GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017  

H  

HOUSE BILL DRH40534-MGF-127A (04/06)  

Short Title: Amend Certificate of Need Laws. (Public)  

Sponsors: Representatives Collins, Boswell, and W. Richardson (Primary Sponsors).  

Referred to:  

A BILL TO BE ENTITLED  

AN ACT EXEMPTING AMBULATORY SURGICAL FACILITIES AND CERTAIN ACTIVITIES BY SMALLER COMMUNITY HOSPITALS FROM CERTIFICATE OF NEED REVIEW.  

Whereas, North Carolina has 51 rural hospitals, 20 of which are critical access hospitals, and, according to iVantage data, 16 of those are vulnerable to closing; and  
Whereas, the presence of a certificate of need program is also associated with 30% fewer rural hospitals per 100,000 rural residents; and  
Whereas, there is a growing shortage of health care providers in rural areas; and  
Whereas, rural hospitals must have the ability to adapt to the changing health care delivery system and demographics within their communities; and  
Whereas, over 70% of all surgeries are now performed on an outpatient basis in North Carolina; and  
Whereas, North Carolina has 40% fewer lower-cost ambulatory surgical facilities than the national average; and  
Whereas, the State Health Plan shortfall currently stands at $43 billion as of June 30, 2016; and  
Whereas, the State Health Plan is projected to spend $411,047,240 annually for outpatient surgery by 2021; and  
Whereas, the cost-savings to the State Health Plan is estimated to be $802,000,000 over eight years upon the elimination of certificate of need review for ambulatory surgical facilities; Now, therefore,  

The General Assembly of North Carolina enacts:  

SECTION 1. G.S. 131E-184 is amended by adding new subsections to read:  

"(i) The Department shall exempt from certificate of need review the construction, development, acquisition, or establishment of an ambulatory surgical facility, provided all of the following criteria are met:  

(1) If the applicant seeking this exemption is a physician or group of physicians licensed to practice in this State under Chapter 90 of the General Statutes, the applicant shall make every effort to enter into a joint venture for the construction, development, acquisition, or establishment of the ambulatory surgical facility with an acute care or critical access hospital licensed under Chapter 131E of the General Statutes that is nearest in proximity to the proposed ambulatory surgical facility. If the physician or group of physicians and the nearest acute care or critical access hospital are unable to reach agreement on a joint venture for the construction, development, or
establishment of an ambulatory surgical facility, then the physician or group
of physicians shall provide written notification of this inability to reach
agreement to the Department on forms and in the manner prescribed by the
Department. Upon receipt of written confirmation from the Department that
the exemption authorized by this section applies, the applicant may proceed
with constructing, developing, acquiring, or establishing the ambulatory
surgical facility.

(2) The ambulatory surgical facility must have an agreement with a hospital
within a reasonable distance from the facility, or the medical staff at the
ambulatory surgical facility must have hospital privileges or other
documented arrangements with a hospital that are deemed sufficient by the
Department to ensure that inpatient hospital services will be available to
address any medical complications that require a patient of the ambulatory
surgical facility to be admitted to a hospital for inpatient care.

(3) The ambulatory surgical facility must have the capability to immediately
transfer a patient to a hospital with adequate emergency room services and
that is within a reasonable distance from the facility.

(4) The ambulatory surgical facility must comply with all requirements of the
Ambulatory Surgical Facility Licensure Act set forth in Part 4 of Article 6 of
Chapter 131E of the General Statutes, including the licensure requirements
specified in G.S. 131E-147.

(j) The Department shall exempt from certificate of need review the following
activities by a community hospital with 200 acute care beds or less as of December 31, 2016:

(1) The development of a new institutional health service.
(2) The construction, development, or other establishment of a new health
service facility, or a portion thereof.
(3) The acquisition of major medical equipment, magnetic resonance imaging
equipment, a lithotripter, or a linear accelerator."

SECTION 2. This act becomes effective October 1, 2017.