

# CERTIFICATE OF NEED FAILS WEST VIRGINIA

## Fewer Hospitals, Higher Costs, Worse Outcomes

- States with CON laws have 30% fewer hospitals per 100,000 residents.
- Healthcare costs in CON states are 11% higher.
- Mortality rates in CON states are 5.5% higher.
- CON regulations have led to a 30% decline in rural hospitals and a 13% drop in rural ambulatory surgical centers.
- Research suggests West Virginia would have 42% more hospitals without CON and 43% more rural hospitals.

## CON Increases Spending Without Benefits

- 65% of studies show CON leads to higher spending per service, while only 7% found lower spending.
- Overall, CON increases healthcare spending by 3.1% and Medicare spending by 6.9%.

**Between 2017-2020, 20 CON applications totaling**

**\$43.7 million**

**were withdrawn due to opposition from rival providers.**

## Delays, Bureaucracy, and Restrictions

- West Virginia's "catch-all" CON requires approval for any project costing over \$5.5 million, even if no specific rule applies.
- 44 different CON requirements and five moratoria, including a total ban on new opioid treatment programs.

## The Human Cost of CON Laws

- Higher mortality rates following heart attack, heart failure, and pneumonia.
- Higher post-surgery death rates and readmissions.
- Lower hospital ratings, nursing home ratings, and home health agency scores.
- Home health clients less likely to see mobility improvements.
- Surgeries more likely performed by lower-quality surgeons.

## Proven Success Without CON

- Florida scaled back CON laws and saw positive results.
- From 2020 to 2022, healthcare companies announced plans to build at least 65 hospitals in states reducing CON.
- States that repealed CON (1991-2019) saw ambulatory surgical centers increase by 50%, and by 92-112% in rural areas.

**Without CON, West Virginians could save**

**\$232 per person per year**

**on healthcare.**



**13 counties have no hospital:**

**Clay, Doddridge, Gilmer, Hardy, Lincoln, Mingo, Monroe, Pendleton, Pleasants, Ritchie, Tucker, Wirt, Wyoming**

## West Virginia must end certificate of need

By **JESSICA DOBRINSKY**

**W**EST VIRGINIA'S health care system is under the weight of inefficiency, leaving many rural communities without access to essential care. At the core of this problem is a deeply outdated and dysfunctional policy: Certificate of Need.

Introduced in the 1960s and federally mandated in 1974, CON proponents anticipated that the mandate would control costs and ensure fair distribution of health services. Instead, it has proven to be a barrier that protects monopolistic interests, stifles innovation, and increases the cost of health care. Countless West Virginians pay the price with diminished access to vital services. It's time we eliminate CON, clearing the way for reform, and build a health care system that is affordable, accessible, and accountable.

Defenders of CON argue that these reg-

ulations prevent overbuilding and keep health care costs in check by avoiding unnecessary facilities. Yet states without CON laws consistently outperform those with them, boasting more hospital beds per capita, lower health care costs and better patient outcomes. Research from the Mercatus Center confirms this, too. Health care spending in states free of CON restrictions is significantly lower, driven by competition that fosters efficiency and innovation.

Rather than controlling costs, CON laws shield entrenched providers from competition, allowing them to inflate prices unchecked. This isn't cost control — it's monopolistic protectionism. Patients and insurers bear the financial burden, while health care systems pocket the profits. The result is a broken system. The consequences of CON laws are especially dire in West Virginia, where rural communities face long wait times and extensive travel to access care. For families in

emergencies, these barriers are more than inconvenient — they can be fatal.

Polling conducted by the Cardinal Institute paints a bleak picture: half of West Virginians report difficulties accessing health care, and 58% worry about meeting future needs. When educated about the harmful impacts of CON laws, 61% support their full repeal. The message is overwhelmingly clear: this isn't a wonky policy debate, it's a moral imperative.

The evidence from states like Florida, which repealed its CON laws in 2019, shows the transformative impact of eliminating these outdated regulations. From 2020 to 2022, health care providers announced plans for at least 65 new hospitals in Florida — more than triple the number approved in the three years before repeal. These facilities include not only general "acute care," but also inpatient facilities specializing in rehabilitation, psychiatric care, and emergency

medicine. Without unnecessary regulatory barriers, health care providers can respond to community needs with new facilities, innovative solutions, and better services. Patients in these states enjoy a competitive marketplace where access improves, costs decline, and outcomes soar.

By upholding Certificate of Need laws, West Virginia's lawmakers are not just sustaining a flawed system — they are actively denying access to essential care for thousands of residents. This is more than an economic miscalculation; it's a failure with grave, life-and-death consequences. The time to act is now. Eliminating these outdated regulations is necessary to save lives and prioritize health over bureaucracy.

Jessica Dobrinsky is chief of staff for the Cardinal Institute for West Virginia Policy, a conservative think tank.

### Public Opinion Survey **CON RESULTS:** Are West Virginians happy with existing care options?

**50%**

report they've had difficulty accessing care

**58%**

support repealing CON laws

**61%**

worry about future access

#### About the Cardinal Institute:

##### Mission

Founded in 2014, the Cardinal Institute for West Virginia Policy, Inc. is a 501c(3) non-profit dedicated to researching, developing, and communicating effective free-market public policies for West Virginia.

##### Vision - The West Virginia Miracle

The Cardinal Institute envisions an economic turnaround that will transform West Virginia into a beacon of prosperity and hope. For this miracle to occur, it must be built on four pillars: economic freedom, education freedom, worker freedom, and a culture of freedom encapsulated in the state's motto and founding ethos, *Montani Semper Liberi* — Mountaineers Are Always Free.

For more information, please visit our website: <https://cardinalinstitute.com/>

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