



## Certificate of Need law could slow hospitals' response to coronavirus

Julie Havlak

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An obscure regulation could cripple hospitals' collective ability to treat a coronavirus outbreak in North Carolina, says surgeon Jeffrey Singer, senior fellow at the Cato Institute.

Experts don't yet know the severity of the coronavirus, but they fear it could overwhelm the nation's health care system. North Carolina's hospitals are underprepared because of state Certificate of Need laws — which restrict providers' medical buildings and equipment, Singer said.

North Carolina confirmed 14 coronavirus cases Thursday, March 12, but Gov. Roy Cooper expects more. Tuesday, the governor declared a state of emergency and strongly advised at-risk people to use caution and stay away from large crowds. If the outbreak grows, as is likely, hospitals won't be able to add more beds because of CON laws, leaving sick people untreated, Singer said.

“There's no way we could do that without waiving the CON laws,” said Sen. Joyce Krawiec, R-Forsyth. “If we had a big outbreak and people needed hospitalization, this could be a real problem. This shows how onerous — and how dangerous — those CON laws could be.”

U.S. hospitals aren't prepared, experts say.

The U.S. has about 45,000 intensive care unit beds, but some 2.9 million Americans could need ICU care if the outbreak is severe. Even a moderate outbreak could hospitalize a million people, putting 200,000 people in need of intensive care, according to the Johns Hopkins Center for Health Security.

Medical equipment could also become a concern. The nation has 160,000 ventilators for critically ill patients who can't breathe. Experts fear it might not be enough.

Hospitals have appealed to Congress. The American Medical Association asked for \$1 billion in emergency funds, saying it must capitalize on this “critical window of time when we are able to best prepare and respond to this outbreak.”

Part of that \$1 billion request was for construction and medical equipment. But money can't fuel construction in North Carolina, at least not immediately. Hospitals can't build new facilities, offer more inpatient beds, or buy expensive medical equipment without applying for CON permission from the state.

The next opportunity to get permission won't be for weeks. The Acute Care Services Committee doesn't meet until April, and the full State Health Coordinating Council — which decides whether CON applications are approved — doesn't meet until June.

“This could be a life and death problem now,” Singer said. “These laws have prevented health care providers from developing and creating enough facilities to meet a possible shock like this.”

In 2016, the U.S. had 2.8 beds per 1,000 people, putting it on the low end for developed countries. By 2017, China easily surpassed America's bed capacity, with 4.3 beds per 1,000 residents.

“I really worry,” Singer said. “If they were overwhelmed, and they had more beds, what could happen here? If it's a major outbreak, this could be disastrous. A whole lot of people could be unable to be treated. We could have a whole lot of unnecessary deaths.”

China made international news for building a 1,000-bed hospital in 10 days during the outbreak in Wuhan. But North Carolina can't perform any similar feats, Krawiec said.

But blaming CON laws for dampening hospital construction misses the point, said a member of the State Health Coordinating Council who spoke with *Carolina Journal* on the condition of anonymity. The council assigns certificates of need. Hospitals already struggle to recruit staff, and experts worry the coronavirus will increase the shortage of health care workers. Without enough workers, beds are a moot point.

“The CON laws are not your problem. Time is your problem,” said the member. “You cannot build acute care beds in a week. You cannot find staff for them in a week.”

Nor can hospitals be built in 10 days in the U.S. They face a nest of regulations ranging from licensure to environmental quality. Hospitals are more likely to deploy mobile care units to meet potential demand, the member said.

“Nobody is going to build a massive hospital for a spike but have no patients a year later,” said the member. “You can overwhelm a system, but you can't build a system for a coronavirus every 30 years and support it.”

If the coronavirus becomes a full outbreak in North Carolina, Krawiec said the legislature would take necessary action.

“We may have to have legislation that would waive those laws,” Krawiec said. “I'm not sure what we'd have to do, but we'd certainly need to take action. We'd do whatever we need to do.”