



## **Tennessee Hospitals Voice Their Support of Certificate of Need (CON) Law**

Supporting Statements from THA Member Hospitals and Health Systems

### **Ascension Saint Thomas**

Ascension Saint Thomas is strongly opposed to the proposed CON reform and changes, which would significantly diminish the health safety net and viability of hospitals in rural communities. The proposed changes ignore the unique role hospitals play in our communities: caring for our communities 24/7/365, regardless of ability to pay. While we support improvement to the CON process, these proposals would negatively impact cost of care and the eight rural hospitals that serve our rural communities. Other states that repealed CON have experienced a significant negative impact on the healthcare system.

- Fahad Tahir, President and Chief Executive Officer

### **Baptist Memorial Health Care**

Baptist Memorial Health Care joins the vast majority of Tennessee's health care organizations in supporting the state's current certificate of need process. Any change to that law would harm patients, particularly the under-served.

Some say the CON process stifles competition—a hallmark of the free market system we all cherish. However, hospitals do not operate in a free market system. Half of our patients have Medicare and TennCare insurance. We have no control over the reimbursement we are required to accept for treating these patients. Moreover, we are morally and legally required to provide emergency care to all patients, regardless of whether they can pay for care. These regulations create the antithesis of a free market.

Tennessee's CON structure protects hospitals, which is important because they devote hundreds of millions of dollars every year to care for uninsured and underinsured patients. Last year alone, we provided more than \$200 million in uncompensated care to TennCare and uninsured patients in Tennessee. Without the protection the CON law provides, it would be very difficult for many hospitals to continue caring for these patients.

- Jason Little, President and Chief Executive Officer

### **CHI Memorial**

CON legislation cannot be considered in a vacuum. CHI Memorial has spent decades building a healthcare system that enhances access to care for those we serve across the greater Chattanooga area. This includes an array of services above and beyond uncompensated patient care for which there is no direct reimbursement or where the payment does not cover the full cost. We have dedicated vast resources to battle cancer, heart disease, and other life changing health issues because it is what those we serve need. The CON program helps ensure continued access to these life preserving services. We can improve CON without putting this at risk.

- Janelle Reilly, Chief Executive Officer

### **Cookeville Regional Medical Center**

On behalf of Cookeville Regional Medical Center, a rural hospital that serves as the premier medical center for 14 counties in the Upper Cumberland region, Cookeville Regional strongly opposes the legislative efforts to change the existing CON program. This will affect rural hospitals and the services offered to the people in rural communities. These changes would undermine our ability to provide essential healthcare services to our community by allowing larger healthcare corporations to cherry-pick the most profitable patients and services. Competition is healthy and not something all healthcare institutions are unfamiliar with. Still, without the protections afforded by the current law, hospitals' abilities to serve their communities could be jeopardized, ultimately leading to decreased quality care for our patients with more travel or hospital closure. That to say, there should be more conversations about how the CON program can be improved, but this is not the answer. We would be extremely open to offering any input and collaborate on any improvements that may be deemed necessary with the current CON regulations to allow the market to grow but in the direction in which the market is favorable for all patients.

- Buffy Key, Chief Executive Officer

### **Covenant Health**

As a not-for-profit healthcare enterprise, Covenant Health fully supports the Certificate of Need program and opposes efforts to minimize the program. The regulation creates standards that ensure fair and equitable delivery of services to the communities they serve, a fundamental tenet of our mission-driven approach to healthcare delivery. We want to ensure the availability of care to everyone in our region, and requiring organizations to demonstrate the need for healthcare services requires healthcare systems to prioritize access to essential services properly. Without these standards, we risk providers entering communities focusing only on the most profitable services for

the highest-paying patients and risk providing essential services for rural and underserved populations.

- Jim VanderSteege, President and Chief Executive Officer

### **East Tennessee Children's Hospital**

East Tennessee Children's Hospital (ETCH) is strongly opposed to the proposed Certificate of Need (CON) reform legislation. CON laws protect hospitals from the unequitable burden of uncompensated care. Lack of CON adds costs to an already expensive healthcare system and would allow for-profit entities to cherry-pick which patients serve their bottom line best. In addition, existing CON laws ensure that the same regulatory requirements for hospitals are a standard. This is vital to quality and safety for pediatric patients and their families. As a specific example, Neonatal Intensive Care Units (NICUs) vary drastically in investment and capability depending on this designation (Level II, III, or IV). All NICUs are not created equal. Without established conditions in place and governed by CON, patients could be delayed in receiving life-saving specialized care that ETCH and other children's hospitals administer across the state. East Tennessee Children's Hospital will always be an advocate for children and the family-centered care we provide and stand ready to be a resource.

- Matt C. Schaefer, President and Chief Executive Officer

### **Lifepoint Health**

Tennessee leads the nation in rural hospital and rural service line closures that have left rural communities without access to critical services. On behalf of our nine rural hospitals in Tennessee, Lifepoint Health strongly opposes the legislative effort to weaken the existing CON program. What is being proposed would harm rural healthcare by moving inpatient acute care away from rural communities and into urban settings. The proposed reforms would leave many rural Tennessee communities with only limited outpatient services. This means labor and delivery units, behavioral health units, and other critical services are at risk of closure in rural communities. It also means rural patients would have to travel to cities to receive care, rural communities would lose jobs, and it would be harder to attract industry to rural Tennessee. We are always open to having a conversation about improving the CON program, but we cannot start from a place that harms rural communities and rural access to care.

- William Haugh, Central Division President

## **Maury Regional Health**

While Maury Regional Health (MRH) understands that Certificate of Need (CON) laws may need to be reevaluated, we are not supportive of how reform is currently being structured, particularly how it reduces the population carve-out from 175,000 to 100,000, creating an unfair advantage for some health care providers without regard for the resulting impact and fragmentation to patient care.

MRH is a county-owned, not-for-profit, health system that has been providing high-quality health care to all patients, regardless of their ability to pay, since 1953. This proposed CON reform plan would negatively impact systems like MRH serving rural populations in the following ways:

- **Unfair Competitive Advantage:** Changing CON reform in some counties and not others based on population would place an unfair burden on systems like MRH. While MRH is based in a county with a population of 108,000, we also serve five other counties that are very rural. In fact, no other county in our service area currently has a population greater than 46,000. Our ability to serve these rural communities, including operating two rural hospitals in Wayne and Marshall counties at a financial loss, is a direct result of the success of our flagship hospital, Maury Regional Medical Center, in Columbia.
- **Create Rural Health Care Deserts:** Organizations will enter markets based on profitability and payor mix, in particular urban and growing markets, and will not enter rural areas where per capita income is lower and rates of chronic disease are higher. Tennessee currently has the second-highest incidence of hospital closures compared to any other state—a total of 16 hospital closures since 2010—13 of which served rural populations. Of the 95 counties in Tennessee, 82 percent are rural. This includes Maury County, which by federal Health Resources & Services Administration (HRSA) guidelines meets the definition of rural. According to a report from the Center for Healthcare Quality & Payment Reform released in April 2023, 38% of Tennessee’s rural hospitals are at risk of closure.
- **Profit-Driven Health Care:** Organizations will enter new markets with existing health systems and promote primarily profitable services, leaving many vital community health services that are not profitable, such as childbirth, to be provided by existing hospitals. Offering essential unprofitable services is only possible because of positive financial margins achieved through other service lines. The premise that eliminating CON regulations will expand health care opportunities by increasing competition is not true for ALL Tennesseans. Instead, it would result in cherry-picking and increasing the gap in access to medical care in rural areas.
- **Workforce Shortage:** There is a severe shortage of health care workers across the nation. Repealing most of the current CON regulations would increase competition for a diminishing workforce on the cusp of all Baby Boomers turning age 65+ by 2030. A dwindling workforce will result in physician- and nurse-to-patient ratios that are detrimental to clinical quality and patient safety. In addition, organizations would

aggressively compete for staffing by increasing salaries and recruitment incentives. These costs would be passed on to patients through higher charges for services and would further weaken delicate rural hospital financial margins.

- Continuum of Care: As health care moves from a fee-for-service model to an accountable, value-based care model, integrated care that focuses on a patient's overall health journey will become imperative. CON reform, as currently proposed, overemphasizes the episodic, fee-for-service model and would undermine important population health efforts to improve wellness, prevention, and the reduction of overutilization of services and hospitalizations. We need better integrated systems and electronic health records that contribute to a safe, continuum of care rather than a further-fragmented health system that increases costs and thwarts communication.

While all health systems need to be profitable to stay in business, rural community hospitals reinvest those dollars into physician recruitment, investments in technology, and expansion of services. Small to medium-sized community hospitals will be at greatest risk and—more importantly—the most vulnerable patients in Tennessee will be harmed the most by CON reform.

- Martin M. Chaney, M.D., Chief Executive Officer

### **Regional One Health**

As home to the region's only trauma center, burn center, and other specialized services, Regional One Health is committed to providing quality care to the residents in this community. Regional One Health also serves as this region's safety-net hospital, an important role the proposed CON reform changes could undermine. The CON process allows for the planned and orderly growth of healthcare services, and it helps avoid the shifting of less profitable and higher cost services to hospitals. Unlike non-hospital providers, we are open 24/7 and take care of patients without regard to their ability to pay. The proposed reform does not account for the important role of hospitals to provide access to quality care to all. While we can appreciate reform discussion around the CON program, wholesale elimination of CON would create significant disruption in urban and rural areas, and negatively impact many of the State's essential hospitals. The elimination of CON would contribute to increased financial pressures on hospitals and ultimately limit access to care for our most vulnerable patients.

- Reginald Coopwood, M.D., President and Chief Executive Officer

### **University of Tennessee Medical Center**

As the region's academic health system, The University of Tennessee Medical Center has a responsibility and commitment to offer the treatments and services our community relies on to

meet an incredible range of needs. The proposed CON reform changes directly impact our ability to deliver on that commitment, undermining our unique role in the region as the safety net hospital and care provider to **all** in our 21-county service area. This proposal does not adequately consider the role hospitals play in the state's health care landscape, and would negatively impact our community's access to care. By allowing providers—which are not subject to the same requirements as hospitals—to enter markets without proper consideration of a community's needs and resources, we are undermining the long-term sustainability of local and regional hospitals—which serve a critical role for our communities. CON reform can and should be considered through the lens of balancing patient access alongside maintaining the viability of the existing infrastructure already supporting a community. Rather than expanding access to care, as written, this reform could result in the elimination of care to many across our state.

- Keith Gray, M.D., President

### **West Tennessee Healthcare**

West Tennessee Healthcare, a non-profit healthcare system serving 19 rural counties in West Tennessee and Southeast Missouri, is strongly opposed to legislative changes to the Certificate of Need (CON) program that would harm communities and limit access to affordable healthcare in our state. We believe elimination of need requirements for acute care hospitals, Freestanding Emergency Departments (FSEDs), and non-hospital providers poses a threat to the viability of the most visible and most critical component of the healthcare system in Tennessee. CON requirements for acute care hospitals, FSEDs, and non-hospital providers must be maintained.

Tennessee has already seen a high number of hospital closures and hospitals struggling financially post-pandemic to the point of even shuttering much-needed services like OB/GYN services. For example, Henry County Medical Center has been unable to continue to provide OB/GYN services due to an unfavorable payer mix where the rural population for these services is 70% TennCare. Our health system is now providing OB/GYN services in the northwest region of West Tennessee since this closure, but without long-term financial sustainability, this will not be possible.

If the CON program is eliminated, for-profit companies and health systems would seek to open new facilities and would further erode the financial sustainability of safety net hospitals in the region that were created to provide care for all patients, regardless of their ability to pay. In addition to our concerns about the lack of access to critical healthcare services if the CON program is eliminated, proposed changes to the CON program could have a devastating effect to rural communities, impacting employment and economic prosperity.

The CON program plays a crucial role in ensuring that healthcare resources are distributed equitably and efficiently across communities. It helps prevent the proliferation of unnecessary

healthcare facilities and services, which can lead to increased healthcare costs and decreased quality of care.

West Tennessee Healthcare supports policies that would strengthen the CON program and prioritize the healthcare needs of all communities, regardless of their geographic location. This includes maintaining CON requirements on acute care hospitals, FSEDs, Ambulatory Surgery Centers (ASTCs) and Outpatient Diagnostic Centers (ODCs).

- James Ross, President and Chief Executive Officer

### **Williamson Health**

Williamson Health is strongly opposed to the proposed Tennessee Certificate of Need (CON) reform, which would significantly impact the viability of hospitals like Williamson Medical Center (WMC) and the important services we provide at little-to-no margins. Services like pediatric inpatient units, pediatric emergency rooms, and obstetrics (OB) and neonatal intensive care units (NICU) will be in jeopardy which could inevitably lead to reduced access for our communities. Hospitals like WMC are able to provide these low-margin services because we are able to financially offset the losses by also offering the higher paying services. When new hospitals enter a market, they typically begin by targeting and cherry picking the more lucrative service lines, putting financial pressure on existing facilities like WMC. In addition to risking the vital-yet-low-margin services, the current proposed CON reform will cause the available hospital workforce to be far more stretched than it already is today which will further adversely affect staff-to-patient ratios.

In contrast to conventional market dynamics, the healthcare sector operates in a manner where consumers often lack control over critical healthcare decisions, particularly regarding pricing that is determined by negotiations between hospitals/health systems and insurance providers. Contrary to common perception, competition within the healthcare industry tends to escalate consumer prices. This paradox arises because large and specialized healthcare systems can leverage their size and scope to negotiate more favorable rates with insurance companies, leaving smaller systems and community-based hospitals at a disadvantage. The Tennessee CON program plays a crucial role in maintaining a balance between healthcare accessibility, affordability and quality. Consequently, introducing new competition into the healthcare market can yield unintended consequences that will potentially drive up costs for consumers, employers, payors, and entities like the State of Tennessee.

While we are open to collaborative reform efforts to improve the Tennessee CON process, Williamson Health believes that the proposed reform will be detrimental to communities like ours.

Williamson Medical Center is an independent, non-profit, governmental Private Act Hospital

District that receives no tax dollars, other than a small subsidy from the county for EMS services, and has been proudly serving Williamson County since 1958 with the sole mission of meeting the healthcare needs of the residents of Williamson County and surrounding communities.

- Phillip J. Mazzuca, D.Sc., FACHE, Chief Executive Officer