

## Certificate of Need – 2023 Legislative Brief

*The Certificate of Need law ensures that hospitals and health systems maintain the resources to provide high-value care to all in our communities. Duke supports the Certificate of Need program and adapting the program to address the state's evolving healthcare needs.*

### Context & Insights

North Carolina is one of 35 states with a Certificate of Need (CON) program to coordinate planning of new healthcare services, including construction projects, to specifically meet the needs of communities across our state. The ultimate goal of CON programs is to use data-driven need methodologies to equitably distribute healthcare services across the state while ensuring quality services. Thus, the law ensures access to care for medically underserved populations and prevents oversupply that can lead to higher healthcare costs for patients. North Carolina's robust annual planning process ensures need methodologies are continuously improved and meet the needs for North Carolina's growing population. The State Health Coordinating Council (SHCC) is responsible for the development of the State Medical Facilities Plan, reviewing provider applications for healthcare services, and monitoring ongoing construction projects for healthcare services. The SHCC is a 24-member group of volunteers appointed by the Governor and includes private physicians, business leaders, and community and industry representatives.

Hospitals do not operate in a traditional free market environment: they have a moral and legal obligation to care for all regardless of the patient's ability to pay. Furthermore, payments for healthcare services by insurance and government payers vary widely from service- to-service and payor-to-payor. This system of payment creates the wrong incentives in a fee-for-service model. With these economic realities, hospitals rely on certain procedures, such as elective surgical procedures and high-end imaging, to balance losses from many other acute care services. In fact, many hospitals are able to provide vital, life-saving services that are not reimbursed to cost such as trauma center designated services, emergency services, children's and women's health services, and behavioral health, because other service lines cover at least a portion of the losses.

Hospitals with Emergency Departments are the only entities in the United States federally required to care for every person who enters their facilities. CON reform and how the legislative language and rules around it are finalized could affect hospitals differently, but our modeling shows that if Medicaid expansion and HASP are both passed, it will lessen the financial burden on hospitals. Duke proposes that any changes to the CON process take place over time and only after Medicaid Expansion and HASP are fully implemented. The NC Healthcare Association estimates that the total financial impact of CON reform could be hundreds of millions of dollars a year. However, if the General Assembly passes legislation that includes both Medicaid Expansion and HASP, there is a projected net gain for hospitals and health systems which positions hospitals to step up and fund Medicaid Expansion.