

# Certificate of Need

## Frequently Asked Questions

### What is a Certificate of Need?

A [Certificate of Need](#) (CON) is a determination by the State Health Planning and Development Agency (SHPDA) that there is a public need in the District of Columbia for a health care provider to establish a new facility or service, make certain capital expenditures, or take other actions, such as adding services or expanding or contracting capacity, that would impact the delivery of healthcare services. The District's CON program advances equity by ensuring that the community's needs for healthcare

services are met, that there is not unnecessary duplication of services, that health care costs are reasonable, and that health care facilities and services are and remain financially viable to provide the community's health care needs. In the District, the SHPDA reviews and acts on all CON applications. All CON applications are reviewed in accordance with the current Health Systems Plan (HSP) adopted by the SHPDA every five years as well as the Annual Implementation Plan for the HSP. The HSP can be [accessed here](#) and should be reviewed by health care providers prior to submitting a CON application.

Health System  
& Workforce  
Capacity

Health  
System  
Strengthening

Social and Economic  
Factors and the  
Physical Environment  
*(including Structural Racism)*

Health Education  
and  
Communication

*SHPDA Health System Strengthening Priorities*

## Who needs to apply for a CON?

A CON is required by any person, partnership, or corporate entity proposing to:

- ▶ Construct, develop, or otherwise establish a new health care facility, health care service, or home health agency.
- ▶ Make a capital expenditure of \$6 million or more in connection with a hospital or \$3.5 million in connection with a health service or health facility.
- ▶ Make a capital expenditure of \$3.5 million or more by a hospital, or \$2 million by a health care facility to acquire major medical equipment.
- ▶ Obtain a single piece of diagnostic or therapeutic equipment by or on behalf of a physician or group of physicians, or an independent owner or operator of the equipment, for which the cost or value is more than \$350,000.
- ▶ Relocate beds from one facility to another.
- ▶ Redistribute the beds within a health care facility by 10 beds or 10 percent, whichever is less, in any two-year period.
- ▶ Offer a health service at a health care facility which was not offered on a regular basis by the health care facility within the previous 12-month period.
- ▶ Increase the number of renal dialysis stations in a facility or move stations from one facility to another.
- ▶ Acquire an existing health care facility or major medical equipment by purchase, lease, or other arrangement.
- ▶ Acquire effective control of a health care facility.
- ▶ Transfer, assign, or otherwise dispose of ten per cent (10%) or more of the stock or voting rights of a corporation or other entity that operates a health care facility.

- ▶ Relocate a health care facility after CON approval.



A health care facility is **defined** as “any private general hospital, psychiatric hospital, other specialty hospital, rehabilitation facility, skilled nursing

facility, intermediate care facility, ambulatory care center or clinic, ambulatory surgical facility, kidney disease treatment center, freestanding hemodialysis facility, diagnostic health care facility home health agency, hospice, or other comparable health care facility which has an annual operating budget of at least \$500,000.” A health service is **defined** as “any medical or clinical related service, including services that are diagnostic, curative, or rehabilitative, as well as those related to inpatient mental health services, home health care, hospice care, medically supervised day care, and renal dialysis.”

## Who does not need to apply for a CON?

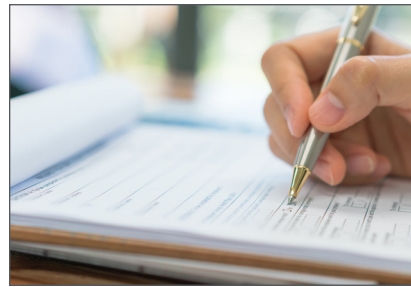
District law specifies exemptions to seeking a CON including, but not limited to, the following:

- ▶ The private office facilities of a health professional or group of health professionals, where the health professional or group of health professionals provides conventional office services limited to medical consultation, general non-invasive examination, and minor treatment. A minor treatment is any treatment that can be provided in a general physician’s office without anesthetics or specific credentialing.
- ▶ The upgrading, maintenance, or correction of facility deficiencies that may be in violation of federal and District of Columbia fire, building, or safety codes.

- ▶ Nonpatient care projects requiring the obligation of a capital expenditure of less than \$8 million.
- ▶ The acquisition of the same or similar medical equipment to replace, upgrade, or expand the capacity of the equipment for which a certificate of need has been granted, if the replaced equipment is removed from service.
- ▶ The acquisition of major medical equipment to be used solely for research, new institutional health services to be offered solely for research, or the obligation of a capital expenditure to be made solely for research.
- ▶ Health Maintenance Organizations (HMOs), if the facility in which the service will be provided is geographically located so that the service will be reasonably accessible to the enrolled individuals and at least 75% of the patients who can reasonably be expected to receive the health service will be individuals enrolled in the HMO or combination of HMOs.
- ▶ Outpatient behavioral health services subject to the exclusive authority of the Department of Behavioral Health.
- ▶ A health care facility licensed or to be licensed as a community residence facility.
- ▶ An Assisted Living Residence.

Some health services may not require a CON including services provided by physicians, dentists, HMOs, and other practitioners in an individual or group practice. Additionally, a service that would fall under a broader service already being provided by the health care facility may not require a CON.

## Application Process



To apply for a CON, an applicant must first send a [letter of intent](#) to the SHPDA that contains the following:

- ▶ Applicant's contact information,
- ▶ Name of the individual authorized to answer any questions the SHPDA may have,
- ▶ Proposed location for the proposed facility or service, and
- ▶ Brief description of the facility or service including the estimated capital expenditure and proposed date of implementation.

The applicant must also post a [public notice](#) in a newspaper of general circulation in the District that generally describes the proposed project and the location, and states that a letter of intent to apply for a CON is being filed with the SHPDA. A copy of the certificate of publication must be submitted with the letter of intent.

Applicants must wait 60 days between submission of the letter of intent and filing an application, though the SHPDA may waive this waiting period upon a showing of good cause. Prior to applying, the applicant must consult with a SHPDA staff member to review criteria, standards, procedures, and timelines for the review process. The letter of intent and application should be submitted using SHPDA's online portal. The required application fee must be submitted to the SHPDA by mail or hand delivery. The SHPDA will send the applicant a letter identifying any deficiencies and requesting additional information. If an application is incomplete.

## How do I start an application?

The SHPDA has launched a new online portal where CON applications must be submitted. The application portal can be found at [dcshpda.com](https://dcshpda.com).

## What does my application need to include?

The information required will depend on the type of project the applicant is proposing. Applicants may be asked to provide information on the following:

- ▶ Capital expenditure costs,
- ▶ Bed count and utilization,
- ▶ Sources of funds,
- ▶ Revenues,
- ▶ Expenses,
- ▶ Project-related revenue,
- ▶ Project-related expenses,
- ▶ Patient mix,
- ▶ Project-related utilization, and
- ▶ Reporting-spending plan.

If more information is required to decide on whether to issue a CON, the SHPDA will request any additional items needed. Applicants must contact SHPDA at (202) 442-5875 or [SPDA@dc.gov](mailto:SPDA@dc.gov) prior to applying and will receive detailed information at that time.

## How long does the CON application process take?

Applicants should allow six months between the time a letter of intent is submitted and the time the final decision is made by the SHPDA Director.

## What is the fee to apply for a CON?



The fee required for an application is the greater of 3% of the proposed capital expenditure or \$5,000, with a maximum of

\$300,000. For example, a \$10,000,000 project to acquire land and build a large hospital may incur a \$300,000 fee, while a \$100,000 capital expenditure to relocate beds to another facility would incur a \$5,000 fee. Private hospitals in the District pay an annual user fee of \$4.50 per inpatient admission in lieu of an application fee.

## What does the SHPDA, the Statewide Health Coordinating Council (SHCC), and the Project Review Committee (PRC) consider when determining whether to issue a CON?

The SHPDA, the SHCC, and the PRC consider information on what type of service or facility is being proposed, the proposed location, and how the proposed plan will address community health care needs in the District. Proposed plans are also assessed in relation to the DC HSP as well as the criteria and standards contained in [District law](#) and regulations.

## Why was my CON application rejected?

There are several reasons a CON application may be rejected. An application may be rejected because it does not fulfil a community need as set forth in the HSP or because there are already sufficient services of the type being proposed in the vicinity of the proposed location. Applicants may request reconsideration by the SHPDA or appeal a decision as provided for in District law and regulations. If the Director determines reconsideration is warranted, the SHPDA will hold a public hearing. Decisions made by the SHPDA can be further appealed to the Office of Administrative Hearings and then to the courts.

## How long is a CON valid for?

Providers have up to three years, as determined by the SHPDA, to become operational. The SHPDA may, after notice from the certificate holder, approve an extension of the expiration date for establishment of the health service for an additional period upon a determination by the SHPDA that the certificate holder has made substantial progress and is making a good faith effort to complete the project and commence operations of the health services. Once the authorized health services are established and approved for operation by SHPDA, the CON

shall remain in effect for as long as the health care facility remains operational and under the same ownership structure as was in place when the CON was issued. The SPHDA reserves the right to revoke the CON upon reconsideration of its issuance.

## What other government agencies may I need to work with?



While SHPDA is responsible for issuing CONs, there may be other steps that must be taken before becoming operational.

These steps could include, but may not be limited to, obtaining certain licensures through DC Health's Office of Health Facilities; permits from the Department of Buildings; registration for taxes through the DC Office of Tax and Revenue and the US Internal Revenue Service; or enrollment as a Medicaid provider through the Department of Health Care Finance. Applicants should take the time to familiarize themselves with all applicable federal and District laws and regulations impacting health facilities and services.

**If you have questions about the CON process or are unsure whether you are required to obtain a CON, you should submit a letter of determination to the SHPDA. You may email questions regarding the CON application process to Terri Thompson, Director of the SHPDA, at [terri.thompson1@dc.gov](mailto:terri.thompson1@dc.gov).**