

RESEARCH SUMMARY

The Effect of Interest Group Pressure on Favorable Regulatory Decisions: The Case of Certificate-of-Need Laws

Certificate-of-need (CON) laws require medical providers to prove to regulators that new services and equipment are needed. Providers that receive approval to offer new services and invest in new equipment are often able to control more of the healthcare market than their competitors can. Therefore, firms have an incentive to attempt to influence CON application approvals.

The likelihood of approval can increase if a provider pressures the regulator before the regulator makes its decision. For instance, a provider may be able to influence members of the state government to intervene on behalf of its application. In Georgia, Michigan, and Virginia, for example, the governor and state senate are involved in the appointment of key individuals in the CON application process. This circumstance provides a channel through which firms can influence politicians and politicians can influence regulators. Previous research on whether CON laws improve the quality of and access to medical care has not considered the costs of this influence.

In “The Effect of Interest Group Pressure on Favorable Regulatory Decisions: The Case of Certificate-of-Need Laws,” Thomas Stratmann and Steven Monaghan develop a model to estimate the impact of political contributions on the approval of CON applications. Their findings indicate that political contributions do affect whether state regulators approve applications. This situation is contrary to the intent of CON laws, which is that application approval or denial be based only on the criteria established by state law. Campaign contributions given by applicants should not influence the decision—that is, politics should not be a factor in medical care.

AN EXAMPLE OF POLITICAL INFLUENCE ON CON APPROVAL

One specific example of political contributions influencing a CON application occurred in Illinois, where a company called Kiferbaum Design and Build received a contract with Mercy Health System to build a facility on the condition that their CON application was approved. Kiferbaum made a deal with Stuart Levine, a member of the Illinois Planning Board, that if Levine was able to get the application approved, Kiferbaum would share the earnings with Levine. Levine succeeded in influencing Antoin Rezko, a major contributor to Governor Rod Blagojevich, to convince the other planning board members to vote in favor of the application in return for a cut of the kickback. The application, which was originally slated for rejection, was approved in May 2004. The parties involved were able to use political influence to change the outcome of a CON application.

STUDY DESIGN AND DATA

Political contribution data from the National Institute on Money in State Politics allow the authors to examine the campaign donation method of gaining influence over the CON application process. Using data from Georgia, Michigan, and Virginia, the authors develop a model that estimates how much a contribution given within two years of submitting a CON application increases the likelihood of approval. To estimate the effect of political

campaign contributions on CON application approvals, the model accounts for differences in (1) the application environment, (2) how general application approval rates change over time, and (3) the type of services being provided.

- In **Georgia**, only around 57% of applications are approved. This low approval rate is likely an incentive for firms to make political contributions, and about 43% of applications are indeed associated with political contributions. Controlling for region, year, and type of application and accounting for other factors that may be correlated with political contributions, a 1% increase in campaign contributions to Georgia state senators and the governor is associated with a 6.7% increase in the chance of approval.
- Of the three states studied, **Michigan** had the highest application approval rate, at 77%. Around 36% of applicant firms made political contributions near the decision time. The estimated effect of contributions on application approvals is lower in Michigan than in Georgia and Virginia: a 1% increase in contributions is associated with a 1.8% increase in the likelihood of application approval.
- **Virginia** had the most uncertain application process, approving just half (51%) of applications. More than half (56%) of firms made political contributions, the most out of all three states studied. While contributions were not as effective at changing a decision as they were in Georgia, the chance of approval did increase by 3.6%.

These results show that political contributions affect the likelihood of CON application approval. If it is true that firms are attempting to acquire benefits by making political campaign contributions, then this is a major cost of CON laws that has not previously been considered. Previous research that has failed to consider this cost has understated the true costs of CON laws.