



March 31, 2020

The Honorable Dan Bishop
132 Cannon House Office Building
Washington D.C. 20515

Dear Representative Bishop:

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, I write to thank you for introducing H.R. 6336, the Increasing Hospital Capacity to Fight the Coronavirus Act of 2020.¹ It is absolutely critical that our nation's hospitals have the ability to rapidly expand their capacity during this unprecedented public health emergency, and your legislation would help by relaxing certificate of need (CON) restrictions that inhibit this growth.

According to recent modeling from the Harvard Global Health Institute, even in a "moderate scenario" of 98.9 million Americans contracting coronavirus over the next year, the U.S. "would have to more than double available hospital beds by freeing up existing beds or adding new ones."² That would be a significant challenge for our nation, its health care providers, and its most vulnerable populations.

One of the strongest inhibitors to the rapid expansion of hospital beds is CON laws in 35 states and Washington, D.C.³ As Lindsay Killen of the Mackinac Center and Naomi Lopez of the Goldwater Institute recently put it, "[r]ather than allowing a hospital to be built, adding beds to an existing hospital, or offering some types of new technologies, many states require that these additions be approved by a board of existing competitors with every incentive to restrict new competition from opening or expanding."⁴ To make matters worse, 14 states include "moratoria" in their CON programs, which prohibit *existing* facilities from adding hospital beds, nursing home beds, long-term care beds, and more.⁵

¹ U.S. Congressman Dan Bishop. (March 24, 2020). "Rep. Bishop Introduces Bill to Help Hospitals Ramp-Up for Coronavirus Response." Retrieved from:

<https://danbishop.house.gov/media/press-releases/rep-bishop-introduces-bill-help-hospitals-ramp-coronavirus-response> (Accessed March 25, 2020); Congress.gov. (Introduced March 23, 2020). "H.R.6336 - To amend title XI of the Social Security Act to provide for a waiver of payment reductions under the Medicare and Medicaid programs for certain nonapproved capital expenditures undertaken by health care facilities during the COVID-19 emergency." Retrieved from:

<https://www.congress.gov/bill/116th-congress/house-bill/6336?q=%7B%22search%22%3A%5B%22bishop%22%5D%7D&s=4&r=1> (Accessed March 25, 2020.)

² Waldman, Annie; Shaw, Al; Ngu, Ash; Campbell, Sean. "Are Hospitals Near Me Ready for Coronavirus? Here Are Nine Different Scenarios." ProPublica, March 17, 2020. Retrieved from: <https://projects.propublica.org/graphics/covid-hospitals> (Accessed March 25, 2020.)

³ National Conference of State Legislatures. (December 1, 2019). "CON-Certificate of Need State Laws." Retrieved from: <https://www.ncsl.org/research/health/con-certificate-of-need-state-laws.aspx> (Accessed March 25, 2020.)

⁴ Killen, Lindsay; Lopez, Naomi. "How lawmakers can proactively protect communities from pandemic threats." *Washington Examiner*, March 11, 2020. Retrieved from:

<https://www.washingtonexaminer.com/opinion/op-eds/how-lawmakers-can-proactively-protect-communities-from-pandemic-threats>

⁵ National Conference of State Legislatures. (December 1, 2019). "CON-Certificate of Need State Laws." Retrieved from: <https://www.ncsl.org/research/health/con-certificate-of-need-state-laws.aspx> (Accessed March 25, 2020.)

The Increasing Hospital Capacity to Fight the Coronavirus Act of 2020 would help fight these harmful laws. Your bill would ensure that states and facilities can expand hospital bed capacity without fear of payment reductions under the Medicare and Medicaid programs. It would also express the sense of Congress that CON laws should be waived during the COVID-19 emergency, sending a strong message to the 35 states that have these policies on the books.

Thank you for introducing this important piece of legislation, and we appreciate your colleagues, Representatives Banks, Budd, and Murphy, for co-sponsoring the bill. We stand ready to assist you in helping it reach the President's desk.

Sincerely,

Andrew Lautz
Policy and Government Affairs Manager

CC: The Honorable Jim Banks
The Honorable Ted Budd
The Honorable Greg Murphy