Presentation to: Georgia House of Representatives, Rural Development Council

Presented by: Rachel L. King
Mission

The mission of the Department of Community Health is to provide access to affordable, quality health care to Georgians through effective planning, purchasing, and oversight.

*We are dedicated to A Healthy Georgia.*
Certificate Of Need: Rationale

Establish healthcare services which promote access for the people, ensure quality outcomes, and contain cost.
CON History

- 1946: Hill-Burton Act
- 1964: New York passes first CON law
- 1974: Health Planning Resources Development Act
- 1987: Repeal of federal requirement and funding
- 1987-2016: 12 states repealed CON (LA never had it)
- 2018: Indiana enacted CON law
- CON laws also exist in Puerto Rico, USVI, and the District of Columbia
- 3 States, have a variation of CON
3 States with Variations on CON

- Arizona, Minnesota, Wisconsin
- Each has a variation of a CON program:
  - Regulation of certain services
  - Public Notice requirement
  - Authority to operate
CON History

Arguments Against CON: Financial Focus

- CON programs may reduce price competition between facilities and keep prices high.
- Some changes in the Medicare payment system (such as paying hospitals according to Diagnostic Related Groups – “DRGs”) may make external regulatory controls unnecessary by sensitizing health care organizations to market pressures.
- Health facility development should be left to the economics of each institution rather than being subject to political influence.
- Some evidence suggests that lack of competition encourages construction and additional spending.
- Potential for CONs to be granted on the basis of political influence, institutional prestige or other factors apart from the interests of the community.
- It is not always clear what the best interests of the community entail.
- CON programs are not consistently administered among the states.
Arguments for CON: Healthcare Provision Focus

• Health care cannot be considered as a “typical” economic product.
• Most health services (like an MRI) are “ordered” for patients by physicians, patients do not “shop” for these services the way they do for other commodities.
• The American Health Planning Association (AHPA) argues that CON programs limit health-care spending. CON programs can distribute care to areas that could be ignored by new medical centers.
• CON requirements do not block change, they mainly provide for an evaluation, and often include public or stakeholder input.
• May ensure physician competency by not diluting market.
CON Regulated Services

### Summary of Certificate of Need Coverage: Selected Services, 2016

<table>
<thead>
<tr>
<th>Service</th>
<th>Capital Expenditure Review Thresholds (Dollars)</th>
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Source: ANPA, 2016.

* For more detailed information refer to the information on the individual states' page or visit the state's website.

**Medical office buildings and ICT (exam) may be subject to CON regulation in some special circumstances.
CON in Georgia: History

LEGISLATIVE HISTORY:

• 1975: GA began reviewing projects as part of § 1122 of the 1972 Social Security Act Amendments
• 1979: Certificate of Need Program established by GA General Assembly
• 2008: Passage of SB 433, sweeping CON reform
CON in Georgia: Regulated Services (14)

- Hospital Development/Expansion
- Psychiatric Services
- Open Heart Surgery Services
- Perinatal Services
- Long Term Care Services
- Comprehensive Rehabilitation Services
- Skilled Nursing Services
- MegaVoltage Radiation Therapy
- PET/CT
- Pediatric Cardiac Cath / Adult Cardiac Catheterization outside a hospital setting
- Freestanding Birth Centers
- Ambulatory Surgery Centers
- Home Health Services
- Capital Expenditures above the applicable capital expenditure threshold
CON in Georgia: Statutory Exemptions

• Some services in Georgia may qualify for a statutory exemption from review:
  – Personal Care Homes
  – Continuing Care Retirement Communities
  – Traumatic Brain Injury Treatment Facilities
  – Certain Ambulatory Surgery Centers
  – Certain diagnostic or therapeutic equipment expenditures
CON in Georgia

• States regulate as many as 30 or as few as 4 services.
• Georgia falls in the middle with approximately 14 regulated services.
• Georgia does not require CON review for many services reviewed in other states:
  – Burn Units  - Organ Transplant  - Renal Dialysis
  – Hospice    - Assisted Living
  – Emergency - Sub Acute Care
CON in Georgia: Service Delivery Regions

STATE SERVICE DELIVERY REGIONS
Amended Effective July 1, 2005

[Map showing the service delivery regions in Georgia]
CON in Georgia: Exemptions from Review

• 27 statutory exemptions available

• O.C.G.A. § 31-6-47 includes:
  – Relocation of Facilities
  – Certain Personal Care Homes
  – CCRCs
  – Physical plant projects/Life Safety Code Projects
  – Parking structures and parking lots
  – Certain ASCs
While many rules incorporate a numeric need methodology for determining need, it is recognized that numbers are not dispositive indicators of actual need for health care services in an area.

Rules incorporate exception criteria analysis
- Show the service proposed is not available in an area
- Identify a population in need of that service
- Document how proposal will remedy that need
CON in Georgia: Reviews

- **CON**: Average 72 annually

- **Letters of Non-Reviewability**: Average 72 annually
  - Equipment: Average of 46 annually
  - Ambulatory Surgery Centers: Average of 26 annually

- **Letters of Determination**: Average 208 Annually
  - Specific requests confirming availability of exemptions from CON review
CON in Georgia: Data Management

• Facility Surveys: 10 Annually, 1300 facilities
• Data Reporting
• Indigent and Charity Care compliance
• Threshold Calculations
• Numeric Need Methodology calculations
• Batching Notices: Issued quarterly
CON in Georgia: Appellate Review

- CON decisions are subject to appeal process (O.C.G.A. § 31-6-44)
  - Certificate of Need Appeal Panel
    - Panel of three (3) judges appointed by the Governor
    - With legal and healthcare experience
- Aggrieved party may appeal to Commissioner (Id.)
- Commissioner decision may be appealed to Superior Court (O.C.G.A. § 31-6-44.1)
Post Approval Monitoring

- Ensure compliance with approved implementation and completion regulations
- Provide Notice of Expiration where necessary
- Coordinate with facilities and architects
- Maintain facility file
- Compile and Issue weekly Tracking Report
Architectural Review

- Preliminary Reviews of architectural plans prior to project submission
- Post Approval Review
- Certificate of Occupancy Issuance
- Ensure compliance with Federal Guidelines Institute (FGI) physical plant recommendations
Additional Information

  - Rules
  - Applications and Forms
  - Design Guidelines
  - Health Planning Data
  - CON Appeal Panel Info
  - Patient’s Right to Independent Review Information
QUESTIONS?

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