



Executive Order No. 2020-11, Section 4. Suspending Certain Aspects of Certificate of Need Review Frequently Asked Questions

Q: What does the Governor's Executive Order state regarding this topic?

A: The Governor's Executive Order States, at Section 4:

"A. I hereby authorize and direct DHEC to suspend, for the duration of the present emergency, pursuant to Regulation 61-112 of the South Carolina Code of Regulations, any necessary and applicable provisions of Regulations 61-15 and 61-16, which restrict the use of unlicensed beds or space, the conversion of single and double occupancy patient rooms to account for higher patient capacity, or the establishment of wards, dormitories, or other spaces not designated as patient rooms.

B. I hereby suspend the monetary thresholds set forth in Section 102 of Regulation 61- 15 of the South Carolina Code of Regulations for items requiring Certificate of Need Review, to the extent necessary and applicable, so as to permit healthcare facilities to make those capital expenditures and acquire medical equipment deemed necessary to prevent, diagnose, treat, or monitor the progression of COVID-19.

C. I further direct DHEC to suspend certain sections of the South Carolina Health Plan addressing health services requiring Certificate of Need Review, as DHEC deems necessary and appropriate, to allow a healthcare facility to provide temporary health services to adequately care for patients that may be affected by COVID-19. Healthcare facilities shall address any such requests pursuant to this Section to DHEC and coordinate with DHEC regarding the same."

Q: Does this suspend the Certificate of Need Program?

A: No, the Program continues to operate as required by law. This includes the continuing review of applications, the issuance of certificates, determinations of exemption and non-applicability, and all other normal business of the Program. The suspension only applies to those aspects of Certificate of Need review outlined in the Executive Order (e.g., use of unlicensed beds or space, monetary thresholds, certain health services).

Q: How does our health system add beds or establish wards, dormitories, or other spaces not designated as patient rooms in order to respond to COVID-19?

A: The addition of hospital beds which would normally require review by the CON Program, under the relevant standards of Chapter 3 of the *South Carolina Health Plan*, may be temporarily permissible without the need for full CON Program review or issuance of a Certificate of Need. If your health system needs to bring additional beds online during this emergency response period, please email your request directly to acc-healthreg@dhec.sc.gov for expedited review and reference "Executive Order 2020-11" in the subject line of your email.

Q: How is this different from the Alternate Care Site (ACS) approval our health system has already received, or that we are currently seeking?

A: The requirements for an Alternate Care Site are outlined in Reg. 61-16, Section 903. An ACS allows your health system to treat patients at a location outside of your main hospital facility but under its existing license. These temporary treatment locations would not normally require CON review as they are not general beds which are set up and staffed for routine patient care in the hospital, and would not constitute a change in compliment or change in type of beds listed on the face of the hospital's license. However, in order to expedite a facility's request to prepare for COVID-19 response, requests for either or both an ACS *and/or* an increase in beds within the hospital can be sent directly to acc-healthreg@dhec.sc.gov for review and reference "Executive Order 2020-11" in the subject line of your email.

Q: What does a suspension of monetary thresholds from Reg. 61-15, Section 102 mean for our health system?

A: The suspension of monetary thresholds allows your health system to quickly acquire equipment which would otherwise be subject to CON review and approval, make capital expenditures which would otherwise be subject to CON review and

approval, or some combination of both, as needed for COVID-19 related purposes. In order to bring these types of acquisitions online, please email your request directly to acc-healthreg@dhec.sc.gov for expedited review and reference "Executive Order 2020-11" in the subject line of your email.

Q: Can you give us some examples of how that looks from an operational standpoint?

A: Your health system may wish to acquire advanced imaging equipment for diagnostic purposes related to COVID-19 patients. This imaging equipment would normally cost \$1.1M, and would therefore exceed the \$600,000 threshold for equipment acquisition outlined in R. 61-15, Section 102. Under the Executive Order, the health system would NOT require a Certificate of Need to acquire the equipment.

Your health system may need to acquire real property to establish a treatment location for COVID-19 patients. The purchase of a warehouse at \$3.5M, as an example, to be used for the establishment of a treatment ward *may* require a CON under normal circumstances. Under the Executive Order, the health system would NOT require a CON to acquire the warehouse and establish an inpatient treatment site.

Your health system may need to transfer beds, services, and/or equipment between locations in order to prevent, diagnose, or treat the spread of COVID-19. Under normal circumstances, this transfer *may* be subject to CON review and approval. Under the Executive Order, the health system would NOT require a CON to transfer beds, services, and/or equipment between locations.

This does not represent an all-inclusive list of permissible activities under the Executive Order, but is meant to serve as a general example for guidance and planning purposes.

Q: Does the suspension of certain CON requirements apply to other inpatient facility types?

A: This may vary by request. For any project not relating to the hospital setting, please send a detailed request to acc-healthreg@dhec.sc.gov for expedited review and reference "Executive Order 2020-11" in the subject line of your email.

Q: Does this affect my pending Certificate of Need application?

Pending Certificate of Need applications for projects unrelated to the Executive Order and COVID-19 related projects will continue to be reviewed and processed by the Department. If you feel a pending application would now be subject to the Executive Order, please submit as much information as you can regarding that pending application to acc-healthreg@dhec.sc.gov and reference "Executive Order 2020-11" in the subject line of your email.

Q: Who can we contact with additional questions?

A: Please direct any questions to acc-healthreg@dhec.sc.gov and reference "Executive Order 2020-11" in the subject line of your email. Delivery to this address will ensure the fastest response time.