

February 13, 2024

Oregon State Legislature  
House Committee on Behavioral Health and Health Care  
900 Court Street NE  
Salem, OR 97301  
Delivered via Oregon State Legislature Testimony Submission Form

**Subject: In Support of House Bill 4139**

Members of the Committee, I write in support of House Bill 4139. Certificate of Need (CON) laws, also known as the The Competitor's Veto, provide monopoly power to favored institutions. One might think that CONs are a proven good idea because the majority of states have them on the books. However, a little history tells a different story. In 1974, Congress passed the National Health Planning and Resources Development Act, requiring states to implement CON requirements in order to receive funding through certain federal programs. Louisiana was the only state not to implement a CON. In 1986, the federal government repealed the CON mandate. Since then, states have been repealing CON regulations. So, the current trend is that states are moving away from CON regulations.

Prior use of the CON in Oregon stopped private funds from flowing to aid the mentally ill. Additional history is provided by the Regulatory Transparency Project at this URL:

<https://rtp.fedsoc.org/paper/competitors-veto-state-certificate-of-need-laws-violate-state-prohibitions-on-monopolies/>

To quote from the above source:

*In Oregon, a company seeking to build a privately-funded 100-bed in-patient psychiatric hospital near Portland was forced to battle existing mental health providers and state bureaucrats for years under that state's CON laws—to no avail. Oregon consistently ranks at or near the bottom among states in terms of access to mental health facilities and services. Indeed, under an agreement with the DOJ, Oregon was required to take steps to alleviate "emergency room boarding" of mental health patients—that is, the policy of keeping the mentally ill confined to emergency rooms. Yet opposition from the existing providers led the state's Health Authority to deny the new hospital's CON application, in part because competition would "have a negative financial impact on [existing] providers."*

Oregon should welcome private money and competition in the health care industry. Our veterans deserve the lower costs, innovation, and expansion of resources that this bill will bring.

Although I am in favor of complete repeal of Oregon's CON law, the exceptions created by this bill are a move in the right direction. Let's safeguard the people of Oregon, not the concentrated power of the existing institutions. I ask for your support in passing this bill through your committee.

J. D. Pavek, Lake Oswego