

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019**

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**HOUSE BILL 857**

Short Title: CON Exemption/Ambulatory Surgical Facilities. (Public)

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

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

April 18, 2019

A BILL TO BE ENTITLED  
AN ACT EXEMPTING AMBULATORY SURGICAL FACILITIES FROM CERTIFICATE  
OF NEED REVIEW.

The General Assembly of North Carolina enacts:

**SECTION 1.** 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:

...

(2) "Bed capacity" means space used exclusively for inpatient ~~care,~~ care at a health service facility, including space designed or remodeled for licensed inpatient beds even though temporarily not used for such purposes. The number of beds to be counted in any patient room shall be the maximum number for which adequate square footage is provided as established by rules of the Department except that single beds in single rooms are counted even if the room contains inadequate square footage. The term "bed capacity" also refers to the number of dialysis stations in kidney disease treatment centers, including freestanding dialysis units.

...

(9a) "Health service" means an organized, interrelated medical, diagnostic, therapeutic, ~~and/or rehabilitative activity~~ rehabilitative activity, or any combination of these, that is integral to the prevention of disease or the clinical management of a sick, injured, or disabled person. "Health service" does not include administrative and other activities that are not integral to clinical ~~management.~~ management, or any activities performed at a facility that does not meet the definition of a health service facility.

(9b) "Health service facility" means a hospital; long-term care hospital; psychiatric facility; rehabilitation facility; nursing home facility; adult care home; kidney disease treatment center, including freestanding hemodialysis units; intermediate care facility for the mentally retarded; home health agency office; chemical dependency treatment facility; diagnostic center; or hospice office, hospice inpatient facility, or hospice residential care ~~facility,~~ and ambulatory surgical facility.

(16) "New institutional health services" means any of the following:

...



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r. ~~The conversion of a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or the addition of a specialty to a specialty ambulatory surgical program.~~

...

u. The construction, development, establishment, increase in the number, or relocation of an operating room ~~or gastrointestinal endoscopy room~~ in a licensed health service facility, other than the relocation of an operating room ~~or gastrointestinal endoscopy room~~ within the same building or on the same grounds or to grounds not separated by more than a public right-of-way adjacent to the grounds where the operating room or gastrointestinal endoscopy room is currently located.

v. ~~The change in designation, in a licensed health service facility, of an operating room to a gastrointestinal endoscopy room or change in designation of a gastrointestinal endoscopy room to an operating room that results in a different number of each type of room than is reflected on the health service facility's license in effect as of January 1, 2005.~~

...."

**SECTION 2.** G.S. 131E-178(a) reads as rewritten:

"(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 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:~~Department.

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

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

**SECTION 3.** G.S. 131E-184(a) reads as rewritten:

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

...

- 1                   (10) To develop, acquire, construct, expand in number, or replace an operating  
2                   room or gastrointestinal endoscopy room for which a certificate of need was  
3                   issued to an ambulatory surgical facility prior to October 1, 2019."  
4                   **SECTION 4.** This act is effective October 1, 2019, and applies to activities occurring  
5 on or after that date.