

GENERAL ASSEMBLY OF NORTH CAROLINA  
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SENATE BILL DRS45242-MGf-69 (02/28)

Short Title: Lower Cost of Cataracts for Seniors Act. (Public)

Sponsors: Senators Sanderson and Pate (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT EXEMPTING OPHTHALMOLOGISTS WHO PERFORM OFFICE-BASED  
3 CATARACT SURGERY FROM CERTIFICATE OF NEED LAWS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 131E-175 is amended by adding a new subdivision to read:

6 "(13) That demand for office-based cataract surgery is increasing due to the  
7 growth of the elderly population as well as scientific and technological  
8 advancements that have increased the safety and efficacy of these  
9 procedures."

10 **SECTION 2.** G.S. 131E-176 reads as rewritten:

11 "**§ 131E-176. Definitions.**

12 As used in this Article, unless the context clearly requires otherwise, the following terms  
13 have the meanings specified:

14 ...

15 (17c) "Ocular surgical procedure room" means a room located in the office of an  
16 ophthalmologist licensed to practice in this State that is used exclusively to  
17 perform office-based cataract surgery.

18 ~~(17d)~~ (17d) To "offer," when used in connection with health services, means that the  
19 person holds himself out as capable of providing, or as having the means for  
20 the provision of, specified health services.

21 (17e) "Office-based cataract surgery" means cataract surgery performed in an  
22 ocular surgical procedure room that (i) requires local, regional, or general  
23 anesthesia and a period of less than 24 hours of post-operative observation  
24 for diagnostic or therapeutic purposes and (ii) does not constitute an  
25 ambulatory surgical program as defined in subdivision (1c) of this section.

26 ...."

27 **SECTION 3.** G.S. 131E-178 reads as rewritten:

28 "**§ 131E-178. Activities requiring certificate of ~~need~~; limited exemption for**  
29 **gastrointestinal endoscopy procedures and office-based cataract surgery.**

30 (a) No person shall offer or develop a new institutional health service without first  
31 obtaining a certificate of need from the ~~Department; provided, however, no~~ Department, except  
32 as provided in subsections (a1) and (a2) of this section.

33 (a1) No person who provides gastrointestinal endoscopy procedures in one or more  
34 gastrointestinal endoscopy rooms located in a nonlicensed setting, shall be required to obtain a  
35 certificate of need to license that setting as an ambulatory surgical facility with the existing



1 number of gastrointestinal endoscopy rooms, provided ~~that~~that the person meets all of the  
2 following criteria:

- 3 (1) The license application is postmarked for delivery to the Division of Health  
4 Service Regulation by December 31, ~~2006~~2006.
- 5 (2) The applicant verifies, by affidavit submitted to the Division of Health  
6 Service Regulation within 60 days of the effective date of this act, that the  
7 facility is in operation as of the effective date of this act or that the  
8 completed application for the building permit for the facility was submitted  
9 by the effective date of this ~~act~~act.
- 10 (3) The facility has been accredited by The Accreditation Association for  
11 Ambulatory Health Care, The Joint Commission on Accreditation of  
12 Healthcare Organizations, or The American Association for Accreditation of  
13 Ambulatory Surgical Facilities by the time the license application is  
14 postmarked for delivery to the Division of Health Service Regulation of the  
15 ~~Department~~Department.
- 16 (4) The license application includes a commitment and plan for serving indigent  
17 and medically underserved populations.

18 All other persons proposing to obtain a license to establish an  
19 ambulatory surgical facility for the provision of gastrointestinal endoscopy  
20 procedures shall be required to obtain a certificate of need. The annual State  
21 Medical Facilities Plan shall not include policies or need determinations that  
22 limit the number of gastrointestinal endoscopy rooms that may be approved.

23 (a2) No ophthalmologist licensed to practice in this State who provides office-based  
24 cataract surgery in one or more ocular surgical procedure rooms shall be required to obtain a  
25 certificate of need to license that setting as an ambulatory surgical facility with the existing  
26 number of ocular surgical procedure rooms, provided that the ophthalmologist meets all of the  
27 following criteria:

- 28 (1) The facility has been accredited by the Accreditation Association for  
29 Ambulatory Health Care, the Joint Commission on Accreditation of  
30 Healthcare Organizations, or the American Association for Accreditation of  
31 Ambulatory Surgical Facilities by the time the license application is  
32 postmarked for delivery to the Division of Health Service Regulation of the  
33 Department.
- 34 (2) The license application includes a commitment to and plan for serving  
35 indigent and medically underserved populations.

36 All other persons proposing to obtain a license to establish an ambulatory surgical facility for  
37 the provision of office-based cataract surgery shall be required to obtain a certificate of need.  
38 The annual State Medical Facilities Plan shall not include policies or need determinations that  
39 limit the number of ocular surgical procedure rooms that may be approved.

40 ...."

41 **SECTION 4.** This act is effective when it becomes law.