



Certificate of Need Litigation

The Certificate of Need (“CON”) and Certificate of Public Need (“COPN”) Practice group includes attorneys and paralegal support with in-depth knowledge of the North Carolina/Virginia CON/COPN Laws and extensive experience with the complexities of the administrative and regulatory processes. We have litigated numerous contested CON cases in the North Carolina Office of Administrative Hearings and COPN cases in the Virginia Department of Health, both challenging and defending awards of CONs, exemptions and determinations of “no-review”, as well as North Carolina Superior Court and Virginia Circuit Court actions for injunctions and/or declaratory relief based on potential violations of the CON Law. Additionally, we are experienced handling CON matters in the appellate courts. We have also obtained numerous declaratory rulings in CON-related matters from the Department of Health and Human Services.

Helping You Navigate the Complexities of CON

Williams Mullen’s CON/COPN attorneys also maintain excellent working relationships with the CON Section of the North Carolina Department of Health and Human Services, the COPN Division of the Virginia Department of Health and professional CON/COPN consultants. We routinely advise clients prospectively on the implications of the CON/COPN Law. Our broader health care team provides daily guidance on a broad spectrum of other state and federal health care regulatory matters and has assisted clients in acquiring nursing facilities throughout the United States.

Working with Your Certificate of Need Consultants

Williams Mullen’s CON/COPN practice group works with your certificate of need consultant to develop the appropriate legal strategy. Our clients include nursing facilities, hospitals, multi- and single-specialty physician practices, and regional and national private service providers in connection with a wide variety of health care projects, including:

- Nursing Facilities
- Diagnostic Centers
- Construction projects, including medical office buildings
- Ambulatory Surgery Centers
- Magnetic Resonance Imaging (MRI) Scanners, mobile and fixed
- Hospice programs
- Air Ambulance services
- Hospitals

Representative Experience

North Carolina CON

- Several successful defenses of Certificate of Need approvals for fixed MRI scanners for national diagnostic imaging service provider, large multi-specialty physician practice, radiology physician practice and other health care entities.
- Successful appeal of agency denial of Certificate of Need application by joint venture entity for new diagnostic imaging center, resulting in issuance of CON.
- Obtained numerous “no-review” determinations for national diagnostic imaging providers, confirming that no Certificate of Need was required to relocate MRI scanners.
- Multiple successful defenses of “no-review” determinations for the establishment of health service facility branch offices.
- Several successful defenses of appeals of Certificate of Need exemptions, including those for replacement equipment, medical office buildings and other projects.
- Petition for adjusted need determination on behalf of hospital resulting in need determination for new fixed MRI scanner out of normal cycle.
- Successful defense of diagnostic imaging center from challenge by local hospital attempting to shut diagnostic center down unless Certificate of Need obtained.

Virginia COPN

- Successful representations in contested nursing facility, rehabilitation hospital, ambulatory surgery and other health care facility and equipment applications for COPNS.
- Successful appeals of COPN approvals in opposition to unsuccessful candidates.
- Successful challenge to VDOH failure to comply with regulatory requirements in issuing COPNs.
- Current appeal of a COPN issued pursuant to special legislation challenging both constitutional and statutory administrative deficiencies in issuing the COPN.

Related News

- [Avoiding Contempt: Responding to Non-Party Subpoenas](#)
- [Court of Appeals Flags Vulnerability in Agency Review of N.C. CON Applications](#)
- [2008 OAH Decision Leaves Doubt as to Deadline to Appeal CON ?No-Review? Determinations](#)
- [Civil Suit Challenges Elements of North Carolina Certificate of Need Law](#)
- [Update: CON Cost Allocation Issue Determined in May 30, 2008 Final Agency Decision but Remains Subject to Appeal.](#)
- [Overview of North Carolina Certificate of Need Law](#)
- [Health Care Regulatory Update](#)
- [Civil Suit Challenges Elements of North Carolina Certificate of Need Law](#)

- Health Care Regulatory Update
- Health Care Regulatory Update
- Health Care Regulatory Update
- FTC Seeks to Block Northern Virginia Hospital Merger
- Experienced Health Care Attorneys Joy Heath and Ruth Levy Join Williams Mullen
- Former Virginia Deputy Secretary of Health and Human Resources Matthew Cobb Joins Williams Mullen
- Williams Mullen Welcomes Health Care Associate Dorothy H. Murphy
- Williams Mullen Strengthens Health Care Practice with Addition of Six Attorneys
- Virginia's Certificate of Public Need Law is Here to Stay (For Now)
- COPN Reform Efforts Delayed
- It's the CON Season in North Carolina ? Is Your Petition Ready?
- Key North Carolina CON Petition Deadlines
- North Carolina CON Activity and Opportunity Report
- Legislative Solutions: 2017 North Carolina Legislative Recap
- Certificate of Need (CON) Season in NC
- North Carolina CON Activity Report
- Votes Cast on North Carolina's 2018 State Medical Facilities Plan
- North Carolina State Health Coordinating Council Votes on Proposed 2019 State Medical Facilities Plan
- Williams Mullen Welcomes Health Care Attorney Rebecca Ivey
- Williams Mullen Adds Rebecca Ivey and Chip Hancock to Health Care Section
- Jennifer Ligon Elected Chair of the Virginia Bar Association's Young Lawyers Division
- North Carolina Health Care Update: Is it Time for a New Hospital Player in Charlotte? Where are the Needs?
- Jamie Martin Named to 2020 Class of 'Influential Women of Law' by Virginia Lawyers Weekly
- Jennifer Ligon Named to 2020 Class of 'Up & Coming Lawyers' by Virginia Lawyers Weekly

Related Events

- Legal Update ? North Carolina Healthcare Financial Management Association
- Webinar: 3 Things to Know About Buying, Selling and Relocating Long-Term Care Beds in North Carolina
- The Global Reach of U.S. Customs & Trade Law: Recent Developments Affecting Your Business

Related Attorneys

- Jeremy A. Ball – 804.420.6406 – jball@williamsmullen.com

- Wyatt S. Beazley, IV – 804.420.6497 – wbeazley@williamsmullen.com
- Matthew M. Cobb – 804.420.6390 – mcobb@williamsmullen.com
- Patrick C. Devine, Jr. – 757.629.0614 – pdevine@williamsmullen.com
- Martin A. Donlan, Jr. – 804.420.6934 – mdonlan@williamsmullen.com
- Joy Heath – 919.981.4001 – jheath@williamsmullen.com
- Rebecca E. Ivey – 804.420.6334 – rivey@williamsmullen.com
- Maggie Krantz – 804.420.6420 – mkrantz@williamsmullen.com
- Ruth Levy – 803.567.4613 – rlevy@williamsmullen.com
- Jennifer Ligon – 804.420.6423 – jligon@williamsmullen.com
- Jamie Baskerville Martin – 804.420.6407 – jbmartin@williamsmullen.com
- Anderson M. Shackelford – 919.981.4312 – ashackelford@williamsmullen.com