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Healthcare Alert

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Rhode Island updates Certificate of Need rules

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Rhode Island's FY 2027 budget narrows Certificate of Need review, raises capital expenditure threshold, and updates review and approval timelines.



What's the impact?

- Rhode Island's FY 2027 budget eliminates Certificate of Need (CON) review for certain categories of healthcare facilities, including home care providers, home nursing care providers, and ambulatory surgery centers.
- CON review for capital expenditures now applies only to projects exceeding \$50 million.
- CON review for new or expanded services is now limited to select high-acuity services, including cardiac catheterization and neonatal intensive care services.

The Rhode Island Fiscal Year 2027 Budget, enacted into law by Governor Daniel McKee on June 12, introduces key amendments to Rhode Island's Certificate of Need (CON) statutory framework, codified at Rhode Island General Laws Chapter 23-15-1, et seq. Please note the following updates:

- / The requirement to obtain a CON has been eliminated for new home nursing care providers, home care providers, surgi centers, multi-practice physician ambulatory surgery centers, and multi-practice podiatry ambulatory surgery centers.
- / CON review for capital expenditures, defined as “the total non-recurring expenditures for physical improvement and the acquisition of existing buildings, land, and/or interest in land, including costs associated therewith,” is now triggered only where such expenditures exceed \$50 million.
- / CON review for any “new or expanded service” has been narrowed in scope and is now limited to cardiac catheterization, open heart surgery, organ transplantation, particle accelerator-based radiation therapy, and neonatal intensive care services. Notably, computerized axial tomography (CT), full body magnetic resonance imaging (MRI), positron emission tomography (PET), and PET/CT are no longer subject to CON review.
- / The criteria the Health Services Council (HSC) uses to formulate its recommendations to the Rhode Island Department of Health (RIDOH) on CON applications have been expanded to include affordability, accessibility, innovation, and quality standards. These criteria are anticipated to be further delineated through regulations promulgated by RIDOH.

The amendments also modify the timeline governing CON review as follows: (1) RIDOH must initiate its review no later than 31 days following the filing of a CON application; (2) the HSC must render its recommendation within 115 days of the initiation of review; and (3) the director of RIDOH must issue a final determination within 10 days of the HSC’s recommendation.

Finally, RIDOH is authorized to promulgate regulations to effectuate the purposes of the foregoing amendments.

Nixon Peabody regularly advises healthcare clients navigating Rhode Island’s evolving CON requirements and assessing how regulatory changes may affect planned projects, services, and transactions.

For guidance on the amended CON framework, please contact your Nixon Peabody attorney or:

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