



GEORGIA DEPARTMENT  
OF COMMUNITY HEALTH

# Office of Health Planning



Presentation to: Georgia House of Representatives,  
Rural Development Council

Presented by: Rachel L. King

Date: 9/18/18



# 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- 1987-2016: 12 states repealed CON (LA never had it)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.



# CON History

## 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

State	Summary of Certificate of Need Coverage: Selected Services, 2016																				Capital Expenditure Review Thresholds (Dollars)			
	Hospital Inpatient Services	Outpatient Surgery (OS)	Outpatient Imaging	Outpatient Diagnostic Radiology	CT Scans	Outpatient Diagnostic Services	Outpatient Diagnostic Services	Outpatient Diagnostic Services	Outpatient Diagnostic Services	Outpatient Diagnostic Services	Outpatient Diagnostic Services	Outpatient Diagnostic Services	Outpatient Diagnostic Services	Outpatient Diagnostic Services	Outpatient Diagnostic Services	Outpatient Diagnostic Services	Outpatient Diagnostic Services	Outpatient Diagnostic Services	Outpatient Diagnostic Services	Outpatient Diagnostic Services	Outpatient Diagnostic Services	Facility	Equipment	New Services
Alabama	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	5.0 (\$M)	2,000,000	Any Amount*
Alaska	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,000,000	1,000,000	1,000,000
Arizona	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,000,000 (Planning Horizon)	NA	NA
Connecticut	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	NA	NA	Any Amount
Delaware	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	NA	NA	NA
Dist. of Columbia	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,000,000	1,000,000,000,000*	Any Amount
Florida	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	NA	NA	* See rules below
Georgia	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,000,000	1,000,000	Any Amount
Illinois	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	4,000,000	1,000,000	Any Amount
Iowa	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	10,000,000 (Hospital) & 7,000,000 (Other)	NA	Any Amount*
Kentucky	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,000,000	1,000,000	500,000
Louisiana	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,746,400	2,746,400	NA
Maine	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	NA	NA	Any \$100,000 Project
Maryland	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	10,000,000 (Health Care Facilities) & 5,000,000 (Planning Horizon)	2,400,000*	1,000,000*
Maryland	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	NA	NA	Any
Massachusetts	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	10,000,000 (Hospital) & 5,000,000 (Other)	1,000,000	Any Amount*
Michigan	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,000,000 (Medical Services)	Any	Any Amount*
Mississippi**	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,000,000 (Hospital) & 1,000,000 (Other)	1,000,000	Any Amount
Missouri	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	100,000,000 (Hospital) & 20,000,000 (Other)	400,000,000 (Hospital) & 100,000,000 (Other)	1,000,000
Montana	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,000,000	NA	500,000
Nebraska	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Any Long Term Care*	NA	NA
Nevada	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	3,000,000	NA	NA
New Jersey	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,000,000	1,000,000	Any
New York	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	50,000,000 (Hospital) & 25,000,000 (Other)	6,000,000	Any
North Carolina	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,000,000	750,000	Any Amount
Ohio	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,000,000*	NA	NA
Oklahoma	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,000,000	NA	Any amount unless proposed by state health board
Oregon	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Any \$100,000 Hospital	NA	Any \$100,000 Hospital
Rhode Island	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,700,000	2,400,000	1,000,000
South Carolina	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,000,000	400,000	1,000,000
Tennessee	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	5,000,000 (Hospital) & 2,000,000 (Other)	1,000,000	Any amount with local change
Vermont	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,000,000	1,000,000	\$500,000*
Virginia	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,000,000	Any Amount*	Any Amount*
Washington	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	10,000,000	NA	Any Amount*
West Virginia	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Varies by service*	NA	Any Amount
Wisconsin	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,000,000	2,000,000	Any amount \$25,000,000

Source: AHCPS, 2016.  
 \* For more detailed information refer to the information on the individual state's page Section 1 as well as the state's web site.  
 \*\*Medical office buildings and CT scanners may be subject to CON regulation in some typical 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
  - Hospice
  - Emergency
  - Organ Transplant
  - Assisted Living
  - Sub Acute Care
  - Renal Dialysis



# CON in Georgia: Service Delivery Regions

## STATE SERVICE DELIVERY REGIONS

Amended Effective July 1, 2005



# 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



# CON in Georgia: Exceptions to Need

- 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

- [www.dch.ga.gov](http://www.dch.ga.gov) → Divisions & Offices → Office of Health Planning →
  - Rules
  - Applications and Forms
  - Design Guidelines
  - Health Planning Data
  - CON Appeal Panel Info
  - Patient's Right to Independent Review Information

# Contact and Questions

## QUESTIONS?

Rachel L. King, Esq.,

(404) 657-7198

[rking1@dch.ga.gov](mailto:rking1@dch.ga.gov)