



April 8, 2026

**Statement of Support from Pacific Legal Foundation for Senate Bill 2865—
A bill to increase access to Healthcare throughout Rhode Island**

Chair Murry and Members of the Senate Health and Human Services Committee:

My name is Jaimie Cavanaugh, and I am Senior State Policy Counsel at Pacific Legal Foundation (PLF). Although “pacific” is in our name, PLF works in every state, including Rhode Island, where we currently represent Johnston property owners in an eminent domain dispute.

As an organization, a large part of our work involves protecting the right to earn a living free from unreasonable government restrictions. These protections are especially important in the healthcare industry, where government barriers to entry not only harm workers and entrepreneurs, but all citizens by decreasing access to needed healthcare facilities and services.

Certificate of need (CON) laws are among the most harmful of such restrictions—particularly for small, niche, and startup providers who know their communities best but lack the financial or political capital to navigate a costly CON process or withstand legal challenges from entrenched hospital systems. If Rhode Island is concerned about healthcare consolidation, it must consider that CON laws systematically advantage large incumbents over innovative new entrants.¹

PLF strongly supports Senate Bill 2865, a bill to repeal Rhode Island’s outdated CON laws for the following reasons:

I. Research Overwhelmingly Shows CON Laws Are Harmful

Approximately 40% of Americans live in states with no CON laws or very limited CON laws, making it straightforward to compare outcomes. The research is clear: CON laws fail to deliver on their promises of lower costs, greater access, and higher quality. In fact, studies routinely show that CON laws lead to the opposite effects—higher costs, less access, and lower quality.

In a comprehensive review of more than 400 academic tests of CON laws, my co-author Matthew D. Mitchell and I found that 89% of tests associated CON laws with

¹ Levinzon, Z., et al. (Apr. 19, 2024). Ten Things to Know About Consolidation in Health Care Provider Markets. *Kaiser Family Foundation*. <https://www.kff.org/health-costs/ten-things-to-know-about-consolidation-in-health-care-provider-markets/>.

negative or neutral outcomes.² That means a negative or neutral result from a CON law is 5 times more likely than a positive association or result.

CON laws fail to improve costs, access, quality of care, or care for vulnerable populations. Some notable findings in these academic tests are:

- Zero out of ten studies found that CON laws have any positive impact on access for vulnerable communities.
- Uninsured patients are more likely to pay out-of-pocket in states with CON laws.³
- A large black-white disparity in the availability of coronary angiographies disappeared when New Jersey exempted the procedure from its CON laws.⁴
- There is no evidence that CON laws increase charity care.⁵

II. CON Reform Reduces Healthcare Spending and Costs

The evidence is equally clear that CON laws drive up healthcare costs for government programs and private patients alike. Studies consistently show:

- Hospital charges are 5.5% lower five years after CON repeal.⁶
- CON laws are associated with 10% higher variable costs in general acute hospitals.⁷
- Medicare reimbursements for total knee arthroplasty are 5–10% lower in non-CON states.⁸

² Cavanaugh, J & Mitchell, M. "Striving for Better Care," Institute for Justice (Aug. 2023), <https://ij.org/report/striving-for-better-care/>; see also Mitchell, Matthew D. "Certificate-of-Need laws in healthcare: A comprehensive review of the literature." *Southern Economic Journal* (2024), <https://doi.org/10.1002/soej.12698>.

³ Custer, W. S., et al. (2006). Report of Data Analyses to the Georgia Commission on the Efficacy of the CON Program. https://scholarworks.gsu.edu/cgi/viewcontent.cgi?article1017&context=ghpc_reports.

⁴ Cantor, J. C., et al. (2009). Reducing racial disparities in coronary angiography. *Health Affairs*, 28(5), 1521–1531. <https://doi.org/10.1377/hlthaff.28.5.1521>; DeLia, D., et al. (2009). Effects of regulation and competition on health care disparities: the case of cardiac angiography in New Jersey. *Journal of health politics, policy and law*, 34(1), 63–91, <https://doi.org/10.1215/03616878-2008-992>.

⁵ Stratmann, T., & Russ, J. (2014). Do Certificate-of-Need Laws Increase Indigent Care? *Mercatus Center at George Mason University*. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3211637.

⁶ See Mitchell, M. D. (2024). Certificate of Need Laws in Health Care: Past, Present, and Future. *Inquiry: A Journal of Medical Care Organization, Provision and Financing*, Vol. 61. <https://doi.org/10.1177/00469580241251937>.

⁷ Anderson, K. B. (1991). Regulation, market structure, and hospital costs: comment. *Southern Economic Journal*, 58(2), 528–534. <https://doi.org/10.2307/1060194>.

⁸ See Mitchell, M. D. (2016). Do Certificate-of-Need Laws Limit Spending?, *Mercatus Center at Georgia Washington University*.

- CON laws are associated with higher Medicaid costs for home health⁹ and community-based services.¹⁰

High healthcare costs are not just a government problem—an estimated 5.2% of Rhode Island adults carry medical debt, a burden serious enough that the Office of the General Treasurer created a medical debt relief program in 2024. Forgiving medical debt may help some individuals, but fails to address the root cause of the problem.

Allowing more providers to compete alleviates high costs. Yale economist Zack Cooper finds that “prices at monopoly hospitals are 12% higher than those in markets with four or more rivals.” Repealing CON laws is a proven path to greater competition and lower costs.¹¹

III. Repeal Does Not Cause Hospital Closures

Opponents of CON reform often warn that new providers will draw privately-insured patients away from existing facilities, leaving hospitals as the sole provider for the uninsured. This is a theory economists call “cost-shifting.” The Congressional Budget Office reviewed this claim in 2022 and found no evidence of cost-shifting, concluding that the proportion of a facility’s Medicare and Medicaid patients is not related to higher prices charged to commercial insurers.¹²

Real-world repeal data confirms this. Instead, when state repeal CON laws, more facilities open and more facilities stay open. A 2024 study found a 92–112% increase in surgery centers per capita in rural areas following CON repeal—with no evidence of hospital closures.¹³ And since Montana repealed its CON law in 2021, it has seen a

⁹ Custer, W. S., et al. (2006). Report of Data Analyses to the Georgia Commission on the Efficacy of the CON Program.

https://scholarworks.gsu.edu/cgi/viewcontent.cgi?article1017&context=ghpc_reports.

¹⁰ Miller, N. A., Harrington, C., & Goldstein, E. (2002). Access to community-based long-term care: Medicaid’s role. *Journal of Aging and Health*, 14(1), 138–159.

<https://doi.org/10.1177/089826430201400108>.

¹¹ Cooper, Z., et al. (2019). The price ain’t right? Hospital prices and health spending on the privately insured. *The quarterly journal of economics* 134.1: 51-107.

<https://doi.org/10.1093/qje/qjy020>.

¹² Congressional Budget Office. (Jan. 2022). The Prices that Commercial Health Insurers and Medicare Pay for Hospitals’ and Physicians’ Services.

<https://www.cbo.gov/system/files/2022-01/57422-medical-prices.pdf>.

¹³ Stratmann, T., Bjoerkheim, M., & Koopman, C. (2025). The causal effect of repealing Certificate-of-Need laws for ambulatory surgical centers: Does access to medical services increase?. *Southern Economic Journal*, 92(1), 63–86.

<https://doi.org/10.1002/soej.12710>.

12.5% increase in ambulatory surgery centers, home health agencies, and inpatient addiction treatment centers.¹⁴

Pennsylvania's experience is additionally instructive: after repealing CON in 1996, the Pennsylvania Hospital Association actively opposed readopting CON laws, testifying in 2015 that restoring CON would stifle innovation and "potentially prevent the appropriate availability of services within communities."¹⁵

IV. States Across the Country Are Repealing and Reforming CON Laws

As of 2025, 15 states have fully repealed their CON laws, and the momentum for reform continues. Notable recent actions include:

2021

- **Montana** repealed CON for all services except nursing homes. Since repeal, the state has seen a 12.5% increase in ASCs, home health agencies, and addiction treatment centers.

2023

- **South Carolina** repealed CON for all services except nursing homes.
- **North Carolina** made sweeping reforms, including repealing CON for psychiatric care, rehab facilities, and MRI equipment in larger counties. The state is on a path toward near-total repeal.

2024

- **Oklahoma** repealed CON for all services except nursing homes.

2025

- **Wyoming** repealed CON for nursing homes, its only remaining healthcare CON law.
- **New York** updated CON regulations, loosening review requirements to speed up provider approvals and investment, and allowing hospitals costing \$30 million or less to be constructed without a CON.
- **District of Columbia** repealed CON for telehealth and primary care and increased its CON thresholds to \$15 million for facilities.
- **Vermont** increased its CON thresholds to \$10 million for facilities and to \$5 million for equipment.

2026

- **New Jersey** repealed CON for NICU and neonatal care.
- **Maine** increased its CON thresholds to \$5 million for facilities.

Active reform bills are currently pending in Arizona, Connecticut, Hawaii, Kentucky, and Tennessee. As demonstrated by reforms over the past two years, Rhode Island's neighbors in the Northeast are increasingly taking CON reform seriously.

¹⁴ Frontier Institute. (Oct. 1, 2025). Freedom In Practice: 2025 Healthcare Reform Impact Report. <https://frontierinstitute.org/reports/freedom-in-practice-2025-healthcare-reform-impact-report/>

¹⁵ Michael W. Thompson, (July 11, 2015). Certificate of Need by Michael Thompson: Reform for better care. https://richmond.com/opinion/column/certificate-of-need-by-michael-thompson-reform-for-better-health-care/article_f49038ce-7a50-59c4-8ae8-8c7b4070909f.html

Lastly, CON repeal is not a partisan issue. Federal agencies across every presidential administration since Reagan have called on states to repeal CON laws. During the Obama Administration, the DOJ and FTC jointly submitted comments supporting CON reform in Virginia.¹⁶ In 2023, the DOJ supported full repeal of Alaska's CON laws.¹⁷

Most recently, Congress created a \$50 billion fund known as the Rural Health Transformation Program to support rural hospitals. Each state must apply for annual grants and preference is given to states that have repealed their CON laws.¹⁸ Thus, CON repeal may also increase Rhode Island's eligibility for federal grants.

Conclusion

The evidence is clear: CON laws raise costs, reduce access, harm vulnerable communities, and protect incumbents at the expense of patients and innovative providers. The fear that repeal will cause closures or harm rural communities is contradicted by data from state after state.

For these reasons, I urge this Committee to support Senate Bill 2865 and to follow the national trend toward greater competition, lower costs, and better care for Rhode Island patients. Thank you for the opportunity to testify. I am happy to answer any questions.

Respectfully,



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¹⁶ Press Release, Fed. Trade Comm'n, Agencies Submit Joint Statement Regarding Virginia Certificate-of-Need Laws for Health Care Facilities (Oct. 26, 2015), <https://www.ftc.gov/news-events/news/press-releases/2015/10/agencies-submit-joint-statement-regarding-virginia-certificate-need-laws-health-care-facilities>.

¹⁷ Statement of the Antitrust Division, U.S. Dep't of Justice, Regarding the Proposed Repeal of Alaska's Certificate-of-Need Laws (May 23, 2023), <https://www.justice.gov/d9/2023-08/415865.pdf>.

¹⁸ See Finerfrock, B. (Oct. 2025). Rural Health Transformation Fund Offers States a Way to Improve Rural Health Care: Here's what States Should Do. *Paragon Health Institute*. <https://paragoninstitute.org/medicaid/rural-health-transformation-fund-offers-states-a-way-to-improve-rural-health-care-access-heres-what-states-should-do/?nab=1>.