



May 27, 2025

**Submitted Via Regulations.gov**

U.S. Department of Justice  
Antitrust Division

Re: Anticompetitive Regulations Task Force (Docket No. ATR-2025-0001)

Dear Anticompetitive Regulations Task Force:

We write on behalf of Americans for Prosperity Foundation (“AFP Foundation”), a 501(c)(3) nonpartisan organization that educates and trains citizens to be advocates for freedom, creating real change at the local, state, and federal levels.<sup>1</sup> Americans for Prosperity Foundation runs the [Permission to Care](https://americansforprosperityfoundation.org/permission-to-care) project, featuring original empirical research on how certificate-of-need (“CON”) laws harm patients and stifle health care innovation.<sup>2</sup>

We applaud the Trump administration’s determination to “alleviate unnecessary regulatory burdens placed on the American people,”<sup>3</sup> and appreciate the Anticompetitive Regulations Task Force’s invitation to provide input on laws and regulations that hinder free market competition. The Antitrust Division has a long history of advocacy against CON laws,<sup>4</sup> and we encourage the Task Force to continue its work to implore states to remove these barriers to accessible, affordable, high-quality health care.

We write to you about a class of “[l]aws and regulations in healthcare markets [that] too often discourage doctors and hospitals from providing low-cost, high-quality healthcare and instead

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<sup>1</sup> See AMS. FOR PROSPERITY FOUND., <https://americansforprosperityfoundation.org/> (last visited May 20, 2025).

<sup>2</sup> See [Permission to Care](https://americansforprosperityfoundation.org/permission-to-care), AMS. FOR PROSPERITY FOUND., <https://americansforprosperityfoundation.org/permission-to-care> (last visited May 20, 2025).

<sup>3</sup> Exec. Order No. 14,192, 90 Fed. Reg. 9065 (Feb. 6, 2025).

<sup>4</sup> See *What do the last seven presidential administrations have in common? They all agree certificate-of-need (CON) laws are bad for health care* (attached as Exhibit 1), AMS. FOR PROSPERITY FOUND. (2024), <https://americansforprosperityfoundation.org/wp-content/uploads/2024/04/AFPE-CON-AdminQuotes.pdf>; IMPROVING HEALTH CARE: A DOSE OF COMPETITION, FED. TRADE COM. & DEPT. OF JUSTICE (July 2004), <https://www.justice.gov/sites/default/files/atr/legacy/2006/04/27/204694.pdf>; Letter from U.S. Dept. of Justice to Hon. David Wilson, Alaska State Senator (May 3, 2023), <https://www.justice.gov/atr/file/1302691/dl?inline>; *Joint Statement of the Federal Trade Commission and the Antitrust Division of the U.S. Department of Justice to the Virginia Certificate of Public Need Work Group* (2015), <https://www.justice.gov/atr/case-document/file/788171/dl?inline>.

encourage overbilling and consolidation... [and] put affordable healthcare out of reach for millions of American families.”<sup>5</sup> Namely, CON laws.

Fifty years ago, Congress passed the National Health Planning and Resources Development Act of 1974, which included a mandate that the states pass CON laws to receive certain federal health care funds.<sup>6</sup> Within a few years, nearly every state complied. The mandate was based on a now-debunked theory that “a hospital bed built is a bed filled.”<sup>7</sup> At the time, lawmakers thought they could control rising health care costs by limiting the supply of health care, but Congress lifted the mandate in 1986 after CON laws proved ineffective at doing so. At least a dozen states have since repealed their CON laws.

However, 35 states and Washington, D.C. still have CON laws on the books.<sup>8</sup> These CON schemes empower government bureaucrats, rather than patient need, to determine what health care services are offered in a state. These states typically justify their CON regimes by stating that they are intended to control costs and ensure access to quality care.<sup>9</sup> However, a large and growing body of research—spanning decades—shows that CON does not work.

By design, CON laws limit the supply of health care, which, unsurprisingly, reduces access to care. Compared to states without CON, states with CON laws have fewer hospitals and other medical facilities (e.g., ambulatory surgical centers, psychiatric care facilities, dialysis clinics, etc.).<sup>10</sup> In CON states, patients have access to “fewer medical imaging devices, must wait longer for care, must travel farther for care, and are more likely to leave their state for care.”<sup>11</sup> Furthermore, studies show that CON laws contribute to lower quality care, worse health outcomes, and higher health care spending.<sup>12</sup>

So why do CON laws still exist? CON schemes persist to protect politically proficient health care providers from competition by limiting the supply of health care in the state at the patients’ expense. In nearly every state with CON laws, competing care providers can intervene in the CON process, pitting providers against each other to fight for government favor. Rather than appeal to patients, providers petition the government’s central planners for permission to care.

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<sup>5</sup> U.S. Dept. of Justice, *Justice Department Launches Anticompetitive Regulations Task Force* (Mar. 27, 2025), <https://downloads.regulations.gov/ATR-2025-0001-0002/content.pdf>.

<sup>6</sup> National Health Planning and Resources Development Act of 1974, Pub. L. No. 93-641, 88 Stat. 2225 (1975) (formerly codified at 42 U.S.C. §§ 300k–300n-5), *repealed by* Pub. L. No. 99-660, § 701, 100 Stat. 3743, 3799 (1986).

<sup>7</sup> M.I. Roemer, *Bed supply and hospital utilization: a natural experiment*, PubMed (1961), <https://pubmed.ncbi.nlm.nih.gov/14493273>.

<sup>8</sup> See Certificate of Need State Laws, NATIONAL CONFERENCE OF STATE LEGISLATURES, <https://www.ncsl.org/health/certificate-of-need-state-laws>.

<sup>9</sup> See, e.g., Thomas Kimbrell & Kevin Schmidt, *Permission to Care: Analysis of Certificate-of-Need Application Data in Seven States* (Ams. for Prosperity Found. working paper, Jun. 2023) at 3, [https://americansforprosperityfoundation.org/wp-content/uploads/2024/05/Kimbrell\\_Schmidt\\_CON\\_PermissionToCare.pdf](https://americansforprosperityfoundation.org/wp-content/uploads/2024/05/Kimbrell_Schmidt_CON_PermissionToCare.pdf).

<sup>10</sup> JAIMIE CAVANAUGH & MATTHEW D. MITCHELL, *STRIVING FOR BETTER CARE: A REVIEW OF KENTUCKY’S CERTIFICATE OF NEED LAWS*, INSTITUTE FOR JUSTICE (Aug. 2023), <https://ij.org/report/striving-for-better-care/con-laws-in-kentucky/>.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

## CON Precludes Billions in Health Care Investment

AFP Foundation finds CON prevents billions in new health care investment and needlessly delays the development of new health care provisions. For example, AFP Foundations' analysis of CON applications reveals:

- North Carolina: **\$4.2 billion** denied from January 2012–February 2025.<sup>13</sup>
- Tennessee: **\$1.4 billion** denied from April 2000–October 2023.<sup>14</sup>
- Kentucky: **\$1 billion** denied or withdrawn from December 1972–July 2024.<sup>15</sup>
- Georgia: **\$700 million** denied from January 2012–November 2022.<sup>16</sup>
- Michigan: **\$585 million** denied from January 2018–February 2021.<sup>17</sup>
- South Carolina: **\$429 million** denied, appealed, or withdrawn from Jan. 2018–Feb. 2021.<sup>18</sup>
- Iowa: **\$250 million** from denied July 2016–February 2020.<sup>19</sup>

However, the true cost of CON is much greater than the amount of proposed investment denied or withdrawn. There is a latent supply of health care that does not appear in CON applications. Miles of red tape, restrictive need calculations, and incumbent gatekeeping deter many providers from ever applying to offer services they otherwise would without CON.

## The Competitor's Veto and CON's Unseen Costs

In many states, incumbent care providers intervene in the CON process to prevent competing providers from entering the market. In some states, they can do so at the beginning of the process by influencing how the state determines the need for additional health care provisions. In most CON states, competing providers can oppose others' CON applications during the application process. Finally, competing providers can challenge CON decisions administratively and in state courts. Taken together, these conditions arm incumbent care providers with a "competitor's veto."<sup>20</sup>

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<sup>13</sup> THOMAS KIMBRELL *ET AL.*, PERMISSION TO CARE: HOW NORTH CAROLINA'S CERTIFICATE OF NEED LAWS HARM PATIENTS AND STIFLE HEALTH CARE INNOVATION, AMS. FOR PROSPERITY FOUND. (Apr. 2025), <https://americansforprosperityfoundation.org/wp-content/uploads/2025/04/AFPF-PermissionToCare-NC-2025.pdf>.

<sup>14</sup> THOMAS KIMBRELL & KEVIN SCHMIDT, PERMISSION TO CARE: HOW TENNESSEE'S CERTIFICATE OF NEED LAWS HARM PATIENTS AND STIFLE HEALTH CARE INNOVATION, AMS. FOR PROSPERITY FOUND. (Jan. 2024), <https://americansforprosperity.org/wp-content/uploads/2024/02/AFPF-PermissionToCare-TN.pdf>.

<sup>15</sup> SOFIA HAMILTON & THOMAS KIMBRELL, PERMISSION TO CARE: CERTIFICATE OF NEED LAWS HAVE STOPPED OVER A BILLION DOLLARS OF HEALTH CARE INVESTMENT IN KENTUCKY, AMS. FOR PROSPERITY FOUND. (Jan. 2025), <https://americansforprosperityfoundation.org/wp-content/uploads/2025/01/AFPF-PermissionToCare-KY.pdf>.

<sup>16</sup> KEVIN SCHMIDT & THOMAS KIMBRELL, PERMISSION TO CARE: OUTDATED CERTIFICATE OF NEED LAW COSTING GEORGIANS HUNDREDS OF MILLIONS OF DOLLARS IN HEALTH CARE, AMS. FOR PROSPERITY FOUND. (Jan. 2023), <https://americansforprosperity.org/wp-content/uploads/2023/01/UPDATED-2023.01.12-GA-CON-Report.pdf>.

<sup>17</sup> KEVIN SCHMIDT & THOMAS KIMBRELL, PERMISSION TO CARE: HOW CERTIFICATE OF NEED LAWS HARM PATIENTS AND STIFLE HEALTHCARE INNOVATION, AMS. FOR PROSPERITY FOUND. (Oct. 2021), <https://americansforprosperity.org/wp-content/uploads/2023/11/Permission-to-Care-AFPF-CON-report-Oct-2021.pdf>.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> ANASTASIA BODEN & ANGELA C. ERIKSON, PAC. LEGAL FOUND., COMPETITOR'S VETO: A ROADBLOCK TO NEW BUSINESS (2021), <https://pacificlegal.org/wp-content/uploads/2021/01/con-law-report.pdf>.

A recent example in Michigan illustrates how the competitor's veto works and provides a peek at CON's usually unseen costs. In 2019, the Michigan CON Commission projected a need for about 3,000 additional nursing home beds based on the state health agency's research. Within three months, the state received dozens of CON applications to build new nursing homes and expand existing facilities—estimated at over \$630 million in new health care investment.<sup>21</sup> Then, suddenly, the Commission arbitrarily reduced the projected need by nearly ten-fold at the urging of existing nursing home providers. About 4/5 of the applications were subsequently disapproved or withdrawn,<sup>22</sup> denying health care access to thousands of people that the market predicts will need it. In other words, the latent marginal supply of nursing home beds in Michigan in 2019 was at least ten times larger than the CON-restricted marginal supply.<sup>23</sup>

The restrictive need calculations so common under CON can be dangerous. For example, the South Carolina Health Planning Committee determined that the state's need for neonatal intensive care bassinets was less than the neonatal mortality rate. According to the South Carolina Department of Health and Environmental Control (SCDHEC), the neonatal mortality rate in 2019 was 4.5 deaths per 1,000 live births.<sup>24</sup> The 2020 South Carolina Health Plan calculated the need for neonatal intensive care at a rate of 3.25 bassinets per 1,000 live births.<sup>25</sup> The disparity was even greater in minority communities. The infant mortality rate among non-white mothers was 7.5 deaths per 1,000 live births<sup>26</sup>—2.3 times greater than the SCDHEC need calculation. Additionally, 94.5 infants per 1,000 live births are admitted to neonatal intensive care units (NICU) in the Palmetto State.<sup>27</sup> That means the actual NICU utilization rate was 30 times greater than the state-determined rate used to calculate the need for NICU beds.

AFP Foundation found that NICU utilization was as high as 120% in some parts of the state.<sup>28</sup> However, the Health Planning Committee obscured these numbers in the State Health Plan by including non-intensive bassinets not regulated under CON in the NICU need-calculation. South Carolina repealed their CON law in 2023—a move other states would be wise to replicate.

### **Competitor's Veto Adds Costs and Delays**

Obtaining a CON is an expensive and arduous process that takes months to years to complete. On top of steep application fees, providers typically have to hire attorneys and consultants to navigate miles of red tape to gain approval. If a competing provider opposes an

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<sup>21</sup> *Supra* note 17.

<sup>22</sup> *Id.*

<sup>23</sup> *Supra* note 9.

<sup>24</sup> S.C. DEP'T OF HEALTH & ENVTL. CONTROL, INFANT MORTALITY & SELECTED BIRTH CHARACTERISTICS: 2019 SOUTH CAROLINA RESIDENCE DATA (Oct. 2020), <https://scdhec.gov/sites/default/files/Library/CR-012142.pdf>.

<sup>25</sup> S.C. DEP'T OF HEALTH & ENVTL. CONTROL, 2020 SOUTH CAROLINA HEALTH PLAN (Mar. 2020), [https://scdhec.gov/sites/default/files/media/document/2020\\_South\\_Carolina\\_Health\\_Plan-June\\_12\\_2020\\_0.pdf](https://scdhec.gov/sites/default/files/media/document/2020_South_Carolina_Health_Plan-June_12_2020_0.pdf).

<sup>26</sup> INFANT MORTALITY, *supra* note 24.

<sup>27</sup> Braley Dodson, *Why have South Carolina's NICU rates doubled?*, WBTW NEWS 13 (Mar. 7, 2022),

<https://www.wbtw.com/news/pee-dee/marlboro-county/why-have-south-carolinas-nicu-rates-doubled/>.

<sup>28</sup> Thomas Kimbrell, *Guest Column: Red Tape Is Making South Carolina One Of America's Worst States For Having Babies*, FITS NEWS (Aug. 29, 2022), <https://www.fitsnews.com/2022/08/29/guest-column-red-tape-is-making-south-carolina-one-of-americas-worst-states-for-having-babies/>.

application or litigates a CON approval, the costs of securing a CON can quickly balloon to six and seven figures.<sup>29</sup>

For example, in Alabama, from January 2014 to October 2024, CON applicants paid \$7.7 million in application fees—money that could have been invested in health care in Alabama.<sup>30</sup> When the Hoover Health Care Authority (“HHCA”) applied for a CON in 2023 to establish an ambulatory surgery and diagnostics center, a competitor tied up the CON application in months of contentious litigation after claiming the application was insufficient. The city’s mayor, Frank Brocato, noted at the time that Hoover had no hospital despite being the sixth largest city in Alabama,<sup>31</sup> and the city government emphasized the need for greater access to health care in Hoover.

The HHCA case garnered national attention due to salacious blackmail claims and the daunting legal bill amassed over months of litigation.<sup>32</sup> During the 10-day hearing, 42 witnesses gave 2,539 pages of testimony.<sup>33</sup> In total, HHCA—and, presumably, Hoover taxpayers—were left with a staggering legal bill of over \$1 million.<sup>34</sup> While the Certificate of Need Review Board ultimately approved HHCA’s CON application, the process dramatically increased the cost of entering the market. Despite the city being well aware of the need for more health care services, potential competitors were able to weaponize the CON system at the expense of patients and taxpayers.

Similarly, in two recently resolved cases in South Carolina, legal challenges to CON decisions delayed the openings of two much-needed hospitals for more than 15 years.<sup>35</sup> In 2018, the West Virginia University Cancer Institute announced its intent to launch “LUCAS,” a mobile lung cancer screening program that offers charity care to patients who cannot afford to pay. Competitor opposition delayed final approval of the CON for four years. In North Carolina, litigation delayed the deployment of a single PET scanner for over two years.

These examples are not exceptional. A recent analysis of Georgia CON applications found that competitor opposition increased a CON application’s time to decision by 520 days, and that

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<sup>29</sup> See, e.g., Regina Conley, *Certificate of Need: The Cost of the Process*, Civitas Institute (Sept. 16, 2011), <https://www.nccivitas.org/2011/certificate-of-need-the-cost-of-the-process/>; North Carolina CON, INST. FOR JUSTICE, <https://ij.org/case/north-carolina-con/> (last visited May 21, 2025).

<sup>30</sup> SOFIA HAMILTON & THOMAS KIMBRELL, PERMISSION TO CARE: CERTIFICATE OF NEED LAWS STIFLE INNOVATION AND REDUCE ACCESS TO CARE IN ALABAMA, AMS. FOR PROSPERITY FOUND. (May 2025), <https://americansforprosperityfoundation.org/wp-content/uploads/2025/05/AFPF-PermissionToCare-AL-AFPE.pdf>.

<sup>12</sup> Jon Anderson, *Hoover files letter of intent for ambulatory surgery, medical diagnostics center*, HOOVER SUN (Nov. 21, 2023), <https://hooversun.com/news/hoover-files-letter-of-intent-for-ambulatory-surgery-medical/>.

<sup>13</sup> Jon Anderson, *Sister of former Hoover mayor is contesting push for surgery center in Riverchase*, HOOVER SUN (May 28, 2024), <https://hooversun.com/news/sister-of-former-hoover-mayor-is-contesting-push-for-surgery/>.

<sup>14</sup> HEALTHCARE AUTHORITY OF THE CITY OF HOOVER, ALABAMA, CERTIFICATE OF NEED RECOMMENDED ORDER (Aug. 23, 2024), <https://hooveralabama.gov/DocumentCenter/View/9289/Healthcare-Authority-CON-Recommended-Order>.

<sup>15</sup> Jon Anderson, *Hoover gets state approval for surgery & diagnostics center in Riverchase*, HOOVER SUN (Sept. 18, 2024), <https://hooversun.com/news/hoover-gets-state-approval-for-surgery-diagnostics-center-in/>.

<sup>35</sup> See Eric Boehm, *It Took More Than 15 Years for a South Carolina Hospital To Get Permission To Be Built*, REASON (Oct. 8, 2021), <https://reason.com/2021/10/08/it-took-more-than-15-years-for-a-south-carolina-hospital-to-get-permission-to-be-built/>.

each additional party opposed adds another 129 days.<sup>36</sup> The study also found that competitor opposition increased the chances an application is denied to 50 percent, and that “each additional party opposed . . . increases the odds of denial by about 11 percent.”<sup>37</sup>

AFP Foundation’s analysis of Georgia CON data in 2022 found rival providers were contesting a dozen CON approvals, delaying approximately \$269 million in already-approved health care investment.<sup>38</sup> Another \$43 million in denied CON applications was also being appealed.<sup>39</sup> Similarly, in North Carolina, we found competing providers appealing approximately \$423 million in approved CON applications.<sup>40</sup> In South Carolina, CON applications for roughly \$400 million, roughly a quarter of all proposed investment in the state at the time, were withdrawn or appealed.<sup>41</sup> In West Virginia, four times as many applications have been withdrawn as denied.<sup>42</sup> From 2017–2020, applicants withdrew at least 20 CON applications totaling \$43.7 million in proposed capital expenditures after rival providers filed opposition.<sup>43</sup> It appears providers in the Mountaineer State know that if their CON application is opposed, it’s not worth pursuing.

### Conclusion

CON acts as a regulatory barrier to entry to health care markets. Many potential providers are simply not willing or able to cover the costs of litigating a contested CON application and are dissuaded from ever entering the market, leaving latent an unknown but undoubtedly large supply of health care. Red tape and incumbent gatekeeping discourage providers from offering low-cost, high-quality healthcare.

Respectfully Submitted,

/s/

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<sup>36</sup> CHRISTOPHER DENSON & MATTHEW MITCHELL, GA. PUB. POLICY FOUND., ECONOMIC REPORT ON GEORGIA’S CERTIFICATE OF NEED PROGRAM (Apr. 2023), <https://georgiapolicy.org/wp-content/uploads/2023/04/CON-report.pdf>.

<sup>37</sup> *Id.* at 13.

<sup>38</sup> *Supra* note 16.

<sup>39</sup> *Id.*

<sup>40</sup> *Supra* note 13.

<sup>41</sup> *Supra* note 17.

<sup>42</sup> KEVIN SCHMIDT & THOMAS KIMBRELL, PERMISSION TO CARE: HOW WEST VIRGINIA’S CERTIFICATE OF NEED LAWS HARM PATIENTS AND STIFLE HEALTH CARE INNOVATION, AMS. FOR PROSPERITY FOUND. (Sept. 2022), [https://americansforprosperity.org/wp-content/uploads/2022/09/AFPF\\_WV\\_PermissionToCare\\_Final-4.pdf](https://americansforprosperity.org/wp-content/uploads/2022/09/AFPF_WV_PermissionToCare_Final-4.pdf). Some CON applications in the West Virginia sample were withdrawn for reasons unrelated to competitor opposition, *e.g.*, paperwork errors.

<sup>43</sup> *Id.*

# EXHIBIT 1



## Biden Administration (2023)

“Empirical studies demonstrate certificate-of-need laws **fall short** of achieving better access to healthcare... CON laws do not ensure access to care in rural areas; rather, they act as a **barrier** to entry, leading to lower access to care and less innovation.”

– [Department of Justice Letter](#) on the Proposed Repeal of Alaska’s Certificate-of-Need Laws

## Obama Administration (2015)

“CON laws, when enacted, had the laudable goals of reducing health care costs and improving access to care. However, it is now apparent that CON laws can prevent the efficient functioning of health care markets in several ways that may **undermine** those goals. First, CON laws create **barriers** to entry and expansion, **limit** consumer choice, and **stifle** innovation. Second, incumbent firms seeking to thwart or **delay** entry by new competitors may use CON laws to achieve that end...Finally, the evidence to date does not suggest that CON laws have generally succeeded in controlling costs or improving quality.”

– [Joint Statement](#) of the DOJ Antitrust Division and the FTC to the Virginia CON Work Group

## Clinton Administration (1997)

“Indeed, a large part of the Commission’s antitrust law enforcement efforts in the health care field focuses on competitive **problems** that would not exist, or would be less severe, if there were no CON regulation...We believe that the continued existence of CON regulation would be **contrary** to the interests of health care consumers in Virginia.”

– [FTC Staff Comment](#) to the Virginia Commission on Medical Facilities Concerning Certificate of Need Reform

## Reagan Administration (1987)

“There is no evidence that the CON regulatory process has served its intended purpose of controlling health care costs. Indeed, CON regulation may well increase prices to consumers by **restricting** supply of hospital services below the level that would exist in a non-regulated competitive environment.”

– [FTC Staff Comment](#) to Governor Mary George Concerning Hawaii S.B. 213 to Abolish the State Planning and Health Agency, Including its Administration of Certificates of Need

**WHAT DO THE LAST SEVEN  
PRESIDENTIAL ADMINISTRATIONS  
HAVE IN COMMON? THEY ALL AGREE  
CERTIFICATE-OF-NEED (CON) LAWS  
ARE BAD FOR HEALTH CARE.**

## Trump Administration (2018)

“CON laws have **failed** to produce cost savings, higher quality healthcare, or greater access to care, whether in underserved communities or in underserved areas...the evidence suggests CON laws are **ineffective**. There is no compelling evidence suggesting that CON laws improve quality or access, inefficiently or otherwise... Evidence also **fails** to support the claim that CON programs would increase access to care for the indigent, or in medically underserved areas.”

– Reforming America’s Healthcare System Through Choice and Competition. A joint [report](#) by the U.S. Department of Health and Human Services, U.S. Department of the Treasury, and U.S. Department of Labor

## Bush Administration (2004)

The Agencies believe that CON programs can pose serious competitive **concerns** that generally outweigh CON programs’ purported economic benefits. Where CON programs are intended to control health care costs, there is considerable evidence that they can actually drive up prices by fostering **anticompetitive** barriers to entry... CON programs can retard entry of firms that could provide higher quality services than the incumbents...The Agencies believe that CON programs are generally not successful in containing health care costs and that they can pose **anticompetitive** risks...CON programs risk entrenching oligopolists and **eroding** consumer welfare.

– A Dose of Competition: A [Report](#) by the Federal Trade Commission and the Department of Justice

## H.W. Bush Administration (1989)

“[W]e believe that Nebraska’s current CON regulatory process may, on balance, **harm** health care consumers. Ongoing improvements in health care financing are resolving the principal problems that prompted CON regulation. Moreover, the benefits of CON regulation, if any, are likely to be outweighed by its **adverse** effects on competition in health care. As a result, continuing CON regulation is likely to harm consumers by increasing the price and decreasing the quality of health services in Nebraska.”

– [FTC Staff Comment](#) to the Hon. Bernice Labedz Concerning Nebraska L.B. 429, 439, and 745 to Liberalize or Repeal Certificate of Need Regulation