

Certificate of Need and Telehealth Access in D.C.

A clarification of the District's current CON statute would enable all the providers of telehealth that are operating in the District to do so with the certainty and knowledge that they have met the threshold for compliance with all District statutes and regulations.

*** What is a Certificate of Need?

In today's healthcare landscape, regulatory approval is strict if states want to grant additional medical operations and practices. Certificate of Need (CON) laws require healthcare providers to obtain approval from a regulating governmental entity before adding or expanding operations within a state.¹ CON programs primarily aim to control health care costs by restricting duplicative services and determining whether new capital expenditures meet a community need.

The CON process was established in the mid 1970's to ensure that brick and mortar healthcare institutions provide access to underserved areas that hadn't previously had access to quality care.²

Historically, CONs were established to ensure equitable distribution of healthcare. These laws were originally put in place to control healthcare costs, increase healthcare quality, and improve access to care for low-income families by ensuring physical locations across the city.³



*** Need for Reform

Currently, 35 states and Washington, D.C. have CON laws on the books.⁴ 60% of the U.S. population currently lives in a state that has CON laws. These states have 30% fewer hospitals per 100,000 residents than states without CON laws. In addition, the Kaiser Family Foundation's most recent study on health care expenditures found that states with CON laws in place have healthcare costs 11% higher than states without these policies, potentially due to a lack of marketplace competition.

While CONs are designed to regulate the expansion of healthcare services and ensure they meet community needs, they also have several potential downsides:



Barrier to Entry: CON requirements can create barriers to entry for healthcare providers.. The application process can be lengthy, complex, and costly, discouraging new entrants and limiting competition.



Delay in Service Provision: The time-consuming nature of the CON application and approval process can delay the introduction of new healthcare services, which can be detrimental in areas with urgent healthcare needs or where rapid technological advancements are taking place.



Reduced Competition: By limiting the number of new providers, CONs can reduce competition in the healthcare market. This can lead to higher costs and fewer choices for consumers, as existing providers may not feel the pressure to innovate or improve services.



Potential for Inefficiency: The CON process can sometimes result in inefficient allocation of healthcare resources. Decisions about healthcare needs and services are made by regulatory bodies, which may not always accurately reflect the actual needs and dynamics of the local healthcare market.



Protection of Incumbents: Established healthcare providers may use the CON process to block new competitors, effectively using the regulatory framework to maintain their market position. This can stifle innovation and prevent the introduction of new, potentially more efficient or higher-quality services.



Limited Flexibility: Once a CON is granted, the conditions and limitations imposed may restrict a provider's ability to adapt to changing healthcare needs or technological advancements, limiting their ability to innovate and improve services.

Certificate of Need and Telehealth Access in D.C. (cont.)

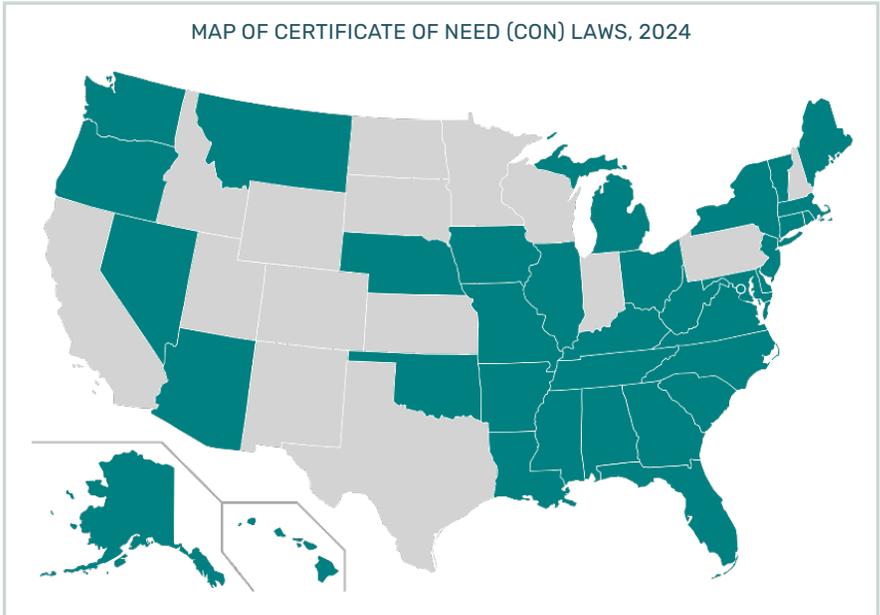
CON in the District

D.C. has the chance to remove unnecessary barriers to healthcare for residents.⁵

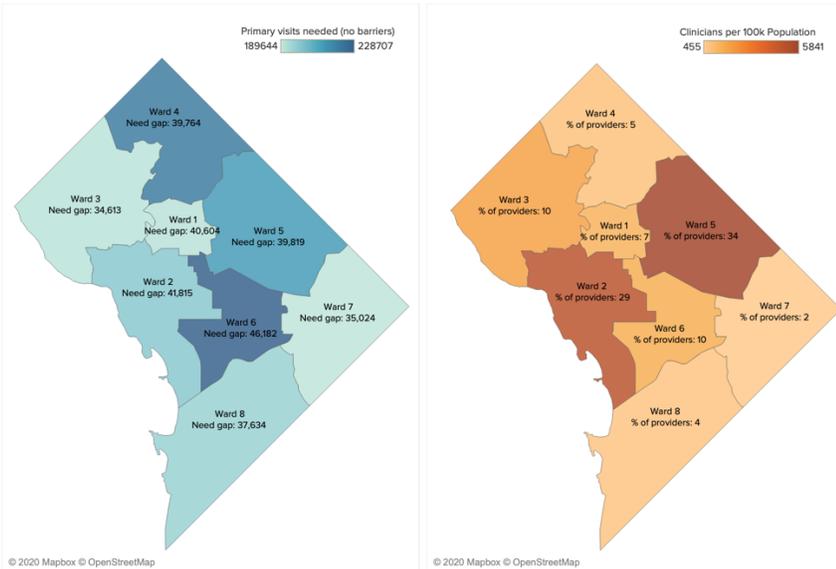
Many states have enacted legislation that modifies their antiquated CON laws to change oversight and exclude specific facilities from CON review, including telehealth providers.



D.C. should update the CON process to exclude telehealth providers that do not have a physical location in the District and align with the evolution of healthcare services.



GEOGRAPHIC DISTRIBUTION OF HEALTH CARE NEED AND PROVIDER LOCATION IN DISTRICT OF COLUMBIA



Need gap is calculated by subtracting the number of primary care visits needed with the number of visits demanded (accounting for barriers to access).
Source: District of Columbia Primary Care Needs Assessment 2018; D.C. Department of Health licensee Masterfile, August 2020.
D.C. Policy Center | dcpolicycenter.org



The Future of Telehealth in D.C.

The CON process is cumbersome and can create barriers to healthcare access.

In addition to D.C. being an outlier in this space, this process is cumbersome, can take years to obtain approval, and is not resourced to manage entities without brick-and-mortar locations.

Many states have enacted legislation that modifies their antiquated CON laws to change oversight and exclude specific facilities from CON review.

Telehealth provides access across the entire District and will increase access to quality health care to everyone – from Ward 1-Ward 8.⁶



By updating and clarifying DC's CON process in accordance and alignment with other jurisdictions, residents of DC will find increased access to care through telehealth platforms.

SOURCES

- <https://dchealth.dc.gov/service/certificate-need>
- <https://cardinalinstitute.com/certificate-of-need-laws-a-brief-history/>
- <https://cardinalinstitute.com/certificate-of-need-laws-a-brief-history/>
- <https://www.ncsl.org/health/certificate-of-need-state-laws#:~:text=History,or%20expanding%20health%20care%20services.>
- <https://telehealth.hhs.gov/licensure/licensing-across-state-lines>
- <https://www.washingtonpost.com/dc-md-va/2024/01/03/dc-black-health-care-outcomes/>

