

Matthew Mitchell, PhD
Senior Research Fellow



MERCATUS CENTER
George Mason University

ALASKA'S CON LAW

LESSONS FROM THREE DECADES OF RESEARCH

Alaska Senate
Health & Social Services Committee

March 27, 2019

WHAT IS A CON LAW ?



A permission slip to compete

Not a quality gate

Designed to assess “need”

Unusual in a market economy

A barrier to entry that restricts supply

Anticompetitive

A SHORT HISTORY OF CON LAWS

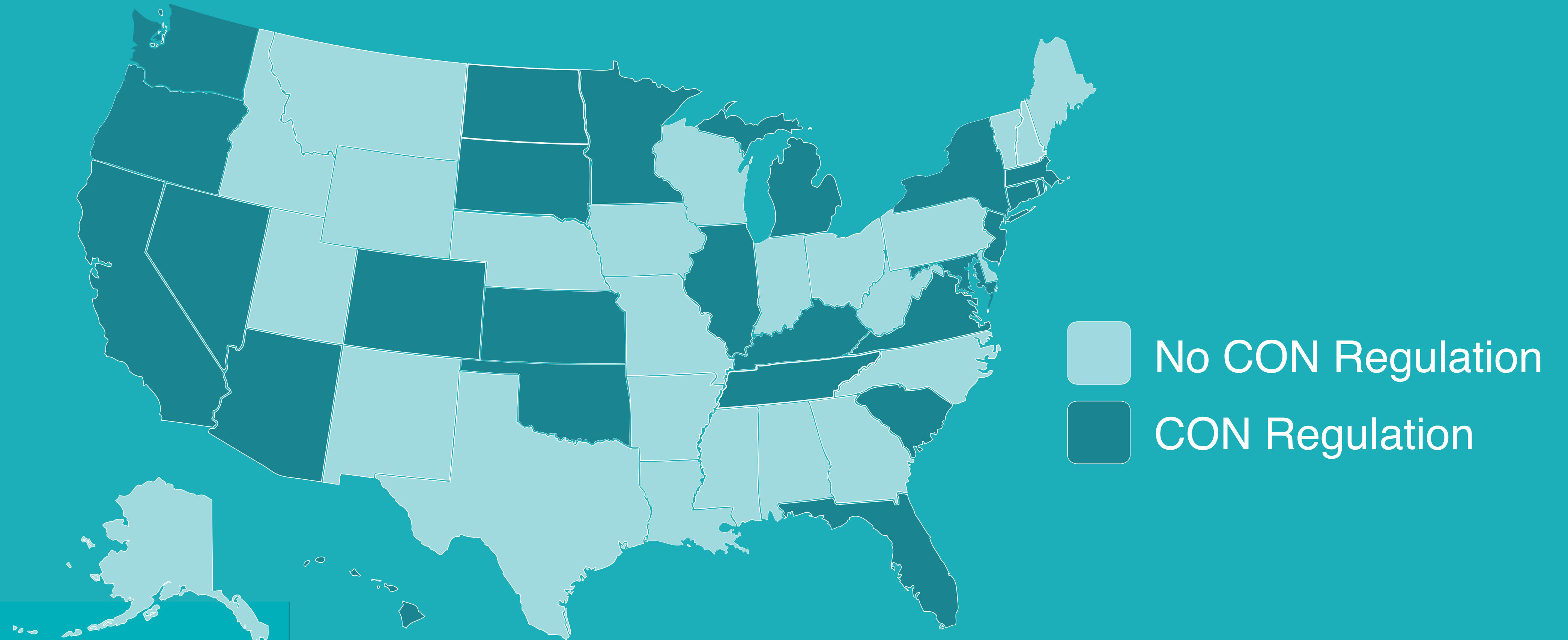


1974
National Health
Planning and
Resources
Development
Act

Ensure an adequate supply of HC
Ensure rural access to HC
Promote high quality HC
Promote charity care
Encourage hospital substitutes
Restrain the cost of care

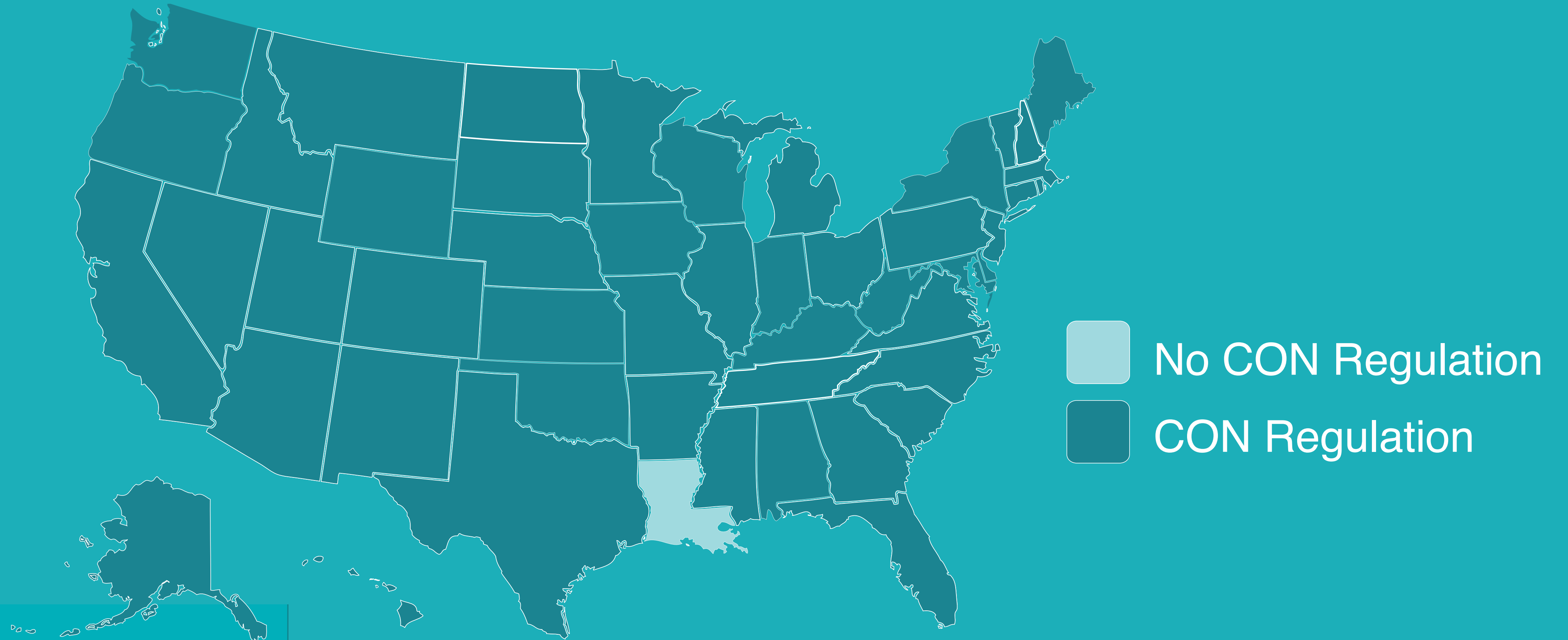
A SHORT HISTORY OF CON LAWS

1974



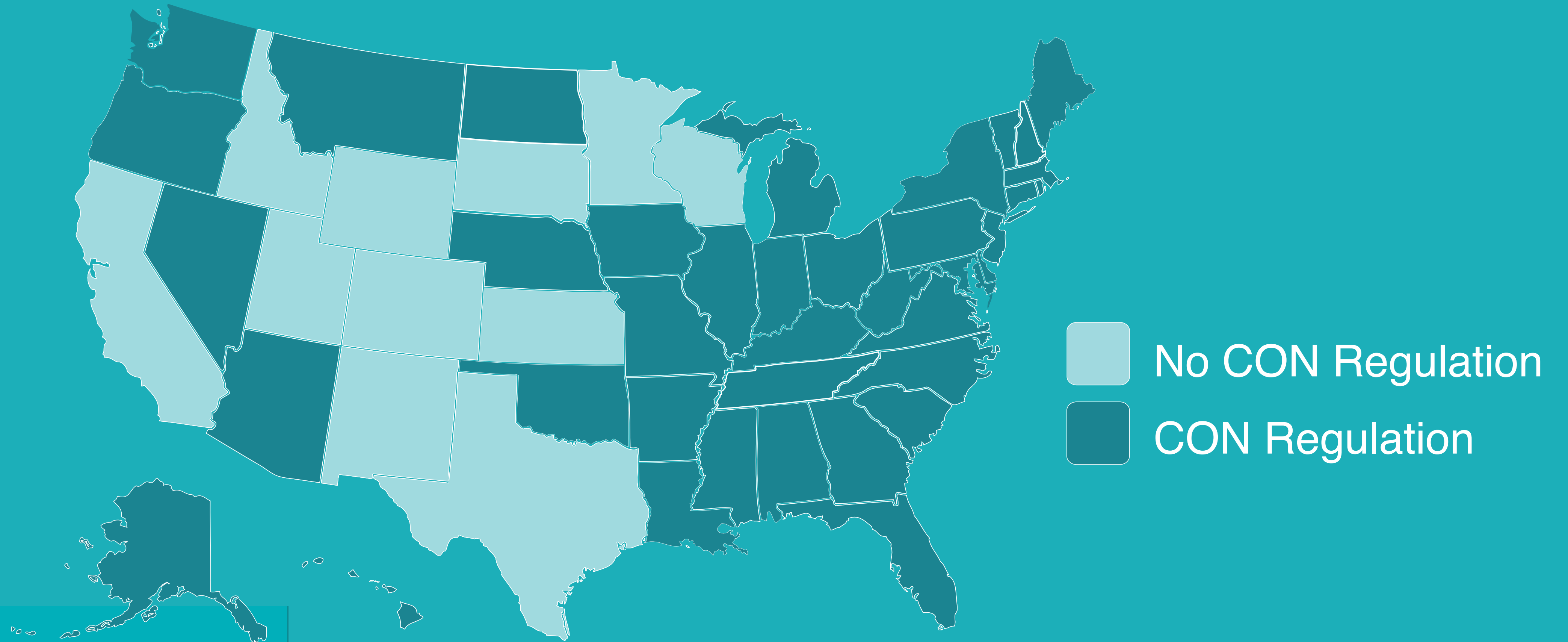
A SHORT HISTORY OF CON LAWS

1980



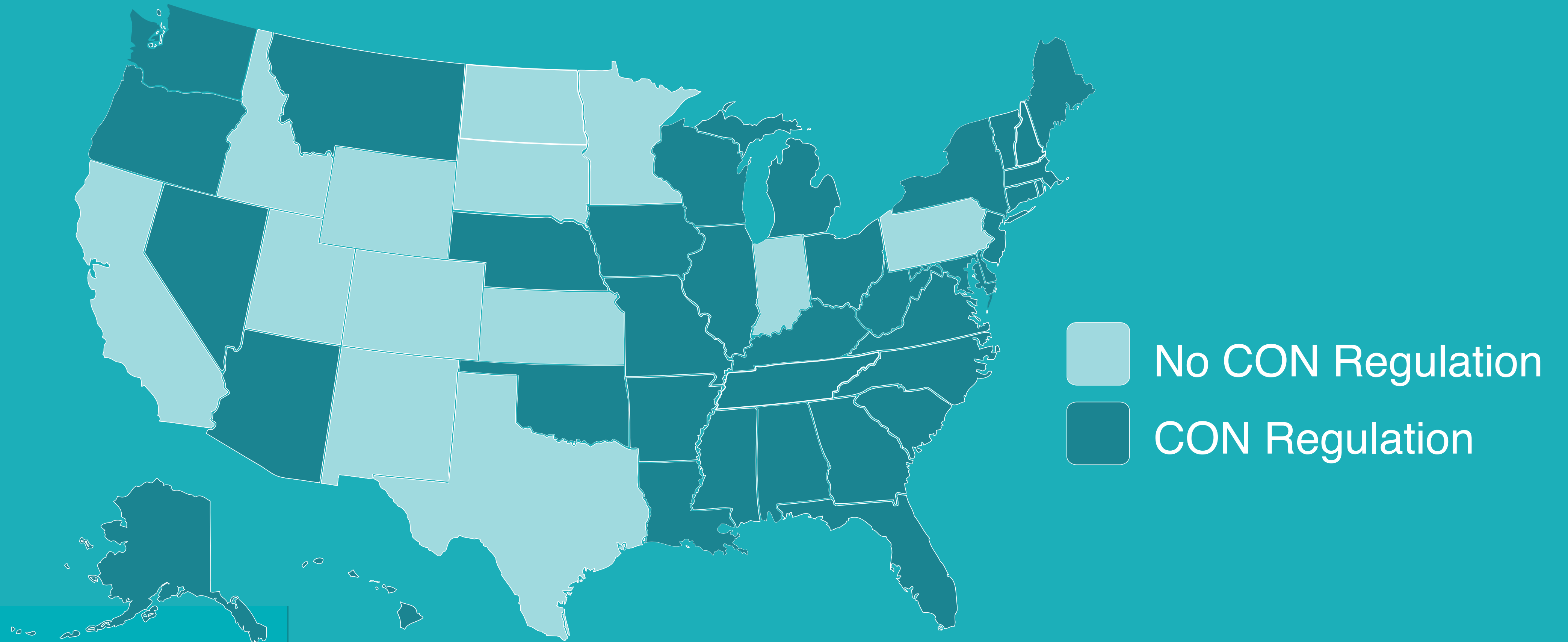
A SHORT HISTORY OF CON LAWS

1990



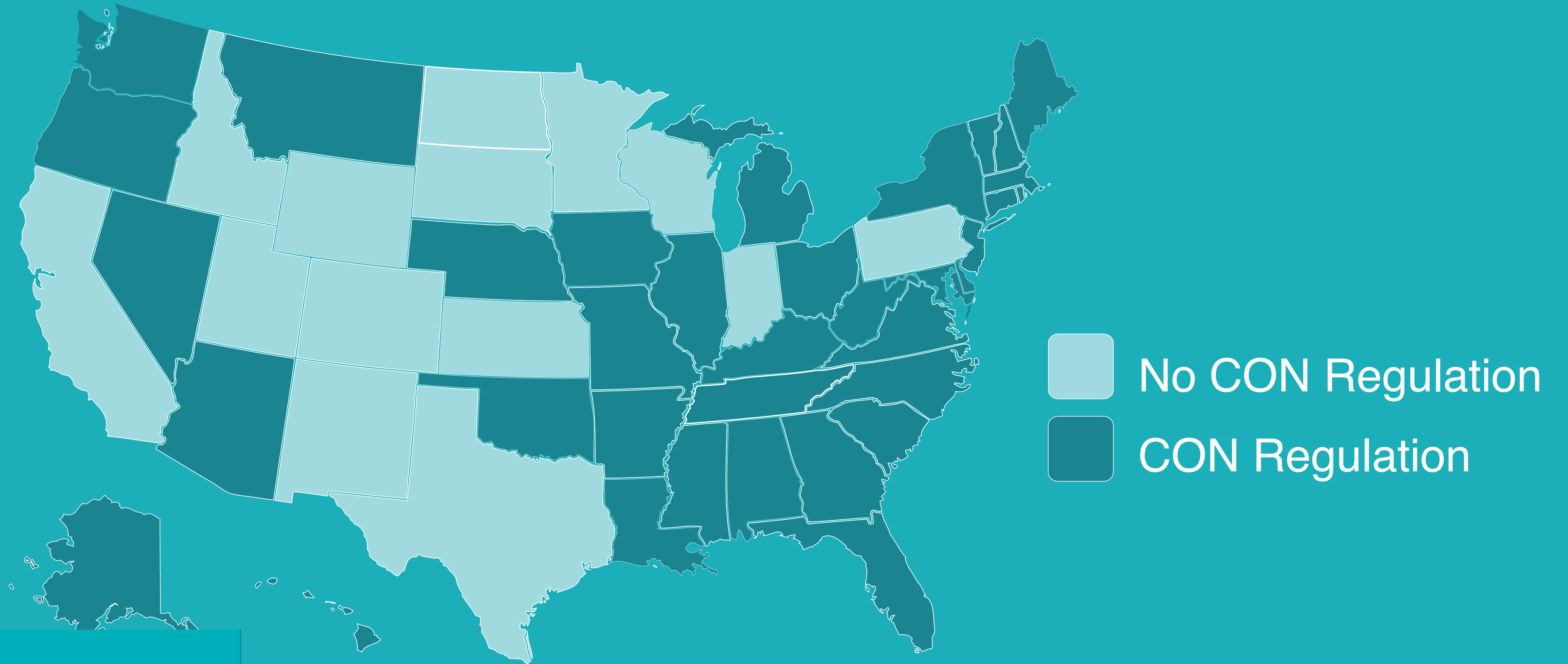
A SHORT HISTORY OF CON LAWS

2000



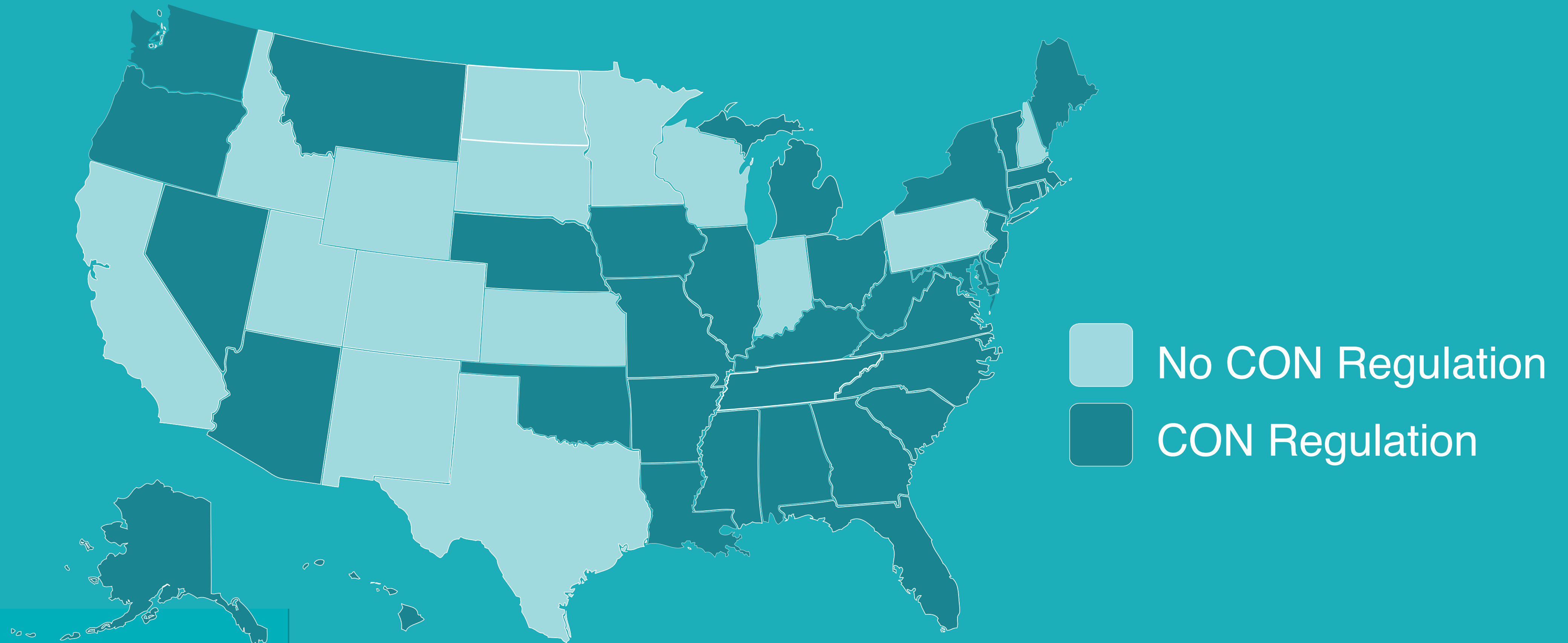
A SHORT HISTORY OF CON LAWS

2015



A SHORT HISTORY OF CON LAWS

2019



ALASKA'S CON LAW

lithotripsy radiation therapy organ transplants
PET Scanners MRI Scanners
burn care Nursing home beds
psychiatric services CT Scanners
open-heart surgery NICU Renal failure / dialysis
cardiac catheterization obstetrics mobile Hi tech
long-term acute care acute hospital beds
subacute services
Ambulatory surgical centers
gamma knives

THE STATED GOALS OF CON LAWS

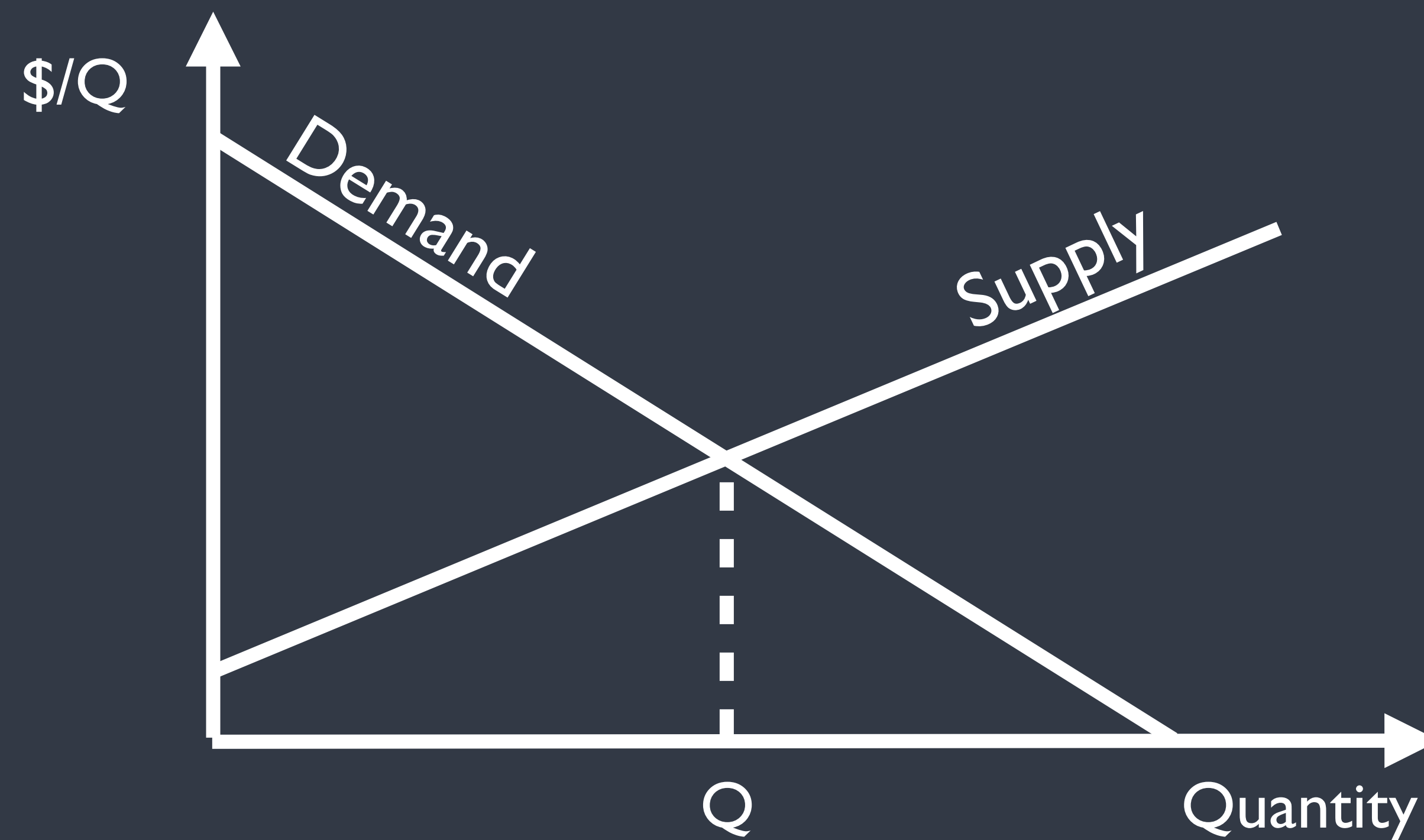


1974
National Health
Planning and
Resources
Development
Act

Ensure an adequate supply of HC
Ensure rural access to HC
Promote high quality HC
Promote charity care
Encourage hospital substitutes
Restrain the cost of care

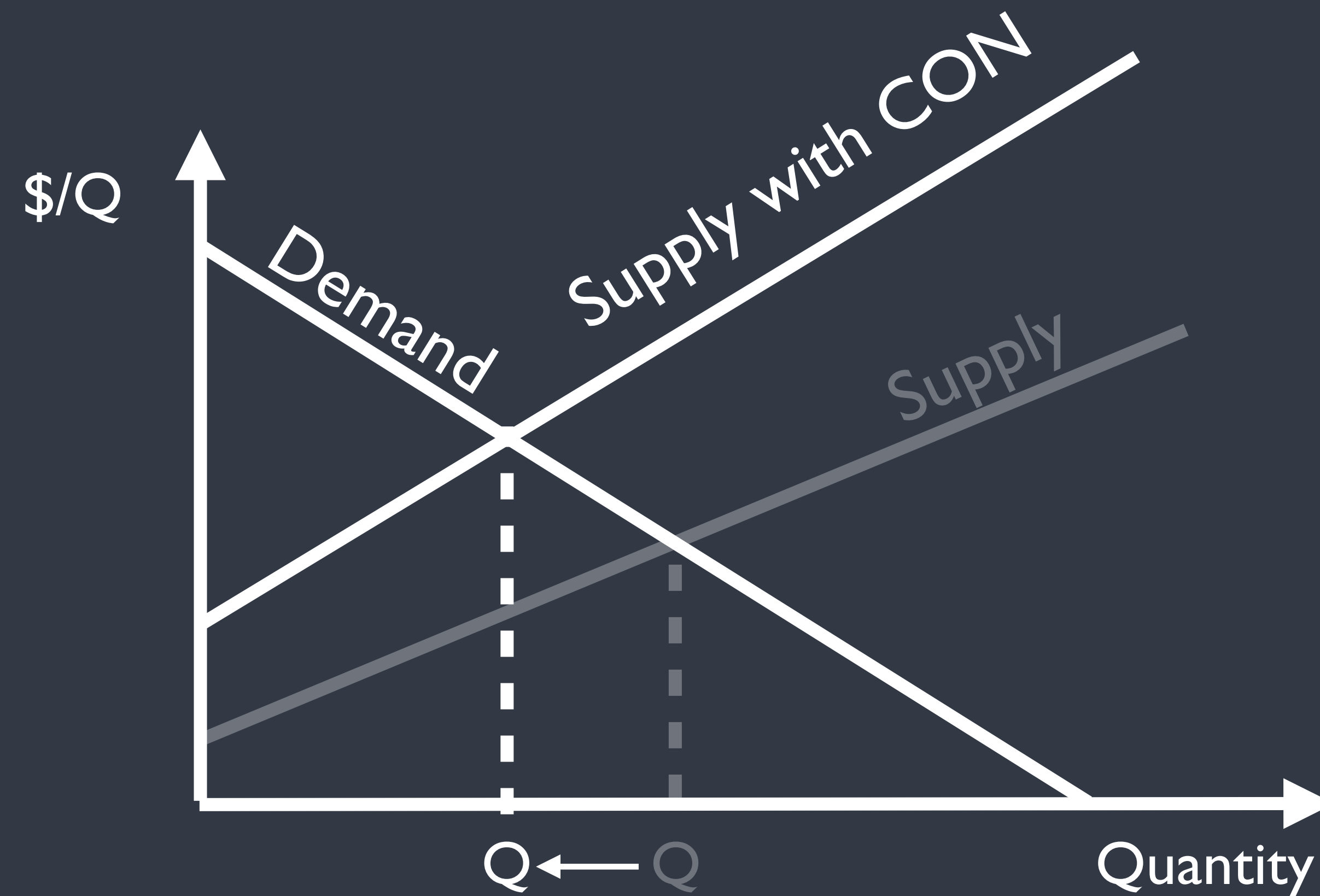
THE REALITY OF CON LAWS

Ensure an adequate supply of HC?



THE REALITY OF CON LAWS

Ensure an adequate supply of HC?



THE REALITY OF CON LAWS

Ensure an adequate supply of HC?

Limited supply of dialysis clinics (Ford and Kaserman, 1993)

Limited supply of hospice care (Carlson et al., 2010)

Fewer hospitals per capita (Stratmann and Russ, 2014)

Fewer hospital beds per capita (Stratmann and Russ, 2014)

Fewer hospitals with MRIs (Stratmann and Russ, 2014)

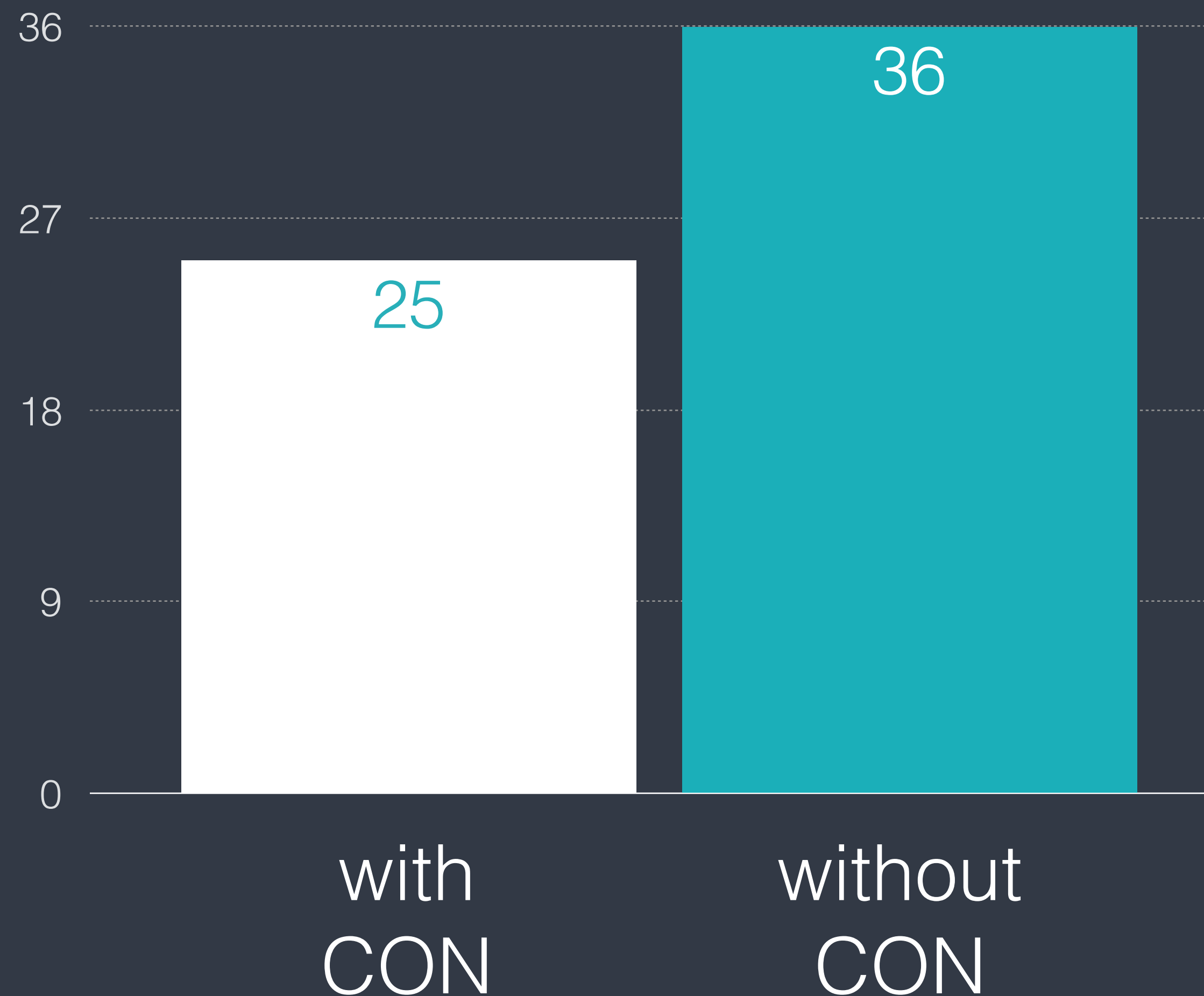
Fewer CT, MRI, PET scans (Stratmann and Baker, 2017)

More out-of-county CT, MRI, PET scans (Stratmann and Baker, 2017)

THE REALITY OF CON LAWS

Ensure an adequate supply of HC?

Estimated number of Alaska hospitals without CON



THE STATED GOALS OF CON LAWS

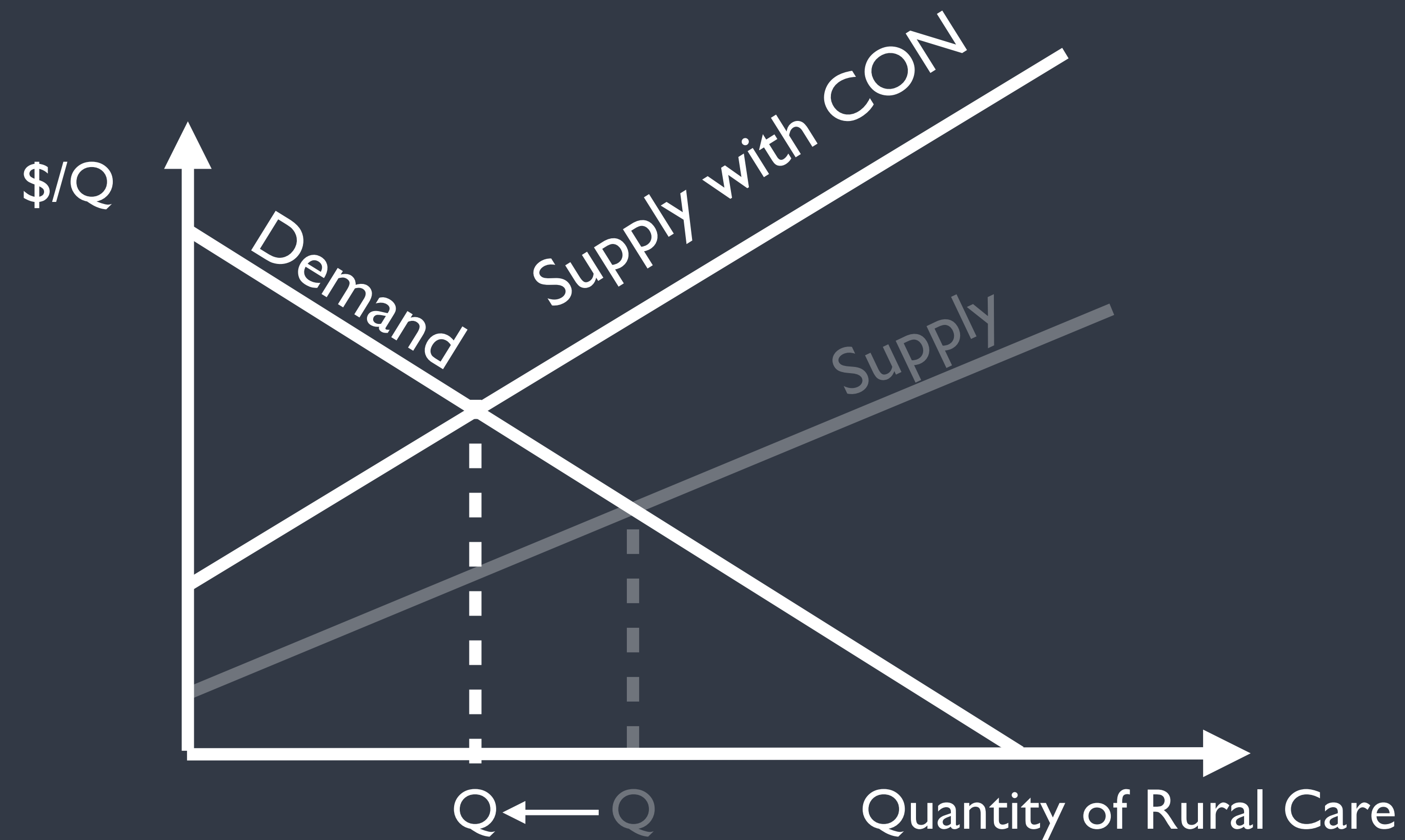


1974
National Health
Planning and
Resources
Development
Act

Ensure an adequate supply of HC
Ensure rural access to HC

THE REALITY OF CON LAWS

Ensure rural access to HC?



THE REALITY OF CON LAWS

Ensure rural access to HC?

30% fewer rural hospitals (Stratmann and Koopman, 2016)

Less access to rural hospice (Carlson et al., 2010)

Longer travel distance to care (Cutler et al., 2010)

More out-of-county CT, MRI, PET scans (Stratmann and Baker, 2017)

THE REALITY OF CON LAWS

Ensure an adequate supply of HC?

Estimated number
of *rural* Alaska
hospitals
without CON



THE STATED GOALS OF CON LAWS

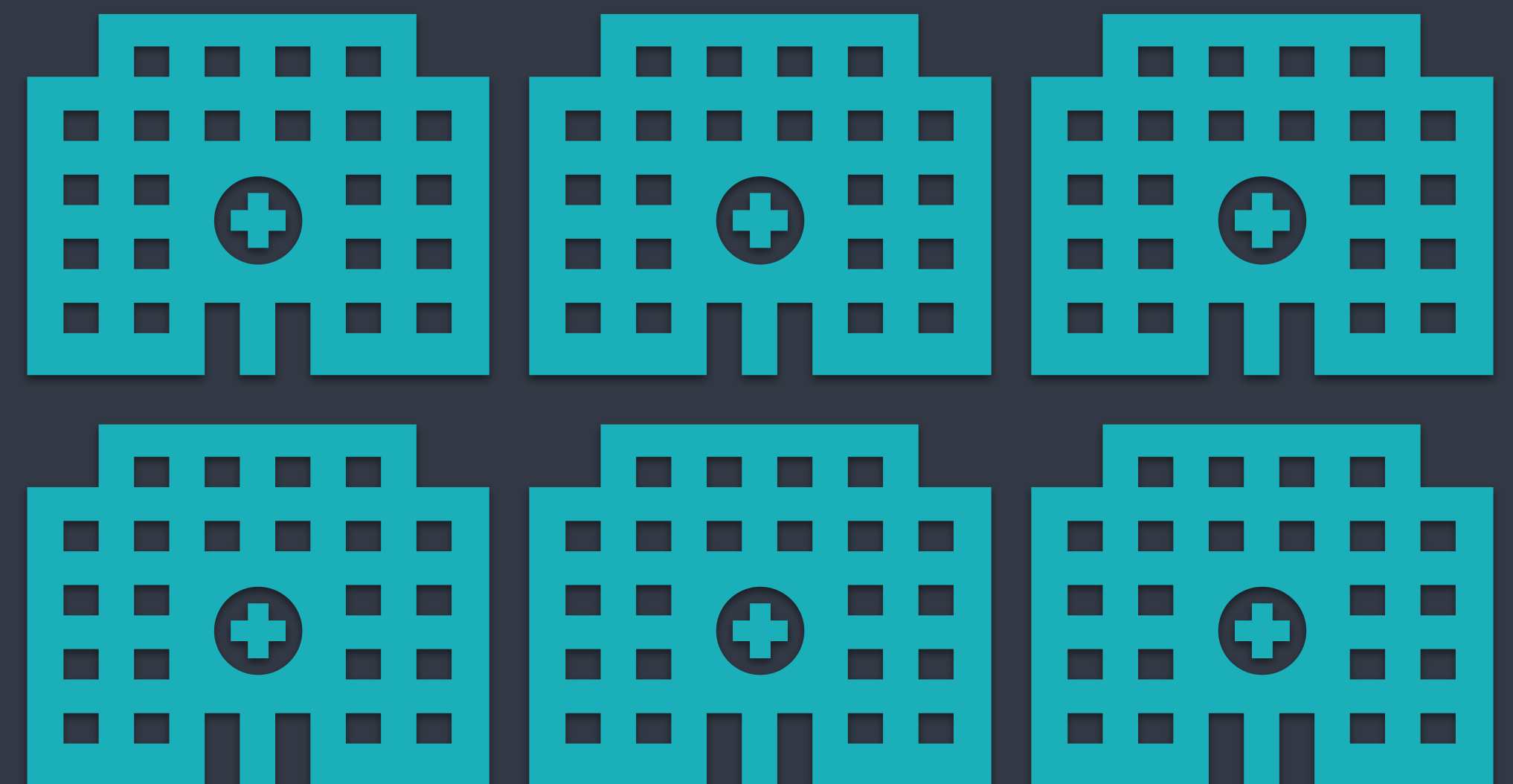
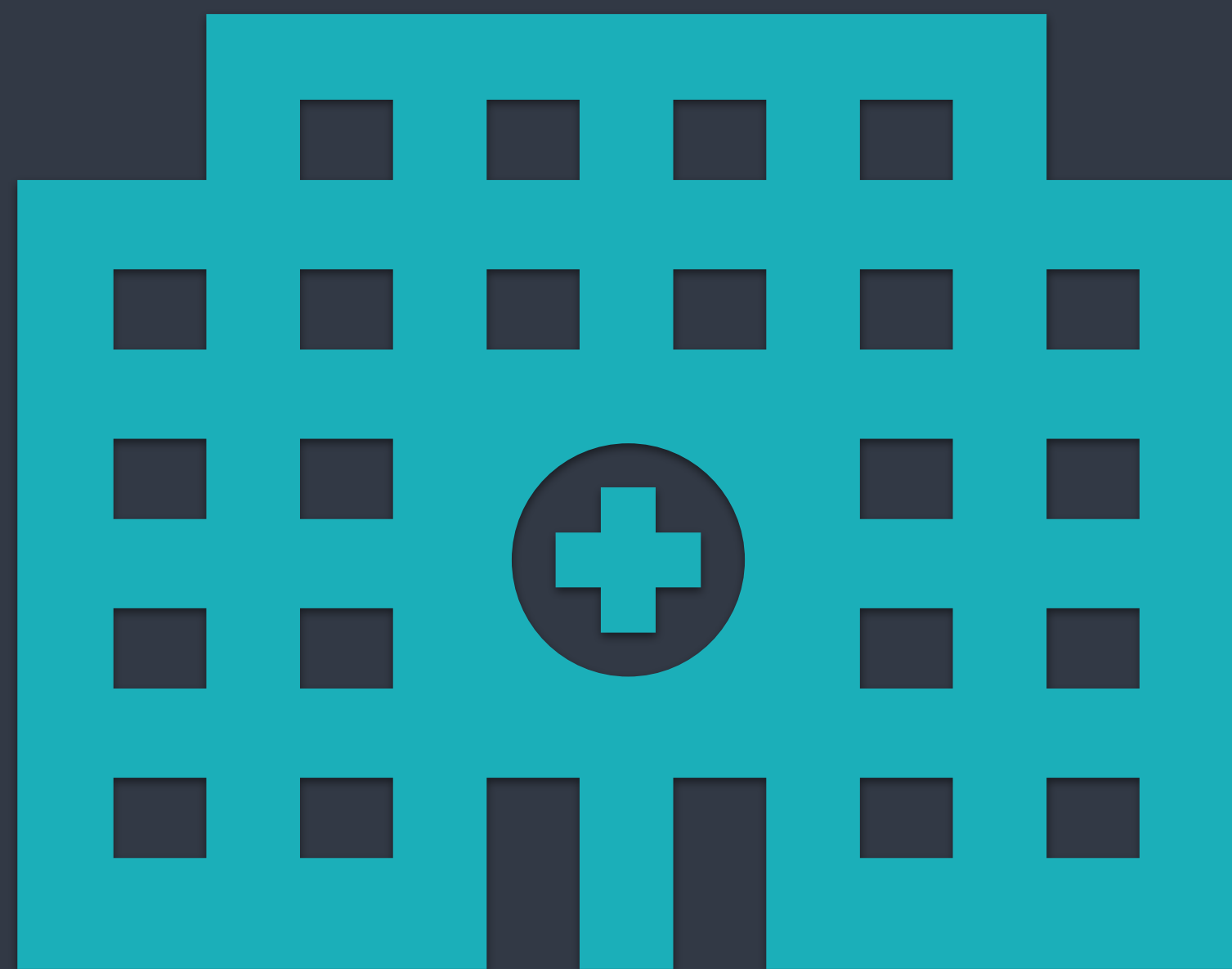


1974
National Health
Planning and
Resources
Development
Act

Ensure an adequate supply of HC
Ensure rural access to HC
Promote high quality HC

THE REALITY OF CON LAWS

Promote high quality HC?
scale competence vs. less competition



THE REALITY OF CON LAWS

Promote high quality HC?
scale competence vs. less competition

Mixed early research on particular conditions

No effect on all-cause mortality (Bailey, 2016)

Higher mortality rates following heart failure,
pneumonia, heart attacks (Stratmann and Wille, 2016)

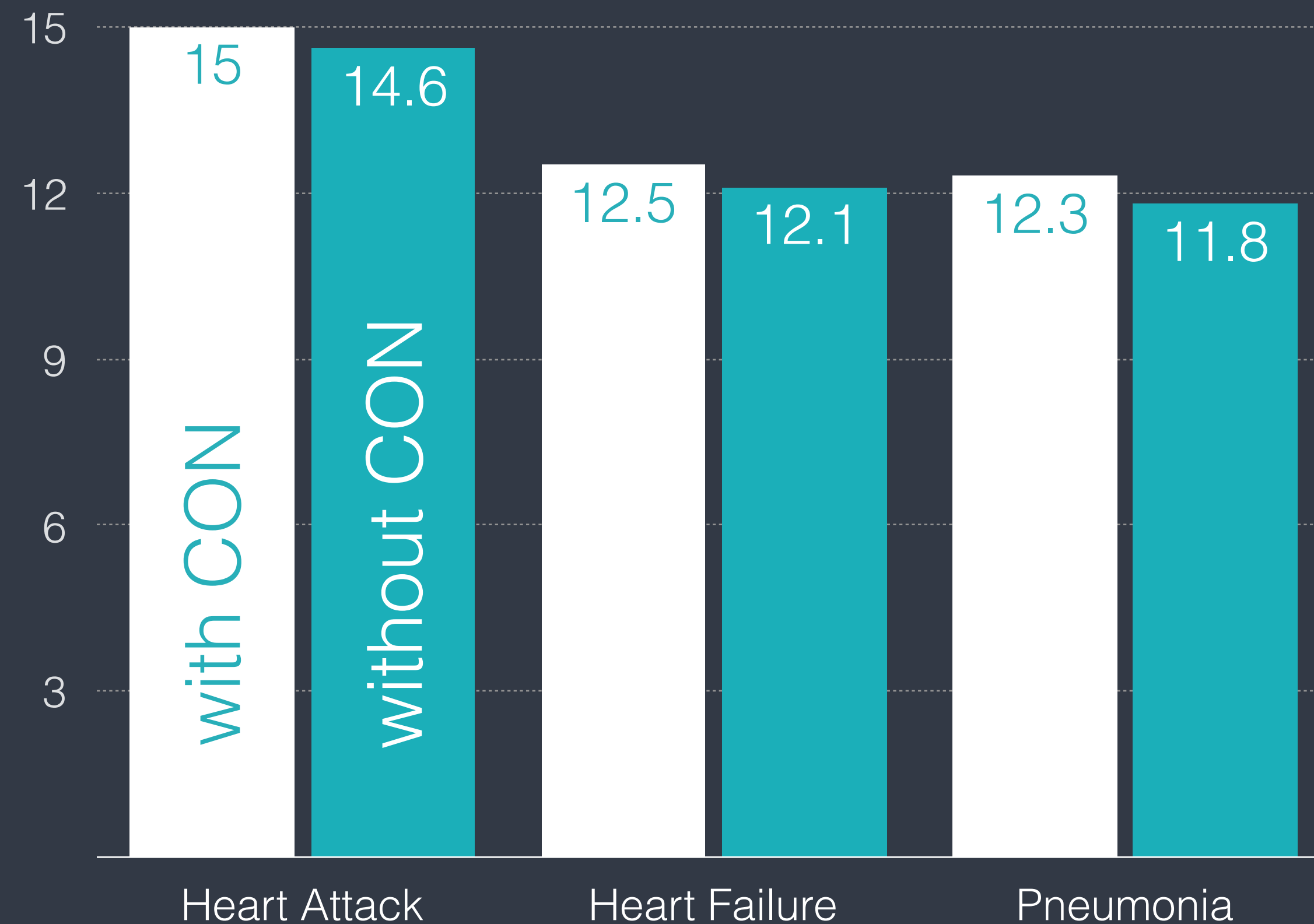
Higher rates of post-surgery complications
(Stratmann and Wille, 2016)

Lower levels of patient satisfaction (Stratmann
and Wille, 2016)

THE REALITY OF CON LAWS

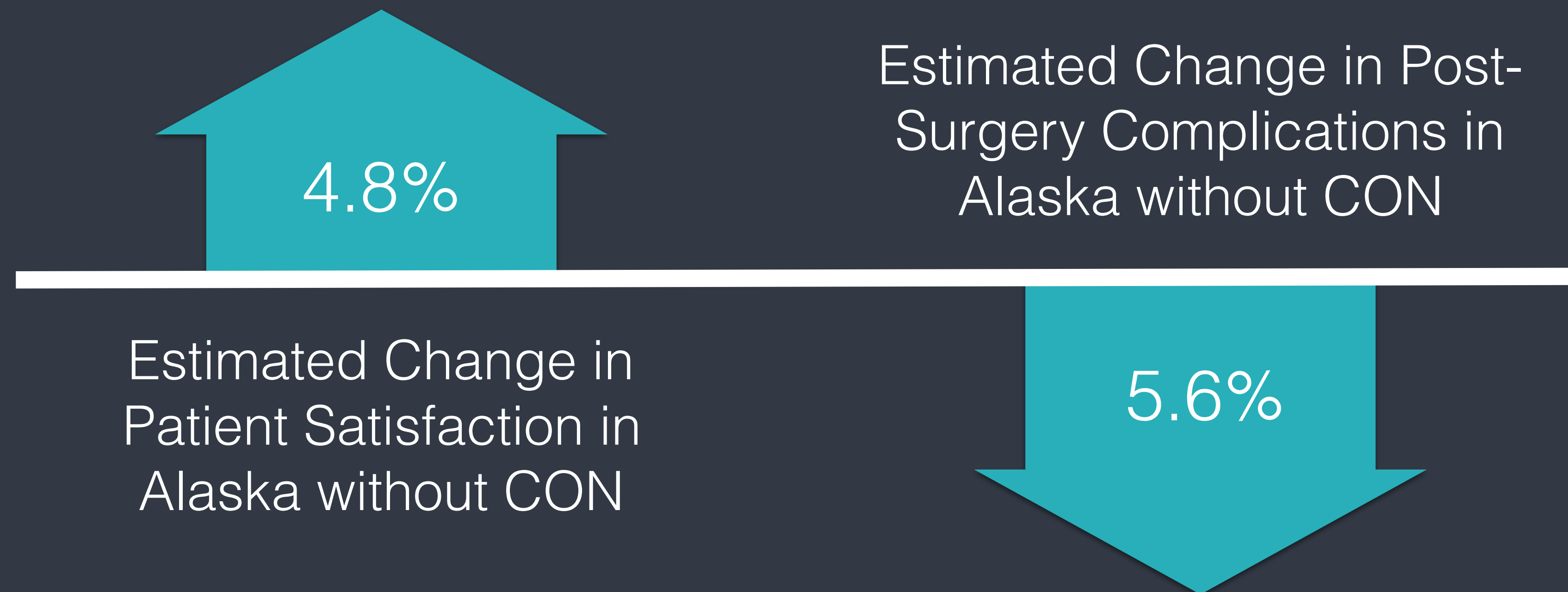
Promote high quality HC?

Estimated mortality rates
in Alaska



THE REALITY OF CON LAWS

Promote high quality HC?



THE STATED GOALS OF CON LAWS



1974
National Health
Planning and
Resources
Development
Act

Ensure an adequate supply of HC
Ensure rural access to HC
Promote high quality HC
Promote charity care

THE REALITY OF CON LAWS

Promote charity care?

No evidence of higher rates of charity care (Stratmann and Russ, 2014)

Greater racial disparity in the provision of services (DeLia et al., 2009)

THE STATED GOALS OF CON LAWS



1974
National Health
Planning and
Resources
Development
Act

Ensure an adequate supply of HC

Ensure rural access to HC

Promote high quality HC

Promote charity care

Encourage hospital substitutes

THE REALITY OF CON LAWS

Encourage hospital substitutes?

ASC-specific CON states have 14% fewer ASCs per capita (Stratmann and Koopman, 2016)

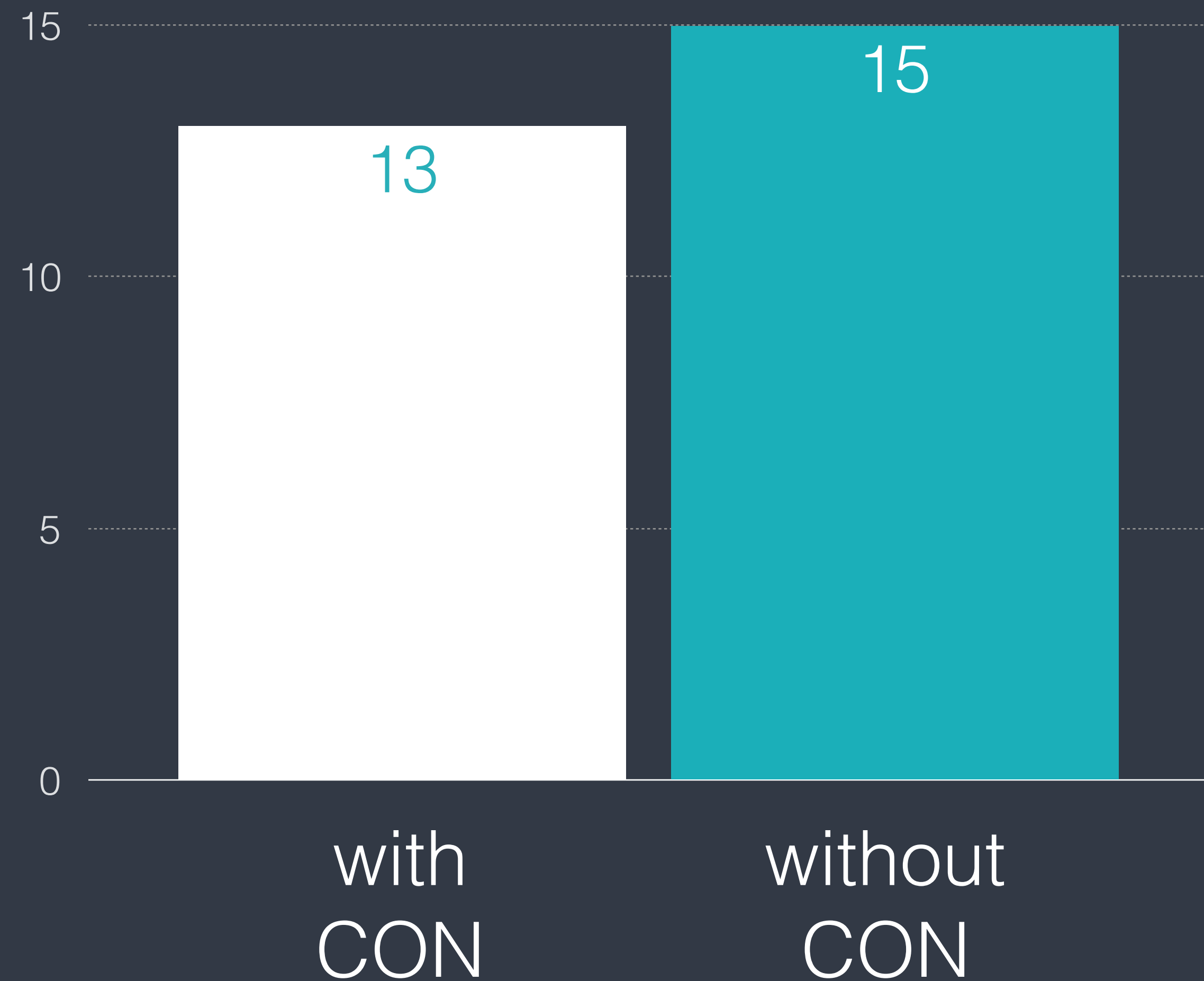
ASC-specific CON states have 13% fewer rural ASCs per capita (Stratmann and Koopman, 2016)

CON limits use of *new* hospitals and *non-hospital* providers, but not existing hospitals (Stratmann and Baker, 2017)

THE REALITY OF CON LAWS

Encourage hospital substitutes?

Estimated number
of Alaska ASCs
without CON



THE STATED GOALS OF CON LAWS

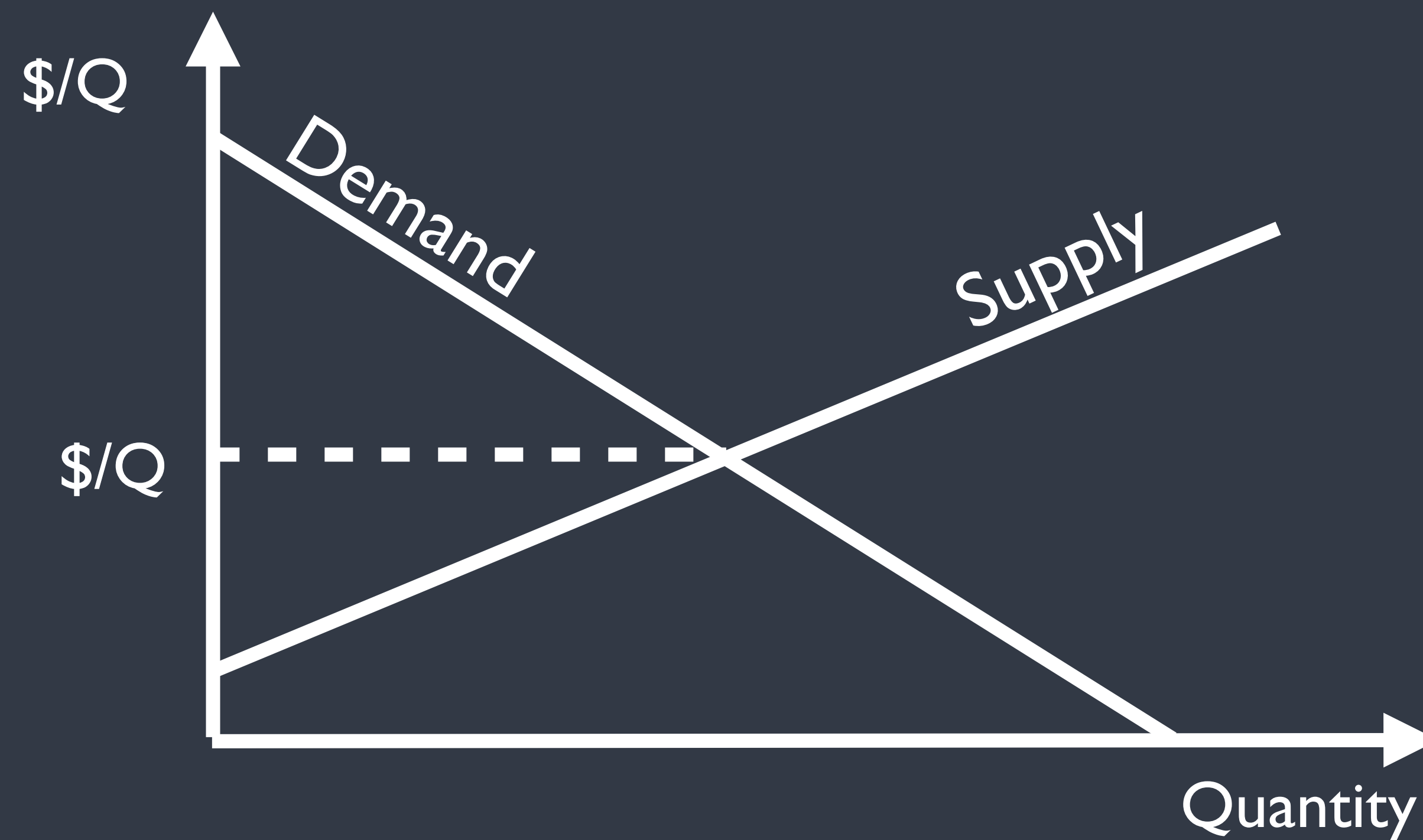


1974
National Health
Planning and
Resources
Development
Act

Ensure an adequate supply of HC
Ensure rural access to HC
Promote high quality HC
Promote charity care
Encourage hospital substitutes
Restrain the cost of care

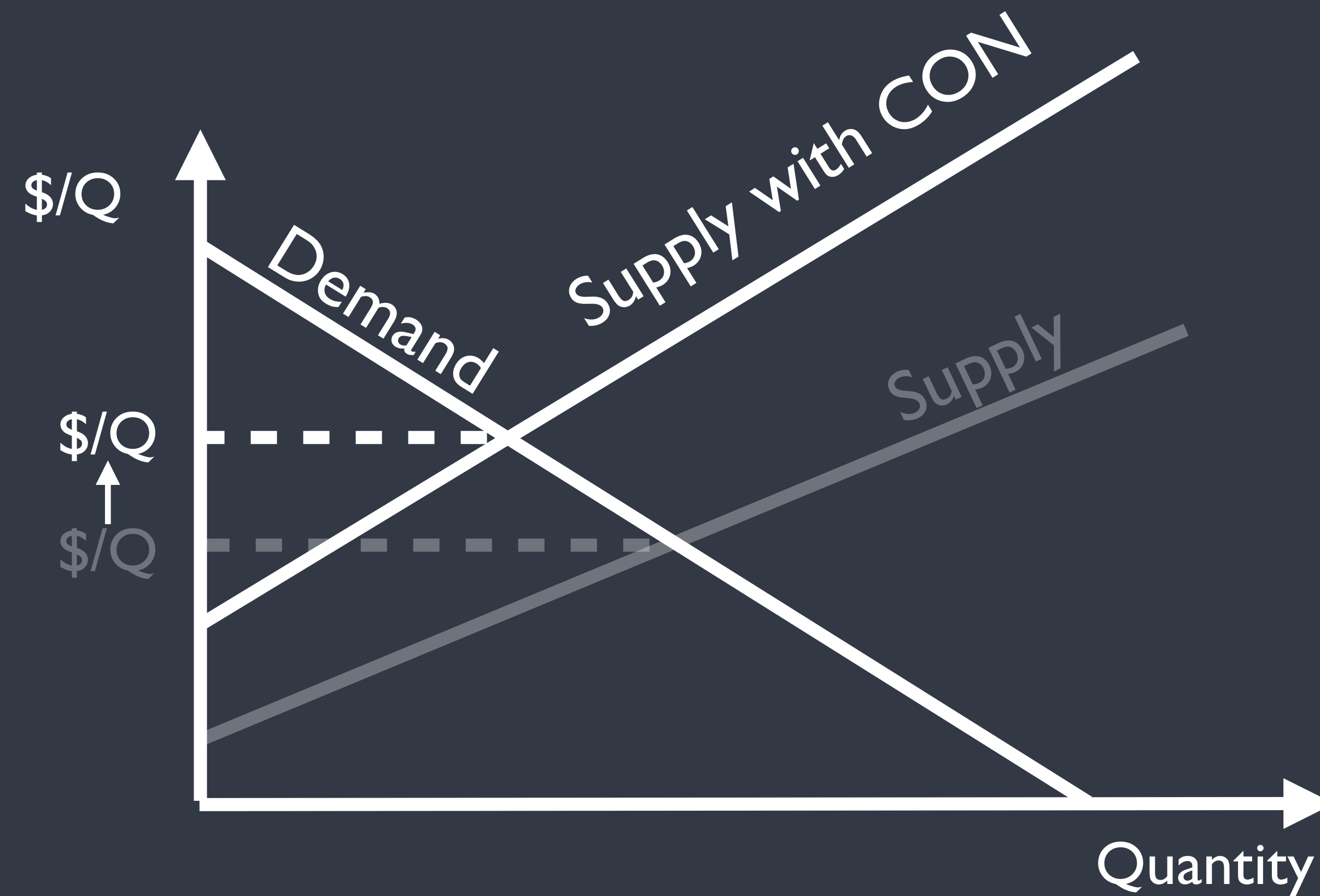
THE REALITY OF CON LAWS

Restrain the cost of care?



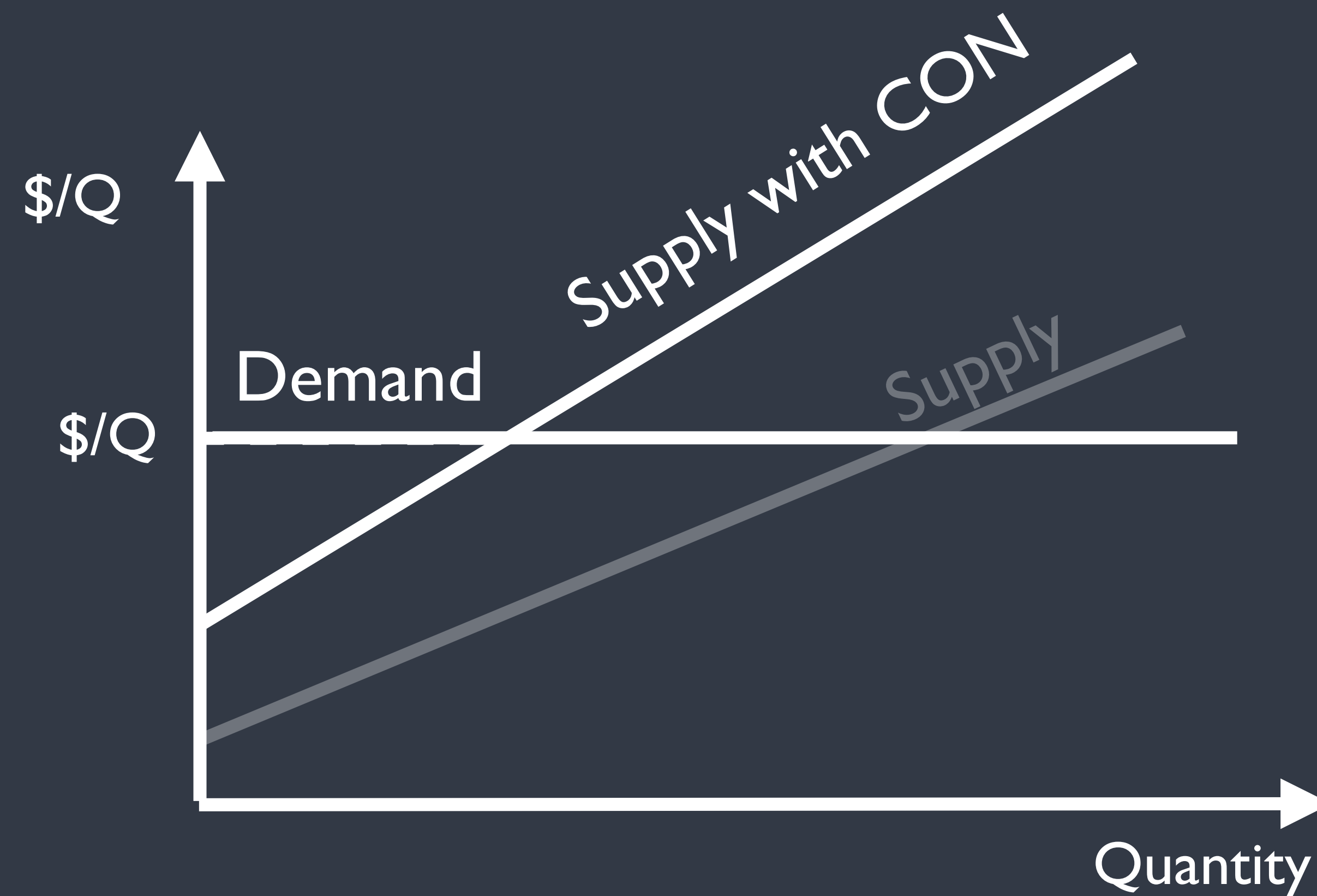
THE REALITY OF CON LAWS

Restrain the cost of care?



THE REALITY OF CON LAWS

Restrain the cost of care?



Do Certificate-of-Need Laws Limit Spending?

Matthew D. Mitchell

September 2016

MERCATUS WORKING PAPER

 **MERCATUS CENTER**
George Mason University
3434 Washington Blvd., 4th Floor, Arlington, Virginia 22201
www.mercatus.org

**Do Certificate-of-Need Laws
Limit Spending?**

Matthew D. Mitchell

September 2016

MERCATUS WORKING PAPER

 **MERCATUS CENTER**
George Mason University
3434 Washington Blvd., 4th Floor, Arlington, Virginia 22201
www.mercatus.org

A review of 20 peer-reviewed academic studies finds that CON laws have worked largely as economic theory predicts and that they have failed to achieve their stated goal of cost reduction. The overwhelming weight of evidence suggests that CON laws are associated with both higher per unit costs and higher total expenditures.

Matthew Mitchell, PhD
Senior Research Fellow



ALASKA'S CON LAW

LESSONS FROM THREE DECADES OF RESEARCH

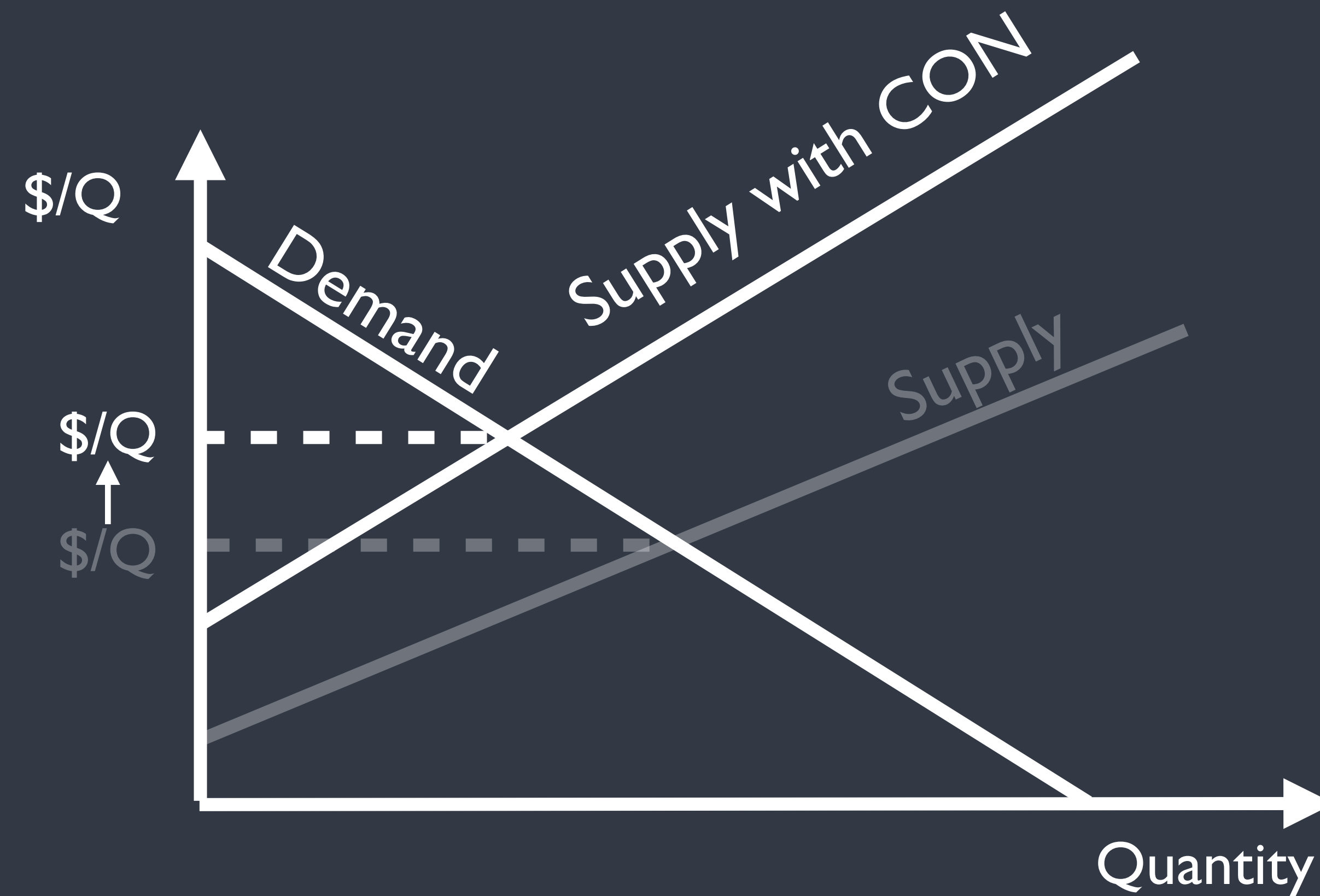
Alaska Senate
Health & Social Services Committee

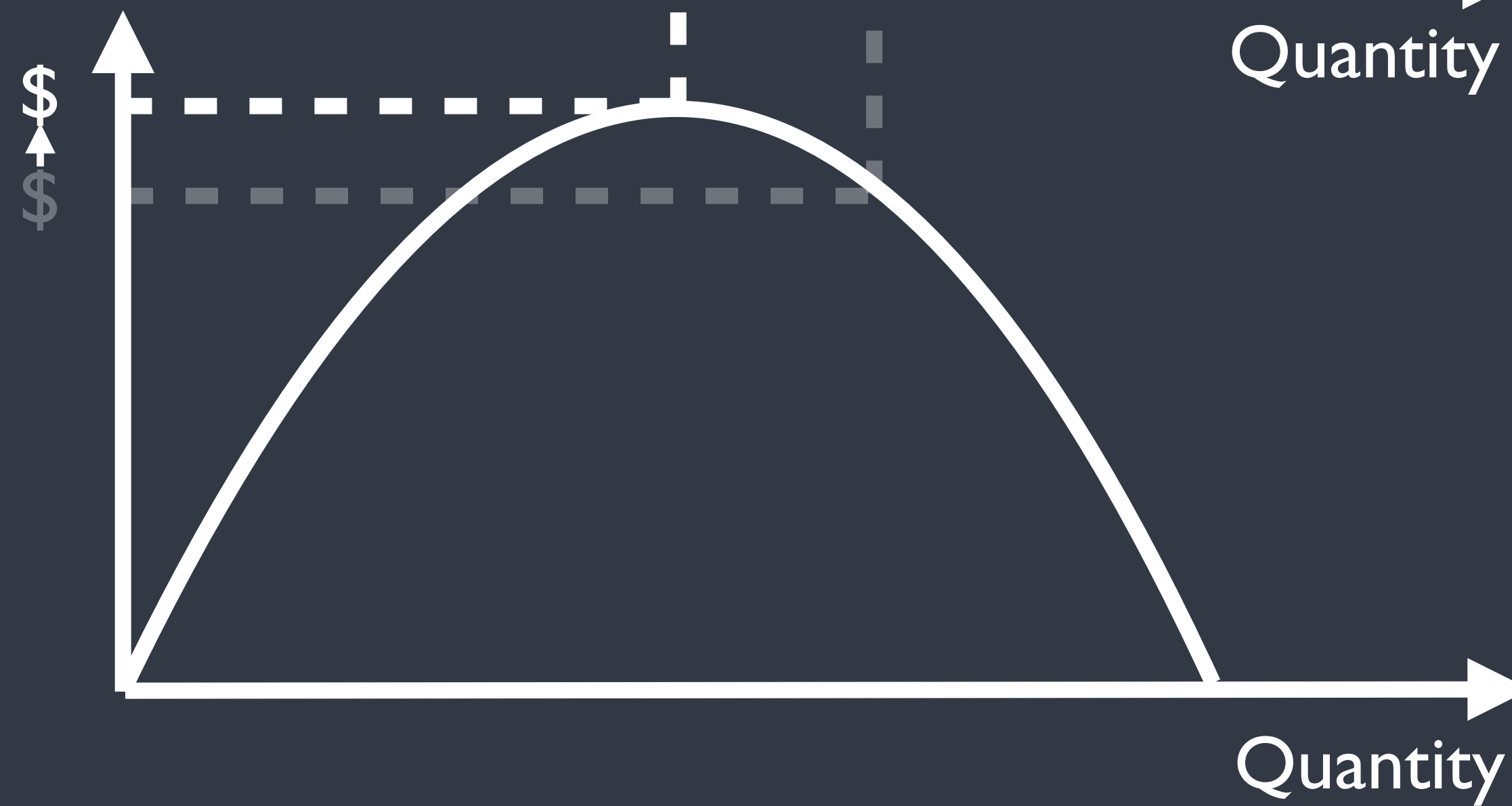
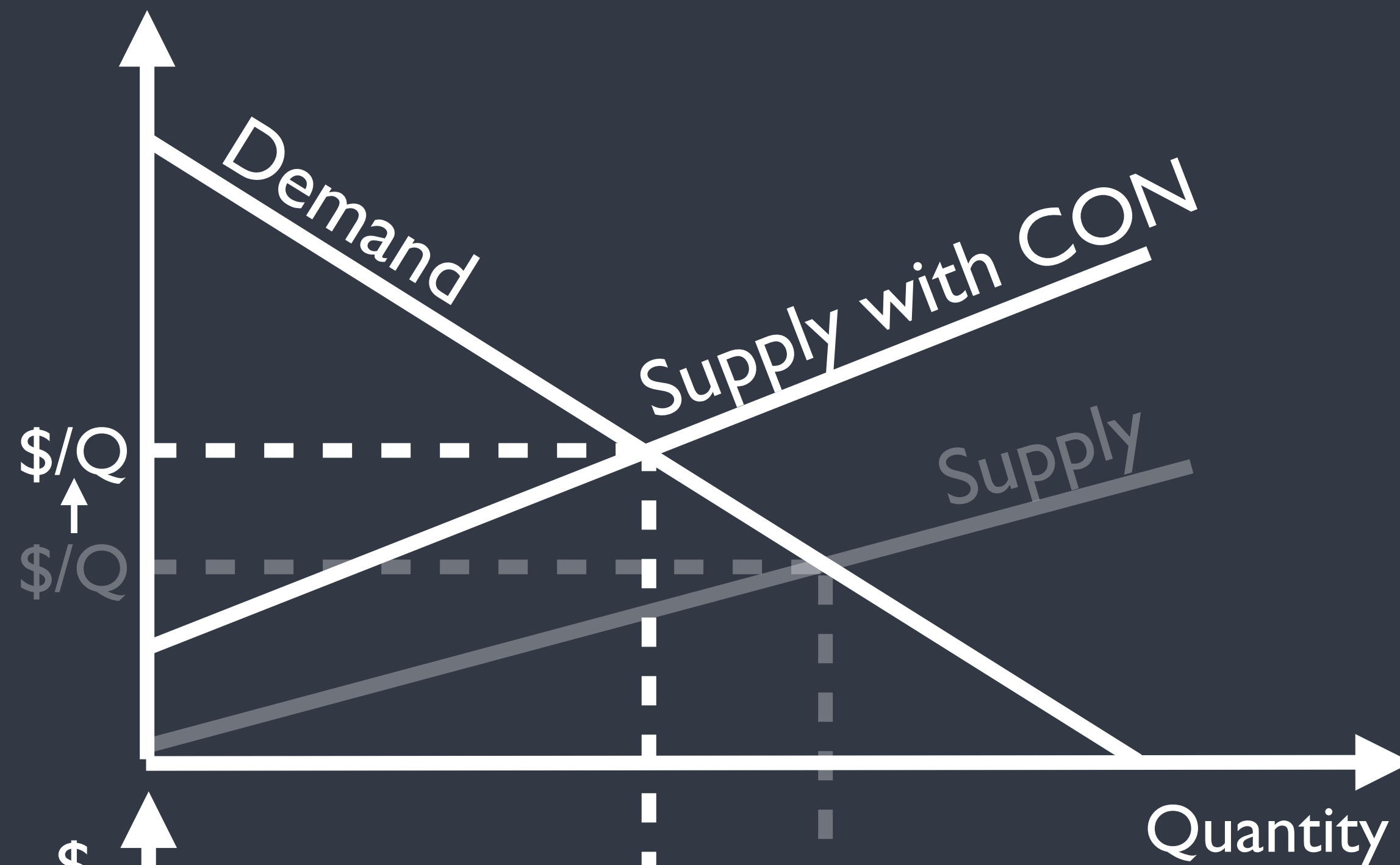
March 27, 2019

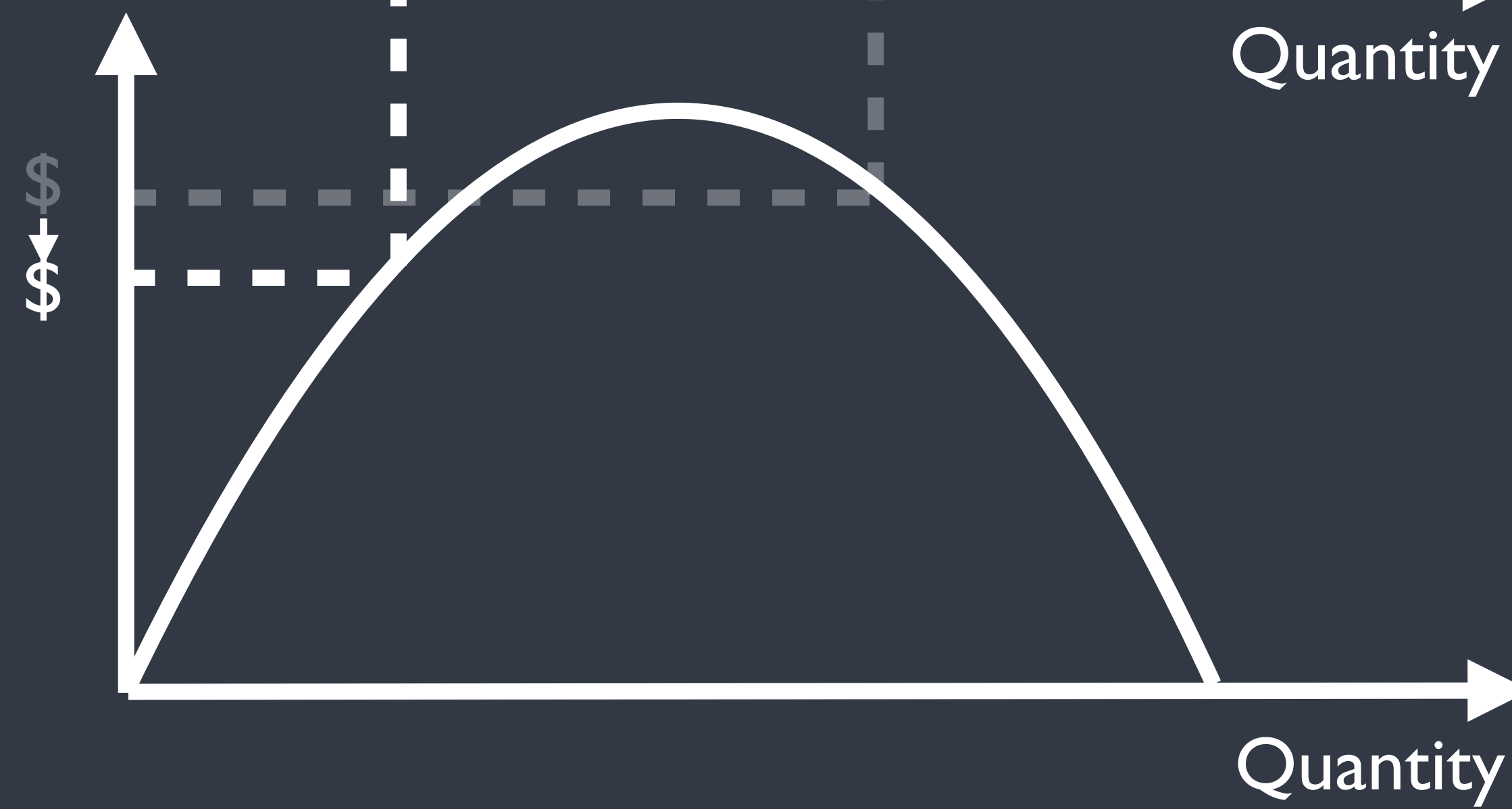
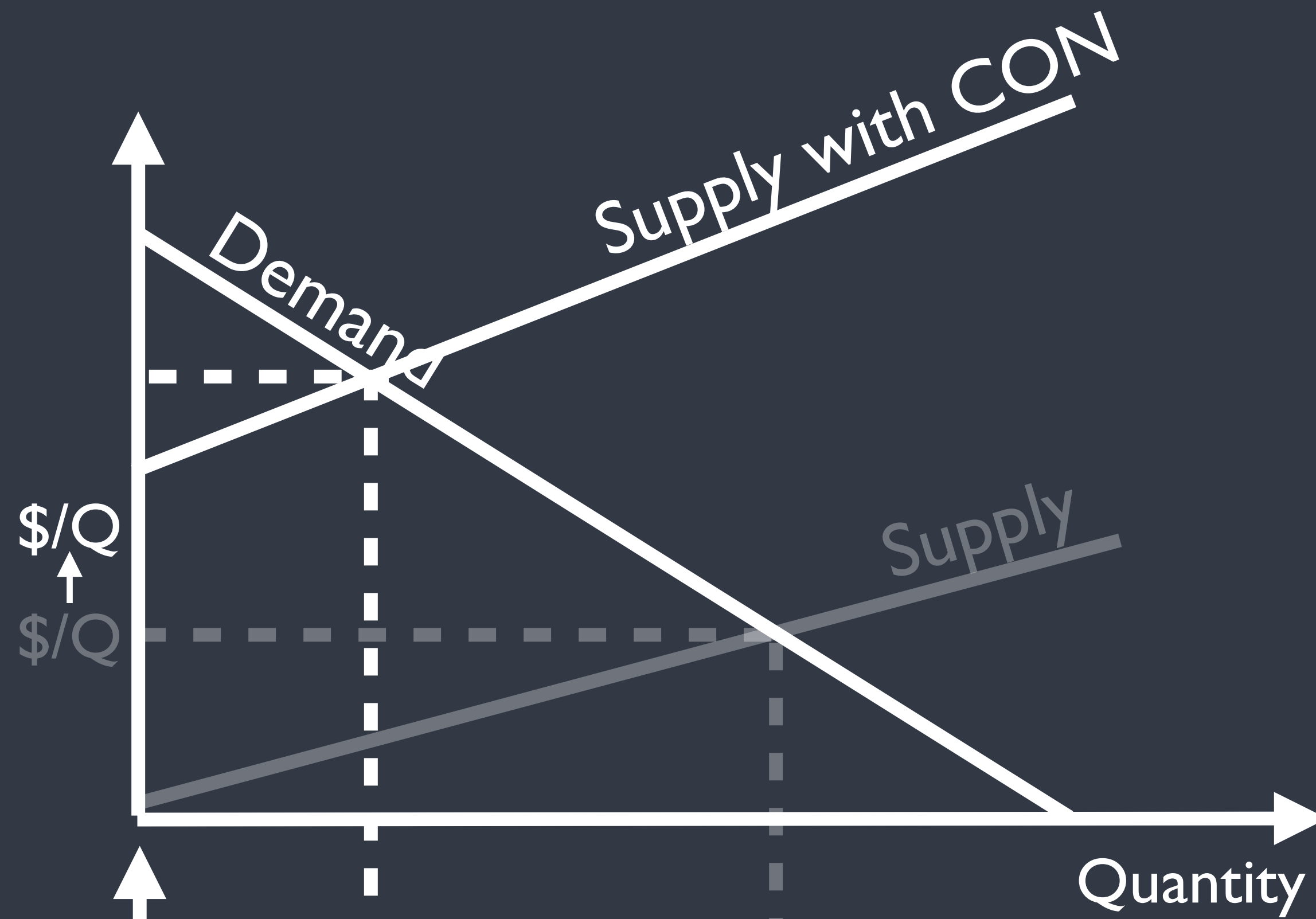
Appendix

WHY WOULD ANYONE THINK CON LAWS

Restrain the cost of care?







THE REALITY OF CON LAWS

Restrain the cost of care?

4 decades of research

20 studies

only peer reviewed

THE REALITY OF CON LAWS

Restrain the cost of care?

COMPARISON AMONG HOSPITALS*

Medical Economics
All Hospitals, 2004-2005
Ranking by 2004-2005

Abstract
The traditional view of hospital competition is that hospitals compete on price. However, various studies have shown that hospitals are not price takers. In fact, they are price makers. This study compares the effect of Certificate of Need (CON) laws on hospital competition among hospitals. It finds that CON laws are associated with higher prices and lower quality of care. This suggests that CON laws may be a barrier to competition and a source of higher prices for patients.

Introduction
The impact of Certificate of Need (CON) laws on hospital investment has been a topic of debate for many years. While some argue that CON laws are necessary to ensure that hospitals invest in new services and equipment, others argue that they are a barrier to competition and a source of higher prices for patients. This study examines the impact of CON laws on hospital investment and competition among hospitals.

Author Affiliation and Contact Information
David S. Salkey
Thomas W. Rice
Department of Economics and Finance
College of Business
George Mason University
Jdsalkey@gpm.gsu.edu

The Effects of CON Repeal on Medicaid Nursing Home and Long Term Care Expenditures

David C. Gabelnick
Robert L. Oshinski
Michael A. Henney

Abstract
The effects of Certificate of Need (CON) laws on Medicaid nursing home and long term care expenditures have been a topic of debate for many years. While some argue that CON laws are necessary to ensure that nursing homes invest in new services and equipment, others argue that they are a barrier to competition and a source of higher prices for patients. This study examines the impact of CON laws on Medicaid nursing home and long term care expenditures.

Introduction
The effects of Certificate of Need (CON) laws on Medicaid nursing home and long term care expenditures have been a topic of debate for many years. While some argue that CON laws are necessary to ensure that nursing homes invest in new services and equipment, others argue that they are a barrier to competition and a source of higher prices for patients. This study examines the impact of CON laws on Medicaid nursing home and long term care expenditures.

Regulation of Medicare Costs for Cardiac Care

John J. Gonsky
John J. Gonsky

Abstract
The effects of Certificate of Need (CON) laws on Medicare costs for cardiac care have been a topic of debate for many years. While some argue that CON laws are necessary to ensure that hospitals invest in new services and equipment, others argue that they are a barrier to competition and a source of higher prices for patients. This study examines the impact of CON laws on Medicare costs for cardiac care.

Introduction
The effects of Certificate of Need (CON) laws on Medicare costs for cardiac care have been a topic of debate for many years. While some argue that CON laws are necessary to ensure that hospitals invest in new services and equipment, others argue that they are a barrier to competition and a source of higher prices for patients. This study examines the impact of CON laws on Medicare costs for cardiac care.

Access to Community-Based Long-Term Care

Sharon M. Miller
Charles H. Harkness
Elizabeth D. Denton

Abstract
The effects of Certificate of Need (CON) laws on access to community-based long-term care have been a topic of debate for many years. While some argue that CON laws are necessary to ensure that community-based long-term care facilities invest in new services and equipment, others argue that they are a barrier to competition and a source of higher prices for patients. This study examines the impact of CON laws on access to community-based long-term care.

Introduction
The effects of Certificate of Need (CON) laws on access to community-based long-term care have been a topic of debate for many years. While some argue that CON laws are necessary to ensure that community-based long-term care facilities invest in new services and equipment, others argue that they are a barrier to competition and a source of higher prices for patients. This study examines the impact of CON laws on access to community-based long-term care.

The Effect of Certificate-of-Need Laws on Hospital Beds and Healthcare Expenditures: An Empirical Analysis

David S. Salkey
Thomas W. Rice

Abstract
The effect of Certificate of Need (CON) laws on hospital beds and healthcare expenditures has been a topic of debate for many years. While some argue that CON laws are necessary to ensure that hospitals invest in new services and equipment, others argue that they are a barrier to competition and a source of higher prices for patients. This study examines the effect of CON laws on hospital beds and healthcare expenditures.

Introduction
The effect of Certificate of Need (CON) laws on hospital beds and healthcare expenditures has been a topic of debate for many years. While some argue that CON laws are necessary to ensure that hospitals invest in new services and equipment, others argue that they are a barrier to competition and a source of higher prices for patients. This study examines the effect of CON laws on hospital beds and healthcare expenditures.

The Impact of Certificate-of-Need on Hospital Investment

David S. Salkey
Thomas W. Rice

Abstract
The impact of Certificate of Need (CON) laws on hospital investment has been a topic of debate for many years. While some argue that CON laws are necessary to ensure that hospitals invest in new services and equipment, others argue that they are a barrier to competition and a source of higher prices for patients. This study examines the impact of CON laws on hospital investment.

Introduction
The impact of Certificate of Need (CON) laws on hospital investment has been a topic of debate for many years. While some argue that CON laws are necessary to ensure that hospitals invest in new services and equipment, others argue that they are a barrier to competition and a source of higher prices for patients. This study examines the impact of CON laws on hospital investment.

The Impact of CON Regulation on Hospital Services

John J. Gonsky
John J. Gonsky

Abstract
The impact of Certificate of Need (CON) laws on hospital services has been a topic of debate for many years. While some argue that CON laws are necessary to ensure that hospitals invest in new services and equipment, others argue that they are a barrier to competition and a source of higher prices for patients. This study examines the impact of CON laws on hospital services.

Introduction
The impact of Certificate of Need (CON) laws on hospital services has been a topic of debate for many years. While some argue that CON laws are necessary to ensure that hospitals invest in new services and equipment, others argue that they are a barrier to competition and a source of higher prices for patients. This study examines the impact of CON laws on hospital services.

State Regulation and Hospital Costs

John J. Gonsky
John J. Gonsky

Abstract
The impact of state regulation on hospital costs has been a topic of debate for many years. While some argue that state regulation is necessary to ensure that hospitals invest in new services and equipment, others argue that it is a barrier to competition and a source of higher prices for patients. This study examines the impact of state regulation on hospital costs.

Introduction
The impact of state regulation on hospital costs has been a topic of debate for many years. While some argue that state regulation is necessary to ensure that hospitals invest in new services and equipment, others argue that it is a barrier to competition and a source of higher prices for patients. This study examines the impact of state regulation on hospital costs.

Does certificate of need really contain hospital costs in the United States?

Patrick A. Rivers, Myron D. Foster and Mustafa Zeebani Younis

Abstract
The impact of Certificate of Need (CON) laws on hospital costs in the United States has been a topic of debate for many years. While some argue that CON laws are necessary to ensure that hospitals invest in new services and equipment, others argue that they are a barrier to competition and a source of higher prices for patients. This study examines the impact of CON laws on hospital costs in the United States.

Introduction
The impact of Certificate of Need (CON) laws on hospital costs in the United States has been a topic of debate for many years. While some argue that CON laws are necessary to ensure that hospitals invest in new services and equipment, others argue that they are a barrier to competition and a source of higher prices for patients. This study examines the impact of CON laws on hospital costs in the United States.

Healthcare Inefficiency in the Production of Services*

John J. Gonsky
John J. Gonsky

Abstract
Healthcare inefficiency in the production of services has been a topic of debate for many years. While some argue that healthcare inefficiency is necessary to ensure that hospitals invest in new services and equipment, others argue that it is a barrier to competition and a source of higher prices for patients. This study examines healthcare inefficiency in the production of services.

Introduction
Healthcare inefficiency in the production of services has been a topic of debate for many years. While some argue that healthcare inefficiency is necessary to ensure that hospitals invest in new services and equipment, others argue that it is a barrier to competition and a source of higher prices for patients. This study examines healthcare inefficiency in the production of services.

THE REALITY OF CON LAWS

Per unit cost

Journal of Health Economics 7 (1988) 205-211, North-Holland

COMPETITION AMONG HOSPITALS*

Melissa ROETHLIE

400 University, Cambridge, MA 02138-3804, USA

Received March 1987, final version received April 1988

The traditional view of hospital competition has posited that hospitals compete internally along hospital boundaries, in the form of being subject to other, relatively immobile and immobile, non-competitive services. More competitive arrangements, a thought to be an outcome that more increases the efficiency of health care, are also possible. In this paper, we investigate the effect of hospital competition on the prices hospitals charge. Hospital competition may lower costs on quality in order to attract.

*This paper was for the most part written while the author was employed by the Federal Reserve Commission. In writing the terms of the author and is not intended to represent the position of the Federal Reserve Commission or any individual Commissioner. It is contained here as a longer FRC report on the same subject. Another 1987, which also in response from the same. Other FRC reports on this subject, to name some of the best ones, and authors and copyright ones of the author. The effect was independent of the project. I also did in fact, in the papers, Mark Fuchs, Paul Hirsch, Karl Hoyer, Richard Rogan, Bruce Lipton, Mike Linn, and Thomas. Ted Miller, David Meltzer, and the author. For more related information, see the author's Health Economics and Health Economics and Health Economics.

© 1988 Elsevier B.V. All rights reserved. 0167-6296/88/0003-0205\$03.00/0

0167-6296/88/0003-0205\$03.00/0

James Bailey, "Can Health Spending be Reduced through Supply Constraints? An Evaluation of Certificate-of-Need Laws," *Mercatus Working Paper*, Mercatus Center George Mason University, Arlington, VA, July 2010

Abstract

For 30 years, US policymakers and economists have searched for ways to slow the growth of spending on health care. One approach, currently valued by 18 states to be needed to supply and health care by restricting and growing providers to show that they serve an "economic need," hospitals and certain other health providers must obtain a certificate of need (CON) from a state board before opening or expanding. I show that in a simple model where CON restricts supply, the effect of CON on spending depends on the price elasticity of market demand for health care. CON will work to restrain spending when demand is elastic, however, most estimates from the demand for health care to be quite inelastic. I therefore predict that CON will increase prices for health care without much reducing its use, leading to an increase in spending. Using data from the National Health Expenditure Accounts, I estimate that CON laws do not reduce spending, any major payer or for any major type of provider and that they increase spending on some types of health care.

JEL codes I11, I18, H71

Keywords: healthcare spending, certificate of need, healthcare supply, regulation

Author Affiliation and Contact Information

James Bailey, Department of Economics and Finance, Hunter College of Business, CUNY City University of New York, New York, NY 10021, USA. Email: jbailey@hunter.cuny.edu

Acknowledgments

Thanks to Heather Lewis, Michael Rovee, Ann Cherny, Mahesh Elavarasi, Matt Mitchell, Tom Ichniowski, participants in the Longitudinal Business, Income, Environment, and Policy Seminar and the association of Private Enterprise Education 2010 meeting, and several anonymous reviewers for helpful comments.

David C. Gohmert, Robert L. Oshoff, Michael A. Morisy

The Effects of CON Repeal on Medicaid Nursing Home and Long-Term Care Expenditures

Abstract

Certificate-of-need (CON) and construction moratorium laws are used widely by states as a potential mechanism for constraining Medicaid nursing home expenditures. However, there is only limited empirical work examining whether these policies are effective at slowing Medicaid spending. Using aggregate state-level data from 1978 through 2006, this study found that states that repealed their CON and moratorium laws had no significant growth in either nursing home or long-term care Medicaid expenditures. In the context of declining occupancy rates within the nursing home market, this study provides strong evidence that states have failed to face in terms of increased expenditures with the repeal of CON and moratorium laws.

It is widely known that certificate of need (CON) programs have been ineffective in controlling hospital costs (Lanning, Morisy, and Oshoff 1991; Lamer and Smith 1991), however many researchers find such programs have had the opposite effect on nursing home industry, and family health care. Medicaid expenditures, total and family health care (FHC) were among the first to rise in the 1990s. They argued that CON moratoriums were not only ineffective in controlling nursing home expenditures, but also may have increased the cost of nursing home care. Second, a moratorium on Medicaid long-term care expenditures may be effective in limiting nursing home expenditures, but also may lead to greater use of home health care services by people eligible for Medicaid. Indeed, it has been argued that such substitution is a goal of some nursing home CON programs (Lanning, Morisy, and Oshoff 1991). Surprisingly, there has been little empirical work on the ability of states to reduce the effects on Medicaid long-term care expenditures.

This paper fills this void in three ways. First, it empirically examines the effect of nursing home CON and construction moratoriums on Medicaid nursing home expenditures over the 1981 to 1998 period. During these years, 19 states repealed their CON nursing home laws for some period of time. 20 moratoriums on nursing homes, and 0 states repealed their CON program without imposing a moratorium. Second, I examine the effects of CON programs on Medicaid long-term care expenditures. CON may be effective in limiting nursing home expenditures, but also may lead to greater use of home health care services by people eligible for Medicaid. Indeed, it has been argued that such substitution is a goal of some nursing home CON programs (Lanning, Morisy, and Oshoff 1991). Surprisingly, there has been little empirical work on the ability of states to reduce the effects on Medicaid long-term care expenditures.

State Deregulation and Medicare Costs for Acute Cardiac Care

Walter Ho and Heel-Hwang Ki-Gook

Abstract

Previous literature suggests that Certificate of Need (CON) regulations for cardiac care were ineffective in improving quality but were known about the effect of CON on patient costs. We analyzed Medicare data for 1991-2002 to test whether states that dropped CON experienced changes in costs or reimbursement for coronary artery bypass graft (CABG) surgery or percutaneous coronary intervention. We found that states that dropped CON experienced lower costs for patients for CABG but not for percutaneous coronary intervention. Average Medicare reimbursement was lower for both procedures in states that dropped CON. The cost savings from removing CON regulations slightly raised the total paid costs of new CABG patients that existed after deregulation. Assuming continued cost savings past 2001, the savings from deregulating CABG surgery outweigh the fixed costs of new entry. Thus, CON regulations for CABG may not be justified in terms of either improving quality or controlling cost growth.

Keywords

Certificate of Need (CON), coronary artery bypass graft (CABG), percutaneous coronary intervention (PCI), patient care methods

3 studies: CON associated with higher cost

1 study: No detected effect on Medicaid costs

THE REALITY OF CON LAWS

Per patient expenditure



- 7 studies: CON increases expenditures
- 2 studies: No statistically significant effect
- 2 studies: Increases some expenditures and reduces others
- 1 study: Reduces the number of beds

THE REALITY OF CON LAWS

Restrain the cost of care?

COMPARISON AMONG HOSPITALS

Journal of Health Economics 27 (2004) 109–120, 109–110

Robert L. Oshinski, Robert L. Oshinski, Michael A. Morley

The Effects of CON Repeal on Medicaid Nursing Home and Long Term Care Expenditures

Abstract: For 30 years, US politicians and economists have searched for ways to slow the growth of spending on health care. One approach commonly taken by 20 states is to restrict the supply of health care by restricting and providing providers to show that they serve an "economic need." Hospitals and certain other health providers must obtain a certificate of need (CON) from a state before opening or expanding. While this is a simple model where CONs restrict supply, the effect of CON on spending depends on the price elasticity of market demand for health care. CONs do not restrict supply when demand is elastic, however, most estimates show the demand for health care to be quite inelastic. I therefore predict that CON will increase costs for health care without much reducing its use, leading to an increase in spending. Using data from the National Health Expenditure Accounts, I estimate that CON laws do not reduce spending by any major payer or for any major type of provider and that they increase spending on some types of health care.

JEL codes: I11, H11, H21

Keywords: health care spending, certificate of need, healthcare supply, regulation

Author Affiliation and Contact Information: James Bailey, American Professor, Department of Economics and Finance, Hunter College of Business, CUNY City University of New York, CUNY City University of New York, 65th Street, New York, NY 10022, USA. E-mail: jbailey@hunter.cuny.edu

The Impact of Certificate-of-Need on Hospital Investment

DAVID S. SALKOVIC, THOMAS W. BECK

Abstract: Certificate-of-Need (CON) controls over hospital investment have been used in many states in recent years and the National Health Planning and Resources Act of 1974 provides strong incentives for adaptive investment. In this study, we review the questions that have been asked about CON controls and their underlying justification on the part of CON investment. These estimates show that CON did not reduce investment but allowed for competition, resulting in higher but increasing investment in new services and equipment. This finding may be due to (1) the emphasis in CON laws and programs on controlling bed supplies and (2) a substitution of new services and equipment for additional beds in response to financial factors and organizational pressures for expansion. Finally, we caution against the conclusion that CON controls should be broadened and tightened, though our results might be an overstatement because of the practical difficulties involved in reviewing and controlling large numbers of small-investment projects.

Introduction: In the wake of rapid post-Medicare cost inflation, investment controls have emerged as important regulatory mechanisms for moderating the rise in health services expenditures. These controls take two forms: (1) legal prohibitions of unnecessary capital investment, and (2) financial controls, whereby a health care institution's eligibility to receive capital or operating funds relating to an investment project is dependent upon the approval of designated planning agencies. Presently, both types are widespread. Legal prohibitions are in effect through certificate-of-need (CON) laws in twenty-four states and similar legislation has been proposed in seven other states (Lewis and Associates, Inc., 1974). Moreover, with the passage of P.L. 93-641, the National Health Planning and Resources Development Act of 1974, CON was slated for adoption by all participating states.

Several types of financial controls have been applied. Under MFPQ / Health and Society / Spring 1978

Regulation of Cardiac Care

Journal of Health Economics 27 (2004) 109–120, 109–110

David S. Salkovic, Robert L. Oshinski, Michael A. Morley

The Effects of CON Repeal on Medicaid Nursing Home and Long Term Care Expenditures

Abstract: For 30 years, US politicians and economists have searched for ways to slow the growth of spending on health care. One approach commonly taken by 20 states is to restrict the supply of health care by restricting and providing providers to show that they serve an "economic need." Hospitals and certain other health providers must obtain a certificate of need (CON) from a state before opening or expanding. While this is a simple model where CONs restrict supply, the effect of CON on spending depends on the price elasticity of market demand for health care. CONs do not restrict supply when demand is elastic, however, most estimates show the demand for health care to be quite inelastic. I therefore predict that CON will increase costs for health care without much reducing its use, leading to an increase in spending. Using data from the National Health Expenditure Accounts, I estimate that CON laws do not reduce spending by any major payer or for any major type of provider and that they increase spending on some types of health care.

JEL codes: I11, H11, H21

Keywords: health care spending, certificate of need, healthcare supply, regulation

Author Affiliation and Contact Information: James Bailey, American Professor, Department of Economics and Finance, Hunter College of Business, CUNY City University of New York, CUNY City University of New York, 65th Street, New York, NY 10022, USA. E-mail: jbailey@hunter.cuny.edu

Access to Community-Based Long-Term Care

Journal of Health Economics 27 (2004) 109–120, 109–110

David S. Salkovic, Robert L. Oshinski, Michael A. Morley

The Effects of CON Repeal on Medicaid Nursing Home and Long Term Care Expenditures

Abstract: For 30 years, US politicians and economists have searched for ways to slow the growth of spending on health care. One approach commonly taken by 20 states is to restrict the supply of health care by restricting and providing providers to show that they serve an "economic need." Hospitals and certain other health providers must obtain a certificate of need (CON) from a state before opening or expanding. While this is a simple model where CONs restrict supply, the effect of CON on spending depends on the price elasticity of market demand for health care. CONs do not restrict supply when demand is elastic, however, most estimates show the demand for health care to be quite inelastic. I therefore predict that CON will increase costs for health care without much reducing its use, leading to an increase in spending. Using data from the National Health Expenditure Accounts, I estimate that CON laws do not reduce spending by any major payer or for any major type of provider and that they increase spending on some types of health care.

JEL codes: I11, H11, H21

Keywords: health care spending, certificate of need, healthcare supply, regulation

Author Affiliation and Contact Information: James Bailey, American Professor, Department of Economics and Finance, Hunter College of Business, CUNY City University of New York, CUNY City University of New York, 65th Street, New York, NY 10022, USA. E-mail: jbailey@hunter.cuny.edu

Effects of Regulation on HCIS and INPAT USE

Journal of Health Economics 27 (2004) 109–120, 109–110

David S. Salkovic, Robert L. Oshinski, Michael A. Morley

The Effects of CON Repeal on Medicaid Nursing Home and Long Term Care Expenditures

Abstract: For 30 years, US politicians and economists have searched for ways to slow the growth of spending on health care. One approach commonly taken by 20 states is to restrict the supply of health care by restricting and providing providers to show that they serve an "economic need." Hospitals and certain other health providers must obtain a certificate of need (CON) from a state before opening or expanding. While this is a simple model where CONs restrict supply, the effect of CON on spending depends on the price elasticity of market demand for health care. CONs do not restrict supply when demand is elastic, however, most estimates show the demand for health care to be quite inelastic. I therefore predict that CON will increase costs for health care without much reducing its use, leading to an increase in spending. Using data from the National Health Expenditure Accounts, I estimate that CON laws do not reduce spending by any major payer or for any major type of provider and that they increase spending on some types of health care.

JEL codes: I11, H11, H21

Keywords: health care spending, certificate of need, healthcare supply, regulation

Author Affiliation and Contact Information: James Bailey, American Professor, Department of Economics and Finance, Hunter College of Business, CUNY City University of New York, CUNY City University of New York, 65th Street, New York, NY 10022, USA. E-mail: jbailey@hunter.cuny.edu

Does certificate of need really contain hospital costs in the United States?

Journal of Health Economics 27 (2004) 109–120, 109–110

David S. Salkovic, Robert L. Oshinski, Michael A. Morley

The Effects of CON Repeal on Medicaid Nursing Home and Long Term Care Expenditures

Abstract: For 30 years, US politicians and economists have searched for ways to slow the growth of spending on health care. One approach commonly taken by 20 states is to restrict the supply of health care by restricting and providing providers to show that they serve an "economic need." Hospitals and certain other health providers must obtain a certificate of need (CON) from a state before opening or expanding. While this is a simple model where CONs restrict supply, the effect of CON on spending depends on the price elasticity of market demand for health care. CONs do not restrict supply when demand is elastic, however, most estimates show the demand for health care to be quite inelastic. I therefore predict that CON will increase costs for health care without much reducing its use, leading to an increase in spending. Using data from the National Health Expenditure Accounts, I estimate that CON laws do not reduce spending by any major payer or for any major type of provider and that they increase spending on some types of health care.

JEL codes: I11, H11, H21

Keywords: health care spending, certificate of need, healthcare supply, regulation

Author Affiliation and Contact Information: James Bailey, American Professor, Department of Economics and Finance, Hunter College of Business, CUNY City University of New York, CUNY City University of New York, 65th Street, New York, NY 10022, USA. E-mail: jbailey@hunter.cuny.edu

Effect of Certificate-of-Need Laws on Hospital Beds and Healthcare Expenditures: An Empirical Analysis

Journal of Health Economics 27 (2004) 109–120, 109–110

David S. Salkovic, Robert L. Oshinski, Michael A. Morley

The Effects of CON Repeal on Medicaid Nursing Home and Long Term Care Expenditures

Abstract: For 30 years, US politicians and economists have searched for ways to slow the growth of spending on health care. One approach commonly taken by 20 states is to restrict the supply of health care by restricting and providing providers to show that they serve an "economic need." Hospitals and certain other health providers must obtain a certificate of need (CON) from a state before opening or expanding. While this is a simple model where CONs restrict supply, the effect of CON on spending depends on the price elasticity of market demand for health care. CONs do not restrict supply when demand is elastic, however, most estimates show the demand for health care to be quite inelastic. I therefore predict that CON will increase costs for health care without much reducing its use, leading to an increase in spending. Using data from the National Health Expenditure Accounts, I estimate that CON laws do not reduce spending by any major payer or for any major type of provider and that they increase spending on some types of health care.

JEL codes: I11, H11, H21

Keywords: health care spending, certificate of need, healthcare supply, regulation

Author Affiliation and Contact Information: James Bailey, American Professor, Department of Economics and Finance, Hunter College of Business, CUNY City University of New York, CUNY City University of New York, 65th Street, New York, NY 10022, USA. E-mail: jbailey@hunter.cuny.edu

Efficiency in the Production of Services*

Journal of Health Economics 27 (2004) 109–120, 109–110

David S. Salkovic, Robert L. Oshinski, Michael A. Morley

The Effects of CON Repeal on Medicaid Nursing Home and Long Term Care Expenditures

Abstract: For 30 years, US politicians and economists have searched for ways to slow the growth of spending on health care. One approach commonly taken by 20 states is to restrict the supply of health care by restricting and providing providers to show that they serve an "economic need." Hospitals and certain other health providers must obtain a certificate of need (CON) from a state before opening or expanding. While this is a simple model where CONs restrict supply, the effect of CON on spending depends on the price elasticity of market demand for health care. CONs do not restrict supply when demand is elastic, however, most estimates show the demand for health care to be quite inelastic. I therefore predict that CON will increase costs for health care without much reducing its use, leading to an increase in spending. Using data from the National Health Expenditure Accounts, I estimate that CON laws do not reduce spending by any major payer or for any major type of provider and that they increase spending on some types of health care.

JEL codes: I11, H11, H21

Keywords: health care spending, certificate of need, healthcare supply, regulation

Author Affiliation and Contact Information: James Bailey, American Professor, Department of Economics and Finance, Hunter College of Business, CUNY City University of New York, CUNY City University of New York, 65th Street, New York, NY 10022, USA. E-mail: jbailey@hunter.cuny.edu



THE REALITY OF CON LAWS

Hospital Efficiency

Market Structure and Technical Efficiency in the Hospital Services Industry: A DEA Approach

Laurie J. Bates
Bryant College
Kankens Muetherje
Worcester Polytechnic Institute
Rayford E. Sosters
University of Connecticut

This article uses data envelopment analysis and multiple regression analysis to examine empirically the impact of various market structure elements on the technical efficiency of the hospital services industry in various metropolitan areas of the United States. Market structure elements include the degree of industry concentration, extent of HMO activity, and health insurer concentration. The DEA results show that typical hospital services industry experienced 1 percent inefficiency in 1999. Moreover, multiple regression analysis indicates that the level of technical efficiency varied directly across metropolitan hospital services industries in response to greater HMO activity and private health insurer concentration in the state. The analysis suggests the degree of industry concentration among hospitals had no marginal effect on technical efficiency at the industry level. Evidence also implies that the presence of a state Certificate of Need law was not associated with a greater degree of inefficiency in the typical metropolitan hospital services industry.

Keywords: technical efficiency, hospital services, data envelopment analysis

Health care spending as a percentage of GDP has begun to rise once again in the United States, reporting upward from 13.3 percent in 2002 to 15.3 percent in 2003 (Goolsby et al. 2005). A large part of the growth spent can be

The Association of Hospital Cost-Inefficiency With Certificate-of-Need Regulation

Michael D. Rosko¹ and Ryan L. Mutter²

Abstract: Certificate-of-need (CON) regulations can promote hospital efficiency by reducing duplication of services; however, there are practical and theoretical reasons why they might be ineffective, and the empirical evidence generated has been mixed. This study compares the cost-inefficiency of urban acute care hospitals in states with CON regulations against those in states without. CON requirements, specifically, license allocation, facility siting, and technology adoption, are examined. A stochastic frontier analysis was performed on pooled time-series, cross-sectional data from 152 hospitals in 39 states for the period 2005 to 2009 with controls for variations in hospital product mix, quality, and patient burden of illness. Average technical cost-inefficiency was less in CON states (8.11%) than in non-CON states (12.4%). Results suggest that CON regulation may be an effective policy instrument in an era of a new medical arms race. However, broader analysis of the effects of CON regulation on efficiency, quality, access, prices, and innovation is needed before a policy recommendation can be made.

Keywords: certificate-of-need, efficiency, hospitals, stochastic frontier analysis

This article, submitted as Hospital Care Research and Review on April 10, 2012, was revised and accepted for publication on December 1, 2012.

Michael D. Rosko, PhD, is an Assistant Professor at the Center for Health Economics and Quality, University of Michigan.

Ryan L. Mutter, PhD, is an Assistant Professor at the Center for Health Economics and Quality, University of Michigan.

Allocative Inefficiency in the Production of Hospital Services*

B. KILIANENEN
University of Oregon
Eugene, Oregon

1. Introduction

Researchers have offered numerous theoretical models of hospital behavior that suggest inefficiency in the provision of hospital services. Explanations of inefficiency are tied to the regulatory and reputation of the industry, practical input problems, and the introduction of third-party reimbursement. Rubin and Estess (1) use a non-stochastic cost function to obtain estimates of allocative inefficiency for 111 U.S. short-stay hospitals. In this paper, I use a tool in the stochastic cost function by investigating variations in allocative inefficiency in the short-stay hospital industry. This is done by replacing the allocative efficiency estimator from Eitan and Rosner (2) with a stochastic frontier production function decomposition of inefficiency.

I define allocative inefficiency of the firm level, but focus on the point of view. Specifically, allocative inefficiency results from the misallocation of inputs in a production process, which is not cost-minimizing. A hospital may choose a non-cost-minimizing set of inputs if it evaluates the relative prices of inputs as being different from the actual prices. A relative price is the hospital's internal perception of the unit cost of an input. This perception may differ from the actual input price if, for example, the input owner directly subsidizes hospital's effective function. The hospital is assumed to minimize cost by equating the marginal rate of technical substitution and the labor's input shadow price. This is the shadow cost function that is dual to the underlying technology.

The hospital is modeled as a multiproduct firm. A modified stochastic cost function is used to develop a system of cost and short-run equilibrium which is estimated via nonlinear least squares regression. Hospital results indicate that overcapitalization and underemployment of physicians increase short-run hospital costs by about 9 percent. Hospital size is estimated to be about 1.1 percent of the gross national product, which is about three times the percentage in 1962. Thus, it appears to represent a large return to actual output. Further investigation identifies hospital size, market share, regulation, and geographic region as the hospital characteristics related to the measure of allocative inefficiency.

This paper is organized as follows. In section 2, I develop the empirical model based on a non-stochastic cost function. The statistical econometric function is a specification and data

The Impact of CON Regulation on Hospital Efficiency

DOI: 10.1007/s11285-012-9114-1

Received: 15 August 2011 / Accepted: 15 May 2012 / Published online: 27 July 2012
© Springer Science+Business Media B.V. 2012

Abstract: In this paper we propose an empirically testable measure of aggregated efficiency along the lines of Dvorak (1981), coefficient of resource utilization, individualized to hospitals. The efficiency measure is based on a stochastic frontier function, which allows the control of efficiency to be decomposed into technical and "structure" efficiency. The latter measure which captures inefficiencies associated with the operation of production units in industry, is further decomposed into measures of scale and size efficiency. The measures developed in this paper are illustrated using U.S. hospital data. The literature sheds light on the efficacy of certificate of need (CON) regulations.

Keywords: Hospital efficiency, Certificate of need, Stochastic frontier function, Structural efficiency

1. Introduction

CON laws which can bring some political issue in the United States. The law related to the measurement of efficiency is not the only issue that reflects in the research on efficient operation in a changing environment.

Along with CON laws and the increasing share of DRG payments for by health care spending have been concerns for some time that hospital costs are increasing part of their cost. Even in the implementation of the Medicare prospective payment system (PPS) in 1983, hospital costs continued to rise in the late 1980s (1983). Under the PPS, hospital costs are distributed as a function of the

2 studies: CON increases some measures of efficiency
1 study: CON has no effect on efficiency
1 study: CON reduces efficiency

THE REALITY OF CON LAWS

Investment



1 study: CON fails to reduce investment but changes its composition

1 study: CON backfires, increasing investment

Matthew Mitchell, PhD
Senior Research Fellow



ALASKA'S CON LAW

LESSONS FROM THREE DECADES OF RESEARCH

Alaska Senate
Health & Social Services Committee

March 27, 2019