



**D.C. POLICY**  
**CENTER**

**PUBLIC HEARING ON**

**B25-0948 – “Certificate of Need Improvement Amendment Act  
of 2024”**

Before the Committee on Health

Chairperson Christina Henderson

Wednesday October 9, 2024, 9:30 AM

Testimony of Emilia Calma  
Director of Research and Policy  
D.C. Policy Center

Good morning, Chairperson Henderson, and members of the Committee. My name is Emilia Calma, and I am the Director of Research and Policy at the D.C. Policy Center—an independent non-partisan think tank advancing policies for a strong, competitive, compelling, and vibrant District of Columbia. Thank you for the opportunity to testify in support of B25-0948, the Certificate of Need Improvement Amendment Act of 2024.

Certificate of Need (CON) laws require that healthcare facilities, hospitals, and healthcare providers obtain permission from the D.C. State Health Planning and Development Agency (SHPDA) before adding new services, buying imaging equipment, opening primary care offices, updating non-medical appliances such as HVACs, and more. Obtaining a certificate of need in the District can take six to nine months and requires the provider to prove the service or facility is “needed” based on a mathematical formula using population or past usage data. During the application process, competing health care institutions can intervene in the process, requesting a hearing at which time they can offer arguments for why a CON should be denied.<sup>1</sup>

CON laws were adopted across the United States in the 1970’s in an attempt to curb healthcare spending. In 1974 Congress passed the National Health Planning and Resources Development Act (NHPDA) which said states may become ineligible for federal reimbursements if they didn’t adopt CON laws. All states except Louisiana then adopted these laws; however, CON laws have failed to curb healthcare spending and have created barriers to meeting community needs.<sup>2</sup> These laws have persisted in 35 states despite mounting evidence that these laws have reduced health care utilization, reduced healthcare quality, and increased healthcare costs.<sup>3</sup>

CON laws have been shown to increase health care costs and decrease access to care. Certificates of need laws are associated with higher healthcare costs,<sup>4</sup> including per

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<sup>1</sup> Conning the Competition: A Nationwide Survey of Certificate of Need Laws. Institute for Justice. D.C. profile: <https://ij.org/report/conning-the-competition/state-profile/DC/>

<sup>2</sup> Certificate of Need (CON) Frequently Asked Questions. Institute for Justice. <https://ij.org/case-intake/certificate-of-need-faq/>

<sup>3</sup> Mitchell, M. May 21, 2021. Certificate-of-Need Laws: How they Affect Healthcare Access, Quality, and Cost: What years of study reveals about the effectiveness of CON programs. Mercatus Center, George Mason University. <https://www.mercatus.org/economic-insights/features/certificate-need-laws-how-they-affect-healthcare-access-quality-and-cost>

<sup>4</sup> Certificate of Need (CON) Frequently Asked Questions. Institute for Justice. <https://ij.org/case-intake/certificate-of-need-faq/>

patient,<sup>5</sup> per procedure,<sup>6</sup> and for Medicaid.<sup>7</sup> One estimate of healthcare costs in D.C. if CON laws were repealed predicts \$459 in health care savings per capita, every year.<sup>8</sup> Additionally, CON laws have been shown to limit the number of services offered by healthcare facilities, resulting in fewer facilities such as hospitals, surgical centers, and dialysis clinics.<sup>9</sup> CON laws are also associated with reduced utilization of imaging technology and increased percentages of scans occurring out of county.<sup>10</sup>

D.C. has more restrictive CON laws than other states, and the reforms in B25-0948 align the District with other states. D.C. has the third highest number of restrictions (25) out of all states, following only Hawaii and North Carolina. In addition, D.C. is one of only three states requiring a CON for primary care offices.<sup>11</sup> The provisions of this bill, including exempting telehealth, primary care offices, and nonpatient care capital projects, are an excellent step to reducing barriers for health care providers in the District, which should ultimately help reduce health care costs and increase access to care.

In addition to these important reforms, the Committee on Health should consider exempting psychiatric and mental health services and emergency medical services (D.C. is one of only two states requiring CONs for emergency medical services). In the long term, the District should consider eliminating CON laws in alignment with 11 states including California, Texas, Pennsylvania, and Colorado.

Thank you for the opportunity to testify and I welcome any questions you may have.

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<sup>5</sup> Lanning, J.A., Morrissey, M.A. & Ohsfeldt, R.L. Endogenous hospital regulation and its effects on hospital and non-hospital expenditures. *J Regul Econ* 3, 137–154 (1991). <https://doi.org/10.1007/BF00140955>

<sup>6</sup> Ho V, Ku-Goto MH. State deregulation and Medicare costs for acute cardiac care. *Med Care Res Rev*. 2013 Apr;70(2):185-205. doi: 10.1177/1077558712459681. Epub 2012 Oct 2. PMID: 23035057; PMCID: PMC6771258.

<sup>7</sup> Miller NA, Harrington C, Goldstein E. Access to community-based long-term care: Medicaid's role. *J Aging Health*. 2002 Feb;14(1):138-59. doi: 10.1177/089826430201400108. PMID: 11892757.

<sup>8</sup> The District of Columbia and Certificate of Need Programs 2020: How CON Laws Affect Healthcare Access, Quality, and Cost in the District of Columbia. March 19, 2021. Mercatus Center, George Mason University. <https://www.mercatus.org/publication/district-columbia-and-certificate-need-programs-2020>

<sup>9</sup> Certificate of Need (CON) Frequently Asked Questions. Institute for Justice. <https://ij.org/case-intake/certificate-of-need-faq/>

<sup>10</sup> The District of Columbia and Certificate of Need Programs 2020: How CON Laws Affect Healthcare Access, Quality, and Cost in the District of Columbia. March 19, 2021. Mercatus Center, George Mason University. <https://www.mercatus.org/publication/district-columbia-and-certificate-need-programs-2020>

<sup>11</sup> Mitchell, M. May 21, 2021. Certificate-of-Need Laws: How they Affect Healthcare Access, Quality, and Cost: What years of study reveals about the effectiveness of CON programs. Mercatus Center, George Mason University. <https://www.mercatus.org/economic-insights/features/certificate-need-laws-how-they-affect-healthcare-access-quality-and-cost>