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What Investors Should Know About Certificate of Need for Medical Office Buildings

By David V. Tran

In the United States, 36 states and the District of Columbia (DC) require a Certificate of Need (CON) before medical facilities are allowed to open or expand. The goals of CON are:

1. Contain health costs,
2. Promote economic value,
3. Prevent unnecessary services,
4. Ensure compatibility of healthcare services.

So CON prevents excess capacity. The supporters of CON claim excess capacity will increase the costs of medical services. Medical facilities need to charge more to make a profit if the facilities are underutilized. A study conducted by the Big Three automakers supports this which shows lower health care costs in states that have CON than states without. In addition, the Leapfrog Group for Patient Safety maintains that the push for more medical centers may have a negative impact on quality. For many complex medical treatments, there is scientific evidence of superior results in hospitals with higher volumes. For referrals, this group tends to favor hospitals with a certain volume threshold, e.g., at least 500 cases per year for Coronary artery bypass surgery.



The opponents argue that CON is against a free market system and can lead to higher healthcare costs due to less competition. In 2004, the Federal Trade Commission and Department of Justice also urged “States with Certificate of Need programs should reconsider whether these programs best serve their citizens’ health care needs.”

The scope of Certificate of Need Laws varies from state-to-state covering the following major medical facilities and services: Acute Hospital Beds, Air Ambulance, Ambu-



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latory Surgical Centers, Burn Care, Cardiac Catheterization, Computed Tomography Scanners, Gamma Knives, Home Health, Hospice, Intermediate Care Facilities/Mental Retardation, Long Term Acute Care, Lithotripsy, Nursing Home/Long Term Care, Medical Office Buildings, Mobile Hi Technology, Magnetic Resonance Imaging (MRI) Scanners, Neonatal Intensive Care, Obstetrics Services, Open Heart Surgery, Organ Transplants, Positron Emission Tomography (PET) Scanners, Psychiatric Services, Radiation Therapy, Rehabilitation, Renal Dialysis, Assisted Living & Residential Care Facilities, Sub-acute Services, Substance/Drug Abuse, Swing Beds, and Ultra-Sound.

Twenty-four states, including District of Columbia, require CON for Open Heart Surgical Centers, while only Vermont and District of Columbia require CON for general medical office buildings (MOBs). Among 36 states, Connecticut has the highest regulatory burdens in obtaining CON, while Louisiana has the lowest. Besides CON, state and local governments can use zoning and various restrictions to limit the number of medical facilities. For example, a two-story professional office building won't be able to lease to medical tenants on the second floor if it does not have an elevator.

The CON application package consists of the name of the applicant, site, a detail description of the project, project justification of the need for the facility, staffing, financing information of the project (evidence of ability to obtain financing, source of financing, amount, interest, etc.), project design, construction schedule, and cost estimate.



Once the project is approved, the applicant is issued a Certificate of Need which specifies:

1. The physical location of the MOB.
2. The person the certificate is issue to,
3. The maximum capital expenditure,
4. The service area, and
5. The approved medical services.

The application then has a certain time frame to complete the project.

So, if you are the owner of a medical office building, you should be happy as CON limits the supplies. This makes your investment less risky as your tenant are more likely to renew the lease.



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