

# BIRTH CENTERS AND THE HEALTHCARE POLICY WATERSHED: CHALLENGES AND HOPE



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## SOME PUZZLES

- Americans give birth in ways they don't want.
- American birth is expensive and has relatively poor outcomes.
- Alternatives exist, but they're underused.



# STANDARD NARRATIVES



- High quality "high touch" care is unprofitable
- High quality care is limited by liability fears
- Americans want medically intensive care

# THE REAL STORY



# HISTORY

- Hill-Burton Act 1946
- Medicare Act 1965



# FEDERAL POLICIES



- Medicare and Medicaid
  - Intent: to ensure access to high quality care while controlling costs
  - Result: policies distort the market, privilege entrenched players like hospitals, limit innovation, contribute to medicalization.
    - Examples: Birth centers and midwives reimbursed at lower rates for the same care.

# STATE LAWS AND POLICIES

- Certificate of Need (CON) Laws
  - Intent: limit costly competition by ensuring expensive new infrastructure is truly needed.
  - Reality: allows hospitals to limit competition
- Corporate Practice of Medicine Laws
  - Intent: to prevent corporations from influencing how physicians practice medicine
  - Reality: exemptions privilege hospitals and centralize care
- Licensing and scope of practice laws
  - Intent: ensure high quality care by trained providers
  - Reality: physicians block competent care by nonmedical or non physician providers



# CASE STUDY: NEW YORK BIRTH CENTERS



- Required physician ownership (until 2016).
- CON process costs hundreds of thousands of dollars and multiple years.
- Various limits on reimbursement (asymmetric Medicaid reimbursement; insurance companies coordinate with hospitals to limit competition).



# RESULT: CARE IS CONTROLLED BY HOSPITALS AND PHYSICIANS



- Birth is not in itself a medical condition.
- Birth is highly preference-sensitive.
- Research consistently shows high-touch, low-tech care provides a better fit for the range of physical, social, emotional, and psychological needs people face during birth.
- Hospitals face a range of constraints that make individualized care very difficult to provide.
- **DISCONNECT:** There exists a fundamental mismatch between the location and type of care we provide and the needs of birthing people.

# INSTITUTIONS AND INCENTIVES AFFECT PRACTICE

- Policies and regulations limiting innovation and competition **harm the least powerful** most of all.
- Physicians and hospitals struggle with **overregulation and poor financial incentives** (stemming from the structure of Medicare) that make high-touch, low-tech care unprofitable.
- **Centralization of care** constrains the ability to provide individualized care.



# ETHICAL IMPLICATIONS

- **Beneficence/nonmaleficence:** harmful and unnecessary medical interventions. Isolation from support networks.
- **Justice:** limited economic and geographic access to alternative care providers. Lack of culturally competent care.
- **Autonomy:** Poor communication. Violations of informed consent.



# ECONOMIC IMPLICATIONS

- Hospital care makes up 30% of total health care spending, despite ample evidence that **alternative modes of care would improve outcomes and lower costs.**
- Economic pressures from changing income streams and federal oversight encourage hospital consolidation and a **decline of independent practitioners.**
- Hospitals are often seen as “**too big to fail**” due to their role in local employment and provision of emergency services.



# POTENTIAL SOLUTIONS

- Lobby **against CON laws, CPM laws, and restrictive licensing laws** for non-physician providers.
- Encourage more flexible **health savings accounts**.
- Experiment with **concierge care** with scaled payment options.
- **Bundle high-touch and high-tech care.** Encourage cooperation.
- **Restructure Medicare/Medicaid** to eradicate obvious conflicts of interest.
- Shift focus away from tort reform and instead focus on better training and better protocols in hospitals to **reduce miscommunication**, a major source of malpractice lawsuits.

# HOPEFUL SIGNS

- Demand for birth centers is growing
- Growing diversity in birth center providers
- States are desperate
- Growing movement to eliminate third party payers
- Covid-19 has demonstrated need for alternative locations for maternity care



QUESTIONS?

