

# Alaska's Certificate of Need Program - AS 18.07

Senate Bill 26 - “An Act  
repealing the certificate of  
need (CON) program for  
health care facilities”



# Our healthcare providers are cherished and valued members of our communities!

The concept of repealing Alaska's certificate of need program is not meant in any way, shape, or form to dishonor, disrespect, or minimize how important our healthcare providers are to Alaskans!

They are our friends, family members, and neighbors.

But government policies and regulations have suppressed competition, allowed constrained market prices to escalate, produced lower-quality services, and disincentivized innovation. Research shows, without competition, the incentive to lower prices and improve quality and innovation diminishes.

# Certificate of Need Programs

Certificate of Need (CON) laws are state-level statutory laws that require individuals in the healthcare industry to obtain permission to make significant expenditures or to construct or expand facilities and services, based on the theory that controlling the supply of facilities, equipment, and services is the best method to restrain rising healthcare costs and prevent over-expansion of healthcare facilities.

The basic assumption underlying CON is that excess capacity stemming from the overbuilding of healthcare facilities results in healthcare price inflation and services beyond a community's capacity.

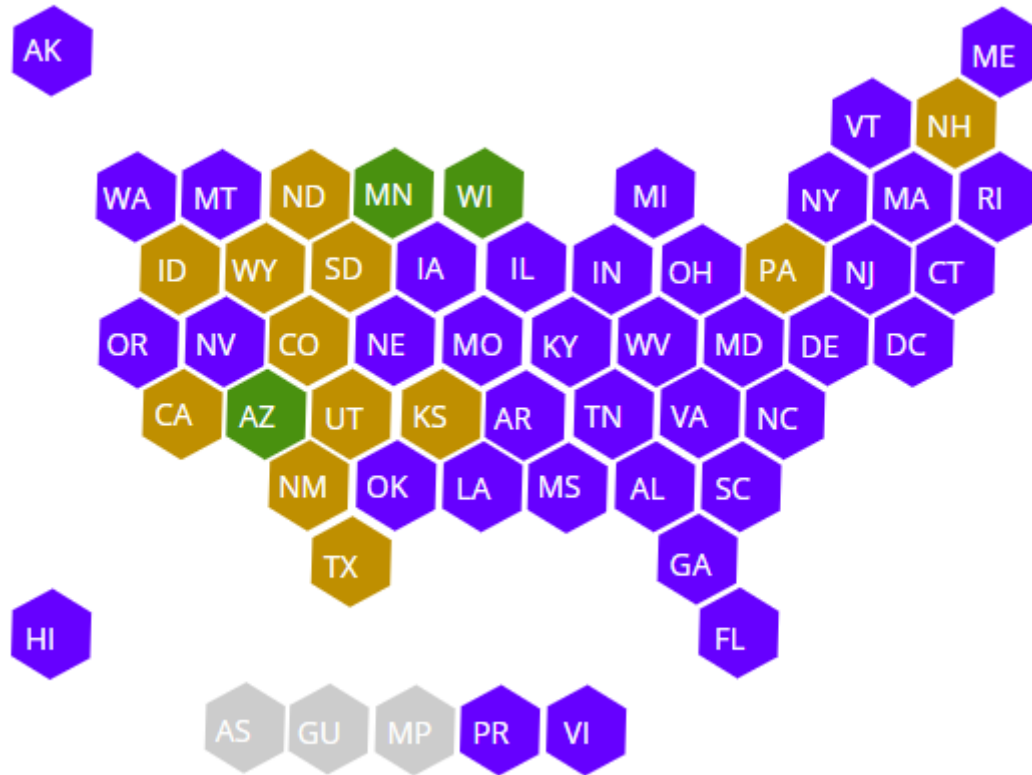
The Certificate of Need laws were originally created to contain healthcare costs, prevent over-supply of medical services and infrastructure, and improve access to care, whether indigent or in underserved areas.

CON laws in Alaska require medical providers to obtain government permission to compete for over 20 medical services. ***Please take note: The approval process is not done by health care providers like nurses or doctors, it's a government entity that decides what health care facilities and/or services should be available to you, your family, and friends (your loved ones).***

However, the overwhelming empirical evidence shows this has not happened in Alaska; 40 years of data/research studies back this up. Certificate of Need has not worked how it originally was intended and it's time to repeal!

# Current National Status of Certificate of Need Programs

## Certificate of Need State Laws



### Legend

	CON program in place
	Variation on CON program* (click on map for details)
	No CON program
	No data

Source: National Conference of State Legislators

# Alaska's Legislative History of Certificate of Need

The following is a past summary of enacted legislation passed by the Alaska Legislature regarding the certificate of need program:

**1976:** HB 665 (Ch. 275, SLA 1976), which repealed and replaced all of AS 18.07 to establish the certificate of need program and regulation of healthcare facilities.

**1982:** HB 591 (Ch. 59, SLA 1982), covers only a temporary but not an emergency certificate of need for a health care facility and added a definition of certificate of need dealing with the issuance of certificates.

**1982:** HB 591 (Ch. 25, SLA 1981), clarified that Pioneer Homes are not subject to certificate of need.

**1983:** SB 85 (Ch. 95, SLA 1983), added a \$1,000,000 (\$1.0 million) floor for requiring a certificate of need.

**1990:** HB 85 (Ch. 85, SLA 1990), provided authorization to Dept. of Health & Social Services to charge a fee for the certificate of need.

**1991:** SB 86 (Ch. 21, SLA 1991), deleted the federal statutes and changed the title section.

**1996:** HB 528 (Ch. 84, SLA 96), Placed a moratorium on nursing home beds and established a legislative working group on long-term care.

**2004:** HB 511 (Ch. 48, SLA 04), Included Residential Psychiatric Treatment Centers.

Source: Legislative Affairs Agency, Research Center

# What are we trying to solve in Alaska by repealing our certificate of need laws?

CON laws contribute to the highest healthcare costs in the world;

(Lack of competition and monopolies drive costs higher not lower)

The legal and regulatory costs of preparing and submitting an application, monitoring the application through the process, potential third-party legal challenges.

CON laws are supposed to strengthen and enrich our hospital systems;

(Hospital margins in Anchorage are at 20.6%, relative to 6.9% for the national average)

CON laws are supposed to promote high-quality care

(CON states have a higher mortality rate and readmission rate than non-con states)

CON laws restrict competition and protect incumbents;

*(Competition compels companies to deliver increasing value to its customers - Alaskans)*

(The investment of \$1.5m, the time, and the risk add to the costs of an entrant trying to access Alaska. The money isn't going to the new facility, or to expand an existing facility, or to improve the health care for Alaskans)

CON laws are supposed to promote charity care;

(Emergency care in the U.S. is just 2% of all U.S. medical costs. CON doesn't affect charity care)

*CON laws create barriers to innovation of new technologies and the entrance of new providers*

*(CON laws prevent innovation, limit new technology and block new entrants)*

# Why repeal Alaska's certificate of need?

Alaskans deserve to have new choices and access to healthcare providers and services; they want vendors to compete for their hard-earned wages, not a closed market with the highest prices in the world;

Our citizens want innovation and new technologies introduced to our state to improve our healthcare services, not an economic fortress where new vendors have to seek approval from government and the incumbents who fight them to maintain their monopolies;

Competition matters: an open marketplace benefits consumers with lower prices, higher quality, and lower mortality rates, not healthcare prices 4X times or more than the lower 48 states;

Alaskans deserve a choice because competition matters: Proponents of CON within Alaska will tell you that a free market will increase the supply of healthcare and only drive up the costs of healthcare.

***Alaska already has the highest healthcare prices in the world!***

# What happened to CON during the COVID pandemic?

The requirement to submit a certificate of need prior to temporarily increasing bed capacity was suspended on March 31, 2020. The suspension ended on February 14, 2021. Approximately 11 months without CON regulations.

Alaska suspended the certificate of need laws to meet the demand for increased beds and equipment necessary during the pandemic.

The industry was able to meet the health care demand during a crisis, without CON.

Amazon, Walmart, and McDonald's didn't run up here to open up any health care facilities during the suspension. The health care industry in Alaska wasn't turned on its head or destroyed without CON.

What happens when the next pandemic strikes and we have CON?

The suspension of CON regulations provided flexibility to the health care industry to meet the market demands. This is another reason the law should not exist now!

**So why do we need CON?**

***Alaska already has the highest healthcare prices in the world!***



# How is Alaska's Certificate of Need program working today?

- ▶ Is Alaska's Certificate of Need program working effectively to reduce healthcare costs to consumers within the state?

*Why are healthcare costs still on the rise?*

- ▶ Alaska's Certificate of Need laws have led healthcare providers to sell state-of-the-art medical equipment and buy lesser, lesser quality priced medical equipment to remain under the Certificate of Need \$1.5 million threshold.

*Wouldn't those dollars better serve Alaskans if they were invested in healthcare facilities, innovation, and allowing new entrants who provide additional quality health care services?*

- ▶ Alaska's Certificate of Need laws result in territorial disputes and legal costs between healthcare providers, because one healthcare provider objects to another healthcare provider's plans to add healthcare services.

*Does this improve or provide better quality healthcare to Alaskans?*

Thank you for support of Senate Bill 26  
- “An Act repealing the certificate of  
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