

Mental Health / Substance Abuse

It was recommended that mental health, psychiatric, and substance abuse services be exempted from certificate of need laws. This recommendation fails to consider the various care settings and protocols that are necessary to treat a psychotic condition versus addiction, and a range of other disorders. The recommendation broadly allows facilities to open or expand operations to treat a wide range of disorders within a vulnerable population.

It is necessary to inventory the available resources throughout the state and identify shortage areas to prevent overutilization and protect the integrity of mental health care in Georgia. In cases where resources are not utilized due to inadequate reimbursement structures the state must consider adequate appropriation or referral pathways. Alternatively, where provider and treatment shortages exist the certificate of need program must be responsive to alleviating burdens and barriers to entry for appropriate providers.

There is evidence of rampant abuse in this population and the state should exercise extreme caution when considering changes that effect this vulnerable group.

Ambulatory Surgery Center

Ambulatory surgery centers are an issue of importance, particularly in rural areas, because hospital-based outpatient specialty surgery is an area where health systems need to be successful to offset the cost of uncompensated care and the 24-hour, 7 day a week mission required of an acute care facility.

The Committee recommended that multi-specialty group practices that are currently subject to certificate of need laws be allowed “...to establish up to two ambulatory surgery centers, provided the ambulatory surgery center only provide services in a single specialty, and are not located in a rural county in which a single hospital with less [than] 100 inpatient beds is located.”

It is further recommended that an impact statement be generated and considered at a regional level. Although, the original recommendation attempts to consider the impact on a small hospital in a rural county it fails to consider the effect an ambulatory surgery center may have on the same hospital if it were established in a neighboring county.

The Committee also recommended that a certificate of need exemption be applied for an ambulatory surgery center “... on the same site as a sports training and educational facility, provided that the ASC has no more than six operating rooms, participates in Medicaid, makes an indigent and charity care commitment of 5 percent of its adjusted gross revenue, and demonstrates a positive economic impact of \$25m.”

In order to remain consistent with the declared policy goals described in O.C.G.A. §31-6-1, relating to state health planning and development, the state should embrace policy changes holistically and refrain from granting exceptions in state law based on economic impact determinations contributed by stand-alone for-profit health care providers.

Equipment Expenditures, Diagnostic Imaging & Bed Capacity

This area is one where significant improvement in process, and review of the level of change triggering a certificate of need application deserves modernization and update.

Destination Cancer Hospitals


The scope of practice and restrictions imposed on destination cancer hospitals has sparked emotional debate and been the subject of controversy since it was proposed as an idea in this state.

The ability of patients to exercise their choice of provider and course of treatment in all forms of care, including cancer care, is a worthy goal for Georgia.

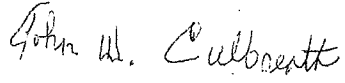
The committee report recommended that a destination cancer hospital be permitted to convert to a hospital not subject to the restrictions imposed to destination cancer hospitals, but subject to certificate of need laws in the same manner and to same extent as any other hospital.

A point of contention remains between the state and destination cancer hospital regarding payments that were agreed upon between the parties that have reportedly remain unsatisfied. In order to pursue the conversion of the facility from a destination cancer hospital to a general hospital, subject to the rules and regulation of the state, it is first recommended that all outstanding debts and obligation under the destination cancer hospital arrangement be resolved to the satisfaction of the state. A mechanism to ensure that all regulations required of an acute care facility be followed by the new entity will need to be developed to monitor the transition.


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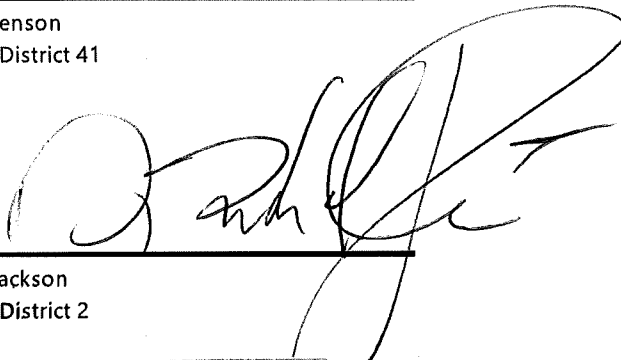
Dean Burke
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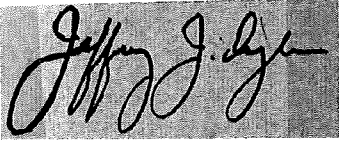
John Culbreath, Ed.D - Chair
Phoebe Putney Memorial Hospital

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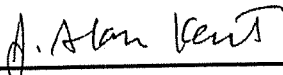
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Jeffrey Oyler, MD
Emergency Medicine Physician

By electronic signature (Jeffrey Oyler, MD)

X 

Alan Kent, President and CEO
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