



FOLLOW-UP REPORT

A REVIEW OF THE S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CERTIFICATE OF NEED PROGRAM

MAY 2026



METHODOLOGY

This follow up report was limited to the findings in the 2022 audit for which we made recommendations. We received information from the S.C. Department of Public Health. We reviewed this and other information and verified evidence supporting the agency's information as appropriate.

FOR MORE INFORMATION

Our original 2022 audit report, including comments from relevant agencies, is published on our website.

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SOUTH CAROLINA GENERAL ASSEMBLY

Legislative Audit Council
Independence, Reliability, Integrity

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INTRODUCTION

In February 2022, the Legislative Audit Council published an audit entitled *A Review of the S.C. Department of Health and Environmental Control Certificate of Need Program*. The report focused on potential areas of reform for the certificate of need (CON) program. This follow-up report is focused on the implementation status of the 13 recommendations made in our 2022 audit report.

When we published the report, the CON program was overseen by the former S.C. Department of Health and Environmental Control (DHEC). Act 60 of 2023 resulted in DHEC being split into two separate agencies: the S.C. Department of Public Health (DPH) and the S.C. Department of Environmental Services (SCDES). DPH currently administers the CON program. Additionally, substantial reforms to the CON program were enacted by Act 20 of 2023.

STATUS OF 13 RECOMMENDATIONS

2022 RECOMMENDATIONS MADE TO:	IMPLEMENTED	PARTIALLY IMPLEMENTED	NOT IMPLEMENTED	NOT APPLICABLE
DHEC/DPH	4	1	2	0
General Assembly	5	0	1	0
TOTAL	9	1	3	0

RECOMMENDATIONS

1. The S.C. General Assembly should consider eliminating the requirement for a certificate of need for home health agencies.

2. The S.C. General Assembly should consider eliminating the requirement for a certificate of need for narcotic treatment programs and opioid treatment programs.

NOT IMPLEMENTED

The General Assembly has not eliminated the CON requirements for home health agencies.

IMPLEMENTED

The amendments from Act 20 of 2023 eliminated the CON requirements for narcotic and opioid treatment centers.

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3. The S.C. General Assembly should increase the thresholds for equipment and capital expenditures for the certificate of need program and provide for the adjustment of those thresholds pursuant to the Medical Care Index component of the Consumer Price Index.

IMPLEMENTED

The amendments from Act 20 of 2023 amended CON requirements related to equipment acquisition and capital expenditures so that they only apply to nursing homes as opposed to health care facilities. DPH also amended S.C. Reg. 60-15 to increase the threshold for nursing home equipment acquisition. These amendments became effective on April 26, 2024.

4. The S.C. Department of Health and Environmental Control should ensure that certificate of need waivers relating to the Governor's executive orders are properly tracked.

IMPLEMENTED

As a result of our follow-up, DPH drafted standard operating procedures (SOPs) in order to track and respond to executive orders relating to the CON program.

Additionally, DPH created an internal spreadsheet to track future executive orders issued by the Governor.

5. The S.C. Department of Health and Environmental Control should ensure that it adequately responds to requests for certificate of need waivers pursuant to the Governor's executive orders.

IMPLEMENTED

As a result of our follow-up, DPH drafted SOPs that include a series of steps that staff must take in response to CON waiver requests resulting from the Governor's executive orders. These steps include written notification sent to the requestor via certified mail.

6. The S.C. Department of Health and Environmental Control should add appropriate, quantitative quality metrics from the Center for Medicare & Medicaid Services to the State Health Plan.

NOT IMPLEMENTED

We did not find that quantitative quality control metrics from the Center for Medicare & Medicaid Services have been added to the State Health Plan.

Although these metrics were not added to the State Health Plan, amendments to S.C. Reg. 60-15 were added in April 2024. The amendment added the project review criterion, "Quality of Care." Applicants should describe metrics or benchmarks of quantitative quality metrics, if any, for the proposed facility, service, or equipment requiring a CON. DPH also states that if an applicant is an existing provider, it should provide a plan on how it will meet such metrics or benchmarks.

7. The S.C. Department of Health and Environmental Control should further standardize the information required of certificate of need applicants to ensure consistency in its evaluation process.

IMPLEMENTED

As specified in S.C. Reg. 60-15-301.1, DPH made a web-based CON application available on the department's website for digital submission or for download. The web-based application has been active since July 1, 2025, and it aims to standardize the application materials received by DPH.

8. The S.C. Department of Health and Environmental Control should require certificate of need applicants to provide information on net patient charges when project impact on patient charges is a factor in the evaluation process.

NOT IMPLEMENTED

While language in S.C. Reg. 60-15-802.7(e) requires net patient charges to be reasonable, the CON application has not been amended to require applicants to specifically provide them.

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9. The S.C. Department of Health and Environmental Control should amend S.C. Reg. 61-15.607.3 to require certificate of need applicants to report on non-capital expenses related to a project upon its completion.

IMPLEMENTED

S.C. Reg. 60-15-607(3) has been amended to require a final completion report be submitted to DPH by the CON applicant after the project is fully implemented. A listing of non-capital costs is now a required item of this report per S.C. Reg. 60-15-607.3(g).

10. The S.C. General Assembly should consider restricting the extent of judicial review of final Certificate of Need (CON) decisions issued by the S.C. Department of Health and Environmental Control, including: eliminating the special 18-month time limit to the pendency of contested case hearings regarding CON decisions before the Administrative Law Court (ALC), or otherwise reducing the time limit; eliminating the party consent and/or good substantial exceptions to the pendency of contested case hearings before the ALC; and requiring direct appeal of the ALC's final decision to the Supreme Court of South Carolina, bypassing the Court of Appeals review.

IMPLEMENTED

The General Assembly restricted the extent of the judicial review process for contested CON decisions following our 2022 audit report. Act 20 of 2023 reduced the time limit to the pendency of contested case hearings before the Administrative Law Court (ALC) from 18 months to 12, did away with ALC hearing extensions based on all-party consent or the Court's determination of substantial cause, and allowed for appeal of ALC decisions directly to the S.C. Supreme Court, removing the Court of Appeals from this process.

11. The S.C. General Assembly should reform or repeal the State Certification of Need and Planning Act to exclude any review of low-cost facilities and equipment such as MRI machines and ambulatory surgical centers.

IMPLEMENTED

Act 20 of 2023 eliminated CON requirements for many health facilities, including, but not limited to, ambulatory surgical centers, cardiovascular care services, and hospice facilities.

This act also reduced CON requirements for equipment purchases, limiting them to nursing homes and raising the monetary threshold from \$600,000 to \$3 million.

12. The S.C. General Assembly should consider restricting or regulating other anti-competitive practices in the healthcare industry, such as non-compete agreements.

IMPLEMENTED

Act 20 of 2023 prohibits hospitals from using economic criteria unrelated to quality of care or professional competency in determining an individual's qualifications for new or continuing hospital medical staff membership or privileges.

Additionally, members of the S.C. House of Representatives and the S.C. Senate introduced bills prohibiting or limiting non-compete clauses in physician contracts.

13. The S.C. Department of Health and Environmental Control should allocate additional staff to perform an annual review of the agency's tracking spreadsheet for issued Certificates of Need.

PARTIALLY IMPLEMENTED

While additional DPH staff were not allocated to review the agency's tracking spreadsheet annually, the department is requiring one of its consultants to conduct CON application monitoring activities. This consultant is now responsible for ensuring that internal CON application tracking remains updated and current and for providing monthly status updates to CON program staff.