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RESEARCH SUMMARY

Barriers to Entry in the Healthcare Markets: Winners and Losers from Certificate-of-Need Laws

Certificate-of-need (CON) laws for MRI, CT, and PET scans exist in 21 US states. These laws, similarly to CON laws for other services, mandate approval processes that healthcare providers must go through to obtain scanning technology. One common argument for CON laws is that they benefit the patient by keeping healthcare costs low, which they are presumed to do by preventing overinvestment in technology and capital. But commonsense economics suggests that CON laws restrict competition and set up barriers to entry in the healthcare industry. Because of the costly application process, fewer providers will have access to the targeted scanning technologies than would have had access in the absence of the laws.

In "Barriers to Entry in the Healthcare Markets: Winners and Losers from Certificate-of-Need Laws," Thomas Stratmann and Matthew C. Baker find that CON laws act as uneven barriers to entry in the healthcare market, affecting patients' access to care.

HISTORY OF CERTIFICATE-OF-NEED LAWS

- CON restrictions were first adopted because policymakers believed that hospitals might invest too much in expansion if the market remained unregulated. Studies undertaken after the federal implementation of CON laws found no evidence that the laws had the effects intended.
- The current state-based iteration of CON laws creates costly application processes, which average to $32,000 per application. The application cost has been cited as exceeding $5 million in some cases.

FOUR HYPOTHESES ABOUT CON'S EFFECTS

Data from the American Health Planning Association and the Centers for Medicare and Medicaid Services allowed the authors to empirically test four hypotheses about the true effects of CON laws that regulate MRI scanners, CT scanners, and PET scanners:

1) CON laws restrict imaging services provided by nonhospitals. These providers include independently practicing physicians, group practices, and other ambulatory care settings.
2) CON laws insulate incumbent hospitals from competition and, in the process, restrict new hospitals from acquiring imaging services.
3) Patients have fewer options for imaging services in CON states.
4) Because their options are restricted, patients in states with CON laws are more likely to seek care outside their home county.

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RESULTS AND LESSONS

The study finds evidence consistent with each hypothesis. Specifically, new hospitals and nonhospital providers have been negatively affected by CON laws, while other types of providers have experienced market gains.

- CON laws have a substantial effect on new hospitals and nonhospital providers, but close to no effect on incumbent hospitals.
- Fewer MRI, CT, and PET scans are provided in states with CON laws, and the effect is distributed unevenly across provider types.
- There is evidence that there are winners and losers in terms of market share.
- Patients travel further from their county of residence to obtain care in CON states than in non-CON states.

CON laws can be barriers in the healthcare industry. Although proponents of CON laws commonly argue that they are for the benefit of the patient, the evidence does not support that justification. Additional research is needed on how regulation-related costs and barriers in the healthcare industry may restrict certain providers more than others.