

Tennessee Health Care Legislation 2021 Update — General Assembly Passes CON Reform Bill

During the recently concluded 2021 legislative session, the Tennessee General Assembly passed several significant bills that will affect health care practices in Tennessee. The bills passed include a fairly significant update to Tennessee's certificate of need (CON) statute that is currently awaiting signature by Governor Bill Lee. The following is a summary of the key legislation.

CON Reform

Consistent with a series of recent changes to Tennessee's CON laws (which generally govern the development of health care services in the state), the General Assembly passed further CON reforms [Insert Link to HB 948] with the intent to further expedite the CON application process and lower related costs. This includes reducing the application process by 75 days (from 135 days to 60 days) and exempting a variety of currently regulated health care services or activities from the CON requirement, including:

- Initiation of mental health hospitals and hospital-based outpatient treatment centers for opioid addiction
- Initiation of non-pediatric MRI equipment in counties with populations of 175,000 or more (the current threshold is 250,000)
- Initiation of positron emission tomography (PET) imaging services in 175,000+ counties
- Increasing beds at main campus hospitals (CONs would still be required to increase beds at satellite locations)
- Reopening closed hospitals in rural locations
- Relocation of existing health care institutions and services if the population of patients served remains largely unchanged and such relocation will not reduce consumer access to care

In addition to these exemptions, administrative changes have been made with respect to the timing of CON project implementation and the eligibility of parties opposing CON projects.

Overall, these changes indicate an ongoing trend to deregulate the health care market in Tennessee further and may indicate a future push to eliminate the CON requirement.

Telehealth

The COVID-19 pandemic has dramatically accelerated the expansion of telehealth services, a trend that was already developing prior to 2020. In furtherance of the many public emergency measures adopted over the past year concerning telehealth services, the General Assembly enacted the following measures:

- [Pub. Ch. 143](#) authorizes the practice of physical therapy and occupational therapy via telehealth
- [Pub. Ch. 153](#) redefines store-and-forward technology for purposes of establishing a patient-provider relationship
- [Pub. Ch. 179](#) permits unlicensed graduates and students of certain medical training programs to provide telehealth services so long as adhering to relevant standards for licensed individuals
- [Pub. Ch. 191](#) authorizes HIPAA-compliant audio-only technology for behavioral health services when other forms of real-time, interactive technology are unavailable

- [Pub. Ch. 352](#) adopts the “Psychology Interjurisdictional Compact,” allowing for interstate telepsychology practice for psychologists licensed in another compact state
- [Pub. Ch. 357](#) authorizes certain out-of-state providers to provide telehealth services on a volunteer basis through a free clinic in the state

Scope of Practice

As in past years, several bills focused on the scope of practice for licensed individuals. For example, Pub. Ch. 396 enacts a new registration for certified medical assistants (defined as personnel trained to assist physicians and nurses in providing patient care in licensed ambulatory facilities or hospital outpatient departments). In addition, Pub CH. 124 authorizes a home health service to provide care following orders issued by a nurse practitioner or physician assistant in addition to a physician’s order.

Overall, the health care laws passed during the 2021 General Assembly session indicate an ongoing trend toward deregulation in the health care industry and the further expansion of telehealth, trends that we expect to continue in future years.

If you have any questions regarding Tennessee health care legislation, or more specifically the CON reform bill, please contact [Doug Griswold](#) or a member of our [Health Care](#) team.