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Green Bay without the Packers: Effects of Rural Hospital Closures and Approaches to Providing Healthcare to Rural South Carolinians

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GREEN BAY WITHOUT THE PACKERS: EFFECTS OF RURAL HOSPITAL CLOSURES AND APPROACHES TO PROVIDING HEALTHCARE TO RURAL SOUTH CAROLINIANS

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I. INTRODUCTION

Four rural hospitals have closed in South Carolina since 2010.[1] When a hospital closes, it leaves a multitude of problems in its wake. These include the obvious public health issues associated with a lack of access to medical care, but also the economic issues that arise with sudden job losses.[2] While there are numerous reasons for rural hospital closures in South Carolina, the two most pressing issues are rural flight and a lack of finances.[3] South Carolina lawmakers have taken some steps to combat these issues; however, these policies have been insufficient to ward off hospital closures.[4] Preventing future hospital closures will require a nuanced, multipronged approach in which the legislature must be flexible creating policy.[5] To enable rural hospitals to offer healthcare services tailored to the demands of their communities, South Carolina needs to adopt the Medicaid expansion, fund an infrastructure that includes telemedicine expansion, and change the current Medicaid and Medicare reimbursement structure.

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1. Maayan Schechter & Bristow Marchant, *Demise of Rural Hospitals Growing Concern*, STATE (S.C.), Aug. 19, 2018, at A1.

2. JANE WISHNER ET AL., A LOOK AT RURAL HOSPITAL CLOSURES AND IMPLICATIONS FOR ACCESS TO CARE: THREE CASE STUDIES (July 7, 2016), https://www.kff.org/medicaid/issue-brief/a-look-at-rural-hospital-closures-and-implications-for-access-to-care/ [https://perma.cc/682B-8ACN].

3. Schechter & Marchant, *supra* note 1.

4. Tom Barton, *Candidates for SC Governor Weigh in on Medicaid, Other Health Care Issues*, STATE (S.C.), Oct. 14, 2018, at A1 [hereinafter Barton, *How Will Candidates for SC Improve Care?*]. *See generally* Meg Bryant, *Rural Hospitals Keep Closing. What Can Be Done?*, HEALTHCARE DIVE (Mar. 22, 2016), https://www.healthcaredive.com/news/rural-hospitals-keep-closing-what-can-be-done/416038/ [https://perma.cc/CRV4-C2CQ] (discussing current efforts being made by federal and state governments to prevent more rural hospitals from closing).

5. This nuanced, multi-pronged solution proposed here is one that could, and I would argue should, be replicated for other proposed policy solutions. The issues that face our country are often complex, and thus require a complex solution. A one-sized-fits-all solution often causes more problems than it fixes.

One of the problems that arise when rural hospitals shut down is the critical gap in emergency care that the closure creates. This often means ambulances must travel longer distances to reach the nearest hospital.[6] In cases of life or death, a longer ambulance ride usually increases the risk of the latter.[7] In Bamberg, South Carolina, where a rural hospital closed in 2012, a family experienced this loss firsthand.[8] A local man was seriously injured in a car accident. An ambulance transported him to the nearest hospital.[9] As the closest hospital was at least thirty minutes away, however, the man died before he could reach that hospital.[10]

While South Carolina lawmakers and local leaders were able to step in and acquire funding to build a standalone emergency department in the center of Barwell and Bamberg counties to alleviate this problem, the two years in between left residents of these counties without accessible emergency healthcare.[11] If an accident occurred during serious weather conditions, helicopters were unable to fly out to the scene.[12] This meant that a person in critical condition had to stay alive for at least forty-five minutes while the paramedic performed CPR until the ambulance reached the closest hospital before the new emergency department was built.[13]

The rural hospital closure phenomenon is also a nationwide problem.[14] The National Rural Health Association reported that since 2010, ninety-eight rural hospitals have closed in the United States.[15] This number includes the four rural hospitals that have closed in South Carolina, the most recent of which was the Fairfield Memorial Hospital in Winnsboro, which closed late 2018.[16] Marlboro Park Hospital in Bennettsville closed in 2015, consolidating

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6. NIKKI KING ET AL., EMS SERVICES IN RURAL AMERICA: CHALLENGES AND OPPORTUNITIES 4 (May 2018), https://www.ruralhealthweb.org/NRHA/media/Emerge_NRHA/Advocacy/Policy%20documents/05-11-18-NRHA-Policy-EMS.pdf [https://perma.cc/5ER3-ZBS3].

7. *See id.* at 3.

8. Schechter & Marchant, *supra* note 1.

9. *Id.*

10. *Id.*

11. *See* Logan Anderson, *24/7 Emergency Medical Center Opens April 8*, AUGUST CHRON. (Apr. 5, 2019), https://www.augustachronicle.com/news/20190405/247-emergency-medical-center-opens-april-8 [https://perma.cc/7FRE-HVE8].

12. Schechter & Marchant, *supra* note 1.

13. *Id.*; *See also* Lauren Sausser, *Barnwell, Other Towns Face New Reality After Rural Hospitals Close*, POST & COURIER (Mar. 18, 2016) [hereinafter Sausser, *Towns Face New Reality*], https://www.postandcourier.com/archives/barnwell-other-towns-face-new-reality-after-rural-hospitals-close/article_6aeb6fda-298d-5b3f-b0c9-c5966c250f36.html.

14. Schechter & Marchant, *supra* note 1.

15. Jessica Seigel, *Rural Hospital Closures Rise to Ninety-Eight*, RURAL HEALTH VOICES (Feb. 20, 2019), https://www.ruralhealthweb.org/blogs/ruralhealthvoices/february-2019/rural-hospital-closures-rise-to-ninety-seven [https://perma.cc/Y2M8-3NXV].

16. Schechter & Marchant, *supra* note 1.

its patients with the Chesterfield General Hospital in Cheraw, twenty minutes away.[17] The other two hospitals are the Bamberg and Barnwell county hospitals, both located in the Lowcountry, which closed in 2012 and 2016, respectively.[18] Additionally, 700 rural hospitals nationwide are at risk of closing due to financial difficulties.[19]

Part II of this Note provides background information regarding rural hospital closures both nationwide and locally, as well as the current structure for rural hospital classifications. Part III of this Note offers an analysis of what affects rural hospital closures have on those that live in rural areas. Part IV proposes policy solutions for South Carolina based on programs in other states and recommendations by the National Rural Health Association. Part V provides a conclusion to this Note.

II. BACKGROUND

A. Rural Hospital Closures in South Carolina

1. Rural Hospitals that Have Closed in South Carolina

While rural hospital closures are a national problem, South Carolina has been particularly impacted by this phenomenon.[20] Four rural hospitals have closed in South Carolina since 2010.[21] Two of those hospitals were in adjoining counties in the state, one in Bamberg and one in Barnwell, leaving a large gap in emergency service coverage over the Lowcountry.[22] The other two were farther north, one in Fairfield County and the other in Marlboro County.[23] Additionally, the Lake City Community Hospital and the Williamsburg Regional Hospital are both set to close, although MUSC has a plan to replace them with a new facility to be built in the center of this region in 2022.[24] These rural hospitals were providing important care and services to

17. *Id.*
18. *Id.*
19. Seigel, *supra* note 15.
20. *See* Schechter & Marchant, *supra* note 1.
21. *Id.*
22. *See id.*
23. *Id.*
24. Mary Katherine Wildeman, *MUSC to Build a $50M Hospital and Replace 2 Others in Rural SC*, POST & COURIER (Feb. 22, 2019) [hereinafter Wildeman, *MUSC to Build a $50M Hospital*], https://www.postandcourier.com/business/musc-to-build-a-m-hospital-and-replace-others-in/article406674fa-36cd-11e9-8520-cfbcd9d0381a.html [https://perma.cc/EGS2-MF2L].

rural communities in South Carolina.[25] Differing circumstances in each area have contributed to the closures of these rural hospitals.

2. *Factors Contributing to South Carolina Rural Hospital Closures*

a. *Migration of Businesses*

One of the major factors contributing to the closures of these rural hospitals is the loss of large employers and industry from rural areas.[26] The hospital in Fairfield County closed in 2018 after two utility companies declined to install new nuclear reactors, leading to a power plant shut down.[27] With no job prospects, people have moved away from the area, which means fewer patients for the hospital.[28] When the Bamberg County hospital closed in 2012 and merged with the Barnwell County hospital, residents of Bamberg lost 350 jobs in the medical industry.[29] Many of those residents chose to leave the area and look for healthcare jobs elsewhere. [30]

b. *Hospital Ownership Structures*

Another contributing factor to the recent closures of these South Carolina hospitals is the ownership structure.[31] Driven by profit and disconnected from the communities they serve, out-of-state companies own several of South Carolina's rural hospitals.[32] The Marlboro Park Hospital was operated by a healthcare system in Franklin, Tennessee, which also operated the nearby Chesterfield General Hospital.[33] When both hospitals had several years of lost profits, there was some concern that the operator would not renew its operating leases for both hospitals, leaving a large portion of the Pee Dee area without a hospital.[34]The Marlboro Park Hospital merged with the Chesterfield

25. *See generally* Schechter & Marchant, *supra* note 1 (discussing the ramifications of having emergency services close); Sausser, *Towns Face New Reality*, *supra* note 13 (explaining that Bamberg and Barnwell residents had to go to Aiken, Allendale, or Orangeburg for an x-ray after both of those hospitals closed).

26. WISHNER ET AL., *supra* note 2.

27. Schechter & Marchant, *supra* note 1.

28. *See id.*

29. *Id.*

30. *Id.*

31. WISHNER ET AL., *supra* note 2.

32. *See* Laruen Sausser, *Two Rural Pee Dee Hospitals May Close in May*, POST & COURIER (Jan. 9, 2015) [hereinafter Sausser, *Pee Dee Hospitals Close*], https://www.postandcourier.com/archives/two-rural-pee-dee-hospitals-may-close-in-may/article_8b5bc773-ae54-5fea-b2cc-ef9e61d819b4.html [https://perma.cc/P7JU-RTM5].

33. *Id.*

34. *Id.*

General Hospital in a compromise to keep a healthcare provider in the area.[35] However, even the hospital advisory boards were in the dark about future plans to close the Marlboro Park Hospital.[36] Outsiders made decisions that affected many rural South Carolina communities without first consulting anyone in those communities about the impact of those decisions.[37]

c. Rural Flight

Additionally, many of South Carolina's rural residents who have the time and ability to travel are choosing to visit the urban hospitals located farther away.[38] One South Carolina hospital stakeholder explained that "[i]f you have health insurance and a car, you'll drive [out of the community] for care because a perception exists that bigger, brighter facilities offer better quality services."[39] Moreover, because private insurance carriers reimburse hospitals at a higher rate than the publicly funded health insurance providers do, rural hospitals bear the cost when local patients whose insurance will fully reimburse their procedures opt for urban hospitals.[40] Lower reimbursement rates generate less money for the hospital and, thus, limit the services it can provide, which forces more rural residents to seek the neighboring urban hospitals for healthcare services.[41]

However, higher reimbursement rates might not be enough to save many of these rural hospitals because a hospital realistically needs at least 30,000 residents in a county in order to succeed, according to healthcare economist Lynn Bailey.[42] All the rural hospitals that have recently closed in South Carolina were located in counties with fewer than 30,000 residents.[43] Schipp Ames of the South Carolina Hospital Association laments that "[i]t's really difficult to continue to run a hospital when you have rural flight."[44] As more people are moving away from rural areas in pursuit of job opportunities, fewer people are left who are in need of the services rural hospitals provide.[45] In order to continue providing services for the community members still residing

35. Schechter & Marchant, *supra* note 1.
36. Sausser, *Pee Dee Hospitals Close*, *supra* note 32.
37. WISHNER ET AL., *supra* note 2.
38. Sausser, *Towns Face New Reality*, *supra* note 13.
39. WISHNER ET AL., *supra* note 2.
40. *Id.*
41. *See id.*
42. Barton, *How Will Candidates for SC Governor Improve Care?*, *supra* note 4.
43. *Id.*
44. Schechter & Marchant, *supra* note 1.
45. *Id.*

in these rural towns, rural hospitals will have to adapt the current service model.[46]

d. Rural Hospitals Are Slow to Adapt to Reforms

Rural hospitals have struggled to adapt to new models and methods of providing care.[47] Many health insurers are shifting their focus from inpatient care to primary and preventative care.[48] This model prioritizes outpatient service reimbursements, and those hospitals that are adapting to these changing priorities are receiving more assistance.[49] While this is likely a good move for communities and health providers to make, rural hospitals are going to struggle with making the adjustments needed to meet these priorities and receive the additional funding.[50]

Many of these hospitals were built after World War II when rural communities had farming or manufacturing jobs and, thus, had a greater need for a hospital with fifty beds and 300 employees.[51] The problem is that these hospitals currently do not require large numbers of inpatient beds.[52] However, the hospitals have been slow to adapt to a focus on outpatient services, partly because the layout is concentrated on inpatient care.[53] This also means hospitals are struggling to make the priority changes that insurers are pushing.[54] A stakeholder in one South Carolina hospital described the situation thus: "We used to pay hospitals to keep patients in, now we pay to keep them out."[55]

46. WISHNER ET AL., *supra* note 2.
47. *Id.*
48. *Id.*
49. *Id.*
50. *Id.*
51. Dave Mosley, *1 in 5 Rural Hospitals Are at Risk of Imminent Closure. Lawmakers Could Help Some Stay Open*, STAT (Feb. 21, 2019), https://www.statnews.com/2019/02/21/lawmakers-act-prevent-rural-hospitals-closing/ [https://perma.cc/YR49-P4HA].
52. *Id.*
53. *Id.*
54. WISHNER ET AL., *supra* note 2.
55. *Id.*

B. Rural Hospital Closures: A National Problem

1. Trends and Data Relating to Rural Hospital Closures

Nationally, ninety-eight rural hospitals have closed since 2010,[56] according to the National Rural Health Association.[57] Additionally, almost seven hundred rural hospitals are "financially vulnerable and at high risk for closure."[58] This is because 46% of rural hospitals are currently operating at a loss, up 6% from 2017.[59] While rural hospitals have been closing nationwide, the majority of these closures are in southern states.[60]

There is a correlation between rural hospital closures and states that have not adopted the Medicaid expansion.[61] However, this is not an absolute prerequisite for a rural hospital closure.[62] For example, a rural hospital in Fulton, Kentucky recently shut its doors even though Kentucky has adopted the Medicaid Expansion.[63] One of the larger trends that is likely contributing to rural hospital closures is the patients that these hospitals serve—disproportionately poor and elderly.[64] Both of these populations are less likely to have private insurance; thus, those hospitals are receiving reduced reimbursement rates, which are usually below the actual costs of the covered treatment.[65]

Another reason that rural hospitals are struggling financially is because of shrinking rural populations.[66] Many places where rural hospitals have closed are towns where an industry has recently left.[67] This means, firstly, that there are fewer residents in general, as many have moved away to find a new job.[68] Secondly, those who have stayed are less likely to have health insurance because they either are unemployed and do not have health insurance or have a new job that does not offer benefits.[69]

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56. Seigel, *supra* note 15.

57. The National Rural Health Association is a national nonprofit membership organization that promotes initiatives to help rural healthcare thrive by performing research, educating the public, and advocating for rural healthcare initiatives nationally. NAT'L RURAL HEALTH ASS'N, https://www.ruralhealthweb.org/ [https://perma.cc/AM3Z-TS5X].

58. Seigel, *supra* note 15.

59. *Id.*

60. WISHNER ET AL., *supra* note 2.

61. *Id.*

62. *Id.*

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.*

Additionally, the few who have private health insurance are often willing to travel longer distances to a larger urban hospital with more treatment options.[70] This is usually because there is a misconception that rural hospitals offer medical services of a poor quality.[71] It is easy in small rural communities for the bad experience of one patient to become the collective reputation.[72] Thus, those who are able to afford private insurance often travel to urban hospitals for certain kinds of treatment, such as specialty services and surgeries.[73]

2. *Emergency Medical Treatment and Labor Act (EMTALA)*

There is also a portion of the population that cannot afford private health insurance and does not qualify for Medicaid.[74] This populace is especially predominant in states, such as South Carolina, that did not adopt the Medicaid expansion.[75] In order for this population to have access to emergency care, the government issued the Emergency Medical Treatment and Labor Act (EMTALA) in 1986 that "requires hospital emergency departments to medically screen every patient who seeks emergency care and to stabilize or transfer those with medical emergencies, regardless of health insurance status or ability to pay."[76] This federal law is essentially an unfunded mandate, so hospitals are often not reimbursed for the services provided to uninsured individuals because there is no mechanism for payment beyond self-pay.[77] This places a burden on rural hospitals especially, as there is often a larger percentage of patients that are uninsured in these areas.[78] A large percentage of uninsured patients may be a contributing factor to rural hospital closures.[79]

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70. *Id.*
71. *Id.*
72. *See id.*
73. *Id.*
74. KAISER FAMILY FOUND., KEY FACTS ABOUT THE UNINSURED POPULATION (Dec. 13, 2019), https://www.kff.org/uninsured/fact-sheet/key-facts-about-the-uninsured-population/ [https://perma.cc/75KZ-YA4S].
75. *Id.*
76. *EMTALA: The ED Law That Could Cost You and How to Avoid It*, AdvisoryBoard (May 12, 2017, 10:00 AM) https://www.advisory.com/daily-briefing/2017/05/12/emtala-review [https://perma.cc/C2RJ-QV4E].
77. *See id.*
78. *See* WISHNER ET AL., *supra* note 2.
79. KAISER FAMILY FOUND., *supra* note 74.

3. Hospital Designation Statuses

One of the biggest problems related to the reduced reimbursement rates that many of these rural hospitals receive is its federal designation.[80] Hospitals are categorized, among other considerations, according to the proportion of Medicare and Medicaid patients served, the number of beds the hospital provided, and where they are located.[81] Depending on this designation, the hospital can receive increased federal funding and higher reimbursement rates.[82] Many of these rural hospitals need to be designated as a Critical Access Hospital (CAH) to receive increased funding and reimbursement rates, but restrictive guidelines are preventing this designation approval. [83]

The CAH designation is "given to eligible rural hospitals by the Centers for Medicare and Medicaid Services (CMS)."[84] This designation was created in 1997 in response to a surge in rural hospital closures in the 1980s and 1990s.[85] While lawmakers have amended this legislation since its original passage, the core principles of this designation are to "reduce the financial vulnerability of rural hospitals and improve access to healthcare by keeping essential services in rural communities."[86] However, for a rural hospital to be eligible to receive these benefits, they must meet certain criteria.[87] These criteria include the following: having twenty-five or fewer acute care inpatient beds, being located more than thirty-five miles from another hospital, maintaining an annual average length of stay of ninety-six hours or less for acute care patients, and providing 24/7 access to emergency care services.[88]

This CAH designation can be difficult to obtain for the rural hospitals that are not far enough away from another hospital location.[89] Because the CAH must be located at least thirty-five miles from another hospital or fifteen miles away from a hospital that is difficult to access,[90] rural hospitals that could

80. *See Rural Hospitals*, RURAL HEALTH INFO. HUB, https://www.ruralhealthinfo.org/topics/hospitals#designations [https://perma.cc/E2L8-TDRV] (describing the federal designations for rural hospitals).

81. *See id.*; *see also* MEDICARE LEARNING NETWORK, MEDICARE DISPROPORTIONATE SHARE HOSPITAL 2 (2017) https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/Disproportionate_Share_Hospital.pdf [https://perma.cc/G8ZL-MZVK].

82. *See* MEDICARE LEARNING NETWORK, *supra* note 81.

83. *See id.*; WISHNER ET AL., *supra* note 2.

84. *Critical Access Hospitals (CAHs)*, RURAL HEALTH INFO. HUB, https://www.ruralhealthinfo.org/topics/critical-access-hospitals [https://perma.cc/7HU6-YJH5].

85. *Id.*

86. *Id.*

87. *Id.*

88. *Id.*

89. WISHNER ET AL., *supra* note 2.

90. *Critical Access Hospitals (CAHs)*, *supra* note 84.

benefit from the designation are often ineligible to receive it.[91] Even hospitals that can meet these requirements and receive this designation, however, are closing their doors because they continue to face severe financial difficulties.[92] The CAH designation uses a cost-based reimbursement system, which is not the best option for some rural hospitals that are already financially unstable.[93]

III. ANALYSIS

When rural hospitals close, the effects ripple through many sectors of life for rural South Carolinians.[94] The hospital is considered a pillar of the community for many, and its loss can diminish hope for the town's future.[95] One person compared having a local hospital to having a professional athletics team: "Imagine Green Bay without the Packers . . . . It's a similar type of thing: We're a real town because we have a hospital."[96] The hospital is also a source of skilled jobs that encourages many to stay in the area.[97] Similarly, it can encourage businesses to move to the area.[98] Families considering moving to a new location are likely discouraged from doing so if the area lacks a nearby hospital.[99] These are only a few of the effects that a rural hospital closure can have on rural economies and the people that live there.

A. Problems that Occur When a Rural Hospital Leaves a Community

1. Problems that Occur When Access to Emergency Services Is Reduced

The first and most obvious problem that the closure of rural hospitals causes is reduced access to emergency care.[100] Whenever a hospital closes, residents of that community have to drive farther distances to receive

91. *See* WISHNER ET AL., *supra* note 2.
92. *Critical Access Hospitals (CAHs)*, *supra* note 84.
93. *See id.*
94. *See generally* Schechter & Marchant, *supra* note 1 (discussing the difficulties of having to travel long distances to receive medical care after a rural hospital closes).
95. *See* Michael Graff, *Health Care Options Shrink as Rural Southern Hospitals Close Their Doors*, POST & COURIER (May 25, 2018), https://www.postandcourier.com/news/health-care-options-shrink-as-rural-southern-hospitals-close-their/article_f415eb86-5e09-11e8-add4-dbd53b68b207.html [https://perma.cc/8ARR-ZPSL].
96. *See id.*
97. Sausser, *Towns Face New Reality*, *supra* note 13.
98. Seigel, *supra* note 15.
99. *Id.*
100. WISHNER ET AL., *supra* note 2.

emergency services.[101] Studies have shown that an increase in travel time to a hospital correlates to an increased mortality rate.[102] According to the National Rural Health Association, the fatality rate from a car accident almost doubles when the incident occurs in a rural area instead of an urban area.[103] While the vast majority of emergency medical services (EMS) have a response time goal of eight minutes, travel time in rural areas, especially when the county does not have a hospital, can drastically increase.[104] On average, rural Americans have to travel 36% farther to any medical facility.[105]

This access to emergency care is an ongoing need, especially for those communities struggling with public health crises.[106] For example, victims of opiod overdose, an issue not uncommon in rural communities, are vulnerable to longer emergency services transports.[107] Nationally, drug overdose deaths have more than doubled since 2005, and there was a 10% jump between 2016 and 2017, which is one of the highest annual increases in the United States.[108] South Carolina's rate of deaths from drug overdoses, while bad, is not among the highest in the nation.[109] Local communities that once benefitted from the nearness of rural hospitals, however, must now hope that the EMS can administer the proper medication to counteract those symptoms in time.[110]

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101. Schechter & Marchant, *supra* note 1.

102. *See* KING ET AL., *supra* note 6, at 3 (citing Gonzalez et al., *Does Increased Emergency Medical Services Prehospital Time Affect Patient Mortality in Rural Motor Vehicle Accidents? A Statewide Analysis*, 37 J. EMERGENCY MED. 109, 109 (2009)); *see also* Jon Nicholl et al., *The Relationship Between Distance to Hospital and Patient Mortality in Emergencies: An Observational Study*, 24 EMERGENCY MED. J. 665, 667 (2007) ("Increased journey distance to hospital seems to be associated with increased risk of mortality . . . .").

103. *See* KING ET AL., *supra* note 6, at 3 (citing Gonzalez et al., *Does Increased Emergency Medical Services Prehospital Time Affect Patient Mortality in Rural Motor Vehicle Accidents? A Statewide Analysis*, 37 J. EMERGENCY MED. 109, 109 (2009)).

104. *See id.*

105. *Id.*

106. WISHNER ET AL., *supra* note 2.

107. *See generally* KING ET AL., *supra* note 6, at 1–3 ("The extra 9.4 minutes, on average, that it takes to transport the patient to the local hospital is often the difference between life and death.")

108. DAVID C. RADLEY ET AL., THE COMMONWEALTH FUND, 2019 SCORECARD ON STATE HEALTH SYSTEM PERFORMANCE 4 (2019), https://www.commonwealthfund.org/sites/default/files/2019-06/Radley_State_Scorecard_2019.pdf [https://perma.cc/63K3-PR76].

109. *Id.* at 3.

110. *See generally* KING ET AL., *supra* note 6, at 3 ("Naloxone administration is standard protocol for paramedic and advanced EMS personnel. However, most states do not allow basic life support providers to administer naloxone. With the opioid addiction, and related overdoses, in the U.S. reaching epidemic scale, pressures on the EMS system will continue to grow."); WISHNER ET AL., *supra* note 2 (discussing how the Emergency Departments in many of these rural hospitals served as a "safety-net for people with acute mental health or addiction treatment needs")

2. *Problems that Occur When Access to Primary and Specialty Care Is Reduced*

Many rural residents use their local hospital or emergency department as an urgent or primary care center because access to these facilities are limited in many rural areas.[111] One local South Carolinian familiar with rural hospitals referred to this phenomenon as a "culture of overutilization" of hospital emergency departments.[112] In fact, the majority of patients who enter the emergency department in a rural hospital are there for non-emergency reasons.[113] Thus, when a rural hospital closes, many communities lose access to the place they visited for urgent and primary care services.[114]

Additionally, specialty care can become difficult to access for rural residents after the local hospital shuts down.[115] While many rural hospitals do not have the capacity to perform specialty care services, physicians from urban area hospitals commonly visit rural hospitals to treat patients in those areas.[116] Thus, even though the rural hospitals themselves do not usually provide access to specialty care, it is often the only opportunity for community members to obtain that care without traveling long distances.[117] Now, rural residents often wait to seek out that specialty care until their condition becomes desperate because of the long distance that must be traveled to receive it.[118] This can be detrimental to many members in the community, especially the elderly and those who were receiving mental health or substance abuse treatment through a program at a rural hospital.[119]

3. *Closures Tend to Disproportionately Affect Certain People*

Depending on the demographics of the area, rural hospital closures often disproportionately affect people of a certain race, gender, age, or socioeconomic class.[120] Rural communities tend to have a greater proportion of racial or ethnic minority residents.[121] Bamberg County has a population

111. WISHNER ET AL., *supra* note 2.
112. *Id.*
113. *Id.*
114. *See id.*
115. *Id.*
116. *Id.*
117. *Id.*
118. *Id.*
119. *Id.*
120. *See* TARUN RAMESH & EMILY GEE, CTR. AM. PROGRESS, RURAL HOSPITAL CLOSURES REDUCE ACCESS TO EMERGENCY CARE 2 (2019), https://www.americanprogress.org/issues/healthcare/reports/2019/09/09/474001/rural-hospital-closures-reduce-access-emergency-care/ [https://perma.cc/HP3L-TKYB].
121. *See id.*

that is over 60% African American,[122] and Marlboro County has a population that is 51% African American.[123] Compare the demographics of those two counties to the statewide African American population of 27.8% and the national African American population of 13.2%.[124]

Rural communities also tend to have large portions of low-income residents.[125] Marlboro County has a poverty rate of 31.4% whereas the national poverty rate is 14.8%.[126] Moreover, Marlboro County's 2010—2014 median household income was $28,765; this number was significantly lower than the national median household income of $53,482.[127] The elderly also comprise a larger portion of the population in rural communities.[128] The median age of adults in rural areas is fifty-one, compared to age forty-five in nonrural areas.[129] Rural hospital closures have had a greater impact on this older population because "[h]ospitalization rates and lengths of stay increase with age among adults, peaking for those over 65."[130] When a rural hospital closes, it can be difficult for elderly patients to travel the extra distance to receive the care they need.[131] Additionally, rural hospital closures can have a substantial impact on pregnant women.[132] In rural communities that have no hospital, the maternal mortality rate is 61% higher than the rate in urban areas.[133] For women living in Bamberg County, the drive is over an hour to get to an OB-GYN.[134] Moreover, among the rural hospitals that have not yet closed, many no longer offer obstetric services because of the lack of demand.[135]

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122. Roberta Wood & Larry Rubin, *South Carolina Voters Want to Reverse Damage by GOP State Government*, PEOPLE'S WORLD (Feb. 27, 2016, 9:15 PM), https://www.peoplesworld.org/article/south-carolina-voters-want-to-reverse-damage-by-gop-state-government/ [https://perma.cc/83TM-46WN].

123. WISHNER ET AL., *supra* note 2, at app.

124. *Id.*

125. *See id.*

126. *Id.*

127. *Id.*

128. MICHAEL TOPCHIK, RURAL RELEVANCE 2017: ASSESSING THE STATE OF RURAL HEALTHCARE IN AMERICA 4 (2017).

129. *Id.*

130. *Id.*

131. Sausser, *Towns Face New Reality*, *supra* note 13.

132. Heidi Heitkamp, Opinion, *Heidi Heitkamp: America's Rural Health Care Crisis Must be Addressed*, CNBC (June 12, 2019, 7:00 AM), https://www.cnbc.com/2019/06/11/heidi-heitkamp-americas-rural-health-care-crisis-must-be-addressed.html [https://perma.cc/9DDJ-USMQ] (citing Dina Fine Maron, *Maternal Health Care is Disappearing in Rural America*, SCI. AM. (Feb. 15, 2017), https://www.scientificamerican.com/article/maternal-health-care-is-disappearing-in-rural-america/ [https://perma.cc/6YKL-QWW5]).

133. *Id.*

134. Wood & Rubin, *supra* note 122.

135. RAMESH & GEE, *supra* note 120, at 4.

4. Other Effects that Losing a Rural Hospital Has on a Community

Whenever a rural hospital closes, there is a potential for hundreds of employees to lose their jobs.[136] Bamberg County lost 350 jobs when its hospital closed in 2012.[137] More residents lost their jobs after the merged Bamberg-Barnwell hospital closed in 2016.[138] When the Marlboro Park Hospital closed, around 300 South Carolinians lost their jobs.[139] When areas lose healthcare jobs with no real hope for any new infrastructure, people tend to move out of these rural areas to seek jobs at urban healthcare centers.[140] This continues to contribute to the rural flight movement that hurts many of these communities.[141]

Additionally, whenever a hospital closes in a rural area, there is a significant decrease in the likelihood that new businesses will relocate in that area.[142] Rural communities are constantly encouraging businesses and industries to relocate to their areas in order to improve their economic outlook.[143] However, "some businesses require, as a condition of locating in an area, that their employees have access to a hospital [emergency department] in close proximity."[144] Thus, rural hospital closures not only limit job opportunities for healthcare workers in rural communities but also discourage outside businesses from relocating to those areas.[145] Rural hospital closures have implications beyond health policy matters and can impact South Carolina's rural populations in numerous respects.[146]

B. Solutions that Rural South Carolina Communities Have Implemented to Lessen the Impact of Hospital Closures

1. Standalone Emergency Departments

While the loss of a hospital has been a tremendous burden to many of these rural communities, most have been able to implement a backup plan to ensure that some medical services are still available to these communities. Officials from Barnwell and Bamberg County teamed up to build a standalone

136. WISHNER ET AL., *supra* note 2.
137. Schechter & Marchant, *supra* note 1.
138. *Id.*
139. *See* Sausser, *Pee Dee Hospitals Close*, *supra* note 32.
140. *See* WISHNER ET AL., *supra* note 2.
141. *See id.*; Schechter & Marchant, *supra* note 1.
142. WISHNER ET AL., *supra* note 2.
143. *See id.*
144. *Id.*
145. *Id.*
146. *See id.*

24/7 emergency department that is situated in the middle of the two counties.[147] This new standalone emergency room boasts an ambulance bay, helicopter pad, and resources for walk-in traffic as well. State lawmakers hope it will bring new jobs and economic growth to this rural community.[148] Officials are also hoping that the new standalone emergency room will lessen the strain on local EMS workers, who were traveling upwards of forty-five minutes to drive injured patients to the nearest hospital.[149] Fairfield County was also able to keep a standalone emergency room in place after the Fairfield Memorial Hospital closed in 2018.[150] When the Marlboro Park Hospital shut down in 2015, hospital administrators consolidated their patients with those at the Chesterfield General Hospital twenty minutes away.[151] Others, like the Williamsburg County Hospital in Kingstree, closed its doors after a flood caused portions of the building to be unusable.[152] A makeshift emergency room is now operating out of mobile buildings on the property.[153]

2. Addition of EMS Services

Many of these rural communities are also turning to EMS care to lessen the impact of rural hospital closures.[154] After Fairfield County learned that its only hospital was going to close, it immediately enlarged its ambulatory capacity and raised the wages of the paramedics in order to make sure that its EMS system was capable of an increased workload.[155] Fairfield County likely made these improvements because most rural EMS systems have a stronger reliance on volunteers than urban EMS systems.[156] Thus, by increasing pay for the EMS providers, there is a greater chance that Fairfield County will be able to keep a reliable EMS workforce that is able to provide critical services for this rural community.[157]

3. Providing Transportation to Community Members

While many of these rural counties have been able to continue providing emergency services, other issues have arisen with transportation for non-

147. Anderson, *supra* note 11.
148. *See id.*
149. *Id.*; Sausser, *Towns Face New Reality*, *supra* note 13.
150. Schechter & Marchant, *supra* note 1.
151. *Id.*
152. Sausser, *Towns Face New Reality*, supra note 13.
153. *Id.*
154. *See* Schechter & Marchant, *supra* note 1; KING ET AL., *supra* note 6, at 3.
155. Schechter & Marchant, *supra* note 1.
156. KING ET AL., *supra* note 6, at 4.
157. *See id.* at 5; Schechter & Marchant, *supra* note 1.

emergency medical services. Fairfield County has created a way for its residents to access other medical services from nearby hospitals via a public transportation system.[158] Each year, this public transportation system takes around 14,000 residents, most of whom are on Medicaid or Medicare, to nearby Midlands healthcare providers so they can make all their doctors' appointments and receive the proper care.[159] Fairfield County Administrator Jason Taylor quipped, "If we couldn't save the hospital, we were going to do everything to save health care."[160]

4. Statewide Funding for Failing Hospitals

In August of 2013, the South Carolina Department of Health and Human Services announced the Healthy Outcomes Plan (HOP), which the general assembly passed to provide support to hospitals willing to implement certain changes.[161] The HOP required hospitals to submit plans that included ideas about how to "improve coordination of care," "lower healthcare costs," and "facilitate the development of a high-performing and replicable system of care."[162] The hope from legislators was that providers would focus on particular portions of the South Carolina population, including the uninsured, the chronically ill, and those who utilize hospital emergency rooms at high rates.[163] The department would measure whether the hospitals were reaching certain metrics, such as targeted populations, emergency department and inpatient care usage, and better outcomes for certain health conditions.[164] Even though the State spent approximately $40 million via this fund, however, it was not enough to save the Marlboro Park Hospital.[165] One South Carolinian compared it to "putting a finger in a dike."[166]

Just a few years later, the South Carolina General Assembly also put forward a plan it called the Hospital Transformation Plan.[167] This plan had a

158. Schechter & Marchant, *supra* note 1.

159. *Id.*

160. *Id.*

161. Letter from Anthony Keck, Dir., S.C. Dep't of Health & Human Servs., & Thornton Kirby, President and CEO, S.C. Hosp. Ass'n, to Healthy Outcomes Initiative Providers, https://msp.scdhhs.gov/proviso/sites/default/files/documents/files/CL.pdf [https://perma.cc/2MJV-JXD5].

162. *Id.*

163. *Id.*

164. S.C. DEP'T OF HEALTH & HUMAN SERVS., PROVISO 33.34 A(1), C, D, HEALTHY OUTCOMES PLAN GUIDELINES (2013).

165. WISHNER ET AL., *supra* note 2.

166. *Id.*

167. Lauren Sausser, *South Carolina Finalizes 'Transformation Plan' to Help Rural Hospitals*, POST & COURIER (Sept. 27, 2014) [hereinafter Sausser, *'Transformation Plan'*],

pool of $40 million that was to be distributed to larger hospital systems, called the Advising Hospitals, which would enter into partnerships with financially unstable hospitals, called the Target Hospital Community.[168] The purpose was to get the more financially stable hospitals in the state to partner with those hospitals which were struggling in order to bring some financial stability.[169] While the partnerships could arise in many different forms, they often came in the form of a merger.[170] Proponents suggest that this plan will help solve the major issue related to hospital closures—finances.[171] However, others are concerned that mergers are not the best answer for rural communities.[172] Hospital mergers, while touted as being a way for patients to receive better care, often end up increasing costs for patients.[173]

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https://www.postandcourier.com/archives/south-carolina-finalizes-transformation-plan-to-help-rural-hospitals/article_57b73f43-7f3a-5912-bc2d-e24fd88e661d.html [https://perma.cc/7UQP-AABU].

168. Press Release, Anthony E. Keck, Dir., of Health & Human Servs., Notice of Proposed Actions: Hospital Reimbursement, https://www.scdhhs.gov/sites/default/files/Public%20Notice-PROPOSED-DSH%2010-1-14.pdf [https://perma.cc/4Y9A-C3C8]; Sausser, *Towns Face New Reality*, *supra* note 13.

169. *See* Sausser, *Towns Face New Reality*, *supra* note 13; Keck, *supra* note 168.

170. *See* Mary Katherine Wildeman, *South Carolina Agency to Try to Save Rural Hospitals from Closing*, POST & COURIER (Aug. 25, 2018) [hereinafter Wildeman, *Agency to Try to Save Rural Hospitals*], https://www.postandcourier.com/health/south-carolina-agency-to-try-to-save-rural-hospitals-from/article_f08f52f0-a6ec-11e8-ae66-b7c33cfec350.html [https://perma.cc/JT5X-9RXG].

171. *See* Sausser, *'Transformation Plan,' supra* note 167 ("'We think there will be several hospitals that will be eligible to participate in this,' Keck said, 'This money is one-time money that helps, we think, solve a very specific problem.'").

172. *See id.* ("Graham Adams, director of the nonprofit South Carolina Office of Rural Health, worries that some hospitals may seize the opportunity to make money, without thinking through the impact that a merger may have on residents in rural parts of the state . . . 'I'm just very concerned that the resources are used wisely,' Adams said. 'I want to ensure that long-term solutions are crafted for these rural communities to have a stable source of care for the foreseeable future and they don't use these dollars as a quick fix.'"); Wildeman, *Agency to Try to Save Rural Hospitals*, *supra* note 170 ("Jan Probst, direct of the S.C. Rural Health Research Center at the University of South Carolina's Arnold School of Public Health, cautioned that mergers between large and small hospitals may not always be the best solution. . . . 'When big firms by smaller hospitals, you're being managed by people who aren't part of your community,' Probst said. 'They see you as a resource to be exploited.'").

173. Wildeman, *Agency to Try to Save Rural Hospitals*, *supra* note 170 ("Some research shows that bigger hospitals, or hospitals that are acquired by out-of-state companies, can lead to higher costs for patients."); Mary Katherine Wildeman, *Why Is MUSC Buying Rural Hospitals More than 100 Miles Away? Here's What We Know*, POST & COURIER (Nov. 20, 2018) [hereinafter Wildeman, *Why Is MUSC Buying Rural Hospitals*], https://www.postandcourier.com/business/why-is-musc-buying-rural-hospitals-more-than-miles-away/article_3c8d1c48-eccd-11e8-a12f-9b8e8e3af956.html [https://perma.cc/4LE9-8P8J] ("'We recognize the need for high-quality, low acuity hospitals for patients in other parts of the state,' MUSC spokeswoman Heather Woolwine said in a statement. . . ." By adding these

More recently, over the summer of 2018, the South Carolina General Assembly passed a law "to remove limits on advanced-practice registered nurses."[174] This would allow nurses to practice via telemedicine, a service they were previously unable to offer because of guidelines that required nurses to be within a forty-five-mile radius of a supervising physician in order to practice.[175] In South Carolina, nurses slightly outnumber physicians, although there is a shortage of both.[176] The hope is that this will provide South Carolinians more access to healthcare at a lower cost, given that seeing a nurse practitioner is often cheaper than seeing a doctor.[177] This law also brings South Carolina in line with a majority of states, which have already passed legislation removing such restrictions.[178]

While these solutions are certainly a step in the right direction, most are not enough, in and of themselves, to prevent more rural hospitals from closing. Many of these solutions are reactive to hospitals that have already closed. Other programs, while spending millions of dollars, were still unable to prevent rural hospital closures.[179] Furthermore, the Hospital Transformation Plan might even be a step in the wrong direction, as hospital mergers and acquisitions often increase healthcare costs.[180] In order to prevent rural communities from losing their hospital, South Carolina must take more comprehensive measures.

IV. SOLUTIONS

The lack of access to healthcare for rural South Carolinians is a critical crisis that will likely require several solutions in order to fix the myriad issues causing this problem. This Note argues that South Carolina will need to expand Medicaid, as well as implement infrastructure solutions to help

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four hospitals to the MUSC Health network, we will enhance access to our top-quality health care in more convenient locations for Upstate and Pee Dee patients and families.'"). For more discussion about the effect that hospital mergers and acquisitions have had on healthcare costs, see Jacqueline LaPointe, *Healthcare M&A Leads to 90% of Markets Being Highly Consolidated*, REVCYCLE INTELLIGENCE (Aug. 8, 2018), https://revcycleintelligence.com/news/healthcare-ma-leads-to-90-of-markets-being-highly-consolidated [https://perma.cc/LA6V-RMWL]. While this topic has some relation to the current discussion, it is beyond the scope of this note.

174. Barton, *How Will Candidates for SC Governor Improve Care?*, *supra* note 4.

175. *Id.*

176. Mary Katherine Wildeman, *SC Nurses Given Broader Prescribing Power, Greater Authority to Practice*, POST & COURIER (Aug. 14, 2018) [hereinafter Wildeman, *SC Nurses Given Broader Prescribing Power*], https://www.postandcourier.com/features/sc-nurses-given-broader-prescribing-power-greater-authority-to-practice/article_fc49370e-9f36-11e8-b000-978ea0de6b64.html [https://perma.cc/E3M7-DTC9].

177. *Id.*

178. *Id.*

179. *See* WISHNER ET AL., *supra* note 2.

180. Wildeman, *Agency to Try to Save Rural Hospitals*, *supra* note 170.

telemedicine become available for rural communities. Additionally, a new model of reimbursement is necessary for rural hospitals to stay financially stable. This Note will explore several different options that both South Carolina and other states can adopt to provide financial assistance for rural hospitals.

A. Adopt the Medicaid Expansion

While adopting the Medicaid expansion will not solve all the financial problems rural hospitals face, it will certainly help stabilize their financial state and bring healthcare to more South Carolinians.[181] Because adopting the Medicaid expansion will insure more low-income South Carolinians, there will be fewer uninsured patients visiting the emergency room because they have waited until their health has seriously deteriorated to seek help.[182] With health insurance, rural residents are more likely to seek preventative care that is now covered, relieving some of the burden on these rural hospitals.[183] A study performed by the University of South Carolina's Moore School of Business found that the state could have a net increase of $11.2 billion in federal funding if the Medicaid expansion were adopted.[184]

However, others are concerned that expanding Medicaid will increase costs for the state of South Carolina.[185] While there is some truth to this concern, most states that have expanded Medicaid have not seen a significant increase in state spending.[186] Other data has also confirmed that those states that have expanded Medicaid have seen many improvements, such as lower mortality rates, less uncompensated care, and fewer families in medical debt.[187] Some have also estimated that expanding Medicaid has the possibility of creating 40,000 healthcare related jobs.[188]

One study has found a correlation between states that have adopted the Medicaid expansion and a reduction in deaths from preventable health issues,

181. WISHNER ET AL., *supra* note 2.

182. *Id.*

183. *See id.*

184. Jerrel Floyd, *SC Did Not Expand Medicaid Under Obamacare, But Costs and Enrollment Are Growing Anyway*, POST & COURIER (Feb. 10, 2019), https://www.postandcourier.com/health/sc-did-not-expand-medicaid-under-obamacare-but-cost-and/article_6f15cb26-24a2-11e9-9167-2373028041bb.html [https://perma.cc/T8JN-2MHJ].

185. *See id.* ("McMaster spokesman Brian Symmes said in a prepared statement that the governor 'is committed to focusing on creating healthcare solutions that are tailored to South Carolinians' needs rather than committing to irresponsibly spending hundreds of millions of dollars annually that the state simply can't afford.'").

186. *Id.*

187. RAMESH & GEE, *supra* note 120, at 11.

188. Barton, *How Will Candidates for SC Governor Improve Care?*, *supra* note 4.

likely because of cost-effective access to healthcare.[189] The study found that, of the deaths caused by preventable illnesses, the majority of them were among the elderly and low-income populations in states that had not expanded Medicaid.[190] On the other hand, states that had adopted the Medicaid expansion saw a 9.3% reduction in death rates for individuals ages 55 to 64 in households earning less than 138% of the poverty level.[191] Accordingly, the Medicaid expansion would not only help raise reimbursements for rural hospitals but also provide healthcare to thousands of South Carolinians who are in desperate need.[192]

B. Infrastructure Needed for Telemedicine

Telemedicine is one way that rural South Carolina residents will be able to reach a doctor without having to leave their homes.[193] South Carolina already allows the practice of medicine via telehealth, and its use has been steadily increasing across the state.[194] Schools have been increasing their use of telehealth, which allows students to access healthcare that otherwise might not be available to them.[195] Additionally, the South Carolina Department of Mental Health has been teaming up with school, clinics, and emergency departments to allow for psych evaluations without having a psychiatrist physically present at the location.[196] Medicaid already allows coverage for telehealth in South Carolina, while private health insurers are slowly getting on board with the idea.[197] Telemedicine has also received bipartisan support in the South Carolina General Assembly as legislators realize the need for innovative access to healthcare.[198]

However, there are some significant barriers to telemedicine working for all rural residents because of the current infrastructure in rural South Carolina communities.[199] Many rural residents in South Carolina lack internet access,

189. Sarah Miller et al., *Medicaid and Mortality: New Evidence from Linked Survey and Administrative Data* 16–17 (Nat'l Bureau of Econ. Research, Working Paper No. 26081, 2019).

190. *Id.* at 6.

191. *Id.* at 1, 15.

192. *See* Floyd, *supra* note 184; RAMESH & GEE, *supra* note 120, at 11.

193. *See* WISHNER ET AL., *supra* note 2.

194. *Telemedicine Improves Access in SC*, S.C. HOSP. ASS'N, https://www.scha.org/news/telemedicine-improves-access-in-sc [https://perma.cc/3EVR-HBUK].

195. *Id.*

196. *Id.*

197. *Id.*

198. *See id.*; Barton, *How Will Candidates for SC Governor Improve Care?*, *supra* note 4.

199. Tom Barton, *SC House Passes Bill to Expand High-Speed Internet Access in Rural Areas That Need It*, STATE (S.C.) (Apr. 5, 2019) [hereinafter Barton, *Expand High-Speed Internet Access*], https://www.thestate.com/news/politics-government/article228793939.html

which prevents them from accessing telemedicine services.[200] While internet providers in South Carolina cover most of the state, many residents in rural communities lack access to internet speeds faster than dial-up, if that access is available at all.[201] One organization called Palmetto Core Connections is using money from a federal grant to help bridge this gap.[202] However, there are still many South Carolinians without internet access.[203]

Although 78% of all South Carolinians have access both to a computer and to the internet, that number dwindles significantly in certain rural counties.[204] In Marlboro County, where one of the rural hospitals recently closed, only 64% of all households have internet access.[205] Thankfully, the South Carolina General Assembly seems to understand the magnitude of the problem.[206] The South Carolina House has passed the Growing Rural Economies with Access to Technology (GREAT) Program, which will provide funds to broadband providers who will expand their reach to more rural communities.[207] This bill could encourage broadband providers to bring internet services to rural South Carolinians.[208] The bill is currently in Committee in the South Carolina Senate, but it seems to have bipartisan support.[209]

James E. Clyburn, U.S. Representative from South Carolina, has been pushing for similar legislation that involves providing rural communities nationwide with access to high speed internet.[210] Clyburn realized that supporting rural communities with access to the internet helps these communities in multiple ways, from allowing entrepreneurs to run their businesses, to enabling schoolchildren to complete their homework, to getting

("Putting in the infrastructure in these rural communities is going to be costly....Broadband is one of our big issues.").

200. Mary Katherine Wildeman, *SC Continues to Invest in Telehealth, but Internet Connections Lag*, POST & COURIER (Mar. 3, 2019) [hereinafter Wildeman, *SC Continues to Invest in Telehealth*], https://www.postandcourier.com/business/sc-continues-to-invest-in-telehealth-but-internet-connections-lag/article_231c8572-349f-11e9-b4e9-ef122b41ecb2.html [https://perma.cc/8F8A-99ZE].

201. Barton, *Expand High-Speed Internet Access*, *supra* note 199.

202. Wildeman, *SC Continues to Invest in Telehealth*, *supra* note 200.

203. *See id.*

204. *Id.*

205. *Id.*

206. Barton, *Expand High-Speed Internet Access*, *supra* note 199.

207. H. 3780, 2019 Gen. Assemb., 123rd Sess. (S.C. 2019).

208. *See id.*

209. *See id.*

210. Emma Dumain, *Trump to Dems: No Deal on Rural Broadband, Infrastructure Until Misconduct Probes End*, MCCLATCHY DC: IMPACT 2020 (May 22, 2019, 4:07 PM), https://www.mcclatchydc.com/news/politics-government/congress/article230705349.html. [https://perma.cc/J47H-UXW6].

patients access to their physicians via telehealth.[211] Clyburn has formed a House Task Force on Rural Broadband to address these issues.[212] He is also currently working with President Trump to pass an infrastructure bill that will include funding for rural broadband access.[213] While Palmetto Care Connections is still concerned about connecting both patients and providers to telemedicine, passing these bills is the first step in making sure that rural residents are receiving the healthcare they need.[214]

Telehealth is also allowing smaller rural hospitals to provide patients with specialty care that they would otherwise travel great distances to receive.[215] A nurse practitioner can connect with a cardiologist in Charleston via telemedicine to confer about a patient.[216] Thus, the patient is receiving both hands-on care at the local hospital and a specialist's evaluation from a remote facility.[217] In this way, telehealth is able to keep these small rural hospitals as viable options for residents to use and receive valuable healthcare without the hours of travel.[218] Telehealth is an innovative new way for rural healthcare to adapt to modern needs.

C. New Models for Healthcare Reimbursement

Rural hospitals are having a hard time staying afloat because they do not have the capacity to negotiate higher reimbursement rates as the larger hospital systems do.[219] They also often have a higher rate of patients on Medicaid or Medicare and receive reimbursements at those predetermined rates.[220] Even those hospitals that have qualified to receive heightened reimbursement rates still struggle because they must meet certain criteria to keep that designation.[221] As the needs of rural populations change, the healthcare services that rural hospitals provide must also change, which may

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211. *Id.*

212. Press Release, House Majority Whip James E. Clyburn, House Majority Whip James E. Clyburn Launches Task Force on Rural Broadband (June 3, 2019), https://www.majoritywhip.gov/?press=house-majority-whip-james-e-clyburn-launches-task-force-on-rural-broadband [https://perma.cc/QR4V-ATTB].

213. *Id.*

214. Wildeman, *SC Continues to Invest in Telehealth*, *supra* note 200.

215. *See* Michael DeWitt, *Put Your Heart in Good Hands*, AUGUSTA CHRON. (Oct. 3, 2019), https://www.augustachronicle.com/news/20191003/put-your-heart-in-good-hands [https://perma.cc/C25F-UKNE].

216. *Id.*

217. *See id.*

218. *See id.*

219. *See* Wildeman, *Agency to Try to Save Rural Hospitals*, *supra* note 170 ("Rural hospitals also have less ability to negotiate rates.").

220. *See* RAMESH & GEE, *supra* note 120, at 3; WISHNER ET AL., *supra* note 2, at 1.

221. *See* RAMESH & GEE, *supra* note 120, at 3–4.

make them incompatible with CMS's designations.[222] It is imperitive to have new legislation that allows rural hospitals more flexibility in meeting the needs of their patients while also receiving heightened reimbursements to keep the hospital financially viable.[223]

Some bills have been proposed to tackle just this issue. In June 2015, Senators Chuck Grassley from Iowa and Amy Klobuchar from Minnesota introduced a bill called the Rural Emergency Acute Care Hospital Act (REACH Act).[224] If passed, this legislation would create a new classification known as a rural emergency hospital.[225] For this classification to apply, the proposed legislation requires rural hospitals to maintain access to emergency care and some outpatient services but does not mandate having inpatient services.[226] If a patient needed extended inpatient services, then the rural emergency hospital would have protocols in place for transporting that patient to the nearest hospital with such capacity.[227] Also, the Medicare reimbursement rate would increase to 110% of reasonable costs, which would include transportation costs.[228] This is an increase from the 101% reimbursement rates currently in place for the CAH designation.[229] Rural hospitals would not be forced into either designation, and they could revert back to a CAH designation if the demand increased.[230] This bill was introduced again in 2017, but both times, it stalled in the Senate Finance Committee.[231]

Other agencies that work with rural hospitals have also made policy suggestions to help rural hospitals stay financially stable. The MedPAC has recommended that any rural hospital located more than thirty-five miles from another emergency department should be able to change into a standalone emergency department but still be reimbursed at the same rates it was receiving under a hospital designation.[232] The National Rural Health

222. *See id.* at 4.

223. *See id.* at 11–12.

224. Nick Bowman, *Federal Legislation on Rural Hospitals*, S. LEGIS. CONF.: POLICY ANALYSIS (Apr. 2019), https://www.slcatlanta.org/research/index.php?pub=587 [https://perma.cc/ML4X-BNHR].

225. *Id.*

226. *Id.*

227. *Id.*

228. *Id.*

229. *Id.*

230. *Id.*

231. *Id.*

232. *MedPAC Recommends Payment Cuts for Certain Urban Off-Campus EDs*, AM. HOSP. ASS'N (Apr. 5, 2018, 2:51 PM), https://www.aha.org/news/headline/2018-04-05-medpac-recommends-payment-cuts-certain-urban-campus-eds?utm_source=twitter&utm_medium=social&utm_campaign=news [https://perma.cc/L83M-Y5X4], *noted in* RAMESH & GEE, *supra* note 120, at 12.

Association (NRHA), while supportive of the REACH Act, has also proposed legislation, called the Save Rural Hospitals Act, that it thinks better represents the needs of rural hospitals.[233] It proposes a new designation, similar to that of the REACH Act, called a Community Outpatient Hospital (COH).[234] This new classification allows rural hospitals to decrease inpatient services, but requiress them to provide access to primary care services[235] The NRHA is hoping that this will help discourage rural residents from misusing their local emergency departments as a primary care facility and will also help provide preventative care to rural communities.[236] The Save Rural Hospitals Act would also provide increased reimbursements for rural hospitals. Additionally, rural communities could apply for grants to assist in becoming a designated COH or to fund a rural EMS service that increases patient capacity.[237] Introduced to the House in 2017, this bill never made it out of the committees it was referred to.[238]

States have also been testing other ways to improve the financial viability of their rural hospitals. Maryland and Pennsylvania, for example, have both adopted a global budgeting program, which reimburses rural hospitals on a fixed rate rather than on the kinds and amount of healthcare services the hospitals provide.[239] This new model of reimbursement can "reduce small, rural hospitals' financial risk by providing them with a more predictable stream of revenue."[240] The Pennsylvania Rural Health Model requires participating rural hospitals to have a plan that tailors the healthcare offered to meet the needs of the patients.[241] Often, this includes implementing more preventative care options and offering some primary care options for patients.[242] By giving rural hospitals a set amount of funds, the hospital can better budget and invest in new medical technologies.[243]

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233. Bowman, *supra* note 224.

234. Save Rural Hospitals Act, H.R. 2957, 115th Cong. (2017); *see* NAT'L RURAL HEALTH ASS'N, SPONSOR THE SAVE RURAL HOSPITALS ACT (H.R. 2957), https://www.ruralhealthweb.org/NRHA/media/Emerge_NRHA/Advocacy/Government%20affairs/2018/2018-NRHA-Save-Rural-Hospitals-Act-(H-R-2957)-sponsor-request.pdf [https://perma.cc/SXB8-HDMF].

235. *See* NAT'L RURAL HEATH ASS'N, *supra* note 234.

236. *See id.*

237. *See* Save Rural Hospitals Act, H.R. 2957; NAT'L RURAL HEATH ASS'N, *supra* note 234.

238. *H.R. 2957 – Save Rural Hospitals Act*, CONGRESS.GOV, https://www.congress.gov/bill/115th-congress/house-bill/2957/committees [https://perma.cc/C2J7-KFWM].

239. RAMESH & GEE, *supra* note 120, at 12.

240. *Id.*

241. *See id.*; Jacqueline LaPointe, *5 Rural Hospitals Take on All-Payer Global Budgets to Boost Care*, REVCYCLE INTELLIGENCE, https://revcycleintelligence.com/news/5-rural-hospitals-take-on-all-payer-global-budgets-to-boost-care [https://perma.cc/Q3JK-8G48].

242. *See* LaPointe, *supra* note 241.

243. *See id.*

While this reimbursement method is still new, the rural Pennsylvania hospitals that have engaged with the program expressed high praise for the method.[244] Sara F. Adornato, CEO of a rural Pennsylvania hospital, stated that the "Rural Health Model is giving rural hospitals . . . the opportunity to stabilize revenues under a set, predictable global budget while participating in a transformative effort to take a new, innovative look at what healthcare could be and should be in a rural community."[245] The global budgeting model allows rural hospitals more flexibility in how they apportion their resources, which allows them to offer the healthcare services patients need rather than the services not being used.[246]

Each of these new models of reimbursements and designations provide a different mechanism for rural hospitals in South Carolina to receive increased funding and model healthcare after patient needs. Rural hospitals have a disproportionate number of patients on Medicaid and Medicare,[247] so a different method of reimbursement or funding would help rural hospitals secure the money needed to stay financially viable. Also, rural hospitals must be able to tailor the healthcare services offered to the needs of their patients. Each community has a different makeup which requires a different set of healthcare options to be available. Furthermore, giving a rural hospital more room to make decisions about the needs of the community in which it operates will allow the hospital to make financial investments that provide a lasting impact. Rural hospital administrators know their communities. Giving them the financial decision-making ability results in better access to healthcare services that are most needed in rural areas.

V. CONCLUSION

Some rural hospital closures are inevitable. Rural flight continues to occur at increasing rates as businesses move to more populated areas of the state. However, there are still many vibrant rural communities where hospital closures are putting residents in increasing danger. Longer drives to the nearest hospital mean that residents are often waiting until their symptoms

244. *See id.*

245. *Id.*

246. *See id.* ("[Rural hospitals have] been financially struggling for years trying to operate under the instability of a fee-for-service, pay-as-you-provide care system that does not support essential community health services in a low volume environment.").

247. *See Disproportionate Share Hospitals*, HEALTH RES. & SERVS. ADMIN. (May 2018), https://www.hrsa.gov/opa/eligibility-and-registration/hospitals/disproportionate-share-hospitals/index.html [https://perma.cc/CW4X-8N7V]; *Disproportionate Share Hospital (DSH)*, CTRS. FOR MEDICARE & MEDICAID SERVS. (Mar. 16, 2020), https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/dsh [https://perma.cc/LDQ8-FV3Z].

become severe, and longer ambulance rides mean an increased risk of death. The current legislation helping these rural hospitals stay viable, however, is not preventing closures. Reimbursement rates for services performed are still too low, and when hospitals become eligible for a classification which affords them higher reimbursement rates, they struggle to keep up with the demands of that designation.

South Carolina needs to implement nuanced legislation that provides rural hospitals with increased funding without the demands for healthcare services that are not viable for many of these communities. Expanding Medicaid will grant the state access to much more federal aid, with little to no more financial commitment by the state of South Carolina. Investing in infrastructure, such as increased access to high speed internet, will allow rural hospitals to expand their reach to more patients and provide specialty services via telemedicine. Additionally, by changing the structure in which rural hospitals are reimbursed, whether through new designations or different reimbursement models, rural hospitals are better able to provide care that is tailored to the communities' needs. In this way, rural hospitals can offer the services that residents need while they limit the space and services that are no longer useful. Rural hospitals are the lifeblood of many of these rural South Carolina communities. Rural hospitals must be protected in order to preserve the essential services provided to South Carolinians who live in rural communities throughout the state.

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