

# Arthur J. Vayer Jr. and Gautham Gondi column: A barrier limiting Virginia's access to health care

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By Arthur J. Vayer Jr. and Gautham Gondi

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In March 2019, surgical technologist Tory Shockley prepared the operating room for surgery at Memorial Regional Medical Center in Mechanicsville.

ALEXA WELCH EDLUND/TIMES-DISPATCH

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During the early months of the COVID-19 pandemic, the greatest fear for the commonwealth was that our health care facilities would be overrun and filled to capacity. The Virginia Department of Health (VDH), hospital systems and Virginia's physicians spent hours planning for worst-case scenarios. Unfortunately, there was a long-standing, intractable barrier limiting Virginia's access to health care: Certificate of Public Need (COPN).

Although the public has been led to believe that Virginia's physicians wish to repeal COPN, that just is not true. Very little legislation has been introduced in Virginia's General Assembly in recent years seeking to repeal all of Virginia's COPN law. Our organizations and others have argued for overdue reforms to reflect advances in medical and surgical care.

COPN restricts the building of and investment in new health care facilities and innovative technologies. Virginia's COPN must be reformed to expand access to health care, reduce patient costs and protect our vulnerable populations. Data proves that there are significant cost savings to patients and the health care system, including Medicaid and Medicare, when procedures are performed in nonhospital facilities versus a hospital. As just one example, according to Virginia Health Information (VHI), which collects cost data for procedures around the state, on average a colonoscopy is about \$1,100 less in an ambulatory surgery center than in a hospital outpatient department. In a world of \$5,000 health plan deductibles and out-of-pocket maximums, that is a tremendous amount of money for most patients.

Despite this obvious fact, no governor, senator, work group, study or blue-ribbon commission for the past decade has been able to get Virginia's hospitals to accede to any patient-focused reforms.

With the COVID-19 pandemic present in our minds, why would we support public policy that limits health care options? COPN is an expensive, lengthy, subjective process to receive approval to add certain services to a physician's or a hospital's practice. And, most glaringly perhaps, the process also allows competitors to object to a provider adding a service. Some physicians have spent more than \$100,000 in legal fees seeking a permit, only to be denied. This hurts patients as their physician might not be able to provide the most up-to-date and efficient care they need and instead forces them to a higher cost setting.

COPN also makes it harder for Virginia to retain and attract providers. The Virginia Joint Commission on Health Care already declared the commonwealth has a physician shortage. A 2021 study by WalletHub has Virginia ranked as the 37th best state in which to practice medicine. In 2018, the American Academy of Medical Colleges calculated that more than 54% of physicians practice in the state of their residency. Virginia retained only 47%. If

providers have a choice between working in a non-COPN state or in Virginia, they would much prefer to work in a state that allows for health care innovation and encourages them to grow for the sake of their patients.

COPN reform can work. We can protect the uninsured and underserved by bolstering charity care requirements and assuring new facilities provide a specified level of care to patients in need. This has been proposed in the past but has been rejected by hospitals. By rejecting necessary COPN reform, hospitals are saying they would rather abandon underserved communities than contend with more providers and health care facilities in their area.

Given the considerable stresses and financial burdens health care providers in Virginia have battled during COVID-19, we need more high-quality and affordable health care services — not less. The pandemic showed the cracks in our health care system, and it is incumbent upon our leaders to address them lest we face another crisis. Let's modernize Virginia's COPN laws to allow patient choice, promote lower costs and encourage innovative growth in our health care system.

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