WHY REPEAL CON?

- **Higher Costs**
  The Mercatus Center calculates that per-capita healthcare spending in South Carolina is $200 higher because of CON laws and spending on physicians is $69 higher than necessary.

- **Less Access**
  Compared to CON states, non-CON states have more hospitals, including more rural hospitals.

- **Lower Quality**
  Data from Mercatus also suggests there would be a decrease in mortality rates for heart attacks, heart failure, and pneumonia in South Carolina without CON laws.

- **Lower Utilization Rates**
  Without CON laws in place, Mercatus estimates that South Carolina would see a 36% increase in utilization of MRI scans and Positron Emission Tomography (PET) utilization rates would double.

WHERE DOES SOUTH CAROLINA STAND?

South Carolina’s CON program is tied for the ninth most restrictive in the United States.

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EXAMPLE - CON’S NEGATIVE IMPACT

The Roper St. Francis Berkeley Hospital (shown here under construction) was delayed for nearly 10 years due to CON litigation. MUSC’s planned Berkeley community hospital is now under fire as well.
COMMON QUESTIONS

What are these laws and why do you think they need reform—are they meant to protect patients and providers anyway?

No. Thirty-five states, including South Carolina, currently use CON laws to purportedly “slow the growth of healthcare prices, promote consolidation of healthcare providers, and limit duplication of services.” These states require agency approval for a wide range of expenditures, including the construction of new hospital bed space, purchase of additional medical technology, or expanding services or medical procedures. CON laws give inappropriate influence to established providers during the vetting process. When a company seeks to enter a new market or expand in an existing market, industry incumbents often use the CON process to block potential competition. Recent studies have shown CON laws fail to achieve many of their stated goals and have instead reduced the availability of healthcare services. Since 1971, South Carolina has been among the states that restrict the supply of healthcare in this way. Of the 34 devices and services subject to CON throughout America, South Carolina restricts 22—ranging from ambulatory service centers to hospice to psychiatric services—requiring a CON from the state before the device may be purchased or the service offered. In fact, our state has the ninth-most restrictive CON laws in the nation. (Fifteen states either have no CON laws or their CON laws are not in effect. In addition, Arizona is typically not counted as a CON state, but is included because it is the only state to regulate ground ambulance services.)

If we repeal or reduce certificate of need law requirements, won’t we inhibit the ability for hospitals to provide indigent care?

No. While CON laws significantly reduce available healthcare services for everyone, they do not lead to an increase in care for the needy. Furthermore, there is no evidence to suggest that indigent care in the U.S. has increased as a result of implementing CON laws.

Would repealing CON laws benefit all patients regardless of insurance status, location, or current health?

Yes! Evidence demonstrates CON laws do not achieve their intended outcomes, but rather decrease the supply and availability of healthcare services for everyone, especially the poor. By lifting these restrictions, we can allow new providers to begin operating and increase access for South Carolinians across the state.

Thankfully, Rep. Nancy Mace (R-Daniel Island) and House Ways and Means Committee Chairman Rep. Murrell Smith (R-Sumter) have renewed the effort to bring an end to CON laws in South Carolina. H.3823 (2019), which has earned 30 co-sponsors, takes an aggressive approach, removing CON from the state code entirely.

Reps. Mace and Smith have chosen to address the CON issue in the face of significant opposition from existing providers. We salute their courage and their belief that the free market, not the government, should determine who provides which healthcare services in South Carolina.