



# An Overview of Certificate of Need

## Overview

The Georgia Department of Community Health (DCH), Healthcare Facility Regulation Division (HFR) is responsible for administering the Certificate of Need Program (CON) that evaluates proposals for new or expanded health care services or facilities under Georgia's Health Planning Statute, O.C.G.A. Title 31, Chapter 6. Major reforms to the statute were enacted during the 2008 Georgia Legislative Session with the passage of Senate Bill 433. This resulted in many new exceptions, new expenditure thresholds and expanded reporting requirements.

## Certificate of Need

CON is the official determination that a new or expanded health care service or facility is needed in Georgia. The purpose of the CON program is to ensure the availability of adequate health care services to meet the needs of all Georgians, while safeguarding against the unnecessary duplication of services that perpetuate the costs of health care services.

## General Steps for Acquiring a Certificate of Need

All CON applications fall into two categories: non-batched and batched. Both types require submission of a Notice of Intent 30 days prior to submitting an application. Non-batched applications are accepted throughout the year; batched applications are accepted during four designated time periods called "batching cycles." For further guidance for submitting applications, see [dch.georgia.gov/con](http://dch.georgia.gov/con).

- STEP 1:** Submit a Notice of Intent 30 days prior to submitting the CON application.
- STEP 2:** An original and one copy of an application must be submitted along with a certified check for the appropriate filing fee.
- STEP 3:** In reviewing an application, HFR will take into account the general considerations specified in Rule 111-2-2-.09 and the appropriate service-specific standards and criteria, if applicable, set forth at Rule 111-2-2-.11.
- STEP 4:** A project application is either approved or denied by HFR. If the application is approved, an official CON and project evaluation analysis is provided to the applicant. If the project is denied, a denial letter and project evaluation analysis is provided to the applicant.
- STEP 5:** Following a favorable award of a CON from HFR, the applicant has 12 months from the date of approval to implement the proposed project. Certificates awarded for the acquisition of equipment shall be effective for 12 months, by which date the applicant must be in possession of the equipment. For projects that require construction or renovation, the applicant has one year from the date of approval to demonstrate substantial performance in beginning the project.



## Projects that Require CON

- New hospitals, including general, acute-care and specialty hospitals
- New or expanding Nursing Homes and Home health agencies
- All multi-specialty and certain single-specialty Ambulatory Surgery Centers
- Providers of Radiation Therapy, Positron Emission Tomography, Open Heart Surgery, and Neonatal Services
- Major medical equipment purchases or leases (e.g. MRI, CT Scanners) that exceed the equipment threshold
- Major hospital renovations or other capital activities by any health care facility that exceed the capital expenditure threshold
- Before a health care facility can offer a health care service, which was not provided on a regular basis during the previous 12-month period, or add additional beds

## An Overview of CON, Continued

### Post Approval Reporting Requirements

All CON approved projects must comply with post-approval requirements. CON post-approval requirements and progress reporting forms are available on DCH's Web site. An applicant may download the progress report to submit to DCH. Progress reports are required to document timely project implementation and completion, as well as interim progress of 50 percent, completion and specific phase timetable completion.

### Certificate of Need Appeals Process

CON decisions may be appealed by:

- The applicant
- A competing applicant
- A competing health care facility that notified HFR in writing about its opposition to a proposed project on or before the 60th day of the review cycle and participated in the required Opposition Meeting
- The county or municipal government where the project would be located

### Sanctions for Failing to Comply with Certificate of Need Laws

HFR may:

- Issue cease and desist mandates and/or seek court injunctions to halt violations, as well as impose graduated fines ranging from \$5,000 per day up to 30 days, \$10,000 per day from 31 days through 60 days, and \$25,000 per day after 60 days for each day a violation to the CON rules and regulations exists.
- Impose monetary penalties of up to \$500 per day for failure to notify of the transfer of ownership of a health care facility within 45 days of the transaction.
- Require a certain percentage of the adjusted gross revenue of a facility or service to be devoted to the provision of indigent and charity care. A party may be assessed a monetary penalty of the difference between the amount of indigent and charity care that was committed to be provided and that actually was provided.
- Revoke a CON in whole or in part pursuant to notification to the CON holder and a hearing.

### Additional Information

If you are not sure if a project requires a CON before implementation, correspondence should be sent to HFR to request an official Letter of Determination. The request should be made on the Letter of Determination form, which can be obtained at [dch.georgia.gov](http://dch.georgia.gov). The form should also include as much information about the project as possible. There is a filing fee of \$250 for a determination request. HFR will respond in writing. A determination about whether CON requirements apply to a specific project must be made in writing. For more information, go to: **[dch.georgia.gov/con](http://dch.georgia.gov/con)**.

### Projects Exempt from CON

- Repairs to a facility that fall below the CON review threshold
- Replacement of existing therapeutic or diagnostic equipment that received prior CON authorization
- Projects that bring facilities into compliance with licensing requirements, life safety codes or standards of the Joint Commission on Accreditation of Health Care Organizations
- Cost overruns that represent less than 10 percent of the previously approved capital expenditure and do not exceed the CON review threshold; all cost overruns under \$300,000 are exempt from review
- A hospital that maintains an occupancy rate greater than 75 percent for the preceding 12-month period may increase its capacity by 10 beds or 10 percent of its existing inventory (whichever is greater) every two years without a CON, unless the cost associated with the increase exceeds the capital threshold. The hospital must submit a written request for determination regarding exemption under this provision, and the request must document the facility's month-by-month occupancy
- Joint-Venture or Single-Specialty Ambulatory Surgical Center, the establishment and development of which does not exceed the statutory dollar threshold applicable to such exempt facilities
- Unless otherwise specified in the Rules, all applicants seeking an exemption must provide prior notice to and receive written approval from HFR for the exempted activity