

Campaign to Protect Physician Ownership Rights

STATE CON PROGRAMS AFFECTING PHYSICIAN PRACTICE ACQUISITION OF MRI AND CT EQUIPMENT

CHART I

State	General scope of CON	What is a HCF to which CON is applicable	Exemption for physician offices/physician office activities
AL	<p>(A) No person may offer or develop one of the following “new institutional health services” (NIHS) without first obtaining a CON:</p> <p>(1) the establishment of a new health care facility (HCF);</p> <p>(2) any capital expenditure by or on behalf of a HCF that exceeds: (a) \$2,125,890 for major medical equipment (MME); (b) \$800,000 for new annual operating costs; or (c) \$4,251,780 by or on behalf of a health care facility;</p> <p>(3) providing a new health service offered in or through a HCF.</p>	<p>(A) A HCF to which CON applies includes ASCs.</p>	<p>(A) “HCF” does not include the offices of private physicians or dentists, whether for individual or group practices and regardless of ownership</p>
AS	<p>(A) A <i>person</i> may not make an expenditure of \$1,050,000 or more for the following without a CON:</p> <p>(1) construction of a HCF; or</p> <p>(2) addition of a category of health services provided by a HCF.</p>	<p>(A) “HCF” includes an “independent diagnostic testing facility” (IDTF) and ASCs. An IDTF (1) performs diagnostic testing using ultrasound, MRI, and CT, and (2) is, or would be, required to enroll as a Medicare independent diagnostic testing facility.</p>	<p>(A) The definition of “HCF” excludes the offices of private physicians or dentists whether in individual or group practice.</p> <p>(B) "Health services" does not include the lawful practice of a profession or vocation conducted independently of a HCF and in accordance with applicable licensing laws of the state.</p>

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CT	<p>(A) A HCF or institution must obtain a CON prior to making a capital expenditure exceeding \$3,000,000.</p> <p>(B) Any person, provider, HCF, or institution must obtain a CON prior to:</p> <p>(1) making a purchase, lease or accepting donation of MME requiring a capital expenditure exceeding \$3,000,000; or</p> <p>(2) making a purchase, lease or accepting donation of a CT scanner, PET scanner, PET/CT scanner, MRI scanner, cineangiography equipment, or a linear accelerator, regardless of the cost of the equipment.</p>	<p>(A) "Health care facility or institution" includes outpatient clinics, outpatient surgical facilities, imaging centers, and any parent company, subsidiary, affiliate or joint venture, or any combination thereof, of any such facility or institution.</p>	N/A
DE	<p>(A) A person must obtain a CON prior to:</p> <p>(1) developing a HCF;</p> <p>(2) making any expenditure by or on behalf of a HCF which exceeds the capital expenditure threshold of \$5,800,000; or</p> <p>(3) the acquisition of MME, whether or not by a HCF.</p>	<p>(A) "HCF" includes a freestanding surgical center and freestanding emergency center.</p>	<p>(A) "HCF" does not include any physician's office, whether an individual or group practice, any independent clinical laboratory, or any radiology laboratory.</p>
DC	<p>(A) All persons proposing (1) to offer or develop a new institutional health service (NIHS), or (2) to make a capital expenditure in excess of \$2,500,000 by or on behalf of a HCF, must first obtain a CON.</p> <p>(B) "NIHS" includes:</p> <p>(1) the establishment of a HCF;</p> <p>(2) any new health service;</p> <p>(3) any health service offered by or on behalf of a HCF which involves an operating budget of at least \$ 600,000 in direct costs for the first year of operation, or</p> <p>(4) any health service that results in a capital expenditure in any amount.</p>	<p>(A) "HCF" includes an ambulatory care center or clinic, ambulatory surgical facility, "diagnostic health care facility,"¹ or other comparable health care facility that has an annual operating budget of at least \$ 1,500,000.</p>	<p>(A) "HCF" does not include the private office facilities of physicians, where the physicians provide conventional office services limited to medical consultation, general non-invasive examination, and minor treatment.</p>

¹ "Diagnostic health care facility" means:(i) a diagnostic imaging center accredited by the American College of Radiology whose primary business is the provision of diagnostic imaging services to the public; (ii) a cardiac catheterization laboratory; (iii) a radiation therapy facility; or (iv) an independent diagnostic laboratory whose primary business is the provision of diagnostic imaging services to the public and at which at least 3 of the following exams are performed: (I) MRI; (II) CAT scan; (III) nuclear medicine; (IV) ultrasound; (V) X-ray; or (VI) mammography. The term "diagnostic health care facility" shall not include the offices of private physicians, whether in individual or group practice.

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GA	<p>(A) Any person proposing to develop or offer a new institutional health service (NIHS) must first obtain a CON. NIHS means:</p> <p>(1) the establishment of a new HCF;</p> <p>(2) any expenditure by or on behalf of a HCF in excess of \$1,483,083;</p> <p>(3) new clinical health services offered in or through a HCF, for which the monetary threshold is \$0;</p> <p>(4) the acquisition by or on behalf of a HCF of diagnostic or therapeutic equipment with a value in excess of \$823,934;</p> <p>(5) the following “new clinical health services” offered in or through a diagnostic, treatment, or rehabilitation center: (a) radiation therapy; (b) lithotripsy; (c) surgery in an operating room environment (but see the exemption (B) in the far right column); and (d) cardiac catheterization;</p> <p>(6) the use by or on behalf of a diagnostic, treatment, or rehabilitation center of diagnostic or therapeutic equipment with a value in excess of \$823,934.</p>	<p>(A) “HCF” includes ambulatory surgical or obstetrical facilities, and diagnostic, treatment, or rehabilitation centers.</p> <p>(B) “Diagnostic, treatment, or rehabilitation center” means any professional or business undertaking which offers or proposes to offer any clinical health service in a setting which is not part of a hospital.</p>	<p>(A) Offices of private physicians are exempt from CON, except when the practice: (1) seeks to offer a “new clinical health service” described in (B)(5) of the far left column; or (2) seeks to acquire or use diagnostic or therapeutic equipment as described in (B)(6) in the far left column.</p> <p>(B) Surgery performed in physician offices is exempt from CON if:</p> <p>(1) such surgery is performed in a facility that is owned, operated, and utilized by such physicians who also are of a single specialty; and</p> <p>(2) the capital expenditure associated with the construction, development, or other establishment of the clinical health service \$ 1,610,823</p>
HI	<p>(A) No person shall:</p> <p>(1) initiate, or modify a HCF that requires a total capital expenditure in excess of \$4,000,000;</p> <p>(2) initiate or substantially modify or increase a health service involving a capital expenditure in excess of \$1,000,000.</p>	<p>(A) “HCF” includes outpatient clinics and outpatient surgery centers.</p>	<p>(A) Private practices of physicians, as distinguished from organized ambulatory health care facilities, are exempt from CON except for the acquisition of equipment attendant to the delivery of a health care service involving a total expenditure in excess of \$1,000,000.</p>

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IA	<p>(A) A “new institutional health service” (NIHS) shall not be offered or developed without a CON. "NIHS" means any of the following:</p> <p>(1) the establishment of a new institutional health facility (IHF);</p> <p>(2) any capital expenditure by or on behalf of an (IHF) in excess of \$1,500,000;</p> <p>(3) any expenditure in excess of \$500,000 by or on behalf of an IHF for new health services which are or will be offered in or through an IHF;</p> <p>(4) any acquisition by or on behalf of a health care provider or IHF of any piece of replacement equipment valued in excess of \$1,500,000;</p> <p>(5) any acquisition of equipment by or on behalf of a health care provider or IHF valued in excess of \$1,500,000 that results in a new health service.</p>	<p>(A) “IHF” includes an organized outpatient health facility, and an outpatient surgical facility.</p>	<p>(A) CON requirements do not apply to private physician offices except in terms of (B)(4) and (5) in the far left column.</p>
IL	<p>(A) A person must obtain a CON prior to the acquisition of MME or the construction or modification of a HCF which:</p> <p>(1) requires a total capital expenditure in excess of the capital expenditure minimum of \$7,167,063; or</p> <p>(2) substantially changes the scope or changes the functional operation of a HCF, with no applicable monetary threshold.</p>	<p>(A) "HCF" includes ASCs, and a place used for the performance of outpatient surgical procedures that is leased, owned, or operated by or on behalf of an out-of-state facility,</p>	<p>(A) CON does not include facilities operated as a part of a physician practice, regardless of the practice’s legal organization..</p> <p>(B) CON does not apply to a physician’s practice where such practices are carried out in a portion of a HCF under contract with such HCF by physicians.</p>
KY	<p>(A) No person shall do any of the following without first obtaining a CON:</p> <p>(1) establish a health facility;</p> <p>(2) obligate a capital expenditure by or on behalf of a health facility which exceeds the capital expenditure minimum of \$2,380,123 (same as MME threshold);</p> <p>(3) make a substantial change in a health service;</p> <p>(4) make a substantial change in a project; or</p> <p>(5) acquire MME exceeding \$2,380,123.</p>	<p>(A) "Health facility" includes outpatient clinics, ambulatory care facilities, and ambulatory surgical centers.</p>	<p>(A) “Health facility” does not include (1) private offices and clinics of physicians or (2) office buildings built by or on behalf of a health facility for the exclusive use of physicians.</p>

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ME	<p>(A) A person must obtain a CON prior to:</p> <p>(1) acquiring MME valued in excess of \$1,333,099;</p> <p>(2) making a capital expenditure of \$2,666,198 by or on behalf of a HCF;</p> <p>(3) obligating a capital expenditure of \$112,099 by or on behalf of a HCF in developing a new health service;</p> <p>(4) a HCF's adding a new health service that will result in annual operating costs of at least \$400,000.</p> <p>(B) A private physician office must obtain a CON prior to adding new technology costing at least \$1,200,000.</p>	<p>(A) "HCF" includes an ambulatory surgery facility and independent radiological service center.</p>	<p>(A) "HCF" does not include the office of a private health care practitioner, whether in individual or group practice.</p>
MA	<p>(A) No person may perform the following without first obtaining a CON:</p> <p>(1) make a substantial capital expenditure in excess of \$12,516,300 to construct a HCF;</p> <p>(2) adding a new service in a HCF (for which the monetary threshold is \$0); or</p> <p>(3) providing an innovative service or use a new technology, in any location other than in a HCF.</p>	<p>(A) "HCF" includes "clinics," which in turn includes any entity providing ambulatory medical, surgical, dental, physical rehabilitation, or mental health services. in the preceding sentence.</p>	<p>(A) "Clinic" does not include a medical office building, or one or more practitioners engaged in a solo or group practice, so long as such practice is wholly owned and controlled by one or more of the practitioners so associated.</p>
MI	<p>(A) A person must obtain a CON prior to performing the following:</p> <p>(1) initiating or expanding a covered clinical health service, for which the monetary threshold is \$0;</p> <p>(2) establishing a HCF; or</p> <p>(3) making a covered capital expenditure in excess of \$2,715,000.</p>	<p>(A) "HCF" includes freestanding surgical outpatient facilities,</p>	<p>(A) There is no explicit exemption for physician offices.</p> <p>(B) Exemption for ASCs: A HCF licensed as a freestanding outpatient surgical facility does not need to meet CON requirements to be licensed unless it seeks to initiate or expand a covered service.</p>

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MS	<p>(A) A person must obtain a CON prior to performing the following:</p> <p>(1) establishing a HCF;</p> <p>(2) offering new health services, for which the monetary threshold is \$0;</p> <p>(3) acquiring MME costing in excess of \$1,500,000..</p>	<p>(A) "HCF" includes ambulatory surgical facilities.</p>	<p>(A) "HCF" does not apply to facilities for the private physician practice except where such facilities are an integral part of an institutional health service.</p>
NH	<p>(A) No new institutional health service (NIHS) shall be developed without a CON. NIHS includes:</p> <p>(1) the development of an acute care facility requiring a capital expenditure of more than \$2,150,891;</p> <p>(2) the development of new inpatient services;</p> <p>(3) the acquisition of MME by or on behalf of a health care provider (e.g., physician) for which the FMV exceeds \$400,000; and</p> <p>(4) the development of a HCF, including an ASC, requiring a capital expenditure of more than \$ 1,433,928.</p>	<p>(A) "HCF" includes ambulatory surgical facilities.</p>	<p>N/A</p>
MO	<p>(A) No person may develop or offer a "new institutional health service" (NIHS) with a cost exceeding the applicable expenditure threshold without a CON. NIHS means:</p> <p>(1) the development of a new HCF costing in excess of the applicable expenditure minimum of \$1,000,000;</p> <p>(2) the acquisition, including acquisition by lease, of any MME costing in excess of the expenditure minimum of \$1,000,000;</p> <p>(3) any capital expenditure by or on behalf of a HCF in excess of the expenditure minimum of \$1,000,000;</p> <p>(4) health services offered by a HCF involving a capital expenditure in excess of \$1,000,000.</p>	<p>(A) "HCF" includes diagnostic imaging centers, radiation therapy centers, and ambulatory surgical facilities.</p>	<p>(A) The definition of "HCF" excludes the private offices of physicians.</p>

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NC	<p>(A) No person may develop or offer a “new institutional health service” (NIHS) without first obtaining a CON. NIHS means:</p> <p>(1) the establishment of a new health service facility;</p> <p>(2) the obligation of a capital expenditure exceeding \$2,000,000 to develop/expand a health service or a health service facility;</p> <p>(3) the development of a health service, the threshold being \$0;</p> <p>(4) the acquisition of MME that involves a capital expenditure exceeding \$750,000.</p>	<p>(A) "Health service facility" includes “diagnostic centers” and ASCs.</p> <p>(B) "Diagnostic center" includes physicians' offices in which the total cost of all the medical diagnostic equipment utilized that costs at least \$10,000 exceeds \$500,000.</p> <p>(1) In determining the \$500,000 amount, the costs of the equipment, studies, surveys, designs, plans, working drawings, specifications, construction, installation, and other activities essential to acquiring and making operational the equipment shall be included.</p>	N/A
RI	<p>(A) No health care provider or HCF shall offer new health care equipment or new institutional health services (NIHS) without first obtaining a CON. “NIHS” includes:</p> <p>(1) the establishment of a new HCF;</p> <p>(2) any capital expenditure by or on behalf of a HCF in excess of \$ 2,000,000; or</p> <p>(3) any new health service proposed to be offered by a HCF and which increases operating expenses by more than \$ 750,000.</p> <p>(B) No health care provider (e.g., physician office) or HCF may offer or develop new health care equipment costing in excess of \$1,000,000.</p>	(A) “HCF” includes ASCs.	N/A

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SC	<p>A person or HCF must obtain a CON prior to:</p> <ul style="list-style-type: none"> (1) establishing a new HCF; (2) making a capital expenditure by or on behalf of a HCF in excess of \$2,000,000; (3) making a capital expenditure in excess of \$1,000,000 by or on behalf of a HCF to add a health service; (4) acquiring medical equipment used for diagnosis or treatment costing in excess of \$600,000. 	<p>(A) "HCF" includes ambulatory surgery facilities.</p>	<p>(A) "HCF" does not include the offices of a licensed private practitioner whether in individual or group practice.</p>
TN	<p>(A) No person may perform the following without first obtaining a CON:</p> <ul style="list-style-type: none"> (1) establishing any type of health care institution (HCI); (2) modifying a non-hospital HCI where such modification requires a capital expenditure greater than \$2,000,000 (in the case of hospitals, greater than \$5,000,000); (3) initiation of any specific health care services for which the monetary threshold is \$0; (4) the acquisition of MME, the cost of which exceeds \$1,500,000; 	<p>(A) "HCI" includes ambulatory surgical treatment centers and outpatient diagnostic centers.</p>	<p>(A) "Private professional practices" e.g. private physician offices, are excluded from the definition of "HCI."</p> <p>(B) Notwithstanding the exclusion from HCI, private physician offices are subject to CON if those practices wish to:</p> <ul style="list-style-type: none"> (1) initiate health care services; (2) acquire MME costing in excess of the applicable threshold, or (3) other actions requiring a certificate of need.

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VT	<p>(A) No person may perform the following without first obtaining a CON:</p> <p>(1) establishing a new HCF;</p> <p>(2) making any expenditure by or on behalf of a hospital in excess of \$3,000,000, and any expenditure by or on behalf of any non-hospital HCF in excess of \$1,500,000;</p> <p>(3) acquiring by or on behalf of a provider (e.g., a physician) a single piece or item of diagnostic or therapeutic equipment for which the costs exceed \$1,000,000;</p> <p>(4) offering of new health services in or through a HCF that exceeds an annual operating expense of \$500,000.</p>	<p>(A) Non-hospital HCFs include diagnostic imaging facilities, independent diagnostic laboratories, cardiac catheterization laboratories, radiation therapy facilities or any ambulatory surgical, diagnostic or treatment center.</p>	N/A
VA	<p>(A) No person shall commence any "project" without first obtaining a CON. "Project" means:</p> <p>(1) establishment of a medical care facility (MCF);</p> <p>(2) introduction into an existing MCF of any health services constituting cardiac catheterization, CT scanning, gamma knife surgery, lithotripsy, MRI, magnetic source imaging (MSI), PET, and nuclear medicine imaging, except for the purpose of nuclear cardiac imaging (the applicable monetary threshold here is \$0);</p> <p>(3) the addition by an existing MCF of any medical equipment for the provision of cardiac catheterization, CT, gamma knife surgery, lithotripsy, MRI, MSI, PET, for which the applicable monetary threshold is \$0; or</p> <p>(4) any capital expenditure of \$5,000,000.</p>	<p>(A) "MCF" means any place:</p> <p>(1) by or in which health services are furnished for diagnosis or treatment; or</p> <p>(2) which is the recipient of reimbursements from third-party health insurance programs or prepaid medical service plans.</p> <p>(B) "MCF" includes that portion of a physician's office developed for the provision of outpatient or ambulatory surgery, cardiac catheterization, CT, gamma knife surgery, lithotripsy, MRI, MSI, PET, radiation therapy, and nuclear medicine imaging, except for the purpose of nuclear cardiac imaging.</p>	N/A

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WV	<p>(A) No new institutional health service (NIHS) may be acquired or developed without a CON. "NIHS" means:</p> <p>(1) the establishment of a new HCF;</p> <p>(2) any obligation for a capital expenditure by or on behalf of a HCF in excess of the expenditure minimum of \$2,000,000;</p> <p>(3) the addition of any new health service offered by or on behalf of a HCF for which the monetary threshold is \$0;</p> <p>(4) the expansion of any of the following health services, (whether or not the expansion is associated with a capital expenditure) cardiac catheterization laboratories, radiation therapy equipment, MRI, PET, or lithotripters;</p> <p>(5) the acquisition of major medical equipment costing in excess of \$2,000,000.</p>	<p>(A) "HCF" includes ambulatory health care facilities, and ambulatory surgical facilities.</p>	<p>(A) Any private office practice of one or more health professionals are generally exempt from CON requirements.</p> <p>(B) The exemption for private office practices does not exempt from review the offering of one or more health services, including ASCs, lithotripsy, MRI, or radiation therapy by one or more health professionals.</p> <p>(C) "Private office practice" means the independent practice of one or more health professionals that is not controlled directly or indirectly, in whole or in part, by any other person or entity.</p>