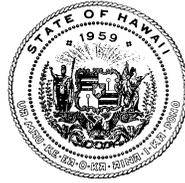


JOSH GREEN, M.D.  
GOVERNOR OF HAWAII  
KE KIA'ĀINA O KA MOKU'ĀINA O HAWAII



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**Testimony in SUPPORT of SB1423**  
RELATING TO AMENDING SECTION 323D-54, HAWAII REVISED STATUTES, TO  
EXEMPT THE DEPARTMENT OF HEALTH FROM CERTIFICATE OF NEED  
REQUIREMENTS.

SENATOR JOY A. SAN BUENAVENTURA, CHAIR  
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Hearing Date: February 3, 2025

Room Number: 229

1 **Department Testimony:** The Department of Health (DOH) strongly supports SB1423, which is  
2 part of Governor Green's Administrative Package, to exempt health care facilities and services  
3 operated by the Department from certificate of need requirements pursuant to chapter 323D,  
4 Hawaii Revised Statutes (HRS).

5

6 Prior approval from the State Health Planning and Development Agency is required to construct,  
7 expand, alter, convert, develop, initiate, or modify a health care facility or health care services in  
8 the State. Criteria for approval may include need, cost, quality, accessibility, availability, and  
9 acceptability. The Department, as a governmental entity, addresses health care needs not  
10 otherwise met by the private sector, and which require funding from the Legislature. The  
11 amendment in this bill is needed to improve the Department's capacity efficiency and timeliness  
12 in responding to healthcare needs, including mental health and substance use.

13

14 Thank you for the opportunity to testify.

**LATE**

**SB-1423**

Submitted on: 2/2/2025 5:34:46 PM

Testimony for HHS on 2/3/2025 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jacob Wiencek	Individual	Support	Written Testimony Only

Comments:

Aloha Committe Members,

Certificate of needs laws have proven to be onerous, additional regulation that does not improve health outcomes for patients or improve any healthcare processes. During the COVID-19 pandemic, it became difficult to expand bed space and capacity during surges. We cannot afford to artificially restrict ourselves during future health challenges.

I urge this Committee to SUPPORT this bill!

Feb. 3, 2024, 1 p.m.  
Hawaii State Capitol  
Conference Room 225 and Videoconference



**To: Senate Committee on Health and Human Services**  
**Sen. Joy A. San Buenaventura, Chair**  
**Sen. Henry J.C. Aquino, Vice-Chair**

**From: Grassroot Institute of Hawaii**  
**Ted Kefalas, Director of Strategic Campaigns**

TESTIMONY IN SUPPORT OF SB1423 — RELATING TO AMENDING SECTION 323D-54, HAWAII REVISED STATUTES, TO EXEMPT THE DEPARTMENT OF HEALTH FROM CERTIFICATE OF NEED REQUIREMENTS.

Aloha Chair, Vice-Chair and other members of the Committee,

The Grassroot Institute of Hawaii would like to offer its **support** for [SB1423](#), which would exempt facilities operated by and services provided by the Hawaii Department of Health from the state's certificate-of-need requirements.

This bill recognizes a fundamental problem with Hawaii's restrictive certificate-of-need program, which is that it has become a barrier to affordable and accessible healthcare in our state, especially in rural areas and for vulnerable populations

Basically, a certificate of need is a legal document that is required in order to provide a new medical facility or program. Required in Hawaii since the mid-1970s, medical certificates of need allegedly prove to state officials that any new proposed medical facility or programs is "needed." Even the state Department of Health must comply with CON requirements, which seems highly redundant and bureaucratic.

Nationwide, recent studies suggest that CON laws have the counterproductive effect of limiting healthcare quality and access, especially for rural areas and vulnerable populations. For example, consider that:

>> States with certificate-of-need laws have fewer hospitals, substance treatment facilities, psychiatric hospitals, ambulatory surgical centers, dialysis clinics, nursing home beds, open heart surgery programs and hospice care facilities.<sup>1</sup>

>> CON regulations tend to lead to fewer hospital beds, decreased access to medical imaging technology and longer wait times.<sup>2</sup>

>> CON regulations are linked to fewer rural hospitals and alternatives. Residents of CON states have to travel farther for care and are more likely to leave their states for care.<sup>3</sup>

Defenders of CON laws claim they are needed to constrain high healthcare costs and guarantee access to higher-quality care. However, that is not supported by the research, which demonstrates that such laws are associated with higher per-person healthcare costs and higher death rates from treatable complications following surgery.<sup>4</sup>

According to a 2020 [study](#) from the Mercatus Center, Hawaii has the highest number of certificate-of-need restrictions among the states that still have CON laws.<sup>5</sup> The result of these restrictions has been to make healthcare more expensive, limit access to care and lower the overall quality of care.

In particular, the Mercatus Center estimated that Hawaii CON laws had increased annual per capita healthcare spending in Hawaii by \$219, and limited the number of hospitals to 12 fewer than if there had been no CON laws, and ambulatory surgery centers to two fewer.<sup>6</sup>

The Center also estimated that without CON laws, deaths from post-surgery complications would have been about 5% lower and the proportion of patients who would have rated their hospitals highly — at least 9 out of 10 — would have been 4.7% greater.<sup>7</sup>

The thinking behind certificate-of-need laws has long been abandoned, and CON reform has been a growing trend in healthcare policy. More than a dozen states have fully repealed their CON programs, and even more have been rolling them back.

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<sup>1</sup> Matthew D. Mitchell, [“West Virginia’s Certificate of Need Program: Lessons from Research.”](#) Mercatus Center at George Mason University, Sept. 22, 2021, p. 5.

<sup>2</sup> [Ibid.](#)

<sup>3</sup> [Ibid.](#)

<sup>4</sup> [Ibid.](#)

<sup>5</sup> [“Hawaii Certificate-of-Need Programs 2020,”](#) Mercatus Center, March 22, 2021.

<sup>6</sup> [“Certificate of Need Laws: Hawaii State Profile,”](#) Mercatus Center, November 2020, p. 2.

<sup>7</sup> [Ibid.](#), p 3.

Hawaii's certificate-of-need program is badly in need of reform. Exempting the Department of Health from CON requirements would be a good first step, but it should not be the end of the discussion.

We hope that the Committee will consider other ways to loosen CON regulations, with the goal of improving healthcare access and quality in our state.

Thank you for the opportunity to testify.

Ted Kefalas  
Director of Strategic Campaigns  
Grassroot Institute of Hawaii