Certificate of Need Requirements
Community Oncology Alliance Position Statement

Community Oncology Alliance Position
The Community Oncology Alliance (COA) opposes the Certificate of Need (CON) requirements because they can limit patient access to important cancer care services, such as imaging and radiation therapy. CON driven limitations in services create hardship in accessing local treatments, patients’ choice of providers, and fragments the care teams when all necessary services cannot be obtained in one location. COA supports regulatory mechanisms that ensure access to cancer care services that treating physicians deem clinically appropriate for patients and which can be delivered in the highest-quality, lowest-cost treatment settings.

Background
A Certificate of Need (CON) is an endorsement that many states require before approving the construction of a new health care facility. The central assertion of CON legislation is that overbuilding and redundancy in health care facilities lead to higher health care costs. The intent of state health planning agencies with implementing CON requirements is that new or improved facilities or equipment will be approved based primarily on a community’s genuine need. Statutory criteria are often used to help states decide what is necessary for a given location. By reviewing the activities and resources of hospitals and other local health care providers, the states make judgments about what needs to be improved. Once a need is established, the applicant is granted a CON to proceed.

Currently, 35 states and the District of Columbia have CONs, which depending on the state, can regulate hospitals, radiation therapy and imaging facilities, ambulatory surgery centers, skilled nursing facilities, long term care facilities, nursing homes, and/or other medical facilities. Despite numerous changes in the past 30 years, most states retain some type of CON requirements, laws, or agencies.

How CONs Restrict Growth and Increase Costs
In this era of increasing health care costs and value-based care solutions to control those costs, CONs are stifling access to the innovations of the lower cost and higher value facilities. They stifle access and choice, particularly for those receiving innovative cancer treatments and ancillary services in lower cost and higher value facilities. In some states, community oncology clinics are prohibited from offering services such as diagnostic imaging, radiation therapy treatments, nuclear medicine, and/or emerging cell therapies, such as CAR-T. This restricts competition and can limit a community oncology practice from fully developing the comprehensive suite of services necessary to diagnose and treat cancer. Additionally, such restrictions force a practice to send patients to hospitals for the services they are prohibited from offering. Those services, when offered in hospitals or hospital outpatient departments (HOPDs) can cost as much as 55 percent more than when offered in an independent

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The increased costs, in turn, place a greater financial burden on patients, payers, and the entire health care system.

One of the benefits of treatment in the community oncology setting is that patients with cancer can receive all the services they need to diagnose, treat, and manage their disease in one location. When CONs prohibit community oncology practices from adding more efficient and cost-effective services, they bifurcate the preferred single-source treatment plans patients prefer. This forces practices to send patients with cancer to another facility for services they are prevented from offering, usually a hospital, where care costs are higher. Patients, especially rural patients, may need to travel longer distances to different facilities for each service, which forces an administrative burden to coordinate multiple medical records, and places a greater burden on caregivers.

Summary
CONs can begin a chain of unintended consequences leading to the limiting of patients’ options when seeking cancer care. While preventing a flood of hospital beds or ambulatory surgery centers, they also limit growth and expansion of patient services that can be safely and more efficiently delivered in a physician's office at a lower cost. A 2017 study concluded that despite similar resource use, all cause and cancer related health care costs in a hospital outpatient department were significantly higher compared with those in the physician office setting. This reduces the options available to patients for their site of care. As a result, increased travel, longer appointments, or more visits, are a hardship on patients as they struggle to travel while ill, and a similar hardship on families caring for the patient, come into play. All these factors combine to make care less accessible and more costly. Multiple studies have determined that services provided in a hospital setting are more costly than when provided in a physician's office. COA has a long-standing position of opposing requirements that, like CONs, have an adverse effect on patient access to local, affordable, and high-quality cancer care.

Date
Approved by the COA Board of Directors on June 15, 2020.

3 Ibid.
5 Differences in Health Care Use and Costs Among Patients with Cancer Receiving Intravenous Chemotherapy in Physician Offices Versus in Hospital Outpatient Settings, Maxine D. Fisher, PhD, Rajeshwari Punekar, PhD, Yeun Mi Yim, MPH, Arthur Small, MD, Joseph R. Singer, MD, Jay Schukman, MD, Barbara L. McAneny, MD, Rakesh Luthra, PhD, and Jennifer Malin, MD, Journal of Oncology Practice, Volume 13 / Issue 1 / January 2017.