



Georgia Certificate of Need Bill Passed by General Assembly

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After an attempt at passing sweeping changes to Georgia Certificate of Need (CON) laws failed to pass the House before Crossover Day, the Georgia Senate has revived another CON bill with less sweeping, albeit significant changes. For a discussion of the prior bill (HB 198), click [here](#).

On March 25, 2019, the Senate passed a re-worked version of House Bill 186 by a vote of 51-4. The bill was passed by the House on March 29, 2019. The revamped House Bill 186 contains the following provisions:

- A limitation on the entities that can oppose a CON application to those within a 35-mile radius of the proposed project. Previously, there were no geographic restrictions on who can object.
- Permitting a destination cancer hospital to convert to a “general cancer hospital” through a CON application. This provision will permit Cancer Treatment Centers of America (CTCA) to add more beds and serve more Georgia patients at its Newnan hospital—a battle CTCA has been fighting for several years. Because of its special status under CON laws, a destination cancer hospital like CTCA had been limited in the number of in-state patients it could serve.
- Increased threshold amounts. The current capital expenditure threshold will be increased from \$2.5 million¹ (amount increases each year for inflation) to \$10 million, and the diagnostic equipment threshold increased from \$1 million² (increased over time to account for inflation) to \$3 million.
- Prohibiting hospitals from purchasing, renewing, extending leasing or maintaining “medical use rights” of properties. Medical use rights are those rights or interests in real property where the owner of the property has agreed not to sell or lease the property for identified medical uses or purposes.
- Defining “health care facility” to include freestanding emergency departments and facilities not located on a hospital’s primary campus. Thus, freestanding EDs and off-site locations will require a CON (unless otherwise excepted). Primary campus is defined in the bill as “the building at which the majority of a hospital’s or a remote location of a hospital’s licensed and operational inpatient hospital beds are located, and includes health care facilities of such hospital within 1,000 yards of such building.”
- Revising the exception for private physicians or groups who seek to add imaging equipment through the Letter of Non-Review (LNR) process to require that such group practice or private physician be “physically present at the practice location where the diagnostic or other imaging equipment is located at least 75% of the time the equipment is in use.” This provision appears aimed at imaging centers that are owned by remote physicians and managed by imaging companies.

The bill also authorizes the Department of Community Health to study the amount of uncompensated indigent and charity care provided by each type of health care facility and to develop standard reporting requirements to track the uncompensated indigent and charity care. Under this provision,

¹ Threshold increases each year to account for inflation. Current threshold is \$3,068,601. <https://dch.georgia.gov/sites/dch.georgia.gov/files/2018%20Thresholds.pdf>

² Threshold increases each year to account for inflation. Current threshold is \$1,324,921. <https://dch.georgia.gov/sites/dch.georgia.gov/files/2018%20Thresholds.pdf>

providers may expect heightened scrutiny of indigent and charity care amounts.

CON regulates how health care facilities function in Georgia. A provider must get a “certificate of need” from the state to proceed with a major project, such as building or expanding a medical facility or changing what services are available to patients.

The recently passed bill does not contain any provision allowing a sports medicine and training center in Alpharetta, a high-profile project in the sports world. And the bill will not let hospital organizations establish standalone ERs, or allow for cardiology ambulatory surgery centers.

The bill significantly reduces the financial disclosure requirements that the original House bill urged.

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