

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 901

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

Sponsors: Representatives Collins, Boswell, and W. Richardson (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Health, if favorable, Judiciary I, if favorable, Appropriations

April 26, 2017

1 A BILL TO BE ENTITLED
2 AN ACT EXEMPTING AMBULATORY SURGICAL FACILITIES AND CERTAIN
3 ACTIVITIES BY SMALLER COMMUNITY HOSPITALS FROM CERTIFICATE OF
4 NEED REVIEW.

5 Whereas, North Carolina has 51 rural hospitals, 20 of which are critical access
6 hospitals, and, according to iVantage data, 16 of those are vulnerable to closing; and

7 Whereas, the presence of a certificate of need program is also associated with 30%
8 fewer rural hospitals per 100,000 rural residents; and

9 Whereas, there is a growing shortage of health care providers in rural areas; and

10 Whereas, rural hospitals must have the ability to adapt to the changing health care
11 delivery system and demographics within their communities; and

12 Whereas, over 70% of all surgeries are now performed on an outpatient basis in
13 North Carolina; and

14 Whereas, North Carolina has 40% fewer lower-cost ambulatory surgical facilities
15 than the national average; and

16 Whereas, the State Health Plan shortfall currently stands at \$43 billion as of June
17 30, 2016; and

18 Whereas, the State Health Plan is projected to spend \$411,047,240 annually for
19 outpatient surgery by 2021; and

20 Whereas, the cost-savings to the State Health Plan is estimated to be \$802,000,000
21 over eight years upon the elimination of certificate of need review for ambulatory surgical
22 facilities; Now, therefore,

23 The General Assembly of North Carolina enacts:

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

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

28 (1) If the applicant seeking this exemption is a physician or group of physicians
29 licensed to practice in this State under Chapter 90 of the General Statutes,
30 the applicant shall make every effort to enter into a joint venture for the
31 construction, development, acquisition, or establishment of the ambulatory
32 surgical facility with an acute care or critical access hospital licensed under
33 Chapter 131E of the General Statutes that is nearest in proximity to the
34 proposed ambulatory surgical facility. If the physician or group of
35 physicians and the nearest acute care or critical access hospital are unable to



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1 reach agreement on a joint venture for the construction, development, or
2 establishment of an ambulatory surgical facility, then the physician or group
3 of physicians shall provide written notification of this inability to reach
4 agreement to the Department on forms and in the manner prescribed by the
5 Department. Upon receipt of written confirmation from the Department that
6 the exemption authorized by this section applies, the applicant may proceed
7 with constructing, developing, acquiring, or establishing the ambulatory
8 surgical facility.

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

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

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

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

25 (1) The development of a new institutional health service.

26 (2) The construction, development, or other establishment of a new health
27 service facility, or a portion thereof.

28 (3) The acquisition of major medical equipment, magnetic resonance imaging
29 equipment, a lithotripter, or a linear accelerator."

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