

POLITICS & POLICY

Regulation or Competition?

States Battle Over How to Get Reasonable, Quality Health Care

By BERNARD WYSOCKI JR.

THE BATTLE LINES VARY from state to state, but conflicts in each pose a difficult question playing out across the country: What is the best way to get the optimum amount of quality health care at a reasonable cost: through regulation, or through unfettered competition?

The hospital industry itself is split. Newcomers to a market need an atmosphere open to competition, not state regulations that could dash their plans. Existing hospitals—frequently taxpayer-supported—often favor regulation. And today, the pro-regulation forces increasingly are joined by employers, who see in hospital expansions and the proliferation of high-end equipment a big source of soaring health-insurance premiums. The companies' fear: If you build it, the patients will come.

In Georgia right now, the big battleground is Macon, and the debate pits two big hospitals over the issue of how much high-end cardiac care is appropriate for a city of 150,000 and its surrounding region: The Medical Center of Central Georgia, exclusive provider of these lucrative services for almost 25 years, says one facility is enough—its own. But a cross-town rival, the Coliseum Health System, says it too should be able to do heart surgery in Macon, and has fought to obtain the regulatory permission needed to do so.

Would two hospitals better serve the community or would the competition re-

sult in more procedures and spiraling costs for whoever pays the bills? Three years of debate and lawsuits have failed to provide an answer, and a rancorous split divides Macon's medical community. The Coliseum's permit application has been denied, granted or appealed seven times since 1999. Now it is before Georgia's court of appeals in Atlanta.

"For an outsider who looks at this rationally, it makes very little sense," says Sam Shaker, a prominent local heart surgeon.

Smack at the center of debates like this—in Georgia and at least five other states—are arcane statutes known as "certificate of need" laws. The laws, which give state regulators the power to determine whether new medical facilities are necessary in a community, mostly were born in the 1960s to contain the proliferation of health facilities. In the early days, they often were pushed by employers and later embraced by insurers and the Social Security Administration. Federal law required states to have the laws from the mid-1970s through the mid-'80s. But amid the deregulatory vogue of the '80s, some states killed their statutes. Today, 36 states and the District of Columbia still have them, though they vary in scope and stringency.

Now that health-care costs are rising again, efforts are afoot to reregulate or strengthen existing rules. At the same time, some hospitals, clinics and medical groups continue their campaign against the laws. Aside from Georgia, other bat-

tle zones include Florida, Maine, Michigan, Missouri and Tennessee.

Expansion-minded for-profit hospitals are able to ally with lawmakers who see competition as a virtue. They push repeal with the argument that incumbent hospitals use certificate-of-need restrictions to protect their local monopolies. Bulging waiting lists for surgeries are evidence of demand, they say, and the losers are patients who must seek care farther from home.

In Maine this spring, competing bills called for repeal and for strengthening of the state's law; last month, the toughening bill prevailed. In Missouri, bills before the legislature would bring back certificate-of-need provisions that were previously repealed and deactivated last year. Adding fuel to the state controversies are employers, often joined by their unions, who believe the laws help prevent a medical "arms race" and rein in the cost of worker benefits.

"What's on the lips of the employers is, managed care has failed. And they face as high as 41% increases in [health-insurance] premiums this year," says Thomas Piper, head of Missouri's certificate-of-need programs at the state Department of Health, and past president of the American Health Planning Association.

In Michigan, the big auto companies—in concert with the United Auto Workers—are loaded for bear in a fight to keep the state's certificate-of-need law on the books. The companies have deployed staff and research to make their pro-regulation case in Michigan and elsewhere. As evidence, they point to higher medical costs in Wisconsin and Indiana, which don't have such laws.

Officials of DaimlerChrysler AG went before a state panel in Lansing in March, testifying that the company's annual health-care spending totals \$3,519 per employee or family member in Wisconsin.

"They already have overcapacity, and somebody has to pay for those bricks and mortar," says Mark Gendregske, director of integrated health care and disability at DaimlerChrysler. "We see this in community after community."

Regulation advocates also contend that full-service hospitals will face new competitors that will focus on certain areas and "cream" the most lucrative specialties. In turn, they predict, full-service hospitals—often public, taxpayer-supported institutions—will face greater financial pressures; they will lose heart, oncology and orthopedic business that generates lots of revenue, this reasoning goes, while still being forced to provide vital but money-losing emergency rooms and maternity wards.

Indeed, Macon's Medical Center of Central Georgia, a public nonprofit hospital complex, has argued repeatedly that losing cardiac business would interfere with its ability to provide so-called charity care for the indigent.

But the big issue is whether the Macon area has sufficient demand for competing heart centers. The Medical Center's chief executive, A. Donald Faulk Jr., forcefully insists—including in open letters to the Macon newspapers—that few surgeons or cardiologists have come forward to press the case for a second facility. Yet the Coliseum, a three-hospital, for-profit complex, and a unit of Nashville-based HCA Inc., says the demand is obvious.

Some doctors who practice at both hospitals, such as Dr. Shaker, concur. "We feel we need more beds here," he says. If Coliseum's now-temporary approval is overturned, Dr. Shaker worries that the region's patients will suffer: "You either will have to wait, or go to Atlanta," about an hour away.

For now, Atlanta is where the whole fight is headed, since the state appeals court recently agreed to take the case. Meanwhile, the Macon standoff—with all the flip-flop decisions on the Coliseum's certificate-of-need permit—is reverberating in the statehouse. Lt. Gov. Mike Taylor recently said that while he supports a certificate-of-need law, he finds the current statute burdensome and bureaucratic.