



# Analytics

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**RE: Eliminate the health care CON in Delaware**

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In 1974, Congress passed the National Health Planning and Resources Development Act, which made certain Federal funding conditional upon states implementation of Certificate of Need (CON) laws. These laws require those who wish to open new healthcare facilities, expand existing facilities, or even purchase new equipment to obtain state regulator permission.

The Delaware Health Resources Board, part of the Delaware Health Care Commission, has responsibility for the CON public review process in the First State. The primary goal of Delaware's CON (Certificate of Public Review) process is "to control health care cost through a formal review process used to ensure public scrutiny of certain health care developments in the state."

Economists would expect that existing health care practices will use the CON as a barrier of entry to new competition. Research confirms this ([file:///C:/Users/jstaplef/Documents/CRI/Chair/mitchell\\_and\\_amezdroz\\_-\\_policy\\_brief\\_-\\_how\\_certificate-of-need\\_reform\\_can\\_increase\\_access\\_to\\_higher-quality\\_lower-cost\\_healthcare\\_in\\_vermont\\_-\\_v1.pdf](file:///C:/Users/jstaplef/Documents/CRI/Chair/mitchell_and_amezdroz_-_policy_brief_-_how_certificate-of-need_reform_can_increase_access_to_higher-quality_lower-cost_healthcare_in_vermont_-_v1.pdf)).

Research shows that CON laws are associated with fewer dialysis clinics, hospice care facilities, hospital beds, and fewer hospitals and ambulatory surgery centers. Residents in CON states must travel farther to obtain care and are more likely to leave their states in search of care. Researchers have found greater racial disparities in the provision of care in CON states. And due to restricted supply, CON laws have also been associated with higher costs of care.

Not surprisingly, recent research has found that political campaign donations are statistically significantly associated with CON approval.

No CON research has focused exclusively on Delaware, however antidotal evidence exists. Delaware has the third highest per capita health care expenditures among all the states and ranks 30<sup>th</sup> in healthcare outcomes. Over the past 10 years (2006-16) as private sector earnings in Delaware increased 8.4%, Delaware's healthcare industry's earnings rose 64.2% (U.S. Department of Commerce).

Earnings in nursing care increased 98%, as hospital earnings soared 85%, and ambulatory care (e.g., offices of private physicians) went up 38%.

Runaway healthcare spending is breaking the state government's budget. State spending on Medicaid is \$770M, the largest single item in the state's budget. Medicaid spending is starting to crowd out spending on other State functions, such as education. The State's unfunded health care liability to State government retirees exceeds \$7 billion and is climbing.



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The decisions of Delaware's Health Resources Board need to be examined. Has the Board systematically limited competition from entering the State's health care market to the benefit of current health care providers already practicing in Delaware?

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