Alamance Regional Medical Center • Albemarle Health • Alleghany Memorial Hospital • Angel Medical Center • Annie Penn Hospital • Anson Community Hospital • Ashe Memorial Hospital, Inc. • Betsy Johnson Regional Hospital • Blowing Rock Hospital • Blue Ridge Regional Hospital • Broughton Hospital • Brunswick Community Hospital • Caldwell Memorial Hospital, Inc. • Cape Fear Valley - Bladen County Hospital • Cape Fear Valley Health System • CarePartners Rehabilitation Hospital • CarolinaEast Health System • Carolinas Medical Center • Carolinas Medical Center - Lincoln • Carolinas Medical Center - Mercy • Carolinas Medical Center - Northeast • Carolinas Medical Center - Pineville • Carolinas Medical Center - Union • Carolinas Medical Center - University • Carolinas Rehabilitation • Carteret County General Hospital • CaroMont Health, Inc. • Catawba Valley Medical Center • Central Carolina Hospital • Central Regional Hospital • Charles A Cannon, Jr. Memorial Hospital • Chatham Hospital • Cherokee Indian Hospital • Cherry Hospital • Cleveland Regional Medical Center • Coastal Plain Hospital • Columbus Regional Healthcare System • Cone Health Behavioral Health • Davie County Hospital • Davis Regional Medical Center • Department of Veterans Affairs Medical Center Asheville • Department of Veterans Affairs Medical Center Durham • Dorothea Dix Hospital • Duke Raleigh Hospital • Duke University Hospital • Durham Regional Hospital • FirstHealth Montgomery Memorial Hospital • FirstHealth Moore Regional Hospital • FirstHealth Richmond Memorial Hospital • Forsyth Medical Center • Franklin Regional Medical Center • Granville Health System • Halifax Regional Medical Center • High Point Regional Health • Holly Hill Hospital • Hugh Chatham Memorial Hospital • Johnston Medical Center - Smithfield • Kings Mountain Hospital, Inc. • Lake • Lenoir • Lexington Memorial Hospital, Inc. • LifeCare Hospitals of North Carolina • Martin General Hospital • The McDowell Hospital • Medical Park • Mission Health System • Morehead Memorial Hospital • Murphy Medical Center, Inc. • Nash Health • Medical Center • North Carolina Specialty Hospital • Northern Hospital of Surry County • Onslow Memorial Hospital • The Outer Banks Hospital • Park Ridge Health • Pender Memorial Hospital • Person Memorial Hospital • Presbyterian • Presbyterian Hospital Huntersville • Presbyterian Hospital Matthews • Presbyterian Orthopaedic Hospital • Randolph Hospital • Healthcare • Rowan Regional Medical Center • Rutherford Regional Medical Center• Sampson Regional Medical Center • Sandhills Regional Medical Center • Scotland Health Care System • Select Specialty Hospital-Durham • Select Specialty Hospital-Winston-Salem • Southeastern Regional Medical Center • St. Luke's Hospital • Stanly Regional Medical Center • Stokes-Reynolds Memorial Hospital, Inc. • The Moses H. Cone Memorial Hospital • Thomasville Medical Center • Transylvania Regional Hospital • UNC Hospitals • Valdese Hospital • Vidant Beaufort Hospital • Vidant Bertie Hospital • Vidant Chowan Hospital • Vidant Duplin Hospital • Vidant Edgecombe Hospital • Wake Forest Baptist Medical Center • Vidant Medical Center • Vidant Roanoke-Chowan Hospital Wake Forest Baptist Health – Davie Hospital • Wake Forest Baptist Health – Lexington Medical Center • WakeMed • WakeMed Cary Hospital • WakeMed Fuquay-Varina • WakeMed Zebulon/Wendell SNF and Outpatient Diagnostic Center • Washington County Hospital • Watauga Medical Center • Wayne Memorial Hospital • Wesley Long Community Hospital • Wilkes Regional Medical Center • Wilson Medical Center • Women's Hospital of Greensboro • Yadkin Valley Community Hospital

CON: A Hospital Perspective

Cody Hand

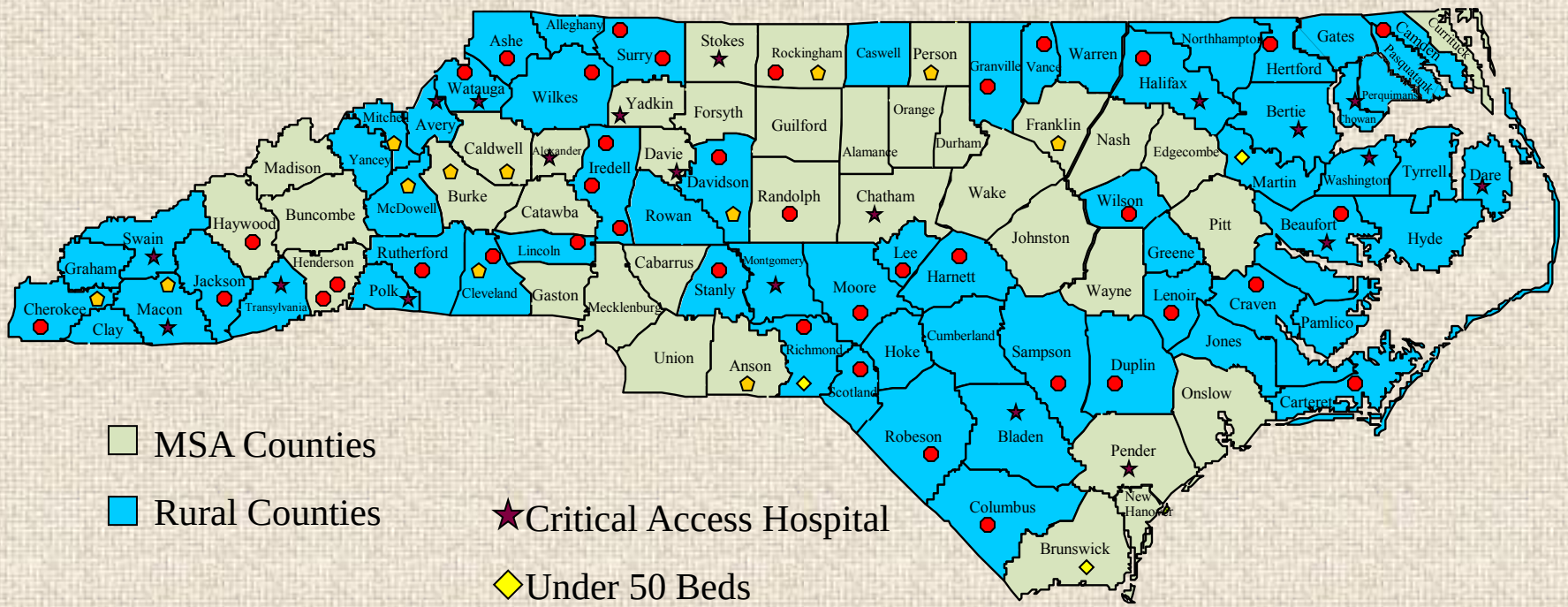
Vice President and Deputy General Counsel

North Carolina Hospital Association

North Carolina Hospitals

- 155 hospitals in North Carolina
  - Acute Care
  - Rehabilitation
  - Behavioral Health
- 22 Critical Access Hospitals
- 5 Teaching Hospitals

NC Small and Rural Hospitals



MSA Counties

Rural Counties

★ Critical Access Hospital

◆ Under 50 Beds

⬟ 51 -- 100 Beds

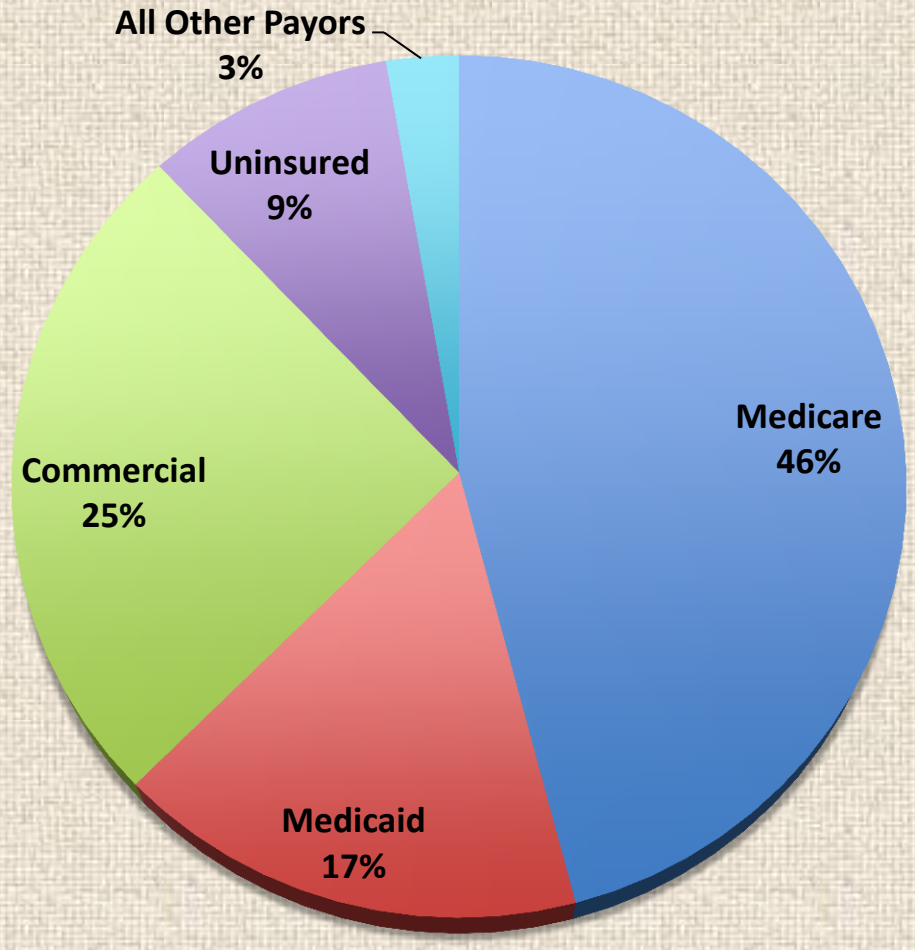
⬢ Over 100 Beds

68 Rural Hospitals

22 Critical Access Hospitals

38 Rural Hospitals <100 beds

Hospital Patient Mix



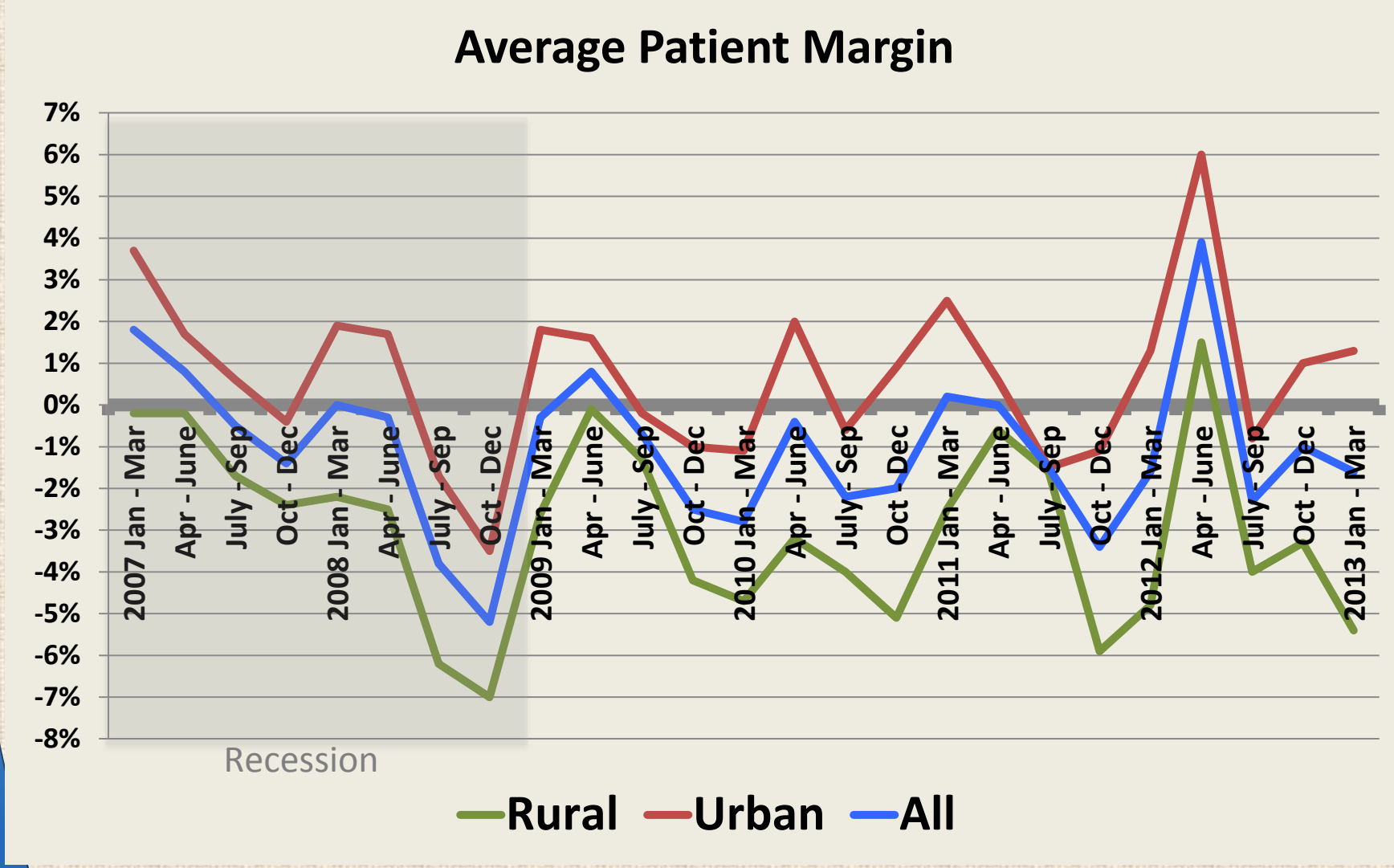
Charges by Payer Type

Source: Advocacy Needs Data Initiative (ANDI), Financial Report (FY 2012), Average of All NCHA member hospitals

Government Insurance

- Patient care for the government-insured makes up 66% of the average NC hospital charges.
- Medicare and Medicaid define what services their beneficiaries receive under their programs.
- The government programs set the reimbursement amounts for services to their beneficiaries, often below the cost hospitals incur to provide services.

Patient Margins



Source: NCHA ANDI. October 2013.

How Are We Different

- Open all day, every day
- Serve the entire community
- Meet the needs of the entire community
  - Provide prenatal care
  - Many hospitals have forensics programs that care for patients after death
  - Hospitals are able to provide a broad range of money losing services because of those procedures that are profitable

Issues to Address When Contemplating CON Changes

- Cross Subsidization of Service Lines
- Self referral
- Incentives to perform unnecessary Procedures
- Quality of care
- ED call coverage

Service Line Cross Subsidization

- Many of the things needed in the community, like obstetrics, are subsidized by services such as orthopedics.

Self Referral

- NC Has a very weak self referral statute
  - GS 90-405 – 409
  - Exceptions are very broad and “underserved areas” can easily be any area in North Carolina.
- When a physician owns the practice and the operating room, he is able to collect both a facility fee and an operating fee. There is an incentive to refer as many patients as possible and perform as many procedures as possible.

Overutilization

- Risks of unregulated self-referrals include overutilization of the services in which physicians have investments, increased health care costs, and decreased quality of care.
    - Perry JE. Physician-owned specialty hospitals and the Patient Protection and Affordable Care Act: health care reform at the intersection of law and ethics. *Am Business Law J.* 2012;49:369-416.
- In a recent study of screening colonoscopies published in the Journal of the American Medical Association, 23% were "potentially inappropriate" because the patients were over age 75 or because they had a repeat screening too soon after the last one for no clear medical reason.
- Glowing Man – CT Scan overuse is a common problem at diagnostic centers

Emergency Call

- Emergency room doctors aren't typically specialists
- Need specialists to take call in emergency cases
- Concern is that specialists with their own ORs will drop privileges and stop taking call.

FAQ

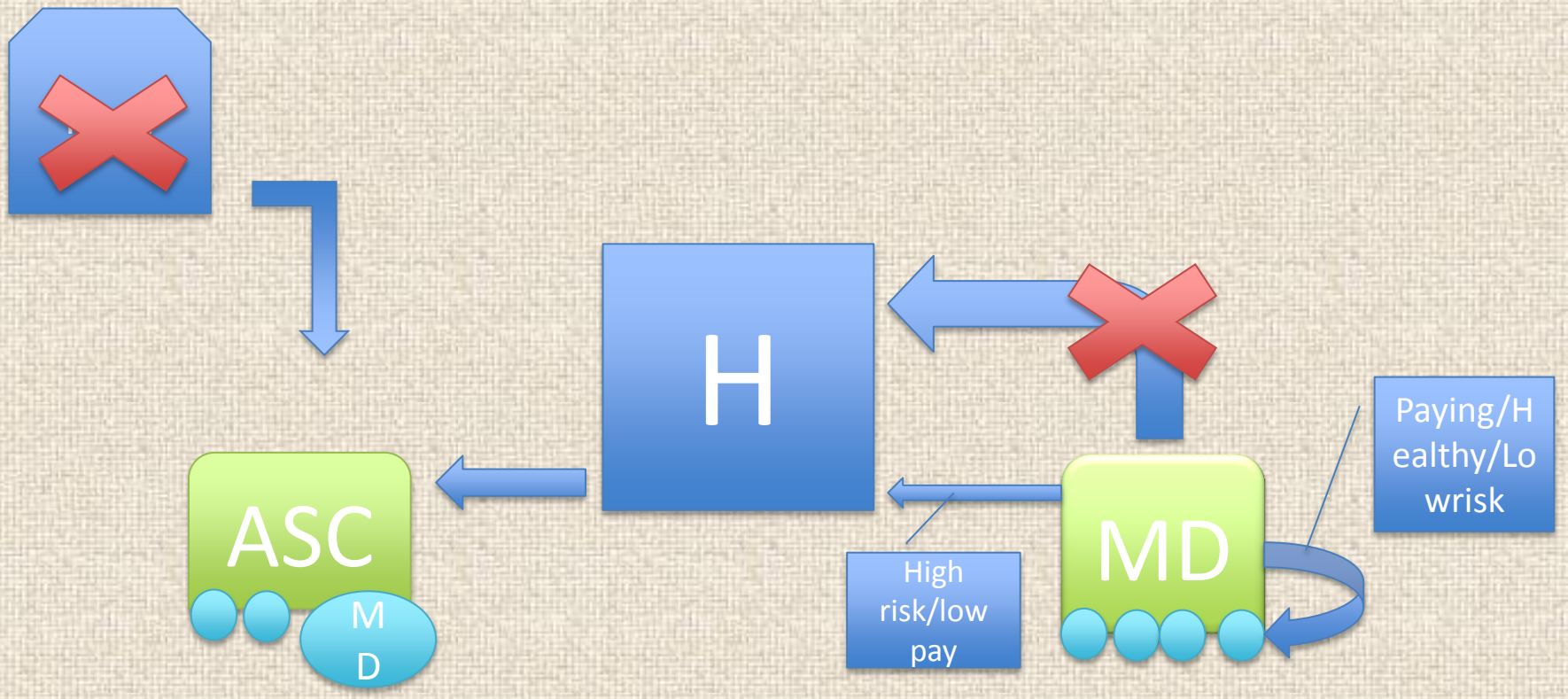
- How do states without CON still have hospitals?
  - Most states without CON were able to repeal before the enactment of EMTALA and ACA.
  - Able to adjust before Government mandates
  - Those states who repealed CON after EMTALA are on the list of most expensive and their hospitals are struggling.
    - OH and PA (both repealed in the 90s) are among the most expensive per capita healthcare states in the nation.
    - NC is among the top 15 lowest cost states in per capita healthcare expenses.

FAQ

- Can’t we just let the market work?
  - Repeal of CON will not leave us with an open market.
    - EMTALA
    - CMS
    - Insurance contracts and regs.
  - There is no free market in healthcare.

FAQ

- Can’t we provide competition in Urban areas and protect the rural hospitals by continuing to regulate operating rooms in those areas?


H
ASC
M
D
MD
High risk/low pay
Paying/Healthy/Low risk

FAQ

- Is the quality better in the ASC because you aren't surrounded by sick people and you get in and out?
  - There is no evidence that the quality of care differs between hospitals and ambulatory surgical centers

There is more to competition than Certificate of Need.

- The Federal Trade Commission and Department of Justice's report "Improving Health Care: A Dose of Competition" identifies imperfections in the health care market, beyond government regulations, that hinder open competition.
- These include mediating forces like health insurance, public health and payment programs, a lack of accurate and reliable cost and quality information, and the absence of a truly independent and sovereign consumer.

There is a role for Ambulatory Surgical Centers

Ambulatory Surgical Centers Today

- 47 licensed ambulatory surgical centers
  - 19 hospital joint ventures
- 3 single specialty surgical center demonstration projects
- 63 endoscopy centers

- The SMFP indicates that in 2016 there will be 258 more operating rooms in North Carolina than are needed.

The Perfect Storm

- No matter what you decide, now is not the time to remove CON determinations from healthcare services.
  - ACA implementation
  - Transparency
  - Medicaid reform
- Providers are moving as fast as they can, but need time.

There are changes needed

- Raise thresholds
- Require “loser-pay” on appeals
- Require bond posting to appeal