



Retain Certificate of Need

KHA and Kentucky hospitals strongly support retaining the Certificate of Need (CON) program. The CON law is critical to supporting a more level playing field among providers, especially those serving more vulnerable communities. Kentucky is one of 35 states (including the District of Columbia) that maintain a CON program. This year, a national CON expert¹ produced a comprehensive research and impact analysis for KHA, which found that Kentucky’s CON program provides substantial benefits and is delivering value for Kentuckians. The analysis compared states with varying degrees of CON regulation to states without CON. The report found that CON states outperform no-CON states in access to, and prices of, health care services.

Kentucky outperforms no-CON states by any number of measures:

- ▶ **ACCESS IS STRONG:** Kentucky provides better access to most health care services than no-CON states.
 - Kentucky has more hospitals per 100,000 population, as well as twice the number of hospitals and 1.5 times the number of physicians per 1,000 square miles than no-CON states. Kentucky’s access to Medicare-certified ambulatory surgery centers (ASCs) per 1,000 square miles is similar to no-CON states and is higher when both ASC and hospital density are combined.
- ▶ **COSTS ARE LOW:** Kentucky has lower prices and costs than no-CON states.
 - Kentucky has the **tenth lowest price (net payment) per inpatient discharge in the U.S. and is nearly \$1,000 less than the median of no-CON states**; \$6,561 per discharge compared to \$7,474 in states with no CON laws. (Kentucky’s low-cost position is consistent with other national reports.²)
- ▶ **VALUE IS HIGH:** Kentucky hospitals provide better value than no-CON states, considering Kentucky serves a more vulnerable population that uses more services. Kentucky hospitals serve a more vulnerable population than most any other state.
 - Kentucky’s population is older, poorer (Kentucky ranks fifth highest in poverty) and less healthy (life expectancy is 5th lowest in the U.S. and three years lower than the median of no-CON states), with the 9th highest rate of Medicaid inpatients in the U.S.
 - Despite these factors, Kentucky’s total per capita health care costs (\$10,257) are similar to the national median (\$10,212).
 - Kentucky’s total per capita costs are also less than other nearby states with no CON laws (IN, OH) and Kentucky’s price (net payment) per inpatient discharge is lower as well.

	KENTUCKY	INDIANA	OHIO
Total Per Capita	\$10,257	\$10,517	\$10,478
Net Inpatient Price/Discharge	\$6,561	\$7,847	\$7,005

CON REPEAL would likely cause hospitals to close, costs to rise and access to worsen, particularly in rural communities.

An analysis of states that have fully or partially repealed CON suggests that doing so would be another nail in the coffin for rural communities:

- Kentucky is one of the most rural states in the U.S. and a disproportionate share of hospital closures over the last decade have been small, rural facilities. The study identified **at least eleven hospitals vulnerable to closure. Each of the facilities is the sole provider in their community**, and their closure would end access to hospital and emergency room services.

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¹ Ascendient, CON Analysis and Impact Study, August 2023

² Kentucky ranks twelfth lowest of 50 states in hospital price in a 2022 RAND National Hospital Price Transparency Report

CON REPEAL would likely cause hospitals to close - continued

- Closure would eliminate jobs, which provide economic benefit, and require thousands of patients, who are typically older, poorer and more dependent on public assistance, to travel further for hospital and emergency care.
- These most vulnerable citizens will be disproportionately affected by service reductions, hospital closures, and the “urbanization” of health care – the tendency for health care services to be expanded in affluent and suburban areas at the expense of a loss of access in rural communities.
- Kentucky’s hospitals employ over 74,000 people, of which more than 24,000 are in rural hospitals. Hospitals pay \$4.7 billion in wages, of which \$1.5 billion are to rural hospital employees.
- Closure of the eleven most vulnerable hospitals would mean the loss of 3,200 jobs with \$214 million in wages and more than 500 patients **each day** would have to find hospital care elsewhere.
- The experience in Georgia, Ohio, and Pennsylvania – where CON has been partially or fully repealed – indicates Kentucky can expect to see as many as 120 ASCs developed at the expense of struggling rural hospitals.
- Of the 9 Georgia hospitals reported as closed since 2018, 7 were adjacent to counties – often more than one county – with multiple new single-specialty ASCs developed after they were no longer covered by CON.
- If Kentucky were to mirror the no-CON state statistics, the state would **lose 10 hospitals, Kentuckians (and their payors) would pay \$450 million more per year for inpatient services, and per capita costs would increase at a rate of 19% above the national growth rate.**

There are inherent features of the U.S. health care system that limit competition:

- **HEALTH CARE IS NOT A FREE MARKET** – 70 to 80 percent of Kentucky hospital patients, on average, are covered by Medicare or Medicaid (or both), where government sets payment rates that are below actual cost, requiring cross subsidization for hospitals to maintain essential services. Kentucky has the seventh highest percentage of inpatient discharges attributable to Medicare and Medicaid patients, and a higher percentage than all no-CON states.
- **Federal EMTALA laws require hospitals to treat all patients, regardless of ability to pay, and society sees health care as a right.**
- **Insurance companies limit choice through narrow networks and coverage limitations.**

Kentucky’s CON program has been modernized over the last several years such that primary care and most outpatient services are now exempt from CON.³

KHA supports retaining CON for new beds, ambulatory surgery centers, expensive technology, where sufficient volume is needed for good outcomes (as recommended by national guidelines), and freestanding birthing centers. KHA will oppose legislation fully or partially repealing CON.

	Kentucky	No-CON States
Hospitals per 100,000 Population	2.24	1.99
Hospital Density (# per 1,000 square miles)	2.56	1.30
Medicare-Certified ASC Density (# per 1000 square miles)	0.94	1.2
Physician Density (# per 1,000 square miles)	246.08	148.9
Net Price/Inpatient Discharge (CMI/WI Adjusted)	\$ 6,561	\$ 7,474
% Population Age 65+	17%	16.7%
Median Household Income	\$ 55,573	\$ 67,044
Life Expectancy	73.5	76.9
State Health Score	-0.76	0.03
% Inpatient Discharges Medicaid	25.1%	21.4%
% Inpatient Discharges Medicare/Medicaid	71.3%	65.4%

³ CON no longer covers ambulatory care clinics, most mobile health services, most diagnostic imaging equipment, community mental health centers, primary care centers, rehabilitation agencies, retail-based health clinics, residential crisis stabilization units, residential freestanding substance use disorder facilities with 16 or less beds, residential hospice facilities, rural health clinics, special health clinics, relocation of acute care beds among hospitals under common ownership in the area development district and redistribution of existing licensed beds among service lines in an acute care hospital.