

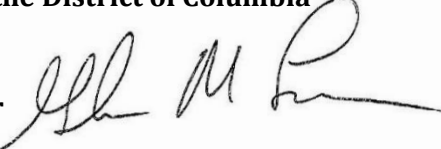
Government of the District of Columbia
Office of the Chief Financial Officer



Glen Lee
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Glen Lee
Chief Financial Officer 

DATE: February 10, 2025

SUBJECT: Fiscal Impact Statement – Certificate of Need Improvement
Amendment Act of 2025

REFERENCE: Bill 26-25, Draft Committee Print as provided to the Office of Revenue
Analysis on February 5, 2025

Conclusion

Funds are not sufficient in the fiscal year 2025 through fiscal year 2028 budget and financial plan to implement the bill. The bill costs \$586,000 in fiscal year 2025 and \$2.13 million over the financial plan to implement.

Background

The Department of Health's (DC Health) State Health Planning and Development Agency (SHPDA) administers the District's Certificate of Need (CON) program. CONs are required for all persons, partnerships, and corporations proposing to:

- Construct, develop, or otherwise establish a new healthcare facility, healthcare 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 healthcare 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.

The Honorable Phil Mendelson

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- Redistribute the beds within a healthcare facility by ten beds or ten percent, whichever is less, in any two-year period.
- Offer a health service at a healthcare facility that was not offered on a regular basis 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 healthcare facility or major medical equipment by purchase, lease, or other arrangement.
- Acquire effective control of a healthcare facility.
- Transfer, assign, or otherwise dispose of ten percent or more of the stock or voting rights of a corporation or other entity that operates a healthcare facility.
- Relocate a healthcare facility after CON approval.

CON applicants must pay an application fee of three percent of the proposed capital expenditure. Fees range from a minimum of \$5,000 to a maximum of \$300,000 per applicant. CON application fees are deposited into the non-lapsing SHPDA Fund. In lieu of CON application fees, private hospitals in the District pay an annual user fee of \$4.50 per inpatient admission. These fees are deposited into the non-lapsing SHPDA Admission Fund.

Providers have up to three years to become operational after a CON is approved. The SHPDA may, after notice from the certificate holder, approve an extension of the expiration date for the 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.

The bill makes several changes¹ to the CON process. Specifically, the bill:

- Requires the SHPDA to update the capital expenditure medical equipment spending thresholds every two years to reflect the change in the Producer Price Index for New Health Care Building Construction issued by the United States Bureau of Labor Statistics.
- Exempts from the CON process new major medical equipment that is being purchased to replace existing equipment.
- Exempts expenditures on nonpatient care projects, electronic medical records, or renovations of existing facilities that do not increase or decrease the number of licensed beds or types of services the facility provides.
- Exempts digital-only telehealth platforms and providers, federally qualified health centers, outpatient and residential behavioral health services, primary care, dental care, and specialty care providers.
- Increases the number of beds that must be added or removed at a healthcare facility in order to trigger a CON to ten beds or twenty percent, whichever is less.
- Requires DC Health to post on its website a list of completed CON applications received by the SHPDA in the previous three years, including the name of the applicant, a brief description of the proposed new healthcare entity or service, and the SHPDA's determination regarding the application.
- Repeals the requirement for a project to become operational within three-years of issuance of the CON

¹ By amending The Health Services Planning Program Re-establishment Act of 1996, effective April 9, 1997 (D.C. Law 11-191; D.C. Official Code § 44-401 et seq.).

The Honorable Phil Mendelson

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The bill also requires² that DC Health create a registration process for facilities offering primary care, dental care, specialty care, virtual provider networks, and virtual telehealth platforms. Registrations and renewals must be valid for at least three years. DC Health cannot charge more than \$100 per year for each registration and renewal, provided that DC Health may reasonably adjust the fee above \$100 annually through rulemaking. The fees must be deposited into a fund that supports the health professional or facility licensure. Entities that fall into one of the provider categories that are required to register have two years to complete the initial registration. Each location must be registered if the entities own or operate multiple locations.

The bill allows cottage food businesses to sell products wholesale. Currently, they can only sell food through direct, retail, and online sales. DC Health registers and inspects the residential kitchens of each cottage food business operating in the District.

The bill makes changes³ to the Board of Integrative Healthcare. Specifically, the bill renames the Board the Board of Acupuncture, Chiropractic, and Naturopathic Physicians. The bill also decreases the size of the Board from nine to seven members.

The bill allows graduate social workers to become licensed without passing a national examination if they obtain 1,500 hours in the practice of social work under the supervision of a licensed social worker.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2025 through fiscal year 2028 budget and financial plan to implement the bill. The bill costs \$586,000 in fiscal year 2025 and \$2.13 million over the financial plan to implement.

Exempting certain entities from CON requirements will reduce the amount of application fee revenue deposited into the SHPDA Fund. SHPDA estimates that these exemptions will result in a twenty percent reduction in CON applications and will reduce application fee revenue by \$205,000 annually. Adjusting capital expenditure thresholds and exempting major medical equipment replacements from CON applications has no revenue impact since hospitals pay the SHPDA an annual user fee per admission in lieu of application fees for each capital project.

DC Health also requires additional resources to establish a registry of primary care, dental, specialty care, virtual provider networks, and virtual telehealth platforms. DC Health must update its licensing IT system to synchronize with the registration process. The system upgrade will have a one-time cost of \$120,000 and ongoing maintenance costs of \$36,000. DC Health must also hire two Management Analysts to review and accept registration applications, process registration fees, and provide customer service to approximately 2,000 providers. These employees' salary and fringe benefit costs are \$261,000 in fiscal year 2025 and \$1.08 million over the financial plan. DC Health plans to offset a

² By amending The Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501 et seq.).

³ By amending The District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 et seq.).

The Honorable Phil Mendelson

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portion of the salary and fringe costs using revenue generated through registration fees. The exact amount of revenue that will be generated is unknown at this time.

Bill 26-25 - Certificate of Need Improvement Amendment Act of 2025					
Total Cost (\$ in thousands)					
	FY 2025	FY 2026	FY 2027	FY 2028	Total
CON Application Fee Reduced Revenue	\$205	\$205	\$205	\$205	\$820
Salary ^(a)	\$214	\$218	\$222	\$227	\$881
Fringe ^(b)	\$47	\$49	\$51	\$53	\$201
IT Cost and Maintenance ^(c)	\$120	\$36	\$36	\$36	\$228
Total	\$586	\$508	\$515	\$521	\$2,130

Table Notes:

(a) Assumes two Grade-12, Step 6 Management Analysts. Assumes cost growth of 1.9 percent.

(b) Assumes fringe rate of 22 percent and annual growth of 2.35 percent.

(c) Assumes one-time costs in fiscal year 2025 and ongoing maintenance costs beginning in fiscal year 2026.

Expanding where cottage food businesses can sell products, changing the name and composition of the Board of Integrative Healthcare, and providing a pathway for graduate social workers to become licensed without passing a national exam does not have a cost. DC Health can implement these provisions using existing resources.