

Certificate of need: background

Introduction

Certificates of need (CON) require individuals and entities in the healthcare industry to receive state regulatory approval before making a capital expenditure or constructing or expanding a facility or service. The requirement to obtain a CON is in addition to other state licensing requirements for medical facilities and providers. CON programs originated as a way to limit the overbuilding of facilities and overbuying of expensive equipment under the assumption that excess capacity directly increases healthcare costs.

History

The first CON was issued in New York in 1964. In 1974, Congress passed the National Health Planning and Resources Development Act (NHPDA) in response to perceived rising health care costs and expenditures. Pursuant to this law, states were required to establish CON programs, whose purpose was to prevent unnecessary construction of health care facilities and acquisitions of high-priced major medical equipment, or forgo federal funding.

During the decade that followed, research demonstrated that healthcare costs continued to rise. In 1986, NHPDA was repealed by President Ronald Reagan, thus allowing states to determine for themselves whether or not to continue or implement CON programs. Since that time, 14 states (CA, CO, ID, IN, KS, MN, NM, ND, PA, SD, TX, UT, WI and WY) have repealed their programs. Wisconsin is the only state to repeal its CON program since 2000.

Today, 36 states (AL, AK, AR, AZ, CT, DE, FL, GA, HI, IL, IA, KY, LA, ME, MD, MA, MI, MS, MO, MT, NE, NV, NH, NJ, NY, NC, OH, OK, OR, RI, SC, TN, VT, VA, WA and WV) and the District of Columbia maintain some form of CON program.

Characteristics of state CON programs

State CON programs are diverse. Of the 36 states with CON programs, states regulate 14 services on average. Vermont, with 30 regulated services, is the state with the most CON laws. Arizona and Ohio each have just one service regulated by CON laws. Virginia ranks eleventh in the country, with 19 CON laws.

According to the National Conference of State Legislatures, the existing CON programs concentrate activities on acute inpatient beds, long-term care facilities and freestanding outpatient facilities because these tend to constitute an increasing segment of the health care market. Most states have expenditure thresholds which trigger CON review depending on the type of expenditure, such as for capital expenditures, expansion of services, or equipment purchases. Most states also charge hefty fees for review of CON applications.

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