

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL DRS35157-MG-56 (02/21)

Short Title: Exempt Certain Ocular Surgeries From CON Laws. (Public)

Sponsors: Senator Tucker (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT EXEMPTING OPHTHALMOLOGISTS WHO PERFORM CERTAIN OCULAR
3 SURGICAL PROCEDURES IN NONLICENSED SETTINGS FROM CERTIFICATE OF
4 NEED LAWS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 131E-175 is amended by adding new subdivisions to read:

7 "(13) That ophthalmologists providing ocular surgical procedures in unlicensed
8 settings should be given an opportunity to obtain a license to provide those
9 services to ensure the safety of patients and the provision of quality care.

10 (14) That demand for ocular surgical procedures is increasing due to the growth
11 of the elderly population and scientific and technological advancements that
12 have increased the safety and efficacy of these procedures."

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

14 **"§ 131E-176. Definitions.**

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

17 ...
18 (17c) "Ocular surgical procedure" means a surgical procedure performed by an
19 ophthalmologist licensed to practice in this State on the eye or its adnexa,
20 including refractive surgery, cataract surgery, and glaucoma surgery.

21 (17d) "Ocular surgical procedure room" means a room used by an ophthalmologist
22 licensed to practice in this State for the performance of an ocular surgical
23 procedure that (i) requires local, regional, or general anesthesia and a period
24 of less than 24 hours of post-operative observation for diagnostic or
25 therapeutic purposes and (ii) does not constitute an ambulatory surgical
26 program as defined in subdivision (1c) of this section.

27"

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

29 **"§ 131E-178. Activities requiring certificate of ~~need~~need; limited exemption for**
30 **gastrointestinal endoscopy procedures and ocular surgical procedures.**

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

34 (a1) No person who provides gastrointestinal endoscopy procedures in one or more
35 gastrointestinal endoscopy rooms located in a nonlicensed setting, shall be required to obtain a
36 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 who provides ocular surgical procedures in one or more ocular
 24 surgical procedure rooms located in a nonlicensed setting 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 license application is postmarked for delivery to the Division of Health
 29 Service Regulation by December 31, 2017.
 30 (2) The applicant verifies, by affidavit submitted to the Division of Health
 31 Service Regulation within 60 days after the effective date of this act, that the
 32 facility is in operation as of the effective date of this act or that the
 33 completed application for the building permit for the facility was submitted
 34 by the effective date of this act.
 35 (3) The facility has been accredited by the Accreditation Association for
 36 Ambulatory Health Care, the Joint Commission on Accreditation of
 37 Healthcare Organizations, or the American Association for Accreditation of
 38 Ambulatory Surgical Facilities by the time the license application is
 39 postmarked for delivery to the Division of Health Service Regulation of the
 40 Department.
 41 (4) The license application includes a commitment to and plan for serving
 42 indigent and medically underserved populations.

43 All other persons proposing to obtain a license to establish an ambulatory surgical facility for
 44 the provision of ocular surgical procedures shall be required to obtain a certificate of need. The
 45 annual State Medical Facilities Plan shall not include policies or need determinations that limit
 46 the number of ocular surgical procedure rooms that may be approved.

47"

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