North Carolina Can Improve Access to Higher Quality Health Care

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North Carolina can improve access to higher quality health care for its citizens through several policies that increase consumer choice and control and empower providers to best meet patient needs. Overwhelming evidence shows that state implementation of the reforms would expand consumer access to health care services, lower costs, and improve health care value.

Much of this policy brief relies on reforms contained in Paragon Health Institute's book—*Don't Wait for Washington: How States Can Reform Health Care Today.*[1] Paragon's book describes policy reforms that states can take to expand consumer options and improve peoples' ability to navigate the health system, free providers to best treat patients, and improve efficiencies within state programs.

Helping consumers through expanded options and better information

Short-Term Limited Duration Health Insurance

Short-term plans have been available for decades and are not subject to federal regulation, such as those contained in the Affordable Care Act.[2] These plans, which are subject to state regulation, are often much more affordable and flexible for families than other available options. The Trump administration reversed Obama administration restrictions on short-term plans and added important consumer protections. Federal rules now permit states to allow contract periods of up to a year with renewals of up to three years. North Carolina already conforms with these federal rules, so the state can simply maintain its current approach.[3]

Farm Bureau / Non-Profit Plans

Another coverage option that North Carolina can consider are Farm Bureau plans, or nonprofit plans. Since 1993, North Carolina's neighbor to the west, Tennessee, has allowed its Farm

[1] Brian C. Blase, Don't Wait for Washington: How States Can Reform Health Care Today, Paragon Health Institute, 2021, https://paragoninstitute.org/wp-content/uploads/2021/12/State-Health-Care-Policy.pdf
[2] Brian C. Blase and Doug Badger, "The Value of Short-Term Health Plans: Rebutting the Energy and Commerce Democratic Staff Report," Health Affairs, August 17, 2020, https://www.healthaffairs.org/do/10.1377/forefront.20200813.226193/full/; Brian Blase, PhD, "Individual Health Insurance Markets Improving in States that Fully Permit Short-Term Plans," Galen Institute, February 2021, https://galen.org/assets/Individual-Health-Insurance-Markets-Improving-in-States-that-Fully-Permit-Short-Term-Plans.pdf
[3] https://www.commonwealthfund.org/chart/2020/state-regulation-short-term-limited-duration-insurance

Bureau to sell health benefits.[4] The key to making this an attractive arrangement for consumers: the state does not regulate plans sold through the Farm Bureau as health insurance. Since the state does not consider this coverage as insurance for regulatory purposes, federal health insurance regulatory requirements—including ACA regulations—also do not apply. The result is much more affordable coverage that typically is accepted by far more doctors and hospitals.

In Tennessee, while there is underwriting for applicants, nine out of ten applicants are offered coverage.[5] After the initial underwriting, the plans are guaranteed renewable, which means that if the individual remains a member of the Farm Bureau, they are protected from both loss of coverage and premium increase if their health deteriorates. These plans are also now allowed in the states of Iowa, Indiana, Kansas, South Dakota, and Texas. Survey results show remarkably high customer satisfaction.[6]

Prescription Freedom

Aside from coverage options, North Carolina can take several steps to ensure that patients can be better purchasers of care. One issue is prescription freedom.[7] Dr. Jeffrey Singer, a health policy research fellow at the Goldwater Institute and the Cato Institute, describes policies that would conform with a new federal rule. This new rule permits patients to access and share their electronic health records via smartphone apps.[8] The rule also permits patients to use their personal prescription information to shop for prescription drugs, thereby allowing them to find the pharmacy that provides the best price, supply duration, convenience, and overall experience.

According to Singer, the benefits from the federal rule change will not flow to patients unless states, including North Carolina, remove pharmacy and health information transfer regulations. Current regulations limit the electronic transfer of prescriptions between pharmacies. Further, Singer explains the benefits of requiring health care providers to electronically transfer a patient's current medication history to a provider designated by the patient. By permitting patients to own their prescription history and control where to receive their medications, these reforms will stimulate patient shopping and increase competition, which should lower prices, improve convenience, and potentially increase medication adherence.

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[4] Hayden Dublois and Josh Archambault, "How Tennessee Has Led the Way with Affordable, High-Quality Farm Bureau Health Plans," Foundation for Government Accountability, March 2021, https://thefga.org/wp-content/uploads /2021/03/Tennessee-Farm-Bureau-Plans.pdf.

[5] Charles Miller, "Maximize Choice: Open Up Coverage Options," *Don't Wait for Washington: How States Can Reform Health Care Today*, Paragon Health Institute, 2021, https://paragoninstitute.org/wp-content/uploads/2021/12/State-Health-Care-Policy.pdf

[6] Colleen Baker, "Nearly 100% of Members Surveyed Would Recommend INFB Health Plans," Indiana Farm Bureau, May 10, 2021, https://www.infarmbureau .org/news/news-article/2021/05/10/nearly-100-of-members-surveyed-would -recommend-infb-health-plans.

[8] Jeffrey A. Singer, MD, "Empower Patients: Let Them Own and Control Their Prescriptions," *Don't Wait for Washington: How States Can Reform Health Care Today*, Paragon Health Institute, 2021, https://paragoninstitute.org/wp-content/uploads/2021/12/State-Health-Care-Policy.pdf

Price Transparency

North Carolina can support and strengthen recent federal rules aimed at publicizing health care prices. The Trump administration promulgated rules requiring hospitals (effective on January 1, 2021)[9] as well as insurers and health plans to post prices (to be effective on July 1, 2022).[10] Most hospitals have not fully complied with the price transparency rule yet, in part because enforcement of the rule has been lacking.[11] This price information is important to help consumers be more informed shoppers of health care. Expanded price information would help employers improve the design of their health benefits, guide employees to lower-price and higher-quality providers, and monitor the insurers who administer their plans.[12] These rules require complete price information, including negotiated rates and cash prices. These rules could be codified in North Carolina statute. To better ensure that hospitals and insurers become compliant, states can strengthen enforcement, such as the use of financial penalties.[13]

Transparent Provider Information

Another reform that would improve patient shopping is transparent data around key medical practices, as explained by Dr. Heidi Overton.[14] Overton discussed the benefits of states releasing Medicaid claims data for public analysis. Medicaid enrollees typically have poorer health outcomes than people with private insurance. Overton uses a case study of Cesarean sections—a procedure of particular importance to the Medicaid program and its patients since Medicaid paid for more than 42 percent of all U.S. births in 2019. Overton discusses why it is important that patients know providers' C-section rates and that the state ensure providers are aware of their own rates compared to those of other providers. Such transparency would help patients have greater awareness of the quality of care they receive as well as increase providers' awareness of the appropriateness of their own practices.

Expanding and improving the supply of health care

CON Laws

Perhaps the most anticompetitive policy in health care is certificate of need (CON) laws. CON laws are state regulations that require health care providers to obtain permission from a government board to increase the availability of health care services. CON laws exist for many

[9] Centers for Medicare and Medicaid Services, Hospital Price Transparency, https://www.cms.gov/hospital-price-transparency/hospitals
[10] Centers for Medicare and Medicaid Services, Transparency in Coverage, https://www.cms.gov/healthplan-price-transparency
[11] PatientRightsAdvocate.Org, "Semi-Annual Hospital Price Transparency Compliance Report," February 2022, https://www.patientrightsadvocate.org/semi-annual-compliance-report-2022.
[12] Brian Blase, "Transparent Prices Will Help Consumers and Employers Reduce Health Spending," Galen Institute, September 2019, https://galen.org/assets/Blase_Transparency_Paper_092719.pdf.
[13] States are limited in their ability to regulate self-insured, or ERISA, group health plans.
[14] Heidi Overton, MD, "Implement Transparency: Release Data to Improve Decision-Making," *Don't Wait for Washington: How States Can Reform Health Care Today*, Paragon Health Institute, 2021, https://paragoninstitute.org/wp-content/uploads/2021/12/State-Health-Care-Policy.pdf

different types of services, including hospital-based care and imaging technologies. Mercatus Center economist Matt Mitchell has extensively reviewed the evidence that shows CON reduces access, reduces competition, reduces quality, and increases costs.[15] CON is especially harmful to rural patients, decreasing access to hospitals and ambulatory surgical centers and forcing them to travel longer distances to receive care. CON laws have also contributed to disparities in access to health care amongst states' minority populations.

While Mitchell explains the benefit of fully eliminating states' CON requirements, he also outlines a menu of less comprehensive reforms if repealing CON is not feasible. These include repealing CON requirements at a future date, requiring that the CON authority approve a greater number of applications over time, and eliminating CON requirements that harm particularly vulnerable populations, such as the CONs for drug and alcohol rehabilitation and psychiatric services. Mitchell also explains why it is commonsense that employees of incumbent providers be barred from serving on CON boards and that no CON application be rejected on the basis that entry would create a duplication of services in a region.

CON is a huge problem in North Carolina with 27 health care services requiring CONs—the second most of any state.[16] Limiting CON's footprint in the state would help all consumers, particularly lower-income consumers who need lower-priced care alternatives.

Scope of Practice Reform

Supply of health care is further improved when states permit health providers to practice to the top of their license. Mercatus Center economist Robert Graboyes and Dr. Darcy Nikol Bryan found evidence from their research that state laws which limit medical professionals from practicing at the top of their license raise patients' financial costs, reduce health care access, and are associated with worse quality of care.[17] Such restrictions include narrow scope of practice rules or mandatory collaborative practice agreements. These laws are particularly problematic in rural and poor urban areas where people suffer from a dearth of health care professionals to care for them.

North Carolina citizens would benefit if the law were to permit all medical professionals to practice at the top of their license and allow non-MDs to practice without mandatory collaborative practice agreements. North Carolina could also join the interstate medical licensure compact and replicate Arizona's recently enacted legislation that enables licensed professionals from other states to begin practicing as soon as they move to Arizona.[18]

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[15] Matthew Mitchell, PhD, "Welcome Competition: Scale Back Certificate of Need Laws," *Don't Wait for Washington: How States Can Reform Health Care Today*, Paragon Health Institute, 2021, https://paragoninstitute.org/wp-content/uploads/2021/12/State-Health-Care-Policy.pdf

[16] https://www.mercatus.org/publications/certificate-need-laws/north-carolina-and-certificate-need-programs-2020

[17] Robert F. Graboyes PhD and Darcy Nikol Bryan PhD, "Unshackle Providers: Don't Waste Their Training," *Don't Wait for Washington: How States Can Reform Health Care Today*, Paragon Health Institute, 2021, https://paragoninstitute.org/wp-content/uploads/2021/12/State-Health-Care-Policy.pdf

[18] Jonathan J. Cooper, "Arizona Becomes 1st to Match Out-of-State Work Licenses," AP News, April 10, 2019.

Telehealth

Another way North Carolina can expand health care access is through telehealth. At the start of the pandemic, many states relaxed rules that limited the availability of telehealth, including allowing out-of-state providers to offer telehealth services, eliminating requirements for a pre-existing provider-patient relationship prior to initiating telehealth, suspending the requirement that a patient be physically present in a medical facility to obtain evaluation via telehealth, and permitting both audio and telehealth options. These policy changes enabled many patients to receive care, including remote monitoring, who otherwise would have been without any convenient options for such care.

Goldwater Institute health policy director Naomi Lopez has studied telehealth extensively, writing about the importance of states making telehealth liberalizations permanent to better meet patients' needs and preferences, increase access for people who live in rural areas, permit flexibility for hospital redesign, and encourage innovation in insurance design.[19] A Cicero Institute report found that North Carolina's telehealth laws currently contain clear barriers to across state telehealth and prevent a nurse practitioner from practicing independently without a collaborative practice agreement.[20]

Improving State Management of Health Programs

States can improve their health care market by better managing their health programs, including the state employee health plan and Medicaid.

State Employee Health Plan

Instituting reforms in the state employee health plan can increase beneficial competitive forces, save taxpayer resources, and provide private sector employers a model for reform. As I have written in *Don't Wait for Washington*, there are several options for how states can reform their employee health plan.[21] These options include:

1) providing greater transparency about the plan,
2) permitting the plan to merge with group purchasing organizations to obtain better value for plan members,
3) insisting on bottom-up pricing and avoiding inflationary pricing structures like discounts from billed charges,

[19] Naomi Lopez, "Unleash Technology: Maximize Telehealth's Potential," *Don't Wait for Washington: How States Can Reform Health Care Today*, Paragon Health Institute, 2021, https://paragoninstitute.org/wp-content/uploads/2021/12/State-Health-Care-Policy.pdf
[20] Josh Archambault and Vittorio Nastasi, "Rating the States on Telehealth Best Practices: A Toolkit for a Pro-Patient and Provider Landscape," Cicero Institute, Pioneer Institute, and Reason Fondation, February 10, 2022, https://ciceroinstitute.org/wp-content/uploads/2022/02/50-State-Telehealth-Best-Practices-2-8-22.pdf.
[21] Brian C. Blase, PhD, "Demonstrate Leadership: Reform the State Employee Health Plan," *Don't Wait for Washington: How States Can Reform Health Care Today*, Paragon Health Institute, 2021, https://paragoninstitute.org/wp-content/uploads/2021/12/State-Health-Care-Policy.pdf

4) moving toward site-neutral reimbursement by prohibiting the use of facility fees in the state employee health plan if inpatient hospital-based care is not necessary,
5) utilizing reference-price and shared-savings payment structures, and
6) employing individual coverage health reimbursement arrangements.

Medicaid

North Carolina can minimize some of Medicaid's profound challenges, including soaring improper payment rates, because the state opted against expanding Medicaid. According to a new federal report, the federal share of improper payments nationwide was $100 billion last year. Including state spending in the calculation would likely increase overall improper payments in Medicaid to $150 billion.[22]

Jonathan Ingram, the vice president of policy and research at the Foundation of Government Accountability (FGA), has written of many actions states can take to ensure that program funds are allocated in lawful and responsible ways.[23] To ensure only eligible recipients are enrolled in Medicaid, states can stop accepting self-attestation for income and other household attributes, utilize all available data sources for verification of applicant information, take steps to ensure that hospitals are not enrolling ineligible residents in Medicaid, and perform more frequent ongoing reviews. Perhaps most importantly, given the currently high number of improper Medicaid enrollees, states can prepare for the end of the coronavirus public health emergency by restarting redeterminations. Finally, states can conduct full-scale audits of their Medicaid programs to better understand whether the program expenditures comply with the law and yield acceptable outcomes.

Charity Care

Last is a topic not included in *Don't Wait for Washington* but currently being studied by Paragon Health Institute. North Carolina may find it useful to evaluate the amount of charity care being provided by nonprofit hospitals. Nonprofit hospitals receive enormous tax advantages for the provision of significant charitable care. One conclusion from the research is that nonprofit hospitals typically do not provide greater amounts of charitable care than for-profit hospitals. A policy developed by FGA would require any hospital receiving state tax exemptions to annually demonstrate that the cost of charity care they provide is greater than or equal to the value of the tax exemptions they receive. A report from Johns Hopkins University shows that most North Carolina hospitals are below their tax-exempt level on charity care they provide.[24]

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[22] Centers for Medicare and Medicaid Services, "2020 Medicaid & CHIP Supplemental Improper Payment Data," U.S. Department of Health and Human Services (2020), https://www.cms.gov/files/document/2020-medicaid-chip-supplemental-improper-payment-data.pdf.
[23] Jonathan Ingram, "Manage Effectively: Make Medicaid More Accountable," *Don't Wait for Washington: How States Can Reform Health Care Today*, Paragon Health Institute, 2021, https://paragoninstitute.org/wp-content/uploads/2021/12/State-Health-Care-Policy.pdf
[24]North Carolina State Health Plan and Johns Hopkins Bloomberg School of Public Health, "North Carolina Hospitals: Charity Care Case Report," October 27, 2021, https://www.shpnc.org/media/2604/open