ALASKA’S CON LAW
LESSONS FROM THREE DECADES OF RESEARCH

Alaska Senate
Health & Social Services Committee

March 27, 2019
WHAT IS A CON LAW?

- A permission slip to compete
- Not a quality gate
- Designed to assess “need”
- Unusual in a market economy
- A barrier to entry that restricts supply
- Anticompetitive
A SHORT HISTORY OF CON LAWS

Ensure an adequate supply of HC
Ensure rural access to HC
Promote high quality HC
Promote charity care
Encourage hospital substitutes
Restrain the cost of care
A SHORT HISTORY OF CON LAWS

1974

[Map showing states with and without CON regulation in 1974]

No CON Regulation
CON Regulation

A SHORT HISTORY OF CON LAWS

1980

No CON Regulation

CON Regulation


Produced by Matthew Mitchell and Christopher Koopman, September 2016.
A SHORT HISTORY OF CON LAWS

2015

No CON Regulation
CON Regulation

A SHORT HISTORY OF CON LAWS

2019

[Map showing states with and without CON regulation]

- Light blue: No CON Regulation
- Dark blue: CON Regulation

Source: MERCATUS CENTER at George Mason University
THE STATED GOALS OF CON LAWS

Ensure an adequate supply of HC
Ensure rural access to HC
Promote high quality HC
Promote charity care
Encourage hospital substitutes
Restrain the cost of care
THE REALITY OF CON LAWS

Ensure an adequate supply of HC?
THE REALITY OF CON LAWS

Ensure an adequate supply of HC?
THE REALITY OF CON LAWS

Ensure an adequate supply of HC?

Limited supply of dialysis clinics (Ford and Kaserman, 1993)
Limited supply of hospice care (Carlson et al., 2010)
Fewer hospitals per capita (Stratmann and Russ, 2014)
Fewer hospital beds per capita (Stratmann and Russ, 2014)
Fewer hospitals with MRIs (Stratmann and Russ, 2014)
Fewer CT, MRI, PET scans (Stratmann and Baker, 2017)
More out-of-county CT, MRI, PET scans (Stratmann and Baker, 2017)
THE REALITY OF CON LAWS
Ensure an adequate supply of HC?

Estimated number of Alaska hospitals without CON

- With CON: 25
- Without CON: 36

MERCATUS CENTER
George Mason University
THE STATED GOALS OF CON LAWS

Ensure an adequate supply of HC
Ensure rural access to HC

1974
National Health Planning and Resources Development Act
THE REALITY OF CON LAWS

Ensure rural access to HC?
THE REALITY OF CON LAWS
Ensure rural access to HC?

- 30% fewer rural hospitals (Stratmann and Koopman, 2016)
- Less access to rural hospice (Carlson et al., 2010)
- Longer travel distance to care (Cutler et al., 2010)
- More out-of-county CT, MRI, PET scans (Stratmann and Baker, 2017)
THE REALITY OF CON LAWS

Ensure an adequate supply of HC?

Estimated number of *rural* Alaska hospitals without CON
THE STATED GOALS OF CON LAWS

Ensure an adequate supply of HC
Ensure rural access to HC
Promote high quality HC

1974
National Health Planning and Resources Development Act
THE REALITY OF CON LAWS

Promote high quality HC?

scale competence vs. less competition
THE REALITY OF CON LAWS

Promote high quality HC?

scale competence vs. less competition

Mixed early research on particular conditions

No effect on all-cause mortality (Bailey, 2016)

Higher mortality rates following heart failure, pneumonia, heart attacks (Stratmann and Wille, 2016)

Higher rates of post-surgery complications (Stratmann and Wille, 2016)

Lower levels of patient satisfaction (Stratmann and Wille, 2016)
THE REALITY OF CON LAWS
Promote high quality HC?

Estimated mortality rates in Alaska

<table>
<thead>
<tr>
<th>Condition</th>
<th>with CON</th>
<th>without CON</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heart Attack</td>
<td>12.3</td>
<td>14.6</td>
</tr>
<tr>
<td>Heart Failure</td>
<td>12.1</td>
<td>12.1</td>
</tr>
<tr>
<td>Pneumonia</td>
<td>11.8</td>
<td>11.8</td>
</tr>
</tbody>
</table>

(MERCATUS CENTER
George Mason University)
THE REALITY OF CON LAWS
Promote high quality HC?

Estimated Change in Patient Satisfaction in Alaska without CON: 4.8%

Estimated Change in Post-Surgery Complications in Alaska without CON: 5.6%
1974 National Health Planning and Resources Development Act

THE STATED GOALS OF CON LAWS

Ensure an adequate supply of HC
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Promote charity care
THE REALITY OF CON LAWS

Promote charity care?

No evidence of higher rates of charity care (Stratmann and Russ, 2014)

Greater racial disparity in the provision of services (DeLia et al., 2009)
THE STATED GOALS OF CON LAWS

Ensure an adequate supply of HC
Ensure rural access to HC
Promote high quality HC
Promote charity care
Encourage hospital substitutes

1974
National Health Planning and Resources Development Act
The reality of CON laws

Encourage hospital substitutes?

ASC-specific CON states have 14% fewer ASCs per capita (Stratmann and Koopman, 2016)

ASC-specific CON states have 13% fewer rural ASCs per capita (Stratmann and Koopman, 2016)

CON limits use of new hospitals and non-hospital providers, but not existing hospitals (Stratmann and Baker, 2017)
THE REALITY OF CON LAWS
Encourage hospital substitutes?

Estimated number of Alaska ASCs without CON

- With CON: 13
- Without CON: 15
THE STATED GOALS OF CON LAWS

- Ensure an adequate supply of HC
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- Promote charity care
- Encourage hospital substitutes
- Restrain the cost of care
THE REALITY OF CON LAWS

Restrain the cost of care?

Diagram showing the relationship between demand and supply, with price per quantity ($/Q) on the y-axis and quantity on the x-axis.
THE REALITY OF CON LAWS

Restrain the cost of care?

Diagram showing demand and supply lines with and without CON laws.
THE REALITY OF CON LAWS

Restrain the cost of care?
A review of 20 peer-reviewed academic studies finds that CON laws have worked largely as economic theory predicts and that they have failed to achieve their stated goal of cost reduction. The overwhelming weight of evidence suggests that CON laws are associated with both higher per unit costs and higher total expenditures.
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Appendix
WHY WOULD ANYONE THINK CON LAWS

Restrain the cost of care?
THE REALITY OF CON LAWS
Restrain the cost of care?

4 decades of research

20 studies

only peer reviewed
THE REALITY OF CON LAWS

Restrain the cost of care?
THE REALITY OF CON LAWS

Per unit cost

3 studies: CON associated with higher cost

1 study: No detected effect on Medicaid costs
THE REALITY OF CON LAWS

Restrain the cost of care?
THE REALITY OF CON LAWS

Per patient expenditure

- 7 studies: CON increases expenditures
- 2 studies: No statistically significant effect
- 2 studies: Increases some expenditures and reduces others
- 1 study: Reduces the number of beds
THE REALITY OF CON LAWS
Restrain the cost of care?
THE REALITY OF CON LAWS

Hospital Efficiency

2 studies: CON increases some measures of efficiency
1 study: CON has no effect on efficiency
1 study: CON reduces efficiency
THE REALITY OF CON LAWS

Restrain the cost of care?
1 study: CON fails to reduce investment but changes its composition

1 study: CON backfires, increasing investment
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