

# MONTHLY REPORT

Information updated as of March 11, 2011

## CERTIFICATE OF NEED SECTION

DIVISION OF HEALTH SERVICE REGULATION

2704 MAIL CENTER SERVICE

RALEIGH, NORTH CAROLINA 27699-2704

CERTIFICATE OF NEED SECTION (919) 855-3873

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CERTIFICATE OF NEED UPDATE  
WHAT'S NEW?

1. **The 2011 State Medical Facilities Plan was amended by the Governor effective March 8, 2011. The amendment eliminates all projected need for additional Medicare-certified home health agencies or offices in the state.**
2. CON Rules:
  - a. The following Certificate of Need rules in 10A NCAC 14C became permanent rules, **some with technical changes**, effective November 1, 2010:  
.1202 Intensive Care Services .1402, .1403 Neonatal Services .1703 Open Heart Surgery Services and Heart Lung Bypass Machines  
.1902 Radiation Therapy Equipment .2102, .2103, .2104, .2105, .2106 Surgical Services .2202, .2203 ESRD Services  
.2701 MRI Scanners  
See <http://www.ncdhhs.gov/dhsr/ruleactions.html#tempcert>
  - b. The following Certificate of Need rule in 10A NCAC 14C was amended effective March 1, 2010: .1701 Open Heart Surgery Services and Heart Lung Bypass Machines.  
See <http://www.ncdhhs.gov/dhsr/ruleactions.html#tempcert>
  - c. The following Certificate of Need rules in 10A NCAC 14C were amended effective August 1, 2009: .2601, .2602 Psychiatric Beds
3. New or Revised CON Application Forms:
  - a. Home Health Agency (revised) effective for reviews beginning on or after April 1, 2011.
  - b. Intermediate Care Facilities for the Mentally Retarded (revised) effective for reviews beginning on or after June 1, 2010. The changes made in a 1994 memorandum were incorporated into the document itself.
  - c. Effective April 1, 2010, all CON application forms have been revised such that the signatures on the certification page do NOT need to be notarized. **ALL prior applications for these services have been replaced.** To receive a copy of the new applications, contact the CON Section at (919) 855-3873.
4. Changes in the CON Law made during the 2009 Session of the General Assembly:
  - a. New exemption for certain renovations and expansions of nursing home facilities, adult care home facilities and IFC/MRs. See G.S. 131E-184(e).
  - b. Certificate of need cannot be issued until the end of the 30-day appeal period following a final agency decision by the Director. See G.S. 131E-185(c).
  - c. Approved applicant may seek increased bond amount if final agency decision is appealed to the Court of Appeals. See G.S. 131E-188(b1).  
See Appendix D of the 2011 State Medical Facilities Plan at <http://www.ncdhhs.gov/dhsr/ncsmfp/2011/2011smfp.pdf> for a copy of the CON law.
5. Adult Care Home Rates: The reimbursement rates for 2011 CON applications are posted on the CON Section web site at <http://www.ncdhhs.gov/dhsr/coneed/index.html>
6. Nursing Facility Rates: Applicants proposing a new nursing facility pursuant to a need determination in the 2011 SMFP should use the following rates:  
Nursing Home Direct (Median) – \$101.52 per day  
Nursing Home Indirect (Median) – \$31.13 per day  
NH Assessment <48,000 bed days – \$12.75 per day  
NH Assessment ≥48,000 bed days – \$6.25 per day

**Fair Rental Value (FRV) rate – Providers should determine the appropriate FRV rate for their facility and use it in preparing the pro formas.**

Charges, Rates and costs should be held constant at 2011 levels through the second operating year, that is, assume no inflation.

Existing Nursing Facilities proposing new beds or replacement beds should use their current rates with no inflation, i.e., hold all costs and charges constant in 2011 dollars.

7. Effective October 1, 2009, OAH requires a filing fee with submittal of a petition for a contested case. Please direct all questions regarding this fee to the Clerk's Office at OAH (919) 431-3000.
8. Written Comments: The CON Section is now posting written comments in a PDF format on the CON Section website beginning with the February 1, 2010 reviews. The comments should be available on the website on or about the 3<sup>rd</sup> workday following the last day of the comment period.
9. Dialysis providers seeking to offer home hemodialysis training in existing dialysis facilities must first request a determination from the CON Section as to whether or not the addition of the service requires a certificate of need.
10. The Certificate of Need Section maintains a mailing list of persons who want to receive notice of proposed CON rule changes. If you would like to be included on the mailing list for notice of proposed rules, please call or e-mail Stephanie Evans at 919-855-3873 or [Stephanie.Evans@dhhs.nc.gov](mailto:Stephanie.Evans@dhhs.nc.gov).