Certificate-of-need (CON) laws require healthcare providers to obtain permission before they open or expand their practices or purchase certain devices or new technologies. Applicants must prove that the community “needs” the new or expanded service, and existing providers are invited to challenge would-be competitors’ applications. CON laws have persisted in spite of mounting evidence from health economists, regulatory economists, and antitrust lawyers showing that these laws fail to achieve their intended goals. The following charts are based on studies comparing outcomes in states that have CON laws with outcomes in those that do not. These comparisons account for socioeconomic differences and differences in the underlying health of the populations across states. The studies give some insight into what is likely to happen in a District of Columbia without CON laws.

HEALTHCARE SERVICES THAT REQUIRE A CON IN THE DISTRICT OF COLUMBIA

- Acute Hospital Beds
- Ambulatory Surgical Centers (ASCs)
- Burn Care
- Cardiac Catheterization
- Computed Tomography (CT) Scanners
- Gamma Knives
- Home Health
- Hospice
- Intermediate Care Facilities for Individuals with Intellectual Disability (ICF/ID)
- Lithotripsy
- Long-Term Acute Care (LTAC)
- Magnetic Resonance Imaging (MRI) Scanners
- Medical Office Buildings
- Neonatal Intensive Care
- Nursing Home Beds/Long-Term Care Beds
- Obstetrics Services
- Open-Heart Surgery
- Organ Transplants
- Positron Emission Tomography (PET) Scanners
- Psychiatric Services
- Radiation Therapy
- Rehabilitation
- Renal Failure/Dialysis
- Subacute Services
- Substance/Drug Abuse
- Swing Beds
- Ultrasound
At the time it was studied, District of Columbia medical facilities provided no PET scans to Medicare beneficiaries, although the District regulated the use of PET machines. We therefore cannot estimate the number of scans that would likely take place in the event that the District had no CON law. Research suggests, however, that—in general—states without CON laws provide 45% more scans than CON states. Thomas Stratmann and Matthew C. Baker look at the relationship between CON and the imaging claims of Medicare beneficiaries, which constitute only a portion of the total market for medical imaging services. However, CON laws limit the supply of imaging technologies to all consumers, meaning the results here underestimate the total effect of CON regulation on the utilization of medical imaging services.

While CON programs are associated with reduced use of imaging services by nonhospital providers, they were found to have no statistically significant effect on the use of imaging services provided by hospitals. This suggests that CON laws protect hospitals from nonhospital competition. The net effect is to lower the overall use of imaging services.

CON programs are associated with lower utilization rates for medical imaging technologies through nonhospital providers. Research finds that the presence of a CON program is associated with 5.5 percent more MRI scans, 3.6 percent more CT scans, and 3.7 percent more PET scans occurring out of county.

CON programs are associated with higher healthcare spending per capita and higher physician spending per capita. Estimated changes in annual per capita healthcare spending patterns in the District of Columbia without CON

| TOTAL HEALTHCARE SPENDING | $459 SAVED W/OUT CON |
| PHYSICIAN SPENDING | $107 SAVED W/OUT CON |

CON laws are also associated with more out-of-county travel for imaging services. Research finds that the presence of a CON program is associated with 5.5 percent more MRI scans, 3.6 percent more CT scans, and 3.7 percent more PET scans occurring out of county.

<table>
<thead>
<tr>
<th>MRI</th>
<th>CT</th>
<th>PET</th>
</tr>
</thead>
<tbody>
<tr>
<td>with CON</td>
<td>3,340</td>
<td>1,800</td>
</tr>
<tr>
<td>w/out CON</td>
<td>4,554</td>
<td></td>
</tr>
<tr>
<td>Estimated percentage point reduction in out-of-county scans without CON</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MRI</td>
<td>5.5%</td>
<td></td>
</tr>
<tr>
<td>CT</td>
<td>3.6%</td>
<td></td>
</tr>
<tr>
<td>PET</td>
<td>3.7%</td>
<td></td>
</tr>
</tbody>
</table>

Supporters of CON suggest that these regulations positively impact healthcare quality, but research finds that the quality of hospital care in CON states is not systematically higher than the quality in non-CON states. In fact, mortality rates for pneumonia, heart failure, and heart attacks, as well as patient deaths from serious complications after surgery, are statistically significantly higher in hospitals in states with at least one CON regulation.

32 states and the District of Columbia have four or more CON restrictions. The effects of CON regulations may be cumulative, meaning states with more entry restrictions may experience larger quality differences than states with fewer restrictions. Research finds that states with four or more CON laws have systematically lower-quality hospitals than non-CON states. The effect is evident across other quality indicators, including the share of patients surveyed giving their hospital the highest overall quality rating, heart failure readmission rate, and heart attack readmission rate.

**Mercatus Center**
George Mason University

The survey referred to is the Hospital Consumer Assessment of Healthcare Providers and Systems survey. It was developed by the Centers for Medicare and Medicaid Services in partnership with the Agency for Healthcare Research and Quality, and it is based on a standardized instrument and data collection methodology that allows for cross-hospital comparisons of patients’ experiences related to different aspects of care. “Highest overall quality rating” is defined as a 9 out of 10 or 10 out of 10 rating on the survey.

Some states have added CON requirements for particular services since these analyses were conducted; the states with such new requirements are not visualized. For the latest information on which states regulate which procedures through CON, see Christopher Koopman and Anne Philpot, “The State of Certificate-of-Need Laws in 2016,” Mercatus Center at George Mason University, September 27, 2016.