

## House Bill 96: An Act Relating to Increasing the Monetary Thresholds for Certificates of Need

Chair Lyons, Vice Chair Gulick, and all distinguished members of the Senate Committee on Health and Welfare:

My name is Liam Sigaud. I am a Research Analyst at the Knee Regulatory Research Center, a not-for-profit academic research institute based at West Virginia University. My work focuses on state health policy, and I have published peer-reviewed research on the effects of certificate-of-need laws. Thank you for allowing me to submit testimony on House Bill 96.

I'd like to make two central points. First, there is good reason to think that raising the thresholds that trigger a certificate-of-need review will improve Vermont's health care system and benefit patients. Second, Vermont is facing health care shortages in several key areas, and loosening certificate-of-need restrictions can help address these challenges.

### 1. Raising certificate-of-need thresholds would improve Vermont's health care system and benefit patients

Under Vermont's certificate-of-need statute, healthcare providers must obtain permission from the Green Mountain Care Board before undertaking projects whose capital costs exceed certain monetary amounts. This approval process is often slow, expensive, and highly uncertain for providers, which can deter investment. Moreover, the scope of Vermont's certificate-of-need law is exceptionally broad, covering hospitals, nursing homes, ambulatory surgical centers, dialysis clinics, and many other types of facilities. In 2020, an analysis by the Mercatus Center found that Vermont had some of the most burdensome certificate-of-need restrictions in the country.<sup>1</sup>

Certificate-of-need laws were originally intended to decrease healthcare costs by preventing the unnecessary duplication of medical services. Since their inception, scholars have scrutinized these policies extensively. Overwhelmingly, research finds that these laws have not achieved their goals. Instead, by making it harder for new providers to enter the market or expand their services, certificate-of-need regulations stifle competition and lead to higher spending, lower quality, and diminished access to care.<sup>2</sup> Based on these findings, one report estimated that repealing Vermont's certificate-of-need laws could result in annual savings of \$228 per capita, as well as approximately six additional hospitals operating in the state.<sup>3</sup> While raising the thresholds for certificate-of-need review would not have the same effects as a full repeal of these laws, the reforms proposed in this bill would likely stimulate stronger competition, lower costs, and enhance access to care.

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<sup>1</sup> Mercatus Center. (2021). Vermont and Certificate-of-Need Programs 2020: How CON Laws Affect Healthcare Access, Quality, and Cost in Vermont. <https://www.mercatus.org/publication/vermont-and-certificate-need-programs-2020>

<sup>2</sup> For an extensive overview of this research, see:

Conover, C. J., & Bailey, J. (2020). Certificate of need laws: a systematic review and cost-effectiveness analysis. *BMC Health Services Research*, 20, 1-29.

Mitchell, M. D. (2024). Certificate of Need Laws in Health Care: Past, Present, and Future. *INQUIRY: The Journal of Health Care Organization, Provision, and Financing*, 61, 00469580241251937.

<sup>3</sup> Mercatus Center. (2021). Vermont and Certificate-of-Need Programs 2020: How CON Laws Affect Healthcare Access, Quality, and Cost in Vermont. <https://www.mercatus.org/publication/vermont-and-certificate-need-programs-2020>

## 2. Loosening certificate-of-need restrictions can help Vermont address its health care shortages

Many Vermonters struggle to obtain quality medical care when needed. For example:

- Despite its older population and growing demand for medical care, Vermont has 14% fewer hospital beds per capita (2.03) than the national average (2.35).<sup>4</sup>
- A recent analysis by the Federal Reserve Bank of Boston noted that many Vermonters face barriers to care, especially long driving times and a lack of specialty services such as maternity care.<sup>5</sup>
- In 2018-2019 (the latest available data), nearly 9% of adults in Vermont reported that in the past year, they needed but did not receive treatment for a substance use problem.<sup>6</sup> That isn't surprising, given that some parts of the state have fewer than one psychiatrist for every 30,000 residents.<sup>7</sup>

In many cases, the supply of health services for which there is the greatest unmet need – including psychiatric hospital beds and programs to treat drug addiction – is kept artificially low by Vermont's certificate-of-need policies. In a recent study, my colleagues and I found that repealing certificate-of-need regulations leads to a substantial increase in the number of hospitals per capita, and that this effect is particularly large in rural areas that often lack adequate health resources.<sup>8</sup>

### Conclusion

The evidence strongly suggests that exempting more projects from certificate-of-need review would improve Vermonters' access vital services at an affordable cost. In revisiting these regulations, Vermont would join a growing number of states – including North Carolina, Connecticut, and Montana<sup>9</sup> – that have recently recognized that certificate-of-need laws stand in the way of providing the best healthcare for their residents.

Thank you for considering my testimony.

Liam Sigaud

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<sup>4</sup> Kaiser Family Foundation. (2022). Total Hospital Beds. <https://www.kff.org/other/state-indicator/total-hospital-beds/>.

<sup>5</sup> Sullivan, Riley. (2019). Declining Access to Health Care in Northern New England. Federal Reserve Bank of Boston. <https://www.bostonfed.org/publications/new-england-public-policy-center-regional-briefs/2019/declining-access-to-health-care-in-northern-new-england.aspx>.

<sup>6</sup> These statistics come from the Substance Abuse and Mental Health Services Administration (SAMHSA). <https://datatools.samhsa.gov/saes/state>.

<sup>7</sup> Vermont Department of Health. (2020). 2018 Psychiatrists by Mental Health Catchment Area: Population per FTE. <https://www.healthvermont.gov/sites/default/files/documents/pdf/Psychiatrists2018-withbackground.pdf>.

<sup>8</sup> Melo, V., Sigaud, L., Neilson, E., & Bjoerkheim, M. (2024). Rural healthcare access and supply constraints: A causal analysis. *Southern Economic Journal*, 1-19.

<sup>9</sup> Institute for Justice. (2023). The State of Certificate of Need Laws Around the Country. <https://ij.org/report/striving-for-better-care/the-state-of-certificate-of-need-laws-around-the-country/>.