

State Politics

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Florida House advances plan to deregulate hospital expansion

Rick Scott **Keeler, Scott**

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Determined to show that more competition will lead to better access to healthcare, a Florida House committee gave preliminary approval Tuesday to a plan to eliminate the controversial law that requires state approval for the building of new hospitals.

The House Health Innovation Subcommittee voted 9-3 along party lines to eliminate the so-called “certificate of need” process that requires state regulators to review and approve the construction of any new hospitals, the replacement of existing hospitals, or the development of certain expansive medical services such as organ transplants.

“When you have a free market, you get a better product at a lower cost, and that’s going to help the access,” said Rep. Jason Brodeur, R-Sanford, sponsor of the bill.

Opponents, including the Florida Hospitals Association, warned that removing the regulation would discourage hospitals from building and expanding in poor

areas, resulting in healthcare deserts as hospitals concentrate in affluent neighborhoods.

“I still have a concern for the people in my area ... who are the working poor who are not going to get quality care,” said Rep. John Cortes, D-Kissimmee. “The only ones who are going to get quality care are people who have insurance cards.”

Bill Bell, the Hospital Association’s general counsel, said the CON process helps to ensure that hospitals have the volume of patients needed to afford the quality and number of physicians to treat patients. If the program is repealed, there is no incentive for hospitals to treat the uninsured.

“No one wants to compete with us for nonpaying patients,” he said. “They only want to siphon off our paying patients, increase our costs, and we would have to shift those costs back to our paying patients and businesses.”

Brodeur countered that because state and federal law requires hospitals to serve whoever walks in the door, hospitals will be forced to compete based on the outcomes of their services, not how many they perform.

“We need to get to metrics,” Brodeur said.

Hospitals such as the Hospital Corporation of America have argued that the state’s CON regulations hamper their profitability. HCA operates 41 hospitals and 31 surgery centers in Florida with total revenues of \$8.3 billion, according to its 2104 annual report. The agency has hired 22 lobbyists this session, including the brother of Rep. Richard Corcoran, the chairman of the House Appropriations Committee.

“The failure to obtain any requested CON or other required approval could impair our ability to operate or expand operations,” HCA said in its 2014 annual report. “Any such failure could, in turn, adversely affect our ability to attract patients and physicians to our facilities and grow our revenues, which would have an adverse effect on our results of operations.”

Gov. Rick Scott, the former CEO of HCA, commended the House committee’s approval of the bill. He noted that Texas has no certificate of need laws and hospitals there don’t readmit patients as often as Florida hospitals do.

“Driving down healthcare costs is essential to expanding access to coverage and increasing quality,” Scott said in a statement. “Competition helps reduce costs and increase patient quality of care — plain and simple.”

Lane Smith, a spokesman for the Mayo Clinic in Jacksonville, said the current CON process cost them \$1 million in legal costs and five years of delay as competitors sued to prevent them from getting approval for a transplant program.

“We saw that CONs did not have a negative impact, but the regulation of organ transplants was restricted in a way that was not beneficial to patients,” he said. “We don’t believe market protection is a legitimate use of the CON. We need to innovate.”

There are 22 states that do not require some form of certificate of need before a hospital can expand or offer a new service, according to the House staff analysis of the bill.

The regulations were initially enacted to prevent healthcare providers from overbuilding expensive, and often profitable, facilities and thereby increasing the cost of healthcare. Several studies have raised questions about those assumptions, showing in some cases that regulating hospital expansion has limited the supply of services while other reports show that it has tamped down costs and increased charity care.

A report by the Mercantus Center at George Mason University found that for Miami-Dade County, for example, hospital regulation has resulted in about 3,428 fewer hospital beds than there would be without the state’s CON program. There are five to 10 fewer hospitals offering MRI services than there would be if the program were not in place, and 18 fewer hospitals offering CT scans, the report said.

The House bill, HB31-A, would not remove the regulations on specialty care services, requiring that state approval continue for such services as trauma care. It also removes the \$10,000 fee that goes along with state approval for new hospitals, resulting in an annual loss of revenue to the state of about \$650,000.

“While there may be a negative impact on the dollars coming in, there will be a positive impact on the resources,” Brodeur said.

The proposal is one of a handful of measures added to the special session on the budget that began June 1. The Senate plans a workshop to discuss a similar measure on Wednesday, but there does not appear to be any movement to pass the measure in the Senate.

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