

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 173

Short Title: Exempt Ocular Surgery from CON Laws. (Public)

Sponsors: Representatives Speciale and Howard (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Health, if favorable, Regulatory Reform, if favorable, Rules, Calendar, and Operations of the House

February 27, 2019

A BILL TO BE ENTITLED

AN ACT EXEMPTING OPHTHALMOLOGISTS WHO PERFORM CERTAIN OCULAR SURGICAL PROCEDURES FROM CERTIFICATE OF NEED LAWS.

The General Assembly of North Carolina enacts:

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

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

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

"§ 131E-176. **Definitions.**

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

...

(17c) "Ocular surgical procedure" means a surgical procedure performed on the eye or its adnexa that (i) requires local, regional, or general anesthesia and a period of less than 24 hours of post-operative observation for diagnostic or therapeutic purposes and (ii) does not constitute an ambulatory surgical program as defined in subdivision (1c) of this section.

(17d) "Ocular surgical procedure room" means a room located in the office of an ophthalmologist licensed to practice in this State that is used to perform ocular surgical procedures.

...."

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

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

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

(a1) No person who provides gastrointestinal endoscopy procedures in one or more gastrointestinal endoscopy rooms located in a nonlicensed setting, shall be required to obtain a certificate of need to license that setting as an ambulatory surgical facility with the existing number of gastrointestinal endoscopy rooms, provided ~~that~~that the person meets all of the following criteria:



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

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

20 (a2) No ophthalmologist licensed to practice in this State who provides ocular surgical
21 procedures in one or more ocular surgical procedure rooms shall be required to obtain a certificate
22 of need to license that setting as an ambulatory surgical facility with the existing number of ocular
23 surgical procedure rooms, provided that the ophthalmologist meets all of the following criteria:

- 24 (1) The license application is postmarked for delivery to the Division of Health
25 Service Regulation by December 31, 2019.
- 26 (2) The applicant verifies, by affidavit submitted to the Division of Health Service
27 Regulation within 60 days after the effective date of this act, that the facility
28 was in operation as of the effective date of this act or that the completed
29 application for the building permit for the facility was submitted by the
30 effective date of this act.
- 31 (3) The facility has been accredited by The Accreditation Association for
32 Ambulatory Health Care, The Joint Commission, or The American
33 Association for Accreditation of Ambulatory Surgical Facilities by the time
34 the license application is postmarked for delivery to the Division of Health
35 Service Regulation of the Department.
- 36 (4) The license application includes a commitment to and a plan for serving
37 indigent and medically underserved populations.

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

42"

43 **SECTION 4.** This act becomes effective October 1, 2019.