

Publications

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Tennessee Enacts Certificate of Need Reform for Hospitals and Key Service Lines

Key Takeaways

- Tennessee has enacted Senate Bill 1369, phasing out CON requirements for certain facilities and service lines. The repeal applies to satellite emergency departments and cardiac catheterization services in 2028 and acute care hospitals in 2030.
- The law enhances HFC's oversight by requiring TennCare participation, charity care and payor mix-related requirements.

Tennessee has enacted another round of Certificate of Need (CON) reform, continuing the state's broader transition away from CON regulations and toward a licensure-focused regulatory framework. While the newly signed Senate Bill 1369 eliminates the CON approval process for new acute care hospitals, the legislation does not fully deregulate hospital development. Instead, Tennessee is shifting oversight authority from the CON process to the licensure process administered by the Tennessee Health Facilities Commission (HFC). In this alert, we outline the key CON changes and deadlines for affected Tennessee hospitals and service lines.

Elimination of CON Requirement for Acute Care Hospitals

Governor Bill Lee signed Senate Bill 1369 into law on May 5, eliminating CON requirements for several categories of health care facilities and service lines through a phased implementation schedule. Most notably, the new law removes the requirement to obtain a CON to establish or operate an acute care hospital in Tennessee, effective July 1, 2030.

The legislation defines an "acute care hospital" as a hospital primarily focused on treating patients with an average length of stay of 25 days or less. That definition distinguishes acute care hospitals from other hospital categories that will remain subject to Tennessee's CON requirements, such as long-term care and rehabilitation facilities.

For acute care hospitals licensed on or after July 1, 2030, the HFC is authorized to adopt additional licensing standards. Those standards must include, at a minimum, requirements that such hospitals participate in TennCare and provide TennCare and charity care

Related People

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Related Capabilities

- Health Care
- Certificate of Need

comparable to similarly situated acute care hospitals. The Commission must also complete a stakeholder-informed payor mix report by Jan. 1, 2031.

Satellite Emergency Department and Cardiac Catheterization Service

The legislation also removes CON requirements for satellite emergency departments and cardiac catheterization services, with those changes effective July 1, 2028. However, the repeal is not a full deregulation of those services. Satellite emergency departments must be licensed as outpatient departments of licensed hospitals, and new cardiac catheterization services must be provided by facilities licensed as outpatient departments of licensed hospitals, subject to a grandfathering provision for facilities already operating as of the effective date.

Health Care Services Still Subject to CON Review

Even after the current reforms are fully implemented, Tennessee will continue to require CON approval for several health care facility types and service lines, including:

- Home health and hospice providers
- Long-term care and rehabilitation hospitals
- Nonresidential substitution-based treatment centers for opiate addiction
- Nursing homes
- Organ transplantation
- Outpatient diagnostic centers
- Rehabilitation facilities

Looking Ahead

Tennessee's recent CON reforms likely do not represent the end of the state's broader reevaluation of its CON framework. In connection with broader rural health care initiatives and funding efforts, Tennessee policymakers have continued to emphasize health care regulatory modernization, provider investment and expanded access to care in underserved and rural communities.

For additional guidance on these requirements, including evaluating the impact on your organization or assistance with obtaining a certificate of need, please reach out to John Wesley Williamson, Rachel Adams or your preferred Polsinelli attorney.