



Testimony of Sofia Hamilton
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To the Rhode Island Senate Committee on Health and Human Services
April 9, 2026

Honorable Chair Murray, Vice Chair Lauria, Secretary Urso, and Members of the Senate Committee on Health and Human Services,

On behalf of Americans for Prosperity, a nationwide grassroots advocacy organization that works to increase opportunities for all Americans, I am submitting the following comments regarding **S. 2865, An Act Relating to Health and Safety — Determination of Need for New Health Care Equipment and New Institutional Health Services**.

CON laws are state regulations which require health care providers to obtain approval from a state government board to establish or expand health care facilities, services, and equipment. These certificates are essentially a government-mandated permission slip that individual health care providers, physician groups, hospitals, and health systems must obtain before they are legally allowed to care for patients. Essentially, CON laws empower bureaucrats to decide what health care services are offered, instead of that decision being driven by patients' needs.

The original theory behind CON laws is attributed to Milton Roemer who was a health researcher at UCLA in the 1950s. Roemer theorized that any established hospital bed will be filled by a patient.¹ Applying this idea, policymakers believed that by reducing the supply of health care services they could reduce health care spending.² But the basic tenets of economics tells us this is not true.

Nevertheless, policymakers were entranced by Roemer's theory, and the first CON law was passed by the New York State Assembly in 1964. In 1974, the federal government heavily encouraged every state to pass a CON law of their own by threatening to withhold funding for their Medicaid and Medicare reimbursements.³ By 1980, 49 states and DC had implemented CON laws. In 1986, however, the federal government repealed their CON mandate after realizing that the program did not meet its intended goal of limiting health care spending.⁴ Every presidential administration since — both Democrat and Republican — has urged states to repeal their CON laws.⁵ Just last year, the U.S. Federal Trade Commission wrote to Governor McKee reiterating the

1. Milton I. Roemer, "Bed supply and hospital utilization: a natural experiment," *Hospitals*, November 1961, <https://pubmed.ncbi.nlm.nih.gov/14493273/>.

2. Jaimie Cavanaugh and Matthew D. Mitchell, "Striving for Better Care: A Review of Kentucky's Certificate of Need Laws," Institute for Justice, August 2023, <https://ij.org/report/striving-for-better-care/what-are-con-laws-and-why-do-con-laws-exist/#:~:text=The%20original%20theory%20behind%20CON.is%20built%20will%20be%20filled.&text=With%20this%20principle%20in%20mind,facilities%20would%20reduce%20healthcare%20spending>.

3. Public Law 93-641, January 4, 1975, <https://www.congress.gov/93/statute/STATUTE-88/STATUTE-88-Pg2225.pdf>.

4. Public Law 99-660, November 14, 1986, <https://www.congress.gov/99/statute/STATUTE-100/STATUTE-100-Pg3743.pdf>.

5. "What do the last eight presidential administrations have in common?," Americans for Prosperity Foundation, August 2025, <https://americansforprosperityfoundation.org/wp-content/uploads/2025/08/AFPF-CON-AdminQuotes-081325-v2.pdf>.

negative effects of CON laws and the benefits of their repeal.⁶ Despite this, Rhode Island and 34 other states still have the regulations on their books.

Countless studies have shown that CON laws have been ineffective at their stated purpose: lowering health care costs, increasing access to services, and ensuring high quality of care. In practice, CON laws do the opposite. Compared to states without, states with CON laws are associated with higher patient spending, fewer medical facilities, and inferior patient outcomes.⁷ CON laws negatively affect individuals in cities, suburbs, and beyond by increasing wait times, limiting choices, and inflating costs. In rural communities where the supply of health care is already limited, these controls can lead to life-threatening problems.

Rhode Island currently regulates 21 broad categories of health care facilities, services, and equipment through its CON requirements — which is more CON regulations than 41 states have. These regulations cover a vast range of medical resources from complex open-heart surgery to simply adding more beds to a hospital.⁸ According to the Mercatus Center, Rhode Islanders would save an average of \$281 a year on health care spending in the absence of CON laws. The researchers estimate that Rhode Island residents would also benefit from a 5.3% decrease in post-surgery complications and would rate their experiences at hospitals 4.7% more favorably.⁹ There is no doubt that the state’s CON laws are keeping Rhode Islanders from accessing safe and affordable health care. As Rhode Island’s population inevitably increases and ages, the health care marketplace will only become further strained, inaccessible, and expensive — especially for the state’s most vulnerable populations.

Reforming CON laws is not unprecedented. In the 2025 legislative session, the Vermont General Assembly increased the expenditure thresholds which trigger CON, allowing smaller projects like equipment purchases and bed expansions to bypass the approval process.¹⁰ At the end of March 2026, the Maine Legislature repealed its CON requirement for ambulatory surgical facilities.¹¹ While both were small steps, these legislative moves make it easier for health care providers to adapt to the everchanging market and meet patients’ needs. Bolder moves are not uncommon, either. In 2023, South Carolina passed a full CON repeal, removing their approval process for all health care services, facilities, and equipment.¹² While South Carolina’s entire repeal process has not finished yet as the final requirement sunsets in 2027, Florida provides an illustrative example of the real

6. Clark Edwards, Ted Rosenbaum, and Daniel Guarnera, “Proposed Reforms to Rhode Island’s Certificate of Need Process,” U.S. Federal Trade Commission, April 16, 2025, https://www.ftc.gov/system/files/ftc_gov/pdf/ftc-letter-to-ri-gov-mckee-on-proposed-con-amendments.pdf.

7. Matthew D. Mitchell, “Do Certificate-of-Need Laws Limit Spending?,” Mercatus Center at George Mason University, September 29, 2016, <https://www.mercatus.org/research/working-papers/do-certificate-need-laws-limit-spending>; Thomas Stratmann and Christopher Koopman, “Entry Regulation and Rural Health Care: Certificate-of-Need Laws, Ambulatory Surgical Centers, and Community Hospitals,” Mercatus Center at George Mason University, February 18, 2016, <https://www.mercatus.org/research/working-papers/entry-regulation-and-rural-health-care-certificate-need-laws-ambulatory>; and Thomas Stratmann and David Wille, “Certificate-of-Need Laws and Hospital Quality,” Mercatus Center at George Mason University, September 27, 2016, <https://www.mercatus.org/research/working-papers/certificate-need-laws-and-hospital-quality>.

8. Matthew D. Mitchell, Anne Philpot, and Jessica McBirney, “CON Laws in 2020: About the Update,” Mercatus Center at George Mason University, February 19, 2021, <https://www.mercatus.org/publication/con-laws-2020-about-update>.

9. “Certificate-of-Need Laws: Rhode Island State Profile,” Mercatus Center at George Mason University, November 11, 2020, <https://www.mercatus.org/media/72496/download?attachment>.

10. House Bill 96, Vermont General Assembly, 2025, <https://legislature.vermont.gov/Documents/2026/Docs/BILLS/H-0096/H-0096%20As%20Passed%20by%20Both%20House%20and%20Senate%20Official.pdf>.

11. Legislative Document 1890, Maine Legislature, 2026, https://legislature.maine.gov/legis/bills/display_ps.asp?LD=1890&snum=132.

12. Senate Bill 164, South Carolina General Assembly, 2023, https://www.sctestatehouse.gov/sess125_2023-2024/bills/164.htm.

world benefits of CON reform. In 2019, the Florida legislature repealed their CON requirement for general and specialty hospitals. From 2019 to 2023, at least 70 hospitals were planned and/or built in Florida. For comparison, the state only approved 20 hospitals between 2016 to 2018 while the CON requirement was standing.¹³

CON reform is not a new issue for Rhode Island. In response to the COVID-19 pandemic, Governor Raimondo suspended the CON requirements for hospitals and nursing homes, as well as the moratorium on nursing facility beds.¹⁴ This action was a tacit admission that CON laws do, in fact, prohibit providers from responding to patients' needs in real time. While the suspension only lasted from April to July 2020, six years later the state government is once again calling the efficacy of CON laws into question. On April 2, 2026, Governor McKee submitted a budget amendment regarding the awards allocated to the state through the Rural Health Transformation Program. In the Governor's budget amendment, it is noted that CON requirements must be amended for the state to keep the full federal grant award.¹⁵ The General Assembly should heed the warnings of the federal government and decades of economic research, as well as capitalize on the increase in federal funding targeting rural populations, and repeal Rhode Island's CON law. Failing to implement serious CON reform will doubly hurt Rhode Island's most vulnerable populations through the loss of federal funding and a suppressed health care market.

Americans for Prosperity is appreciative of the reforms proposed in **S. 2865** and applauds the important work in introducing this legislation. Rhode Island should join the growing trend and fully repeal the state's CON laws through the passage of this legislation. We appreciate the General Assembly opening this subject up for comment and are hopeful that Rhode Island's health care market will see these needed changes for the good of all Rhode Islanders and the state itself.

With gratitude,

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13. "Florida Hospital Plans," KFF Health News, updated December 28, 2022, <https://kffhealthnews.org/wp-content/uploads/sites/2/2023/04/Florida-Hospital-Plans.pdf>; and Noah Schwartz, "Florida sees hospital boom after dropping certificate-of-need rules," Becker's Hospital Review, April 27, 2023, <https://www.beckershospitalreview.com/legal-regulatory-issues/florida-sees-hospital-boom-after-dropping-certificate-of-need-rules/#:~:text=Florida%20sees%20hospital%20boom%20after%20dropping%20certificate%20of%20need%20rules,-Noah%20Schwartz%20%2D%20Thursday&text=After%20Florida%20did%20away%20with,KFF%20HealthNews%20reported%20April%2026>.

14. Angela C. Erickson, "States are suspending Certificate of Need laws in the wake of COVID-19 but the damage might already be done," Pacific Legal Foundation, January 11, 2021, <https://pacificlegal.org/certificate-of-need-laws-covid-19/>.

15. Joseph Codega Jr., "Amendments to FY 2026 Revised Appropriations Act," Rhode Island Office of Management and Budget, April 2, 2026, https://omb.ri.gov/sites/g/files/xkqgbur751/files/2026-04/GBA%206%20-%20RHTP_FINAL.pdf.