



[ABOUT US](#) | [LEGISLATORS & STAFF](#) | [RESEARCH](#) | [MEETINGS & TRAINING](#) | [NCSL IN D.C.](#) | [BOOKSTORE](#) | [BLOG](#)

CERTIFICATE OF NEED: STATE HEALTH LAWS AND PROGRAMS

Updated: January 2011; material added July 2014

Certificate of Need (C.O.N.) programs are aimed at restraining health care facility costs and allowing coordinated planning of new services and construction. Laws authorizing such programs are one mechanism by which state governments seek to reduce overall health and medical costs. Many "CON" laws initially were put into effect across the nation as part of the federal "Health Planning Resources Development Act" of 1974. Despite numerous changes in the past 30 years, about 36 states retain some type of CON program, law or agency as of December 2013.



HISTORY

In 1964, New York became the first state to enact a statute granting the state government power to determine whether there was a need for any new hospital or nursing home before it was approved for construction. Four years later the American Hospital Association expressed an interest in Certificate of Need laws. The AHA started a national campaign for states to generate their own CON laws. By 1975, 20 states had enacted CON laws; by 1978, 36

states had enacted them.

The 1974 federal Act required all 50 states to have a structures involving the submission of proposals and obtaining approval from a state health planning agency before beginning any major capital projects such as building expansions or ordering new high-tech devices. Many states implemented CON programs in part because of the incentive of receiving CON federal funds.

The federal mandate was repealed in 1987, along with its federal funding. In the decade that followed, 14 states discontinued their CON programs. However, 36 states currently maintain some form of CON program, and even the 14 that repealed their state CON laws still retain some mechanisms intended to regulate costs and duplication of services. Puerto Rico and the District of Columbia also have CON programs.

States that have retained CON programs currently tend to concentrate activities on outpatient facilities and long-term care. This is largely due to the trend toward free-standing, physician owned facilities that constitute an increasing segment of the health-care market.

In some states, the debate regarding the future of CON remains intense. For example Georgia spent 18 months examining the role of CON, with a final Commission report issued in December 2006. See [GA Final CON Report by the State Commission on the Efficacy of the Certificate of Need Program](#) online. They state, "The Commission has been able to reach consensus on a number of ways to improve upon Georgia's Certificate of Need Program. However, sharp disagreement remains with regard to a number of areas of regulation, most notably, regulation of ambulatory surgery centers and free-standing imaging centers." [PDF, 267 pages]

INTENT AND STRUCTURE OF CON

The basic assumption underlying CON regulation is that excess capacity (in the form of facility overbuilding) directly results in health care price inflation. When a hospital cannot fill its beds, fixed costs must be met through higher charges for the beds that are used. Bigger institutions have bigger costs, so CON supporters say it makes sense to limit facilities to building only enough capacity to meet actual needs.

CON programs originated to regulate the number of beds in hospitals and nursing homes, and to prevent overbuying of expensive equipment. Mandatory regulation through health planning agencies determined the most urgent health care needs, contributed to solutions for these needs, and attempted to manage the fluctuations in prices often caused by a competitive market. The idea was that new or improved facilities or equipment would be approved based only on a genuine need in a community. Statutory criteria often were created to help planning agencies decide what was necessary for a given location. By reviewing the activities and resources of hospitals, the agencies made judgments about what needed to be improved. Once need was established, the applicant organization (corporation, not-for-profit, partnership or public entity) was granted permission to begin a project. These approvals generally are known as "Certificates of Need."

[C.O.N. SUPPORTERS' VIEWS](#)

[C.O.N. OPPONENTS' VIEWS](#)

TABLE OF CONTENTS

[CON Programs](#)

[Regulated services, by state](#)

[CON Moratoria](#)

[CON Laws, 2009](#)

[Resources & reports](#)

NAVIGATE

[Home](#)

Health

- [Cost and Quality](#)
- [Diseases and Conditions](#)
- [Federal Health Issues](#)
- [Health Insurance](#)
- [Medicaid and CHIP](#)
- [Pharmaceuticals](#)
- [Population Groups](#)
- [Providers and Facilities](#)
- [Health Reform](#)
- [Public Health and Prevention](#)

[Other Research Topics](#)

Share this:



Be sure to explore the most recent and helpful information providing state support. New research and a strong vision Online

1. The Federal Trade Commission, Department of Justice, Improving Health Care: A Dose of Competition (Washington D.C.: FTC, DOJ, 2004) 361 pages PDF.

State Certificate of Need (CON) Health Laws, 2013



Compiled by NCSL November 2013; based on data from AHPA & State Agencies.

STATES WITH CON PROGRAMS (2013)

State/District with CON Programs	Dates of Programs	Certificate of Need Contact Information	Individual CON Websites
Alabama	1979-present	James E. Sanders, Deputy Director Phone: 334-242-4103; Fax: 334-242-4113 james.sanders@shpda.alabama.gov	http://www.shpda.state.al.us News Article: AL: Bill introduced in Alabama House that would abolish the Certificate of Need process for health services 2/12/09.
Alaska	1976-present	Karen Lawfer, CON Coordinator Phone: 907-465-8616; Fax: 907-465-6861 Karen.Lawfer@alaska.gov	Alaska's Certificate of Need Program
Arizona	1971-1985		No CON Program; see planning agency below
Arkansas	1975-present	Deborah Frazier, Director Phone: 501-661-2509; Fax: 501-661-2399 Deborah.Frazier@Arkansas.gov	http://www.arhspa.org
California	1969-1987		No CON Program; see planning agency below
Colorado	1973-1987		No CON Program; see planning agency below
Connecticut	1973-present	Melanie Dillman, Director, CON & Compliance Phone: 860-418-7060; Fax: 860-418-7053 melanie.dillman@ct.gov	Connecticut's Certificate of Need Program
Delaware	1978-present	Francis Osei-Afriyie, Management Analyst Phone: 302-744-4555; Fax: 302-739-3313 francis.osei-afriyie@state.de.us	Delaware's Certificate of Public Review Program
District of Columbia	1977-present	Vacant, Chief, Project Review Phone: 202-442-5875; Fax: 202-442-4822	DC Certificate of Need Website
Florida	1973-present	Jeff Gregg, Bureau Chief Phone: 850-412-4402; Fax: 850-413-7955 jeffrey.gregg@ahca.nyiflorida.com	Florida Licensing and Certification
Georgia	1979-present	Matthew Jarrard, Health Planning Director Phone: 404-656-0467; Fax: 404-656-0442 mjarrard@dch.ga.gov	Georgia's Certificate of Need Program
Hawaii	1974-	Darryl Shutter, Regulatory Branch	Hawaii's website for Certificate of Need

claire.lit.us@nebraska.gov

Nevada	1971-present	Luana J. Rich, Bureau Chief Phone: 775-684-4155; Fax: 775-684-4156 lritch@health.nv.gov	www.health2k.state.nv.us/vs/letter.htm
New Hampshire	1979-present	Cynthia Carrier, Managing Analyst Phone: 603-271-4606; Fax: 603-271-4141 ccarrier@dhhs.state.nh.us	www.nhha.org/nhha/state_law/con.php
New Jersey	1971-present	John Calabria, Director Phone: 609-292-8773; Fax: 609-292-3780 john.calabria@doh.state.nj.us	www.state.nj.us/health/forms/cn-7.pdf
New Mexico	1978-1983		No CON Program; see planning agency below
New York	1966-present	Christopher Delker, Program Research Specialist Phone: 518-402-0966; Fax: 518-402-0971 cpd02@health.state.ny.us	www.health.state.ny.us/nysdoh/cons/index.htm
North Carolina	1978-present	Craig Smith, Chief Phone: 919-855-3873; Fax: 919-733-8139 craig.smith@dhhs.nc.gov	http://facility-services.state.nc.us/
North Dakota	1971-1995		No CON Program
Ohio	1975-present	Joel Kaiser, CON Director Phone: 614-466-3325; Fax: 614-752-4157 joel.kaiser@odh.ohio.gov	Ohio CON webpage
Oklahoma	1971-present	Darlene Simmons, Director Phone: 405-271-6868; Fax: 405-271-7360 darlen@health.state.ok.gov	Oklahoma CON Abstract
Oregon	1971-present	Jana Fussell, CON Coordinator Phone: 971-673-1108; Fax: 971-673-1299 jana.fussell@state.or.us	Oregon CON Webpage
Pennsylvania	1979-1996		No CON Program; see planning agency below
Puerto Rico	1975-present		
Rhode Island	1968-present	Michael K. Dexter, Chief, Office of Health Systems Development Phone: 410-222-2788; Fax: 410-222-1797 michael.dexter@health.ri.gov	www.health.ri.gov/hsr/healthsystems/index.php
South Carolina	1971-present	Beverly A. Brandt, Chief Phone: 803-545-4200; Fax: 803-545-4579 brandtba@dhec.sc.gov	www.scdhec.gov/hr/cofn/
South Dakota	1972-1988		No CON Program; see planning agency below
Tennessee	1973-present	Melanie M. Hill, Executive Director Phone: 615-741-2364; Fax: 615-741-9884 melanie.hill@tn.gov	http://tennessee.gov/hsda/cert_need_sum.html
Texas	1975-1985		No CON Program; see planning agency below
Utah	1979-1984		No CON Program; see planning agency below
Vermont	1979-present	Donna Jerry, Health Policy Analyst Phone: 802-828-2900; Fax: 802-828-2949 donna.jerry@bishca.state.vt.us	Vermont CON program
Virginia	1973-present	Erik Bodin, Director Phone: 804-367-2126; Fax: 804-527-4501	www.cvhpa.org/COPN.htm

Contact information obtained from American Health Planning Association National Directory, 2011 edition.

FACILITIES AND SERVICES REGULATED BY CON.

Regulated Services	Number of States	States, Districts & Commonwealth
Acute Hospital Beds	28	AL, AK, CT, DE, FL, GA, HI, IL, IA, KY, ME, MD, MI, MS, MO, NV, NH, NJ, NY, NC, RI, SC, TN, VT, VA, WA, WV, DC
Air Ambulance	5 +DC	AL, ME, MA, MI, VT, DC
Ambulance Services, Ground <i>(generally note counted as a CON state)</i>	1	AZ
Ambulatory Surgical Centers (ASC)	27	AL, AK, CT, DE, GA, HI, IL, IA, KY, ME, MD, MA, MI, MS, MT, NV, NH, NY, NC, RI, SC, TN, VT, VA, WA, WV, DC
Bum Care	11	AL, HI, ME, MD, NJ, NY, NC, TN, VT, WA, DC
Cardiac Catheterization	26	AL, AK, CT, DE, GA, HI, IL, IA, KY, ME, MD, MI, MS, MO, NH, NJ, NY, NC, RI, SC, TN, VT, VA, WA, WV, DC
Computed Tomography (CT) Scanners	13	AK, CT, HI, ME, MI, MO, NY, NC, RI, VT, VA, WV, DC
Gamma Knives	15	AL, AK, GA, HI, ME, MA, MI, MS, MO, NC, RI, SC, VT, VA, DC
Home Health	18	AL, AR, GA, HI, KY, MD, MS, MT, NJ, NY, NC, SC, TN, VT, WA, WV, DC
Hospice	18	AL, AR, CT, FL, HI, KY, MD, MS, NY, NC, OR, RI, SC, TN, VT, WA, WV, DC
Intermediate Care Facilities/Mental Retardation (ICF/MR)	22	AR, FL, GA, HI, IL, IA, KY, LA, MD, MS, MO, MT, NV, NJ, NC, OK, SC, TN, VT, VA, WV, WI
Long Term Acute Care (LTAC)	26 +DC	AL, AK, CT, DE, FL, GA, HI, IL, IA, KY, ME, MD, MI, MS, MO, NH, NJ, NC, OR, RI, SC, TN, VT, VA, WA, WV, DC
Lithotripsy	14 +DC	AK, DE, GA, HI, ME, MA, MI, MO, NY, NC, SC, TN, VT, VA, DC
Nursing Home Beds/Long Term Care Beds	36 +DC	AL, AK, AR, CT, DE, FL, GA, HI, IL, IA, KY, LA, ME, MD, MA, MI, MS, MO, MT, NE, NH, NV, NJ, NY, NC, OH, OK, OR, RI, SC, TN, VT, VA, WA, WV, WI, DC
Medical Office Buildings	1 +DC	VT, DC
Mobile Hi Technology (CT / MRI / PET, etc)	15 +DC	AK, CT, HI, KY, ME, MI, MO, NH, NY, NC, RI, SC, VT, VA, WV, DC
Magnetic Resonance Imaging (MRI) Scanners	18 +DC	AK, CT, HI, KY, ME, MA, MI, MS, MO, NH, NY, NC, RI, SC, TN, VT, VA, WV, DC
Neo-Natal Intensive Care	23	AL, AK, CT, FL, GA, HI, IL, KY, ME, MD, MA, MI, NJ, NY, NC, RI, SC, TN, VT, VA, WA, WV, DC
Obstetrics Services	15	AL, AK, CT, GA, HI, IL, ME, MD, NY, RI, VT, VA, WA, WV, DC
Open Heart Surgery	25	AL, AK, CT, GA, HI, IL, IA, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, RI, SC, TN, VT, VA, WA, WV, DC
Organ Transplants	21	AL, AK, CT, FL, HI, IL, IA, KY, ME, MD, MA, MI, NJ, NY, NC, RI, VT, VA, WA, WV, DC
Positron Emission Tomography (PET) Scanners	20	AK, CT, DE, GA, HI, KY, ME, MA, MI, MS, MO, NH, NC, RI, SC, TN, VT, VA, WV, DC
Psychiatric Services	26	AL, AK, AR, CT, FL, GA, HI, IL, KY, ME, MD, MA, MI, MS, NH, NJ, NC, OK, RI, SC, TN, VT, VA, WA, WV, DC
Radiation Therapy	23	AL, AK, CT, DE, GA, HI, IA, KY, ME, MA, MI, MS, MO, NH, NY, NC, RI, SC, TN, VT, VA, WV, DC
Rehabilitation	25	AL, FL, GA, HI, IL, KY, ME, MD, MA, MS, MO, MT, NE, NH, NJ, NY, NC, RI, SC, TN, VT, VA, WA, WV, DC

Maryland	No	No	No	1968 - present	
Massachusetts	No	Yes	No	1972 - present	
Michigan	No	No	No	1972 - present	
Mississippi	No	Yes	Yes	1979 - present	Home health agencies; long term care facilities.
Missouri	No	No	No	1979 - present	Long term care moratorium in effect from 1983 through 2002, expired January 1, 2003.
Montana	No	No	No	1975 - present	
Nebraska	No	Yes	Yes	1979 - present	Moratoria on nursing home and rehabilitation beds.
Nevada	No	No	No	1971 - present	
New Hampshire	No	Yes	Yes	1979 - present	Physical rehabilitation beds.
New Jersey	No	Yes	No	1971 - present	LTC applications subject to the issuance of a call for applications.
New York	No	No	No	1966 - present	
North Carolina	No	No	No	1978 - present	
Ohio	No	Yes/No	No	1975 - present	Prohibition on adding new nursing home beds through June 31, 2009.
Oklahoma	No	Yes	No	1971 - present	
Oregon	No	No	No	1971 - present	
Rhode Island	No	Yes	No	1968 - present	Moratorium on nursing home beds in place since 1996.
South Carolina	No	No	No	1971 - present	
Tennessee	No	No	No	1973 - present	
Vermont	No	No	No	1979 - present	
Virginia	No	No	No	1973 - present	
Washington	No	No	No	1971 - present	Nursing home beds include 1,580 banked (alternate use) and 2,158 beds banked - full facility.
West Virginia	No	Yes	Yes	1977 - present	Moratorium on skilled/intermediate nursing homes since 1987.
Wisconsin	No	Yes	Yes	1977-87; 1993 - present	

Source: American Health Planning Association, National Directory State Certificate of Need Programs Health Planning Agencies 2011

CON Online Sources & Resources:

1. <http://www.ahpanet.org/articlescopn.html> Articles and essays collected from American Health Planning Association
2. <http://www.washingtonpolicy.org/sites/default/files/FullCONBrief.pdf> Opponent view of CON Program using Washington State as example.
3. * Ambulatory Surgery Center Association (ASC) - trade association representing interests of Ambulatory surgical centers nationwide. <http://ascassociation.org/>

Medical/Surgical Bed Occupancy Rate Targets - AHPA Newsletter, 2007 (page 7)

DaimlerChrysler Corporation, Certificate of Need: Endorsement by DaimlerChrysler Corporation, February 2002:

Illinois: Hospital Approval Laws Criticized by U.S. Antitrust Agencies - SHN, 9/15/08.

"Certificate of Need: Protecting the Public Interest" Slides by Thomas Piper, Director MO CON Program. 8/06. [\[link updated 7/2014\]](#)

Ambulatory Surgery Center Payment Information Now Available - report by CMS, 11/06

Hospital Inpatient Payment Information Now Available - report by CMS, 8/06.

Authors: 2007-14 edition research and updates by Richard Cauchi, Health Program Director, Denver, Colorado
Additional research and writing contributed by Karmen Hanson (2006-07) and Andrew Thangasamy (2008) and Ariel Victoroff (2006). Earlier material and editions by Elana Mintz (2000), Andrew McKinley (2004)

NCSL Member Toolbox

Members Resources

Get Involved With NCSL
Jobs Clearinghouse
Legislative Careers
NCSL Staff Directories
Staff Directories
StateConnect Directory

Policy & Research Resources

Bill Information Service
Legislative Websites
NCSL Backstore

Meeting Resources

Calendar
Online Registration

Press Room

Media Contact
NCSL in the News
Press Releases

Denver

7700 East First Place
Denver, CO 80231
Tel: 303-364-7700 | Fax: 303-364-7

Washington

444 North Capitol Street, N.W., Suite
Washington, D.C. 20001
Tel: 202-624-6400 | Fax: 202-757-1