



THE CREATING CAPACITY FOR COMMUNITIES IN NEED ACT

Section 6001 of the Affordable Care Act (ACA) prevents new construction of physician-owned hospitals (POHs) as well as expansion of existing facilities by barring these facilities from participating in Medicare and Medicaid. These hospitals provide some of the highest quality care in the country.

As COVID-19 threatens to overwhelm hospitals, the U.S. cannot afford misguided federal policy limiting the capacity of top-performing POHs. Fear of infection is leading many patients to delay needed care, even when treatment is critical. POHs provide an alternate setting with smaller facilities and lower infection rates where patients can feel safe receiving care.

The U.S. Department of Health and Human Services (HHS) has provided 1135 waivers for current POHs to expand capacity during the COVID-19 public health emergency (PHE). However, facilities are disincentivized to make infrastructure investments for capacity that would no longer be allowed following the expiration of the PHE. This limits the effectiveness of the waiver at meaningfully increasing POH capacity.

H.R. 7168 and S. 3547:

Senator Ted Cruz (R-TX) and Representatives Vicente Gonzalez (D-TX) and Michael Burgess M.D. (R-TX) have introduced companion legislation in the U.S. Senate and House of Representatives to address this disparity.

The Creating Capacity for Communities in Need Act adds to statute an exemption for any existing POH to expand operating rooms, procedure rooms, or beds if construction is begun during the COVID-19 public health emergency (PHE). The bill also critically adds any expansions during the PHE to the POH's baseline permanently, removing the disincentive for infrastructure investment.

AAOS Believes:

POHs provide some of the highest quality patient care while enhancing choice, access, competition, transparency and driving greater savings to the Medicare program. Federal policy limiting access to these facilities is harmful to patients and should be swiftly reversed.

What Congress Should Do:

Congress should pass the Creating Capacity for Communities in Need Act to allow top-rated physician-owned hospitals to expand to meet the challenge of the COVID-19 public health emergency.

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