



March 19, 2021

Senator David Wilson
Senate Health and Social Services Committee
Juneau, Alaska 99801

Re: ASHNHA Opposes SB 26 - Repeal Certificate of Need

Dear Senator Wilson,

The Alaska State Hospital and Nursing Home Association (ASHNHA) is a membership organization representing Alaska's hospitals, nursing homes, home health / hospice agencies, and other health care providers. ASHNHA is writing to express our opposition to SB 26, which seeks to repeal Alaska's Certificate of Need (CON) program.

ASHNHA agrees that problems exist within the current CON program, but a statutory repeal of Alaska's CON laws is not the answer. Rather, this issue can best be solved through refinements to the administrative code, and ASHNHA is committed to working with the Legislature and the Department of Health & Social Services on such an approach.

We appreciate your dedication to this issue, but ASHNHA opposes a statutory repeal for the following reasons:

- 1. CON repeal threatens the sustainability of community hospitals, which must continue to provide 24-hour emergency services to all in the community regardless of ability to pay.** Hospitals prepare for and respond to emergencies that impact the public's health such as pandemics, earthquakes, and other natural disasters. Because of the community responsibility to provide 24-hour emergency medical services and other essential services, hospitals have significant fixed costs and operating costs that must be covered. Not all services in a facility are profitable. In fact, many operate at a loss and the facility relies on profitable services to maintain operations. Without reasonable CON standards, health care providers with purely economic motives can cherry-pick profitable service lines, which will threaten a hospital's ability to provide the full range of care to a community. Hospitals – unlike concierge, single-specialty, and niche providers – provide stabilizing treatment to anyone who comes to the door and maintain critical emergency preparedness infrastructure.
- 2. CON repeal is based on a flawed assumption that the health care market functions as a commodity-like free market and that CON will reduce costs.** Federal laws, regulations, and the significant proportion of public payment for health care make the health care market unique compared to a typical "free market." Considering that competitors are subject to different governmental requirements and standards outside of CON, the CON laws themselves allow for a more level playing field. Removing this leveling effect may increase access to concierge-like imaging centers and surgery centers, but it comes with a cost: reduced services from and potential closure of community hospitals and emergency rooms. Undermining the state's hospital safety net in this manner will exacerbate the existing access to care challenges we face in Alaska.

- 3. Repeal of the state’s CON program could increase Medicaid general fund costs at a time when the state is trying to reduce them.** The goal of CON programs is to restrain health care costs and coordinate planning for health care infrastructure development. Thirty-five states operate a CON program according to the National Conference on State Legislatures¹. CON provides a public, transparent process for vetting projects that could add significantly to the state’s Medicaid costs. Without some level of state involvement in authorizing projects, costs could grow unconstrained. In addition, at a time when health care is moving toward greater transparency, CON repeal reduces transparency and public involvement in decision-making.

As stated earlier, the regulations and methodologies for the CON program are outdated and ASHNHA members agree that change is needed. ASHNHA has provided the Department of Health & Social Services with recommendations for regulatory changes to the CON program, and we encourage the Department to move forward with a regulatory review of the program as soon as possible.

Thank you for your leadership and partnership on working to solve Alaska’s health care challenges.

Sincerely,



Jared C. Kosin, JD, MBA
President & CEO

¹ <https://www.ncsl.org/research/health/con-certificate-of-need-state-laws.aspx>