



How lawmakers could make Virginia's COVID-19 response more effective, according to the experts

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RICHMOND, Va. -- Americans are responding dramatically to the threat of COVID-19. Yet multiple experts say eliminating a specific type of regulation could make an impact on how successfully states combat the virus.

“With the benefit of hindsight, it’s clear Virginia should have gotten rid of Certificate of Public Need laws years ago,” says Dr. Matthew Mitchell, a Senior Research Fellow at the Mercatus Center at George Mason University.

Virginia is one of 35 states that require medical providers undergo a frequently time consuming and expensive process to prove there is a need for their services in a geographical area. Healthcare companies often have to hire experts for help with what most states call a Certificate of Need (CON) license.

Virginia refers to the license as a Certificate of Public Need (COPN). Its program regulates 20 different health services. For example, Bon Secours is currently asking the state for permission to add 44 hospital beds to Memorial Regional Medical Center in Mechanicsville. A COPN license is required not only to build or expand a hospital, but also to do things like open a nursing home or purchase equipment such as X-ray and MRI machines.

“The Certificate of Public Needs system ensures there are equal and adequate distributions of services around the Commonwealth,” Julian Walker, of Virginia Hospital and Healthcare Association, tells the Problem Solvers.

Policy experts have debated the effectiveness of these laws for decades. Advocates believe CON laws help financially stabilize hospitals, particularly in lower income or less populated areas. Detractors say the regulations limit competition without controlling the cost of medical care.

Multiple states are suspending their CON programs to allow for more flexibility in responding to COVID-19. The Cato Institute, a public policy research group, writes that now is the time to repeal regulations impeding preparedness and that CON laws “are low hanging fruit.”

Multiple attempts to reform Virginia’s Certificate of Public Need laws have languished in the General Assembly for years. One proposal is on Governor Ralph Northam’s desk right now that incorporates many recommendations from a work-group tasked with reviewing the state’s process. The Governor’s Press Secretary has not responded to the Problem Solver’s request for comment on the issue.

The Virginia Department of Health oversees the COPN program. When the Problem Solvers asked if there were internal discussions about loosening restrictions, a spokesperson replied, “Virginia is considering a number of options related to COPN in order to increase access to care.”

“I think it makes imminent sense to repeal the limits on hospital beds if there would be a way to procure some from outside the state or to quickly acquire them,” says Dr. Mitchell, stressing the focus must be on giving doctors and caregivers as much leeway as possible in responding to the needs of their patients.

Mitchell’s research finds that states without CON laws have more hospital beds available for fighting the coronavirus. But, even if a state immediately eliminated its CON program, plenty of other regulations would make it nearly impossible to duplicate the mobilization of resources that allowed China to build a hospital in 10 days.

“This problem was decades in the making. If the CON laws had been repealed 2 years ago, 5 years ago, I think we have a really high probability that we’d be in a better position to handle this.”

The Problem Solvers are working to improve our viewers’ access to care by investigating surprise medical bills. So far we’ve been able to help resolve \$80,000 of medical debt. If you received an unexpected bill, click here to send us as many details as possible.