Certificate of Need Laws:
Bad for Missouri and Bad For Any State

By restricting new suppliers and shielding existing ones from competition, CON laws have made care more expensive and less accessible.

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In order to thrive, communities need to be able to sustain themselves without spending too much of their money on food, right? Well, imagine that in order to keep food spending under control, your local community were to require that all new restaurants and grocery stores "prove" they are needed in the community before they are allowed to open their doors. Furthermore, imagine that the review process included a fee, an application, and a hearing where all the other restaurants or grocery stores in the area could show up and protest the new entrant. As you can imagine, this would create a complicated system where it is hard for entrepreneurs to provide new services and meet demand. Everyone would miss out on the benefits of competition in the market.

While such an arrangement sounds absurd in other industries, it is prevalent in healthcare. These laws, called certificate of need (CON) laws, were first introduced in New York in 1964. A decade later the federal government heavily incentivized state adoption by threatening to withhold federal funds. The reasoning was rising healthcare costs and unequal access.[1] Those advocating for CON laws believed that curbing the supply of healthcare would lower demand and, therefore, costs for consumers.[2] It was a well-intended idea that went wrong. Today, 35 states still have CON laws, which stall or completely prevent the opening of new healthcare facilities or the purchase of new medical equipment. These laws affect many groups, but perhaps most importantly, they dramatically shape the patient experience.

States should repeal certificate of need laws for the benefit of patients, as they directly affect access, cost, and quality.

The process of getting a certificate of need is complicated; as a result, fewer healthcare facilities open up. Take, for example, the state of Missouri and its CON laws pertaining to the opening of new hospitals or long-term care facilities. The application process takes about 4 months and requires a minimum fee of $1,000. Applicants must prove there is a need in the community to be granted permission to proceed. To complicate things, already existing healthcare facilities can petition against the opening of new centers by claiming they already meet those needs.[3] This allows for complete monopolies and sometimes blocks all new competition. As a result, far fewer hospitals are being built, ultimately leading to less access. Research shows that if Missouri did not have CON laws, there would be an estimated 40% more

hospitals, especially in underserved rural areas.[4] CON laws result in fewer facilities, fewer hospital beds, and fewer opportunities for care.

CON laws also make healthcare more expensive. While the goal was to lower costs, these laws have done the opposite. Basic economic principles explain this. If you limit supply, demand goes up, and so do prices. In Missouri, it is estimated that without CON laws, residents would save over $230 per person annually.[5] This is because new ventures would be allowed to compete with pre-existing healthcare facilities. That competition would drive prices down as hospitals tried to appeal to consumers and outperform other facilities. For facilities that have the local monopoly, however, there is no incentive to lower prices.

Unfortunately, in this situation, while healthcare costs soar, the quality of care is not rising with it. While the overall quality may not be getting worse, it certainly is not getting better.[5] Once again, the presence of monopolies explains this. Competition fuels healthcare facilities to provide better care to attract new patients. If they are able to prevent new hospitals from opening in their area, however, they remove any financial incentive to provide higher-quality services since there is no competition. Patients are left with the short end of the stick. They have to settle for mediocre, non-innovative care at a high price.

Proponents of CON laws argue that repeal would harm patients and lead to a dangerous oversaturation of the market. Economics tells us, however, that markets will find equilibrium. If too many hospitals open up in one area, the high-priced, low-quality facilities will feel the pressures of competition and close. Communities will shift with these changes and benefit. Patients will enjoy more access, lower costs, and higher-quality care.

While CON equivalents would be short-lived in other industries, they remain a near permanent fixture in healthcare for many states, including Missouri. Research and common sense have proven them to be ineffective, yet they persist. They have survived thus far because they benefit the monopolies of large corporations. It is time we put patients first, repeal certificate of need laws, and embrace a more free-market approach to improve healthcare outcomes.

About the Author

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