



WEST VIRGINIA HOSPITAL ASSOCIATION



The West Virginia Legislature is considering changes to or possibly repealing the state's Certificate of Need (CON) laws.

These laws regulate establishing and expanding healthcare facilities to ensure services are distributed fairly and sustainably across all areas of our state.

Some policymakers advocate for full repeal, believing it will encourage competition and lower costs. However, they may not fully grasp the complexities of West Virginia's healthcare challenges.

Risks of Full Repeal

- A repeal could weaken hospitals' ability to plan for West Virginians' long-term healthcare needs and maintain essential but costly services, such as maternity care and mental health services.
- West Virginia has one of the unhealthiest populations in the U.S., with high rates of chronic illness, opioid addiction, and poverty.
- Repealing CON laws could lead to instability, where essential but less profitable healthcare services—such as emergency care, maternity services, and mental health treatment—become harder to sustain.
- The state's largely rural landscape makes it challenging to provide widespread, accessible healthcare.
- A repeal could jeopardize the critical access status of many hospitals in our state. West Virginia has 21 critical access hospitals in the state. For background, critical access status is a designation the federal government gives to ensure that hospitals in the most rural areas receive sufficient funding from the federal government to operate

despite the area's small population, which is known as cost-based reimbursement. One of the primary criteria these hospitals have to meet is that no other hospital is nearby. Without CON laws, our state would not be able to protect these critical access hospitals from having another hospital built within the area. As a result, all of our critical access hospitals would risk losing their current reimbursement from Medicare.

Threat of Out-of-State Providers

- If CON laws are eliminated, out-of-state, for-profit providers will likely enter West Virginia but not to serve its most vulnerable communities.
- Instead, these companies will target wealthier areas and establish same-day surgery centers focusing on high-revenue procedures, such as orthopedic and cosmetic surgeries.
- Additionally, new ambulatory care facilities could siphon West Virginia patients to out-of-state hospitals for complex care, taking valuable revenue away from in-state providers.
- This would fragment care and divert critical healthcare funding that should be reinvested in West Virginia communities.

Impact on Local Hospitals

- West Virginia's hospitals operate on a community mission rather than financial gain, providing a full spectrum of care, including unprofitable but essential services.
- These hospitals rely on revenue from higher-paying procedures and private insurance to offset losses from Medicaid, Medicare, and PEIA (Public Employees Insurance Agency), which often reimburse below cost.
- If new for-profit competitors cherry-pick the most lucrative services, community hospitals will struggle to stay financially viable, jeopardizing services like trauma care, neonatal intensive care, and behavioral health treatment.
- Losing these hospitals would devastate many rural and low-income communities that depend on them for care.

Historical Lessons

- The past missteps of out-of-state healthcare companies demonstrate the dangers of eliminating oversight.
- A West Coast-based for-profit healthcare company, acquired two struggling West Virginia hospitals between 2014 and 2017.

- Due to a 2016 exemption from CON laws, this company was able to purchase and operate these one of these hospitals without undergoing a proper review process.
- By 2020, both hospitals were forced to close, leading to massive job losses and leaving thousands without access to critical care.
- Fortunately, one hospital was later reopened thanks to a West Virginia-based healthcare provider stepping in, despite the financial risks.
- This example underscores the importance of maintaining oversight to prevent financially driven entities from exploiting the state's healthcare system.

Keeping Healthcare Dollars in West Virginia

- Repealing CON laws would allow profits from West Virginia patients to flow to shareholders and healthcare systems in other states instead of reinvesting in local services.
- Locally controlled not-for-profit hospitals ensure that healthcare dollars stay in West Virginia, funding programs directly benefiting residents.
- Strengthening local healthcare systems supports economic stability, provides jobs, and ensures comprehensive care remains accessible.

Conclusion

Protecting West Virginia's Healthcare System

- Local healthcare providers are best equipped to understand and serve the needs of West Virginians.
- Removing CON laws could weaken West Virginia's healthcare infrastructure, making essential services harder to sustain.
- Policymakers must carefully consider the long-term impact of deregulation to ensure that all residents—especially those in rural and underserved areas—continue to have access to high-quality healthcare.