



## North Carolina's Remaining 2020 CON Filing Deadlines Extended; 2021 CON Filing Opportunities Forecasted

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Governor Roy Cooper has extended the 2020 deadlines for North Carolina Certificate of Need (CON) Application filings - in the months remaining in calendar year 2020, applicants have not only the opportunity to seek CON approval for a new hospital or surgery center in Charlotte but also openings to seek CON approvals for MRI scanners, operating rooms and other health care capabilities in various markets. And, recently released reports now provide the initial forecast for a range of 2021 expansion opportunities.

### Remaining 2020 Filing Opportunities

In light of COVID-19, Governor Roy Cooper has afforded providers additional time to prepare and present proposals to develop and expand facilities and add needed medical equipment. Despite the financial strains and concerns caused by the pandemic, providers are looking ahead to the remaining CON filing opportunities in 2020.

North Carolina's largest city, Charlotte, could be the proposed site for North Carolina's newest hospital. On November 16, 2020, the Healthcare Planning and Certificate of Need Section will accept applications for those proposing to meet the need for up to 126 new acute care beds and 12 new operating rooms in Mecklenburg County. Could the time be right for an out-of-state provider to enter the Mecklenburg hospital market? Or, will a provider from elsewhere in our state vie for the chance to open Charlotte's newest hospital? Alternatively, proposals can be submitted to develop operating rooms in new or expanded freestanding surgery centers.

In another interesting twist, providers can apply to develop up to 68 new acute care beds and two operating rooms in Forsyth County – those seeking new beds and/or operating rooms in Winston-Salem (or elsewhere in Forsyth County) now have until July 15, 2020 to submit their proposals for state review. Elsewhere in North Carolina, applicants can apply to add acute care beds in Moore and New Hanover Counties, with applications due in each market by September 15, 2020.

Three new operating rooms will be up for grabs in the always-competitive Raleigh market with proposals due by September 15, 2020. The OR need in Wake County is likely to draw the attention of area hospitals as well as surgeons interested in owning and operating freestanding surgery centers.

Magnetic Resonance Imaging (MRI) scanners are shown as a 2020 need in several service areas, including Alamance (applications due November 16, 2020), Durham/Caswell (July 15, 2020), Guilford

(October 15, 2020) and Mecklenburg (September 15, 2020). Again, both hospitals and physician groups may be among the applicants vying for approval to acquire and operate new MRI scanners in various North Carolina markets.

Applications for adult care home beds (commonly referred to as assisted living beds) can be submitted in two rural North Carolina Counties – Pamlico and Tyrell – by August 17, 2020. As in prior years, the limited need determinations for new assisted living beds and nursing home beds will put the focus on acquisition opportunities. Under North Carolina's CON law, the acquisition of an existing health service facility, such as an assisted living or nursing facility, can be exempted from CON review upon prior written notice. Opportunities abound for providers to acquire and refurbish facilities or relocate long-term care beds within various North Carolina counties or, in some instances, across county lines.

The state has identified a 2020 need for one new hospice home care agency in Rowan County and will be accepting applications on September 15, 2020. Eight hospice inpatient beds are identified as a need in Cumberland County with applications due by October 15, 2020. Child/adolescent psychiatric inpatient beds are shown as needed across several areas of the State. Child/adolescent chemical dependency beds are needed in the state's central region, and adult chemical dependency beds are a need in Forsyth County.

### **2021 Filing Opportunities**

According to recently released reports from our state's health planners, in 2021, selected North Carolina markets will likely need more acute care beds, operating rooms, assisted living beds, a range of new diagnostic equipment and another home health agency. In addition, state planners believe certain areas of the state need additional chemical dependency treatment beds and psychiatric bed capacity.

Surgeons, surgery center management companies, and hospitals will no doubt have a keen interest in the potential to seek new operating room capacity in Brunswick (two ORs), Durham/Caswell (four ORs), Orange (three ORs), and Wake (two ORs). New ORs can be added to hospitals or existing surgery centers; alternatively, new market entrants may seek to develop the ORs as part of a new surgical facility. Acute care bed proposals will also be accepted in various Counties across the State.

A need for one new MRI scanner is forecasted for each of several North Carolina service areas:

- Buncombe/Graham/Madison/Yancey
- Mecklenburg
- New Hanover
- Orange
- Stanly
- Wake
- Pasquotank/Camden/Currituck/Perquimans

Unlike 2020, 2021 is expected to offer multiple opportunities for applications for Fixed PET scanners in various areas of the State. Two service areas are predicted to show need for a new linear accelerator, and several areas of the state are expected to show a need for new cardiac catheterization equipment.

In 2021, the state forecasts a need for another home health agency in Mecklenburg County. Various markets are expected to show a need for new chemical dependency and/or psychiatric bed capacity. No new nursing home bed need is anticipated although a range of rural counties are expected to show a need for new adult care home (assisted living) beds in 2021.

Between now and July 29, 2020, North Carolina's State Health Coordinating Council will consider petitions for adjusted need determinations from those who believe that unique or special attributes of a geographic area or institution give rise to resource requirements that differ from what will be reflected through application of the standard state health planning process. In other words, the state is ready now to hear from those who believe that distinctive characteristics in a particular area or at a specific facility call for the development of new health care facilities or services. If exceptional circumstances or unusual factors – either in a community or in a provider's organization – give rise to a need for new health care resources, an opportunity exists to put those facts before those who regulate health care development in our State. The opportunity is a limited time offer: the state will accept no petitions after 5:00 p.m. on July 29, 2020.

To date, the state has transitioned its planning meetings to a WebEx format allowing participants to log on to hear the proceedings without in-person attendance. Typically, a series of summer public hearings are held in locations across the state to discuss petitions for adjusted need determinations. In light of COVID-19, this format has changed; the summer public hearings will now be conducted via WebEx on July 8, 10, 14, 17, 21 and 29.

Now is the time for those interested in petitioning to define their proposals to take advantage of the opportunity to educate the decision-makers through the summer public hearing process. The deadline for petition submissions is 5:00 p.m. on July 29, 2020.

For more information, please contact Joy Heath at (919) 981-4001 or [jheath@williamsmullen.com](mailto:jheath@williamsmullen.com), or Anderson Shackelford at (919) 981-4312 or [ashackelford@williamsmullen.com](mailto:ashackelford@williamsmullen.com).

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## Related People

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