



January 5, 2026

Statement in Support of LD 1890 from Pacific Legal Foundation to the Joint Committee on Health Coverage, Insurance, and Financial Services

Chair Bailey, Chair Mathieson, and members of the Joint Committee on Health Coverage, Insurance, and Financial Services:

Pacific Legal Foundation (PLF) is a nonprofit, public interest law firm dedicated to defending Americans' liberties when threatened by government overreach and abuse. Since our founding more than 50 years ago, PLF has been helping Americans preserve their constitutional rights in courthouses and legislatures across the country. Even though PLF was founded on the west coast, we work in all fifty states today.

PLF has secured 18 victories at the United States Supreme Court and helped enact more than 50 laws in legislatures across the country. As part of this work, PLF represents health care providers around the country who want to provide high-quality, safe care, but are unable to do so because of overly burdensome laws or regulations. Oftentimes, these barriers are caused by certificate of need (CON) laws.

The research on Certificate of Need laws

Today, 40% of the population of the U.S. live in a state with zero or very few CON laws, making it easy for economists to study the effects of these laws. Unsurprisingly, laws that make it difficult or impossible to open new healthcare facilities have been shown to have detrimental impacts on access to healthcare.

One robust literature review¹ found that 89% of tests of CON laws conclude that CON laws lead to a negative or neutral effect. And the tests of CON laws are plentiful. They include tests showing that CON laws raise healthcare costs and spending, decrease access, fail to increase access to healthcare for vulnerable populations, and decrease healthcare quality. The results are not mixed. The tests overwhelmingly show that CON laws fail to provide benefits to the public.²

This Committee should support robust CON reform

Maine is becoming an outlier in the region by *not* reforming its CON laws.

¹ 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>

² See *also* State Efforts to Control Healthcare Costs: Lessons Learned and Insights for the Future, 25–27 <https://www.aspeninstitute.org/wp-content/uploads/2024/05/HMS-State-Efforts-to-Control-Healthcare-Costs-R3-1-1.pdf>; Ten Things to Know About Consolidation in Health Care Provider Markets, <https://www.kff.org/health-costs/ten-things-to-know-about-consolidation-in-health-care-provider-markets/>

In 2025, D.C.,³ New York,⁴ and Vermont⁵ significantly reformed their CON laws. These jurisdictions raised the capitol spending triggers, meaning facilities that cost less than a set minimum can now open without going through the arduous CON application process. Specifically:

- Vermont increased its threshold from \$1.5 million to \$10 million for facilities.
- D.C. increased its threshold from \$6 million to \$15 million for facilities.
- New York increased its threshold to \$20 million, \$30 million, or \$60 million depending on the type of project.

Other reforms in the northeast include Connecticut (2023)⁶ and procedural reforms in Massachusetts (2024).⁷

Additionally, Maine's only border state, New Hampshire fully repealed CON in 1996, and its residents are reaping the benefits of shorter wait times for medical appointments and lower costs. For example, Massachusetts doctors are sending patients to the Granite State for imaging services because New Hampshire facilities offer fast appointments at lower prices.⁸

CON repeal is the rare issue that has federal bipartisan support. Agencies in every presidential administration beginning with Reagan have publicly called on states to repeal CON laws. For example, during the Obama Administration, the U.S. Department of Justice (DOJ) and the U.S. Federal Trade Commission submitted comments supporting CON repeal or reform in Virginia.⁹ And in 2023, DOJ submitted comments supporting a bill to fully repeal Alaska's CON laws.¹⁰

PLF urges your support of LD 1890. Thank you for your consideration and please feel free to reach out with any questions.

³ Certificate of Need Improvement Amendment Act of 2025, D.C. B26-0025 (26th Council 2025-2026), enacted as D.C. Law L26-0007 (effective June 10, 2025), <https://lims.dccouncil.gov/Legislation/B26-0025>.

⁴ Alicia Pearson, *New York Adopts Certificate of Need Amendments to Streamline Reviews of Health Facility Projects*, JD Supra (Aug. 27, 2025), <https://www.jdsupra.com/legalnews/new-york-adopts-certificate-of-need-4172648/>.

⁵ Vt. H. 96, "An Act Relating to Increasing the Monetary Thresholds for Certificates of Need," <https://legislature.vermont.gov/bill/status/2026/H.96>.

⁶ Conn. Pub. Act No. 23-147, "An Act Protecting Maternal Health (2023)," <https://www.cga.ct.gov/2023/act/pa/pdf/2023PA-00147-R00SB-00986-PA.pdf>.

⁷ Mass. H. 4653, 193rd Gen. Ct. (2023-2024) "An Act enhancing the market review process," <https://malegislature.gov/Bills/193/H4653>.

⁸ Alison Kuznitz, *Some Massachusetts Doctors Are Sending Patients to New Hampshire for Imaging and X-Rays*, Yahoo News (Oct. 1, 2025), <https://www.yahoo.com/news/articles/massachusetts-doctors-sending-patients-hampshire-090054537.html>.

⁹ See FTC & DOJ, Joint Statement to the Virginia Certificate of Public Need Work Group (Oct. 26, 2015) <https://www.justice.gov/atr/case-document/file/788171/dl?inline>.

¹⁰ See DOJ Antitrust Div., Letter Re: Proposed Repeal of Alaska's Certificate-of-Need Laws (May 3, 2023) <https://www.justice.gov/atr/file/1302691/dl?inline>.

Respectfully,

A handwritten signature in black ink, appearing to read 'Emily Amin', with a stylized, flowing script.

Emily Amin
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