



This Bill Analysis reflects the contents of the bill as it was presented in committee.

# HOUSE BILL 200: Amend Certificate of Need Laws

2015-2016 General Assembly

<b>Committee:</b>	House Health, if favorable, Judiciary I, if favorable, Appropriations	<b>Date:</b>	April 17, 2015
<b>Introduced by:</b>	Reps. Avila, Bishop, Collins, Michaux	<b>Prepared by:</b>	Amy Jo Johnson Committee Counsel
<b>Analysis of:</b>	PCS to First Edition H200-CSTK-15		

**SUMMARY:** House bill 200 would exempt diagnostic centers, ambulatory surgical facilities, gastrointestinal endoscopy rooms, and psychiatric hospitals from the certificate of need requirements of Article 9, Chapter 131E of the General Statutes. The bill would also prohibit the State Medical Facilities Plan from limiting the number of operating rooms and gastrointestinal endoscopy rooms. The bill would add additional licensing requirements for the development, acquisition, or replacement of ambulatory surgical facilities.

The PCS changes the effective to October 1, 2015.

### CURRENT LAW:

North Carolina law requires a person who wishes to offer or develop a "new institutional health service" to first obtain a certificate of need (CON) from the Department of Health and Human Services. G.S. 131E-178. The definition of a "new institutional health service" includes the development or expansion of a health services facility such as a hospital, ambulatory surgery center, operating room, gastrointestinal endoscopy room, or diagnostic center, the obligation of a capital expenditure above the statutory threshold of \$2 million, changes in bed capacity, the offering of a health service such as dialysis services, bone marrow transplant services, cardiac catheterization services, and neonatal intensive care services, and the acquisition of major medical equipment costing in excess of the statutory threshold of \$750,000. G.S. 131E-176(16). Applications for a CON are reviewed against statutory criteria set forth in G.S. 131E-183. An application must be consistent with all applicable policies and with the need determinations for the service or facility contained in the State Medical Facilities Plan (SMFP). The need determination in the SMFP for the provision of a health service, health service facility or beds, dialysis stations, operating rooms, or home health offices provides a determinative limit on what may be approved. G.S. 131E-183.

A **diagnostic center** is defined as a freestanding facility, program, or provider, including physician's offices, clinical laboratories, radiology centers and mobile diagnostic programs, in which the total cost of all the medical diagnostic equipment which costs \$10,000 or more exceeds \$500,000. G.S. 131E-176(7a). An **ambulatory surgical facility** is a facility that provides a single or multispecialty ambulatory surgical program that serves patients who require local, regional, or general anesthesia and a period of post op observation. They may only admit patients for less than a 24 hour period and must provide at least one designated operating room. G.S. 131E-176(1b). A **gastrointestinal endoscopy room** is a room used for the performance of procedures that require the insertion of a flexible endoscope into a gastrointestinal orifice to visualize the gastrointestinal lining and adjacent organs for diagnostic or therapeutic purposes. G.S. 131E-176(7d). An **operating room** is used for the performance of surgical procedures requiring one or more incisions and that is required to comply with applicable licensure codes and standards for an operating room. G.S. 131E-176(18c). A **psychiatric facility** is a public or



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private facility licensed under Article 2 of Chapter 122C and which is primarily engaged in providing psychiatric services for diagnosis and treatment of mentally ill persons. G.S. 131E-176(21).

## **BILL ANALYSIS:**

House Bill 200 would exempt diagnostic centers, ambulatory surgical facilities, gastrointestinal endoscopy rooms, and psychiatric hospitals from the certificate of need requirements outlined in Chapter 131E of the General Statutes. **Sections 1, 2, and 4** all contain technical changes to accomplish the removal of the certificate of need requirements for these health services. **Section 3** of House Bill 200 would also prohibit the State Medical Facilities Plan from including policies or need determinations that limit the number of operating rooms or gastrointestinal endoscopy rooms and **Sections 4, 5 and 8** make conforming changes.

**Section 6** of the bill would add the following to the list of health services that are exempt from obtaining a certificate of need:

- The development, acquisition, construction, expansion, or replacement of a health service facility or service that obtained certificate of need approval prior to the effective date of this act as a diagnostic center; ambulatory surgical facility, including an ambulatory surgical facility with one or more gastrointestinal endoscopy procedure rooms; or psychiatric hospital.

**Section 7** would add a new subsection to the licensure requirements for ambulatory surgical facilities of G.S. 131E-147. The bill specifies that the Department of Health and Human Services must not issue or renew license to operate an ambulatory surgical facility unless the licensure application includes the following:

- A commitment that the Medicare allowable amount for self-pay and Medicaid surgical cases minus all revenue collected from self-pay and Medicaid surgical cases shall be at least seven percent (7%) of the total revenue collected for all surgical cases performed in the facility or proposed facility.
- For each year of operation, a commitment to report to the Department the total number of cases by each of the following payer categories:
  - Self-pay surgical cases.
  - Medicaid surgical cases.
  - Medicare surgical cases.
  - Commercial insurance surgical cases.
  - Managed care surgical cases.
  - Other surgical cases.
- A commitment to report utilization and payment data for services provided by the ambulatory surgical facility to the statewide data processor.
- For a license to operate in any county with a population of less than 100,000:
  - Written documentation of support from each hospital located within that county.
  - A written transfer agreement between the ambulatory surgical facility and each hospital located within that county.

**EFFECTIVE DATE:** This act becomes effective October 1, 2015.