Analysis of the Mercatus Study

- The Mercatus study purports to show that CON laws decrease the supply and availability of health care in West Virginia.

- Overall, the study does not consider other factors affecting healthcare costs in West Virginia, such as: competition among hospitals, availability of physicians, market dominance by one large health insurance carrier, or overall state population health. Population health has a significant influence on healthcare spending across the US and cannot be divorced from an analysis of healthcare costs.

- Specifically, in the case of the Mercatus West Virginia study, there was no consideration of our poor health status, economic condition or other important demographics that are likely the actual drivers of healthcare costs. As cited above, this would include our ranking near the top in prevalence of cardiovascular deaths, obesity, smoking, cancer deaths, diabetes, and overall health outcomes. The chronic health conditions in West Virginia significantly drive up the costs of per capita health care spending.

- Higher per capita spending in CON regulated states cannot be isolated to the existence of CON and is more likely the result of health-related factors, as outlined above.

- Specifically, the report suggests that the West Virginia CON program has resulted in 2,424 fewer hospital beds. However, according to the latest edition of "AHA Hospital Statistics" published by the American Hospital Association (AHA), in 2015 West Virginia had 6,122 licensed hospital beds with a total capacity to provide nearly 2.24 million inpatient days annually. Occupied patient bed days was approximately 1.27 million for the same time period – resulting in an approximate 57% hospital bed occupancy rate (based on licensed beds).

- Adding 2,424 more beds would represent a 40% increase to the total capacity, and would drive down occupancy rates statewide to approximately 40%. At a time of declining inpatient utilization, it would be economically irresponsible to add 2,424 licensed beds statewide when the current trend in healthcare is for the provision of services to be provided in the hospital outpatient setting. So, if the CON program is correlated with fewer hospital beds, and we are only at a 57% hospital bed occupancy rate, doesn't that mean CON is doing its job in controlling unnecessary costs and utilization?

- Construction of additional hospital beds requires the necessary support services, and significant capital investments. Based on industry estimates used in healthcare planning, each additional new hospital bed requires an expenditure of approximately $1 million per bed. Therefore, to create the 2,424 beds cited in the Mercatus report would require an estimated $2.42 billion in additional healthcare dollars, when existing licensed beds are not totally utilized.

- To put the Mercatus report's conclusions in perspective, annual statewide hospital costs totaled $5.28 billion in 2015. The report's conclusion suggestS that nearly $2.4 billion – or nearly half of total annual hospital costs statewide – should be spent on unneeded capacity.

- The report also suggests that the West Virginia CON program has resulted in "between four and seven fewer hospitals offering MRI services throughout West Virginia." However, according to FY2015 statistics provided by the West Virginia Health Care Authority, only three hospitals in the state do not offer MRI services.

- Finally, the report suggest that the West Virginia CON program has resulted in "between 13 and 16 fewer hospitals offering CT scans." However, according to FY 2015 statistics provided by the West Virginia Health Care Authority, there are **ZERO** hospitals not offering CT services.

- The proponents of anti-CON legislation argue that increased competition will reduce costs, but offer no evidence of this relationship. If the Mercatus report's presumption were to materialize, the elimination of the CON law would lead to increased capital spending for unneeded healthcare capacity and services, which will inevitably increase costs to the system overall.

Impact of CON repeal on the citizens of West Virginia and West Virginia hospitals

- West Virginia hospitals are already dealing with unprecedented changes in care delivery, technology, regulation and reimbursement at both the federal and state level. The pending repeal and replacement of the ACA only provides the industry with more uncertainty.

- Healthcare transformation is fundamentally rewriting the laws of supply and demand in this industry, so rewriting the laws of competition at exactly the same time is a highly risky proposition for the citizens of West Virginia.

- Our healthcare system can continue to provide excellent care to all - as long as the transition is *orderly and evolutionary*. Taking away the certainty and predictability of CON laws, however, is the kind of revolutionary change that will have unintended – and very expensive – consequences for West Virginia.

- Specifically, the elimination of the CON program will have a significant impact on our community hospitals, many of which are already financially vulnerable. In fact, one third of our rural hospitals are having significant financial difficulties. If these community hospitals were close, the loss of tax revenue from goods and services bought by the local hospitals would have a negative impact on the economy and State Budget.

- We currently have 26 hospitals with less than 100 beds – 20 of them are Critical Access Hospitals (CAH) in the most rural parts of our state.

- Without CON, out of state competition will enter the market and redirect patients out of State. Elimination of CON would also allow outside entities to acquire local hospitals and shut them down. The closure of these rural hospitals would be devastating to local communities in terms of access to care, jobs, and the economy. The hospital is often the major employer in a rural community. Hospitals are the largest private employer in 23 of West Virginia's counties.

- Hospitals have utilization rates of more than 70% of patients covered by Medicare (45-50%), Medicaid (close to 25%) and PEIA (5%), all of whom pay providers below the cost of providing such care. New providers entering the market in West Virginia would primarily be competing for a small percentage of the commercial market, leaving all of the patients covered by Medicare, Medicaid and PEIA, to be cared for by the hospital.

- West Virginia is surrounded by 60% of the nation's population with major health systems such as UPMC, Ohio State, and Cleveland Clinic, to name a few. We also have many hospitals in border counties – near Ohio and Pennsylvania that make them very vulnerable. Fifty-five percent of the state's population resides in border counties. These factors, if CON were to be repealed, would lead to fewer services being offered at existing facilities, which would reduce the healthcare workforce, and ultimately negatively impact the local and State economy.

- **Health care is not a free-market industry**:
    - hospitals are required to serve all patients that present themselves for care, regardless of their ability to pay;
    - government sets prices for more than 70% of the patients served in West Virginia.

- **CON helps safeguard the quality of health care services** for the citizens of West Virginia by limiting the number of locations in which specialized and high risk medical procedures may be performed.
    - When CON was repealed in Pennsylvania (PA) in 1996 the number of open heart programs increased from 35 to 62, and the average volume of cases in hospitals dropped from 2,000 to 330.
    - For example, mortality rates for Medicare patients undergoing coronary artery bypass graft surgery were 22% higher for patients in states without CON laws than states with continuous CON law for the six-year period under review. Quality health services are better for the patient with fewer complications and lower overall costs for health plans, such as Medicaid and PEIA.

- **The growth of healthcare costs** in WV is relatively slower than compared to our surrounding states without CON.
    - A study by the Center for Medicare and Medicaid Services (CMS) for the period 2000 thru 2010 showed that while the population of Pennsylvania and Ohio remained somewhat constant, healthcare costs more than doubled.
    - Conversely, the population of WV remained constant during the same period, but healthcare costs in WV increased at a significantly lower rate than in PA and OH.