





Certificate of Need: Past, Present, and Future

Michael Fine, MD, Director

Rhode Island Department of Health

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Purpose of CON



The CON Program exists to ensure that proposed new health care services meet the needs of the population; are affordable, accessible, and are of high quality.

Statutory Authority

“The Certificate of Need Act of Rhode Island”

RIGL 23-15

Purpose of the CON Program

To provide for the development, establishment, and enforcement of standards for the authorization and allocation of new institutional health services and new health care equipment

See: RIGL 23-15-3

What CON Does Not Do



CON does not identify
service delivery gaps or
develop services to fill
such gaps

A CON is required to:



- Offer new tertiary / specialty care regardless of cost
- Offer other major health services > \$1.5 million
- Establish certain types of new health care facilities
- Purchase health care equipment > \$2.25 million
- Expend > \$5.25 million for capital projects

Reviewable Categories: Establishing hospitals, nursing facilities, home health agencies, hospice agencies, inpatient rehabilitation centers, freestanding ambulatory surgery centers, multi-practice physician / podiatry ambulatory surgery centers; major health care equipment; major capital projects; major new health services; increases in licensed bed capacity of hospitals, nursing facilities, inpatient rehabilitation centers; full-body MRI, CT, PET; linear accelerators including Cyber Knife, Gamma Knife, proton therapy units; cardiac catheterization (diagnostic and interventional); open heart surgery; organ transplantation; and NICU

CON History



State Actions:

- 1968:** CON Program began in RI as the “Capital Expenditures Review” Program
- 1974:** CON Program adopted pursuant to federal action (below)
- 1984:** Healthcare System Affordability Act enacted: Introduced affordability as a review consideration
- 1986:** Statewide Health Coordinating Council funds eliminated
- 2011:** Capital expenditure threshold increased to \$5.25 million (up from \$2 million)



CON History

Federal Actions:

1974: Federal “National Health Planning & Resources Development Act” enacted (PL 93-641); required & funded CON and a standard health planning process

1979: 49 states + DC have CON

1986: Federal funding eliminated for health planning

2012: 36 states + DC have CON

25 states have CON and state health plans

12 states have CON and do not have state health plans

Health Services Council



- Established in 1969 pursuant to section 23-17-13 RIGL
- 24 members
 - 8 appointed by the RI Speaker of the House
 - 6 appointed by the RI President of the Senate
 - 10 appointed by the Governor
- Meets 40 times/year (full Council and subcommittees)
- Function is to consult with and advise the Director of Health

CON Reviews 39% Hospital Capital Spending



Impact of CON in Rhode Island 2003 – 2008

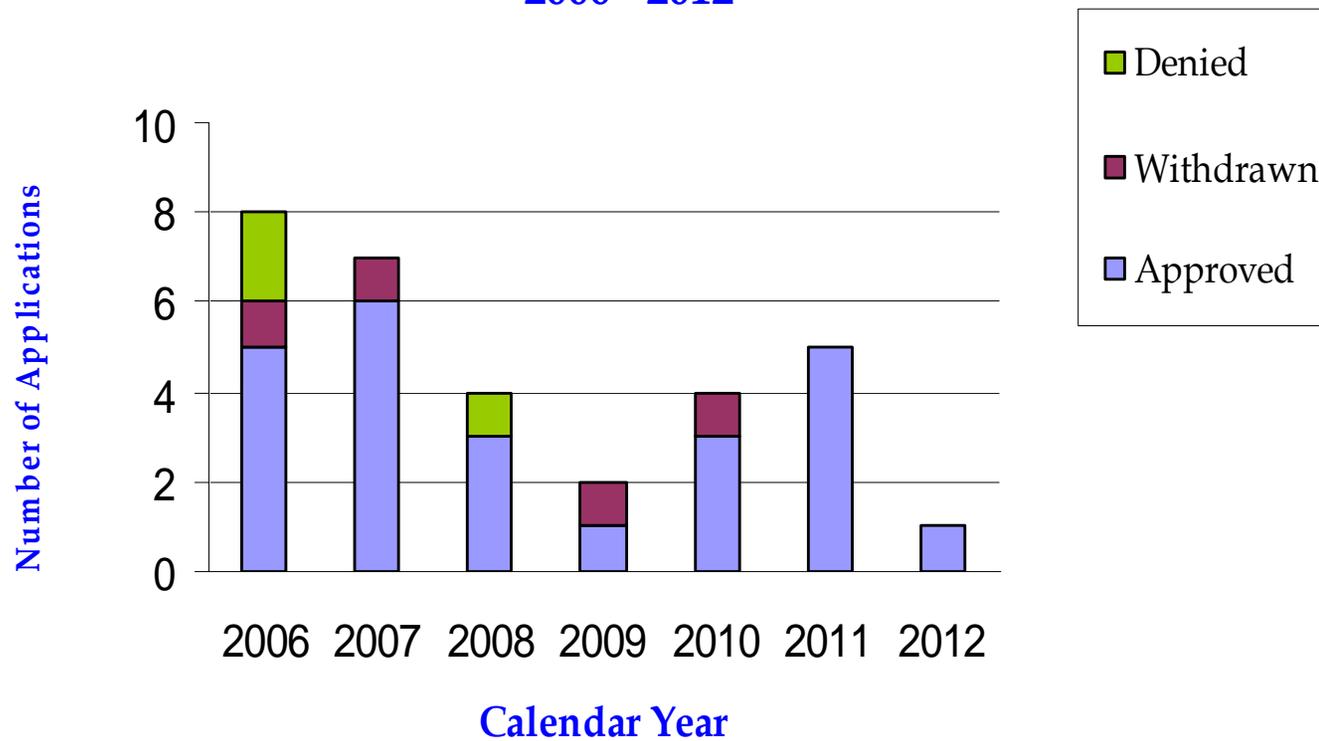
CON evaluated 39% (\$389 million) of the \$1.0 billion in statewide hospital capital spending

Source: Hospital Capital Investment in RI (2008)
Rhode Island Department of Health

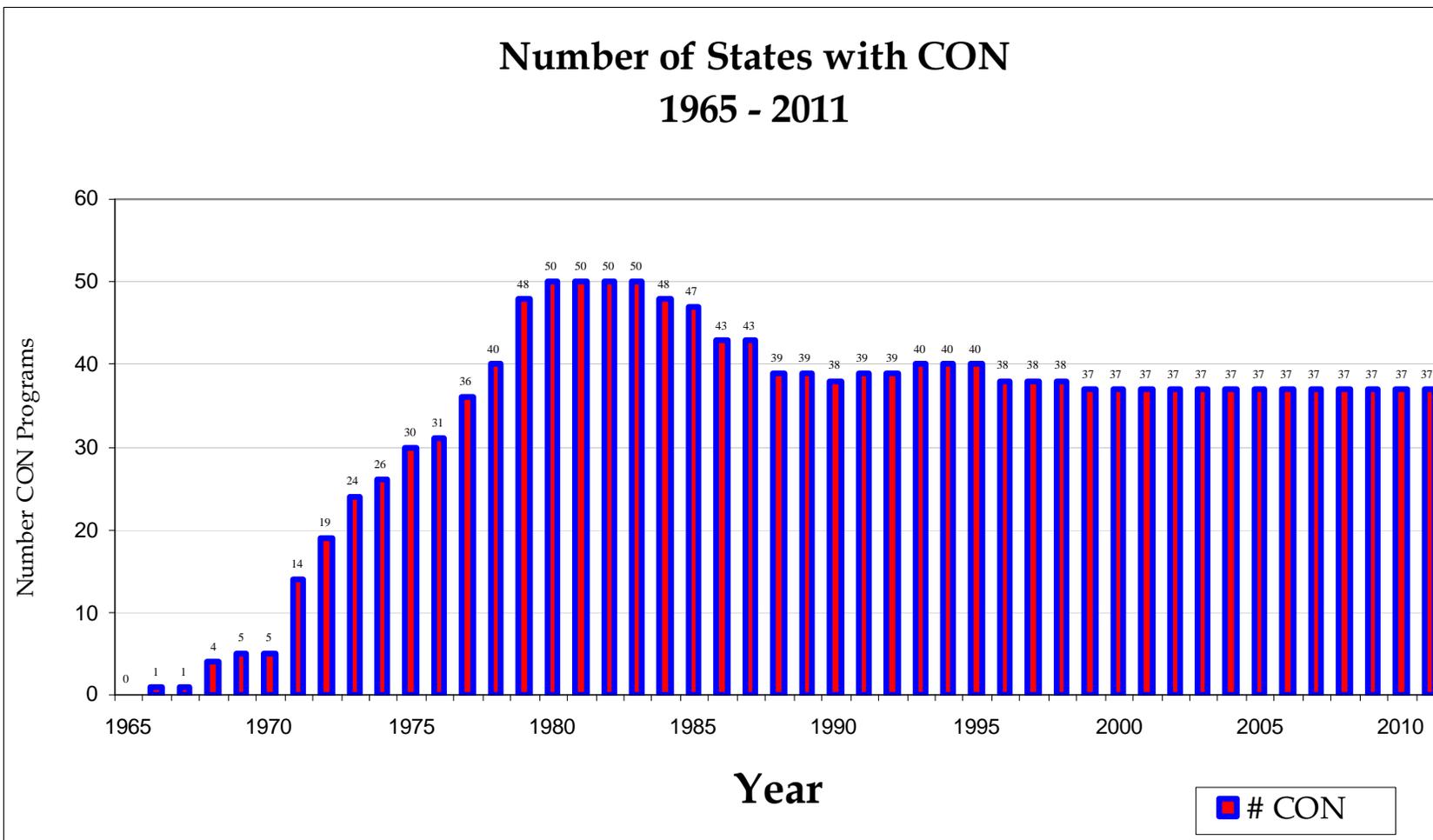
No CONs Denied Since 2008



Disposition of CON Applications 2006 - 2012



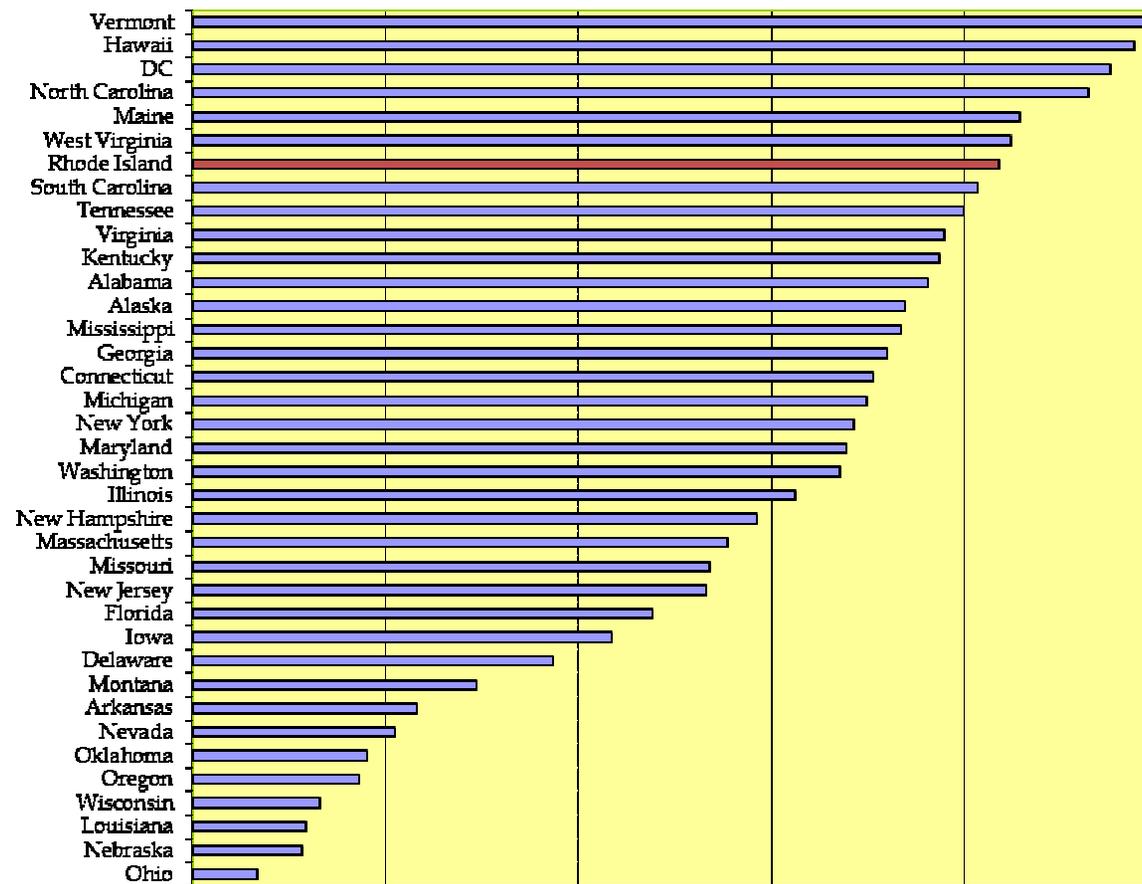
36 States + DC Have CON





RI is in Top 10: Regulated CON States

Regulation Intensity of CON Programs by State



CON Reviewed Services

Recent CON Literature



“The Impact of Certificate of Need Programs on Neonatal Intensive Care Units”

- Lack of CON is associated with more hospitals with NICUs and more NICU beds
- States with at least one large metropolitan area and CON had significantly lower infant mortality rates compared with states without CON
- CON may be an effective tool for regionalizing neonatal intensive care because regionalization has demonstrated decreases in infant mortality

SA Lorch, P Maheshwari and O Even-Shoshan. *Journal of Perinatology* (2012) 32, 39—44.



Recent CON Literature

“New Cardiac Surgery Programs Established from 1993 to 2004 Led to Little Increased Access, Substantial Duplication of Services”

- Most rapid rise in cardiac surgery programs has occurred in states that have repealed their CON programs
- New specialty cardiac programs have opened in inefficient patterns
- Increasing the supply when demand is declining results in a growing proportion of procedures performed in hospitals where volumes are low

Frances Leslie Lucas, Andrea Siewers, David C. Goodman, Dongmei Wang, and David E. Wennberg. *Health Affairs*, June 2011 content.healthaffairs.org.



Recent CON Literature

“The Effect of Certificate-of-Need Laws on Hospital Beds and Healthcare Expenditures: An Empirical Analysis”

- CON programs have limited the growth in supply of hospital beds; this has led to a slight reduction in the total growth of healthcare expenditures
- Hospital beds reduced by 10%
- Healthcare expenditures reduced by almost 2%
- Using a controversial definition of CON “stringency,” the author found a 20% reduction in hospital beds and a 3.4% per capita healthcare expenditure reduction



Benefits of CON

- Manages major capital expenditures
- Protects and promotes access for underserved populations
- Solicits public input (community-based planning)
- May protect critical mass / high volume procedures that affect quality (“practice makes perfect”)
- May prevent oversupply of services, equipment, and facilities in specific geographical areas
- May restrain oversupply of facilities that can lead to over utilization of services

Risks of CON



- Decreasing competition may contribute to an increase in prices
- Process can become politically-charged
- Process is expensive, time-consuming, and complicated
- May perpetuate monopolies by keeping competitors from the marketplace
- CON constrains system against oversupply and does not necessarily fill service gaps

Options for Reform



- Create a statewide health plan
- Administrative simplification: Focus on “big ticket” items – fewer reviews
- Focus on data collection: increase complexity of each review
- Focus on cost/outcome/utilization outliers: flexible review targets – creates a more nimble process
- Focus on system leverage: use conditions to tie approval of profitable services to provision of needed but unprofitable services

Statewide Health Plan



- No state health plan adopted since 1986
- Evaluative context to guide the Health Services Council
- Statutory recommendations around health planning (e.g., specialty hospitals, maternity care, long-term care, oncology)

Administrative Simplification



Focus on “big ticket” items:

- Hospitals, nursing homes and tertiary/specialty services and equipment
- RI drops from 7th highest to 22nd in the regulatory ranking of states
- Perform suitability reviews instead of CON for all other facilities and service/equipment items

Use CON to review high volume specialty services where there is evidence of better outcomes

Data Collection



Require more extensive information on each service to support system wide data and service integration. Use a standard evaluative approach.

- Data on system wide cost impacts of each proposed service
- Data on system wide population health outcome impacts of each proposed service
- Data on system wide access to care and treatment equality



Cost/Outcome/Utilization Outliers

Review outlier services that may contribute to problematic system performance, such as:

- New but untested imaging or surgical technologies
- New training programs
- Expanded emergency departments focused on increased volume
- Pharmacy based clinics

System Leverage



Use conditions to tie approval of profitable services to provision of needed but unprofitable services, such as:

- New training programs
- Multidisciplinary chronic pain center
- Case/care management
- Alternative urgent treatment for intoxicated patients
- Hepatitis C referral and treatment center
- Specialty services for the underserved and corrections



Take-away Points

- 36 states + DC now use CON
- CON has been shown to:
 - Limit NICU beds and reduce infant mortality rates (n=1)
 - Help contain rapid rises in cardiac surgery services
 - Limit growth in supply of hospital beds and reduce the growth of healthcare expenditures
- CON is a mechanism to help implement a statewide health plan
- CON is still a useful planning and leverage tool that can help sculpt the delivery system
 - But one that limits the growth of services, and does not necessarily fill service gaps



Michael K. Dexter, Chief

Office of Health Systems Development

401.222.2788

michael.dexter@health.ri.gov

www.health.ri.gov