

On June 13, 2024, US Congressional Representative Earl Blumenauer of Oregon released a discussion draft of the Hospice Care Accountability, Reform, and Enforcement Act (Hospice CARE Act). Blumenauer's proposed bill is in response to an increased frequency of documented, burgeoning fraud and abuse occurrences which have raised critical questions about the practices of unscrupulous providers who exploit the Medicare hospice benefit for financial gain. Fraud and abuse schemes that have been observed include providers certifying patients for hospice care when they are not terminally ill, hospices providing little or no service to patients, and hospices falsifying patient elections that result in vulnerable individuals being unable to access necessary medical care, and excessive lengths of stay.

Occurrences of fraud and abuse, as described in Representative Blumenauer's proposed bill, are rare in North Carolina. I would believe that many members of the State Health Coordinating Council, and even the staff of DHSR's Healthcare Planning and Certificate of Need Section, are unaware to the degree that these fraud and abuse tactics, with the hospice benefit, are a national problem, as it is so infrequently experienced among North Carolina hospice providers. It should be noted, that among hospice providers across the nation, North Carolina is perceived to be a "very clean state" in terms of fraud and abuse.

The CMS Hospice Quality Reporting Program (HQRP) through the Consumer Assessment of Health Care Providers and Systems (CAHPS) survey, reports that most hospice providers in North Carolina show excellent quality scores through the survey's star rating system. What are considered excellent quality scores in most states are average quality scores in North Carolina.

For example, in North Carolina, 61.03 percent of the hospices in the state have a star rating of four or five. This compares to non-CON states: Alabama at 43.68 percent, Georgia at 20.40 percent, South Carolina at 26.67 percent and Virginia at 30.17 percent. Even Tennessee, which has a less stringent CON process, only reports having 56.14 percent of its hospice providers having a four or a five-star rating.

North Carolina's Certificate of Need Laws (CON) have played a significant part in establishing and maintaining hospice services in the state that are high in quality

and nearly free from the fraud and abuse issues so often experienced in our nation. These laws have served the state well.

Based upon some comments made in the 2024 State Health Coordinating Council's Public Hearings, a case is being made that in order for Mecklenburg County to have culturally competent and culturally aware hospice care, we must deviate from the current CON methodology. The methodology is analytical and impartial and expresses need based upon mortality data and population data.

The presumption is that Mecklenburg County does not provide adequate access to hospice care for the County's vulnerable and underserved citizens fails on two measures. First, among the ten most populous counties in the state, Mecklenburg ranks third in the state for deaths served by hospice behind Buncombe County, where 89.68 percent of the total county's deaths are white, and Union County where 80.10 percent of the total county's deaths are white.

Mecklenburg County is very diverse with only 55.01 percent of the county's deaths classified as white. In addition, per Table 13B of the proposed 2025 SMFP, Mecklenburg County reports the third lowest county death rate in the state. Given these factors, for Mecklenburg County to have such a high percentage of deaths served by hospice is remarkable and speaks to the effectiveness of the existing hospice providers in the county.

In terms of hospice services to minorities, and in particular those residents classified as Black Non-Hispanic, of the ten most populous counties in the state, Mecklenburg County has the second highest Death Service Ratio based upon 2023 Medicare claims data. Mecklenburg's Medicare Death Service Ratio for Black Non-Hispanic residences is reported at 45.8 percent. Forsyth County ranks first with a ratio of 48.7 percent. Even Durham County, where nearly half of the County's deaths are non-white, ranks below Mecklenburg County with a ratio of 45.6 percent. As a state, North Carolina reports a Black Service Ratio of 41.1 percent, a rate that exceeds those of New Jersey, California, Washington, The District of Columbia, New York, Tennessee and many other states. Based upon 2023 Medicare Claims data, it is not a factually accurate statement to declare that Mecklenburg County and the state of North Carolina are poor performers in providing hospice services to minorities when measured relative to their peers.

It should be noted that Medicare beneficiaries under the Hospice benefit covers a wide range of ages, as nationally, approximately 4 percent of hospice Medicare beneficiaries are under age 65.

If a petition for a new hospice home care agency in Mecklenburg County is accepted for the 2025 State Medical Facilities Plan, based upon an assertion that minority populations in the county are underserved, it would require the SHCC and DHSR planning section to abandon CON methodology and place a need in a county that, that on a relative basis, is one of the highest performing counties in the state. With that precedent set, how would future petitions based on a similar rationale be denied for the other 90 plus counties in the state that perform below Mecklenburg County? How would other petitions, with similar rational, and not based upon the current CON methodology, be denied for Nursing Home Facilities, Adult Care Homes, and Home Health Services? Once these exceptions are permitted, how would this practice be reversed?

Certificate of Need Methodology cannot address every possible scenario where an unmet need could be identified. There are CON mechanisms in place to cover these unique needs through the Special Needs Petition process. However, to allow a new need in a geographic services area, a county, when that county is performing at the top in the state in terms of meeting the needs of the community, would then create a scenario where every need becomes a unique need, and no need is an exception. Under these scenarios, we can easily envision CON law becoming so compromised that it is essentially eliminated.

The good news is that the DHSR, CON and Planning Section, and the SHCC do not need to make this terrible choice between culturally competent, culturally aware care and maintaining CON law. The 2023 Medicare Claims data clearly shows that Mecklenburg County does an excellent job of serving minority residents, especially among the Black Non-Hispanic community. Mecklenburg County has two strong, highly progressive, and medically advanced non-profit hospice providers who are recognized nationally for excellence. Fortunately, CON law does not need to be compromised when high-performing hospice providers are already effectively serving all, without regard for their ability to pay or medical complexity.

State Percentages of 4 & 5 Star Hospices

	Total Hospice Providers	4 & 5 Star Hospice Providers	Percent 4 & 5 Star Hospice Providers
North Carolina	77	47	61.0390%
States with No CON			
South Carolina	90	24	26.6667%
Georgia	250	51	20.4000%
Virginia	116	35	30.1724%
Alabama	87	38	43.6782%
CON States			
Tennessee	57	32	56.1404%
Kentucky	23	21	91.3043%

Source Medicare Claims Data

DEATH SERVICE RATIO in Mecklenburg County, NC

Year	BLACK
2017	42.6
2018	44.5
2019	44.2
2020	43.1
2021	41.9
2022	44.3
2023	45.8

DEATH SERVICE RATIO in North Carolina

Year	BLACK
2017	38.3
2018	38.2
2019	40.1
2020	37.0
2021	36.0
2022	37.9
2023	41.1

States with Low Death Service Ratios

	BLACK
New Jersey	29.2
California	30.6
Washington	27.1
District of Colum	22.1
New York	16.2
Tennessee	34.4