FILED SENATE
Mar 25, 2025
S.B. 494
PRINCIPAL CLERK

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

S **D**

SENATE BILL DRS35143-MG-42

Short Title:	Limit the Scope of Certificate of Need Laws.	(Public)
Sponsors:	Senator Jarvis (Primary Sponsor).	
Referred to:		

A BILL TO BE ENTITLED

AN ACT ENCOURAGING THE EXPANSION OF HEALTH CARE ACCESS BY ELIMINATING CERTIFICATE OF NEED LAWS IN ALL COUNTIES EXCEPT THOSE THAT HAVE A POPULATION OF LESS THAN ONE HUNDRED THOUSAND AND AT LEAST ONE FUNCTIONING HOSPITAL.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"**§ 131E-175.5. Scope of Article.**

This Article applies only to counties that meet both of the following criteria:

(1) Have a population of less than 100,000 according to the most recent federal decennial census.

(2) Have at least one functioning hospital within the county."

SECTION 2. Effective November 21, 2025, Section 3.2 of S.L. 2023-7 reads as rewritten:

"**SECTION 3.2.(a)** G.S. 131E-176, as amended by Section 3.1 of this act, reads as rewritten:

"**§ 131E-176. Definitions.**

The following definitions apply in this Article:

…

(9b) Health service facility. – A hospital; long-term care hospital; rehabilitation facility; nursing home facility; adult care home; kidney disease treatment center, including freestanding hemodialysis units; intermediate care facility for individuals with intellectual disabilities; home health agency office; diagnostic center; hospice office, hospice inpatient facility, hospice residential care facility; and ambulatory surgical facility. The term "health service facility" does not include a qualified ~~urban~~ ambulatory surgical facility.

…

(16) New institutional health services. – Any of the following:

…

b. Except with respect to qualified ~~urban~~ ambulatory surgical facilities and except as otherwise provided in G.S. 131E-184(e), the obligation by any person of a capital expenditure exceeding four million dollars ($4,000,000) to develop or expand a health service or a health service facility, or which relates to the provision of a health service. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities, including staff effort and

consulting and other services, essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if the expenditure exceeds four million dollars ($4,000,000). Beginning September 30, 2022, and on September 30 each year thereafter, the amount in this sub-subdivision shall be adjusted using the Medical Care Index component of the Consumer Price Index published by the U.S. Department of Labor for the 12-month period preceding the previous September 1.

…

(21a) Qualified ~~urban~~ ambulatory surgical facility. – An ambulatory surgical facility that ~~meets all of the following criteria:~~

~~a. Is licensed by the Department to operate as an ambulatory surgical facility.~~

~~b. Has a single specialty or multispecialty ambulatory surgical program.~~

~~c. Is located in a county with a population greater than 125,000 according to the 2020 federal decennial census or any subsequent federal decennial census.~~has elected to opt out of the certificate of need requirements prescribed by this Article by obtaining a license as a qualified ambulatory surgical facility under Part 4 of Article 6 of this Chapter.

…

(24f) Specialty ambulatory surgical program. – A formal program for providing on a same-day basis surgical procedures of the same surgical specialty and authorized by its certificate of need, if a certificate of need is required.

…."

"**SECTION 3.2.(b)** G.S. 131E-146 is amended by adding a new subdivision to read:

"(3) "Qualified ~~urban~~ ambulatory surgical facility" means an ambulatory surgical facility licensed under this Part that has elected to opt out of the certificate of need requirements prescribed by Article 9 of this Chapter and demonstrates to the satisfaction of the Department that the facility meets ~~the definition of G.S. 131E-176(21a).~~both of the following criteria:

a. Has a single specialty or multispecialty ambulatory surgical program.

b. Has agreed to adhere to the charity care and reporting requirements established by G.S. 131E-147.5."

"**SECTION 3.2.(b1)** G.S. 131E-147 reads as rewritten:

"**§ 131E-147. Licensure requirement.**

(a) No person shall operate an ambulatory surgical facility or a qualified ambulatory surgical facility without a license obtained from the Department.

(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual base license fee in the amount of eight hundred fifty dollars ($850.00) plus a nonrefundable annual per-operating room fee in the amount of seventy-five dollars ($75.00).

(c) A license to operate an ambulatory surgical facility or a qualified ambulatory surgical facility shall be annually renewed upon the filing and the department's approval of a renewal application. The renewal application shall be available from the Department and shall contain all necessary and reasonable information that the Department may by rule require.

…."

"**SECTION 3.2.(c)** Part 4 of Article 6 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"**§ 131E-147.5. Charity care requirement for qualified ~~urban~~ ambulatory surgical facilities; annual report.**

(a) The percentage of each qualified ~~urban~~ ambulatory surgical facility's total earned revenue that is attributed to self-pay and Medicaid revenue shall be equivalent to at least four percent (4%), calculated as follows: the Medicare allowable amount for self-pay and Medicaid surgical cases minus all revenue earned from self-pay and Medicaid cases, divided by the total earned revenues for all surgical cases, divided by the total earned revenues for all surgical cases performed in the facility for procedures for which there is a Medicare allowable fee.

(b) Each qualified ~~urban~~ ambulatory surgical facility shall annually report to the Department in the manner prescribed by the Department the percentage of the facility's earned revenue that is attributed to self-pay and Medicaid revenue, as calculated in accordance with subsection (a) of this section."

"**SECTION 3.2.(d)** Subsections (a) through (c) of this section become effective two years from the date the Department of Health and Human Services (DHHS) issues the first directed payment in accordance with the Healthcare Access and Stabilization Program (HASP) under G.S. 108A-148.1, as enacted by Section 1.4 of this act, and applies to activities occurring on or after that date. The Secretary of Health and Human Services shall notify the Revisor of Statutes when the DHHS has issued the first directed payment in accordance with HASP and the date of issuance. If the DHHS has not made any HASP directed payments by June 30, 2025, then subsections (a) and (b) of this section shall expire on that date.

"**SECTION 3.2.(e)** Except as otherwise provided, this section is effective when it becomes law."

SECTION 3. Section 3.3 of S.L. 2023-7 is repealed.

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.