

Changes in Certificate of Need Laws from 2021 Legislation – By Service or CON Action
Effective October 1, 2021

Healthcare Facility, Service, or Action	Requirements Prior to October 1, 2021 ¹	Requirements Effective October 1, 2021 ²
Mental Health Hospitals	CON required to establish mental health hospital.	Deleted. CON not required to establish a mental health hospital.
Medical Equipment	CON required to replace or relocate medical equipment if a CON was required to obtain and initiate services.	Deleted. CON not required to replace or relocate medical equipment.
Psychiatric Services	CON required to initiate psychiatric services or establish a facility to provide psychiatric services.	Deleted. CON not required to initiate psychiatric services or establish a facility to provide psychiatric services.
Nursing Homes – New Facility	Nursing home bed moratorium in place. During each fiscal year, HSDA may only issue a CON for up to 30 new nursing home beds with a cap of 125 total Medicare SNF beds per year.	No Change. Nursing home bed moratorium and Medicare SNF cap continued. <i>Note: Statutory nursing home bed need criteria in T.C.A. §68-11-1621 deleted; criteria remain in Guidelines for Growth publication.</i>
Nursing Homes – Adding Beds	CON required to add licensed beds. Must include evidence that project meets criteria including population need and long-term economic feasibility. Full CON application required. 10 Bed / 10 Percent Rule allowing minor increases in bed count suspended during nursing home bed moratorium.	Modified. 10 Bed / 10 Percent Rule allowing a limited increase in nursing home beds without obtaining a CON reinstated. A nursing home may increase its total number of licensed beds by the lesser of 10 beds or 10% of its licensed capacity no more frequently than one time every three years without obtaining CON approval. The nursing home must submit written notice of the increase in beds to the HSDA on its prescribed forms prior to requesting an updated license from the Board for Licensing Health Care Facilities. A 10 bed or 10% increase cannot be requested until one year after the date all of the new beds were initially licensed. Outside of the circumstances outlined above, a CON must be obtained to add nursing home beds.
Hospitals – Reopening Closed Hospitals (Rural and Distressed Counties)	CON required to open a hospital.	Modified. CON not required to reopen a closed hospital in a rural or distressed county so long as hospital operated within previous 15 years.

¹ See Tenn. Code Ann. § 68-11-1601 *et seq.*, the Tennessee Health Services and Planning Act, as amended June 2020.

² Tennessee Public Chapter 557 (2021), the Tennessee Health Services and Planning Act of 2021, effective October 1, 2021.

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Healthcare Institutions – Economically Distressed Counties	CON required under certain circumstances.	Modified. CON not required for any actions in any county that, as of January 1, 2020, is designated as an economically distressed eligible county by the Department of Economic and Community Development and has no actively licensed hospital located within the county.
Relocation of Existing Healthcare Facility	CON required to relocate an existing healthcare facility.	<p>Modified. The HSDA executive director may issue an exemption from CON for the relocation of a facility on the grounds that:</p> <ul style="list-style-type: none"> • At least 75% of the patients to be served are reasonably expected to reside in the same zip codes as the existing population; and • The relocation would not reduce access to consumers, particularly those in underserved communities; those who are uninsured or underinsured; women and racial and ethnic minorities; TennCare or Medicaid recipients; and low-income groups. <p>Otherwise, a CON is required to relocate an existing healthcare facility.</p>

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Home Care Organizations (home health agencies and hospices)	CON required to initiate home health services and/or establish home health agency or hospice, including branch office or adding counties to service area.	<p>Modified. CON not required to do the following:</p> <ul style="list-style-type: none"> • Relocate the principal office of a home health agency or hospice within its licensed service area; • Establish a home care organization or residential hospice that is limited to providing hospice services to patients under the care of a healthcare research institution; • Establish a home health agency limited to providing home care services under the federal Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA); and • Establish a home health agency limited to providing home care services to patients under 18 years of age; moreover, agency may permit such organizations to continue providing home health services until patients reach 21 years of age if (1) the patient received services from the home health agency prior to reaching 18 years of age and (2) the home health services are provided under a TennCare program. <p>Note that any license issued by the Tennessee Department of Health for home health services without a CON must be limited to the provision of the relevant services stated above. Additionally, organizations providing services without a CON must be accredited by the Joint Commission, the Community Health Accreditation Partner, or the Accreditation Commission for Health Care.</p>
Hospital-Operated Nonresidential Substitution-Based Treatment Centers	CON required to establish facility and/or initiate treatment services.	Modified. CON not required if treatment center is located on the same campus as licensed and operating mental health and substance-abuse-related hospital.

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Positron Emission Tomography (PET) Services	CON required to initiate PET services.	Modified. CON required only to initiate PET services in counties with populations less than 175,000 (according to the 2010 federal census or any subsequent federal census). A provider of PET services established without a CON must become accredited by the American College of Radiology or the Joint Commission within two years of the date of licensure.
Magnetic Resonance Imaging (MRI) Services	CON required in order to: <ul style="list-style-type: none"> • Initiate MRI services for pediatric patients in any county with a population in excess of 250,000 according to the 2010 federal census or any subsequent federal census; • Initiate MRI services for any patients in any county with a population of 250,000 or less according to the 2010 federal census or any subsequent federal census; and • Increase the number of MRI machines, in any county with a population of 250,000 or less according to the 2010 federal census or any subsequent federal census, by one or more, except for replacing or decommissioning an existing machine. 	Modified. Population threshold is now 175,000. Among other changes, providers in Davidson, Hamilton, Knox, Rutherford, Shelby, and Williamson counties do not need to obtain a CON to initiate MRI services for adult patients.

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Change in Ownership or Control	<p>For any existing CON:</p> <ul style="list-style-type: none"> • Notice must be made to the agency of change of ownership occurring within two years of the date of the initial licensure of a healthcare institution. • Notice must be made within 30 days of the change of ownership and must include documentation of the commitment from the subsequent owner to comply with all conditions placed on the original CON, and on the license, pursuant to this part. 	<p>Deleted. Notice to HSDA not required for change of ownership within first two years after initial licensure of healthcare institution.</p> <p>Modified. HSDA will permit CON transfers if agency determines that the new CON holder would provide healthcare that meets appropriate quality standards; the transfer will not reduce access to consumers, especially those in underserved communities; those who are uninsured or underinsured, women and racial and ethnic minorities, TennCare or Medicaid recipients, and low-income groups; and the agency approves the transfer.</p>