

Testimony Regarding SB 26

Thank you to Chair Senator Mia Costello, Vice-Chair Senator Micciche, and members of the Senate Labor & Commerce Committee for the opportunity to speak about my work on Certificate of Need laws and the opportunity to contextualize the healthcare concerns of CON laws within Alaska.

My name is Alicia Plemmons¹, I am an Assistant Professor at Southern Illinois University Edwardsville and a Research Affiliate for the Knee Center for the Study of Occupational Regulation at Saint Francis University.

INTRODUCTION

Today, I am here to support SB 26, which repeals Alaska's Certificate of Need laws. As a researcher, I focus on understanding the impacts of certificate of need laws on healthcare access and utilization. CON laws require a state agencies approval before establishing or expanding services, increasing bed capacity, or purchasing equipment. Many people believe that CON laws are just for the big purchases- the new MRI machines or hospital wings; but they affect much more than that, even down to the number of beds in an ICU. CON laws can bar a healthcare provider for starting or expanding services at the discretion of an incumbent provider. This limits competition for quality and prices and prevents new establishments from opening even when the community has recognized the need or want of this facility or service.

ALASKA AND COVID-19

Alaska requires legal approval for the expansion of both in-hospital and out of hospital beds, equipment purchases, facilities, and services. Any purchases of beds, facilities, or services costing more than 1.5 million dollars requires an approval process spanning a 60–180-day application period, and fees ranging from \$2,500 to \$75,000. Anytime during this process competitive healthcare providers can intervene and offer arguments for why the application should be denied.

Prior to the recent pandemic, thirty-five states and the District of Columbia had versions of CON laws. During the pandemic, these restrictions, and limitations to purchasing were stress tested under unprecedented conditions. With the onset of COVID-19 and growing concerns about hospital capacity to care for the infirmed, many states suspended or repealed their CON laws. On April 14th, Governor Dunleavy declared Amendment 3 to the COVID-19 Disaster Order No. 2 which allowed for a temporary increase in hospital bed capacity without the need to submit a CON application.

A working paper by myself and my coauthors analyze these legal changes using CDC mortality files and found that when states that were experiencing high COVID hospitalization rates, such as Alaska, chose to suspend CON Laws restricting the amount of hospital beds there was a significant reduction in deaths not only from the coronavirus, but from diseases which share similar medical equipment such as Septicemia, Diabetes, Chronic Lower Respiratory Disease, Influenza or Pneumonia, and Alzheimer's Disease. These legal changes saved approximately 26 lives a week in the early pandemic months. This suspension gave healthcare providers the ability to quickly adjust and avoid potential overcapacity issues.

There are three points I would like you to take away from our conversation today:

1. Certificate of Need laws impacted purchasing during the pandemic and restricted healthcare facilities across the nations from responding to rising demand needs.
2. Alaska saved lives by suspending these CON laws.
3. Repealing Certificate of Need laws can avoid these emergencies in the future.

¹ If you have any additional questions, I can be reached at aplemmo@siue.edu or at (618) 650-3473.

CRITICAL ANALYSIS OF THE EFFECTIVENESS OF CON LAWS

While today I have focused on the pandemic, it is important to note that there has been extensive research on CON laws over the past decade. Dozens of data-driven, peer reviewed studies in academic journals are consistent with the Federal Trade Commission and Department of Justice positions that have argued CON laws fail to meet the stated goals of providing cost-effective and accessible medical service. CON laws were a well-intentioned policy, designed to protect access to high-quality care for rural and underserved communities, but in practice they have fallen short of this goal and prevented competition that would keep quality high and prices low.

CONCLUSION

The COVID-19 pandemic provided us with a natural experiment to understand the limitations of CON laws during surges in demand for healthcare services. Observing this, we argue that CON laws do not have a public health justification, and in fact may limit access to lifesaving care during emergency situations. In my expert opinion, I believe that SB 26 represents an opportunity to do better, and to put the lives of the residents of Alaska first and foremost in the fight for better healthcare.