

Myth vs. Fact: Access to Care in West Virginia and Certificate of Need (CON)

West Virginia's Certificate of Need (CON) law was created to ensure that citizens across the Mountain State have access to high-quality, low-cost care when they need it. Today *more than 30 states use CON* to ensure quality care and avoid duplication of health care services that would result in higher costs for everyone. Some propose eliminating CON, but we should all be working together to support improved access to health care for all of West Virginia.

West Virginia hospitals employ 53,000 compassionate caregivers across the State. In West Virginia, hospitals are not only the largest private employers, but they are also chief economic drivers. They are a critical piece of the infrastructure that potential employers consider when deciding where to locate their next manufacturing facility or distribution center.

We should continue to focus on economic development opportunities in our state that help increase our population and expand our employer-based health insurance so that there is less reliance on government payors. We support the goal of helping West Virginia better compete with neighboring states for people and economic opportunities - "The Backyard Brawl" - while ensuring West Virginia hospitals are not placed at a competitive disadvantage.

The proponents for eliminating CON base their argument on a pure economic model, focused on a *free market*. Their academic model is not the reality of health care in West Virginia. **Myths** and **FACTS** about West Virginia's CON law are highlighted below.

Myth	Fact
Eliminating CON will allow a free market in West Virginia health care	<p>The health care system in West Virginia is not a free market as 75 percent of the payments to West Virginia hospitals are set by government (PEIA, Medicare and Medicaid), below the cost of care. This payer mix, which is one of the worst in the country, results in a limited supply of services and challenges to provider recruitment.</p> <p>A true free market will have unintended consequences. For example, removing CON will allow providers such as opioid treatment centers, to operate in any community in West Virginia.</p>
In a health care free market, only those who can afford the price will receive care	Hospitals in West Virginia are not free to serve only those who can afford care as federal law (Emergency Medical Treatment and Labor Act – EMTALA) requires hospitals to see all in the emergency room, regardless of their ability to pay.
Eliminating CON will increase health care services across West Virginia	Due to the high number of West Virginians covered by PEIA, Medicare, and Medicaid, new entrants will target commercial insured patients siphoning off valuable resources and shipping West Virginia dollars out of state. As a result, needed community services like emergency rooms, mental health, and rural clinics will suffer.
Eliminating CON will increase services in rural communities	Viable services require a sufficient patient population, which is part of the CON process. For example, West Virginia EMS is not subject to CON and due to insufficient populations, several EMS agencies are struggling financially which weakens the entire delivery system.

Myth	Fact
CON laws are restricting access to care	<p>Today in West Virginia, a private practice physician can open an office anywhere in the state, providing laboratory and diagnostic imaging services for their patients without a CON.</p> <p>Today only 66 percent of hospital beds in West Virginia can be staffed. The access to care challenge is not due to CON but a nationwide health care worker shortage.</p>
Eliminating CON will result in lower costs of care and increase hospital beds	<p>Today, West Virginia ranks 6th in the nation for the LOWEST hospital expense per inpatient day and 5th in the nation for total number of hospital beds per resident. However, based on the academic model eliminating CON and adding additional hospital beds will only INCREASE costs. Based on industry estimates, EACH new hospital bed requires approximately \$1 million in capital construction costs. Therefore, to create the additional 2,424 beds cited in reports calling for the elimination of CON would require \$2.42 BILLION in additional health care dollars.</p>
States with CON laws have 30 percent fewer hospital beds per 100,000 residents	<p>According to a Kaiser Family Foundation study, West Virginia ranks 5th in the nation for the HIGHEST number of hospital beds per resident (U.S. Average 2.35 beds per 1,000 compared to West Virginia's 3.62).</p>
States with CON laws have 11 percent higher health care cost	<p>The Kaiser Family Foundation ranks West Virginia 6th in the nation for the LOWEST hospital expense per inpatient day (U.S. average \$3,025, compared to West Virginia's \$2,240).</p>
CON laws reduce wages for health care workers by 1.4 percent	<p>Lower wages in West Virginia are not due to CON, it is a result of 75 percent of patients being covered by PEIA, Medicare, and Medicaid, which pays less than the cost of care. As a result, hospitals have few resources to offer competitive salaries. According to the Bureau of Labor Statistics, West Virginia's salaries for positions such as nursing assistants, registered nurses, and respiratory therapists range anywhere from 10-25 percent BELOW the national average and 5-35 percent BELOW surrounding states.</p>
States with CON laws have a higher degree of "bad" outcomes	<p>West Virginia hospitals treat a sicker population which impacts outcomes. According to the Kaiser Family Foundation, West Virginia ranks 1st in the nation with the number of adults who are obese and smoke, and 2nd in the nation for diabetes. Obesity and diabetes result in higher rates of avoidable admissions/readmissions, longer lengths of stay, and higher infection rates.</p>
The need methodology for CON for different categories of health care applications is not specific to the types of services or operation being introduced	<p>The West Virginia Health Care Authority maintains and regularly updates standards for 22 services including cardiac surgery, organ transplant, and neonatal intensive care units.</p>
CON laws deny patients access to needed services, such as full-time at home care.	<p>An individual's health insurance plan, not CON, determines a patient's benefits. Studies show physicians spend more than 12 hours a week trying to secure prior authorizations to ensure their patients receive needed care.</p>