

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 344

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

Sponsors: Representatives Speciale, Clampitt, and Potts (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Health, if favorable, Appropriations

March 15, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT EXEMPTING OPHTHALMOLOGISTS WHO PERFORM CERTAIN OCULAR  
3 SURGICAL PROCEDURES FROM CERTIFICATE OF NEED LAWS.

4 The General Assembly of North Carolina enacts:

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

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

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

10 "**§ 131E-176. Definitions.**

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

13 ...

14 (17c) "Ocular surgical procedure" means a surgical procedure performed on the eye  
15 or its adnexa that (i) requires local, regional, or general anesthesia and a period  
16 of less than 24 hours of post-operative observation for diagnostic or therapeutic  
17 purposes and (ii) does not constitute an ambulatory surgical program as defined  
18 in subdivision (1c) of this section.

19 (17d) "Ocular surgical procedure room" means a room located in the office of an  
20 ophthalmologist licensed to practice in this State that is used to perform ocular  
21 surgical procedures.

22 ...."

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

24 "**§ 131E-178. Activities requiring certificate of ~~need~~need; limited exemption for**  
25 **gastrointestinal endoscopy procedures and ocular surgical procedures.**

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

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

34 (1) The license application is postmarked for delivery to the Division of Health  
35 Service Regulation by December 31, ~~2006;~~2006.



1 (2) The applicant verifies, by affidavit submitted to the Division of Health Service  
2 Regulation within 60 days of the effective date of this act, that the facility is in  
3 operation as of the effective date of this act or that the completed application for  
4 the building permit for the facility was submitted by the effective date of this  
5 ~~act~~act.

6 (3) The facility has been accredited by The Accreditation Association for  
7 Ambulatory Health Care, The Joint Commission on Accreditation of Healthcare  
8 Organizations, or The American Association for Accreditation of Ambulatory  
9 Surgical Facilities by the time the license application is postmarked for delivery  
10 to the Division of Health Service Regulation of the ~~Department~~;  
11 and Department.

12 (4) The license application includes a commitment and plan for serving indigent  
13 and medically underserved populations.

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

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

23 (1) The license application is postmarked for delivery to the Division of Health  
24 Service Regulation by December 31, 2017.

25 (2) The applicant verifies, by affidavit submitted to the Division of Health Service  
26 Regulation within 60 days after the effective date of this act, that the facility is  
27 in operation as of the effective date of this act or that the completed application  
28 for the building permit for the facility was submitted by the effective date of  
29 this act.

30 (3) The facility has been accredited by The Accreditation Association for  
31 Ambulatory Health Care, The Joint Commission on Accreditation of Healthcare  
32 Organizations, or The American Association for Accreditation of Ambulatory  
33 Surgical Facilities by the time the license application is postmarked for delivery  
34 to the Division of Health Service Regulation of the Department.

35 (4) The license application includes a commitment and plan for serving indigent  
36 and medically underserved populations.

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

41 ...."

42 **SECTION 4.** This act is effective when it becomes law.