

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40372-MG-131

Short Title: Repeal CON/Certain Facilities & Procedures. (Public)

Sponsors: Representative Kidwell.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT REMOVING PSYCHIATRIC FACILITIES, CHEMICAL DEPENDENCY  
3 TREATMENT FACILITIES, KIDNEY DISEASE TREATMENT CENTERS, AND  
4 CERTAIN OCULAR SURGICAL PROCEDURES FROM CERTIFICATE OF NEED  
5 REVIEW.

6 The General Assembly of North Carolina enacts:

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

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

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

12 "**§ 131E-176. Definitions.**

13 The following definitions apply in this Article:

14 ...

15 (5) Change in bed capacity. – Any of the following:

- 16 a. Any relocation of health service facility beds, or dialysis stations from  
17 one licensed facility or campus to another.  
18 b. Any redistribution of health service facility bed capacity among the  
19 categories of health service facility bed.  
20 c. Any increase in the number of health service facility beds, or dialysis  
21 stations in kidney disease treatment centers, including freestanding  
22 dialysis units, beds.

23 (5a) ~~Chemical dependency treatment facility. — A public or private facility, or unit~~  
24 ~~in a facility, which is engaged in providing 24-hour a day treatment for~~  
25 ~~chemical dependency or a substance use disorder. This treatment may include~~  
26 ~~detoxification, administration of a therapeutic regimen for the treatment of~~  
27 ~~individuals with chemical dependence or substance use disorders, and related~~  
28 ~~services. The facility or unit may be any of the following:~~

- 29 a. ~~A unit within a general hospital or an attached or freestanding unit of~~  
30 ~~a general hospital licensed under Article 5 of this Chapter.~~  
31 b. ~~A unit within a psychiatric hospital or an attached or freestanding unit~~  
32 ~~of a psychiatric hospital licensed under Article 1A of former Chapter~~  
33 ~~122 of the General Statutes or Article 2 of Chapter 122C of the General~~  
34 ~~Statutes.~~  
35 e. ~~A freestanding facility specializing in treatment of individuals with~~  
36 ~~chemical dependence or substance use disorders that is licensed under~~



\* D R H 4 0 3 7 2 - M G - 1 3 1 \*

- 1 Article 1A of former Chapter 122 of the General Statutes or Article 2  
 2 of Chapter 122C of the General Statutes. The facility may be identified  
 3 as "chemical dependency, substance abuse, alcoholism, or drug abuse  
 4 treatment units," "residential chemical dependency, substance use  
 5 disorder, alcoholism or drug abuse facilities," or by other names if the  
 6 purpose is to provide treatment of individuals with chemical  
 7 dependence or substance use disorders. The term, however, does not  
 8 include social setting detoxification facilities, medical detoxification  
 9 facilities, halfway houses, or recovery farms.
- 10 (5b) ~~Chemical dependency treatment beds. — Beds that are licensed for the~~  
 11 ~~inpatient treatment of chemical dependency. Residential treatment beds for~~  
 12 ~~the treatment of chemical dependency or substance use disorder are chemical~~  
 13 ~~dependency treatment beds. Chemical dependency treatment beds do not~~  
 14 ~~include beds licensed for detoxification.~~
- 15 ...
- 16 (9b) ~~Health service facility. — A hospital; long-term care hospital; psychiatric~~  
 17 ~~facility; rehabilitation facility; nursing home facility; adult care home; kidney~~  
 18 ~~disease treatment center, including freestanding hemodialysis units;~~  
 19 ~~intermediate care facility for individuals with intellectual disabilities; home~~  
 20 ~~health agency office; chemical dependency treatment facility; diagnostic~~  
 21 ~~center; hospice office, hospice inpatient facility, hospice residential care~~  
 22 ~~facility; and ambulatory surgical facility.~~
- 23 (9c) ~~Health service facility bed. — A bed licensed for use in a health service facility~~  
 24 ~~in the categories of (i) acute care beds; (ii) psychiatric beds; (iii) rehabilitation~~  
 25 ~~beds; (iv)–(iii) nursing home beds; (v)–(iv) intermediate care beds for~~  
 26 ~~individuals with intellectual disabilities; (vi) chemical dependency treatment~~  
 27 ~~beds; (vii)–(v) hospice inpatient facility beds; (viii)–(vi) hospice residential care~~  
 28 ~~facility beds; (ix)–(vii) adult care home beds; and (x)–(viii) long-term care~~  
 29 ~~hospital beds.~~
- 30 ...
- 31 (14e) ~~Kidney disease treatment center. — A facility that is certified as an end stage~~  
 32 ~~renal disease facility by the Centers for Medicare and Medicaid Services,~~  
 33 ~~Department of Health and Human Services, pursuant to 42 C.F.R. § 405.~~
- 34 ...
- 35 (16) ~~New institutional health services. — Any of the following:~~  
 36 ...  
 37 d. ~~The offering of dialysis services or home health services by or on~~  
 38 ~~behalf of a health service facility if those services were not offered~~  
 39 ~~within the previous 12 months by or on behalf of the facility.~~
- 40 ...
- 41 (17c) Ocular surgical procedure. — A surgical procedure performed on the eye or its  
 42 adnexa that (i) requires local, regional, or general anesthesia and a period of  
 43 less than 24 hours of post-operative observation for diagnostic or therapeutic  
 44 purposes and (ii) does not constitute an ambulatory surgical program as  
 45 defined in subdivision (1c) of this section.
- 46 (17d) Ocular surgical procedure room. — A room located in the office of an  
 47 ophthalmologist licensed to practice in this State that is used to perform ocular  
 48 surgical procedures.
- 49 ...
- 50 (21) ~~Psychiatric facility. — A public or private facility licensed pursuant to Article~~  
 51 ~~2 of Chapter 122C of the General Statutes and which is primarily engaged in~~

1 providing to inpatients, by or under the supervision of a physician, psychiatric  
2 services for the diagnosis and treatment of individuals with mental illnesses.

3 ...."

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

5 "§ 131E-178. **Activities requiring certificate of ~~need-need~~; limited exemption for**  
6 **gastrointestinal endoscopy procedures and ocular surgical procedures.**

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

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

- 15 (1) The license application is postmarked for delivery to the Division of Health  
16 Service Regulation by December 31, ~~2006~~; 2006.
- 17 (2) The applicant verifies, by affidavit submitted to the Division of Health Service  
18 Regulation within 60 days of the effective date of this act, that the facility is  
19 in operation as of the effective date of this act or that the completed application  
20 for the building permit for the facility was submitted by the effective date of  
21 this ~~act~~; act.
- 22 (3) The facility has been accredited by The Accreditation Association for  
23 Ambulatory Health Care, The Joint ~~Commission on Accreditation of~~  
24 ~~Healthcare Organizations, Commission,~~ or The American Association for  
25 Accreditation of Ambulatory Surgical Facilities by the time the license  
26 application is postmarked for delivery to the Division of Health Service  
27 Regulation of the ~~Department~~; and Department.
- 28 (4) The license application includes a commitment and plan for serving indigent  
29 and medically underserved populations.

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

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

- 38 (1) The license application is postmarked for delivery to the Division of Health  
39 Service Regulation by December 31, 2021.
- 40 (2) The applicant verifies, by affidavit submitted to the Division of Health Service  
41 Regulation within 60 days after the effective date of this subsection, that the  
42 facility is in operation as of the effective date of this subsection or that the  
43 completed application for the building permit for the facility was submitted  
44 by the effective date of this subsection.
- 45 (3) The facility has been accredited by The Accreditation Association for  
46 Ambulatory Health Care, The Joint Commission, or The American  
47 Association for Accreditation of Ambulatory Surgical Facilities by the time  
48 the license application is postmarked for delivery to the Division of Health  
49 Service Regulation of the Department.
- 50 (4) The license application includes a commitment and plan for serving indigent  
51 and medically underserved populations.

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

5 ...."

6 **SECTION 4.** G.S. 131E-184 reads as rewritten:

7 **"§ 131E-184. Exemptions from review.**

8 (a) Except as provided in subsection (b) of this section, the Department shall exempt from  
9 certificate of need review a new institutional health service if it receives prior written notice from  
10 the entity proposing the new institutional health service, which notice includes an explanation of  
11 why the new institutional health service is required, for any of the following:

12 ...

13 (10) To develop, acquire, construct, expand, or replace a health service facility or  
14 service that obtained certificate of need approval prior to October 1, 2021, for  
15 any of the following:

16 a. A chemical dependency treatment center, defined as a public or private  
17 facility, or unit in a facility, which is engaged in providing 24-hour a  
18 day treatment for chemical dependency or a substance use disorder.  
19 This treatment may include detoxification, administration of a  
20 therapeutic regimen for the treatment of individuals with chemical  
21 dependence or substance use disorders, and related services. The  
22 facility or unit may be any of the following:

23 1. A unit within a general hospital or an attached or freestanding  
24 unit of a general hospital licensed under Article 5 of this  
25 Chapter.

26 2. A unit within a psychiatric hospital or an attached or  
27 freestanding unit of a psychiatric hospital licensed under  
28 Article 1A of former Chapter 122 of the General Statutes or  
29 Article 2 of Chapter 122C of the General Statutes.

30 3. A freestanding facility specializing in treatment of individuals  
31 with chemical dependence or substance use disorders that is  
32 licensed under Article 1A of former Chapter 122 of the General  
33 Statutes or Article 2 of Chapter 122C of the General Statutes.  
34 The facility may be identified as "chemical dependency,  
35 substance abuse, alcoholism, or drug abuse treatment units,"  
36 "residential chemical dependency, substance use disorder,  
37 alcoholism or drug abuse facilities," or by other names if the  
38 purpose is to provide treatment of individuals with chemical  
39 dependence or substance use disorders. The term, however,  
40 does not include social setting detoxification facilities, medical  
41 detoxification facilities, halfway houses, or recovery farms.

42 b. A kidney disease treatment center, defined as a facility that is certified  
43 as an end stage renal disease facility by the Centers for Medicare and  
44 Medicaid Services, Department of Health and Human Services,  
45 pursuant to 42 C.F.R. § 405.

46 c. A psychiatric facility, defined as a public or private facility licensed  
47 pursuant to Article 2 of Chapter 122C of the General Statutes and  
48 which is primarily engaged in providing to inpatients, by or under the  
49 supervision of a physician, psychiatric services for the diagnosis and  
50 treatment of individuals with mental illness.

51 ...."

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**SECTION 5.** This act becomes effective October 1, 2021.